



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

39 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 **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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 website:

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

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