

Bus & Motorcoach NEWS

WHAT'S GOING ON IN THE BUS INDUSTRY

FMCSA struggles to keep rogue operators off roads

On Jan. 1, the Federal Motor Carrier Safety Administration will be 10 years old.

Its annual budget tops \$500 million annually.

It employs more than 1,000 people.

In fiscal 2007 and 2008, it ordered roughly 220 motorcoach companies out of service and levied fines against many of them.

Yet, despite the more than \$1

billion the agency received during those two years and the 1,000+ employees, the agency was unable to keep many of those rogue companies from reincarnating or morphing into "new" companies, evading the out-of-service orders and fines, rolling back onto U.S. highways, and engaging in the same old unsafe business practices.

In other words, during the decade the FMCSA has been in busi-

ness it has failed to develop the registration or enforcement policies necessary to ferret out fly-by-night operators and keep them off the road — even though the universe of companies it needed to keep tabs on was barely more than 100 a year.

That, essentially, is the bottom-line takeaway from a new report by the U.S. General Accountability Office, the investigative arm of Congress.

Investigators for the GAO launched their probe of FMCSA efforts to corral reincarnating coach operators in response to a request by three members of the U.S. House, including the chairman of the House Committee on Transportation and Infrastructure, James Oberstar, D-Minn., and the chairman of the House Subcommittee on Highways and Transit, Peter DeFazio, D-Ore.

The third member requesting the study was Eddie Bernice Johnson, D-Texas.

Beginning in November, the GAO spent nine months trying to determine how many "new" companies registered by the FMCSA in fiscal 2007 and 2008 were — for all intents and purposes — the same operators the agency previously had ordered out of service.

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Industry fuel-tax exemption under attack in Washington

WASHINGTON — The powerful American Trucking Association wants Congress to reconsider the federal fuel tax exemption granted to over-the-road bus operators.

The United Motorcoach and American Bus associations are gearing up for a likely battle over the issue.

The ATA, the largest trade group representing the nation's trucking industry, reiterated its interest in seeing the tax exemption for intercity buses disappear in testimony before Congress last month.

Barbara Windsor, who is president and CEO of Hahn Transportation in New Market, Md., and second vice chair of the ATA, told

the House Subcommittee on Select Revenue Measures of the House Committee on Ways and Means that all existing federal fuel tax exemptions and refunds should be carefully reviewed as part of the process of reauthorizing federal highway and public transportation legislation.

"Today, these special carve-outs for off-road use, government fleets, intercity buses and others are estimated to cost the (federal) Highway Trust Fund \$1 billion annually," Windsor told the House subcommittee.

She also urged the committee to consider doing away with federal excise taxes on tires and new trucks, and instead charge an

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Driver Nightmare

More coach crashes result in criminal charges

Motorcoach drivers who walk away from serious accidents could be walking directly into a legal jam that could cost them their job, their life savings and even jail time.

State and county law enforcement authorities around the country appear to have stepped up their prosecution of commercial drivers who are involved in accidents that cause serious injuries or death.

In just the past few months, drivers in California, Alabama, North Carolina and Arkansas have been charged with felony crimes following accidents.

"You can really see the level of charges rising with accidents involving commercial drivers," notes Ken Presley, vice president of the

United Motorcoach Association and a former motorcoach insurance executive.

"Commercial drivers should be aware that society's expectation of a professional driver has risen substantially and be aware of all the consequences of an accident."

He said not too many years ago, drivers involved in at-fault accidents would be charged with speeding, failure to maintain control of their vehicles and other traffic or misdemeanor offenses.

But today, it's not unusual to see drivers face much more serious felony charges such as assault and vehicular homicide.

Presley points to a 74-year-old motorcoach driver who was at the

wheel of a coach that ran off the road and crashed while transporting a group of U.S. Marines on Fort Rucker in Alabama last September. The crash killed one Marine and injured 22 others.

Prosecutors, who claim the driver was speeding and driving recklessly when the accident occurred, charged him in June with 23 criminal offenses, including felony homicide, seven felony assault charges and 15 misdemeanor assault charges, each of which carry jail or prisons sentences.

"This is likely someone's husband, father and grandfather who almost certainly never set out to harm anyone that day, but perhaps

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Operator tackles 49er shuttles

SAN FRANCISCO — A Northern California wine country tour-and-charter bus operator will be providing game-day shuttle service for San Francisco 49ers NFL home games this fall.

"This is a direct result of the work the industry did to lobby against public transit authorities doing charter work," said Mimi Gatens, director of marketing for California Wine Tours and Evans Transportation.

For the past 30 years, Golden Gate Tran-

sit of San Rafael, Calif., has coordinated shuttle bus service from San Francisco's North Bay region to 49ers games.

With the adoption of a revised federal charter bus rule in April 2008, that prohibits public transit agencies from providing charter shuttles, Golden Gate Transit was required to relinquish the service.

"The staff at Golden Gate Transit has been very helpful in getting out the word

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Redskins drop private shuttles

LANDOVER, Md. — The National Football League Washington Redskins have backed away from using private motorcoach operators to handle their parking lot shuttle service this year.

But, unlike what many might suspect, it is not because the team cut a new deal with the area's public transit agency, Washington Metropolitan Area Transit Authority.

Instead, the Redskins built a 3,000-car parking lot a short walk from the team's

FedEx Field, just outside of Washington D.C., and won't be using any type of bus service.

"We're not thrilled about it, but what can we do," said Connie Buck of Eyre Bus and Travel, one of several area companies that operated the shuttles for the team last year.

The Redskins turned to the private motorcoach market last year after Washington

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No overtime pay for airport-to-seaport shuttle drivers

MIAMI — A federal appeals court has ruled that motorcoach drivers used for airport-to-seaport shuttles are exempt from the Fair Labor Standards Act requirements for overtime pay.

The decision grew out of a lawsuit filed by drivers employed by American Coach Lines in Miami.

The drivers contended that because they were only shuttling cruise line passengers from an airport to a seaport and not leaving the state of Florida, they should

not be bound by the Motor Carrier Exemption to the Fair Labor Standards Act rules for overtime pay.

Essentially, the case boiled down to whether shuttling the cruise line customers constituted interstate travel. If it did, then American Coach Lines couldn't be required to pay overtime under the Motor Carrier Exemption.

The 11th U.S. Circuit Court of Appeals ruled that American Coach Lines' cruise ship shuttles "share a practical continuity of

movement with the interstate or international travel of the cruise lines and their passengers."

"For cruise ship passengers arriving at the airport or seaport, (American Coach Lines') shuttle rides would be part of the continuous stream of interstate travel that is their cruise vacation. The Royal Caribbean patrons in particular would have no reason to have any alternate view since the fee for the shuttle ride would either be bundled as part of their cruise vacation

package or would be included on the bill for their Royal Caribbean shipboard account."

The court shot down each of drivers' arguments that they were not subject to the Motor Carrier Exemption. The court said the application of the Motor Carrier Exemption did not require travel in interstate trips, the incidental-to-air exemption was inapplicable, and defendants were not required to have a "through-ticketing" arrangement with the cruise line to

argue that the passengers were all moving in the continuity of interstate commerce.

Therefore, the court found that under these circumstances the drivers were not exempt under the Motor Carrier Act exemption to the FLSA.

Between April 2006 and December 2007, American Coach Lines transported more than 500,000 passengers for Royal Caribbean Lines, resulting in more than \$4.4 million in revenue.

Driver, owner are honored

Two motorcoach industry notables, a quick-acting driver named Lorenzo Moody Sr., and a long-time coach company owner, Ralph Young, have been honored for their accomplishments.

Moody, who drives for Virginia Coach Co. in Purcellville, Va., is credited with helping save the life of a fellow driver.

The incident occurred this past spring at Monticello, the home of Thomas Jefferson in Charlottesville, Va. A driver for Spirit Coach in Madison, Ala., was showing Moody the inside of his coach when the driver suddenly collapsed. (See June 15 *Bus & Motorcoach News*.)

Aided by another driver, Moody stabilized the driver and remained with him until a medical team arrived and administered drugs to counteract what appeared

to be a stroke.

Lancer Insurance, which insures Virginia Coach and Spirit Coach, presented Moody with a plaque and cash reward to honor his actions.

Young has been named to the North Carolina Transportation Hall of Fame because of his service to transportation in North Carolina.

Young's company, Young Transportation of Asheville, was founded 70 years ago, employs 90 people and operates a fleet of 49 vehicles.

Earlier this year Young and his company were named winners of the North Carolina Family Business of the Year award. (See July 1 *Bus & Motorcoach News*.)

Young, a director of the United Motorcoach Association, will be inducted into the hall of fame Oct. 12 at an event in Charlotte.

AmeriStar buys Neb. tour firm

SCOTTSBLUFF, Neb. — AmeriStar Tours Motorcoaches & Limos of Scottsbluff has purchased the assets of Heartland Tour and Travel/Elite Coaches of North Platte, Neb., a tour operator specializing in motorcoach travel.

Kevin Stocker, president of Ameristar, becomes the owner and president of both companies. The combined operations project \$3 million plus in annual sales.

The new company will continue to utilize the Heartland name, as well as its office in North Platte. Other offices of the combined operation are in Scottsbluff and McCook, Neb., and Cheyenne, Wyo.

Stocker said Mick and Marge Cole, the former owners of Heartland Tour and Travel, will remain

involved in the company to assure continued success.

Heartland Tour and Travel will continue to operate using its name.

At one time, Heartland operated a pair of motorcoaches, under the name Elite Coaches, but that number had dropped to one and the lone coach was not included in the sale.

"We believe we purchased a solid brand that will allow us to continue to strengthen our market share in the region and to deliver our customers even better customer service," said Stocker.

The acquisition of Heartland Travel and Tour was facilitated by Charles Tenney & Associates, an Arlington, Texas-based business brokerage that specializes in the transportation industry.

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Correction

Frank Ziegler is director of sales and marketing for Greenkraft Inc., the California company distributing the new Chinese-built

Ankai motorcoach. Greenkraft's website is www.greenkraftinc.com. Ziegler's first name and the web address were incorrectly reported in the Aug. 1 issue.

THE DOCKET

U.S. senators want ban on texting while driving

WASHINGTON — Distracted driving was the hot transportation topic in the nation's capital last month, with none-too-surprising revelations that driving while texting or using a cell phone is a recipe for trouble.

The risks associated with texting grabbed most of the attention (and headlines), prompting a group of Democratic U.S. senators to propose legislation that would require states to ban driving while texting or face the loss of federal highway money.

The Senate proposal came after a widely publicized study demonstrated the dangers of texting. That is, drivers taking their eyes off the road to operate handheld electronic messaging devices.

Fourteen states and the District of Columbia currently have laws that make texting while driving illegal.

"The federal government ought to pass a law banning this dangerous and growing practice to protect the millions of Americans on our nation's roads. It is a matter of public safety," said Sen. Charles Schumer, D-N.Y., who proposed the legislation along with Democrats Robert Menendez of New Jersey, Mary Landrieu of Louisiana and Kay Hagan of North Carolina.

In a study released last month, the Virginia Tech Transportation Institute found that when drivers of heavy trucks texted, their collision risk was 23 times greater than when not texting.

Researchers in the study said the risks of texting generally applied to all drivers, not just truckers.

The proposed Senate legislation would require states to ban texting or e-mailing while operating a moving vehicle or lose 25 percent of their annual federal highway funding. It would be patterned after the way the Congress required states to adopt a national drunken driving ban.

The transportation secretary would be required to issue guidelines within six months of the measure being signed into law, and states then would have two years to approve the bans on texting and driving.

The bill would target the activity in a moving vehicle and not prohibit a driver from texting or

e-mailing in a stopped vehicle.

The Virginia Tech study of drivers text-messaging inside their vehicles showed the risk of a crash greatly surpasses previous estimates and beats out by far the dangers of other driving distractions.

The study, in which the cabs of long-haul trucks were monitored by video cameras for 18 months, found that when the drivers texted, their collision risk was 23 times greater than when not texting.

The study also measured the time drivers take their eyes off the road to send or receive texts. In the moments before a crash or near crash, drivers typically spent nearly five seconds looking at their devices, enough time at typical highway speeds to cover more than the length of a football field.

Compared with other sources of driver distraction, "texting is in its own universe of risk," said Rich Hanowski, who oversaw the study at the institute.

Tom Dingus, director of the Virginia Tech institute, said the trucking study's message about texting while driving is clear. "You should never do this," he said. "It should be illegal."

Cell phone dangers

Meanwhile, a controversy flared when it was learned that federal officials have been withholding information for the past six years that indicated using hands-free cell phones while driving was as dangerous as handheld phones.

In recent years, cities and states have passed laws requiring drivers to use hands-free phones, but lacked the information the National Highway Traffic Safety Administration had in studying the issue, according to Public Citizen and the Center for Auto Safety.

No state completely bans handheld and hands-free phones for all drivers, according to the Governors Highway Safety Administration.

"People died in crashes because the government withheld this information," said Clarence Ditlow, Center for Auto Safety executive director. "States passed laws and took action to restrict only handheld cell phone use, assuming hands-free cell phones use was safe."

Currently, the NHTSA website notes that "available research indi-

Changes at NTSB

Hersman becomes chairman, two members leave

WASHINGTON — Deborah A.P. Hersman, who has been a member of the National Transportation Safety Board for five years, was sworn in last month as the agency's 12th chairman.

At roughly the same time, it was announced that two members of the safety board are leaving.

Hersman was nominated for the two-year term as chairman by President Barack Obama in June and confirmed by the U.S. Senate last month. She also was nominated and confirmed for a second five-year term as board member, which runs through 2013.

She replaces Mark Rosenker as chairman.

Hersman became a member of the NTSB in mid-2004. Since then, she has participated in a number of NTSB investigations, headed a handful of investigations, and chaired several of its public hearings.

Last October, she chaired the two-day public hearing on the January 2008 motorcoach crash in

Victoria, Texas, that killed one person and injured 44 others. The incident involved a coach company that was operating illegally.

Rosenker announced his resignation as acting chairman and member of the NTSB. He had served as acting chairman since his second two-year term as chairman expired in August last year.

Controversy surfaced on more than one occasion during Rosenker's four-and-a-half-year stint on the board.

Robert Ford, the lead NTSB investigator on the capsizing of the ship Ethan Allen, left the agency before the final report was issued, saying the NTSB report of the incident was seriously flawed.

Ford has been seeking either a Congressional investigation into the NTSB handling of the matter, or a reopening of the case by the NTSB itself, alleging that crucial evidence was withheld from the final report, which could give cause to bring charges of criminal

negligence in the case.

With Rosenker exiting, it's likely that efforts will again be made to reopen the Ethan Allen investigation.

There were other allegations about flawed reports and investigations by the NTSB, particularly the Office of Marine Safety, during Rosenker's tenure as acting chairman. And Ford was not the only former high-level member of the NTSB investigations team to levy charges of ineptness, incomplete investigations and alleged withholding of evidence regarding the findings of final reports in the marine division.

Rosenker is delaying his departure until an additional board member is confirmed to assure a quorum remains at the board. He is a retired major general in the Air Force Reserve.

NTSB member Kathryn (Kitty) O'Leary Higgins also submitted her resignation to President Obama. It was effective Aug. 3.

Higgins joined the board in January 2006.

Drug test rules back in effect Aug. 31

WASHINGTON — The U.S. Department of Transportation has reinstated requirements for observation collection of urine samples for all return-to-duty and follow-up drug tests. The rule becomes effective on the last day of this month.

The original regulation, which was enacted last year as a way to prevent employees from cheating on drug tests, was put on hold after BNSF Railway Co. and eight rail labor groups sued the depart-

ment. The department issued a stay until there was a court decision.

Then, in November, USDOT decided to reinstate the old language of the rule until the stay was lifted, making direct observation collection an option for the employer, rather than mandatory.

In June, the court ruled against the railroad and labor groups, lifting the stay on the regulation. (See July 15 *Bus & Motorcoach News*.)

In May 2008, a federal court

determined that direct observation was not arbitrary and capricious, taking into account the vast availability of cheating devices.

"We view this to be important in light of the fact that there has been a good deal of conflicting information in the transportation and drug testing industries about the requirements and because of the complexities of the various petitions, court actions, and rule changes on the matter," the USDOT's rule posting said.

cates that whether it is a hands-free or hand-held cell phone, the cognitive distraction is significant enough to degrade a driver's performance. This can cause a driver to miss key visual and audio cues needed to avoid a crash."

The Center for Auto Safety is now petitioning the NHTSA to restrict the availability of two-way communication features through in-vehicle systems while the vehicle is in motion, and is asking NHTSA to support state programs to limit use of hands-free and hand-held phones by drivers.

Last year, the agency fought the Freedom of Information Act request by the Center for Auto Safety by claiming an exemption to the Freedom of Information law that allows nondisclosure of deliberative documents that pre-date policy decisions.

Public Citizen and the Center for Auto Safety argued the documents were not deliberative, but consisted of factual accounts, statements and summaries on cell use and driving.

Public Citizen attorney Margaret Kwoka said that while the Free-

dom of Information Act protects an agency's decision-making process, "these documents reflect facts about safety risks that the public had every right to see."

Cell phone conversation while driving creates "inattention blindness," a cognitive state that slows a driver's reaction time and limits his ability to detect changes in road conditions. NHTSA analysis found drivers using hands-free technology talk on the phone with greater frequency and for longer intervals.

The NHTSA documents are available at www.autosafety.org.

Feds are considering putting limits on energy trading

WASHINGTON — Federal regulators have signaled a possible shift in policy and may be moving toward setting limits on speculative energy trading.

Speculative trading has been blamed by some for the widening swings in oil prices, especially those of a year ago that resulted in record oil and fuel prices.

The head of the Commodity Futures Trading Commission, which is weighing new restraints, faulted “excessive” speculation but also underscored the role of financial investors in helping to set fair prices that can benefit consumers.

At a hearing organized by the agency last month, Gary Gensler said the futures exchanges have generally not used their authority to limit the size of positions taken by speculative players — something the Chicago Mercantile Exchange expressed willingness to do.

And he cited the Commodity Futures Trading Commission’s goal of preventing market power from being concentrated in a small number of powerful players.

“I believe we must seriously consider setting strict position limits in the energy markets,” Gensler said.

Gensler indicated earlier last month the agency may propose new rules setting limits in the fall. However, he said the agency has opened the debate to determine how new limits could reduce excessive speculation, “not how we can eliminate speculation.”

He said the Commodity Futures Trading Commission recognizes the positive role played by the Wall Street firms and other speculators in the futures markets, which enable farmers, oil producers and oil users to hedge their risks and “have a marketplace where prices are determined in a fair and orderly way.”

The commission is hearing

Okla., W.Va. tolls up

OKLAHOMA CITY — Tolls on Oklahoma’s turnpikes increased 16 percent this month.

The hike will bring in about \$21 million a year to the state turnpike authority, which had previously reported a budget shortfall of that amount. The authority operates 10 turnpikes throughout the state.

The West Virginia Parkways Economic Development and Tourism Authority has increased tolls on the West Virginia Turnpike, the first increase in 28 years.

Rates for all classes of commercial vehicles and passenger vehicles were boosted. The toll for a three-axle coach paying cash goes from a \$2.75 mainline rate to \$4.50.

from consumers, business, traders and financial firms in a series of public hearings as it weighs whether to restrict the amount of trading in energy futures by those who are solely financial investors.

Futures contracts are supposed to reduce price volatility. But speculators use them to bet on market

prices, and critics say this magnifies price swings. The volatility in oil prices “is totally unacceptable to the airline industry,” testified Ben Hirst, general counsel of Delta Air Lines Inc., who was representing the Air Transport Association.

By law, the Commodity Futures Trading Commission sets limits on

the amount of futures contracts in agricultural products that can be held by each market participant to protect the market against manipulation. But for energy commodities — crude oil, heating oil, natural gas, gasoline and other energy products — it is the exchanges that set the position limits.

Experts and economists are divided on whether speculative trading in the futures markets fans price volatility. Part of the confusion is that “hot” speculative money flows into energy commodities in numerous ways. The commission doesn’t track all of them, so it’s hard to quantify the impact of speculation.

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Fuel tax

CONTINUED FROM PAGE 1

equivalent diesel fuel tax. Windsor said that because truck sales are highly cyclical these taxes fluctuate wildly.

"Incorporating these fees into the diesel fuel tax would increase the predictability of tax revenues," she said.

Loss of the federal fuel tax exemption for motorcoaches would be a devastating blow to coach operators.

Currently, coaches pay 7.3 cents per gallon in taxes on diesel fuel as a result of an industry-wide 17-cent per gallon exemption from the 24.3-cent federal tax on diesel fuel.

In late June, when UMA directors were in Washington for their semi-annual meeting, board members called on members of Congress to press the case for keeping the federal fuel tax exemption for motorcoaches.

The UMA board members reminded the congressmen and women they met with that because motorcoaches reduce congestion, alleviate roadway wear, reduce pollution and conserve fuel, the rationale for keeping the fuel tax exemption is even more compelling today than it was 30 years ago when it was enacted.

House, Senate vote to replenish highway fund

WASHINGTON — The U.S. House and Senate voted before they began their August recess to transfer \$7 billion from the U.S. Treasury to the Highway Trust Fund to keep the fund solvent through the end of September.

President Obama signed the legislation — H.R. 3357 — into law.

The Highway Trust Fund is the federal government's primary source for financing highway, bridge and public transportation projects. Its shortfall is primarily due to declining vehicle miles traveled, improving vehicle fuel mile-

age, and a federal fuel tax that has not increased since 1993, while highway building costs have soared.

Passage of the bill means state transportation departments will receive full reimbursements for federal-aid highway projects until the end of the fiscal year on September 30.

Most political and transportation observers see passage of the stopgap measure as a necessary step, but one that doesn't resolve anything. It simply assures funding remains intact until the end of next month.

Then, when Congress returns after Labor Day, it will have to fig-

ure out what to do next. If there is no congressional action taken by Oct. 1, there will be no federal highway or public transit program in place.

Many transportation planners say it's important to get funding in place — for at least the next year — so state transportation departments can put infrastructure projects out for bid after Oct. 1, rather than let the fund become insolvent and run down to zero.

Meanwhile, the Senate Environment and Public Works Committee formally approved an 18-month extension of existing

highway legislation even as House leaders continued to oppose a delay in passing a new multiyear highway and public transportation funding bill.

The extension must also be approved by the Senate commerce and finance committees before moving to the full Senate.

In a statement, Transportation Secretary Ray LaHood praised the extension as "the right length of time" and commended Sen. Barbara Boxer, D-Calif., for "putting us on the right path to addressing a more comprehensive transportation measure."

Lobbyists for the association carry that message to Capitol Hill virtually on a daily basis.

The American Bus Association has hired a new government relations firm to lobby for preserving the fuel tax exemption. The ABA retained Cassidy & Associates of Washington.

Dawn Levy, former tax counsel to Sen. Max Baucus, D-Mont., and chairman of the Senate Finance Committee, is representing the ABA.

Meanwhile, truckers continue to pound on Congress to keep the federal fuel tax as the primary

funding tool for the nation's highway system and to increase the fuel tax to finance essential highway projects.

"With collection costs at just 0.2 percent of revenue, no alternative funding schemes can match the efficiency or equitability of the federal fuel tax," said Windsor.

She said the ATA supports the federal fuel tax because it:

- Offers minimal opportunity for evasion
- Can be collected and enforced without imposing excessive administrative and record-keeping burdens on highway

users

- Is based on readily verifiable measures of highway and vehicle use

- Remains uniform in application among classes of highway users

- Does not create impediments to interstate commerce.

Windsor said other highway funding schemes like tolling, vehicle-miles-traveled taxes, or public-private partnerships do not stand up to the criteria for viable highway funding and provide a minimal return on the highway user's investment.

Windsor pointed out that the climate and energy legislation recently passed in the House is likely to significantly increase the cost of fuel. This increase would impose greater costs on American consumers and jeopardize the ability of the trucking industry to fund both the highway infrastructure — that is greatly needed — and also absorb the added costs to fuel brought by the climate and energy legislation.

She said that improving highway infrastructure will decrease fuel consumption and carbon output by all vehicles.

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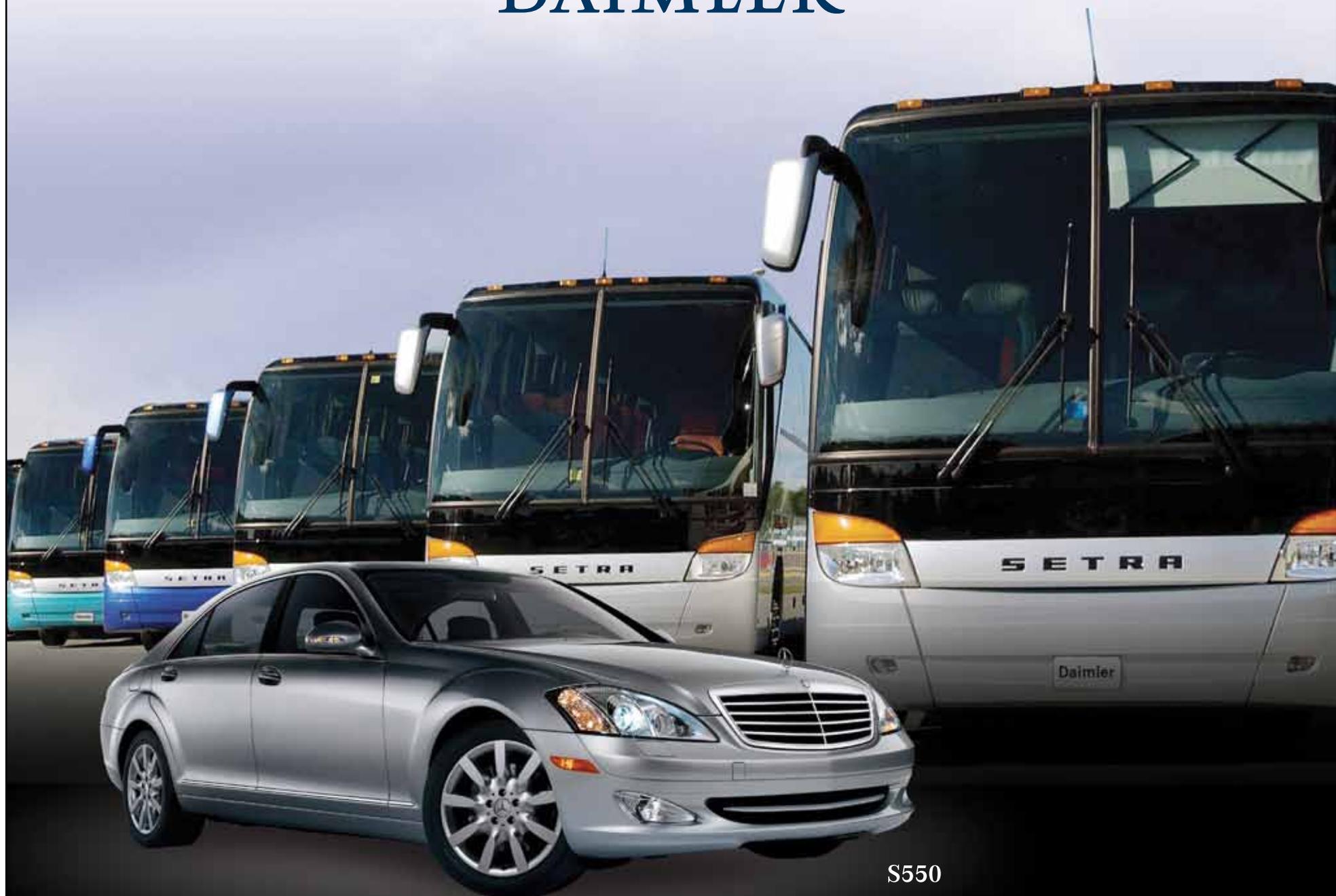
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Iowa coach operators provide a dose of 'rail reality'

IOWA CITY — The governor of Iowa, Chet Culver, is making a big push in his state for high-speed rail.

He made a well-publicized train ride across eastern Iowa to attend something called the Midwest High Speed Rail Summit in Chicago. At the summit, he confabbed with folks from other states who are as eager as he is to establish speedy passenger rail service across the Midwest.

For his part, Culver wants to see links to Dubuque, the Quad-Cities, Iowa City and, eventually, Des Moines and Council Bluffs — all communities in Iowa.

Culver and the other rail advocates have their hearts set on getting a share of the \$8 billion in federal stimulus funds set aside for passenger rail.

"We're going to take advantage of this opportunity" to share in the federal dough, said Culver.

A Chicago-based, high-speed rail hub is considered to be in a reasonably good position to glom onto federal rail money because of the multistate effort, and the fact that President Barack Obama and Transportation Secretary Ray LaHood both are former Illinois congressmen.

Some of the more enthusiastic rail advocates are predicting an Iowa City-to-Chicago link could be a reality within two years.

Reality, say motorcoach industry advocates in Iowa, is that buses are cheaper, faster and more environmentally friendly than trains — and they're available today without spending billions of dollars of taxpayer money.

James Q. Lynch, writing in The Quad-City Times of Davenport,

Iowa, thought it might be interesting to get a different take on high-speed rail, so he interviewed a couple bus folks.

One was Eugene Hibbs, the station agent for Burlington Trailways and Greyhound in Iowa City.

Hibbs, none too subtly, notes that the number of people who currently make the Iowa City to Chicago trip by bus is a fraction of the 160,000 people a year that rail enthusiasts estimate will make the trip. The Iowa Department of Transportation guesses there will be 187,000 trips a year.

"Where are they coming from?" Hibbs wonders. It will take more than Iowans, making a once-a-year pilgrimage to Wrigley Field or an annual Chicago shopping vacation, to fill those trains, he generously points out.

Typical bus passengers out of Iowa City are people visiting their families, students and some people traveling on business, he said.

'Buses are cheaper, faster and more environmentally friendly than trains.'

Culver predicts the passenger rail link will create opportunities for bus companies. Maybe.

"We look forward to working with some of the bus companies because they are going to play a role in this plan potentially," opined the governor. "Once we get the link between Chicago and Iowa City, one way to get ridership up is a bus option from Des Moines to Iowa City so people get the option of jumping on Amtrak even if they live in Des Moines. That has worked well other places."

Ron Moore, president of Burlington Trailways, has worked with

Amtrak, busing people to rail depots on the Indianapolis Amtrak route.

He doesn't see any advantage, though, for his company if it loses revenue on its Iowa City to Chicago routes because of a costly train. His company offers about 100,000 seats a year on those routes.

"We're not filled to capacity, but it helps to subsidize our other routes" into smaller communities, Moore said. "If we can't make money on our main routes, we can't subsidize service to Ottumwa and other communities. Those smaller communities could see a loss of service." Whoops.

He and Hibbs also question the idea of convenience. Greyhound and Trailways offer four buses a day to Chicago — five on weekends. Three of them make the trip in less than five hours.

"I can't see the upside except the legroom and you can stand up while it's moving," Hibbs said of

train travel. Buses don't offer a diner or a bar car, but new motorcoaches offer televisions, wireless internet access and bathrooms, he said. "They're absolutely fantastic."

Buses also beat Amtrak's on-time performance, Hibbs notes. Amtrak typically has a 90- to 100-minute delay at Mount Pleasant. At Iowa City, buses average delays of less than 15 minutes, he said.

Hibbs laughs at rail advocates' "green" argument.

One Iowa rail fan said developing passenger rail will "make the world green because rail is one of most efficient modes."

Hibbs points to a 2008 study that found buses average 206.6 passenger miles per gallon of fuel while intercity rail — Amtrak — gets a modest 67 passenger miles per gallon. Also, buses' CO2 output per mile is roughly a quarter of the output of intercity trains.

Bottom line, said Hibbs, "if service is terrible, the price is not right and it costs the taxpayers \$6 million a year and \$30 million upfront, then you've got to ask how many people will take the train."

Good question for Governor Culver.

But then we suspect that what the governor is really after is the millions of federal taxpayer dollars it will cost to build and operate high-speed rail, and he could care less how many Iowans end up riding the trains to Chicago.

And he appears to care even less about the good folks living in small Iowa communities who stand to lose their bus service even as those high-speed trains blow by Iowa corn fields.

To the Editor

Setra of North America is writing to clarify the article in the Aug. 1, 2009, issue concerning a new motorcoach from China.

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Throughout the years, Anhui Ankai has developed its own motorcoaches. These are the vehicles that were referenced in the Aug. 1 article.

Daimler has absolutely no involvement with or association with the development, design or marketing of these products, and Anhui Ankai, G&K Automotive

Conversion, and Greenkraft Inc. are not authorized distributors of any Daimler coach products in North America. In fact, reference to any Daimler brand for these buses, including Setra, is erroneous.

The innovation and advancement in technology continues only in new vehicles that are being developed by Daimler Buses in the current 400 series buses built by Setra for the European and North American markets, as well as the new products we will be bringing to market shortly.

—Andreas Strecker
President and CEO
Daimler Buses North America

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Standards group says 'no' to 'hot-fuel' adjustments

LINCOLN, Neb. — The National Conference on Weights and Measures has decided not to proceed with proposals to regulate the temperature of retail fuel at the pump.

The national standard-setting group was slated to take up two resolutions at its annual meeting last month in San Antonio, Texas, but the committee charged with examining temperature compensation recommended the item be stricken.

"The overwhelming majority of comments were opposing (automatic temperature compensation)," the committee said in a statement.

The committee pulled the item, citing "conference consensus against (automatic temperature compensation), economic cost factors, lack of benefit to consumers, absence of uniformity in the marketplace and the additional cost to weights and measures officials and service companies."

The issue of temperature compensation at the fuel pump rose to prominence following a series of articles in the *Kansas City Star*, beginning in 2006. (See Oct. 1, 2006 and later issues of *Bus & Motorcoach News*.)

Supporters of ATC regulations argue that as liquid fuel is warmed, it expands, but the energy content remains constant. Historically, fuel sold from wholesalers to retailers is adjusted for these changes in temperature, but fuel sold to consumers is not.

The Owner-Operator Independent Drivers Association is one of several groups that have pressed for regulation of fuel temperatures.

Norita Taylor, spokeswoman for the drivers group, said the decision by the National Conference on Weights and Measures was "an example of highly effective lobbying by petroleum marketers and their effect on regulatory issues to the detriment of consumers."

The decision by the weights and measures group did not deter Sen. Claire McCaskill, D-Mo., from re-introducing legislation requiring the installation of automatic temperature compensation equipment on all retail fuel pumps.

The Future Accountability In Retail Fuel Act of 2009, as it's called — or FAIR Fuel Act — would mandate the installation of the technology within six years to adjust the price of gas as it expands in warmer temperatures.

When diesel fuel and gasoline expand in warmer months, it reaches temperatures higher than the government standard of 60 degrees. When this happens, consumers get less energy for their money, accord-

ing to a press release. This costs Americans about \$2.57 billion a year.

The senator originally introduced the legislation in 2007, after reading the articles in the *Kansas City Star* exposing the issue.

Deals swirling around National Express

LONDON — The future of National Express got more interesting late last month when Stagecoach Group of Perth, Scotland, confirmed it is "considering its options" vis-a-vis National Express, the financially troubled British passenger transport company.

Stagecoach said it is in exclusive talks with the Cosmen family of Spain, which is the largest share-

holder of National Express, with a near-19 percent stake, and CVC Capital, a private equity firm that has partnered with the Cosmens on a possible National Express takeover.

National Express confirmed it had received an offer from the Cosmen/CVC combine.

Earlier last month, FirstGroup dropped its interest in National Ex-

press, saying it was no longer interested in bidding for the company. (See July 15 *Bus & Motorcoach News*.)

National Express owns two major school bus operations in North America, Durham School Services in the U.S. and Stock Transportation in Canada. In addition, it has a large bus operation in the United Kingdom.

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iTransit touts certified staffers

ORLANDO, Fla. — The year-old iTransit Collision and Repair Center here is building a staff of highly qualified and certified bus and motorcoach technicians, says the president and CEO of iTransit Inc.

Jack Farrell, director of vehicle services for iTransit, holds 10 certifications, including ASE Master Transit Bus/Motorcoach Technician, which requires proficiency in eight areas.

iTransit says Farrell is one of 151 ASE-certified Master Transit Bus/Motorcoach Technicians nationwide and one of 18 in Florida.

Farrell holds a total of five ASE certifications, plus others from DuPont, PPG, Van Hool and ABC Bus.

"We are very lucky to have Jack on our team," said Mike Pouncey,

president and CEO of iTransit. "Jack's certifications prove he is one of the most-talented motorcoach technicians in the country."

Charlie Rydzewski, general manager of collision and repair at the iTransit center, holds eight certifications, most — as might be expected — in the area of body and collision repair.

Rydzewski has 20 years of experience in the motorcoach industry as well.

Three other members of the iTransit team hold certifications related to their specialties.

iTransit, based in Orlando, operates the collision and repair center, plus in partnership with its parent company, Gameday Management Group, offers procurement services to motorcoach companies.

ArvinMeritor axles to Navistar

WARRENVILLE, Ill. — Navistar and ArvinMeritor have reached a long-term supply agreement under which Meritor axles will be standard equipment on IC Bus school and commercial buses and International medium-duty trucks.

ArvinMeritor has been an axle-

brake supplier for Navistar's Class 8 trucks for more than 10 years, Navistar said.

Navistar North American Truck Group president Jack Allen said the "agreement represents a natural extension of the long-standing relationship between Navistar and ArvinMeritor."

S.F. 49ers

CONTINUED FROM PAGE 1

that California Wine Tours is now the source for the North Bay fan shuttles," said Mike Marino, who founded California Wine Tours more than 20 years ago.

"It is impressive to see the team work that is taking place all over the Bay Area as we work together to transition these shuttles away from public transit authorities to the private sector," said Marino.

California Wine Tours lays claim to having the largest passenger transportation fleet in Northern California, with sedans, SUV's, limousines, luxury limo vans, mid-

size buses and motorcoaches.

It also operates Evans Airport Shuttles between Oakland and San Francisco airports and Vallejo and Napa, Calif., where it is based.

The California Wine Tours' 49er Fan Express shuttles will run from seven North Bay cities to Candlestick Park.

"Not only are riders going to reduce their carbon footprint by riding the shuttles, we are also going to make the bus rides fun," said Marino, who is president and CEO of California Wine Tours.

49ers fans using the shuttle will pay between \$25 and \$30 roundtrip. The price includes complimentary water and free high-speed internet access. The company plans to use

restroom-equipped motorcoaches.

California Wine Tours and the 49ers are sponsoring raffles on each coach, consisting of 49ers' memorabilia and gift certificates for limousine rides.

There will be one grand prize raffle of a luxury experience for the final home game: A private limo ride for four guests, four tickets to the game, and a gourmet tailgate party, including lunch and beverages.

Playing on the Fan Express' video systems will be 49ers' game highlights, Super Bowl replays and other NFL promo videos.

"We wanted to thank the fans that ride the shuttles by elevating their experience," said Marino.

Washington Redskins

CONTINUED FROM PAGE 1

Metro said it no longer could provide shuttle service for the team because of the new federal charter rule that prohibits tax-supported bus operations from competing with private businesses.

The shuttle service last season was managed by Event Transportation Service, which hired several operators to bring in the 60 coaches that were needed to work the

team's home football games.

Karl Swanson, a team vice president, said the private service worked well, but the new parking lot negates the need for it to continue.

Additionally, he said the team has abandoned the use of several parking lots further away from the stadium that required shuttle bus service in favor of the new lot and other parking areas closer to the stadium.

"All parking lots operated by

us are within easy walking distance of the stadium," he noted.

The team also considered using private carriers last year to replace public buses that carried passengers from the Landover Metro rail stop to the football stadium, but said it rejected the idea because the cost was too high.

Instead of providing the buses, the team directed fans to the Metro stop at Morgan Boulevard, which is closer, but still a little more than a mile away.

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Navistar accuses USEPA of conspiring with competitors

WARRENVILLE, Ill. — Navistar Inc. has accused the U.S. Environmental Protection Agency of attempting to remove documents from official records and allowing the Engine Manufacturers Association to write the draft of its selective catalytic reduction guidance document for 2010 — “in secret collaboration with certain engine makers.”

Navistar made its assertions in documents filed with a federal appeals court.

The bus, truck and engine maker says the public records EPA wanted to remove would bolster its claims the agency skipped an im-

portant step in the rulemaking process, and that “much of the 2009 SCR guidance was drafted by the (Engine Manufacturers Association) on behalf of the SCR manufacturers, not by EPA.”

“EPA deliberately has excluded from the record documents that are clearly relevant to EPA’s decision to reverse its position on SCR technology and to relax the 0.20 [gram] NOx standard,” Navistar said in its 187-page legal filing.

Joe Suchecki, a spokesman for the Engine Manufacturers Association, denied that any of his association’s communication with the EPA was improper.

“As is normally the case, we will provide comments to EPA and in the normal course of business we will provide suggested language — and we’ve done that since EMA was started,” Suchecki told a leading trucking publication. “That’s just the normal course of business in working with regulatory agencies on potential regulations.”

A spokeswoman for the USEPA declined to comment.

Navistar’s filing is the latest development in the lawsuit it filed early last spring, asking a federal appeals court to review several issues related to the EPA’s February 2009 memorandum giving engine

makers guidance on SCR.

For years prior to the release of that document, EPA had said it did not believe SCR would be a feasible way to meet the 2010 rules.

Navistar says that in e-mails it obtained, EPA and California Air Resources Board officials routinely referred to the SCR guidance as “the EMA guidance document.” CARB provided technical advice on the 2010 engine requirements.

For example, a CARB official told an EPA official in a November 2008 e-mail, “We met yesterday and this morning to finish going over the EMA guidance document.”

In that same e-mail, the CARB official also expressed frustration with EPA and EMA.

“I have issues with EMA presenting you proposals, getting your buy off, and then sending them to me requesting harmonization,” the CARB official said. “This is a game they seem to play and I plan on pushing back hard with Jed [Mandel, EMA president] on this.”

In another e-mail, dated Jan. 22, Mandel tells an EPA official, “We have had a number of internal phone calls about the SCR guidance document and I am pleased to report that we have convinced everyone to drink the Kool-Aid. Enclosed are a few minor clean up type edits and one clarification.”

Navistar’s lawsuit maintains that EPA skipped an important regulatory step in allowing SCR technology after expressing doubts back as far as 2001 that it would work.

Navistar, which is headquartered in Warrenville, is the only engine maker planning to use exhaust gas recirculation to meet the 2010 NOx emissions standard.

Tourism Cares schedules restoration event on National Mall

CANTON, Mass. — Tourism Cares, the nonprofit organization dedicated to preserving natural, cultural and historic sites, is hosting a volunteer clean-up project Friday, Sept. 11, on the National Mall in Washington.

“By organizing the first-ever Tourism Cares for America Volunteer Day on a significant day in American history, we honor all

those affected by the tragedy of September 11,” said Bruce Beckham, executive director of Tourism Cares.

“Through this project we can all come together to restore one of our nation’s most visited sites... and give back in a meaningful way.”

Volunteers participating in the project will assist with painting

projects at the World War II, Korean War Veterans and Franklin D. Roosevelt memorials and Lafayette Park between 10 a.m. and 3 p.m.

The National Park Service requires the minimum age for volunteers to be 16 and those who are under 18 years old must have waivers signed by and be accompanied by a parent or legal guardian.

Participation is limited and reservations must be made in advance.

There is a \$29 registration fee for students between the ages of 16 and 21, and a \$49 registration fee for adults over 21 to cover lunch, water, tools and other supplies.

Registration and waiver forms are available on the Tourism Cares website, www.tourismcares.org.

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Criminal charges

CONTINUED FROM PAGE 1

made a really bad mistake or used poor judgment," says Presley. "I doubt he ever dreamed the fate of his senior years would be left up to an Alabama jury and/or judge."

In other incidents this year:

- A 53-year-old driver in California was accused in July of 11 counts of felony vehicular manslaughter after his bus overturned in a ditch, killing 11 passengers who were bound for a casino. Police said the driver fell asleep at the wheel. (See article on this page.)

- A 62-year-old driver in North Carolina was accused in July of misdemeanor death by motor vehicle after he reportedly ran a red light, striking another vehicle and killing the driver.

- A 29-year-old driver in Arkansas was sentenced in June to one year in jail on a misdemeanor negligent homicide charge in connection with an accident that killed four passengers.

Meantime, prosecutors in California are studying possible criminal charges against a 66-year-old driver, whose resort shuttle bus ran off the road, rolled over and landed in a ditch, killing two people and injuring about two dozen others. State police said it appeared the driver lost control when he made a sudden lane change.

What's going on?

Although the rash of criminal charges may not indicate a trend, safety experts say a variety of causes could be behind them.

"There's a lot more public pressure now and I think it is fair to say that society is less acceptable of egregious driving errors, even automobiles," said Jack Burkert, a private safety consultant.

"The public no longer is willing to say it is just an accident, but rather that it could have been prevented had it not been for driver error."

Additionally, he said because motorcoach accidents usually are high profile incidents, they generally draw much more attention than accidents involving other types of vehicles.

Matt Daecher of the Daecher Consulting Group said it could just be public perception, too.

"The fact that we've recently had a larger-than-usual number of significant bus accidents resulting in serious injuries and deaths, and many of these have been run by unscrupulous operators, which tends to lend itself toward prosecutable accidents, is likely the reason it seems there have been more," he said.

He also noted that prosecutions are more likely when there has been a blatant disregard for the law that resulted in or contributed to a serious accident.

Get-tough attitude

Daecher suggested, too, that efforts by law enforcement agencies and state regulators to showcase that they have implemented and are carrying out strong safety programs could be causing an increase in prosecutions.

Driver faces 11 manslaughter counts

COLUSA, Calif. — A motorcoach driver pleaded not guilty late last month to manslaughter and unsafe driving charges in a county superior court here.

Quintin Joey Watts, 53, was the driver in an October charter bus crash near Williams, Calif., that killed 11 people and injured more than 30 others.

Watts pleaded not guilty to 11 counts of vehicular manslaughter.

The bus Watts was driving was headed for Colusa Casino Resort when it veered off a rural road, violently flipped, ejecting a dozen passengers and plowing into a muddy ditch near a rice field.

The bus, operated by Cobb Bus Service,

was carrying passengers from the Sacramento area, many of them elderly Hmong and Mien immigrants. Also onboard was company owner, Daniel Cobb, 68, who was killed in the crash. Cobb was Watts' stepfather.

Watts entered his plea over the objections of his court-appointed attorney, Albert Smith.

The California Highway Patrol said Watts was struggling to stay awake at the time of the crash.

In a jail interview last month, Watts expressed remorse.

If convicted of all counts, Watts could face nearly 20 years in prison.

"Considering the recent spotlight cast on carrier enforcement and their program effectiveness in identifying and managing unsafe operators, it would make sense that prosecutions of drivers who violate laws may be rising to show that enforcement and the states mean business when it comes to passenger carrier safety," he added.

He emphasized, too, that police may be making more forceful recommendations for prosecution, and backing them up with better evidence gathering that could influence a prosecutor's decision.

Burkert said the prosecutions of drivers — whether they are on the rise or not — should serve as a reminder to operators that driver behavior is critical to their businesses.

"Just consider that with all of the trips your company has taken over the years, that one driver, on one trip, on one day and with one incident can destroy your entire company," he said.

To help combat possible trouble, he suggested, operators should take advantage of the technology in the industry that allows them to put a "copilot" alongside every one of their drivers — electronic devices that record all facets of what a driver does when behind the wheel of a coach.

"Whatever it takes, we need to motivate good behavior and penalize bad behavior," he stressed. "We need to tell the drivers what they need to do, teach them how to do it, and then make sure they do it."

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Picking up extra profit by providing 'extra value'

By Dave Millhouser

The Flxible VL100 pulled into the mall parking lot, and was greeted by 46 happy travelers headed to a youth camp.

The joy was diminished, however, when they discovered the bus only had 41 seats, and it evaporated completely when they learned there was no lavatory. The shopping center was in Pennsylvania and the camp in Colorado, so these things mattered.

We had three "classes" of service back in the day: 46-passenger, lavatory-equipped Eagles and Scenicruisers, 38-passenger GMs, also with lavs, and the aforementioned 41-seat Flx's with no potty.

We were crafty rascals and charged more for the BIG buses, and the lavatory-equipped ones.

Our customers cleverly figured out that MOST of the fleet was 40-foot coaches, and they could book, and pay for, small buses, while filling large ones. This time they paid the price in discomfort, with at least five people standing for 1,500 miles, maintaining a watch for rest areas.

As long as there have been motorcoaches, there have been attempts at providing upscale services for a premium price.

Beginning around 1930, with Pickwick's double-deck "sleeper" buses, operators have made efforts to distinguish themselves from the competition with the buses in their fleet, and provide extra value in return for extra margin.

Some of these attempts have been successful and some have fallen by the wayside.

If you're considering offering different classes of service, the FIRST thing to consider is how to avoid the trap we fell into — allowing customers to game the system.

Have a plan, and make sure you have enough equipment, properly configured, to meet each specific market you are chasing. This can take the form of removable galleys and lounges that are only on the bus when they're being paid for — all the way to specific brands and models of coach.

In situations where you're forced to send an upscale coach, make SURE the customer is apprised of his or her luck, and made

aware that they can have this every time... if they will pay.

Coach manufacturers currently offer a stunning variety of options and features that you can package into a class of service: Two-plus-one seating, Wi-Fi, high-end entertainment systems, leather seats, individual headsets, seat-side electric outlets, galleys, even glass roofs are just some of the hardware available. In addition, you can offer amenities like escorts, food service and extra legroom.

Three of the northeast companies I respect the most offer upgraded amenities, at a premium price. One is a line carrier, the other two provide a mixed bag of services including charter and tour. One reconfigures older coaches, one buys a specific brand for luxury class, and the third uses different configurations of the same brand.

One thing they have in common is that they thought the "class" thing through before taking the plunge. Some of the impetus came from their customers, including tour brokers. They are willing to spend money configuring luxury-class coaches in return

for a guaranteed volume. None of them bought the coaches and hoped to get the business.

Each has established a clear distinction for each class of service, and a price structure. Customers know exactly what they're getting, and what it will cost.

If you're tempted to vary your offerings, there are a couple of keys to success, or minimizing risk.

Poll your customers. It would be great to have the business before you have the coach, but that's not always possible. See what your customers would like AND be willing to pay for. Configure a package that fits.

Try and use as much flexibility as possible. A removable galley or lounge may be a hit. If not, you're only out the cost of the hardware. If you go with normal two-plus-two seating, and spread it out for additional legroom, you can always add a few more seats when it's time to sell the coach (beware the reading light spacing).

Two-plus-one seating, and some options like it, are more difficult to deal with if the service does not sell (or when you're trad-

ing in the coach).

Each part of an upscale package has three aspects: how much revenue it attracts, what it costs, and how it affects your ability to resell the coach. As you're assembling things, keep each in mind. Remember your customers. Line passengers have different desires than charter folk.

You can also offer a lower class. Some companies use Spartan older equipment when cost is the customers' only criteria, and offering nicer equipment only at profitable prices.

One curbside carrier, briefly, passed out folding chairs for folks who wanted to sit in the aisle. I'm pretty sure they didn't charge extra, but that still didn't (pardon the pun) "sit well" with safety folks. That's the wrong way to add a different level of service.

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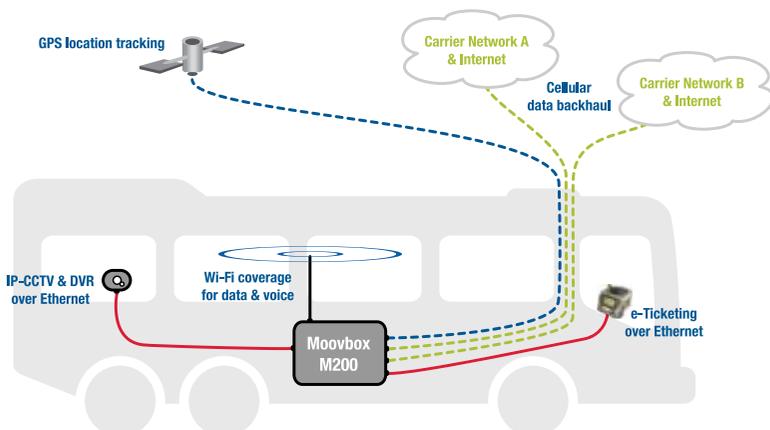


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FMCSA struggles

CONTINUED FROM PAGE 1

The GAO also examined what tools and methods the FMCSA uses to identify reincarnated operators and deal with them.

While the investigation was requested by the three members of Congress, the motorcoach industry was excited to — finally — see it happen. For much of the past decade, the industry has urged the FMCSA, both privately and publicly, to crackdown on rogue operators that are put out of service one day and reappear the next day as a “new” company.

FMCSA administrators from time to time have acknowledged the problem but, as the GAO report notes, really had not addressed the issue head on until last year.

What prompted the congressional inquiry, as well as action by the FMCSA, was an August 2008, bus crash in Sherman, Texas, that killed 17 people and injured 15 more.

The company operating the bus, it subsequently was learned, was the reincarnation of a coach company that had been ordered out of service two months earlier by the FMCSA.

For its investigation, the GAO took a look at the 220 companies the FMCSA ordered out of service in fiscal 2007 and 2008. Using a fairly simple and unsophisticated

analysis process, the GAO identified 20 companies that likely reincarnated from operators ordered out of service.

Tip of the iceberg

But, as the GAO investigators readily admitted, the number of reincarnations was likely understated because the GAO analysis was based on “exact matches” of data it analyzed.

Any unscrupulous person who purposely provided the FMCSA with deceptive information on their registration application — to hide their reincarnation — was not discovered by the GAO.

So, a rogue owner who was ordered out of service early last year and filed a new application using his brother-in-law’s name and address was largely home free and wouldn’t have been found out by the GAO investigators.

It does not seem too far-fetched to conclude that someone bent on evading an out-of-service order and morphing into a new company might be inclined to provide the FMCSA with “deceptive” information, running up the number of reincarnations, possibly substantially.

FMCSA officials maintained in their comments to GAO investigators that, until last summer, reincarnation was relatively simple to do and hard to detect.

Following the crash in Sher-

Feds issue guidelines for headquarters

WASHINGTON — The Federal Motor Carrier Safety Administration has issued new regulatory guidance on how it expects motor carriers to designate their principal place of business.

The guidance is designed to end of the practice of bus and truck companies calling some distant state their headquarters to avoid fees and restrictions.

In a notice published in the Federal Register last month, the FMCSA said its guidance will provide bus and truck operators, as well as federal, state and local law enforcement officials, with uniform information for use in determining the headquarters’ location.

The notice became effective Aug. 12.

“In instances where a motor carrier has more than one terminal or office, the regulations do not explicitly place a restriction on which location a motor carrier may designate as its principal place of business,” FMCSA said in the notice.

“The definition states that such a location is ‘normally’ the carrier’s headquarters; the rule does not require motor carriers to use the company’s corporate headquarters as its principal place of business. However, motor carriers are limited to using an actual place of business of the motor carrier” for its headquarters.

Moreover, a motor carrier may designate as its principal place of business only locations that contain

offices of the motor carrier’s senior-most management executives, management officials or employees responsible for the administration, management and oversight of safety operations and compliance with Federal Motor Carrier Safety Regulations.

In determining its principal place of business a motor carrier must consider the following factors: The relative importance of the activities performed at each location and, if this factor is not determinative, then time spent at each location by motor carrier management or corporate officers.”

FMCSA also said it may take into consideration other factors such as ownership of the location, employees at the site, vehicle maintenance at the site, and the presence of records.

“A motor carrier may not designate as its principal place of business any location where the motor carrier is not engaged in business operations related to the transportation of persons or property,” the notice pointed out.

The FMCSA does not like engaging in wild goose chases when trying to perform its safety oversight functions.

More information is available from Bill Mahorney with the FMCSA enforcement and compliance division. Phone: (202) 493-0001.

man, the FMCSA established what it calls the Passenger Carrier Vetting Process, known in the agency as PCVP, which requires the review of each new application for the potential of being a reincarnation.

Under the system, the FMCSA conducts a computer-matching process to compare information in a new motorcoach operator’s application to data on poor-performing operators going back to 2003.

System shortcomings

However, the initial version of PCVP had the same shortcomings as the GAO analysis. It could only identify exact matches. So, if a miscreant named John W. Smith submitted an application for a new company and failed to include his middle initial on the form, the system wouldn’t flag Mr. Smith as a possible reincarnation.

Now, the FMCSA has upgraded the system so PCVP can flag matches that are close but not necessarily exact. So, John W. Smith would match John Smith.

However, it still wouldn’t catch Fred Jones, Mr. Smith’s unsavory brother-in-law who was doing his sister’s husband a favor by allowing his name to be put on a registration application.

But maybe Mr. Smith would slip up and use his old phone number, instead of the new cell phone number he planned to put on the application, and get caught.

The GAO probe found there are other impediments to putting and keeping reincarnated companies out of business.

“Complexities regarding the application of state laws on corporate successorship may, in certain instances, affect the agency’s ability

to deny operating authority to or pursue enforcement against unsafe reincarnated motor carriers under these statutory provisions,” said the GAO report.

The “complexities” include the legal standard that must be met to hold a newly formed corporation liable for civil penalties assessed against its corporate predecessor.

Lots ‘o work

FMCSA officials told the GAO investigators that the facts necessary to satisfy legal standards — whether under state or federal laws — require documentation outside the normal compliance review process.

And because putting this documentation together is labor intensive, the FMCSA doesn’t even attempt it unless it has “strong preliminary evidence” indicating that a new company is a reincarnation of a former operator which has had enforcement action taken against it and the reincarnation is for the purpose of evading previous enforcement actions.

In June, the House passed legislation that included provisions designed to make it easier for the FMCSA to place a reincarnated operator out of business.

The new law would impose a uniform federal standard and would authorize FMCSA to deny or revoke operating authority from a carrier that failed to disclose a relationship with a prior carrier.

According to FMCSA data, 5 of the 20 reincarnated coach companies identified by the GAO were still operating as recently as this past May. The GAO did not indicate, however, whether this was because of bugs in the PCVP system, legal obstacles, or other

hurdles or foul-ups.

The bad actors

The 20 companies noted in the GAO report were from nine states — Arizona, Arkansas, California, Georgia, Maryland, North Carolina, Texas, New York and Washington. The violators owed tens of thousands of dollars in delinquent fines and had scores of violations, ranging from operating without the proper license to failing to test drivers for illegal drugs and alcohol.

Another 1,073 commercial trucking firms are also believed to be possible reincarnations after incurring fines and violations, often using the same address, owner name, employees and contact numbers.

Responding to the report, the FMCSA noted it had taken steps to identify reincarnated companies and keep them off the road.

“The Federal Motor Carrier Safety Administration recognizes the need for increased oversight of the motor carrier application process,” said agency spokesman Duane Debruyne.

“The agency has already made changes to the application process that makes it more difficult for unsafe reincarnated operators to obtain new authority.

“The agency is also working to reduce even further the time needed to conduct the initial safety audit of motorcoach entrants. Federal law requires new carriers to undergo a new-entrant safety audit within 18 months of when the company begins to operate.

“The FMCSA has an internal policy of conducting safety audits within nine months and most often completes them within five months,” Debruyne said.

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