



A bold voice for transportation workers

TIME TO CLOSE INTERCITY BUS DRIVER LOOPHOLE IN FAIR LABOR STANDARDS ACT

Too many intercity bus accidents are occurring across America due to chronically fatigued drivers who are exempted from federal overtime rules that encourage dangerously excessive hours. About 50 people and 1,000 innocent passengers die annually in bus accidents. We must do better by advancing common sense policy reforms that will make bus transportation safer for drivers and passengers.

Transportation unions praise the Obama Administration for its efforts to beef up bus safety inspections. In recent years, the Department of Transportation has carried out sting-like operations designed to remove unsafe operators from our highways. In the first eight months of 2013, FMCSA issued out of service orders to 25 bus companies, averaging nearly one order every week. And in May 2012 alone, the agency ordered 26 curbside bus operators out of service for posing imminent hazards. These efforts have raised the bar on what it means to operate safely in the U.S. intercity bus industry. But the trend line in this industry demands more federal action centered ensuring that bus drivers get compensated fairly for the amount of time they put in over 40 hours per week. Without reforms including changes to how the Fair Labor Standards Act (FLSA) is applied, bus drivers will continue to work excessive hours and the traveling public will be at risk.

The facts are stark:

- When an intercity bus crashes, especially when no other vehicles are involved, there is a high likelihood that the driver was badly fatigued or fell asleep behind the wheel.
- The National Transportation Safety Board (NTSB) finds that driver-related problems account for six in 10 intercity bus crash fatalities with driver fatigue being responsible for 36 percent of the fatalities.
- Unlike 85 percent of American workers, intercity bus drivers are exempt from overtime provisions of the Fair Labor Standards Act (FLSA), meaning they are denied time and half pay when their hours during a week exceed 40 hours. This incentivizes unsafe bus operations.
- The FLSA exemption puts a spotlight on a harsh reality: many bus drivers work grueling hours or hold second jobs during their alleged rest period to make ends meet. This correlation is undeniable as a study has shown that just a 10 percent higher base pay rate leads to a staggering 34 percent lower probability of a crash.



Hundreds of non-union intercity bus companies – typically small operations with only a few buses – are notorious for paying their drivers abysmally low wages. The labor standards found in this industry, at least partially a byproduct of the FLSA loophole, are reportedly forcing drivers to work up to 100 hours a week to make a living. This situation is intolerable and must be changed.

Transportation labor is committed to fixing this loophole and has been successful in doing so for other workers. This challenge is eerily similar to a similar problem in the flight attendant workforce, which for more than four decades was denied the OSHA safety and health protections that the overwhelming majority of Americans enjoy. The Obama Administration recently solved this issue with a formal clarification of policy that adopts certain OSHA protection for these safety professionals. Now it is time to end the grossly unfair FLSA exemption that is similarly leaving intercity bus drivers unprotected by a law that covers close to nine out of 10 American workers.

Senator Charles Schumer (D-NY) is the lead sponsor of S. 487, the Driver Fatigue Prevention Act, which advances a straightforward policy reform: pay intercity bus drivers, who perform safety-sensitive work on our nation’s highways, overtime when they work more than 40 hours.

Transportation unions are committed to advancing this policy reform. We will push this legislative fix and also engage the Obama Administration to embrace this policy change as a natural extension of its already extensive crackdown on unsafe bus operators.

We will not stand by idly and allow the nation’s bus companies to run sweatshops on wheels that are designed to squeeze every minute of drive time out of their drivers while dodging overtime pay and a living wage for these employees. This business model has proven to be a menace to the traveling public, killing people every year and forcing drivers to work dangerously excessive hours behind the wheel on our highways.

Policy Statement No. F13-04

Adopted October 29, 2013