

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

ISSUED: March 8, 1978

Forwarded to:

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Bureau of Motor Carrier Safety
Federal Highway Administration
Washington, D.C. 20590

SAFETY RECOMMENDATION(S)

H-78-12 and 13

About 7:50 a.m., e.s.t., on March 8, 1977, a tractor-semitrailer struck the rear of a Campbell County (Virginia) Public Schools schoolbus on U.S. Highway 29, near Rustburg, Virginia. Three of the 33 occupants of the schoolbus died as a result of the collision. 1/

The truckdriver had a valid North Carolina chauffeur's license. North Carolina records indicate that he was first licensed in that State in the early 1960's, with the latest license renewal date of May 24, 1976. He also held a valid Florida driver's license issued on November 8, 1972, with an expiration date of March 31, 1977. In addition, the truckdriver had been issued a Maryland chauffeur's license on August 9, 1963, which expired on August 8, 1965, and a Class I, South Carolina driver's license on December 5, 1969, which expired on December 4, 1973. He had approximately 14 years of commercial truckdriving experience. Over the past 17 years, the truckdriver developed a record which included 38 traffic violation convictions in an eight-state area, with six driver's license suspensions and four accidents in North Carolina. This record clearly indicates a problem driver. There were no indications that any corrective action was taken or that the suspensions had any impact on the driver as he continued to drive and commit violations while the suspensions were in effect.

On March 4, 1977, at about 1:30 p.m. the truckdriver began a trip lease for Specialty Transport, Inc., of Palmer, Massachusetts. He left the Federal Paper Company at Riegelwood, North Carolina, and completed the trip at 11:30 a.m. on March 7, 1977, at Bennington, New Hampshire.

1/ For more detailed information read "Highway Accident Report: Tractor-semitrailer/Schoolbus Collision and Overturn, Rustburg, Virginia, March 8, 1977" (NTSB-HAR-78-1).

This 915-mile trip was made over a 70-hour period during which he drove for 21 1/2 hours, was on duty (not driving) for 3 1/2 hours, and was off duty 45 hours. On March 7, he drove from midnight to 2:00 a.m. at which time he arrived at Bennington. He was off duty from 2:00 a.m. to 11:00 a.m.; was on duty (not driving) from 11:00 a.m. to 11:30 a.m.; and then was off-lease at Bennington. He did not prepare a log for March 8.

During this trip, the truckdriver telephoned a contact at the Quality Process Shippers (Quality) in Chicago, Illinois, to ask about the availability of a cargo for his next trip. He was referred to the Candy Box Farm Agricultural Marketing, Inc., (Candy Box) of Coventry, Rhode Island, who arranged for the truckdriver to transport a cargo of plastic pellets from the Teknor Apex Company (Teknor) in Pawtucket, Rhode Island, to the Anaconda Wire and Cable Company in Eden, North Carolina. The informal arrangement was for Candy Box to pay the Quality representative who after taking a commission, was to pay the truckdriver. Upon his arrival at Teknor, the truckdriver identified himself as the "Candy Box truck" and Teknor in preparing the shipping papers used the initials "CBF" in listing the carrier. After the accident, Candy Box sent a tractor to pick up the slightly damaged semitrailer and deliver the cargo to Eden.

Candy Box claims to be doing business under the provisions of Section 203(b)(5) of the Interstate Commerce Act. The association's primary business as stated in their "Notification of Intent to Perform," filed with the Interstate Commerce Commission (ICC) is the "production, marketing, and transporting of agricultural products." The Interstate Commerce Act provides for incidental back-haul of nonmember shipments of various regulated commodities by agricultural associations. However, incidental back-haul can be performed only by the same vehicle employed by the association in a prior or subsequent trip in the primary transportation operation of the association. Candy Box had not used the vehicle involved in this accident before. Teknor was not a member of the association. The Safety Board understands that the ICC is currently investigating Candy Box's entitlement to an exempt classification.

The truckdriver's medical certificate, required by Federal Motor Carrier Safety Regulations (FMCSR), had expired, and therefore, he should not have been driving in interstate commerce. As an owner-operator, he was self-employed and under the supervision of a carrier only when under a trip lease arrangement. Under the circumstances, he was the only person fully aware of his driving record and in all probability, he did not bring it to the attention of a leasor to whom he sold his services. He operated nationwide in a very loose carrier/owner-operator/leasor relationship. This enabled him to circumvent the FMCSR which require carriers to investigate the driver's background, keep his logs, inspect his vehicle(s), and supervise and control his driving practices.

Trip lease arrangements do not provide a leasing carrier much time to do more than inspect the vehicles. The evidence available indicates that the driver had a lease arrangement with Candy Box, an exempt carrier not required to enter into formal, written signed leases. His arrangements with Candy Box were made by telephone and they never saw the driver or his equipment.

Under the circumstances the only supervision of this driver would be provided through the Bureau of Motor Carrier Safety (BMCS) roadside inspections of commercial vehicles in operation. The BMCS has the authority and the responsibility for periodic surveys of vehicles operating in interstate commerce. Such safety inspections include not only the vehicle, but also the driver's logs and medical certificate. In this case, it could have detected that this truckdriver had driven several thousands of miles at speeds in excess of the National limit, that he had inadequate rest periods during the trips, that he was not maintaining a log, and that his medical certificate had expired. However, the BMCS does not have the necessary resources to provide roadside surveys for the number of commercial vehicles in service. In 1975 the BMCS inspected less than 1 percent of the estimated 4 million interstate commercial vehicles. 2/ The small number of inspections is attributed to the fact that in 1975, there was only one safety inspector for every 32,000 interstate commercial vehicles. 3/ Also, motor vehicle inspection is only one of many responsibilities assigned to the safety inspectors.

The Board has commented on these inadequacies in previous reports of investigations. In a recent report of an accident in Valley View, Ohio, 4/ the Board recommended that the U.S. Department of Transportation provide additional resources for the BMCS and that the BMCS, upon receipt of the resources, give added priority to roadside vehicle inspections.

Prior to this accident the operations of neither the owner-operator, the truckdriver, nor the carrier, Candy Box, were a matter of record with the BMCS. Neither had ever been served with a copy of the FMCSR. The BMCS declined to charge either the driver or the carrier for violations of hours of service, not maintaining logs, and driving without a medical certificate on the basis that until they had been officially made aware of their responsibilities as interstate operators under the FMCSR, they could claim ignorance of the law. This is an unrealistic conclusion since the truckdriver maintained logs while under trip lease to Specialty Transportation, because the carrier told him he had to, and at one time he held a valid medical certificate. He was aware of the requirement and the procedure.

2/ Report to Congress by the Comptroller General of the United States, May 6, 1977: "The Federal Motor Carrier Safety Program: Not Yet Achieving What the Congress Wanted."

3/ Ibid.

4/ "Highway Accident Report: Long Transportation Company Tractor-Semitrailer Collision With Multiple Vehicles, Valley View, Ohio, August 20, 1976" (NTSB-HAR-77-3).

The enforcement policy practiced by the BMCS may be justified when violations are discovered in a routine safety check. But when the violation is directly related to the occurrence of a multi-fatality highway accident, some discretion should be permitted. In this case there are three dead children, 30 other school children and a busdriver injured, the trauma and loss experienced by their families and a destroyed schoolbus. Yet the truckdriver and carrier escaped penalties of any kind. If the accident had not occurred, both would still be operating without the knowledge of the BMCS and in violation of the FMCSR.

The BMCS has records of about 160,000 carriers who have all been served with copies of the FMCSR. However, there may be more than 250,000 owner-operators operating in interstate commerce, subject to the FMCSR, but unknown to BMCS and who have not been served.

The Commonwealth of Virginia charged the truckdriver with three counts of manslaughter as a result of this accident. He was acquitted in a court of record. Since there was no conviction, the Virginia Department of Motor Vehicles (DMV) took no action against either the driver's Florida or North Carolina driver license. Both the Florida and North Carolina DMV's were informed and are cognizant of the accident, but there is no official record in the truckdriver's driving records.

Consequently, any future inquiries concerning the truckdriver's driving record by a law enforcement agency, a prospective employer, the ICC, the BMCS, or any investigating agency would not disclose his involvement in this accident. It is possible that the truckdriver may have been involved in more than the four accidents of record during his 14 years of commercial driving.

Therefore, the National Transportation Safety Board recommends that the Bureau of Motor Carrier Safety of the Federal Highway Administration:

Revise its enforcement policy which now precludes the filing of charges against drivers and carriers in violation of the Federal Motor Carrier Safety Regulations unless they have previously been served with a copy of the safety regulations, to permit the filing of charges for violations under severe circumstances such as preventable, fatal highway accidents. (Class II, Priority Action) (H-78-12)

Request from the Interstate Commerce Commission the identity and categories of all current ICC-registered carriers operating in interstate commerce and of future registrants as soon as possible following their registration. (Class II, Priority Action) (H-78-13).

BAILLEY, Acting Chairman, McADAMS, HOGUE, and KING, Members, concurred in the above recommendations.

A handwritten signature in cursive script, reading "Kay Bailey".

By: Kay Bailey
Acting Chairman

