

Re: Request for Opinion Regarding the Applicability of M.G.L. c.151, § 1A(8) to Passenger Vehicles

You have asked the Division of Occupational Safety ("DOS") in a letter dated July 30, 2009, whether the statutory exemption of a truck driver from overtime pay requirements, pursuant to M.G.L. c. 151 § 1A, applies to certain categories of vehicles listed in your letter, and whether the word "truck" is "to be interpreted synonymously with 'motor vehicle'" as used in federal law.

The Division does not interpret the word "truck" to be the same as the words "motor vehicle" as used in federal law. The language of the motor carrier exemption in the Fair Labor Standards Act applies to "any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of section [31502](#) of title [49](#)". 29 U.S.C. 213(b)(1). Although the exemption under Massachusetts law is similar, it applies to "a driver or helper on a truck with respect to whom the Interstate Commerce Commission has power to establish qualifications..." G.L. c. 151 § 1A(8). The inclusion of the word truck in the Massachusetts statute creates a narrower exemption than does the language of the Fair Labor Standards Act motor carrier exemption.

Similarly, it is the Division's determination that the categorization of a vehicle as a truck can not be applied to the eight categories you list in your letter - five passenger sedans, five passenger sport utility vehicles, "mini-vans", limousines, sport utility limousines, eight passenger carrier vans, minibuses, or buses. While there is no definition of "truck" in G. L. c. 151, it is instructive to note that other Massachusetts statutes distinguish between trucks and other vehicles. See e.g. G.L. c. 21H § 2 ("motor vehicle" defined as including an "automobile, van, truck..."); G.L. c. 90 § 9C (describing persons servicing "multi-piece bus, trailer, tractor or truck rims"); and see G.L. c. 90 §§ 13, 13A and 19, G.L. c. 93 § 107(A) and G.L. c. 159B § 16A. Further, Webster's Third New International Dictionary (1981) defines "truck" as follows:

a: an automotive vehicle built for the transportation of goods on its own chassis

b: a motorized vehicle equipped with a swivel for hauling a trailer.

It is clear from the language of these statutes that the generally understood meaning of the word truck is different than the generally understood meaning of the words automobile, van, bus or motor vehicle. Moreover, the FLSA, including the Motor Carrier exemption, was enacted in 1938, more than 20 years before G.L. c. 151 § 1A. Had the Massachusetts legislature intended the exemption in G.L. c. 151, §1A(8) to be interpreted in the same way as the Motor Carrier exemption, it would have used the same language as that exemption, as it did in other parts of the statute. Instead, the Massachusetts statute used similar language but modified it by including the word truck. None of the eight vehicles you have listed meets the definition of "truck" above. Each of them is designed to carry passengers and not goods, and none hauls a trailer.

Accordingly, in order to give meaning to all of the words in the statute, DOS interprets the exemption in G.L. c. 151, § 1A(8) to be narrower than the Motor Carrier exemption and only to apply to those motor vehicles that can fairly be defined as a truck.

I hope that this information has been helpful. If you have any further questions, feel free to contact me.

Sincerely,
Mitchell Goldstein
General Counsel