Honorable Joseph B. Morton
State Superintendent
Department of Education
Gordon Persons Building
Post Office Box 302101
Montgomery, Alabama 36130-2101

Dear Superintendent Morton

This opinion of the Attorney General is issued in response to your request.

**QUESTION**

Is a learner's license required for a student who is enrolled in a state-approved driver-education program, who is driving pursuant to an instructional program, and who is accompanied by a certified driver-education instructor?

**FACTS AND ANALYSIS**

Section 32-5-64 of the Code of Alabama, formerly section 55 of title 36 of the 1958 Code, provides as follows;
Any person under the age of 16 years who shall drive or operate any motor vehicle upon the public highways of this state shall be guilty of a misdemeanor, and shall be dealt with as provided by the juvenile laws of this state; provided, that the provisions of this section shall not apply to any student enrolled in a driver training program approved by the State Superintendent of Education or the Director of Public Safety while driving or operating a motor vehicle pursuant to the instructional program. However, no student in any driver training program who is under 16 years of age shall drive or operate any motor vehicle unless accompanied by a licensed driver.

ALA. CODE § 32-5-64(1999).

In an opinion dated April 5, 1977, to Dr. Wayne league, State Superintendent of Education, this Office interpreted this section together with section 32-6-8, formerly section 64 of title 36 of the 1958 Code, to permit a person to whom no learner's permit had been issued to operate a motor vehicle upon the public highways if the person is enrolled in a state-approved driver-education program, the driving is done pursuant to the instructional program, and the driver is accompanied by a licensed driver when operating the vehicle.

Subsequent to this opinion, section 32-6-8 was amended in 1988 to substitute "license" for "permit" throughout the section. See ALA. CODE § 32-6-8 History (Supp. 2004). This section was further amended in 1993 and 2002. See id. None of these amendments made any substantive change to section 32-6-8 that would invalidate the reasoning used by this Office in the Teague opinion. That opinion thus remains valid.

CONCLUSION

A person to whom no learner's license has been issued may operate a motor vehicle upon the public highways if the person is enrolled in a state-approved driver-education program, the driving is done pursuant to the instructional program, and the driver is accompanied by a licensed driver while operating the motor vehicle upon the public highways.