

## Understanding the Evolution and Application of Public Vanpools in the Agricultural Sector

### **History-**

Following a fatal accident in 1999, the Governor of California established a number of public workshops throughout the Central Valley asking for ideas on addressing safe transportation for farmworkers. At that time, transportation for the occupation of a farmworker was not viewed as an occupation taking part in the use of the traditional public transit model and no one in the state existed to take on that task and no one was stepping forward to take on that responsibility.

Following the last workshop, Executive Director Ronald Hughes, representing KCAPTA (Kings County Area Public Transit Agency) in Kings County, offered to work with Caltrans staff on a pilot project. This pilot project has successfully grown over the years to become CalVans (California Vanpool Authority) representing 12 county agencies covering San Joaquin and Salinas Valley as well as Ventura, Santa Barbara, Napa and Imperial.

### **Operations and Governing Laws-**

To understand passenger vans, it is important to understand how they are classified or governed. Passenger vans are used in a number of capacities across the state of California. They range from school shuttles, airport shuttles, private shuttles, farmworker shuttles and public transit shuttles. For the purpose of this discussion, focus will be on those vehicles used by farmworkers and by public transit agencies. The laws governing farmworkers are found both in the Federal Register and the California Vehicle Code. Federal laws are broader in that they cover all modes of transporting farmworkers, from buses to private passenger vehicle. The California Vehicle Code gives oversight for 12 to 15 passenger vans being used to transport farmworkers for a fee to an agricultural activity.

Public shuttles or vanpools derive their definition from the FTA (Federal Transit Administration). Vanpools are defined as one of four modes of public transit, such as trains, fixed route buses, dial-a-ride vehicles **and vanpools**. These definitions allow for the annual reporting of miles traveled, trips provided, and the time spent providing these trips. This information provides the ability of the FTA to track public transit mode by region and provides for allocation of federal funds.

Section 500.2 titled "Compliance with State Laws and Regulations" notes that the Act and its regulations are intended to supplement State law. To that end, California has established California Vehicle Code sections governing the oversight of vanpools being operated in California. **It is in Section 322 of the California Vehicle code that the use of vanpools by a public agency is clearly separated from any oversight as a "farm labor vehicle".**

*322. (a) A "farm labor vehicle" is any motor vehicle designed, used, or maintained for the transportation of nine or more farmworkers, in addition to the driver, to or from a place of employment or employment-related activities.*

*(b) For the purpose of this section, a farmworker is any person engaged in rendering personal services for hire and compensation in connection with the production or harvesting of any farm products.*

**(c) "Farm labor vehicle" does not include:**

*(1) Any vehicle carrying only members of the immediate family of the owner or driver thereof.*

**(2) Any vehicle while being operated under specific authority granted by the Public Utilities Commission or under specific authority granted to a transit system by an authorized city or county agency.**

However, this definition was challenged by Mr. Jose Millan of the State Department of Labor in the summer of 2004. He stopped a vanpool operated by CalVans and cited the driver for not being properly licensed to transport farmworkers to the field. He argued that the fee the driver collected and remitted to the CalVans office made the vehicle a farm labor vehicle subject to all farm labor vehicle requirements.

Following several meetings in Sacramento, Anne Hipshman, Assistant Chief Counsel for the State DOL, reversed Mr. Millan's position and clarified the matter in an email October 27, 2004, stating the following:

**"Based on his contractual requirements, as I told Mark yesterday, the driver is not receiving a fee for transporting, but rather collecting a fare for a county transportation operation. He therefore, should not be required to be licensed as a FLC, day hauler."**

The concern expressed by some was that the separate "public transit" designation somehow lowers the bar or exposes farmworkers to more risk than if they were in a conventional farm labor vehicle. This perception is completely unfounded, as public vanpools provided by CalVans exceed the minimum standards in all areas of driver qualification, monitoring, vehicle servicing, and support.

The oversight given to the vanpools used by agricultural workers is not special; it is the same that's given to federal military personnel or state correctional offices using our vans.

Public vanpool riders are able to receive vouchers from their employers that cover part or all of the riders' cost. This practice is common for California and federal employees. CalVans provides this ability to employees of agricultural employers as well. This is due in part to encourage employee retention and lessen the exploitation to the riders: as no cash is involved, and also to satisfy requirements of H2A regulation for agricultural workers.

The CalVans program and its operations comply with the H2A transportation requirements. The drivers are licensed, and vehicles are insured and routinely inspected.

To address this concern and show differences between public vanpools and vehicles certified as farm labor vehicles Staff lists those item required of a conventional farm labor vehicle compared to the requirements of a van provided by CalVans.

	Farmlabor Vehicle	CalVans	Differences
<b>Driver Qualification:</b>	Class B License	Class C License	Class B not required by CalVans
	Class B Physical	Class B Physical	Same
	No Felony Charges	Not monitored	CalVans does not monitored for Felony Charges
	None	No DUI or Reckless Driving in past 5 years	CalVans does not allow drivers with DUI or Reckless driving conviction drive
	None	No more than 2 DMV Points	Drivers can have no more than 2 points (two tickets) to drive.
<b>Vehicle Qualifications</b>	Must pass annual inspection by CHP	CalVans performs on site inspection every 5,000 miles or 5 months. These inspections occur approximately three to four times a year.	CalVans personally inspects each vehicle 3 to 4 time a year as opposed to one
<b>Vehicle Servicing</b>	Driver to maintain standards identified in 29 CFR & 500	Services occur at time of inspection	CalVans performs and documents all services. Records also kept in the vehicle.
<b>Insurance Requirements</b>	\$1.5 million	\$10 million	CalVans exceeds the minimum requirements by \$8.5 million
<b>Emergency service</b>	None	24/7	CalVans has staff on-call to respond to drivers should they repair or replacement off their vehicles.
<b>Driver License Monitoring</b>	None	CalVans enrolls drivers into the DMV Pull Notice system that alerts admin staff when activity is detected on a driver's license.	The notification allows CalVans to drop drivers who no longer meet the safety requirements, have invalid licenses or incur too many points to remain on the program.
<b>Vehicle Monitoring</b>	None	24/7	Drivers driving habits and locations are tracked via on board GPS system. Drivers caught speeding or using the vans inappropriately are dropped as drivers.

With the exception of not requiring a Class B license, CalVans provides superior oversight in all cases. CalVans drivers must start and keep less than 2 DMV points to be eligible to drive. With the CalVans program, speed and location are being sent continuously and safety-monitoring is being performed by CalVans staff regularly to ensure safety on the roads.

Farmworker drivers work 6 and 7 days a week, making it difficult to get their vans in for service. This problem does not exist with a CalVans vehicle as mobile mechanics and CalVans' staff inspects and services each vehicle at the job site or the driver's home. Vans needing repairs are swapped out with a spare van and returned when ready.

Lastly, insurance is often expensive and nearly impossible to get for farm labor vehicles. Many of the vans transporting farmworker in our community are not properly insured carrying only basic liability

insurance for a standard passenger vehicle, if insured at all. CalVans insurance coverage is larger than that found in the industry. This practice is in place to ensure proper coverage and to make sure those using our vans are covered if something happens. We also offer Med Pay coverage for minor injuries that don't warrant a claim.

In addition, growers and legitimate FLCs providing transportation via the CalVans program for their employees are often threatened to be dropped by their insurance companies, citing that the insurance company is not familiar with the CalVans program and its operations and that it is not bonified transportation for the specific occupation of a farmworker. Insurance providers reference our vehicles as being illegal to growers and their employees.

The evolution that has brought CalVans to where it is today has not been without challenges, but the benefit received by farmworkers and the documented outcomes of using CalVans today makes it all worth it. We are unique and even controversial to many in the private sector that feel threatened by a government agency that does good for the community and still recovers its operating costs. CalVans provides a public service to the many disadvantaged communities it serves.

We have come a long way in reaching the Governor's goal of eliminating the unsafe rides that some farm workers still take daily, however there are still unsafe legitimate FLCs in the Central Valley which means we are not done yet. This fact is only too apparent by recent accidents that still take the lives of many innocent farmworkers that felt they had no other option or were forced to believe that the legal method of transportation they used would watch out for their safety and that of others on California roadways.

CalVans is not a farm labor vehicle, but it allows thousands of California farm workers to get themselves and others to work safely every day. It's time to make sure all farmworkers are afforded the safety that CalVans provides and that CalVans be allowed to distinguish itself from the rest.

For additional information or questions please contact:

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