



THE UNITED STATES VIRGIN ISLANDS
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

IVER A. STRIDIRON, ESQUIRE
ATTORNEY GENERAL

July 26, 2002

The Honorable Andrew Rutnik
Commissioner
Department of Licensing and Consumer Affairs
Property & Procurement Bldg. No. 1
Sub-Base - Room 205
St. Thomas, U.S. Virgin Islands 00802

**Re: Safari Buses Use on Federal Highway
A.G. File No. SOL-02-0789**

Dear Commissioner Rutnik:

I am in receipt of an inquiry concerning the above-referenced matter. Thank you for your request for an opinion on the legality of modified vehicles. Your specific question is as follows:

Question:

Is it illegal for modified chassis vehicles (safari buses) to operate on Federal Highways?

Answer: In general, No

The National Highway Traffic Safety Act does not prohibit the altering of certified vehicles. It does, however, require that vehicles be certified and conform to the Federal Motor Vehicle Safety Standards. Vehicles that have met the standards must display certain enumerated labels. These labels must be affixed and remain on the vehicles at all times. If a vehicle, before the first purchase, is altered other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, the vehicle must still conform to the Federal Motor Vehicle Safety Standards. 49 C.F.R. § 567.7 states as follows:

A person who alters a vehicle that has previously been certified in accordance with § 567.4 or § 567.5, other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, or who alters the vehicle in such a manner that its stated weight ratings are no longer valid, before the first purchase of the vehicle in good faith for purposes other than resale, shall allow the original certification label to remain on the vehicle, and shall affix

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to the vehicle an additional label of the type and in the manner and form described in § 567.4, containing the following information: (a) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety Standards affected by the alteration and in effect in (month, year)." The second date shall be no earlier than the manufacturing date of the original vehicle, and no later than the date alterations were completed. (1) In the case of passenger cars manufactured on or after January 1, 2000, the expression "safety, bumper, and theft prevention" shall be substituted in the statement for the word "safety".

(2) In the case of multipurpose passenger vehicle (MPVs) and trucks with a GVWR of 6,000 pounds or less manufactured on or after January 1, 2000, the expression "and theft prevention" shall be included in the statement following the word "safety".

(b) If the gross vehicle weight rating or any of the gross axle weight rating of the vehicle as altered are different from those shown on the original certification label, the modified values shall be provided in the form specified in § 567.4(g)(3) and (5).

(c) If the vehicle as altered has a different type classification from that shown on the original label, the type as modified shall be provided.

Although the National Highway Traffic Safety Administration is authorized to issue safety standards, it does not approve a manufacturer's motor vehicles. Rather, the Safety Act established a "self-certification" process, in which each manufacturer is responsible for certifying that its products meet all applicable safety standards.

The requirements for modifications vary depending on whether the vehicle is new or used and whether the individual owner as opposed to the manufacturer, dealer or repairman alters it. It is assumed that most of the "safari buses" are altered by their owners to fit their needs and that they are not new and for sale. If the vehicles were new or modified before purchase, the NHTSA requires that the motor vehicles must comply with all applicable Federal motor vehicle safety standards (FMVSS). Also § 108(a)(2)(A) of the Safety Act prohibits any manufacturer, distributor, dealer or motor vehicle repair business from knowingly rendering inoperative any equipment or element of design installed on a vehicle in compliance with the Safety Standards. However, the National Highway Safety Administration has ruled that once a motor vehicle is sold to its first retail purchaser, its use and any modifications made to it become a matter of state interest. NHTSA opinion letter, Ref:207#208#209#210#302d: 11/14/94, attached. Thus, owners of used vehicles may personally make any modifications or alterations they want to their vehicles without regard to the FMVSSs, subject only to

applicable state requirements. As you are aware, there are no applicable requirements in the Virgin Islands.

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In conclusion, the modification of a vehicle can be so extensive that it may subsequently be classified as a new vehicle and would then be subject to the National Transportation Safety Standards. In the case of the safari buses, the modification of the chassis may be so extensive that the result is a completely new vehicle. Also if these modifications are being made by a repair business, the company is responsible for certifying that its products meet all applicable safety standards. Thus, it is advisable to ascertain whether the buses are being modified by a business or company or the individual owners.

Additionally, you should obtain an opinion from the National Highway Traffic Safety Administration to see if as a result of the extensive modifications of these vehicles the safari buses are considered new vehicles and if so should they comply with NHTSA regulation 49CFR§571.7(e) of the Federal motor vehicle safety standards. The request for an opinion should be accompanied with detailed specifications on the modifications, alterations or additions of the safari buses. We would also suggest that photos of the vehicles be included together with its expanded passenger loads.

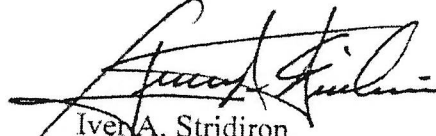
Thus, the National Highway Safety Administration does not rule that certain vehicles are illegal or that they cannot be transported in interstate commerce. Additionally, NHTSA does not approve, endorse, or offer assurances of compliance to a manufacturer's motor vehicle. Rather, the administration, pursuant to the authority granted, issues motor vehicle safety standards for new vehicles and items of motor vehicle equipment. And as reiterated, the Safety Act established a "self-certification" process in which each manufacturer is responsible for certifying that its products conform to applicable safety standards. Also, NHTSA has the authority to investigate safety-related defects in motor vehicles and motor vehicle equipment.

Finally, to summarize and reiterate: once a motor vehicle is sold to its first retail purchaser, any modification made to it by its owner becomes a matter of state interest. The Virgin Islands has no law equivalent to the National Traffic and Motor Vehicle Safety Act. Therefore, a truck whose chassis is modified to transform it to a safari bus would be subject to the federal law only if the work was done by someone not the owner, and the work changes the vehicle in such a way that the vehicle no longer complies with applicable federal safety standards. This would have to be decided on a case-by-case basis. Even if a violation were found, it would be a violation of federal law, not local. This can only be ascertained by an inquiry to the NHTSA.

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Once again thank you for your inquiry. If you have additional questions concerning the above, please let me know.

Sincerely,



Iver A. Stridiron
Attorney General

Cc: Honorable Franz A. Christian, Sr.