

Bus & Motorcoach NEWS

WHAT'S GOING ON IN THE BUS INDUSTRY

Dems get coaches for convention

But procedures leave bad taste

DENVER — Transportation planners for the Democratic National Convention — to be held here late this month — have wrapped up contracts for 250 motorcoaches and now have only to wait to see how their strategy plays out.

Events & Transportation Associates of Lakewood, Colo., said coaches from several local private motorcoach operators, a national carrier, and two public transit agencies will be used to shuttle the 5,000 delegates, 15,000 members of the news media and thousands of others who will be attending the four-day event, Aug. 25 to 28.

Some private operators have criticized Events & Transportation Associates' handling of the opera-



Coach America will supply 150 coaches for the Democratic National Convention.

tion, complaining they were left out of the big event or given short shrift.

But ETA owner Brian Clark says his company did all it could to notify charter companies of the convention opportunities. He said

information about the work was sent to dozens of carriers and numerous brokers from around the country shortly after ETA was awarded the transportation planning contract in February.

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Run Mike Run!

Former operator Sodrel makes new bid for Congress

JEFFERSONVILLE, Ind. — Mike Sodrel, the former Congressman and former motorcoach operator, appears to have a strategy tied in part to high fuel prices that he hopes will return him to Congress.

For the fourth consecutive election cycle, Republican Sodrel is facing off against Democratic Rep. Baron Hill, and not surprisingly gasoline prices and energy are the hot-button issues, along with tax relief and health care.

Six years ago, in their first race to represent southern Indiana in Congress, Hill topped Sodrel by 9,500 votes, 51.2 percent to 46.1 percent.

Sodrel squeezed out a win in 2004, by 1,400 votes, 49.5 percent

to 49 percent, but Hill rebounded in 2006, winning by 10,000 votes, 50 percent to 45.5 percent. A third candidate in 2006, Libertarian Eric Schansberg, who's running again this year, picked up 4.5 percent of the vote.

Sodrel, who formerly headed the Free Enterprise System, a large motorcoach operation he founded in Jeffersonville, put the spotlight on fuel prices and energy with a tour last month of the Arctic National Wildlife Refuge, or ANWR,



Mike Sodrel

in Alaska along with six other Republican congressional challengers.

The wildlife refuge is at the center of the national debate over energy policy and future drilling for oil in the U.S.

"In the short term, we must become independent of foreign sources of traditional energy," says Sodrel. "In the long term, we need to become independent of traditional energy altogether."

On his return from Alaska, Sodrel called for a major emphasis on drilling. He said that drilling will help the quality of life in Alaska and it would not have a major environmental impact. It could, he said, save Americans trillions of dollars.

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Are you paying attention to your customer service? Are operators in touch?

SAN FRANCISCO — Laura Maki wanted to hire a motorcoach to pick up and drop off her wedding party at a local hotel for the rehearsal dinner, the wedding, and sightseeing trips.

Simple enough, she thought. Talk to a few companies, get a few quotes, make a decision.

What she experienced, however, was weeks of frustration because coach companies would not return her calls or provide quotes over the phone or by e-mail. In the end, she would rent vans and ask many of her guests to drive their own vehicles.

"I did always hate that about my wedding — that I made people

drive around in a strange city," says Maki, who lives in Louisville, Ky., and is a server in a barbecue restaurant.

Is Maki's story an isolated example of bad service, or an indication of an industry that somehow has lost touch with its customers?

It depends on who you ask.

Most industry executives, when informed of Maki's tale, expressed disappointment that a potential client didn't get the help she needed.

"I don't think much of that," said Gale Ellsworth, president and CEO of Trailways Transportation System. "That's the best way to lose future business....I think it's

CONTINUED ON PAGE 6 ▶

Transits file initial reports under charter service rule

WASHINGTON D.C. — The first quarterly reporting deadline for public transit agencies that provided charter bus service under the new federal charter service rule has come and gone with 52 of the nation's 550 agencies filing reports.

Many of the transit agencies submitted reports saying they did not do any charter work or did only one or two small jobs during the April through June reporting period.

According to the FTA rule that took effect April 30, public transit agencies that provide charter service under one of four allowable exemptions are required to file detailed reports about the work within 30 days of the end of each quarter. The deadline for filing the first reports was July 30.

Those that did not do any charter work during a reporting period

are not required to file reports.

Under the new rule, transit agencies may legally provide charters if they obtain a special waiver from the Federal Transit Administration, if no private charter company is willing to handle the job, or if the charter involves transporting government officials or members of qualified human service organizations. The agencies also may lease their buses to private carriers for charters.

Among the notable reports was one filed by Rochester-Genesee Regional Transportation Authority in New York, which reported doing 16 charters in June that the transit agency said private carriers were not interested in doing. The agency received revenue of \$2,671 for the work.

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Filter manufacturers are accused of fixing prices

Upwards of 35 lawsuits have been filed across the U.S., alleging a broad conspiracy among manufacturers to fix and inflate prices of oil, air, fuel and transmission filters.

The conspiracy supposedly began in 1999 and continued into this year.

“Through meetings at industry events and elsewhere, and (through) the exchange of confidential pricing materials, defendants unlawfully agreed to the magnitude and timing of price increases,” one of the suits asserts.

Filed by automotive parts distributors, service outlets and vehicle dealers, the suits are against Champion Laboratories, Purolator Filters, Honeywell International, Wix Filtration Products, Cummins Filtration, the Donaldson Company, Baldwin Filters, Bosch, MANN + Hummel, Arvin Meritor, United Components and The Carlyle Group.

The suits, which have been filed in New Jersey, Connecticut, Illinois and Tennessee, allege “a massive conspiracy among the largest manufacturers of oil, air,

fuel and transmission filters in the aftermarket... to fix, raise, maintain or stabilize prices, rig bids, and allocate customers for filters in the United States.”

According to one suit, a confidential informant who was a senior sales executive employed by two of the companies, says the defendants conspired and agreed to coordinate prices, rig bids and allocate customers.

Former Champion manager William Burch has admitted to the conspiracy, according to the suit filed in federal court in Newark, N.J., by Central Warehouse Sales, a Scranton, Pa., filter distributor.

Burch “testified in an Illinois court proceeding that he was asked to participate in fixing prices,” according to an attorney who represents Central Warehouse.

Burch tape-recorded his conversations with other people in the industry, and copies of those tapes have been sent to the U.S. Justice Department, the attorney said. Champion sued Burch in 2006 and accused him of submitting false expense account charges, which he denied.

Coach safety crackdown targets Indiana operators

INDIANAPOLIS — The Indiana State Police and the Federal Motor Carrier Safety Administration are conducting a blitz inspection of motorcoach operators Aug. 4-16.

The focused effort, called a National Passenger Carrier Strike Force, is designed to ensure passenger carriers are operating safely and in compliance with federal regulations, according to the State Police Commercial Vehicle Enforcement Division.

The Indiana inspection team will consist of trained inspectors assigned to the Commercial Vehi-

cle Enforcement Division who have been certified by the FMCSA to conduct inspections of passenger carriers.

The team will travel throughout the state inspecting Indiana-based passenger carrier companies.

While the primary objective of the strike force will be to identify unsafe drivers and carriers and to put them out of service, the data gathered during the project will be used “to facilitate the identification of those carriers who have a history of poor performance which require follow-up intervention,” the State Police said.

Prices hiked by up to 10% by Bridgestone Firestone

NASHVILLE, Tenn. — Bridgestone Firestone North American Tire plans to raise prices by up to 10 percent on all of its bus, truck, pickup and passenger tires because of higher raw materials costs and persistently high fuel prices.

The increase is effective Sept. 1, the company said in a statement.

Bridgestone Firestone last raised prices on its commercial ve-

hicle tires by 4 percent Nov. 1, citing escalating costs for raw materials.

Last month, Michelin & Cie., the world’s second-largest tire maker, announced its second price hike of 2008 when it said that it will increase U.S. commercial vehicle tire prices as much as 8 percent because of higher costs for raw materials, energy and transportation.

Sports Museum of America opens in NYC

NEW YORK CITY — The Sports Museum of America is the newest destination in New York City.

Billed as the nation’s first-ever, all-sports experience, the museum is an interactive experience capturing America’s sports heritage.

More than 50 single-sport Halls of Fame, national governing bodies and museums from across North America are providing materials to the museum. These include the Pro Football Hall of Fame, as well as the halls of fame

for basketball, soccer, hockey, golf and 15 others.

Located in Lower Manhattan at the base of the famed “Canyon of Heroes,” the Sports Museum of America is designed to showcase “the spirit of America through sports,” including inspiring stories and sports heroes.

It also is the new permanent home of the Heisman Trophy, as well as the Billie Jean King International Women’s Sports Center, which includes the first ever women’s sports hall of fame.

“We’ve designed (the Sports Museum of America) as a truly universal sports experience and... to be America’s number one sports destination for everyone in the U.S., as well as for international visitors to our shores,” said Philip Schwalb, founder and CEO of the museum.

The museum is at 26 Broadway, next to the “Charging Bull” statute and footsteps from the Statue of Liberty Ferry. For information, go to www.sportsmuseum.com.

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THE DOCKET

Toll hikes proposed for bridges

CAMDEN, N.J. — The Delaware River Port Authority of Pennsylvania and New Jersey has proposed a 67 percent rate increase during the next two years on four toll bridges it operates.

The first increase would go into effect Sept. 14, with the additional revenue to be applied to \$1 billion in infrastructure and security improvements over the next five years.

For buses, the initial rate increase will be to \$3 per axle, up from \$2.25. In 2010, the rate will jump to \$3.75 per axle. After that there will be an inflation adjust-

ment every two years.

The four bridges operated by the authority connect Philadelphia and southern New Jersey, and an estimated 55 million vehicles cross them each year.

The money raised by the toll increase will be spent on redecking, painting and corrosion protection on the Walt Whitman Bridge; painting and corrosion protection on the Benjamin Franklin Bridge, and structural repairs and security improvements on the Commodore Barry and Betsy Ross bridges.

Critics of the plan say that with the increased cost of fuel, bridge

users have enough to contend with already. They also point out that in recent years some toll revenues have been spent on economic development projects rather than on infrastructure improvements.

John Matheussens, CEO of the agency, responded that the additional funds raised by these proposed toll increases will only be spent on necessary investments in infrastructure.

The authority's board, composed of eight commissioners each from Pennsylvania and New Jersey, will vote on the proposal later this month.

Many CDL holders skirt federal health regulations

WASHINGTON — The Government Accountability Office says that hundreds of thousands of commercial vehicle drivers with potentially serious medical conditions are being allowed to drive heavy vehicles because of loopholes and weaknesses in the federal government's program to certify drivers.

However, executives from the truck and bus industries said concerns raised by the report were overblown.

The Federal Motor Carrier Safety Administration's medical certification program also was in the cross hairs of the House Transportation and Infrastructure Committee, which held a hearing to examine the GAO report and the program's alleged failings.

In the report issued last month, the GAO said that "analysis of commercial license data from (the U.S. Department of Transportation) and medical disability data from (various federal agencies)

found that about 563,000 of such individuals had commercial driver licenses."

The report, requested by the top two Democrats on the House transportation committee, acknowledged that "not all serious medical conditions interfere with the safe operation of a commercial vehicle."

It's "impossible to determine from data matching and mining alone the extent to which commercial drivers have medical conditions that preclude them from safely driving a commercial vehicle," GAO said.

Rep. James Oberstar (D-Minn.), the committee chairman, citing the report and investigations done by his staff, blasted the agency for not putting enough focus on safety and for operating what he felt was a deficient medical program.

"There are simply too many defects in FMCSA's medical certification program to adequately protect the traveling public," he said at the hearing.

The GAO's report gave examples of drivers who had forged medical certification, obtained certification fraudulently or been improperly examined by a doctor.

FMCSA Administrator John Hill defended the agency's activities, saying in a statement that his agency was "aggressively pursuing a number of program initiatives to support and strengthen our medical program."

Hill said FMCSA expected to publish rules to create a registry of certified doctors for drivers' exams and linking the CDL with the medical certificate "in the next few months."

Many truck industry observers said the GAO report added little to the discussion about FMCSA's medical program.

It also was pointed out that the FMCSA's study of crashes involving large trucks found that when the truck was at fault, sleep or illness was cited 3 percent of the time, while driver inattention, aggressive driving and excessive speed accounted for 77 percent of crashes.

Still, advocacy groups said FMCSA was to blame for the allegedly lax standards.

Oregon to enforce 'weight receipt'

SALEM, Ore. — Starting Jan. 1, the Oregon Motor Carrier Transportation Division will again be enforcing a requirement that operators of large buses and trucks must carry an Oregon weight-distance tax cab card — called the weight receipt — in their vehicles.

The requirement had been suspended for a time since it conflicted with federal law, but amend-

ments in the SAFETEA-LU Technical Corrections Act, signed into law in June, allow Oregon to re-establish its rule.

Many companies never stopped carrying the receipt, since it was necessary to buy diesel fuel in Oregon tax-free at the pump. Oregon charges heavy vehicles a weight-mile tax rather than a fuel tax.

The state also announced it

will be enforcing the requirements of the Unified Carrier Registration Agreement as a part of motor carrier enforcement actions or vehicle inspections. It is doing this despite the fact Oregon is not participating in the UCRA.

The fine for failing to produce a weight receipt or for operating in Oregon without having paid UCRA fees will be \$427.



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Iowa launches crackdown on 'contractors'

DES MOINES, Iowa — Gov. Chet Culver has signed an executive order to explore employee misclassification among Iowa companies attempting to cut employee and state benefits to illegally save millions of dollars each year.

Culver's action creates a five-member Independent Contractor Reform Task Force to study the practice of classifying employees as "independent contractors" to avoid paying into Iowa's unemployment insurance, worker compensation insurance, and temporary disability insurance.

The order makes Iowa the latest state to establish a task force to study employee misclassification. In New York, a task force estimated that at least 10 percent of employers audited practiced employee misclassification, costing the state more than \$550 million in the construction industry alone.

IRS says 'tool plans' may be tax avoidance sham

WASHINGTON — The Internal Revenue Service has knocked the props out from under so-called "employee tool and equipment plans" that allow employers, including motorcoach companies, to reimburse employees for the cost of purchasing job-related tools and equipment. Such plans typically are used for mechanics.

The IRS published what is called a Coordinated Issue Paper that concludes: "As the [IRS] has seen them to date, Employee Tool

and Equipment Plans..., under which amounts are paid to employees for the use of their tools and equipment, do not meet the accountable plan requirements.

"Therefore, the amounts... must be included in the employee's gross income, must be reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of federal employment taxes," the IRS said.

In January, IRS announced it

was forming a team to look into such plans, which have been marketed as a way for employers to reimburse the expenses their employees, such as mechanics, incur in purchasing tools and equipment for the job.

The IRS suspected that such plans (1) lacked substantiation that the amounts expended were solely for a certain employer, and (2) involved a re-characterization of existing wages solely to get tax savings.

The paper concludes that these suspicions were justified, at least with respect to the sorts of plans that have been marketed to businesses recently.

While the IRS does not entirely rule out the possibility that a properly designed tool plan might qualify expenses for a deduction, it emphasizes that such a plan would have to follow carefully all the necessary rules and not be instituted just to let an employer escape taxation on the wages it pays.

School bus seatbelt rule expected early in '09

A proposed federal rule changing seatbelt requirements for school buses has drawn more than 120 comments, with most of them favoring seatbelts on school buses.

Terrance Schiavone, southeastern regional administrator for the National Highway Traffic Safety Administration, provided an update on the federal rulemaking at the Southeastern States Pupil Transportation Conference in Atlanta last month. Schiavone said

the NHTSA plans to issue its final rule on seatbelt requirements for school buses early next year. The agency published its Notice of Proposed Rulemaking recommending changes to enhance school bus passenger crash protection last year.

Key aspects of the proposed rule are to require lap-shoulder belts on small school buses, provide guidance for voluntary installation of lap-shoulder belts on large buses, and raise the mini-

mum seat-back height from 20 to 24 inches on all new school buses.

Schiavone said the proposed rule drew more than 120 comments from the general public, school transportation providers, bus and seat belt manufacturers, industry associations and other groups.

Among those who commented from the general public, 75 percent favored installation of seat belts on school buses. School transportation providers and man-

ufacturers generally supported the proposal to develop voluntary standards for lap-shoulder belts on large school buses.

The NHTSA currently is testing new lap-shoulder-belt-equipped school bus seats made by SafeGuard and M2K. The testing is scheduled to be completed this fall.

After the crash tests and an analysis of the comments, the final rule will be issued. That is expected to happen by next spring.



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Customer service

CONTINUED FROM PAGE 1

rude and a great way to lose business.”

“That frustrates me,” added Steve Klika. He’s president of International Motor Coach Group Inc.

“(Customers) have got to struggle through the system to get through to a human being. The first person is the one they connect with. Your level of frustration gets so high because the human factor is not there.

“You have fewer owners who have personal engagement, (and) a newer generation (focused) on technology and efficiency. People in sales can’t shoot down calls.... That is so sad. I just cringe when I hear that.

“It’s just that the motorcoach system has broken down. There’s probably a lot more out there than we would like to think. Owners may think it’s going well, but if they’re not hearing about it, sales is in a total disconnect.”

On being responsive

Many factors come into play when a potential client calls, say industry executives. Is it a busy season? Are there special events that weekend? But: “It’s still no excuse that people didn’t call (her back),” says Ellsworth.

You can’t commit a year out, or even eight months out, but “what they should be doing is giving an estimate,” insists Ellsworth. “What

we have to encourage the operator to do is to give the client an estimate for today.”

The whole story?

One official wondered aloud if Maki gave enough information for a quote.

“I think the specificity is important,” said Victor Parra, president and CEO of the United Motorcoach Association, of the information given by Maki. “It’s surprising to me they wouldn’t give her quotes. (But) the customer needs to look at the value of the sale and not the price of the sale.”

Brian Crow, president and CEO of Motor Coach Canada, points out that bus service isn’t a commodity; it can’t be sold like bushels of wheat. There are so many factors in deciding if a company is the right choice. Prices in the motorcoach industry are more complex than the price of gasoline at the pump.

“It’s many factors. Were you safe on the trip; were your expectations met, if not exceeded? Not getting a telephone call back, that’s not meeting her expectations,” says Crow.

“You’re always going to get people who want to get a price; they’re going to try to get the lowest price, but if you get engaged in the community, price isn’t a big issue. It’s: ‘I know them,’” says Klika.

Klika points out that paying for a bus is so much more than the best price you can get. You have to

look at safety, the human connection, high standards in general. “Am I giving up safety, or am I giving up peanuts on the bus?”

“I’m very disappointed that she couldn’t get people to even respond. The quote is a different issue,” says Crow, who also heads Ontario Motor Coach Association. Companies may say: “I’d love your business but I need more information,” or the company is booked. “I guess the problem is that if the bus companies didn’t even respond to the call, they couldn’t even address her questions.” But he wondered about the nature of the exchange — why didn’t the companies respond?

Still, he stressed he didn’t want to give the impression the industry couldn’t improve.

Defining customer service

So, what is customer service?

It’s multifaceted, says Ellsworth. “Customer service is everything from how you reply to the request, to how you treat them during the journey, to how you treat them afterwards. It’s public relations. Period.”

“In general, I would say if the customer says at the end of the day, ‘That was great,’ then that’s customer service,” says Crow.

From time to time, the industry has looked at different ways to self-monitor its customers service — a star system or a quality standard program.

“It concerns me for the industry, when we don’t have our own

No charges in fatal Canadian bus crash

GRAND PRAIRIE, Alberta — No charges will be filed in connection with a highly publicized Greyhound bus crash that killed three passengers, including a mother and her infant child, near here in November.

The crash generated enormous attention across Canada because of the tragic death of the young mother and her 4½-month-old son, along with a 72-year-old

woman who was on her way home from cancer treatments in Edmonton.

Royal Canadian Mounted Police Constable Scott Hagarty said an investigation concluded that road and weather conditions caused the crash.

The Greyhound coach skidded on an icy patch of highway on the morning of Nov. 6, and rolled into a ditch.

systems in place to deal with (cases like Maki),” says Klika.

But such programs would have to address complex issues in the industry.

Steve Kirchner, president of National Motorcoach Network, wonders if an already highly regulated industry is going to embrace more regulation.

“I don’t think I’m opposed to it, I just don’t see how it works,” says Crow. “You can have a 20-year-old coach that’s in top condition.... What about customer service? How do you rate the company, the sales people, the vehicle... How could (a rating system) be set up?”

A rating system would be difficult to establish, agrees Parra. “You need to look at everything about the company — is it financially sound, customer service, the safety record.” Also, the equipment is not all the same — coaches may have a galley or plush seats,

for example, all deserving of a higher rating.

“This has been one of those projects we’d like to get to, but our plate is pretty full. It’s not really in the works right now, but it’s something we’d like to look at,” says Parra.

What to do?

So what should companies do to offer better initial customer service?

Word of mouth and leads are the best ways to get business, say executives.

Trailways has a new employee on board who works with drivers, agents and other employees on how to improve public relations. And the system also has a customer-service manual for operators that guides employees through such issues as handling phone calls.

“You have to think of the motorcoach industry like the hospitality industry, and if you don’t get word of mouth back, then you’re going to lose business in the long run,” says Ellsworth.

Mark Greer, owner of Bus-Rates.com, stresses that the phone and Internet are critical to today’s businesses. “Inbound calls are more productive than returning calls in terms of a sales call,” he says. When the customers call, they’re ready, in a buying mode.

He stressed that promptly responding to calls and e-mails is an easy way to make business. He has found that professionally written e-mails, answered quickly, get the job.

“I always tell bus companies that if you respond with just a price, you are throwing away your lead,” says Greer.

“Our members (need to) re-engage back into our communities the way their dad, granddads and great-granddads did,” says Klika. “The general public doesn’t have a strong relationship with the operators the way they used to.

“If we don’t admit to the challenges we deal with, how do we fix it?”

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The injury 'gray areas' of workers compensation

By Christopher J. Boggs

Injury suffered by an employee traveling to or from work, or even while going to and returning from lunch, is generally not compensable by workers compensation.

Known as the coming-and-going rule, the logic for this rule is that the employee is not furthering the employer's business or serving the needs of the business during the travel.

The employee is serving his or her own interest and furthering his or her own cause during the course of travel; namely going to an employment situation where a paycheck is delivered for services rendered, going to lunch, or going home.

The employer is not the proximate cause of the individual being on the road; the employee has not arrived at a place where services are rendered to the employer so this injury suffered is not compensable.

Exceptions do exist to the coming-and-going rule.

Any time travel is an integral part of employment, or such travel furthers the employer's business, the coming-and-going rule is superseded, making injury compensable. Travel considered integral to the employment includes travel between jobsites and travel to meet clients.

Other "special hazard" exceptions to the coming-and-going rule include:

1. Employer-furnished transportation. If the employer undertakes to provide group transportation to and from the office or job site, injury suffered during the trip is compensable. An off-beat example, especially in areas where there is little snow, is the small business owner that picks up his/her employees on snowy days to assure the office is staffed and, altruistically, to keep the employees from having to drive. Employee injury during this travel is compensable under workers compensation.

2. The employee performs a beneficial errand for the employer. Going to the bank, the post office or on any other errand to further the business of the employer qualifies as a beneficial errand. If the errand requires the employee to deviate from his or her nor-

mal route, any injury suffered from the time the employee leaves the premises until he or she returns to their normal route is likely compensable. Errands taking the employee outside his or her normal ways and means are considered "for the benefit" of the employer making injury compensable.

3. Injury suffered by an "on call" employee. Employees who must be ready to respond when "the call" comes are considered to be within the course and scope of employment immediately upon responding to the call. The drive is considered to be part of furthering the employer's business, making injury compensable.

4. If the employer reimburses the employee for transportation costs, the trip is considered business related and for the benefit of the employer. Injury suffered is compensable unless abandonment of employment is proven.

5. Injury suffered once the employee enters the parking lot. Courts ascribe a reasonable time for employees to reach their assigned work station. During this time, the employee is considered to be in the course and scope of employment. "The clock" begins to tick (so to speak) when the employee arrives in the parking lot.

The reverse is true, the employee is considered to be within course and scope until they leave the parking lot. Injury suffered prior to and after leaving the parking lot is not covered (unless one of the other exceptions apply). States apply different interpretations of the breadth of this special exception.

Play Ball! or "forced fun"

Extending the "course and scope of employment" doctrine to recreational activities combines questions of fact decided by juries and questions of law decided by the court.

Employees injured while participating in recreational activities while on the employer's premises or at the employer's "direction" may qualify for workers compensation coverage. Four tests are applied to the facts surrounding the injury to decide compensability:

1. Did the accident occur on the employer's premises? An affirmative response does

not guarantee compensability. An employee injured while engaged in a pick-up basketball game on the employer's premises will not be eligible for workers compensation because the employer is not directly benefiting from the activity nor is the employer directing the activity. Making recreational facilities available does not make the employer liable. Nor is it required that the injury occur on the employer's premises to be compensable.

2. Was the event or team organized by the employer? Company-organized softball teams competing in "industrial leagues" may qualify under this provision. However, several employees deciding to form a team is wholly different from a team organized by the employer, encouraging "good" ball players to participate.

3. Did the employer pay for the activity? It is unclear if this refers to the total cost or a subsidy on behalf of the team. For example, the league charges \$50 from every player, but the company pays \$40 on behalf of each player. While the activity is not fully paid for by the employer, it could be viewed as employer-paid or sponsored (and participation encouraged).

4. Did the employer benefit? Advertising in the community (team shirts), improved employee morale, or better team work. An employer can "benefit" from these activities in more ways than tangible output.

Employee picnics, team building outings and Christmas dinners are a few examples of other types of recreational and social activities that may lead to compensable injuries. State statutes should be reviewed regarding the issue of recreational activities. Some states have adopted relative pro-employer statutes to limit compensability to activities in which employees are "expected" to participate.

Horseplay/practical jokes

Court and legislative attitudes have shifted regarding the compensability of injury suffered as a result of horseplay. Historically courts held that horseplay was such a deviation from the course and scope of employment as to qualify as an abandonment of duty. Injury suffered outside the "course and

scope" is not eligible for workers compensation protection; injured employees, even the nonparticipating (innocent) party, were routinely denied coverage.

Prevailing opinion now centers on and applies a treatise known as "Larson's Workers Compensation Law" (Larson). Larson applies a four-part test of the facts surrounding the horseplay-associated injury to establish compensability. The four tests of fact are:

1. The extent and seriousness of the deviation. Was the horseplay "reasonable" or did the parties go so far out of the way as to constitute unreasonable deviation. In one case, three men wrapped another employee from his ankles to his shoulders in duct tape. The injured employee was allowed to forego the sole remedy offered by workers compensation and sue the participants in tort as the activities were considered too far outside "normal."

2. The completeness of the deviation. Was the horseplay co-mingled with the regular performance of duties or did it involve (and require) an abandonment of duty?

3. The extent to which the practice of horseplay has become an accepted part of the employment. If horseplay, practical jokes and hazing are common and not discouraged or forbidden by the employer, then it is reasonably judged to be part of normal employment and within course and scope.

4. The extent to which the nature of employment may be expected to include some horseplay. Some industries lend themselves to horseplay; those working in those industries should expect to be exposed to it. As such, it is a normal part of employment and injury may be compensable.

According to Larson itself, it is not required that all four tests be satisfied for an injury to be compensable. "It is now clearly established that the nonparticipating victim of horseplay may recover compensation," according to Lawson.

Christopher J. Boggs, CPCU, ARM, ALCM, LPCS, AAI, APA, is a senior risk analyst for the insurance firm of McNeary Inc., in Charlotte, N.C. He teaches insurance on a contract basis.

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Dems convention

CONTINUED FROM PAGE 1

After the new federal charter service rules took effect April 30, he said a second round of notices was sent to companies listed on the Federal Transit Administration Website list of carriers that said they were willing to take on work in the Denver area.

Most of the coaches and drivers that will be used to handle shuttles between hotels throughout the city and the Pepsi Center and other convention venues, including Invesco Field where 76,000 people are expected to hear Sen. Barack Obama deliver his acceptance speech as the party's nominee for the presidency, will be provided by Coach America.

Coach America said it will move about 150 motorcoaches to Denver from companies in its west and south-central regions, according to spokesman Tim Moline. The remainder will come from Arrow Stage Lines, Colorado Charter and Ramblin Express, all companies with Denver-area operations.

Clark said ETA was forced to bring on some buses — he said he

was not sure of the exact number — from two public transit agencies, the Regional Transportation District in Denver and Roaring Forks Transit in Aspen because he was unable to fill the need for a required number of ADA-equipped buses.

A waiver from the federal charter service rule was obtained from the FTA to contract with the public

transit agencies for the buses that are capable of transporting people who are confined to wheelchairs.

“One of our biggest challenges was filling the need for buses that could move people around who were in wheelchairs,” he said. “We looked around the country to try to service them and there were not enough (private coaches) so we contacted the two transits for a small number of buses and we received a waiver from the FTA to do so.”

He said while the buses are coming from transit agencies, they will be driven by private charter drivers obtained from area companies.

Clark said a second challenge was meeting a mandate by the Democratic National Committee that the coaches used in the operation use biodiesel fuel.

“In an effort to make this the greenest political convention ever, we tried to get as many coaches as possible that can run on B20 fuel,” he said. “We had a hard time with that, too, but ended up with only a few that cannot use biodiesel.”

He said the city has an ample supply of biodiesel available and he does not foresee any problems keeping the coaches on the road with the fuel.

Several private coach operators were critical of ETA's handling of negotiations and arrangements, and expressed disappointed with the way the operation came down.

Jake Byrd of Charter of the Rockies in Denver said he was an early bidder, but never got a response. “They never even sent a letter saying ‘Thanks, but no thanks,’” he said. “And I heard that other companies got the same treatment.”

Roger Riggert of Arrow Stage Lines, one of the companies that will be providing coaches for the convention, said his company had many more buses available, but was limited to 10. “We could have come up with three or four times that many but they said they were not interested,” he said.

Meantime, Andrew Ballard, the head of transportation for the convention, said he's hopeful the plan that has been put in place will not only work well but become a standard for other conventions.

“Due to the tremendous head start on our planning, we've now had more than a year to not only build a solid logistical foundation for our convention, but to also establish and strengthen our relationships with the local community,” he said. “From a transportation perspective, I want this convention to be the new yardstick to measure future conventions by.”

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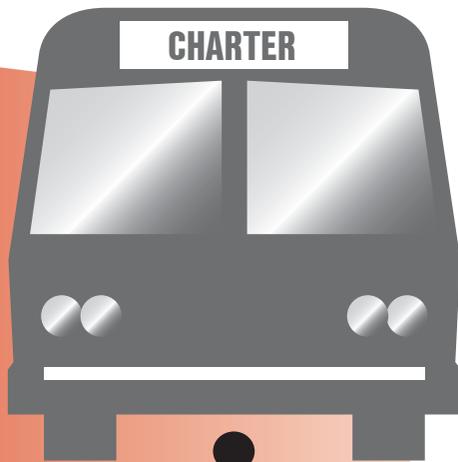
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Greyhound gains continued during fiscal 1st quarter

ABERDEEN, Scotland — FirstGroup, parent company of Greyhound Lines, said Greyhound experienced solid revenue growth during the three months ended June 30 — the first quarter of its fiscal year.

FirstGroup had announced in May it had “reversed the declining revenue trend we inherited when we acquired (Greyhound) in October.” (See June 1 *Bus & Motorcoach News*.)

“We are delighted to deliver like-for-like revenue growth of 4.2 percent during the first quarter of this year, a trend that accelerated during June,” FirstGroup told its shareholders at its annual meeting last month. “We continue to implement our plans to increase revenue, to reduce costs and to grow the reach of Greyhound’s services.

“BoltBus, our innovative low-cost, high-quality intercity coach service, operating between key cities on the (U.S.) East Coast, has continued to grow.”

‘Eco-friendly’ fabric now available

LAFRANCE, S.C. — The “greening” of the motorcoach industry, which largely has focused on reduced-emissions engines, cleaner-burning fuel and higher energy efficiency, has a new “eco-friendly” attribute — recycled seating fabric.

LaFrance Industries, which calls itself the only U.S. producer of plush fabrics for bus and motorcoach seats and interiors, has announced development of the Ritz Repreve® fabric collection.

According to Joe Brinkmeyer, sales executive for LaFrance, the Ritz Repreve is the sole seating

fabric that is both made from recycled materials and specifically designed for motorcoach, shuttle bus, and transit bus seat applications.

LaFrance’s yarn supplier, UNIFI Inc. of Greensboro, N.C., worked with Ken Archer, product development manager at LaFrance, and Danny Grant, a vice president of LaFrance, to develop a fabric collection that is produced with 100 percent recycled materials within an energy efficient jacquard weaving system.

LaFrance says both Repreve yarns and fabrics have been independently certified by a leading

auditor for environmental content and practices to verify the claim of being 100 percent recycled.

According to Grant, the Repreve fabric is lighter, stronger and more durable than similar types of transportation fabrics.

Trans-Bridge Lines of Bethlehem, Pa., is the first motorcoach operator to use the Repreve fabric. It had the Amaya seats in two new MCI D4505 coaches upholstered using the recycled material.

“Our customers notice the seats and the material,” said Tom JeBran of Trans-Bridge. “People are talking about them.”

iTransit opens Orlando repair center

ORLANDO, Fla. — A subsidiary of Gameday Management Group, iTransit Inc., has opened a collision and refurbishment center for motorcoaches and motorhomes in Orlando.

“We are excited to offer this easy, full-service center to the Orlando area. With our years of experience, customers can rely on us to provide excellent, expert service for any of their needs,” said Char-

lie Rydzewski, iTransit’s general manager for collision and repair work.

Rydzewski spent more than 20 years with ABC Bus Companies and Manheim Auto before joining iTransit.

In addition to operating the repair facility, iTransit plans to distribute a new-to-the-market, 25-foot, rear-engine, low-floor paratransit shuttle bus.

Also, working with Gameday Management Group and sister company Click and Park, iTransit plans to offer a wide range of event management and bus procurement services.

Gameday Management is best known for its event transportation management.

iTransit is at 1424 West Anderson St. in Orlando; phone (407) 648-8737.

Calendar

AUGUST 2008

14-17 National Association of Motorcoach Operators, Doubletree Hotel Houston Intercontinental, Houston. Info: Go to www.namocoaches.org, or e-mail jjcharters@aol.com.

24-28 Motorcoach Association of South Carolina Annual Meeting & Marketplace, Radisson Hotel Columbia & Conference Center, Columbia, S.C. Info: www.scmotorcoach.org.

27-29 Hawaii Transportation Association Annual Leadership Conference, Hawaii Prince Hotel Waikiki, Honolulu. Info: Go to www.htahawaii.org.

SEPTEMBER 2008

12-15 Virginia Motorcoach Association Annual Convention, Gaylord National Resort Convention Center, National Harbor, Md. Info: Go to www.vamotorcoach.com.

16-17 Buscon, Chicago, Ill. Info: www.busconexpo.com.

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Lots to consider when going after contract business

By Dave Millhouser

“We lose a little on each...BUT we make it up on volume,” is an old joke that may still have legs.

Many coach operators have looked at long-term transportation contracts as a way of dealing with the boom-and-bust nature of the charter-and-tour business.

The rationale is that even “breaking even” on contract work, performed when equipment would normally be idle, covers some fixed overhead. This makes your regular work more profitable, and keeps valuable people and equipment working, during traditionally slow times.

It’s a great idea, wildly successful for some. But, if it was easy, everyone would do it. Like so much of business, with opportunity comes risk.

Contracts come in many sizes and shapes, including casino runs, daily commuter service, school athletic work, corporate shuttles, and a bunch I haven’t thought of.

Heck, many companies have invented their own contract services, and sold them to customers

(construction workers transported from a parking lot to work sites, employee shuttles between locations, and so on).

When you’re deciding if you will “make it up on volume” here are a few things to consider:

- Know your costs (don’t assume everything will go smoothly). Many contracts go to the lowest bidder, and you may hurt yourself if you miscalculate. A lot of folks use “wishful thinking” as a cost basis. There can be valid reasons for working below cost but, if you do that, be honest with yourself. If you want the business too badly (we all do occasionally), with a contract the pain can last a long time.
- How does it fit with what you’re doing now, and does your company have the skills to squeeze out all the benefits? For example, a daily commute leaves your buses free for weekend and evening charters, as well as daytime transfers or sightseeing. Terrific if your operations and sales folks know how to squish it together.
- Does your fleet and workforce fit the job? If not, you’re

going to have to train people and buy buses. It may be worth it but do the calculation. How hard is the contract service going to work your coaches? Will they be loafing? Or ground into dust?

- Who owns the equipment? It’s great if you can operate the customer’s coaches but are you then allowed to use them during times that help you? Contracts with government entities generally spell this out, but you’ve got to understand the terms.
- If you’re buying the buses, how long is the contract? What are you going to do with them when the contract ends? (And, how much will they REALLY be worth?)
- Who pays for the fuel? What happens when it goes up? ’nuff said.
- What are the startup costs? In addition to the obvious, like equipment, hiring drivers and regulatory details, there’s almost always a lag in payment. You do all this “stuff,” begin the work and then have to wait for your money. Make sure you know the schedule and can make the cash flow work.
- How reliable is the contract,

and under what circumstances can it be altered or cancelled? How badly will you be hurt if it does end badly? If a contract is iffy, or cheap, you may benefit by letting a competitor have it. He or she can take the risk and tie up resources, while you “do your thing.”

Everyone I asked about contract work was on the same page. If you want this type of work, be active in your community. You’ll hear about opportunities, and get advice from the customer, if you’re seen as involved.

Convince the customer you’re his or her best value, and you may win without being the lowest bidder. (“The other guy is based 100 miles away; you have MY home phone number.” You’re already doing it with other customers.)

Know the process, study it thoroughly, so when you offer a bid it fits the customer’s requirements AND desires.

It’s critical that once you’ve won any contract you continue to treat the customer, well, like a customer. In many cases these arrangements become profitable in the long term, as they are either re-

newed or re-bid on a favorable basis because the contractor has done a good job.

You’ve seen it when you’ve tried to take the work from someone else, so now that you’re in the driver’s seat (another pesky bus pun), treat your customer as if they had a choice. In the long term they do.

Bus lines have been stunned when they’ve lost contracts they’d had “forever” and took for granted.

And DON’T do what a now defunct bus line once did: Not only did the owner break contract rules by using his customer’s bus on a 1,000-mile charter, his driver got a bunch of parking tickets. Since the bus was registered in his customer’s name, guess who the parking tickets were mailed to?

Dave Millhouser is a bus industry marketing consultant and freelance writer. Contact him at: dave_millhouser@hotmail.com.



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Charter reports

CONTINUED FROM PAGE 1

Indianapolis Public Transportation reporting using an FTA waiver to run shuttles between the airport and downtown and the Indianapolis Motor Speedway for the Indianapolis 500 auto race. The agency reported picking up \$128,000 in revenue for the service.

The Lane Transit District in Oregon obtained an FTA waiver to handle shuttle work for the seven-day Olympic trials in Eugene and collected \$55,440 for the work.

In Georgia, the Metropolitan Atlanta Rapid Transit Authority ran 63 charters, most of them short trips for human service agencies, which are exempt from the charter rule. Revenue for the work totaled \$3,100. The deadline for the next reporting period is Oct. 30.

Because the Federal Transit Administration has made it clear it's depending on private operators to police the accuracy of the reports submitted by transit agencies, operators are urged to review the reports filed by agencies in their areas.

They should check to make sure a transit agency is accurate when it says it could not find willing and able operators to handle a charter. The FTA Website contains information about filing complaints.

The quarterly reports can be found on the FTA Website by going to <http://ftateamweb.fta.dot.gov/fta-flash2b.html> and clicking on "team reports" and then "charter report."

The transit systems are listed only by their FTA ID numbers and not by name so it will take patient searching to find a particular agency.

Sordel run

CONTINUED FROM PAGE 1

Sodrel estimates there could be at least 16-billion barrels of oil there, but he also says that conservation is part of the energy equation.

"It's about burning American oil," Sodrel said. "It's about improving our balance of trade. It's about improving our national security. It's about spending our money with other Americans," says Sodrel.

A spokesperson for Hill's of-

fice said the congressman wants to focus on drilling that can be done more quickly in places where there are already leases. Hill said that "contrary to recent sound bites, this Democratic Congress is supportive of drilling."

Early this month, Sodrel lashed out at the Democratic-controlled Congress for taking a summer break without having voted on legislation to lessen the nation's dependence on foreign oil.

"When I was running my business, I never took a vacation while there was critical work to be done," Sodrel said. "Congressman Hill voted twice to adjourn and take a five-week-long break while Hoosiers are suffering with high gas prices. I urge Speaker (Nancy) Pelosi to call an emergency session of Congress and schedule a vote on expanding America's energy supply."

Rick Thielen, owner of Thielen Bus Lines in Redwood Falls, Minn., is among motorcoach operators who would like to send Sodrel back to Congress.

"I just felt that this is an opportunity for our industry to get direct representation in Congress, and we really don't want to miss this chance," said Thielen. "I have already donated \$350 to his campaign and hopefully other operators will help in this effort."

Hill reported recently he had raised \$300,000 in the second quarter of this year, giving him a total of \$1.2 million on hand. Sodrel has reported his cash level to be about \$380,000, nearly \$1 million less than Hill.

Thielen stresses the importance of getting behind Sodrel's campaign:

"How often do we get the opportunity to elect someone from our own motorcoach fraternity? I do feel strongly that it would be a definite advantage to have someone from our industry in Congress. I also feel strongly that we as motorcoach operators need to support and elect those candidates who have a stake in our business."

Sodrel said the only solution to the energy crisis coming from congressional leaders "is to file lawsuits, tax, investigate or regulate — none of which will increase the supply or lower the price of gas."

Sodrel suggested that prizes be awarded to Americans who come up with new machines and processes that "let us do more with less energy."

"If we incentivize the American people to become more efficient and creative, open up areas of known oil and gas reserves, and get out of the way, the American people can solve this problem."

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NTA, Destination Marketing Assn. to partner, NTA tour operator membership hits new high

LAS VEGAS — The National Tour Association and the Destination Marketing Association International announced a new partnership during the 94th annual convention of the marketing association here.

Under the collaborative agreement, the associations will work together to create enhanced educational, marketing and business opportunities for their members and have an increased presence at each other's conventions.

"NTA has been focused on reaching out to sister associations as part of (its) efforts to provide value for its members by advancing the packaged travel industry," said NTA Chairman and CEO Bob Hoelscher.

"Together, NTA and DMAI will help destination marketing organizations gain access to tour operator product and provide a quality visitor experience for the leisure traveler," Hoelscher added.

The agreement enables the two organizations to develop programs emphasizing leisure travel to assist DMOs in reaching this market. The agreement will focus on collaboration in the areas of education and professional development.

Meanwhile, NTA has announced that more than 100 tour operators joined the association during the first half of this year, bringing NTA's tour operator membership to nearly 700. The gains this year outpace growth for all of the association's history.

Travel groups oppose 'exit rule'

WASHINGTON — A large group of travel and tourism trade associations have lined up to fight the proposed federal "exit rule" that would require air and cruise lines to pay for the fingerprinting of foreign visitors exiting the U.S.

Twenty associations, ranging from the Student Youth Travel Association, to the National Tour Association, to the American Society of Travel Agents, have joined to combat the proposed rule.

The groups say the proposal by

National Interstate profits drop

RICHFIELD, Ohio, — Losses resulting from two major crashes sent earnings sharply lower during the second quarter and first half of this year at National Interstate Corporation, parent company of the bus industry's No. 2 insurer, National Interstate Insurance Co.

National Interstate Corp. reported net income of \$4.4 million, or 23 cents per fully diluted share, for the three months ended June 30, compared to second-quarter 2007 net income of \$11.9 million, or 61 cents per diluted share.

For the first half of this year, National Interstate earned \$13.9 million, or 72 cents per share diluted, compared to \$22.3 million, or \$1.15 per share diluted, for six months ended June 30, 2007.

The earnings decline came despite a big rise in premium income.

Gross premiums written during the second quarter of this year totaled \$101.5 million, an increase of nearly 24 percent compared to

the U.S. Department of Homeland Security would impose a \$12.5 billion to \$14 billion cost on the travel industry and create havoc with processing passengers.

the \$81.9 million in premiums written during the second quarter of last year.

For the first six months of this year, gross premiums written amounted to \$234.8 million, or 15.8 percent above the \$202.8 million reported a year ago.

The premium growth during this year's second quarter was the strongest at National Interstate since the fourth quarter of 2006. The company said all segments of its business, except the Hawaiian and Alaskan units, grew during the most recent quarter and first half of this year.

The company's revenue rise was primarily attributed to new programs and favorable renewal rates in its alternative risk-transfer business; the addition of new customers in its transportation sector, and growth of new products in its specialty personal lines business.

But it was the big losses resulting from crashes that took a huge

The groups are urging Congress to take steps to prevent the department from "pursuing this unworkable proposal."

They argue that immigration

chink out of '08 earnings.

"We have experienced an unusual financial impact from large claims during the first six months of 2008," said company President and CEO Dave Michelson.

"Claims that reach policy limits on our higher liability exposures do not occur often, and we have had two in the first half of the year. Our disciplined risk selection criteria and underwriting approach have not changed. Most of the large claims we have experienced in 2008 involved customers that we have insured for many years and we have no reason to expect this pattern to continue," Michelson noted.

Total assets at National Interstate climbed above \$1 billion for the first time during this year's second quarter.

National Interstate declared a 6-cents-per-share dividend, payable Sept. 12 to stockholders of record Aug. 29.

and border control are government responsibilities, not private sector functions, and that managing the Exit Rule program is the government's job.



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