



To: Membership, American Bus Association

From: Clyde Hart, Senior Vice President Government Affairs
Robin Phillips, Senior Director of Policy

Date: July 14, 2009

Re: Update on U.S. Transportation Reauthorization legislation

In light of the continuing controversy surrounding the reauthorization of the nation's surface transportation programs and the importance of reauthorization to the motorcoach industry this memorandum will bring you up to date on the efforts of ABA staff in connection with reauthorization.

The current reauthorization bill (SAFETEA-LU) will expire on September 30, 2009. Over the past two years, ABA staff and all other transportation industry stakeholders have lobbied Congress (particularly the House of Representatives Transportation and Infrastructure Committee) to include, modify or eliminate programs and policies affecting all forms of transportation. At the direction of the ABA Board of Directors, staff has lobbied Congress on several vital issues for inclusion in any reauthorization bill. These issues include:

- Maintenance of the partial federal fuel tax exemption for the industry.
- Continuation and full funding of the ADA wheelchair lift grant program.
- Continuation of the federal axle weight exemption for motorcoaches.
- Continuation of the 5311(f) rural intercity bus transportation program and make permanent the private match program which enables rural feeder services to get 100% funding.
- Inclusion of motorcoach transportation in national and regional planning efforts as a sustainable mode of mass transportation

A comprehensive reauthorization bill has been drafted by the aforementioned House T&I Committee under the leadership of Committee Chairman James Oberstar (D. Minn.), Highway and Transit subcommittee chairman Peter DeFazio (D. Ore.) and their Ranking

Republican members John Mica (R. Fla.) and Jimmy Duncan (R. Tenn.), respectively. ABA staff has reviewed the bill and it includes three of the five items listed above and several other items of interest to the industry. The main omission from the bill is continuing the partial fuel tax exemption. However, jurisdiction for any tax provision is lodged in the House Ways and Means Committee which has not yet considered the bill. A partial list of other provisions of interest in the bill includes:

- Requires USDOT to assign safety fitness ratings to all bus operators.
- Requires states to have adequate bus inspection programs and that such inspections are not carried out at roadside absent an imminent hazard.
- Allows USDOT to include a State's unsubsidized capital costs of private intercity bus service as an in-kind matching share for the operating costs of connecting rural intercity bus feeder service.
- Requires the USDOT to establish minimum training requirements for commercial vehicle operators.
- Requires an examination for medical personal who wish to certify motor carrier operators as fit for duty.
- Requires USDOT to issue regulations mandating the use of Electronic On Board Recorders (EOBRs) in all commercial motor vehicles.

ABA staff believes this bill is a good one, but we have some concerns about several provisions and there is additional work to do on several others. First, we must continue to lobby on the fuel tax exemption issue. With the invaluable help of Board member Peter Picknelly, we have reached out to Congressman Richard Neal (D. Mass.) who chairs the Ways and Means subcommittee with jurisdiction over tax exemptions. We have explained our position and the necessity of continuing the exemption and believe that he has heard our message. He has asked Peter Picknelly to testify in a hearing later this month on the issue of transportation funding. ABA staff will continue to lobby other members of the Ways and Means Committee. In addition, ABA has engaged the lobbying firm of Cassidy & Associates to work on this issue. Cassidy has very good ties to members of the Ways and Means Committee and the Senate Finance Committee and both bodies will have to approve continuing the exemption.

Second, the Oberstar bill continues to fund the wheelchair lift grant program, but only until 2012, the date by which scheduled service carriers are required to have their fleets completely wheelchair lift accessible. ABA staff, along with member companies met with the House T&I staff to request wheelchair lift funding through the six years of the bill. We noted the continuing ADA wheelchair lift mandate (training, installation, maintenance) after 2012. In addition, the Consortium for Citizens with Disabilities (CCD) has written to Mr. Oberstar asking for full funding of this provision.

Third, the Oberstar bill requires the use of EOBRs on all commercial motor vehicles. ABA staff has informed Congressional staff that there is no necessity for motorcoaches to have EOBRs. There has been no demonstration that hours of service

violations are a problem and no evidence that driver fatigue is a large scale problem in motorcoach operations. ABA staff has noted that motorcoach accidents are more of an enforcement problem as most motorcoach accidents involve either illegal carriers or those with continuing safety problems. We also noted that if EOBRs are mandated they should be placed on carriers with demonstrated safety issues and not the industry at large. Congressional staff is requesting more information about the costs of EOBRs and their performance capabilities, information that ABA staff will provide to them.

Fourth, ABA continues to lobby the T&I and Energy and Commerce committees for sensible legislation with respect to motorcoach safety. ABA would like a bill that includes workable solutions to the issues of occupant protection, fire prevention and emergency egress.

The Oberstar bill has several other provisions which ABA staff believes should be clarified or modified to ensure that the motorcoach industry is included in the bill. Specifically, there are several places in the bill relative to transportation planning in which the motorcoach industry is not mentioned but "public transit" is mentioned. It is our contention that as the private motorcoach industry accomplishes the same mission as public transit we should be included in these provisions. ABA staff has developed a matrix (a copy is attached to this memorandum) which details our suggested changes and the reasons for these changes. ABA staff will continue to meet with Congressional staffs to press for these changes.

The biggest issue and a complete unknown is the timing for any enactment of the reauthorization bill. Chairman Oberstar's reauthorization bill requires \$500 billion. The responsibility to find this money lies with the House Ways and Means and Senate Finance Committee. The Obama Administration supports an eighteen month extension of the current bill rather than a full six year authorization. An eighteen month extension would largely extend current policies until the middle of the year 2011, at which time a full reauthorization bill would be enacted. An eighteen month extension will also prevent Congressional members from having to vote on a tax increase before the 2010 mid-term elections.

Of course, a transportation reauthorization bill may still be enacted by September 2009. In this view, the reauthorization bill would be a substitute for a second stimulus bill for job creation. If so, the Oberstar bill is the only vehicle available and with that amount of pressure the Ways and Means and Finance Committees would have to consider funding methods.

At this point, the above paragraph is speculation. In staff's view, the ABA can only continue to make the case for our provisions in the Oberstar bill and if necessary, in any short term extension bill that may develop in the next two months. Please contact us if you have questions or require any further information.