

## INFORMATION ON THE USE OF LARGE VANS TO TRANSPORT STUDENTS

Presented by the School Transportation Unit, Colorado Department of Education  
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A case involving a 15 passenger van in Columbia, South Carolina, settled out-of-court for more than \$1 million, has caused concern and some confusion about the use of vans for Colorado school children. Eight-year-old Jacob Strebler was killed when the van in which he was being transported on an activity trip was struck broadside by a truck.

Effective October 1, 1993, the Colorado Minimum Standards Governing School Transportation Vehicles, 1 CCR 301-25, (see attachment #1) allowed districts the opportunity to begin using 12 and 15 passenger vans up to the manufacturer's designated capacity. There has been no change in the regulation, nor is there any plan to make changes in regards to the use of small vehicles for transporting school children.

The Colorado Department of Education has taken steps to insure that students transported in small vehicles are provided a high level of safety. All school transportation vehicles are maintained and inspected per 1 CCR 301-29. In addition, effective August 1, 1995, all small vehicle operators are required to meet certain criteria before transporting students, 1 CCR 301-26, (see attachment #1).

Since September 1, 1994, passenger cars, multipurpose passenger vehicles, trucks and buses have been built to higher Federal Motor Vehicle Safety Standards for side door strength and roof crush resistance (see attachment #2). The van that Jacob Strebler was killed in was a 1991 model. It is proposed in the current revisions for Colorado Minimum Standards for School Transportation Vehicles, 1 CCR 301-25, 2251-R-4.03, new second paragraph, that, "Only those small vehicles which are manufactured after September 1, 1994, may be purchased, leased, contracted, or otherwise obtained for the purpose of transporting Colorado school children."

The U.S. Department of Transportation still defines a "bus" as any vehicle, including a van, that has a capacity of 11 persons or more, including the driver (see attachment #2). This definition applies to the manufacture and sale of new vehicles. Although dealers are prohibited by federal regulations from selling a new 15 passenger van for the purpose of transporting school children, some dealers have done so. The regulations do not apply to the sale of used vans nor to the operation and use of the vehicle. The U.S. Department of Transportation states that it is up to individual states to regulate the use of these vehicles.

Although the National Highway Traffic Safety Administration's policy is that states regulate transportation operation, they recommend against the use of 12 and 15 passenger vans since, although they are classified as a bus, they are not built to school bus standards. They believe the user of this larger van has assumed more liability (see attachment #3).

National organizations such as the National Association of State Directors of Pupil Transportation Services (see attachment #3), the National Association for Pupil Transportation, and the National School Transportation Association have taken the position that school children should only be transported in school buses.

Districts in Colorado are allowed to choose what vehicle best meets the needs of the children in their individual district. CDE transportation regulations, which includes minimum standards for school transportation vehicles (1 CCR 301-25), maintenance and inspection of school transportation vehicles (1 CCR 301-29), and the rules for the operation of school transportation vehicles (1 CCR 301-26) establish perimeters that enhance the safety of the children being transported.

Another option to the large van could be a Type A school bus with a manufacturer's rated capacity of less than 15.

CDE recommends that this information be shared with and discussed with the district's insurance carrier, legal counsel, school board, and any other interested parties.

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ATTACHMENT #2

Federal Regulations regarding vans.

49 CFR 571.3(b), Other definitions.

Bus means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.

School bus means a bus that is sold, or introduced in interstate commerce, for purposes that include carrying students to and from school or related events, but does not include a bus designed and sold for operation as a common carrier in urban transportation.

Multipurpose passenger vehicle means a motor vehicle with motive power, except a trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

FMVSS applying exclusively to school buses (Colorado School Transportation Administrator Reference Manual, Section H):

Standard No. 220; School bus roll-over protection.

Standard No. 221; School bus body joint strength.

Standard No. 222; School bus passenger seating and crash protection.

49 CFR 571.216 Standard 216; Roof crush resistance.

S3–Application-applies to passenger cars, and multipurpose passenger vehicles, trucks and buses with a GVWR of 6000 lbs. or less.

S4(b)–Requirements-Vehicles manufactured on or after September 1, 1993.

49 CFR 571.214 Standard 214; Side door strength.

S3(a)(2)- Application-each multipurpose passenger vehicle, truck and bus manufactured on or after September 1, 1994...

### ATTACHMENT #3

*Use of Nonconforming Vehicles for School Transportation, (<http://www.nhtsa.dot.gov>) on 12/10/97.*

Federal requirements regulate **new vehicles** that carry 11 or more persons that are **sold** for transporting students to or from school or school related events. Those vehicle are required to meet all FMVSSs for school buses. Under 49 U.S.C. 30101, etseq., a vehicle is regarded as being sold for use as a school bus if, at the time of sale, it is evident that the vehicle is likely to be significantly used to transport students to or from school or school related events. Thus, **a dealer selling** a new 15-passenger van to be used for school transportation must ensure that the van is certified as meeting school bus FMVSSs.

**Federal regulations do not prohibit the use of vans by schools**, but require any van (with a capacity of more than 10) sold or leased for use as a school bus to meet the safety standards applicable to school buses. **Federal regulations apply only to the manufacture and sale/lease of new vehicles. Each State prescribes its own regulations that apply to the use of any vehicle that is used to transport students.**

*The following is a paragraph from a letter to the Aiken County Public Schools, Aiken, South Carolina from the Chief Counsel of NHTSA, written January 15, 1991, regarding 12-15 passenger vans transporting school children.*

NHTSA has issued Federal motor vehicle safety standards applicable to all **new** school buses. It is a violation of Federal law for any person to sell as a school bus any new vehicle that does not comply with all school bus safety standards. On the other hand **without violating any provision of Federal law, a school district may use a vehicle to transport school children**, even if the vehicle does not comply with Federal school bus regulations. This is so because the **individual States have authority over the use of the vehicles**. Therefore, to determine whether your school district may use noncomplying vans to transport school children, you must look to state law. In addition, using ~~noncomplying vans as a school bus could result in increased liability in the event of an accident. You~~ might want to consult your attorney and insurance company to discuss this matter.

*The following is taken from a position paper from the National Association of State Directors of Pupil Transportation Services (NASDPTS).*

A passenger van does not offer the same level of safety to its occupants as a full-sized school bus or a school bus built on a van-type chassis. In a crash, the risk of a serious injury or fatality is significantly higher for the occupants of a passenger van. Since it would be expected that any crash resulting in serious injuries or fatalities to school children would ultimately result in law suits, the fact that a school was using a vehicle that was not manufactured, sold, or leased in accordance with Federal laws governing school transportation would most likely be a significant issue in the law suit. This fact could also have an impact on the liability responsibilities of the insurance company used to insure the operations of the school.

The National Association of State Directors of Pupil Transportation Services believes that it is appropriate to require higher levels of safety in vehicles that transport children to and from school and school-related activities. Accordingly, the Association supports the position that school children should be transported in school buses which provide them with the highest levels of safety, not in vans which do not meet the stringent school bus safety standards issued by the Federal government and recommended by the National Standards Conference on School Transportation, an organization of state school transportation officials.