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DEPT. OF TRANSPORTATION

April 4, 2001

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U.S. Department of Transportation  
Dockets Management Facility  
Room PL-401  
400 Seventh Street, SW  
Washington, DC 20590

Re: Safety Requirements for Operators of Small Passenger-Carrying  
Commercial Motor Vehicles Used in Interstate Commerce  
Docket No. FMCSA-2000-7017 - 10

To Whom it May Concern:

We are a group of four business students at Florida International University. In general, we agree with the proposed amendment by the Federal Motor Carrier Safety Administration (FMCSA) regarding Federal Motor Carrier Safety Regulations (FMCSRs). However, as it stands, the ruling falls short of the goal which is to ensure the safety of passengers transported in commercial motor vehicles (CMVs) by reducing the number of accidents/fatalities caused by vehicular/driver negligence and incompetence. To be effective, **all** commercial vehicles carrying 9-15 passengers should be subject to the ruling. It should include not only vehicles receiving direct compensation, but those indirectly compensated as well. Vehicles that drive less than 75 air miles should not be excluded. In the same manner, all CMV drivers that meet these criteria should be obligated to carry a commercial driver's license and be subject to alcohol and controlled substance testing regulations. We substantiate our recommendations below.

#### FOR-HIRE TRANSPORTATION: DIRECT VS. INDIRECT COMPENSATION

A commercial motor vehicle (CMV) is statutorily defined as a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle

- (1) Has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation;
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under Section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103. 49 U.S.C. 31132(1)

The term "for compensation" was not defined by Congress. However, the Federal Highway Administration interprets the term "for compensation" the same as "for hire". According to 62 RR 16370, 16507, "The Federal Highway Administration has determined that any business entity that assesses a fee, monetary or otherwise, directly or indirectly for the transportation of passengers is operating as a for-hire carrier. Thus, the transportation for compensation in interstate commerce of passengers by motor vehicles...would typically be subject to all parts of the Federal Motor Carrier Safety Regulations, including white water river rafters, hotel/motel shuttle transporters, rental car shuttle services, etc. These are examples of for-hire carriage because some fee is charged, usually indirectly in a total package charge or other assessment for transportation performed."

The rule proposes regulating commercial motor vehicles that are directly compensated for their services. It differentiates between companies that are directly compensated for their services from those that are indirectly compensated. Those companies that are indirectly compensated (i.e. hotel shuttles, car rental shuttles, etc) would be excluded from this rule and not subject to the proposed safety requirements.

Excluding these companies would be a mistake. Lives are just as much at risk in a vehicle that receives indirect compensation. In South Florida, many numbers of these vehicles are on the road. Tourism is Florida's largest industry. I have used airport shuttles on many occasions and often have doubted my safety onboard. On many of these vehicles such things as doors, windows, etc. are not maintained. What then of the less obvious components, such as the engine, steering, and brakes?

All companies should be required to maintain their vehicles to the same standards. Generally, these vehicles are traveling several miles, often on the interstate highways, putting passengers at a significant risk. For example, should there be an accident on the highway because of faulty brakes, everyone in the vicinity of that vehicle is at serious risk. Some Florida highways have posted speed limits of 70 mph. There is no restriction on what vehicles use the highways. Therefore, those CMV companies that use interstate highways and do not maintain their vehicles and abide by other safety requirements do, in fact, pose a serious safety risk to everyone on those roads. Human rights advocates would argue that all passengers in such transport are entitled to equal levels of safety, not just an arbitrary few.

According to the statistics provided in the agency's proposed rule, there were approximately 145,000 accidents involving large vans. These accidents resulted in 1,714 fatalities and about 244,000 injuries. Those numbers alone show that we need to do whatever possible to minimize these accidents. Large vans cause more damage than a typical passenger car and this fact should be considered when evaluating which CMVs should be affected by this rule. There is no difference in the amount of damage that can be done by a direct or an indirectly compensated vehicle.

Although these figures include all accidents involving large vans and do not differentiate between parcel vans, vanpools, and direct compensation vehicles, any lives that are lost due to violations of safety requirements are inexcusable. How do you put a dollar value on a human life? How do you tell the families of those that are killed that there are not enough deaths to warrant including indirectly compensated vehicles in required safety regulations? Without question, all CMVs should be required to maintain certain safety standards regardless of compensation status. Any vehicle that is deemed

unsatisfactory is a risk and should be prohibited from continued operations until they have complied with the safety requirements. All CMV companies have an ethical obligation to provide a safe service to its passengers. If companies do not take these precautions on their own initiative, they need to be mandated to comply with the proposed minimum safety requirements. If indirectly compensated CMV companies are allowed to continue operating with unsatisfactory vehicles, injury or loss of life to innocent persons will result. We, as a society, should do everything in our power to prevent this.

### 75-MILE RADIUS

Under FMCSA's proposed rule, any commercial motor vehicle carrying nine or more passengers on an interstate highway "for a distance greater than seventy-five air miles is subject to identical safety requirements imposed on regular motorcoach operations". We feel that the proposed rule is not adequate by applying it only to CMVs carrying 9-15 passengers traveling distances greater than 75 miles. According to the accident data from the National Highway Traffic Safety Administration's Fatality Analysis Reporting System (FARS), there were 146 fatal accidents that occurred between the years of 1996 and 1998 that involved large vans transporting 9 or more people. The data, however, does not take into consideration fatal crashes involving the applicable type of vehicle that was carrying less than nine passengers at the time of the crash. If FARS had those figures, the numbers would probably increase significantly. Of the 146 fatal crashes for which FARS does have data, 54 (approximately 37%) occurred within 100 miles of the driver's residence. The proposed rule would discount these accidents because they were lacking the 75-mile distance needed to fall under the safety specifications. This is of importance because 54 people died as a result. It is unjust to disregard these accidents because they were traveling less than 75 miles. What about the accidents that occurred that did not result in fatalities? What about the individuals who were seriously maimed or hospitalized because of injury? What about the insurance claims submitted as a result of these accidents, including the minor "fender-benders"? The FMCSA is not even considering these accidents. Although statistics are not provided, one can assume that they are exorbitant. All accidents, including those that involve vehicles traveling less than 75 miles, ultimately have a cost. Whether that cost is human life, hospital bills, increased medical and automobile insurance premiums, or out-of-pocket expenses, we all pay the price. Although 63% of the accidents occurred on the interstate at a distance greater than 75 miles, to disregard the CMV's traveling less than 75 air miles is tantamount to negligence. Without question, all commercial motor vehicles should be subjected to the same safety requirements as motorcoach operations regardless of distance traveled.

### COMMERCIAL DRIVERS LICENSE AND ALCOHOL/CONTROLLED SUBSTANCE TESTING REGULATIONS

The necessity of all CMV drivers to be required to carry a commercial driver's license and be subject to alcohol and controlled substance testing regulations goes without question. It should be obvious that anyone who drives a small-passenger

vehicle that carries between 9-15 people is directly responsible for the lives of those people he/she is transporting. Every precaution should be taken to ensure the safety of those passengers. This includes a thorough knowledge of safety measures and an assurance that drivers are not under the influence of any substance that might inhibit their driving skills. Therefore, mandatory alcohol and controlled substance testing is essential to protect the lives of the passengers and other drivers on the road. A commercial driver's license exam includes additional testing regarding safety regulations, road signs, etc. Moreover, there is a driving test to ensure the driver's ability to maneuver larger vehicles. These requirements must apply to all individuals who drive large vehicles and especially to those who are transporting 9-15 passengers on a regular basis. It is our duty as a society to take all reasonable precautions to protect individuals from negligent harm. To require a commercial driver's license and be subject to alcohol/controlled substance testing is not an unreasonable demand.

There is some uncertainty as to whether the FMCSA has the power to make the proposed revision a requirement. If the FMCSA does not have the statutory authority to create such a rule, the Department of Transportation should seek such jurisdiction from Congress. The suggestions submitted directly affect safety on the roads and should be made a prerequisite to all who get behind the wheel of a small-passenger CMV carrying between 9-15 people. Our universal goal should be safety for all people on our highways. This is yet another condition that would ensure we are doing all we can to meet this objective.

In conclusion, we believe that the proposed rule should be revised as suggested. As a society, we should be concerned about everyone's safety, not the dollar cost of maintaining vehicles to code. There are a large number of accidents caused by small-passenger CMVs, many of which are fatal. Vehicles that would be excluded from this ruling cause a significant number of those accidents. We understand the necessity to control costs and to avoid an undue burden on companies, but we believe that the benefits of the submitted revisions far outweigh the costs involved. It is our duty as well as the companies that operate these vehicles to protect all human life.

Sincerely,

Stephan Lascaze  
Justo Rey  
Carlomar Rios  
Jessica Sanders