

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

Definitions:

49 CFR Part 390.5 - Commercial motor vehicle 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 U.S.C. 5103](#) and transported in a quantity requiring placarding under regulations prescribed by the Secretary under [49 CFR](#), subtitle B, chapter I, subchapter C.

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 provided passenger transportation. 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 re-established 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.](#)

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

Compliance Information:

[KCC Procedures for Safety Compliance.](#)

[FMCSA Regulations and Interpretations – 49 CFR Parts 300-399 | FMCSA \(dot.gov\)](#)

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

Operating Authority:

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

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.](#)