



NHTSA DOCKET NO. NHTSA-2016-0121 Reports, Forms and Record Keeping Requirements

The National Association for Pupil Transportation (NAPT) is pleased to respond to National Highway Traffic Safety Administration's (NHTSA) request for comments as it seeks Office of Management and Budget (OMB) approval to collect information from states, school districts, and the school bus industry.

As an overall comment, we support efforts by NHTSA to better understand the pupil transportation industry, and especially improve the knowledge base about approaches to make an already safe system even safer.

School transportation service providers, public and private, operate the largest mass transportation fleet in the country. Our nearly 500,000 vehicles on the road each day outpace public transit with 140,000 total vehicles, 96,000 of which are buses; motor coaches with 35,000 buses; commercial airlines with 7,400 airplanes; and rail, with 1,200 passenger cars. In fact, the nation's school bus fleet is 2.5 times the size of all other forms of mass transportation combined.

Every day in the United States more than 25 million children ride school buses to and from school, mostly uneventfully. We take this responsibility very seriously and it's an integral part of the communities served, an indispensable part of the nation's education system.

According to NHTSA, children riding school bus are at least 50 times more likely to arrive at school safely by traveling in a yellow school bus rather than in a passenger car, and are safer than walking or bicycling.

Despite the strong safety record spanning many decades, we know there is always more that could be done, and our industry self-starts on them as a matter of fundamental culture. Indeed, the January 2017 GAO Report, "School Bus Safety: Crash Data Trends and Federal and State Requirements," acknowledged this commitment to safety.

While supportive of NHTSA's effort to glean more information, we offer the following comments constructively with an eye toward making the effort yield more useful information.

We offer three concerns/suggestions for NHTSA and the Office of Management and Budget to consider in evaluating the agency's information gathering request.

Seat Belts.

The discussion of seat belts in school buses is probably the most controversial topic of discussion in our industry, and NAPT is committed to doing everything we can to advance the discussion positively.

But we take exception to the NHTSA core premise in this proposal that: “There has generally been resistance against installing seat belts on school buses based on a variety of reasons including the existing safety features of school buses compared to other vehicles (i.e. taller and heavier vehicles, padded and high seat backs, etc.), need for drivers or aides to enforce wearing seat belts, cost and other factors.”

This statement is an oversimplification of legitimate operational concerns held by the majority in our industry that have yet to be addressed by NHTSA, rather than “resistance.”

It reflects new agency thinking since November 1, 2015 when then-administrator Mark Rosekind, PhD. changed the agency policy unilaterally without using the regulatory process, allowing public comment or addressing the many and various statements that NHTSA had previously made to the contrary

In his announcement at our annual Summit, Dr. Rosekind stated, “NHTSA has not always spoken with a clear voice on the issue of seat belts on school buses. So let me clear up any ambiguity now: NHTSA’s policy is that every child on every school bus should have a three-point seat belt.”

Unfortunately, a great deal of ambiguity remains.

Indeed NHTSA itself has made the most compelling arguments against installing seat belts in large school buses, reflected in regulatory documents still on the public record. To wit, a Final Rule on the subject (Regulation Identifier Number (RIN) 2127-AK09) (NPRM upgrading school bus passenger crash protection, 72 FR 65509 (November 21, 2007); final rule, 73 FR 62744 (October 21, 2008)); (RIN 2127-AK49) response to petitions for reconsideration, 75 FR 66686 (October 29, 2010)) and subsequent Petition Denial from groups wanting NHTSA to mandate belts on school buses (<https://www.gpo.gov/fdsys/pkg/FR-2011-08-25/html/2011-21596.htm>).

Here is one statement from that Final Rule:

“After considering all available information, including the comments to the NPRM, we cannot conclude that a requirement for seat belts on large school buses will protect against an unreasonable risk of accidents or an unreasonable risk of death or injury in an accident. That is, based on available information, a science-based, data-driven determination that there should be a Federal requirement for the belts cannot be supported at this time. Whether the same conclusion can be made by a State or local jurisdiction is a matter for local decision-makers and we encourage them to make the

decisions most appropriate for their individual needs to most safely transport their students to and from school.”

But with NHTSA’s opinion now that all school buses should have lap/shoulder belts, when local decision-makers make such decisions, it is unfairly and unfortunately characterized as “resistance” rather than them exercising their obligation to determine how best to optimize the safety of children riding in school buses in light of confusing and seemingly conflicting information and based on their local priorities, resources, and circumstances.

We believe it’s critically important for states and school districts to have objective, unambiguous, fact-based information from the federal agency that regulates school bus manufacturing, particularly when evaluating the advantages/disadvantages and potential unintended consequences of adding seat belts to the vehicle when compared to other available safety equipment or technologies that may ultimately be more effective ways to improve pupil transportation safety.

In the interest of advancing consideration of seat belts in large school buses, we have asked NHTSA repeatedly to clear up the conflict between the agency’s existing regulatory documents and the new policy position articulated by its former administrator. We have yet to receive a response to our requests.

After every serious school bus crash, fortunately rare occurrences, the understandable public question is: “Why don’t school buses have seat belts?” The question is never answered by NHTSA. Instead, industry “resistance” is cited when, in fact, that is not the case.

We believe the federal agency calling on states and communities to install seat belts in all of their buses, has an obligation to explain clearly why it has not used its statutory authority to mandate seat belts in school buses.

The latest NHTSA position seems to be nuanced this way: “We cannot justify a federal requirement for seat belts in school buses because the costs would exceed the intended benefits for a form of transportation that already is extremely safe. But we think states and communities should do it anyway.”

Since November 2015, the agency has been leveraging its various safety constituencies in Washington, D.C. to help carry its message, justifying its new position this way: “...it is commonly known that the use of seat belts has improved the safety for other types of vehicles.”

It is without doubt that the widespread use of seat belts in passenger cars has saved thousands of lives, and NHTSA deserves credit for leading that successful effort. But passenger cars and school buses are very different vehicles in size, how they are operated, numbers of passengers, numbers of crashes, and crash consequences.

There is another important distinction: NHTSA has a Federal Motor Vehicle Safety Standard (FMVSS) for passenger car crash protection, and as part of it cars are subjected to dynamic crash testing by manufacturers to certify compliance with the standard, as well as additional

NHTSA crash tests at a higher speed, and “star” ratings issued to help consumers make safety-smart decisions in the new vehicle marketplace.

NHTSA does not crash test school buses to demonstrate safety performance, something it could do voluntarily even without a federal mandate for installing belts. We hear from operators at the state and local level that they would benefit from NHTSA crash testing of school buses that analyzes the effectiveness and after-effects of seat belts, particularly in side impact, angular impact and roll over scenarios that may require emergency evacuation with dozens of students involved. We believe this would be an important line of inquiry in the interviews conducted during this information gathering effort.

Despite our concerns, in support of the former administrator’s announcement, and recommendations by the NTSB, we have kept our members fully informed on seat belts, and encouraged them to carefully consider them as they make decisions on new bus purchases. The NTSB Chairman has also been our keynote speaker at four recent annual conferences to update school bus officials from around the country on the Board’s latest investigations into crashes and benefits of belts.

2. The information gathering needs to be more expansive and inclusive.

The stated survey methodology is to begin by identifying “school districts who have implemented, or are planning to implement, seat belts on their school buses.”

The experience of the six states with existing school bus belt requirements is well known and has been discussed frequently in presentations to NHTSA and at school bus industry conferences. Indeed, this was the main focus of two NHTSA “Town Hall” meetings last year.

The discussion that stems from these interactions seems increasingly to be about improvements in student behavior and bus driver satisfaction from having students buckled up, rather than documenting safety benefits in crashes. While these are important collateral benefits, and we fully support them, they are not the focus, especially the public focus, after a serious crash when the interest is solely on whether seat belts would have made a difference.

As previously stated, we believe the federal agency calling on states and communities to install seat belts in all of their buses, has an obligation to explain clearly why it has not used its statutory authority to mandate seat belts in school buses.

Advancing seat belts in school buses as the right choice for a school district that faces myriad competing resource demands requires a strong emphasis on passenger crash protection as the first goal. This has two components: Understanding local priorities and challenges, and determining what NHTSA could do to help better position seat belts among the many competing expenditures.

Therefore, we believe there is more information to be gleaned from discussions with the jurisdictions that do NOT have seat belt requirements, and believe this broader focus should be the NHTSA concentration.

Federalism

As the GAO pointed out in its just-released report: "...states play a primary role in overseeing school bus safety, as described later in this report, and states have their own mechanisms to use state crash data to identify and use federal grant programs to address highway safety issues in their state. NHTSA and FMCSA have grant programs whereby each state identifies its priorities for highway and motor carrier safety, respectively. For example, for NHTSA's Highway Safety Grant Program, each state must develop a Highway Safety Plan based on an evaluation of highway safety data, including crash data, to identify safety problems..."

"Therefore, if a state identifies a need for initiatives to improve school bus safety and has jurisdiction, the state could include it as a priority in its grant application and target federal and state spending for related initiatives. NHTSA and FMCSA said that, at present, no states identified school bus safety as a priority area in applications for the State and Community Highway Safety Grant Program or Motor Carrier Safety Assistance Program."

We believe this is also a matter that should be discussed as part of this NHTSA information-gathering project; it would be very helpful to understand state reluctance to engage in federal safety grant programs that include or focus on school transportation.

In conclusion, we believe pupil transportation safety should be a topic where the search for improvements is a constant process and therefore look forward to the results should OMB approve NHTSA's request, especially if NHTSA adjusts the focus of the project.

As always, NAPT stands ready to be of assistance to NHTSA and, again, hope our comments herein are viewed in the constructive manner in which they are offered.