vices, zoning regulations that require a minimum number of parking spaces per employee, and relatively free entry and exit opportunities for transit authorities and private operators. If the nation is sincere about substantially reducing commuter VKT, new policies that allow all modes to best serve the markets they are best suited for are a must.

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Regulating and Insuring Prearranged Ride Sharing

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This paper attempts (a) to describe the range of approaches to regulating and insuring prearranged ride sharing, (b) to summarize the arguments that have been put forward on behalf of various approaches, and (c) to discover which approaches are actually being adopted at the state level, where most of the decisions on regulatory practice are made. Because our exploration necessarily leads through the semantic briar patch of state regulatory statutes and regulatory agency rules, it is essential to develop clear definitions of the ride-sharing modes we wish to study.

By "prearranged ride sharing" I mean transportation arrangements in which (a) ridership is by advance reservation, (b) the same group of riders travels together on a continuing basis, and (c) routes are tailored to accommodate rider needs. The arrangements that fall under this broad heading are commonly called car pools, van pools, and subscription buses. However, to discover how these modes fare under state statutes written long before they were conceived, we need to be considerably more precise, and I have found it useful to classify ride-sharing arrangements in terms of four key characteristics:

1. The relationship between the owner of the vehicle and the riders, i.e., the vehicle may be owned by one of the riders, by the employer of all or most of the riders, or by a third party—a nonprofit corporation, a for-profit corporation, or a government agency (other than the employer of the riders);
2. The nature of compensation, if any, received by the vehicle owner, i.e., less than the costs or none, exact cost compensation, or cost compensation plus a profit;
3. The nature of compensation, if any, received by the driver, i.e., (a) none (other than a proportional reduction in commuting costs equal to that of the other riders), (b) a free trip to work, use of the vehicle on nights and weekends, and (possibly) retention of fares beyond a certain number, or (c) a cash wage as an employee of the vehicle owner; and
4. The size of the vehicle, i.e., automobile, van, or bus.

An enormous number of ride-sharing arrangements are possible (135, in fact, since the first characteristic allows 5 possibilities and the other three characteristics offer 3 possibilities each), and I have necessarily concentrated on the regulatory status of those arrangements that are most frequently attempted. However, I have tried to identify those characteristics that are of key significance to regulators and insurers so that the reader may make a reasonable judgment of the status of arrangements other than those specifically discussed. Six arrangements will be considered here.

1. Compensation car pool: (a) The vehicle is owned by one or more of the riders, (b) the pool members compensate other members for the cost of providing the vehicles either by supplying vehicles on alternate days or by cash payments, (c) the driver receives no compensation other than a proportional reduction in commuting costs equal to that received by the other riders, and (d) the vehicle is a passenger automobile.
2. Employer van pool: (a) The vehicle is owned by the employer of all the riders; (b) the employer is compensated by pool members for the costs of vehicle ownership and operation and for program administration; (c) the driver is one of the commuting employees and receives compensation in exemption from paying the fare, use of the vehicle nights and weekends, and retention of the fares paid by additional riders above a specified number; and (d) the vehicle is a 9- to 15-passenger van.
3. Nonprofit van pool: (a) The vehicle is owned by a nonprofit corporation and leased to a group of work-trip commuters and (b), (c), and (d) are the same as for employer van pool.
4. Government van pool: (a) The vehicle is owned by

Table 1. Options for the exercise of regulatory power.

Regulated Characteristic	No Regulation	Partial Regulation				Total Regulation
	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Safety		X	X	X	X	X
Insurance		X	X	X	X	X
Entry			X	X	X	X
Fares				X	X	X
Service				X	X	X
Intermodal coordination				X		X
All classes of service and riders					X	X

a government agency and leased to a group of work-trip commuters and (b), (c), and (d) are the same as for employer van pool.

5. For-profit van pool: (a) The vehicle is owned by a private for-profit corporation (other than the employer of the riders) and is leased to a group of work-trip commuters, (b) the corporation seeks to recover full costs and hopes to earn a profit as well, and (c) and (d) are the same as for employer van pool.

6. Subscription bus: (a) The vehicle is owned and operated by a private for-profit corporation (other than the employer of the riders), (b) the owner seeks full compensation for his costs and hopes to earn a profit as well, (c) the driver is an employee of the owner and receives a cash wage (but the driver may be a work-trip commuter), and (d) the vehicle is a bus.

APPROACHES TO REGULATION

With these definitions in mind, let us consider the range of possible regulatory approaches. In listing these I will not be constrained by what present statutes permit but rather will attempt to include all the possibilities that might reasonably be considered if the regulatory slate were clean. At one extreme is the complete absence of regulation. In this circumstance car pools, van pools, and subscription buses could operate subject only to those safety and insurance requirements that must be met by all motor vehicles. At the other extreme is what might be termed total regulation, which would involve the extension of the present regulation of fixed-route common carriers to include all types of ride sharing. Under this arrangement, a state public utilities commission (PUC) would promulgate safety and insurance requirements, devise guidelines for market entry, evaluate fare levels, and approve service changes. Because the agency would also supervise competing conventional fixed-route carriers it would have some of the functions of a multimodal transportation planning agency. In between these extremes are numerous possibilities for partial regulation, as illustrated in Table 1. For example, the PUC could limit its interest in shared-ride modes to safety and insurance requirements (option 2), or it could exercise a full range of regulatory powers but limit its concern to services that use certain types of vehicles or carry certain classes of passengers (option 4). Option 5 would create an independent ride-sharing regulatory agency that would mediate between ride-sharing providers and consumers without specific reference to the interests of competing modes. Brief study of this table indicates that many other options exist, and we will find examples in our review of regulatory practice in a cross section of the states.

ARGUMENTS FOR AND AGAINST REGULATION

Traditional arguments that support regulation of transportation providers emphasize two relationships in which state intervention may be warranted to protect the public. One is the relationship between the consumer and the provider of transportation services. It is argued that the state must in some instances protect the consumer from (a) unsafe vehicles and operating practices, (b) uninsured or underinsured operators, (c) unreasonable or discriminatory fares (due in theory to monopolistic conditions but in practice often involving questions of cross-subsidization), and (d) undependable or discriminatory service (again, theoretically the result of monopolistic practices but often actually a cross-subsidy or subsidy issue). The second relationship is that between competing providers of transportation services who, it is argued, will often need governmental supervision to avoid destructive competition through price wars or cream skimming. Government supervision in this instance, of course, is ultimately justified by protection of the consumer since it is argued that these practices usually lead to the monopolistic conditions mentioned above.

It is interesting that in current discussions of ride-sharing regulation the former relationship has hardly been mentioned. Apparently the common perception is that most ride sharers are former automobile drivers who have a ready alternative in the event that providers fail to deliver on their promises. Also, because most ride sharers have a personal relationship with their fellow riders and with the ride-sharing provider—who is likely to be an employer or friend—it is not a matter of an isolated individual facing a large impersonal organization. Consequently there is at the moment little expressed interest in government intervention to protect the consumer.

In contrast, a great deal of attention has been focused on the relationship between ride-sharing providers and conventional fixed-route operators. The argument has centered on the conditions of market entry for ride-sharing services. I shall briefly summarize what I believe are the major arguments for and against government intervention in this relationship.

The advocates of regulation have generally been conventional fixed-route operators, both public and private, and the state regulatory commissions. They have argued that regulation is needed to control the entry of ride-sharing providers into markets that are currently served by conventional carriers. Such entry, it is argued, will often serve to undermine the financial health of the conventional operation. For example, if a conventional carrier serves a given corridor and a subscription bus lures away half of the present riders, the carrier must either reduce the level of service for the remaining

riders, raise their fares, or obtain a subsidy. While the subscription bus patrons may be better off, either the remaining patrons of the conventional service or the subsidy-paying public will be worse off. Because, as the argument continues, conventional service at some level will have to be provided for those who are unable to drive themselves or find a ride-sharing alternative, conventional service should be protected from encroachment if it is not to become too expensive for the public to afford. An interesting case in point is that of the private fixed-route operator in Atlanta who recently protested introduction of van-pool service on the ground that some fixed-route riders would be lured away (with a consequent increase in operating losses) but that not enough riders would be diverted to justify abandonment of the service under the current abandonment criteria of the Georgia Public Service Commission (PSC).

As a practical matter to insure that regulators are able to perform their function adequately, advocates of regulation have generally favored regulatory examination of all proposed shared-ride arrangements with pro forma regulation of services that are not in conflict with conventional operations. Actually, at present neither conventional operators nor regulatory commissions are advocating regulation of cash-compensation car pools. It is unclear, however, whether they feel such regulation is unnecessary or simply recognize that it is a practical impossibility.

Advocates of unregulated ride sharing argue that conventional operators have no claim to protection and that a cost/benefit analysis would show that the public is usually better off when ride sharing is used to eliminate highly unprofitable routes. While a few members of the public will be hurt by reductions in conventional service, they continue, these losses must be compared with the considerably better service received by those attracted to ride sharing. Also, they argue, there are limits on what the deficit-paying public can afford and on what the traveler has a right to expect, particularly when making a locational decision. These advocates note that private operators are alert to these possibilities, while public providers usually resist service reductions no matter how unprofitable the service. They trace these differing attitudes not to a different degree of sensitivity to the public interest but to the incentive structures of the respective managements—the former to make a profit and the latter to expand the size of the organization and to politically buttress claims to public subsidies by providing service to as many people and geographic areas as possible. They point, for example, to an offer by the Southern Pacific Railroad in 1976 to give away 1000 vans to its rail commuters in San Francisco who would agree to form van pools. The carrier hoped that enough commuters would be diverted that the California PUC would permit the railroad to discontinue its deficit-ridden commuter operations.

A second argument against regulation is that regulatory bodies have a very poor record of coordinating competitors or of protecting the public. Proponents of this view point to what they maintain is a long history of capture of regulators by the parties they supposedly regulate. They argue that in the short run the conventional providers will dominate the regulatory process, with the result that ride sharing will be excluded where there is even the slightest possibility of conflict with conventional service. As evidence they cite a 1975 case in Maryland in which the conventional transit operator in Baltimore convinced the Maryland PSC to deny permits for van-pool operation even after the operator provided names and addresses of potential riders to show that none was at present a transit rider. In the longer run, if ride sharing should somehow gain a foothold despite the opposition of these captured regulators, large corporate or public ride-sharing providers might capture the process and use regulation to suppress competing ride-sharing modes or conventional services.

In any case, the argument continues, regulatory history gives little hope that the consumer will receive significant protections, since the process of regulation is too tedious and the payoff for the individual too small to attract the continued supervision of the average citizen. The process will therefore be dominated by those corporations or public organizations that have the most direct stake in the outcome. This argument holds that the best way to coordinate the transportation system is to encourage provision of the widest range of choices and let the consumer determine the best mix, particularly since there are no significant economies of scale or inherent monopolies in the economic structure of the competing modes.

A third argument advanced by those who oppose regulation is that in the great majority of cases there will be no conflict between ride sharing and fixed-route service because the former appeals to long commuting trips while the latter appeals to short commutes and other types of trips. However, the argument proceeds, regulators love to regulate and, indeed, find it in their organizational interest to increase their scope of operations. Paperwork and highly onerous reporting requirements can be expected to grow even in cases in which all parties agree there is no conflict with other modes. These requirements will be particularly troublesome for the majority of ride-sharing providers, who are either individuals or employers who are not primarily in the transportation business. For example, in Tennessee the PUC insisted (before recent legislation removed the agency from the picture) that van-pool drivers in Knoxville travel all the way to Nashville (to the PUC office) to register their vans in person, even though no conventional providers were protesting the proposed service. In several other states, regulatory commissions are insisting that van-pool operators file tariffs and financial statements although they disavow any intention to evaluate van-pool fares.

These arguments for and against, of course, represent the extremes, and there are many positions in between—not regulating services that use vans or smaller vehicles or regulating only services that operate in certain corridors in which conventional fixed-route service is to be emphasized.

RIDE-SHARING REGULATION IN A CROSS SECTION OF THE STATES

In fall 1975, the New Perspectives on Urban Transportation Project, in cooperation with the U.S. Department of Transportation and the Federal Energy Administration (FEA), undertook a survey of the regulatory and insurance status of car pools, van pools, and subscription buses in 12 states. The survey was based on a questionnaire prepared by the New Perspectives Project staff and sent to one or two people in each of the 12 states who were knowledgable about ride sharing. This report is based on the material collected in that survey, supplemented by information gained from additional inquiries to make the material current to July 1976.

The 12 survey states were chosen to present a cross section. In some, no ride sharing beyond car pools has been attempted, and many regulatory questions have not been addressed. In others, the regulatory climate has proved restrictive. In still others, either the climate has been favorable or statutes have been amended in the direction of greater freedom for ride sharing. These latter states are, of course, the most interesting to our purpose, and we will be careful to trace the development

Table 2. Requirements for certification as a common carrier.

State	Filing Fee	Time	Insurance[a] or Surety Bond	Financial Reporting	Special Taxes	Safety Equipment
Arizona	$50 for certificate and $5/vehicle	3 months (avg)	Bond of $25 to $5000	Monthly	2.25 percent of gross receipts	Yes
California	$75	3 months minimum; up to 6 months when contested	100/350/50 for vans; 100/700/50 for full-sized buses	Yes	None	Yes
Colorado	$35 for certificate and $5/vehicle	2 to 3 months; longer when contested	Yes	Yes	Yes	Yes
Florida	$500 for certificate	1 to 3 months	Yes	Yes	$25/year for vans seating up to 12; $50 for buses seating 13 to 25; $100 for larger buses	Yes
Georgia	$35 for certificate and $5/vehicle	1 month; longer when contested	Yes	Quarterly	$25/vehicle/year	Yes
Massachusetts	$10 for state permits; no more than $10 for local permit	1 to 3 months	Yes	Yes	No	Yes
Minnesota	—[b]	3 months; longer when contested	Yes	Yes	—[b]	Yes
Ohio	—[b]	4 months	Yes	Yes	$4/passenger-seat/year	Yes
Oregon	$150 for certificate and $5/vehicle	2 months	10/20/10	Monthly or quarterly	$0.99/45 kg (100 lb) of vehicle mass	Yes
Pennsylvania	—[b]	3 to 5 months	25/150/10 for vans; 25/300/10 for full-sized buses	Yes	—[b]	Yes
Tennessee	$50 for certificate and $5/vehicle	Several months	25/200/10 for cars; 25/400/10 for buses	Annually	—[b]	Yes
Virginia	$50 for certificate	—[b]	Yes	Yes	1 percent of the vehicle's value (rolling stock tax)	Yes

[a]The required liability insurance coverage is expressed in terms of thousands of dollars per person/per accident/property damage.
[b]No information was obtained.

of new regulatory approaches to ride sharing that might be adopted elsewhere.

Regulating ride-sharing arrangements as if they were provided by common carriers can be a significant impediment to their widespread implementation in two ways. First, the specific requirements—including application fees, common-carrier insurance, financial reporting, special taxes, and vehicle safety equipment—can greatly increase the total costs of operation. Table 2 lists the requirements in each of the 12 states. Second, common-carrier certification may be denied to an applicant or the scope of operations may be severely restricted if there are other conventional carriers already certified to serve an area and claiming to offer adequate service. This is particularly a problem when these carriers maintain that conventional fixed-route service is an adequate substitute for tailored-route ride sharing. The following discussion of the regulatory situation in regard to each of these impediments in each state will pay particular attention to recent actions that may provide a more favorable regulatory context for ride sharing.

Arizona

A common carrier (or common motor carrier of passengers) in Arizona is "any person engaged in the transportation on any public highway by motor vehicle of passengers for compensation as a common carrier" [Arizona Revised Statutes (ARS) 40-601 (4)]. Note that the determinants of common-carrier status are receipt of compensation by the operator and an offer of service to the public at large as a common carrier. A similar concept is that of the contract carrier, which is defined as "any person engaged in the transportation on any public highway by motor vehicle of passengers for compensation, and not included in the term common . . . carrier" [ARS 40-601(6)]. In this case the only criterion is receipt of compensation. Compensation is not defined but has consistently been interpreted by the Arizona Corporation Commission (ACC) as any compensation of any sort received by the operator regardless of the amount or whether a profit was intended.

The Arizona statutes, which are similar to those in many other states, therefore classify all six of our arrangements as common or contract carriers, since compensation is involved in each. The contract-carrier requirements for certification are substantially the same as for common carriers, and in either case the operator must obtain a certificate of convenience and necessity from the ACC. The necessary steps are outlined in Table 2.

Because Arizona (like most states) is monopolistic by statute, certification will generally not be granted to an operator unless any prior operator in the area is unable or unwilling to offer the service in question. This problem becomes particularly troublesome when the existing carrier offers only fixed-route conventional bus service and maintains that this is an exact substitute for van-pool or subscription bus service. A van-pool operator might not be certified even though the conventional service would not attract the market segment that would be attracted to van-pool or other tailored-route, door-to-door services.

Once an arrangement is classified as that of a common carrier it faces another barrier in that insurance will be more costly because common carriers are held to more stringent standards of negligence; it is much easier to recover damages from a common carrier than from an individual. This issue will be further discussed below. In the past, the ACC has informally exempted car pools that use automobiles from common-carrier classification, and in 1974 ARS 40-601 was amended to broaden this exemption to include car-pool operators and carriers of employees:

> "Carpool operator" means any natural person when engaged either regularly or occasionally in carrying one or more other persons by motor vehicle on any public highway, with or without compensation but not for profit, provided that the carriage of such other person or persons is incidental to another purpose of the carpool operator. A carpool operator shall be conclusively presumed not to be carrying persons for profit if

(a) he receives compensation not exceeding twenty cents per mile for total miles traveled, provided that the proportionate share of the carpool operator shall be included in such amount, or (b) he carries one or more of his passengers in consideration of his being carried in like situations by such passenger or passengers. The receipt of compensation in excess of twenty cents per mile for total vehicle miles traveled shall not preclude a carpool operator from showing that such compensation does not result in a profit to him or that such operator did not intend that a profit result. Such carriage shall be deemed incidental to another purpose of the carpool operator if, except in unusual circumstances, such operator is not making the trip solely for the purpose of carrying a passenger or passengers [ARS 40-601(1)].

"Carrier of employees" means any person, or any group of persons acting as a joint venture, when engaged either regularly or occasionally in carrying one or more of such person's employees to or from their place of employment and their place of residence or other designated collection and delivery point, with or without compensation but not for profit. The term carrier of employees does not include any person having a relationship of independent contractor with an employer for the purpose of carrying his employees [ARS 40-601(2)].

A car-pool operator or a carrier of employees is "conclusively presumed not to be either a common motor carrier of passengers or a contract motor carrier of passengers." This change in the statutes has the effect of deregulating car pools, no matter the size of the vehicle as long as the operator does not recover a profit, and employer van pools, whatever the size of the vehicle. Subscription buses are still common carriers, and nonprofit, for-profit, and government van pools would be classed either as common or contract carriers.

California

Prior to 1975 a common carrier (or passenger stage corporation) was defined to include "every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway... between fixed termini or over a regular route" (California Public Utilities Code, section 226).

All common carriers were required to obtain a certificate of convenience and necessity from the California PUC. The effect was to subject all six of our arrangements to PUC regulation. That the PUC's interpretation of compensation extended even to many compensation car pools was made clear by the decision in the case of Zappitelli v. Southern California Commuter Bus in April 1975. Zappitelli had bought a 12-passenger van and was transporting herself and 11 fellow workers from the suburban community where most lived to a work site some distance away. Zappitelli received compensation from the riders sufficient to cover all costs of vehicle operation, including repairs and depreciation, but did not expect and was not making a profit. The PUC ruled that

The payment of the common expenses of driving to and from work may be reimbursable in a traditional carpool (as the alternate use of vehicles without compensation is the equivalent of a common expense-sharing concept), as well as in the comparatively new vanpool, and still avoid commission regulation. Such cost items, for example, are gasoline, parking fees, repairs, and tolls. Expenses associated with motor vehicle operation, which cannot be easily and directly ascertained, are not direct costs and should not be allowed as reimbursement.... The net effect of allowing depreciation... and maintenance expenses not attributable to pooling would be not less than to partly finance the purchase of a vehicle for the owner.... This is clearly not reimbursement, and thus not carpooling in our view (Zappitelli v. Southern California Commuter Bus, April 15, 1975, pp. 12-13).

Because it was felt that the compensation rules spelled out in this case were so restrictive that many car pools and most van pools would fail to meet them, the California Department of Transportation drafted an amendment to section 226 of the PUC code to exclude "the transportation of persons in a passenger vehicle having a seating capacity of 15 passengers or less from place of residence to place of employment, if the driver himself is on the way to or from his place of employment." This amendment, which became law in September 1975, has the effect of exempting from PUC regulation all car pools, employer van pools, for-profit van pools, nonprofit van pools, and government van pools that use vehicles that seat 15 or fewer. Subscription buses would also be exempt to the extent that the driver is a work-trip commuter and a small vehicle is used.

Colorado

In Colorado a common carrier (or a motor vehicle carrier) is defined as:

... [any] person... owning, controlling, operating, or managing any motor vehicle used in serving the public in the business of the transportation of persons or property for compensation as a common carrier over any public highway between fixed points or over established routes, or otherwise....

The fact that any such person carries on his operations either in whole or in part between substantially fixed points or over established routes, or under contracts with more than one person, or by making repeated or periodical trips shall be prima facie evidence that such person is a motor vehicle carrier [Colorado Revised Statutes (CRS) 40-10-10(4)].

Although the term compensation is not defined for motor vehicle carriers, it is defined with regard to the similar concept of contract motor carriers: "'Compensation' means money or property of value charged or received..., whether directly or indirectly, as compensation for the service rendered of transportation over any of the public highways of Colorado in motor vehicles by a contract carrier by motor vehicle any person, property, article, or thing" [CRS 40-11-101(2)]. Such contract carriers are held to be identical to motor vehicle carriers except that they transport persons by special contract [CRS 40-11-101(3)]. Both types of carriers must obtain permission to operate from the Colorado PUC through a substantially identical process.

The PUC has made no effort to assert authority over car pools even though any sort of compensation would technically make them subject to regulation. Subscription buses, on the other hand, would be considered common carriers by the PUC, as would all types of van pools. No subscription buses are known to be operating at present, but the case of the one functioning van-pool program illustrates the problems common-carrier certification may cause.

Statitrol Corporation, located in Lakewood, a suburb of Denver, began van pooling in July 1976. The vans are certified as common carriers by the Colorado PUC and are allowed to operate anywhere in the four-county Denver metropolitan area provided that they carry only Statitrol employees. Statitrol obtained its common-carrier permit in 1973 after a public hearing at which there were no objections from established common carriers or the Denver Regional Transportation District (RTD). However, neither the RTD nor any other common carrier offers service to Statitrol's far suburban locations, and the Statitrol case does not establish a precedent for van-pooling requests in areas in which other common carriers or the RTD is offering service. In Maryland and Georgia, this situation has been found to be the real test of whether common-carrier regulation will significantly hinder van pooling. We will consider this problem further in our discussion of the Georgia case.

While Statitrol officials report that the filing fee and the hearing process were a minor inconvenience and

that the common-carrier certification requirements themselves have not been a major barrier to van pooling, a side effect of certification—the availability of insurance—looms as a major obstacle to the financial workability of van pooling. When Statitrol sought insurance for the vans, insurers stated that because of the vans' common-carrier status they could only be insured as commercial buses. Statitrol is therefore paying a staggering $1465/van/year (1976) for liability coverage of $250 000/person, $500 000/accident, and $100 000 for property damage, with $100 deductible collision and comprehensive coverage. This high premium is not due to the high level of coverage but to classification as a commercial bus. Evidence will be presented below that coverage for non-common-carrier vans that operate in an identical fashion is available in other states for roughly one-third the cost.

Florida

A common carrier (motor carrier) is defined in Florida as any person "owning, controlling, operating, or managing any motor-propelled vehicle ... used in the business of transporting persons of property for compensation over any public highway" [Florida Revised Statutes (FRS) 323.01(7)]. Compensation is defined as "a return in money or in property or in anything of value" [FRS 323.01(11)]. An arrangement related to that of the motor carrier is that of the private contract carrier, defined as "any motor carrier engaged in the transportation of persons or property over the public highways of this state who is not a common carrier but transports such persons, or property, under contract for one or more persons for compensation over such highways, where such carriage consists of continuous or recurring carriage under the same contract" [FRS 323.01(8)].

Both arrangements require the same type of approval process by the Florida PSC. Although it is not clear at present how the PSC will deal with all of our arrangements in practice, since only one type of van pool and no subscription buses have been attempted, it is clear that under the provisions of FRS 323.01 subscription buses, all types of van pools, and compensation car pools are either common or contract carriers. The PSC can exempt specific arrangements and appears to have done this in the case of compensation car pools, since it has made no attempt to enforce its regulations. In the case of employer van pools, the PSC has indicated that common-carrier certification will be necessary.

There has been only one attempt to operate van pools in Florida—Chrysler Corporation at Cape Canaveral. Chrysler pursued regulatory questions to the point of determining that its van pools would be considered common carriers by the PSC. At this point Chrysler decided not to proceed with the program because several months would have been required for certification and Chrysler employees at Cape Canaveral were involved in a short-term construction project.

Georgia

In Georgia a common motor carrier is defined as any person "owning, controlling, operating, or managing any motor-propelled vehicle ... used in the transportation of persons ... for hire on the public highways ... as a common carrier" (Georgia Code 68-601c). Common carriers must obtain a certificate of convenience and necessity from the Georgia PSC. In Georgia common carriers that operate exclusively within a municipal area are exempt from state regulation but may be subject to local regulation. However, to date there have apparently been no attempts by municipal governments to assert their jurisdiction over ride sharing.

Although the definition of common carriers cited above seems to have two criteria—whether the operator receives compensation and whether the operator offers service to the public as a common carrier—informal discussions with the Georgia PSC indicate that receipt of compensation is the most important consideration and that any arrangement in which any compensation is received by the operator will be classed as a common carrier by the PSC. An informal policy exemption has been made for car pools that have seven or fewer members, but otherwise all of our arrangements would be classed as common carriers.

The case of Modnar, Inc., a for-profit van-pool operator in the Atlanta area, is instructive of the difficulties that common-carrier certification may present for a ride-sharing provider. Modnar was organized to provide van-pool service between downtown Atlanta, Sandy Springs, and Peachtree City—a new town about 64 km (40 miles) from downtown Atlanta. Modnar would purchase the vans and lease them to individuals who would be matched with other commuters through an advertising campaign conducted by Modnar. The driver-lessee of the van would collect fares from the other riders sufficient to pay the lease amount (which would include a profit for Modnar) with enough left over for the driver to compensate him or her for the time and effort involved in driving and maintaining the vehicle.

When Modnar approached the PSC for certification, a number of certificate holders in the area—specifically four over-the-road, fixed-route passenger haulers that provide limited commuter service and the Metropolitan Atlanta Regional Transit Authority (MARTA)—objected. Both groups maintained that existing service was adequate and that Modnar would be operating a cream-skimming operation that would threaten the economic health of the existing services. The PSC resolved this problem by limiting Modnar to the route between Peachtree City, Sandy Springs, and Atlanta and stipulating that no passenger could be picked up and dropped off within the two-county MARTA region. The PSC believed these restrictions were adequate to protect existing certificate holders. Modnar, however, wished to serve the entire Atlanta region and reapplied for an areawide certificate. MARTA again protested, as did the private certificate holders, but in early 1976 the PSC granted Modnar an areawide certificate provided that (a) no passenger be picked up and dropped off within the two-county MARTA region at the center of the area, (b) no passenger be carried less than 16 km (10 miles), and (c) no passenger be picked up or dropped off at the Atlanta airport. Modnar had also requested permission to rent the vehicles to other users during the day and on nights and weekends; this was denied. After the PSC hearing MARTA indicated that no future protests would be made unless the van pool was directly competing.

Modnar has found that PSC certification has not been an unduly difficult process once it was determined that a certificate of some sort would be granted. The operator may run as many vans as the market demands on the one certificate, provided that a license is obtained for each new van ($5 for the common-carrier vehicle plate). A tariff must also be filed, but this procedure is purely pro forma since the PSC has informally stated that it will make no effort to evaluate fares. Modnar did not find it necessary to obtain legal counsel in presenting its case to the PSC, but it did find the certification process expensive in management time. However, the problems encountered are hardly such as to prevent any seriously interested party from establishing a van-pool program. For the longer run, the approach taken by the PSC may present two barriers to the full utilization of vans.

1. Prohibition of service within the two-county MARTA area limits the market for van pooling in the Atlanta area. This is unfortunate because vans can probably provide better service than conventional transit between many points within this area.
2. Bringing van pools into the sphere of common-carrier regulation means that conflicts may now arise between competing van-pool providers. The Georgia Code states that

> No certificate or authority shall be granted to an applicant proposing to operate over the route of any holder of a certificate or authority when the public convenience and necessity with respect to such route is being adequately served by such certificate or authority holder; and no certificate or authority shall be granted to an applicant proposing to operate over the route of any holder of a certificate or authority unless and until it shall be proved to the satisfaction of the commission that the service rendered by such certificate or authority holder over said route is inadequate to the public needs and, if the commissioner shall be of the opinion that the service rendered by such certificate or authority holder over the said route is in any respect inadequate to the public need, such certificate or authority holder shall be given reasonable time and opportunity to remedy such inadequacy before any certificate or authority shall be granted to an applicant proposing to operate over such route (Georgia Code 68-609).

While such monopolistic protections were originally introduced to prevent two carriers from offering identical service over the same route to their mutual disadvantage, the van-pool concept is sufficiently different that it seems unlikely that such protection is warranted. Until a competing van-pool operator applies for certification, of course, it will not be possible to judge how this provision will be applied. The PSC could resolve the problem by formulating a policy that all van-pool applications not protested by a conventional fixed-route carrier will be granted.

Massachusetts

In Massachusetts, "no person shall... operate any motor vehicle ... for carriage of passengers for hire ... by indiscriminately receiving and discharging passengers along the route ..., or for transporting passengers for hire as a business between fixed and regular termini, without first obtaining a license for such operation from the city council of such city or the selectmen of such town" (Massachusetts General Laws, chapter 159A, section 1). Section 7 of the same chapter further states that "no person shall operate a motor vehicle under a license issued as aforesaid unless he has also obtained from the Department of Public Utilities a certificate declaring that public convenience and necessity require such operation." Thus common carriers operate under a joint certification process in Massachusetts.

The key provision of the statutes cited, for our purposes, is "for hire as a business." This makes it reasonably clear that subscription buses and for-profit van pools will be considered common carriers. It is equally clear that compensation car pools will not be subject to regulation. There had been some uncertainty about the status of employer van pools until June 1976, when the PUC informed Masspool (the car-pool and van-pool promotional program funded by the Federal Highway Administration) that commutation arrangements that meet the following requirements would not be subject to regulation:

1. The vehicle must be owned by an employer and driven by an employee,
2. The vehicle must be used primarily for employee commuting,
3. The van-pool employee-driver may commute to and from work in the vehicle only once each day, and
4. No one other than the van-pool employee-driver may receive the incentive of minor compensation for undertaking the additional effort of managing and driving the van pool.

No government or nonprofit van pools have been attempted to date and the attitude of the PUC toward these arrangements is unknown.

Minnesota

In Minnesota a regular-route common carrier is defined as "any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle between fixed termini over a regular route upon the public highways passengers" (Minnesota Statutes 221.01). This statute makes it very likely that subscription buses will be considered common carriers subject to the certification requirements of the Minnesota PSC outlined in Table 2. The situation with respect to car pools is also reasonably clear, since compensation car pools are not regular-route carriers that hold themselves out to the public at large and therefore are not subject to certification.

The regulatory status of van pools under this statute is less clear. When the 3M Company undertook its van-pool program in 1973, a request was made to the PSC for exemption from common-carrier regulation. The PSC responded that the 3M van pools constituted public transportation but that the Minnesota Transit Commission Act transfers power over public transportation in the seven-county Minneapolis-St. Paul metropolitan area to the Twin Cities Area Metropolitan Transit Commission (MTC). 3M was therefore instructed to seek a ruling from the MTC on the status of vans in the MTC area. The MTC responded by exempting the 3M vans on the ground that van pooling was not public transportation.

Although the outcome in this instance was favorable to vans, the confusion exhibited by regulators as to the exact status of the mode indicated a need for a firmer legal base for van pooling. A court decision in 1975 that returned jurisdiction over "private public transportation" in the MTC area to the PSC and a proposal to establish a multiemployer van-pool program at several regional employment complexes accentuated this need. An amendment to Minnesota Statutes 221.001(22) was therefore proposed that would exempt from PSC regulation

> a motor vehicle, in Chapter 221 referred to as a "commuter van," having a seating capacity of seven to 16 persons which is used principally to provide prearranged transportation of persons for a fee to or from their place of employment or to or from a transit stop authorized by a local transit authority, which vehicle is to be operated by a person who does not drive the vehicle for his principal occupation but is driving it only to or from his principal place of employment, to or from a transit stop authorized by a local transit authority, or for personal use at other times by an authorized driver....

This amendment was adopted in April 1976, with the result that all four of our van-pool arrangements are exempt from PSC regulation. Because the amendment defines commuter van in terms of vehicle size and whether driving the vehicle is a full-time job, subscription buses will also be deregulated to the extent that a van is used and the driver is a work-trip commuter to another full-time job.

Ohio

In Ohio the PUC regulates as a common carrier "a motor transportation company, when engaged in the busi-

ness of carrying and transporting persons ... for hire, in or by motor-propelled vehicles of any kind ... for the public in general, over any public street, road, or highway" [Ohio Revised Statutes 4905.03(3)]. Operation as a common carrier requires a certificate of convenience and necessity from the PUC.

The PUC staff has informally stated that subscription buses are definitely subject to common-carrier regulation, while compensation car pools and all van pools, except those operated for profit, are exempt. The status of for-profit van pools is uncertain. The key to regulation in the PUC's view is whether the operator is in the business of hauling passengers for the purpose of making a profit, and it is unclear whether the PUC would consider that a van-pool lessor is in the business of hauling passengers (with clear intent to make a profit) or that the lessee-driver is in business. Whether the driver received compensation in addition to reduced commuting costs might be a key consideration, since this might be construed to be a profit.

Oregon

In Oregon a common carrier is

(a) any person who transports for hire or who holds himself out to the public as willing to transport for hire, compensation, or consideration by motor vehicle, persons ... for those who may wish to employ him; or (b) any person who leases, rents, or otherwise provides a motor vehicle for the use of others and who in connection therewith in the regular course of business provides, procures, or arranges for, directly, indirectly, or by course of dealing, a driver or operator thereof [Oregon Revised Statutes (ORS) 767.005(3)].

A related concept is that of the contract carrier, defined as

... any person who engages in transportation by motor vehicle of persons or property for compensation, other than transportation referred to in subsection (3) of this section [on common carriers], under continuing contracts with one person or a limited number of persons either:
(a) For the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served; or
(b) For the furnishing of transportation services designed to meet the distinct and peculiar needs of each individual customer which are not normally provided by a common carrier [ORS 767.005(4)].

Both types of carriers must obtain certificates of convenience and necessity from the Oregon PUC. It would appear that subscription buses as defined are clearly subject to PUC regulation either as common or contract carriers. The status of compensation car pools is also reasonably clear because the PUC has indicated that it would not be concerned about the ordinary car-pool arrangement that uses a conventional passenger car. However, if some car-pool arrangement effectively competes with certified carriers, the PUC would want to have a closer look.

The status of van pools is less clear, as it is in most states in which no specific van-pool proposals have reached the PUC or PSC. In December 1975 the Oregon Department of Transportation requested an opinion from the Oregon Attorney General on the regulatory status of a van-pool arrangement in which the state purchased a 12-passenger van and leased it to an employee of some private organization or state agency. The employee-lessee would solicit riders among fellow employees and collect fares sufficient to cover his leasing costs plus perhaps some compensation in return for his time and effort in driving and maintaining the vehicle. The Attorney General responded that the Oregon Department of Transportation would not become a common carrier under ORS 767.005(3) merely by leasing a vehicle for the use of others, because it does not provide drivers or arrange for their employment as provided for in ORS 767.005(3b). Further, the Attorney General stated that the employee-lessee is unlikely to be classified as a common carrier under ORS 767.005(3) because he "does not hold himself out to the general public as willing to transport any party who may wish to employ him." Instead, the Attorney General suggested, the employee-lessee may be a contract carrier under ORS 767.005(4). In supporting this view, the Attorney General noted that "compensation in the form of a free daily ride to and from work will be provided the lessee-driver. Further, if any profit were retained, it too would be compensation. Finally, the agreements between the lessee-driver and his or her passengers would be ... special and individual agreements."

Classification as a contract carrier would subject the employee-lessee to requirements practically identical to those for a common carrier. Since each individual lessee would presumably have to seek certification separately, the situation would actually be worse than if the Oregon Department of Transportation were considered a common carrier and could seek one certification.

When the Oregon Department of Transportation submitted its van-pool concept along with the Attorney General's opinion to the Oregon PUC, the PUC declined to state how the concept would be classified but suggested three possible classifications.

1. The van pools as proposed could be operated under the provisions of ORS 767.035(11), which exempts from PUC regulation persons or motor vehicles

... being used in the transportation of persons for hire if the operation:
(a) is performed by a nonprofit corporation or other nonprofit entity; and
(b) is not in competition with the scheduled regular-route service of a carrier of persons which is subject to the provisions of this chapter or a service provided by a mass transit district formed under ORS Chapter 267; and
(c) is performed by use of vehicles operating in compliance with ORS 485.310 to 485.420 [safety equipment]; and
(d) is providing service with continuing regularity under a predetermined plan of operation within a radius of 40 air miles of the designated point of origin; and
(e) is approved by the Mass Transit Division as complying with paragraphs (a) to (d) of this subsection.

2. The van pools could be operated as contract carriers after obtaining PUC certification.
3. Since the PUC stated that "private carriage of persons is exempt from PUC regulation," the vans could be leased by the Department of Transportation to an employer who could "provide the passenger transportation as a private carrier of passengers," i.e., without any compensation.

The term private carrier of passengers should not be confused with private carrier as defined in ORS 767.005 (6), which applies only to carriage of property. The term private carrier of passengers is used by the PUC to denote any carrier of passengers that is neither a contract carrier nor a common carrier and thus is not subject to regulation, e.g., an employer-operated work bus for which the employer absorbs all costs and the riders pay no fares.

The PUC's response when presented with a hypothetical situation was typical of regulatory behavior. Reliable answers on the status of van pools or other arrangements can best be obtained when a PUC is presented with an actual proposal. Since it has been argued above that regulators tend to restrict ride sharing in relation to its

perceived threat to other modes, response to hypothetical situations in the absence of reaction from competing modes tends to be meaningless. In this instance the PUC in effect gave no opinion at all.

In an effort to follow up on the PUC response, the Oregon Department of Transportation drafted another letter to the PUC outlining a number of variations on the employer van pool as we have defined it. In each case the vehicle would be owned by an employer of all or most of the riders and leased to the driver, who would collect fares from the other riders and reimburse the employer for the full cost of the vehicle. The variations involved whether all of the riders were employed by the lessor of the van, whether the driver-lessee used the vehicle for personal purposes nights and weekends, and whether the driver retained fares above a certain number. The PUC, on receipt of the letter, forwarded it to the Attorney General for an interpretation, which was rendered in August 1976.

The Attorney General did not directly address the question of whether employer van pools are contract or private carriers. Rather he implicitly assumed that they were contract carriers subject to PUC regulation and devoted his opinion to a discussion of exemptions that might be available to certain variations. In the Attorney General's view an exemption would be available under ORS 767.035(11)—discussed above—if the operation is performed by a nonprofit entity. Thus a van pool in which the riders exactly split expenses would be exempt, but an arrangement in which the driver retains fares above a specified number would probably be a contract carrier. Another possible exemption would be available under ORS 767.035(1), which exempts from PUC economic regulation persons or vehicles that transport passengers for compensation if the operator stays within the city limits plus 5 km (3 miles) of the point of origin. Such operations would still be subject to city regulations, but these as a practical matter might be accommodated more easily than state PUC regulations.

The Oregon PUC has not yet made any official statements on how it will treat vans. The PUC could simply accept the Attorney General's views or issue a differing set of regulations that interested parties could challenge through litigation. In my view, the Oregon case is a classic example of how the status of ride-sharing modes is rarely, if ever, settled in the abstract. Only when an actual operation is proposed or legislation that specifically exempts certain modes is enacted are questions finally answered. One of the most important steps to be taken on the national level is to get at least one van-pool program functioning in each state. This approach is far superior, I believe, to research on hypothetical situations beforehand.

For the moment, in Oregon all four of our van-pool arrangements would probably be classified as contract carriers unless they were confined to certain geographic areas or were exempted under ORS 767.035(11). For a van to qualify for this latter exemption, it must be nonprofit and avoid competition with preexisting private conventional carriers, as well as with services provided by Chapter 267 mass transit districts (which have been established in both Portland and Salem-Eugene, Oregon's two principal metropolitan areas). Officials at the Oregon Department of Transportation who are authorized by statute to evaluate requests for exemption under 767.035(11) have stated that their procedure is to automatically refer any service protested by such carriers to the PUC. However, they have also said that only the former providers are likely to object to vans since the latter have been broadly positive toward ride sharing and tend to view van pooling, which attracts very long work trips, as a complementary rather than a competing mode. Tri-Met, the conventional transit operator in Portland, for example, has also sponsored the local car-pool matching program.

Because of the very complex and uncertain regulatory situation with respect to vans, the Oregon Department of Transportation is considering the advisability of proposing an additional exemption under ORS 767.035 to specifically cover van pools. A grant from FEA has been obtained to research the question.

Pennsylvania

In Pennsylvania common carriers are "any and all persons or corporations holding out, offering, or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers" [Pennsylvania Statutes Annotated 66 PS 1102(5)]. Those so classified must obtain a certificate of public convenience and necessity from the Pennsylvania PUC.

It appears that subscription buses are subject to regulation, while compensation car pools are in practice exempt. The situation with regard to van pools is far less clear. The PUC chose to look the other way when Scott Paper Company initiated the first van-pool program in Pennsylvania. The Scott vans and others organized more recently are operating without any formal PUC ruling on their status, and the PUC has no immediate plans to address the issue. In the PUC's view the term compensation as used in 66 PS 1102(5) means a profit; therefore the key question in van regulation is whether any of the parties involved is making a profit. If the driver were employed by the company to drive the van (i.e., if van driving was in his job description), then the arrangement would be considered private carriage, which is exempt by statute. Alternatively, if the driver leased the vehicle from a for-profit van-pool operator and received compensation from the passengers for transporting them to work, then the arrangement would probably be classified as a common carrier. Employer, nonprofit, and government van pools in which the driver retains the fares above a certain number (as in the Scott arrangement) constitute a borderline case in the PUC's view and for the moment are not being regulated.

This points up an aspect of regulatory attitudes seen in a number of states, i.e., that regulators tend to assert jurisdiction over new types of arrangements in proportion to the amount of competition the new arrangements provide for established certificate holders. Because the original Scott vans did not attract riders from existing carriers, the PUC felt little need to assert jurisdiction. However, as the awareness of paratransit modes has increased and more van-pool programs have been started, the PUC has begun to feel the need for a comprehensive policy in the event that competition does arise. Staff members have been given the task of devising new guidelines for paratransit modes, but there is no indication as yet of the form the new guidelines will take.

Tennessee

In Tennessee a motor carrier is defined as "any person ... operating any motor vehicle ... upon any public highway for the transportation of persons ... or for providing or furnishing such transportation service, for hire as a common carrier" (Tennessee Code 65-1502b). Any motor carrier so operating must obtain a certificate of convenience and necessity from the PSC. It is reasonably clear that subscription buses are common carriers subject to regulation. The case of compensation car pools is also clear when a passenger car is used, because the PSC has made an informal policy

exemption for such arrangements.

The situation with regard to van pools has evolved over the past 3 years. When the Tennessee Valley Authority began its van-pool operations in 1974, it was informed by the PSC that employer van pools were contract haulers subject to common-carrier regulation. However, the PSC made no effort to enforce this decision and the vans operated initially without certification. When the city of Knoxville announced plans for a municipal van-pool program the PSC informed the city that it would no longer look the other way and would insist that all vans receive individual certification as contract haulers. Knoxville officials felt that individual certification would be a major barrier to van pooling and proposed an amendment to Tennessee Code 65-1503 that would exempt from common-carrier regulation "any motor vehicle, except taxicabs and airport limousines, used primarily for hauling fifteen or fewer passengers to and from their regular places of employment." This amendment was signed into law in March 1976, "provided, however, that the Public Service Commission... may establish a minimum level of insurance coverage to be required of all vehicles operating pursuant to this subsection."

The amendment as adopted exempts all of our proposed van-pool arrangements (except in the Nashville metropolitan area, which was specifically exempted from the amendment) as well as subscription buses that use vehicles that seat 15 or fewer and compensation car pools that use vans or buses. However, barriers to ride sharing of unknown magnitude may still exist. Specifically, the PSC has ruled that a filing of insurance is necessary to meet the insurance requirement. A certificate of insurance, which is required to register a private automobile, would be a less rigorous requirement—the insurer certifies that the vehicle is insured. A filing, in contrast, is a submission by the insurer that states that the insured is operating as a motor carrier (synonymous with common carrier). Insurance underwriters who have examined this requirement have expressed fear that a vehicle so insured is subject to the same standard of care as a common carrier. This would allow recovery in personal injury suits even in cases in which no negligence on the part of the operator was shown, and it might well lead to astronomical premiums. Ride-sharing proponents in Tennessee are currently considering an additional amendment to section 65-1503 to eliminate this potential problem.

Virginia

In Virginia a common carrier is defined as "any person who undertakes, whether directly or by lease or any other arrangement, to transport passengers... for the general public by motor vehicle for compensation over the highways... whether over regular or irregular routes" [Code of Virginia 56-273(d)]. A certificate of convenience and necessity must be obtained from the Virginia State Corporation Commission (SCC) for travel arrangements that fall into this classification. Prior to 1973 two types of ride-sharing arrangements were exempt from common-carrier regulation:

1. "Motor vehicles while used exclusively in transporting only bona fide employees directly to and from the factory, plant, or other place of like nature where they are all employed and accustomed to work, provided that the operator of such vehicle shall first secure from the Commission a permit" [Code of Virginia 56.274(5)] and
2. "Any motor vehicle while transporting not more than five passengers in addition to the driver, if the driver and the passengers are engaged in a share-the-expense undertaking and if they share not more than the expenses of operation of the vehicle" [Code of Virginia 56.274(10)].

The first exemption has permitted operation of the Colonial Transit, Inc., subscription buses between suburban Virginia communities and the Pentagon with only an SCC "employee-haul" permit. This permit does not constitute a serious regulatory impediment because the only requirement is submission to the SCC of a signed statement that only bona fide employees of a single employer will be hauled in each vehicle. Issuance of the permit is then automatic without regard to common-carrier service to the site. A subscription bus that hauls passengers to a number of places of employment would not be exempted from common-carrier regulation under this statute and the Reston Commuter Bus, Inc., service between suburban Virginia and a number of sites in downtown Washington, D.C., would have been subject to state regulation except that it was an interstate carrier under the jurisdiction of the Washington Metropolitan Area Transportation Commission, which then had authority over interstate services within the Washington metropolitan area.

The second exemption has permitted cash-compensation car pools that use automobiles.

In 1973, at the urging of Reston Commuter Bus, section 56.274 of the Virginia statutes was amended to add an additional exemption:

> Minibuses controlled and operated by a bona fide nonprofit corporation while used exclusively in transportation, for hire, for compensation, or otherwise, of members of such organizations if it is a membership corporation, or of the members of the community served by such organization if it is not a membership corporation; provided that such minibuses shall not be operated over the same or an adjacent route and on a similar schedule as a holder of a certificate of public convenience and necessity or as a public transportation authority [Code of Virginia 56.274(15)].

Minibuses were defined in section 56.273 as "any motor vehicle having a seating capacity of not less than seven or more than sixteen passengers and used in the transportation of passengers." This exemption permitted Reston Commuter Bus to operate a number of nonprofit van pools between Reston and various points in the Virginia portion of the Washington, D.C., metropolitan area. The Washington Metropolitan Area Transportation Authority (WMATA), the regional transit operator, challenged each of the routes, contending that WMATA service was available. However, in no case was the WMATA route providing parallel, direct service and the SCC granted all Reston route requests.

The most recent changes in the Virginia statutes that affect ride sharing are a 1975 amendment that substitutes 12 passengers for 5 passengers in section 56.274(10) (exemption 2) and a 1976 amendment that substitutes "factories, plants, and other places" for "factory, plant, or other place" and deletes the word "all" in section 56.274(5) (exemption 1). The former amendment deregulates compensation car pools that use vans as well as those that use automobiles. The latter permits operation of all types of van pools and subscription buses that use any size vehicle and carrying passengers to any number of work sites, provided an employee-haul permit is obtained. Thus practically every variant of our six ride-sharing arrangements is now free of significant regulatory impediments in Virginia. Although nonprofit van pools were in many cases exempt under 56.274(15), the 1976 amendment permits their operation even when a common carrier is providing similar service over the same route.

Table 3. Summary of state regulation of six ride-sharing arrangements.

State	Car Pool	Employer Van Pool	Nonprofit Van Pool	For-Profit Van Pool	Government Van Pool	Subscription Bus	Local Exemption*	Key Determinants of Regulatory Status
Arizona	N	N	Y	Y	Y	Y	N	Car pool: profit for driver; van pool and subscription bus: compensation for vehicle owner
California	N	N	N	N	N	Y	N	Vehicle size and whether driver and passengers are work-trip commuters
Colorado	E	Y	Y	Y	Y	Y	N	Compensation for driver or vehicle owner
Florida	E	Y	Y	Y	Y	Y	Y	Compensation for driver or vehicle owner
Georgia	E	Y	Y	Y	Y	Y	Y	Compensation for driver or vehicle owner
Massachusetts	N	N	?	Y	?	Y	—	Whether arrangement is for hire as a business
Minnesota	N	N	N	N	N	Y	—	Vehicle size and whether driver and passengers are work-trip commuters
Ohio	N	N	N	?	N	Y	—	Whether operator is in business of hauling passengers for profit
Oregon	E	Y	Y	Y	Y	Y	Y	Attorney General's opinion pending
Pennsylvania	E	N	N(?)	Y	N(?)	Y	—	Profit for driver or vehicle owner
Tennessee	E	N	N	N	N	Y	Y	Vehicle size and whether driver and passengers are work-trip commuters
Virginia	N	N	N	N	N	N	—	Whether passengers are work-trip commuters

Note: Y = classified as a common or contract carrier, N = not classified as a common or contract carrier, E = exempt from regulation by PSC or PUC, ? = status uncertain, — = no information obtained.

*Exemption for common carriers operating exclusively within a municipality.

Summary

This state-by-state review, which is summarized in Table 3, indicates a very mixed situation with respect to ride-sharing regulation: Compensation car pools are exempt in every state, subscription buses are considered common carriers in every state but Virginia, and regulatory practice with respect to van pools is quite diverse. In four states statutes have been amended in the past 3 years to exempt all types of van pools, while three others have classified van pools of all types as common carriers. In the remainder, some types of van pools are treated as common carriers while others are exempt, or no final determination has been made.

An understanding of the van-pool regulatory situation is considerably hindered by the tendency of regulators to determine van-pool status without providing a rationale. Thus statutes that cite practically identical grounds for common-carrier classification, such as those in Georgia and Pennsylvania, have led to practically opposite regulatory results, and there has been no rigorous explanation from the regulators as to how the classifications were made. Our strong impression from discussions with regulators in a number of states is that the competition a new mode promises for existing common carriers or transit operators is more important than the new mode's specific characteristics. Thus in Georgia, where a regional transit provider and another common carrier were quick to brand van pools as an economic threat, the PSC classified van pools as common carriers. In Pennsylvania, by contrast, the proposed van pools were for use at employment sites that had no transit service. No objections were heard and the PUC declined to assert jurisdiction.

This same sensitivity to the interests of existing common carriers is the key, in my view, to whether classification as a common carrier will actually be a significant barrier to the success of a van-pool program. In Colorado, where van pools are classed as common carriers, the one van-pool operator reports that certification was a minor inconvenience. No existing carrier objected and the operator was issued a certificate permitting as many vans as needed and without restrictions on area of operation within the four-county Denver metropolitan area. When we contrast this with Georgia, where common-carrier regulation has resulted in restrictions on the area of operation, it appears that it is the opposition of existing carriers rather than the certification requirement itself that is the key barrier.

I do not mean to suggest that regulation is desirable, only that programs can operate successfully as common carriers under certain conditions. In addition to a lack of competition, these conditions include the availability of insurance at a reasonable price. Modnar in Atlanta and Statitrol in Denver illustrate the difference this makes. Both are common carriers, but the former has found an insurer that classifies the arrangement as that of an employer (private) bus and charges $713 a year for total coverage, while the latter has been unable to convince insurers that its van pools are not commercial buses and is therefore paying $1465.

Because of the problems presented by regulation under the best conditions, the trend is toward deregulating van pools. Although ride-sharing proponents are also enthusiastic about subscription buses, the inclination when seeking statutory changes or exemptions from the PSC or PUC has been to concentrate on the vans, which are visibly different from buses, and therefore easier to defend as a different type of transportation. The typical amendment has exempted vehicles that carry 15 or fewer passengers and whose driver is a work-trip commuter. Deregulation that uses this formula will doubtless spread in the next few years. For example, an amendment of this type will probably be proposed in Florida during the next session of the legislature. In my view no major conflict will develop over these types of amendments as long as vans are clearly drawing their ridership from the ranks of present automobile commuters. In the one

case in which conventional operators have opposed such an amendment (Maryland, 1976), the van-pool proponents were able to show that no transit riders were likely to be diverted. The amendment was enacted without further opposition. When vans begin to divert considerable numbers of transit patrons there will doubtless be strenuous resistance, but at this point regulation of vans will have become a much broader issue involving the long-run role of conventional transit. Such an occurrence awaits the development of institutional arrangements to implement van-pool programs on a much wider scale than seems likely at present.

I would like to emphasize that it is the initial van-pool operation in a state that is most burdened by the regulatory process, whatever the final outcome. One of the most useful steps in encouraging ride sharing nationwide would be to establish at least one van-pool operation in each state as soon as possible, so that both regulators and would-be van poolers can become familiar with the local regulatory process and assess its suitability.

INSURING CAR POOLS AND VAN POOLS

The questionnaire sought information on insurance rates and classifications for car pools and van pools; the findings are summarized in Table 4. The questionnaire did not attempt to gather information on subscription bus insurance because it was assumed that commercial bus rates of $1000 to $1400 for total coverage would apply. Because this amount is spread over 40 to 50 passengers, the financial burden is not likely to be so great for subscription buses as for van pools. This is not to say, of course, that commercial bus rates are truly appropriate for subscription bus vehicles that are on the road and exposed to accidents only a few hours a day.

With regard to car pools, in most states (10 of 12) there is a discount on the liability premium offered for vehicles that were formerly driven to work every day but are now driven less because of car pooling. The discount is usually 10 to 15 percent, but in one case (Oregon) it may be as high as 33 percent. However, in 4 of the 10 states the discount only applies if the automobile in question is not driven to work at all, and rotate-the-driving car pools will not benefit. The resulting saving of $20 to $30/year is of some significance but is hardly a major inducement to car pooling; if car-pool drivers increase their liability coverage to reflect higher vehicle occupancy, the potential saving may largely disappear. On a more positive note, in no state did insurers attempt to charge commercial vehicle rates for compensation car pools that use automobiles. In 3 of the states insurance commissions have specifically addressed this issue and required that compensation car pools be charged no more than other private passenger vehicles.

In the case of van pools the insurance situation is extremely confused; practically every van in operation is insured under a different classification and at a different rate. Premiums for liability coverage of $100 000/person, $300 000/accident, and $50 000 for property damage as well as collision and comprehensive coverage are typically in the $550 to $650 range but varied from $267 for the Caltrans employer van pools, which are covered under the state of California's fleet policy, to $1250 for the Commuter Computer/ARCO nonprofit van pools and $1465 for the Statitrol employer van pools, which could only obtain insurance coverage under a commercial bus classification.

Van-pool insurance is in disarray because the van-pool concept does not fit any of the currently available insurance classifications. As a result, insurers are writing van-pool policies by using their best judgment as to which of the existing categories comes closest to describing the van concept. In some cases the resulting premium is reasonable or at least financially bearable, while in others the rate has been so high that employers and other van-pool promoters have had to subsidize insurance costs to make programs feasible.

In the United States, insurance classifications and rates are developed by the insurance industry and approved by state insurance commissions. The Insurance Services Office (ISO), based in New York, serves as the actuarial clearinghouse for state rating bureaus (industry boards composed of representatives of the companies that write automobile insurance in a given state) in 46 of the 50 states. The other 4 states have state rating bureaus that perform a similar function. Classifications tend to be very similar nationwide, even in those states that are not affiliated with ISO.

There are several approaches to the van-pool insurance problem. The most promising is to develop a new insurance classification especially for van pools. This would involve the following steps: ISO would develop a new van-pool classification for use nationwide. This proposed classification would be forwarded to the insurance industry rating boards in each state for approval. The final step would then be acceptance by the various state insurance commissions. The process would probably require 6 months to a year from the time ISO proposed the new classification. Although it is unclear how favorable the rates for van pools would be under the new classification, a classification specifically for vans is still highly desirable because the present situation is so confused that many, perhaps most, underwriters will not take vans at all. Fortunately ISO has taken the question of a new classification under advisement, and it is possible that a van-pool classification may be proposed within the next 6 months.

ISO officials have indicated that, because there is no significant experience base for industry actuaries to use in calculating premiums, they will necessarily look at the accident and claim experience of similar services. Actuaries in the automobile insurance field typically deal with hundreds of millions of vehicle-years of accident experience in setting rates. The accident experience accumulated by the 500 or so van pools in operation at present plus those placed in service over the next several years will still be far short of the amount available for setting rates for other classifications. The major issue in proposing rates to accompany a new classification thus becomes: What present services are similar to those of vans? At the moment there are no definitive answers, but it is at least possible to list the factors insurers consider significant in comparing one van-pool arrangement with another and in comparing van pools with other services.

One key factor is the relationship between the vehicle owner and the riders. Because almost all states have a fellow-employee exclusion, an employee injured in a vehicle that belongs to the employer will not be able to recover against the employer or the driver but must instead seek compensation from the employer's workmen's compensation insurance. Because workmen's compensation settlements are limited by statute and quite conservative in comparison with current automobile insurance damage settlements, the addition to the employer's workmen's compensation premium should be modest and the insurance premium for the van should be roughly comparable to that for a private automobile, since in both cases the liability insurance for bodily injury (which accounts for the major portion of a total insurance package that comprises bodily injury, collision, and comprehen-

sive coverage) is mainly insuring against claims of bodily injury by persons struck by the insured vehicle (the other passengers in a private automobile are likely to be family members, who cannot recover against the driver). In cases in which the riders in a van are not employees of the owner, the insurance situation will be very different. While it is difficult to predict claim experience in the absence of settlements of damage suits, it seems likely to the industry that claim experience may be little better than that for charter buses. Thus pre-

Table 4. Summary of information on insurance of car pools and van pools.

State	Car-Pool Discounts	Van Pools			
		Operator	Type	Type of Insurance*	Insurance Rate/Van/Year
Arizona	No discounts required by law. Most companies offer lower premiums for automobiles that are not driven every day but this saving is offset by the need for a higher level of liability insurance. Possibly no net saving for car poolers.	Sperry Flight Systems	Employer	Self-insured	Approximately $500
California	Discounts offered for vehicles that are not driven to work. This saving is partially offset by the additional liability coverage needed for car-pool vehicles.	Aerospace Corporation	Employer	Fleet policy	$554 liability, $120 collision
		Caltrans	Employer	Fleet policy	$79 liability, $183 collision
		Commuter Computer/ARCO	Nonprofit	Private	$1260
		Golden Gate Bridge Authority	Employer		
		Ralph M. Parsons, Inc.	Employer	Self-insured	
		University of California, San Francisco	Employer		
Colorado	A 10 to 15 percent liability discount for vehicles driven to work fewer days due to car pooling. Although increased liability coverage is recommended for car-pool vehicles, the additional cost should not absorb much of the potential saving.	Statitrol Corporation	Employer	Private	$1465 for 250/500 liability and $100 deductible collision and comprehensive
Florida	None	None			
Georgia	None	Modnar, Inc.	For-profit	Private	$713
Massachusetts	No discount is required by the state insurance commission. At least one company offers a discount of 10 percent on liability premiums for vehicles that are used in a car pool on a rotating basis. Purchase of higher liability coverage levels would absorb some of this saving.	Polaroid	Employer	Private	$450 for 250/500 liability coverage
		New England Mutual	Employer	Private	$527 for 100/300 liability and $100 deductible collision
Minnesota	Discount for vehicles left at home altogether but not for vehicles driven fewer days in a rotating car pool.	3M	Employer	Self-insured	$480
		General Mills	Employer	Fleet policy	
		Cenex	Employer		
		Honeywell	Employer		
		Prudential	Employer		
		Richfield State Bank	Employer		
		E. C. Ernst, Inc.	Employer		
		Grain Terminal Association	Employer		
		Midland Corporation	Employer		
Ohio	Some insurers offer 10 to 15 percent liability discounts to car poolers who drive no more than 2 d/week. Discounts are not required by the state.	None			
Oregon	Discounts of 12 to 33 percent on liability premiums are offered by insurers for automobiles driven less due to car pooling, but no insurer is required to offer discounts. State insurance commission has ruled that insurers cannot classify compensation car pools as commercial arrangements and therefore charge higher rates.	None			
Pennsylvania	Some insurers offer discounts of 5 to 10 percent on liability premiums for vehicles left at home because of car pools. There is no state requirement that discounts be offered.	Scott Paper	Employer	Fleet policy	$480
		Smith, Kline	Employer		
		General Electric	Employer		
		Prudential	Employer		
Tennessee	Insurers offer a 25 percent discount on liability premiums for vehicles left at home because of car pooling. However, if a vehicle is driven even 1 d/week, it is considered a work-trip vehicle and is ineligible for the discount.	Tennessee Valley Authority	Employer	Private	$532
		Knoxville	Government	Private	$520
Virginia	Some insurers offer discounts of 10 to 15 percent for car-pool vehicles, provided the vehicles are not driven to work more than twice a week.	Reston Commuter Bus	Nonprofit	Private	
		Alan M. Voorhees, Inc.	Employer		

*Self-insured = insurance is internal to the operator (typically a portion of the van-pool fares is placed in an insurance fund and the employer covers any claims in excess of the fund's resources), fleet policy = vans have been added to other vehicles under a corporate fleet insurance policy with a private insurer, private = vans are insured with a private insurer under a policy that is separate from other corporate or operator insurance.

miums may be quite high even with a new van-pool classification.

Another key factor, in the view of the industry, is the degree of control the owner-operator and the insurer have over the driver. Programs that require drivers to be over 22, have a chauffeur's license, have taken a defensive driving course, have had no moving violations in several years, and be driving a new and well-maintained vehicle are likely to have lower premiums than programs that do not have these requirements. This is both because such drivers are likely to have fewer accidents and because, in the event of an accident, the operator and the insurer will be able to demonstrate that they have taken all reasonable steps to insure that a competent operator was in charge of the vehicle. While the general view is that van-pool operators, even third-party operators classed by state PUCs as common carriers, will only be held to an ordinary standard of care (as opposed to the standard of care of a common carrier, which essentially allows no defense against claims based on negligence), it is not clear that juries will understand this distinction; any evidence that operators have exercised all due caution will be quite important.

Another approach to van-pool insurance that may be appropriate for large employers' programs is self-insurance. From our survey it appears that programs that choose this approach are selecting the rate of $480/year, which was adopted by 3M, as the appropriate premium. This amount has proved more than adequate to meet 3M's claims to date, but neither 3M nor any other van-pool program I am aware of has had an accident that has produced a disabling or fatal injury to a passenger in another vehicle or to a pedestrian in which the van driver was found to be at fault. (A survey of van-pool accident experience compiled by the University of Tennessee Transportation Center in July 1976 found only two van-pool accidents involving bodily injury. Only one of these involved injury to a person struck by a van and in this case no fault was determined. The company, however, assumed the cost of $12 000.) Because employer van pools are protected by workmen's compensation from claims by van poolers themselves and because the collision and comprehensive losses are inherently limited to the value of the vans, injuries to others will be the major source of claims. Therefore, 3M and other employers who choose to self-insure usually obtain protection against very large claims through additions to their corporate catastrophe policy. This may be a very inexpensive add-on clause if there is already a major corporate catastrophe policy.

Still another approach that offers a prospect for some reduction in bodily injury premiums for nonprofit, government, and for-profit van pools is illustrated by recent actions in Minnesota. In April 1976, the Minnesota no-fault statute was amended so that van pools will henceforth be classified as private automobiles for purposes of insurance. Van poolers who otherwise have automobile insurance will now seek damages up to the $2000 no-fault threshold from their own insurance company in the event of an accident. If the individual's claims exceed the no-fault threshold, he will then seek damages from the insurance on the van. The van-pool insurance will also provide primary coverage for the driver and any passengers who do not have automobile insurance. While no quotations have been obtained from underwriters for coverage under the new law, the sponsors of the legislation estimate that premiums for bodily injury coverage for nonprofit, for-profit, and government vans will be reduced by 10 to 15 percent.

ACKNOWLEDGMENTS

The preparation of this paper was supported by the U.S. Department of Transportation through the New Perspectives on Urban Transportation Project.

I would like to thank the respondents to the survey questionnaire: Tom King, Arizona Office of Economic Planning and Development, Phoenix; George Gray and Jeffrey Gualco, Division of Mass Transportation, California Department of Transportation, Sacramento; Allen Stockman, Federal Highway Administration, Denver, Colorado; Stan Crowe, Florida State Energy Office, Tallahassee; Herschel Bryant, Federal Highway Administration, Atlanta, Georgia; the staff of the New Perspectives in Urban Transportation Project in Massachusetts; Robert Owens, 3M Company, St. Paul, Minnesota; David Sweet and John Gordon, Public Utilities Commission, Columbus, Ohio; Jack Graham and Dennis Moore, Oregon Department of Transportation, Salem; Raymond Holst, Governor's Energy Council, Harrisburg, Pennsylvania; Frank Davis, University of Tennessee Transportation Center, Knoxville; and Eugene Arnold, Virginia Department of Highways and Transportation, Richmond.