

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
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<b>18 AAC 50 Article 9. General Provisions</b>				
18 AAC 50.990 .....	Definitions .....	11/9/14	1/7/15, 80 FR 832; 05/27/15 [Insert <b>Federal Register</b> citation].	
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 BILLING CODE 6560-50-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Part 383**

**Commercial Driver's License Standards; Regulatory Guidance Concerning the Passenger Endorsement Requirements**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of regulatory guidance.

**SUMMARY:** FMCSA responds to a question whether a commercial driver's license (CDL) passenger endorsement is required for drivers of certain custom motorcoaches designed or used to transport fewer than 16 passengers, including the driver. The guidance explains that a passenger endorsement is required because the vehicle is intended to transport passengers rather than cargo.

**DATES:** This guidance is effective May 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mr. Selden Fritschner, Chief, Commercial Driver's License Division, Office of Safety Programs, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Telephone (202) 366-0677 or *Selden.Fritschner@dot.gov*. Office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays. If you have questions on the docket, call Ms. Barbara Hairston, Docket Operations, telephone 202-366-3024.

**SUPPLEMENTARY INFORMATION:**

**I. Legal Basis**

The CDL program was established by the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (49 U.S.C. chapter 313). The CMVSA authorizes the

Secretary of Transportation to set minimum standards for the CDL. The Administrator of FMCSA has been delegated the authority to carry out the functions vested in the Secretary by the CMVSA (49 Code of Federal Regulations [CFR] 1.87(e)(1)).

Parts 383 and 384 of Title 49, CFR, implement the CMVSA requirements. Part 383 prohibits any person who does not hold a valid CDL or commercial learner's permit (CLP) issued by his/her State of domicile from operating a commercial motor vehicle (CMV) that requires a driver with a CDL. This regulatory guidance is based on that authority and is intended to ensure that CDL holders obtain the proper endorsements before operating a CMV.

**II. Background**

The American Bus Association (ABA) asked if drivers of certain custom motorcoaches require passenger endorsements. These motorcoaches are used primarily to transport entertainers to performance venues throughout the United States. Because these vehicles have gross vehicle weights (GVWs) and gross vehicle weight ratings (GVWRs) greater than 26,000 pounds, the driver must have a CDL. However, the vehicles are not designed or used to transport 16 or more passengers. Each vehicle begins as a motorcoach chassis and body shell which is then customized by a second-stage manufacturer that installs beds, couches, sinks, kitchen cabinets, and other furnishings. ABA notes that the maximum passenger capacity of these vehicles is approximately 10-12 persons, plus the driver. The ABA asked whether the drivers must have passenger endorsements on their CDLs. ABA estimates that approximately 1,000 entertainer motorcoaches are currently in operation.

**III. Applicable Regulations**

The CDL rules in 49 CFR 383.23(a) require individuals to pass written and driving tests for a CLP or CDL to operate commercial motor vehicles (CMVs). Section 383.5 defines a CMV.

The customized motorcoaches described by the ABA are Group B Heavy Straight Vehicles, within the CMV definition under § 383.5 and under § 383.91 concerning endorsements. They are used in commerce to transport passengers, and have GVWRs and GVWs of 26,001 pounds or more. Section 383.93(b)(2) requires CDL holders who operate or expect to operate "passenger vehicles" to obtain a passenger endorsement requiring a knowledge and skills test (§ 383.93(c)(2)). Neither these sections nor the passenger endorsement provisions in § 383.117 specifies a minimum number of passengers needed to trigger the endorsement requirement. Drivers of the customized motorcoaches used by the entertainment industry, which are designed or used to transport between 10 and 12 passengers, including the driver, are therefore required to have a CDL with a passenger endorsement.

It should be noted that FMCSA and its predecessor agency, the Federal Highway Administration, have held for more than 20 years that drivers of recreational vehicles used strictly for non-commercial purposes are not required to obtain a CDL [Question 3 under § 383.3, 58 FR 60734, 60735, November 17, 1993; available on the Agency's Web site: *www.fmcsa.dot.gov*]. Such vehicles are not "used in commerce" in the sense intended by the definition of "commercial motor vehicle" in 49 U.S.C. 31301(4) and 49 CFR 383.5. Today's regulatory guidance is therefore limited to the issue of the passenger endorsement for individuals who are already required to possess a CDL.

**IV. FMCSA Decision**

In consideration of the above, FMCSA has determined that the requirements under 49 CFR part 383 require CDL-holders to have a passenger endorsement when operating a vehicle that exceeds the 26,000-pound threshold, and is designed to transport passengers rather than property. FMCSA

therefore includes the following as new Guidance to 49 CFR 383.93:

*Commercial Driver's License Standards, Endorsements; Regulatory Guidance for 49 CFR 383.93*

**Question 15:** Is a person who operates a custom motorcoach in commerce with a gross vehicle weight rating or gross vehicle weight greater than 26,001 pounds required to have a passenger endorsement for his or her CDL if the vehicle is designed or used to transport less than 16 passengers, including the driver?

**Guidance:** Yes. The motorcoach is a Heavy Straight Vehicle (Group B) under 49 CFR 383.91 that is designed to transport passengers in commerce. The driver is, therefore, required by § 383.93(b)(2) to have a passenger endorsement.

Issued on: May 18, 2015.

**T.F. Scott Darling, III,**  
Chief Counsel.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 390

[Docket No. FMCSA-2012-0103]

RIN 2126-AB44

#### Lease and Interchange of Vehicles; Motor Carriers of Passengers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** FMCSA adopts regulations governing the lease and interchange of passenger-carrying commercial motor vehicles (CMVs) to: Identify the motor carrier operating a passenger-carrying CMV that is responsible for compliance with the Federal Motor Carrier Safety Regulations (FMCSRs); and ensure that a lessor surrenders control of the CMV for the full term of the lease or temporary exchange of CMVs and drivers. This action is necessary to ensure that unsafe passenger carriers cannot evade FMCSA oversight and enforcement by entering into a questionable lease arrangement to operate under the authority of another carrier that exercises no actual control over those operations. This rule will enable the FMCSA, the National Transportation Safety Board (NTSB), and our Federal and State partners to identify motor carriers transporting

passengers in interstate commerce and correctly assign responsibility to these entities for regulatory violations during inspections, compliance investigations, and crash investigations. It also provides the general public with the means to identify the responsible motor carrier at the time transportation services are provided.

**DATES:** *Effective date:* July 27, 2015. *Compliance date:* Motor carriers of passengers operating CMVs under a lease or interchange agreement are subject to this rule on or after January 1, 2017.

Petitions for reconsideration must be received by June 26, 2015 and must be filed in accordance with 49 CFR 389.35.

**FOR FURTHER INFORMATION CONTACT:** Ms. Loretta Bitner, (202) 366-2400, [loretta.bitner@dot.gov](mailto:loretta.bitner@dot.gov), Office of Enforcement and Compliance. FMCSA office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

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#### I. Acronyms and Abbreviations

1935 Act Motor Carrier Act of 1935  
 1984 Act Motor Carrier Safety Act of 1984  
 Advocates Advocates for Highway and Auto Safety  
 ABA American Bus Association  
 BASICS Behavioral Analysis and Safety Improvement Categories  
 CDL Commercial Driver's License  
 CMV Commercial Motor Vehicle  
 CSA Compliance, Safety, Accountability  
 DOT United States Department of Transportation  
 FMCSA Federal Motor Carrier Safety Administration  
 FMCSRs Federal Motor Carrier Safety Regulations, 49 CFR parts 350 through 399  
 FR Federal Register  
 FRFA Final Regulatory Flexibility Analysis  
 Gobbell Gobbell Transportation Services  
 LLCs Limited Liability Companies  
 MCMIS Motor Carrier Management Information System  
 MCSAP Motor Carrier Safety Assistance Program  
 MAP-21 Moving Ahead for Progress in the 21st Century Act  
 NPRM Notice of Proposed Rulemaking  
 NTSB National Transportation Safety Board  
 OMB Office of Management and Budget  
 OOIDA Owner-Operator Independent Drivers Association  
 OOS Out of Service  
 PRA Paperwork Reduction Act of 1995  
 QALY Quality-Adjusted Life-Year  
 RFA Regulatory Flexibility Act  
 SMS Safety Measurement System  
 SBA Small Business Administration  
 STB Surface Transportation Board  
 UMA United Motorcoach Association  
 VSL Value of a Statistical Life  
 VMT Vehicle Miles Traveled  
 VIN Vehicle Identification Number

#### II. Executive Summary

##### A. Purpose of the Final Rule

FMCSA adopts regulations governing the lease and interchange of passenger-carrying CMVs to ensure that passenger carriers cannot evade FMCSA oversight and enforcement by entering into questionable lease arrangements to operate under the authority<sup>1</sup> of another carrier that exercises no actual control over these operations. The rule is based on the broad authority of the Motor Carrier Safety Act of 1984 as amended

<sup>1</sup> While this statement refers to the operating authority issued to for-hire motor carriers by FMCSA, the rule would also apply to private carriers, which are not required to have operating authority. If a private carrier leased a bus from another private carrier, the parties would be required to complete a lease, and the lessee would be responsible for safety and regulatory compliance.