

ABA Reauthorization Proposal

Restoring the Balance Between Public and Private Bus Operations

Issue

Coordinating private motorcoach services with transit and other passenger transportation providers will improve efficiency and promote service from all providers, both public and private, by increasing options for passengers. This is especially true in rural areas where passengers have fewer mass transportation services available and the marginal cost of operations is higher. ABA endorses programs to enhance and encourage public-private sector cooperation in services and facilities. However, private motorcoach operators are facing increasing competition from federally subsidized local transit agencies that provide bus service traditionally provided by private operators. This public sector competition often violates current federal statute or regulations and is taking away business from private operators. This will reduce intercity bus service currently available in areas where transit agencies do not operate. ABA is seeking to restore the balance between public and private bus operations.

Background

In developing the first comprehensive federal transit program in the early 1960's, Congress sought to address two concerns: loss of ridership by (mostly) private transit bus operators to private automobiles; and mitigation of traffic congestion in urban areas. The program was intended to assist both public and private transit systems and was not intended to foster public as distinguished from private mass transit operations. Congress did not intend to promote public ownership of urban transportation systems but intended that the program would help existing private companies to remain in business and to improve the transportation services they offer.

Despite this intent, over the years private operators have ceded their urban transit operations to public agencies, and private entities focused on other markets. Public transit agencies have largely taken over the urban mass transportation of passengers (although many private operators provide contract service to public transit entities), and private operators now provide intercity scheduled service, charter, tour and special operations, and commuter service. However, with the growth of federal, state and local subsidies to transit agencies, these entities have sought out new markets for their services, often in direct competition with private motorcoach operators. Although current statute and regulations attempt to limit public sector competition, the restrictions offer broad loopholes for transit agencies. Moreover, even if a private operator succeeds in a complaint against illegal and unfair transit competition, there are no remedies to make the private operator whole.

There are also a range of regulatory, organizational and legislative issues that contribute to the unbalanced playing field that work against private operators. For example, transit buses are exempt from axle weight limitations while private motorcoaches are not. Private motorcoaches often do not have adequate access to parking in downtown areas where transit agencies have the benefit of publicly subsidized parking facilities. And, within the Department of Transportation, the Federal Transit Administration is vested in the success of public transit agencies nationwide but has no such link to the private motorcoach industry creating a disparity in treatment.

Solutions

Where private operators can provide efficient and adequate service, publicly funded transit agencies should refrain from offering competing service. This will serve to protect existing service by private sector motorcoach operators and encourage the most effective use of transit spending by foreclosing duplication of services. Specifically, ABA seeks:

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Clarification and strengthening of transit competition rules. Legislation bolstering limitations on operations by publicly-funded transit agencies by: strengthening the definition of “charter service” now contained in regulations by making the definition statutory; adding restrictions on shuttle services that are not regular and continuing operations; including a statutory definition of sightseeing bus transportation; and prohibiting public transit agencies from operating scheduled bus service beyond the urban area where it provides regularly scheduled mass transportation services.

Stronger penalties for violations of transit competition rules. Legislation establishing fines for violations and a complaint procedure where a complaint would be decided by an administrative law judge under specific time limitations. The administrative law judge would be empowered to award monetary damages to a private bus operator injured by a violation of the service restrictions with appeals going to the federal circuit court of appeal.

Creating an ombudsman for private operators and an auditing mechanism. Legislation creating an auditing mechanism to determine if funding recipients are complying with the service restrictions contained in statute and in their funding agreements. This ombudsman, in each regional office of the FTA, would also serve to entertain and try to resolve informal complaints or inquiries from private operators about compliance with the service restrictions.

Creation of a Bus and Rail Passenger Advisory Committee. Legislation establishing a Bus and Rail Passenger Advisory Committee to bring together representatives of private and public operators of bus and rail services, including the private motorcoach industry, urban and rural bus and rail transit interests, Amtrak, labor groups, planning organizations, passenger groups and safety and law enforcement personnel. The Committee would advise the Secretary of Transportation on methods to coordinate, promote and, encourage the use of bus and rail passenger transportation and consider enhancement of safety and security practices.

Extension of the axle weight limitation exemption to privately operated motorcoaches. The current exemption for transit buses should be extended to over-the-road buses. Congress granted an axle weight exemption for “intrastate public agency transit passenger buses,” regardless of vehicle design. In effect, a motorcoach operated by a public transit organization is exempt, while an identical motorcoach operated by a private entity would be subject to the axle weight limits. This inequity puts the motorcoach industry at an obvious competitive disadvantage.

Establishment of a pilot program for bus and van parking. Legislation establishing a pilot program within DOT to provide grants to transit agencies to encourage them to make their facilities available to private motorcoach operators during peak hours, where practicable, at cost. (See ABA Reauthorization Proposal, Pilot Program for Bus and Van Parking.)

ABA Reauthorization Proposal

ADA: Closing the Mobility Gap for Passengers with Disabilities

Issue

In 1998, the DOT passed final rules establishing accessibility requirements for intercity motorcoaches. To be considered accessible, a motorcoach must now have a wheelchair lift and two wheelchair securement locations. This is an important and costly endeavor for the motorcoach industry.

Background

The Americans with Disabilities Act (ADA) accessibility requirements for motorcoaches began going into effect in October 2001. Carriers must provide accessible (i.e., lift-equipped) service on 48-hours notice until their fleets are fully lift-equipped and the entire fleet of Class I carriers must be lift-equipped by 2012. Charter and tour operators must also provide lift-equipped service on 48-hours notice beginning in 2001. DOT is required to review the actual demand for accessible motorcoach service in 2005 and report to Congress in 2006 with recommendations on whether to amend the accessibility requirements for motorcoaches under the ADA.

A wheelchair lift adds \$35,000 to the cost of a motorcoach, not including the costs of maintenance, repair and employee training. Operators are concerned that providing accessible service will not generate sufficient additional revenue from new passengers with disabilities to cover the added costs of the service. In fact, early data indicates that demand for accessible service is substantially less than predicted by the DOT in establishing the ADA requirements.

Although Congress authorized funding for motorcoach operators to cover “up to 90 percent” of the incremental costs of ADA compliance, the total funding provided was only 15 percent of the actual cost, or approximately \$6 million. The Transportation Research Board has estimated the annual cost of compliance to exceed \$40 million.

Solution

Congress should reauthorize and extend the compliance-funding program through the life of the next highway and transit bill, and increase the available funding for motorcoach operators to \$40 million annually to cover the actual costs of ADA compliance. In addition, Congress should enact a 50 percent tax credit for ADA compliance expenses that are not covered by any federal or state funding program and provide funding for the DOT to conduct an adequate review of the actual use of accessible motorcoaches through 2005 as required in the original statute.

ABA Reauthorization Proposal

Motorcoach Safety, Security and Research

Issue

The motorcoach industry is the safest form of commercial passenger transportation. However, since September 11th of 2001, the industry faces new security risks and effective nationwide enforcement of safety rules has become even more critical. Furthermore, lack of adequate enforcement funding and government-sponsored research on intercity buses is hindering effective enforcement and common-sense regulation.

Background

The motorcoach industry supports strong and effective enforcement of our nation's highway safety laws and regulations. However there are numerous gaps in the current enforcement of motorcoach safety rules. Lack of adequate enforcement leaves open the potential for unsafe operators to continue to use our nation's highways exacting a toll in the form of human lives lost and competing unfairly with law-abiding operators. And in the post 9-11 environment, the industry must dedicate resources to security enhancements while continuing to vigilantly uphold its safety record. Specific enforcement gaps include:

- **Medical Information.** In order to receive fitness and drug and alcohol testing information on prospective drivers, companies must rely on information provided by medical examiners or former employers. Drivers can easily leave former employers off of employment applications and medical examiners are not required to be certified themselves yet are authorized to certify a driver's medical fitness. As a result, applicants can easily mask true conditions and be hired by a company though they are unfit to drive.
- **Crash Testing.** Recently, there has been increasing attention to the subject of requiring seat belts on motorcoaches. However, there has yet to be crash testing conducted in the U.S. on motorcoaches to determine the effectiveness of passenger restraint systems in the event of a crash. Crash testing would also be helpful in analyzing the role "pop-out" versus fixed windows play to protect occupants in the event of a crash.
- **Confusing Trucks with Buses.** The U.S. Department of Transportation has proposed changes to hours of service rules for bus and truck drivers with little to no knowledge or consideration given to the work environment of a motorcoach driver. The rules were based on a trucking model with assumptions that truck and bus drivers shared the same circumstance. The rulemaking action stated: "For purposes of this proposal the FMCSA has assumed that bus drivers operate in ways similar to truck drivers."

Solution

Adequate enforcement funds should be authorized to the Federal Motor Carrier Safety Administration. The National Highway Traffic Safety Administration should be required to conduct motorcoach crash testing. DOT should establish a certification process for medical examiners and create a centralized database of Commercial Driver License holders that may be accessed by the motor carrier during the employment application process. The motorcoach security grant program should be authorized and properly funded through the life of the TEA-21 reauthorization legislation. Finally, DOT should conduct a motorcoach census to properly identify the scope and range of operators and activities and to make determinations about how to regulate the motorcoach industry more effectively.

ABA Reauthorization Proposal

Dedicated Funding for Intermodal Transportation Facilities

Issue

A dedicated source of federal funding is needed to create a network of intermodal passenger facilities that will provide seamless intercity and local public transportation.

Background

The nation's surface public transportation system comprises four different modes – motorcoaches, intercity rail, urban mass transit and rural local transit. To be truly effective alternatives to the private auto, these modes must be linked to each other and to airports at intermodal transfer facilities that provide seamless transportation for the traveling public.

Today, there are perhaps 150 true intermodal passenger terminals in the country, although few bring together all modes. Yet, there is a critical need for connections between local transit and intercity services, and between rural transit and intercity bus services, with through connections to intercity rail and air services not available locally. Moreover, buses picking up charter or tour groups arriving by airplane or rail need parking facilities at those terminals. And people in suburban areas need park and ride facilities for convenient access to public transportation.

Under TEA-21, intermodal facilities are eligible for funding under a variety of programs including Surface Transportation Program (STP), Congestion Mitigation and Air Quality Program (CMAQ), and the transit discretionary programs. However, very few intermodal facilities have been funded under these programs because 1) there is no dedicated funding stream for intermodal facilities; 2) spending decisions at the state and local level aren't dependent on how a project relates to and enhances other transportation modes; and 3) these facilities do not enjoy a mode-specific constituency like highway or transit improvements. Thus, they rarely become a high enough planning priority to receive funding.

Solution

A new federal fund dedicated exclusively to the development of intermodal passenger transfer facilities. Grants would be made by the U.S. Secretary of Transportation on a competitive basis. The primary criterion for selection would be the extent to which the facility enhances the integration of all modes of intercity and local public transportation, as well as the connection with the private automobile. Funding could be used by public or private entities for a variety of projects that would be distributed geographically throughout the country, including projects to:

- (1) connect urban or rural local transit and commuter services with intercity bus and rail services;
- (2) connect intercity bus, intercity rail, local transit and commuter services with commercial air service;
- (3) connect charter and tour bus services with air, rail and public transportation services; and
- (4) provide park and ride services at suburban locations connecting with local mass transportation, commuter services and intercity bus and rail facilities.

ABA Reauthorization Proposal

Bus Operations Efficiency and Effectiveness Incentive Program

Issue

Issue

Demand for transit and commuter services is on the rise, yet public funds are limited and increasing pressure is placed on transit agencies to achieve greater efficiencies in their operations. Privately operated motorcoaches are an underutilized resource and can often provide contract service to transit agencies at a significant savings. The Federal Transit Administration should provide an incentive to transit agencies to maximize their efficiency through working with private operators.

Background

FTA should assure that funds distributed to grantees are used in an effective and efficient manner maximizing use of existing resources to provide a sufficient level of transit and commuter service. Contracting out services to the private sector would limit the growth in transit agencies' own costs for providing services. The purpose of this program is to reward transit operators that attain greater effectiveness and cost efficiency through partnering with private operators by providing them "bonus" funds that may be utilized for capital improvements (including the capital cost of contracting.) To qualify for these funds a grant recipient must demonstrate improved efficiency. Such improved efficiency or effectiveness would be attained by contracting services to private entities.

Solution

FTA should establish a Bus Operations Efficiency and Effectiveness Incentive Program and provide funding of \$50 million per year for this program to be divided among those transit agencies that are able to demonstrate improved efficiencies in their commuter and scheduled fixed route operations by partnering with the private sector. Those recipients who meet the performance criteria would receive a share of the \$50 million per year divided proportionately according to service area population.

ABA Reauthorization Proposal

Essential Bus Service for Rural America

Issue

Thousands of rural communities need connections to the national air transportation system, yet only a handful receive service from the Essential Air Service (EAS) program designed to meet that need. In order to sustain their economic vitality, rural communities need alternative airport connectors to give them convenient and reliable hub airport access.

Background

EAS connects only 89 rural communities to hub airports. The connections are provided by private companies operating small aircraft on a contract basis, and the communities are located between 70 and 750 miles from the nearest hub airport. The EAS program is funded at \$63 million per year, and in recent years has suffered massive increases in per-passenger costs and decreases in the number of both passengers and communities served.

Motorcoaches are the only source of intercity public transportation in thousands of rural communities, providing unsubsidized passenger and package express service to these small towns. This service is now focused almost exclusively on tying rural towns into the nationwide surface transportation network but this service should be used to tie these towns to hub airports in a cost-effective manner.

Solution

The DOT should establish a program to fund Essential Bus Service (EBS) by private operators between non-urbanized areas and hub airports and small hub airports; the service would include other points within the locality of such airports, and all intermediate points.

The EBS funding of \$50 million per year could be used for activities such as:

- (A) planning and marketing for bus transportation;
- (B) capital grants for bus shelters, park and ride facilities, and joint-use facilities;
- (C) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects;
- (D) developing and enhancing security procedures for bus passengers connecting to commercial air services; and
- (E) enhancing connections between bus service and commercial air services at the airport.

ABA Reauthorization Proposal

Increased Funding for Rural Transportation Needs

Issue

The rural intercity bus program in 49 U.S.C. Section 5311(f) has helped stem the decline in bus service to rural communities, but far greater federal support is needed to ensure that rural communities have adequate connections to the nation's public transportation system.

Background

Intercity buses provide daily scheduled service to over 4,000 communities nationwide. This service not only provides essential passenger services, its incidental package express service is the only form of daily, scheduled freight service for many of these small towns. Although motorcoaches serve roughly eight times as many communities as either the airlines or Amtrak, more than 20,000 communities have lost their motorcoach service over the last 30 years.

Congress recognized the need to reverse this trend in ISTEA and TEA-21 by creating, and then reauthorizing the rural intercity bus program. This program provides funds for states to support new and existing rural intercity bus service, as well as to fund intermodal terminals that become hubs for rural service. But the program is funded at approximately \$30 million per year, which is less than one half of one percent of total transit funding. Moreover, the statute allows governors to avoid using these funds for rural intercity bus needs by "certifying" that their states' rural intercity bus service needs are being met adequately.

Solution

Increase funding for the rural intercity bus program by increasing the amount of funds available by an additional \$40 million annually and by requiring the states to include private bus operators in the planning process and use the funds for their intended purpose rather than redirecting them to unrelated projects.

ABA Reauthorization Proposal

National Passenger Transportation Information Number

Issue

An integrated, nationwide system of public transportation information is needed so that with one call or Internet visit, consumers can access fare, schedule, and location information for all public transportation modes. People with disabilities have a particular need for such a system so that they can conveniently get information on the full range of accessible public transportation services available to them.

Background

There are four primary modes of surface public transportation –motorcoach, intercity rail, urban mass transit and rural local transit. Each operator within each mode has its own traveler information system. Passengers using more than one of these modes for a journey must access multiple information systems to make trip plans. This discourages the use of public transportation, particularly by people with disabilities.

A nationwide federal-state effort is underway to provide travel information to automobile users through a 511 network. With one call, automobile drivers will be able to get travel information for their entire trips. A similar system is needed for public transportation to become an effective alternative to the private auto in congested travel corridors and to meet the full range of transportation needs of people with disabilities.

Several states, including Oregon and Texas, have taken the first small steps towards creation of a statewide public transportation information system, but there has been no federal support for a nationwide passenger transportation information system.

Solution

Provide funding for a federal-state effort to develop and implement a nationwide passenger transportation information system and direct DOT to work with the states to implement the system on a priority basis. Services of all providers of surface public transportation and all providers of transportation for people with disabilities should be included in the system. A reasonable deadline for nationwide operation of the system should be established. Provision should also be made for private contractors to operate the system.

ABA Reauthorization Proposal

Incorporate Intercity Buses Into Transportation Planning

Issue

Intercity buses provide a vital public service, yet rarely are included in the state or local planning process required for federal funding. As a result, intercity buses and those that rely on them rarely receive the federal support that is needed, depriving society of the full benefit that this affordable, environmentally friendly, and congestion mitigating mode can provide.

Background

Most intercity bus service is provided by the private sector without subsidies. But with rising costs over the last several decades, much of that service, especially rural, has disappeared, leaving many communities without intercity public transportation. And, because of a lack of intermodal passenger facilities, intercity bus patrons have great difficulty in making needed public transportation connections. These issues should be addressed by transportation planners.

Intercity buses and bus facilities are eligible for funding under various federal transportation programs, including STP, CMAQ, and the rural intercity bus program. However, state and local transportation planning agencies rarely include intercity bus service or bus intermodal facilities in their funding plans. Why? Because:

- 1) Bus projects are frequently small in scope, and therefore, not on the “radar screen,” especially when private bus operators and riders are often not involved in the planning process;
- 2) States can currently divert designated rural intercity bus funds to other causes by asserting that they face no unmet intercity bus needs, without engaging in a planning process involving private bus operators and riders; and
- 3) Federal Transit Administration (FTA) policy currently restricts use of Sec. 5309 funds to use for only the “public transit” portion of intermodal facilities, barring the use of those funds for privately-owned facilities or improvements. Thus, critical bus facilities and services often do not get funded.

Solution

FTA should be authorized to withhold funds from a metropolitan planning organization or transit agency recipient of federal funds that did not include private operators in the planning and transportation improvement program to the maximum extent feasible. Future law should make clear that inclusion of private operators in the planning and transportation improvement program is intended to preserve private service that already exists as well as to involve the private sector in new services under consideration. Future law should also clarify that Sec.5309 program funds may be used for publicly-owned and privately-owned facilities or improvements. And, states should be required to use rural intercity bus program funding for its intended purpose and should include private bus operators in the planning process for that funding.

ABA Reauthorization Proposal

Pilot Program for Bus and Van Parking

Issue

In most cities across the country, motorcoach operators face limited options for parking vehicles used for charter, tour and commuter services. In addition, operators are penalized for idling and often must circulate city streets while waiting for their groups. This wastes fuel and contributes to traffic congestion and engine emissions in urban centers.

Background

Buses provide an important public benefit by providing an alternative to private cars. These bus services reduce the level of traffic congestion and the ills associated with it, including air pollution and reduced productivity. Not to mention, the boost that charter and tour customers bring to the local economy, on average between \$4,300-\$7,100 per bus trip. Inadequate parking limits these benefits.

Local transit agencies could provide one solution to the parking problem for private motorcoach operators. Transit agencies usually operate terminals with parking facilities and during their peak daytime hours of operation most of the transit buses are operating on city streets, leaving the terminal facilities available for other uses.

Solution

Establish a pilot program within the U.S. Department of Transportation to provide grants to transit agencies to encourage them to make their facilities available to private motorcoach operators during peak hours, where practicable, at cost.

Private motorcoach operators could use the transit agency's parking facilities to park motorcoaches off of city streets and in a safe and accessible facility thereby saving fuel and reducing traffic congestion and engine emissions. This would also ease the need for local governments to provide separate parking facilities for charter, tour and commuter motorcoaches. Grants could be used by recipients to modify or adapt their facilities for use by private operators or to market their facilities and services to private operators. In addition, tax incentives should be offered to private developers who construct bus-staging facilities in urban areas.