



ISSUE #10 BUS and MOTORCOACH SAFETY

PROBLEM

A number of high-profile bus and motorcoach fires and crashes in the last few years have brought the issue of bus and motorcoach safety to the forefront. In the summer of 2008, motor coach accidents occurred in Texas, Nevada, Mississippi and New Jersey all resulting in deaths or injuries. The Wilmer, Texas crash that occurred after Hurricane Rita in 2005 killed 23 people and a 2008 crash in California killed 8 people and injured 30. There have been at least eight serious crashes in the last 3 years involving motorcoaches carrying people to and from casinos. Currently, there is a bus or motorcoach lost to a fire every 2 days¹.

In 2008, 149,481 roadside inspections (vs. 56,084 in 2005) were conducted on the approximately 4,000 interstate inter-city bus operations. The most recent out of service rates for motorcoaches are 4.8% for drivers (vs. 6.8% for all drivers) and 7.7% for vehicles (vs. 23% for all vehicles). While these numbers are small when compared with the overall number of roadside inspections, when crashes occur with these operations it often is high-profile and garners much attention from the media and the public.

Investigations into these recent crashes have revealed that they are happening in all sectors of the industry, large and small, for-hire and private, and there are a number of problems surfacing. As an example, a company may have been placed out of service on one day and began operations the next day as a different company. These “Chameleon” carriers are not specific to the motorcoach industry, but they have shown up as a critical issue. Some jurisdictions have recognized this fact and implemented legislative and operational measures to mitigate these occurrences, and programs such as PRISM are helping, but much more needs to be done. An additional factor has shown up where the bus was not registered with the appropriate state regulatory authority. Investigations have also revealed the driver was improperly licensed and had serious medical conditions. In another instance the motorcoach had not been manufactured to U.S. standards and yet was operating in this country. It is clear that there are a variety of safety and compliance problems throughout the industry that are in need of more focus and attention.

Stronger safety, compliance and enforcement measures should be enacted to help enhance the safety of motorcoach, bus and curbside operations, but what is the best and most efficient mechanism(s) for doing so?

¹ Volpe Center Study, 2009 (data covers time period from 2004-2006)



BACKGROUND

Overall, the inter-city bus industry has had a good safety record. More than 631 million passengers ride motorcoaches annually, and the industry's record of 0.02 fatalities per 100 million passenger miles traveled is evidence of their safe record. In spite of this, over the last 5 years an average of 330 deaths (43 in motorcoaches) and 14,396 injuries have occurred in bus/motorcoach crashes each year.

In 2008, bus and motorcoach safety became a priority in the Congress. Families of victims from a bus crash that occurred in Atlanta in 2007 worked with Senator Sherrod Brown to write Senate Bill 2326, the "Motorcoach Enhanced Safety Act of 2008". Senator Kay Bailey Hutchison of Texas was a co-sponsor. A major part of the bill dealt with improved occupant protection, motorcoach crash avoidance measures and improved crashworthiness. The remainder of the bill dealt with motorcoach driver training, improved CDL testing, physical fitness oversight and commercial driver medical certificates, EOBR requirements, and commercial motor vehicle inspection programs that include both buses and trucks.

Hearings on the bill were held in September of 2008. More moderate legislation, H.R. 4690, that provided longer timelines with respect to studies and regulations on occupant protection, motorcoach crash avoidance measures, and improved crashworthiness was introduced by Congressman Bill Shuster (R-PA) in the House. It also provided for grants to bus/motorcoach companies to assist with retrofitting costs and tax credits for the costs of compliance as well as Small Business Administration loans and loan guarantees for the same purpose. In addition, Congressman John Lewis (D-GA), introduced H.R. 6747 which was similar to S. 2326 but also added the grant, tax credit, and loan guarantee provisions of Congressman Shuster's bill.

In the new 111th Congress, Representative Shuster introduced a revised version of his earlier legislation, H.R. 1135. Also, Congressman Lewis has re-introduced his bill, HR 1396. Senators Brown and Hutchison have re-introduced their bill as well, S. 554, adding the grant, tax credit, and loan guarantee programs of the Shuster and Lewis bills.

Another issue is the result of a provision in SAFETEA-LU which specifies that except in the case of obvious and extreme circumstances, inspections of a motorcoach shall occur only at a terminal, destination, or border location. Conducting roadside inspections on motorcoaches has unique circumstances, such as what to do with passengers in the event a driver or vehicle is placed out-of-service. In addition, while some states have bus and motorcoach inspection programs, others do not. Any new legislation will most certainly require each state to have a bus/motorcoach inspection program. FMCSA is already working with states to include motorcoach inspection and enforcement programs in their CVSP's.

FMCSA has made bus/motorcoach safety a top priority, and by extension, have asked all of the states to step up and do so as well.



SOLUTION(S)

1. The provision in SAFETEA-LU prohibiting inspections to be conducted roadside is overly restrictive and needs to be revisited. While most states work with casinos and other resorts/destinations to do inspections on the premises or nearby before loading or after unloading passengers, in some cases (for various reasons) this does not always work effectively. In addition, while conducting motorcoach inspections roadside or at rest stops/weigh stations is not the preferred solution due primarily to the safety of the passengers, the outright restriction should not be in law. States should be given flexibility to implement best practices and conduct inspections where they are most needed. Every effort should be made to minimize risk to the passengers.
2. The New Jersey Bus Crash Study should be looked to as helping to provide some measure of information that can be helpful to both state and federal enforcement authorities, as well as the Congress in strengthening bus and motorcoach safety programs.
3. Prior to issuing registration and operating authority to a passenger carrying motor carrier, legislation should be enacted to ensure the motor carrier is properly vetted and is in compliance with the Federal Motor Carrier Safety Regulations and is not a “Chameleon” Carrier.
4. Passing of the New Entrant Safety Audit should be required as a condition of the carrier being issued their DOT registration/operating authority. As a part of the New Entrant requirements, consideration should be given to enacting minimum training standards for drivers as well as critical passenger motor carrier safety personnel.
5. There needs to be stronger safety regulation on school buses used for charter transportation (and school transportation) as well as public transit buses used in charter transportation. Exemptions from safety regulations and oversight need to be minimized. States need to be provided with adequate resources to make sure they have the ability to conduct the proper amount of inspections and oversight.
6. Brokers of passenger transportation services need to be regulated and subject to the same regulatory regime as are freight forwarders are for the trucking industry. There needs to be appropriate penalty provisions and enforcement oversight on brokers who fail to comply or who are negligent in their duties/responsibilities.
7. New legislation should provide parameters in terms of what areas need to be focused on to enhance bus, motorcoach and curbside operator safety, but it should not necessarily identify specific operational measures to be taken. Specifics on how to implement compliance and safety programs should be left to the states to decide depending on the type of and nature of the problems that exist in their particular state.
8. Part 350 of the FMCSR should provide more specifics in terms of what activities are eligible under the MCSAP for motorcoach compliance and enforcement programs, as



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well as what elements should be contained in a state's CVSP. In this regard, FMCSA should be cognizant of the states' needs for resources and training as new motorcoach oversight and safety requirements are instituted. As part of legislative and regulatory modifications, it should be made clear that roadside inspection and periodic inspection data on all buses and school buses (for both inter and intrastate operations) need to be submitted to FMCSA and maintained in MCMIS to be accounted for in establishing the motor carrier's safety fitness rating. Congress needs to authorize and appropriate the necessary resources for these efforts (i.e. IT upgrades, etc.).

9. Both through the legislative and regulatory efforts, consideration should be given to the standards and regulations on the books in Canada – in an attempt to harmonize regulations and incorporate best practices for compliance and enforcement.
10. Safety belts should be required on all school buses and motorcoaches. NHTSA and FMCSA need to collaborate on standards for OEM and retrofit design and installation requirements. Congress needs to direct a study to examine the costs and benefits associated with retrofitting all in-use buses with seat belts, and take the findings and costs into consideration when (assuming the cost-benefit is to the positive for benefits) the mandate is put in place for retrofits.
11. Require Electronic On Board Recording devices (EOBRs) for maintain and monitoring motorcoach driver hours of service compliance.
12. Occupant protection and crashworthiness and avoidance standards need to be pursued for items like window glazing to minimize ejection through portals in the roof or sides of the vehicle, fire prevention and suppression systems, roof strength and crush resistance, collision warning systems, rollover stability systems, lane departure warning systems and brake stroke monitoring systems. While measures to improve bus design and occupant protection should be identified, the specifics of how to implement them should be left to the appropriate regulatory agency (NHTSA) for action.
13. Legislation should be supported that provide immediate incentives for carriers to purchase advanced onboard safety systems through tax credits. HR 3820 and Senate Bill 3420 provide this opportunity. Consideration should also be given to providing tax incentives/credits for fire-suppression systems (possibly H.R. 1135 as a legislative vehicle)
14. Windshield mounted video monitoring systems that help assist with driver/operator safety need to be able to be installed in a fashion that do not impede the driver's ability to perform. Regulatory changes need to be enacted to account for new technologies and changes to windshield designs.
15. The "Camioneta" population (9-15 passenger vehicles and motor carriers) needs to be subject to a much stronger regulatory framework.



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16. Standards with respect to passenger carrying driver licensing, testing, training and certification need to be revisited and likely strengthened to make sure they are appropriate and effective.

17. All school buses and motorcoaches should be required to undergo periodic inspections (at least once annually) in accordance with Part 396 of the FMCSR, and each state should be required to have an inspection infrastructure/program to support, deliver and oversee these inspections. This could be accomplished through the use of 3rd parties should the state choose to do so. Congress needs to authorize and appropriate resources to the states to establish these programs, but long term they should be self-sustaining and pay for themselves. The data resulting from these inspections needs to be contained in a centralized database (MCMIS) to be used for analysis and also should be accounted for in the safety fitness determination of the motor carrier.