

# Unauthorized Passengers – Know Who’s Riding Along

With trips that last from a few days to weeks at a time, the average truck driver spends a considerable amount of time away from home. While each driver deals with it in his or her own way, for many, bringing loved ones along for the occasional trip may seem like the perfect idea.

Unfortunately, these passengers can bring substantial liability. What’s more, if the proper paperwork has not been filed, transporting an unauthorized passenger may be a violation of Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

## Regulation

FMCSA has developed a number of regulations to increase safe practices among commercial drivers and their employers, including section 392.60, which covers transportation of unauthorized persons.

The concern over unauthorized passengers is not exclusive to long-haul trucking. No matter what the duration of the trip, a driver needs to receive written authorization from their employer to carry passengers in a CMV unless the vehicle is specifically authorized otherwise (i.e., buses). According to FMCSA regulations, the authorization must include the name of the passenger, where the transportation will begin and end, and the dates for which the authorization is valid. The written authorization does not need to be carried on board the vehicle; it simply must be on file with you, the carrier.

In a few specific situations, written authorization is not necessary. Exceptions to section 392.60 of FMCSA regulations include the following:

- Those assigned to the vehicle by the motor carrier whether they are driving or not.
- Any person being transported for aid reasons in the case of an accident or other emergency.
- An attendant to care for livestock, where livestock is the authorized load.

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**In most cases the motor carrier, not the driver, is liable for a passenger’s injuries even if the accident was caused by driver negligence.**

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## The Passenger Decision

The FMCSA regulation is not meant to be an outright ban of passengers from CMVs; rather, it is meant to give you the power to know and regulate who is riding in your vehicles and, thus, the power to manage your risks.

Indeed, the FMCSA has left the toughest decision up to the individual company. While allowing drivers to take passengers can be a nice perk to offer your employees, it must be weighed against the risk of litigation in the event a passenger was injured while riding in your company’s

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vehicle.

While it may come as a surprise, many injured passengers are quick to take legal action against the driver, even when that driver is a friend or family member. This is because in most cases, the motor carrier’s liability insurance is responsible for paying out for the claim, not the driver’s, even if the accident was caused by the driver’s negligence. This makes prohibiting passengers completely the only foolproof way to eliminate all liability.

If you do decide to allow drivers to take on passengers, it is important that you not only comply with FMCSA guidelines but also institute some form of risk management plan. Instead of an overriding policy that allows passengers, authorization should be on a case-by-case basis—it can even be used as a reward system for your company’s safest drivers. Requiring that drivers have worked for the company for a certain amount of time, kept a clean driving record and have had no other safety compliance issues can help ensure that those who are taking passengers present the least risk.

No matter what amount of regulation your company chooses to put on unauthorized passengers, it is important that the policy is clearly communicated to the drivers. For more information on commercial motor vehicle regulation or on passenger authorization, visit the FMCSA website at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).