

# Bus & Motorcoach NEWS

WHAT'S GOING ON IN THE BUS INDUSTRY

## Makeover for bus terminal

### NY-NJ Port Authority reveals ambitious plan

NEW YORK — The world's busiest and most-famous bus terminal may be getting a makeover, or it may be relocating.

The Port Authority of New York and New Jersey, which owns the giant New York City terminal, announced plans to rebuild the outdated and run-down complex but not before it studies possibly moving the facility.

The 57-year-old Port Authority Bus Terminal handles 7,000 buses and 200,000 commuters daily.

The basic plan announced by the Port Authority late last month calls for turning the terminal into a high-rise office building along New York City's booming 8th Avenue.

The proposed air-rights development would add roughly 1.3 million square feet of office space above the terminal's north wing, resulting in the renovation of approximately 55,000 square feet of bus terminal retail space, and an enhanced pedestrian and bus passenger circulation system.

Other proposed elements include construction of a bus parking garage, the addition of 26 additional bus gates, and a study to explore the possible long-term future relocation of the terminal.

One of the goals of the plan is to find ways to help ease traffic congestion.

Studies exploring the various proposals and aspects of the terminal plan are expected to take up to two years to complete.



## Controversial traffic plan for N.Y.

NEW YORK — Parking, tolls and anti-idling rules make Manhattan one of the most expensive, if not the most expensive, places for buses and trucks to operate.

Now, in a bid to reduce congestion, Mayor Michael Bloomberg wants to make it a lot more expensive for trucks and autos — and apparently for private buses, too — to drive in Lower Manhattan between 6 a.m. and 6 p.m.

The Bloomberg plan proposes charging a \$21 daily fee for trucks and an \$8 fee for passenger cars that travel below 86th Street on weekdays, except for the expressways on either side of the island.

The plan only mentions fees for trucks and autos. However, deep in the plan there is a list of exemptions and private buses are not on the list, strongly suggest-

ing they will be taxed along with trucks and cars.

Bus associations, both state and national, can be expected to seek an exemption for private buses.

"In setting the fee, there's no magic number, but it has to be high enough to encourage more people to switch to mass transit and low enough not to break the bank — for businesses and for those who have to drive," said Bloomberg in announcing the plan.

Similar "congestion pricing" initiatives are being used in London and Singapore in a bid to reduce traffic and pollution. The New York plan would use the money generated by the fees — estimated to be nearly \$400 million in the first year — to help pay for mass transit projects.

"As a test run, we will seek state authority for a

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## A long, hot summer looms for coach safety scofflaws; industry under microscope

For motorcoach operators who have been scaling back on maintenance or ignoring the administrative requirements of the Federal Motor Carrier Safety Regulations, this could be a long, hot summer, as well as a troublesome fall and winter.

That's because federal and state safety agencies and inspection units across the U.S. are either stepping up or planning to devote more attention to bus and motorcoach safety checks.

Operators sending coaches to the Grand Canyon are getting a taste of the heightened activity right now — as in today and tomorrow — as the National Park Service and the Arizona Department of Public Safety conduct a spring inspection blitz. There likely will be a second saturated inspection program at the canyon in the fall.

Next month, operators everywhere, especially those in states with dedicated bus inspection programs, also will see tangible evidence of the increased interest in coach safety.

The annual Roadcheck program, conducted by the Commercial Vehicle Safety Alliance and its federal, state and provincial partners, plans to focus special attention on motorcoach safety during this year's three-day inspection program. That doubtless will translate into more safety checks at casinos, theme parks and other popular destinations commonly used as inspection sites.

The '07 Roadcheck will be June 7-9 in the U.S., Canada and Mexico. Last year during Roadcheck, a record number of coaches were inspected — 1,238, and 9.2

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## Florida operator suffers abuses by transit agency

PENSACOLA, Fla. — Small motorcoach carriers are looking for big help from federal regulators in their ongoing squabble with public transit agencies that take away charter business.

Unlike much larger private operators that have more financial resources and transit agencies that are partially funded with tax dollars, small private operators with limited fleets often don't have the money or the clout to carry their fight to public bus operators.

"We don't have the money to do what it takes," says Thomas E. McKean, president of Beach Boy Trolley in Pensacola, Fla., and a possible poster boy for small operators facing the loss of charter business from transit intrusions.

McKean detailed his complaints and concerns in a public plea to the Federal Transit Administration, which is preparing to issue new charter bus rules that could reign in transit agencies bent on offering charter service and make it easier for private carriers to fend them off.

"As a private bus operator and a small business owner, our company is aware of the significant damage done to our business and to the private bus industry due to illegal charter competition by publicly funded transit agencies," McKean wrote in a 14-page pleading filed as part of the FTA's formal charter bus rulemaking process.

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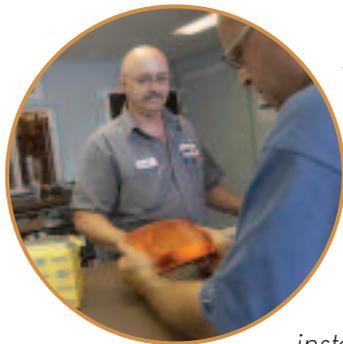
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## *A new day in Nevada*

# State regulatory agency adopts more conciliatory policies

RENO — The Nevada Transportation Services Authority is easing up on its controversial regulation of the motorcoach industry, much to the delight of a former bus operator who has been feuding with the agency for years.

“They’re finally becoming regulators rather than the Gestapo police they’ve been in the past,” said Bob Fairman, a Carson City trucking company owner who sold his charter bus business last year because he was tired of fighting with the agency’s team of inspectors and enforcement officers.

Among the major changes being made by a reorganized TSA board are shortening the time it takes operators to become certified in the state, making it easier for operators to get new tariff approvals, and reducing the number of violation tickets issued by the agency.

“Things might be a little friendlier now,” suggested Fairman, adding that the changes could help ease some of the tensions that have built up over the years between TSA employees and bus operators.

Fairman, the former owner of No-Stress Express, has been the front man for a coalition of motorcoach operators that have relentlessly — but unsuccessfully — lobbied state lawmakers to either reign in the TSA or abolish it and turn its duties over to other state agencies.

He also was behind a failed federal lawsuit the coalition filed against the TSA that accused it of violating federal laws by regulating federally certified interstate motorcoach carriers.

While the Legislature and

court did little to settle any of the myriad complaints from the motorcoach industry, the authority board finally began a self-generated overhaul this year following the resignation of its chairwoman.

Commissioner Andrew J. MacKay, who had been on the board for 18 months, was appointed chairman in mid-February. He quickly formed an association with Commissioner Samuel A. Thompson, who joined the board in January 2006, and Commissioner Leslie Miller, who came on board in early March.

Although they insist that not all of the criticism the TSA has received from Fairman and coalition members has been justified, some of their concerns were solid enough to warrant action.

“We would be remiss if we said none of the complaints were valid,” said Thompson.

The most far-reaching change shortens the time it takes for interstate carriers to be certified to operate in the state by doing away with full-scale investigations, financial reviews, and hearings that

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## FMCSA closer to issuing passenger info guidelines

WASHINGTON D.C. — Long-awaited guidelines for motorcoach operators to provide pre-trip safety briefings to their passengers are expected to be released by federal regulators in two to three months.

The Federal Motor Carrier Safety Administration has reviewed the handful of comments it received late last year during a public comment period on its proposal for coach industry passenger safety briefings, and this summer plans to publish a notice in the Federal Register detailing its final guidelines, according to agency spokesman Duane DeBruyne.

He said the notice will be followed later in the year by the distribution of a model pamphlet to coach operators that they will be able to make available to their passengers.

Providing the pre-trip safety information to passengers is the result of National Safety Transportation Board recommendation issued in 1999, following a bus accident in Stony Creek, Va., that killed one passenger and injured the driver and 27 other passengers.

The NTSB investigation stressed that the accident emphasized the need for motorcoach operators to provide passengers with important pre-trip safety information. In addition, it noted that coach passengers involved in a number of prior accidents said they were in a state of panic because they did not know what to do or how to get out of or off the bus.

Reacting to the NTSB recommendation, the FMCSA asked a committee of representatives from the United Motorcoach and Amer-

ican Bus associations and the Commercial Vehicle Safety Alliance to review the idea.

The group concluded that a single federal regulatory requirement would not be the best approach because it could not be flexible to address the wide operational variances found throughout the bus industry. Instead, the committee suggested that development of a list of best practices would be more effective.

The NTSB reviewed the committee suggestion in 2005, and agreed the best-practices idea would provide passengers with increased safety information and would be responsive to its initial recommendations.

The FMCSA finally produced its proposal last year, suggesting that pre-trip instructions advise passengers to look to the driver for guidance, be careful not to slip when boarding and exiting the bus, and use cell phones to call 911 if an accident occurs. It also said drivers should show passengers the location of emergency exits and fire extinguishers and inform them of the emergency call button in the restroom.

In addition, the plan offered alternative methods of delivering the safety message. They included passing out pamphlets during or after boarding, or making them available in seat pouches, and having the driver either make oral presentations or play messages electronically on audio or video tapes.

The plan also calls for fixed-route carriers to deliver the safety information at all major stops and terminals after passengers have

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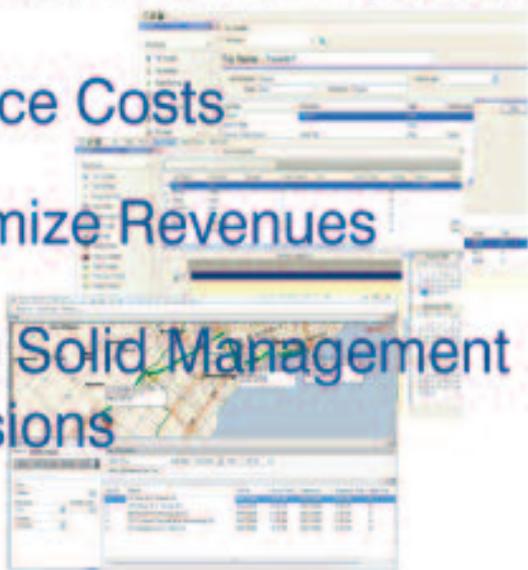
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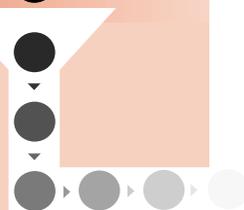


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# THE DOCKET

## In Canada

### Driver certification program aims to boost industry image

RICHMOND HILL, Ont. — Four years ago, an ambitious program was launched to strengthen the image, profitability and vitality of Canada's bus industry, including attracting more workers to the profession.

The program leaders believe the effort has been a success even though tour-and-charter motorcoach operators have been slow to embrace one of the program's key initiatives, driver certification.

"For private operators, they need to see some benefit" before committing to the program, said one coach industry executive.

The program had its beginnings eight years ago when representatives from all sectors of the Canadian bus industry came together to form the Motor Carrier Passenger Council of Canada.

The national government in Canada fosters industry councils throughout the economy as a tool to help build a stronger and more competitive Canada, and to help individuals make better career choices.

The council gets some of its financial support from a branch of the Canadian government, the Sector Council Program within the Department of Human Resources and Social Development Canada.

Composing the council are bus industry representatives from intercity, tour and charter, transit, school and accessibility service providers. There are owners, managers, employers, labor leaders, association executives, educators and regulators on the council, which strives to speak with one voice in the interest of the industry.

Since the council was set up, it has focused on a variety of initiatives, including raising awareness of and advocating for the industry across Canada; working with and educating government, educators and the public about the industry; recognizing outstanding service by bus professionals, and promoting career and training opportunities within the industry.

A key aspect of this latter area, training and career building, led to the development of a professional driver certification program and the accreditation of training programs for drivers.

For nearly two years, Canadian bus drivers have had an opportunity to become professionally certified under the process developed by the council. Certification is designed to raise the image of bus drivers, and the industry in general, plus offer career incentives to industry personnel.

#### Driver certification

In Canada, like the United States, there are many truck driving schools but not a single school for bus drivers. Therefore, training bus drivers oftentimes becomes the task of the companies or organizations that hire them, resulting in lots of inconsistencies.

To develop a driver certification program, the first step for the council was to define an adequate driver training program. That meant coming up with a set of standards against which driver training throughout the country could be assessed and compared. The council spent months and months conducting a series of meetings across Canada.

Representatives from every aspect of the bus industry were invited to attend and provide input. When the process was over, five aspects of bus driving were identified that all operators share: pre/post trip operations, vehicle operations, customer relations, administration, and emergency operations. Once the general areas of competency were determined, a set of tasks and subtasks were defined that described the skills required in each area.

The "national occupational standards" developed by the council spell out the specific skills and abilities required.

#### Training accreditation

Just as it was necessary to develop a set of standards for bus drivers, so too was it necessary for the council to develop criteria for accrediting driver training programs.

Any bus company or public transit agency in Canada, regardless of size, is eligible to present its training program for accreditation. Programs are reviewed and, if they meet the standards,

## New registration plan falters

WASHINGTON — The process of replacing the Single State Registration System with a new program may be on the verge of turning into a fiasco.

Even though a federal rule-making process is implementing the new Unified Carrier Registration Agreement and the collection of UCRA fees (see May 1 *Bus & Motorcoach News*), the board coordinating and overseeing the transition is reporting myriad problems.

During a conference call conducted late last month, it was revealed that the work of the board is being hampered by a lack of funding.

UCRA procedures have been

drafted to guide the states and industry through the program's new registration and collection process, and a start has been made on the computer systems needed to coordinate the collection and exchange of UCRA information among the states and with the U.S. Department of Transportation.

But that is only part of what needs to be done, those participating in the conference call were told. The problem is there's no money with which to get the work completed.

Consequently, the administration of the UCRA fees for the next couple of years may proceed in a "somewhat makeshift fashion," conference call participants were

told. How exactly that will translate bureaucratically and administratively among the states that have signed up for the UCRA is anybody's guess. But it may not be pretty.

Still, there are bureaucrats within the USDOT who think the program still could be off the ground by mid-summer. Stay tuned.

The UCRA board has scheduled another conference call next week and its members are to meet in person in Indianapolis June 11-12.

The 2005 federal highway and public transportation re-authorization bill repealed the Single State Registration System, and provided for the replacement of the revenue states got from the SSRS and related programs through the new UCRA.

## Transit agency fights FTA order

ROCHESTER, N.Y. — The Rochester public transit agency, which was found guilty earlier this year of violating Federal Transit Administration rules and ordered to stop providing illegal school bus service, is pressuring the FTA to allow it to operate school bus routes.

According to the United Food & Commercial Workers Union Local One, Rochester Genesee Regional Transit Authority is trying to get FTA officials in Washington to reverse a decision by a regional FTA administrator who found the transit agency was violating federal rules prohibiting public transit agencies from operating school bus service.

FTA Regional Administrator Letitia Thompson ruled against the transit agency in January, issuing a cease-and-desist order requiring the service be halted.

In her ruling, Thompson said the service provided by RGRTA Transit "contravenes the purpose and intent" of FTA rules and, "in some of its characteristics, specifically violates the (FTA) school bus regulations."

But, in a letter sent to the union last month, the FTA said it was reconsidering its cease-and-desist order.

"Now the transit agency is putting outside pressure on FTA to reverse itself and allow the transit agency to operate school bus routes (that) Congress mandated are not public transit routes," the union said in a letter it sent to Congresswoman Louise Slaughter, D-N.Y.

The union wants Slaughter and other area congressmen to send a "strong message" to FTA Administrator Jim Simpson and FTA Chief Counsel David Horner "not to re-

verse the FTA cease-and-desist order."

In its complaint, the union said the service provided by Rochester Genesee Transit displaced nearly 70 school bus drivers, and it amounted to more than \$6 million in annual school bus work denied to Laidlaw Education, their employer.

It is fascinating that the union, which represents drivers, is carrying the water for Laidlaw.

Rochester-Genesee Regional Transit is a long-time violator of FTA rules. Early in this decade, John H. Kemp of Kemp's Bus Service in Avon, N.Y., went on a one-man crusade to stop the rogue agency from violating federal charter bus rules. The FTA ruled in 2002 that the transit agency had violated the rules by running a variety of prohibited services.

## Alberta holds out on hours rules

BANFF, Alberta — While other Canadian provinces have adopted the new federal hours-of-service rules for bus and truck drivers, Alberta still doesn't have a timetable for when it will implement the changes.

Revamped Canadian hours-of-service rules went into effect Jan. 1, with Ontario, Newfoundland and Prince Edward Island adopting provincial versions of the rules right away. The remaining provinces, with the exception of Alberta, committed to adopting them between February and April.

That leaves Alberta as the lone

province that has not set a date to amend its drivers' hours-of-service regulations.

Speaking to a group of truckers last month, Alberta Transportation Minister Luke Ouellette said he's "not rushing to make any changes (to the rules) just yet."

Ouellette said his ministry is still conducting consultations, especially with factions in the trucking industry that oppose the new rules, which restrict drivers who have accumulated 13 hours of driving time or 14 hours of on-duty time, including driving, in a day.

"There's still a wide, wide

range of opinions on hours of service," said Ouellette.

While Ouellette has been under pressure to reject the revised rules by some truckers, many other commercial vehicle operators have been lobbying hard for adoption of the federal rules to avoid having separate regulations for carriers operating in and out of Alberta.

In those provinces that have adopted the new rules, most enforcement remains educational in nature, with stopped drivers provided with information to help them understand and comply with the new rules.

## Canadian drivers

CONTINUED FROM PAGE 5

approved and accredited. All sectors of the industry also participated in developing the accreditation process.

In the end, roughly 175 companies, agencies, labor unions and associations contributed to the development of the occupational standards for the professional bus operator and accreditation programs.

But the work was not done when the standards were established. The process of reviewing applications for certification and accreditation is on-going.

Certification of drivers began about two years ago, and today hundreds of drivers have earned the designation Certified Professional Bus Operator and the right to include the initials CPBO behind their names.

This spring, thousands of postcards are being distributed to noncertified drivers to encourage them to apply for the program. In addition, the council has started a newsletter that is being mailed to certified drivers, which is helping to get the news around.

### How It Works

The certification program is voluntary for both the companies seeking accreditation and for the drivers seeking certification. A driver seeking certification uses a "certification journal" provided by the council to record the training he or she has received over the years.

The driver then selects an appropriate evaluator to review the training. If the evaluator agrees that the driver has sufficient knowledge in the designated areas and signs off on the training regimen, the driver submits the journal, an application form, and an application fee to the council for certification. It costs \$25 for a driver to apply and another \$25 annually to maintain certification.

To be eligible, a driver must have the appropriate driver's license, three years driving experience in the past five years, and completed either an accredited training program or be able to prove that he/she has accumulated the required training for certification by producing appropriate documentation. Finally, a candidate must

agree to abide by a code of ethics.

Actual certification occurs when the "certification board" meets and decides whether or not to grant certification to an applicant. The process typically takes three to four months.

According to Julie Black, communications adviser to the Motor Carrier Passenger Council of Canada, there is a lot of enthusiasm for the certification program at all levels, from executives, to drivers.

One newly certified driver, who is nearing retirement, said he has been driving a bus for 33 years and this was the first time he had been recognized for the knowledge and experience it takes to do his job.

Black hopes the new round of certification that begins this month will increase the number of certified drivers into the thousands.

Featured on the postcard are photos of two Greyhound Canada drivers, with combined bus driving experience of more than 57 years. As soon as the cards started going out, Black said they immediately began getting phone calls wanting more information on how to certify.

Greyhound Canada and public transit agencies have been the major supporters of the driver certification program. Smaller private operators have been slower to embrace the program.

However, there is some indication that individual drivers may be showing an interest — even when their employers are not. "There are a number (of tour and charter drivers) who are in the process of applying and who will be accredited at the May meeting ...," says Black.

According to Joan Crawford, the council's executive director, one anticipated benefit of the program will be a reduction in training costs as certified drivers are hired into companies that will not have to provide retraining in all aspects of the job every time they bring on a new employee.

For drivers, it is hoped the nationwide program will make it easier for them to get hired and give them more freedom to relocate if they choose.

For more information on the council and its programs, contact Crawford at [joancrawford@buscouncil.ca](mailto:joancrawford@buscouncil.ca), or Black at [blackink@btms.com](mailto:blackink@btms.com), or go to [www.buscouncil.ca](http://www.buscouncil.ca).

## Nevada regulators

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take months and sometimes longer. Under the new policy, the operators need only produce documents confirming they are federally certified, have a good safety record and carry the required amount of insurance to be approved.

"Once they show us those, they could be in business the next day," said MacKay. "We figure if they're federally chartered, then that should be enough for them to get into business here."

He said intrastate carriers still will have to undergo the full process because they are not subject to federal regulatory scrutiny.

Thompson said his support for the new policy was emphasized after he watched Southwest Charter Lines of Gilbert, Ariz., struggle for a year and one-half to become certified to work in Nevada even though it was a federally approved interstate carrier.

"It was the last one before we changed the rule and I told the company that I was going to name the new policy after them," he added.

David Pike, a Southwest Charter co-founder and vice president, said the exercise was exhausting and should not have been necessary because he and others believe that federally certified interstate carriers cannot be regulated by state officials.

"It costs us a lot of money and a lot of time," he said.

MacKay said the new policy and a similar easing of the time it takes for carriers to get decisions on requests for new tariffs are aimed at making it easier for motorcoach operators to do business in the state.

"We want to be as less intrusive as possible and not too heavy handed," he said.

The policy to reduce the number of violation citations that enforcement officers issue is an effort by the board to put on a more friendly and professional face, say board members.

MacKay said some nonsafety violations — record keeping errors for instance — will result in telephone calls or letters to the carriers informing them they have committed a violation and need to correct

the situation immediately.

"We'll be doing this on a case-by-case basis," he said.

He said the board also is considering issuing formal warnings to bus drivers that give them 30 days to make corrections. They would be similar to repair tickets that police issue motorists who are stopped for having something wrong with their vehicle such as a burned-out tail light.

"We don't want to issue citations and impound vehicles if they really didn't know something was wrong," he added. "But if we see them on the road again later with the same problem, then they would get a citation."

In addition to the policy changes, the board — unlike in the past — has gotten behind proposed state legislation being pushed by Fairman and the coalition that would make further improvements to the agency. They include requiring TSA inspectors to be trained to inspect motorcoaches and requiring them to wear uniforms so they could be more easily identified.

The measure, which appears headed for passage before lawmakers end their 2007 session in June, also would authorize a third party to adjudicate complaints filed by motorcoach operators against TSA employees and change the name of the agency to the Nevada Transportation Authority to differentiate it from the federal Transportation Security Administration.

"Even some of our detractors of the past have spoken in favor of it," said MacKay, adding that he is cautiously optimistic the legislation will pass. "If it doesn't pass, though, then a lot of good work by everyone will have gone for naught."

Thompson said the administrative and legislative changes will help the agency weed out illegal and unsafe carriers, which he emphasized could endanger others and take jobs and money away from legitimate motorcoach operators.

"We are here to protect the traveling public and we want to see people get into business here, and we are not going to compromise on safety and insurance" added MacKay.

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Northfield Lines  
Northfield, Minn.

Dave Bolen  
New World Tours  
Bristow, Va.

David Brown  
Holiday Tours  
Randlemann, N.C.

Steve Brown  
Brown Coach  
Amsterdam, N.Y.

Bob Foley  
ABC Companies  
Faribault, Minn.

Gladys Gillis  
Starline Transportation  
Seattle

Rick Hillard  
Cedar Valley World Travel  
Cedar Rapids, Iowa

Robert Hume  
Travel Mates Trailways  
Harrisonburg, Va.

Daryl G. Johnson  
J & J Charters  
Crosby, Texas

Dale Krapf  
Krapf Coaches  
West Chester, Pa.

Godfrey LeBron  
Paradise Trailways  
Hicksville, N.Y.

Joan Libby  
Cavalier Coach  
Boston, Mass.

Marcia Milton  
First Priority Trailways  
District Heights, Md.

Michael Neustadt  
Coach Tours  
Brookfield, Conn.

Jeff Polzien  
Red Carpet Tours  
Oklahoma City

Tom Ready  
Ready Bus Lines  
LaCrescent, Minn.

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Escot Bus Lines  
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## Transit abuses

CONTINUED FROM PAGE 1

He told how Escambia County Area Transit set up temporary routes for annual events, supplied charter service to nonprofit and government organizations, and created an apparent "sham setup" to provide other charter service.

"These and other local issues need to be resolved and will be addressed in a complaint as soon as Beach Boy can raise the \$20,000 necessary to pay the retainer for (an) attorney," he said.

Escambia County Transit serves the Pensacola area.

McKean, who has been in the charter business for about 20 years, says his company and ECAT have in some cases been able to work out their differences, but recently there has been an increase in incidents that have gone unresolved and have cost him charter business.

Among them was Escambia County purchasing trolleys and paying ECAT to operate them for beach transportation on summer

weekends. "I further resent my taxpayer dollars being spent on trolleys that are only used 2½ days per week from Memorial Day to Labor Day and have nothing to do with the mass transit goal of helping people get to work," he stresses.

McKean says the "sham" operation involves ECAT renting trolleys to a private festival management company that is not in the transportation business, does not have a U.S. Department of Transportation number and does not carry commercial insurance. He maintains the company has done 15 charters in the past 18 months and has another 11 booked.

Such sham arrangements are a major source of friction with private operators across the country. Transit agencies will buy buses or trolley buses, use them occasionally, often for charter work, and then rent them as McKean says ECAT has done.

He voiced strong objection, too, to efforts by public transit agencies to be allowed to do charter work for major public events. Those events, he contends, are the

"cream of the private operator's business" and in his case make up more than one-third of his annual revenues.

"Therefore, Beach Boy could lose up to 36 percent of our annual business if the public transit agency was allowed to compete with us," he charges.

McKean says he supports most of the new rules proposed by the FTA and he urged that it move swiftly to adopt them so he and other small operators can better stand up to public transit agencies.

He points specifically to a

measure in the FTA proposal that would allow private operators to obtain cease-and-desist orders against a transit agency that would prevent it from carrying out a suspected illegal charter.

"A private operator cannot wait for the long complaint and appeals process now in place with the FTA," he says. "By the time a decision is reached, the public transit agency will have six months or more to operate illegal charters."

McKean also points to a provision that sends complaints directly to the FTA rather than first going

to FTA regional offices, which he says seldom respond quickly enough and often issue opinions that conflict with those of other regional offices.

He contends that the regional offices usually advise complainants to speak to the public transit agencies, which he says simply adds more weeks or months to the process. "The public transit agency will talk to the private operator and then keep on breaking the regulations," he maintains. "They will not change their ways until they receive something in writing from the FTA."

Meantime, he says he is making plans when his business slows in July to take his story personally to the FTA in Washington D.C., in hopes of getting assurances that the charter bus rules address his complaints and will be helpful to the motorcoach industry.

"All I need is someone's ear and I think we can get something done," he says. "We're all being jeopardized by public transit and we need to work together because I can't do it alone."

## Transits seek charter operators

The following public transit providers have informed the United Motorcoach Association of their intent to provide charter bus service unless willing and able private operators step forward to provide the service. UMA urges appropriate operators to take the time to respond to these notices.

**Saginaw County, Mich.** Deadline: May 25, 2007. Write to: Sylvester Payne, General Manager,

Saginaw Transit Authority Regional Services, 301 E. Genesee St., Ste. 500, Saginaw, MI 48607. Phone: (989) 907-4000.

**Cheatham, Davidson, Maury, Rutherford, Sumner, Williamson and Wilson counties, Tenn.** Write to: Diane Thorne, Executive Director, Franklin Transit Authority, P.O. Box 266 (708 Columbia Ave.), Franklin, TN 37065. Phone: (615) 790-0604.



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## People

Prevost Car has announced the appointment of *Clay Flynt* as vice president of parts and service, making him Prevost's top service and parts executive. The appointment is effective May 16.

Flynt joins Prevost from **Volvo Truck**, where he headed the support functions for the parts sales and marketing units of Mack and Volvo trucks.

He succeeds *Gilles Dion* who has been both the president and CEO of **Nova Bus** and the top parts and service executive at Prevost Car. Dion, who has been with Prevost for 32 years, is devoting all of his time to his Nova Bus position.

Prevost and Nova Bus are subsidiaries of **Volvo Bus Corporation**, the world's second-largest motorcoach and transit bus manufacturer. Volvo Bus is part of the **Volvo Group**, the world's largest manufacturer of heavy-duty diesel

engines.

In his new job, Flynt will be responsible for both the operation and development of the Prevost parts and service units. **Prevost Parts** also is the official distributor of Nova Bus parts and components.

Flynt has spent 23 years in the trucking industry and holds a bachelor's degree in business administration. He will be based in Greensboro, N.C., and can be e-mailed at [clay.flynt@volvo.com](mailto:clay.flynt@volvo.com).

"The addition of Clay — a motivated and extremely capable individual — is a definite plus as we continue to build on our success," said Prevost President and CEO *Gaetan Bolduc*.

*Mark Gedris* has joined the **United Motorcoach Association** as membership and marketing director. Gedris comes to UMA with more than nine years of association management experience, specializing in marketing communications, as well as member services and development. Previously,

he was director of membership for the **Retail Bakers of America**, a national association of small- and medium-size business owners. At UMA, Gedris will be responsible for the association's marketing, public relations and membership strategies, as well as member benefits and services.

UMA also announced that *Amy Stalknect* has been promoted to meetings and operations director. Stalknect has been a UMA employee for four years, most recently serving as marketing & Website development manager. In her new role, she assumes responsibility for Motorcoach Expo and UMA's other meetings and seminars.

*Kathy Eubanks* of **Kathy Eubanks and Associates** of Cumming, Ga., has been named chairwoman of the 2008 **Ontario Motor Coach Association Conference and Marketplace**. Next year's conference will be Oct. 18-22 in a suburb of Toronto. The '07 Conference and Marketplace will be Nov. 11-15 in Ottawa, Ont.

Savannah, Ga. Info: Go to [www.gamotorcoachoperators.org](http://www.gamotorcoachoperators.org), or call (866) 376-7770.

**10-13 Pennsylvania Bus Association Annual Meeting**, Holiday Inn Ocean Front, Ocean Front, Md. Info: [www.pabus.org](http://www.pabus.org), or call (717) 236-9042.

## Legal hotline for members is new service from UMA

ALEXANDRIA, Va. — The United Motorcoach Association has established a labor and employment law hotline for its members.

The service is being supported by Michael Hawkins and Dave O'Guinn of the national law firm of Dinsmore & Shohl LLP.

The toll-free phone number to reach Hawkins and O'Guinn is (800)934-3477, ext. 8270 for Hawkins, and ext. 8559 for O'Guinn.

The two attorneys have extensive experience in the kind of employment law and labor concerns that UMA members typically encounter, including regulatory compliance; employment issues and litigation, encompassing employee terminations, charges with the Equal Employment Opportunity Commission and noncompete agreements; manager training; employee handbooks, and consultation.

If need be, Hawkins, O'Guinn or another attorney at Dinsmore & Shohl will be able to represent a UMA member on any of these or other important issues.

"Dinsmore & Shohl is proud to

support the United Motorcoach Association's mission of serving the educational, informational, legislative, regulatory, and business needs of its member companies," said Hawkins, a Dinsmore & Shohl partner.

"Our knowledgeable attorneys can provide much-needed guidance on a wide range of legal issues UMA members face regularly," said O'Guinn.

"We are particularly excited to partner with Dinsmore & Shohl and its great team of attorneys to provide our members with high-quality legal consultation in the labor and employment law area," added Ken Presley, UMA vice president of industry relations.

"Mike Hawkins and Dave O'Guinn participated in the UMA Motorcoach Expo in New Orleans earlier this year and provided UMA members with great material and advice on a variety of topics. They also have access to helping members find experienced counsel around the United States," said Presley.

For additional information, go to [www.dinslaw.com](http://www.dinslaw.com).

## Calendar

### MAY 2007

**17-19 Tourism Cares for America**, Virginia City, Nev. Info: Go to [www.tourismcares.org](http://www.tourismcares.org) or call (781) 821-5990.

**26-28 2007 National Tour Association Tour Operator Spring Meet**, Kelowna, British Columbia. Info: [www.NTA.travel](http://www.NTA.travel).

### JUNE 2007

**2-5 Georgia Motorcoach Operators Association Annual Meeting & Marketplace**,



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# Fatal coach crash verdict has industry implications

HUDSON, Wis. — There could be ramifications for the motorcoach industry as the result of the verdict in a criminal trial of a truck driver who rolled a big rig that was plowed into by a charter bus.

A jury deliberated less than four hours here late last month

before acquitting truck driver Michael Kozlowski on charges he was criminally negligent in the 2005 crash that killed five people, all of them on the motorcoach.

The jury decided Kozlowski, 24, was “not guilty” of 33 charges — five counts of homicide by the

negligent operation of a motor vehicle, seven counts of reckless driving causing great bodily harm, and 21 counts of reckless driving causing injury.

The tragic sequence of events that led to the trial began shortly before 2 a.m. Oct. 16, 2005, near

Osseo, Wis., on Interstate 94.

Kozlowski, who was driving on a suspended license, was accused of falling asleep at the wheel of his semi while making a run between Muncie, Ind., and St. Paul, Minn.

Prosecutors said he had been partying the night before and

hadn't gotten the required sleep. Kozlowski's truck drifted to the shoulder and when he tried to steer it back onto the highway, according to prosecutors, it overturned, blocking two lanes.

Within moments, the truck was hit by a Chippewa Trails motorcoach carrying members and boosters of the Chippewa Falls High School marching band. Five people on the bus, including the driver, Paul Rasmus, were killed in the collision, and 29 others were injured, some severely.

The nine-day trial produced testimony offering widely differing versions of the incident and its causes.

Kozlowski had told investigators he was pulling over to the side of the highway to urinate when his truck and trailer jackknifed. But investigators testified the semi was going nearly 70 miles an hour with its cruise control on when it crashed.

Attorneys for Kozlowski focused their defense and the blame on the 78-year-old Rasmus, a popular driver for Chippewa Trails. In essence Rasmus ended up being the one on trial and it appears the jury bought many of the defense arguments that the elderly driver was largely to blame.

And that could have implications for operators who employ older drivers.

## Two accidents?

Throughout the trial, the principal attorney for Kozlowski described the crash as “two accidents,” which also reflected the approach taken by the Wisconsin State Patrol.

In the first, Kozlowski's big rig rolled, blocking the interstate. In the second, Rasmus drove his motorcoach into the underside of the overturned semi.

Kozlowski's attorneys contended Rasmus easily should have been able to see the overturned truck and stop — if his recognition of the hazard and reaction time had been normal.

They called expert witnesses who said Rasmus shouldn't have been driving at night because his cataracts reduced contrast in his vision, making it difficult for him to distinguish the trailer from the landscape even under a full moon.

There was conflicting testimony about whether Rasmus was wearing his glasses, as required by his driver's license. And other testimony indicated he had been awake for 19 hours, meaning he may have been sleep deprived. Also, the bus had defective brakes, and there were no skid marks at the crash scene.



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# Alaska operator expands to offer maintenance services

ANCHORAGE, Alaska — Premier Alaska Tours has expanded its bus maintenance operation so it can now offer maintenance services to operators who have coaches in Alaska during the state's busy summer visitor season.

Premier Alaska Tours is one of the largest locally owned coach operators in the state with 30 buses.

The company's expanded service center has three bays, including a drive-through bay; a wash crew, and parking for coaches operating

tours in the area.

Premier's three full-time mechanics are MCI trained and the company is an MCI Emergency Roadside Assistance provider.

"We think it's important to have the ability to service anyone in our

immediate area, and our Alaskan team of drivers can navigate the wilderness as no one else can," said Stefanie Gorder, Premier Alaska's senior vice president.

Premier Alaska took the wraps off its expanded service center at a

special event earlier this month.

Coinciding with the grand opening was the delivery of two new MCI J4500 coaches with a 48-seat configuration.

For more information, go to [www.premieralaskatours.com](http://www.premieralaskatours.com).

## Passenger Info

CONTINUED FROM PAGE 3

boarded the bus and before it begins to move.

The proposal drew only about a half-dozen formal public comments, all of them generally favoring providing passengers with pre-trip safety information and allowing operators general flexibility in delivering programs that best suit their needs.

"No operator should find this to be overly cumbersome," observed Daecher Consulting Group, a bus safety and accident investigation company.

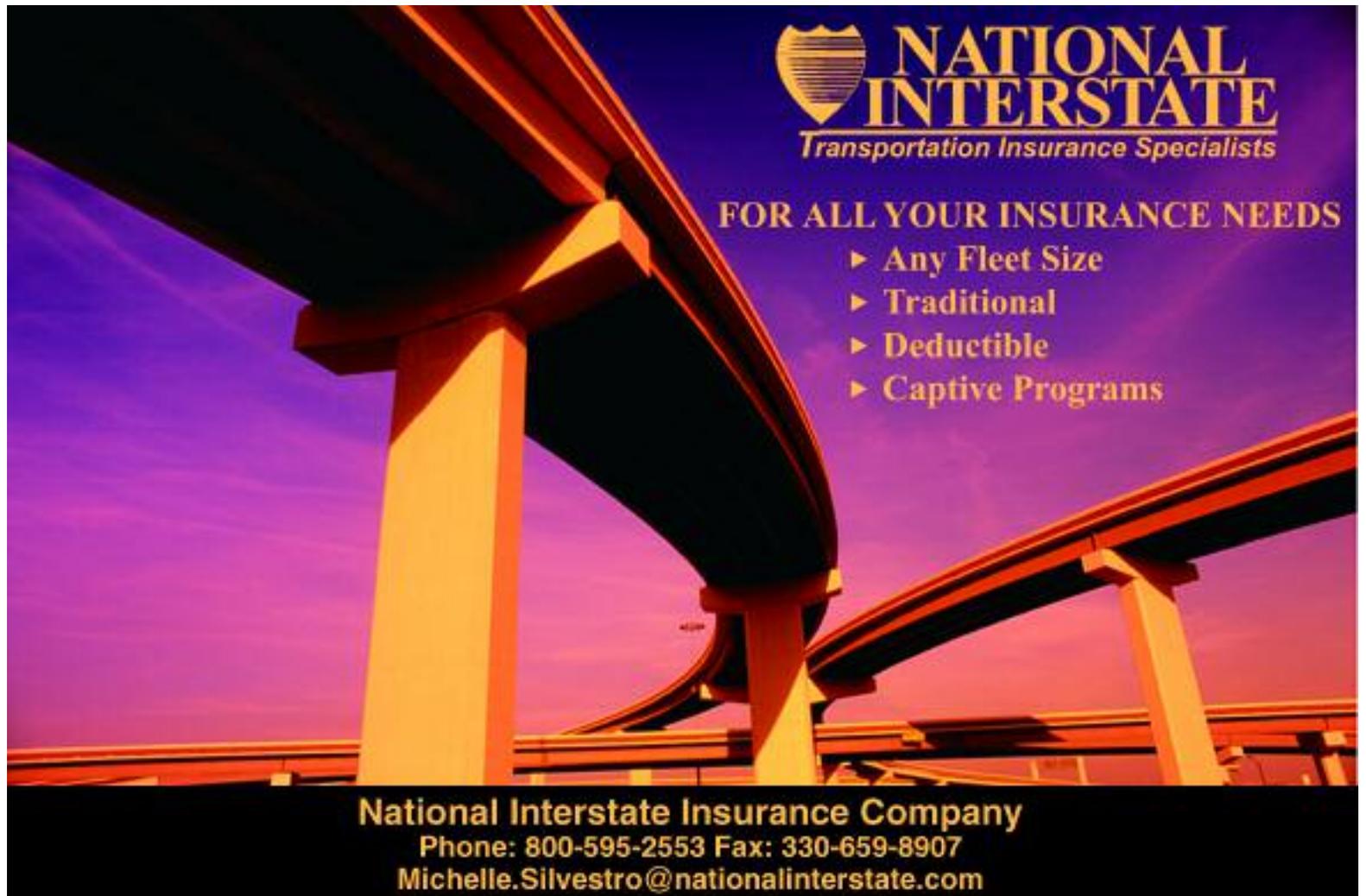
UMA called for passage of the plan as written, saying it was "thorough, flexible and practical with reasonable and tolerable financial considerations for charter, tour and fixed-route motorcoach operators to implement."

The ABA and its Bus Industry Safety Council said they, too, supported the general direction of the plan, but cautioned that the safety message delivered to passengers should be short and direct. "As in air operations, the passenger safety briefing in whatever fashion it is delivered should be kept to a simple 'what to do in an emergency situation' instruction as the primary goal," they said in a joint comment.

Greyhound Lines, applauded FMCSA's approach, but called for even more flexibility, suggesting carriers might want to print a safety message on ticket envelopes or have a presentation delivered by a tour guide. "The guidance should make it clear that the list of alternative methods is not an exclusive list and that other methods chosen by the carrier are permissible," it said.

The carrier also recommended that operators be allowed to "mix and match" delivery of the message with the driver informing passengers of some important issues and then referring them to pamphlets for additional information.

The CVSA said it not only strongly supported the development of safety awareness programs for motorcoach passengers, but also suggested the FMCSA develop training and educational materials to assist motorcoach operators in training their drivers and require the training as part of the commercial driver license qualification requirement.



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FLEET FORWARD TRANSPORT SOLUTIONS

# Don't be a bottom-feeder when it comes to buying insurance

By Dave Millhouser  
ABC Companies

"Can't live with 'em, can't live without 'em" is an ancient truism with traction because it captures a facet of many important relationships.

Admit it... you feel that way about your auto liability insurance. Government (and common sense) mandates you pay a ton of money for something you never want to use.

Like it or not, your insurance company is a partner, and treating it that way can pay big dividends for both of you.

The process begins with choosing a car-

rier. With renewal looming, many operators request bids and then simply choose the lowest one. Sounds simple but you hate it when customers do it to you. Pick a partner, not a vendor.

It's a mistake to assume that, since they're regulated, all bus companies are the same. Why make the same mistake in buying insurance?

Good insurers, particularly those with substantial bus experience, can offer services that cost a bit more at the outset but save you a ton in the long run. Safety audits, training for safety personnel, resources on topics like sleep deprivation, discounts for driver train-

ing, and aids like event recording devices and GPS all add value.

You may pay more initially but save money down the road. Fewer reportable accidents mean lower premiums.

There also are the intangibles — like fewer nicks and dings improving the curb appeal of your coaches. Or, your drivers taking more pride, and customers seeing the difference.

You may not be able to control the severity of an accident, but you can control frequency.

If, sadly, you do have the "big one," a good insurance partner will be more helpful

and far more likely to stick with you in the future.

Several of my favorite operators look at safety as an investment. They're willing to spend on training, safety devices and complying with the extra effort

a good insurance company demands. Reduced premiums, fewer minor accidents that they must eat, improved curb appeal, and better drivers reduces their



Dave Millhouser

CONTINUED ON PAGE 14 ►

## Accident event recorders: Helping manage your risk

By Michelle Silvestro  
National Interstate Insurance

Accident event recorders.

What are they?

How do they work?

Should you consider them for your company?

While accident event recorders are relatively new technology to the passenger transportation industry, their impact on managing your risk and drivers can be far reaching.

### What it is

An accident event recorder is, for all intents and purposes, a small video camera mounted just below the rear view mirror in a vehicle. The camera, when triggered by changes in driving (i.e. hard breaking, swerving, collision and the like) records a period of time before and after "the event."

The amount of time that is kept during the recording varies from 20-30 seconds, depending on the equipment setting. Typically, a camera will have a forward facing lens that captures events in front of the vehicle and a rear facing lens that captures what is happening inside the vehicle.

While the camera continuously records, it will only save the video

clips related to the triggered event. Some accident event recorders also have a manual trigger which allows a driver to record an event by pressing a switch or button on the camera.

Once events are recorded, they can be downloaded to a computer for viewing and training purposes.

### Changing behavior

One major benefit of implementing accident-event-recorder technology is the ability to modify driver behavior as a result of training using the saved video clips.

When an event occurs, the camera records and saves the event. Upon downloading the recorded event, the risk or safety manager (and, in some cases, the accident event recorder company will do it for clients) can observe driver behavior leading up to the event.

Using the video clip, the risk or safety manager has the ability to coach the driver to correct unsafe behavior, reinforce good behavior and become a safer operator on the road. Driver coaching and feedback is crucial for the success of the program.

And, for the first time, in the event of mistakes by other motor-

CONTINUED ON PAGE 14 ►

## Tort reform

### The long-term key to cutting insurance costs

By Randy O'Neill  
Lancer Insurance

At Lancer, we're constantly asked by motorcoach and bus company owners what they can do to lower their annual liability insurance premiums.

There is no shortage of answers, from improving driver recruiting, training and retention programs, to equipping vehicles with the latest safety technologies and monitoring systems.

Working with agents and insurance companies that specialize in insuring 'for-hire' passenger transportation companies also is critical, as is 'selling' the positive steps your company takes to differentiate itself from your competitors.

But if there's one sure-fire way to significantly lower bus insurance premiums it's to prevail upon your state legislature to enact tort reform.

### It's a lawyer's world

Understand one thing: It won't be easy. The legal profession, with annual gross revenue approaching \$60 billion, representing 2.8 percent of the 2006 gross domestic product, has the deck stacked in its favor.

And, arguably, all the key players in the executive, legislative and judicial systems, from governors, state legislators, judges and plaintiff attorneys all have one thing in common — preservation of the current system.

What's worse is that the legal profession is for the most part self-regulated, making attempts at reform from the outside a Herculean task. There are examples, however, in which direct action has led to positive outcomes.

One such case occurred in New Jersey two years ago when the state's physicians 'revolted' against the

crippling expense of medical malpractice insurance.

Getting nowhere fast trying to deal with the issue on their own, the good doctors put down their stethoscopes and picked up picket signs and began marching in front of the state capitol in Trenton. Amazingly, the state enacted medical malpractice insurance cost reform in less than 30 days — after doing nothing for more than 30 years. Clearly, in this case, the squeaky wheel got the grease.

And, this past April, the legislature in Oklahoma passed a sweeping civil justice measure that would have changed the way negligence lawsuits are filed and litigated in state courts. Unfortunately, less than a week later, Oklahoma Gov. Brad Henry vetoed the legislation. But, at least the topic is now being passionately debated in the Sooner State.

### Joint/several liability dilemma

One of the most vexing issues confronting bus companies and their insurers is the legal theory of joint and several liability. While the application of this theory varies among the states that have joint and several liability statutes on their books, the law basically holds that if your driver's actions contributed as little as 1 percent to the cause of a particular accident, your company (and its insurer) can be held responsible for all or a significant portion of any resulting compensatory monetary judgment.

The states where you can be held 100 percent responsible are Washington, Nevada, Oklahoma, Alabama, Georgia, West Virginia, Delaware, Maryland, New York and Maine. The states where you may be responsible for a significant portion of the judgment are Alaska, Idaho, Wyoming, Utah, Colorado, Arizona, Minnesota, Kansas, North Dakota,

CONTINUED ON PAGE 14 ►

# Commercial property/casualty insurance rates drop

WASHINGTON — Premiums for commercial property/casualty insurance coverage are falling, a national survey indicates.

In fact, premiums for all sizes of commercial property/casualty accounts dropped sharply during the first quarter of this year, with indications that insurance companies are starting to loosen underwriting standards and price aggressively to get business, according to the latest Commercial Property/Casualty Market Index by The Council of Insurance Agents & Brokers.

"Once again, underwriting is

out the door as the companies fight for growth/premium," an agent from the Southwest told those conducting the survey.

"All of the carriers want and need new business, and they are willing to do anything to get it," said another broker.

The agents and brokers' council surveys, which have been conducted for the past seven years, ask respondents to compare market conditions and premiums quarter-to-quarter.

One broker from the Northeast, calling the premium drop "dramatic," said rates in the most recent

quarter fell more sharply than during all of 2006.

Eighty-one percent of the survey respondents said their small account premiums for January through March 2007 were down 1 to 30 percent, while 97 percent said their medium accounts were down 1 to 30 percent. Ninety percent said their large accounts premiums were down 1 to 30 percent.

An analysis of the survey findings by the investment firm of Lehman Brothers placed the average premium decrease for accounts in the first quarter at 11.3 percent.

The Lehman analysis said pre-

miums for all sizes of accounts were at their lowest point since they peaked in the fourth quarter of 2001 following the 9/11 terrorist attacks.

Although the premium decreases have been evident in the last several market index surveys, this was the first time that less restrictive underwriting was widely reported.

Brokers and agents from every section of the country said carriers were writing and quoting accounts that a year ago they would not consider.

"Underwriters are buying new

business in the Midwest," a broker reported.

"More companies jumping in on each line. It's going to get more competitive still," predicted a broker from the Pacific Northwest.

However, coastal property/casualty, wind coverage and California earthquake coverage remain tough to find and expensive, but no worse than previously reported, the agents and brokers said.

Members of The Council of Insurance Agents & Brokers write 80 percent of the insurance premiums annually in the United States.

## Recorders

CONTINUED FROM PAGE 13

ists, drivers have the ability to manually record any situation, giving them a witness to back up their version of events.

### Worth a thousand words

How many times have you wished you had a video clip of that “phantom vehicle?” How nice would it be to play a video in court that proves you weren’t at fault in an accident?

With accident-event-recorder technology, you finally have it.

Professional drivers are held to a higher standard than the average driver on the road. You have more at stake with the “cargo” that you

transport. In the event of an accident, a recording of what happened just before and just after the accident is a valuable tool in the management of that claim.

Regardless of fault, a video clip of the event becomes an irrefutable witness of what took place. If the accident wasn’t your fault, the video clip will clearly show this. If the accident was your fault, that same irrefutable witness will help you mitigate the claim as quickly as possible.

Without a video record of the event, you may incur tens of thousands (if not hundreds of thousands) of dollars investigating, reconstructing and litigating a claim to come to the same conclusion. Quickly settling a claim you really owe is crucial to controlling costs.

## Millhouser

CONTINUED FROM PAGE 13

cost and gives them a real boost in their market.

These companies do a number of things to reduce accidents, and improve their bottom line. Some may be useful to you.

Consider investing in “event recorders”; there are several available. (See article on Page 13.)

Make sure your drivers understand the implications of fatigue. Most are aware of the dangers of

driving around dawn, but mid afternoon can be nearly as bad. Take advantage of any available education on sleep deprivation. When possible, massage your schedule so drivers don’t have to drive through dawn. It’s tough, but resist the customer whose schedule pushes the hours of service (or common sense). No driver is good when they’re tired.

Fix dings as soon as your schedule permits. You’re going to fix them anyway, so do it now. Dings reproduce themselves like

### Insurance perspective

National Interstate, a leading provider of insurance programs for the passenger transportation industry since 1989, has embraced accident-event-recorder technology. We believe it ultimately makes our highways safer, our customers better operators and, in the long run, will improve everyone’s overall results.

We have “put our money where our mouth is” by offering special programs to our customers to help make accident event recorders more affordable. We have contracted with several major providers of differing accident-event-recorder technology to give our customers options in meeting the individual needs of their operations.

As accident-event-recorder technology evolves, National Inter-

## SmartDrive wins award

SAN DIEGO — SmartDrive Systems has won an award from the Institute of Transport Management in the United Kingdom for its accident event recording system.

The award went to SmartDrive and its British partner, Mitsui Sumitomo Insurance UK. Mitsui Sumitomo is funding the deployment of SmartDrive’s video-capture hardware, professional incident review and associated Web-based

state will continue to investigate and evaluate products and deliver programs designed to support and encourage the utilization of this proven risk management methodology by our insurance partners.

service for its clients in the United Kingdom.

The SmartDrive system captures video events of erratic driving and speeding and then professionally reviews and rates the events for subsequent driver counseling. All video and diagnostic data can be viewed by fleet/risk/safety managers by logging onto the SmartDrive secure Website.

For more information, go to [www.SmartDrive.net](http://www.SmartDrive.net).

*Michelle Silvestro is assistant vice president and national marketing manager of National Interstate Insurance Co. E-mail her at [michelle.silvestro@nationalinterstate.com](mailto:michelle.silvestro@nationalinterstate.com).*

## Millhouser

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Fix dings as soon as your schedule permits. You’re going to fix them anyway, so do it now. Dings reproduce themselves like

rabbits, and drivers take better care of unblemished coaches.

When a driver reports a safety-related defect (no matter how minor), fixing it quickly demonstrates your commitment and eliminates excuses.

Have safety meetings and use the opportunity to train drivers, recognize the good ones, and discuss specific problem areas.

Make sure your drivers understand that traffic accidents aren’t the only concern. Boarding passengers, wheel-chair-lift operation,

and sudden maneuvers all create risks that can affect your company, and their jobs.

If your insurer wants to look at your operation, embrace the opportunity to learn from them. They may find weaknesses, but you both benefit from catching them early.

Finally, resist the temptation to mess with your address. Hopefully, this is preaching to the choir, but some companies have set up sham addresses in locales where insurance rates are low. In real life, this means you don’t have insurance

because your carrier can allege fraud. Some claims have been refused when an accident made the coach operator’s real mode of operation visible.

If you pick the right insurer, they really are your partner. Working together saves you both a substantial amount of money. But the real benefit is making your company more competitive.

*Dave Millhouser is an account representative for ABC Companies. Contact him at: [dmillhouser@abc-companies.com](mailto:dmillhouser@abc-companies.com).*

## Tort reform

CONTINUED FROM PAGE 13

Michigan, Indiana, Kentucky, Tennessee, Arkansas, Louisiana, Mississippi, Florida and Vermont.

Simply put: If your company was just slightly responsible, it still might be liable to pay the lion’s share of the compensatory damages. And, when you consider that you’re holding a mandatory \$5 million liability policy, those percentages can be very daunting.

For this and other very costly reasons, bus and motorcoach company owners really need to know the legal environment in which they operate. For example, there are many areas around the country where plaintiff lawyers and judges systematically fail to adhere to core principles of law and fair play and juries award outrageous monetary sums in compensatory damages simply because they can.

### Judicial Hellholes

Here is the latest ranking of America’s most unfair jurisdictions in which to be sued, as compiled by the American Tort Reform Foundation.

“Judicial Hellholes,” according to a report from the foundation, are places where judges systematically apply laws and court procedures in an unfair and unbalanced manner, generally against defendants in civil lawsuits.

The Dirty Half Dozen:

1. West Virginia
2. South Florida
3. Rio Grande Valley and Gulf Coast, Texas
4. Cook County, Ill.
5. Madison County, Ill.
6. St. Clair County, Ill.

The courtrooms in these jurisdictions have frequently strayed from the mission of being forums where legitimate victims can seek fair compensation from those whose wrongful acts caused their injuries to “magical jurisdictions” that seek to “punish” negligent parties by imposing staggering financial judgments against defendants.

And don’t think for a second that plaintiff attorneys don’t know about these ‘get-rich-quick’ locales — and how to find them.

In fact, it is not at all unusual for lawyers to engage in “forum shopping” to identify the most plaintiff-friendly courts in which to bring their cases. Often, those lawyers file cases in friendly jurisdictions even if there is no connection to the original claim.

Some other examples of plaintiff-friendly pretrial behavior from the bench includes: discovery abuse; consolidation shenanigans; improper class certification, and unfair case scheduling.

### Judicial abuse

Discovery abuse. Judges allow unnecessarily broad, invasive, expensive discovery requests to increase the burden on defendants.

Consolidation shenanigans. Judges join claims together into mass actions that do not have common facts and circumstances. In 2002, West Virginia courts consolidated more than 8,000 claims and 250 defendants in a single trial.

Improper class certification. Judges certify classes in some states where class certification cannot be appealed until after the trial. This improper class certification can force a company and its insurer into a large and unfair decision to settle.

Unfair case scheduling. Judges schedule cases in ways that are unfair or overly burdensome. For example, in one Wisconsin

county, judges regularly schedule numerous cases against a defendant to commence on the same day, or only give defendants a week’s notice of when a trial is to begin.

And it doesn’t get much better during the trial as ‘junk science,’ uneven application of evidentiary rules, slanted jury instructions and the awarding of excessive damages is the rule rather than the exception.

### Courtroom skulduggery

Junk science. Judges either fail to play their role as gatekeepers to ensure that only credible science is admitted, or allow plaintiff attorneys to introduce highly questionable “expert” testimony that purports to link the defendant to the plaintiff’s injuries but has no credibility in legitimate scientific circles.

Uneven application of evidentiary rules. Judges allow plaintiffs greater flexibility in the kinds of evidence that can be admitted at trial, while rejecting evidence that might be favorable to a defendant.

Jury instructions. Jurors are given improper or slanted instructions. This action is one of the most controversial, yet underreported, judicial abuses.

Excessive damages. Judges facilitate and allow to stand extraordinary pain and suffering awards that are not supported by the evidence, tainted by passion or prejudice, and influenced by improper evidentiary rulings.

### Remedies do exist

Thankfully, there are steps that can be taken by those inside and outside the system that can help bring fairness back to the courtroom.

Constructive media attention can encourage positive change, as can self-corrective action taken by jurists themselves. Appellate courts (and sometimes the U.S. Supreme Court) can overturn improper decisions and

throw out excessive monetary awards, and, of course, legislatures can enact statutory cures.

And, perhaps most importantly, voters can reject lawsuit friendly judges or enact ballot referenda dealing with tort reform to address the problem.

### Strength in numbers

As mentioned, tort reform isn’t easy, but it’s not impossible as evidenced by the success of the physicians in New Jersey and the this-close-legislative-reform effort in Oklahoma.

But, as also evidenced in the New Jersey case, legislators listen almost exclusively to their constituency, i.e., voters, and not their insurance companies or other concerned parties.

So reform (and lower liability insurance premiums) can best be brought about by good old-fashioned grass roots organization and mobilization. And it all starts with the formation of a political action committee which has tort reform as its reason for being.

Once a committee is formed, either by like-minded bus company owners or in conjunction with national or state bus associations, a war chest can be established to raise money to lobby for reform.

Once the funds are there, a lobbyist can be retained and a legal agenda and strategy developed which can be contributed to by other parties, including bus insurance companies, which share the same goal of common sense tort reform.

The battle is tough and can be expensive in the short-term, but the goal is attainable and, in the long run, will go a long way towards leveling the playing field and making your insurance budget more predictable and less onerous.

*Randy O’Neill is senior vice president of Lancer Insurance Co.*

# Operator caution: Know who is carrying your customers

By **Charlie Shriver**  
Shriver Insurance Agency

Bus owners should spend their money hiring and training the best drivers available. Drivers are not only their public ambassadors but they also hold the future of company insurance costs in their handling of the equipment.

At the same time, I would like to remind all bus operators that "implied consent" is being used by attorneys to sue for punitive damages. These are usually not covered by standard insurance policies carried in this industry. Therefore, large awards would be devastating.

When an operator sends an office employee to the bank to deposit company checks, the operator would expect to be covered

under non-owned auto insurance should a serious accident occur on that simple trip.

Similarly, hiring another carrier's bus and driver can be covered under hired-car coverage should a serious accident develop there.

In either case, it is very unlikely that the bus owner has any knowledge of the driver's motor vehicle record or the mechanical condition of the vehicle being used.

If there is a serious enough claim either the driver or the equipment's "integrity" can be called into question.

In a 2004 Lancer Insurance Co. newsletter, an example was given of a \$15.5 million settlement. With \$500,000 awarded for injury and \$15 million awarded punitively to punish the transportation company

for its negligence in the situation. An award of that size would destroy almost any privately owned bus

operation in this country.

Know who is driving for you and know what they're driving.

*Charlie Shriver is president of Shriver Insurance Agency. E-mail him at shriver-charlie@core.com.*

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## Hot summer

CONTINUED FROM PAGE 1

percent were put out of service.

Earlier this spring, the Federal Motor Carrier Safety Administration announced it expects to conduct a record number of compliance reviews of motorcoach operators this year. Its stated goal is to conduct a compliance review of every coach operator that has never had a CR.

Fully 40 percent of all U.S. interstate motorcoach companies could undergo a compliance review this year if the FMCSA meets its target of inspecting 1,600 coach

operators.

Across the U.S., safety officials, from the administrator of the FMCSA down to managers of state inspection programs, currently see motorcoach safety as a "hot topic," as one state highway patrol supervisor told *Bus & Motorcoach News*.

### Been there, done that

Long-time coach operators have seen it before: High-profile accidents or incidents focus increased attention on bus industry safety, and officials ramp up inspection efforts.

This year has produced a hand-

ful of such triggering events, including the deadly plunge off an exit ramp of a motorcoach carrying a college baseball team; the findings of the National Transportation Safety Board in the Hurricane Rita bus fire tragedy; the rash of crashes involving cut-rate ethnic bus operators in the East; the increased attention the news media has given to bus-related incidents, and not just accidents.

Last month alone, media glare from coaches being used to transport large quantities of illegal drugs and illegal aliens gave the industry a major black eye. The problem with those incidents, of course, is

they reinforce the cloud of shoddiness that has long hovered over the industry.

While increased attention from safety regulators has seemingly been a cyclical occurrence in the past, the current wave of attention has all the earmarks of being longer-lived.

The FMCSA and its safety enforcement programs have been under almost constant attack for much of the past year from a host of critics, ranging from the NTSB, to safety advocates, to Congress, and the agency isn't happy about it.

### More criticism

Last month, U.S. Sen. Patty Murray, D-Wash., became the latest member of Congress to blast the FMCSA, taking the agency to task for "ineffective" compliance reviews.

She cited *Washington Post* coverage of a trucker with traffic citations in seven states — including, in one state, seven license suspensions in 11 years — who was driving on a suspended license when he crashed into a vehicle on the Capital Beltway in March, killing a 33-year-old father of two.

The truck driver, who was cited for reckless driving, worked for BK Trucking of Newfield, N.J., which Murray said was on the FMCSA watch list "because of an unusually high number of accidents and deficient inspections." The *Post* reported that BK Trucking, a 160-vehicle fleet, had been involved in 23 crashes since 2004.

A little more than three weeks before the Beltway accident, the FMCSA did a full-scale compliance review of BK Trucking, Murray said. Inspectors found a few problems, mostly with log books, but found no "critical" or "acute" violations, she said.

Three days after the accident the agency revisited the company and discovered:

- Improper lease agreements.
- Lack of compliance with drug and alcohol testing procedures.
- Drivers with suspended commercial driver licenses.
- Failure to maintain records of state inspections.
- Maintaining false log books.
- Failure to turn in log books.
- Failure to prepare driver inspection reports.

"So, just one month after the FMCSA conducted a compliance review and found only minimal problems, the agency did another

compliance review and found multiple violations and wrote up fines totaling \$77,000," Murray said.

Appearing before Murray's subcommittee, FMCSA Administrator John Hill did not address the BK Trucking case directly, but he told the subcommittee his agency does many effective compliance reviews and places many carriers out of service. "We know from analysis of our compliance review programs that after a compliance review, carriers improve their safety operations," Hill said.

### Feds solution: More money

To increase its effectiveness and help blunt criticism, the FMCSA wants an increase in its budget, enabling it to step up the number of compliance reviews it conducts annually.

For fiscal year 2008, the FMCSA is seeking \$528 million, of which \$228 million is for motor carrier safety operations and programs and \$300 million is for motor carrier safety grants.

Hill told Congress the goals are:

- To prioritize the Motor Carrier Safety Assistance Program for buses and focus enforcement on curbside buses.
- To conduct more roadside enforcement and inspections, in cooperation with states and localities.
- To test the Comprehensive Safety Analysis 2010 program, designed as a new approach to safety fitness ratings.
- To increase efficiency within the agency.

Ninety-three percent of the FMCSA budget, or \$489 million, focuses on reducing truck and bus crashes, Hill said.

Hill's budget request for FY 2008 is nearly twice the amount of the agency's \$272 million budget in fiscal 2001.

The safety checks currently under way at the Grand Canyon involve mechanical inspection of coaches by Arizona Department of Public Safety officers and auditing of drivers by National Park Service rangers.

Drivers will be checked for compliance with Park Service permit regulations, including "commercial use authorizations," plus there will be inspections of CDLs, medical cards, log books, registration and insurance.

The inspections are being conducted on the canyon's large parking lots, and while passengers are sightseeing.

## Marathon expanding diesel production

HOUSTON — Marathon Oil Corp. is boosting its diesel fuel refining capacity, *The Wall Street Journal* reports.

Construction is beginning on a \$3.2 billion addition to Marathon's largest refinery in Garyville, La., the *Journal* said.

The project is to be completed in 2009.

While the addition would seem to mark an expansion of the U.S. supply of diesel fuel, that may not happen. Marathon believes more cars and light trucks will run on diesel, increasing demand.

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## \$10 seats offered by Coach Canada

TORONTO — The megabus.com concept of cut-rate express fares has moved to Canada ... but without the megabus name.

Coach Canada, corporate sibling of Coach USA, which introduced megabus.com in the United States last year, announced “super-low fares” between Toronto and Montreal.

One-way fares as low as \$10, plus taxes, took effect last week through the Coach Canada Website, [www.coachcanada.com](http://www.coachcanada.com).

“This is a very exciting initiative we are introducing for travel between Toronto and Montreal,” said Coach Canada President James Devlin. “This type of fare structure program has already been implemented with great success in both the UK and the USA, and now is the time to introduce it in Canada.”

The promotion applies a demand-driven pricing structure to various daily departures, with \$10 being the cheapest ticket. Seat availability will determine prices, with early shoppers getting the lowest fares.

## Motorcoach Network announces activities

MOUNT JACKSON, Va. — National Motorcoach Network’s 24th annual Invitational 100 meeting will be in July in Gettysburg, Pa., and the site of the 25th Invitational next year will be Pigeon Forge, Tenn.

This year’s invitational will be July 19-22 at the Wyndham Gettysburg Hotel. It is the first time the meeting has been in Gettysburg.

Stephen Kirchner, president of National Motorcoach Network, said Gettysburg is an appropriate location for the invitational because it consistently ranks as one of the top motorcoach destinations in the U.S. Additionally, Pennsylvania was named the “Top Motorcoach State” for 2007 in a survey by National Motorcoach Network’s *Byways* magazine.

Next year’s invitational location, Pigeon Forge, was selected as the “Top Motorcoach Destination” of 2007 by *Byways*. The network is planning a full-year celebration for its silver anniversary.

The Invitational 100 is open to up to 100 selected travel industry and associate suppliers and motorcoach charter and tour operator members of National Motorcoach Network.

Kirchner also announced that National Motorcoach Network has begun publication of an e-mail newsletter called *Update*. It will be published periodically between issues of the network’s printed quarterly newsletter, *Trends*.

## Fenway Partners completes Coach America purchase

NEW YORK — The purchase of Coach America, the nation’s largest tour-and-charter and contract bus operator, by a New York investment company has been completed.

Last November, it was announced that Fenway Partners, a middle market private equity firm, had signed an agreement to acquire

Coach America from Kohlberg & Company of Mt. Kisco, N.Y. Terms of the transaction were not disclosed.

Craig Lentzsch remains president and chief executive of Coach America.

When the deal was announced, Lentzsch said the purchase would help accelerate Coach America’s

growth operationally, financially and strategically.

Coach America operates a fleet of 2,700 vehicles, including motorcoaches; midsize, trolley and double-decker buses; vans, and other vehicles.

It operates under a variety of brand names, including CoachUSA, American Coach Lines, Gray

Line, Arrow Stage Lines, All West, Raz Transportation and Kerrville Bus. Its operations, which are focused in the West, Southwest, Pacific Coast, Southeast and South Central U.S., employ 5,000 people.

Fenway Partners has \$1.7 billion in assets under management. It owns several transportation and logistics providers.

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## Mineta talks road doom 'n gloom

WASHINGTON — Usually, politicians talk doom and gloom when they're aspiring to public office, not after they've left it.

But not former U.S. Transportation Secretary Norman Y. Mineta.

Since he retired from the USDOT last year, Mineta has been painting a calamitous and pessimistic picture of highway travel as he promotes private-sector financing of U.S. roadways and infrastructure.

During a conference here last month sponsored by private investors, Mineta referred to underfunded road construction and the increasing number of vehicles as a disaster of epic proportions.

"The traffic in the U.S. is so bad that when people get behind the wheel, a single vision grips their mind: Traffic Armageddon," said Mineta.

He contends the solution is public-private partnerships, other-

wise known as privatization — the sale or long-term leasing of highways and other infrastructure to private investors.

Mineta released several statements, particularly during the last couple of years he was at USDOT, favoring privatization.

The USDOT has even produced model draft legislation for state lawmakers to use to win authority for privatizing highways, bridges and tunnels.

## New York traffic

CONTINUED FROM PAGE 1

three-year pilot project, and we are very optimistic that, in working with state officials, we will secure hundreds of millions of dollars in federal funding for it," Bloomberg said.

The plan was immediately praised by U.S. Transportation Department Secretary Mary Peters, who called it "bold thinking."

The congestion pricing scheme was one of 16 transit initiatives the mayor suggested, including improved bus service, more ferries, a new transit-funding authority called SMART and installing more stoplight cameras.

The goal of the plan is to help the city cope with its booming population and increasing congestion and, at the same time, reduce its carbon emissions by 30 percent over the next two decades.

The American Trucking Associations issued a lengthy statement, saying the fee proposal was problematic. An ATA spokesman said the plan would increase costs for every trucking company operating in Manhattan and every individual and business in Manhattan reliant on truck shipments.

The ATA statement asserted that even in London, home of the model urban congestion pricing scheme, new reports show congestion is just 8 percent below its pre-

program levels and continues to rise — and this is after spending nearly half of the \$14 charged per vehicle for entering the city on overhead.

"The premise is that congestion pricing will give motorists better road access for a price. In many instances, however, congestion pricing does not markedly reduce congestion; it just raises revenues — or taxes. In New York, motorists would pay \$400 million for a mere 6.3 percent reduction in traffic.

"The cost is disproportionately high compared with the benefits gained. Not to mention, motorists have already paid taxes to use these roadways.

## National Interstate reports strong first-quarter results

RICHFIELD, Ohio — National Interstate Corporation, parent company of bus industry insurer National Interstate Insurance, has reported solid first-quarter financial results, reflecting both healthy growth and strong underwriting and investment gains.

Net income for the three months ended March 31, was \$10.5 million, or 54 cents per diluted share, up 20 percent from the \$8.7 million, or 45 cents per diluted share, earned in the first quarter of last year.

Gross premiums written during the first quarter of this year totaled \$120.9 million, a 10.4 percent increase over last year's \$109.5 million.

Virtually every sector of the company showed improvement during the first quarter of this year, with the biggest gains coming in its alternative risk transfer and transportation insurance com-

ponents.

National Interstate typically posts its biggest quarterly increases during the first quarter because several of its large captive insurance programs renew during the quarter.

"We are pleased to start the year with double-digit, top- and bottom-line growth," said company President and Chief Operating Officer Dave Michelson. "The growth in the transportation component is particularly noteworthy considering that this component has been relatively flat over the last three years."

Alan Spachman, company chairman and CEO, said "we experienced a solid first quarter in all regards.

"Our first-quarter performance positions us to continue meeting the growth, profitability and return on equity trends we established in recent years."

"At its core, congestion pricing is designed to change driving behavior. However if there's no change in driving behavior, there would be no benefits related to congestion and pollution mitiga-

tion," said the ATA.

Under the plan, a network of cameras would capture license plate numbers and either charge a driver's existing commuter account or generate a bill.

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