



Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

February 3, 2023

The Honorable Robin Hutcheson
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
6th Floor, West Building
Washington, DC 20590-9898

RE: Petition for Rulemaking – Amend Title 49 CFR § 392.60 DOT Regulatory Guidance to require written or electronic documentation of authorization for passenger(s) in a CMV

Dear Administrator Hutcheson,

Pursuant to Title 49 Code of Federal Regulations (CFR) § 389.31, the Commercial Vehicle Safety Alliance (CVSA) is petitioning the Federal Motor Carrier Safety Administration (FMCSA) to amend the DOT Regulatory Guidance to Title 49 CFR § 392.60 – *Unauthorized persons not to be transported* to require written or electronic documentation of authorization for passenger(s) in a commercial motor vehicle (CMV).

CVSA is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. Our mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America.

Justification

Human trafficking enslaves more than 40 million people in both labor and sex trafficking. Traffickers are motivated by greed, exploiting the most vulnerable among us to the tune of \$150 billion annually. This heinous crime is happening throughout North America and has been reported in every U.S. and Mexican state, and in all Canadian provinces. Beyond being trafficked within their own nation's borders, our citizens are also being used and exploited across national borders. Human traffickers sell their victims in cities and rural areas, along our nation's roadways, and at numerous locations and events. Because traffickers use our transportation systems, including commercial motor vehicles, to transport victims, it's imperative that the law enforcement community and industry partners be involved in fighting this crime. These stakeholders need to learn to recognize the signs of human trafficking and how to report it, as their involvement is vital in assisting in victim recovery. Beyond enforcement of anti-trafficking laws,

law enforcement and all other members of the commercial motor vehicle industry have a critical role to play in educating and equipping industry stakeholders about human trafficking and how to combat it. Recognizing this, the U.S. Department of Transportation Advisory Committee on Human Trafficking issued a report citing the substantial role transportation industries, law enforcement and government agencies can play to close loopholes to traffickers, including forming private/public partnerships. In addition, DOT and FMCSA have increased their efforts to raise awareness and partner with other organizations to combat this global crime.

Roadside inspectors are in a unique position to identify instances of human trafficking when conducting inspections on commercial motor vehicles. All inspectors in North America are trained to identify indicators of human trafficking, as well as to verify all passengers are authorized to be in the vehicle. However, due to the DOT Regulatory Guidance to § 392.60 – *Unauthorized persons not to be transported*, drivers are not required to carry and produce the documentation. As a result, inspectors can have difficulty verifying whether or not a passenger found in a property-carrying CMV is authorized to be there, and therefore whether they may be the victim of human trafficking. Currently, drivers are permitted to be accompanied by a non-driver passenger in the commercial motor vehicle, provided they have written authorization to do so by the motor carrier. The written authorization must state the name of the person to be transported, the points where the transportation is to begin and end, and the date upon which such authority expires. However, the DOT Regulatory Guidance associated with this requirement does not require that the written authorization be carried on board the CMV, rather noting that it should be maintained at the motor carrier’s place of business.

This interpretation limits the inspector’s ability to enforce this regulatory requirement. The passenger may be a victim and if asked about their passenger status may not be forthcoming about whether they are a willing passenger due to threats of force, fraud, coercion and/or grooming in many cases. An inspector’s ability to contact and confirm with the carrier that the passenger is authorized is limited by several factors, including the time of inspection being outside normal business hours, poor cell signal and being unable to reach the appropriate motor carrier employee with access to the information. Without access to the written authorization document, the inspector may be unable to verify the passenger’s status and could potentially miss an opportunity to intervene in a human trafficking incident.

To address this, CVSA is requesting that FMCSA updated the DOT Regulatory Guidance to § 392.60 – *Unauthorized persons not to be transported* to read:

§392.60 Unauthorized persons not to be transported.

Guidance Q&A

Question 1: Does §392.60 require a driver to carry a copy of the written authorization (required to transport passengers) on board a CMV?

Guidance: ~~No~~Yes, the authorization, in either hard copy or electronic format, must be maintained on board the CMV as well as at the carrier’s principal place of business. ~~At the discretion of the motor carrier, a driver may also carry a copy of the authorization.~~

Having direct access to the written authorization, in hard copy or electronic format, with specific authorized travel points and dates would allow enforcement personnel to better determine if the passenger is authorized or possibly a victim of trafficking. While requiring the driver to carry this documentation on the CMV may place a minimal additional burden on the motor carrier and/or driver, that cost is certainly offset by the potential to save a victim from being trafficked.

CVSA works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the agency's commitment to safety and stakeholder involvement.

If you have further questions or comments, please do not hesitate to contact me by phone at 202-998-1008 or by email at collin.mooney@cvsa.org.

Respectfully,

A handwritten signature in black ink, appearing to read 'Collin B. Mooney'.

Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance