

Exhibit #VIII-1.1 VANS AS SCHOOL TRANSPORTATION

Federal Law

The Motor Vehicle Safety Act of 1974 with amendments prohibits any manufacturer or automobile dealer from selling to any school, public or private, a vehicle with a capacity of greater than 10 that is used to transport students to and from school or school related activities if that vehicle does not meet rigorous federal school bus safety standards. This Federal statute prohibits the sale of the traditional 15 passenger vans to schools unless they have been retro-fitted to meet the numerous federal safety standards.

The National Highway Traffic Safety Administration is the agency responsible for establishing Federal motor vehicle safety standards to reduce the number of fatalities and injuries that result from motor vehicle crashes. In the legislative history of the School Bus Safety Amendments of 1994, **Congress** stated that school transportation should be held to the highest level of safety, since such transportation involves the nation's most precious cargo, children who represent our future.

State Law

Federal regulations do not prohibit the use of vans by schools, but require any van with a capacity of more than 10 sold or leased for use as a school bus to meet the safety standards applicable to school buses. Federal regulations apply only to the manufacture sale/lease of new vehicles. Each State prescribes its own regulations that apply to the use of any vehicle that is used to transport students.

Some States allow the use of 11 to 15 person vans to be used to transport students to extra curricular activities under certain conditions.

The Issue

As stated above, federal law deals with the manufacture and sale of vans as the Secretary of Transportation is empowered to prescribe motor vehicle safety standards for school buses and school bus equipment. The federal government's jurisdiction under the commerce clause of the U. S. Constitution presumably does not extend to the intrastate use of such vans by local schools.

Therefore, it is not lawful to use a van designated for carrying over ten students to school related activities when that van does not meet all federal specifications for school buses. There does not appear to be any federal law sanction for the unlawful use of such vans by a school. The **potential liability** of the school, employees, and school board members may be sanction enough to convince the school to forgo the use of such vans.

Case Law

In July 1994, a six year old child in South Carolina died tragically in a school van that did not meet federal school bus safety standards. The family sued those parties involved in the sale and purchase of the van, including the school, headmaster, and automobile dealer. The family asserted that their child would have survived if he had been transported in a school bus, and that the school and its officials were negligent because they should not have used a motor vehicle which federal law prohibited being sold to the school. The case was ultimately settled on the eve of trial in the largest known wrongful death settlement in South Carolina's history involving the death of a child.

This case, twenty years after the passing of the Motor Vehicle Safety Act of 1974, has sparked renewed emphasis on school bus safety and the use of vans to transport students to school related activities such as interscholastic contests, school festivals, and other school program activities.

Safety

The National Association of State Directors of Pupil Transportation Services position is that a passenger van does not offer the same level of safety to its occupants as a full-sized school bus or a school bus built on a van-type chassis. In a crash, the risk of a serious injury or fatality is significantly higher for the occupants of a passenger van. Since it would be expected that any crash resulting in serious injuries or fatalities to school children would ultimately result in lawsuits, the fact that a school was using a vehicle that was not manufactured, sold, or leased in accordance with Federal laws governing school transportation would most likely be a significant issue in the lawsuit. This fact could also have an impact on the liability responsibilities of the insurance company used to insure the operations of the school.

ADD - ACTIVITY BUS BROCHURE