



# NATIONAL ASSOCIATION OF STATE DIRECTORS OF PUPIL TRANSPORTATION SERVICES

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Docket Management  
U.S. Department of Transportation  
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The National Association of State Directors of Pupil Transportation Services was founded in 1968, and represents a cross section of individuals and organizations involved in the safe transportation of school children. As the association's name indicates, individuals with the primary responsibility for school transportation in each state are members. In addition, school bus manufacturers, many equipment suppliers to the school bus industry or the school bus aftermarket, school transportation contractors, and a number of state associations whose members include school transportation officials, drivers, trainers, and mechanics also are members of affiliated councils within the association. Based on this diversity in membership, we believe that the State Directors Association provides a unique perspective on school transportation issues and speaks for a large segment of the "school transportation industry."

The State Directors Association appreciates the opportunity to comment on the referenced Notice of Proposed Rulemaking (NPRM) concerning Safety Requirements for Operators of Small Passenger-Carrying Commercial Motor Vehicles Used in Interstate Commerce. The State Directors Association offers the following comments to the Federal Motor Carrier Safety Administration:

1. The State Directors Association believes vans in use for transporting students to and from school and school-related activities should meet the criteria defined in Section 212 of the Motor Carrier Safety Improvement Act in that they "pose serious safety risks." One only needs look at the tragic loss of life and serious injuries that have resulted from the use of 12 and 15-passenger vans for school transportation purposes. The June 1999 report by the National Transportation Safety Board, "Pupil Transportation in Vehicles Not Meeting Federal School Bus Standards," provides insight into four crashes, three of which involved

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vans. As a result of its investigation of these crashes, the Safety Board made the following Safety Recommendation to the Governors of each state and the Mayor of the District of Columbia:

*“Require that all vehicles carrying more than 10 passengers (buses) and transporting children to and from school and school related activities, including, but not limited to, Head Start programs and day care centers, meet the school bus structural standards or the equivalent as set forth in 49 Code of Federal Regulations Part 571. Enact regulatory measures to enforce compliance with the revised statutes.”*

While this Safety Recommendation only addressed the vehicle aspects of school transportation, as with all motor vehicles, the driver also is a critical part of the “safety equation.”

2. The State Directors Association recognizes that passenger vans of all sizes are used by various organizations in the transportation of children to and from school and school-related activities. These organizations include, but are not limited to, traditional schools (K through 12), Head Start, and child care centers. This practice is counter to the guidance provided by the National Highway Traffic Safety Administration in its Guideline 17, “Pupil Transportation Safety.” Additionally, it is likely that the motor vehicle dealer that sold or leased a 12 or 15-passenger van to the school violated a federal law in the process.

Under federal law, any motor vehicle designed to carry more than 10 persons is classified as a bus. A bus is classified as a school bus if it is used, or intended for use, in transporting students to and from school or school-related activities. At the direction of the U.S. Congress, the U.S. Department of Transportation, National Highway Traffic Safety Administration, only has authority over the manufacture and first sale of a motor vehicle. After a vehicle is sold, only state and local governments can regulate the use of motor vehicles.

Federal law prohibits dealers from selling/leasing a motor vehicle with a capacity of more than 10 persons for the purpose of transporting students to and from school or a school-related activity unless the vehicle complies with the applicable Federal Motor Vehicle Safety Standards for school buses. While there is no federal prohibition against dealers selling or leasing used full-sized vans or new/used mini-vans for the purpose of transporting students, such actions are counter to the basis for the federal law previously mentioned – students are safer in school buses. Likewise, there are no federal prohibitions against companies renting vans to schools, unless the rental company purchases a new full-sized van for the purpose of renting the van to a school.

3. Given the Safety Recommendations from the Safety Board, the Guidance from NHTSA, and the fact that school children are needlessly being exposed to increased risks when they ride in vans, the State Directors Association believes the best course of action is the complete elimination of vans of any size from use in school transportation.
4. Unfortunately, some states have laws and regulations that allow the use of vans for school transportation. Additionally, there are schools throughout the United States that use 12 and 15-passenger vans and other "non-conforming vehicles" to transport students on school activity trips. These vehicles appear to be popular because of their "presumed" lower cost and because the driver does not need a Commercial Drivers License (CDL).

The difference in life-cycle economics of owning and operating a van versus a small school bus are rather small. This suggests that the primary reason vans are popular with schools is that anyone, a teacher or a coach or a parent, can legally operate the vehicle. Again, the resulting crashes of these vehicles strongly suggest that a trained, professional driver is needed in these vehicles. The State Directors Association believes it is in the best interest of the safety of school children to require the drivers of these vehicles to possess a CDL. This would serve as a disincentive to the use of vans to transport school children.

5. The State Directors Association believes the subject NPRM should have included a proposal to require drivers of commercial vans used in interstate commerce to possess a CDL and be subject to controlled substance and alcohol testing. Accordingly, the State Directors Association requests that a Supplemental Notice of Proposed Rulemaking be issued to propose CDL requirements for the operators of these vehicles.
6. The State Directors Association's comments to this NPRM, and our request that CDL requirements be included in a subsequent rulemaking procedure, should not be construed as an endorsement of the use of vans to transport children to and from school and school-related activities. Rather, our comments are designed to support federal safety regulations that would create further barriers and disincentives to the use of less-safe vans, rather than school buses, for school transportation purposes.
7. The State Directors Association believes the "distance-based" approach to applying the Federal Motor Carrier Safety Regulations to vans is neither reasonable nor feasible. Establishing a threshold of 75 miles makes an assumption that no, or only a few, crashes occur on trips of shorter distances. The statistical analyses of the Fatality Analysis Reporting System data that was presented in the NPRM suggests that 37 percent of fatal van crashes with 9 or more passengers occurred at distances less than 75 miles from the point of origin. This is a substantial number and should not be ignored.

8. The State Directors Association does not agree with FMCSA's decision to eliminate fatal van crashes between the hours of 6:00 to 9:00 a.m. and 4:00 to 7:00 p.m. on weekdays in an effort to remove van pool crashes from the analysis. That decision removed 329 crashes (23 percent of the total) from the analysis. The State Directors Association also disagrees with the decision to only consider van crashes where the occupancy of the van was 9 or more at the time of the crash. Both of these actions combine to dramatically understate the magnitude of the safety problem caused by commercial vans. Our logic for this statement is quite simple.

Eliminating the weekday "commuting hours" of van pools also eliminates the time frames when vans are being used to transport children to and from school. These vans, along with many other commercial vans, are frequently operated with fewer than 9 passengers, but are involved in fatal crashes. Two examples from the Safety Board report discussed earlier illustrate our point:

- East Dublin, Georgia – December 8, 1998, at about 8:10 a.m., a 15-passenger van occupied by a driver, 5 children ages 4 and 5, and an adult monitor was involved in a crash. A 4-year-old child died and the other van occupants were injured.
- Bennetsville, South Carolina – February 16, 1999, at about 5:20 p.m., a 15-passenger van occupied by a driver and six children between the ages of 7 and 11 was involved in a crash. All six children were killed and the driver seriously injured.

The State Directors Association believes these types of crashes must be included in the analyses in order to properly understand the magnitude of the safety problem posed by the use of these commercial vans on the Nation's highways. If they are excluded, then FMCSA is dramatically understating the magnitude of the safety problem.

If you have any questions or would like further discussion, please contact Charles Gauthier, the association's Executive Director, at 703-734-1620.

Sincerely,

  
Pete Baxter  
President