



United States Department of Transportation

Federal Motor Carrier Safety Administration

Docket No. FMCSA-2014-0177

Crash Weighting Analysis

Request for Comment

Comments of the American Bus Association

**80 Federal Register 3719, January 23, 2015**

The American Bus Association (ABA) appreciates the opportunity to submit the following comments on FMCSA's use of recordable crash data "to assess motor carriers' crash risk and prioritize them for safety interventions using the SMS Crash Indicator". ABA is the leading trade association for private and over-the-road operators who transport the public and serve the motorcoach industry. The ABA has been in operation for over 80 years and has over 800 bus operating company members, large and small, intercity and charter and tour operators, rural and urban. Indeed, our members provide all manner of transportation services, including intercity scheduled service, charter and tour operations, airport and employee shuttle services. In addition, ABA membership includes hotels, convention and visitors bureaus, attractions, restaurants, motorcoach manufacturers and companies that provide services to the motor coach industry. Motorcoach companies carry out more than 600 million passenger trips per year, moving individual passengers a total of 65 billion miles annually.

ABA concurs with the previously filed comments by other motor carriers of passengers and has serious concerns about how FMCSA is using recordable crash data to assess carrier risk and establish its enforcement priorities. If those concerns are not properly addressed, particularly in the context of planned changes to the determination of carrier fitness (U.S. DOT Significant Rulemakings - <http://www.dot.gov/regulations/report-on-significant-rulemakings>) , but we also believe and are concerned that the SMS Crash Indicator will continue to be fatally flawed. At least with regard to motor carriers of passengers, the Indicator will not accurately assess a motor carrier's crash risk and thus will not properly prioritize safety interventions.

ABA recommends that for purposes of applying the Crash Indicator, FMCSA split motor carriers of passengers and motor carriers of property into separate peer groupings. So that like carriers

are evaluated and compared to similarly sized and operating carriers. FMCSA is clear that for purposes of the Crash Indicator, that "more weight [is] given to fatality and injury crashes than to those that meet the definition of an accident only because one or more vehicles was towed from the scene". (80 Federal Register at 3721). A passenger-carrying commercial motor vehicle has up to 55 people on board whereas a freight-carrying commercial motor vehicle typically has one. Thus, in any given accident, it is inevitable that there are more likely to be injuries, or reports of injuries, in the vehicle carrying 55 people than in the vehicle carrying one person, regardless of the adjudicated validity of those claims (particularly in our litigious society). This would seemingly "stack the deck" against passenger motor carriers even if injury/fatality crashes were given equal weight with crashes involving towed vehicles, but the bias against passenger motor carriers is made much worse by the extra weighting FMCA gives to injury/fatality crashes when determining Crash Indicator scores.

This problem is best solved by separating passenger motor carriers and freight motor carriers into separate groups for purposes of determining a carrier's Crash Indicator score and the carrier's relative standing versus its peers. This would enable FMCSA to focus its enforcement efforts on the true problem carriers in each group and preventing future accidents, rather than basing enforcement resource allocations on flawed data. It is also our hope that carriers with little to no data or recorded inspections would also be further parsed in the evaluation process, rather than appearing to have an exemplary safety performance due to lack of information rather than proven results.

In addition, if FMCSA chooses not to separate buses and trucks for purposes of the Crash Indicator, then ABA recommends that FMCSA end its extra weighting for injury/fatality crashes and apply the same weighting to all recordable accidents. Although this would continue the bias against passenger carrying vehicles described above, it would at least limit the damage by removing the extra weight given to the category of accident where this bias occurs.

ABA would also recommend that FMCSA only include in a carrier's Crash Indicator accidents where the Police Accident Report (PAR) indicates that the principal reason for the accident was assigned to the commercial motor vehicle. Logic dictates that if the intent of the Crash Indicator is to identify a carrier whose conduct make it a high risk for future accidents, the Crash Indicator should only count crashes where the carrier's conduct caused the accident. Some accidents, such as the crash in Orland, CA where a vehicle traveling in the opposite lane veered into the path of the passenger carrier causing an unavoidable accident, should not count against the carrier that did not cause the crash.

Based on this type of scenario, it seems as though we should recommend that there be a mechanism created to challenge causation or "fault" in a given crash, similar to the Data Q's process, as the Crash Indicator will be impacted currently by all crashes, whether the motor carrier is at fault or not.

ABA concurs with the recommendation from Greyhound Lines and other motor carriers of passengers that the Crash Indicator be "normalized" or adjusted based on the vehicle miles travelled. Such adjustment does occur in DOT compliance reviews and DOD audits and should also be applied to the Crash Indicator. Some carriers operate far more vehicles miles annually

than the average passenger motor carrier and that history of safe operating performance should count in the indicator of future crash risk. In many cases, insurance rates (also known as financial responsibility) are calculated similarly and are a good model for future modifications to the crash indicator.

Finally, ABA would call for the agency to recommend that all states and enforcement jurisdictions adopt a universal and consistent electronically submitted accident reporting form (generally referred to as PARs in the Study). With this change, the incompatibility of the findings, the “accuracy” of the reporting might improve, as well as decrease the loss of “incomprehensible” data and provide more useful information in analyzing these reports for future data applicability that the Agency might deem appropriate and useful.

For the reasons stated above, ABA respectfully requests that FMCSA make additional changes to the methodology for calculating the SMS Crash Indicator beyond what is stated in the report and focus on preventable accidents.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Clyde J. Hart, Jr.", written in black ink.

Clyde J. Hart, Jr.  
Senior Vice President of Government Affairs  
American Bus Association