

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
TRANSPORTATION COMMITTEE

IRVIS OFFICE BUILDING
ROOM G-50
HARRISBURG, PENNSYLVANIA

MONDAY, MARCH 15, 2010
10:03 A.M.

PUBLIC HEARING ON
LICENSING OF SCHOOL BUS DRIVERS

BEFORE:

- HONORABLE JOSEPH F. MARKOSEK,
MAJORITY CHAIRMAN
- HONORABLE MIKE CARROLL
- HONORABLE PAUL COSTA
- HONORABLE TED HARHAI
- HONORABLE MARK LONGIETTI
- HONORABLE JOHN J. SIPTROTH
- HONORABLE TIM SOLOBAY
- HONORABLE RICHARD A. GEIST,
MINORITY CHAIRMAN
- HONORABLE JOHN EVANS
- HONORABLE DICK HESS
- HONORABLE DAVID HICKERNELL
- HONORABLE MARK KELLER
- HONORABLE RON MILLER
- HONORABLE TINA PICKETT
- HONORABLE JEFFREY PYLE

BRENDA J. PARDUN, RPR
P. O. BOX 278
MAYTOWN, PA 17550
717-426-1596 PHONE/FAX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ALSO PRESENT:

REPRESENTATIVE JOSH SHAPIRO
DAN HEALY, REPRESENTATIVE BRYAN LENTZ'S OFFICE

STACIA RITTER, EXECUTIVE DIRECTOR (D)

ANNE BALOGA, RESEARCH ANALYST (D)

AMANDA WOLFE, COMMITTEE LEGISLATIVE

ASSISTANT (D)

ERIC BUGAILE, EXECUTIVE DIRECTOR (R)

VICKI TROSTLE, LEGISLATIVE ASSISTANT (R)

ADAM GINGRICH, RESEARCH ANALYST (R)

BRENDA J. PARDUN, RPR
REPORTER - NOTARY PUBLIC

	INDEX	
	NAME	PAGE
1		
2		
3	PLEDGE OF ALLEGIANCE AND OPENING REMARKS	4
4		
5	KURT MYERS DEPUTY SECRETARY SAFETY ADMINISTRATION PENNSYLVANIA DEPARTMENT OF TRANSPORTATION	5
6		
7	SELINA PITTENGER EXECUTIVE DIRECTOR PENNSYLVANIA SCHOOL BUS ASSOCIATION	19
8		
9	TIMOTHY COTTER DIVISION ADMINISTRATOR PENNSYLVANIA DIVISION FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION	40
10		
11		
12		
13	CLOSING REMARKS	71
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

- - -

CHAIRMAN MARKOSEK: Good morning,
everybody.

While Representative Siptroth is
still standing, we'll have him lead us in the
Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance
was recited.)

CHAIRMAN MARKOSEK: Okay. Thank you.

And welcome to the Transportation
Committee hearing this morning relative to
school bus safety and school bus regulation
and driver regulation. And I think there's
perhaps nothing more important that we do with
this committee than ensure the safety of all
motorists out there, particularly our young
people who use those school buses.

Representative Chairman Geist, do you
have any comments?

Okay. We'll get started then. First
person to testify is -- relative to school bus
driver licensing requirements and processes,
is, of course, our old friend, Mr. Kurt Myers,
who is Deputy Secretary for Safety

1 Administration, Pennsylvania Department of
2 Transportation.

3 Kurt, like to introduce the folks who
4 are with you here this morning?

5 MR. MYERS: Good morning
6 Mr. Chairman, members of the committee. Yes,
7 thank you. Pleasure to be here this morning.

8 I brought with me Chris Miller, and
9 Chris oversees driver qualifications for the
10 Bureau of Driver Licensing, and also with me,
11 to the far right, is Diana Henning, and Diana
12 oversees driver control issues within the
13 Bureau of Driver Licensing as well. And those
14 individuals are both experts in their area, so
15 specific questions we'll be happy to be able
16 to answer those for you.

17 I've already supplied testimony to
18 you, and I won't read it verbatim, but I would
19 like to just point out a few highlights here.

20 First, the school bus driver, school
21 bus industry is probably one of the more
22 regulated industries that we have.

23 Specifically, they have oversight not only
24 from PennDOT, but also the U.S. Department of
25 Transportation as well as the Pennsylvania

1 PUC.

2 And in addition to that, there's also
3 obviously important input and oversight by the
4 Department of Education, the Department of
5 Welfare, and the Department of Health.

6 From the standpoint of becoming a
7 school bus driver, there are a number of steps
8 that an individual must take, and first and
9 foremost, they must be a commercial -- have a
10 commercial drivers license. And in doing
11 that, they must take a test for that as well
12 as the skills test to become the commercial
13 driver. But then beyond that, the expectation
14 is, for them to become a school bus driver,
15 they must go and take a physical.

16 Now, this is a more extensive
17 physical, if you will, than what you might
18 remember when you were sixteen and a half and
19 getting your drivers license. We're obviously
20 looking at things in relationship to
21 cardiovascular issues. We're looking at
22 issues associated with diabetes and other
23 things that may impact that driver's ability
24 while he is or she is moving people from point
25 A to point B.

1 Assuming the driver passes the
2 physical, the form is forwarded on to PennDOT,
3 and we send them a -- for the application for
4 the endorsement, we then send them an
5 authorization letter. It's a learner's permit
6 application. And these two documents allow
7 the driver to begin the training process of
8 becoming a school bus driver.

9 New school bus drivers must complete
10 a minimum of twenty hours of instruction,
11 including fourteen hours of classroom
12 instruction and six hours on one-on-one
13 vehicle familiarity and driving instruction.
14 And the PennDOT school bus driver training
15 course is administered by local school
16 districts, contractors or intermediate units,
17 under the supervision of PennDOT.

18 Before a driver becomes a fully
19 credentialed school bus driver, they are
20 required to complete the school bus specific
21 knowledge test, administered by the
22 department, and pass the school bus skills
23 test, administered by a licensing examiner.

24 In addition to the requirements to
25 become a school bus driver, a driver also has

1 the requirement to maintain their school bus
2 endorsement, and annually, they are required
3 to submit to a school bus physical.

4 Also every four years, they are
5 required to recertify by completing a minimum
6 of ten hours of instruction consisting of at
7 least seven hours of classroom training and
8 three hours of one-on-one, in-bus training.
9 They will also be required to complete the
10 school bus specific knowledge and skills
11 examination.

12 So, as you can see, there's an
13 extensive amount of training that goes into
14 qualifications for becoming a school bus
15 driver. And I think it's important to point
16 out here that there are approximately forty
17 thousand school bus drivers in Pennsylvania
18 today.

19 Last year, based upon the figures
20 from the Department of Education, I believe it
21 is actually 2008, they drove a little over
22 four hundred million miles, and they did it
23 quite effectively, quite frankly. When we
24 look at the statistics going back at least ten
25 years, there has not been a fatality in a

1 school bus in the last ten years, in over ten
2 years. And I think that is a credit to the
3 individuals who drive those buses every day,
4 and the significant importance obviously they
5 give to the passengers that they have on their
6 bus, which are our children.

7 From the standpoint of being able to
8 check drivers' records, I do want to point out
9 that there is a requirement that the driver's
10 record be checked on a yearly basis. For
11 school districts, there is no charge. For an
12 independent contractor who is contracted to a
13 school district, they can either pay five
14 dollars a record or we have a blanket fee of
15 two hundred dollars a year, they can check the
16 record as often as they want.

17 When an employer receives a driver's
18 record, it will include reportable crashes
19 that the driver was involved in. This will
20 include the date and location of the crash as
21 well as the type of vehicle they were
22 driving.

23 And, finally, it's important to note
24 that with the Fair Credit Reporting Act,
25 drivers must give their consent for their

1 employer to access their driving record. The
2 employer is bound to use a driver record
3 solely for the purpose for which the driver
4 gave consent, and, therefore, the employer,
5 like PennDOT, cannot release the information
6 on the driving record unless authorized to do
7 so.

8 With that, Mr. Chairman, I'll be more
9 than happy to take any questions that the
10 committee may have.

11 CHAIRMAN MARKOSEK: Okay. Thank
12 you.

13 I see questions by Representative
14 Siptroth.

15 REPRESENTATIVE SIPTROTH: Thank you
16 Mr. Chairman.

17 Very quickly, Kurt, the driving
18 record, is that only while they're operating
19 under the privileges of commercial drivers
20 license and school bus drivers license, or is
21 that all accidents that they may be involved
22 in?

23 MR. MYERS: It's all accidents they
24 may be involved in, going back, assuming that
25 the school has requested a ten-year record,

1 going back ten years.

2 REPRESENTATIVE SIPTROTH: Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRMAN MARKOSEK: Representative
5 Mark Longietti.

6 REPRESENTATIVE LONGIETTI: Thank
7 you.

8 Just want to comment, my district's
9 right on the border with Ohio. Do you know,
10 when they do the background check or the
11 driving record check, does it pick up out-of-
12 state incidents as well?

13 MR. MYERS: Chris or Diana?

14 MS. HENNING: Since school bus
15 drivers are commercial drivers in
16 Pennsylvania, any violation or violations
17 that occurred out of state are reported to
18 us. And, you know, with a CDL driver transfer
19 into Pennsylvania, that history follows them
20 and is made part of the Pennsylvania driving
21 record.

22 REPRESENTATIVE LONGIETTI: I know --
23 I was a school solicitor for a number of
24 years, and we actually had an incident where a
25 driver was picked up for DUI in Ohio over the

1 weekend and delayed reporting it to -- not for
2 a long period of time, but for a couple of
3 days. And I remember looking at the various
4 statutes and requirements, it wasn't quite --
5 if I recall correctly, at that time, it wasn't
6 quite crystal clear what their obligations are
7 when -- you know, they weren't operating a
8 school bus at the time but they were out of
9 state with their private vehicle and got
10 pulled over for DUI.

11 Do you have any comment on that?

12 MS. HENNING: Since the
13 implementation of MCSIA in September 30th,
14 2005, violations that happen in the personal
15 vehicle count towards disqualification as
16 well. So I would think they would be
17 obligated to report those violations to their
18 employer.

19 REPRESENTATIVE LONGIETTI: Even
20 though it -- in this case, if I recall
21 correctly, what happened was, it was an
22 arrest, obviously takes some time before the
23 arrest moves along to either diversionary
24 program or conviction, but that's what
25 occurred. Do you know how that shakes out?

1 MS. HENNING: I'd have to look at the
2 law to see at what point in time they are
3 supposed to report that to the employer,
4 whether it's upon arrest or upon conviction,
5 so I'm not real sure about that.

6 MR. MYERS: We'll be happy to look
7 into that and get back to you.

8 REPRESENTATIVE LONGIETTI: Okay.
9 Thank you.

10 CHAIRMAN MARKOSEK: Okay. Kurt, I
11 had a question relative to the size of school
12 buses. If you have a smaller bus -- and I
13 can't recall the number of seats -- is there a
14 threshold that, you know, if you have a bus
15 that's less than X number of seats that a lot
16 of these procedures do not apply to the hiring
17 and training of the drivers?

18 MR. MYERS: I'll defer to the expert
19 in that area.

20 Chris, do you want --

21 MS. MILLER: As school bus is --

22 CHAIRMAN MARKOSEK: You need to
23 speak -- you're going to have to really --

24 MS. MILLER: A school bus is designed
25 to seat or designed to seat eleven or more,

1 including the driver. That vehicle is
2 considered a school bus and the same rules and
3 regulations apply whether you're driving a
4 smaller size school bus or larger size school
5 bus, the training is identical for all
6 drivers.

7 CHAIRMAN MARKOSEK: Okay. So if you
8 have a bus, a van, you know, some private
9 carriers or whatever, are -- they have vans
10 that seat, I don't know, five or six perhaps,
11 do they not -- they don't have the same
12 requirements then, a CDL or some of the other
13 things?

14 MS. MILLER: You're correct. They do
15 not require a CDL, if the vehicle is designed
16 to seat ten or fewer passengers, including the
17 driver, so they would not have to do the
18 licensing and the training.

19 CHAIRMAN MARKOSEK: Okay. Have we
20 had any history of situations where, you know,
21 that's occurred and perhaps PennDOT has, you
22 know, been questioned about that, or, you
23 know, has been -- had some action taken
24 against them, you know, because of that? Or
25 is that something that, you know, the

1 legislature needs to look at?

2 I mean, I guess I'm just trying to
3 get a feel for, you know, that particular
4 issue that's -- I know there's been one or two
5 folks that have approached me about it, and so
6 I'll just throw it out there now, and I'll
7 just hear what you have to say.

8 MS. CLARK: I have not had any
9 questions related to school vehicle crashes.

10 MR. MYERS: No, I haven't either,
11 Mr. Chairman, but I'll be happy to look into
12 that. To the best of my knowledge, though,
13 I'm not aware of any issues related to ten or
14 less passenger seats.

15 CHAIRMAN MARKOSEK: Okay. The other
16 thing, too, you had mentioned there hasn't
17 been a fatality relative to a school bus --

18 MR. MYERS: In bus, for a passenger
19 in a bus.

20 CHAIRMAN MARKOSEK: In a bus.

21 MR. MYERS: In a school bus. There
22 have been some fatalities outside of the
23 buses, but within the bus itself, those
24 passengers, there has not been a fatality
25 within the last ten years.

1 CHAIRMAN MARKOSEK: A number of years
2 ago, we had passed some legislation that
3 required the stop arms and the arm in the
4 front of the bus that extends. Do we have
5 data showing, you know, kind of before and
6 after statistics on that? Is that -- how
7 that's increased the safety?

8 MR. MYERS: We certainly have the
9 data. I don't know -- at this point in time,
10 if we've ever looked at it from the standpoint
11 of when that law went into effect and the
12 requirement to have the arm and whether or not
13 there's been a difference since that point in
14 time, but we can certainly go back and take a
15 look.

16 CHAIRMAN MARKOSEK: Yeah. I'd be
17 curious, if you'd provide that to the
18 committee. For another reason, I know some of
19 us here we're here when we passed those laws,
20 and, you know, it would be good to know if we
21 actually saved some lives by passing -- by
22 passing those laws.

23 I think Representative Ron Miller has
24 a question.

25 REPRESENTATIVE MILLER: Just to

1 follow up to yours, Mr. Chairman, as far as
2 the fatalities, it's great to hear that we've
3 not had any in the past ten years, but when
4 you say regarding school buses, and then we
5 hear the definition of a school bus as
6 compared to the vans that are used for
7 transport, are we talking the total student
8 transportation system? I guess my question
9 comes down to the vans that are used to
10 transport ten or less students, have we had
11 any fatalities or serious accidents related to
12 those?

13 MR. MYERS: I don't have the
14 specifics on that. Do you, Chris?

15 MS. CLARK: I don't have the
16 statistics with me. No, sorry.

17 REPRESENTATIVE MILLER: As a follow-
18 up, maybe you can get to the committee,
19 because it'd be interesting to know if we're
20 seeing a problem with that type transportation
21 as compared to the school buses.

22 MR. MYERS: Very good.

23 REPRESENTATIVE MILLER: Thank you.
24 Thank you, Mr. Chairman.

25 CHAIRMAN MARKOSEK: Okay. Deputy

1 Secretary Myers and your staff, thank you very
2 much. Appreciate that.

3 Before we introduce the next speaker,
4 I'd like to, for the record, indicate to the
5 stenographer the members who are here.
6 Representative Dave Hickernell, Representative
7 Tina Pickett, Representative Jeff Pyle,
8 Representative Paul Costa, Representative John
9 Siptroth, Representative Mark Longietti,
10 Representative Mike Carroll, Representative
11 Tim Solobay, Representative John Evans,
12 Representative Ron Miller, Representative Mark
13 Keller, and Representative Dick Hess. And, of
14 course, the aforementioned Chairman Rick Geist
15 and Chairman Joe Markosek.

16 Did I miss anybody? And, I'm sorry,
17 Representative Lentz will not be here, but Dan
18 Healy is here in his -- in his stead.

19 Dan, welcome.

20 MR. HEALY: Thank you very much.

21 CHAIRMAN MARKOSEK: You're welcome to
22 come up here, if you'd like.

23 Okay. Our next area of interest is
24 hiring practices concerning school bus
25 drivers.

1 Miss Selina Pittenger, executive
2 director, Pennsylvania School Bus Association.
3 Welcome.

4 MS. PITTENGER: Thank you.

5 CHAIRMAN MARKOSEK: You may proceed
6 when you're ready.

7 MS. PITTENGER: Okay. Good morning,
8 Chairman Markosek, Chairman Geist, and members
9 of the House Transportation Committee. Again,
10 my name is Selina Pittenger. I'm the
11 executive director with the Pennsylvania
12 School Bus Association.

13 The Pennsylvania School Bus
14 Association is made up of three hundred fifty
15 private school bus contractors who provide
16 transportation services to school districts.
17 Approximately 85 percent of the five hundred
18 school districts in Pennsylvania use
19 contractors to provide student transportation
20 services. A majority of those contractors are
21 members of our association.

22 Our primary focus is to foster the
23 highest degree of safety in the transportation
24 of school children.

25 I thank you for allowing me to

1 testify today about the school transportation
2 industry and the hiring practices for school
3 bus drivers. We would like to talk to you
4 today about the safety aspects of riding in
5 school buses, as we feel it's important for us
6 to share our statistics with you as you move
7 forward with the legislative process.

8 Deputy Secretary Myers did mention
9 about the number of school students and miles
10 traveled in our commonwealth. To reiterate
11 that, on a daily basis, over 1.5 million
12 school students are transported daily without
13 incident. This includes the public, private,
14 charter, and parochial school students in
15 grades K through 12.

16 There are over thirty thousand
17 registered school buses and more than four
18 hundred million miles traveled annually. And,
19 again, more importantly is we have not had a
20 student fatality, according to our records, in
21 a school bus since 1993.

22 These statistics are a true testament
23 of school buses operated in Pennsylvania and
24 the highly skilled drivers.

25 The PSBA has been actively involved

1 with PennDOT, reviewing school bus -- school
2 vehicle and school driver qualification and
3 regulations for nearly three decades. Our
4 partnership with the department ensures that
5 students are transported in the safest
6 vehicles on a daily basis.

7 Over the last three decades, school
8 buses have vastly improved and Pennsylvania
9 was at the forefront, mandating safety
10 equipment on school buses and extensive school
11 bus driver training before any other state in
12 the nation.

13 Pennsylvania was one of the first
14 states to require the side stop arm. And the
15 crossing gates in the front is also another
16 safety feature that is in protecting the
17 children outside the bus, is where more of the
18 fatalities and accidents occur.

19 Pennsylvania school bus driver
20 training is one of the most extensive in the
21 nation. And we are one of the few states that
22 mandates recertification. Our school bus
23 drivers are some of the highest skilled
24 drivers in the nation.

25 In the last four years, Pennsylvania

1 school bus driver -- eight Pennsylvania school
2 bus drivers have either placed first or second
3 at the International School Bus Driver Safety
4 Competition, competing with drivers all across
5 the nation and Canada.

6 This -- Pennsylvania school bus
7 transportation is by no mistake. State
8 requirements require mandate -- requirements
9 mandate through background checks, medical,
10 physical, and training be obtained before a
11 driver can be certified to be behind the wheel
12 of a school bus and transporting school
13 students.

14 There are over forty thousand
15 licensed school bus drivers in Pennsylvania.

16 A school bus driver is required to
17 obtain a CDL with a passenger and school bus
18 endorsement, and minimum of twenty hours of
19 training by a certified school bus driver
20 instructor must be completed before a new
21 school bus driver can obtain the school bus
22 endorsement.

23 When a new applicant applies for a
24 school bus position, the employer is mandated
25 to perform several background checks on

1 prospective employees. These checks include
2 the Pennsylvania State Police criminal
3 background check, the FBI fingerprint
4 background check, the child abuse clearance,
5 and a motor vehicle record check.

6 These four background checks must be
7 performed even if the prospective employee is
8 already a licensed school bus driver.

9 The Pennsylvania Department of
10 Education and the Pennsylvania Department of
11 Transportation outline offenses that would
12 prohibit an employer from hiring a new
13 applicant if convicted of these offenses
14 occurred within the last five years.

15 Employers are to obtain a five-year
16 driving history from the Department of
17 Transportation. The department only issues
18 driving histories of three years or ten
19 years. If driving violations occurred more
20 than ten years ago, it is not on the motor
21 vehicle record.

22 If report includes a -- if the report
23 includes a report of an accident, it does not
24 indicate the fault for the accident, only that
25 the individual or the individual's vehicle

1 involved in the accident on the date listed.

2 Employers must rely on the honest --
3 their applicants to be honest and forthright
4 when questioned about any background check
5 information. By law, drivers with a CDL must
6 notify their employer in writing if convicted
7 of a violation within thirty days of the
8 conviction.

9 In addition to the training,
10 background checks, and physical screenings,
11 all applicants must also submit to
12 preemployment drug tests, and, once hired, be
13 placed in a random drug and alcohol testing
14 pool.

15 It initially costs school district
16 and contractors approximately five hundred
17 dollars per applicant for training, background
18 checks, preemployment drug test, and a medical
19 physical. On average, two of ten applicants
20 will qualify to be hired.

21 Once a new drivers has been approved,
22 to be hired by the school district, in order
23 to maintain their school bus driver
24 certification, a driver must complete and
25 submit to the department an annual physical,

1 be included in a random drug and alcohol
2 testing program, and complete ten hours of
3 recertification every four years.

4 Pennsylvania laws and regulations
5 describe the minimum requirements that all
6 school districts and contractors must follow,
7 however school districts and contractors have
8 more stringent policies and are above and
9 beyond the state's minimum requirements.

10 For example, states require all
11 background checks be done prior to employment
12 only. Majority of the school districts and
13 contractors perform background checks on their
14 employees on a regular basis throughout their
15 employment.

16 Contractors request MVRs on their
17 drivers at least once a year. Some school
18 districts and contractors review these reports
19 semi annually or quarterly.

20 A challenge for our industry is --
21 within the hiring process is obtaining the
22 four background checks in a timely fashion.
23 One of the required background checks runs
24 through -- each one of these required
25 background checks runs through four different

1 departments, and turn-around time varies from
2 instantly for the state police background
3 check and the motor vehicle record check is
4 via online. It can be up to thirty days for
5 the child abuse clearance.

6 And one suggestion we would like to
7 make at this time is to streamline and
8 consolidate all the required background checks
9 into one submission. This would help
10 streamline the hiring process and ensure that
11 all the necessary background checks have been
12 requested.

13 As you know, each legislative session
14 numerous bills are introduced that would
15 affect student transportation, whether it's
16 improving vehicle safety, penalizing passing
17 motorists, eliminating school bus driver
18 distractions, or improving school bus driver
19 qualifications. Legislators must be aware,
20 when considering legislation that would
21 increase unfunded costs while not providing a
22 significant increase to safety, these
23 unexpected and unfunded mandates put a burden
24 on school districts whose budgets have been
25 established calculating what the anticipated

1 costs for transportation will be for the next
2 year.

3 The PSBA recognizes that school bus
4 drivers have the duty to direct a hundred
5 percent of their attention to the safe
6 operation of the school bus and the safety of
7 their passengers and that talking on a cell
8 phone or using other personal portable
9 electronic device, whether it's hands-on or
10 hands-free, is a distraction from their
11 professional duties.

12 The PSBA recommends all school bus
13 companies adopt the following policies -- or
14 policy: Drivers may not use a cell phone or
15 other personal portable electronic device
16 while operating a school bus or any other
17 vehicle transporting students, including
18 loading and unloading students, except in an
19 emergency.

20 For the purpose of this policy, an
21 emergency exists if the driver requires
22 immediate assistance to ensure the safety of
23 his or her passengers or to report a dangerous
24 or life-threatening situation.

25 Because of our belief that driver

1 distraction is a leading cause for many
2 accidents, we support legislation that would
3 prohibit texting and limit cell phone use. We
4 would further recommend that additional
5 penalties be added to a motorist who passes a
6 stopped school bus while loading or unloading
7 while using a cell phone or other electronic
8 device.

9 Thank you for giving me the
10 opportunity to testify before you today. I'd
11 be happy to answer any questions.

12 CHAIRMAN MARKOSEK: Okay. Thank you
13 very much.

14 The chair would like to note that
15 Representative Ted Harhai has joined us.

16 Representative Jeff Pyle.

17 REPRESENTATIVE PYLE: Thank you,
18 Mr. Chairman.

19 Thank you for testifying today.

20 Just curious, are there any laws or
21 governance requiring school bus stops? And
22 the question I ask is, many of my small
23 boroughs are very condensed in river valleys,
24 will have school buses stopping on every
25 corner along the state highway. Are there any

1 rules of conduct or whatever or policies
2 within your association that advises your
3 drivers to at least space them out a couple of
4 blocks apart or whatever distance?

5 MS. PITTENGER: That is dependent on
6 the school districts. The Department of
7 Education, the education code mandates that
8 the school districts develop the routes and
9 the school bus stops.

10 There is issue where the stops -- or
11 not issue but there is guidance as to where
12 school bus stops are located with sight
13 distance and recommendations on where those
14 stops should be established.

15 If there's a hazardous walking route,
16 they can petition the Department of
17 Transportation to come out and do a study on
18 the hazardous walking route, and that's more
19 for those that have bus stops that are spread
20 further apart.

21 In the past few years, though, we've
22 seen a reduction in school bus stops, where
23 they have started spacing them out a little
24 bit further, but it's mostly contingent on the
25 parents and the students within the district

1 of how those stops are established.

2 REPRESENTATIVE PYLE: Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRMAN MARKOSEK: Representative
5 Ron Miller.

6 REPRESENTATIVE MILLER: I guess, on
7 your prohibition of the cell phone and things,
8 I appreciate the indent.

9 Do you have a definition of what's
10 considered an emergency? And I guess, reason
11 for asking is, I know, in my school district,
12 often the driver is called because a parent
13 reports that their child did not get off the
14 school bus, and the question is: Did they
15 just fail to get off or did they fail to get
16 on? Where is that child?

17 Would that be considered an
18 emergency?

19 MS. PITTENGER: That would be
20 considered an emergency. Those school buses
21 are equipped either with two-way radio systems
22 with dispatchers, so that's how they get --
23 most of the time they're being contacted
24 through a dispatcher and an authority within
25 the district and the company. Though, some of

1 them, some companies have a policy they won't
2 even allow their drivers to carry their
3 personal cell phone along with them; that
4 their means of communication can only be
5 through what's been dictated by the district
6 and the company.

7 REPRESENTATIVE MILLER: Okay. Thank
8 you.

9 Thank you Mr. Chairman.

10 CHAIRMAN MARKOSEK: Representative
11 Mark Longietti.

12 REPRESENTATIVE LONGIETTI: Thank
13 you.

14 I notice from your testimony that 85
15 percent of the school districts use
16 independent contractors for their school bus
17 services. Are you aware, are there
18 contractors that have more stringent
19 requirements for their bus drivers than what
20 the law prescribes?

21 For example, if I see from your
22 testimony, within thirty days of a traffic
23 violation conviction, the employee is supposed
24 to provide notice. Are there contractors that
25 even on, like, a DUI arrest or refusal to

1 submit to chemical test, that would require
2 notification and possibly even suspend that
3 driver from driving? Are you aware of that?

4 MS. PITTENGER: I am aware of many
5 companies and districts that, you know, in
6 their employee handbooks and their employee
7 policies that are more stringent, that even
8 though they haven't been convicted over a
9 violation, that they are to report, you know,
10 as soon as possible; in some cases, they may
11 say within forty-eight hours of, you know, of
12 being cited for a violation, I guess, is the
13 proper term, that they notify the employer and
14 make them aware of their -- you know, what
15 happened and that sort of thing.

16 If it comes out that they have not,
17 then, again, the policies they have, you know,
18 for termination and, you know, those types of
19 outlines within their employee policies, so
20 they are -- you know, I guess they are above
21 and beyond what the state does require as far
22 as reporting that they have had a violation,
23 been cited for a violation.

24 REPRESENTATIVE LONGIETTI: Do you
25 know if it goes beyond even reporting to --

1 okay, you have an obligation to report, but
2 that independent contractor would also say
3 that you cannot drive a bus, you know, unless
4 you're acquitted.

5 MS. PITTENGER: Oftentimes, they
6 will -- you know, might not be terminated
7 immediately, but they will be put, you know,
8 on suspended notice. They might be doing some
9 light duties at the garage or, you know, in
10 order to maintain a flow of income, but they
11 are removed -- most often removed from the
12 vehicle until, you know, everything's been
13 cleared up.

14 REPRESENTATIVE LONGIETTI: Okay.
15 Thank you.

16 CHAIRMAN MARKOSEK: Representative
17 John Siptroth.

18 REPRESENTATIVE SIPTROTH: Thank you,
19 Mr. Chairman.

20 Thank you for your testimony.

21 Do you represent companies that
22 operate vehicles to transport students of ten
23 or less that are not considered school buses?

24 MS. PITTENGER: Yes. Many -- I would
25 say a lot of our members have, you know, not

1 only school buses in their fleet but they do
2 also operate school vehicles which are ten
3 passengers or less to transport school
4 students. Often the smaller vehicles are used
5 for special needs transportation or in
6 districts where some of the new developments
7 have -- it's not as easy for a large school
8 bus to get in to some of the new developments,
9 and they will, you know, use the school
10 vehicles to pick up the students closer to
11 their residence instead of having them walk
12 out to a major roadway.

13 REPRESENTATIVE SIPTROTH: In regards
14 to that, do you operate that vehicle when
15 you're loading or unloading the school
16 children's completely out of the right-of-way?

17 MS. PITTENGER: School vehicles are
18 mandated to follow all passenger motorist
19 laws, which motorist is prohibited from coming
20 to a stop on a roadway without being fully --
21 they can stop if they're completely off the
22 roadway and that other cars can get by them.
23 They are -- school vehicles cannot do student
24 pick-up like a school bus does; they're not
25 equipped with the light system. So those do

1 have to be totally off-road pick-ups and
2 discharged. Often they're done either, you
3 know, loading and unloading in a driveway or
4 they're curbside, off of the roadway, to --
5 for students access that vehicle.

6 REPRESENTATIVE SIPTROTH: I've
7 noticed and I have had some reports of those
8 types of vehicles that are not out of the
9 cartway completely and -- when they are
10 loading and unloading students, and that's why
11 I question that, because I have a safety
12 concern with that.

13 MS. PITTENGER: Right. And that's a
14 violation of the law that they would be cited
15 by the police, local law enforcement or state
16 police, if noticed.

17 School vehicles also have the same
18 requirements identification wise as school
19 buses do, with having either the school
20 district or the contractor name on the side of
21 the vehicle, so that should make it somewhat
22 easier to identify who the vehicle works -- is
23 belonging to and transporting for.

24 REPRESENTATIVE SIPTROTH: Okay.
25 Thank you very much.

1 Thank you, Mr. Chairman.

2 CHAIRMAN MARKOSEK: Okay. Thank
3 you.

4 I have one question, too. You had
5 mentioned in your testimony, it sort of jumped
6 out at me when you said it, that only two out
7 of ten folks that apply to be school bus
8 drivers actually become school bus drivers or
9 become licensed. I'm just curious. I would
10 have guessed it would have been a little
11 higher than that. That's 20 percent of all
12 the applicants.

13 Can you just give us a little
14 background as what are the common causes of
15 the eight that don't make it, you know, the
16 reasons, common reasons?

17 MS. PITTENGER: That's pretty, you
18 know, a broad -- the reasons are pretty broad.
19 Sometimes it's, you know, after just a couple
20 of days of the initial training, the applicant
21 realizes this isn't really going to be a good
22 fit for me, you know, I don't know if I'll
23 have the patience to deal with seventy-two
24 children.

25 Some of them wash out due to, you

1 know, their background checks aren't up to par
2 and that they're not qualified.

3 A number of school districts and
4 contractors, again, go above and beyond with
5 the statute of limitations and the -- if
6 they've been convicted of one of the crimes,
7 that they would not be eligible.

8 Also, another factor is the physical
9 requirements. They go through a pretty
10 stringent physical, so they may wash out
11 because of they just don't qualify
12 physically.

13 And sometimes they don't -- you know,
14 even though they're told right up front that
15 this is a job of a split shift, you know, two
16 hours in the morning, two hours in the
17 afternoon, they think that will work out, and
18 often, you know, something else comes up and
19 they need to have their time more condensed
20 into a period.

21 So those are some of the reasons why
22 they're not qualifying and staying on.

23 CHAIRMAN MARKOSEK: What percentage
24 of those that don't make it, if you know this,
25 would be turned down because of they can't

1 pass the drug or alcohol?

2 MS. PITTENGER: That -- I don't have
3 figures on that, to those that don't pass the
4 preemployment drug test.

5 CHAIRMAN MARKOSEK: Okay. If there's
6 a question of -- if a question of
7 qualification is raised in a background check,
8 what happens? Whose decision is it to employ
9 the driver?

10 MS. PITTENGER: It is ultimately the
11 decision of the school district to approve the
12 driver. The qualification process, often the
13 district, working with their contractor, you
14 know, mandates that they follow all the laws
15 and the policies of the district in the hiring
16 process. But, ultimately, that driver cannot
17 be put behind the wheel of a school bus or
18 school vehicle until the district, at a board
19 meeting or, you know, such meeting that would
20 allow them to begin transporting school
21 students.

22 CHAIRMAN MARKOSEK: Okay. If the
23 background check indicated somebody had a
24 previous DUI, for example, that would not
25 necessarily preclude them from being hired, if

1 the school district decided that, in spite of
2 that, they were going to hire this person,
3 they could still do that.

4 MS. PITTENGER: They could. I mean,
5 often those types of -- you know, anything
6 that's showing up on a background check,
7 whether it's the criminal check or the MVR, is
8 going to be, you know, scrutinized more
9 closely and that driver is going to be
10 scrutinized more closely to see, you know --
11 again, if it's been twenty years since that --
12 a DUI or anything showed up on their
13 background check, they might look at it as,
14 hey, he's grown up or she's grown up and
15 learned the errors of their ways.

16 But a lot of assessment, because of
17 the lengthy training process, you know,
18 characters are assessed and it kind of is a
19 longer interview process for a school bus
20 driver.

21 CHAIRMAN MARKOSEK: Okay. I don't
22 see any other questions by the committee, so,
23 Miss Pittenger, thank you very much.

24 MS. PITTENGER: Thank you.

25 CHAIRMAN MARKOSEK: Very good

1 testimony. Appreciate it.

2 Next we have an overview of
3 compliance safety accountability. And is
4 Mr. Timothy Cotter, who's division
5 administrator for the Pennsylvania division of
6 the Federal Motor Carrier Safety
7 Administration of the U.S. Department of
8 Transportation. And he has a slide show
9 available.

10 Mr. Cotter, do you want your --- to
11 have your staff person come forward, too, if
12 you wish.

13 MR. COTTER: I think we're okay.
14 Thank you.

15 CHAIRMAN MARKOSEK: Might want to
16 move the microphone a little bit.

17 MR. COTTER: Good morning.

18 CHAIRMAN MARKOSEK: Good morning.

19 MR. COTTER: Appreciate the
20 opportunity to come here today to talk about a
21 new program that we have at the Federal Motor
22 Carrier Safety Administration. Hopefully you
23 have copies of the slides as well with you
24 that were handed out earlier.

25 The program is called CSA2010, and

1 it's comprehensive safety analysis, and it's a
2 program that we're going to use to monitor and
3 have oversight of the motor carrier industry
4 across the country and in Pennsylvania.

5 I want to first talk to you about
6 what we are changing and why we are making
7 this change at the Federal Motor Carrier
8 Safety Administration.

9 And CSA2010 has three main components
10 to it. First off is how we're going to
11 measure a carrier's safety performance using
12 roadside and crash data.

13 And the second part is what we're
14 terming interventions, or how we're going to
15 make contact with the industry once they're
16 identified as having some safety issues.

17 The third part of CSA2010 is our
18 safety fitness determination. And this is
19 part of our long-term plan, to be able to use
20 the data to make a safety fitness
21 determination for each carrier.

22 Just a little background first, I
23 thought it might be helpful, from the Federal
24 Motor Carrier Safety Administration. It is
25 our mission to reduce crashes, injuries, and

1 fatalities involving trucks and buses. We are
2 established as a separate agency in January
3 1st of 2000.

4 We were originally part of federal
5 highway, and we were separated to our own mode
6 in 2000. We have over about a thousand
7 employees, and we have an office in each
8 state, usually located in the capital of each
9 state.

10 Some of the key programs that we have
11 at FMCSA, this is just a few of them. We're
12 talking about commercial drivers license,
13 that's one of our programs at FMCSA. We also
14 have responsibility for the moving of
15 household goods and oversight of that
16 industry.

17 A key program that we have is called
18 the Motor Carrier Safety Assistance Program.
19 I'll talk about that in a minute. That's a
20 grant program that we have in each state to
21 fund commercial motor vehicle activities in
22 each state.

23 And a relatively new program we have
24 is called the New Entrant Safety Program, and
25 that involves every carrier, once they obtain

1 a U.S. DOT number, and they're an interstate
2 carrier, they're required to go through a
3 safety review within the first eighteen months
4 of operation. And that's a program that was
5 started about four years ago.

6 The Motor Carrier Safety Assistance
7 Program is a federal grant program that
8 provides states with financial assistance to
9 hire staff and implement strategies to enforce
10 safety regulations. The program helps
11 encourage a state to hire individuals,
12 officers, and also to do crash data analysis
13 relevant to our grant program.

14 Here in Pennsylvania, our lead agency
15 for the grant program is the state police, and
16 we have a subgrantee as well, that's the
17 Public Utilities Commission. And in fiscal
18 '09, we have a grant of over six million
19 dollars that is given to the state of
20 Pennsylvania to implement CMV programs, and it
21 helps the uniformity of our programs as well,
22 that vehicles operating in our state are under
23 the same regulations and compliance as they
24 operate in other states as well.

25 I'm going to talk on CSA2010. It's a

1 new program that we're very excited about at
2 FMCSA. It's going to introduce a new
3 enforcement and compliance model that's going
4 to allow FMCSA interstate partners, like the
5 state police and PUC, to come in contact with
6 a larger number of carriers than we have in
7 the past. And that was one of the things that
8 we found, is we don't make as many contacts
9 with the industry as we want to.

10 So why do we want to change? Well,
11 this graph shows the rate of fatalities over
12 time per a hundred million miles being
13 travelled. The chart illustrates that the
14 introduction of some of our different programs
15 has had a positive impact on safety. And the
16 Motor Carrier Safety Assistance Program, you
17 can see back in 1984 it was implemented, and
18 other programs as well have shown a decrease
19 in fatalities involving commercial motor
20 vehicles.

21 But if you look at the last couple
22 years on that graph, you can kind of see where
23 the numbers are somewhat of a flat line on
24 fatalities going down. And that's where we
25 want to make that improvement as to be able to

1 bring fatalities down across our country.

2 And this slide kind of represents the
3 fatalities in Pennsylvania, and we're pretty
4 much in line with the national perspective
5 when it comes to the flat line in fatalities.
6 The last three years, you can see we've
7 averaged around a hundred ninety-three
8 fatalities involving commercial motor
9 vehicle.

10 So as the country has gone from a
11 flat line perspective, so has Pennsylvania for
12 the last couple years, although I am very
13 hopeful that 2009 is going to see a reduction
14 in that. We've had a reduction on overall
15 fatalities on our highways, which is obviously
16 very great to see, and hopefully we'll be able
17 to see those numbers in our CMVs once the
18 numbers are finalized.

19 So why are we making this change?
20 Well, one of the things we found is we don't
21 touch enough of the carriers out there in a
22 given year. We have over seven hundred
23 thousand interstate carriers, about thirty
24 thousand here in Pennsylvania. And we only
25 touch less than 2 percent of the actual

1 carriers when we have an investigation or a
2 compliance review, as we term it, completed.

3 And from a compliance review, a
4 carrier's given a safety rating. And it can
5 be satisfactory, conditional, or
6 unsatisfactory.

7 One of the limitations with the
8 safety rating is a carrier can have a review
9 ten years ago and they can be rated
10 conditional, and it's not really indicative of
11 their operation today because that rating was
12 so long ago. They could make a lot of
13 improvements over time to be a satisfactory
14 company. Or they could have let things slide
15 and could even have a less-than-conditional
16 rating. But we don't know because we haven't
17 been back to that company in ten years.

18 And one of the things with CSA2010 is
19 to have the opportunity to go visit more
20 carriers over time than we are right now.

21 The three components of CSA2010, the
22 first one is the safety measurements. I'll
23 spend most of my time talking about how we're
24 going to identify or measure carriers from a
25 safety performance. The second part are the

1 interventions or the different types of
2 contacts that we're going to implement. And
3 the third one is what I mentioned before,
4 safety fitness determination, where it's --
5 our hope, down the road, is to be able to use
6 the data to determine that fitness rating for
7 a carrier.

8 There are seven categories, or basics
9 that we are calling, that a carrier is going
10 to be evaluated in. These are the seven
11 different categories where we're going to take
12 crash and inspection data that is conducted
13 each day by roadside officers and law
14 enforcement, we're going to pull that data in
15 and score carriers under these seven
16 categories.

17 The first one is called unsafe
18 driving. And just to give you examples of
19 some of these different categories, unsafe
20 driving are your speeding violations, think of
21 moving violations, improper lane change,
22 aggressive driving, violations that would be
23 documented by an officer. Those are the
24 examples of violations in that first category,
25 unsafe driving.

1 Fatigued driving is those related to
2 hours of service where a driver is cited for a
3 false record of duty status or being over the
4 limitations for the hours of service, for
5 example.

6 Driver fitness is the third
7 component. And those are your CDL-related
8 violations and medical requirements, where a
9 driver maybe is not driving with the proper
10 CDL or endorsement, or they're being cited for
11 not having a medical card or not being
12 physically qualified. Those violations are
13 captured and a carrier scored under driver
14 fitness.

15 The fourth one, controlled substance
16 and alcohol, those are violations related to a
17 driver being in possession of alcohol or drugs
18 during a roadside inspection or they're
19 stopped and they're under the influence of
20 drugs or alcohol as well. That would score a
21 carrier under controlled substance and
22 alcohol.

23 The fifth one, vehicle maintenance,
24 are your maintenance violations. A carrier
25 has an inspection. Roadside violations are

1 documented for brakes being out of service,
2 maybe lights not working, problems with the
3 frame of the vehicle. Maintenance-related
4 violations are captured under number five.

5 Cargo related would be those cargo
6 securement or any type of hazardous material
7 violations a carrier might be cited for. So
8 if they don't have proper cargo securement,
9 they're hauling coils of steel down the road
10 and it's not properly secured, those type of
11 violations are captured under number six.

12 And the final one is the crash
13 indicator or crash score, where we have
14 thousands of crashes being reported on a
15 monthly basis to us from all the different
16 states. And it's captured under a carrier's
17 DOT number. And for number seven, the crash
18 indicator, they would get a crash score based
19 on how many crashes they've had in the last
20 two years.

21 For these seven categories, the data
22 that we are using goes back twenty-four
23 months. So when we run the numbers for
24 CSA2010, if we ran it this month, we would go
25 back twenty-four months, and this just gives

1 you an example how much data we are pulling
2 in to score carriers under these seven
3 categories.

4 Nationwide, we have over six million
5 inspections being completed of which over a
6 hundred seventy-six thousand are being
7 completed by Pennsylvania officers.

8 We have two hundred ninety thousand
9 crashes being reported during that twenty-four
10 month time period of which over ten thousand
11 are here in Pennsylvania.

12 And we have about six hundred ninety-
13 seven hundred thousand carriers out there, and
14 as I indicated, around thirty, thirty-one
15 thousand carriers based here in Pennsylvania.

16 One of the differences with our
17 program with CSA2010 is we're going to use all
18 violations from a roadside inspection.
19 Currently, when we monitor a carrier's
20 performance, we are only using out-of-service
21 violations, those that deem the vehicle or
22 driver being placed out of service. But what
23 we are trying to do at FMCSA is raise the bar
24 in the sense that any violations that are
25 found during a roadside inspection are going

1 to contribute to the scoring of a carrier
2 under CSA2010.

3 Two other aspects that we're going to
4 use under our measurements is the time
5 weighted and severity weighting.

6 In time weighted, we want to put more
7 emphasis on the current data that we have. I
8 talked about going back twenty-four months to
9 look at the data, but we put more weight and
10 emphasis on the data that we pull in within
11 the first six months. So if the carrier had a
12 crash or inspection within the last six
13 months, that's going to have a greater impact
14 on their scoring under this program than an
15 inspection or crash that happened twenty
16 months ago. We want to put more weight, more
17 emphasis on the current data that we have
18 available, and as it gets older, it has less
19 of an impact on the carrier's scoring.

20 And severity weighting is the same
21 way, and in the sense that those serious
22 violations are going to have a greater
23 impact. I'll show you a couple examples, but
24 basically we're looking at out-of-service
25 violations would have a greater impact on

1 their scoring than some of our non-out-of-
2 service violations.

3 There are seven different areas that
4 we are scoring a carrier, and I just want to
5 show you two to kind of give you a sense of
6 the data that we are pulling in.

7 The unsafe driving measure, this is
8 the operation of a motor vehicle in a
9 dangerous or careless manner by a driver and
10 carrier. And some of the examples of those
11 violations that would be scored under this
12 category would be speeding, reckless driving,
13 improper lane change, failing to use a seat
14 belt.

15 And then the time weighted, as you
16 can see from the slide, is weighted from a
17 three, two, and one standpoint. So an
18 inspection that happened within the first
19 three months or six months is given three
20 points and so on from there.

21 Under the examples, you can see
22 there's a number next to that score, the
23 speeding and reckless driving, it's a five and
24 a ten. Well, all violations under this factor
25 are scored from a one to ten, so speeding is

1 given a score of five where a reckless driving
2 is more likely to cause or contribute to a
3 crash, so that's given a score of ten. Seat
4 belts, while still very important, doesn't
5 necessarily cause or contribute to a crash,
6 and it's given a score of one, under this
7 particular factor.

8 The other example is under vehicle
9 maintenance, inadequate or improper
10 maintenance procedures by a carrier, and some
11 of the examples are insufficient brake lining,
12 a horn not working, improper rear end
13 protection, and improper tire depth on that
14 vehicle. Those are the points that are given,
15 anywhere from a one to ten score is the
16 severity weight.

17 And, again, the time-weighted aspect
18 is looked at as well. And that's an important
19 point from the industry standpoint, that,
20 well, if this inspection or this crash is on
21 my record for the next two years, I can't do
22 anything about it. In truth, that is on their
23 record under this scoring, but as that data
24 gets older, it has less of an impact on their
25 scoring.

1 The second part of CSA2010 is the new
2 interventions. And I've highlighted in blue
3 the more typical intervention tools we use
4 here today. The on-site investigation
5 comprehensive is what we use here in our
6 program today. And by comprehensive, what I
7 mean on that is, we have a carrier who's been
8 identified as having maintenance problems, we
9 do a full review on that carrier, where we
10 look at drug and alcohol, CDL compliance,
11 hours of service along with that maintenance.

12 And what we want to do is move to the
13 on-site investigations and off-site
14 investigations that are highlighted there.
15 The on-site investigation focus will allow us
16 to go into that same company that was
17 identified as only having maintenance issues
18 and just look at that one problem. We want to
19 get away from looking at everything at that
20 carrier that the data is not telling us that
21 they're having a problem in hours of service.
22 Let's open up our time for the carrier and
23 also for our investigator to just look at
24 where the problem is. And that's where our
25 focused on-site investigation would come into

1 play there.

2 The off-site investigation would be
3 an example where the carrier would provide us
4 documentation and we would do that review back
5 at our office. And an example of that would
6 be a carrier, let's say they have a high crash
7 rate. We would ask them to provide us with
8 the documentation related to those crashes,
9 and we can do our assessment off site. And it
10 helps the carrier and also our staff as well,
11 where we don't have to send somebody out to
12 the carrier to look at that one part for a
13 couple of hours or a day. And it also frees
14 up the carrier's time as well by providing
15 that information and letting us do our work
16 from an off-site perspective.

17 So those are some of the new
18 intervention tools that we're looking to
19 utilize under CSA2010.

20 These are the test states right now
21 that are involved in the CSA2010. It's been
22 going on for about three years now, our pilot
23 program. And here in the northeast, we have
24 states like New Jersey, Delaware, and Maryland
25 that are involved in CSA2010.

1 The last part of our discussion is
2 the safety fitness rating. And this is a
3 proposal that we're looking to implement. And
4 we want to get away from what we term our
5 "seal of approval" for our ratings. Right now
6 a carrier gets a rating, as I indicated, and
7 it stays on their record for ten, twenty
8 years, until a new rating is generated.

9 And what we are doing is proposing a
10 safety fitness determination, where based on
11 the data alone on a monthly basis, the carrier
12 would be classified as either unfit, marginal,
13 or continue to operate. And this would be
14 changing on a monthly basis because we would
15 be running our data once a month, and a
16 carrier would be determined to be unfit,
17 marginal, or continue to operate based upon
18 their safety performance.

19 So it really puts the carrier in
20 control of their safety fitness determination,
21 based on their crashes and based on their
22 roadside activity.

23 The data itself we're going to make
24 available to the industry later this summer.
25 It's going to be an opportunity for them to

1 log on with a pin number. They can access
2 their own information; no one else would have
3 access to it. And they can start to look at
4 the data and see how they are scoring, and it
5 will provide them with the opportunity to see
6 what type of changes or program improvements
7 need to be made by the carrier for when we do
8 roll out the program later this year.

9 And kind of a subset of CSA2010 is a
10 program called preemployment screening
11 program. And that is going to be a new
12 opportunity for the carriers to be able to
13 have access to our crash and inspection data.
14 And what will happen is, as a carrier goes to
15 hire a driver, the driver will sign a release
16 form, and at that point, the carrier's going
17 to be able to contact FMCSA through a third-
18 party vendor, and they're going to get access
19 to all the inspections and crashes related to
20 that driver.

21 So that's going to be information
22 available to the carrier to help them make a
23 more informed decision of when they go to hire
24 a driver. It is not a mandatory program; it
25 is optional. But it's going to be a program

1 that we expect the carriers to jump on very
2 quickly, based on the benefits that it will
3 provide to them.

4 When we talk to carriers, one of the
5 big things that we try and stress is educating
6 their drivers about this. A driver's going to
7 be on the front line, based on the roadside
8 inspection and the crashes, so it's important
9 that drivers have an understanding of this
10 program as well.

11 In our office, we have been doing a
12 lot of education presentations and seminars to
13 the industry to get this word out. We have
14 websites available. I, myself, have been
15 talking on this program to the industry, to
16 make them aware, to get them up to speed so
17 they're ready to go once we do fully implement
18 CSA2010.

19 So those are the three aspects of the
20 CSA2010. We have our safety measurement, our
21 new intervention process. And we're really
22 hoping with a greater number of interventions,
23 it's going to result in the agency reaching
24 more carriers, and it's going to lead to
25 increased safety while decreasing the amount

1 of disruption to our carriers who are
2 investigated.

3 This program is also good for
4 carriers. These compliance are going to help
5 to establish a more equal playing field for
6 the industry once we roll out the program
7 later this year.

8 At this point, I'd be happy to take
9 any questions you may have.

10 Thank you.

11 CHAIRMAN MARKOSEK: Representative
12 Mike Carroll.

13 REPRESENTATIVE CARROLL: Thank you
14 very much.

15 Thanks for your testimony.

16 Exactly how does this affect the
17 carriers in Pennsylvania? What's the penalty
18 here for newly discovered violations?

19 MR. COTTER: The program is going to
20 be a monitoring program for us, for every
21 carrier that has a U.S. DOT number. Once they
22 have their inspections and crashes, that
23 information is uploaded. So we're going to be
24 able to monitor a carrier's performance over a
25 period of time, two years under CSA2010.

1 So it's not really so much of a
2 penalty, but it's an opportunity for us to
3 better assess a carrier at an earlier point.
4 Right now, we kind of wait until they have
5 serious problems. Under CSA2010, what we want
6 to be able to do is, once those problems start
7 to be filtered up, they're at a point where we
8 want address them, we can tackle them a lot
9 earlier and a lot sooner.

10 So instead of waiting for a carrier
11 to have maintenance and hours-of-service and
12 driver problems, if maintenance is their only
13 problem, let's get to it right then and there
14 and address and work with that carrier to make
15 those safety improvements.

16 REPRESENTATIVE CARROLL: Exactly how
17 do you do that?

18 MR. COTTER: We have investigators in
19 my office and also with the PUC where we'll
20 send them out to the carrier and work with
21 them and look at their programs and see what
22 type of policy or program changes need to be
23 made at their operation. And it's based on
24 our experience, what our officers and their
25 experience with other carriers, that they can

1 help implement new programs to those carriers
2 that need assistance there.

3 REPRESENTATIVE CARROLL: Seems like
4 you're going to really be busy. I mean, the
5 statistics that I've learned -- I was at a
6 recent meeting with the group that -- involved
7 with I-81 corridor in northeastern
8 Pennsylvania, and the information related to
9 truck inspections indicated an astoundingly
10 high number of trucks were put out of service
11 when they did these inspections. And it just
12 seems to me that you're going to inherit all
13 sorts of work here with respect to
14 inspections, I guess, in advance of them
15 actually going out to the road.

16 Do you have that kind of staff to be
17 able do something like this?

18 MR. COTTER: Well, I think we have
19 the resources. I think what is being created
20 here are more opportunities for how we're
21 going to handle those carriers that have been
22 identified. I mean, some of the other
23 examples that we would have as tools would be
24 sending out warning letters to those carriers,
25 increasing those carriers that have been

1 identified as having problems with more
2 roadside inspection, but also for sending
3 officers out to do reviews, instead of
4 spending a whole week at a carrier where they
5 have look at everything, they're going to be
6 able to maybe do two or three reviews in a
7 week and look at those carriers, because
8 they're going to focus in on where the problem
9 is.

10 So I think we have the resources,
11 just better looking at the problems and using
12 our time more efficiently under this new
13 program.

14 REPRESENTATIVE CARROLL: Just one
15 last questions, Mr. Chair, if I may.

16 The driver fitness component that you
17 touched on earlier, will that change the
18 ability for Pennsylvania CDL drivers -- I
19 mean, for example, as I understand it, certain
20 medical conditions now warrant the issuance of
21 a CDL and others prevent the issuances.

22 Do these new driver fitness
23 requirements change our existing medical
24 requirements for a CDL?

25 MR. COTTER: It does not change

1 anything. What it does is allows us to better
2 capture all those violations under a single
3 category. So we're not looking to change the
4 physical requirements or standards that are
5 out there. It's just being able to identify
6 those drivers and carriers that have been
7 cited for those violations and more directly
8 look at those problems.

9 So we're not looking to change any of
10 the regulatory physical requirements.

11 REPRESENTATIVE CARROLL: I'm not sure
12 how you'd qualify a violation as a medical
13 condition -- I don't -- you're not equating a
14 medical condition with a violation, are you?

15 MR. COTTER: Well, there can be
16 drivers that maybe they don't have a medical
17 roadside, and that would be something that we
18 might want to look at a little bit closer
19 after the fact. If a driver doesn't have a
20 medical card or he's been cited three or four
21 times during different roadside inspections,
22 that would be something we would want to look
23 at a little bit more closely to see why does
24 that driver not have a physical. Is there
25 some type of physical limitation out there or

1 has the driver just been having a disregard
2 for that rule in particular?

3 REPRESENTATIVE CARROLL: Thank you,
4 Mr. Chairman.

5 CHAIRMAN MARKOSEK: Representative
6 John Siptroth.

7 REPRESENTATIVE SIPTROTH: Thank you.

8 Just a little follow-up with
9 Representative Carroll. Is there any amnesty
10 program afforded to the drivers in this
11 program? In other words, if they blow a
12 whistle on a carrier for repeated violations,
13 that they're forced to drive a truck or a bus
14 or whatever, is there any amnesty offered to
15 those particular drivers?

16 MR. COTTER: We take it very serious
17 when a driver comes in with any type of
18 complaint involving a carrier. And as we do
19 today and will down the road, we don't
20 acknowledge to the carrier that we got a
21 complaint from a certain individual; we never
22 identify that individual.

23 Some of the more serious complaints
24 that we have found on a carrier have come from
25 drivers, so that's a very important kind of

1 resource that we see out there. So we never
2 go back to the driver or hold the driver
3 accountable for violations under the whistler-
4 blower requirements, if they have identified
5 any problems out there.

6 So we -- we look for drivers to
7 notify us of those violations, however we
8 never tell the carrier or acknowledge to
9 anybody else where those violations were --
10 came from or how we were notified.

11 REPRESENTATIVE SIPTROTH: Okay. I
12 mean, there are tracking devices that -- you
13 know, scenarios that would lead back to a
14 particular driver of a particular rig and that
15 type of thing, if they're being cited or
16 inspected more frequently than the average
17 vehicle in the fleet. That's my only concern,
18 that they could be tracked back to that
19 particular whistler blower.

20 MR. COTTER: I know when we have our
21 investigators go in, it's a standard
22 expectation not to reveal where the complaint
23 came from. And when we look at a carrier's
24 operation, we don't go and just look at that
25 one vehicle, one driver. We usually take a

1 sampling of drivers that a carrier is
2 utilizing, whether drivers or vehicles, so I
3 think, through that process, we're able to
4 kind of mask where we are looking at or where
5 the problem even originated from, to help kind
6 of prevent the complaint being indicated or
7 who was involved with the original complaint
8 there.

9 REPRESENTATIVE SIPTROTH: Okay.
10 Thank you.

11 Thank you, Mr. Chairman.

12 CHAIRMAN MARKOSEK: Okay. You're
13 welcome.

14 Representative Ted Harhai.

15 REPRESENTATIVE HARHAI: Thank you,
16 Mr. Chairman.

17 Thank you, Mr. Cotter, for your
18 testimony.

19 Feeding off of Representative
20 Siptroth, you might get a disgruntled driver,
21 as you well know, and turn somebody in for
22 something that isn't -- isn't bad or very
23 marginal. That's not my question, but I'm
24 sure that's what you have to deal with on a
25 daily basis. I'm angry with my carrier so

1 I tell them that the braking is bad; let them
2 figure out. Just the fact that they're
3 getting inspected and upsetting the apple
4 cart, so to speak, makes them happy.

5 My question is, do you utilize the
6 black box at all? And are you familiar
7 with -- I have legislation that's been pending
8 and languishing for about five years. And it
9 just came to light again with this Toyota
10 issue about the sticking gas pedal.

11 Do you have anything that is
12 similar? Although you were very
13 comprehensive, and I think it seems to be a
14 good program, do you utilize something where
15 you would find out by the accident they
16 ignored them, and are they always -- obviously
17 they're not always trucking issues -- or not
18 issues, but default. Do you have anything of
19 that sort on the tractor that would indicate
20 braking, air bag deployment, distance in
21 braking, things of that nature?

22 MR. COTTER: Currently, we don't use
23 that in the field or in the divisions right
24 now, but I can look in to see how our agency
25 is going to be considering looking at those

1 opportunities.

2 REPRESENTATIVE HARHAI: I'm just
3 curious, because, as I said, there's language,
4 because the insurance industry has fought very
5 hard and long to stop that from being a part
6 of it or allowing themselves to access the
7 information but not the actual company, or in
8 the case that I would be doing with an
9 individual constituent, they can't get ahold
10 of their own information and they paid for a
11 vehicle. Sounds pretty bad.

12 I'm just curious if you utilize that
13 or just that type of system in addition to
14 what you already have, which I said, and agree
15 with, is very comprehensive.

16 MR. COTTER: Not in today's
17 environment, but I can see where our agency is
18 looking to go on that, if that would help.

19 REPRESENTATIVE HARHAI: Thank you.

20 Thank you, Mr. Chairman.

21 CHAIRMAN MARKOSEK: Okay. I had a
22 couple of questions, Mr. Cotter.

23 One -- you had mentioned that there
24 are roughly thirty thousand carriers in
25 Pennsylvania?

1 MR. COTTER: Correct, interstate
2 carriers, yes.

3 CHAIRMAN MARKOSEK: Okay. Interstate
4 carriers. And school buses would not be part
5 of that.

6 MR. COTTER: For the most part, no.
7 I mean, occasionally, you might have a school
8 bus operation that would go across state lines
9 on a "for hire," but that's a very limited
10 occurrences.

11 CHAIRMAN MARKOSEK: Would there be --
12 some of those carriers out of that thirty
13 thousand be just a person that has one truck?

14 MR. COTTER: Yes.

15 CHAIRMAN MARKOSEK: So it can be all
16 sizes?

17 MR. COTTER: Um-hum.

18 CHAIRMAN MARKOSEK: On one of your
19 slides, or actually a couple of them, you were
20 talking relative to the SMS basics, that
21 slide, where the focus on behaviors linked to
22 crash risks. Distracted driving wasn't
23 mentioned.

24 We've obviously been dealing very
25 heavily with that here in the legislature

1 recently. Is there data to be shown there or
2 is it part of some other data that you have?

3 MR. COTTER: I know distracted
4 driving is a priority for the office of the
5 secretary. And I know our agency is working
6 on some rule makings related to that, but I'm
7 not privy to those discussions or know kind of
8 where they stand here today.

9 CHAIRMAN MARKOSEK: Okay. Let me
10 just say that Mr. Cotter sits on the
11 Pennsylvania Motor Carrier Advisory Committee,
12 which Chairman Geist and I and Miss Pittenger
13 also are members of that.

14 And I want to thank you for your
15 efforts relative to that and for also coming
16 to our hearing today and providing some very
17 good information.

18 Any other questions by the members?

19 Representative Costa, you didn't have
20 any questions?

21 REPRESENTATIVE COSTA: No, sir.

22 CHAIRMAN MARKOSEK: Thought I saw a
23 hand up over there.

24 REPRESENTATIVE COSTA: Just trying to
25 get comfortable.

1 CHAIRMAN MARKOSEK: Mr. Cotter, thank
2 you very much. Very good testimony.

3 And I want to thank all of the people
4 that spoke today.

5 And I also want to mention that
6 Representative Josh Shapiro has joined us as a
7 visitor.

8 And, Josh, just so you know, I
9 consider all the visitors to this committee as
10 wannabes. So --

11 REPRESENTATIVE SHAPIRO: I certainly
12 am, Mr. Chairman.

13 CHAIRMAN MARKOSEK: Welcome to the
14 committee meeting today. I know you have a
15 great interest in distracted driving.

16 Just a point of order for the
17 committee and some information. April 12th
18 and 13th, we will be in the Lehigh Valley and
19 in Philadelphia. We have a tour in the Lehigh
20 Valley of a cement plant -- or a concrete
21 plant. And, also, the committee is invited to
22 attend a conference in Philadelphia relative
23 to distracted driving. And that's for the
24 information of the members.

25 Seeing no further business, the

1 meeting is adjourned. Thank you.

2 (Whereupon, the hearing concluded at
3 11:15 a.m.)

4

5

* * * * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I HEREBY CERTIFY that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.

BRENDA J. PARDUN, RPR
Court Reporter
Notary Public