



A bold voice for transportation workers

October 28, 2014

Ms. Theresa Hallquist
Analysis, Research and Technology Division
Federal Motor Carrier Safety Administration
Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**RE: Agency Information Collection Activities; New Information Collection
Request: The Impact of Driver Compensation on Commercial Motor Vehicle
Safety
Docket No. FMCSA-2014-0325
Federal Motor Carrier Safety Administration**

Dear Ms. Hallquist:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I write in response to the Federal Motor Carrier Safety Administration's (FMCSA) notice of a new Information Collection Request (ICR), "The Impact of Driver Compensation on Commercial Motor Vehicle (CMV) Safety." By way of background, TTD consists of 32 affiliate unions that represent workers in every mode of transportation, including those employed in the CMV industry. We therefore have a vested interest in this proceeding.¹ We also endorse the comments filed by the Amalgamated Transit Union (ATU).

Under this notice, FMCSA seeks feedback on its proposal to study whether a motor carrier's method of compensating its employees has unintended consequences on driver safety performance. Collecting data from online questionnaires completed by property-transporting motor carriers, FMCSA believes a possible benefit of its findings will be assisting employers in making "informed decisions about safe operations." While we support the intent of this study, we oppose FMCSA's decision to exclude motorcoach operators from the scope of its work.

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

Transportation Trades Department, AFL-CIO

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



Unlike 85 percent of the American workforce, motorcoach operators are not guaranteed overtime pay. Due to the loophole found at section 13(b)(1) of the Fair Labor Standards Act (FLSA, 29 USC 213(b)(1)), bus drivers are exempt from the requirement that workers be paid one and one-half times their regular pay for hours worked in excess of 40-hours per week. As a result, many bus drivers work grueling hours or hold second jobs during their alleged rest periods in order to make ends meet. The National Transportation Safety Board (NTSB) found this to be true when it conducted focus groups in 2011. Reporting on its findings, NTSB writes that, “[a]nother contributor to fatigue described by drivers was holding multiple jobs to earn adequate income. The multiple jobs sometimes were said to lead to hours-of-service violations from driving after on-duty limits had been reached.”²

The dangers of operator fatigue are obvious: an individual responsible for operating a large bus without adequate sleep is likely to be severely drowsy, less alert, and make mistakes that a well-rested driver would avoid. When an intercity bus crashes, especially when no other vehicles are involved, there is a high likelihood that the driver was fatigued or fell asleep while operating the bus. In fact, NTSB finds that operator fatigue is the culprit behind more than one-third of intercity bus crash fatalities.

Traveling by motorcoach continues to gain appeal. In 2012, intercity bus service growth accelerated by 7.5%³ and individuals made nearly 650 million passenger trips by bus.⁴ The number of active interstate passenger motor carriers continues to expand as well.⁵ And while this Administration has made progress in improving safety through efforts to strengthen standards, increase inspections, and enhance transparency of safety records, operator fatigue will continue to plague the industry until the contributing factors, including the exemption at section 13(b)(1), are fully addressed.

Many of the non-union intercity bus companies, typically smaller operations with only a few buses, are notorious for paying drivers abysmally low wages and evading federal standards. These carriers apply downward pressure on the industry and jeopardize safety. But by identifying how driver fatigue is tied to low pay, which the lack of overtime contributes to, FMCSA enhances the discussion about the need to close the FLSA loophole. In addition, examining low pay and safety records would pressure low-cost carriers to pay their workers living wages.

² Braver, Elisa R.; Robert S. Dodd; Ivan Cheung; and Lindsay O. Long: “*Safety Challenges and Oversight in the Motorcoach Industry: Attitudes and Perceptions of Drivers, Roadside Inspectors, and Federal Investigators.*” National Transportation Safety Board, Washington, DC. Volume 56, Annals of Advances in Automotive Medicine Annual Conference, October 2012. Page 62. <http://trid.trb.org/view.aspx?id=1251570>

³ Schwieterman, Joseph P.; Brian Antolin, Paige Largent, and Marisa Schulz: “*The Motor Coach Metamorphosis, 2012 Year-in-Review of Intercity Bus Service in the United States.*” Chaddick Institute for Metropolitan Development, DePaul University, January 6, 2013. Page 9.

⁴ 650 million estimate includes passenger trips made in the U.S. and Canada. Pocket Guide to Large Truck and Bus Statistics, 2014. Federal Motor Carrier Safety Administration, Office of Analysis, Research, and Technology. Page 8.

⁵ *Id.* 9.

At a time when a growing number of individuals are placing their safety in the hands of over-the-road bus operators, FMCSA must consider how operators' exemption from overtime pay contributes to fatigue and undercuts safety. We appreciate the opportunity to comment and hope the agency will consider our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Wytkind', with a stylized, overlapping loop structure.

Edward Wytkind
President



Transportation Trades Department, AFL-CIO
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TTD MEMBER UNIONS

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**)

These 32 labor organizations are members of and represented by the TTD

