

TESTIMONY

DALE N. KRAPF

CHAIRMAN OF THE BOARD

KRAPF GROUP, INC.

HOUSE TRANSPORTATION AND INFRASTRUCTURE

COMMITTEE

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

“FAST ACT IMPLEMENTATION:

MOTOR CARRIER PROVISIONS”

MAY 22, 2018

10:00 A.M.

1 Chairman Graves, Ranking Member Norton, Chairman Shuster, Ranking Member
2 DeFazio, and Members of the Subcommittee, on behalf of Krapf Group, Inc. (Krapf
3 Group) and the school bus and motorcoach industry I proudly represent, thank you for
4 calling this hearing today and the invitation to testify. This Committee has a long and
5 distinguished record of promoting safety on our roadways, which is an important
6 component in our nation's public discourse on the best practices to achieve safe and
7 efficient travel on our highways while also promoting a thriving passenger carrier
8 industry.

9 The Krapf Group is a family-owned and operated passenger transportation business
10 established in 1942 by my father, George Krapf, Jr., to provide pupil transportation for
11 local municipalities. Beginning with two school buses, the company has grown, not only
12 in size, but also in scope and diversity. The Krapf Group is now one of the largest
13 private providers of contracted school bus transportation in the nation, with operations in
14 Pennsylvania, Delaware, Virginia, New Jersey and New York. Additionally, the Krapf
15 Group also operates public transit services under contract as well as interstate
16 motorcoach services. The company just celebrated its 75th anniversary. Along with
17 representing the Krapf Group today, I am also representing the views of the National
18 School Transportation Association (NSTA) as its former President, and the United
19 Motorcoach Association (UMA) as its immediate past Chairman.

20 NSTA is the trade association representing private school bus companies that provide
21 school bus service to school districts under contract. NSTA members provide one third
22 of the nation's school bus service. UMA is North America's largest association of
23 professional bus and motorcoach companies that provide private charter, tour and fixed
24 route services.

25 According to USDOT statistics, the school bus and motorcoach industries are the safest
26 of all modes of transportation. Motorcoaches and school buses operate in an array of
27 road and highway environments where approximately 37,000 fatalities occur annually,
28 and that number is rising (National Highway Traffic Safety Administration (NHTSA) 2016
29 data). In the midst of this environment, the school bus industry averages 5 or less
30 occupant fatalities annually and the motorcoach industry less than 20 occupant
31 fatalities; both representing less than 1/10 of 1 % of the annual fatality toll. This
32 remarkable safety record is no small achievement and requires vigilance and safe
33 practices from the men and women that drive, maintain, own, operate and manufacture
34 our equipment, as well as the men and women that enforce traffic safety laws on our
35 Nation's roads and highways. The U.S Department of Transportation's National
36 Highway Traffic Safety Administration (NHTSA) and the Federal Motor Carrier Safety
37 Administration (FMCSA) play an important role in ensuring this safety record continues.
38 I recommend for the Committee's consideration, the findings of an independent review
39 team, appointed by former Secretary of Transportation Anthony Foxx, which made
40 recommendations that would likely lead to a higher degree of industry safety by
41 suggesting that FMCSA assume the role as a "facilitator of safety," similar to the role the
42 Federal Aviation Administration assumed in 1997, which has led to a remarkable
43 reduction in commercial aviation fatalities.¹

44 In December 2015, Congress passed the FAST Act. This timely legislation contained
45 critical policy elements that began to correct regulatory overreach that was suffocating
46 investment, growth, and employment in the school bus and motorcoach industry, but
47 doing little, if any, to improve safety. NSTA and UMA thanks this Committee and
48 Congress for this important legislation, which has been critical to the survival and
49 thriving of the passenger carrier industries.

50 Prior to the passage of the FAST Act, the FMCSA was proposing to raise the financial
51 responsibility limits previously established by Congress, despite the lack of compelling
52 evidence demonstrating current minimum limits were insufficient. With the knowledge
53 that these limits can be used as a barrier to new entrant companies and burden small
54 fleet operating companies, this Committee and Congress wisely directed the Secretary
55 to implement two comprehensive reports before proceeding to change current minimum
56 insurance limits. For the passenger carrier industries, the halting of the Administration's
57 push to raise financial responsibility to unreasonable levels while demonstrating a stark
58 lack of understanding of the impacts on passenger carriers was of the utmost
59 importance. Without your action, the push to quadruple limits would have devastated
60 both the school bus and motorcoach industries. The FAST Act mandated one study
61 under Section 5509 (Section 5509 study) to include: a review of accidents, injuries and
62 fatalities in over-the-road bus and school bus industries, a review of insurance held by
63 over-the-road bus and public and private school bus companies, including companies of
64 various sizes, and an analysis of whether such insurance is adequate to cover claims,
65 an analysis of whether and how insurance affects the behavior and safety record of
66 motor carriers of passengers, including with respect to crash reduction; and, an analysis
67 of the anticipated impacts of an increase in financial responsibility on insurance
68 premiums for passenger carriers and service availability. The provision requires
69 consultation with representatives of the over-the-road bus and private school bus
70 transportation industries, insurers of motor carriers of passengers, and representatives
71 of bus drivers. A second study was also mandated under Section 5517 of the FAST Act
72 (Section 5517) and required an analysis of (1) the differences between State insurance
73 requirements and Federal requirements; (2) the extent to which current minimum levels
74 of financial responsibility adequately cover—(A) medical care, (B) compensation, and

75 (C) other identifiable costs; and, (3) the frequency with which insurance claims exceed
76 the current minimum levels of financial responsibility. The Section 5517 study was
77 issued in March of 2018; however, to our knowledge the Section 5509 study has not yet
78 been initiated. We trust that FMCSA will take a very deliberate approach when initiating
79 the study as the financial responsibility limits issue remains central to our industries and
80 their future growth in meeting the needs of the public we serve. Please note that both
81 NSTA and UMA support a provision in H.R. 2120, Buses United for Safety, Regulatory
82 Reform and Enhanced Growth for the 21st Century Act (BUSREGS-21), introduced by
83 Subcommittee Member Rep. Scott Perry, that would return the establishment of
84 financial responsibility limits to Congress instead of by agency regulation, similar to
85 every state legislature in the nation.

86 Supported by a Government Accountability Report,ⁱⁱ Congress listened to the industry's
87 concerns regarding FMCSA's much anticipated Compliance, Safety and Accountability
88 (CSA) program, its inadequacies and inaccuracies, and directed the Secretary to reform
89 the program, another important provision in the FAST Act. The first step was to have
90 the program reviewed by the National Academies of Science (NAS). The NAS indeed
91 discovered significant room for improvement and provided extensive recommendations
92 and guidance. The FMCSA has held one stakeholder meeting on the Academy's
93 recommendations last summer but has not held any other dialogue with the passenger
94 carrier industry. Again, we trust that FMCSA is incorporating the recommended reforms
95 and we genuinely hope the industry will have more opportunities to weigh in before a
96 finished product is unveiled. We also hope any new program will represent an accurate
97 and fair assessment of motor carriers and an effective tool for assessing the safety
98 culture of an operator and for those charged with enforcing federal regulations.

99 An issue near and dear to my heart relates to how accidents are reported on federal
100 records in which the motor carrier contributed nothing to the accident. While one of our
101 Krapf buses was sitting at a red light - a car struck the rear of the bus at a high rate of
102 speed. Unfortunately, the driver lost her life and was later determined to be driving while
103 intoxicated. The Krapf bus that was rear-ended in that incident did not contribute to the
104 accident. Yet, a fatality was assigned to our company's record, posted on FMCSA's
105 website, and was visible to the public for two years. A large part of our identity and
106 success stems from our reputation. A blemish on our outstanding record of safety from
107 the reporting of the accident on the federal records, which was not caused by the Krapf
108 Group, is unwarranted and an inappropriate assignment of fault. I ask each of you to
109 consider the effects of a bureaucratic statement on your record that wrongfully reflects
110 negatively on your company. We had no recourse at the time. I am pleased to report
111 that as a result of passage of the FAST Act, the FMCSA has finally established a
112 procedure for removing those crashes that were not preventable by the motor carrier. I
113 applaud the Congress for their action and FMCSA for quickly adhering to the legislation.

114 One particular area of disappointment in the FAST Act was that this Committee, and
115 Congress, mandated that information regarding analysis of violations, nonpreventable
116 crashes, alerts, or the relative percentile for each BASIC developed under CSA, must
117 be removed from public view for property carriers until the Inspector General certifies
118 that all recommendations cited by the NAS are complete. This Committee and
119 Congress allowed FMCSA discretion to continue displaying BASIC information for
120 motorcoach operations. FMCSA extended that policy to all passenger carriers, including
121 school bus operations, which NSTA believes violates the specifics of the statute. So,
122 while Congress and industry mutually agree the current CSA program is flawed and not
123 a valid tool for consumers to make a credible safety evaluation of a particular company,

124 passenger carrier customers continue to be exposed to this erroneous information,
125 which can lead to unfair and flawed perspectives on of a particular company. My own
126 company has experienced a loss of business because of this unnecessary decision.
127 UMA and NSTA seek this Subcommittee's assistance to correct this injustice and
128 remove information on passenger carriers from public view until all CSA reforms, as
129 dictated by the FAST Act, are completed. This provision is also included in HR 2120,
130 BUSREGS-21, Congressman Perry's bill.

131 We applaud you for including in the FAST Act a provision assessing the Secretary to
132 submit a report of actions the Secretary is taking to ensure that each application for
133 registration under 13902 is processed not later than 30 days after the date on which it
134 was received. This was in response to FMCSA's extreme delays in approving new
135 entrant applications. Over the last ten years, the motorcoach industry has declined in
136 size and scope, including the number of companies in business and the number of
137 motorcoach units. New entrants are vital to growth and survival of the industry and the
138 unreasonably slow approval of applications played a role in this industry contraction. We
139 are most pleased to report that the process that was previously taking four to six
140 months, often even longer, is now considerably less than thirty days. We hope this
141 change will result in our industry seeing new life and begin to grow once again.

142 The FAST Act mandates that over-the-road buses be afforded equal access to toll
143 facilities and high occupancy lanes. We applaud this Committee and Congress for this
144 provision that serves to further level the playing field so that all vehicles that provide
145 public transportation are treated equally. While school buses do not travel on toll lanes
146 and high occupancy lanes often, they do when providing school field trips, athletic trips
147 and other charter work. NSTA seeks the Committee's support for school buses to be
148 included in this treatment. Toll facilities and high occupancy lanes across the country

149 routinely treat public transit differently, so it is very difficult for operators to have a clear
150 view of which facilities are toll-free or require reduced or no tolls. We seek support from
151 Congress to instruct the Federal Highway Administration (FHWA) to require all public
152 authorities operating facilities subject to Section 129 to set out the rates, terms and
153 conditions for use of their facilities as they apply to public transportation buses and to
154 over-the-road buses. Neither the industry nor FHWA currently have any means of
155 determining compliance with Section 1411. Additionally, FHWA should identify the
156 public authorities operating Section 129 facilities and responsible for HOV/HOT facilities
157 under Section 166, so that over-the-road bus companies can determine their correct
158 treatment.

159 Section 5202 of the Fast Act mandates that within each regulatory impact analysis of a
160 proposed or final major rule issued by the FMCSA, the agency should consider the
161 effects on different segments of the motor carrier industry; formulate estimates and
162 findings based on the best available science, use data that is representative of motor
163 carriers that will be impacted by the proposed or final rule; and, consider the effects on
164 motor carriers of various sizes and types. NSTA and UMA commends this Committee
165 and Congress for this provision, as regulations appropriate for trucks are too often
166 inappropriate for motorcoach and school bus operations. Both associations believe that
167 for rules that impact both trucks and buses, a separate cost-benefit analysis should be
168 required for the passenger carrier industry. This provision is also included in HR 2120,
169 BUSREGS-21, Congressman Perry's bill.

170 The FAST Act also directed the establishment of an advisory committee known as the
171 National Advisory Committee on Travel and Tourism Infrastructure to provide
172 information, advice and recommendations on matters relating to the role of intermodal
173 transportation in facilitating mobility related to travel and tourism activities. The

174 motorcoach industry is integral to the travel and tourism industry and can provide
175 unique perspectives and insights into the critical role modernized infrastructure
176 connects our economy. Initially, the advisory committee included a motorcoach industry
177 representative, but DOT has recently reduced the size of the advisory committee and no
178 longer includes representation by the industry. UMA seeks this Subcommittee's
179 assistance to press the Department to return a motorcoach industry representative to
180 the Advisory Committee for its important work.

181 We want to commend the Committee for preserving critical school bus transportation
182 and charter bus protections in the FAST Act. These protections ensure a level playing
183 field for private tax-paying companies like mine which cannot compete fairly with
184 Federally subsidized public transit in those areas.

185 In many states today, prospective drivers across the nation are incurring very long
186 delays to take their commercial driver's license (CDL) skills test. These delays are
187 frustrating a chronic industry driver shortage, hindering job and industry growth, and
188 impeding our efforts to serve the public. Section 5506 of the Fast Act (Section 5506
189 report) directed the Secretary to submit a report to Congress providing a state-by-state
190 analysis of CDL skills testing. The Section 5506 report has not yet been finalized.
191 Meanwhile, Rep. Duncan has introduced H.R. 4719, a bill that will require States to
192 execute CDL skills tests by hard deadlines and afford a sure remedy to this current
193 crisis. Both UMA and NSTA support this legislation and seek swift passage of the
194 common-sense reforms contained in H.R. 4719.

195 I'd like to touch on a few additional issues not directly related to the FAST Act, which
196 are important to the passenger carrier industry. While Congress may soon be
197 considering an infrastructure bill, I would be remiss if I did not mention an important

218 issue related to funding. The motorcoach and school bus industries support the goal of
219 improving our nation's surface transportation infrastructure and recognizes the need for
220 adequate funding. Currently, motorcoaches pay 7.4 cents per gallon of the 24.4 cents
221 per gallon Federal tax on diesel fuel and school bus operators do not pay any of the
222 diesel tax. The rationale for these exemptions centers on providing essential public
223 transportation while reducing congestion, road wear, pollution and fuel consumption.
224 This rationale is even more compelling today as it directly correlates to both industries'
225 ability to ensure passengers and communities have continued access to safe, reliable,
226 efficient and economical modes of travel. As Congress considers funding options for
227 infrastructure legislation, the total federal fuel tax exemption for school buses and the
228 partial motorcoach fuel tax exemption should be preserved. Should a new funding
229 mechanism be established, provision should be made for an alternative competitive
230 offset for school buses and motorcoaches.

231 Another issue that is periodically debated here in Congress and in the general public, is
232 the issue of seat belts in school buses. NSTA believes this issue is most appropriately
233 decided at the State and local level, where funding decisions for school bus
234 transportation are made and all ramifications of a decision to mandate belts can be fully
235 examined. School bus transportation is the safest mode of transportation, above all
236 other modes, according to DOT's own statistics. NSTA is dedicated to ensuring this
237 safety record continues and that as many children as possible have access to the
238 extraordinary mode of transportation to and from school. Children who travel to school
239 by walking, bicycle, parents' or friend's car, or driving themselves have crashes and
240 fatalities at far higher rates than in a yellow school bus, with or without belts. NSTA
241 stands with the NHTSA, which over a 30-year period has refused to mandate belts at
242 the federal level due to the fact that it would force more children into more unsafe

223 modes of transportation as communities are compelled to make difficult budget
224 decisions.

225 Finally, the 103rd Congress passed the Federal Aviation Administration Authorization
226 Act of 1994 (Aviation Act). The Aviation Act included important reforms providing
227 consumers unfettered access to charter bus providers. These important provisions
228 provided common sense restrictions prohibiting political subdivisions from requiring
229 permits for passenger carriers, leaving regulation of charter buses solely in the federal
230 realm for the sake of interstate commerce. For nearly two decades consumers and
231 charter service providers enjoyed the absence of burdensome filings and expensive
232 fees. Over time, court decisions centering on unintended loopholes in legislative
233 draftsmanship has eroded the original intent of Congress and now industry and
234 consumers alike are facing a panoply of political subdivision permitting schemes that
235 are causing charter bus providers to withdraw from service in certain markets. We call
236 on Congress today to clarify the original intent of the 1994 statute to restore the federal
237 exception that ensures consumers continue to have access to safe, affordable and
238 efficient charter bus transportation.

239 Mr. Chairman, Ranking Member Norton, the important motor carrier policies enacted in
240 the FAST Act were just in the nick of time. The passenger carrier industry was
241 struggling under the burden of increasing regulation without any positive impact on
242 improved safety. The overwhelming onslaught of regulations was causing the
243 motorcoach industry to dramatically shrink in the number of companies serving the
244 public, their fleet size, and perhaps most alarming, the number of annual passenger
245 trips afforded the public--shrinking by approximately 20% in just a decade.

246 The Nation needs and deserves a thriving passenger carrier industry supported by
247 regulations that actually improve safety, and do not unduly burden and discourage
248 motor carriers with endless paperwork, placing motor carriers needlessly out-of-
249 business, or place impediments to new entrants that often prove to be the innovators for
250 the next generation of motor carriers. We appreciate the approach of the new
251 administration to further address comprehensive regulatory reform to provide needed
252 relief to the industry.

253 On behalf of the Krapf Group, the National School Transportation Association, and the
254 United Motorcoach Association, thank you for the comprehensive reforms contained in
255 the FAST Act, your continued support for regulatory reform and this unique opportunity
256 to testify before this Committee. I look forward to answering any of your questions.

ⁱ “Blueprint for Safety Leadership: Aligning Enforcement and Risk”, Independent Review Team Appointed by Secretary of Transportation Anthony R. Foxx, July 15, 2014.

ⁱⁱ In February 2014, the U.S. Government Accountability Office (GAO) recommended FMCSA revise the SMS methodology in CSA to better account for limitations in drawing comparisons of safety performance information across carriers. Additionally, GAO recommended a determination of a carrier’s fitness to operate should take into account limitations in available performance information. Federal Motor Carrier Safety Modifying the Compliance, Safety, Accountability Program Would Improve the Ability to Identify High Risk Carriers (GAO-14-114). GAO was directed by the Consolidated Appropriations Act of 2012 to monitor the implementation of CSA. Actions Are Needed To Strengthen FMCSA’s Compliance, Safety, Accountability Program (MH-2014-032). In October 2012, the Chairman and Ranking Member of the House Transportation and Infrastructure Subcommittee on Highways and Transit requested that the IG evaluate FMCSA’s CSA program. The objectives were to assess FMCSA’s data quality controls and its enforcement intervention mechanisms.