

Transportation Compliance Guidelines for Daycare, Nursing Homes and Assisted Living Communities

Definitions:

[49 CFR Part 390.5](#) - **Commercial motor vehicle** (CMV) means any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle:

- (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under [49 USC 5103](#) and transported in a quantity requiring placarding under regulations prescribed by the Secretary under [49 CFR](#) , subtitle B, chapter I, subchapter C.

CDL Required commercial motor vehicle definition

[49 CFR Part 383.5](#): A specialized commercial motor vehicle License (CDL) is required if a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle is a-

- (1) Combination Vehicle (Group A)—having a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- (2) Heavy Straight Vehicle (Group B)—having a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater; or
- (3) Small Vehicle (Group C) that does not meet Group A or B requirements but that either
 - (i) Is designed to transport 16 or more passengers, including the driver; or
 - (ii) Is of any size and is used in the transportation of hazardous materials as defined in this section.

[49 CFR Part 383](#) .Commercial driver’s license standards; requirements and penalties.

[49 CFR Part 390.5](#) - **Interstate commerce** means 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.

[49 CFR Part 390.5](#) - **Intrastate commerce** means any trade, traffic, or transportation in any State which is not described in the term “interstate commerce.

[49 CFR Part 390.5](#) - **For-hire motor carrier** means a person engaged in the transportation of goods or passengers for compensation.

[K.S.A. 66-1,108](#) - **Public motor carrier of passengers means** any person who undertakes for hire to transport by commercial motor vehicle, from place to place, persons who may choose to employ or contract with the motor carrier.

Federal Interpretation to Determine Operating Authority Applicability:

The Federal Motor Carrier Safety Administration (FMCSA) has deemed the daycare, nursing homes and assisted living communities that provide passenger transportation services and collect payment either direct or indirect as for-hire. The fee collected by these entities is considered indirect compensation for the passenger transportation provided. The passenger transportation does not need to be available to the public at large for it to be for-hire 49 CFR Part 390.5 interpretation question #10 clarifies the transportation provided by these entities to be for-hire.

Question 10: Does the FMCSA define for-hire transportation of passengers the same as the former ICC did?

Guidance: To the extent FMCSA’s authority stems from [49 U.S.C. 31502](#) or other sections of Title 49 which are rooted in the Interstate Commerce Act, the FMCSA is bound by judicial precedent and legislative history in interpreting that Act, much of which relates to the operations of the former ICC. However, since the MCSA of 1984 reestablished the FHWA/FMCSA’s jurisdictional authority and resulted in a re promulgation of the FMCSRs, the FHWA/FMCSA have established their own precedents based on "safety" rather than "economics" as the overriding consideration. This has resulted in some deviation in the definition of terms, e.g., commercial zones, for-hire transportation, etc.

Safety Applicability:

[K.S.A. 66-1,129](#) - Motor carriers; safety rules and regulations adopted by commission; exceptions.

[49 CFR Part 390.3T](#) – General applicability.

Smaller Commercial Motor Vehicle Exemption:

The exemption in [49 CFR Part 390.3T \(f\)\(6\)](#) applies to motor carriers and businesses that operate CMVs 9 - 15 passengers (including the driver), not for direct compensation, provided the vehicle does not otherwise meet the definition of a commercial motor vehicle, except that motor carriers and drivers operating such vehicles are required to comply with §§ 390.15, 390.19T, 390.21T(a) and (b)(2), 391.15(e) and (f), 392.80 and 392.82 of this chapter.

Exemption Applicability:

If the vehicle is designed or used to transport between 9 and 15 passengers (including the driver) and the Gross Vehicle Weight Rating of the vehicle is less than 10,001 lbs. Motor carriers and drivers operating such vehicles are only subject to §§ 390.15, 390.19T, 390.21T(a) and (b)(2), 391.15(e) and (f), 392.80 and 392.82 of this chapter. Provided the vehicle does not otherwise meet the definition of a commercial motor vehicle.

Compliance Information:

[Procedures for Safety Compliance.pdf](#)

[49CFR Parts 300-399](#) FMCSA Regulations and Interpretations.

[49 CFR Part 40](#) - Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

[49 CFR Part 382](#) - Controlled Substances and Alcohol Use and Testing.

Operating Authority:

Intra: [K.S.A. 66-1,109](#) - Regulation of motor carriers; exemptions of certain carriers, certain transporters and certain uses from act.

Inter: [49 CFR Part 365](#) - RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY.

Insurance Requirements:

Intra: [K.S.A. 66-1314](#) - Liability insurance requirements for vehicles not having KS MC permits.

Intra: [K.S.A. 66-1,128](#) - Motor carrier liability insurance requirements.

Inter: [49 CFR Part 387.33](#) - Financial responsibility, minimum levels.