



U.S. House of Representatives
Committee on Transportation and Infrastructure

Washington, DC 20515

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SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Highways and Transit

FROM: Subcommittee on Highways and Transit Staff

SUBJECT: Hearing on Motorcoach Safety

PURPOSE OF THE HEARING

The Subcommittee on Highways and Transit is scheduled to meet on Tuesday, March 20, 2007, at 10:00 a.m., in room 2167, Rayburn House Office Building, to examine the safety of motorcoach operations in the United States in light of several fatal accidents; the Federal regulations that govern motorcoaches, including accessibility regulations; the recommendations of the National Transportation Safety Board with respect to bus safety; and the response of the Federal Motor Carrier Safety Administration in light of these accidents and findings.

BACKGROUND

Overview of the Motorcoach Industry

A motorcoach, or over-the-road bus (OTRB), is a bus that is designed for the intercity transportation of passengers and has an elevated passenger deck located over a baggage compartment.

According to the 2006 Motorcoach Census, 39,068 buses provided 631 million passenger trips and traveled 2.44 billion miles in 2005. This represents an increase from 38,490 buses providing 595 million trips over 2.38 billion miles in 2004. In 2004, 47 percent of the miles covered by over-the-road buses were for providing charter service to groups of people, while intercity buses made up 27 percent of miles. Commuter transportation by over-the-road bus accounted for an additional 12 percent of miles; tour and sightseeing groups made up another 10 percent of total miles; and four percent were used by shuttles transporting people to and from airports and other uses.

The over-the-road bus industry has a wide range of companies in terms of size. In 2004, the vast majority – more than 93 percent – were small carriers, operating 25 or fewer buses. These 3,300 small carriers ran 48 percent of the industry's buses and accounted for 217 million passenger trips. Only 39 carriers, or one percent of the total industry, operated more than 100 buses. These large carriers provided 34 percent, or 202 million, of the industry's passenger trips and operated 25 percent of its buses. Mid-sized companies, with fleet sizes of 25 to 99 motorcoaches, accounted for 7 percent of the carriers, 27 percent of the motorcoaches, and 30 percent of trips.

Federal Regulation of the Motorcoach Industry

Federal Motor Carrier Safety Administration (FMCSA)

The Federal Motor Carrier Safety Administration (FMCSA), a modal agency of the U.S. Department of Transportation (DOT), is the federal agency responsible for commercial truck and bus safety. According to FMCSA, the agency's primary mission is to reduce crashes, injuries, and fatalities involving commercial motor vehicles. The FMCSA sets minimum safety standards that motorcoach companies must follow for the buses they operate and the physical qualifications and operating rules for their drivers. These safety regulations include rules to ensure that the motorcoach is in proper working condition and is systematically maintained; the driver is physically qualified and licensed; and the driver maintains accurate logs of hours-of-service.

In March 2006, as part of testimony before the Subcommittee on Highways, Transit, and Pipelines, FMCSA announced a National Motorcoach Safety Program with an emphasis on six areas: (1) increase the number of motorcoach compliance reviews, which are investigations of a company's safety practices; (2) develop and implement a separate compliance review prioritization system for motorcoach carriers; (3) establish formal motorcoach inspection programs within all States; (4) improve safety data; (5) reduce motorcoach fires; and (6) expedite safety audits of new entrant motorcoach carriers.

As part of this initiative, FMCSA intended to develop a quantitative, analytical system to prioritize motorcoach companies for a possible compliance review. A compliance review is an on-site examination of a motor carrier's records and operations to determine whether the carrier meets the FMCSA safety fitness standard and has adequate safety management controls in place to ensure compliance with safety requirements related to: drug and alcohol testing; commercial driver's license standards; financial responsibility; safe operation of vehicles on highways; maintenance of crash records and reports; hours of service; inspection, repair, and maintenance of vehicles; and other factors. FMCSA initiates a compliance review based on poor safety performance data in one or more of its safety evaluations areas - crashes, driver, vehicle, and safety management.

The agency stated that an enhanced focus on buses was needed because of the relatively small percentage of bus companies that FMCSA regulates compared to the far larger number of trucks and other commercial motor vehicles; and because the availability of motorcoach safety data is more limited than that of property carriers due to infrequent roadside inspections of buses. The agency assured the Committee that it would increase focus on motorcoach data collection, and establish a separate database to track bus safety information.

Compliance with the Americans with Disabilities Act

The Americans with Disabilities Act (ADA), signed into law in 1990, prohibits discrimination on the basis of disability by employers, public accommodations, state and local governments, public and private transportation, and in telecommunications. In response to this law, DOT issued regulations that required vehicle modifications to accommodate individuals with disabilities. Each fixed-route OTRB company had to ensure that one-half of its fleet consisted of accessible buses as of October 2006. The entire fleet must consist of accessible buses by October 2012. Until the fleet of a fixed-route OTRB company becomes fully accessible, the company must provide accessible service to passengers with disabilities on a 48-hour advance notice basis. A “demand responsive” company, such as a charter or tour bus operator, must provide service in an accessible bus to passengers with disabilities on a 48-hour advance notice basis. Less stringent requirements are in place for small fixed-route and demand-responsive operators. These requirements include providing service in an accessible bus to passengers with disabilities on a 48-hour advance notice basis or providing equivalent service, such as in a passenger van.

Section 3038 of the Transportation Equity Act for the 21st Century (TEA 21) established a grant program under the Federal Transit Administration to provide funding for the incremental capital and training costs associated with meeting the requirements of the DOT over-the-road bus accessibility rule. Assistance is available to operators of buses used substantially or exclusively in intercity, fixed route, over-the-road bus service. In addition, assistance is available to operators of over-the-road buses in other services, including local commuter, charter, and tour service. Capital projects eligible for funding include adding lifts and other accessibility components to new vehicle purchases and purchasing lifts to retrofit existing vehicles.

National Highway Traffic Safety Administration (NHTSA)

The National Highway Traffic Safety Administration (NHTSA) is charged with improving safety on our nation’s highways by reducing the number of accidents and the consequences of those accidents that do occur. According to NHTSA, an average of 10 deaths a year are the result of motorcoach crashes. Although the agency does not regulate the operation of motorcoaches, NHTSA is responsible for issuing and enforcing Federal Motor Vehicle Safety Standards (FMVSS), which set performance criteria that every new motorcoach must meet. These standards include crash avoidance protection measures and occupant restraint systems.

National Transportation Safety Board (NTSB)

The National Transportation Safety Board is the United States’ transportation accident investigative agency. Its primary responsibilities include determining the probable cause of transportation accidents, coordinating Federal assistance to families of victims of catastrophic aviation accidents, and making safety recommendations based on its investigations. Since its inception in 1967, NTSB has investigated more than 10,000 surface transportation accidents and issued more than 12,000 safety recommendations in all modes of transportation.

In 1999, the NTSB released a Highway Special Investigation Report on Bus Crashworthiness Issues. This report and its recommendations were based on an analysis of six school bus and 36 motorcoach accidents, and an evaluation of the Federal Motor Vehicle Safety Standards (FMVSS). The 36 motorcoach accidents NTSB investigated resulted in 168 occupant fatalities; 106 of these occupants were killed in a rollover. Of those occupants killed in a rollover, 64 people were ejected from the motorcoach. Among the many findings of its report, the NTSB determined that one of the best ways to protect motorcoach passengers during an accident is to prevent them from being thrown out of their seats or ejected from the vehicle. As a result, one of NTSB's recommendations was that NHTSA develop protection performance standards for motorcoach occupant protection systems. More than seven years later, this recommendation is still on the NTSB's most wanted list.

Even though new standards have not yet been finalized, NHTSA has conducted a joint study with Transport Canada, the Federal agency responsible for most of Canada's transportation policies, to determine the best methods for improving motorcoach occupant protection. The results of this study were released earlier this month. NHTSA and Transport Canada focused their study on improving glazing on motorcoach windows and the structural integrity of motorcoach roofs during a rollover to prevent ejection of passengers. NHTSA concluded that more information needs to be gathered before any new regulations are adopted.

The Rise of "Curbside Operators"

Curbside operators are low-fare motor coach companies that operate fixed-route, intercity bus service, primarily, but not exclusively, between cities along the Northeast Corridor. These carriers pick up and drop off passengers on the street rather than in traditional bus terminals. These carriers are also referred to as "Chinatown buses" since these carriers began by serving Asian communities along the Northeast Corridor, transporting restaurant and other workers between the Chinatown neighborhoods of cities. Many of the operators continue to originate and terminate in these sections of cities. Due to the popularity and expanded ridership of these low-cost carriers, additional curbside bus companies have emerged.

In March 2006, the Subcommittee on Highways, Transit and Pipelines held a hearing on curbside operators. At the hearing, FMCSA testified that according to the agency's safety scoring system, many of these carriers consistently rank far worse in safety compliance than other bus companies. Based on this data, and media accounts of safety violations by these carriers, FMCSA conducted a week of surprise inspections of 400 buses in October 2005. This sweep revealed more than 500 safety violations, including defective brakes, serious maintenance problems, driver hours-of-service violations, and excessive speeding.

In addition to the poor safety record of many curbside carriers, the hearing also highlighted that these carriers are not in compliance with ADA accessibility regulations, largely due to the high cost of having to purchase new lift-equipped buses, or to retrofit old buses. According to recent media reports, these companies continue to routinely deny boarding to passengers in wheelchairs because they cannot accommodate them. They also deny boarding to passengers who are blind because they refuse to allow seeing-eye dogs on board. FMCSA has maintained that the agency does not have jurisdiction over the enforcement of ADA regulations, and does not consider a curbside company's compliance

with these regulations in determining fitness to operate. Last year, Peter Pan Bus Lines sued FMCSA for failing to enforce accessibility regulations. In December 2006, the U.S. Court of Appeals for the D.C. Circuit vacated FMCSA's decision to refuse to consider one curbside carrier's lack of compliance with DOT's ADA regulations. The case has been sent back to FMCSA, and the agency is in the process of reviewing the statute but has not determined how the Court's decision will impact its regulatory activity.

Recent Accidents and NTSB Recommendations

On March 2, 2007, a bus carrying a college baseball team plunged nearly off an overpass in Atlanta, Georgia. Investigators indicated that the bus was traveling southbound in the high-occupancy vehicle lane of Interstate 75, and mistook a left exit ramp for a through lane. The driver drove up the ramp to an overpass, past a stop sign, slammed into a concrete barrier, flipped, and fell 30 feet to the pavement below. The crash killed seven people and injured 29 others, many of them critically. Although the NTSB has not finished its investigation, poor design of the exit has been noted as a contributing factor in several other accidents that have occurred at this location.

On February 14, 2003, a motorcoach carrying a church group from Temple to Dallas, Texas, crossed the median of the road, hit an oncoming vehicle and tipped on its side after the driver attempted to stop quickly in heavy rain. Five passengers in the motorcoach died as a result of the accident, as well as the driver and a passenger in the vehicle that the motorcoach hit. In response to this accident, earlier this month, a jury in Texas held the bus manufacturer, Motor Coach Industries, liable for failing to install seat belts and laminated glass in their vehicles. Motor Coach Industries is planning to appeal this decision. Neither of these safety features is required by federal regulations and installation of seat belts was not included as recommendation in NTSB's report on this accident.

On September 23, 2005, 44 residents of an assisted living facility near Houston, Texas, were being evacuated to move out of the path of Hurricane Rita when a fire started in the right wheel tire hub. A passing motorist notified the bus driver of a problem, but by the time the driver pulled over and got out of the bus to inspect the problem, flames were already radiating from the right-rear tire wheel. As a result of the fire, 23 passengers were fatally injured, two were seriously injured, and 19 received minor injuries.

NTSB determined that the cause of the fire was insufficient lubrication of the right-rear axle wheel bearing. In addition, NTSB determined that the operator of the motorcoach, Global Limo, had failed to conduct proper vehicle maintenance, pre-trip driver inspections, and post-trip driver reports. Prior to the accident, Global Limo had undergone both state and federal safety inspections and received a "satisfactory" rating despite having numerous safety violations noted in the inspections. One of the 22 conclusions NTSB drew from this investigation was that the FMCSA's compliance review system is inadequate in detecting and preventing unsafe motor carriers from operating. Among its many recommendations, NTSB has suggested that FMCSA adjust the compliance review process to ensure that all violations are factored into a carrier's final rating.

Curbside bus companies have also been involved in a number of high-profile accidents in the last few years, and one carrier, Fung Wah, has a high rate of incidents. In 2005, there were two bus fires involving curbside companies, one of which was a Fung Wah

bus traveling to New York from Boston. In September 2006, a Fung Wah bus rolled over in Auburn, Massachusetts, injuring 34 passengers. On January 3, 2007, a Fung Wah bus lost its two back wheels early on a trip to New York. On February 14, 2007, a Fung Wah bus on the way to New York from Boston was involved in a minor accident during a winter storm. The driver lost control and hit a guardrail on the Massachusetts Turnpike (I-90) in Allston, Massachusetts. To date, the NTSB has not investigated any accidents involving curbside operators.

WITNESS LIST

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