

Senate Bill 142A - Q & A

The Rail and Public Transit Division (RPTD) has submitted additional questions to the Motor Carrier Division about Senate Bill 142A. The additional questions include how entities operating within a city and three miles beyond city limits are affected; how to distinguish between a non-profit entity and a charitable non-profit entity, and; the compliance obligation for cities and counties who operate vehicles larger than a Gross Vehicle Weight of 26,000 pounds. More information will be provided as available.

Q: What does Deregulation mean and what was deregulated with SB 142A?

A: Generally, deregulation means the reduction or elimination of government oversight in a particular industry usually enacted to create more competition within the industry. SB 142A eliminated economic regulation governing the entry, rates and routes of for-hire passenger carriers.

Q: Transit providers are organized under multiple, varying forms of governance. Please identify the various types of governing structures.

A: SB 142A addresses services provided by nonprofit entities, transportation districts, county service districts, intergovernmental bodies, and private entities providing for-hire passenger service. Please refer to the chart prepared by Rail and Public Transit Division and the questions below.

Q: Do the regulations apply to (501)(c)(3) non-profit agencies?

A: Yes. The exemption for non-profit organizations providing for-hire passenger service was deleted.

Q: Do the regulations apply to tribes?

A: No. Indian tribal governments are not mentioned in the statute. Tribal authorities are regulated in accordance with specific treaties and are treated similarly to states, counties and cities.

Q: Why are Mass Transit Districts excluded?

A: Mass Transit Districts were already exempted from ORS 825. They were excluded from SB 142A by legislative intent: the authors of SB142 intended to maintain the exemption.

Q: Do the regulations apply to providers formed under ORS 190 IGA?

A: Yes, SB 142A applies to IGAs formed under ORS 190. ORS 190 provides authority for local governments to enter into agreements. ORS 174.109 provides definitions, including the definition of a public body.

Q: Do the regulations apply to agencies that do not actually operate transit, for example Special Transportation Fund Agencies who receive and disburse funds and transit agencies that have a vendor providing transit operations? Do the regulations then apply to the contractor who provides the service?

A: The regulations apply to entities that have and operate vehicles. If the entity does not operate vehicles, and instead pays for the service from a third party, the regulations apply to the third party.

Q: Are cities and counties required to comply with SB 142A?

A: No. SB 142A does not address public transportation services provided by a city or a county.

Q: If an agency that is not exempted does not travel outside their District boundaries, do the regulations still apply?

A: Yes, however, there is a limited exemption if passenger transportation takes place wholly within a city. See ORS 825.020(2).

Q: If a provider does not travel three miles or more outside their District boundaries, do the regulations still apply?

A: Yes, however there is a limited exemption if passenger transportation takes place wholly within a city. See ORS 825.020(2).

Q: What requirements do contracted private for-profit intercity providers need to meet?

A: The same requirements as anyone else subject to provisions of SB 142A. In addition, private entities providing for-hire passenger service are required to comply with ODOT bond and insurance requirements. Depending on vehicle size, a highway use tax (weight/mile tax) may also be required to be paid by private entities.

Q: Transit providers have many different fare/donation structures. Please define “for-hire” as used in the Motor Carrier Transportation Division (MCTD) statute.

A: According to ORS 825.005 (7) “For-hire carrier” means: “(a) Any person who transports persons or property for hire or who publicly purports to be willing to transport persons or property for hire by motor vehicle; or (b) Any person who leases, rents or otherwise provides a motor vehicle to the public and who in connection therewith in the regular course of business provides, procures or arranges for, directly, indirectly or by course of dealing, a driver or operator therefor.”

A for-hire entity receives “compensation” for the transportation of passengers. Compensation includes the collection of fares and donations for rides. Compensation also includes receiving grant monies for providing passenger service.

Q: If a transit provider does not get a permit can the agency continue to operate?

Are TriMet, Lane Transit, and Salem Area Mass Transit Districts still exempt from SB142.

A: SB 142A requires entities transporting passengers for-hire to obtain an ODOT permit. An entity providing for-hire transportation of passengers without the permit would be in violation of Oregon law after January 1, 2016. Mass Transit Districts are not affected by SB 142A.

Q: Do Transit providers responsible for operating for-hire have to fill out the form and send it back with \$300?

A: For-hire providers of passenger service in Oregon that are not exempt are required to complete and file an application to transport passengers with MCTD. MCTD may issue a permit upon approval of the application.

Q: What happens if the transit provider doesn't meet the requirements?

A: SB 142A requires entities transporting passengers for-hire that are not exempt to obtain an ODOT permit. An entity (that is not exempted) providing for-hire transportation of passengers without the permit would be in violation of Oregon law after January 1, 2016. Mass Transit Districts are not affected by SB 142A.

Q: When do transit providers need to comply with MCTD safety requirements and inspections?

A: Safety requirements apply to entities providing for-hire passenger service that are not exempt depending on the vehicle being operated. At this time the MCTD is not requiring the inspection of vehicles. Operators who want assistance with safety requirements are encouraged to contact ODOT.

Q: What does the ODOT MCTD safety program require the providers to do?

A: For-hire providers of passenger service in Oregon that are not exempt are required to follow the Federal Motor Carrier Safety Regulations, which are adopted by Oregon Administrative Rule 740-100-0010. . This includes the proper licensing of vehicle operators (i.e., bus drivers), drug and alcohol testing requirements (if applicable), vehicle maintenance requirements, and drivers' hours of service standards.

Q: In public transportation, drug and alcohol regulations are required by the Federal Transit Administration (FTA) as a condition of funding in some if not all programs. Many transportation providers already fall under FTA drug and alcohol requirements. Please clarify the D&A requirements, who is affected, and who does what when?

A: The USDOT requires both FTA and Federal Motor Carrier Safety Administration (FMCSA) to adopt regulations for drug and alcohol testing. USDOT regulations are designed to avoid duplication of applicability, so, for example, 49 CFR, Part 382.103(d)(1) allows employers and drivers to comply with the FTA drug and alcohol testing requirements in lieu of the drug and alcohol testing requirements for motor carriers.

Transportation providers who are not exempt, who do not have a drug and alcohol testing program as required by FTA, and who operate vehicles that require CDL would be required to implement a program as defined by FMCSA, 49 CFR part 382.

Q: Is the new MCTD safety regulation the same as FTA safety regulations?

A: No. FTA is in process of promulgating safety regulations that will be similar to FCMSA regulations. RPTD will inform all affected agencies when the regulations are drafted and adopted.

Q: Can MCTD describe the agencies that fall under CDL standards and testing; driver qualifications; and hours of driver service?

A: The CDL standards apply to drivers of commercial motor vehicles. For this application, a commercial motor vehicle is defined in 49 CFR, Part 383.5, and is (1) a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle combination has a gross combination weight rating or gross combination weight of more than 26,000 pounds, inclusive of a towed vehicle with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, (2) a single motor vehicle if the gross vehicle weight rating or gross vehicle

weight is more than 26,000 pounds, (3) a vehicle 26,000 pounds or less if it is designed to transport 16 or more passengers, including the driver, (4) any vehicle regardless of size and is used in the transportation of hazardous materials as defined by the US DOT.

The driver qualifications and hours of service standards found in the Federal Motor Carrier Safety Regulations apply to commercial motor vehicles defined in 49 CFR, Part 390.5, and include any vehicle to transport passengers or property when the vehicle has (1) a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more, (2) is designed or used to transport more than 8 passengers (including the driver) for compensation, or (3) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation, or (4) is used in transporting hazardous material required the vehicle to be placarded.

Q: If a transit provider has a route which is currently under FMCSA regulations (crosses state lines) will the remaining in-state fixed routes need a permit?

A: Yes. The Oregon Department of Transportation (ODOT) permit is for transportation of passengers in intrastate commerce (wholly within Oregon). Further information regarding the US DOT number can be obtained by contacting the Federal Motor Carrier Safety Administration at 503-399-5775.