



Testimony of Peter J. Pantuso, President and CEO

American Bus Association

Before the

United States Senate Committee on Commerce, Science and Transportation

Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security

“Ensuring the Safety of our Nation’s Motorcoach Passengers”

253 Russell Senate Office Building

3/30/2011

2:30 pm

Mr. Chairman and Members of the Subcommittee, my name is Peter J. Pantuso and I am the President and CEO of the American Bus Association. The ABA is the trade association for the private motorcoach industry. The ABA is home to over 800 bus operating companies, and 60% of all private motorcoaches on the road, who provide all manner of transportation services to the public. In addition to scheduled service operations provided by companies such as Greyhound Lines, Peter Pan Bus Lines headquartered in Massachusetts, Bolt Bus, Megabus, Academy Bus Lines in New Jersey and Jefferson Lines in Minnesota, ABA members such as Capitol Bus Lines in Columbia, South Carolina; Abbot Trailways in Roanoke, Virginia and Cav’s Coach Company in Charleston, West Virginia provide charter and tour services, airport shuttle services and commuter services throughout the United States and Canada. In total the private bus industry and provided 760 million passenger trips in 2008. In addition, ABA members also include an additional 3000 member companies which provide motorcoach passengers with services. These members include tour operators, tourist attractions, destinations, hotels, restaurants, bus manufacturers and those companies that serve bus manufacturers and bus companies.

On behalf of the ABA’s membership I would like to thank you, Mr. Chairman, for having this hearing. The fight to make bus travel safer is one that the ABA has been in the forefront of for many years. Over the last six years I and other ABA staff have testified several times before Congress on this issue and what is required to make bus travel safer. Early in 2006 ABA staff toured lower Manhattan with the New York City Police Department for a first- hand look at intercity bus service to and from the City.

I have to note that the bus industry is one of the safest modes of transportation. The National Safety Council in its report “Injury Facts 2011” notes that the intercity bus transportation accident death rates for

the years 2006-2008 (the latest year statistics were available) was 0.03 per 100 million passenger miles, which is twenty times safer than travel by passenger car. Of course, as you rightly point out, even one fatality is too many and we all must do everything we can to improve bus travel. ABA is ever mindful that it is not only our customers who ride our buses, but our neighbors, family, employees and friends.

Mr. Chairman, as indicated above, ABA's proposals for increased bus safety are long standing. Almost exactly six years ago in a published letter to the Editor of the newspaper "Roll Call" (April 4, 2005) I noted that "not all bus companies are alike" and that customers had to beware of "...unsafe operators ... who do not follow federal and state requirements, have improper registration, insurance and shoddy maintenance and do not provide (lawfully mandated) service to disabled passengers...". (A copy of my letter is appended to this testimony). Of course barely a month later, a Washington Post columnist extolled the virtues of what was obviously an unsafe operator whose driver cheerfully broke several federal and state laws while transporting the columnist to New York City. I mention this to ensure the Committee that the Committee's frustration on the issue of unsafe passenger carriers mirrors ABA's frustration.

ABA continued, and continues today, to beat the drum for more, and more effective bus safety regulation and particularly enforcement. In the spring of 2006 I testified at a House Transportation and Infrastructure Committee hearing on bus safety and ADA regulatory compliance. At that hearing I detailed the deficiencies of certain bus operators in addition to failure to abide by the ADA. Among the issues raised at that time were the lack of a procedure to test the validity of drivers' commercial driver's licenses (CDL); the lack of some drivers' ability to understand or speak English and even understand the traffic laws.

In addition, ABA was an early and enthusiastic supporter of the September 2009 United States Department of Transportation's Motorcoach Safety Action Plan. ABA believes in strengthening State bus inspection programs, enforcing the medical qualifications of drivers as well as contributing to their well-being. ABA agrees with the necessity of continuing research in fatigue issues relating to motorcoach drivers and in using technology to enhance motorcoach safety whenever possible.

Since 2005 I and ABA staff have testified on bus safety before the House of Representatives, this Committee (September 18, 2008) as well as other state and local political authorities, including the New York City City Council (October 12, 2006) on bus safety. In all our testimony our conclusions have been consistent. There is an unfortunate lack of money and other resources, as well as inconsistent enforcement of the existing safety regulations. It has been, in the past, too easy for carriers that have been closed down for safety violations to reopen down the street with a new name but with the same management and same lax safety attitude, although, the current FMCSA Administration has worked diligently to close this loophole. Many of the issues ABA raised in 2005 have recently begun to be addressed but overall it is still too easy for financially marginal individuals to obtain authority to operate; and it is too easy for individuals to obtain and keep a commercial driver's license. Since 2005 the ABA has advanced specific proposals that if implemented will lead to a safer industry.

First, the lack of consistent and adequate enforcement of current federal regulations concerning bus operators must be addressed. We agree with Secretary LaHood and the Motorcoach Safety Action Plan when it declares that: "A robust compliance and enforcement program is critical to ensuring the motorcoach carriers operate safely." (U.S. DOT Motorcoach Action Plan, pg. 26). ABA does applaud the FMCSA for some of its enforcement actions, for example a 2005 "sweep" of 400 bus companies by a combined federal, state

and local task force here in Washington, D.C. led to the agency placing 56 buses and 13 drivers out of service. ABA also welcomed the New York City Police Department's effort to inspect, ticket and, if need be tow buses away, in the wake of the recent tragic accident in the Bronx and in New Jersey. But such enforcement actions while appropriate are too rare. Enforcement is the most vital factor because a review of the data shows that 54% of all motorcoach fatalities in the last decade (1999-2009) were accidents of either unsafe or illegal carriers. In other words, over half of fatalities in the last ten years have been the result of bus operators that should have never been allowed to operate under current federal regulations or bus drivers who never should have been allowed to operate a vehicle. These fatalities could have been avoided through stronger enforcement.

In light of this, FMCSA needs additional staffing and money to inspect bus operators, and in some instances the money for commercial motor vehicle (CMV) inspections should be reallocated. Funding for CMV inspections are largely funded via the federal government's Motor Carrier Safety Assistance Program (MCSAP). This program was established by section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31142) to provide funds for States to inspect commercial motor vehicles (CMVs). While the program prescribes federal standards for annual inspections of CMVs the States are largely required to complete the inspection or use a State inspection program that is comparable to, or as effective as, the federal inspection requirements. However, most states use the bulk of MCSAP funds to inspect trucks. Indeed, an ABA analysis of CMV inspections demonstrates that between FY 2005 and FY 2009 there have been fewer than 200,000 combined bus vehicle and driver inspections for out-of-service violations annually, compared with over five million combined truck vehicle and driver inspections each year. That is that one out of every twenty-four inspections involved a motorcoach. Last year ABA submitted a proposal to Congress that a certain percentage of MCSAP funds be specifically allocated for bus inspections and that States certify this use to the U.S. Department of Transportation. We renew that recommendation here (a copy of that ABA recommendation and our analysis of the FMCSA/MSCAP inspection data is appended to my testimony).

In lieu of additional staffing for more bus inspections ABA recommends FMCSA hire third party inspectors for the task. ABA has also long recommended this step. The Department of Defense (DOD) has a rigorous bus inspection program which is accomplished by third party inspectors. The DOD program is considered by the motorcoach industry to be the most comprehensive. In addition, FMCSA should adopt the results of a DOD inspection as satisfying the FMCSA inspection regime. As it is many ABA members are inspected by, and approved by, both agencies. It appears to ABA that one clearance should be satisfactory, thus freeing resources for other inspections. We have requested this for over a decade as a way to reduce the burden on FMCSA's current resources.

Second, and related to the first recommendation, ABA recommends that a portion of MCSAP funds be withheld from states if those states are unable or unwilling to implement a bus inspection program that meets federal program standards. As it stands now, perhaps eight states have active and, in ABA's view, effective bus inspection programs and less than half of the states have any bus inspection program at all. This inequity must end. If you agree that inspection is a key component to enforcement then you have to agree that more inspections are warranted here. And bus inspection programs must be uniform. We have to ensure that unscrupulous bus operators cannot move from a "high" enforcement state to a state with a less effective bus inspection program for the purpose of defying safety.

Third, we must raise the safety bar on who can become a passenger carrier operator. As it stands now all one needs to get passenger carrier operating authority is an application fee of \$300.00, proof that you have an agent for service of process, proof that you are willing and able to comply with applicable ADA requirements and evidence that your company has the requisite minimum five million dollar liability insurance policy. The applicant submits this information to the FMCSA and the agency issues your operating authority. Thereafter, the agency (within 18 months) will visit your facility and determine your fitness to continue operations. Here the agency has made gains by reducing the time for a bus safety audit to four months. But here again ABA believes more can be done. Our members would like to see some kind of inquiry into the fitness of an operator before that individual is granted authority to operate. We fully support the application of a written test and interview of perspective new entrants into the bus industry. ABA has also called for a safety audit to begin within 45 days of authority being granted so that once equipment is purchased and drivers are hired federal inspectors can review operations before they have begun in earnest.

Fourth, with respect to the CDL process for passenger carrying drivers, ABA believes that the Congress should explore requiring an applicant background check before a state can grant a CDL. Specifically, this background check would verify the information required under the "Background and Character" section of 49 CFR Part 391.21. That section requires verification of the applicant's identity and any drug and alcohol violations, verification of the applicant's work permit (if any) and history and a review of the applicant's driving history for suspensions or disqualifying conditions.

Fifth, after the Secretary has issued an out-of-service order against a motor carrier of passengers and has determined that the carrier presents an imminent safety hazard, the Secretary will notify the state MCSAP lead agency of the out-of-service order. After which the MCSAP lead agency will ensure that the carrier has ceased operations and if the agency finds a violation of that out-of-service order the lead agency will seize the license plates of the vehicle. Alternatively, FMCSA should have the authority to shut a company down, pull the plates off of and impound the vehicles.

Finally, ABA recommends that FMCSA undertake with ABA the development of a brochure that will explain the bus industry to consumers and lay out how to contract for motorcoach service. Part of our safety problem is the lack of information available to explain what a consumer should look for in a motorcoach company.

I would like to address Senator Hutchison's point about the necessity for seat belts in motorcoaches. ABA and its members do not oppose seat belts on new buses just as we do not oppose standards for advanced window glazing, roof strength standards, requiring electronic on board recorders (EOBRs) or deciding whether additional emergency egress options are necessary. ABA believes in testing and through appropriate engineering integrating implementation. Our comments submitted to the National Highway Traffic Safety Administration (NHTSA) on the proposed seatbelt regulation could not be any clearer on the point that we support seat belts in new buses. However, crash testing was first needed to determine what kind of belt, seat design and anchorage was required to actually save lives. Testing that we requested NHTSA undertake over a decade ago. A loaded 45 foot coach weighing almost 52,000 pounds creates a far different crash environment than that of an automobile. On integration of other vehicle enhancements like roof strength and window glazing, our industry engineers believe that the motorcoach must be viewed as a system in which one enhancement does not interfere or degrade the effectiveness of another. Testing and engineering and safety analyses must be completed on all structural changes to the vehicle to ensure that we

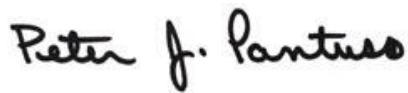
do not cause greater problems in different accident scenarios by the changes we make to one part of the vehicle. NHTSA's discretion to adopt new standards should not be compromised in our view.

Last Congress, ABA, the Amalgamated Transit Union (ATU), Greyhound Lines and other industry groups and companies, supported a bill (HR 1135) that would have required NHTSA to research safety issues concerning roof strength, emergency egress, fire prevention and suppression, window glazing and seat belts and if required issue regulations concerning those safety items. This Committee reported out a similar bill, S.544.

I must say that S.544 differed from the ABA supported bill largely in the time given the agency to promulgate the needed regulations and the number of issues NHTSA would have been required to complete in an accelerated time frame. I will only say that safety, in the form of seat belts or new windows or adding an exit to a bus cannot just be "added" to any vehicle. As it did with seat belts NHTSA must have the time to research the problem before advancing solutions to it. What is crucial is that any new systems or mandates be engineered into the bus as it is being manufactured for proper use and effectiveness. That said ABA hopes to work with Senator Hutchison and the other members of the Committee to ensure that safe buses are the end product.

Thank you Mr. Chairman, I will answer any questions you or any of the members of the subcommittee may have for me.

Respectfully submitted

A handwritten signature in black ink that reads "Peter J. Pantuso". The signature is written in a cursive, slightly slanted style.

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