

FLSA-1062

July 18, 1983

This is in reply to your letter of June 27, 1983, concerning the application of section 7(n) of the Fair Labor Standards Act (FLSA) to employees of a contract school bus carrier. The carrier has a contract with a local school district to bus students between their homes and school. The carrier also provides bus service for special school activities such as field trips on an as needed basis.

Section 7(n) is applicable to employees "of an employer engaged in the business of operating a street suburban or interurban electric railway, or local trolley or motorbus carrier..." making charter trips. Based upon the facts in your letter, section 7(n) would not apply to your client since it is not a "local... motorbus carrier" within the meaning of section 7(n). In order for such provisions to apply, the motorbus carrier must render daily common carrier passenger service as part of the transportation system of a locality. Motorbus carriers, such as your client, providing transportation on a contractual basis are not within the exemption. This is because the services are not rendered to the public at large as part of the local transit system.

A carrier whose operations are limited to a particular class of persons such as school students is not a carrier within the meaning of section 7(n). See Wirtz v. Clyde's Charter Bus Service, Inc., 18 WH Cases 241 (D.C. Md. 1967). Please note that section 13(a)(9) discussed therein is the predecessor of the present section 7(n) and contains identical language insofar as the type of activity to which the provision applies.

Please let us know if you have further questions.

Sincerely,

James L. Valin
Assistant Administrator
Wage and Hour Division

William M. Otter
Administrator