

Myths and Realities: Van and Bus Service Across State Lines

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Myths about Van and Bus Service across State Lines

MYTH: Public and human services transportation services are exempt from federal motor carrier regulation.

MYTH: State and local governments are exempt from federal motor carrier regulation.

MYTH: Federal grantees are exempt from federal motor carrier regulation.

MYTH: Transportation operations covered by state regulations are exempt from federal motor carrier regulation.

MYTH: Transportation operations in which drivers are not required to have a commercial driver's license (CDL) are exempt from federal motor carrier regulation.

REALITY: All of these are false.

About this Series: This is an occasional publication of the [National Resource Center for Human Service Transportation Coordination](#) (NRC). Each issue explores the myths and realities surrounding a specific barrier to human service transportation coordination.

About the NRC: The NRC provides technical assistance to communities, states and transit and human services agencies to improve and integrate public transportation and human services. We support public transportation projects and coordination of transit and medical care, employment, education and services for senior citizens and people with disabilities. The NRC is operated by the Community Transportation Association under a cooperative agreement with the Federal Transit Administration.

This paper helps transportation providers determine if they need to register with the federal government to provide service that crosses state lines, and explains what the registration process involves. For more information, an [in-depth memorandum](#) about the laws and regulations governing van and bus registration is available from the [National Resource Center for Human Service Transportation Coordination](#) (NRC). That memorandum also explains step by step how to fill out the paperwork you have to file. **Pages 8-9 of this document can be printed separately as a quick resource guide on FMCSA regulations but should not be relied on for complete information.**

The Federal Motor Carrier Safety Administration (FMCSA), an agency within the U.S. Department of Transportation, regulates interstate van and bus travel. The FMCSA enforces safety regulations and sets operating standards. The [FMCSA website](#) is a valuable resource featuring pertinent [forms](#), [regulations](#), and [registration information](#). For more information about FMCSA regulations, visit the National Resource Center's [federal motor carrier regulation page](#).

What is the Basis for the Federal Government's Authority to Regulate Van and Bus Service?

Congress and the federal government find their authority to regulate van and bus service in the United States Constitution. Even transit services that operate wholly within a single state are subject to the CDL requirement. Every driver with a CDL must have drug and alcohol testing. Additional regulations apply to carriers of hazardous substances.)

Article I, Section 3 of the Constitution, the Commerce Clause, empowers the Congress to “[t]o regulate commerce with foreign nations, and **among the several states**, and with the Indian tribes.” With regard to interstate commerce, this clause generally refers to commerce, including transportation, which in some way crosses state lines. Congress in turn creates federal regulatory agencies that issue regulations to carry out the laws that are passed to regulate interstate commerce. Creation of the FMCSA falls under this authority.

The federal government regulates aspects of transportation entirely within a single state because the U.S. Supreme Court has interpreted the Commerce Clause of the Constitution to extend to the channels and instrumentalities of interstate commerce as well as activities that in the aggregate substantially affect interstate commerce ([Gonzales v. Raich, 545 U.S. 1, 2005](#)). For example, in *Raich* the Supreme Court banned the cultivation and sale of marijuana grown and sold solely within California for medicinal purposes because Congress already regulated that form of commerce in the Controlled Substances Act. The Court declared that Congress need only possess a rational basis for concluding that a certain class of economic activity will substantially affect interstate commerce, such as marijuana cultivation and sale in *Raich*. According to this line of reasoning, it is well within Congress' power to regulate commercial driver's licenses and drug and alcohol testing even when vehicles never cross state lines.

What is the Definition of Interstate Travel?

According to the FMCSA, its authority over interstate commerce means that “[e]ither the vehicle, its passengers, or cargo must cross a State boundary, or there must be the intent to cross a State boundary.” Any van or bus that crosses state lines, even to complete a trip within the originating state, may be subject to more federal regulation. This is an extremely broad definition that includes either the vehicle's or the passenger's itinerary.

Note that every state is required to have motor carrier regulations that are substantially identical to FMCSA's. The primary distinction is that states vary widely with regard to the definition, registration and oversight of intrastate motor carriers. Any transit provider that uses buses or vans – designed for or seating more than eight passengers – that crosses state lines should understand and comply with FMCSA regulations.

Intrastate motor carriers with interlining, or through ticketing arrangements with interstate motor carriers, are regarded as being engaged in interstate commerce and are responsible for complying with FMCSA requirements. This is why Greyhound and Jefferson Lines, for example, require FMCSA registration as a condition of their contracts with some local transit connections, even if the transit agency and its vehicles are nowhere near a state line.

What Vehicles Does the FMCSA Regulate?

The FMCSA governs “commercial motor vehicles.” For purposes of passenger transportation, these are defined as vehicles **used in interstate commerce** to transport passengers or property where any of the following three conditions are met.

- The vehicle weighs at least 10,001 pounds; or
- The vehicle designed or used to transport more than 8 passengers (including the driver) for compensation; or
- The vehicle designed or used to transport more than 15 passengers, including the driver, whether or not compensation is made.

“Designed or used” is a term employed in the U.S. Code (USC) and in many FMCSA regulations. Remember that the higher number always controls. For example, a bus with 40 seats travelling across state lines, but only carrying four passengers, will be considered designed or used for 40. Likewise, a bus designed for 40, but with 30 seats removed, remains a bus designed for 40. **A vehicle designed or used for a certain number always includes the driver.**

The FMCSA defines “compensation” as the equivalent of interstate commerce, a very broadly defined term that differs from its everyday definition. “Compensation” does not mean merely transactions with for-profit businesses. For example, a non-profit enterprise such as a local Area Agency on Aging that receives state or federal funds and operates a 12-passenger van to take older adults to a senior center across state lines is considered to be operating for direct compensation even without private payments or reimbursement for services.

The bottom line is that almost any transportation service using vehicles designed or used for nine passengers or more probably falls within the FMCSA’s jurisdiction. There are no exceptions to FMCSA’s CDL regulations. FMCSA drug and alcohol regulations apply to all transportation operations in which drivers are required to have CDLs, unless the provider is required to comply with FTA’s drug and alcohol rules.

When Do the FMCSA Regulations *Not* Apply?

Federal interstate motor carrier regulations do not apply to certain classes of vehicles, geographic areas, and travel for particular purposes. Though there is no practical difference, some of the exceptions are mandated by Congress and others appear only in the regulations. **Any vehicle that is designed to carry eight or fewer passengers is not subject to FMCSA regulations.**

Some exceptions apply to travel for a limited purpose. These include school bus operations and daily vanpool commuting. Other exceptions are restricted to specific geographic areas, with no limit on the actual purpose of any particular trip. These are for (1) commercial zones and (2) some travel-related transportation, and (3) transportation within national parks or monuments. Remaining is the exception for government-run transportation. For these, the FMCSA safety regulations still apply. It is always best to refer to the scope of the vehicle or driver rules where there is a question of applicability.

School Bus Exception

School bus operations are exempt only for the purpose of transporting students and staff to and from school. FMCSA safety regulations still apply.

Daily Commute Exception

A limited, but possibly important, exception to FMCSA regulation is for vehicles designed to carry not more than 15 individuals in a single, daily roundtrip commute to and from work. However, FMCSA safety regulations still apply.

Commercial Zones

There are hundreds of places like Kansas City, Kan. and Kansas City, Mo., the Quad Cities area on the Illinois-Iowa border, and Portland, Ore. and Vancouver, Wash., where state lines happen to run through a single metropolitan or community area. The commercial zone exception excludes from FMCSA regulation, large and small. This exception will generally cover transportation to the next town, even if that town lies across a state line, but it will not generally cover travel to a different region of the neighboring state. Additionally, certain metropolitan areas are specifically designated as commercial zones. A detailed definition of commercial zones and a list of specifically-mentioned metropolitan areas are available in the [in-depth memorandum](#) that addresses FMCSA registration issues.

Particular Journeys: To or From Hotels, Stations and Airports

Three types of transit operations that do business in a limited geographic area are exempt from FMCSA regulation. FMCSA safety regulations still apply. The three categories are for tourism or travel-related operations: (1) hotel vehicles travelling to a station, (2) transportation to and from an airport, and (3) transportation within national parks and monuments.

Government Transportation Exception

The government exception is limited to “transportation performed by the Federal government, a State, or any political subdivision of a State.” Interstate compact agencies are included. This exception **does not apply** where government agencies are providing interstate transportation for compensation.

A private party that contracts with a state or federal agency is not exempt. For example, if the Federal Bureau of Prisons enters into an agreement with a contractor to transport prisoners from a courthouse in Texas to a penitentiary in Kansas, the FMCSA laws and regulations apply, but if that same agency performs this operation in-house, then the government as the transportation provider does not have to comply. However, a government employee must still have drug and alcohol testing and a commercial driver’s license. Also, FMCSA safety regulations apply to the operations that fall within this exception. These FMCSA regulations relate to vehicles, drivers, employees and cargo.

My Operation Does Not Qualify for an Exception. What Do I Do Now?

If your vehicle is being used as a “commercial motor vehicle” and does not fit within any exceptions, then the question becomes, *What paperwork, fees, and penalties apply?*

These are the steps to take to comply with FMCSA registration regulations:

- Arrange for a process agent (see below) in each state in which a transit operation travels;
- Obtain insurance to fulfill financial responsibility requirements;
- Submit FMCSA forms;
- Pay the fee or request a fee waiver.

More information about how to fill out the forms is available in the NRC’s [in-depth memorandum on FMCSA regulations](#).



Figure 1. Vehicle from Lodge Pole Senior Center in Harlem, MT

What is a Process Agent?

All organizations that apply for federal motor carrier registration must have an agent for service of process. A process agent is simply a person who serves as the agent of record in the event of any subsequent legal action that arises in the operation of interstate transportation. The process agent does not have to be an attorney. The only requirement is that the person must live or have an office in the designated state. Process agents charge an annual fee, which ranges from \$30 to \$150. In the home state, counsel or another responsible person can be a process agent. In other states of operation, it is possible to contract with someone to act as a process agent.

What Does the Application Process Entail?

New applicants must submit Form MCS-150. This form must be updated every 24 months. All New-Entrant Motor Carriers beginning operation on or after January 1, 2003, must also file an MCS-150A Safety Certification for Application for USDOT Number. New applicants must submit Form OP-1(P) for operating authority. This paperwork must be accompanied by the registration fee of \$300 unless a fee waiver applies. Apply for a fee waiver when applying for operating authority. Bear in mind that the FMCSA does not refund application fees.

Do I Have to Pay the Filing Fee?

The FMCSA will waive the \$300 filing fee for transit benefit operators who are grantees under 49 USC 5307, 5310, or 5311. A paper form – available from CTAA – must be submitted. This form is not available at the FMCSA website.

Other requestors for fee waivers must demonstrate that a waiver would be in the public interest. The application papers and fee waiver request must be submitted by mail and not online. The paper mailing is necessary because a form unavailable online must be submitted. The online application process does not accommodate this fee waiver. [Contact CTAA to obtain this form.](#) All other application materials are available online from the FMCSA and detailed instructions are included in the NRC's [in-depth memorandum](#).

How Much More Insurance Will I Have to Buy?

Vehicles designed or used for nine to 15 passengers, including the driver, must carry a minimum of \$1.5 million insurance coverage. For vehicles designed or used for 16 or more, the insurance requirement is \$5 million in coverage. These are requirements for each vehicle.

The rules are a bit different for grantees and sub-recipients under the Federal Transit Administration (FTA) Sections 5307, 5310, and 5311 funding programs (49 USC 5307, 5310, and 5311). Those grantees must obtain insurance in the highest amount required by the states in which the vehicles travel. It is important to document this alternative form of compliance correctly in the registration paperwork. The in-depth memorandum explains how FTA grantees should do this. **Do not self-insure; obtain commercial insurance because the bond required of those who self insure is quite burdensome.**

What Will Happen If I Do Not Fill Out the Paperwork and Get the Required Insurance?

The FMCSA has the authority to impose strict penalties. The maximum penalty per violation of the financial responsibility requirements is \$11,000, with each day potentially adding a new violation. For employer responsibilities regarding commercial driver's licenses, the civil penalty minimum is \$2,750 and the maximum is \$25,000. For a violation of operating authority, an out-of-service order may be imposed. Other criminal penalties for fraud or perjury may also apply.

Federal Motor Carrier Resources

[The Federal Motor Carrier page of the National Resource Center for Human Service Transportation Coordination](#)

[Figuring Out the Federal Motor Carrier Safety Administration \(FMCSA\) Regulations: Do They Apply and What to Do if the Answer Is "Yes"](#) – an in-depth paper about registration regulations and procedures.

[The U.S. Department of Transportation's FMCSA website](#) features the following resources:

- [Forms](#)
- [Regulations](#)
- [Registration information](#)



Figure 2. Bolt Bus Charter Buses in Washington, DC

FMCSA Quick Resource Guide: *Where Does My Operation Fit In?*

For vehicles used in interstate commerce: All vehicle capacity numbers refer to “design or use,” meaning the higher number always controls. **A vehicle designed or used for a certain number always includes the driver.** For example, a bus with 40 seats, but carrying only four passengers, will be considered designed or used for 40. Likewise, a bus designed for 40, but with 30 seats removed, remains a bus designed for 40.

The FMCSA regulations apply; registration required:

- Vehicles designed or used for 16 or more, for-profit and non-profit transportation providers that cross state lines (unless otherwise exempt)
- Vehicles designed or used for nine to 15 for compensation (unless otherwise exempt)

The FMCSA regulations do not apply; registration not required:

- Small vehicles: designed for eight or fewer
- Commercial zone travel

Some FMCSA regulations apply:

- Federal government, a state, or any political subdivision of a state
- Vehicles designed for nine to 15 without direct compensation (except that motor carriers operating such vehicles are required to comply with sections 390.15, 390.19, and 390.21(a) and (b)(2))
- 49 USC 5307, 5310, 5311 funding (exception from federal insurance minimums)

The FMCSA safety regulations apply; otherwise exempt:

- School transportation: teachers or students to or from school
- Small commuter travel: 15 people or fewer for daily roundtrip commute to and from work
- Hotel transportation to or from a station; airport transportation; transit in national parks and monuments

For vehicles used within one state:

Only the following FMCSA regulations apply: only for vehicles designed for 16 or more passengers

- Commercial driver’s license (CDL)
- Drug and alcohol testing

What Does Registration Mean?

Once registered, an agency is required to follow rules regarding the following:

- Federal insurance minimums
- Designation of process agent
- Registration forms
- Payment of fee or Request for fee reduction or waiver (submitted with registration forms)

Penalties for violation of FMCSA regulations:

- Financial responsibility requirements – maximum penalty: \$11,000 per day per violation
- Employer responsibilities regarding commercial driver's licenses – civil penalty \$2,750 to \$25,000 – only after conviction for an out-of-service order violation
- Violation of operating authority – out-of-service order
- Criminal or civil penalties for fraud, perjury, or other misconduct