



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DIVISION OF OCCUPATIONAL SAFETY  
[www.mass.gov/dos](http://www.mass.gov/dos)

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Commissioner of Division of Occupational Safety

May 28, 2008

Walter M. Foster, Esq.  
Sheehan, Phinney & Bass, P.C.  
One Boston Place  
Boston, MA 02108

Dear Mr. Foster:

I am writing in response to your request for this Office's written opinion regarding the applicability of the prevailing wage requirement included within G.L. c. 71, §7A, which governs the awarding of contracts for school bus transportation. Specifically, you have asked whether drivers of certain modified vehicles must be paid the prevailing wages established by the Division of Occupational Safety (DOS).

General Law Chapter 71, §7A, provides "no contract [for school bus transportation] shall be awarded except upon the basis of prevailing wage rates" established by DOS, when such rates are applicable.<sup>1</sup> The rates of pay so established must be paid to all drivers of school buses. The term "school bus" is not defined within Section 7A; however, this agency has long utilized the definition of "school bus" under G.L. c. 90, §1. Section 1 defines "school bus," in pertinent part, as "any motor vehicle used for the transportation of school pupils...to and from school...but not including...a motor vehicle having permanent seating accommodations for and carrying not more than eight persons in addition to the operator."

In your letter of April 9, 2008, you asked whether a vehicle, which is manufactured and sold with more than eight passenger seats, but is modified by the removal of some seats so that the vehicle has eight or fewer seats, would still be considered a "school bus" under G.L. c. 90, and thus subject to the prevailing wage requirement included within G.L. c. 71, §7A. Any questions concerning the interpretation of G.L. c. 90, §1, should be addressed to the Registry of Motor Vehicles (RMV). If the RMV would still consider such a modified vehicle to be a "school bus" for purposes of G.L. c. 90, this agency would consider drivers of such vehicles to be covered by the prevailing wage law.

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<sup>1</sup> Certain municipalities are not covered by this law, e.g. those having a population of less than 16,000. G.L. c. 71, §7A.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Lisa C. Price". The signature is fluid and cursive, with the first name "Lisa" and last name "Price" clearly distinguishable.

Lisa C. Price  
Deputy General Counsel

cc: Laura M. Marlin, Commissioner, DOS  
Kathryn B. Palmer, General Counsel, DOS  
Joanne Goldstein, Division Chief, Office of the Attorney General, Fair  
Labor Division