

Growing Concerns Regarding Non-conforming Vans

The following memo and driver policy from ND State Fleet Services is made available to school districts as an example of the growing concerns about the use of passenger vans to transport students. The Department of Public Instruction recommends that school districts using vans adopt similar policies if the district expects to continue using vans for student transportation.

To: All Agencies/Institutions

From: Paul R. Feyereisen, Director
State Fleet Services Division

Subject: Large Passenger Van Training Policy

Date: April 26, 2002

Large passenger vans (vans with a rated capacity of 11-15 persons) have come under scrutiny because of their increasing involvement in roll-over crashes that often cause multiple fatalities and injuries. These kinds of severe crashes frequently trigger lawsuits resulting in millions of dollars in damages being levied against the van's owner. The handling characteristics of these vehicles change substantially when they are loaded with passengers, and they become more susceptible to loss of control and roll over under certain conditions.

A National Highway Traffic Safety Administration study published in April of 2001 examined the propensity of large vans to roll over in single vehicle crashes. The issue of rollover propensity considered the effect of higher occupancy levels in the vans. The crash data were examined to determine the correlation, if any, of the increased risk of rollover with higher occupancy levels. The data indicates that 15 passenger vans with 10 or more occupants had three times the rollover ratio of those with fewer than 10 occupants and that when fully loaded, large passenger vans have an increased rollover risk of approximately 40%. Universities in some states, such as Indiana, have forbidden the use of large passenger vans for student transport.

North Dakota State Fleet currently has 114 large passenger vans that are assigned to motor pools, agencies and universities. There have been roll-over crashes with North Dakota vans, with two of them occurring last year. There were no fatalities in these crashes, but there were injuries. North Dakota has experienced fatal van crashes in the past.

Users of large passenger vans have expressed the desire to continue to have these vehicles available, but there is concern about the risk involved with their use.

State Fleet Services has developed, in concert with the North Dakota Risk Management Division and the University System, a use policy and training regimen for drivers of large passenger vans. The products of this effort will be disseminated to agencies and universities and will be implemented at the user level. State Fleet will grant the time necessary for users to implement this policy. With this action, we expect to make crashes less likely and reduce our liability exposure if they do occur.

The training regimen will include a web based instructional program and a behind-the-wheel component. The instructional program can be completed on any PC that has Internet access. The behind-the-wheel component will be conducted at various user sites around the state.

If you have questions or would like more detailed information about this endeavor, please contact Paul Feyereisen, Director of State Fleet Services at 328-2543 or Bob Johnston, State Fleet Risk Manager at 328-1472.

LARGE PASSENGER VAN POLICY

This policy was approved by State Fleet Services April 18, 2002, to become effective May 1, 2002.

1. This policy applies to operation of state owned or leased large passenger vans.
2. "Large passenger vans" means motor vehicles designed or intended to carry more than 10 or less than 16 occupants, hereafter referred to as "LP vans".
3. Operation of LP vans is limited to authorized persons who currently have a valid driver's license and:
 - Have not been convicted of any criminal driving offense within the last three years;
 - Have not had any driving violations resulting in assignment of six or more points within the last three years; and
 - Have completed a State Fleet approved van driver safety program. (Certain exceptions may apply. See Implementation guidance for details). A van driver safety program means a program that includes both classroom and behind-the-wheel components. The behind-the-wheel component is to require driving the vehicle loaded to rated capacity with passengers or simulated passengers distributed as passengers would be seated.
4. All occupants of LP vans must use seat belts at all times when the vehicle is in motion.
5. Drivers of LP vans shall not use a phone while the vehicle is in motion. Radios used for dispatch are permitted.
6. Drivers of LP vans shall not exceed posted speed limits and must exercise care required and reduce speed accordingly when conditions dictate.
7. Drivers of LP vans are limited to 10 consecutive hours and 14 total hours of operation in any given 24-hour period. Drivers who operate for 10 consecutive hours must be given at least 8 consecutive hours off duty before resuming driving. For trips requiring more than 10 consecutive or 14 total hours of operation in any given 24 hour period, 2 or more qualified LP van drivers are required to provide adequate relief. In addition to limits on hours of operation, user entitles need to be concerned about the danger of having people that may be emotionally and/or physically exhausted from an event being required to immediately drive back to home station, usually at night, and often into the early morning hours. Therefore, when LP vans are used to transport athletic teams, no participant shall drive for more than two hours on the return trip. Participants are defined as the head coach and assistant head coach and players who were active in the official event. The non participant restriction applies to the return trip only and then only if the trip has a duration of longer than 2 hours. In addition, the non participant restriction shall not apply to driving that takes place between sunrise and an hour after sunset. Return trips shall be scheduled so that arrival at home state is no later than 2 a.m. This provision is not intended to prevent completion of a trip that was unexpectedly delayed or slowed en route.
8. State Fleet Services Policy, as stated in the Policy Manual, applies to LP van operation. If there is duplication or conflict between this policy and the Policy Manual, the stricter standard will apply to LP van operation.

IMPLEMENTATION

Implementation will be as follows:

Agencies and universities are to identify LP van drivers and arrange for them to be trained as set forth below.

1. All LP van drivers are required to complete the classroom component. User agencies may exempt certain individuals from the behind-the-wheel component. These include Commercial Drivers License (CDL) holders, those with experience driving LP vans carrying at least 11 passengers and casual or occasional drivers that may move empty vehicles about one time only or from time to time.
2. Implementation will be phased, with the classroom component first and the behind-the-wheel component second. State Fleet will grant the time necessary for users to implement this policy.
3. The classroom component will be web-based training. Agencies and universities are to arrange for computer access for the selected individuals. Cost for the license to use the web based course for the classroom component will be paid by State Fleet. Agencies/universities are responsible for monitoring their own drivers and ensuring compliance with this policy. State Fleet will establish and maintain review capability and will review compliance from time to time.
4. The behind-the-wheel component will be a course per State Fleet direction. The cost of LP van use in completion of the BTW component will be paid by user agencies and institutions.
5. Incidental costs, such as transporting students to training sites, will be borne by user agencies and universities.
6. POC for questions regarding this policy is Bob Johnston, State Fleet Risk Manager, at 328-1472. E-mail to rjohnsto@state.nd.us.

The Importance of Transporting Students to and from School and School-related Activities in Vehicles that Meet the School Bus Safety Standards Established by the National Highway Traffic Safety Administration (NHTSA)

From: U.S. Department of Transportation
National Highway Traffic Safety Administration
Jeffrey W. Runge, M.D.

At this time of the year, many school districts are reviewing their transportation policies for the upcoming 2002-2003 school year. As you know, pursuant to Federal law, NHTSA has issued safety standards applicable to all new motor vehicles. In 1974, Congress directed NHTSA to require school buses to meet more stringent safety standards than the standards for passenger vans and other buses. School buses are required to have flashing lights and stop arms for control of traffic near and around the bus each time it stops to load and unload passengers. School buses also provide enhanced emergency exits, greater rollover protection, increased body joint strength, stronger seating crash protection, cross-view mirrors, and greater crash protection to the fuel tank and fuel system.

Federal law prohibits from selling or leasing new vehicles that are not certified as meeting all applicable Federal motor vehicle safety standards. Dealers selling or leasing a new “bus” (defined as any vehicle, including a van, that has a capacity of 11 persons or more, including the driver) to transport students to or from school and school-related events must sell a bus that is certified as meeting all of NHTSA’s school bus safety standards. A dealer or lessor is prohibited from selling or leasing a new “bus” to transport students if the vehicle is not a “school bus.”

School buses that comply with NHTSA’s school bus safety standards are the safest form of pupil transportation. A school’s purchase or use of 10-15 passenger vans or non-school buses could result in school children being transported in vehicles that do not provide an appropriate level of safety.

While most States require the use of school buses to transport children to and from school and school-related events, some States do not. We urge you to take steps to ensure that all school children in your State are carried on school buses that are certified by their manufacturers as meeting NHTSA’s school bus standards.

Our position that school buses are the safest form of transportation for school children is reflected in a National Transportation Safety Board (NTSB) recommendation issued after NTSB investigated four crashes in 1998 and 1999, in which nine people were killed (including eight children) and 36 people injured when riding in “nonconforming buses.” In a special report (for a complete copy, see www.nts.gov/publictn/1999/sir9902.pdf), the NTBS issued the following Safety Recommendation to the 50 States and 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.

For your information, I am enclosing a February 2002 fact sheet posing frequently asked questions about school buses, and our answers to those questions along with a handout on why school buses are the safest choice for school transportation. These can be reproduced and distributed through newsletters or other mailings or posed on websites. If you have any additional questions regarding these issues, please call Dorothy Nakama, Attorney-Advisor in NHRTSA’s Office of the Chief Counsel at (202) 366-2992.

**FREQUENTLY ASKED QUESTIONS ABOUT FEDERAL SCHOOL BUS SAFETY
REQUIREMENTS**
February 2002

QUESTION: What is a school bus?

The National Highway Traffic Safety Administration (NHTSA), U. S. Department of Transportation, defines a “bus” as a motor vehicle designed to carry more than 10 persons, and a “school bus” as a bus that is sold or introduced into interstate commerce “for purposes that include carrying students to and from school or related events.” “School” includes private schools as well as public schools. A school bus must be certified by its manufacturer as meeting all Federal Motor Vehicle Safety Standards (FMVSSs) applicable to school buses. “School buses” do not include buses operated as common carriers in urban transportation.

QUESTION: What is a school-related event?

A school-related event is any activity sponsored by a school, whether on or off the school grounds, including sports events, band concerts, field trips, and competitions such as debate or chess tournaments.

QUESTION: To whom do the FMVSSs apply?

NHTSA’s statutory authority extends to any person selling or offering for sale or lease a new motor vehicle. It is a violation of Federal law for any person knowingly to sell or lease a new bus for use as a school bus if the bus does not meet all school bus FMVSSs. The law provides substantial civil penalties for selling a new non-school bus for use as a school bus.

QUESTION: Do the FMVSSs apply to the purchaser as well as the seller?

No. NHTSA’s laws regulate the manufacture and sale of motor vehicles, not the use of vehicles. Therefore, a purchaser, including a school, can purchase and use any vehicle it wants, whether new or used, for whatever purpose it wants, subject to State law.

QUESTION: How can I tell if a bus meets NHTSA’s school bus safety standards?

Look for the certification label on the bus, usually located on the door near the driver’s seat. If the bus meets NHTSA’s school bus standards, it states: “This vehicle conforms to all applicable U.S. Federal motor vehicle safety standards in effect on the date of manufacture shown above” and states “school bus” (not simply “bus”) as the vehicle classification.

QUESTION: Do the school bus requirements apply to dealers that sell new buses to day care centers and other institutions?

Yes, if the dealer knows that the buses will be used to transport children between the institution and a school. NHTSA looks at the purpose for which the new bus is sold, not at the buyer’s status. If a dealer knows the new bus is sold for the purpose of transporting pre-primary, primary, or secondary school students, new buses sold or leased to the institution must meet NHTSA’s school bus FMVSSs.

QUESTION: Are dealers required to sell school buses to colleges?

No. The school bus requirements do not apply to sales for the purpose of transporting post-secondary school students such as college students, adult education participants, or post-high school vocational students.

QUESTION; Does Federal law require school buses to be yellow?

No. State and local governments establish policy for school bus color. However, NHTSA provides recommendations to the States on operational aspects of school bus and pupil transportation safety programs, in the form of Highway Safety Program Guideline No. 17, Pupil Transportation Policy. Among other matters, Guideline 17 recommends that school buses be yellow.

QUESTION: Can the States change Federal requirements?

No. A State may not permit the sale of a new non-school bus for pupil transportation when the sale of the vehicle would be impermissible under Federal law.

QUESTION: Is a school or school district liable for not using school buses?

Possibly. As stated above, Federal laws do not extend to the use of school buses. However, a school or school district may be liable for damages for not using a school bus to transport students and a crash occurs in which students are killed or injured. This is a question of State law, however, so schools or school districts should consult their attorneys or insurance carriers on this question.

School Buses:
The SAFEST Choice
For Student Transportation

- ▲ Congress has indicated that school transportation should meet the highest level of safety since it involves the Nation's most precious resource – children. In response to this mandate, the National Highway Traffic Safety Administration (NHTSA) requires manufacturers to build school buses to provide a greater level of safety than other passenger vehicles.
- ▲ **School buses that meet NHTSA's school bus safety standards are the safest form of pupil transportation.**
- ▲ Federal law prohibits dealers from selling or leasing new buses that are not certified as meeting all applicable Federal school bus safety standards for the purpose of transporting school children to or from school or school-related events.
- ▲ The sale or lease of 10-15 passenger vans to schools could result in children being transported in vehicles that do not provide an appropriate level of safety. A dealer selling or leasing a new bus for school use that does not meet Federal school bus standards would be subject to a civil penalty of up to \$5,000 per violation.
- ▲ While comparably-sized school buses may be more expensive than other vehicles, NHTSA believes the increased level of safety justifies a higher cost. School buses are required to have flashing lights and stop arms for control of traffic near the bus each time it stops to load and unload passengers. School buses also provide greater rollover protection, increased body joint strength, seating crash protection, cross-view mirrors and greater crash protection to the fuel tank and fuel system.
- ▲ In a 1999 Special Investigative Report, the National Transportation Safety Board (NTSB) reported the results of its investigations of our crashes in which eight children and one adult were killed when riding in "nonconforming buses," including 15-passenger vans. It issued a Safety Recommendation urging all States to enact regulations requiring vehicles that carry more than 10 children to and from school and school-related activities to meet the federal school bus structural standards. For a copy of the report, go to www.ntsbn.gov/publictn/1999/sir9902.pdf.
- ▲ Moreover, heavily loaded 15-passenger vans pose an additional threat. NHTSA issued a consumer advisory warning in April 2001 to users of 15-passenger vans because of an increased rollover risk. The results of analysis by NHTSA revealed that vans carrying 10 or more occupants have a rollover rate in single vehicle crashes that is nearly **three times** the rate of those that were lightly loaded.
- ▲ NHTSA found that heavily loading a 15-passenger van causes the center of gravity to shift rearward and upward increasing the likelihood of rollover. The shift in the center of gravity also increases the potential loss of control in panic maneuvers. Because of these risks, it is very important that these vans be operated by experienced drivers and essential that everyone buckle up every time.
- ▲ For more information on school transportation safety and the consumer advisory on 15-passenger vans, go to NHTSA's website at www.nhtsa.dot.gov.