

be used to drop off or pick up students from school. If it appears that a vehicle will be used significantly for student transportation, the requirement to sell a certified school bus that meets the Federal motor vehicle safety standards for school buses would apply. Confirmation in writing would appear to be prudent.

Thus, if the present definition of "school bus" does not include the term "sold, or introduced in interstate commerce," NHTSA's enforcement efforts to ensure that dealers and lessors of new vehicles do not sell or lease nonconforming buses for school transportation purposes may be frustrated.<sup>3</sup> Therefore, when this final rule takes effect, where it is likely that the purchaser or lessor of a new MFSAB is a State agency, private or public school, or school district, we expect a dealer to inquire as to whether the vehicle will also be used to drop off or pick up students from school. If it appears that the MFSAB will be "used significantly" for transportation between children's homes and school, the requirement to sell a school bus that meets the Federal motor vehicle safety standards for school buses, including FMVSSs No. 108 and No. 131 would apply. NHTSA also notes that changing the "school bus" and "bus" definitions would not affect dealers' and lessors' statutory responsibilities in ensuring that they do not sell new nonconforming buses for school transportation purposes.

#### C. Other Vehicle Classification Issues

Public Citizen stated that it recognized Head Start programs' need to purchase vehicles that meet the crashworthiness and crash avoidance protection of school buses and did not object to NHTSA's proposal. However, Public Citizen urged NHTSA to go further and create a new category of buses called the "Multi-Function Activity Buses" to ensure that all buses weighing less than 15,000 pounds GVWR, including 15-passenger vans, meet the school bus crash avoidance, crashworthiness, and post-crash requirements required for school buses. The NPRM did not propose to apply the school bus requirements to buses that are not used to transport school children. Public Citizen's recommendation is thus outside the scope of the present rulemaking. However, the adoption of this final rule will give transportation providers the alternative for a safer transportation choice.

The California Highway Patrol recommended that the MFSAB be defined as a school bus whose purpose does not include transporting students to and from home "or a school bus stop." The rationale for this suggestion was that school buses often pick children up at designated school bus stops, rather than at their homes. Specifying the school bus stop in the definition would make explicit that children should not be picked up from their homes or from school bus stops when transported in a MFSAB. NHTSA agrees that specifying that children should not be picked up from school bus stops would eliminate a potential ambiguity. Thus, in this final rule, the definition of MFSAB states: "a school bus whose purposes do not include transporting students to and from home or school bus stops."

#### D. Limits on Gross Vehicle Weight Rating for the MFSAB

The majority of commenters on this issue, including NTSB, recommended that NHTSA not adopt the 6,804 kg (15,000 pound) gross vehicle weight rating (GVWR) limitation on the MFSAB. NTSB stated that it did not believe the risk of misuse is significant because using vehicles other than school buses to pick up and drop off children at home "is generally prohibited." NTSB stated that it is not aware of evidence that school districts are misusing vehicles in this manner.

Blue Bird Body Company stated that removing the GVWR weight limitations would meet the need for safety, in that more organizations would be encouraged to buy MFSABs in lieu of non-school buses. Blue Bird noted the increasing public awareness that school buses are safer than non-school buses, and reported increases in requests for school buses (including larger school buses) from churches and colleges to replace the "vans" that had been used. Blue Bird also noted that many schools own used motorcoaches, especially in the western states where travel distances are greater. Blue Bird stated that there is a market demand for a "school activity bus" that is more comfortable than a "typical school bus." Since the motorcoaches do not meet school bus safety standards, the students are unnecessarily placed at risk. Blue Bird stated its belief that having no weight restrictions on the MFSABs will encourage the schools to buy MFSABs "that meet the school bus crashworthiness standards of construction."

NASDPTS cautioned that the proposed 15,000 pound GVWR limitation "would eliminate larger buses

from the potential of federal funding under the Federal Transit Administration," possibly frustrating coordinated transportation providers' efforts in meeting the needs of its customers. It also noted that it would not be practicable to expect a school, child care center, Head Start program, or coordinated transportation provider to purchase two or more small MFSABs in lieu of one large MFSAB because of the additional costs that would be incurred for more drivers, additional maintenance, and insurance.

The Texas Department of Public Safety stated that if MFSABs included all sizes of school buses, Texas could change its definition of a "school activity bus" to include the MFSAB. This would mean a school district could buy a vehicle as safe as a school bus to transport students on activity trips.

NSTA, on the other hand, supported the limitation of the MFSAB to buses not larger than 15,000 pounds GVWR. NSTA expressed concern about the possibility of misuse, especially by private schools that often come under less scrutiny by state agencies than do public schools. NSTA also noted that coordinated transportation systems could combine adult and student passenger loads and stage pick-ups at curbside bus stops. Although this would not constitute home-to-school transportation, students could be endangered because there would be roadside loading and offloading without the benefit of the school bus traffic control devices. NSTA also expressed concern that school student safety would be compromised because the large MFSAB would not require a school bus driver, that the MFSAB driver would need only a passenger endorsement, without the additional safety training of a school bus driver.

Regarding the potential misuse of the MFSAB by home to school transportation providers, NHTSA shared this concern. However, every State has laws that require school bus drivers to activate the warning lamps and stop signal arm whenever the school bus is stopped to pick up or discharge students on public roads. A driver failing to activate these devices would be in violation of State law. Thus, every State already has a law that prohibits school districts from using a MFSAB to transport children to and from school, since it would be picking up or discharging students without activating warning lamps and the school bus stop arm. The misuse issue is discussed in greater detail in Section I., "State Law Issues."

These State laws have also persuaded NHTSA that it is unlikely that larger

<sup>3</sup> See 49 U.S.C. Section 30112 "Prohibition on manufacturing, selling, and importing noncomplying motor vehicles and equipment."