

NHTSA Guidance on Passenger Vans Used to Transport Students to Day Care Facilities

Interpretation by the National Highway Traffic Safety Administration (NHTSA)

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On August 3, 1998, the National Highway Traffic Safety Administration (NHTSA) provided guidance on the use of 12- to 15-passenger vans by child day care providers to drop off and pick up school children from school.

Background

1. NHTSA has the authority to regulate the first sale or lease of any new vehicle by a dealer.
2. Statute 49 U.S.C. §30112 requires any person selling or leasing a new vehicle to sell or lease a vehicle that meets all applicable standards.
3. Under NHTSA regulations, a "bus" is any vehicle, including a van, which has a seating capacity of 11 persons or more.
4. Statute 49 U.S.C. §30125 defines a "school bus" as any bus which is likely to be "*used significantly*" to transport pre-primary, primary, and secondary students to or from school or related events (emphasis added).
5. A 12- to 15-passenger van that is likely to be used significantly to transport students is a "school bus."
6. If the new bus is sold or leased to transport students (e.g. leased on a regular or long-term basis), it is a "school bus" and must meet NHTSA's school bus standards.
7. Conventional 12- to 15-passenger vans are not certified as meeting NHTSA's school bus standards, and thus cannot be sold or leased, as new vehicles, to carry students on a regular basis.

Interpretations

Question #1: Do the federal motor vehicle safety regulations relating to the sale and lease of school buses apply to vehicles (new buses) sold or leased to publicly or privately owned day care facilities who use these vehicles to transport school-aged children to and from school as part of their day care services?

Answer #1: It depends on whether the new buses will be "significantly" used to transport children "to and from" school or related events. If the bus will be used for such purpose, a school bus must be sold, regardless of whether such transportation is provided by a school or a day care facility. If the new bus is sold or leased to transport students, it is a "school bus" and must meet NHTSA's school bus standards. Conventional 12- to 15-passenger vans are not so certified, and thus cannot be sold or leased, as new vehicles, to carry students on a regular basis.

Whether the buses are "used significantly" to transport the students is an issue that the agency finds appropriate to resolve on a case-by-case basis, focusing on the intended use of the vehicle. In a 1998 letter to Cox Chevrolet, the agency stated that picking up students from a school five days a week constituted "significant" use, even if the same students were not

transported every day. In addition, regular use of leased bus transportation on alternated days could also be "significant."

Finally, NHTSA said, using 12- to 15-passenger vans that do not meet school bus standards to transport students could result in increased liability in the event of a of a crash.

Question #2: Does the use of a vehicle owned or leased and operated by a day care provider for to and from transportation constitute "significant use" as the phrase is used in the statutory definition of a school bus?

Answer #2: NHTSA may consider use of the bus for pupil transportation "significant" under its school bus regulations---even if the provider is a day care facility.

Question #3: Do the same federal sanctions apply to dealers who sell or lease vehicles of more than a capacity of 10 to day care providers for to and from school transportation purposes?

Answer #3: Yes. A dealer, who sells or leases a non-complying vehicle to a day care facility in violation of 49 U.S.C. Section 30112 would be subject to the same penalties that a dealer would face when selling non-complying vehicles to a school: "A person that is in violation any of sections 30112... is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. A separate violation occurs for each motor vehicle, item, or motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum civil penalty under this paragraph for a related series of violations is \$880,000.