

# Bus & Motorcoach NEWS

WHAT'S GOING ON IN THE BUS INDUSTRY

## CSA: Motorcoach industry finds FMCSA program wanting

WASHINGTON — When the Federal Motor Carrier Safety Administration launched its Compliance, Safety, Accountability program nearly two years ago, the motorcoach industry had high hopes the safety enforcement and compliance initiative would provide new and improved tools for predicting the likelihood of commercial vehicle crashes.

Instead, the program appears to have fallen “severely short of its

intended goal.”

That was the united view the motorcoach industry presented to members of the U.S. House Highways and Transit Subcommittee at a hearing in mid-September.

Bill Gentry, president of Gentry Trailways in Knoxville, testified before the committee on behalf of the United Motorcoach and American Bus associations.

He told committee members that motorcoach industry safety

professionals were enthusiastic when CSA was implemented by the FMCSA, believing it would help the agency attain its goal of addressing safety problems before crashes occur.

Unfortunately, said Gentry, independent studies and anecdotal evidence suggest CSA hasn't achieved its intended purpose.

“Like its predecessor, CSA is rooted in compliance and the associated enforcement of the most ru-

dimentary rules that are decades old and may not reflect progressive risk management stratagems and actuarial science,” Gentry told the committee.

“In other words, we placed an old engine in a new motorcoach and are expecting better performance.

“If anything, CSA cries out for improved methods for passenger carrier crash prediction and tools passenger carriers can utilize to mitigate their risk.

“Instead, the enforcement community remains entrenched in tactics that more resemble a ‘gotcha’ mindset — that generates revenue from fines — rather than employing methods that truly reduce



Bill Gentry

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**All Approved.** The U.S. Surface Transportation Board has approved Transportation Management Services purchase of 12

former Coach America companies. The acquired operations will be rebranded Horizon Coach Lines. See story on Page 3.

## ADA reporting deadline looms for all operators

Like leaf tours in New England and football game trips everywhere, fall now brings another annual tradition to the motorcoach industry: filing reports mandated by the Americans with Disabilities Act.

A warning: Ignore this autumn practice at your peril.

ADA reporting requirements are mandatory for ALL bus operators — whether they have accessible buses or not, or whether they provide accessible service or not. Failure to comply with ADA reporting requirements may result in a fine big enough to put some carriers out of business.

Since the Over-the-Road Bus Transportation Accessibility Act of 2007 became law, Federal Motor Carrier Safety Administration inspectors and their state partners are required to conduct an ADA audit whenever a compliance review of a bus company is conducted.

If an inspector finds a carrier failed to comply with ADA reporting requirements or other regulations, the violator will be reported to the Justice Department and may be subject to a fine of up to \$10,000.

That happened to more than a dozen small operators between

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## Tough New World I: Owner jailed

ALBANY, Ga. — The operator of a Georgia trucking company has been sentenced to serve jail time for refusing to shut down his company after an FMCSA out-of-service order.

Devasko Lewis was sentenced in U.S. District Court in Albany, to spend six months in jail and 12 months of supervised release for operating a commercial motor vehicle in violation of an Imminent

Hazard – Out-of-Service Order issued by the Federal Motor Carrier Safety Administration.

Lewis pleaded guilty to the charge in May.

Court documents show Lewis made a false statement in an application for motor carrier authority for “DDL Transport” filed July 12, 2011, with the USDOT. Lewis stated he had not had a relation-

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## Tough New World II: Owner liable

SHREVEPORT, La. — A Louisiana appeals court has reversed itself, ruling that a Bossier City, La., taxi cab company owner can be held personally responsible for the death of a 12-year-old Stonewall, La., boy allegedly killed by a cab driver.

The Second Circuit Court of Appeal ruled 3-2 there is a legitimate legal question of whether Action Taxi owner David McFar-

lin can be held liable for hiring a driver whose license showed he was a sex offender.

The driver is accused of posing in text messages as a girl to lure Justin Bloxom into his cab, then killing him.

During a second hearing on the question, McFarlin's attorney argued the circumstances “could not be reasonably foreseen or

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# New 'Motorcoach Census' offers mixed picture of industry

WASHINGTON — The American Bus Association Foundation hired a new research firm to conduct its latest Motorcoach Census, and it came up with markedly different numbers for the size and scope of the industry in the U.S. and Canada.

In fact, the numbers are so dramatically different that in some cases comparisons with previous years may be meaningless.

For example, the latest study, which is called *Motorcoach Census 2011*, says there were 4,478 companies operating 42,895 motorcoaches in the United States and Canada in 2010.

*Motorcoach Census 2010*, which reported industry figures for 2009, estimated the number of motorcoaches at 35,026, or nearly 7,900 fewer than reported for 2010.

The most recent previous ABA survey to report the number of motorcoach companies was the one issued in 2008, when it was estimated there were just over 3,400 companies (in 2007). That is more than 1,000 fewer companies than reported for 2010.

The 2011 survey doesn't provide an explanation for the sharp increases reported for 2010, which would seem to be strongly at odds with other indicators, pointing to industry

shrinkage in recent years. The latest study simply says it builds on earlier census research.

However, when asked about the differences, an ABA spokesman said its new vendor "was able to expand the initial universe of *Census 2011* companies examined, versus prior editions.

"So, the total number of companies that were identified was larger than in the last survey. It comes very close to the federal Department of Transportation estimates of the total number of motorcoach carriers. The increase in total motorcoaches is a result of the fact that the vendor included a larger number

of companies and amassed survey results across this larger population."

Other notable differences between *Census 2011* and previous versions include "passenger trips," which is perhaps the single-most-quoted figure cited by advocates to tout the size of the industry.

For several years, the *Motorcoach Census* came up with a passenger-trips number that indicated the industry carried more passengers than the nation's airlines.

However, the methodology used to develop the motorcoach industry passenger-trips

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# Board finally OKs sale of Coach America subsidiaries

WASHINGTON — It took much longer than expected, but the U.S. Surface Transportation Board has given final approval to the acquisition of more than two-dozen former subsidiaries of Coach America.

The regulatory OK was delayed by more than three months because of a complaint filed by a disgruntled driver.

Surface Transportation Board rules require it to consider all challenges to acquisitions that fall within its purview, and to decide whether the complaints trump the board's obligation to approve transactions it finds are consistent with the public interest.

After four separate applications were filed by four different groups of buyers to purchase 25 Coach America subsidiaries, a

former driver for Midnight Sun Tours, a Florida operator owned by Coach America, filed a protest with the board.

In his filing, driver Michael Yusim of Delray Beach, Fla., said no sales involving Coach America subsidiaries should be approved until complaints he filed against Midnight Sun Tours were resolved by the U.S. Department of Labor and the federal bankruptcy court in Delaware.

Yusim alleged Midnight Sun Tours discriminated against him and another driver for having accurately reported their hours of service.

His complaints are pending before the Labor Department.

In its decisions involving the acquisi-

tions, the Surface Transportation Board essentially ruled Yusim had presented no specific evidence the purchases would not be in the public interest.

Approved by the board were the following deals:

- Coach USA and its parent company, Stagecoach Group, received approval to buy 10 Coach America subsidiaries: All West Coachlines of Sacramento, Calif.; American Coach Lines of Atlanta; Dillon's Bus Service of Hanover, Md.; Kerrville Bus Co. in San Antonio and Dallas; K-T Contract Services Elko (Nev.); Lakefront Lines of Cleveland, Ohio; Pacific Coast Sightseeing Tours & Charters of Anaheim, Calif.; Powder River Transportation Services of Gillette, Wyo.,

and Raz Transportation of Portland, Ore.

- Transportation Management Services of Sandy Springs, Md., and its principal, Frank Sherman, received approval to buy former Coach America operations in Winston-Salem, Charlotte, Raleigh/Durham and Jacksonville, N.C.; Jacksonville, Orlando, West Palm Beach and Miami, Fla.; San Diego; Los Angeles; San Francisco; Houston; Denver; Phoenix, and Las Vegas.

- The owners of Tornado Bus Co. of Dallas, received approval to purchase El Ex-presso, a Coach America subsidiary based in Houston.

- Professional Transportation Inc. of Evansville, Ind., received approval to buy Coach America's rail crew shuttle businesses.

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## Driver screening system users may be audited for compliance

WASHINGTON — The contractor administering the Federal Motor Carrier Safety Administration Pre-Employment Screening Program, commonly called PSP, is beginning to enforce the program's required audit process.

The Pre-Employment Screening Program allows operators to obtain a prospective driver's crash and inspection history from the FMCSA Motor Carrier Management Information System.

Before accessing the system, operators must obtain a signed release form from the prospective driver they are checking, and companies must retain the form for three years.

PSP allows an operator to view five years of crash data and three years of inspection reports for a prospective driver. The pro-

gram and its data are designed to help operators make better informed hiring decisions.

The FMCSA contractor, NIC Technologies, will begin checking with operators to make sure they have signed release forms for drivers they have run through the PSP system.

If a carrier is selected, NIC Technologies will ask the carrier to produce up to three specific release forms for drivers whose PSP records have been requested.

Failing an audit can result in losing access to the PSP system and other penalties.

Additional information can be found at [www.psp.fmcsa.dot.gov/Pages/FAQ.aspx](http://www.psp.fmcsa.dot.gov/Pages/FAQ.aspx).

The United Motorcoach Association reminds operators that PSP searches are only allowed for

## FMCSA faces deadlines galore

WASHINGTON — The new federal highway and public transportation bill signed into law by President Obama in July directs the Federal Motor Carrier Safety Administration to complete 29 rule proceedings over the next 25 months.

In a briefing before the agency's Motor Carrier Safety Advisory Committee, John Drake, FMCSA's director of governmental affairs, said agency officials will be busy the next few years not only meeting mandates for new regulations, but also responding to congressional requirements to implement 34 programmatic changes and complete 15 reports.

The \$105 billion transportation prospective employees — not current ones.

Under the PSP system, operators pay \$10 for each requested

reauthorization legislation not only funds highway infrastructure improvements, but includes a number of significant safety provisions, FMCSA Administrator Anne Ferro told the advisory committee.

"The number of safety initiatives that this bill advances for the commercial vehicle community and for FMCSA to implement is just plain exciting," Ferro said.

"We're on a roll, and you'll see just how much we have to do. But most of it was in fact our business agenda, our strategic plan."

Many of the rulemakings will focus on over-the-road buses and trucks.

Between now and early 2013 alone, FMCSA plans to issue a driver history. An annual subscription fee of \$100 also applies.

Carriers with fewer than 100 motorcoaches qualify for a dis-

counted annual fee of \$25 per year. Individuals can request a personal driving history for a fee of \$10.

new rule proposal for use of electronic logging devices in heavy-duty buses and trucks, a proposal for driver safety fitness, a drug and alcohol clearing hours proposal, and a "patterns of safety violations" proposed rule that will focus on truck and bus executives who turn a blind eye to unsafe business practices.

There also are numerous smaller provisions that have considerable weight.

Starting in October, for example, the agency will have authority to levy higher enforcement penalties and declare unsafe carriers as an imminent hazard.

Here's the agency's schedule for the years ahead.

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# FMCSA puts time clock on safety fixes by new entrants

WASHINGTON — New motorcoach operators face a series of shorter deadlines for correcting problems discovered during the company's initial "new-entrant" safety audit, under a new policy adopted by the Federal Motor Carrier Safety Administration.

If a motorcoach operator undergoes its new-entrant audit and does not pass, it has 45 days to fix the problems identified in the audit.

But beyond that, the new op-

erator must submit a "corrective action plan," saying how it will fix the problems within 15 days of the audit.

Some audit violations require expedited action by the new operator, and in those cases the deadline for correction is 10 days, the agency said.

And while the policy also gives a new operator 30 days to submit "acceptable evidence" indicating it is making progress on its corrections, the FMCSA said too many

new entrants are waiting until the end of the 30 days to respond, which does not give the agency enough time to review the information.

If the applicant's proof of action does not arrive in time, the agency said it cannot guarantee it will complete its review within the 30 days.

And if the 30-day period expires before the agency is done, then under the new policy the new entrant's registration will be

revoked.

If, however, the agency later determines the action plan is adequate, then the registration will be reinstated.

Under the federal highway and public transportation law passed by Congress earlier this summer, new motorcoach entrants eventually will have their initial safety audit within 120 days of going into operation.

Currently, the FMCSA has 18 months to complete new-entrant

audits, but it generally completes them quicker for new passenger carriers.

The agency was severely criticized in late July by the National Transportation Safety Board for allowing one curbside operator to put off its new-entrant audit for 22 months, during which time the company developed reprehensible operational and safety practices that eventually resulted in a fatal crash. (See Sept. 1 *Bus & Motorcoach News*.)

# FMCSA modifies driver disqualification data system

WASHINGTON — The Federal Motor Carrier Safety Administration announced it has upgraded one of its data collection programs in an effort to improve its Safety Measurement System.

The Safety Measurement System uses crash data, plus information collected at destination and roadside inspections and reported through a computer application the FMCSA calls Aspen, to prioritize

motor carriers for interventions.

The FMCSA said it made the upgrades in response to stakeholder feedback that indicated some commercial driver violations in SMS are a result of license suspensions for nonsafety-related reasons, such as failing to pay a parking ticket.

The agency said motor carriers often cannot detect these suspensions when doing required background or annual checks of a driver's driving record.

The changes to the agency's Aspen application will collect more precise data about drivers

operating commercial motor vehicles while disqualified, thereby improving the FMCSA ability to identify noncompliant and unsafe motor carriers.

Specifically, the refinements will allow roadside and destination inspectors to classify disqualified driver violations into different categories depending on whether the driver's license is:

1. Suspended by the driver's license-issuing state or another state.
2. Suspended for a safety-related (e.g., speeding or false logs violations) or nonsafety-related (e.g., failure to pay parking tick-

ets) reason.

Previously, the severity weight for any driving-a-commercial-motor-vehicle-while-disqualified violation was eight.

"This additional data will strengthen the effectiveness and accuracy of the Driver Fitness Behavior Analysis and Safety Improvement Category (BASIC) of the SMS," the FMCSA said.

"More importantly, it will hold motor carriers accountable for using a driver with a license that has been suspended for safety-related reasons by the driver's license-issuing state."

## W.Va. to study highways, funding

CHARLESTON, W. Va. — West Virginia Gov. Earl Ray Tomblin has formed a blue-ribbon commission to study the state's highway needs and come up with recommendations that include funding methods.

The commission is to report

its findings and recommendations by Feb. 1.

West Virginia "must modernize its extensive network of roads, highways and bridges to accommodate the mobility demands, employment and commerce of a modern society," Tomblin said.



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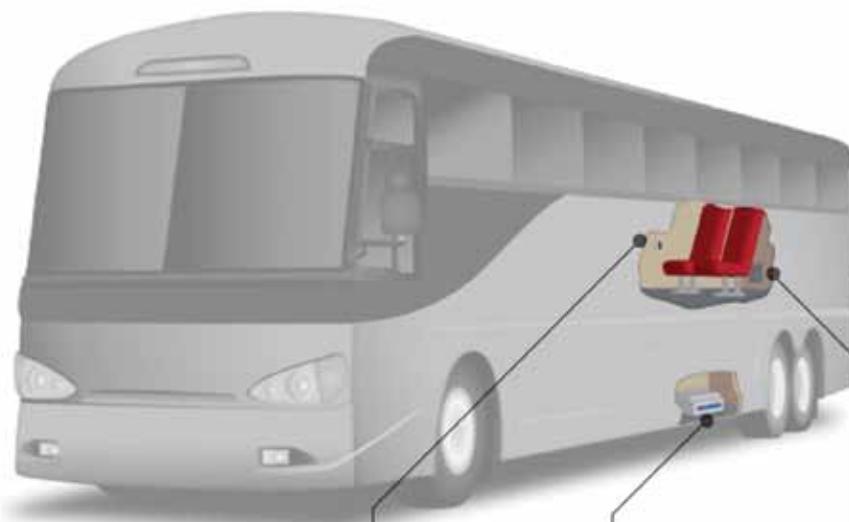
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# Dems, Republicans claim credit for renewed highway law

During their presidential nominating conventions, Republicans and Democrats both took credit in their official party platforms for the two-year federal highway and public transportation reauthorization bill passed by Congress and signed by President Obama in July.

However, while the Democratic platform emphasizes the "long-term infrastructure investment" contained in the measure because it will create jobs, the Republican platform praises the law's "return to federalism."

The Republicans said in their platform document the law gives

states more flexibility in spending federal money and speeds up the approval process on transportation projects.

Platforms typically are a listing of the actions a political party supports or opposes in its effort to appeal to the general public.

The Republican platform, for example, strongly opposes a vehicle-miles-traveled tax to pay for projects.

"We oppose any funding mechanism that would involve governmental monitoring of every car and truck in the nation," the platform said.

The Democratic platform does not mention a vehicle miles tax, but does call for a national infrastructure bank to help fund projects.

Conversely, the Republican platform calls for public-private partnerships to help build and operate roads, bridges, tunnels and transit systems.

As they did during the reauthorization debate, in their platform Republicans tied transportation funding to energy policy. They expressed support for new oil drilling offshore and in the arctic wilderness, and also supported building the Keystone XL pipeline to carry

crude oil extracted from Canadian tar sands to Gulf Coast refineries.

The Democratic platform stressed government support for investments in "clean energy," and said the party has "made protecting the environment a top priority" offshore and in the Arctic.

The Democratic platform also said the party supports development of biofuels.

The Republican platform, however, said, "We will not pick winners and losers in the energy marketplace" and "will let the free market and the public's preferences

determine the industry outcomes."

The Republicans call for cuts around the edges in programs their constituents don't like, such as passenger rail, but they don't address big transportation issues such as funding methods.

The Democratic platform, meanwhile, calls for more investment in all modes, but did not suggest a way to pay for it.

Neither party platform addressed the suggestion of the Bowles-Simpson deficit commission that the nation should raise fuel taxes to pay for transportation.

## U.S. 71 to become Interstate 49 in Missouri

KANSAS CITY — By December, a nearly 180-mile stretch of U.S. 71 in Missouri will be converted to Interstate 49.

The interstate will run from Kansas City to Joplin, and has a pro-

jected completion date of Dec. 12.

According to the Missouri Department of Transportation website, the project is part of a larger plan by Louisiana, Arkansas and Missouri to complete I-49 from

New Orleans to Kansas City.

The Missouri DOT was required to upgrade 20 at-grade crossings in four counties (Barton, Bates, Cass and Vernon) to have U.S. 71 meet interstate standards.

## Indiana Toll Road transitions to E-ZPass

GRANGER, Ind. — The Indiana Toll Road is changing the name of its electronic tolling system from i-Zoom to E-ZPass.

ITR Concession, the company that operates the toll road, said it's removing i-Zoom signs, ban-

ners and materials and replacing them with signage bearing the name of E-ZPass.

The conversion should be completed during October.

The goal of the name-only conversion is end confusion, mak-

ing it easier for out-of-state drivers to recognize that their E-ZPass transponders will work on the Indiana Toll Road. Roughly 65 percent of the toll road's users are from out of state.

Fourteen states use E-ZPass.

## FMCSA deadlines

CONTINUED FROM PAGE 4

### 2013 deadlines

Due in July is a joint report by the Transportation and Defense Departments on how to help U.S. military veterans get commercial vehicle driving jobs.

Due early in October are the electronic logging rule and a requirement that states set up standards for how they will automatically notify carriers of drivers' moving violations and suspensions.

At the same time, the agency will owe a national registry rule

and new guidelines for safety inspections.

On the last day of the month, the agency is supposed to post its entry-level driver training rule.

### 2014 deadlines

The agency has until April 1, 2014, to finish work on a written proficiency exam for those seeking operating authority. The test must cover the applicant's knowledge of the safety rules.

It has until the following October to finish the national clearinghouse for drug and alcohol test results.

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# Safety Management Cycle: NTSB champions safety tool

WASHINGTON — The National Transportation Safety Board has recommended the Federal Motor Carrier Safety Administration make one of its assessment and compliance tools, known as the Safety Management Cycle, available to operators to improve their safety programs.

So far, the FMCSA appears reluctant to do so.

So, what is the Safety Management Cycle?

Simply put, the Safety Management Cycle takes the concept of safety management controls to the next level.

It's a system designed to help bus and truck operators focus on the root causes of safety or compliance problems, find and apply remedies to solve the problems, monitor and track the effectiveness of the fixes, and start the cycle again to address other issues.

"The SMC allows investigators and motor carriers together to move beyond identifying 'what' the safety violation is to 'why' the safety performance issue is occurring so motor carriers can develop or refine policies, practices, and operations to improve their safety

performance," says the FMCSA.

The model is shaped like a wheel with six spokes or arrows representing business practices:

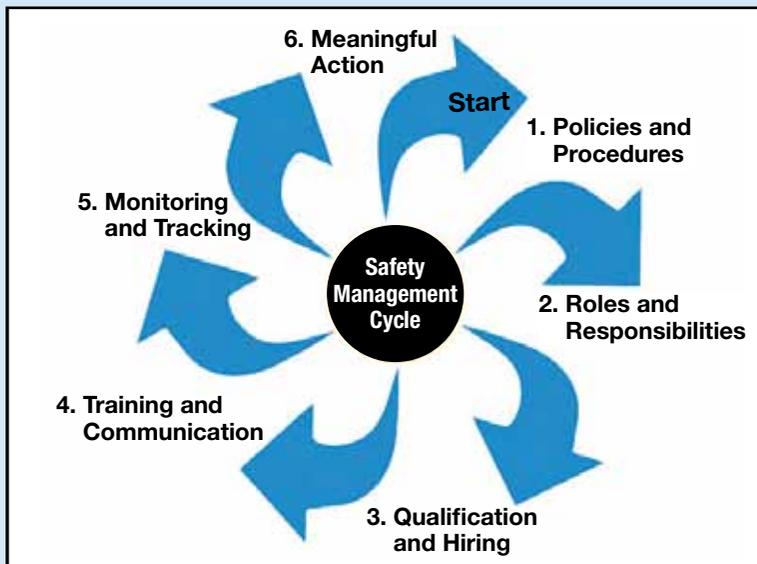
1. Policies and procedures
2. Roles and responsibilities
3. Qualifications and hiring
4. Training and communication
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6. Meaningful action

During safety investigations, the FMCSA uses the Safety Management Cycle as both a problem-solving and discussion tool.

Investigators and carriers use the model to review the company's safety program and help diagnose breakdowns in safety management processes. The cycle includes a series of questions for each of the spokes that can help the operator take action to fix problems so they don't happen again.

The NTSB lauded the Safety Management Cycle in a report issued in June on the fatal Interstate 95 crash in New York City in March 2011.

The board recommended the United Motorcoach and American Bus associations and the National Motorcoach Network alert their members to the existence of the



Safety Management Cycle and how it can positively influence carrier safety.

It also advised the FMCSA to provide information about the cycle on the agency's "Safety is Good Business" motor carrier website.

NTSB Chairman Deborah A.P. Hersman said her board was "vitaly interested" in getting word out about the safety tool "because it is designed to prevent accidents and save lives."

For reasons known only to the

FMCSA, use of the Safety Management Cycle has been kept primarily internal to the agency.

More than 1,000 federal and state partner employees have received training on the tool, and have been using it in investigations during the past year as part of the second phase of Compliance, Safety, Accountability implementation.

Still, a clear and useful explanation of the tool is not available on the FMCSA "Safety is Good Business" website.

It is, however, easy to find on J.J. Keller & Associates' website. The company has offered webinars on the cycle that have been well attended and well received by clients, according to Kathy Close, a transport safety editor.

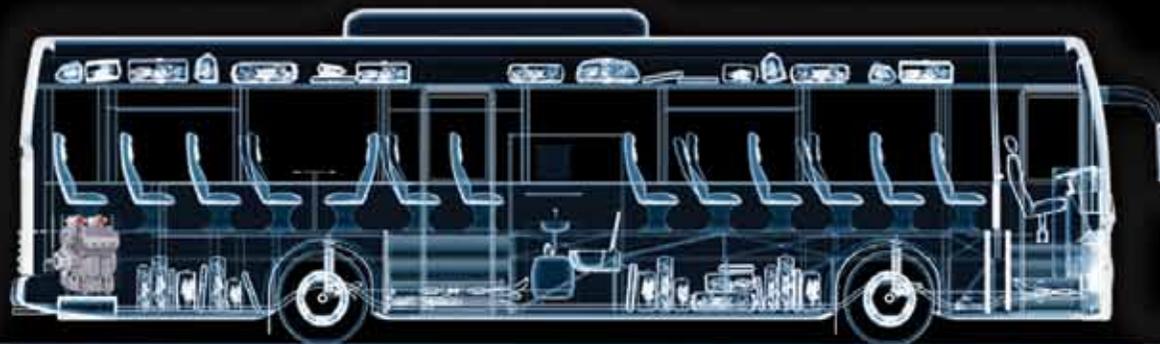
Close says most companies seem to adapt to the Safety Management Cycle with relative ease.

"I think they're already familiar with the term 'safety management controls.' Once they understand that this is an extension of that, I don't think they'll be blindsided," she says. "This is an organized way of looking at safety management controls."

Like safety management controls, the safety management cycle must be customized to suit each operation in order to be effective, Close adds.

"There is no one template that's going to meet all of your needs," she says. "If you say you're doing something based on a book or reference materials created for a larger operation, (investigators) can tell you never really put much thought into it. You need to make sure that anything you have really reflects your operation."

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# 'Tour operator' circulates specious email in industry

ALEXANDRIA, Va. — While smear campaigns have become commonplace in American politics, they have rarely been used by rivals in the group travel industry.

That is, until the past few weeks.

In mid-August, a specious email — apparently transmitted to scores of group travel and tourism suppliers by a new member of the American Bus Association — disparaged the annual convention of the NTA (formerly the National Tour Association) and UMA Motorcoach Expo. Those major industry shows will be conducted jointly for the first time in late January in Orlando.

ABA's annual Marketplace will take place in early January in Charlotte, N.C., meaning for the first time the NTA and ABA shows will be conducted two weeks apart instead of the typical two-month separation.

The blast email went out under the name of a supposed tour operator named Barry Bennett of "Barry's Capitol Tours" in Alexandria, Va.

Bennett is, in fact, a long-time political operative who has a history as a frontman for Republican Party ventures financed by donors intent on maintaining their anonymity, according to *The Huffington Post Politics* website.

"Since the 1990s, Bennett has headed two nonprofits set up for the purpose of influencing elections while maintaining donor secrecy," reported the *Huff Post*.

"He has operated within the underbelly of politics where secret money flows through obscure trusts and foundations to finance attack ads and campaigns free of fingerprints," the website publication added.

*The Huffington Post, The New*

*York Times, The Daily Beast* website and others published long articles early this year about a high-profile, highly-critical video Bennett produced in a failed effort to derail Republican nominee Mitt Romney's presidential campaign.

## Oh me, oh my

In the email he circulated in mid-August to motorcoach industry group travel and tourism suppliers, Bennett claimed to be "trying to make a smart decision...on which travel show to attend — ABA's or NTA."

"I have never been to either but am now at the stage of my business where I want to grow both my education and business," Bennett claimed.

"I cannot afford to attend both. Here is what I have come to understand. Please feel free to educate/correct me."

"I have read all the materials for both shows."

"ABA seems to be both the bigger show and have a larger economic activity. I haven't been able to get a number out of NTA's material but the ABA study is impressive."

"NTA is a 'new' show but it looks like a combo of two smaller shows — one on travel and one on Bus parts and supplies. I am definitely not interested in Bus parts. (Though, of course, I love them as a mode of transportation.)"

"I am not interested in foreign travel. I am interested in networking and the educational components."

"The ABA show seems to make much more sense."

"Please, if you can offer some wisdom, share your thoughts," Bennett concluded.

Of course, the NTA convention is not new (the association has

'For the past two years, if Bennett was actively operating a tour company he was doing it in his dreams.'

been conducting annual events for more than 60 years), and only someone bent on mischief would characterize the UMA Motorcoach Expo as a "bus parts and supplies" show.

## Barry the tour operator

And, of course, there's no record of Bennett having requested information about the NTA Convention or UMA Expo, which are being conducted simultaneously next year to produce what is called "Travel Exchange" — a single show that "puts the full spectrum of North American travel buyers and sellers on the same floor."

That Bennett identifies himself as a genuine tour operator is as questionable as his email.

The only place on the internet that "Barry's Capitol Tours" can be found is on the website of the American Bus Association.

There is no entity registered with the name Barry's Capitol Tours in Virginia.

The domain name, "Barry's Capitol Tours," was registered anonymously at *GoDaddy.com* in mid-July.

The address for "Barry's Capitol Tours" in Alexandria is the same address as Bennett's political organizations. There is no signage or other indication on the building that a tour company operates there.

## Qualified tour company?

Bennett also does not appear to meet the qualifications for tour operator membership in the ABA.

In a phone interview, Bennett admitted his "Barry's Capitol Tours...is relatively new."

Among other things, ABA "membership requirements" say tour companies wishing to join the association must provide it with proof "the company has been in business for at least two years prior to the date of application and does outbound tours, i.e. current and past tour brochures/itineraries substantiating the requirements."

For the past two years, if Bennett was actively operating a tour company that met ABA requirements he was doing it in his dreams because there's no evidence to be found that such a company was regularly conducting tours or "frequently booking motorcoaches" for tour groups.

## Reaction to memo

Scores of NTA members apparently received the email, questioned it and communicated their skepticism to NTA leadership.

NTA reacted by sending a "spam alert" to its members, saying NTA had been unable to verify the validity of "Barry's Capitol Tours." NTA suggested its members "may want to use caution in their correspondence (with Bennett) and be mindful of their proprietary and confidential information."

According to a tour industry website, *TourOperator.com*, the association also retained a private investigator to look into Bennett's email, and a similar email sent by another political strategist, Liz Mair. The tone, timing and origin of the two emails seemed too coinci-

dental to NTA. Plus, both Bennett and Mair had worked on political issues for Texas Gov. Rick Perry.

But why would NTA hire a private detective?

Because, NTA President Lisa Simon told *TourOperator.com*, the e-mails "had erroneous and misleading information," because the website was not operating, because there was no such company registered in Virginia, and "having no verification of a legitimate tour company, and being unable to reach anyone (or even a voicemail) at the phone listing for Barry's Capitol Tours, we engaged an investigator to pursue it."

"Hiring someone outside NTA was necessary to verify our findings in a professional and non-intrusive manner," Simon told the website.

Once the investigator, working for the NTA, called Bennett he expressed appropriate outrage.

In an email to *Bus & Motorcoach News*, Bennett said that "last week I got a call from a former FBI agent, who is now a private investigator. He told me he was hired by NTA to investigate me. That made me very angry."

"I am furious NTA would stoop to this level."

"I am owed an apology — at the very least. No one from NTA has ever called or emailed me to my knowledge. They just hire private investigators."

"I would never in a million years give them a dime of my money. I hope that their members know and approve of how they spend their dues."

"This whole incident is bizarre. Quite a welcome. Every time the phone rings I suspect the person calling is a spy. I have had enough," Bennett said.

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# Bus & Motorcoach NEWS

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# Deregulation: Changing the industry for 30 years

By Dave Millhouser

It was magic. My friend Calvin ran, literally, a “bus barn” where he repaired coaches.

Part of his magic was the process where he got three buses in a barn that really only fit two. He’d never let us watch; for all we knew he lowered one through the roof.

He had a miraculous way of healing sick buses and his reputation attracted repair business from all over the region.

This was during the 1970s and Calvin wanted to run coaches, as well as fix them. But the industry was still heavily regulated, and “operating authority” was out of his reach.

The only way to realize his ambition was to become what was then called a “gypsy”...and use loopholes to operate on the fringes.

Gypsy has become an archaic bus term; today, such operators might be labeled noncompliant or rogues.

Fortunately for him, in 1982 — virtually 30 years ago to the day you are reading this — the industry was deregulated.

He seized the opportunity to compete legitimately, growing from a single 1964 GM 4106 to the largest and most innovative carrier in his region. Calvin wasn’t alone; there were dozens of stories like his.

Competition improved the quality of motorcoach travel and, like in other modes of deregulated transportation, including airlines, prices went down.

Old timers weren’t thrilled; to survive they had to improve. Ultimately, everyone benefited.

Many of you own, or work for, companies that made it through that era. Most companies that survived are much different operations today.

The numbers aren’t readily available, but it’s reasonable to assume that a large percentage of currently successful coach operations did not exist in 1982.

### An attempt to re-regulate?

In the maneuvering that produced the new federal highway and public transportation law this past June, there was an effort to substantially raise the barriers to entering the industry.

Safety was cited as a major concern.

I’m aware of no evidence indicating new, or smaller, companies are less safe.

I also think there is ample safety regulation in place to, if properly administered, do the job.

Part of what may be happening is the inclination to limit competition. It’s hard to argue with “safety,” but the undertone may be an attempt

to return to de-facto regulation.

In yesteryears, to get authority you had to prove your service was “needed,” now you need to prove you’re safe (before you’ve turned a wheel).

### How we’ve changed

It’s been 30 years since deregulation,

and it’s worthwhile to take a look at how we’ve changed.

We all (justifiably) complain that revenues don’t keep pace with costs, and yet you’re still here. You’ve managed, somehow, to operate efficiently enough to endure in these ugly times.

Of course, some have not made it,

but that’s how Darwin works, and the survivors are the better for it.

Does anyone believe that the spectacular innovations we’ve seen would have occurred in a noncompetitive environment? Coach builders responded to market pressure by offering good-looking coaches that are safer, ride better, and offer a variety of enter-

tainment options.

Prior to 1982, most charters were done by line carriers as a sideline, and customers



Dave Millhouser

CONTINUED ON PAGE 12

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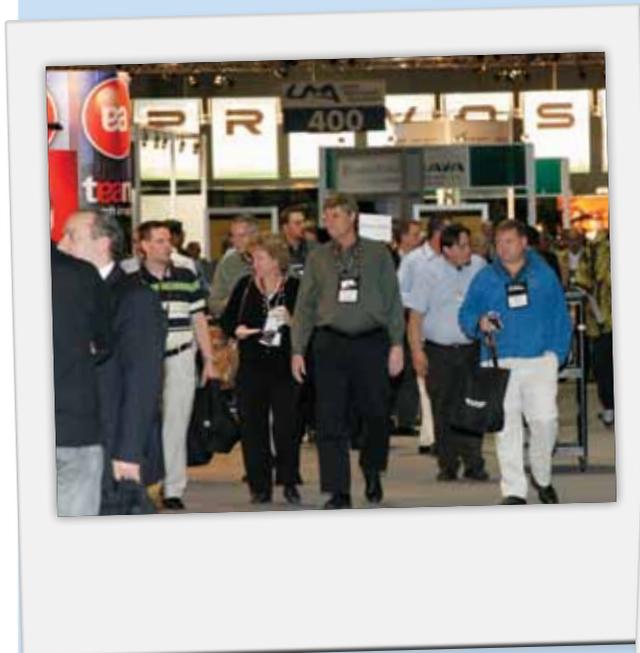
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## Dave Millhouser

CONTINUED FROM PAGE 9

were captive.

By 1985, offshore manufacturers were attracted to a growing charter/tour market that demanded the stylish buses they built. Some succeeded in our unique market, some failed. Their presence stirred the North American builders to compete on a higher level.

### Fresh blood, ideas

In the regulated environment there was no need to “sell,” but competition changed that. We saw an influx of creative new people who explored all sorts of markets that had

been ignored or taken for granted.

Some of these folks failed spectacularly, while some, like Calvin, marched the industry forward. We serve more people, in more ways, than ever before.

Coach operators joined the rest of the business universe of maintaining profits through equipment and manpower efficiencies combined with competitive prices and services.

A Wizeden Executive pointed out that operating in a deregulated world is “hard work and little wonder many would like to see the ‘good old days of regulation’ return. The next best thing is heaping on loads of dubious regulations (had an ADA audit lately?) that are difficult for

the startup to endure.”

Little guys HAVE to be creative to survive, and often offer significant new ideas. Conversely, increased regulation burdens them the most. The cost, per employee of a drug screening, or safety program, is significantly less for a big company.

Established operators can handle regulatory costs more efficiently.

A Congressman recently observed: “I’m wary of large companies that want to pass more regulations because for them, the costs are easily absorbed, but are burdensome for the small entrepreneur and discourage start-ups.”

We need to fight the temptation to solve problems with new rules.

Clearly, sometimes they’re needed, but often all that is required is to utilize intelligently what already is in place.

### Why it’s better

Freedom entails risk. Encouraging competition may create some pain, but will also bring the new energy and ideas that we need to thrive. It’s not fair to shut the door in the face of potential legitimate competitors after we’re safely inside, and frankly, we need them. Without their innovation we’re on a plateau, and it’s only downhill from here.

The founders of the United Motorcoach Association understood this and worked hard to see the industry

deregulated. Much of the industry, as we know it today, owes its current opportunity to compete and succeed... to those guys.

I live on an island (73 feet from the mainland), and we sometimes joke about closing the bridge so we don’t have to put up with all the commuters, tourists and big city folks.

It’s fun to contemplate, but without those people (and the aggravation they create) we wouldn’t have the restaurants, attractions and entertainment we currently enjoy.

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

## Motorcoach Census

CONTINUED FROM PAGE 3

number is vastly different than the figure published for the airline industry. The airline number is based on actual ticket sales since every airline ticket sold in the U.S. has federal taxes attached to it and can be tracked.

The passenger-trips numbers published in previous *Motorcoach Census* have been based on estimates and projections developed from a survey returned by fewer than 200 companies.

The latest census reached a total of 6,949 companies, and 335 responded. That’s a response rate

of 4.8 percent, a half a percentage point higher than the response rate for the 2010 *Census*.

Based on the latest survey results, researchers for the ABA estimate the motorcoach industry provided about 694 million passenger trips in 2010.

Comparing that number with the passenger-trips figure in previous ABA surveys would seem to be risky. Still, the number is 4 percent lower than the number published in the 2010 census, despite the huge increase in the number of coaches estimated in *Census 2011*.

It also is well below the passenger-trips figure for 2008 of 762 million and the 751 million for 2007.

In the news release announcing the results of Census 2011, the ABA Foundation reported that domestic airlines had 717 million enplanements (international and domestic) in 2010.

While the “big picture” numbers in the latest survey are challenging to fathom, the nuts-and-bolts figures are more consistent and in some cases suggest interesting changes in the industry.

For example, in the 2011 survey, operators reported that 25 percent of their customers were students, 23 percent were seniors and 52 percent were “other” (in 2010).

That’s a significant shift from 2007 when the survey indicated

that 33 percent of customers were students, 32 percent were seniors, and 35 percent were unclassified.

Here are other notable “operating ratios” revealed by the 2011 survey. In 2010, operators reported they averaged:

- 6 miles per gallon of fuel. In 2007, that number was 5.7 miles per gallon.
- 34.1 passengers per service mile. That compares with 34 passengers per service mile in 2009, and 35.6 in 2008.
- 51,900 service miles traveled per motorcoach, compared to 49,278 in 2009 and 51,878 in 2008.
- 3.5 persons employment per motorcoach, unchanged from 2007.

Of the 4,478 motorcoach companies identified in the 2011 Census, 390 operators were Canadian. Those Canadian companies operated 3,636 coaches, according to the survey.

“The small business network that makes up the motorcoach industry continues to provide a remarkable level of cost-effective transportation for our nation,” said Peter J. Pantuso, the president of the ABA Foundation. He indicated he was particularly pleased with the growth of the industry’s schedule intercity segment.

The full report and methodology can be found at [www.buses.org/ABA-Foundation/Research](http://www.buses.org/ABA-Foundation/Research).

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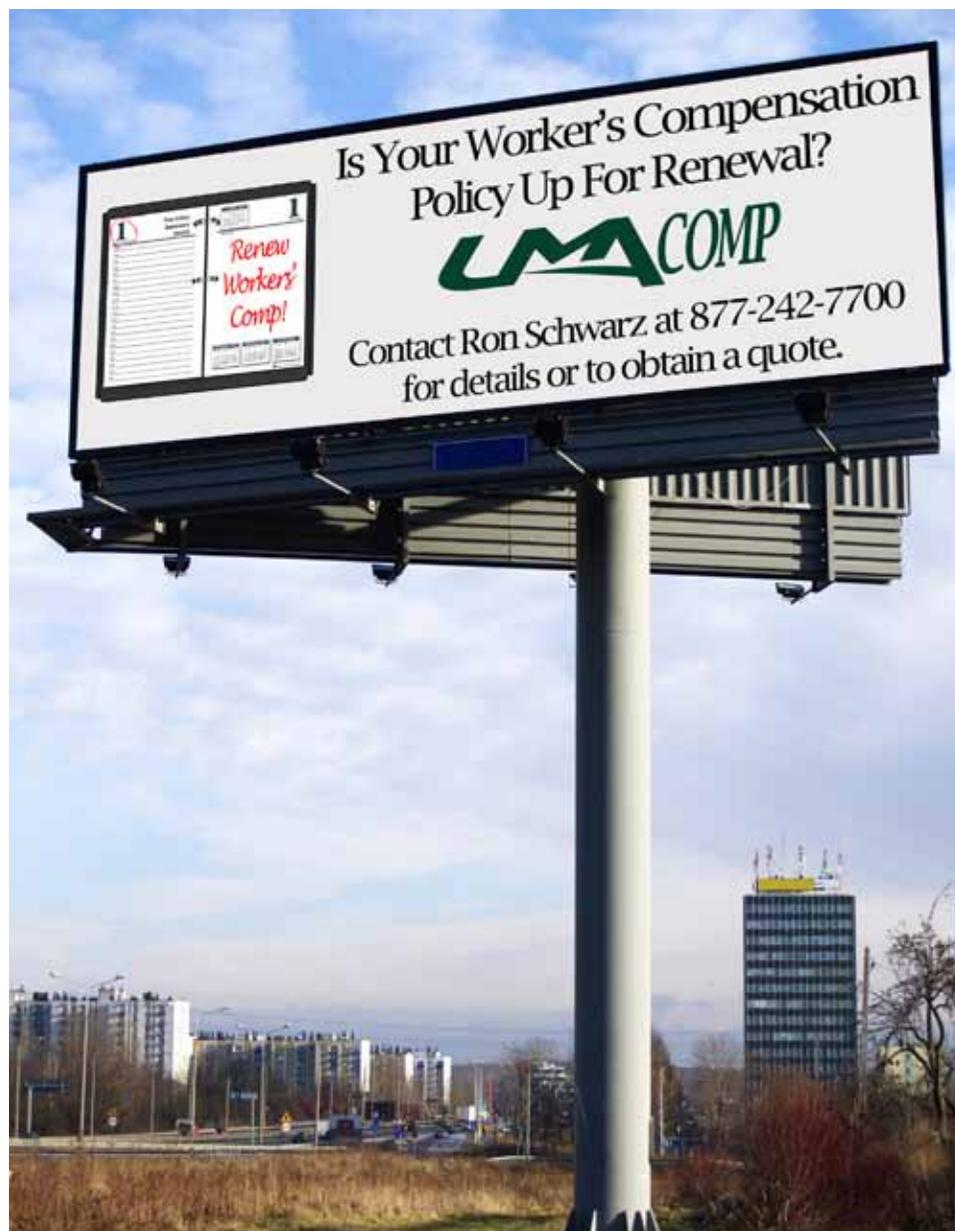


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# Red tape slows survey of pre-trip safety information

WASHINGTON — A collision involving red tape and paperwork has stalled a federal survey of the types of pre-departure safety information being given to passengers by motorcoach operators in the U.S.

A top bus safety official with the Federal Motor Carrier Safety Administration announced last December the survey was being planned. That announcement came at a United Motorcoach Association Safety Management Seminar conducted in Ashburn, Va.

The survey was planned to determine how well operators were following passenger safety awareness guidance issued in 2007 by the FMCSA, said Pete Chandler, team leader with the agency's commercial passenger safety division.

The guidance was intended to supply operators with ideas on how to provide pre-trip safety information to passengers.

## Guidance, no mandate

Five years ago, at the urging of the motorcoach industry, the FMCSA issued the pre-trip guidelines, rather than regulations that would mandate passenger safety briefings. There was something of a gentlemen's agreement that if the industry did not go along with the

guidance, formal rules mandating pre-departure safety briefings or information could be in the cards.

While speaking at the safety seminar late last year, Chandler said the FMCSA planned to interview at least 1,000 passengers as they stepped off motorcoaches to determine whether they were offered pre-trip safety information on such topics as the operation of emergency exits and fire extinguishers.

But in a phone interview last month, Chandler said the survey had not been launched and he could not predict when it would.

"It's hard to say. We have not had the necessary approvals," he explained.

"Anytime the government collects information from the public, we have to get approval from the Office of Management and Budget. That requirement comes from the Paperwork Reduction Act (of 1995). There is a rather demanding bureaucratic process to get the necessary approval to collect information. Sometimes it takes quite a long time," said Chandler.

The survey requires input from the U.S. Bureau of Transportation Statistics, as well as the U.S. Office of Management and Budget, Chandler continued. He said the project is

being considered by those agencies.

"From time to time I do get e-mails about it. It is progressing. It is just taking longer than I expected."

The Paperwork Reduction Act dates to 1980 and was intended to "minimize the paperwork burden . . . resulting from the collection of information by the federal government," according to the law. Significant changes were made to the law in 1995, making the process more complex for federal bureaucrats but supposedly less burdensome for small businesses and others.

## Rooted in crash

The pursuit of widely offered safety briefings for bus passengers stretches back to a 1997 crash in Stony Creek, Va.

After studying the accident, which killed one person and injured 31, the National Transportation Safety Board called for better efforts to improve passenger awareness of motorcoach safety features and procedures.

The NTSB found that the Stony Creek incident, among others, had created panic among passengers because they did not know how to escape from a smashed or overturned bus.

Four years after that recommen-

dation, the FMCSA held information meetings to discuss the issue with stakeholders across the bus and motorcoach industry. A working group produced flexible suggestions for following NTSB recommendations and called for voluntary guidelines.

## Challenging diversity

Coach industry representatives in the working group maintained it would be impossible to develop uniform regulations due to the broad operational and equipment variations within the industry.

"Under the guidance, motorcoach operators may use almost any method to convey safety information to passengers including video, audio, a presentation by the driver, or printed materials," said Ken Presley, vice president and chief operating officer of UMA.

"We have been encouraging operators to implement passenger safety briefings since the Federal Motor Carrier Safety Administration issued the guidance."

Seven elements were identified for inclusion in the presentations: location and operation of emergency exits, directing passengers to place 911 emergency calls on their cell phones in the event of an

accident, reminding passengers to follow driver instructions during an emergency, location and use of fire extinguishers, alerting passengers to the presence of emergency signal devices in restrooms, using handrails during boarding and departure to avoid falls, and remaining seated as much as possible while the motorcoach is in motion.

UMA endorsed the guidelines as thorough, flexible and practical as well as "reasonable and tolerable financial considerations for operators to implement."

When he spoke at the safety seminar in December, Chandler reminded industry leaders that FMCSA had complied with their wishes by issuing a guidance on pre-trip safety information "rather than issuing a regulation."

"It's very important for the industry to take this guidance seriously and to implement a passenger safety awareness program in your company," he said. "We're hopeful we're going to see a very high level of voluntary compliance."

"While serious accidents involving motorcoaches are a rare occurrence," Presley said, "passenger safety briefings are just common-sense and courtesy — and just might save someone's life."



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## Bus museum annual meeting to honor Lakeland Bus Lines

HERSHEY, Pa. — The Museum of Bus Transportation will conduct its annual business meeting later this month, plus it will honor Lakeland Bus Lines of Dover, N.J.

The event will be Saturday, Oct. 27, in the museum here.

Lakeland is a long-time supporter of the museum, having donated a fully restored 1959 GM Coach TDM-4515.

That coach, along with a new MCI from Lakeland's fleet, will be on display at the museum on the 27th.

Lakeland, which is marking 60 years in business this year, started as a commuter service, providing runs from several northern New Jersey communities in 1952, with a small fleet of Mack suburban coaches.

Today, it has nearly 70 buses in commuter, charter and tour service.

Maureen Leo, vice president of Lakeland, will be guest speaker at the meeting.

After the Lakeland presenta-

tion, museum members and guests will be provided with an overview of the museum's 2012 financial situation and business operations, as well as elect several board members.

A buffet luncheon will be served in the rotunda area of the museum following the meeting.

After lunch Lakeland will provide a bus for a tour of several charter bus "destinations," as well as transit operations in the Lebanon and Lancaster, Pa., areas.

Museum President Tom Collins said the day's activities begin at 9 a.m. with registration, plus a coffee-and-a-Danish hour. The business meeting begins at 10 a.m.

The museum is charging \$35, which will cover the day's events, including the luncheon and motorcoach trip. Attendees also will get a 20 percent discount in the bus portion of the museum gift shop and there will be a "mini-flea market," featuring bus artifacts.

For more information, contact the museum at (717) 566-7100 ext. 119, or go to [www.busmuseum.org](http://www.busmuseum.org).

## Former lobbyist James Corcoran dies

BETHESDA, Md. — James T. Corcoran, a retired vice president of government affairs at Greyhound Lines and a former lobbyist for the United Bus Owners of America (now the United Motorcoach Association), died of a stroke Aug. 18 at his home here. He was 86.

His death was confirmed in mid-September by his daughter Christine Corcoran.

Mr. Corcoran retired from Greyhound in 1995 after 18 years as vice president for government affairs. Earlier he had been a con-

gressional liaison officer for the Interstate Commerce Commission.

He worked for a time after his retirement for UBOA/UMA as a lobbyist.

"He helped us on a number of important issues, including negotiations on the American with Disabilities Act rule," said UMA President and CEO Victor Parra. "Jim was a first-class professional."

Mr. Corcoran was a native of Norwalk, Conn., and a Navy veteran of World War II. Following graduation from the University of Miami in 1951, he taught history

at Coral Gables High School in Florida.

He came to Washington in 1959 to work in John F. Kennedy's presidential campaign. Later, he worked in the Kennedy White House as an advance officer for presidential trips. He graduated from American University's law school in 1962.

After law school, he was a special assistant to the chairman of the Democratic National Committee.

He is survived by his wife, Martha Ann, five children, and a brother.

### Owner liable

CONTINUED FROM PAGE 1

anticipated."

The court, however, disagreed. "In fact, placing a known sex offender in a taxi cab, with unfettered access and control over his passengers who assume they are in a position of safety is akin to plac-

ing the proverbial fox in the hen house. The purpose behind the sex offender registration law is to protect the public from repeat offenses," Judge Larry Lolley of Monroe wrote for the majority.

The decision sends the case back to a lower court which had dismissed McFarlin from a lawsuit filed by Justin Bloxom's mother.

An appeal to the Louisiana Supreme Court is expected.

Justin Bloxom's body was found March 30, 2010, in woods off U.S. 171 near Stonewall, after he had been reported missing from a friend's house.

The taxi driver, Brian Horn, 35, of Keachi, La., is awaiting trial on a charge of capital murder.

### Owner jailed

CONTINUED FROM PAGE 1

ship with another motor carrier within the past three years.

In his initial court appearance, Lewis pleaded not guilty to both counts.

Lewis had previously operated Lewis Trucking Co., which had

been ordered out of service based on safety violations that posed an "imminent safety hazard."

The order came after the FMCSA conducted a compliance review of Lewis Trucking after a fatal wreck in 2008, court documents show.

Seven prison guards died in the wreck.

Lewis never took action to terminate or rescind the out-of-service order for Lewis Trucking.

By September 2011, just two months after being approved by FMCSA, court records show DDL Transport had amassed 129 violations during five roadside inspections, prompting FMCSA to order the carrier out of service.

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## MCI recaps eventful year

CHICAGO — Motor Coach Industries used last month's Bus-Con trade show as a backdrop and a breakfast gathering of representatives from industry publications and trade associations as a forum to recap an event-filled 2012.

A cadre of company executives asserted that MCI has been reinvigorated by an updated version of its flagship product, new executives in key positions, an agreement to market Setra coaches, and an expanding educational and training program.

Reviewing company developments at the meeting were Jon Yarusso, vice president of new coach sales and pre-owned coach; Patrick Scully, vice president of public sector sales and marketing; Tom Wagner, executive director of business development public sector; Mitch Guralnick, director of pre-owned coach sales, and product planning executive Brent Maitland.

Maitland briefed the group on the 2013 model of MCI's popular J4500 coach, pointing out styling changes, durability upgrades, and an improved drive train that will allow operators "fuel economy gains of up to 19 percent."

Maitland also touted the success of company efforts to reduce warranty claims through better-engineered coaches, safety upgrades, parts availability and quicker resolution of in-field issues. He said these efforts have resulted in J4500 warranty claims that "now match the low numbers of MCI's workhorse D-models."

"It's rewarding to see the J4500 in line with the D model's reputation for reliability," he said.

Yarusso reviewed MCI's big strategic deal of the year, the July agreement to distribute Setra S 417 and S 407 coaches and aftermarket parts in the U.S. and Canada.

He confirmed MCI will market the S 417 as "the premier coach" for upscale tour-and-charter companies.

He also indicated MCI is not opposed to considering whether other products made by Setra's parent company, Daimler, will be brought to the North American market — at some point.

There has been industry speculation since the MCI-Setra distribution deal was announced in April that additional models produced by Daimler, including some from Mexico, might find their way

## Steve Klika tries politics in Kansas

### Former IMG head seeks county seat

OVERLAND PARK, Kan. — Steve Klika, a familiar figure who left the motorcoach industry early this year to manage a pair of staffing companies here, is running for political office and former coach industry colleagues are being asked to support his effort.

Klika headed the International Motor Coach Group for 11 years, and because earlier in his career he managed public transit agencies he became a key figure during negotiations five years ago to develop a new federal rule that would restrict public transit systems from providing charter bus service.

After the rule was adopted, Klika went on the road with others to explain it to motorcoach operators across the U.S.

Now, Klika is running for one of seven commissioner seats in

Johnson County, the suburb of Kansas City where he lives. He came out on top in his primary race against three opponents, but faces a run-off election in November.



Steve Klika

Although Klika left IMG and the motorcoach industry (see Feb. issue of *Bus & Motorcoach News*), "he has continued to support us on a personal level," said Brian Scott, president of Escot Bus Lines in Largo, Fla., a former chairman of IMG.

"Whether as a sounding board for bids, sending business to us through his involvement with the school board (in Johnson County), the Greater Kansas City Chamber of Commerce, the (local) convention and visitors associations, or

promoting the charter issue on the transit front, his commitment to and close involvement with our success lives on," said Scott.

"He has continued to refer business our way, and has successfully promoted privatization throughout the K.C. metro area — both in transit and schools," said Scott.

Scott and his father, Lewis, are leading a motorcoach industry fundraising effort to help him during the final run.

Persons interested in supporting Klika can send a check, for up to \$500, to: Mike Seitz, Treasurer, Klika for Johnson County, 9007 W. 157th Terrace, Overland Park, KS 66221.

Credit card donations can be made at [www.SteveKlika.com](http://www.SteveKlika.com).

Klika has served the past eight years on the board of the Blue Valley School District and was board president during the 2009-10 and 2010-11 school years.

Finally, Maitland reviewed MCI's educational initiatives, noting that more than 4,000 industry professionals have participated in MCI online training webinars.

Additionally, 1,000 technicians

have graduated from free MCI Tech Tune-Up seminars offered to MCI operators at the company's National Training Center at its Louisville (Ky.) Parts Distribution warehouse.

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# Safety rating system flawed, House members are told

WASHINGTON — The 22-month-old safety-rating system developed by the Federal Motor Carrier Safety Administration unfairly tarnishes truck and bus companies for crashes that may not be their fault, a House committee was told.

The safety scores developed through the FMCSA's Compliance, Safety, Accountability program are hurting companies with good operating histories, lawmakers said, citing complaints they've received from companies.

Brokers, shippers and insurers are less likely to do business with companies with bad scores, even if they're based on paperwork violations, they noted.

"While the old adage of 'garbage in, garbage out' does not completely apply here, there are questions about the reliability and integrity of the data," Rep. Nick Rahall, D-W.Va., said at the hearing held by a House Transportation and Infrastructure subcommittee on highways and transit.

## Coach industry view

CONTINUED FROM PAGE 1

the possibility of a commercial motor vehicle crash. We do not believe the current data fed into CSA and the current prioritization scheme will result in a significant reduction in (motorcoach) crashes," Gentry stated.

Rather than focus on issues that indicate a bus or truck operator is at higher risk of having a crash, the FMCSA and its state inspection partners are mired in conducting traditional safety inspections of items that typically have little or no relationship to crash risk, said Gentry.

"Unfortunately, compliance or noncompliance with these items is rarely significant as (predictors) of a commercial motor vehicle driver crash. CSA lacks useful data for passenger carriers to mitigate crashes.

"Moreover, the consumers of passenger carrier services are left with algorithms and scores that are nearly impossible to decipher when selecting a safe passenger carrier.

"Studies indicate that vehicle defects are responsible for less than 2 percent of commercial motor vehicle accidents," said Gentry.

"At the same time, over 95 percent of commercial motor vehicle accidents are caused by driver error. But there are stark differences in the significance of the type of driver error and its relation to crash causation.

"The American Transportation Research Institute reports that a conviction for 'Failure to Use/Improper Signal' increases the likelihood of a commercial motor vehicle crash by 96 percent.

"Conversely, any 'out-of-

The chairman of the subcommittee, Rep. John Duncan, R.-Tenn., also raised questions about the quality of information that is being fed into CSA and its Safety Measurement System, the performance-based, data-driven enforcement program that powers CSA.

"Not all states report every violation to FMCSA, so the (Safety Measurement System) methodology is only as good as the data flowing into the system," said Duncan.

"These data problems present a significant challenge for small... companies which make up the majority of commercial motor vehicle (operators). Since many of these small companies generate little to no data into the SMS, their scores can fluctuate dramatically and the small companies that generate no score are misconceived as unsafe.

"Questions have also been raised over the relationship of some violations and whether they are indicators of future crash risk. Scores generated in certain BASICS may not have a

service' violation normally detected at a destination or roadside inspection increases the likelihood of a driver's involvement in a subsequent commercial motor vehicle by 26 percent.

"A 'Past Crash' or 'Improper Passing' violation increases the likelihood of driver involvement in a crash by 88 percent, while a 'Size and Weight' violation increases the likelihood of an accident by 18 percent, and a 'Disqualified Driver' or 'Medical Certificate' violation rates as 'non-significant,' said Gentry.

### Plea: Ticket bad drivers

The coach company owner noted that three years ago the Bus Industry Safety Council "implored" the enforcement community at the International Association of Chiefs of Police meeting to issue citations when motorcoach drivers violate basic traffic laws and insist that courts avoid reducing or modifying the original charges.

"It is a common complaint of owners of passenger carrier companies that law enforcement seems to ignore drivers who violate speed limits or drivers that follow other vehicles too close, while on the other hand issuing tickets for burned-out tail lights that increase a carriers' Safety Measurement Systems scores that may eventually trigger an FMCSA intervention," said Gentry.

He went on to note that CSA also fails to recognize the vast differences in the level of state participation in inspection activity.

"Many carriers' base of operations are in states lacking any formal passenger carrier inspection programs and therefore have very

correlation to future crash risk and may inadvertently focus FMCSA enforcement measures on the wrong carriers," Duncan said.

### Six years in the making

The FMCSA spent six years developing its Compliance, Safety, Accountability system before implementing it in December 2010. It is supposed to guide the safety agency in better targeting unsafe companies for safety monitoring and inspections.

The American Trucking Associations and others are asking the agency to revise what data is being included in the system.

"FMCSA must acknowledge that the system does not accurately and reliably identify unsafe carriers," said Scott Mugno, vice president of safety for FedEx Ground Package System Inc., who testified on behalf of the ATA.

The agency's priority "should be to focus on the least safe carriers, not merely those carriers that have compliance problems," he said.

low contact with carriers, while other states have substantial inspection activity.

"Make no mistake about it the passenger carrier business is a national business. Tour operators routinely select passenger carriers from states hundreds of miles from the trip origination.

"It would not be surprising to find a carrier with better scores in Mississippi due to low enforcement contact compared to a high contact state such as New York.

"Is a passenger carrier safer that receives little or no inspection activity and therefore has no violations than a passenger carrier whose base of operation is in a high contact state?" Gentry asked.

"Additional disparities develop when the CSA scores do not take into account carriers' urban or rural bases of operations, miles traveled and in what regions those miles are traveled."

### Other shortcomings

Gentry cited other disparities within the CSA Safety Measurement System.

For example, operators with a very low tolerance for traffic infractions will routinely terminate drivers in an effort to eliminate the increased likelihood of a crash.

"Unfortunately, CSA's safety measurement scores do not reflect the elimination of the risk when the driver is dismissed and the operator must endure the punitive scores associated with (that driver's) violations for two years and which may subject the company to an agency intervention."

Meanwhile, the dismissed driver simply finds a carrier with more tolerance for drivers with

A study by Wells Fargo Securities found no correlation between a carrier's scores and actual accidents. (See Aug. 15 *Bus & Motorcoach News*.)

Wells Fargo told interested parties, like shippers, brokers and insurers, that FMCSA safety scores weren't reliable, and that they were setting themselves up for potential lawsuits if they use the scores.

The FMCSA needs to come up with a way for companies to challenge data they believe is inaccurate, and if so to get their rating changed, said Duncan.

"We want the bad companies acted on, but we don't want the good companies treated like they're bad," said Duncan.

### System validated

FMCSA data and ratings have been validated by the University of Michigan Transportation Research Institute, said agency Administrator Anne Ferro.

Carriers with the worst scores have crash rates twice as often as the

traffic infractions, taking his increased likelihood for crashes to another company.

"CSA in no way mitigates these disparities nor identifies the carrier with the increased propensity for an accident."

Gentry also cited the problems created for operators because of the widely varying levels of training, skill, supervision and experience of safety inspection officers.

"Should the inspecting officer err in some respect...the carrier's appeal process is arduous and time consuming... Plainly stated," said Gentry, the system presumes the operator or driver is at fault on all violations."

Gentry raised another issue that increasingly is surfacing and may indicate safety inspectors are themselves breaking the law or certainly thwarting the intent of Congress. And that is the issue of conducting motorcoach safety inspections at state weigh stations.

"Congress will be disappointed to learn that FMCSA is advising states that they may conduct passenger carrier vehicle and driver inspections at state weigh stations, subverting the will of Congress to protect passengers from safety hazards, delayed schedules and interfering with passengers' ability to find proper accommodations during inspections," Gentry told the committee.

### Message reinforced

The new federal highway and public transportation law reiterates the prohibition against weigh station inspections.

"It is our position that no weigh station was designed for 57 passengers, some of which may be

average company, Ferro said.

Her agency is sensitive to criticism the program isn't fair, Ferro told a news service later in an interview. The agency has set up an agency-industry task force to evaluate suggested changes, she said.

The program is working better than the agency's earlier efforts to identify risky companies, which is important because inspectors can only look at a fraction of the more than 500,000 U.S. trucking and bus companies, Ferro said.

"We have an obligation to use our data to really focus our resources on the high-risk carriers," Ferro said.

The father of a college-aged son killed by a negligent truck driver cautioned lawmakers that determining fault in an accident isn't always easy.

Steve Owings, president and co-founder of Road Safe America, said the police report of his son Cullum's 2002 crash initially indicated no fault based on the truck driver's false account. Cullum was killed when a speeding truck hit his car from behind.

very young, senior citizens or disabled," said Gentry.

While there is anecdotal evidence CSA has changed behaviors and improved compliance with Federal Motor Carrier Safety Regulations, the motorcoach industry continues to have reservations about the system because of its limited effect on reducing passenger carrier crashes.

"Perhaps CSA's best feature is its flexibility and adaptability. The leadership at FMCSA has been responsive to recommendations and already CSA has evolved significantly since its entry in December 2010, and we applaud the FMCSA leadership for its willingness to listen to the industry," said Gentry.

Still, he recommended that the Government Accountability Office engage the services of the American Academy of Actuaries in an effort to more effectively explore the link between the most significant causes of commercial motor vehicle crashes and the CSA's Safety Measurement System.

And, second, he recommended that passenger carriers not be grouped with trucking companies in the peer rating system. He noted that passenger carriers typically travel fewer miles, and have a greater variety of risk exposures.

"We believe CSA is well-intended, but has room for significant improvement," Gentry concluded.

Gentry appeared before the committee because he is a member of both ABA and UMA, and lives in the congressional district of House Highways and Transit Subcommittee Chairman John J. Duncan Jr., R-Tenn.

# Norfolk hosts National Association of Motorcoach Operators

NORFOLK, Va. — The National Association of Motorcoach Operators conducted its annual conference here in late August, with attendees kept busy with seminars and sightseeing sessions.

NAMO is primarily composed of minority motorcoach owners from around the U.S., and the conference included them as well as industry vendors and associate members.

NAMO Chairman Daryl Johnson, president of J & J Charters in Crosby, Texas, said conference seminars focused on safety, legislative issues and regulations, while the off-site events were designed to show what the Norfolk area offered in the way of attractions and destinations.

“Our members are important because they make decisions that either bring tourists to Norfolk or send them elsewhere,” said Johnson.

“Our attendees are constantly looking for new or different attractions to sell,” added Mary Presley, executive administrator of NAMO.

“Group tour businesses fill a lot of seats on tours and in restaurants around town, as well as filling many of the smaller and mid-

size hotels throughout the area,” Johnson noted.

During the five-day conference, attendees went on the Spirit of Norfolk cruise, attended an evening event at the Military Aviation Museum in Virginia Beach, visited Norfolk Botanical Gardens, and took a city tour.

The narrated riding tour of Norfolk focused on its 330-year history, as well as its rich African-American heritage.

City sites included the historic Attucks Theatre, Doumar’s (home to the world’s first ice cream cone), St. Paul’s Church and the Battleship Wisconsin.

Another highlight was a mini performance by the popular Virginia International Tattoo.

The group’s visit to the Military Aviation Museum, home to one of the world’s largest private collections of World War I and World War II-era military aircraft, also was a high point.

Each aircraft in the museum has been beautifully restored to its prior military condition, using original parts whenever possible. Most of the planes are airworthy and flown at the museum during flight demonstrations and at air

shows throughout the year.

The speaker at the museum event was retired Chief Master Sgt. Grant Williams Sr., a Virginia native who served in the U.S. Army Air Forces during World War II.

His service included time at Tuskegee Army Air Field in Alabama, home of the famed Tuskegee Airmen. He initially served in several clerk positions, including working with a maintenance group during the “Tuskegee Experiment,” when the fighter group of black airmen was developed.

NAMO donated \$1,000 to Tuskegee Airmen Inc., to help keep the legacy of the airmen alive.

“Virginia Beach appreciated the wonderful opportunity to host an evening event for NAMO, and we look forward to welcoming everyone back in the near future,” said Jim Coggin, tourism sales manager for the Virginia Beach Convention and Visitors Bureau.

The conference gave NAMO members the opportunity to showcase their products to other operators from around the country, Johnson noted.

The gathering also included product displays and new



NAMO members, from left to right, Frank Farrow of Peter Pan Bus Lines in Springfield, Mass., Gene Wright of B&W Charters in Kalamazoo, Mich., and George Cox of Georgia Coach Lines in Atlanta check the Mercedes engine in a Setra S 407.

motorcoaches.

The keynote speaker was Andy Ingram of the National Association of Black Hotel Owners, Op-

erators and Developers, who shared the association’s vision and welcomed NAMO to partner with it in the future

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# For small operator in Chicago, ADA deadline looms large

CHICAGO — The October deadline to file annual reports mandated by the Americans with Disabilities Act came and went last year with little note at Walls Transportation Tours.

Not this October.

That's because the small Chicago-based bus operator received a notice from the U.S. Department of Justice that it was in violation of ADA requirements, including not

filing its annual reports, and faced a fine hefty enough to shut the business down.

"No, they had not been filed. I guess I had a poor understanding at the time," a company spokeswoman said.

"When people call us for vehicles, we never had anyone call and ask for wheelchair accessibility. Because we had never had those calls come in, I was unaware of how the filing should have been done."

The company, which doesn't have an ADA-accessible coach for its charter operation, also lacked an agreement with another carrier to arrange for accessible service if a disabled person did call and want service, and it did not have an employee training program on how to handle calls from and deal with passengers with disabilities,

according to the government officials.

The company took quick action to correct the problems after it received the notice from the Justice Department, including instituting an employee training program and partnering with a Chicago-area operator that has wheelchair lift-equipped motorcoach, the Walls spokeswoman said.

She also schooled herself on the ins-and-outs of ADA-related paperwork.

She now knows, for instance, that the filing deadline is the last Monday in October — a choice of dates that continues to confound and irk her.

"Whoever came up with that deadline has no clue," she said. "With everything else, and all the other filings you have to keep up

with, to pick the (last) Monday in October is like you're setting companies up."

Walls signed a settlement agreement with the Justice Department in January, and avoided having to pay a fine, which can range as high as \$10,000 for ADA-related violations.

The spokeswoman said she could not recall the exact amount of the penalty the company faced, but she characterized it as "some ridiculous number that would have shut us down."

"I understand the need for (the ADA). I really do," she said. "But I also understand on the flip side what happens in a smaller company that is trying to survive."

"If you were fined that heavily it would put people out of work. That could happen."



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## ADA reporting

CONTINUED FROM PAGE 1

December 2011 and January 2012. Ten of the companies were cited because they failed to file ADA-required paperwork — and not because they failed their compliance review or failed to provide accessible service for disabled passengers.

This year's filing deadline is fast approaching. It falls on Oct. 29.

Under ADA regulations, over-the-road bus companies must submit three types of reports annually by the last Monday of every October.

Each annual report covers from Oct. 1 of the prior year through Sept. 30 of the current year. The reports and the types of companies required to submit them are:

1. Annual Summary Report of

Individual Accessible/Equivalent Service Requests and Responses/Service Provided, which must be filed by all bus companies. Along with basic information about the company, the report contains the number of requests for accessible and/or equivalent service the company received and number of times that a request for an accessible bus was satisfied or equivalent service was provided.

In essence, the report is a digest of the year's service request forms, the records of all individual requests for accessible service the company receives. Operators are required to maintain these service request forms for at least five years, and to provide individual customers with a copy of a completed form.

2. Fixed Route OTRB Company's Annual Lift Use Summary, which must be filed by large and

small fixed-route over-the-road bus companies. It contains a summary of the number of passengers with disabilities who used the lift to board accessible buses during the reporting period.

3. Annual Report of OTRBs Purchased/Leased and Overall Fleet Data. All companies must submit this report. It contains basic information about the company, along with the total number of buses in the company's fleet, total number of accessible buses, numbers of new and used buses purchased or leased during the previous year, along with numbers of new and used accessible buses leased or purchased.

Detailed information about motorcoach industry ADA reporting and record-keeping requirements can be found at: [www.fmcsa.dot.gov/rules-regulations/bus/company/ada-guidelines.htm](http://www.fmcsa.dot.gov/rules-regulations/bus/company/ada-guidelines.htm).



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## Calendar

### SEPTEMBER 2012

23-27 Commercial Vehicle Safety Alliance Annual Conference & Exposition, Holiday Inn by the Bay, Portland, Maine. Info: [www.cvsa.org](http://www.cvsa.org).

### OCTOBER 2012

2-4 Northwest Motorcoach Association 13th Annual Convention and Roadeo, Pasco/Tri-Cities, Wash. Info: Email [nwmo](mailto:nwmo)  
3 Bus Association of New York State Annual Meeting and Marketplace, Info at: [www.BANYbus.org](http://www.BANYbus.org).

27 Museum of Bus Transportation Annual Meeting, Hershey, Pa. Info: (717) 566-7100 ext. 119, or [www.busmuseum.org](http://www.busmuseum.org).

27-30 California Bus Associa-

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