



# Commercial Vehicle Safety Alliance

promoting commercial motor vehicle safety and security

**STATEMENT OF  
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**BEFORE THE  
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE  
ON  
“HOW BEST TO IMPROVE BUS SAFETY ON OUR NATION’S HIGHWAYS”**

**JUNE 13, 2011**

## House T&I Committee: CVSA Written Testimony Filed with Committee

Chairman Mica, Ranking Member Rahall, Members of the Committee, thank you for holding this hearing on how best to improve bus safety on our nation's highways. I am Major David L. Palmer from the Texas Department of Public Safety. I am testifying here today in my role as Vice-President of the Commercial Vehicle Safety Alliance (CVSA). CVSA is an organization of state, provincial and federal officials responsible for the administration and enforcement of commercial motor carrier safety laws in the United States, Canada and Mexico. We work to improve commercial vehicle safety and security on the highways by bringing federal, state, provincial and local truck and bus regulatory, safety and enforcement agencies together with industry representatives to solve problems and save lives. Every state in the United States, all Canadian provinces, the country of Mexico, and all U.S. Territories and Possessions are CVSA members.

I will address the following in my testimony today:

1. What State enforcement can do about bus safety
2. Putting bus safety into perspective
3. Additional Legislative and Regulatory changes that could improve bus safety

### 1. What State Enforcement Agencies Can Do

Mr. Chairman, at the outset, let me say that on behalf of CVSA and its members, we have pledged a renewed emphasis on bus safety. A step that we can immediately take is to lift the current restriction in the law that prohibits enroute roadside bus inspections. SAFETEA-LU enacted this restriction, and it has removed a critical tool designed to immediately identify driver and mechanical safety issues, hampering enforcement's efforts. We will commit to you that if this restriction is lifted we will immediately encourage all of our state members to put resources toward enroute bus inspections and to take aggressive enforcement action when warranted.

I want to call your attention to the results of recent bus safety strike forces that were ordered by a number of state Governors, with encouragement and assistance from FMCSA. They have resulted in a significant number of buses and drivers being placed out-of-service due to either mechanical or driver violations of federal motor carrier safety regulations. These strike forces generally included safety inspections at origin or destination locations. They typically do not occur randomly at roadside since that activity is prohibited by SAFETEA-LU. We are firm believers that many more lives could be saved and injuries avoided if enroute roadside inspections were permitted to allow states to conduct roadside inspections wherever and whenever necessary.

Last week CVSA held its annual Roadcheck enforcement blitz across the country, a 72 hour operation that allows us to have a focused effort on truck and bus safety

## House T&I Committee: CVSA Written Testimony Filed with Committee

inspections. Prevention, detection and deterrence of dangerous driving, unsafe vehicles and unscrupulous operators are the three principles of the Roadcheck campaign.

Speaking at the Roadcheck kickoff ceremony in Virginia, Col. Steve Flaherty, head of the Virginia State Police acknowledged that the limitation on the inspection of buses while they are en route prevented enforcement from targeting bus companies such as Sky Express Inc., the Charlotte based carrier operating the bus that crashed May 31 in Caroline County, Virginia north of Richmond. "If one (a passenger bus) drove by right now, there's not much we could do about it," Col. Flaherty said.

Since these so-called "curbside" operators such as Sky Express do not typically operate out of a fixed place of business, or terminal, the most effective way to inspect them is through a random enroute roadside inspection program.

### **2. Putting Bus Safety into Perspective**

Enforcement is a major component of bus safety, but not the only component. We need to put the broader issue of bus safety into perspective. It is our belief that improving bus safety will require the best efforts and cooperation of the Federal Motor Carrier Safety Administration (FMCSA) and the National Highway Traffic Safety Administration (NHTSA) at the federal level, those of us who work in state enforcement agencies, the passenger bus industry, brokers, community groups, transportation purchasers, educational institutions and the bus manufacturers.

When it is necessary to close down a passenger carrier operating illegally or under an out-of-service order, the full force and authority of FMCSA, in conjunction with state enforcement is necessary. When unscrupulous activities are discovered, criminal prosecution must be considered and pursued. When it comes to uncovering potential problems with passenger carriers — with respect to drivers and equipment, state enforcement and oversight is necessary through the inspection and audit processes. Finally, when it comes to specific safety standards such as crashworthiness, NHTSA must play a more aggressive role to implement safety belt and other safety systems, hopefully with the cooperation of both the passenger carrier industry and bus manufacturers.

Chameleon carriers are a significant problem that must also be dealt with more aggressively. FMCSA's vetting process has been an important tool in helping to identify and take action on those carriers who are "changing their stripes." FMCSA must be given the authority to transfer past safety performance activity from one carrier to another when it is discovered they are substantially the same operation. Also, FMCSA needs to work cooperatively with the states in this effort.

## House T&I Committee: CVSA Written Testimony Filed with Committee

FMCSA must also be given more authority over brokers. Companies that purchase transportation for a customer or customers need to be held accountable for not conducting the proper due diligence for safety. Brokers who are discovered not doing the proper due diligence and are hiring unsafe operators need to be shut down.

Another significant issue is that of bus fires. A Volpe Transportation Study completed in 2009 showed that a bus or motorcoach is lost to a fire every 2 days in the United States. Enforcement can help to mitigate this problem by conducting more roadside inspections, and in particular, having the ability to inspect brakes, tires and wheels where many of these fires are originating. There are other causes of fires such as engine compartment and electrical systems, and those with expertise in this area need to study the problem more carefully and implement countermeasures.

Just a week ago today, in the daily news in addition to many stories about the bus crash on I-95 in Virginia, there were reports of 4 other bus incidents around the country:

- A Bozeman, Montana newspaper reported that two charter bus drivers were charged with DUI while transporting a group of 7th graders to Yellowstone National Park.
- A New York Post news story reported “It looks like the highway to hell” on the Brooklyn-Queens Expressway, but miraculously nobody was hurt when the charter bus burst into flames.”
- Iowa Public Radio reported on a charter bus rollover that injured at least 14 in Southwest Iowa.
- An Alabama television station reported that 22 people, mostly Texas students, were injured in an I-10 crash involving a bus and a truck. The students were on their way from Del Rio, Texas to Disneyworld in Orlando, Florida.

We support the provisions in both the Senate and House Safety bills introduced in this session Congress, S. 453 and HR 1390 respectively, that require a safety audit and compliance review of all interstate passenger carriers and the ongoing requirement of (at a minimum) annual state-based safety inspection requirement for all commercial passenger carrying vehicles. Each state must also have a roadside bus inspection program that is appropriate for the needs of that state. FMCSA requires that as a part of a state’s Commercial Vehicle Safety Plan (CVSP), a state must specify and identify what activities they are implementing to enhance bus safety.

As you might expect, by directing more of their efforts toward bus safety, states face the potential need for additional resources and funding. What we don’t want to happen is by focusing more on bus safety and enforcement; it comes at the expense of other critical commercial vehicle safety and enforcement programs. Having said this, we are very aware of the new budget and fiscal constraints this Committee and Congress are under. While we have not yet seen your complete Reauthorization proposal, we expect

## House T&I Committee: CVSA Written Testimony Filed with Committee

you will be calling for more streamlining and efficiencies in program delivery. We are committed to these efforts as well.

### **3. Additional Legislative and Regulatory changes that could improve bus safety**

Unlike trucking companies, Inter-city passenger carriers have been exempt from any hours-of-service changes that have occurred in recent years. Based on the fact that driver fatigue seems to have been a contributing factor in a number of recent bus crashes, we recommend that FMCSA study whether the current hours of service rules for bus drivers are adequate, and if warranted based on the data and analysis, to propose any necessary changes. Over the last several years the industry had dramatically changed to accommodate new and changing patterns of inter-city bus travel, and the hours of service regulations must be able to ensure for the best regulatory framework to account for these changes while ensuring for an adequate level of safety.

While I have earlier stated that equipment safety standards are to largely be determined by NHTSA working with the bus industry and bus manufacturers, I would like to draw your attention to legislation currently pending in the House, H.R. 1706, the "Commercial Motor Vehicle Advanced Safety Technology Tax Act of 2009." It provides tax incentives for motor carriers to invest in safety technologies such as collision avoidance, lane departure warning, stability control, and brake-stroke monitoring systems. These technologies have been shown to work and can save lives and reduce injuries. We agree with the approach recommended by former National Transportation Safety Board Chairman, Mark Rosenker, that tax incentives be used to help minimize the upfront capital investment for carriers to invest in these technologies. Using this approach can have an immediate impact as carriers could take advantage of this right away, the day the bill is signed into law. Mandates can sometimes take years to finalize and implement.

In closing and to reiterate a previous statement, if Congress chooses to once again enable enroute bus inspections, CVSA will commit to assisting the States and FMCSA by immediately conducting enroute bus inspections, as well as continuing strike forces and other enforcement activities throughout the country. We believe this is the most appropriate and effective response to immediately impact bus safety.

Mr. Chairman, this concludes my remarks and I will be happy to answer any questions.