

H-286

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

AI-4

ISSUED: August 19, 1981

Forwarded to:

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

SAFETY RECOMMENDATION(S)

H-81-44 and -45

On February 18, 1981, about 4:10 p.m. eastern standard time, a tractor-semitrailer loaded with building supplies accelerated out of control while descending a steep 3-mile grade near Frostburg, Maryland. The combination vehicle was traveling eastbound on U.S. Route 40 when it passed and sideswiped a slower moving pickup truck in the eastbound lane. The combination vehicle then entered the city limits of Frostburg, Maryland, where it collided with 14 other vehicles. The semitrailer uncoupled and overturned, and the tractor pushed another vehicle into a three-story commercial building before coming to rest. As a result an explosion and fire erupted in the building. Three persons were killed, and the truckdriver and 11 vehicle occupants were injured. Property damage was estimated at more than \$675,000. ^{1/}

The postaccident compliance survey of Direct Transit Lines, Inc., conducted by the Bureau of Motor Carrier Safety (BMCS) rated the carrier as marginal with respect to compliance with Federal Motor Carrier Safety Regulation (FMCSR) Part 396, "Inspection and Maintenance," and unacceptable for compliance with FMCSR Part 395, "Hours in Service." The carrier's overall evaluation was rated unsatisfactory. The discrepancies uncovered during the postcrash inspection--improperly adjusted brakes, brake linings worn to bonding rivets, external air leaks, and loose suspension components--should have been detected and repaired during scheduled maintenance. The maintenance records indicate that the accident vehicle was probably subject to maintenance only after the driver complained of mechanical malfunctions while the vehicle was in use and not subject to a periodic inspection program. FMCSR Part 396.2 specifies that the motor carrier shall systematically inspect and maintain all vehicles used for interstate commerce to insure that they are safe and in proper operating condition.

^{1/} For additional information read "Highway Accident Report: Direct Transit Lines, Tractor-Semitrailer/Multiple Vehicle Collision and Fire, U.S. Route 40, Frostburg, Maryland, February 18, 1981" (NTSB-HAR-81-3).

The carrier currently leases the majority of its equipment and has contracted the maintenance responsibility to the lessor. However, the carrier is still ultimately responsible for the safe operation of all leased or otherwise contracted equipment and should have monitored the maintenance records to insure that the lessor did in fact have a systematic inspection and maintenance program. The lessor is not subject to BMCS's jurisdiction and is not required to maintain its vehicle fleet at the level of safety specified by FMCSR. Because BMCS has no statutory authority over the lessor, enforcement action can only be brought against the operating motor carrier. Some legislative effort should be initiated to permit BMCS to monitor lessors of motor vehicles that are being used for interstate commerce to insure compliance with all applicable FMCSR's.

Following its April 1978 survey of the company, BMCS failed to follow up its own investigator's recommendation to reexamine the carrier within 12 months of the original survey. Based on the February 18 survey, the company's attitude and policies toward compliance with the FMCSR's remained unchanged. Numerous violations cited in the first survey were repeated in the later survey. BMCS should have conducted the survey earlier and also should have maintained a more strict surveillance of the carrier to insure that corrective action was being taken. If the survey had been conducted as recommended in 1979 and had produced findings similar to the 1981 survey, BMCS could have initiated further enforcement action to bring about improvements in the carrier's overall maintenance policies. These changes may have reduced the severity of this accident.

Therefore, the National Transportation Safety Board recommends that the Federal Highway Administration:

Maintain strict surveillance of Direct Transit Lines, Inc., and initiate appropriate enforcement action, if necessary, to ensure that all previous safety compliance violations are corrected. (Class I, Urgent Action) (H-81-44)

Initiate a legislative effort which would require lessors and/or contractors of motor vehicle equipment which is used for interstate commerce to comply with all applicable FMCSR. (Class II, Priority Action) (H-81-45)

KING, Chairman, DRIVER, Vice Chairman, and McADAMS, Member, concurred in these recommendations.



FOR

By: James B. King
Chairman

GOLDMAN and BURSLEY, Members, disapproved the recommendations and filed the following comments:

We believe that Recommendation H-81-45, which requests BMCS to "Initiate a legislative effort which would require lessors and/or contractors. . .," is insufficiently justified.

As stated in the report, 1/ under existing regulations, the carrier is ultimately responsible for the safe operation of all leased or otherwise contracted equipment. BMCS has clear authority to oversee compliance with safety regulations and to take enforcement actions against the carrier. The carrier is capable of compelling the lessor to provide properly maintained vehicles through appropriate provisions in the terms of the lease or contract. BMCS has the authority to perform roadside inspections of leased vehicles and pull them out of service if unsafe conditions are found and to enforce the safety regulations by other methods. Consequently, we believe that BMCS currently has adequate authority.

This recommendation would diffuse safety responsibility between the carrier and the lessor. This concerns us, since we believe the responsibility for compliance with the safety regulations should remain with the carrier.

Moreover, BMCS has only 187 investigators available to carry out its enforcement responsibilities, which the Safety Board has repeatedly highlighted as being inadequate. Therefore, we are concerned about tasking BMCS with yet additional responsibilities, especially since we do not believe they will lead to any increase in safety.