



National Highway Traffic Safety Administration

[Docket No. NHTSA-2023-0018]

Beat the Street Interiors, Inc. – Grant of Petition for Temporary Exemption from Shoulder Belt Requirement for Side-Facing Seats on Motorcoaches

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of grant of petition for temporary exemption.

SUMMARY: This notice grants the petition of Beat the Street Interiors, Inc. (“BTS”) for a temporary exemption from a shoulder belt requirement of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, “Occupant crash protection,” for side-facing seats on motorcoaches. This grant permits the petitioner to install Type 1 seat belts (lap belt only) at side-facing seating positions instead of the Type 2 seat belts (lap and shoulder belts) required by FMVSS No. 208. After reviewing the petition, the agency has determined that the requested exemption is warranted to enable the petitioner to sell a vehicle whose overall level of safety or impact protection is at least equal to that of a nonexempted vehicle.

DATES: This exemption applies to the petitioner’s motorcoaches produced from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until November 14, 2025.

FOR FURTHER INFORMATION CONTACT: Callie Roach, Office of the Chief Counsel, NCC-200, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC, 20590. Telephone: 202-366-2992; Fax: 202-366-3820.

SUPPLEMENTARY INFORMATION:

I. Relevant Legal Authority and Regulations

a. Statutory Authority for Temporary Exemptions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified as 49 U.S.C. Chapter 301, provides the Secretary of Transportation authority to exempt, on a temporary basis,

under specified circumstances, and on terms the Secretary considers appropriate, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth in 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.¹

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards*, to implement the statutory provisions concerning temporary exemptions. Under Part 555 subpart A, a vehicle manufacturer seeking an exemption must submit a petition for exemption containing specified information. Among other things, the petition must set forth (a) the reasons why granting the exemption would be in the public interest and consistent with the objectives of the Safety Act, and (b) information showing that the manufacturer satisfies one of four bases for an exemption.² The petitioner is applying on the basis that compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles (*see* 49 CFR 555.6(d)). A manufacturer is eligible for an exemption on this basis only if NHTSA determines the exemption is for not more than 2,500 vehicles to be sold in the U.S. in any 12-month period. An exemption on this basis may be granted for not more than two years but may be renewed upon reapplication.³

b. Seat Belt Requirements for Over-the-Road Buses in FMVSS No. 208

On November 25, 2013, NHTSA published a final rule amending FMVSS No. 208 to require seat belts for each passenger seating position in all new over-the-road buses (OTRBs) (regardless of gross vehicle weight rating (GVWR)), and all other buses with GVWRs greater than 11,793 kilograms (kg) (26,000 pounds (lbs.)) (with certain exclusions).⁴

In the notice of proposed rulemaking (NPRM) preceding the final rule (75 FR 50958, August 18, 2010), NHTSA proposed to permit manufacturers the option of installing either a

¹ 49 CFR 1.95.

² 49 CFR 555.5(b)(5) and 555.5(b)(7).

³ 555.8(b) and 555.8(e).

⁴ 78 FR 70415 (November 25, 2013); response to petitions for reconsideration, 81 FR 19902 (April 6, 2016). The final rule became effective November 28, 2016 for buses manufactured in a single stage, and a year later for buses manufactured in more than one stage. The requirement is found at FMVSS No. 208 S4.4.5.1.2(c).

Type 1 (lap belt) or a Type 2 (lap and shoulder belt) on side-facing seats.⁵ The proposed option was consistent with a provision in FMVSS No. 208 that allows lap belts for side-facing seats on buses with a GVWR of 4,536 kg (10,000 lbs.) or less. NHTSA proposed the option because the agency was unaware of any demonstrable increase in associated risks using lap belts when compared to using lap and shoulder belts on side-facing seats. In the NPRM, NHTSA noted that⁶ “a study commissioned by the European Commission regarding side-facing seats on minibuses and motorcoaches found that due to different seat belt designs, crash modes and a lack of real-world data, it cannot be determined whether a lap belt or a lap/shoulder belt would be the most effective.”⁷

However, after the NPRM was published, the Motorcoach Enhanced Safety Act of 2012 was enacted as part of the Moving Ahead for Progress in the 21st Century Act (MAP-21), P.L. 112-141 (July 6, 2012). Section 32703(a) of MAP-21 directed the Secretary of Transportation (authority delegated to NHTSA) to “prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.”⁸ As MAP-21 defined “safety belt” to mean an integrated lap and shoulder belt, the final rule amended FMVSS No. 208 to require lap and shoulder belts at all designated seating positions, including side-facing seats, on OTRBs.⁹

Even as it did so, however, the agency reiterated its view that “the addition of a shoulder belt at [side-facing seats on light vehicles] is of limited value, given the paucity of data related to side facing seats.”¹⁰ NHTSA also reiterated that there have been concerns expressed in literature about shoulder belts on side-facing seats, noting in the final rule that, although the agency has no

⁵ 75 FR at 50971.

⁶ 75 FR at 50971-50972.

⁷ http://ec.europa.eu/enterprise/automotive/projects/safety_consider_long_stg.pdf.

⁸ MAP-21 states at § 32702(6) that “the term ‘motorcoach’ has the meaning given the term ‘over-the-road bus’ in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include a bus used in public transportation provided by, or on behalf of, a public transportation agency; or a school bus, including a multifunction school activity bus.” Section 3038(a)(3) (49 U.S.C. 5310 note) states: “The term ‘over-the-road bus’ means a bus characterized by an elevated passenger deck located over a baggage compartment.”

⁹ For side-facing seats on buses other than OTRBs, in the final rule NHTSA permitted either lap or lap/shoulder belts at the manufacturer’s option.

¹⁰ 78 FR at 70448, quoting from the agency’s Anton’s Law final rule which required lap/shoulder belts in forward-facing rear seating positions of light vehicles, 59 FR 70907.

direct evidence that shoulder belts may cause serious neck injuries when applied to side-facing seats, there are simulation data indicative of potential carotid artery injury when the neck is loaded by the shoulder belt.¹¹ The agency also noted that Australian Design Rule ADR 5/04, “Anchorages for Seatbelts,” specifically prohibits shoulder belts for side-facing seats.

Given that background, and believing there would be few side-facing seats on OTRBs, NHTSA stated in the November 2013 final rule that manufacturers may petition NHTSA for a temporary exemption under 49 CFR part 555 to install lap belts instead of lap and shoulder belts at side-facing seats.¹² NHTSA further explained that a manufacturer could seek such an exemption on the basis that the applicant is otherwise unable to sell a vehicle whose overall level of safety is at least equal to that of a non-exempted vehicle, stating that the agency would be receptive to an argument that, for side-facing seats, lap belts provide an equivalent level of safety to lap and shoulder belts.¹³

II. Petition from BTS

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, BTS, a final-stage manufacturer of entertainer motorcoaches, submitted a petition on September 13, 2022, asking NHTSA for a temporary exemption from the shoulder belt requirement of FMVSS No. 208 for side-facing seats on its vehicles. The petitioner seeks to install Type 1 seat belts (lap belt only) at side-facing seating positions, instead of Type 2 seat belts (lap and shoulder belts) as required by FMVSS No. 208. The basis for the petition is that compliance would prevent the petitioner from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles (49 CFR 555.6(d)).¹⁴

¹¹ Fildes, B., Digges, K., “Occupant Protection in Far Side Crashes,” Monash University Accident Research Center, Report No. 294, April 2010, pg. 57.

¹² 78 FR at 70448.

¹³ *Id.*

¹⁴ The petition is similar to petitions for temporary exemption NHTSA received from 14 other final stage manufacturers on the same shoulder belt requirement of FMVSS No. 208 for side-facing seats on entertainer buses. The first petition was submitted by Hemphill Brothers Leasing Company, LLC (Hemphill). (Notice of receipt of petition, 84 FR 11735 (March 28, 2019); notice of grant of petition, 84 FR 61966 (November 14, 2019)). Later, NHTSA granted 13 additional petitions submitted by All Access Coach Leasing LLC, Amadas Coach, Creative Mobile Interiors, D&S Classic Coach Inc., Farber Specialty Vehicles, Florida Coach, Inc., Geomarc, Inc., Integrity Interiors LLC, Nitetrain Coach Company, Inc., Pioneer Coach Interiors LLC, Roberts Brothers Coach Company,

A copy of the petition has been placed in the docket listed in the heading of this notice. To view the petition, go to <http://www.regulations.gov> and enter the docket number in the heading.

c. Brief Overview of the Petition

BTS states that it is a final-stage manufacturer of over-the-road buses and customizes motorcoaches to meet the needs of its entertainer clients and other specialized customers. BTS states that it typically receives a bus shell¹⁵ from a manufacturer of incomplete vehicles and then builds out the complete interior of the vehicle.¹⁶ The petitioner states that the motorcoaches it completes are primarily used for touring artists and their crews.¹⁷ BTS states that it is a small business and expects to manufacture no more than 14 vehicles during the exemption period.¹⁸

Pursuant to 49 CFR 555.6(d), an application must provide “[a] detailed analysis of how the vehicle provides the overall level of safety or impact protection at least equal to that of nonexempt vehicles.”

BTS reiterates the agency’s discussion from the August 2010 NPRM and November 2013 seat belt final rule, summarized above.¹⁹ BTS also references the 14 petitions that NHTSA has granted to other similar manufacturers.²⁰ BTS states that NHTSA has not conducted testing on the impact or injuries to passengers in side-facing seats in motorcoaches, so “there is no available credible data that supports requiring a Type 2 belt at the side-facing seating positions.”²¹ BTS states that it believes that if not exempted from the requirement, BTS will be required to offer its

Russell Coachworks LLC, and Ultra Coach Inc. (Notice of receipt of the petitions, 85 FR 51550 (August 20, 2022); notice of grant of petitions, 87 FR 33299 (June 1, 2022)).

¹⁵ The petition describes the bus shell as generally containing the following components: exterior frame; driver’s seat; dash cluster, speedometer, emissions light and emissions diagnosis connector; exterior lighting, headlights, marker lights, turn signals lights, and brake lights; exterior glass, windshield and side lights with emergency exits; windshield wiper system; braking system; tires, tire pressure monitoring system and suspension; and engine and transmission.

¹⁶ BTS petition at page 2.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at pages 3-5.

²⁰ *Id.* at page 2.

²¹ *Id.* at page 5.

customers “a motorcoach with a safety feature that could make the occupants less safe, or certainly at least no more safe, than if the feature was not installed.”²²

Pursuant to 49 CFR 555.5(b)(7), a petitioner must state why granting an exemption allowing it to install Type 1 instead of Type 2 seat belts in side-facing seats would be in the public interest and consistent with the objectives of the Safety Act.

The petitioner states that granting an exemption would enable it to sell vehicles with Type 1 lap belts on its side-facing seats.²³ BTS further states that granting this petition will provide relief to a small business.²⁴ Additionally, because this petition follows NHTSA’s grant of 14 similar petitions, BTS states that granting this exemption will assist in providing a consistent, objective standard that is easy for manufacturers to understand and meet.²⁵

BTS also states its belief that providing Type 1 belts at side-facing seats is consistent with the objectives of the Safety Act because it allows the manufacturer to determine the best approach to motor vehicle safety depending on the intended use of the vehicle and its overall design, and is consistent with current analysis of the NHTSA and the European Commission that indicates no demonstrable difference in risk between the two types of belts when installed in sideways-facing seats.²⁶

In support of its petition, BTS also states that it produces only a small number of motorcoaches annually, expecting to manufacture only about 14 motorcoaches under the period of exemption, well below the limit of 2,500 vehicles.²⁷

The petitioner also indicates that it expects to seek to renew this exemption, if granted, at the end of the exemption period.²⁸

²² *Id.* at page 6.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at page 7.

III. Receipt Notice Seeking Comments

On April 26, 2023, NHTSA published a notice of receipt of the petition for temporary exemption from BTS and requested comment on the petition.²⁹ No comments were received.

IV. Agency Analysis and Decision

The agency grants the petition. This grant will allow the petitioner to sell a vehicle whose overall level of safety or impact protection is at least equal to that of a nonexempted vehicle.

In the rulemaking implementing MAP-21's mandate for seat belts on motorcoaches, NHTSA's proposal in the NPRM was to allow manufacturers an option of installing Type 1 (lap belt) or Type 2 (lap and shoulder belt) on side-facing seats. The proposed option was consistent with a provision in FMVSS No. 208 that allows lap belts for side-facing seats on buses with a GVWR of 4,536 kg (10,000 lbs.) or less. NHTSA proposed the option because the agency was unaware of any demonstrable increase in associated risk of lap belts compared to lap and shoulder belts on side-facing seats.³⁰ The agency believed that lap belts were as protective as lap and shoulder belts on side-facing seats. NHTSA continues to believe this to be true.³¹

The petitioner cited discussion of safety concerns about the shoulder belt portion of a lap and shoulder belt on side-facing seats. However, it did not provide any additional information about the potential for "serious injury" beyond reciting what NHTSA stated on the matter in the November 2013 final rule. Accordingly, NHTSA believes that the potential safety risk at issue is theoretical; as explained in the November 2013 final rule,³² and the agency cannot affirmatively conclude, based on available information, that shoulder belts on side-facing seats are associated with a demonstrated risk of serious neck injuries in frontal crashes. At the same time, NHTSA believes a shoulder belt is of limited value on side-facing seats for the reasons

²⁹ 88 FR 25445.

³⁰ 75 FR 50958 at pages 50971-72 (August 18, 2010).

³¹ 78 FR 7041 at pages 70447-48.

³² 78 FR 7041 at pages 70447-48

explained in the final rule. Given the uncertainties about shoulder belts on side-facing seats, the few side-facing seats there are on buses subject to the November 2013 final rule, and that FMVSS No. 208 does not require shoulder belts on side-facing seats on any other vehicle type, NHTSA is granting the petition for temporary exemption.

The grant will permit the petitioner to install Type 1 seat belts (lap belt only) at side-facing seating positions, instead of Type 2 seat belts (lap and shoulder belts) at those positions, on the OTRBs it manufactures. This exemption does not apply to forward-facing designated seating positions on the petitioner's vehicles. Under FMVSS No. 208, the forward-facing seating positions must have Type 2 lap and shoulder belts.

NHTSA believes that granting the petitioner's exemption request is consistent with the public interest. The exemption will enable the applicant to sell buses whose overall level of safety is at least equal to that of non-exempted vehicles. Further, we acknowledge that the petitioner is a small business as defined in 13 CFR 121.201³³. Thus, this temporary exemption not only permits the manufacturer to sell vehicles whose overall level of safety is at least equal to that of non-exempted vehicles, but also provides relief to a small business.

A grant is consistent with the Safety Act. The requested exemption will not impact motor vehicle safety because the exempted buses will provide overall safety at least equal to that of nonexempted buses. Further, the petitioner produces a small number of affected vehicles annually. The petitioner stated that it expects to produce no more than 14 affected vehicles during the exemption period. Thus, NHTSA concludes that the petitioner will manufacture very few vehicles relative to the 2,500 per manufacturer limit set forth in the Safety Act and 49 CFR 555.6(d)(4).

Further, as explained below, in accordance with 49 CFR 555.9 and § 30113(h) of the Safety Act, prospective purchasers will also be notified of the exemption prior to making their

³³ According to 13 CFR 121.201, the Small Business Administration's size standards regulations used to define small business concerns, manufacturers of these buses fall under North American Industry Classification System (NAICS) No. 336213, Motor Home Manufacturing, which has a size standard of 1,250 employees or fewer.

purchasing decisions. The vehicles must have a label notifying prospective purchasers that the vehicles are exempted from the shoulder belt requirement of FMVSS No. 208 for the side-facing seats.

V. Labeling

Under 49 CFR 555.9(b), a manufacturer of an exempted vehicle must securely affix to the windshield or side window of each exempted vehicle a label containing a statement that the vehicle meets all applicable FMVSS in effect on the date of manufacture “except for Standard Nos. [Listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No. ____.” This label notifies prospective purchasers about the exemption and its subject. Under § 555.9(c)(2), this information must also be included on the vehicle’s certification label.³⁴

The text of § 555.9 does not expressly indicate how the required statement on the two labels should read in situations in which an exemption covers part, but not all, of an FMVSS. In this case, NHTSA believes that a blanket statement that the vehicle has been exempted from Standard No. 208, without an indication that the exemption is limited to the shoulder belt on side-facing seats, could be confusing. A purchaser might incorrectly believe that the vehicle has been exempted from all requirements of FMVSS No. 208. For this reason, NHTSA believes the two labels should state that the vehicle meets all applicable FMVSS “except for the shoulder belt requirement for side-facing seats (Standard No. 208, Occupant Crash Protection), exempted pursuant to NHTSA Exemption No. 23-02.”

In accordance with 49 U.S.C. 30113(b)(3)(B)(iv), the petitioner is granted NHTSA Temporary Exemption No. EX 23-02 from the shoulder belt requirement of 49 CFR

³⁴ 49 CFR 555.9(c)(2) refers to § 567.5(c)(7)(iii) as the regulation setting forth the certification statement final-stage manufacturers are to use in their certification labels. That reference to § 567.5(c)(7)(iii) is outdated; it should be to § 567.5(d)(2)(v)(A). The certification label requirements for final-stage manufacturers formerly were in § 567(c)(7)(iii) but the requirements were moved to § 567.5(d)(2)(v)(A) (see, 70 FR 7433; February 14, 2005).

571.208 for side-facing seats on their motorcoaches. The exemption shall remain effective for the period designated at the beginning of this document in the DATES section.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.95.

Ann Carlson,

Acting Administrator.

Billing Code: 4910-59-P

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