



A bold voice for transportation workers

April 11, 2016

Ms. Loretta Bitner
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

**RE: Motor Carriers of Passengers That Serve Primarily Urban Areas With High Passenger Loads
Notice of Information
Federal Motor Carrier Safety Administration
Docket No. FMCSA-2015-0481**

Dear Ms. Bitner,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to comment on the Federal Motor Carrier Safety Administration's (FMCSA) Notice of Information and Request for Comments entitled "Motor Carriers of Passengers That Serve Primarily Urban Areas With High Passenger Loads." By way of background, TTD consists of 32 affiliated unions that represent workers in all modes of transportation, including those who operate over-the-road buses and other commercial motor vehicles.¹ We therefore have a vested interest in this rulemaking.

Through this notice, FMCSA is seeking to define a "curbside bus operator" for the purpose of implementing section 32707 of MAP-21, which requires an annual safety fitness assessment of certain motor carriers of passengers that serve primarily urban areas with high passenger loads. The Agency has specifically identified curbside operators as the intended subject of that requirement, and proposes that these carriers should be defined as those that use 25% or more of their motorcoaches for operations involving pick-ups and drop-offs at curbside locations or parking lots.

TTD and our affiliates have long advocated for better oversight of curbside operators. While many carriers run legitimate operations, some take advantage of their unique characteristics and business models to circumvent safety rules and other standards putting drivers and passengers at risk. The passenger bus sector must be held to one standard of safety and curbside operators should not be

¹ Attached is a complete list of TTD's 32 affiliated unions.

Transportation Trades Department, AFL-CIO

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Edward Wytkind, President /Larry I. Willis, Secretary-Treasurer

allowed to operate unsafe vehicles, violate hours of service rules or avoid compliance with driver screening regulations simply because of where they pick up passengers. To combat this problem, TTD has supported FMCSA using its enforcement authority to deter violators and remove unlawful carriers from the roads. In 2013, we filed comments in support of the Agency's proposed rule concerning patterns of safety violations by motorcoach carriers and praised the Agency for cracking down on unsafe operations.² We appreciate FMCSA's continued efforts to ensure that curbside operators are doing so safely and lawfully.

With regards to this notice, TTD agrees with FMCSA's determination that Congress' intent in Section 32707 was to mandate increased oversight for curbside operators. Currently, all motor carriers must receive a safety fitness determination every three years, and it follows that Congress would expand to annual inspections for carriers with the poorest safety record and pattern of violations. This interpretation of the statute is also supported by the fact that the provision was offered by Senator Chuck Schumer (D-NY), who had called for better oversight of curbside operators, and had co-authored a letter in the lead-up to the passage of MAP-21 asking NTSB to expand its investigation of the fatal accident involving World Wide Tours, a curbside operator. The letter also requested that NTSB determine if additional regulation or enforcement against these entities was needed.³

While FMCSA appropriately focuses on these types of carriers, we believe that the definition and threshold of 25% as proposed does not capture some carriers and services which should be subject to the annual safety fitness determination. We endorse the comments filed by the Amalgamated Transit Union (ATU), a TTD affiliate, which state that FMCSA should ensure that definition covers medium-sized buses and large passenger vans and include operations that involve transferring passengers to and from curbside pick-up and drop-off locations. As these types of vehicles are increasingly used by curbside operators, FMCSA should ensure that they are also covered by the proposed definition. By doing so, the Agency can make sure that passengers are transported only in and by compliant vehicles and drivers. Putting aside the threshold determination, the Agency should use its general safety authority, codified at 49 U.S.C 113, to perform annual fitness determinations of specific curbside operations, regardless of the overall designation of the carrier.

Additionally, it is critical that FMCSA ensure that carriers who are subject to the annual safety inspection be identified as such when registering or renewing registration with the Agency. Some curbside operators have skirted safety regulations by participating in deceptive business practices such as "reincarnating" under a new name, or managing to avoid inspections due to the difficulty of locating motorcoaches that are not housed in a central terminal. We support FMCSA's proposal to require self-identification as a curbside operator, and encourage FMCSA to direct its enforcement personnel to aggressively pursue carriers who fail to do so.

² Patterns of Safety Violations by Motor Carrier Management, Notice of Proposed Rulemaking, 77 Fed. Reg. 67613-67624, November 13, 2012. TTD filed comments to the docket on January 15th, 2013.

³ Senator Chuck Schumer's letter to the NTSB, co-authored with Rep. Nydia Velazquez can be found attached.

Finally, we also endorse the recommendation of ATU and NTSB that FMCSA should consider requiring the annual assessment of the safety fitness of motor carriers engaged in curbside operations that do not primarily serve urban areas. We do not believe that curbside carriers that choose to operate in defiance of safety regulations only do so when serving intra-city routes, and therefore extending this requirement would be an appropriate use of FMCSA's general safety authority.

TTD applauds FMCSA for its correct interpretation of the statute and for its continued efforts to address issues concerning carriers who operate curbside services. We appreciate the opportunity to comment on the proposed definition, and we look forward to working with the Agency to continue to improve safety in the passenger motor carrier industry.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Wytkind', with a stylized, looping flourish at the end.

Edward Wytkind
President

TTD MEMBER UNIONS

The following labor organizations are members of and represented by the TTD:

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of Government Employees (AFGE)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
*International Brotherhood of Boilermakers, Iron Ship Builders,
Blacksmiths, Forgers and Helpers (IBB)*
International Brotherhood of Electrical Workers (IBEW)
International Longshoremen's Association (ILA)
International Organization of Masters, Mates & Pilots, ILA (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers' Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Aviation Safety Specialists (PASS)
Sailors' Union of the Pacific (SUP)
Sheet Metal, Air, Rail and Transportation Workers (SMART)
SMART-Transportation Division
Transportation Communications Union/ IAM (TCU)
Transport Workers Union of America (TWU)
UNITE HERE!
United Mine Workers of America (UMWA)
*United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service
Workers International Union (USW)*

Congress of the United States
Washington, DC 20515

Attachment 2

March 14, 2011

The Hon. Deborah P. Hersman
Chair National Transportation Safety Board
490 L'Enfant Plaza S.W
Washington, D.C. 20590

Dear Chairwoman Hersman:

We write to you regarding the recent fatal accident involving a low-cost curbside bus carrier to respectfully request the National Transportation Safety Board (NTSB) expand its investigation of the incident to review the possible safety risks that curbside bus carriers pose, the efficacy of current regulations for these carriers, and whether or not new regulations or better enforcement are needed. As you know, a bus operated by World Wide Tours was involved in a horrific crash in the early morning hours of March 12th that left 14 individuals dead and countless other injured. We are concerned that World Wide Tours and many other carriers are engaging in ongoing practices that may place riders in New York City and throughout the country at risk.

New York City is the primary transportation hub of the Northeast Corridor of the United States. Millions of vacationers and commuters travel into and out of New York every day via bus, rail, and car. In the last decade, intercity bus service has seen a significant increase in ridership across the Northeast Corridor, and New York City in particular, due to public demand for affordable travel.

The rising popularity of intercity bus travel is largely due to low-cost "curbside" carriers, which do not operate out of terminals like traditional bus services, but instead use city streets and sidewalks to drop off and pick up passengers. According to a recent New York City Department of City Planning study, curbside bus travel in the Chinatown area of Manhattan has increased significantly, producing more than 2000 arrival and departures weekly. This has led to numerous community groups expressing legitimate concerns regarding the safety and soundness of the curbside operators.

As you know, DOT regulations require bus operators to ensure passenger safety, adequately maintain buses and place strict requirements on driver qualifications. Unfortunately, the events of March 12th demonstrate a clear failure of the system which put the public in harm's way. For this reason, we believe that you should also examine the efficacy of current regulations governing low-cost curbside carriers and if further regulations or greater enforcement measures are needed to avoid future accidents that could needlessly place individuals in harm's way.

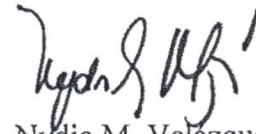
There is ample evidence that the incident involving World Wide Tours is not an isolated incident but rather just one example of an industry that, in many cases, is operating outside the bounds of city, state and federal transportation safety guidelines. As NTSB is aware, the company in question had two previous accidents that injured two individuals, and had a poor ranking for both vehicle maintenance and limiting drivers' hours.

The growth of curbside busing has placed unsustainable pressure on New York City's infrastructure and places New Yorkers at risk. As such, these violations create unsafe conditions not only in New York City and other cities in which these carriers operate, but also on the nation's highways. This is why we are requesting that the National Transportation Safety Board broaden its investigation to fully examine the current oversight system for low-cost curb side carriers and make recommendations to promote public safety.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Schumer". The signature is fluid and cursive, with a large initial "C" and "S".

Charles E. Schumer
U.S. Senate

A handwritten signature in black ink, appearing to read "Nydia M. Velázquez". The signature is cursive and stylized, with a large initial "N" and "V".

Nydia M. Velázquez
U.S. House of Representatives