

**County Civil Court:** INSURANCE—Personal Injury Protection—A sedan-type police vehicle, used primarily for business purposes, is considered a private passenger motor vehicle under Florida’s PIP statute. Section 627.732(1)(a), Fla. Stat., unambiguously defines a private passenger vehicle as a “sedan,” without reference to the vehicle’s use. Order granting summary judgment reversed and remanded. *City of St. Petersburg v. State Farm Mutual Automobile Ins. Co.*, No. 13000059AP-88B (Fla. 6th Cir. App. Ct. October 10, 2014).

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
APPELLATE DIVISION**

**CITY OF ST. PETERSBURG,**  
Appellant,

v.

**STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,**  
Appellee.

**Ref. No. 13-000059AP-88B  
UCN: 522013AP000059XXXXCI**

---

**ORDER AND OPINION**

**Background**

This case calls for the Court to determine whether a sedan-type police vehicle, used primarily for business purposes, is considered a “commercial motor vehicle” or a “private passenger motor vehicle” under Florida’s personal injury protection (PIP) statute. On May 28, 2010, a City-owned Chevrolet Impala 4-door police vehicle was involved in an automobile accident. At the time of the accident, the vehicle was being driven by the City’s employee, Gary Gibson, for police use. As a result of the accident, Mr. Gibson received medical treatment, for which State Farm paid PIP benefits. On June 27, 2012, State Farm filed a complaint against the City seeking reimbursement for the PIP benefits it paid under Mr. Gibson’s policy. State Farm and the City filed competing motions for summary judgment. State Farm argued that it was entitled to reimbursement as a matter of law because the police sedan was being used for commercial purposes at the time of the accident and therefore was a “commercial motor vehicle” for purposes of §627.7405, Fla. Stat. The City argued that according to the plain language of the statute, the police sedan was a private passenger motor vehicle—not a commercial motor

vehicle, and thus reimbursement rights were not available under the PIP statute. There is no dispute that the vehicle is used primarily, if not exclusively, for police purposes. Nor is there any real dispute that the vehicle is considered a “sedan.”

Section 627.7405, Fla. Stat. provides a right of reimbursement for PIP benefits paid to an insured under a personal policy of insurance where the insured either 1) occupied a commercial vehicle or 2) was injured as a pedestrian by a commercial vehicle. It states:

Notwithstanding any other provision of ss. 627.730-627.7405, any insurer providing personal injury protection benefits on a private passenger motor vehicle shall have, to the extent of any personal injury protection benefits paid to any person as a benefit arising out of such private passenger motor vehicle insurance, a right of reimbursement against the owner of a commercial motor vehicle, if the benefits paid result from such person having been an occupant of the commercial motor vehicle or having been struck by the commercial motor vehicle while not an occupant of any self-propelled vehicle.

Section 627.7405, Fla. Stat., defines private passenger and commercial motor vehicles.

(3) “Motor vehicle” means any self-propelled vehicle with four or more wheels which is of a type both designed and required to be licensed for use on the highways of this state and any trailer or semitrailer designed for use with such vehicle and includes:

(a) A “private passenger motor vehicle,” which is any motor vehicle which is a sedan, station wagon, or jeep-type vehicle and, if not used primarily for occupational, professional, or business purposes, a motor vehicle of the pickup, panel, van, camper, or motor home type.

(b) A “commercial motor vehicle,” which is any motor vehicle which is not a private passenger motor vehicle.

The term “motor vehicle” does not include a mobile home or any motor vehicle which is used in mass transit, other than public school transportation, and designed to transport more than five passengers exclusive of the operator of the motor vehicle and which is owned by a municipality, a transit authority, or a political subdivision of the state.

On competing motions for summary judgment, the trial court concluded that the “sedan-type police vehicle at issue here, owned by the Defendant and used primarily, if not exclusively, for business purposes, constitutes a ‘commercial motor vehicle,’ irrespective of its shape or type for definitional purposes; and as such, the Plaintiff is entitled to reimbursement of PIP benefits from the Defendant pursuant to section 627.7405, Florida Statutes.” The trial court entered final judgment for State Farm, from which the City of St. Petersburg appealed.

### Discussion

An order granting summary judgment is reviewed de novo. *Sawyers v. Southeastern University, Inc.*, 993 So. 2d 141 (Fla. 2d DCA 2008). On appeal, Appellant contends that the language is clear and unambiguous, and a court cannot substitute its opinion of how a private passenger motor vehicle should be defined for that of the legislature. Appellant further contends that, even if this court were to find the statute to be ambiguous, the legislative history clearly shows an intent to exclude any consideration of a sedan's use when defining private passenger motor vehicles. Appellee, on the other hand, argues that not considering the use of the motor vehicle would make no sense and render the statute meaningless. In support of this argument, Appellee points out that there are several types of vehicles besides "sedans, station wagons, and jeep-type" vehicles, and under the interpretation urged by Appellant, cars such as 2-door sports coupes would be considered a commercial vehicle by virtue of not being a sedan, jeep, or station wagon.

The statutory definition of a private passenger vehicle in this case is clear and unambiguous. A sedan is expressly defined in the statute as a private passenger motor vehicle, and "where the legislature has used particular words to define a term, the courts do not have the authority to redefine it." *Baker v. State*, 636 So. 2d 1342, 1344 (Fla. 1994). The only instance in which the statute considers a vehicle's use in determining whether it is a commercial or passenger vehicle is in the case of a motor vehicle of the *pickup, panel, van, camper, or motor home* type. After listing the three types of vehicles that are statutorily defined as private passenger vehicles *regardless of their use*, the statute then lists other, larger, types of vehicles that could be commercial *depending on their use*. It is clear that the legislature intended for the consideration of a vehicle's use to be considered only in the case of the "pickup, panel, van, camper, or motor type." Even though the statutory definition may not comport with traditional notions of how passenger and commercial motor vehicles are defined, the courts cannot depart from the legislature's chosen definitions. *See State v. Graydon*, 506 So. 2d 393 (Fla. 1987) ("We are not going to speculate why the legislature did not include state correctional officers within the statute. This Court does not have the authority to legislate, and only the legislature can include state correctional officers within the provisions of section 843.01.").

Because the plain meaning of the statute is clear and unambiguous, there is no need to resort to the canons of statutory interpretation or legislative history to determine legislative intent.<sup>1</sup> However, the Court notes that the legislative history supports the clear language of the statute and evinces a legislative intent that all sedans be considered private passenger vehicles, regardless of use. At the time the legislature originally enacted the No-Fault Law in 1971, the statute applied only to private passenger vehicles—commercial motor vehicles were excluded entirely. At that time, the statute defined “motor vehicle” for the purpose of the no-fault law to mean “a sedan, station wagon, or jeep type vehicle not used as a public livery conveyance for passengers and includes any other four-wheel motor vehicle used as a utility automobile and a pickup or panel truck which is not used primarily in the occupation, profession, or business of the insured.” §627.732(1), Fla. Stat. (1971). At the time of the statute’s original enactment, the statute distinguished all vehicles by both the vehicle type and its use.

In 1978 the legislature amended the definition of motor vehicle to include commercial motor vehicles, and also added the reimbursement provision in §627.7405 for injuries resulting from accidents involving commercial motor vehicles. In doing so, the legislature retained the statutory language distinguishing private and commercial motor vehicles according to both their type and their use: the 1978 version defined private passenger motor vehicles as “a sedan, station wagon, or jeep type vehicle *not used at any time as a public or livery conveyance for passengers and, if not used primarily for occupational, professional or business purposes*, a motor vehicle of the pickup, panel, van, camper or motor home type.” (Emphasis supplied). §627.732(1)(a), Fla. Stat. (1978).

In 1985, after the reimbursement provision had been added in 1978, the legislature again amended the definition of private passenger motor vehicle, this time removing the use-based distinctions for certain types of vehicles; namely, sedans, station wagons, and jeep type vehicles. §627.732(1)(a), Fla. Stat. (1985). This 1985 version of the statute, the relevant portions of which remain in the current version of the statute, defined a private passenger vehicle as “any motor vehicle which is a sedan, station wagon, or jeep-type vehicle *and, if not used primarily for occupational, professional, or business purposes*, a motor vehicle of the pickup, pane, van,

---

<sup>1</sup> See *L.A.P. v. State*, 62 So. 3d 693, 695 (Fla. 2d DCA 2011) (“The result here is neither unreasonable nor ridiculous; it is merely an application of the statutory language to L.A.P.’s actions. Thus, there is no occasion for resorting to rules of statutory interpretation and construction, including consideration of the legislative history of the statute. However, even were we to do so, the result would remain the same.”)

camper, or motor home type.” (Emphasis supplied). The statute’s legislative history shows that the legislature knowingly and specifically removed the consideration of a vehicle’s use in the case of sedans, station wagons, or jeep-type vehicles; and instead, only allows consideration of a vehicle’s use in the case of pickups, panel vans, campers, or motor homes.

**Conclusion**

Because the statute unambiguously defines a private passenger vehicle as a “sedan,” without reference to the vehicles use, this court must enforce the plain meaning of the statute, even if the legislature’s characterization based solely on vehicle type may seem unwise.

Accordingly, it is

**ORDERED** that the trial court’s order granting final summary judgment is reversed, and the case remanded for proceedings not inconsistent with this order.

**DONE AND ORDERED** in Chambers at St. Petersburg, Pinellas County, Florida, this 10 day of October 2014.

---

**JACK DAY**  
Circuit Judge, Appellate Division

---

**AMY M. WILLIAMS**  
Circuit Judge, Appellate Division

---

**PAMELA A.M. CAMPBELL**  
Circuit Judge, Appellate Division

Copies furnished to:

SHARON MICHNOWICZ, ESQ  
CITY OF ST. PETERSBURG  
PO BOX 2842  
ST. PETERSBURG, FL 33602

DAVID B. KAMPF, ESQ.  
RAMEY & KAMPF, PA  
400 NORTH ASHLEY DRIVE, STE. 1700  
TAMPA, FL 33602

THE HONORABLE EDWIN B. JAGGER  
545 1ST AVENUE NORTH  
ST. PETERSBURG, FL 33701