Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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July 25, 2019

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Highways and Transit
FROM: Staff, Subcommittee on Highways and Transit
RE: Subcommittee Hearing on "Examining the Federal Role in Improving School Bus Safety"

PURPOSE

The Subcommittee on Highways and Transit will meet on Thursday, July 25, 2019, at 2:00 p.m. in 2167 Rayburn House Office Building to receive testimony related to "Examining the Federal Role in Improving School Bus Safety." The purpose of this hearing is to evaluate current school bus safety measures and to consider whether additional Federal safety requirements are warranted. The Subcommittee will hear from representatives of the National Conference of State Legislatures (NCSL), the New Jersey Motor Vehicle Commission, the National School Transportation Association (NSTA), the Teamsters, the American Association of Motor Vehicle Administrators (AAMVA), and the National Transportation Safety Board (NTSB).

BACKGROUND

According to the NTSB and the National Highway Traffic Safety Administration (NHTSA), nearly 475,000 school buses transport over 26.7 million children to and from school each day.[1] The American School Bus Council estimates that students are 70 times more likely to get to school safely when taking a bus instead of traveling by car, making school buses one of the safest vehicles on the road.[2] Because of their unique design and stringent standards, school buses have a strong safety record. However, when a fatal crash involving a school bus does occur, it revives the long-standing debate over school bus safety.

[1] https://www.ntsb.gov/safety/pages/schoolbuses.aspx
[2] http://schoolbusfacts.com/wp-content/uploads/2017/01/SafetyFeatures.pdf

School Bus Safety Data

According to NHTSA estimates from 2008 to 2017, school bus crashes account for approximately 0.4 percent of all fatal traffic crashes each year.[3] Approximately 52 percent of school bus crashes occur in rural communities.[4] NHTSA data estimates that between four and six school-age children[5] are killed in school transportation vehicles each year.[6] Between 2008 and 2017, 264 school-age children died in crashes involving a school bus: 100 were occupants of other vehicles, 97 were pedestrians, and 61 were occupants of the school bus.[7]

Roles and Responsibilities

School transportation safety is overseen by Federal, State, and local agencies. At the Federal level, NHTSA sets Federal Motor Vehicle Safety Standards for school vehicle safety features,[8] such as brakes and emergency exits. NHTSA has also developed in-service training to school bus drivers and conducts public awareness campaigns. The Federal Motor Carrier Safety Administration (FMCSA) establishes rules for commercial driver licensing, including requiring school bus drivers to receive a school bus endorsement. While FMCSA is responsible for setting and enforcing Federal safety regulations that apply to large commercial truck and bus operators, these regulations do not apply to home-to-school and school-to-home transportation. In addition, the NTSB has the authority to investigate crashes involving school buses and make recommendations to increase safety.

States build upon these standards by implementing state-specific requirements, including additional driver training and qualifications, vehicle inspections, and other operational rules. The Government Accountability Office (GAO) has reported that all 50 States require school bus inspections and most require additional training for school bus drivers beyond Federal minimum standards.[9] At the local level, school districts are responsible for implementing and supervising school bus operations.

Federal funding is not available for school transportation vehicles and operations. Funding for school bus service comes from the State and local level. School districts can employ their own drivers, purchase their own buses, and operate their own transportation service, or they can contract with a private company to provide school bus service. Approximately one-third of the nation's school transportation is operated by private school bus providers, according to the NSTA.[10]

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[3] NHTSA, School-Transportation-Related Crashes, June 2019.
https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812712
[4] *Id.*
[5] NHTSA defines "school age" children as children 18 years old and younger.
[6] *Supra* note 3.
[7] *Id.*
[8] 49 U.S.C. 30125
[9] GAO-17-209, "School Bus Safety: Crash Data Trends and Federal and State Requirements". January 2017.
[10] https://s3-us-west-2.amazonaws.com/nsta/6571/Yellow-School-Bus-Industry-White-Paper.pdf

School Bus Issues for Consideration

Seat Belts

In 2009, NHTSA implemented a final rule requiring small school buses (under 10,000 lb. gross vehicle weight) manufactured on or after October 21, 2011, to have lap/shoulder belts installed.[11] However, Federal regulations do not require full size school buses to be equipped with lap or shoulder belts.[12] Instead, NHTSA maintains that occupant protection in a large school bus is best served by "compartmentalization." School bus seats are made with an energy-absorbing steel inner structure and high, padded seat backs secured to the bus floor. NHTSA research has concluded that this provides a suitable passive form of occupant protection (versus an active system such as a seat belt) by keeping the student protected within the seat. Large school buses are heavier and distribute crash forces differently than passenger cars, meaning that, in the event of an accident, a child on a school bus experiences much less crash force than would be present in a passenger car. School buses are also required to meet stringent manufacturing standards, including high body joint standards to prevent splitting, steel cage-encased fuel tanks to prevent fires, and stringent rollover protection features.[13]

Some safety advocates have called for NHTSA to require seat belts on large school buses as they do for smaller ones. Proponents of belts on these school buses contend that compartmentalization is designed to mitigate injuries and fatalities resulting from front and rear-end crashes, but it does not offer adequate protection for side-impact and rollover collisions. Supporters of using seat belts on school buses also believe this will help prevent bullying, reduce distracting student behavior for the driver, and lower the number of injuries from students sticking their head or arms out of the bus's windows. They further assert it will help students adopt a consistent practice of always wearing their seat belt, even when not on the bus.

Opponents of requiring seat belts on large buses most often cite cost as a concern. In 2008, NHTSA estimated that the incremental cost of adding seat belts on large school buses at $5,485 to $7,345, while some State officials have estimated it costs upwards of $10,000.[14] The Congressional Research Service (CRS) has estimated the cost of equipping the roughly 31,000 new large school buses sold annually with lap/shoulder belts would result in capital costs of between $250 million and $465 million.[15]

In 2011, NHTSA denied a petition for rulemaking from the Center for Auto Safety and 21 other petitioners asking that NHTSA mandate the installation of three-point seat belts for all seating positions on all school buses.[16] Building on a rulemaking in 2008, which did not mandate the installation of seat belts on large school buses, NHTSA concluded that "we have not found a safety problem supporting a Federal requirement for lap/shoulder belts on large school buses, which are already very safe." The agency concluded that the decision to install seat belts on school buses should be left to State and local jurisdictions. [17] Additionally, NHTSA found that an increase in costs

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[11] 49 C.F.R. Part 571; Federal Motor Vehicle Safety Standards No. 222
[12] 73 Fed. Reg. 62744 (2008); 76 Fed. Reg. 53102 (2011)
[13] 49 C.F.R. Part 571
[14] *Supra* note 12.
[15] Peterman, David Randall. "Seat Belts on School Buses: Overview of the Issue." CRS. August 31, 2007
[16] 76 Fed. Reg. 53102
[17] *Id.*

to purchase and operate large school buses could reduce school bus service, thereby reducing school bus ridership and causing more students to use alternative, less safe means of school transportation and increase the risk of injury. Further, NHTSA has reported that installing lap/shoulder belts would significantly reduce the seating capacity on buses. CRS estimates that lap/should buses would decrease seating capacity for elementary school children by an average of 16 to 33 percent.

After investigating dozens of fatal school bus-related crashes, the NTSB in 2018 determined that compartmentalization is not enough to prevent all injuries, particularly in side impact and rollover crashes. The NTSB now recommends that States enact laws to require the use of three-point seat belts (covering the lap and shoulder as opposed to just the lap) for maximum occupant protection on school buses. Their investigations of crashes involving school buses equipped with seat belts found that belt use significantly reduced injuries and helped prevent fatalities.

State Laws

At least 32 states have considered legislation to require belts on school buses since 2007.[18] Several States have enacted laws requiring seat belts on school buses, including Arkansas, California, Florida, Louisiana, Nevada, New Jersey, New York, and Texas.

New York was the first state to pass a law requiring lap belts on large school buses in 1987. However, use of seat belts is not required unless the local school district mandates it. Although California law does not require school districts to provide bus service to students, if a jurisdiction provides this service, California requires large school buses purchased on July 1, 2005, or later to be equipped with lap/shoulder belts. In 2018, California passed a law requiring all large buses to be equipped with lap/shoulder belts by 2035. California estimates that new buses with seat belts cost approximately $300,000 per vehicle.

In Louisiana, school buses purchased after June 30, 2004, are required to be equipped with occupant restraint systems, subject to available state funding. To date, Louisiana has not appropriated any funding. Arkansas allows for voters in a local school district to petition the district to install lap/shoulder belts on buses, but requires voters to also approve a property tax equivalent to the cost of installing seat belts. Arkansas voters have not approved the tax increase.

Bus Stop Safety

According to NHTSA, the greatest risk to school children is not riding the bus, but getting on or off a school bus. Every school bus is required to have specific safety features that indicate to motorists that children are loading or unloading, such as yellow and red flashing lights and a red stop-arm. State laws require traffic in both directions to stop and remain stopped until all children are off the roadway, the red lights stop flashing, the red stop arm is withdrawn, and the bus begins moving again.[19]

While it is illegal in all 50 states to pass a stopped school bus with red lights flashing, referred to as "stop-arm violation," it is a common occurrence. In a 2018 survey by the National Association

[18] http://www.ncsl.org/research/transportation/should-school-buses-have-seat-belts.aspx
[19] https://www.nhtsa.gov/school-bus-safety/reducing-illegal-passing-school-buses

of State Directors of Pupil Transportation Services, school bus drivers in 38 States and the District of Columbia reported that 83,944 vehicles passed their buses illegally on a single day during the 2017-18 school year. In a 180-day school year, the Association found that these sample results point to more than 15 million stop-arm violations.[20] Stop-arm violations can result in crashes that cause significant injuries or fatalities. For example, on October 30, 2018, in Rochester, Indiana, a motorist did not obey the red stop-arm and struck four children who were crossing the road, killing three children, and injuring the fourth child.

School Bus Drivers

School bus drivers must have a valid Commercial Driver License (CDL), which requires a driving record check, drug and alcohol testing, and passing a knowledge and skills tests.[21] Drivers must also obtain a school bus endorsement to their CDL which involves additional knowledge and skills tests specific to school buses. Most states mandate additional training or qualifications for school bus drivers as well.[22]

Medical Qualifications

Federal law requires a CDL applicant to obtain a valid medical examiners certificate indicating fitness to drive, which must be renewed every two years on average. This requirement applies to privately employed school bus drivers who transport students in capacities other than home-to-school and school-to-home, such as field trips. The medical certification rules do not apply to school bus drivers employed by a public entity, such as the State or school district, or who operate in intrastate transportation. However, individual state laws may still require medical certification for school bus drivers who are publicly employed or who operate intrastate.

In 2005, Congress mandated that FMCSA create a registry of certified medical examiners eligible to conduct physicals that follow U.S. Department of Transportation (DOT) standards. This mandate stemmed from reports of fraud and the ease of falsifying medical certificates, and was in response to several NTSB recommendations. Commercial drivers may only receive a valid medical certificate from an examiner listed on the National Registry of Certified Medical Examiners (Registry). In order to be listed in the Registry, medical examiners must apply, complete training, and pass a test on physical qualification standards.

There are certain conditions and medications that preclude a driver from receiving a medical certificate. Disqualifying conditions include: certain types of heart disease, respiratory dysfunction, high blood pressure, rheumatic or arthritic conditions, epilepsy, mental or psychiatric disorder, and hearing loss not corrected by a hearing aid. Drivers cannot receive a medical certificate if they use any Schedule I drugs – such as opiates, depressants, stimulants, and marijuana – or amphetamines. Other drugs can be permitted as long as they are prescribed by a physician and reviewed by the medical examiner as safe for driving.

[20] http://www.nasdpts.org/stoparm/2018/index.html
[21] 49 C.F.R. Part 383
[22] GAO-17-209, "School Bus Safety: Crash Data Trends and Federal and State Requirements". January 2017.

Medical examiners assess drivers for all of the above conditions and more to determine whether or not they will interfere with the drivers' ability to safely operate a vehicle. Medical examiners have broad authority to determine a driver's fitness, as long as the driver passes a Skill Performance Evaluation to demonstrate the ability to drive a commercial vehicle safely. For instance, drivers with impaired or missing limbs can still receive a medical certificate, and drivers with vision impairment can apply for a waiver, which is often granted. In addition, drivers with insulin-treated diabetes may still receive a medical certificate, but are required to have it updated more frequently.

Drug & Alcohol Testing

Commercial drivers who hold a CDL must comply with random drug and alcohol testing and under several conditions: pre-employment, post-accident, reasonable suspicion, return-to-duty and follow-up (after a positive test).[23] In 2012, under the Moving Ahead for Progress in the 21st Century Act (MAP-21; P.L. 112-141), Congress mandated FMCSA create a national drug and alcohol clearinghouse, in response to concerns that drivers could easily "job-hop," or change employers without disclosing past positive drug test results, particularly on pre-employment tests.[24] FMCSA published a final rule establishing the clearinghouse in December 2016, with a compliance date of January 6, 2020.[25]

Employer Notification

Federal regulations require CDL holders to notify their employers of any traffic violation they incur (besides parking) within 30 days of conviction, regardless of what type of vehicle they were driving at the time. If their license is suspended, revoked, canceled, or otherwise disqualified, drivers must notify their employer within one business day. Employers who knowingly use a driver with a suspended license are liable for civil or criminal penalties.

Under current regulations, employers are required to check their employees' driving history record on an annual basis. In the event an employee does not self-report, he or she could continue to drive until the disqualification is discovered in an annual check. According to estimates from the American Association of Motor Vehicle Administrators (AAMVA), only 50 to 80 percent of commercial drivers actually self-report violations to their employers.[26]

In an effort to ensure disqualified drivers do not remain on the road, some States have established Employer Notification Systems (ENS) to facilitate real time notification of traffic violations or other changes in driver status to employers. There were 16 States who reported having some variation of an ENS in 2016[27].

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[23] 49 C.F.R. Part 382
[24] Section 32402, P.L. 112-141
[25] 81 Fed. Reg. 87686
[26] https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/registration/commercial-drivers-license/396341/aamva-ens-design-and-best-practices-recommendations-ver-102.pdf
[27] https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/registration/commercial-drivers-license/396341/aamva-ens-design-and-best-practices-recommendations-ver-102.pdf

In MAP-21, Congress required FMCSA to develop recommendations and a plan for the development and implementation of a national driver record notification system (NDRNS).[28] FMCSA submitted their report to Congress in 2015, which contained a plan for the NDRNS and best practices.[29] Additionally, AAMVA received funding from FMCSA to establish a working group and AAMVA released a report outlining ENS best practices and design recommendations for a national system which leverages existing commercial driver databases.

GAO Review

In 2015, Congress enacted the Fixing America's Surface Transportation Act (FAST Act; P.L. 114-94), which included a provision directing the Government Accountability Office (GAO) to study and report to Congress on specific school bus safety topics, including a comparison of regulations that apply to public and private school bus operations and expert recommendations on best practices for safe and reliable school bus transportation.[30] GAO issued a report in January 2017 that analyzed fatal school bus crash data from 2000 to 2014, reviewed federal laws and regulations, and summarized state laws and regulations on school-bus inspections, driver training, and maximum vehicle age and capacity in all 50 states. As part of the report, GAO "surveyed states to determine whether they track the type of school bus operator in crash data, or other state data such as inspection or funding data, since information states collect on school bus crashes and operations differs." The report did not assess the correlation between public or private school bus fleet operators involved in an accident and safety inspection results, age of the bus, or violation of State and Federal laws. [31]

Recent School Bus Crashes and NTSB Investigations

Several high-profile crashes in recent years, some that have been investigated by the NTSB, have provided additional public focus on school bus and driver safety standards.

NTSB investigated two fatal school bus crashes that occurred in November 2016 in Baltimore, Maryland and Chattanooga, Tennessee. In 2018 NTSB issued an investigative report on these crashes and found that poor driver oversight by school districts and contracted motor carriers resulted in unsafe operation of the school buses and issued a series of safety recommendations.[32] NTSB focused on a number of safety issues, including: poor management of unsafe school bus drivers by the motor carriers and school districts; medically unfit school bus drivers; commercial driver license fraud; occupant protection in large school buses; and the benefits of electronic stability control, automatic emergency braking, and event data recorders. Additionally, in one of its safety recommendations, NTSB recommended that States enact laws to require that all new large school buses be equipped with three-point seat belts (covering the lap and shoulder as opposed to just the lap) for maximum occupant protection on school buses.[33] Based on these and other investigations of

[28] Section 32303, P.L. 112-141
[29] The National Driver Record Notification System Report to Congress, September 2015., https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/National%20Driver%20Record%20Notification%20System%20Report%20Enclosure%20FINAL%20September%202015.pdf
[30] Section 5511, P.L. 114-94
[31] GAO-17-209
[32] NTSB/SIR-18/02
[33] *Id.*

numerous school bus crashes, NTSB has made a number of recommendations to NHTSA and states to improve school bus safety.[34]

On May 17, 2018, a school bus crash on I-80 in New Jersey killed one student and one teacher on board. The driver of the bus had his license suspended 14 times between 1975 and 2017, including six months before the crash, again raising questions about driver fitness. NTSB did not investigate this crash.

[34] https://www.ntsb.gov/safety/pages/schoolbuses.aspx

WITNESS LIST

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On behalf of the National Conference of State Legislatures

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