



Testimony of Peter J. Pantuso, President and CEO
American Bus Association

Before the

United States House of Representatives Committee on Energy and Commerce

Subcommittee on Commerce, Manufacturing and Trade

Rayburn House Office Building Room 2123

March 22, 2012

10:00 am

Chairman Bono Mack, Ranking Member Butterfield and Members of the Subcommittee, my name is Peter J. Pantuso and I am the President and CEO of the American Bus Association (ABA). The ABA is the trade association for the private motorcoach industry. The ABA is home to over 800 bus companies, who represent 60% of all private motorcoaches on the road. Our members provide all manner of transportation services to the public. In addition to scheduled service operations provided by companies such as, Coach USA and Academy Bus Lines in New Jersey; Concord Coach Lines in New Hampshire; Greyhound Lines in Texas; Orange Belt Stages in California, ABA members like Badger Coaches in Wisconsin; and Abbot Trailways in Virginia and hundreds of others provide charter and tour services, airport shuttle services and commuter services throughout the United States and Canada. In total, the private motorcoach industry provides at least 720 million passenger trips annually. This number represents more passengers than the domestic airlines and many more than travel by Amtrak. Indeed, as an

industry, our members move more people in two weeks than Amtrak does in a year. ABA members also include an additional 3000 companies that provide motorcoach passengers with services. These members include tour operators, tourist attractions, convention and visitors bureaus, hotels, restaurants, bus manufacturers, equipment suppliers and others that serve bus manufacturers and bus companies.

Madam Chairman, on behalf of ABA's membership I would like to thank you for holding this hearing. ABA has been at the forefront of the fight to make bus travel safer for many years. For example, ABA, along with United Motorcoach Association (UMA) and Greyhound Lines, Inc., an ABA member and one of the largest domestic scheduled service motorcoach service providers, worked with the late Congressman Paul Gillmore (R. Ohio) five years ago on a bill that has formed the basis for the bus safety provisions in H.R.7. In addition, the ABA has as a constituent organization the Bus Industry Safety Council (BISC) which is composed of safety and security directors from one hundred of the private bus industry's carriers. The leaders and staffs of NHTSA, FMCSA and the NTSB routinely attend BISC and ABA meetings and interact with bus operator members on matters of safety and exchange ideas as to how to enhance motorcoach safety.

I have to note that the bus industry is one of the safest modes of transportation. According to the National Safety Council report "Injury Facts 2011" the intercity bus transportation accident death rates for the years 2006-2008 (the latest years for which statistics were available) was 0.03 per 100 million passenger miles, which is twenty times safer than travel by passenger car. Of course, even one fatality is one too many and we all must do everything we can to improve bus travel. We have supported NHTSA's proposed seat belt rule (the agency estimates that the rule will save between one and eight lives ([2](http://federalregister.gov/r/2127-</p></div><div data-bbox=)

[AK56](#)) and encouraged the rule be issued sooner rather than later so that companies can make purchasing decisions. Other evidence of our commitment to safety may be found in the bus safety dockets of FMCSA (responsible for motorcoach safety enforcement) and NHTSA, the minutes of the proceedings of the NTSB, in the rooms of Congress in which I have testified on several occasions and in meetings with the Secretary of Transportation in which successive ABA Board Chairmen, including our current Chairman, Tom JeBran of Transbridge Lines in Pennsylvania, have reaffirmed ABA's support for the full implementation of USDOT's 2009 Motorcoach Safety Action Plan. ABA's message has been consistently pro safety. ABA is ever mindful that it is not only our customers who ride our buses, but our neighbors, families, employees and friends. To that end, ABA was the first national motorcoach trade association to provide direct, clear and transparent access to motorcoach company safety records through listings in our online membership directory to assist consumers in choosing only the safest motorcoach operators for their next trip.

ABA, like the proponents of S. 1813, agree that issues concerning advanced window glazing, roof crush strength, emergency egress, fire detection and fire suppression must be studied and, if appropriate, rulemakings initiated to address the problems found in the agency's research. In addition, ABA supports the provision for electronic on-board recorders found in S. 1813. ABA and its members believe that there should be seat belts on new motorcoaches. Our comments submitted to the National Highway Traffic Safety Administration (NHTSA) on the agency's proposed seatbelt regulation could not be any clearer (See NPRM NHTSA Docket Number 2010-0112; comments filed October 18, 2010). Finally, ABA and BISC were instrumental in NHTSA's bus crash testing process which has led to the agency's proposal on motorcoach seat belts. Finally, ABA notes that many of our bus operator members already have

seat belts, electronic stability control devices and fire suppression systems on board their coaches.

ABA has three reasons for its preference for the provisions in H.R.7 over those in S. 1813. H.R.7 gets bus safety right, gets it right the first time, and ensures that the federal bus safety mandates are implemented by the motorcoach industry as quickly as possible.

First, there is the issue of the time required for NHTSA to research and decide whether to issue rulemakings on the safety matters noted above. There is also the related issue of what NHTSA should research in making any determination. To begin, the time limits in S. 1813 are extremely tight and ABA simply believes that any rulemaking benefits from more time to research and analyze the issue before coming to a reasoned conclusion.

NHTSA's recent experience in promulgating a seat belt standard serves as an excellent example of why it is critical to allow an appropriate amount of time for proper research and testing. Before NHTSA could come to a decision on seat belts bus crash testing was first needed to determine what kind of belt (two point or three point), which seat design and what strength of the seat anchorage was required to actually save lives. In addition, ABA contends that NHTSA's research should also include reference to countries in the European Union whose motorcoaches have long had advanced safety equipment (including seat belts) and Canada which reportedly is considering legislation similar to H.R. 7. NHTSA should have the opportunity to review those standards in making its regulatory decisions.

None of these regulatory decisions can be or should be made overnight. A loaded 45 foot motorcoach weighing almost 50,000 pounds creates a far different crash environment than that of an automobile and ABA is concerned that a rush to get any rule out will take precedence over getting the right rule out, one based on the best available research. Proponents of S. 1813

complain that ABA's opposition to the time limits for NHTSA rulemakings in the Senate bill are more about lengthening the time for implementation of the safety mandates than for safety. This is not true.

Indeed, the time limits for implementation of new mandates for bus safety provisions in H.R. 7 are stronger than the comparable time limits in the Senate bill. Unlike the Senate bill, H.R. 7 not only has a start date for implementation of the safety mandates, it also has a full fleet compliance date. The Senate bill requires that starting two years after promulgation of the final seat belt rule, all new buses manufactured after that date must comply with the new rule. Similarly, sections 6309(b)(1)(F)(9ii) and 6309(b)(3)(A) of H.R. 7 require that starting three years after issuance of the final seat belt rule, all new buses manufactured after that date must comply with the new rule. But the H.R. 7 also requires in Section 6309(b)(3)(B) that all bus operators have 50% of their fleets compliant with the new standards within 6 years of the standards effective dates and 100% of their fleets compliant with the new standards within 12 years of the effective dates. In other words, after 12 years of the effective dates, the House bill requires that all new motorcoaches operating anywhere in the United States must be in full compliance with the seat belt, roof crush, window glazing, fire protection and emergency egress standards promulgated under that bill. S. 1813 has no comparable requirement, not even for seat belts. Thus, under the Senate bill, bus operators continue to legally provide motorcoach service without seat belts after the 12 year period while they will not be legally able to do so under the provisions of H.R. 7. As an aside, a similar 12 year period was mandated when final regulations were made effective in implementing the Americans with Disabilities Act (ADA).

An important issue left out of S. 1813's bus safety provisions is a requirement that new manufacturing requirements apply prospectively to new vehicles. This is the so-called "retrofit"

issue. The Senate bill allows NHTSA to order retrofits of motorcoaches with any equipment. Such an order for equipment like seat belts would place bus operators in an unwinnable position. Bus operators can comply with requirements involving readily attachable equipment, but no bus operator can re-manufacture a motorcoach. Nor can the law enforcement community enforce such requirements out on the roads. Requirements such as new seat belt regulation that mandate conformance with crash test performance measures are inappropriate for retroactive requirements.

One issue that seems to animate the proponents of S. 1813 is their suspicion that the language in H.R. 7 relative to “occupant protection systems” could be construed to mean something other than “seat belts” thus providing a way for NHTSA to refuse to issue a seat belt rule. I want to point out that the NHTSA proceeding promulgating proposed seat belts is entitled “Occupant Crash Protection” (Docket No. NHTSA-2010-0112, 75 Fed. Reg. 50958). That proceeding cites the NTSB recommendation (H-99-47) for NHTSA to “develop performance standards for motorcoach occupant protection systems that account for frontal impact collisions, side impact collisions, rear impact collisions, and rollovers.” H.R. 7 uses the same language in its direction to NHTSA (Section 6209(b)(1)(A). NHTSA indicates in the NPRM that its response to that NTSB recommendation is that “Today’s NPRM would require lap/shoulder belts at each passenger seating position” (75 Fed. Reg. at 50965).

Third, there is an issue about the need for concurrency in the rulemakings. ABA believes that the NHTSA rulemakings on fire suppression and detection; emergency egress, window glazing, stability control and roof strength are related and should be treated as such as the conclusions in one rulemaking may affect all other rulemakings. ABA believes that the rulemakings should be treated as such in order to prevent one rulemaking’s conclusion from

negating a prior rulemaking's conclusion or interfering with or degrading the effectiveness of other safety systems and their subsequent implementation. Our industry engineers believe that the motorcoach must be viewed as a part of a complete safety system in which one enhancement does not interfere or degrade the effectiveness of another. Testing, engineering and safety analyses must be completed on all structural changes to the vehicle to ensure that we do not cause greater problems in different accident scenarios by the changes we make to one part of the vehicle. To cite one hypothetical example, if NHTSA's testing and research determines that to enhance vehicle performance in a rollover bus windows should be strengthened and bonded to the motorcoach, that decision could impact an agency decision on how to provide adequate egress from the motorcoach. But if the decision on bus roofs has already been finalized either the agency would have to start the rulemaking process over or the industry would have to reengineer its manufacture of motorcoaches. In order to prevent this result ABA proposes and H.R. 7 includes a requirement that NHTSA accomplish its rulemakings concurrently. In our view, this provision preserves NHTSA's discretion to adopt new standards in a manner consistent with testing and analysis.

Fourth, it is ABA's hope that the bus safety provisions in H.R. 7 will encourage any NHTSA mandates to be implemented quickly into the industry. One way to do this is to provide tax credits (as well as grants and loans for small bus operators) to purchase the equipment necessary to comply with any NHTSA mandates.

To this point ABA notes that the private bus industry is in large measure a small family owned industry. The average ABA bus operator member has fewer than eight coaches (each new coach costs upwards of \$500,000). I would point out that while the industry is made up of small businesses, they directly employ over six hundred thousand people and support 1 million

people and a total of \$112 billion in economic activity. Motorcoach tourism is a driver of local economies providing jobs that cannot be outsourced and vital transportation links to millions of Americans.

It is clear however, that NHTSA mandates will increase the direct capital and operating costs to operators. We estimate that new vehicle mandates could increase capital costs by as much as \$70,000 per bus. (A copy of our cost estimate is attached to my testimony). NHTSA estimated that the cost of retrofitting seatbelts on existing motorcoaches could cost up to \$40,000 (See 75 Fed. Reg. 50958, 50979). Without the kind of financial assistance to meet the demands of this unfunded mandate ABA anticipates the bus safety proposals in S. 1813 would simply be a small business disaster and would likely force many companies out of business. In addition, while the S. 1813 supporters dispute ABA's cost estimates, (calling them "inflated") they have been unable to advance any competing cost estimate of their own. In addition, it is clear that tax credits are a means for getting new technology into an industry. It is clear to ABA that tax credits are a legitimate way to get advanced safety equipment into the motorcoach industry as quickly as possible.

Finally, ABA is concerned that the Senate bill does not have any provision for bus operator liability protection. The need for such protection is easily defended. In those cases in which the bus operator is complying with the federal mandates he or she should not be subjected to frivolous law suits for not having safety equipment for which there is no legal requirement. Thus an operator should not be sued for not having advanced window glazing when the government has no requirement or standard for such equipment. It is the same protection afforded the automobile manufacturers when air bags first came into the consumer market. The bus industry seeks nothing more than the treatment accorded other transportation modes. Such

protection is also appropriate here because it impacts small businesses and this is especially so if Congress agrees with S. 1813 that NHTSA may retroactively apply its mandates to motorcoaches that may be twenty years old or more.

ABA and our members are committed to making the safest mode of surface transportation even safer and we applaud the leadership of the House for integrating the right approach into HR. 7. ABA's differences with some of the provisions of S. 1813 should not disguise our desire for strong and robust bus safety provisions. Indeed, ABA looks forward to the conference between the House and Senate to work out the differences between the bills leading to one conference report we all can support. Before I submit to questions from the subcommittee I would like to highlight one very serious safety problem that faces our industry today that bears crucially on bus safety.

For over a decade ABA has consistently called for an increase in effective bus safety regulations, and stronger enforcement of those regulations. In 2005, 2006, 2008 and 2011 ABA testified before several House and Senate Committees regarding bus safety and the needed reforms in vehicle standards, enforcement and compliance regulations. I will state again today that inconsistent enforcement of existing regulations, the lack of training of bus safety inspectors and until very lately little attention given to bus inspections and to those who apply to be bus operators are factors which have enabled illegal carriers to operate freely in many markets. Only one out of every twenty-four commercial motor vehicle inspections involved a motorcoach. While the FMCSA has worked diligently to close this gap, doubling the number of inspections in the last two years, we still face an ongoing inspection gap and the fact that only a handful of states have creditable bus inspection programs. In addition, ABA has called for FMCSA to be given the authority to immediately shut down and if necessary impound the buses of illegal or

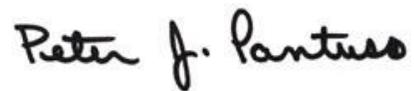
unsafe carriers. Furthermore, ABA does support the provision in S. 1813 (originally introduced by Senator Schumer) that calls on FMCSA to devise an easy to understand bus safety rating system within the confines of the agency's existing data for consumers to use when hiring a motorcoach.

ABA does applaud the FMCSA for some of its enforcement actions, including recent "safety sweeps" by a combined federal, state and local task force which led to the ticketing and, in some cases the removal of noncompliant buses and drivers from the road. ABA also welcomed the one-time enforcement actions in New York, New Jersey and Pennsylvania to ticket remove from the road buses in violation of basic safety regulations. But such enforcement actions are too rare. The enforcement gap is a deadly problem as ABA's data indicates that 54% of all motorcoach fatalities in the last decade (1999-2009) were accidents caused by either unsafe or illegal carriers. In other words, over half of fatalities in the last ten years have been the result of bus operators or drivers that should have never been allowed to run equipment under current federal regulations. To be clear these fatalities should have never occurred and could have been avoided if current law had been enforced.

In closing I would like to invite you to a special event that the ABA, the District of Columbia Department of Transportation and Destination D.C. are hosting on March 24, 2012. These organizations are collaborating to provide Members of Congress, staff and the general public with an opportunity to learn more about the motorcoaches that bring millions of people to D.C. for events such as the upcoming National Cherry Blossom Festival. Our "Board a Bus" event will take place during the National Cherry Blossom Festival's Family Day at the National Building Museum on Saturday, March 24, 2012 from noon to 2 p.m.

Thank you Chairman Bono Mack, I am happy to answer any questions you or any of the members of the subcommittee may have for me.

Respectfully submitted

A handwritten signature in black ink that reads "Peter J. Pantuso". The signature is written in a cursive style with a large initial "P".

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Summary of Testimony

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House of Representatives' Committee on Energy and Commerce
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Delivered by:

Peter J. Pantuso
President and CEO
American Bus Association
March 22, 2012
10 o'clock a.m.

The ABA is the trade association for the private over-the-road motorcoach industry. ABA's 800 member bus companies provide all manner of transportation services to 720 million passengers a year.

ABA supports the bus safety provisions in H.R. 7 over the provisions of S. 1813 for several reasons. First, H.R. 7 provides additional time for the agency, National Highway Traffic Safety Administration (NHTSA) to research, test and if necessary, to initiate rulemakings on motorcoach emergency egress, window glazing, fire suppression stability control, and roof strength issues. Second, H.R. 7 requires the agency to research and test the rulemakings concurrently, to prevent one rulemaking's conclusion from negating a prior rulemaking's conclusions. Third, ABA believes that any new federal mandates concerning the manufacturing of motorcoaches must apply prospectively to new vehicles. Bus operators can comply with requirements involving readily attachable equipment but no bus operator can re-manufacture a motorcoach. Fourth, H.R. 7 has a provision for bus operator liability protection that will prevent bus operators complying with federal mandates from lawsuits premised on the operators' failure to provide equipment not required by federal law. Congress granted such protection to automobile manufacturers when passenger car air bags were first developed.

