

109# H-502



# National Transportation Safety Board

Washington, D.C. 20594

## Safety Recommendation

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Date: August 19, 1987

In reply refer to: H-87-45

Honorable Ray Barnhart  
Administrator  
Federal Highway Administration  
400 Seventh Street, S.W.  
Washington, D.C. 20590

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On July 14, 1986, a tractor-semitrailer combination operated by Rising Fast Trucking Company, Inc. (RFT) was making a U-turn at a highway crossover on I-40 near Brinkley, Arkansas, when the semitrailer was struck by an eastbound intercity bus operated by Trailways Lines, Inc. The RFT truckdriver and his codriver were not injured. The busdriver and 27 passengers sustained injuries ranging from minor to serious. One passenger was not injured. 1/

The available evidence indicates that both drivers possessed valid licenses and were qualified by reason of their previous experience and/or training to operate the type of vehicles they were driving. However, both drivers concealed information about their driving records from their respective employers.

The RFT driver failed to report that his Michigan license had been suspended. The Trailways driver failed to report that he had several previous moving traffic violation convictions in Arkansas before he applied for employment as a busdriver. He failed to report that he held an Arkansas license and did not report that he had done any driving in Arkansas. He also failed to report that his Arkansas license had been suspended for 1 year because he was an habitual violator. After the driver was employed, he omitted several convictions of moving traffic violations from the annual certifications he furnished to Trailways which were required by Federal regulation.

Examination of the driving violation conviction records of the remaining Trailways drivers at the Little Rock terminal and comparison of these records with the certifications filed in compliance with the Department of Transportation (DOT) regulation requiring them disclosed that 9 of 25 drivers omitted one or more moving traffic violation convictions from the certifications filed with Trailways.

Although the Federal Motor Carrier Safety Regulations (FMCSR) require that a prospective employer determine a driver applicant's driving violation conviction record by contacting the licensing agency within 30 days after the driver is first employed, there is no requirement to periodically obtain a driver's driving violation conviction record from the licensing agency after he is first employed.

1/ For more detailed information, read Highway Accident Report—"Trailways Lines, Inc., Intercity Bus Collision with Rising Fast Trucking Company, Inc., Truck, Interstate Highway 40 near Brinkley, Arkansas, July 14, 1986" (NTSB/HAR-87/05).

At the present time the FMCSR require that a motor carrier annually evaluate a driver's driving violation record, but the evaluation may be based only upon the information the driver voluntarily supplies and any information the carrier can obtain from its own files. A driver, therefore, can easily conceal an extensive driving violation conviction record including violations which should disqualify the driver from further commercial vehicle operation.

The National Transportation Safety Board believes that it is unreasonable to expect that a driver with an extensive driving violation conviction record would voluntarily report such violations to his employer against his own self-interest. The existing DOT regulation which requires only that a driver file an annual certificate of violations with his employer is, therefore, inadequate to identify commercial drivers with extensive and possibly even disqualifying driving violations.

In apparent recognition of this inadequacy, both companies involved in this accident had instituted procedures to periodically obtain driving violation conviction records from the licensing agency to verify the accuracy of certifications filed annually by their drivers in compliance with Federal regulation.

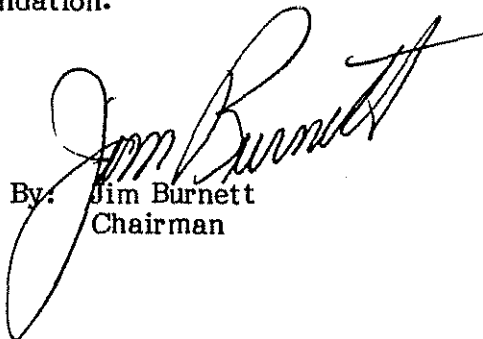
On the other hand, the lack of a requirement that a motor carrier must periodically obtain and retain on file a driver's driving violation conviction record from the State which issued the driver's license may defeat any requirement that a motor carrier must not "knowingly" use a disqualified driver. To avoid "knowing" a driver is disqualified, a motor carrier need simply not inquire.

Therefore, as a result of its investigation, the National Transportation Safety Board recommended that the Federal Highway Administration:

Revise the Federal Motor Carrier Safety Regulations without delay to require operators of commercial motor vehicles to periodically obtain and retain on file the driving violation conviction record for each driver employed from the State which issued the driver's license to operate a commercial motor vehicle. (Class II, Priority Action) (H-87-45)

Also as a result of its investigation, the Safety Board issued Safety Recommendations H-87-46 to the State of Arkansas and H-87-47 to the American Trucking Associations, Inc.

BURNETT, Chairman, GOLDMAN, Vice Chairman, and LAUBER, NALL, and KOLSTAD, Members, concurred in this recommendation.

  
By. Jim Burnett  
Chairman