

Bus & Motorcoach NEWS

WHAT'S GOING ON IN THE BUS INDUSTRY

Charter rule registration moves back to front burner

ALEXANDRIA, Va. — The number of motorcoach operators who say they are facing charter competition from public transit agencies has more than doubled in the past year.

But far fewer private operators are registered on the federal website that would notify them when charter jobs are pitched to public transit agencies.

The six-year-old federal Char-

ter Service Rule apparently has been successful at directing more charter business into the hands of private operators.

The rule “has been very effective in preventing local transit agencies from using federally-funded assets in competition with private firms offering charter services,” says Ken Presley, vice president of industry relations and chief operating officer of the Unit-

ed Motorcoach Association.

However, the rule could be at risk because of waning charter rule website registrations by private operators and the industry’s perceived lack of interest.

Only 203 motorcoach operators are currently registered with the Federal Transit Administration charter registry, down from about 570 three years ago and 1,400 five years ago.

At its mid-year meeting, the board of the United Motorcoach Association decided to assist members in signing up for the somewhat cumbersome FTA charter registry.

“This is one issue that could undermine the protections private motorcoach operators enjoy under the charter bus rule,” said Victor Parra, UMA president and CEO.

Carriers that registered with

FTA in the past may not realize the registration expires after two years.

“Unfortunately, private operators are not notified that their registration is lapsed and the registration process does not tell you that there’s an expiration date for your registration,” Parra said.

“Consequently, many — again, probably most — don’t realize their registration is expired.”

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At FMCSA

Controversial Anne Ferro is leaving as chief

WASHINGTON — Anne Ferro, the longest serving administrator in the near 15-year history of the Federal Motor Carrier Safety Administration, is leaving the agency at the end of this month.

Transportation Secretary Anthony Foxx announced Ferro’s departure “with great disappointment.”

She will become president and CEO of the American Association of Motor Vehicle Administrators.

Appointed by President Obama in 2009, Ferro led the FMCSA’s increasingly aggressive safety enforcement efforts of the past four years, much of it targeted specifi-

cally at the motorcoach industry.

She said her commitment to strengthening motor carrier safety was based on three principles: raising the safety bar to enter the industry; requiring motor carriers to maintain high safety standards, and removing unsafe carriers and drivers from the nation’s roadways.

Using a combination of more and expanded rules and regulations, stepped-up enforcement, greater regulatory manpower, and targeted initiatives, the FMCSA under Ferro sought to increase safety compliance and accountability.

“Anne has been a true leader in

safety throughout her time at (the Department of Transportation) and has become a trusted advisor and friend to me during my time as secretary,”

Foxx said in a statement.

“Under Anne’s leadership, FMCSA has ushered in a new culture of safety into the commercial bus and trucking industries. She has made it more difficult for companies that jeopardize the public’s wellbeing to stay in business and easier for consumers to

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Anne Ferro

Agencies to better coordinate safety complaints

WASHINGTON — In a move with potentially far-reaching implications, the U.S. Occupational Safety and Health Administration and the Federal Motor Carrier Safety Administration have agreed to better coordinate enforcement actions when a worker alleges safety problems, coercion or retaliation related to motor carrier operations.

The FMCSA can take action against a motor carrier when it receives complaints but, unlike OSHA, it can’t compensate whis-

tleblowing workers.

So, under an agreement signed by the two agencies, a driver filing a complaint with FMCSA about safety violations or coercion by his employer might be able to file a whistleblower protection complaint with OSHA and win compensation.

OSHA has processed more than 2,800 whistleblowing and safety violation cases under the Surface Transportation Assistance Act during the past nine years. Some cases have resulted in or-

ders that cost motor carriers hundreds of thousands of dollars in back pay and damages.

The agreement not only will “facilitate coordination and cooperation” between the agencies, but it also provides for sharing of information about safety and health allegations received by either agency.

The anti-retaliation and anti-coercion provisions of the Surface Transportation Assistance Act are aimed at protecting drivers and

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Research: Harmful bacteria in planes, buses still a worry

AUBURN, Ala. — The director of a university study investigating how long illness-causing bacteria can survive in the cabins of airliners says motorcoaches may be an even more fertile environment for disease-causing bacteria than planes.

Auburn University Prof. Jim Barbaree has been leading a research team from the university that has spent months investigating how long pathogens that cause diseases can survive in a jetliner.

What they found was that dangerous bacteria can linger on surfaces in commercial airplane cab-

ins for up to a week, according to the research Barbaree’s team presented at the annual meeting of the American Society for Microbiology.

When asked whether motorcoach cabins provided a more or less conducive atmosphere for illness-causing bacteria, Barbaree responded without hesitation, saying “bacteria probably grows more on a bus.”

The reason?

Humidity and heat. Bacteria thrive in higher humidity and

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Average price of diesel fuel slides in July; gasoline, too

WASHINGTON — The national average price of on-highway diesel fuel in the U.S. fell last month, hitting its lowest level since late November, according to U.S. Energy Department numbers.

It declined more than a nickel a gallon during the month, slipping to \$3.858, which is also more than a nickel lower than the same time last year.

Prices fell in all parts of the country with the biggest monthly decline coming in the Central Atlantic region, where the price aver-

aged \$3.99 at the end of July.

The smallest decline was in the Rocky Mountain region where the average price was \$3.888.

Compared to a year ago, prices are lower in all parts of the country except the Central Atlantic region, where they are the same.

Diesel ranges from a high of \$4.04 in New England, to a low of \$3.767 in the Gulf Coast states.

Meantime, the average cost of regular-grade gasoline also has fallen, hitting its lowest price since

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Emissions rules create quandary

SACRAMENTO, Calif. — New amendments to California's stringent air pollution control regulations pose a vexing problem for out-of-state bus operators: How can they enter the Golden State and not risk running afoul of the law?

Jim Seal, a consultant for the California Bus Association who has a long history with the California Air Resources Board and its Bus and Truck Regulation, offers this advice: Use a newer bus that meets the emission standards.

"You have no problems whatsoever coming in with an '07 or newer engine-model-year bus.

That's the simple way to do it," says Seal.

It's more complicated for operators using an older vehicle. What are their options?

- Apply for a three-day pass.

This can be done by filling out a form on the CARB website "TRUCKSTOP" section and submitting it three days before the visit.

The pass allows a fleet owner to operate one vehicle per calendar year in California. There is no mileage limit.

"With this particular pass, the driver can have it on his person and he can show it, or you can

email or fax it into CARB ahead of time," he says.

- Apply to use the low-use, 1,000-mile option.

"However, that means you have to register online. That means, along with the size of your fleet, the bus you want to bring into California must be registered in the CARB database. The catch is you have to do it every January, at the beginning of the year," Seal says. "Also, you must enter your bus's ending mileage the following January."

Operators that have not registered or brought a vehicle into the

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Additional compliance time requested

SACRAMENTO, Calif. — The California Bus Association has asked the California Air Resources Board to amend state emissions regulations, providing more compliance time to bus operators that bought and installed diesel particulate filters that were approved by regulators but later recalled because they were substandard.

Currently, the rules "only give operators five years, up to 2017, and then they must replace (the fil-

ters) at their own expense," said Jim Seal, a consultant to the California Bus Association.

"In effect, it penalizes the end users and not the manufacturer that provided a deficient product."

The CBA proposed several alternatives, including requiring the manufacturer or its successor entity to install replacement, verified emissions control systems and to bear the cost; reimbursing operators for the cost of the devices, using funds from the state cap-

and-trade system; allowing buses to run as is until 2021, or extending the use of early compliance credits to 2020.

Seal noted that the association's suggested options would have a negligible impact on state emissions reduction goals.

"We're only commenting on motorcoaches. The point we're trying to make is that every one of our options has zero impact on the environment," he said.

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More lawsuits hit Caterpillar over funky engine problems

As the number of lawsuits filed against Caterpillar over its 2007-10 C13 and C15 engines continues to mount, some of the suits have been consolidated and sent to a federal court in New Jersey for ease of management.

"Now there's a single judge and single court, and that judge will manage those cases and decide what's the best way to proceed," said Richard Burke, an attorney representing bus and truck companies that are suing Caterpillar.

Burke, of Complex Litigation LLC in Highland Park, Ill., said an initial hearing on the cases has been set for this month. But he added that legal actions are likely to drag on for months to come.

"Obviously, Caterpillar has to make a business judgment: Can we resolve the problem with the owners or are we willing to not settle the problem," he said.

"We think we have good faith in Caterpillar to reach a mutual business judgment. I would like to see that happen within 18 months."

Meantime, three more lawsuits have been filed, bringing the total to at least 15.

The latest filings include two by passenger carriers and another involving an over-the-road truck with a 2007 Cat engine.

Other recently reported developments include settlements in some cases, totaling tens of millions of dollars.

Early this summer, Peoria, Ill.-based Caterpillar acknowledged it had agreed to a \$46 million settlement over claims that a defective marine engine caused a fire that destroyed a ship in Mobile, Ala., in 2008, according to *The Wall Street Journal*.

Last fall, the Northside Independent School District in San Antonio, Texas, won a \$900,000 settlement in a suit alleging that faulty Caterpillar engines caused two fires and forced the grounding of about two-dozen other buses with the same equipment, according to news accounts.

The lawsuits center on Caterpillar's emissions control system, developed to meet tougher federal emissions rules that started going into effect in 2002.

Plaintiffs say the system,

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THE DOCKET

UMA: Go slow on electronic logging devices

WASHINGTON — The United Motorcoach Association is urging the federal government to gradually phase in its proposed mandate for electronic logging devices.

The Federal Motor Carrier Safety Administration is reaching the end of a 15-year rulemaking saga to replace the venerable paper log books maintained by drivers with electronic devices, which in the past were referred to as automated onboard recorders.

The proposed rule would take effect two years after a final version of the regulation published — possibly by late 2016.

The fundamental purpose of the devices is to help enforce hours-of-service rules, ostensibly reducing fatigued driving and de-

creasing paperwork for carriers and drivers.

A 256-page proposed rule that would mandate the devices for over-the-road bus and truck drivers and their vehicles was issued in March. The public comment period concluded at the end of June.

In comments filed with the FMCSA, UMA concludes that the proposed rulemaking published in March “requires considerable change to obtain a tenable final rule for passenger carriers.”

Fleetwide adoption of electronic logging devices will cost the motorcoach industry millions of dollars yet the safety benefits are uncertain, UMA contends.

“FMCSA should extend the period of time the proposed man-

date becomes effective and consider an incremental approach such as a percentage of the passenger carrier fleet requirement over an extended period of time,” UMA suggests.

“While UMA views ELDs as an effective management tool, we harbor considerable reservations regarding their capacity to significantly reduce crashes.”

UMA says rule makers should consider that “the motorcoach industry is facing unprecedented regulatory mandates and enforcement, including substantial and expensive changes to the motorcoach. These changes should reduce crashes and increase the safety of passengers when these vehicles are purchased to replace

existing equipment and increase the fleet size.

“Unfortunately, every regulatory mandate reflects added operation and capital expense.”

Installing ELDs on all interstate commercial buses, trucks, limousines and taxis could cost those industries more than \$2 billion. The private motorcoach industry will incur a one-time expense of at least \$20 million, plus millions more to train drivers and other staff members on the devices; hire replacements because current drivers balk at learning to use the devices; added compliance costs, notably the extra drivers and buses that may be needed to assure that no driver exceeds hours-of-service

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Changes coming to CSA website, display upgraded

WASHINGTON — The Federal Motor Carrier Safety Administration has announced a series of changes to the display of information on its Compliance, Safety, Accountability public Safety Measurement System website.

The agency said the “enhancements” are intended to provide easier, more intuitive navigation, and user-friendly features and descriptions to clarify the Safety Measurement System’s role as the FMCSA prioritization tool for interventions; consolidate agency safety information so users do not have to go to multiple sites, and provide improved access to detailed information and new performance-monitoring tools.

The Safety Measurement System uses data collected from inspections, citations, state-reported crashes and investigations to quantify the relative safety performance of bus and truck operators.

The agency uses the data to identify and prioritize “high-risk” motor carriers, allocate its investigative resources and identify motor carriers for other actions, such as a warning letter.

The design enhancements, which were to be operational on the CSA website early this month, do not alter the Safety Measurement System methodology or affect a carrier’s safety rating, the FMCSA said.

The agency plans to conduct webinars on the changes Aug. 20-21.

There will be two webinars Aug. 20, from 10 to 11:30 a.m. and 2 to 3:30 p.m. Eastern Time. On Aug. 21, there will be a webinar from 2 to 3:30 p.m. Eastern Time.

Individuals can register for the webinars through the FMCSA National Training Center at <http://www.fmcsa.dot.gov/safety/overview-fmcsa-safety-measurementsystem-display-enhancements-industrywebinar>.

A copy of the webinar will be posted on the agency website at www.fmcsa.dot.gov.

dent Drivers Association represents small trucking companies and truck drivers. It currently has more than 151,000 members.

Comments on logging device proposal run gamut

WASHINGTON — Comments filed with the Federal Motor Carrier Safety Administration on the proposed electronic logging device mandate cover a wide spectrum, from outrage and disdain at Big Brother government to applause for a sensible and long-overdue safety rule.

Most of the comments — 2,200 plus — are from individuals who do not like what the FMCSA is planning to do.

The core of the ELD proposal is the requirement that drivers who fill out paper logs must eventually switch to electronic logs.

The proposal also covers technical standards for the logging de-

vices and the supporting documents that regulators need to confirm compliance.

And it sets requirements to assure electronic logs are not used to harass drivers.

Most of the individual comments come from truck drivers and they typically focus on the regulatory burden the agency is proposing.

For example, James Bennett said he is a 30-year owner-operator with no accidents and is not sure he’ll stay in the business if he has to use one of the devices.

“I do not need an ELD,” he said. “It does nothing for me and my operations or my bottom line.”

A number of owner-operators say ELDs have the effect of pushing drivers harder during their duty time.

“I will have no choice but to drive in traffic, adverse weather conditions, and/or while fatigued because I can’t take a nap...because the clock is tick, tick, ticking away,” said Ryan Allison.

On the other hand, some individuals support the rule.

Charles Bolin said he thinks ELDs should be required on every truck.

“I would compare an E-log rule to a rule requiring employers to use electronic time clocks rather than handwritten time cards to

prevent payroll fraud,” he said. “It makes good business sense and it keeps local companies honest about whether their drivers really qualify for the local driver log-book exemption.”

Henry Albert put it this way: “Quite simply, electronic log books bring accountability and compliance to the trucking industry.”

Major trucking industry interest groups filed extensive comments addressing the details of the proposal.

ATA supports mandate

The American Trucking Associations said it supports the ELD

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Truckers sue over release of safety records

BOSTON — Six truck drivers filed a class-action suit against the Federal Motor Carrier Safety Administration last month under the Federal Privacy Act, charging the agency is unlawfully disseminating reports of driver safety records to potential employers.

According to the complaint filed in federal court here, the FMCSA is only allowed to report “serious driver-related violations” under its Pre-Employment Screening Program.

The suit claims the agency is releasing reports that go far beyond its statutory authority.

The Pre-Employment Screening Program is a five-year-old FMCSA initiative that makes driver history information available to

prospective employers.

Currently, PSP reports contain five years of crash and three years of inspection information for commercial vehicle drivers, with the information mined from the FMCSA Motor Carrier Management Information System, known as MCMIS.

The suit claims the FMCSA has released driver violations that are not that serious, violating U.S. Transportation Department regulations, with as many as 10,000 commercial drivers having had records of relatively minor violations released.

The lawsuit says the reports sent out by the contractor that runs the system for the FMCSA harm the plaintiffs’ earning potential

and the ability to get hired in driving jobs.

The plaintiff drivers, who are all members of the Owner-Operator Independent Drivers Association, claim the FMCSA is acting willfully to disparage the safety records of individual drivers and each seeks statutory damages of \$1,000.

The six plaintiffs plan to ask the court to certify a class and award statutory damages to all drivers for whom such reports have been prepared.

According to the complaint, the secretary of the U.S. Transportation Department is required by statute to determine which violations of federal safety standards constitute a “serious driver-related violation.”

The plaintiffs charge that most of the violations shown on their individual PSP reports have never been identified by the secretary as “serious driver-related violations,” thus making their disclosure unauthorized.

Jim Johnston, president of the Owner-Operator Independent Drivers Association, praised the suit.

“FMCSA’s actions in implementing the PSP program demonstrate their deliberate ineptness and disregard for clear statutory limitations.”

When contacted to comment on the suit, an FMCSA spokesman said “As a matter of agency policy, we do not comment on litigation.”

The Owner-Operator Indepen-

NTSB: Miscues piled on mistakes led to bridge collapse

MT. VERNON, Wash. — The collapse last year of an interstate bridge near here that was struck by a truck carrying an oversize load has demonstrated once again how driver distraction, combined with a series of glitches, miscues and shortcomings, can result in a very costly incident.

The National Transportation Safety Board determined that the series of deficiencies in the system intended to safeguard the passage of oversized loads over Washington state roadways ultimately caused the collapse that produced a major traffic bottleneck for months and nearly resulted in multiple deaths.

At about 7:05 p.m. on May 23, 2013, a heavy truck operated by the Canadian firm of Mullen Trucking, was traveling southbound on Interstate 5 when the oversize load it was carrying struck the top of a bridge spanning the Skagit River near Mt. Vernon.

Seconds later, the damage caused a span of the bridge to collapse. Two passenger vehicles and a camper-trailer fell into the river, and two other vehicles were damaged.

None of the eight vehicle occupants involved in the bridge collapse was seriously injured.

The deficiencies cited by the NTSB included the failure of the driver of the pilot/escort vehicle to perform basic safety functions, inadequate route planning by the trucking company, Washington state's inadequate permitting process, and the lack of low-clearance warning signs for the bridge.

Mullen Trucking had hired another company, G&T Crawlers, to operate a pilot/escort vehicle as required by state law for the trip from the Canadian border to the truck's destination, the port of Vancouver, Wash.

The truck followed the pilot/escort vehicle, which was equipped with a height pole intended to verify clearance from obstructions for the oversize load.

In the 30 minutes leading up to the accident, the driver of the pilot vehicle had used a hands-free mobile phone to engage in five calls, including the one she was on when the truck struck the bridge.

An off-duty commercial truck driver traveling near the pilot vehicle said he saw the height pole strike four or five bridge elements.

The pilot vehicle driver said she did not observe the height pole contact the bridge structure as she was passing under it.

NTSB investigators were un-

able to conclusively determine if the pole contacted any part of the bridge structure, but did conclude that the driver's use of the cell phone distracted her and "diminished her ability to recognize whether the height pole struck the bridge."

"As we can see from this accident, any element that reduces a

driver's attention can have harmful results," said Acting NTSB Chairman Christopher Hart. "Drivers must always focus on the task at hand and be aware of their surroundings."

United Motorcoach Association Vice President Ken Presley, who monitored the investigation, agreed with Hart.

"The responsibility of operating a commercial motor vehicle warrants the full attention of the driver," said Presley.

"It is abundantly clear that talking on a cell phone while operating a commercial motor vehicle can have serious and even tragic results when a driver is distracted and fails to react to critical nuanc-

es that likely allow him or her to avoid a crash."

Although the trucking company had obtained a permit for the trip, it failed to check and plan accordingly for the low clearances encountered along the route.

As the truck approached the bridge, it was travelling in the

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Idaho, Wyoming speed limits move to 80 on rural highways

BOISE, Idaho — Speed limits on select rural sections of interstates in southern and eastern Idaho are being boosted to 80 miles per hour this month.

Following a review of engineering and traffic safety reports, the Idaho Transportation Board approved plans last month to increase the speed limits.

The 80-mph limit is being adopted along sections of Interstates 15, 84 and 86. The higher speeds go into effect when new signs are in place.

Trucks with five or more axles are limited up to 10 mph slower than everyone else.

The hikes were scheduled to take effect in early July but were delayed by the transportation board review.

While the speed-limit increase affects specific rural Idaho interstates, the speed limit in urban areas does not increase.

Meanwhile, officials are continuing to study possible speed limit increases for sections of I-90.

Legislation allowing the Idaho Transportation Board to increase the speed limits was approved by

the state legislature during its 2014 session. See May 15 *Bus & Motorcoach News*.

The new speed-limit law also allows for increases on non-interstate highways to 70 mph.

Last month, Idaho's neighbor, Wyoming, boosted the speed limit on nearly 500 miles of rural interstates to 80 mph.

The Wyoming change also resulted from action taken by the state legislature during its session this year.

Wyoming DOT crews changed speed limit signs along three sections of I-25, totaling 268 miles, as well as on three sections of I-80 (116 miles) and two sections of I-90 (104 miles).

WYDOT is continuing to assess two other sections of interstate where a speed limit increase could be possible. One section, measuring 46 miles, is along I-80, and the other, measuring 17 miles, is on I-90 east of Sundance to the South Dakota state line.

Wyoming and Idaho bring to four the number of states, Utah and Texas being the others, that have 80-mph speed limits on select rural highways.

Pa. Turnpike gets 70-mph limit

MORGANTOWN, Pa. — The Pennsylvania Turnpike has boosted the speed limit to 70 mph on a 100-mile stretch of the toll road in the south-central part of the state, up from 65 mph. It is the first time a 70 mph speed limit has been posted on the roadway.

The 70-mph zone is on the turnpike mainline, Interstate 76, between the Blue Mountain Interchange, exit 201, and the Morgantown Interchange, exit 298.

"Our studies have shown that the design of our system in this area can safely accommodate the

higher speed limit," said Turnpike CEO Mark Compton.

Turnpike officials noted that some stretches will not have the higher limit, especially curves.

Meanwhile, the Pennsylvania Department of Transportation plans to pilot test a 70-mph speed limit on two other interstates, starting the middle of this month.

The test will be along 88 miles of I-80, from exit 101 to mile marker 189, and 21 miles of I-380 from I-84 to Exit 3, Pocono Pines/Mt. Pocono. The current speed limit in the two areas is 65 mph.

Bridge collapse

CONTINUED FROM PAGE 5

right lane where the clearance was lowest due to the arc design of the support brace. Investigators said that had the truck been in the left lane, where the vertical clearance was greater, the oversize load would have cleared the bridge.

The NTSB called for changes in the permitting process used by the Washington State Department of Transportation to authorize movements of oversize loads on its roadways. The current system allows trucking companies to enter data about a trip into an internet-based application and obtain a permit without any review

or evaluation of the proposed oversize movement activities.

The NTSB said the protection of bridge infrastructure was "too vital of a state concern to leave the responsibility for assessing the risk associated with the transportation of oversize loads entirely with the motor carrier."

The NTSB also cited the lack of any low-clearance signage near the bridge to warn drivers.

Washington state has 22 bridges on its interstate system with a similar design as the Skagit River Bridge, and none have low-clearance signs or give any indications of the lane oversize vehicles should use.

Since the bridge collapse, the

N.Y. Thruway to get electronic tolling

ALBANY, N.Y. — The New York State Thruway Authority has given a contractor the go-ahead to proceed with development and installation of an electronic tolling system. The firm also will provide technical support.

The system will eliminate the need for thruway drivers to stop or slow down at tolling points.

By enabling toll transactions

to be completed at highway speeds, the automated system will facilitate free-flowing traffic across multiple lanes to minimize congestion, according to Kapsch TrafficCom, the firm chosen to install the system.

The more than \$18.5 million dollar project is expected to go online during the third quarter of next year.

The initial project scope includes toll zones at the temporary and permanent locations for the New N.Y. Bridge (which will replace the Tappan Zee Bridge), the Harriman Route 17 exits, and the Yonkers mainline toll facility.

The project includes options for the addition of the electronic system at other thruway toll facilities.

Colorado adding I-70 express lane

EMPIRE, Colo. — The Colorado Department of Transportation has started work on a project that will create a temporary eastbound express lane along Interstate 70, using the roadway's shoulder, between Idaho Springs and Empire.

According to reports, commercial vehicles will not be able to use the lane.

The area is one the most heavily congested along the I-70 mountain corridor and it not uncommon for drivers traveling on Sundays during peak hours to experience speeds averaging less than 20 miles per hour.

The Eastbound I-70 Peak Peri-

od Shoulder Lane project will upgrade 13-miles of eastbound I-70 with a wide shoulder that, during peak travel periods, will operate as a third travel lane that will be a tolled option for motorists.

The express lane will be dynamically priced to keep traffic moving, meaning prices will fluctuate depending on the amount of traffic in the tolled lane.

The project is scheduled for completion in fall 2015.

According to the Colorado DOT, using the shoulder to create an express lane within the existing I-70 right-of-way during peak periods instead of adding a full lane provides several benefits:

- Reducing travel time from the Eisenhower/Johnson Memorial Tunnels to the top of Floyd Hill by as much as 48 percent

- Providing auto drivers with the choice of a new, optional lane

- Allowing for faster speeds in all lanes, decreasing overall traffic time

- Improving safety.

"By using the shoulder instead of adding a full lane, we are striving to balance the needs of the traveling public with those of the natural environment and local communities adjacent to the highway," said CDOT resident engineer for the mountain corridor Benjamin Acimovic.

Users hit with fake toll road bills

WILMINGTON, Del. — Tolling officials say companies and drivers throughout the U.S. have been receiving what is described as a phishing email saying they owe fees for using pay-to-drive highways.

Printed beneath a logo that mimics the E-ZPass design, the fraudulent email reads: "You have not paid for driving on a toll road.

This invoice is sent repeatedly, please service your debt in the shortest possible time."

Toll road officials, including those at E-ZPass Group, which provides electronic tolling services on the East Coast, say they did not send the email.

The officials advise not opening or responding to the email.

Instead, they recommend that

questions about any E-ZPass message be directed to E-ZPass customer service in their state.

The CyberCrimes Division of the FBI is aware of the issue and anyone receiving the scam email and may have fallen victim may file a complaint with the agency's Internet Crime Complaint Center. Go to www.ic3.gov/default.aspx.

FMCSA warns about new fraud letters

WASHINGTON — The Federal Motor Carrier Safety Administration has issued another of its periodic warnings to bus and truck operators to be on the lookout for

fraud schemes perpetrated by thieves trying to get financial or banking information.

According to the FMCSA, a new wave phony letters have been sent to companies of all sizes, with a well-used template that's been around for nearly a decade.

The bogus letters appear to be

from the "Equifax Credit Information Services — Government division — Atlanta, GA" and are signed by a "Thad Brown — Senior Credit Analyst," according to the FMCSA.

The letters are phony and should not be responded to, says the agency.

Route 15 in New York now I-99

CORNING, N.Y. — State Route 15 has been re-designated Interstate 99 between Corning, in Steuben County, and the Pennsylvania state line.

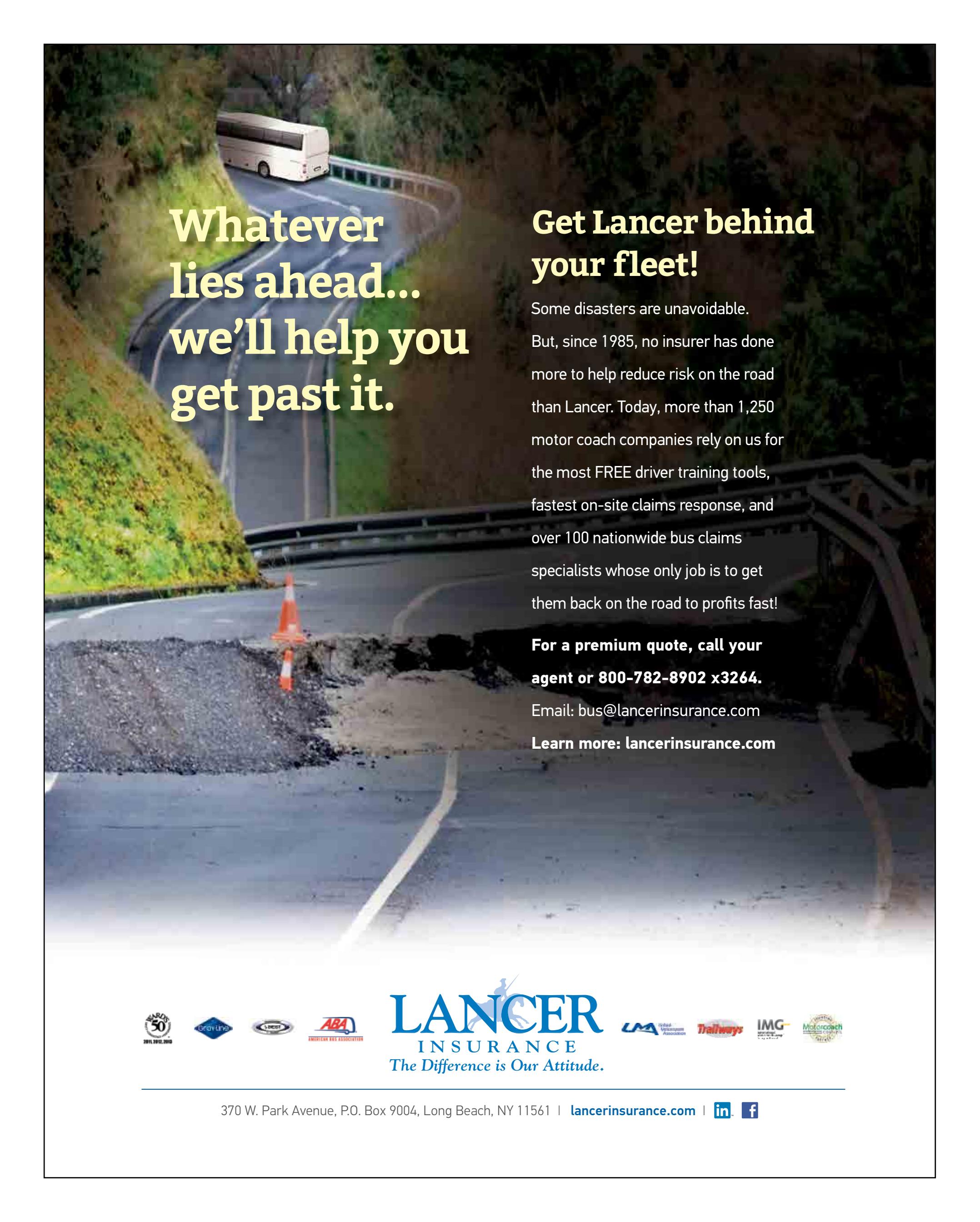
The western New York expressway opened to traffic last fall, following completion of \$235 million in projects that upgraded the highway and bridges.

The roadway was rebuilt to federal interstate standards to allow interstate designation.

The new interstate completes

the final link in an 80-mile stretch of four-lane expressway between I-86 in Corning and I-180 in Williamsport, Pa.

The I-99 segment in New York and the adjoining four-lane expressway in Pennsylvania allow for an uninterrupted high-speed corridor between the two states, improving access to Canada, and aiding those traveling from Canada and northern sections of western New York southeast and to mid-Atlantic states.



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UMA: Go slow

CONTINUED FROM PAGE 4

limits, and the cost of monitoring and downloading information from the devices and maintaining them.

The agency estimates an average annual cost of \$495 per vehicle for the ELD and operating services.

The UMA filing notes, "There are no proposed ELD exemptions based on vehicle or fleet size alone," but "drivers using the 100- or 150-air-mile exceptions will continue to be exempt from maintaining a record of duty status and will also be exempt from the ELD requirement...ELDs will be required for drivers who don't qualify for those exceptions on 9 or more days within any 30-day period."

Cost vs. benefit

"FMCSA should include in their cost analysis, the adverse effects this, and any mandate, has on new equipment acquisition and fleet modernization," UMA states.

"Keeping passengers in older motorcoaches and compelling groups to utilize alternative vehicles, such as private passenger automobiles and vans, could delay the desired results and potentially increase fatalities."

In its statement of support for ELDs, FMCSA estimates the mandate will save 20 lives and prevent 434 injuries each year, with a net benefit to the nation of \$394.8 million annually.

"Impaired driving, including fatigue, was listed as a factor in more than 12 percent of the 129,120 total crashes that involved large trucks or buses in 2012."

UMA argues that the likelihood of safety benefits is not certain.

"In general, the United Motorcoach Association has enthusiastically supported member implementation of electronic logging devices; however, we are somewhat reticent to share similar enthusiasm regarding the proposed mandate," it states.

"The increased productivity, reduced paperwork, and a reduction in nuisance hours-of-service (HOS) recording violations can be significant benefits for all but the smallest of passenger carriers; where paper logs are likely more practical and economical."

As for supposed safety benefits, UMA argues, "The American Transportation Research Institute 'acknowledged the correlation between EOBRs and safety is weak, citing a 2007 survey that showed fleets were more interested in adopting EOBRs technology as a compliance tool rather than safety.'

"UMA suggests this is a significant proposal for passenger carriers and that a direct and measureable correlation between reducing crashes is not only a necessity; but a mandate that goes to the very core of the agency's mission. As proposed, the mandate largely rests on the concept that improved compliance will reduce crashes."

The rule's final effects should be imposed only when they are effective across North America, the association argues. "Considering the significant international traffic (Canada, Mexico) involving passenger carriers, UMA strongly recommends complete regulatory harmonization prior to full implementation."

In the details

UMA also suggests a number of revisions to the details of the rules.

In addition to extending the time period for an ELD mandate, UMA suggests FMCSA adopt an accompanying extension

of paper log use. The association also asks that on-board recording devices now in use "be accepted and permitted to operate through their useful life."

Under the proposed rule, UMA notes, "Carriers who currently use automatic on-board recording devices (AOBRDs) that do not comply with the technical specifications outlined in the proposal would be burdened with a requirement to replace those systems no later than four years after the effective date of a final rule."

UMA also asks the FMCSA to adopt technical requirements that stress "daily self-calibration and tamper-proof protections." It explains, "While UMA has no direct knowledge of methods to 'cheat,' it has been suggested there are already methods of evading detection of noncompliance. Considering the dependence of ELDs on computer technology, it is likely wise to associate rulemaking in a manner to minimize efforts to avoid compliance."

Another technical feature sought by UMA is "the capability to import/export produced by all certified ELDs. Many drivers work for multiple carriers and their hours-of-service records will need to move from carrier to carrier."

In addition, "UMA suggests that a requirement of ELDs to alert a driver when they may be approaching their hourly limits may have some value and further analysis is warranted."

Technical details

The technical specifications in the proposal require the devices to record date, time, location, engine hours, mileage and driver and vehicle/carrier identification and make those available to inspectors. The operator will be identified by driver license

number and the state of license issuance.

The device has to be synchronized with the engine to record on/off status and the vehicle's motion, mileage and engine hours. It must automatically record a driver's change of duty and hourly status while the vehicle is moving. It also must track engine on/off, and the beginning and end of personal use or around-the-shop moves.

The FMCSA is proposing the devices use automatic positioning services, including either satellite-based global positioning systems or land-based systems, or both.

The agency will not require the devices to print out the log but offer printing as an option. It says the device will have to produce a graph grid of a driver's daily duty status, either on a digital display unit or on a printout.

Some motorcoach operators and many more truckers now have onboard information systems that warn the driver when he or she is approaching hourly limits. But the FMCSA is not requiring that capability in its proposal.

The primary communications method will be wireless web services, Bluetooth 2.1 or email. The backup will be wired USB 2.0 or scannable Quick Response code.

To guard against tampering, the device must not allow changes in original information about the driver's records or in the source data streams that provide the information. It also must be able to check the integrity of the information. The device must be able to monitor and record compliance for malfunctions and inconsistencies.

The rules set requirements to assure that electronic logs are not used to harass drivers. That was a key factor in adopting a rule that would satisfy elements of the trucking industry and meet a court requirement.

EDL comments

CONTINUED FROM PAGE 4

mandate.

"ATA is confident that such devices will improve compliance with the hours-of-service regulations," the association said. The association noted that FMCSA data showed strong correlation between compliance with the 2010 hours-of-service rules and lower crash rates.

ATA wants the agency to move quickly, but not so quickly that it opens the rule to legal challenges. "The agency must conduct research and analysis to ensure that a final rule is judicious and defensible."

The association also wants the agency to look for ways to promote voluntary adoption.

It pointed out that it's likely to take three years to put the mandate into effect – a year to finish the rule and two years' grace before ELDs are required for those who use paper logs. And regulatory delays or litigation could push that out even further.

Meanwhile, carriers that already have ELDs or that move quickly to install them will be at a competitive disadvantage against carriers using paper logs, ATA said. Paper logs, for instance, record time in 15-minute increments, while ELDs are precise to the minute.

"These inequities ultimately penalize early adopters and will discourage other fleets from installing ELDs before the final deadline to do so, especially under the new, more restrictive hours-of-service rules," ATA said.

The agency could encourage voluntary adoption by extending the "grandfather" period for automatic recording devices that meet existing requirements, ATA said.

Enforcement concerns

The Commercial Vehicle Safety Alliance, which represents the officers who enforce the rule, is concerned about the schedule for compliance.

The agency proposed a four-year plan that will complicate enforcement, CVSA said.

During the first two years, there will be three ways to keep track of hours: on paper, with grandfathered automatic onboard recording devices and with ELDs. Carriers that use paper logs will have to plug in ELDs at the end of two years, but those that use automated onboard recorders, or pre-rule ELDs, will have another two years to bring their systems into compliance with the mandate.

CVSA is proposing that there be a three-year grace period for all carriers.

"In this scenario, any existing electronic devices for recording driver (records of duty status) would no longer be permitted after the third year," CVSA said. That would give suppliers time to meet the demand, carriers to budget the change and enforcement agencies to train their staff.

CVSA also wants the agency to be sure it accounts for what it will cost enforcement agencies to implement the rule. It suggested the agency include police equipment and training in its regulatory impact analysis.

CVSA is at odds with ATA on the question of supporting documents. It agreed with the agency's proposal but added that drivers should be required to keep the documents for seven days.

Another issue for police is drivers who use their vehicle as a personal conveyance. The meaning of "personal conveyance" is not clear, CVSA said.

It proposed a definition that says the driver may use his bus or truck for personal transportation for a "short distance" — to and from the nearest lodging or restaurant, or between his home and his normal terminal, but no more than 25 miles or 30 minutes.

The independent truckers

The comments by the Owner-Operator Independent Drivers Association read like a prelude to a lawsuit.

The group challenged the legal, constitutional and technical foundations of the proposal.

It said the proposal fails to meet the legal requirement that ELDs automatically and accurately record driver hours of service.

Under the proposed rule, drivers will manually enter a change in duty status, which is neither automatic nor necessarily accurate, the group said.

"FMCSA embarks on this ill-advised program without any evidence that currently available ELDs, which require the manual input of changes in duty status, will provide the slightest improvement over paper logbooks which also depend upon manual input of such information," OOIDA said.

Further, said the association, the agency ignores the constitutional question of mandating a device to monitor driver conduct without a warrant. The agency should have solicited comments on this issue in its proposal.

"Without providing for the due process rights of truck drivers, the proposed rule's imposition of electronic monitoring is an unconstitutional deprivation of a driver's freedom of movement."

The OOIDA also contended that the agency's cost-benefit analysis is deficient. It said the analysis does not address the question of who should bear the cost of ELDs, and it contains no credible data on the relationship between ELDs and hours-of-service compliance.

Advocates approve

Advocates for Highway and Auto Safety endorsed the proposal, saying it is long overdue, but had concerns about some of the details.

One issue is that the proposal permits portable ELDs that drivers could manipulate to skirt the hours of service rules, advocates said.

The group wants the agency to require ELD systems to have data storage that is hard-wired to the engine, so that the vehicle's operation is logged whether or not the portable portion of the system is activated.

In addition, the proposal should include stiff penalties for violations, Advocates said. "The entire premise of the rule will be undermined unless motor carriers and drivers have a strong incentive to comply."



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'Six Days on the Road'...complying with state break laws

By Doug Hass
Franczek Radelet P.C.

My apologies to Dave Dudley.

Dudley's famous trucking song, "Six Days on the Road," just doesn't stand up to the changes we would have to make after the Ninth Circuit (U.S. Court of Appeals') decision that California meal and rest break laws are not preempted by federal hours-of-service laws.

(Though I'm pretty sure that, eyes open wide or not, the "taking little white pills" verse in Dudley's song wasn't even legal in 1963.)

In a case we have been watching carefully since this spring, *Dilts v. Penske Logistics*, the Ninth Circuit issued a decision affecting two related cases from the trucking industry that questioned whether California's detailed meal and rest break requirements conflicted with a federal statute barring states from regulating the prices, routes and services of motor carriers and airlines.

The case might seem to be a boring, narrow constitutional law issue, but the Ninth Circuit's ruling that federal law does not trump California's meal and break laws could have a substantial impact on transportation industry employers, whether in California, in the western states covered by the Ninth Circuit where this ruling applies immediately, or elsewhere in the country.

The history

In 2008, motor carriers petitioned the Federal Motor Carrier Safety Administration seeking a finding that state meal and break laws (like the ones in California) are preempted by the federal hours-of-service laws pursuant to the Federal Aviation Administration Authorization Act of 1994 (FAAAA) when applied to motor carriers.

The FMCSA denied that petition, reasoning that the break law was just one part of California's employment regulations that applied generally to employers in a variety of other industries.

The FMCSA reasoned that Congress only preempted state laws and regulations related to commercial motor vehicle safety, not all laws generally that in any way overlap with the FMCSA's hours-of-service regulations.

In 2012, two district courts considered claims under California law by classes of delivery drivers (one making residential appliance deliveries, the other involving "city/local" drivers transporting a variety

of cargo).

The plaintiffs claimed their fixed routes and the timing of deliveries prevented them from taking the meal breaks prescribed by state law.

Unlike the FMCSA, the district courts found that the claims were preempted under the FAAAA's expansive language, and determined that requiring motor carriers to follow California requirements for meal and rest periods would interfere with competitive market forces within the industry because they are directly related to the frequency and scheduling of transportation.

The Ninth Circuit invited the U.S. Department of Transportation to participate as an amicus in the

case this spring.

First, the USDOT argued against preemption because laws like the one in California were not specifically targeted toward the motor carrier industry. Second, the USDOT argued that its position on the preemptive reach of the FAAAA should be given deference by the courts based largely on its expertise in regulation and interpretation of motor carrier safety under the Federal Motor Carrier Safety Act, even though the act and the FAAAA are entirely separate and the USDOT doesn't regulate the latter.

The decision

The Ninth Circuit ultimately

agreed with the USDOT interpretation.

While the court recognized that the FAAAA uses expansive language, it found only a tenuous link between California's meal and break laws and motor carriers' prices, routes, or services. It held that where a state law does not refer directly to rates, routes or services, "the proper inquiry is whether the provision, directly or indirectly, binds the carrier to a particular price, route or service and thereby interferes with the competitive market forces within the industry."

Under that analysis, the court held that California meal and break laws do not directly or indirectly set prices, mandate or prohibit certain routes, or force motor carriers to provide or not provide certain services.

The court found that merely accounting for meal and rest break requirements when scheduling routes, even if that meant potentially reallocating resources, did not bind motor carriers to specific prices, routes, or services in any significant way.

However, while the court declined to preempt these state laws in every case, it did leave room for individual employers to demonstrate preemption on an "as applied" basis.

In these two cases, the court was not convinced that the carriers had made sufficient showings of the difficulties in scheduling breaks, the impact on their staffing levels, and the resulting influence on rates and routes to justify exempting them from compliance with California's meal and break laws.

One of the judges on the panel concurred specifically to emphasize that the defendant, Penske

CONTINUED ON PAGE 12 ►

Conservatives take aim at Brand USA

WASHINGTON — Conservative groups have targeted the tax money that is flowing to Brand USA, the joint travel industry-federal government international visitor promotion program.

Under the Travel Promotion Act of 2009, Congress established the Corporation for Trade Promotion, known as Brand USA, to boost international travel to America and educate international visitors on the oft-times onerous U.S. visa process.

Until next year, Brand USA is funded by private contributions which are matched by the federal government up to \$100 million.

The matching government money come from a fee — that is, a tax — tacked onto visitors from nations that are American allies and friends participating in the Visa Waiver Program; countries like England, Australia, South Korea and Chile.

Congress currently is considering legislation that would reauthorize Brand USA beyond next

year.

Critics of the program don't think Congress should be levying taxes — even if they are on foreigners — to promote tourism, which they contend already is being done quite well by the \$1.5 trillion travel and tourism industry.

The critics also suggest Brand USA has served to line the pockets of a politically connected few.

Proponents argue that 1.1 million tourists, 53,181 jobs, and \$3.4 billion in tourist spending resulted from Brand USA efforts in 2013.

Those numbers have been questioned by the critics.

There is no question that the number of international tourists coming to the U.S. has been increasing since 2003, long before Brand USA was established in March 2011.

The critics also say tourism could hardly be called a struggling industry in America: according to the U.S. Department of Commerce, international visitors spent a record \$180.7 billion in 2013.

And, even if it were, such a government program would still not be justified.

The critics also point to Brand USA's rocky start. A 2012 Senate report showed abuse of Brand USA's funds, such as board members working for rates of \$258 an hour and funds being diverted to lobby despite a clear prohibition from Congress. (See Aug. 1, 2012 *Bus & Motorcoach News*.)

Both supporters and critics agree that tourism is important to America's economy and can be a helpful diplomatic tool as visitors gain a better understanding and appreciation for Americans and what this nation has to offer.

They also appear to agree the federal government has a role in aiding this process — such as eliminating the overbearing 100 percent visa interview requirement, or expanding the Visa Waiver Program.

Where they part company is over levying taxes to support Brand USA.

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Recommendation: Give traction the respect it deserves

By Dave Millhouser

“Do you always take turns that way?” asked Fat Jack.

Jack wasn't actually fat (a complex story for another time), but he had a point.

It was nearly midnight and Jack was sitting at the top of the stepwell next to me as I drove the Flx towards Colorado, chatting to keep me awake.

We were rolling west through Kansas City, Mo., in the middle of a nasty thunderstorm.

Interstate 70 was a raised highway as it neared the Kansas River, and arced sharply to the left as it passed over the river and a rail yard.

I was a wizened 23-year-old, and had cleverly slowed to a seemingly glacial 35 miles per hour because there was water pooling on the highway.

As the coach approached the curve the rear tires broke loose and we fishtailed wildly as we hydroplaned towards the curve. Just as it appeared we were going to flip over the tiny guard rail, fly off the causeway and dive-bomb the rail yard below, the rear wheels grabbed — and we did what ap-

peared to be a racing drift sort of a turn and cruised safely across the river into Kansas.

The answer to Jack's question would have been “no” if I hadn't been simultaneously crying and praying.

It's amazing how quickly one can transit from “wizened” to “chastened.”

Everyone who has driven for any length of time is aware of hydroplaning...but few of us give it the respect it deserves.

Even a shallow pool of water can create a ton of excitement, at speeds far lower than you expect.

Hydroplaning, which some call aquaplaning, occurs when a layer of water builds between the wheels of a vehicle and the road surface, leading to a loss of traction that prevents the vehicle from responding to control inputs.

If it occurs to all wheels simultaneously, the vehicle becomes, in effect, an air-hockey puck — uncontrollable. Hydroplaning is a different phenomenon from water on the roadway merely acting as a lubricant. Traction is diminished on wet pavement even when hydroplaning is not occurring

Tire grooves are designed to

disperse water from beneath the tire, providing high friction even in wet conditions. Hydroplaning occurs when the tire tread encounters more water than it can dissipate.

If multiple tires hydroplane, the vehicle may lose all directional control and slide until it either collides with an obstacle, or slows enough that one or more tires contact the road again and friction is regained.

Hydroplaning is particularly ugly because the slippery stuff can be thick. Who knows how slow you've got to go before your tread reaches bottom and begins to do its job.

A couple of points when driving in rain: Err on the side of slow. I'm not sure HOW slow, but can tell you for certain...35 mph isn't slow enough.

AND, I'm confused, so maybe one of you can set me straight.

How do modern automatic traction control and antilock brakes feel about this? Does the new technology that senses lane departure also work when the road is behaving more like a ship channel?

The only certainty is that slower is better.

One of the interesting things about driving is that there are so many ways to lose traction.

Hydroplaning is a personal favorite, and the old standby of sliding on ice is a contender. But wet leaves, particularly in the fall, can do it, too.

There are some sneaky ones. When it rains after a prolonged dry spell, oil and grease embedded in the roadway float off to form a nasty, slippery layer that isn't visible.

Large vehicles have been blown off the road by wind gusts.

The one bright spot in all this is that, no matter what's causing loss of traction, going slow will prevent it.

Another negative: Once you lose control, hitting the brakes can make things worse. Automatic traction control, ABS, et al., sometimes compensate, but it's a LOT better to keep the rubber on the road in the first place.

Heck, you all know this stuff, not much new here. The point is to think and talk about it — before the rubber doesn't hit the road.

An old story but it bears repeating.

My buddy Oakie (at that time

another 23-year-old wizened soul) insisted buses were too heavy to slide.

We were waiting in the office for him to return from a trip on a slippery day when we heard his Scenicruiser approach the turn into the parking lot MUCH too fast. There was a lot of noise as he pumped the air brakes...then silence.

A few minutes later he staggered into the building and said “you were right, buses will slide.”

Talk about this stuff, tell colorful stories, do what it takes to remind us older drivers, and give the youngsters a hint, of what can happen if you don't give traction the respect it deserves.

Feel free to use Oakie and me as bad examples.

AND, seriously, how do ABS, ATC and their electronic buddies feel about hydroplaning?

Dave Millhouser is a bus industry marketing consultant and freelance writer. Contact him by email at: Davemillhouser@gmail.com.



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Advice...for dealing with feds during an audit, afterwards

By J. Hatcher Graham

In April, the U.S. Department of Transportation Office of Hearings, through Administrative Law Judge Richard C. Goodwin, issued a decision in a case involving DND International Inc. that could have very far-reaching consequences for the Federal Motor Carrier Safety Administration and the programs it administers.

The case arose from a traffic incident in Illinois where a driver for DND International, a trucking company, collided with an emergency vehicle that was parked on the highway, resulting in one fatality and one serious injury.

The FMCSA investigated and cited DND for several violations, including failure to comply with hours-of-service driving limits, falsifying records of duty status, and exceeding hours-of-service limitations.

The FMCSA then ruled that DND's operations posed an imminent hazard to the public. On April 1, the FMCSA ordered that DND cease all commercial motor vehicle operations and served a "Notice of Revocation of Operating Authority Registration and Suspension of DOT Number."

Three days later, DND filed a "Petition for the Immediate Rescission of Imminent Hazard Out-Of-Service Order and Order for Revocation of Authority." After an administrative law judge was appointed and, after a limited discovery period, testimony was taken over three days in mid-April and closing arguments were presented April 15. The administrative law judge issued his initial order on April 16.

Important decisions

The order contained two important rulings; one procedural and one substantive.

As a procedural matter, the administrative law judge quoted from 49 U.S.C. §521(5)(A) and 49 C.F.R. §386.72(b)(4). Both the statute and the regulation provide that once the agency issues an immediate hazard out-of-service order an opportunity for review must be provided within 10 days of the issuance of the order.

The administrative law judge specifi-

cally stated the 10-day review was placed there by Congress to comply with the due-process requirements of the Administrative Procedure Act (5 U.S.C. §551, et seq.), and failure to comply violated this due-process requirement.

The question now arose as to what triggers the running of the 10-day time period. The FMCSA contended the 10 days did not begin to run until DND petitioned the agency for the 10-day review. DND contended the 10-day review was triggered by the issuance of the out-of-service order and that it was up to the agency to appoint an administrative law judge and ensure the process was completed within the 10-day deadline.

Administrative Law Judge Richard C. Goodwin determined that: "...review is NOT triggered by any action of the respondent (DND). It is NOT triggered by the filing of a petition by the respondent. It is NOT triggered by a request for review by the respondent. It is a right of the respondent to have a review as clearly set forth in the statute and regulation. The (out-of-service) order only sets forth the contents of the request for review. The (out-of-service) order does not toll, waive, extend and/or otherwise alter the due date for the completion of the review, which must occur within 10 days of the issuance of the order."

Lack of due process

Goodwin ruled that it's up to the FMCSA to begin the review process after the issuance of the out-of-service order and to ensure that the review and decision were accomplished within 10 days after the issuance of the order.

To fail to do this violated the due-process requirement of the Administrative Procedures Act. He then ruled that the FMCSA must rescind the (out-of-service) order against DND for failure to comply with due process.

In his substantive ruling, Goodwin cited Administrative Law Judge J.E. Sullivan's decision in Two Dayes Transport, FMCSA-2013-0006, who ruled that 49 C.F.R. §386.72(b)(2), which limits the restrictions of the (out-of-service) order to those restric-

tions which will abate the hazard, means what it says.

After taking evidence and hearing testimony, Goodwin ruled that the (out-of-service) order had gone beyond the restrictions needed to correct any violations created by DND, and that the FMCSA had not proven that DND posed an immediate hazard, as that term was defined in the regulations.

It should be noted that the FMCSA has appealed Goodwin's decision to the agency's assistant administrator.

Knowing the agency, it's doubtful the assistant administrator will let the decision stand, which will also indicate how much respect the agency has for the U.S. Department of Transportation administrative law judges.

Court fight expected

The counsel for DND has stated he expects the decision to be overturned and is preparing for an appeal to the U. S. Circuit Court of Appeals.

The agency has also submitted a request to Congress to alter the regulation to provide for a 15-day review and decision period, and to require that the respondent file a petition for review to initiate the process.

This is just another example of the FMCSA not wanting to play by the rules but to stack the cards in its favor. As of this writing, there does not appear to be any agency plans to change the burden of proof requirements, so they will still have to prove that the restrictions in the (out-of-service) order are necessary to abate the hazard.

From a practical standpoint, what does mean for the average motor carrier?

First, if you are noticed with a compliance audit or some other FMCSA review, either have your attorney or consultant present during the audit or have one of your personnel shadow the agency personnel.

There is no rule or restriction that prohibits the carrier from checking the work of the agency. If it is a vehicle inspection, make sure the agency inspector is a qualified mechanic.

Any violations that are noted that can be fixed immediately — do so.

If you have repaired all vehicle defects

they have noted and are on the way to correcting paperwork violations, the chances of the agency proving an immediate hazard are greatly reduced.

Get an attorney

If you do receive an out-of-service order and you do not have an attorney, hire an attorney immediately. Make sure the FMCSA has begun the procedures for a review and decision to be performed within the 10-day requirement.

Gather all of your evidence and make sure the agency's order contains only those restrictions necessary to abate the hazard.

Also, your attorney will make sure any evidence the agency attempts to introduce is proper. In the DND case the FMCSA attempted to introduce hearsay testimony and documents that were not properly supported. The administrative law judge correctly refused to admit this as evidence.

While both the DND and Two Dayes cases involved freight carriers, an article in *Bus & Motorcoach News* noted that five bus companies had been taken off of the road under imminent-hazard orders. (See May 1 *Bus & Motorcoach News*.)

The real question is that if the 10-day review and decision provision is a due-process requirement and it has not been provided, can a carrier go back weeks or months and resurrect the review and decision.

This could create a large amount of litigation if the carrier was not provided its due process. However, Administrative Law Judge Sullivan in Two Dayes stated specifically that an increase in litigation for the agency should not serve as an excuse to deny the carrier basic due process.

I would recommend that any carrier that was taken off of the road by an imminent hazard out-of-service order that was not provided a review and decision pursuant to 49 C.F.R. §386.72, immediately file for a review prior to any decision by the assistant administrator or change to the statute.

J. Hatcher Graham is an attorney practicing in Warner Robins, Ga. Contact at (478) 953-5606 or by email at govlaw@hatcherlaw.mgacoxmail.com.

Break laws

CONTINUED FROM PAGE 10

Logistics, failed to carry its burden of proof on its preemption defense.

The insights

The Ninth Circuit decision seems to overlook the complex logistical and scheduling issues involved in staffing around meal and break laws, particularly where pricing and performance are based on delivery speeds and timing.

Of course, carriers often cannot control traffic delays, delivery backups and other related issues. The underlying arguments in the district court cases are pretty compelling that the meal and rest break laws are "related to" a motor car-

rier's prices, routes, or services and are therefore preempted by the FAAAA.

Arguably, with a better-developed factual record about the impact on carriers, other courts could come to the opposite conclusion than the Ninth Circuit.

However, until another appellate court weighs in, motor carriers should assume that they will have to comply with state meal and break laws.

Motor carriers and other businesses employing drivers in California, Illinois, or other states that have enacted general meal and break laws should start looking now at whether they comply with these laws, rather than assuming they are preempted by federal

State friendliness to small business is ranked

SAN FRANCISCO — If you manage a motorcoach company based in Idaho, Texas, Utah or Virginia then you're operating in one of the states ranked friendliest to small business.

But if your company calls California, Illinois or Rhode Island home then you probably already know that your state doesn't go out of its way to be user friendly to small businesses.

The organization Thumbtack has issued its third annual ranking of the states' relative friendliness to small business, in terms of the ease of starting a business, the

hours of service regulations. *Franzec Radelet P.C. is a Chi-*

ease of hiring, and the burden of state regulations in six areas: health and safety; employment, labor and hiring; taxation; licensing; the environment, and zoning.

The data were gathered through a survey of 12,000 small businesses across the country.

Since more than 90 percent of U.S. motorcoach companies are small businesses, the rankings are of some note.

Of the 38 states for which there were sufficient data to come up with a ranking, four got an A+: Idaho, Texas, Utah and Virginia; at the same time, three received an F: Cal-

cago-based management-side labor and employment law firm. This ar-

ifornia, Illinois and Rhode Island.

No state in the Northeast (counting all of those east of the Mississippi and north of Virginia and Kentucky) did well, and none on the West Coast.

The results were broadly similar in the areas of taxation and licensing (which covers all sorts of business licenses), but Connecticut and Illinois did especially poorly in both, and New Hampshire much better than any other in its region.

The results for the past three years can be found at www.thumbtack.com/survey#/2014/1/states.

Article was reprinted from its Wage & Hour Insights publication.

Using mouthwatering photography to help woo buyers

By Christian Riddell
Motorcoach Marketing Council

Last week, while roaming the concourse of a nearly deserted airport terminal somewhere in the Midwest, trying to find something to eat, I spotted something new.

Across the way from where I was standing, I peered into a restaurant laden with big beautiful images on huge video screens, filling the entire width of the restaurant. Nowhere in sight were printed signs listing the menu offerings and prices. In fact, gone were the signs all together.

Like a moth drawn to a bug light, I could not help myself and soon was standing in line trying to choose what to order. To be honest, I had not realized where I was. I hadn't seen anything — other than these mouthwatering pictures.

I was hungry and I knew this was my ticket to not having to overpay for a box of stale food on the airplane.

It was not until I got to the front of the line, with my gaze still fixed on the hypnotic menu screens, and heard the voice of the girl at the counter that I realized

where I was.

"Hello, welcome to McDonald's. What can I get for you today?"

I was taken aback. I was confused. I looked at her, half expecting her to say she was joking. I mean, I've eaten at McDonald's — dare I say, even a lot. But it had been a while and I was committed at this point, so I promptly gave my order and stepped aside.

As I waited, I watched the hordes of people who were ordering — all were standing transfixed by the huge, beautiful, food-laden screens, displaying giant photos of spectacular food.

My number was finally called and I gathered my bag and found a seat across the concourse to eat.

With great anticipation I opened the bag and peered in. So far, things looked familiar. There was a red box of fries, a napkin and something the shape of a burger wrapped in paper. I took the little burger out and unwrapped it.

I could not help but laugh. It was indeed the same burger I had stopped eating a long time ago and hardly resembled the culinary masterpieces pictured on the video

Marketing Minute GoMotorcoach It's the Smart Move

displays. Nevertheless, I ate it and moved on to my gate to board another long flight.

So, what is the takeaway from this little story? Is it to not eat at McDonald's? No, not necessarily. Is it that we should sell our products or services with photos that frankly misrepresent our products?

Absolutely not.

It is that the world is changing and that as an industry it is time for us to start embracing that change. Photos are becoming more and more a part of the buying public's means of making decisions. From the mouth-watering screens at McDonald's to cars, trips, clothes and everything in between, more and more people are using photos when making purchasing decisions.

There are a number of reasons for this, one of which is that the internet is changing. More and more people have access to good inter-

net. Mobile 4G internet is allowing websites to deliver more and larger images and videos as part of this new and richer online experience. This means websites are becoming more visual and are, in some cases, replacing the majority of their text with images.

As motorcoach operators, we have two main objectives when it comes to marketing.

Our first objective is to convert non-motorcoach users into buyers.

It is well established that most people have incorrect notions about motorcoach travel, one of the most common being that motorcoaches are like the old Greyhound buses they took to Aunt Sally's house when they were children during the 60s.

Big, beautiful photos of people having fun, sitting in a modern coach, go right to the heart of the issue and are hard to dispute.

The other challenge we face is setting ourselves apart in our own market.

Too often, motorcoach companies are seen as a commodity in the eyes of local buyers. We, the industry, know this is not the case, but

saying it is not enough. Using photos to combat this misconception can go a long way to getting the phone to ring more consistently.

It IS true that a picture is worth a thousand words.

Having worked in marketing in this industry for the past 10 years, I have always been amazed at the lack of inspiring photography that most companies have on their websites.

Too many times I see companies that have coaches that look like the sandwiches on the video displays at McDonald's, but whose photography looks more like the meager burger I pulled from the bag that day at the airport.

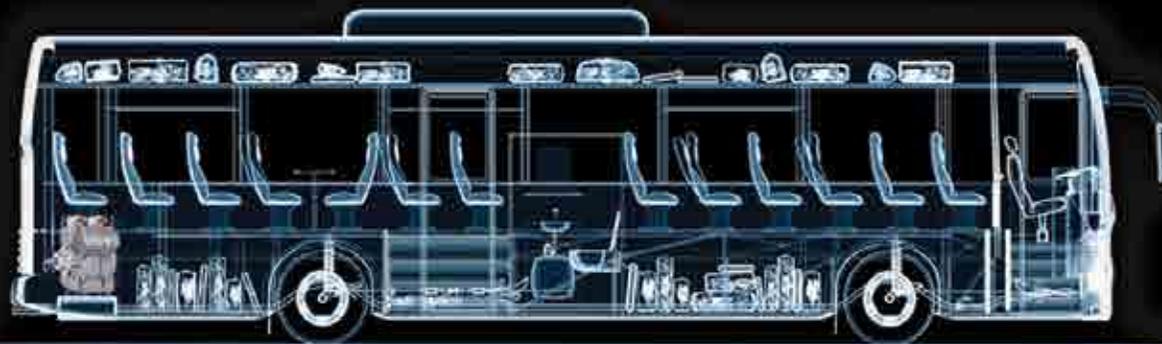
Photography does not need to be expensive, nor does it require an investment in complicated equipment.

The Motorcoach Marketing Council features an article on its blog that gives even the camera newbie what they will need to fill their site with powerful images of their coaches. (Find the article at: <http://motorcoachmarketing.org/taking-better-photos/>.)

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FTA registration

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He's concerned that the falling registration number could arm the public transit lobby with an argument for weakening or terminating the charter rule.

"With the few private operators registered on the site, the transit organizations have a ready-made argument to get rid of the charter bus rule," Parra said.

"Look, Mr. or Ms. Member of Congress, the private guys don't even care about the rule — look how few are listed on the FTA site!"

UMA has sent its members a reminder about going to the FTA website to register. The association has even offered to input company information to the website for members.

"This is particularly critical now that policies are being written that will go into the next highway transportation bill, even though how the bill will be funded has not been resolved," Parra said.

The charter rule, which was rewritten in 2008 after months of negotiations between representatives of the motorcoach and transit industries, places strict limits on the types of charters public transit agencies are allowed to perform.

Transit agencies that receive a request for a charter that is on the restricted list, but which they would like to do anyway, are required to promptly notify registered operators of the business opportunity.

If a private carrier responds and says it wants to handle the job,

then the transit agency must step aside. If no private carriers are interested, then the transit agency is free to take the charter.

In the 2014 UMA Membership Survey and Industry Assessment, 30.2 percent of the respondents said competition from their area transit agencies had increased in the previous 12 months. Only 3.2 percent said that competition had decreased and 66.6 percent said there had been no change.

The portion citing increased competition was more than double the 13 percent expressing that belief in the 2013 survey, in which 5.4 percent said they believed public competition had decreased.

Website issues

"All things considered, the FTA website is not particularly user friendly," said Presley. "It can take days or longer before a registrant's name appears. Many operators have complained they registered but their name never appeared. Often they just gave up."

To help operators, UMA sent members a printed form that can be completed by hand and faxed to the association, which then will enter the required information on the FTA charter service registry.

The UMA form explains the importance of registration:

"When the rule was revised in 2008, the Federal Transit Administration require(d) public transits to send a notice to every "Registered Charter Operator" in their geographic area. The rule further requires "Registered Charter Opera-

tors" to revise their information with the Federal Transit Administration every two years.

"Unfortunately, many private bus and motorcoach operators failed to update their registration information and have long since been removed from the list; no longer receiving notices of the local transit's intent to perform charter service work. Generally, when there is no response a public transit is permitted to do the charter in the notice."

Working the system

It is possible that some motorcoach operators misunderstand the charter registry's role and have ineffectively responded to charter opportunity notices, Presley added.

"In many instances when the charter notice was received the registered charter provider simply provided the notifying transit authority a quotation which almost always went nowhere.

"When a registered private charter operator receives a charter notice, there are basically two requirements. First, respond to the notifying public transit agency of your interest in the charter service disclosed in the notice. This requires the public transit agency to basically 'stand down.' Second, contact the third party and negotiate in good faith," he said.

Private carriers also may have defined their charter interests imprecisely, Presley said. "Many carriers either registered nationally or statewide and very often did not see business they were interested in. Instead of refining their regis-

tration they simply allowed the registration to expire."

Changing relations

Declining carrier registrations may be due partly to the success of the charter rule in making public transit agencies aware of the limits on their private charter offerings and limiting perceived competition, Presley said. In some cases the charter rule has created cooperation between private and public carriers.

"Our annual surveys indicate about one-third of our member companies report having a good relationship with their local transit," he said. "In some instances, the revised charter service rule required some contact with the local transit and, to no surprise, many figured out ways they could work together. That's no doubt a win for the local community in most instances."

And, he added, carriers can't win unless they enter the game. "Eventually, the local transit authority will provide charter service a private operator wanted to offer — if only they are registered."

Although there is a belief that the charter notices sent out by transit agencies are on the decline, there are no actual numbers to support the supposition.

The FTA says the agency has no statistics that would indicate a change in the number of charter notices being filed by transit agencies because it uses the notices as a measure to ensure compliance with the rule and not to track the number of charter trips by transit agencies.

Also, the American Public Transportation Association does not monitor charter notices filed by its members.

Still an issue

"No doubt in many areas of the country public transits are conducting charter service unfettered," Presley said. Maintaining a charter registration "is ultimately the only way a private operator can keep his local transit authorities in check."

Registration also is necessary should a motorcoach operator seek action from the FTA on charter issues.

"Should a charter service carrier desire to seek an advisory opinion or charter service complaint, they must be registered on the FTA registered charter operator website to have standing with the FTA," Presley said. "A non-registered charter service carrier will find their complaint summarily dismissed for lack of standing."

Signing up

Operators interested in getting on the list, may do so by going to www.fta.dot.gov/CharterRegistration and clicking first on the "I accept these terms" box, and then on "Submit new private charter operator registration" link.

Assistance with the process is available by calling the FTA ombudsman at (202) 366-4063, or sending an e-mail to ombudsman.charterservice@dot.gov.

To request assistance from UMA, members may call (800) 424-8262.

Ferro resigns

CONTINUED FROM PAGE 1

make informed choices when choosing a shipper or buying a bus ticket," he said.

Ferro's "infectious enthusiasm" also has made DOT a better place to work, Foxx added.

In a letter announcing her departure to the 1,100 FMCSA staff members, Ferro said it had been her greatest privilege to work with them to advance FMCSA's safety mission.

"While the opportunity to assume this position at AAMVA is another personal dream come true, no job can match the immense honor I have had serving President Obama, and secretaries Foxx and LaHood with you — the dedicated individuals who persevere every day to make safe transportation a reality for all of us," Ferro said.

Ferro made a general reference to initiatives the agency has undertaken during her tenure, including stronger oversight of high-risk carriers, better tools for law enforce-

ment, and more data for industry and the public.

However, she failed to mention the signature agency initiative she oversaw the implementation and administration of during her time as administrator — the maligned Compliance, Safety, Accountability enforcement program.

Stunningly, Ferro chose instead to talk about truck and bus drivers and their compensation in her farewell message.

"On a daily basis we have also recognized the significant contributions that commercial truck and bus drivers make to roadway safety and our nation's economic vitality," she said.

She noted she has highlighted the pressure drivers face because they are paid by-the-mile or load instead of their total time on-duty.

"We are seeking to change that compensation model so drivers receive fair wages for every hour they spend working — including time detained unloading and loading at the mercy of shippers and receivers," she said.

During her tenure, the FMCSA adopted new hours-of-service rules for truck drivers that took effect last year. The rules largely have been opposed by the trucking industry, especially truck drivers who have seen their paychecks shrink.

Ferro's unyielding defense of the rules and the CSA program prompted strong opposition from many sectors of the ground transportation industry.

A few weeks ago, the Owner-Operator Independent Drivers Association called on Foxx to fire Ferro. (See July 1 *Bus & Motorcoach News*.)

Jim Johnston, CEO of the truckers group, said Ferro had a "clear bias against truckers and the trucking industry."

Her departure perhaps comes even sooner than Johnston expected.

Before joining the FMCSA, Ferro was president of the Maryland Motor Truck Association. She was Maryland's Motor Vehicle Administrator before that.

Agency accord

CONTINUED FROM PAGE 1

other individuals working for motor carriers from retaliation for reporting or trying to avoid safety, health or security violations.

The protections and potential for worker compensation that might develop as a result of the agreement easily could come into play as a consequence of the FMCSA's new tactic of conducting extensive interviews with employees during compliance and safety investigations and audits.

However, it was the coercion aspect that received much of the attention from the agencies when the agreement was unveiled late last month.

In the statement announcing the signing, FMCSA Administrator Anne Ferro specifically referenced the sharing of reports of alleged coercion as a benefit to the agreement.

"Pressuring drivers to stay behind the wheel beyond their hours-of-service limits, or to disregard other federal safety rules, seriously jeopardizes the safety of every

traveler on our highways and roads," said Ferro.

"Commercial truck and bus companies that knowingly endanger the motoring public, or retaliate against whistleblowing employees, will be prosecuted to the fullest extent of the law."

David Michaels, OSHA assistant secretary of labor, said the agreement sends "a clear message" that commercial vehicle drivers should not be afraid to report unsafe working conditions.

In April, OSHA ordered an Iowa waste removal company to reinstate a driver and pay the employee more than \$123,000 in compensation after the company terminated the driver for raising safety concerns.

Late last year, OSHA ordered Hickory, N.C.-based Gaines Motor Lines, which operates 61 trucks, to pay more than \$1 million in back pay and compensatory and punitive damages in a case involving four drivers who had provided information to FMCSA during a safety audit. That order remains under appeal. (See Jan. 1 *Bus & Motorcoach News*.)

UMA, ABA support operator's transit takeover fight

ROCHESTER, Minn. — A private bus operator who lost his nearly 50-year transit business has received legal backing from the United Motorcoach Association and the American Bus Association.

The two national trade groups have filed "friend-of-the-court" briefs with the Minnesota Supreme Court in support of Rochester City Lines, which has been fighting a two-year legal battle with the city of Rochester, Minn.

City Lines' owner Dan Holter claims the city of Rochester failed to follow proper procurement procedures when it awarded the local transit bus contract to a competitor and says the city should compensate him for his financial losses.

Holter, whose family-owned company had provided local transit bus service in Rochester since 1966, filed suit in 2012 challenging the city's awarding of the service contract to national giant First Transit.

The suit claimed the bidding process was unfair and the city ignored a conflict of interest. The city argued that "best-value" procurement procedures allow it to avoid review of its discretionary evaluation of contract proposals.

Holter also filed an action with the Federal Transit Administration, maintaining the city violated federal regulations requiring a government entity using federal transit funds to compete with a private carrier to pay just compensation to the affected business.

A county district court rejected Holter's challenge to the contract award, and the Minnesota Court of Appeals upheld the lower-court ruling.

The FTA also sided with the city on the federal funds issue, a ruling that Holter's lawyer called "a threat to the entire private bus industry."

Faith Travel Assn. launches website

LEXINGTON, Ky. — The Faith Travel Association, which was officially launched earlier this year, has unveiled a new website.

The association, which is positioning itself as the preeminent business-building resource for travel professionals, sites and organizations that are focused on faith-based travel, says the new website is part of its mission of providing members with the tools and opportunities they need to grow their business.

The revamped website, at www.faithtravelassociation.com, offers new features for its members, including:

- A searchable database of Faith Travel Association members
- Access to webinars and other

Some motorcoach industry observers have called the lawyer's statement an exaggeration.

Despite the setbacks, Holter has continued to pursue his legal battle, and the Minnesota Supreme Court agreed in June to review the appeals court ruling, giving new life to his efforts to have the First Transit contract rescinded and to force the city to pay him compensation for his business losses. (See July 15 *Bus & Motorcoach News*.)

Now, with the UMA and the ABA filing legal briefs to introduce specific legal concerns, Holter believes he has a chance of succeeding with the state Supreme Court.

"It has been a long and lonely road, fighting the tax-supported city government with our family's own money to get to the Supreme Court," Holter said in a news release.

The UMA brief, filed with the Minnesota Supreme Court in late July, focuses on the complex case possibly culminating in unfair government-subsidized competition against City Lines. The brief argues that under federal transit law, recipients of public transportation funds generally "may not operate equipment or facilities in competition with existing public transportation companies."

The UMA brief also states Rochester is legally obligated to pay just compensation to City Lines for the value of its franchise and other equipment, but failed to factor such compensation into the bidding process.

UMA had earlier stated that if the Court of Appeals' ruling was upheld, it could "jeopardize the continued existence of all privately-owned transit systems."

The ABA, which also filed its brief in late July, argues the city's

bidding process was biased in favor of First Transit and city officials had conflicts of interest.

"When there are so many documented instances of bias pervading so many aspects of the contract

award process, it is the court's duty to closely scrutinize the facts to ensure there was truly a level playing field," the brief states.

The Associated General Contractors of Minnesota also has

filed a friend-of-the-court brief in support of City Lines' challenge to the procurement process.

The Minnesota Supreme Court is expected to hear oral arguments in the case late this year.



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Calendar

AUGUST 2014

14-17 National Association of Motorcoach Operators 2014 Annual Conference, Shreveport (La.) Hilton. Info: www.namocoaches.org.

17-20 2014 South Central Motorcoach Association, Alabama Motorcoach Association and Georgia Motorcoach Operators Association, Hilton Shreveport Hotel & Convention Center, Shreveport, La. Info: www.alabamamotorcoach.org.

24 Pacific Bus Museum Open House (11 a.m.-3 p.m.), Pacific Bus Museum storage facility, 37974 Shinn St., Fremont, Calif. Info: <http://pacbus.org>.

25 30th annual Martz/American Cancer Society Golf Tournament, Wilkes-Barre (Pa.) Wyoming Valley Country Club. Info: (570) 821-3860.

OCTOBER 2014

22 Florida Motorcoach Association Education and Compliance Meeting, Sheraton Lake Buena Vista Resort, Orlando. Info: FMA@buses.org.

Popular topic

Associations discuss federal audits coast to coast

The most popular educational topic at motorcoach operator meetings these days seems to be “how to cope with a federal compliance audit.”

Last month, the California Bus Association presented day-long seminars — that dealt with the ins and outs of federal safety audits — on succeeding days in Northern and Southern California.

The sessions’ speakers explained how a USDOT on-site

audit evaluates a company’s safety performance and confirms proper and complete recordkeeping. The review also determines if a company has adequate management controls in place to assure compliance with federal motor carrier safety regulations.

This month, the annual conference of the National Association of Motorcoach Operators features two days of intense educational sessions on the process of going through a federal compliance audit, as well as samples of what is required in a driver file.

The NAMO sessions will fea-

ture investigative specialists from the Federal Motor Carrier Safety Administration, as well as presentations by Loretta G. Bitner, chief of the Commercial Passenger Carrier Safety Division at the FMCSA; Darrell Ruban, FMCSA field administrator; William Norris, FMCSA division administrator in Louisiana, and Clinton Seymour, FMCSA division administrator for Georgia.

NAMO’s annual conference will be Aug. 14-17 at the Hilton Shreveport in Shreveport, La. Information about the conference can be found at www.namocoaches.org.

Blue Bird announces recalls of school and transit buses

FORT VALLEY, Ga. — Blue Bird Corp. is recalling more than 2,500 All American school buses and some transit buses to fix a problem that could make steering more difficult.

The company also is recalling a smaller number of school buses that may be prone to a propane fuel leak, according to paperwork filed with the National Highway Traffic Safety Administration.

The school bus maker said it has received no injury or accident reports tied to the recalls.

Blue Bird said the steering problem can develop on some buses made between 2011 and last May if a steering shaft clamp comes into contact with a rubber close-out boot on the floor.

It also is recalling more than 400 transit buses to fix the same problem.

The company has been monitoring the issue since last September, when it received its first report of the clamp contacting the boot. The company decided to conduct the recall after determining the increased steering effort required in the situation could lead to an accident.

The company also is recalling 388 Vision school buses made in 2012 and 2013 to address a possible fuel leak, which could lead to a fire.

It said in a report to NHTSA that this can happen in “severe environments” when an aluminum fuel line fitting corrodes where it meets a brass supply valve housing on the fuel tank.

The propane fuel systems are made by Roush Clean Tech; the aluminum fuel line fitting will be replaced with a stainless steel version.

Champion Bus revamps website

IMLAY CITY, Mich. — Champion Bus, a leading manufacturer of small- to midsize and custom commercial buses, launched a new website, at www.ChampionBus.com, featuring a revamped corporate brand identity.

The company said the retooled website provides a more compelling and user-friendly experience that allows visitors to access updated product information faster and also connect with the company through its various social media channels.

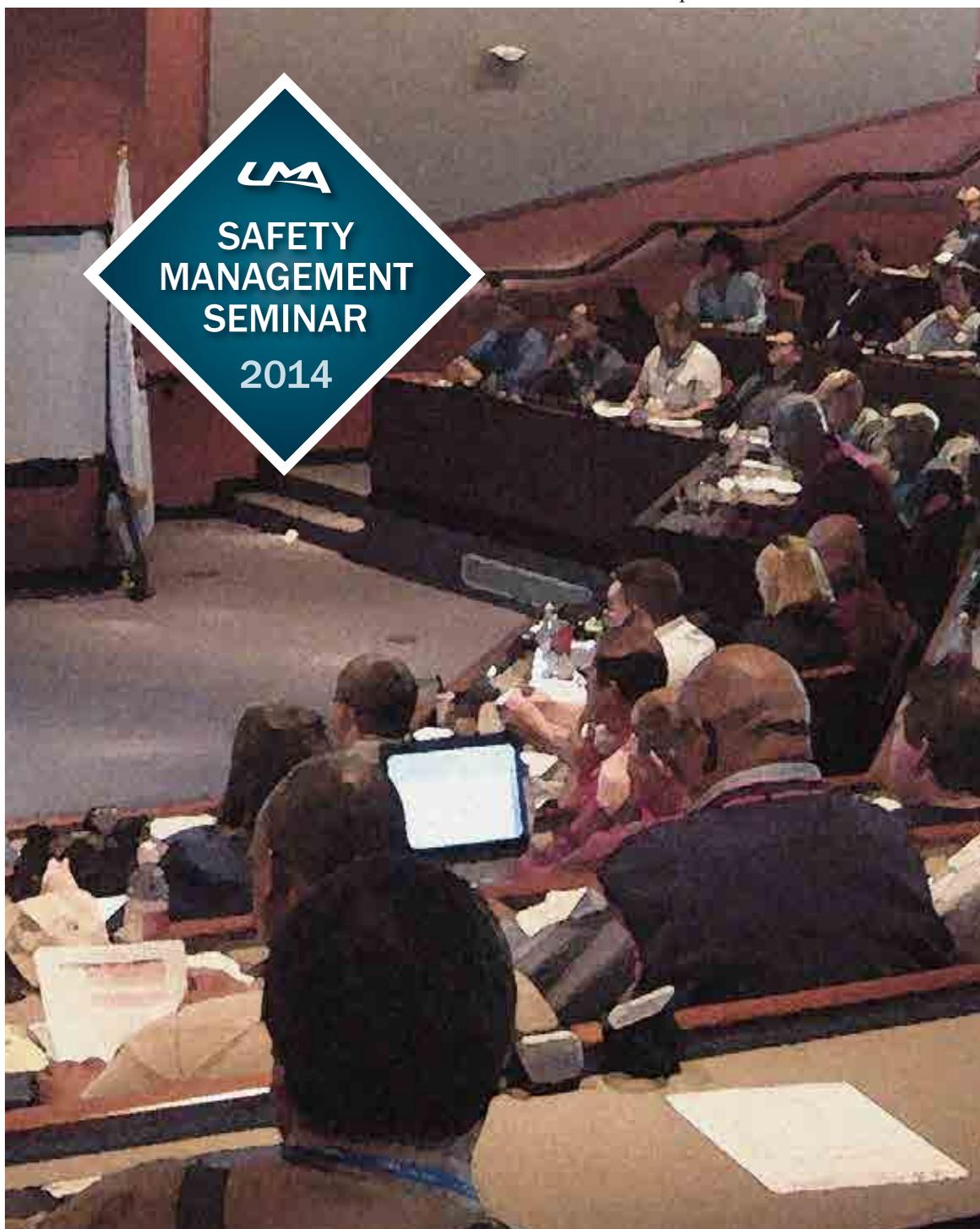
A revised logo, utilizing a new color scheme has been designed to communicate the company’s “dedication to product innovation, quality and safety.”

“We take pride in being an innovative leader in the commercial bus market,” said company President John Resnik.

“Our bus designs are constantly evolving as we continue to introduce models with new features and options consistent with our strong commitment to building the safest and highest quality products in the industry. Since our brand identity and website need to communicate this commitment, we felt it was necessary to update our logo and brand colors, and also redesign the website, which is our storefront to the world. We are very proud of our new look.”

Resnik noted the website will mirror Champion’s product development strategy, with interactive features and content to be introduced in the future.

Champion Bus is a subsidiary of Allied Specialty Vehicles of Orlando, Fla., the nation’s largest midsize bus maker.



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Southern associations elect directors, honor members

RICHMOND, Va. — The Virginia, and North and South Carolina motorcoach associations, meeting here jointly last month, conducted elections and presented awards during what was called the Regional Motorcoach Association Meeting.

The Virginia Motorcoach Association elected two new directors: Roddy Mitchell of Platinum Tours in Montpelier, Va., and Lorenzo Battle of Greyhound Lines in Richmond.

All other officers and directors were re-elected.

Chuck Andrews of World Strides in Luray, Va., was named recipient of the association Robert T. Mitchell Public Service Award.

The annual award, one of the industry's oldest honors, was established more than 45 years ago by the association to recognize the industry contributions of its namesake, a long-time lobbyist for the Virginia Bus Association (forerunner of the Virginia Motorcoach Association), the old Alexandria-Baltimore Bus Lines, and other groups.

It has been presented since 1968 to an outstanding individual who distinguishes themselves through unselfish promotion of

the industry.

Andrews has been a high-profile and avid industry advocate for years. He serves as an associate director of the association.

Steve Everidge of Shenandoah Tours in Staunton, Va., was named recipient of the Virginia Motorcoach Association Operator of the Year award.

Members of the Motorcoach Association of South Carolina elected two new directors for the Low Country District: Pam York of Gray Line of Myrtle Beach, S.C., and Elizabeth Kalamakis of Coachlight in Hardeeville, S.C.

Associate directors appointed to two-year terms were Tim Guldin of CH Bus Sales/Temsa in Orlando, Fla., and Pamela Huey of The Grand Majestic Dinner Theater in Pigeon Forge, Tenn.

All other directors and officers were re-elected.

Bob Garrett of Sunshine Travel & Express in Lancaster, S.C., was recipient of the Motorcoach Association of South Carolina President's Award.

And Brenda Sherlin of Sunway Charters in Myrtle Beach, received the association Operator of the Year award.

The North Carolina Motorcoach Association elected a new president and vice president, plus two directors.

Chosen president was Mel-lonee Owenby of Christian Tours/Burke International Tours in Maiden, N.C., and picked as vice president was Gary Moody of Holiday Companies in Randleman, N.C.

The new directors are Tom Holden of Rose Charters in Pineville, N.C., and Ray Robbins of

H&R Tours in Boonville, N.C.

Associate directors appointed to two-year terms were Jay Snead of Prevost in Greensboro, N.C., and Pete Smith of Smoky Mountain Resorts Hospitality Group in Pigeon Forge, Tenn.

Other directors were re-elected.

Owenby and Lee Helms of Sunway Charters in Charlotte, N.C. received the North Carolina Motorcoach Association President's Award.

Susan Anderson of Young Transportation was named association Operator of the Year.

Tony Malizia of Capital City/Lake Murray Country in Columbia, S.C. was the recipient of the Chris Harrower Rising Star Award, given to a new member by operators of the three associations.

The award honors the memory of Chris Harrower, a long-time member of North Carolina and Virginia motorcoach associations.

New Jersey motorcoach association adds officers

BETHLEHEM, Pa. — The Greater New Jersey Motorcoach Association has a new treasurer for the first time in more than a decade and has added a new officer position.

The long-time treasurer of the association, Joseph Fernandez, a CPA who has worked with motorcoach operators in New York and New Jersey for decades, stepped aside.

Chosen to replace Fernandez as treasurer was Rich Venditti, a CPA with the accounting firm of Venditti & Deutsch in West Caldwell, N.J.

Members of the association,

meeting at the Sands Casino here, also elected Michelle Petelicki of Panorama Tours in Clifton, N.J., as second secretary, a new position.

Re-elected officers for 2014-15 were President Tim Stout of Stout's Transportation in Trenton, N.J.; Vice President Mark Waterhouse of Classic Tours in Lakewood, N.J., and Secretary David Benedict of David Tours & Travel in Philadelphia.

Officers serve one-year terms. All association board members, who serve three-year terms, were re-elected.

The association thanked Fernandez and expressed appreciation

for "his dedication and outstanding service" to members and the association board.

Fernandez now splits his time between New York and Naples, Fla.

Venditti said he's excited about joining the association and looks forward to serving the members and board.

The Greater New Jersey Motorcoach Association traces its roots to 1981 and the formation of the Atlantic City Bus Operators Association.

In January 2004, the association expanded to become a regional organization — the Greater New Jersey Motorcoach Association.

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Caterpillar suits

CONTINUED FROM PAGE 3

known as ACERT (for Advanced Combustion Emissions Reduction Technology), was defective and often failed in service, even after repeated repairs and replacements.

Owners of buses and trucks say the breakdowns stranded passengers, drivers and loads, and resulted in towing, repair and pas-

senger compensation costs. Many plaintiffs claim lost business.

Often, plaintiffs say, their vehicles were sidelined for weeks at dealerships awaiting repairs, parts or for warranty disputes to be settled, causing them significant losses in revenue.

The suits also contend Caterpillar knew or should have known about the defects, but continued to manufacture and sell the engines

anyway.

According to *The Wall Street Journal*, "the suits are a potentially costly embarrassment for a company that regularly says the reliability of its products justifies premium prices."

The company said in a recent statement it "is addressing claims relating to alleged performance issues with emissions technology" on some of its engines, and that it

has "worked diligently to deliver operating cost improvements and other value-added features in its engines to enable our customers to benefit from this technology.

"Our customers have utilized and had success with the performance of these engines in trucks, buses and RVs across millions of miles in North America," the statement continued.

"Caterpillar looks forward to

addressing these allegations now that they have been consolidated in one forum."

Open house set for bus museum

FREMONT, Calif. — The annual open house of the Pacific Bus Museum will be here Sunday, Aug. 24.

The event will feature displays of both antique and contemporary buses, a flea market and barbeque. Proceeds from the barbeque benefit the museum.

Among the buses on display will be a 1958 GM TDH4512 that was used in the Clint Eastwood-directed feature film *Jersey Boys* that was released in late June. The movie tells the story of Frankie Valli and the popular rock group The Four Seasons.

The bus is painted in an attractive green-and-white art deco livery.

The open house will be from 11 a.m. to 3 p.m. at 37974 Shinn St., in Fremont. There is no admission charge for the event.

CARB quandry

CONTINUED FROM PAGE 3

state in the year may still be able to use the low-use option. But they must call the CARB hotline at 866-6DIESEL [(866) 634-3735]. Or, better yet, email the agency at trucrs@arb.ca.gov in advance of the trip. Expect long waits if the hotline is called.

"I would say something like, 'I did not choose the low-use option on your website in January, but I would like to enter California on such-and-such a date this year through the low-use exemption, which I understand to be no more than 1,000 miles per year,'" he says.

Be forewarned, though, that CARB requires documentation, including information about vehicle mileage.

"You must have your odometer readings for January and for the current date, and you must have some documentation for those readings.

"They want to be able to track your mileage when you get into California and see what your mileage is when you leave," Seal says.

CARB compliance

CONTINUED FROM PAGE 3

"We are a different industry because we haul people and take them out of automobiles."

The CBA letter was submitted during a 15-day public comment period on the amendments.

The final version of the rules are expected to be produced within the next few months.



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Expo hotel reservations available

NEW ORLEANS — The United Motorcoach Association has opened its housing reservation system for UMA Motorcoach Expo 2015 at Travel Exchange, which will be in the Ernest N. Morial Convention Center here Jan. 18-22.

For next year's show, UMA has lined up four quality hotels, each offering special Expo rates.

UMA notes that by booking rooms at one of the hotels attendees not only support the show and help assure its success, but also demonstrate an important commitment to the association.

Here are other important reasons, cited by Maggie Masterson, UMA meetings and operations director, why Expo/Travel Exchange attendees should book inside the UMA-arranged hotel block:

1. Be where the action is...and where other UMA Motorcoach Expo and NTA Convention attendees are. A lot of networking happens in hotel lobbies, bars and restaurants.

2. Free shuttle service. Complimentary shuttle buses will be provided to and from the New Orleans airport, and for off-site events. There also will be shuttle service from the New Orleans Marriott to the convention center.

The other three Expo hotels are within walking distance of the Morial Center.

3. Booking in the block helps the financial livelihood of the show and UMA.

Masterson points out that the association is bound by contract to fill a specific block of rooms so it can offer the special Expo-discounted rates.

"If UMA doesn't meet the quota, we are financially responsible for any unused rooms. Booking inside the block helps us keep hotel room rates, registration and exhibit-booth fees low," she said.

Here are the hotel choices for Expo:

- New Orleans Marriott Hotel
- Hilton New Orleans Riverside
- Hampton Inn & Suites, New Orleans Convention Center Hotel
- Courtyard New Orleans Downtown/Convention Center

Go to <https://aws.passkey.com/event/11652247/owner/2614/home> to examine the special rates and book rooms. Or call (877) 685-2949.

The UMA Motorcoach Expo 2015 housing bureau is Par Avion Inc. which uses the booking website of Passkey International.

If a company other than Par

Avion contacts you, please contact the company's housing manager at (877) 685-2949 immediately, says UMA.

Poacher Alert

UMA has sent an alert to exhibitors at next year's Expo, warning that pirate housing companies are marketing rooms at hotels that have nothing to do with either UMA or Expo.

"You may be contacted by an unauthorized housing company, which we are neither working with, nor recognize," UMA told its exhibitors.

The poachers are promoting "special rates" at non-Expo hotels, and misleading attendees by tying them to Motorcoach Expo.

"These packages are misleading, have unusual restrictions, deposits and cancellation clauses, and are not endorsed by UMA," the association said.

One particular outfit engaged in the poaching goes by the name of Trade Show Housing, which is not affiliated with UMA or Expo.

"Make your hotel reservations through <https://aws.passkey.com/event/11652247/owner/2614/home>," says UMA.

Reservations also can be made by calling (877) 685-2949.

Travel/tourism/hospitality veteran will take reins of NTA next month

LEXINGTON, Ky. — Travel, tourism and hospitality veteran Pam Inman takes over as president of NTA (formerly the National Tour Association) next month.

Inman has decades of experience in the travel industry. For the past 10 years she has been at the American Hotel and Lodging Association in Washington, most recently as executive vice president and chief operating officer.

"Pam brings with her a wealth of tourism, government and association management skills to our association, and we are thrilled to have her join our NTA family," said Paul Nakamoto, NTA board chair and member of the search committee.

"Pam is an innovator in our industry with a successful track record for spearheading change, and we are excited to have her lead our staff and organization," Nakamoto added.

"I am proud to lead NTA at such an exciting time in its history and to take the association into the next phase of its growth," said Inman.

"I look forward to introducing new initiatives to the membership that will improve their ability to ef-

fectively operate and grow their businesses. NTA is clearly a leader in the travel and tourism arena already, and I'm excited to have the opportunity

to bring new ideas and a fresh perspective to the association and set it on a path of sustained growth."

Prior to her years at the American Hotel and Lodging Association, Inman directed the Tennessee Hotel and Lodging Association and the Greater Nashville Hotel and Lodging Association.

Earlier, she served for more than a decade in the Tennessee Department of Tourist Development.

Inman essentially succeeds two individuals at the NTA.

Lisa Simon resigned as NTA president last November. Simon had been at NTA for 28 years, the last seven as president.

NTA Senior Vice President Catherine Prather has served as interim president for the past eight months. She will return to her previous position when Inman joins the NTA full time next month.



Pam Inman



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Harmful bacteria

CONTINUED FROM PAGE 1

temperature environments.

The relative humidity in airline cabins is consistently 20 percent or less, which is why health experts recommend travelers drink plenty of liquids when flying.

Second, airline cabins are more consistently kept at “room temperature.”

The relative humidity of bus interiors, on the other hand, more closely reflects that of the outside

environment, which in most areas of the country is well above 20 percent, and the temperature of motorcoach interiors can fluctuate widely, depending on utilization and weather conditions, but is often well above room temperature.

The Auburn research team under Barbaree’s direction took samples from six airline cabin materials — an armrest, plastic tray table, a metal toilet button, a window shade, the cloth from a seat pocket, and seat leather — and applied or injected them with methi-

cillin-resistant *Staphylococcus aureus*, or MRSA, and *E. coli* O157:H7, bacteria that can cause serious illness or even death.

Auburn Department of Biological Sciences graduate student Kiril Vaglenov conducted much of the research during the two-year study — funded through the Federal Aviation Administration Airliner Cabin Environmental Research Center — to determine how long the *E. coli* and *Staphylococcus* bacteria would survive on commonly touched surfaces under

typical airplane conditions.

A major airline supplied Vaglenov and the other researchers with the materials from the airplane cabin.

“Our data show that both of these bacteria can survive for days on these surfaces, particularly the porous material such as armrests and seat pockets,” said Vaglenov.

“Air travelers should be aware of the risk of catching or spreading a disease to other passengers and practice good personal hygiene.”

For bacteria to be transmitted

from a cabin surface to a person, it must survive the environmental conditions in the airplane. In the study, Vaglenov simulated the temperature and humidity levels typically found during commercial flight.

MRSA survived the longest — 168 hours; that’s a full week — on material from the seat-back pocket, while *E. coli* O157:H7 lived for 96 hours (four days) on the material from the armrest.

“The point of this study is not to be alarmist, but to point out to the airlines the importance of providing a sanitary environment for travelers,” said Prof. Barbaree. “We want to work with them to minimize the risks to human health.”

The Auburn team is currently investigating how long pathogens that cause other diseases, such as tuberculosis, can survive in an airplane environment.

Vaglenov said future steps include exploring effective disinfecting procedures and testing other surfaces and materials that have antimicrobial properties to determine if they can help reduce health risks.

For example, the use of seat fabrics that are impregnated with microbe fighting chemicals.

Barbaree has a couple of recommendations for reducing illness-causing bacteria from airplane and bus interiors.

No. 1, because pathogens are more easily picked up from nonporous materials that many passengers touch, like hand rails and plastic armrests, these metal and plastic surfaces should be sanitized with every bus cleaning.

Second, develop a good disinfecting protocol.

For passengers, alcohol wipes or a hand sanitizer should be used when traveling, and the touching of nose, mouth and eyes avoided.

Diesel prices

CONTINUED FROM PAGE 1

late March. It has declined to a national average price of \$3.539 a gallon, which is 10.7 cents less than a year ago.

Gasoline ranges from an average high of \$3.922 on the West Coast, to a low of \$3.349 on the Gulf Coast. Prices in virtually all parts of the country are lower than a year ago.

The decline in fuel prices have come as the price of oil has increased.

Concerns about U.S. refineries running at high production rates, reducing oil stockpiles, along with continuing violence in Iraq and the Gaza Strip and tensions over Russia in the wake of the Malaysian Airlines crash in Ukraine, have combined to hike crude oil prices.



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— Ray Sargoni, President
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Where the residents are mostly young, outdoorsy and religious.

And, where — if the latest Gallup-Healthways survey is close to being accurate, the residents of this city, along with neighboring Orem, boast the nation's highest overall sense of well-being.

The annual Gallup survey of 500,000 Americans in 189 metropolitan areas attempts to quantify attitudes on quality-of-life factors, ranging from emotional and physical health to job satisfaction.

But, while the locals appear to like their lives, is that reason enough to send a bus load of folks there for a visit?

Joel Racker told *USA Today* it is.

"Travel is huge in Utah County, but we're not necessarily a tourist destination," said Racker, the president of the area convention and visitors bureau. "One of the problems is most people think Sundance is a 10-day festival in Park City."

With its woodsy-chic accommodations, spa, art studio, performance space and ski area, Robert Redford's Sundance Resort, 15 miles up Provo Canyon from downtown Provo, might be the region's

most high-profile tourist draw. But it's not the only one in a metro area where G-rated, à-la-carte diversions rule.

Thanksgiving Point, a 300-acre non-profit complex in Lehi, 17 miles north of Provo, boasts 55 acres of gardens (where 250,000 tulips bloomed last spring); the Western Hemisphere's largest man-made waterfall; a major dinosaur collection, and a soon-to-open Museum of Natural Curiosity for children.

Just south of Provo, the Springville Museum of Art's collection — financed, in part, by annual bake sales in the town of 30,000 — has one of the nation's largest assemblages of Soviet realist paintings. Excursion trains on the historic Heber Valley Railroad make forays through the cottonwood- and aspen-forested Provo Canyon and along Deer Creek Reservoir.

A nearby network of scenic byways traverse spectacular, off-the-beaten-path mountain scenery.

Utah County is among the most conservative enclaves in a red state. At least 75 percent of residents are members of the Church

of Jesus Christ of Latter-day Saints, and Mormon culture dominates. Many establishments are closed on Sundays. It's not a dry county, but there are more ice cream emporiums than nightclubs.

Provo is home to Brigham Young University, a church-run school whose 30,000 students sign a pledge to adhere to LDS principles, which include abstaining from alcohol and tobacco. An additional 35,000 attend Utah Valley University in Orem.

There are 50 or so independent restaurants — many of them specializing in ethnic cuisines — doing business in Provo.

Provo sports the usual thicket of fast-food restaurants, chain motels and big-box stores found in Anywhere, USA.

But in the historic downtown core, late 19th- and early 20th-century storefronts coexist with contemporary designs — a reflection of creeping contrasts in a city built on homogeneity.

Information: Utah County Convention and Visitors Bureau. Go to www.utahvalley.com or call (800) 222-8824.

Reopening eyed for Delaware bridge

WILMINGTON, Del. — The southbound lanes of the Interstate 495 bridge, spanning the Christina River here, could be reopened by Labor Day, but the northbound lanes won't reopen until several weeks later, Delaware Department of Transportation officials say.

The bridge was closed in early June after inspectors found four tilted pillars.

The first phase of construction to reopen the bridge is estimated to

cost \$20 million. The cost to permanently fix the problem is not yet certain, Delaware DOT Secretary Shailen Bhatt said.

The plan to reopen the bridge includes construction of concrete-filled shafts — down to bedrock — beneath the columns that have tilted out of alignment, creating a stable surface.

Some 90,000 vehicles normally travel across the bridge that bypasses Wilmington each day.



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