

June 29, 2020

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue SE
West Building, Ground Floor, Room W12-140
Washington, DC 20590-0001

**RE: Docket No. FMCSA-2017-0330
State Driver's Licensing Agency Non-Issuance/Downgrade of Commercial Driver's License
Written Comment from the National School Transportation Association to the Federal Motor
Carrier Safety Administration (FMCSA)**

Dear Sir or Madam:

The National School Transportation Association (NSTA) is pleased to offer comments to the Federal Motor Carrier Safety Administration (FMCSA) notice and request for comments on the Agency proposal to prohibit State Driver's Licensing Agencies (SDLAs) from issuing, renewing, upgrading, or transferring a commercial driver's license (CDL), or commercial learner's permit (CLP), for individuals prohibited under current regulations from driving a commercial motor vehicle (CMV) due to controlled substance (drug) and alcohol program violations, as published in Volume 85, Number 82, of the Federal Register on April 28, 2020.

About National School Transportation Association

NSTA is the leading resource for school bus transportation solutions and the voice for private contractors for over 55 years. We are a membership organization for school bus contract-operators engaged primarily in transporting students to and from school and school-related activities. Members range from small family businesses serving one school district, to large corporations operating tens of thousands of buses across multiple states. Regardless of size, our operators are staunchly committed to the safe and efficient transportation of our nation's school children. Private school bus contractors account for 38 percent of the nation's pupil transportation services and employ more than 250,000 individuals as bus drivers, mechanics, maintenance workers, dispatch, and office workers.

School transportation represents the largest form of mass transportation in the United States, and as can be expected from the largest form of mass transportation, safety is the leading trademark within the school transportation industry. Daily, almost 26 million students are transported on an estimated 480,000 yellow school buses. Every day, the lives of children are entrusted to certified school transportation professionals who have received special training and have the experience to ensure the safe transport of students. School buses remain the safest way to transport a child to-and-from school, and school-related activities, as they are the most regulated form of transportation. In fact, yellow buses are far safer than a child walking, riding a bike, or being transported in a car with a fellow student or parent to school. According to National Highway Traffic Safety Administration statistics, students are 70 times more likely to arrive at school safely when riding in a yellow bus.

NSTA Supports FMCSA's Efforts to Better Utilize Drug and Alcohol Clearinghouse (Clearinghouse) Information

It is for the above stated reasons that NSTA supports reasonable endeavors that improve upon the stellar safety record of the school transportation industry. NSTA applauds the U.S. Department of Transportation (DOT) and the FMCSA for their efforts to implement a Clearinghouse with the overall goal to block unsafe drivers from entering the candidate pool. We also understand the Clearinghouse can reduce human error, and presents an opportunity to ensure unsafe drivers remain prohibited from either seeking to enter the field, or renew their CDL or CLP. This is accomplished through timely and accurate information being generated by participants and employers.

As such, the Clearinghouse hosts vital information, and plays a key role in promoting the FMCSA primary mission to reduce crashes, injuries and fatalities involving large trucks and buses. NSTA members urge continued open lines of communication between FMCSA and SDLAs in order to prioritize safety, and therefore should be an operational priority. In addition, NSTA acknowledges the FMCSA statement that the CMV driving prohibition has been "largely self-enforcing", as a result of neither States nor FMCSA hosting a centralized database to identify CMV drivers who fail their drug or alcohol tests.

Finally, in addressing the matter of "qualified" drivers, NSTA believes the continued closure of many SDLAs as a result of the novel Coronavirus has already resulted in a backlog of CDL and CLP issue and renewals. We support a plan to address this critical matter, and would encourage FMCSA to issue interim guidance until all facets of this proposal are fully implemented and integrated. As the backlog persists, and the quest to find "qualified" school bus drivers continues, FMCSA may want to consider the merits of a School Bus Only – CDL. We would be happy to provide more details on this proposal upon request.

NSTA Response to the Major Issues on Which the Agency Seeks Comment

In response to the major issues on which the Agency seeks comment, NSTA offers the following feedback:

NSTA understands that there are two alternatives that FMCSA is putting forward that would enable States to enforce the driving prohibition against a CMV driver. NSTA also understands that the FMCSA preferred alternative is the mandatory downgrade of the CDL to non-driving status. NSTA supports this method and would like to see it implemented by the Agency.

NSTA agrees that SDLAs should be prohibited from completing certain CLP or CDL transactions, if the driver is subject to the CMV driving prohibition in § 382.501(a), resulting in non-issuance. This proposal helps support and further the primary mission of the Federal Motor Carrier Safety Administration (FMCSA) to reduce crashes, injuries, and fatalities involving large trucks and buses. Similarly, one of the primary goals of NSTA is the staunch commitment to the safe and efficient transportation of our nation's school children. Therefore, we would like to point out that we are aligned in that endeavor.

NSTA members prefer SDLAs pursue an enforcement action over a license downgrade, as a downgrade does not provide the necessary due diligence for disqualifying, revoking, or suspending a CDL. This method also results in additional steps for SDLAs, and leaves room for error as a result. Of further note, a valid, positive result on an alcohol or controlled substance test, will result in an enforcement action

that prohibits the operation of a CMV, and is also recorded on the driver's history. This system would seem to better allow for proper tracking and enforcement actions roadside.

In addition, NSTA would like to highlight concerns with the second alternative from FMCSA, as it would require States to introduce legislation, making the State dependent on its legislative cycle, and perhaps even making the State "out of compliance" until they are able to pass a law. This may also even allow States to determine what policies should be implemented. Some States could possibly choose to avoid downgrading the CDL, thus providing States with potentially confusing directives from FMCSA. NSTA also would like to ascertain whether or not American Association of Motor Vehicle Administrators (AAMVA) would support such initiative. FMCSA highlights that the AAMVA questioned whether SDLAs should essentially revoke a CDL for violating federal drug and alcohol regulations, when such an action could affect the individual's livelihood, thus creating a conflict.

NSTA would also like to put forward the recommendation that FMCSA encourage the adoption of an Employer Notification System (ENS) by all 50 States. ENS systems are already in place across 19 States, 17 of which comply with FMCSA's guidelines. These systems would be able to provide FMCSA and motor carriers with real time changes in a CMV driver's license status. NSTA believes it would be prudent for ENS systems to integrate not only with SDLAs, but also with the Drug & Alcohol Clearinghouse, thus eliminating some of the concern FMCSA has with tracking license changes at the State level. ENS systems, as you are well aware, act expeditiously to notify employers of any discrepancies on a CMV driver's record. In States that do not deploy an ENS system, employers must wait for a yearly report to be run, and thus leaving the discrepancy to go undetected for lengthy periods of time. It is for these reasons that NSTA supports ENS systems, and encourages FMCSA to deploy ENS systems in the remaining 31 states, and urge interaction by SDLAs in all 50 States. This way, SDLAs can more effectively share information across all States.

We appreciate the opportunity to offer comments on the FMCSA Notice 2017-0330, and look forward to continuing to work with FMCSA on this matter. If further clarification is required, please do not hesitate to contact me at 703-684-3200 x 700 or cmacysyn@yellowbuses.org.

Sincerely,



Curt Macysyn
Executive Director
National School Transportation Association