

**BEFORE THE
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
DEPARTMENT OF TRANSPORTATION**

PETITION OF BEAT THE STREET

**FOR TEMPORARY EXEMPTION
FROM SEAT BELT REQUIREMENTS FOR
SIDE-FACING SEATS ON MOTORCOACHES
UNDER 49 C.F.R. PART 555**

Submitted to
**Steve Cliff, Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590**

On behalf of Petitioner
**Beat the Street Interiors, Inc.
17469 W Colonial Dr., Building 6
Winter Garden, FL 34787-9710**

Through its attorneys
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Petitioner submits this petition, under 49 U.S.C. 30113 and 49 CFR 555.6(d), for a temporary exemption from a shoulder-belt requirement of Federal Motor Vehicle Safety Standard (FMVSS) No. 208 (S4.4.5.1.2(c)), "Occupant crash protection," for side-facing seats on motorcoaches. Specifically, Petitioner seeks permission to install Type 1 seat belts (lap belt only) at side-facing seat positions, instead of Type 2 seat belts (lap and shoulder belts) as required by FMVSS No. 208.

I. SUMMARY

Petitioner, Beat the Street Interiors, Inc. ("BTS") is a corporation, organized under the laws of the State of Florida, with its office located at 17469 W Colonial Dr., Building 6, Winter Garden, FL 34787-9710. BTS is a final-stage manufacturer of entertainer motorcoaches (Manufacturer ID 21864). These motorcoaches are primarily used for touring artists and their crews. BTS typically receives a bus shell from an incomplete vehicle manufacturer and customizes the over-the-road bus to meet the needs of its entertainer clients and other specialized customers.

BTS receives the bus shell from an incomplete vehicle manufacturer, 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 signal 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.

BTS then builds out the complete interior of the vehicle, which might include: roof escape hatch; fire suppression systems (interior living space, rear tires, electrical panels, bay storage compartments, and generator); ceiling, side walls and flooring; seating; electrical system, generator, inverter and house batteries; interior lighting; interior entertainment equipment; heating, ventilation and cooling system; galley with potable water, cooking equipment, refrigerators, and storage cabinets; bathroom and showers; and sleeping positions.

A related entity, Beat the Street USA, Inc., a Tennessee corporation, operates the vehicles as for-hire motor carrier of passengers, leasing the vehicle with a driver to a customer on an exclusive basis for a designated period.

Granting this petition will allow BTS to manufacture vehicles with an overall level of safety at least equal to that of a nonexempted vehicle. BTS is a small business that expects to manufacture no more than 14 vehicles during the exemption period. Moreover, NHTSA has granted exemptions for 14 similar manufacturers. *See* 84 FR 61966 (November 14, 2019) (granting of petition on behalf of Hemphill Brothers Leasing Company, LLC); and 87 FR 33299 (June 1, 2022) (granting of petition on behalf of 13 other manufacturers). Granting BTS a similar exemption will assist in providing a consistent, objective standard that is easy for manufacturers to understand and meet.

II. REGULATORY BACKGROUND

On November 25, 2013, the National Highway Traffic Safety Administration (“NHTSA”) published its final rule to require seat belts for each passenger seating positions in all new over-the-road-buses regardless of gross vehicle weight rating (GVWR) and all other buses with GVWRs greater than 11,793 kg (78 FR 70416, November 25, 2013). The rule became effective on November 28, 2016.

In the notice of proposed rulemaking (NPRM) that preceded the final rule (75 FR 50958, August 18, 2010), NHTSA proposed to permit manufacturers the option of installing either a Type 1 or a Type 2 belt on side-facing seats. This proposal 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 or less. NHTSA was unaware of any demonstrable increase in associated risk of lap belts compared to lap and shoulder belts on side-facing seats. NHTSA noted a study commissioned by the European Commission regarding side-facing seats on minibuses and motorcoaches, which found that due to different seat belt designs, crash modes and a lack of real world data, it could not be determined whether a lap belt or a lap/shoulder belt would be the most effective. *See* 78 Fed. Reg. at 70447, fn 106, citing http://ec.europa.eu/enterprise/automotive/projects/safety_consider_long_stg.pdf.

However, on July 6, 2012, President Obama enacted the Motorcoach Enhanced Safety Act of 2012 as part of the Moving Ahead for Progress in the 21st Century Act (MAP-21). *See* Pub. L. No. 112-14. Section 32703 of MAP-21 provided, “[n]ot later than 1 year after the date of enactment, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.” Because MAP-21 defined “safety belts” to mean lap *and* shoulder belts, the final rule amended FMVSS No. 208 to require lap and shoulder belts at all designated seating positions, including side-facing seats, on over-the-road buses. 78 Fed. Reg. at 70420.

But in doing so, NHTSA 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.” *See* 78 FR at 70448. It also reiterated its concern expressed in other sources regarding shoulder belts on side-facing seats – that simulation data involving side-facing seats showed potential carotid artery injury when the neck is loaded by the shoulder belt. *Id.* (citing at fn 108, Editors: Fildes, B., Diggs, K., “Occupant Protection in Far Side Crashes,” Monash University Accident Research Center, Report No. 294, April 2010, pg. 57). In addition, NHTSA noted Australian Design Rule ADR 5/04m “Anchorage for Seatbelts,” which specifically prohibits shoulder belts for side-facing seats.

III. AUTHORITY FOR THE EXEMPTION

In light of the above background, the NHTSA final rule on occupant crash protection provided that manufacturers may petition NHTSA for a temporary exemption under 49 CFR part 555 to install lap belts (Type 1) instead of lap and shoulder belts (Type 2) at side-facing seats.

78 Fed. Reg. at 70448 (stating, “[g]iven that there are unknowns about shoulder belt loading of an occupant’s neck on a side-facing seat, and in view of the small number of side-facing seats on the buses in question, manufacturers of over-the-road buses seeking to install lap belts on side-facing seats may petition NHTSA for a temporary exemption from the requirement to install lap/shoulder belt at side-facing seats, under 49 CFR Part 555.” 78 Fed. Reg. at 70448. The agency further noted that it “would be receptive to the argument that, for side-facing seats, lap belts provide an equivalent level of safety to lap/shoulder belts.” *Id.*; see also 49 CFR 555.6(d). BTS respectfully petitions NHTSA for an exemption on these grounds.

IV. BASIS FOR THE EXEMPTION

Under 49 CFR part 555 subpart A, a vehicle manufacturer seeking an exemption must submit a petition for exemption showing that the manufacturer satisfies one of the four bases for an exemption. Here, BTS seeks an exemption under § 555.6(d) - because it is otherwise unable to sell a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of nonexempted motor vehicles. This requires BTS to provide “detailed analysis of how the vehicle provides the overall level of safety at least equal to that of nonexempted vehicles.” The petition must also set forth the reasons why granting the exemption would be in the public interest and consistent with the objectives of the Safety Act.

A. The vehicles at issue provide the overall level of safety at least equal to that of nonexempted vehicles.

The only difference between the requested exempt vehicles and nonexempted vehicles is that the nonexempted vehicles have lap and shoulder belts at side-facing seats, while exempted vehicle would only have lap belts at side-facing seats. The level of safety between exempt and non-exempt vehicles is the same; indeed, exempt vehicles with lap belts may even be safer than non-exempt vehicles with lap and shoulder belts.

First, NHTSA expressed its own reservations about the safety effects of Type 2 lap and shoulder belts on side-facing seats in its own rule making. As stated above, the agency did not even propose a requirement for lap/shoulder belts on side-facing seats for over-the-road buses until mandated to do so by statute. And the legislative record shows no discussion of the application of seat belts to side-facing seats at all.

In its own 2010 NPRM (75 FR 50958, August 18, 2010), the agency did, however, consider the efficacy of Type 2 seat belts on side-facing seats, and it proposed to allow manufacturers the option of installing Type 1 or Type 2 belts at these seating locations. NHTSA recognized in the final rule that this option was “consistent with FMVSS No. 208 (S4.4.5.6), which allows lap belts for side-facing seats on buses with a GVWR of 4,536 kg (10,000 lb) or less.” 78 Fed. Reg. at 70477. The agency proposed to permit lap belts in side-facing seats because it was “unaware of any demonstrable increase in associated risk.” *Id.* The agency also noted that 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.” *Id.*, at fn 106.

The agency further noted that, in its 2004 Anton's Law final rule, it specifically declined to require lap/shoulder belts on side-facing seats of light vehicles because NHTSA believed "the addition of a shoulder belt at this seat position is of limited value, given the paucity of data related to side facing seats." *Id.*, n. 107, *citing* 59 Fed. Reg. 70907. In the 2013 final rule, the agency's view on this matter "ha[d] not changed," and "[t]here [was] not enough information showing the effect, positive or negative, of the shoulder belt on side-facing seats." *Id.*

Indeed, NHTSA conducted no additional testing before the 2013 final rule. To BTS's knowledge, the agency has not conducted any such testing since the final rule. Others in the industry also point to a lack of available data and test models supporting a requirement for should belts on side-facing seats. *See* 87 FR at 33300-33301 (noting comments from Superior Coach Interiors, the American Bus Association, and the National Interstate Insurance Company). At this time, no data exists that supports requiring a Type 2 belt at the side-facing seating positions.

Second, there are appreciable safety concerns on requiring Type 2 lap and shoulder belts on side-facing seats. In the 2013 final rule, the NHTSA stated: "There is not sufficient information that substantiates concerns about lap/shoulder belts on side-facing seats to a degree that would support prohibiting such belts. Yet, NHTSA acknowledges there have been concerns about the shoulder belt on side-facing seats, which we have weighed in past decisions not to require lap/shoulder belts on side-facing seats for any vehicle type of any weight." 78 Fed. Reg. at 70448. NHTSA further states that the agency is "aware of simulation data that are indicative of potential carotid artery injury when the neck is loaded by the shoulder belt." *Id.*, and n.108, *citing* Fildes, B., Diggs, K., "Occupant Protection in Far Side Crashes," Monash University Accident Research Center, Report No. 294, April 2010, pg. 57. NHTSA also noted that the Australian Design Rule ADR 5/04, "Anchorages for Seatbelts" has specifically prohibited shoulder belts for side-facing seats since 1975. *Id.*

In the preamble to the final rule, the agency did note some design considerations that could possibly mitigate a risk of neck injury from a Type 2 seat belt. *Id.* at 70448. The European Commission study raised the possibility of adding a panel in front of a side-facing seat, which might help restrain a belted occupant in a frontal crash in a manner that would prevent either spool-out from the belt or belt loading against the neck. NHTSA also mentioned that the literature in this same report stated that neck loading by shoulder belts in frontal crashes can be avoided by locating the shoulder belt anchorage rearward of the occupant neck. However, the agency also recognized "that this could limit the restraint of an occupant's upper torso, given that the shoulder belt may slip off the shoulder." *Id.* The suggestions were not adopted.

Commenters to the proposed rule and prior petitions also raise concerns of requiring Type 2 seat belts on side-facing seats. *See* 78 FR at 70447 (November 25, 2013) (American Seating claimed that "shoulder belts may cause serious neck injuries when applied to side-facing passenger seating positions"); 84 FR at 61966 (November 14, 2019) (noting concerns from the American Bus Association and the National Interstate Insurance Company that serious injury to passengers could result from operators and manufacturers complying with FMVSS No. 208 to install shoulder belts at side-facing seats).

Based on the existing studies referenced herein and noted in the rulemaking, BTS respectfully suggests that Type 1 belts at side-facing seats may provide equivalent if not safer protection to passengers than Type 2 belts. If BTS is not exempted from the final rule, it will be required to offer its customers a motorcoach with a safety feature that could make the occupants less safe, or at least the very least no more safe, than if the feature was not installed. In the final analysis, the current requirement in FMVSS 208 for Type 2 belts at side-facing seating positions makes BTS unable to sell a motor vehicle whose overall level of safety is equivalent to or exceeds the level of safety of a nonexempted vehicle.

B. Granting this petition is in the public interest.

The exemption, if granted, will enable BTS to sell vehicles with a Type 1 (lap belt) on its side-facing seats. As set forth above, this will provide an overall level of safety at least equal to that of nonexempted vehicles. Granting this petition will also provide relief to a small business that expects to manufacture no more than 14 vehicles during the exemption period. Finally, this petition follows the NHTSA's granting of 14 known similar petitions submitted by other manufacturers of entertainer motorcoaches. 84 FR 61966 (November 14, 2019) and 87 FR 33299 (June 1, 2022). Thus, granting the exemption will assist in providing a consistent, objective standard that is easy for manufacturers to understand and meet.

C. Granting this petition is consistent with the Safety Act.

First, the requested exemption will not affect general motor vehicle safety because, as set forth above, the motorcoaches will provide overall safety at least equal to nonexempted motorcoaches. Providing an option for Type 1 or Type 2 belts at side-facing seating positions allows the manufacturer to determine the best approach to motor vehicle safety depending on the intended use of the vehicle and its overall design. This option is consistent with current analysis of the NHTSA along with the European Commission that indicates no demonstrable difference in risk between the two types of belts when installed in sideways-facing seats.

Second, BTS produces only a small number motorcoaches annually. If the petition is granted, BTS anticipates that it would manufacture only about 14 motorcoaches under the period of exemption, well below the 2,500 threshold. In fact, outside estimates show that no more 100 similar type of entertainer motorcoaches with side-facing seats are manufactured and enter the U.S. market each year. In the 2013 final rule, NHTSA likewise recognized that there are very few entertainer-type over-the-road buses with side-facing seats in the market, "so the real-world implications of this issued might be narrow." 78 Fed. Reg. at 70448.

Finally, if granted, prospective end-users of BTS motorcoaches will be notified of the exemption prior to making their purchasing decisions, in accordance with 49 CFR 555.9 and § 30113(h) of the Safety Act. The motorcoaches will have labels notifying prospective purchasers that the vehicles are exempted from the shoulder belt requirement of FMVSS No. 208 for the side-facing seats.

V. CONCLUSION

For the above reasons, BTS requests that it be granted an NHTSA Temporary Exemption for a period of two years, from the shoulder belt requirement of 49 CFR 571.208 (FMVSS 208 (S4.4.5.1.2(c))) for side-facing seats on its motorcoaches. At this time, BTS expects to renew this exemption if granted at the end of the exemption period.

Respectfully submitted,



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