

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2668

IN THE MATTER OF:

Served February 25, 1985

Proposed Regulation Relating to )  
 SECURITY FOR THE PROTECTION OF THE )  
 PUBLIC )

Case No. MP-85-02

Pursuant to the Compact, Title II, Article XII, Sections 13(b) and 15 and Commission Rule of Practice and Procedure No. 9-02, the Commission on its own motion hereby institutes a formal investigation in the form of a rulemaking proceeding to revise Commission Regulation No. 62-03(a) which prescribes minimum amounts of security for the protection of the public.

The Commission's current Regulation No. 62-03(a) was adopted by Order No. 1598, served August 25, 1976. It establishes minimum insurance requirements for carriers other than operators of taxicabs as follows:

Kind of equipment	Limit for bodily injuries to or death of one person	Limit for bodily injuries to or death of all persons injured or killed in any one accident (subject to a maximum of \$100,000 for bodily injuries to or death of one person)	Limit for loss or damage in any one accident to property of others
Passenger equipment (seating capacity): 11 passengers or less	\$100,000	\$300,000	\$50,000
Passenger equipment (seating capacity): 12 passengers or more	\$100,000	\$500,000	\$50,000

These levels when first prescribed corresponded with requirements promulgated by the U.S. Department of Transportation ("the Department"). The Department adopted significantly higher minimum levels of financial responsibility effective November 19, 1983, to be increased further, effective November 19, 1985. \*/ Identical levels have been adopted by the Interstate Commerce Commission ("ICC") by order entered January 5, 1984.

On August 14, 1984, the Commission solicited informal comments on the matter of minimum insurance requirements from over 150 sources including all WMATC-certificated carriers and their insurers as well as certain government agencies and trade associations. Nine responses were received from members of the transportation industry, but none from representatives of the public sector or the insurance industry. The majority of those responding were of the opinion that current WMATC requirements should be increased.

Spirit of '76 Tours responded by its president, Ralph E. Webb, that the steadily increasing cost of medical care and repairs mandate increased minimum insurance requirements based on vehicular capacity. According to Mr. Webb, the effect of increased minimum insurance requirements on passenger carriers would represent but a small percentage of any given carrier's income. Because most policies are experience-rated the effect would be to increase the emphasis on safety and driver training.

Charles O. King, insurance manager for Red Top Coach, Inc., recommended that the Commission require a combined single limit ("CSL") minimum of \$500,000 for vehicles seating 15 passengers or less and one of \$1,500,000 for vehicles seating 16 passengers or more. Mr. King noted that CSL tends to offer greater coverage relative to cost. Because insurance costs are disproportionately distributed, increased insurance requirements will generate increased premiums at less than "pro-rata" basis. According to Mr. King, the small carrier will recognize a greater unit cost than the large carrier as a result of increased requirements. For this reason, he urged that requirements be set at a level reasonably attainable by a responsible operator of any size.

Gerald K. Lash, Executive Vice-President, International Limousine Service, Inc., responded that increased insurance requirements would not be financially burdensome to the carrier with a safe driving record. Moreover, insurance costs can be lowered by instituting safety and preventive maintenance programs. Insurance limits should be set to cover vehicles in two categories: 15-passengers or less and 16-passengers or more. According to Mr. Lash, this is the usual way equipment is made available for purchase.

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\*/ See Report of the Department of Transportation at 49 CFR Part 387, incorporated herein by reference.

Jack Burkert, Director of Safety and Regulatory Compliance, American Bus Association, responded that the federally mandated CSL's of \$750,000 and \$2,500,000 are each inadequate to satisfy the catastrophic potential that exists in bus transportation. He noted that insurance costs are highest at the lower coverage levels and decrease as layers of additional coverage are added. One effect of increased insurance requirements would be to equalize competition by causing insurance costs to become increasingly comparable between competitors. Mr. Burkert admitted that higher insurance minimums provide an incentive to safe operations in theory due to savings in the cost of insurance made available to the carrier with a good experience rating. However, according to Mr. Burkert, although the safe operator will always have a certain economic advantage, recent volatility in the insurance marketplace has produced both substantial cost reductions and cost increases in premiums that are unrelated to safety.

Charles C. Watson, responding for Arrowhead Bus and Limousine Equipment, Inc., proposed a single insurance standard irrespective of vehicle size. He recommends minimum coverage of \$2.5 million, the amount currently required by the ICC for vehicles with a seating capacity in excess of 15.

Annette C. Reynolds, owner of Frederick Limousine, Inc., is of the opinion that WMATC's current insurance requirements for van-type vehicles are sufficient but noted that consideration of an additional requirement for coaches might be in order inasmuch as no distinction is currently made between 15-passenger vans and 43-passenger coaches. Ms. Reynolds noted that the magnitude of any increased costs resulting from increased insurance minimums was difficult to predict as an industry average for the following reasons: (1) carriers currently carry varying amounts of insurance, clearly carriers with minimal insurance will face larger increases than those whose insurance is currently at or near the requirement actually adopted, (2) an overall increase in insurance rates is anticipated throughout the insurance industry to cover revenue losses of the past few years, (3) carriers' experience records differ resulting in varying costs for the same coverage. According to Ms. Reynolds, the cost of insurance represents the third largest recurring expense for her company. However, that expense is less than 5 percent of her total expenses. An increase in insurance costs then should represent a smaller percentage. Smaller carriers would bear a relatively larger burden as a result of any increase both because they are less able to negotiate with insurance companies due to their size and because insurance costs represent a larger percentage of their income. The increased costs of additional insurance must be met through increased passenger fares unless cost control via formation of a federation of passenger carriers could be effected. The federation could pool the members' insurance purchasing power and thus negotiate lower premiums for the carriers involved. The complexities of formation of the federation and the administration of the resultant joint insurance account should not be underestimated in

Ms. Reynolds' opinion. Ms. Reynolds also addressed the issue of CSL stating that it allows an insurer greater flexibility in compensating an injured party. However, most jurisdictions require specific liability policies to which the CSL is not directly comparable. The result for the carrier that operates in multiple jurisdictions may be increased cost and confusion. Finally, given the fact that insurance costs are likely to increase 10-15 percent for carriers with good experience ratings absent any increase in coverage, Ms. Reynolds suggests a cost/benefit analysis in order that the competing interests of protection of the public and accessibility to reasonably priced transportation may be balanced.

Quick Livick, Inc., suggested, without elaboration, that the Commission follow ICC rules. Eugene H. George, owner of Silver Star Sightseeing Tours, responded that present insurance coverage is sufficient and that additional insurance would not better the services he renders. Counsel for Brown's Limousine Crew Car, Inc., responded in the nature of an acknowledgement, stating that he was unaware of any compelling reason to change the Commission's present limits of coverage.

In consideration of the action of the U.S. Department of Transportation and the conclusions of its rulemaking proceeding, the actions of the Interstate Commerce Commission and responses received to this Commission's request for informal comments, the Commission hereby proposes to amend its current Regulation 62-03(a) to prescribe security for the protection of the public in the following CSL minimum amounts:

Manufacturer's Designed Maximum Seating Capacity (Includes the Driver)	Effective Date November 19, 1985
15 persons or less	\$1,500,000
16 persons or more	\$5,000,000

In further aid of our consideration of this matter, we have sought the assistance of The Urban Institute, a nonprofit policy research organization, to undertake a series of tasks to achieve the following objectives: (1) to analyze the economic effects on carrier costs and passenger fares of raising our minimum public liability insurance requirements to the federal level, and (2) in light of that economic impact, to analyze the justification for increasing our requirements to that level, or to some intermediate level, or not at all.

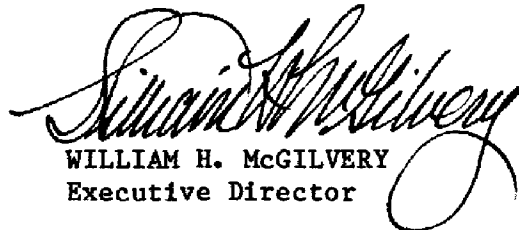
That study is expected to take about 60 days from the date of this Order. We will establish a deadline for comments about 90 days after this Order so that persons wishing to comment may take into account, if they choose, the report of The Urban Institute. A copy of the report will be made available for anyone wishing to study it at the Commission's office during its regular business hours. The staff suggests that an appointment be made in advance so that suitable accommodations can be made available. The report, the comments already received, and any further comments will all be made part of the record in this case. Those who already commented are welcome to provide additional comments pursuant to this Order.

THEREFORE, IT IS ORDERED:

1. That the Commission staff shall publish in a newspaper of general circulation within the Metropolitan District on or before March 1, 1985, a notice of the proposed amendment of Regulation No. 62-03(a).

2. That any person desiring to comment on the proposed amendment of Regulation No. 62-03(a) shall submit to the Commission on or before May 31, 1985, a written statement setting forth in complete detail any facts, comments, and arguments pertinent to the matters under consideration herein.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER AND SHANNON:



WILLIAM H. MCGILVERY  
Executive Director