

MFSABs would be misused, and therefore, weight limitations for MFSABs are not necessary. Hence, NHTSA has decided to not adopt the 6,804 kg (15,000 pound) GVWR limitation on MFSABs.

Removing a weight limitation on MFSABs would also further NHTSA's goal of promoting choice for transportation providers since it would mean that those whose transportation choices are now buses over 6,804 kg or school buses over 6,804 kg would have an alternative bus over 6,804 kg (*i.e.*, the MFSAB) that provides the same crashworthiness, crash avoidance and post-crash safety protection as does a school bus, without the traffic control features that are not used.

NSTA's concern about coordinated transportation systems where children could be loaded and offloaded without the benefit of school bus traffic control devices is an issue of vehicle use, regulated by the States. Some areas in the U.S. may not be financially able to provide a school bus system for school transportation and a separate bus system for everyone else. Transportation systems using MFSABs would offer all riders more protection than if non-school buses were used.

NSTA's concern that a large MFSAB would not require a school bus driver is a matter that would be addressed by State law. State law would determine the type of license (bus *v.* school bus) a driver would need to drive the MFSAB.

E. FMVSS No. 222, School Bus Passenger Seating and Crash Protection

Although the NPRM denied those aspects of the Rabun-Gap petition pertaining to school bus seats, several comments addressed the issue of seating. Blue Bird Body Company recommended that FMVSS No. 222, *School bus passenger seating and crash protection*, be amended to make the provisions that presently apply to school buses 10,000 pounds GVWR and under to also apply (at the option of the manufacturer) to MFSABs over 10,000 pounds GVWR.

Blue Bird stated that many schools want their "school activity buses" to have reclining seats, wider seat width for each passenger, and more seat separation so that tall and large students are more comfortable on long trips. They stated that FMVSS No. 222 "compartmentalization" requirements restrict school bus manufacturers' ability to meet comfort requirements, especially for school buses over 10,000 pounds GVWR. Blue Bird noted that FMVSS No. 222 requires that small school buses (10,000 pounds GVWR or

under) be equipped with Type 1 or Type 2 seat belts and does not require that they meet S5.2, Restraining Barrier Requirements, of FMVSS No. 222. Thus, MFSABs with a GVWR of 10,000 pounds or less would not be restricted as to the requirement for a restraining barrier forward of a passenger seat and, therefore, would not be constrained as to a maximum allowable seat spacing.

Blue Bird went on to note that if MFSABs over 10,000 pounds GVWR, when equipped with seat belts, were excepted (as small school buses are now excepted) from S5.2, then seat spacing would no longer be an issue. Blue Bird therefore recommended that manufacturers of large MFSABs be allowed to meet the provisions of FMVSS No. 222 as they apply to school buses 10,000 pounds GVWR or under.

Blue Bird also recommended that S4.1 of FMVSS No. 222 be amended to permit a manufacturer of MFSABs to install only two seat belts on any seat that is between 22.5 inches and 39 inches in width, "to meet customer requirements for no more than two passengers per seat on a MFSAB." Blue Bird cited market demand for more seating room on school bus bench seats and stated that "something will need to be changed to permit the installation of only two seat belts on a 39-inch wide seat in a MFSAB."

Rabun addressed NHTSA's discussion in the NPRM that the MFSAB could be equipped with reclining motorcoach style seating and still meet FMVSS No. 222 because the standard specifies that when the school bus is tested, adjustable seat backs are to be "adjusted to its most upright position." (*See* NPRM at 67 FR 67378.) Rabun responded that its discussions with school bus manufacturers have led them to believe that "such seats, when in the reclined position, do not meet the intent of FMVSS No. 222 and are therefore not available for sale in buses certified as school buses." Rabun recommended the use of combination lap/shoulder belts since they believed "a passenger who is seated behind a seat in the reclining position and who is wearing a lap/shoulder restraint would be better protected in a frontal collision than if the passenger did not have seat belts, even if the seating system was certified to meet the requirements of FMVSS No. 222." Rabun also expressed the view that if each passenger was provided a lap/shoulder restraint and was required to use it, the issue of compartmentalization and seat spacing would be "correspondingly insignificant."

AAP expressed concern that the proposed rule did not require seating

positions to be equipped with lap/shoulder belts and LATCH. AAP called on NHTSA to "move in the direction of ensuring greater safety of children on school buses by requiring them to be equipped with lap/shoulder belts." John Fairchild recommended that NHTSA should at least "encourage" every MFSAB to provide Type II lap/shoulder seat belt systems at every seating position, and to provide "appropriate securement systems for the child restraint devices Head Start specifies, and could serve other paratransit clients as well."

Since none of these suggested amendments were proposed in the NPRM, we are unable to adopt them without further notice and opportunity for comment. We are aware of the continuing interest in possible improvements to school bus seating. In May 2002, we reported to Congress on prospective improvements for occupant protection in school buses, as required by the Transportation Equity Act for the 21st Century (TEA-21)(P.L. 105-178).⁴

NHTSA is in the process of developing test procedures for voluntarily installed lap/shoulder belts in school buses over 4,536 kg (10,000 pounds) gross vehicle weight rating. We expect to propose some improvements in this area in the next year or so.

F. Warning Labels

Commenters on this issue expressed skepticism about the efficacy of interior labels warning that MFSABs should not be used to transport school children between home and school. NASDPTS questioned the benefit of a warning label on the MFSAB as to its intended use. That organization stated that using the MFSAB to transport students to and from school would violate laws in every state. It noted that if "someone with this knowledge is pre-conditioned to violate state laws, and expose themselves and their school district to extreme liability risks, it does not seem reasonable to assume that the addition of a warning label will change that individual's mind." NASDPTS also noted that there are already "a large number" of labels on school buses, and that at some point, there are diminishing returns of adding even more warning labels. NASDPTS recommended that any potential MFSAB misuse be addressed through school bus driver training rather than by another warning label.

⁴ Section 2007(b) of TEA-21 states: "School Bus Occupant Safety Study—The Secretary shall conduct a study to assess occupant safety in school buses. The study shall examine available information and occupant safety and analyze options for improving occupant safety."