



## Transportation — Educational Alert Camp 9-15 Passenger Vans \* March 28, 2014

*This is an educational alert only and cannot be considered legal advice. This educational alert covers only 9 to 15 passenger vans used to transport persons. Other vehicles used by camps may be subject to Federal Motor Carrier Safety Administration, state, or local regulations. Please consult your own transportation experts to ensure your camp is in compliance with all local, state and federal regulations.*

Recent discussions between the Maine Division of the Federal Motor Carrier Safety Administration (FMCSA), Maine State Troopers, and the Maine Youth Camp Association (MYCA) have surfaced some issues contained in FMCSA regulations regarding camps and interstate transportation. To educate all camps across the country, we've created this educational alert. *These are not new regulations, but regulations that perhaps have been misunderstood.* Camps likely know that there are federal regulations applicable to transportation by "bus" (vehicles designed to transport more than 15 people). What may be misunderstood by camps is that there are also federal regulations regarding transportation in vans designed to transport 9 to 15 people (including the driver).

**Issue:** What are the federal regulations related to transportation of campers and staff by youth camps using vans designed to transport between 9 and 15 passengers?

**Analysis:** FMCSA regulations are numerous, detailed and complex. *Your camp is responsible for compliance with all applicable regulations even if you rent your vehicles from a third-party.* Generally, some level of FMCSA regulations applies if your camp uses one or more vans. Which regulations are applicable depend on (1) whether the van's weight is greater or less than 10,001 pounds and (2) whether the compensation is direct or not direct. Consider if your camp:

- Engages in interstate commerce, and the vehicle(s) used has a gross vehicle weight rating (GVWR) — or actual loaded weight — of 10,001 pounds or greater; OR
- The vehicle(s) you utilize are designed or used to transport 9-15 people including the driver, and the transportation is for compensation — whether direct or indirect.

*To understand the definitions of the terms above, refer to page 2. This will help you determine what regulations apply to your camp.*

**Applicability:** The least extensive set of regulations apply if (1) the GVWR is less than 10,001 pounds and (2) compensation is not direct. No FMCSA regulations apply if no compensation is received for the transportation. Information regarding the FMCSA regulations can be found at: <http://www.fmcsa.dot.gov/safety-security/PCS/PassengerVan.aspx>

**Additional Consideration – Operating Authority:** If a camp is compensated for its transportation, then in addition to the FMCSA safety regulations, it is required to have "Operating Authority" to conduct interstate transportation. In order to obtain Operating Authority one must go through a detailed process and pay a one-time fee of \$300.

MYCA has been advised that the process is currently taking 10 to 12 weeks. The fine for operating without authority is \$25,000. *MYCA, on behalf of Maine camps is in discussions with FMCSA, challenging the interpretation of definitions within the requirement. We will keep all camps across the country updated on progress.*

#### Definitions:

- Interstate commerce: trade, traffic, or transportation in the United States; (1) between a place in a state and a place outside of such state (including a place outside of the United States); (2) between two places in a state through another state or a place outside of the United States; or (3) between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States. *The third part of this definition would apply to picking up, at an in-state airport or other public transportation terminal, campers or staff who are traveling to the state from out of state or out of country, if the in-state portion of the travel is more than 25 miles.*
- Intrastate commerce: transportation in any state not defined as interstate. *MYCA has been advised that Maine has adopted the FMCSA regulations (but not the Operating Authority requirement) so that **intrastate** transportation in Maine is subject to the same safety rules. It is likely that other states have as well.*
- Gross Vehicle Weight Rating (GVWR): is the vehicle manufacturer's determined maximum total weight of the vehicle *when fully loaded*. The GVWR can be found on the front door post of the vehicle. However, the determination of which regulations apply is based on the GVWR or actual weight whichever is greater.
- Designed to be 9 to 15 passengers: means "designed". Removal of seats to limit the number of passengers that can be carried will not change the design of the van.
- Compensation means being paid for providing the transportation.
  - Direct Compensation means payment made to the motor carrier by the passenger or a person acting on behalf of the passenger for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services.
  - Not For Direct Compensation is the opposite. MYCA believes that youth camps are Not For Direct Compensation carriers.

The Maine Youth Camp Association is working with federal and Maine state officials to educate all camps about the details of compliance. More information will be developed as this process continues.

***For more information, contact your own state's Motor Carrier Authority.***

***Find contact information here: <http://www.fmcsa.dot.gov/>***

***Thank you to the Maine Youth Camp Association and their legal counsel, Jack Erler, Esq. for bringing forward this issue and providing the research contained in this educational alert.***