



This publication is a member service of

**National School  
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(905) 952-2005

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The National School Transportation Association (NSTA) was founded in 1964 by school bus contractors to "promote and foster the highest degree of safety in the transportation of school children"



## Alert: School Bus Cameras May Be Wiretapping

Last week the Pennsylvania State Police entered a bus company lot and seized about 70 camera systems from school buses serving two school districts. According to press reports, officers were viewing tapes from one of the buses pursuant to a driver complaint when they discovered that the surveillance systems were recording not only video but audio as well—an act that is illegal under the state's wiretapping laws.

Under Pennsylvania law and the laws of every other state in the country, a third party cannot record a conversation without the consent of at least one of the participants. Eleven states (California, Connecticut, Florida, Illinois, Maryland, Massachusetts, Michigan, Montana, Nevada, New Hampshire, Pennsylvania and Washington) have even stricter laws requiring the consent of all parties to the conversation. There are criminal penalties for violation that vary by state and include fines and imprisonment, as well as civil liabilities.

Members may remember that this issue arose in Pennsylvania a few years ago when a student filed a class action suit against the school district and contractor for illegally recording conversations on the bus. The court ruled that the student did

not have proper standing to bring suit, and dismissed the case without addressing the question.

Video recordings from the surveillance cameras are not an issue; the cameras are visible, and the school bus is a public place where occupants do not have an expectation of privacy. Video recording is not covered under state or federal wiretapping laws.

While federal law and many state laws allow recording of telephone conversations if the parties are notified that the conversation will be recorded (We've all heard "*This conversation may be recorded for quality assurance.*"), those provisions do not extend to face-to-face conversations. Therefore, posting a notice in the bus about the audio recording is probably insufficient to satisfy the consent requirement.

The New Hampshire legislature is considering a bill that would amend their wiretapping law specifically to allow audio recording in conjunction with video taping on school buses, as long as a notice is posted in the bus and parents are informed of the procedures. Other states may need to make similar amendments in order to allow the use of audio in school bus surveillance cameras.

In the meantime, we suggest you check with your attorney or the school board's attorney if you are currently using an audio feature on surveillance cameras. The probability is that such recordings are a violation of your state law, and until you determine what constitutes proper consent, you may want to disconnect the audio capability.



## Trend-Spotting: Consolidated Transportation

A trend appears to be emerging that may have a significant effect on school bus carriers. In response to the high cost of special needs transportation, in particular, states are beginning to look at consolidated or coordinated systems to replace single-district transportation.

In Hawaii, a bill was introduced to require the state to provide island-wide transportation on Kauai; and in Indiana, a bill would encourage school districts to reduce non-academic costs through shared resources and cooperative purchasing of school bus service, among other things.

A report on transportation issues released last month by the New Jersey Commission on Business Efficiency of the Public Schools recommends that each county create a Regional Transportation Coordinator whose job would be to analyze all current pupil transportation services and determine where efficiencies could be realized from the coordination of efforts among districts.

Perhaps the most troubling example is a bill recently introduced in Rhode Island that requires the state and the public transit authority to develop a plan for a statewide school transportation system, "to reduce duplication of transportation and eliminate the need for a school district to contract for and provide these services separately."

There are certainly economic benefits to be derived from coordinating services among contingent districts for interdistrict transportation; as we all know, one of the reasons for the higher cost of special needs transportation is the small number of students in any one district traveling to a single distant destination. But we are wary of any involvement of the public transit agencies in these plans, and of any attempt by a state to take over service that has been provided by private carriers.

This is a trend to watch carefully. It may offer opportunities for contractors, and savings for school districts; it could also be a threat to private school bus companies.



## Minnesota Legislature Introduces Union Bill

A bill that has union fingerprints all over it was introduced in Minnesota and referred to the Senate Finance committee. The bill, SF 3383, would impose the following restrictions on school bus contracts:

**A.)** Contractors would have to disclose

- a.) the length of continuous employment of its current employees by job;
- b.) classification without identifying employees by name and, at the contractor's option, any relevant prior experience of those employees;

- c.) if the school transportation services are to be performed by new employees, the minimum requirements the contractor will impose on job applicants;
- d.) the contractor's current annual rate of employee turnover;
- e.) the number of hours, if any, planned for each employee relating to duties to be performed by the employee in providing services under the transportation services contract;
- f.) any complaints issued by a federal, state, or local enforcement agency relating to alleged violations of relevant laws or rules, including those relating to employee safety and health and labor relations, along with any court decisions, administrative findings, or penalties for violations of those laws and rules, listing the date, the court or agency, and the law or rule found to be violated;
- g.) any collective bargaining agreements or personnel policies covering the employees to perform services under the transportation services contract; and any political contribution made by the responder or managerial employee of the responder, during the four years immediately preceding the due date of the response, to an elected official of the state, a candidate for elected state office, and, if the soliciting agency is a local unit of government, an elected official or candidate for elected office of that unit.
- h.) If the contractor is a subsidiary of a parent entity, the disclosures must cover the parent entity as well as the contractor itself.

**B.)** The bill specifies that the minimum wage rate for employees

*(Union Bill article continued...)*

of a contractor must be the average wage rate for the classification of district employees whose duties are most similar, plus the value of health and other benefits provided to the district employees in that classification. The term of transportation services contract, including any extensions resulting from amendments or change orders, may not exceed two years.

**C.)** No transportation services contract may cause the school district to fail to meet its affirmative action standards or cause the displacement of school district employees. For purposes of this paragraph, "displacement" means a layoff, demotion, involuntary transfer to a new classification or title, involuntary transfer or reassignment to a new location requiring a change in residence, or reduction in hours of work, wages, or benefits.

**D.)** A transportation services contractor may not use public money paid to it under a contract to:

- a.) support or oppose the organization of its employees by an exclusive representative;
- b.) assist a subcontractor to support or oppose the organization of its employees;
- c.) facilitate or deter the ability of an exclusive representative of its employees to carry out the exclusive representative's responsibilities; or
- d.) assist a subcontractor to facilitate or deter the lawful activities of an exclusive representative of its employees.

**E.)** A transportation services contractor must allow the school

district to buy or lease its assets, including buses, facilities, or real property, used to provide services under the contract if the contractor cancels or terminates the contract by failing to meet the standards under this subdivision.

Any contractor who does comply with the requirements of the bill would lose the favorable tax status now accorded to school bus owners.



### Other State Legislative Activity

**VA:** The legislature passed a bill raising the maximum speed limit for school buses on home to school routes from 35 mph to 45 mph.

**SC:** The Senate Education Committee approved a bill requiring the state to replace school buses every 12 years, and included \$53 million for bus purchases, spare parts, and fuel costs. In South Carolina, the state owns all the buses.

**NY:** A bill was introduced that requires that a child under seven must be released to a guardian when exiting a school bus, except when exiting with an older sibling.

**TN:** A bill would prohibit any motor vehicle from being within 100 feet of a school bus in motion.

**VA:** The legislature passed bill adding school bus drivers and aides to the class of persons with limited exemptions from assault and battery charges if acting within the scope of their duties and using necessary force.

**MS:** The Governor signed a bill to allow school boards to reimburse school bus drivers for the cost of their CDL.



### James Simpson Confirmation Hearing Held

The Senate Banking, Housing and Urban Affairs Committee recently held a nomination hearing for James Simpson, the President's nominee to be the next Administrator of the Federal Transit Administration.

During the hearing, Mr. Simpson stated that if confirmed, he would work to expand the public transportation system to mitigate congestion, lower travel time and increase productivity and profitability.

He testified that he would also work with the various stakeholders to foster economic development, enhance mobility and accessibility in rural and urban communities, reduce congestion and strengthen safety and security in transit systems across the country through cost-effective spending.

The Committee favorably approved his nomination, which now goes to the full Senate for consideration.



## **We Still Need Your Help with Transit Encroachment Articles**

A provision within the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), signed into law by President Bush on August 10, 2005, directs the Secretary of Transportation to undertake a negotiated rulemaking to look at potential changes and improvements to the charter bus rules.

As you may know, properties receiving Federal assistance through the Federal Transit Administration (FTA) must formally agree that they will not provide charter service using equipment or facilities funded by FTA, unless there are no private charter operators willing and able to provide charter service. The purpose of this regulation is to ensure that Federally subsidized assets, such as buses owned by public transportation agencies, do not adversely compete with services provided by private operators, such as charter transportation services. Prior to SAFETEA-LU, it was difficult to enforce the penalties available to violators of this provision. SAFETEA-LU adds flexibility to the authority to impose penalties and directs FTA to initiate a negotiated rulemaking process on the implementation of this flexibility.

A negotiated rulemaking is a formal process, which emerged in the 1980s, as an alternative to traditional procedures for drafting proposed regulations. The idea

behind this process is that in certain situations, it is possible to bring together representatives of an agency and the various interest groups to negotiate the text of a proposed rule.

NSTA has led a Coalition of like-minded associations during two years of negotiations that led to the agreement to proceed to the Negotiated Rulemaking. Other members of the Coalition include: Airport Ground Transportation Association; Alabama Motorcoach Association; American Bus Association; American Transit Services Council; California Bus Association; International Motorcoach Group; Ohio Taxicab and Livery Association; Pennsylvania Taxicab and Paratransit Association; Taxicab, Limousine and Paratransit Association; Taxicab Paratransit Association of California; Trailways Transportation System; United Motorcoach Association; and Virginia Taxicab Association.

NSTA expects the Negotiated Rulemaking Committee members to be named the week of March 27 and the first official meeting to be held in April. Therefore, in an effort to be as prepared as possible, NSTA is in the process of gathering nationwide examples of situations where transit operators appear to be in violation of these rules. This is often referred to as "transit encroachment".

***To help, please send any articles or examples to Ronna Weber via fax at 202-530-4800 or via email at [ronna.sable.weber@was.bm.com](mailto:ronna.sable.weber@was.bm.com).***

For more information on this issue, please go to NSTA's Tool Kit, "Protecting Against Transit Encroachment," on the website ([www.yellowbuses.org](http://www.yellowbuses.org)).



## **National School Bus Safety Week Needs Your Help!**

Congressman John J. "Jimmy" Duncan (R-TN) introduced House Resolution 498 honoring School Bus Safety Week on October 18, 2005.

The Resolution honors the goals and ideals of School Bus Safety Week and the safety of school bus transportation.

The most current list of co-sponsors to the Resolution, totaling 33, is posted on the NSTA website in the Action Alert link of the home page ([www.yellowbuses.org](http://www.yellowbuses.org)).

We have made much progress in securing co-sponsors and we thank you for your efforts to date, but we still have a long way to go.

**Please contact your Member of Congress and ask that they join on to the bill as a co-sponsor.**

In order for the Committee to act upon the Resolution we must have at least 50 co-sponsors, so your assistance in this effort is very important.

As this is only a House effort, there is no need to contact your Senators about this Resolution.



### NSTA Announces a New Award

One of NSTA's goals is to promote greater safety and more professional transportation services throughout the industry. Therefore, NSTA announces its newest award category, the "Outstanding School Transportation Administrator Award".

To find out how to nominate someone in your company for this award, or any of the other NSTA awards, go to our website ([www.yellowbuses.org](http://www.yellowbuses.org)) and download the Awards Booklet or simply call us at (800) 222-NSTA (6782) and we will mail one out to you.

### Maintenance Workshops Continue

NSTA is pleased to announce that Maintenance Workshops at Manufacturers' plants are scheduled for 2006!



This is an excellent opportunity for your maintenance technicians and other staff to become experts on how a school bus operates and learn how to troubleshoot mechanical issues with ease. Workshops will be held at the following locations and during the dates listed:

#### Blue Bird Corporation -- Fort Valley, GA

- July 18 - 19
- September 19 - 20

#### International Truck & Engine Corporation – Tulsa, OK

- ~~June 26 – 29~~ **SOLD OUT!**
- September 25 - 28

#### Thomas Built Buses— High Point, NC

- March 14 - 15
- October 24 - 25

Registration forms are available online on the home page (and events section) of the NSTA website, [www.yellowbuses.org](http://www.yellowbuses.org).

If you would like to find out more about these workshops, you can also contact NSTA Headquarters at (800) 222-NSTA or by e-mail at [info@yellowbuses.org](mailto:info@yellowbuses.org).



### NOW AVAILABLE IN THE ONLINE MARKETPLACE...

**The School Transportation Outsourcing Toolkit**  
*Everything You Need to Make a Smooth Transition to a Better Use of Resources*

Here's a practical guide for private school bus contractors to provide school districts when they make the decision to outsource their school transportation. Packed with helpful information, this Toolkit includes guidance on: community support, media relations, proposal development, and so much more!

- \$50 (NSTA members)
- \$100 (Non-NSTA members)

**The Yellow Bus Industry: Safety, Caring and Innovations**

This white paper is the most comprehensive publication written about the history of the school bus industry. Share with school board members, principals, PTA members and others who want to know more about school buses.

- \$5 (NSTA members)
- \$10 (Non-NSTA members)

#### And, Coming Soon...

Novelty items such as pins, coffee mugs, watches, and more

### Important Events to Mark in your Calendar...

**July 23-26, 2006**  
42nd Annual Meeting and Convention  
Harrah's  
Lake Tahoe, Nevada

**January 28-31, 2007**  
Midwinter Meeting  
Loews Ventana Canyon Resort  
Tucson, Arizona

**July 14-18, 2007**  
43rd Annual Meeting and Convention  
Westin Waterfront Hotel  
Boston, Massachusetts

# **Welcome New Members!**

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## **Excelsior Transportation Consultants**

Jim Brunet  
Wilton, New York

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## **Fuel Stabilizer Engineering, LLC**

Joseph Foley  
Bloomingdale, New Jersey

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## **Woodstock Safety Mirror Company, Inc.**

Gloria M. Buley  
Shokan, New York

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