

Bus & Motorcoach NEWS

WHAT'S GOING ON IN THE BUS INDUSTRY

New entry looms in growing, small bus/coach sector

Vehicles that stretch 45 feet long and carry 55 passengers are king of the road as far as most motorcoach operators are concerned. But, in some cases, bigger isn't always better.

For several practical and financial reasons, an increasing number of operators have supplemented their fleets in recent years with shorter buses of every sort.

While quantifying this shift can be tricky, companies that sell such models report stepped-up demand from motorcoach operators, and one major motorcoach manufacturer — Van Hool — is responding with a shortened version of one of its bestsellers.

“People are looking at their bottom line,” says Carl Restivo, regional sales manager for Don Brown Bus Sales in Johnstown, NY.

“A lot of the larger coach operators, they don't always fill their coaches with 50 people, so it's quite an expense to operate that motorcoach.”

His company sells the well-liked Turtle Top cutaways, as well as the relatively new, high-end Grech luxury cutaways with all of the amenities of larger coaches: lavatory, leather seating, frameless windows, outlets, televisions, front-viewing window, WiFi, ambient lighting, A/V systems, and individual-ducted A/C controls.

However, these vehicles — often called mini-coaches or known simply as midsize buses — are about half the cost or less of a conventional monocoque-constructed motorcoach because they use body-on-chassis assembly.

While a full-size motorcoach promises and delivers a smooth ride, Restivo says Grech cutaways

CONTINUED ON PAGE 14 ►



'Balcony' Seating

megabus.com has expanded its reserved seating program — on double-decker coaches — to 30 cities across the U.S. and Canada. For a fee ranging from \$3 to \$7, passengers can reserve one of 10 seats on the 81-passenger coaches, including four “table” seats on the lower level, two “balcony” seats on the upper level, shown above, and four front-window seats on the upper level. Story on Page 13.

Recipe for Trouble

Misclassifying coach drivers as independent contractors

A federal appeals court ruling that FedEx misclassified 2,300 drivers as independent contractors — instead of as employees — should serve as a wake-up call to motorcoach operators who use independent contractors as drivers.

The Ninth Circuit U.S. Court of Appeals ruled in late August that the 2,300 drivers working for FedEx Ground in California from 2000 to 2007 should have been classified as employees covered by workplace protection statutes. (See Sept. 15 *Bus & Motorcoach News*.)

The ruling, the latest in a series of cases that have challenged FedEx Ground's independent contractor model, could ultimately have implications for all companies that hire drivers, including motorcoach operators.

“It definitely will have an effect on our industry,” said Ken Presley, vice president of the United Motorcoach Association. “A certain percentage of bus companies out there still use independent contractors as drivers.”

Presley said there is no way of knowing how many motorcoach operators classify their drivers as independent contractors, or if those companies are running afoul of labor laws.

There are various factors that come into play when determining the status of drivers.

In the FedEx case, one of the main factors was the level of control the company exerted over its drivers. The court ruled that because the company imposed several strict requirements on the drivers, they should be classified as employees.

“The drivers must wear FedEx uniforms, drive FedEx-approved vehicles, and groom themselves according to FedEx's appearance standards,” Judge William Fletcher wrote in his opinion.

“FedEx tells its drivers what packages to deliver, on what days, and at what times. Although drivers may operate multiple delivery routes and hire third parties to help

CONTINUED ON PAGE 18 ►

Federal Charter Rule decisions

Transit ruse beaten back

GAINSVILLE, Fla. — A Florida motorcoach operator has won a challenge to the public transit agency practice of “bundling,” that is, grouping together charter service opportunities and claiming the package cannot be broken up, thereby discouraging private operators from seeking the business.

The acting general counsel of the Federal Transit Administration issued an advisory opinion last month that sided with Brian Scott of Florida Gators' football games at Escot Bus Lines in Largo, in a dispute with the Gainesville Regional

Transit Service.

“I'm obviously very pleased because it affirms what I believed from the get-go: that the bundling of service is a way of discouraging private participation,” Scott said.

Scott had appealed to the FTA about a charter service notice issued by the Gainesville transit agency in May. The notice outlined three charter service opportunities to provide bus service to the University of Florida Gators' football games at Ben Hill Griffith Stadium on seven

CONTINUED ON PAGE 16 ►

Loophole in rule laid bare

WASHINGTON — The Federal Transit Administration has ruled that it's OK to use money from the left pocket of the federal government to subsidize transit organizations that compete with private operators, but not OK to use money from the government's right pocket.

That's the upshot of a new FTA decree that says the Atlantic City Jitney Association did not violate the federal charter service rule by using federally-funded facilities to fuel buses that competed with private companies for charter business.

The ruling lays bare a gaping hole in the rule, which the Atlantic City Jitney Association drove right through.

Additionally, the ruling says the association and New Jersey Transit were in compliance with a 2013 cease-and-desist order covering the use of federally-funded shuttles in charter service and notifications given private carriers before providing that service.

The ruling came after complaints were lodged by the owner of the

CONTINUED ON PAGE 16 ►

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45181	2001 Van Hool C2045	Cummins / Allison	\$125,000
00829	2009 Setra S417	Detroit / Allison	\$249,000
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Taj Mahal in Atlantic City may be next casino to go

ATLANTIC CITY, N.J. — Yet another major Atlantic City hotel/casino is on the verge of closing.

The Trump Taj Mahal Casino Resort, like its Atlantic City boardwalk competitors, has been strained by gambling competition elsewhere.

Last month, Trump Entertainment Resorts filed for bankruptcy protection and threatened to close the Trump Taj Mahal Casino Resort by Thanksgiving if it failed to cut expenses drastically.

The gambling company closed down its only other property, Trump Plaza Hotel and Casino, last month, making it the fourth boardwalk casino to close this year.

Trump Taj Mahal, once the largest and most glamorous of the city's casinos, has looked frayed around the edges in recent years.

The white-towered complex, like the other casinos in Atlantic City, has been buffeted by competition from dozens of newer gambling halls that have opened in Pennsylvania, Maryland, New York, and West Virginia.

Should the Taj Mahal, with its nearly 2,800 employees, close, it would bring the casino job losses in the city to more than 8,000 this year.

Trump Entertainment issued a statement saying that "absent significant expense reduction, the

Trump Taj Mahal is expected to close on or shortly after Nov. 13."

One of the passenger transportation industry's annual conventions, the 2014 Chauffeur Driven Trade Show and Conference, is scheduled for the Taj Mahal from Nov. 2-5.

A few days after the Trump Entertainment bankruptcy filing, *Chauffeur Driven* magazine issued a statement saying the filing would not impact its trade show "in any way.... The 2014 CD Show WILL go on as scheduled."

Reports about the possible closing of the Trump Taj Mahal began circulating on the same day last month that New Jersey Gov. Chris

Christie convened a meeting of elected officials, casino executives and union leaders on the future of Atlantic City.

"We were all challenged to come up with new ideas," said James Whelan, a state senator and a former mayor of the city who attended the meeting. "But it seems the momentum is in the opposite direction at this point."

In its bankruptcy filing in Delaware, Trump Entertainment indicated it would have to close if it failed to gain concessions from union workers at the Taj Mahal, which brought an angry response from labor leaders.

But the company's problems go

beyond labor issues. Trump Entertainment did not pay millions of dollars in property taxes last month, and it says it will not be able to pay off its more than \$285 million in bonds.

Its huge debt is a major issue.

Still, Wall Street financial analysts were taken aback by the announcement the Taj Mahal appeared destined to close.

With the Revel, Atlantic Club, Showboat and Trump Plaza casinos shutting down this year, analysts expected the remaining casinos would be able to capture their customers.

The current and former owners

CONTINUED ON PAGE 18 ►

Motorcoach parking in Toronto: Risky, risky business

TORONTO — It's a beautiful city and a great place to visit, but you may not want to park here.

The Ontario Motor Coach Association has issued a warning to its members and friends south of the Canadian border to be aware of Toronto's tough bus parking regulations and steep, steep fines.

"Toronto has a pretty strict bus parking enforcement program with fines of \$300 for most types

of bus parking violations," said Dave Carroll of OMCA.

"The policy discriminates against the bus industry by having a higher fine for buses than any other type of vehicle. If you park a big truck in a no-parking zone or a prohibited area, the fine is \$40 or \$60. For a bus the fine is \$300. Pretty harsh."

At the current exchange rate, a fine of \$300 Canadian equals \$273

U.S. Still pretty harsh for a parking infraction.

Toronto is the most-populated city in Canada and the fourth- or fifth-largest in North America, depending which census count you use. It is loaded with the sporting and cultural jewels to be expected of a world-class city.

"Tourism is important to the city," Carroll says. "It's very popular. We get a lot of coaches coming

in here for the Blue Jays games, Maple Leaf games, soccer games, the activities on the water front.

"There is a lot of bus activity from the other provinces and from the U.S. Quite a few coaches come from the northeast U.S., particularly New York, Pennsylvania and New Jersey," said Carroll.

Toronto also suffers the traffic congestion and parking shortages of a major city, especially during

rush hours.

Then Toronto parking officers can be brutal when they find a bus sitting in a traffic lane in front of a hotel or museum, said Carroll. He believes the bus ticketing is driven more by congestion complaints than revenue goals.

"Toronto has a lot of congestion. When a bus parks and occupies a lane, particularly during

CONTINUED ON PAGE 18 ►

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THE DOCKET

Diesel price falls to \$3.80, lowest level since July '12

The national average price for a gallon of diesel fuel in the United States has fallen to its lowest level in more than two years, the U.S. Department of Energy reports.

Through the middle of last month, the price of diesel fuel had fallen for 10 consecutive weeks, totaling roughly 11 cents per gallon, to roughly \$3.80 per gallon.

That means the commercial bus industry's main fuel has dropped to its lowest price since July 30, 2012, when it was \$3.796 per gallon.

Diesel is down 17 cents per gallon from the same week a year ago and more than 20 cents below this year's high of \$4.02, reached on March 10.

The retail price of gasoline rose slightly in mid-September to about \$3.46 a gallon.

Gasoline had fallen by a quarter a gallon in eight previous declines, but the mid-September price remained almost 15 cents below the corresponding week a year ago.

One fuel analyst said moderat-

ing oil prices and higher refining capacity were pushing down fuel prices, in contrast to last year, when diesel gained a dime from Memorial Day through Labor Day to near \$4 a gallon.

At the pump, 2013 prices started at a low on Memorial Day and peaked on Labor Day, and this year, it was the reverse.

At the same time, refiners reportedly are now in position after numerous upgrades to take advantage of heavy oil feeds that are cheaper to refine.

Refiners' capacity to process more heavy fuels and feeds, such as sour crude oil from Canada, are the biggest year-over-year change, according to one analyst.

The U.S. Energy Department predicts that for all of this year the national average price of diesel will be \$3.86 a gallon, down from \$3.92 last year.

The department expects diesel to average \$3.74 during the current quarter.

The decline is being led by lower crude oil prices, falling to an eight-month low last month.

Feds run safety sweeps at parks

WASHINGTON — The Federal Motor Carrier Safety Administration has issued a post-mortem on a 12-week bus and trucking inspection initiative it and state law enforcement agencies conducted this past summer at three national parks.

The acting administrator of the FMCSA, Scott Darling III, published an overview of the inspection program on the U.S. Department of Transportation "Fast Lane" blog.

"If you visited our national parks in Wyoming, Idaho and South Dakota this summer, you might have noticed these men and women diligently at work inspect-

ing buses and trucks. Indeed, federal and state inspectors executed a 12-week truck and bus inspection blitz throughout the Grand Teton, Yellowstone, and Mt. Rushmore national parks," wrote Darling.

Working with the highway patrols of each state and with the assistance of National Park Service rangers, FMCSA inspectors examined motorcoaches transporting visitors to the parks, as well as large trucks passing through the area.

"At each inspection, investigators checked brakes, lights, tires, and emergency exits. They also verified that drivers held the proper licenses and were medically qualified to be on the road," wrote

Darling.

More than 300 bus and truck inspections were conducted during the four-month initiative.

The results: 29 commercial motor vehicles were put out of service for being unsafe. That's an out-of-service rate of 9 percent plus.

In addition, 19 drivers found to be violating safety regulations were removed from the road. That's an out-of-service rate of 6 percent.

Darling did not offer a breakdown of the figures for just buses or just trucks.

During most inspection blitzes, the truck out-of-service rate typically is double that of buses.

Cops: Western Nebraska is going to pot

OGALLALA, Neb. — Lawmen on Nebraska's marijuana frontier are asking for help to identify drug-fogged drivers and to stem growing marijuana access and use by young people.

During a hearing last month of the state legislature's judiciary committee in Ogallala, western Nebraska law enforcement officers outlined the impact of Colo-

rado's legalization of marijuana for recreational and medical use.

"Colorado's legalization of marijuana has completely changed the landscape involving the marijuana we encounter," said Scotts Bluff County Sheriff Mark Overman.

Overman said the potency of the pot encountered by law enforcement agencies has increased

dramatically. Prices have at least tripled and there is a marked increase in the number of kids — as young as 14 — who are being ticketed for possession.

Overman was one of about a dozen law enforcement officials and others who outlined challenges Nebraska has faced since Colorado legalized pot.

Colorado opened dispensaries for medical marijuana in 2009. And licensed stores started selling retail weed on Jan. 1 to adults 21 and older. However, unregulated sales reportedly have spread like wildfire across the state, spilling over into neighboring states.

State Sen. Ken Schilz of Ogallala said it's a statewide issue.

"Every Interstate 80 county is a border county," he said, referring to the illicit transport of Colorado marijuana across Nebraska.

Although marijuana use is legal in Colorado, it remains an illicit drug under federal law and in Nebraska and the six other states bordering Colorado.

State Sen. Al Davis of Hyannis said after the hearing that he or other state senators probably would introduce legislation next year to address some of the concerns presented during the hearing.

But Davis said he would move cautiously.

"Are we ruining people's lives who are really going to be good people down the road? I don't think any of us want to do that," he said.



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U.S. highway travel increased in first half of 2014

WASHINGTON — Cars, trucks and buses logged 1.47 trillion vehicle-miles during the first half of this year, the highest level since 2008, the Federal Highway Administration reports.

FHWA also said June was the fourth straight month of year-over-year growth in vehicle miles traveled. The travel indicator declined

in January and February relative to the same months in 2013 due to harsh weather in many parts of the nation.

First-half vehicle miles traveled in 2008 was 1.48 trillion, and the record first half was 2007, when the figure hit nearly 1.5 trillion.

The first-half 2014 figure is 0.44 percent above the 2013 first

half total of 1.46 trillion vehicle miles traveled, and 1.23 percent higher than during the first half of 2011, when the total was 1.45 trillion vehicle miles, the lowest point after the Great Recession.

The Federal Highway Administration aggregates mileage reports from the states to get a national figure.

While highway congestion is a frequent complaint among drivers, it dissipated during and immediately after the recession, and now it's growing again.

Vehicle miles traveled is an important statistic for the federal Highway Trust Fund. When actual vehicle miles traveled differs from projections, it can cause problems.

In 2005, when the highway funding law was adopted, continued growth in mileage was the assumption. But when mileage declined because of the recession, so did revenue, and that became a major contributing factor to the Highway Trust Fund running out of money, requiring an infusion of general revenue funds.

Kansas announces highway spending to total \$1.2 billion

TOPEKA, Kan. — State officials here are touting a \$1.2 billion transportation plan, which they said will help improve traffic flow and upgrade roadway systems around the state over the next two years.

The plan will provide \$399 million to rehabilitate 82 bridges, \$397 million to add lanes or interchanges, and \$242 million for 195 highway projects.

The largest piece of the plan is a \$116 million expansion of the Interstate 235/U.S. Highway 54 interchange in west Wichita.

The interchange has needed to be rebuilt for years because of its unsafe, very short on-and-off ramps and congestion in the area.

The plan is the latest installment of a 10-year program to modernize and expand more highway projects, bridges and interchange projects, said Transportation Secretary Mike King.

Other projects in the plan include a \$95 million expansion of Highway 54 in Wichita, \$52.6 million to improve nearly 12 miles of Interstate 70 in the western part of the state, and \$43.4 million to improve nine miles in Gove County near Trego County.

Construction crews are also scheduled to replace a bridge along U.S. Highway 69 over the Missouri River in Wyandotte County, upgrade an 11-mile stretch of roadway in Columbus in southeast Kansas, and fix parts of Interstate 435 by Quivira Road junction, east to Metcalf Avenue in Johnson County.

Kansas has two major U.S. highway corridors, I-70, running east and west across the state, and Interstate 35, running north and south.

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California requires paid sick leave for all employees

LOS ANGELES — Employers in California will be required to give part and full-time workers at least three days of paid sick leave each year under a state mandate that takes effect next July.

The law, signed by Gov. Jerry Brown last month, gives workers paid sick leave at a rate of one hour for every 30 hours worked and lets them begin using the accrued time after 90 days of employment.

The hours also could be used for time off to care for a sick family member.

The law, which advocates say expands paid sick leave benefits to 6.5 million workers, had been a priority for unions and workers'

rights groups for years. Business groups opposed the measure, which they say is costly to employers and could hurt hiring.

Brown, who said there was a growing inequality between workers and business owners, called the mandate "really modest."

"When you look at the power and the wealth that is accumulated by a very small percentage, and then you look at the people at the bottom...this is the least we can do and there's more in the coming years," Brown said. "This is a real step forward."

With Brown's signature, California became only the second state to pass such a law after Connecticut approved a similar measure in 2011.

Legislation has been introduced or groups are campaigning for laws to make paid sick leave mandatory in at least 20 other states.

About 40 percent of California's workforce — an estimated 6.5 million people — have no paid sick leave benefits at all, according to the governor's office.

Supporters of the bill said those workers face a choice of working while ill or taking a loss of pay to care for themselves or an ill family member. They also said sick employees could infect co-workers or customers.

But business groups say workers taking time off because of an illness was never a "real issue."

Jot Condie, president and chief executive of the California Restaurants Association, said flexible scheduling or shift swapping in the food service industry enable employees to take off when they need it without penalty. The state's requirement adds an unnecessary expense for businesses, he said.

"Operators essentially have to pay twice — for the staffer staying home and for someone to take their place," Condie said. "A one-size-fits-all approach to sick leave is inappropriate and onerous."

Employers could face fines of up to \$4,000 per day for withholding paid sick leave or violating the bill's requirements.

California law requires drivers to give cyclists a 3-foot buffer

SACRAMENTO, Calif. — As more bicyclists take to the streets, the number of frustrated motorists unaccustomed to sharing the road also is growing, prompting a new term for the conflict — bikelash.

Now California has become the latest state to adopt a law that mandates a three-foot buffer between cyclists and vehicles.

All drivers are now required to ensure that distance exists before they attempt to pass a cyclist, or they must wait until there is enough room to pass.

"If there's one thing that can come out of this that would be life-saving on our roads it's that a motorist's first reaction when they see a bike in front of them on a narrow road is to hit the brakes — and then you can pass safely," said Dave Snyder, executive director of the California Bicycle Coalition. "It's important to take a breath."

Failure to do so will cost drivers. Under the legislation, the base fine is \$35 for a violation, a figure

that climbs to about \$150 with court costs.

If a driver injures a bicyclist by failing to provide the required safety buffer, the fine a motorist can pay rises to \$150 to \$220 — in addition to court costs.

Plus, there's a legal presumption the vehicle driver was responsible for any injury, meaning the bicyclist likely will have a clear path to seek damages in a civil lawsuit.

Among the concerns that have been raised about such laws is that they can actually cause collisions if drivers cross the center line of a road to provide the mandated three-foot buffer as bicyclists threaded a "perilous course" between parked cars and moving traffic on narrow roads.

The California law does not require motorists to cross the center line. The California Highway Patrol reportedly has informally indicated to law supporters that it won't make it a priority to cite drivers who do so to avoid cyclists.

California court rules employer must reimburse phone expenses

LOS ANGELES — The California Court of Appeal has ruled that a business must reimburse a portion of its employees' personal telephone bills, since it required them to use their phones in their jobs, even though the employees might not actually have incurred any additional charges for such use.

The employer was a home-delivery service whose drivers had to use their cell phones in their work.

Some of the drivers brought a class action, arguing that a section of the state labor code required the company to reimburse a portion of their phone bills, even if they had a phone plan that provided unlimited calls. That is, their use of their phones on the job cost

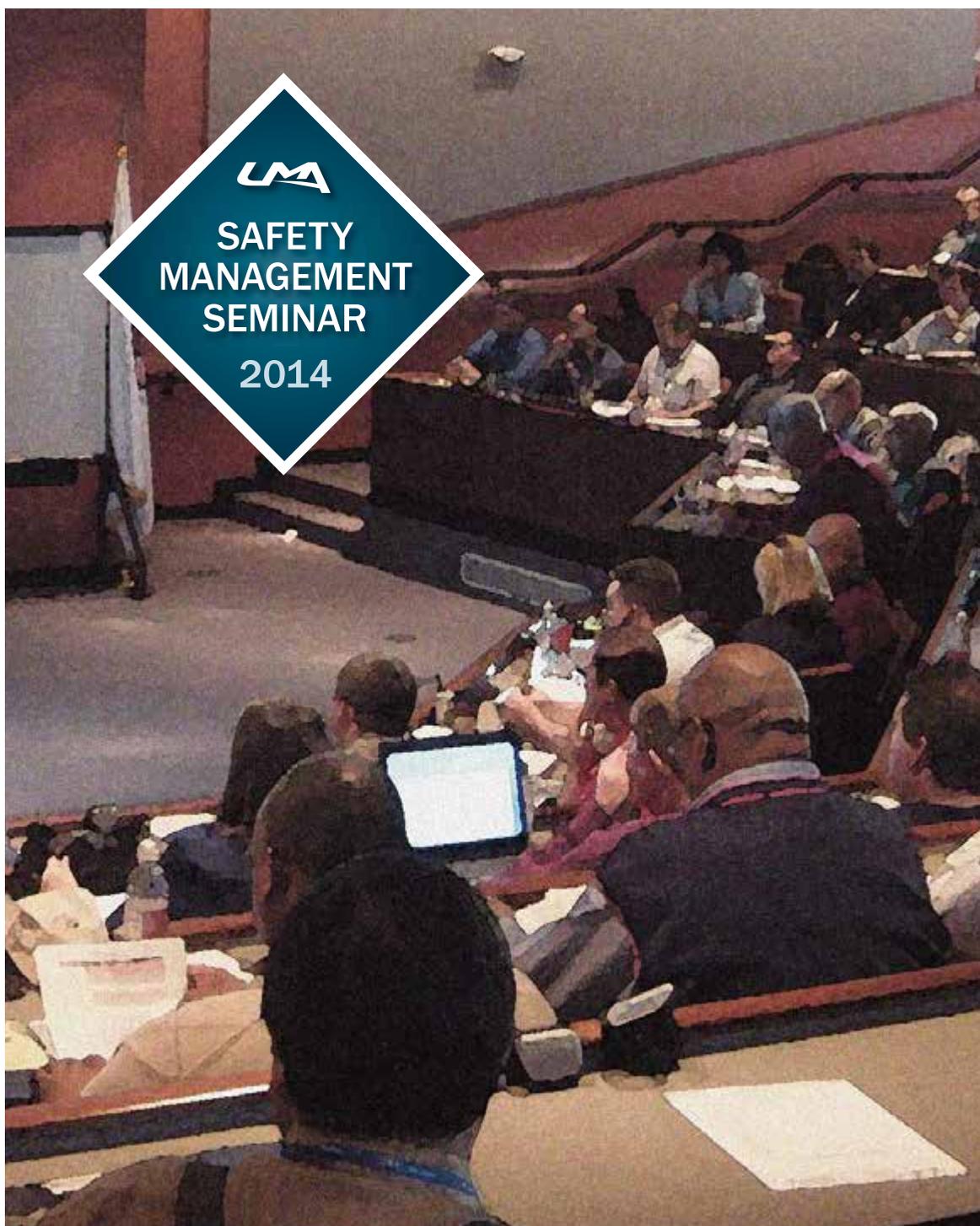
them nothing.

The code provision at issue provided simply that an employer had to reimburse "all necessary expenditures or costs incurred by an employee in direct consequence of the discharge of his or her duties..."

The court found that the legislative history of the section supported the conclusion that the law was enacted to prevent employers from passing on operating costs to their employees, which would be the case here if reimbursement of a reasonable portion of the phone bills were not required.

And it overturned the trial court's denial of class certification.

The decision left unanswered questions about damages.



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Upgrades to Rainbow Bridge bus inspection plaza begin

LEWISTON, NY — An extensive renovation of the Rainbow Bridge Canada bus processing facility has begun.

The Niagara Falls Bridge Commission, which operates the bridge, said construction should wrap in May.

The \$4.2 million project includes a series of infrastructure improvements and enhancements, including the addition of new floors and processing space, exterior canopy modifications, relocation of existing boilers, shifting of

the Canada-bound currency exchange, and additional parking capacity.

“The Rainbow Bridge Canada plaza bus processing renovation effort is intended to upgrade the port to better handle the steady stream of tourists and motorcoaches that we see on a daily basis,” said Niagara Falls Bridge Commission General Manager Lew Holloway.

“By improving our bus inspection area, we will provide added space for enhanced processing ef-

iciency by Canada Border Services Agency, thereby offering travelers a more pleasant and reliable border crossing experience.”

Temporary bus inspection facilities have been installed while the work is underway. Processing is expected to be impacted by the project, however.

Travelers and bus companies are being reminded that the Lewiston-Queenston Bridge, which is 7.7 miles/12.4 kilometers to the north along the Lower Niagara River, offers state-of-the-art bus

and motorcoach processing capabilities for Canada-bound traffic.

The commission is asking bus and motorcoach operators to consider using the Lewiston-Queenston Bridge for all Canada-bound trips during the construction project.

No impact to U.S.-bound bus traffic is expected at the Rainbow Bridge during the construction.

Crossings accept E-ZPass

LEWISTON, NY — Tolls on the Rainbow, Whirlpool and Lewiston-Queenston international bridges that cross the U.S. border with Canada can now be paid using the E-ZPass electronic payment system.

The Niagara Falls Bridge Commission announced earlier this year that the E-ZPass tolling program was being adopted, and now it has been put into operation.

Implementation of the system followed a “very successful period of program testing and coordination,” said Niagara Falls Bridge Commission General Manager Lew Holloway.

The E-ZPass program will supplement the existing ExpressPass, ExpressPass commercial, and pre-loaded NEXUS/Toll card offerings currently available to pay bridge tolls.

Bridge users are being notified of the availability of the E-ZPass program through a series of print and online communications, as well as updated signage and placards.

ExpressPass, ExpressPass commercial and NEXUS card holders who have E-ZPass are being encouraged to cancel their

current ExpressPass, ExpressPass Commercial and NEXUS/Toll accounts.

For inquiries or information regarding ExpressPass and NEXUS/TOLL refunds, go to www.niagarafallsbridges.com and access the “electronic toll” tab.

Crossing to be improved

LEWISTON, N.Y. — The Niagara Falls Bridge Commission is raising money through municipal bonds for the first time in two decades to improve the entry into New York from Ontario.

The sale last month of \$31 million in tax-free debt is designed to help kick start a project to modernize the U.S. customs area in Lewiston, said Victor Montalbo, the commission manager of administration and finance.

About 168,000 U.S.-bound cars, trucks, recreational vehicles and buses crossed the Lewiston-Queenston Bridge in August, according to the commission.

The bridge has the longest wait time of the agency’s three spans, with those crossing on the bridge lining up for as long as two hours for customs clearance, according to Montalbo.

The first part of the project, expected to be completed by 2016 at a cost of \$35 million, will move a portion of Interstate 190 to create more space in the customs plaza.

Subsequent phases, which include increasing the number of inspection lanes from 10 to 16, would come after the commission receives a commitment from the U.S. government to help with funding, Montalbo said.

Canadians issue reminder about U.S. rail crossings

TORONTO — Motor Coach Canada, the national trade organization for Canadian operators, issued a warning last month to its members about stopping at railway crossings while traveling in the U.S.

The association said that two motorcoaches operated by its members were ticketed in New York for not stopping at a railway crossing, as required by Federal Motor Carrier Safety Regulations.

The regulation says the driver of a bus transporting passengers, as well as trucks hauling hazardous materials, shall not cross a railroad track, whether or not the crossing is protected by gates or lights, unless he/she first stops the vehicle within 50 feet of, and not closer than 15 feet to, the tracks; listens and looks in each direction along the tracks for an approaching train.

The rule goes on to say a stop

need not be made at:

- A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district
- A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed
- A railroad grade crossing controlled by a functioning highway traffic signal showing a green light
- An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned
- An industrial or spur line railroad grade crossing marked with a sign reading “Exempt.”

Upon conviction, in addition to a fine, the driver’s commercial driver license privileges are subject to suspension in the U.S. for a period not less than 60 days for a first offense.

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05)	FAYETTEVILLE
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10)	JACKSONVILLE

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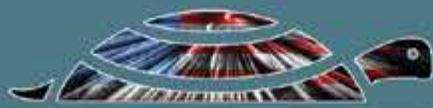


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EPA: The United States Government's 'green monster'

By John Stossel

Thanks, Environmental Protection Agency.

You've required sewage treatment plants, catalytic converters on cars and other things that made the world cleaner than the world in which I grew up. Good work.

Today, America's waterways are so much cleaner that I swim in New York City's once-filthy Hudson River — right beside skyscrapers in which millions of people, uh, flush. The air we breathe is also cleaner than it has been for 60 years.

In a rational world, environmental bureaucrats would now say, "mission accomplished. We set tough standards, so we don't need to keep doing more. Stick a fork in it! We're done."

OK, I went too far.

America does still need some bureaucrats to enforce existing en-

vironmental rules and watch for new pollution problems.

But we don't need what we've got: 16,000 environmental regulators constantly trying to control more of our lives. EPA should stand for: Enough Protection Already.

But bureaucracies never say they've done enough. That would mean they were out of work.

Like all bureaucracies — regulatory, poverty-fighting and military — the EPA spends every day hunting for new things to do, even if its new efforts cost much more and accomplish far less.

Its biggest current crusade is global warming — I mean, "climate change."

Even if it turns out that man's emission of greenhouse gases is a threat, "EPA's own cost-benefit analyses don't really identify any benefits" from additional regulation, says Case Western Reserve

'Like all bureaucracies... the EPA spends every day hunting for new things to do, even if its new efforts cost much more and accomplish far less.'

law professor Jonathan Adler.

"If we are serious about dealing with climate change, we need to reduce per capita emissions of carbon dioxide to the level they were during the period of reconstruction after the Civil War."

That reduction in our industrial capacity would be one of the worst costs the human race had ever suffered, all for tiny benefits. Even if we did everything the environmentalists want, the regula-

tors admit it might only lower temperatures a fraction of a degree, a century from now.

By that time, we will have cheaper ways of dealing with the problem, if it is a problem. But government rarely pays attention to costs vs. benefits.

Today, instead of environmental regulations that actually save lives, we pay to subsidize politicians' cronies and pet projects, such as electric cars.

Voters rarely object to such deals, says David Harsanyi of *The Federalist*, because government hides their real costs. "If people actually paid what a Chevy Volt cost to make, it would probably be around \$200,000. Without government — essentially, government cronyism and all kinds of subsidies — the Volt wouldn't exist."

He says Chevy, even with its government subsidies, loses about

\$49,000 on every Volt it builds. It's ironic that, as environmentalists talk about "sustainability," they create totally unsustainable subsidy schemes.

"It's happening with all kinds of alternative energy companies that rely on government subsidies," Harsanyi says. Politicians, by shifting money away from private-sector experiments, "are hurting companies that actually have some innovation that might work better."

Since people rarely question spending that supposedly is "good for the environment, green subsidies create opportunity for corruption," Harsanyi says.

"The people who lobby and have the closest ties to government are typically the ones who benefit from the subsidies the government gives."

Close associates of President Obama, Senate Majority Leader

CONTINUED ON PAGE 12 ►

Partially blind trucker charged Driver in crash takes plea deal

CHANNAHON, Ill. — The Federal Motor Carrier Safety Administration may have some explaining to do after a truck driver, who was cleared to drive by the agency although he is completely blind in one eye, was charged last month with 15 counts of reckless homicide.

Francisco Espinal-Quiroz is being held on \$1 million bail following a July crash on Interstate 55 near here that killed five people. Channahon is about a dozen miles southwest of Joliet, Ill.

When the incident occurred, Espinal-Quiroz had just been granted a renewed driving exemption by the FMCSA, allowing him to drive commercial vehicles even though he is completely blind in one eye, the result of an injury in 1984.

The family of one of the crash victims is asking its congressman, Rep. Adam Kinzinger, a Republican, to review the federal program that allows visually-impaired driv-

ers on interstates.

Espinal-Quiroz, 51, of Leesburg, Ind., also was charged with falsifying his hours of service, after the July 21 chain-reaction crash.

Will County (Ill.) prosecutors claim Espinal-Quiroz was speeding through a construction zone, failed to keep a proper lookout for vehicles, and he "had physical conditions that limited his ability to drive safely."

The FMCSA has several programs that allow drivers with certain physical or medical issues to operate commercial vehicles, as long as they can pass certain fitness tests and standards.

One such program is the Vision Exemption Program, which the FMCSA says is for "drivers with a vision deficiency in one eye who have demonstrated at least three years of safe driving experience operating a

CONTINUED ON PAGE 12 ►

MIAMI — The driver of a charter motorcoach that slammed into an overpass at Miami International Airport in December 2012, killing three passengers, will spend the next two years under house arrest and cannot drive for at least the next decade.

Ramon Ferreiro pleaded guilty last month to three counts of vehicular homicide resulting from the incident that involved a group headed to West Palm Beach for a Jehovah's Witnesses assembly.

As part of the plea deal announced in court, Ferreiro must also serve eight years of probation and complete 300 hours of community service.

Relatives of the passengers who were killed approved the plea deal.

It appears the religious faith of the victims' families aided in the leniency granted Ferreiro.

The 48-year-old Ferreiro was behind the wheel of a charter coach, operated by the

now-out-of-business Miami Bus Service Corp., when he crashed into the airport's lower-level arrival entrance, which has a clearance of about 10 feet.

A 12-foot section of the bus' roof was badly mangled and crunched.

A total of 13 passengers were taken to a local hospital, with most of the other dozen and a half individuals on board treated at the scene.

According to police reports based on a reconstruction of the crash and passenger statements, Ferreiro drove past a construction zone and eight different street signs warning of low clearance ahead before plowing the bus into the overpass.

Ferreiro, who had a valid commercial driver's license, continued driving on the restricted route despite repeated warnings from passengers.

He was traveling about 33 miles per hour

CONTINUED ON PAGE 12 ►

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The right tools for marketing...just like for maintenance

By Dave Millhouser

We had a load of skiers on board, heading from Dallas to the Colorado slopes, when my boss, Joe, found me (I can't remember how he was able to track me down in those pre-cell-phone days, but he was a gifted tracker).

Joe said we had an empty Eagle sitting on the shoulder near Guymon, Okla. Guymon is ground zero on the barren Oklahoma panhandle.

The Eagle had run out of fuel and would we grab that puppy on our way through... and bring it home?

Darn right it had run out of fuel. And in the middle of a blizzard.

The driver had sucked the battery dry in a futile attempt to start it, before slinking home, cushioning in another coach.

He'd pumped diesel into it, so all I had to do was prime and jump start it.

Yeah...right.

As far as I know that bus is still there because I didn't have the proper tools to get it going. After trying to fill filters, blow fuel into lines, and sucking on the return line, all I got was cold and a bad case of diesel breath.

It's nice to improvise when the right equipment isn't available, but consistent success comes when you have good people and tools (clearly poor Joe had neither).

For years, the motorcoach business

hasn't done well selling itself. That's at least part of the reason we can't command the kind of revenue we deserve, and overall the industry still appears to be shrinking.

There are clearly exceptions — companies that have mastered the art of earning good margins by identifying and serving discreet markets.

But we all suffer from the public's poor perception of buses. We have good people but may not be using the right tools.

A friend who runs a scuba operation once told me "I don't sell equipment or even dive trips; I sell adventure." He's right on two counts, he knows what his customers actually want, and he knows how to express it in how he offers his services.

We too often think we're in the transportation business, but for the most part we are selling ourselves short.

Lest you think I suddenly grew a brain, let me admit that these juices started stirring after I met a really bright young guy representing the Motorcoach Marketing Council at a manufacturer's open house.

Chris Riddell made the same point my scuba friend had stumbled onto. Communicate what you're really capable of, the big picture, but tailor it to fit the specific customer's actual needs.

As you may have noticed, Chris now writes a monthly column that appears in *Bus & Motorcoach News*. Called "Marketing Minute," the first two installments appeared

in the Sept. 15 and Aug. 15 issues.

One of Chris' concepts (which I'm shamelessly stealing) is that even gifted and motivated sales people need the right tools to win business.

The Motorcoach Marketing Council's signature program, announced earlier this year at major industry expositions, has divided the market into distinct segments and identified what each is looking for, and how to let them know you can supply it.

Few are looking for a bus but lots of folks want to do things that a coach can make possible or better.

Citing a company whose inside sales person turned down a request for a "party bus" because "we don't run that kind of bus," he pointed out that the vast majority of "party" requests really do want a regular coach.

What they want is a vehicle that will get them safely and efficiently to an event. You probably DO operate what they want, but only get the business when your people are educated to recognize it.

Among other concepts, Chris mentioned the fact that sales people need to understand the specific desires and needs of the group they are approaching, and he went on to name a number of unique markets that you can "specialize" in.

The motorcoach itself may be a minor part of the service package you're providing (at least in the eyes of the customer).

There was a ton more to be learned, tools

to be acquired and used, but I became buffet boy and waddled off to the open house chow line. I'm retired, but you might want to see the whole range of what he, and folks like him, have to offer.



Dave Millhouser

Simply go to www.motorcoachcouncil.org.

Our varied skills may be camouflaged in ways that professionals can expose and help us use. Whether you acquire the expertise from the Motorcoach Marketing Council, or other marketing professionals, successfully selling the variety of services our industry can provide requires tools.

Years after I abandoned that Eagle in Guymon, a friend mentioned that you can trim the end off a ketchup squirt bottle and cram it against an opening on the fuel filter. Fill it full of diesel fuel and squeeze repeatedly until you've forced fuel through the heads of an 8V-71 and — voila — the engine is primed and ready to start.

A tool as simple as a vintage plastic ketchup squeeze bottle would have made me a hero that wintry day. Instead, my career spiraled downhill and I became a bus salesman.

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

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M144 MARKET FEEDBACK

"ABC Service Centers have sold hundreds of Toyo tires with very happy repeat customers"

Roman Cornell, ABC Bus, Winter Garden, FL

"We have been very impressed with the ride quality and performance of the Toyo tires"

Mike Dickson, President, Southeastern Stages, Atlanta, GA

"We have been testing the Toyo tires and they have been performing extremely well"

Brian Scott, President, Escot Bus Lines, Largo, FL

"The tires are doing great. Thanks for the good service and product"

Andy Barber, President, Corporate Coach, Ft Lauderdale, FL

"The Toyo tires we are currently running are giving us a superior ride and are showing better wear patterns than we have seen in many years. Customer service is A+, something that a lot of companies have forgotten about"

John Adams, President, Southern Coach, Dothan, AL

"DATTCO has 20 sets running on our Van Hools and while we do not have mileage collected as of yet, the response from the drivers has been very positive concerning handling and ride quality"

Mike Verna, Fleet Manager, DATTCO Bus Lines, New Britain, CT



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People

LAS VEGAS — **Ryan's Express Premium Transportation**, a diversified motorcoach operation based here, announced that *Kris Guffey* has joined the company as its safety director in Las Vegas.

"As we continue to build and improve our company, we place safety at the forefront. This makes the safety director position extremely important to us," said *John Buszkohl*, CEO of Ryan's Express.

"Kris's impressive background and track record of success make us confident we found the right person for the job."

Guffey has an extensive background in safety and security. He was a police officer in Arizona for 20 years before being recruited to be the director of security at **Grand Canyon West**.

Ryan's Express operates a fleet of more than 35 full- and midsize motorcoaches, small buses, vans, SUVs and sedans.

Seating plan is expanded by megabus

NEW YORK City — megabus.com, the curbside intercity service owned by Coach USA, expanded its reserved-seating program last month on select routes to/from 30 cities in North America.

The service allows customers to choose from 10 popular seats on double-decker megabus' coaches for a fee.

Typical charges are \$3 for a reserved "table" seat, \$5 for a seat at the top of stairs on the upper deck (dubbed a "balcony" seat), and \$7 for an upper deck front window seat.

The seats can be reserved when tickets are purchased at www.megabus.com.

The customer initiative premiered in late May on select routes in Baltimore, Boston, Philadelphia, New York and Washington, D.C., and in June in Canada in Toronto, Kingston and Montreal.

The reserved seats are visually distinct with solid blue upholstery and are identified by a large number embroidered onto the seat fabric. The numbers correspond to the specific seat number customers select on the megabus.com website at the time of purchase.

The reserved seating is only being sold in certain cities on select routes and times, and is only valid on the trip scheduled.

megabus currently provides service to more than 120 cities across North America.

DES PLAINES, Ill. — *Guy Charron* has joined **Motor Coach Industries** as vice president, regional sales eastern Canada, succeeding *Joe Simard*, who is retiring after an eight-year career at MCI and 31 years in the industry.

Charron will be responsible for MCI and Setra new coach sales, as well as the sale of pre-owned coaches to private and public operators in Quebec and the Maritime provinces.

He reports to *Patricia Ziska*,

MCI vice president of new coach sales.

Charron was formerly president of **World Bus Corp.**, a joint venture between entities in Mexico and Canada to develop an urban bus for the Latin America market.

Before that, he was with **Corbeil Buses**, a school-bus manufacturer founded in 1936 in Quebec by his grandfather.

Charron also has a 21-year career as a production supervisor at an

urban-bus plant in the Saguenay region of Quebec that had been owned by several manufacturers, including MCI from 1987 through 1993.

Charron, who studied manufacturing engineering, began his career at **GMC Trucks** in 1977. A native of Montreal, he is fluent in French, English and Spanish.

"We welcome Guy's expertise and believe in his ability to build on the success of the MCI product line in eastern Canada and to further de-



Kris Guffey



Guy Charron

velop relationships with our customers so important in our industry," said Ziska.

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Smaller is sometimes...

CONTINUED FROM PAGE 1

“ride the best of any on the market” among its type because they have air suspension.

“You might have to get past that stigma, but they certainly ride well,” he said. “More and more operators are going toward that.

“They’re thinking if they

can get a cutaway, rather than a Van Hool, it’ll be more cost-effective. Until Grech came on board there wasn’t a comparable product. Their mini-coaches are a much better product that works for their fleet size,” says Restivo.

But soon there will be a shorter version of the best-selling Van Hool model: a 35-foot version of the CX. It’s a significant shift, as

well as investment, for one of the major players in the motorcoach industry.

“We are addressing the market with a CX35, due to launch in early 2016,” said Dan Leo, director of marketing for ABC Companies, which distributes Van Hools in North America. “It’s in response to market needs here in the United States. It’s still early on in the de-

velopment stage in Europe.”

With more than 40 units pre-ordered for a vehicle that is still being developed, the demand certainly appears to exist. That’s according to Roman Cornell, ABC Companies’ senior vice president of eastern region and specialty vehicles. He said he has seen the trend in sizes change over time and that it only makes sense for his company to start offer-

ing a smaller motorcoach.

“1993 is when the 45-footer came out, so over the last 21 years the trend has moved toward the 45-foot coaches and away from 40 (footers),” Cornell said.

“Now we think that of the operators that want a 35-footer, 10 percent to 15 percent of their fleet would be 35-foot (coaches). There are 4,000 to 6,000 of those (Van Hool C models) running around the United States, so it’s a proven product. People love them but have been saying, ‘Give us one that’s shorter.’”

Many industry observers see a 35-foot Van Hool as a response to the popularity achieved by Temsa and its TS-35 coach. Both come from the same part of the world – Macedonia for the Van Hool CX and Turkey for the Temsas.

So why the demand for smaller, monocoque motorcoaches?

Cornell said smaller groups of passengers “still want a big-bus look and feel and a quiet, comfortable ride” and operators want to give that to them.

And for touring groups, it’s far easier to navigate the tight streets of cities like New York, Miami and New Orleans in a coach of a more manageable size.

“Our philosophy is when something works, don’t change it,” Cornell said. So, the CX35 will be built very similarly to Van Hool’s other 45-foot coaches, with many common, interchangeable parts.

That’s good news, he suggests, for everyone — drivers, customers, dispatch and maintenance.

“The driver’s area, windshield, switches, suspension components will be the same,” he said. “You can carry less inventory when you have the same parts, and there’s no learning curve for a new product.”

Timm Bledsoe, director of sales and marketing for the popular small-to-midsize brand Turtle Top, also confirms the trend among motorcoach operators to opt for smaller vehicles.

“We’ve seen the transition with more interest from that industry,” he said. “More companies like us attend the different shows for motorcoach operators and there’s more competition. If there are more people flocking to it, it must be a growing industry.”

Turtle Top sells to a diverse customer base, but from motorcoach company owners Bledsoe says he hears more interest in vehicles that will offer passengers a great trip but at a cheaper cost to operators.

“Our motorcoach industry customers are looking for a more economical choice,” he says.



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Horizon completes refinancing

DALLAS — Horizon Coach Lines has completed a \$25 million refinancing.

Siena Lending Group of Stamford, Conn., announced completion of a three-year, \$10 million senior secured revolving credit facility that was part of the \$25 million refinancing for Horizon.

The Siena financing was completed in conjunction with a capital lease from Nations Equipment Finance of Norwalk, Conn.

Other details of the refinancing were not revealed.

Headquartered in Dallas, Hori-

zon Coach Lines is third-largest motorcoach operator in North America — behind First Group America (Greyhound Lines) and Coach USA/Coach Canada/megabus, according to *Metro* magazine's latest annual compilation of the 50 largest private bus fleets.

It operates more than 1,000 luxury and standard motorcoaches, transit and midsize buses, and other vehicles.

David Grende, president and CEO of Siena Lending Group, said, "We are pleased to be able to work in conjunction with Nations Equip-

ment Finance to provide an overall credit facility that will give (Horizon Coach Lines) the ability to maximize the return on their fleet investment. We look forward to working with the company as they continue to execute their business plan."

Frank Sherman, CEO of Transportation Management Services, corporate parent of Horizon, said, "We are very pleased with Siena's execution in closing the transaction and their coordination with Nations Equipment Finance. They were able to act quickly and worked very hard in bringing the transaction to a quick close."

Aftermarket bus parts study launched

LOMBARD, Ill. — A management consulting and research firm has kicked off what appears to be a major study of the motorcoach and transit bus replacement parts market. (See Nov. 1 *Bus & Motorcoach News*.)

The study by MacKay & Company is seeking to establish the total size of the motorcoach/transit bus aftermarket parts business by component and in total.

MacKay said it's following the format it uses for its "DataMac Truck" program, which provides detailed information about the aftermarket parts business for Class 6-8

trucks, school buses and trailers.

The study is being undertaken, says MacKay, for multiple clients. It involves both mailed and online surveys, plus interviews, with motorcoach and transit bus operators across the U.S.

MacKay is looking for participants. The research is expected to take six to nine months.

The goal is to gauge the aftermarket potential for replacement parts used on motorcoaches and transit buses.

The study results will be proprietary, shared with clients that in-

clude vehicle manufacturers, component suppliers and manufacturers, and service providers.

A MacKay spokesman said those surveyed will remain confidential; there will be no follow-up calls from salesmen, he added.

In exchange for input, MacKay is offering participants a \$10 incentive, plus it will share the survey summary with respondents.

Anyone interested in participating or has questions can contact Travis Kokenes, market research manager, at (630) 916-6110, or at travis.kokenes@mackayco.com.

Employer health insurance rates rise; deductibles, too

OAKLAND, Calif. — The price of employer-provided health insurance rose 3 percent this year, a major survey shows, but workers will be paying more when they get sick as deductibles continue to climb.

Annual insurance premiums for families increased on average to \$16,834, according to the survey released by the Kaiser Family Foundation and the Health Research & Educational Trust.

The results reflect a recent trend of slower growth in healthcare costs. But many employers and health-policy experts predict bigger increases next year and beyond as the economy continues to recover.

"Historically, periods of slow growth have always been followed by rapid increases," said one expert.

Even modest changes in medical costs have been difficult to absorb for many businesses and workers hurt by the Great Recession. Many employers have cut their financial exposure by transferring more costs on to workers.

The average employee deductible has increased 47 percent since 2009 to \$1,217 annually. Eighteen percent of workers have a deductible of at least \$2,000.

Some health-policy experts credit higher deductibles with helping hold down medical costs by discouraging people from getting care or motivating them to be savvier shoppers.

But throwing up barriers to cost-saving preventive care is a potential downside.

"Higher deductibles may be good if you're relatively young and healthy," said Drew Altman, chief executive of the Kaiser Family Foundation in Menlo Park, Calif. "But they may be a bad thing if you are lower or moderate income or chronically ill. This can be a real burden on the family budget."

For a change this year, the growth in employer health premiums was close to the national average increase in workers' wages of 2.3 percent and inflation of 2 percent.

However, the longer-term trend hasn't been encouraging for U.S. workers. Since 1999, workers' share of health premiums has climbed by 212 percent, nearly four times as fast as wage growth nationwide, the survey found.

This year, the average worker paid \$4,823, or 29 percent, toward the average \$16,834 family premium.

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Rule loophole

CONTINUED FROM PAGE 1

Great American Trolley Co. of North Cape May, N.J.

“Based on a review of the entire record, FTA finds that (Atlantic City Jitney Association) and (New Jersey Transit) did not violate FTA’s charter service regulations and it hereby dismisses (Great American Trolley Co.’s) complaint,” concluded the order, issued last month by Dana Nifosi, acting chief counsel of the FTA.

Complaints filed by Richard Adelizzi, owner of Great American Trolley, accused the Atlantic City Jitney Association of violating terms of federal grants used to purchase many of its shuttle buses that are used to provide a variety of services, including charters, convention transportation, local resort transit, trolley tours and casino runs.

New Jersey Transit was the recipient of the FTA grants issued in 2009 and 2011 to purchase 100 shuttles used by members of the Atlantic City Jitney Association.

“Because the jitney association received ‘millions of dollars of taxpayer money,’ said Adelizzi in filings with FTA, the association was in ‘the enviable position of being able to offer lower prices on charters than a private carrier can.’”

Adelizzi does business under several names, including Five Mile Beach Electric Railway Co. and Great American Trolley. He could not be reached for comment.

The ruling states that an appeal must be filed within 21 days.

Narrow approach

Addressing federal funding, the FTA ruling focused narrowly on U.S. Department of Energy grants awarded in 2009 to install compressed natural gas fuel systems on the 190 shuttles owned by the jitney association’s members. Those grants were funneled through the New Jersey Clean Cities Coalition.

In addition, the ruling noted that “(Atlantic City Jitney Association) members store and maintain their jitneys at a maintenance facility in Egg Harbor Township. The facility was purchased and constructed with funds from the New Jersey Casino Reinvestment Development Authority. There is a CNG fueling station at the facility, and that fueling station was funded through a (U.S. Department of Energy) grant award and other private investments.”

Because the fuel-related funds came not from the Federal Transit Administration, but another federal agency, Nifosi wrote that the federal charter service rule does not apply to

them.

“FTA finds that its charter service requirements do not apply to vehicles and equipment not purchased with FTA funds, particularly in this case, where the CNG fuel systems and the CNG fueling station were purchased using (U.S. Department of Energy) funds. The equipment is not subject to FTA’s charter service prohibitions merely because a federal agency funded it,” stated the ruling.

It didn’t come from us

Elaborating further, the ruling stated that the charter service rule “prohibition only applies to ‘federal financial assistance under the federal transit laws,’ and that it does not apply ‘to the non-FTA funded activities of private charter operators.’ In this case, (Atlantic City Jitney Association) service was not subject to FTA’s charter service requirements because it was utilizing non-FTA funded jitneys with non-FTA funded equipment. There was no charter service violation here.”

On its website, the Atlantic City Jitney Association describes itself as “190 individually owner-operated vehicles who service Atlantic City 24/7, 365 days a year. We also provide shuttle bus service from the Atlantic City Rail Terminal to the various casinos located throughout the city.”

Adelizzi asked the FTA to act on his contention that the Atlantic City Jitney Association was using federally-funded vehicles to compete with private bus operators in violation of the charter service rule.

The rule, written in 2008, places strict limits on the types of charters public transit agencies are allowed to perform if they have received federal funding. The rule is intended to limit the ability of taxpayer-supported agencies to compete for business with taxpaying private carriers.

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

N.J. Transit included

The new FTA ruling did acknowledge that the 100 federally-subsidized shuttles would be subject to the charter service rule. It explained why FTA added New Jersey Transit as a respondent to the complaint:

“FTA provided (New Jersey Transit) with

Gainesville Regional Transit Service responded with an email stating, “the service is advertised as a complete package and cannot be broken up. If you are willing and able to provide all of the service as advertised, please let us know. Thanks.”

Scott challenged the transit agency’s assertion that the services were a complete package and “one charter service.”

The Gainesville Regional Transit Service countered with an email from the FTA’s charter service ombudsman, which states: “A private provider cannot cherry pick which part of the service it wishes to provide. The private provider can either provide all the service or none of the service.”

However, in its advisory opinion, the FTA stated that the ombudsman’s advice did not apply in this case. The transit agency had “combined three separate charter service requests, which could have been easily separated.”

federal funds for the purchase of 100 jitneys for (Atlantic City Jitney Association). Pursuant to an agreement between (New Jersey Transit) and (Atlantic City Jitney Association), (Atlantic City Jitney Association) members directly purchased the jitneys and acquired title to them, but (New Jersey Transit) maintained a lien on the jitneys... Through this arrangement, (Atlantic City Jitney Association) became a sub-recipient of FTA funds, making both (New Jersey Transit) and (Atlantic City Jitney Association) subject to all of FTA’s applicable statutory, regulatory, administrative, and contractual requirements, such as the charter service rule.”

On March 25, 2013, the FTA chief counsel issued a cease-and-desist order that required ACJA to halt the use of the federally-funded shuttles in charter service.

The latest ruling accepted the jitney association’s pledge to honor that order, which “outlined various measures that it would implement, such as utilizing only jitneys not purchased with FTA funds to support its charter service operation.”

Charter notification

The ruling also found New Jersey Transit and Atlantic City Jitney in compliance with the 2013 cease-and-desist order in its procedures for notifying private operators of charter opportunities when federally-funded buses would be used.

Earlier last year, the FTA found the jitney association out of compliance because of defects in its draft notice for a charter opportunity to serve Atlantic City International Airport.

The notice contained a service-start date that preceded the issuance of the notice and it did not define a time frame for registered providers to respond. After the notice was amended and issued, no private operators responded, the ruling noted.

According to last month’s ruling, “(Atlantic City Jitney Association) provided FTA with general measures that it would follow to ensure compliance with FTA’s charter service requirements... given (New Jersey Transit’s) willingness to work with (Atlantic City Jitney Association) to strengthen these procedures, FTA requests (New Jersey Transit) and (Atlantic City Jitney Association) to provide FTA with a copy of those procedures. The strengthened procedures should be approved by (Atlantic City Jitney Association) executive leadership and transmitted to each of its members.”

Rule clarification

The ruling clarifies the limited scope of the federal charter service rule, said Ken Presley,

And under the federal charter service rule, the agency is only permitted to provide services that no private operator is interested in providing, the opinion stated.

“If (the Gainesville Regional Transit Service) wishes to provide charter service next year, it must issue a separate notice for each service,” the FTA stated.

Scott said he got word about 10 days before the Florida Gators’ first game in August that the university had put the contract out to bid; he won the opportunity to provide service.

“We’re committed to make it a success, and even if it was on short notice, we’re happy to have the opportunity,” he said.

According to the FTA, the advisory opinion is limited to Scott’s case.

“This advisory opinion applies only to the service described in Escot’s Advisory Opinion & Cease and Desist Request dated June 3,

vice president of industry relations and chief operating officer at the United Motorcoach Association.

“We routinely receive calls at UMA complaining that taxpayer-funded buses competing for and taking charter business away from private operators. Many believe all entities operating taxpayer funded buses are compelled to comply with the charter service rule,” he said.

“Publicly-funded school buses, senior center buses and military buses are not bound to the charter service rule. Only recipients of grant funds from the Federal Transit Administration are required to comply.

“Publicly-funded school buses used in charter service may be subject to certain state laws. However, they are not subject to the charter service rule and it is the same with buses that may have been acquired with funds from other state or federal agencies.”

Registration request

Presley again admonished private operators to be more diligent in registering with the FTA for notification of charter opportunities and participating in the process. He emphasized one of the FTA counsel’s findings in the assignment of the charter opportunity at the Atlantic City airport — “No private operators responded.”

Additionally, as reported in the Aug. 15 issue of *Bus & Motorcoach News*, only 203 motorcoach operators are currently signed with the Federal Transit Administration’s charter registry, down from about 570 three years ago and 1,400 five years ago.

“Register to receive notices from public transits when they intend to pursue charter services, read the notices, respond to the public transit if interested in the charter service, contact the charter party, and negotiate in good faith,” Presley said.

Investigative how-to

It is a commonly held notion in the motorcoach industry that private operators are losing business to competition from public transit agencies fueled by tax dollars.

Presley advises motorcoach operators to do their detective work before taking a complaint to the Federal Transit Administration.

“If you believe a public transit may be violating the charter service rule, get the facts before filing a complaint or contact UMA to assist you with the process,” he said. “The burden of proof rests with the private operator. FTA only renders decisions based on the facts it receives. It does not investigate complaints.”

2014, and is based on the facts in the submission combined with additional information submitted by (the Gainesville Regional Transit Service),” wrote Dana C. Nifosi, the FTA’s acting chief counsel.

“Should new or different facts be presented, which are deemed significant by FTA, this opinion shall have no force or effect.”

Scott, though, expressed optimism the case will have more impact.

“I hope the industry can get some mileage from this down the road,” he said. “I hope it sends the message that private providers shouldn’t accept what is printed as gospel.”

Ken Presley, vice president of the United Motorcoach Association, said the case was important because “we have seen some ‘bundling’ (by public transit agencies) in the past to try and discourage private operators (from getting charter work).”

Charter ruse

CONTINUED FROM PAGE 1

dates from August through November:

- A third-party contract between Gainesville Regional Transit Service and the University of Florida Parking and Transportation Division for service to a recreational vehicle lot that would require six buses.

- A third-party contract between Gainesville Regional Transit Service and the University of Florida Athletic Association for service restricted to Americans with Disabilities Act overflow parking and University Athletic Association staff requiring two buses.

- A Gainesville Regional Transit Service-sponsored service open to the public at a premium fare requiring 40 to 45 buses.

When Scott expressed interest in providing the two third-party contracted services, the

UMA announces program for Safety Management Seminar

ASHBURN, Va. — The United Motorcoach Association has announced the preliminary program and schedule for its 11th annual Safety Management Seminar to be held in early December at the National Transportation Safety Board Training Center here.

The program will be from 8 a.m. to 4:30 p.m. Wednesday, Dec. 3, and from 8 a.m. to noon, Thursday, Dec 4.

The seminar features how-to applications of risk management to educate participants on eliminating as much risk from motorcoach and bus operations as possible.

The seminar is for anyone who

manages the risk associated with motorcoach fleet operations and is limited to the first 130 registrants.

The topics at this year's seminar will focus on the industry's most pressing safety-related needs, including employee hiring, accident investigations and compliance reviews, and provides take-away information that attendees can put into practice right away, said Michele Nosko, UMA marketing and membership director.

"Based on calls we receive in the office and responses on our annual survey, information on safety and compliance is in demand more than ever," said Nosko. "This year's seminar is sure to be a thought-pro-

voking couple of days that will give our members solutions they can put into action right away."

There also will be sessions featuring updates and forecasts from the Federal Motor Carrier Safety Administration, Transportation Security Administration and the NTSB.

Here's a look at some of the session details:

Employee Hiring and Discipline: A Legal and Claims Perspective. Pre-offer, post-offer, hiring contingent upon, can ask, can't ask — there are a lot of nuances to the hiring process. Maybe your role includes safety and human resources or maybe you coordinate with human resources, but in any

case, you should be clear on legal aspects of hiring.

Discipline also presents questions, such as how strict should policies be; how must issues be documented, and should an employee be fired or not when there is an ongoing claim? Legal and claim perspectives will be provided on issues in both of these areas.

Back to Basics: Every Day Accident Investigation. Regardless of the size of a company and the number of crashes, you should be getting the complete story; and not just going through the motions. This "back-to-basics" session will document what data to collect, review and why.

What I Learned From My Recent Safety Audit. This session will provide direct feedback from safety managers and operators who have been through a recent compliance review/safety audit. What they learned during the process, changes implemented, and how it relates to the safety management cycle will help you be prepared when it's your turn.

The registration fee is \$285 for UMA members; \$435 for non-members.

Complete schedule, registration and hotel information is available at <http://tinyurl.com/2014UMA-SMS> or by phoning UMA at (800) 424-8262.

NTA expects more operators, more options at Travel Exchange

NEW ORLEANS — NTA (formerly the National Tour Association) says it is preparing for higher attendance at its annual convention here in January, which will be conducted alongside UMA Motorcoach Expo 2014.

Although Travel Exchange, as the simultaneous shows are billed, is more than three-and-one-half months away, NTA leaders say overall registration is pacing 6 per-

cent ahead of 2014, and tour operators are leading the pack with 35 percent more registrants than this time last year.

The jointly conducted shows will be Jan. 18-22 at the New Orleans Convention Center.

"We know that where buyers go, sellers will follow, so we are planning for a bump in attendance," said Pam Inman, who took over as NTA president last month.

"I'm pleased that the first news I have to share is that interest in our annual event has increased, and this is consistent with what our operators are telling us about their business this year."

According to the association's mid-year survey of members, 68 percent of the NTA tour operators surveyed reported an increased sales volume during the first six months of 2014, compared to 2013.

A similar number (65 percent) reported serving more clients so far this year. And six in 10 said 2014 bookings are on pace to be greater than in 2013.

Along with better business, Inman attributes the rise in registrations for Travel Exchange to strong marketing and great interest in the host city.

"New Orleans is a terrific convention site, and our members also

see it as a top-notch destination to explore and enjoy," she said, adding that half of the NTA-sponsored sightseeing trips have already sold out.

Through the tours, New Orleans offers attendees a range of tour product that includes culinary, art, history and adventure tourism.

In addition to the NTA convention and Motorcoach Expo, the Travel Exchange also includes the Faith Travel Association conference.

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Toronto parking

CONTINUED FROM PAGE 3

rush hour, it generates a lot of complaints from motorists who want to get home. They call their city councilors."

The aggressive bus fine is an artifact of a years-ago Toronto effort to deal with the motorcoach parking issue.

"Many years ago the city council decided to make available about 60 on-street parking spaces that buses and coaches could park in free-of-charge during certain times of the day and on weekends," Carroll explained.

"In exchange for that privilege, the council said it would bump the fine for buses to \$300. There was not a lot of input from the bus industry for that."

Parking is particularly tense when passengers need to board or disembark during the rush hours. Some parking officers may look the other way for a few minutes, Carroll said, but a motorcoach driver absolutely SHOULD NOT leave his vehicle.

"Drivers up here are pretty much aware of the fines. They conduct themselves accordingly

and have to be careful about watching the parking signs. Most of all, do not park a bus and leave it. There will be no mercy.

"We have asked the city for more consideration for buses that are in the loading or unloading process. You can't expect attractions and hotels to be off limits to motorcoaches for four hours a day. It is not fair to those businesses or the passengers who come to visit those locations."

Imagine a coach full of white-haired tourists arriving at their hotel after a long day on the road. "You can't expect older passengers to go around the block dragging their luggage with them," Carroll said. "We have had meetings with the city and asked them to bear this in mind. We have had some success.

"If a coach is in the active process of loading or unloading and the driver is with the coach, some of the officers are pretty good about using some discretion. They may not write a ticket and just ask the driver to move things along. We are thankful for that.

"If the driver is off the coach to go inside the building, they pounce all over those guys."

Hiring drivers

CONTINUED FROM PAGE 1

perform their work, they may do so only with FedEx's consent."

Presley said that virtually all motorcoach companies used to treat their drivers as independent contractors but that most companies today hire drivers as employees.

That means that the companies withhold taxes from the drivers' paychecks, pay unemployment insurance, and issue W-2 forms for tax purposes.

Independent contractors must pay their own federal and state taxes and companies issue 1099 forms to them for tax purposes.

There have been cases in which bus companies have misclassified drivers as independent contractors and were ordered by the Internal Revenue Service to pay what they should have been withholding from paychecks, plus interest and penalties.

"The companies got turned upside down," Presley said. "Most of them just got taken out."

Usually, the IRS catches such companies when the drivers fail to pay their taxes and argue they thought the company was with-

holding them from their paychecks, resulting in an IRS audit of the bus company.

Another way they are caught is when drivers get laid off and file for unemployment benefits, prompting the state to go after the company for failing to pay unemployment insurance. States also tip off the IRS about companies.

The IRS has an explanation of what makes a worker an employee or an independent contractor. The following is a summary taken from the agency's website, www.irs.gov:

The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work, and not what will be done and how it will be done. The earnings of a person who is working as an independent contractor are subject to self-employment tax.

Workers are not considered independent contractors if they perform services that can be controlled by an employer (what will be done and how it will be done). This applies even if they are given freedom of action.

What matters is that the employer has the legal right to control the details of how the services are

Calendar

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12-15 APTA Expo and Annual Meeting, George R. Brown Convention Center, Houston. Info: www.aptaexpo.com.

14-17 Gray Line 2014 Annual General Meeting and Marketing Conference, Four Seasons Hotel Denver. Info: www.graylineconvention2014.com.

19-21 LCT-NLA Show East, Atlantic City Convention Center and Caesars Atlantic City (N.J.) Info: www.lcteast.com.

performed.

If an employer-employee relationship exists (regardless of what the relationship is called), the employee's earnings are subject to FICA (Social Security tax and Medicare) and income tax withholding.

Presley said another factor that can help determine how a bus driver is classified involves ownership of the bus.

In general, he said, drivers who own their own buses are considered independent contractors.

"If a driver shows up on his own, without a bus, he probably should not be treated as an independent contractor," Presley said. "Always consult a tax professional when considering the tax implications of individuals who perform work for your company."

Atlantic City

CONTINUED FROM PAGE 3

of the Trump casino properties are no strangers to bankruptcy court. Trump Entertainment has struggled since it emerged from bankruptcy in 2010. The billionaire investor Carl C. Icahn holds a \$289 million loan, making him the company's largest secured creditor.

Donald J. Trump, who still owns a small piece of the company but has no control over it, recently sought to strip the casinos of his name.

Casino opens in Baltimore

BALTIMORE — The first guests were welcomed last month at the new Horseshoe Casino Baltimore.

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✓**RePower** with an OE remanufactured engine and transmission.

✓**ReRepair** critical items based on MCI's 210+ inspection.

✓**ReUpholster** seating with newer fabrics, and upgrade flooring to match.

✓**ReNew** for a like-new coach with MCI's and OE powertrain warranties.

Plus, pick your components from these three main categories:

Safety and Compliance. Add Amaya/A2Ten/Torino G+seats or National 4210 with three-point passenger seatbelts, tire pressure monitoring, fire suppression systems and more

Mechanical and Operational. Create an entirely new interior from the entryway to reflooring and switch to a brushless evaporator and condenser motors

Appearance and Amenities. Upgrade to LED lighting and Wi-Fi

For a complete listing, go to mcicoach.com/reenergize/210inspection or call **877-428-9624**



Reliability Driven™

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