

Effective immediately, you must cease operating any commercial motor vehicles, specifically including the commercial motor vehicles listed in Appendix A to this Order. “Operate” or “Operating” includes without limitation all interstate and intrastate transportation by drivers from all dispatching locations or terminals. Washington DC Party Shuttle’s commercial motor vehicles, specifically including the commercial motor vehicles listed in Appendix A to this Order, may not be operated in interstate or intrastate commerce by any other motor carrier or any driver; such commercial motor vehicles may not be operated – even without passengers. Any movement of Washington DC Party Shuttle’s commercial motor vehicles, specifically including the commercial motor vehicles identified in Appendix A of this Order, to any storage or repair or other location for the purposes of repair, sale, storage, or final destination must be accomplished only by towing, such that the commercial motor vehicle itself is not driven or operated; Washington DC Party Shuttle’s commercial motor vehicles may be moved only upon the written approval of the Regional Field Administrator for FMCSA’s Eastern Service Center.

Your commercial motor vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination, which is defined as the next scheduled stop for vehicles already in motion where the passengers can be safely accommodated. (*See* 49 C.F.R. § 386.72(b)(4) and (5)). You may not load or transport any additional passengers.

Within eight (8) hours of the service of this Order, you must submit to the Regional Field Administrator in writing by facsimile the location of each of the commercial motor vehicles operated by Washington DC Party Shuttle, including those vehicles identified in Appendix A of this Order. Your submission must be sent to:

Regional Field Administrator

(443) 703-2253 (facsimile)

I. JURISDICTION

Washington DC Party Shuttle, LLC dba Onboard DC Tours, LLC is a passenger motor carrier engaged in interstate commerce using commercial motor vehicles and employing drivers and is therefore subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”), 49 C.F.R. Parts 350-399, and the alcohol and controlled substances regulations at 49 C.F.R. Part 40, as well as the Orders of the USDOT and FMCSA. (*See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, and 31144.) Washington DC Party Shuttle is required to comply with, and to ensure that its drivers comply with, the FMCSRs and Orders of the USDOT and FMCSA. (49 C.F.R. § 390.11). Thomas Schmidt is the CEO/President of Washington DC Party Shuttle and is the individual directly responsible for management, control, direction, and oversight of the operations of Washington DC Party Shuttle. This Order has the force and effect of any other Order issued by the FMCSA and is binding upon Washington DC Party Shuttle, as well as any and all of its officers, members, directors, successors, assigns, and closely affiliated companies. This Order applies to all motor carrier operations and all vehicles owned, leased, rented or otherwise operated by Washington DC Party Shuttle.

II. BASIS FOR ORDER

The basis for determining that Washington DC Party Shuttle’s motor carrier operations pose an imminent hazard to the public is that Washington DC Party Shuttle fails to monitor and ensure that its drivers comply with drivers’ controlled substances and alcohol use and testing requirements, and has repeatedly permitted or required a driver who tested positive for a controlled substance to perform a safety-sensitive function by dispatching that driver to operate a passenger-carrying commercial motor vehicle. Further, Washington DC Party Shuttle has no effective systematic maintenance program for its passenger-carrying vehicles, which has led to, among other things, significant safety problems and dangerous conditions on its buses.

Moreover, the absence of an effective systematic maintenance program has resulted in Washington DC Party Shuttle failing to repair or cause to be repaired dangerous conditions on its buses which amount to safety violations, and failing to systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, vehicles subject to its control. Washington DC Party Shuttle has required or permitted the operation of a commercial motor vehicle declared “out-of-service” before repairs were made. Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to Washington DC Party Shuttle drivers and passengers and the motoring public.

Thomas Schmidt, Washington DC Party Shuttle’s CEO/President, is the individual responsible for the oversight and management of the motor carrier’s safety operations. Mr. Schmidt was personally aware of Washington DC Party Shuttle’s dispatch of a driver who had tested positive for controlled substances.

III. BACKGROUND

On April 2, 2013, FMCSA began an investigation of Washington DC Party Shuttle as part of the Agency’s 2013 passenger carrier safety initiative. Washington DC Party Shuttle operates tour buses, and is primarily engaged in transporting passengers on sightseeing tours in the Washington, DC metropolitan area. Further, at least two of its vehicles operate in a similar business model in New York State from the location of [Onboard New York Tours \(inactive USDOT Number 1332562\)](#), an out-of-service company of which Thomas Schmidt is also the CEO/President. FMCSA’s investigation revealed egregious regulatory violations demonstrating Washington DC Party Shuttle’s blatant disregard for motor coach passenger safety.¹

¹ In conjunction with the investigation, FMCSA completed a compliance review of Washington

Washington DC Party Shuttle does not comply with FMCSA mandated random controlled substances and alcohol testing requirements to ensure that its drivers are able to safely operate its motor coaches. In March 2013, Washington DC Party Shuttle used a driver who had not completed pre-employment controlled substances testing. Furthermore, Washington DC Party Shuttle is not conducting random alcohol tests at the rate required or in a manner consistent with regulation. Washington DC Party Shuttle fails to train its employees on 49 C.F.R. Part 382 as required. Washington DC Party Shuttle repeatedly used a driver known to have tested positive for controlled substances and dispatched that driver on numerous occasions to operate a passenger-carrying commercial motor vehicle, but falsely claimed during the investigation that it had stopped dispatching the driver after the positive test.

By failing to require drivers to complete employment applications, failing to investigate drivers' backgrounds, failing to investigate drivers' alcohol and controlled substances history, and using a driver who has not been medically examined and certified during the preceding 24 months, Washington DC Party Shuttle does not follow FMCSA driver qualification requirements to ensure that its drivers are qualified to transport passengers in its motor coaches. Washington DC Party Shuttle fails to require drivers to make records of duty status and fails to investigate intermittent and part-time drivers' other current employment, resulting in the lack of oversight of drivers total work hours. Washington DC Party Shuttle's irresponsible actions with regard to driver oversight substantially increase the likelihood of serious injury or death to Washington DC Party Shuttle's drivers and passengers and the motoring public.

Further, Washington DC Party Shuttle does not have a vehicle maintenance program in place to prevent the operation of unsafe motor coaches. Washington DC Party Shuttle fails to keep minimum records of inspection and vehicle maintenance and fails to keep records of tests

DC Party Shuttle. The compliance review resulted in a proposed safety rating of "Unsatisfactory."

conducted on pushout windows, emergency doors, and emergency door marking lights.

Washington DC Party Shuttle fails to correct violations or defects listed on motor vehicle roadside inspection reports. Washington DC Party Shuttle has also required or permitted the operation of a motor vehicle declared “out-of-service” before repairs were made. During the investigation, FMCSA inspected Washington DC Party Shuttle’s commercial motor vehicles and discovered defects leading FMCSA to place 75% of the vehicles out-of-service.

Washington DC Party Shuttle’s inadequate maintenance program substantially increases the likelihood of serious injury or death to Washington DC Party Shuttle’s drivers and passengers and the motoring public.

In sum, Washington DC Party Shuttle’s continued and blatant disregard for the FMCSRs substantially increases the likelihood of serious injury or death and is an imminently hazardous and potentially deadly risk for its own drivers, passengers, and for the motoring public.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before Washington DC Party Shuttle will be permitted to resume operations placed out-of-service by this Order, Washington DC Party Shuttle must take specific steps to ensure and demonstrate compliance with the FMCSRs.

- 1. Washington DC Party Shuttle must drastically change its company and management philosophy regarding driver qualification and drug and alcohol compliance** and demonstrate that it has an effective program in place to ensure that only qualified drivers operate its commercial motor vehicles and to ensure compliance with the FMCSRs. Washington DC Party Shuttle must ensure and demonstrate that driver qualification and drug and alcohol compliance is a company priority and must ensure and demonstrate that records are accurately completed.

2. Washington DC Party Shuttle must establish policies and procedures to ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391. Washington DC Party Shuttle must ensure that every driver it uses has completed and furnished an employment application. Washington DC Party Shuttle must investigate each driver's background within 30 days of employment, and must maintain a copy of the response from each State agency in the driver's qualification file. Washington DC Party Shuttle must ensure that an annual list of traffic violations is obtained from each driver, an annual Motor Vehicle Record is obtained, and that an annual review is performed on each driver's driving record. Washington DC Party Shuttle must ensure that a three-year previous employment check is performed on its drivers prior to their operating a commercial motor vehicle, in accordance with 49 C.F.R. § 391.23. Washington DC Party Shuttle must ensure each driver possesses a DOT medical examiner's certificate as well as ensure that a copy of each driver's medical examiner's certificate is maintained in the driver's qualification file.
3. Washington DC Party Shuttle must establish a DOT controlled substance and alcohol testing program in compliance with 49 C.F.R. Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing) and provide evidence of this program to the Eastern Service Center Regional Field Administrator. Washington DC Party Shuttle must use only those laboratories certified by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration for the analysis of urine specimens. Washington DC Party Shuttle must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). Washington DC Party Shuttle must ensure that driver supervisors

- undergo at least 60 minutes of training on alcohol misuse as well as an additional 60 minutes of training on controlled substance use that conforms to 49 C.F.R. § 382.603.
4. Washington DC Party Shuttle must establish policies and procedures to ensure that each driver selected for random controlled substances or alcohol testing has an equal chance of being selected in accordance with Parts 40 and 382. Washington DC Party Shuttle must ensure that it has received a negative pre-employment controlled substances test for each driver before using that driver to perform safety-sensitive functions.
 5. Washington DC Party Shuttle must establish policies and procedures to ensure that it does not dispatch a driver who has tested positive for controlled substances or alcohol until that driver has completed the return-to-duty process in 49 C.F.R. Part 40.
 6. Washington DC Party Shuttle must ensure and demonstrate that its commercial motor vehicles are in a safe operating condition and are in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operations) and Part 396 (Vehicle Maintenance).
 7. **Washington DC Party Shuttle must drastically change its maintenance posture, philosophy and infrastructure** and demonstrate that it has an effective commercial motor vehicle maintenance program in place to inspect, maintain, and repairs its fleet and ensure compliance with the FMCSRs. Washington DC Party Shuttle must ensure and demonstrate that vehicle maintenance and safety is a company priority and must ensure and demonstrate that inspection records are accurately completed.
 8. Washington DC Party Shuttle must require its drivers to prepare Driver Vehicle Inspection Reports at the end of each day, implement a procedure so that its drivers can report safety defects and/or deficiencies, and establish and abide by procedures to

- ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again. Washington DC Party Shuttle must train its drivers and ensure all drivers understand the meaning of a roadside out-of-service order and comply with roadside out-of-service orders.
9. Washington DC Party Shuttle must ensure that each of its drivers records his or her duty status for each 24-day period in accordance with 49 C.F.R. § 395.8. Washington DC Party Shuttle must ensure that each of its drivers complies with the hours of service rules in 49 C.F.R. § 395.8. Washington DC Party Shuttle must maintain each record of duty status for a minimum of six months in accordance with 49 C.F.R. § 395.8.
 10. Washington DC Party Shuttle must implement a system to ensure that all its drivers accurately complete their records of duty status in the form and manner required in 49 C.F.R. Part 395. Washington DC Party Shuttle must ensure that its drivers accurately complete their daily records of duty status and that they submit these records to Washington DC Party Shuttle within 13 days of their completion. Washington DC Party Shuttle must maintain drivers' records of duty status and demonstrate a system showing that the company can and will maintain all supporting documents. Further, Washington DC Party Shuttle must ensure that all records of duty status are accurate by using all means available to Washington DC Party Shuttle and by comparing each record with all supporting documentation.
 11. Washington DC Party Shuttle must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with those regulations.
 12. Washington DC Party Shuttle must comply with all Orders issued by FMCSA.

V. RESCISSION OF ORDER

Washington DC Party Shuttle is subject to this Order unless and until the Order is rescinded in writing by FMCSA. Unless and until this Order is rescinded, and until such time as Washington DC Party Shuttle has a valid and active USDOT number and operating authority registration, Washington DC Party Shuttle is prohibited from operating any commercial motor vehicle in interstate and/or intrastate commerce. This Order will not be rescinded until the Regional Field Administrator for FMCSA's Eastern Service Center has determined that the Remedial Action requirements specified in Paragraph IV of this Order have been fully satisfied and acceptable documentation submitted.

Before this Order will be rescinded, Washington DC Party Shuttle must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that its operations and motor vehicles pose, and adequately demonstrate to the Regional Field Administrator for FMCSA's Eastern Service Center the actions taken to eliminate the safety problems. Washington DC Party Shuttle cannot avoid this Order by continuing operations under the name of another person or company. Any sale, lease, or other transfer of commercial motor vehicles and/or direct assignment of contracts or other agreements for service by Washington DC Party Shuttle requires the written approval of the Eastern Service Center Regional Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

Prior to rescission of the Order, Washington DC Party Shuttle will be required to:

- 1. Identify the cause for its noncompliance.**
- 2. Develop a detailed Safety Management Plan of action that addresses each area of non-compliance, the steps it intends to take to overcome its non-compliance and a timetable for these steps.**

- 3. Certify in writing the commitment of Washington DC Party Shuttle to comply with the FMCSRs.**
- 4. Execute the Safety Management Plan and provide certification by all owners and officers.**

Any request to rescind this Order and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Regional Field Administrator, Eastern Service Center, with a copy to the Division Administrator, District of Columbia Division, at the following addresses:

Regional Field Administrator
Eastern Service Center
Federal Motor Carrier Safety Administration
802 Cromwell Park Drive
Suite N
Glen Burnie, MD 21061

Division Administrator
District of Columbia Division
Federal Motor Carrier Safety Administration
1990 K Street NW
Washington, DC 20006

Rescission of this Order does not constitute a reinstatement of Washington DC Party Shuttle's Federal operating authority registration or its USDOT Number. In order for Washington DC Party Shuttle to resume motor carrier operations transporting passengers in the United States, Washington DC Party Shuttle will be required to apply to reactivate its USDOT number registration, reapply for operating authority registration, and demonstrate that it is fit and willing and able to comply with: 1) the statutory and regulatory registration requirements; 2) applicable safety regulations including the FMCSRs; 3) the commercial motor vehicle safety requirements of employers and employees set forth in 49 U.S.C. § 31135; 4) the safety fitness requirements set forth in 49 U.S.C. § 31144; and 5) minimum financial responsibility requirements established under 49 U.S.C. §§ 13906 and 31138.

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this Order may subject Washington DC Party Shuttle to an action in the United States District Court for equitable relief and punitive damages. Washington DC Party Shuttle may be assessed civil penalties of up to \$25,000 for a violation of this Order. (49 U.S.C. § 521(b)(2)(F) and 49 C.F.R. Part 386 App. A. § IV(g) .) If violations are determined to be willful, criminal penalties may be imposed, including a fine of up to \$25,000 and imprisonment for a term not to exceed one year. (49 U.S.C. § 521 (b)(6)(A) .)

VII. PENALTIES FOR VIOLATIONS

Any motor carrier that violates Federal requirements, including the FMCSRs, and/or permits its employee(s) to violate Federal requirements is subject to civil and/or criminal penalty provisions. Penalty provisions for violations of Federal statutes and regulations are separate and distinct from this Order. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs and Orders of the FMCSA, previously discovered, discovered after the service of this Order, and/or discovered during subsequent investigations.

VIII. RIGHT TO REVIEW

You have the right to administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). An administrative review, if requested, must occur within 10 days of the issuance of this Order. (49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). A request for review must be addressed to the Assistant Administrator, United States Department of Transportation, Federal Motor Carrier Safety Administration, with a copy sent to FMCSA's Adjudications Counsel and the Regional Field Administrator, Eastern Service Center at the following addresses:

Assistant Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Federal Motor Carrier Safety Administration
Office of the Chief Counsel - Adjudications
1200 New Jersey Avenue S.E., W61-323
Washington, DC 20590

Regional Field Administrator
Eastern Service Center
Federal Motor Carrier Safety Administration
802 Cromwell Park Drive
Suite N
Glen Burnie, MD 21061

The request must state the material facts at issue which you believe dispute or contradict the finding that Washington DC Party Shuttle's operation of its commercial motor vehicle(s) constitutes an imminent hazard to the public.

**A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT IN ANY WAY
SUSPEND OR DELAY YOUR DUTY TO COMPLY WITH THIS ORDER**

IMMEDIATELY. This Order is separate and independent from all other orders or actions that may be issued by FMCSA, and does not amend or modify any other such orders or actions, and

any request for administrative review of this Order does not attach to or apply to any other order or action.

Date: April 23, 2013



Curtis L. Thomas
Regional Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration

APPENDIX A

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YEAR	MAKE	VIN	TAG
2006	ELKHART	1FDXE45P16DA67748	B43220 (DC)
2002	FREIGHTLINER	4UZAABW42CK13117	B43232 (DC)
2006	CHEVROLET	1GBE5V1236F413464	B42906 (DC)
2005	CHEVROLET	1GBE5V1275F516367	B46051 (DC)
2005	CHEVROLET	1GBE5V1275F518524	B46055 (DC)