



National Transportation Safety Board

Washington, D.C. 20594

Safety Recommendation

Date: September 10, 2001

In reply refer to: H-01-27

Mr. William T. Pound
Executive Director
National Conference of State Legislatures
444 North Capitol Street, N.W.
Suite 515
Washington, D.C. 20001

The National Transportation Safety Board is an independent Federal agency charged by Congress with investigating transportation accidents, determining their probable cause, and making recommendations to prevent similar accidents from occurring. We are providing the following information to urge your organization to take action on the safety recommendation in this letter. The Safety Board is vitally interested in this recommendation because it is designed to prevent accidents and save lives.

This recommendation addresses the importance of establishing immunity laws for the good-faith reporting of potentially impaired commercial drivers. The recommendation is derived from the Safety Board's investigation of the Custom Bus Charters, Incorporated (Custom), motorcoach accident that occurred in New Orleans, Louisiana, on May 9, 1999,¹ and is consistent with the evidence we found and the analysis we performed. As a result of this investigation, the Safety Board has reiterated 5 safety recommendations and issued 13 new safety recommendations, 1 of which is addressed to the National Conference of State Legislatures. Information supporting this recommendation is discussed below. The Safety Board would appreciate a response from you within 90 days addressing the actions you have taken or intend to take to implement our recommendation.

In the 2 years before the accident, several physicians and health care providers treated the New Orleans busdriver for heart failure and kidney failure. The driver was in the hospital as often as six times a week for hemodialysis treatment and dobutamine therapy. Many of them knew the busdriver's profession, but apparently no one attempted to contact his employer or the State licensing authority concerning the busdriver's fitness to operate a commercial vehicle. In August 1998, Custom required the driver to have a medical examination because of concerns about his fitness to operate a bus. However, Custom did not, and was not required to, report his condition to any regulatory authority.

¹ For more information, read: National Transportation Safety Board, *Motorcoach Run-Off-the-Road Accident, New Orleans, Louisiana, May 9, 1999*, Highway Accident Report NTSB/HAR-01/01 (Washington, DC: NTSB, 2000).

Similarly, the personal physician of a driver involved in another accident investigated by the Safety Board with similar medical certification issues² had expressed serious concerns about the driver's condition and medication adversely impacting his ability to safely perform his job, but was not required to report his concerns, and apparently discussed them only with the driver. The Safety Board concluded that many drivers whose occupations and serious medical conditions are known to their employers, health care providers, and others are never reported, thereby potentially endangering the drivers themselves and others.

Although Louisiana has an immunity law that protects physicians who report unfit drivers, it does not have one for other people who report unfit drivers in good faith. The Safety Board found during the course of its investigation that at least 19 States do not offer immunity to physicians, and at least 30 do not offer immunity to those who report an unfit driver in good faith but are not physicians. Because of the critical importance of such reports in ensuring highway safety, the Safety Board recommends that the National Conference of State Legislatures:

Inform State legislatures about this accident and make them aware of the importance of establishing immunity laws for the good-faith reporting of potentially impaired commercial drivers by all individuals and of ensuring that the medical community and the commercial transportation industry are familiar with these laws. (H-01-27)

The Safety Board also issued safety recommendations to the Federal Motor Carrier Safety Administration, the American Association of Motor Vehicle Administrators, the American Association of State Highway Officials, and the Louisiana Department of Transportation and Development. In addition, the Safety Board reiterated five recommendations from its 1999 bus crashworthiness special investigation³ to the National Highway Traffic Safety Administration. In your response to the recommendation in this letter, please refer to H-01-27. If you need additional information, you may call (202) 314-6607.

Acting Chairman CARMODY and Members HAMMERSCHMIDT, GOGLIA, and BLACK concurred in this recommendation.

Original Signed

By: Carol J. Carmody
Acting Chairman

² For more information, read: National Transportation Safety Board, *School Bus and Dump Truck Collision Central Bridge, New York, October 21, 1999*, NTSB/HAR-00/02 (Washington, DC: NTSB, 2000).

³ For more information, read: National Transportation Safety Board, *Bus Crashworthiness Issues*, Highway Special Investigation Report NTSB/SIR-99/04 (Washington, DC: NTSB, 1999).