

can use to assist in identifying, detecting, protecting against, responding to, and recovering from cyber incidents.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Jason Carnes, FHWA Transportation Security Coordinator (202) 366-5280, or via email at Jason.Carnes@dot.gov, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

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Background

Pursuant to section 11510(b) of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58), FHWA is required to develop a tool to assist transportation authorities in identifying, detecting, protecting against, responding to, and recovering from cyber incidents. Safety is the top priority of DOT and FHWA. The FHWA routinely works closely and collaboratively with Federal and State agencies whose primary missions revolve around securing critical transportation infrastructure. The FHWA provides subject matter expertise to those agencies in identifying potential physical and cybersecurity threats and appropriate mitigation efforts. When presented with physical or cybersecurity questions, concerns or incidents from State, local, Tribal, and Territorial transportation authorities, or other stakeholders, FHWA routinely assists in connecting these entities to security-focused government agencies, including the Transportation Security Administration, the Cybersecurity and Infrastructure Security Agency (CISA), and the Federal Bureau of Investigation.

On March 5, 2024, FHWA published in the **Federal Register** (89 FR 15923) a notice and request for comments proposing to adopt CISA's CSET as a voluntary tool that transportation authorities can use to assist in

identifying, detecting, protecting against, responding to, and recovering from cyber incidents. The CISA's cybersecurity mission is to defend and secure cyberspace by leading national efforts to drive national cyber defense, resilience of national critical functions, and a robust technology ecosystem. The FHWA therefore thinks it is appropriate to leverage CISA's expertise instead of attempting to create a separate and potentially duplicative tool. The CSET, developed by CISA, is a comprehensive software tool designed to assist organizations in assessing their cybersecurity posture and developing structured improvement programs. The CSET helps organizations evaluate their cybersecurity practices, identify vulnerabilities, and prioritize mitigation efforts by providing a systematic approach to assess cybersecurity controls and processes. It offers a range of modules and questionnaires tailored to different critical infrastructure sectors, making it a valuable resource for organizations seeking to enhance their cybersecurity resilience through a well-structured assessment and development program. The CSET is available to the public for download at <https://www.cisa.gov/downloading-and-installing-cset>.

Discussion of Comments Received

Consistent with BIL, section 11510(b)(2)(E), FHWA requested comments on its notice proposing to adopt CSET. The FHWA received two comments, both of which supported FHWA's proposal to adopt CSET as a voluntary cybersecurity tool. The FHWA appreciates the comments.

Adoption of Cyber Security Evaluation Tool

In accordance with BIL, section 11510(b), and after reviewing the comments received, FHWA announces with this notice that FHWA adopts CISA's CSET as a voluntary tool transportation authorities can use to provide assistance regarding cyber incidents.

Authority: Sec. 11510, Pub. L. 117-58, 135 Stat. 592.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2023-0272]

Commercial Driver's License Standards: Application for Exemption; State of Hawaii Department of Transportation

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to the Hawaii Department of Transportation (HDOT) to allow commercial driver's license (CDL) holders with a passenger (P) endorsement to operate a school bus without holding a school bus (S) endorsement, provided an adult chaperone is present on the bus who is responsible for ensuring the safe loading and unloading of children. This exemption applies to drivers operating traditional school buses, *i.e.*, buses designed to be school buses, and to motorcoaches and vans not designed to be school buses. Drivers operating a traditional school bus must have an S endorsement commercial learner's permit (CLP) and obtain their full S endorsement within 90 days of the date they obtained the S endorsement CLP. Drivers operating motorcoaches or vans not designed to be a school bus must operate between designated central locations, such as parks or parking lots, and school or school-sponsored events.

DATES: The exemption is effective September 10, 2024 and expires September 10, 2029.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202-366-2722. MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number "FMCSA-2023-0272" in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click "Browse Comments."

To view documents mentioned in this notice as being available in the docket,

go to www.regulations.gov, insert the docket number “FMCSA–2023–0272” in the keyword box, click “Search,” and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant’s safety analyses. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reasons for the denial (49 CFR 381.315(c)(2)).

III. Current Regulatory Requirements

Current Regulation(s) Requirements

Under 49 CFR 383.5, a “school bus” is a commercial motor vehicle (CMV) used to transport pre-primary, primary, or secondary school students to/from school or related events. Under 49 CFR 383.93(b)(5) and 383.123, drivers for such buses must have CDLs and P and S endorsements¹ on their CDLs. Under 49 CFR 383.153(b)(2)(viii)(B), a CLP holder with a S endorsement is prohibited from operating a school bus carrying passengers other than Federal/ State auditors and inspectors, test

¹ Under 49 CFR 383.5, an endorsement is authorization to an individual’s CDL or CLP required to permit the individual to operate certain types of commercial motor vehicles.

examiners, other trainees, and the CDL holder accompanying the CLP holder as prescribed by 49 CFR 383.25(a)(1).

Applicant’s Request

HDOT, on behalf of the Hawaii Department of Education (DOE) and independent schools statewide, requested an exemption from the CDL and CLP regulations in 49 CFR part 383 for the following: to allow Class A or B CDL holders with a P endorsement to operate a school bus without holding an S endorsement CLP, and to allow the use of motorcoaches and vans to transport students to/from a central location to school on a daily basis. HDOT is working with DOE and independent schools statewide to provide alternative transportation solutions to increase the number of students who can attend school in person.

HDOT is requesting relief so that Class A and Class B CDL holders who have a P endorsement may operate traditional school buses without the required S endorsement. HDOT is also requesting the same relief for Class A and Class B CDL holders who operate motorcoaches or vans to transport students from a central location to school and from school to a central location on a daily basis. Hawaii currently has a severe shortage of school bus drivers, and as a result, DOE had to reduce services to public school students who do not have transportation to/from school. This reduction of services statewide has impacted the number of students who can attend school in person, especially in rural areas. The shortage has forced a suspension or partial suspension on the islands of Oahu and Kauai, and the route suspensions and partial suspensions were in place during the entire 2023–2024 school year.

IV. Method To Ensure an Equivalent or Greater Level of Safety

HDOT indicates that, with the exception of the S endorsement, all other Federal and State training requirements will be completed prior to the drivers starting motorcoach service. Drivers will be in the process of completing their S endorsements, and therefore HDOT anticipates that the remaining requirement will be met within a reasonable time frame. DOE will continue to accept responsibility for the initial screening and proficiency of all drivers allowed to provide bus service for students.

V. Public Comments

On April 15, 2024, FMCSA published notice of the HDOT application and

requested public comment (89 FR 26211). The Agency received two comments: one in support and the other in opposition.

In support of the request, DOE stated that its Student Transportation Services Branch faces a widely publicized and persistent school bus driver shortage, which it believes is reflective of a greater nationwide driver shortage, a trend the agency anticipates will increase over the coming years. Among its school bus contractors, regular education driver counts have declined from 288 in the 2022–2023 school year to 231 as of May 1, 2024. DOE struggles to attract qualified drivers with CDLs or those without CDLs who are interested in training. To address this concern, DOE and its contractors have implemented several actions, including offering financial incentives such as hiring bonuses, higher hourly pay rates, and daily differentials. Non-financial incentives such as subsidized CDL training and licensing were also offered. However, while successful in recruiting and retaining some drivers, these measures have not fully addressed the driver shortfall.

Included in the DOE comment is a copy of an emergency proclamation entitled, “Proclamation Relating to School Bus Services” originally issued on August 17, 2023, by the Governor of Hawaii, Josh Green. The proclamation was renewed for the fourth time on April 10, 2024, which is anticipated to be the last renewal. Under the proclamation, DOE was able to utilize school bus drivers without an S endorsement until June 8, 2024. The proclamation stated that DOE would provide “escorts” for students when using vehicles other than traditional school buses. According to DOE, the additional flexibility provided an excellent test case for more efficient student transportation operations, particularly in West Maui for Lahaina schools. Under the proclamation, the DOE’s bus contractors have had greater flexibility in hiring and allocating drivers, and in summary DOE states that FMCSA’s approval of the application for exemption “will continue to provide [DOE] with much-needed flexibility in recruiting more CDL drivers, utilizing alternative transportation options, and implementing strategies such as centralized pickups and drop-offs.”

AWM Associates, LLC (AWM) commented in opposition, noting that “The skills test for passenger and school bus operations are similar; however, not the same.” AWM expressed concern that the relief HDOT requests would expose children to transportation by individuals without adequate skills to

do so and urged FMCSA to deny the request.

VI. FMCSA Decision

The Agency reviewed HDOT's application and the received comments and has concluded that HDOT may allow CDL holders with a P endorsement to operate a school bus, as defined in 49 CFR 385.3, without an S endorsement, as long as HDOT takes the additional measures described in this notice. These drivers have already demonstrated their abilities to safely operate a passenger CMV in the same commercial motor vehicle group as a traditional school bus (*i.e.*, Group B, as designated in 49 CFR 383.91) by obtaining the P endorsement.

As set forth in 49 CFR 383.123, the S endorsement is focused on ensuring the applicant is familiar with the safety features in a traditional school bus that relate to loading and unloading children in roadways, including the safe operation of stop signal devices, external mirror systems, flashing lights, and other warning and passenger safety devices required for school buses by State or Federal law. For drivers operating a traditional school bus that was designed to be a school bus, the Agency permits Class A and B CDL drivers with a P endorsement and an S endorsement CLP to transport students from home to school, from school to home, and to and from school-sponsored events with the use of adult chaperones who are responsible for the safe loading and unloading of children. Drivers must pass the S endorsement skills test to obtain the full S endorsement within 90 days of the date they obtained the S endorsement CLP. These drivers have demonstrated their knowledge of the special features of the traditional school test by passing the S endorsement knowledge test. FMCSA believes these measures will likely achieve a level of safety equivalent to, or greater than, the level that would be obtained by complying with the regulation.

Regarding the use of school buses not designed to be school buses, such as motorcoaches and vans, the Agency permits Class B and C CDL drivers with a P endorsement, and no S endorsement CLP, to operate Group B motorcoaches and Group C passenger vans to transport students between designated, central locations, such as parks or parking lots, and school or school-sponsored events. Drivers must be accompanied by adult chaperones who are responsible for the safe loading and unloading of children on the vehicle. The Agency believes this approach will likely achieve a level of

safety equivalent to or greater than the level of safety obtained by complying with the regulations. Requiring these drivers to pass the S endorsement knowledge test to obtain a CLP is unnecessary because the knowledge test is focused on the specific features of a traditional school bus. Additionally, Class B and Class C CDL holders with the P endorsement have already demonstrated their abilities to safely operate these vehicles by passing the skills test requirements for Group B and Group C passenger CMVs. Requiring them to pass the S endorsement skills test in a Group B motorcoach or a Group C passenger vehicle, such as a van, is therefore unnecessary.

VII. Exemption Decision

A. Grant of Exemption

The FMCSA grants an exemption to HDOT from the requirements of 49 CFR 383.93(b)(5) and 383.153(b)(2)(viii)(B) for a period of five years subject to the terms and conditions of this decision.

B. Applicability

This exemption is restricted to Hawaii CDL holders with a P endorsement operating a school bus as defined in 49 CFR 383.5, meaning a CMV used to transport pre-primary, primary, or secondary school students from home to school, school to home or to and from school-sponsored events.

This exemption is limited strictly to the provisions of 49 CFR 383.93(b)(5) and 49 CFR 383.153(b)(2)(viii), and exempts the driver from the requirement to obtain an S endorsement on their CDL to operate a school bus, and the prohibition on a CLP holder with an S endorsement from operating a school bus with passengers other than Federal/State auditors and inspectors, test examiners, other trainees, and the CDL holder accompanying the CLP holder as prescribed by 49 CFR 383.25(a)(1).

C. Terms and Conditions

When operating under this exemption, the HDOT is subject to the following terms and conditions:

(1) HDOT must allow drivers to operate under this exemption only when accompanied by an adult chaperone who is responsible for ensuring the safe loading and unloading of children on and off the school bus.

(2) HDOT must allow drivers to operate a school bus that was not designed to be a school bus, such as a motorcoach or van, under this exemption only when operating between designated, central locations, such as parks or parking lots, and school or school-sponsored events.

(3) HDOT must allow drivers to operate a school bus that was designed to be a school bus under this exemption only if the driver holds a CLP with an S endorsement. Such drivers must pass the S endorsement skills test and obtain the full S endorsement within 90 days of the date they obtained the S endorsement CLP.

(4) Drivers must have a copy of this notice in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request.

Notification to FMCSA

HDOT must notify FMCSA by email addressed to *MCPSP@DOT.GOV* within 5 business days of any crash (as defined in 49 CFR 390.5T) that occurs while a driver is operating under the terms of this exemption. The notification must include:

- a. Identifier of the Exemption: "Hawaii Department of Transportation"
- b. Name of operating carrier and USDOT number,
- c. Date of the crash,
- d. City or town, and State, in which the accident occurred, or closest to the crash scene,
- e. Driver's name and license number,
- f. If any, co-driver's name and license number,
- g. Vehicle number and state license number,
- h. Number of individuals suffering physical injury,
- i. Number of fatalities,
- j. The police-reported cause of the crash,
- k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and
- l. The total driving time and total on-duty time prior to the crash.

Termination

FMCSA believes that drivers operating under the terms of this exemption will likely maintain an equivalent level of safety. However, should deterioration in safety occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. FMCSA in its discretion may revoke the exemption immediately for failure to comply with its terms and conditions.

Vincent G. White,
Deputy Administrator.

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