

**HUMAN PERFORMANCE GROUP CHAIRMAN'S
FACTUAL REPORT
(5 PAGES)**

Two students received critical injuries, three students and two adults were seriously injured, about 30 students, one adult, and both drivers sustained minor injuries, and nine students and three adults were uninjured.

THE DRIVERS

The 79-year-old bus driver was in possession of a valid Class B, New York commercial driver's license with passenger endorsement and corrective lens restriction. The license was issued February 20, 1992 and would have expired on [REDACTED] [REDACTED]. The bus driver also possessed a current biennial' Medical Examiner's certificate that was issued September 4, 1999. A review of the driver's driving record revealed that he was involved in a "property damage" accident on October 20, 1997. Further review of his driving record did not reveal any traffic convictions or other accidents. The bus driver was convicted for "failing to stop at stop sign" on December 6, 1999 in this accident.

Safety Board investigators attempted to contact the bus driver for an interview through his attorney but was unsuccessful. Kinnicutt Bus Company officials reported that the bus driver had been employed with the company since September 1, 1966. Prior to his employment with Kinnicutt, he was a local law enforcement officer. Company officials also reported that the driver worked full-time and he had been assigned his regular school route for 6 years. The accident trip was a scheduled extra trip from Albany Public School #18 to the Pumpkin Patch in Central Bridge about 40 miles away.

Company officials reported that the bus driver was very punctual. They said that he would always arrive an hour early for his assignments. They also added that he was a conscientious driver. In a post-crash interview with the investigating police, the driver said that he started out the day from the company garage on Elmwood Drive at 7:20 am. He said that he ran his regular route for the morning,

¹ New York Department of Motor Vehicles Commissioner's Regulations Part 6, "Special Requirements for Bus Drivers" requires a biennial physical for all bus drivers.

which took about one and a half-hours. After he finished his morning route he said that he drove to Albany School #18 on Hubert Street and loaded students and chaperones for a trip to the Pumpkin Patch. He said that he had never been to the Pumpkin Patch previously.

The bus driver said that he departed the school about 9:20 am. He said that he took the New York State Thruway west to exit 25A(I-88) and then traveled west on 1-88 to exit 23. Some of the chaperones reported that the driver stopped the bus on the exit 24 ramp, but continued traveling on I-88 after they told him it was the wrong exit. A teacher who was a passenger on the bus reported that the bus driver seemed confused when he stopped on the exit ramp. She also stated that she was concerned at how he positioned the bus on the ramp when he stopped and she was afraid that they would be hit. The bus driver said that he turned right at the top of the ramp at exit 23 and started looking for SR 7. He said that as he approached the intersection he saw the stop sign on the right side of the road but he was so concerned with finding SR 7 he didn't stop. The bus driver said that he never saw the truck approaching. He said that as he entered the intersection he heard one of the chaperones yell but he didn't know what they said and then the truck hit the bus.

The bus driver said that he took medication daily for his diabetes and heart. He reported that he took two sugar pills in the morning and one at night. He also said that he took Coumadin² daily. The bus driver reported that he had been taking his medication for about 12 years and it had never affected his driving ability. He said that he was feeling fine and well rested the morning of the accident. A review of the bus driver's medical records revealed that he was under repeated treatment for a cardiac condition and a diabetic condition. (See Safety Board Medical Officer's Factual Report.)

The 52-year-old dump truck driver was in possession of a valid, Class B, New York commercial driver's license with no endorsements and valid for intrastate operation only. The license was issued on September 5, 1997 and expired on [REDACTED] A review of the dump truck driver's driving record revealed that he was involved in an accident on October 20, 1997. There were

² Coumadin is a perscription medication known as a blood thinner for cardiac patients.

no other traffic accidents or traffic convictions noted on his record.

A local construction company owned the dump truck. The driver had been employed by the construction company for about **8** years. He reported that about **40** percent of his duties included driving the truck. He said that his other duties were carpentry work, masonry work, excavation work, and “house setting.” The dump truck driver said that he usually worked from 7:00 a.m. to 3:30 p.m. He said that he would work some overtime on occasion but not often. The dump truck driver said that he started work at 7:30 a.m. on the morning of the accident with shoveling work. He said that around 9:00 a.m. he conducted a pre-trip inspection of the truck and started driving about 9:30 a.m. He said that he made a stop on Route 30 and he was enroute to refuel the truck when the accident occurred. The dump truck driver also said that his passenger was a co-worker that he was moving from one job site to another when the accident occurred.

The dump truck driver said that he grew up in the area and he was familiar with the accident intersection. He said that he was westbound on SR 7 approaching the intersection of SR 30A at about **45** miles-per-hour. He said that he had a flashing yellow light at the intersection for his direction of travel. The dump truck driver said that he noticed as the school bus approached the intersection it was not slowing down for the stop sign. He said that he then applied brakes and he attempted to steer to the left to avoid the collision. The dump truck driver said that he immediately **called 911** on the company’s cellular telephone. He said that he did not remember any other vehicles at the intersection prior to the accident.

New York State Board of Education

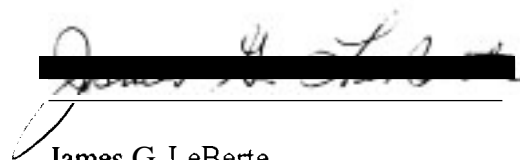
In New York, on July 30, 1985 a proposed amendment to the Commissioner of Education pursuant to sections 207 and **3624** of the Education Law relating to the Qualifications of School Bus Drivers was introduced. The purpose of the amendment was to eliminate the upper age limit of **65** for school bus drivers in New York State. The maximum age limit for school bus drivers

prior to September 1, 1971 was 70. The age limit was reduced to 65 after September 1, 1971. Because of recent court cases that challenged the validity of the age limitation at the time, the Court of Appeals remanded the case to the Supreme Court of Albany County to determine whether age was a bona fide occupational qualification for school bus drivers.

The New York State Board of Education relied upon a statistical report prepared by the Department of Motor Vehicles regarding accident rates in relation to motor vehicle driver's age. The report indicated that drivers in excess of age 65 were more likely to become involved in an accident than a younger driver. However, during the course of litigation mathematical errors in the report were discovered which rendered its conclusions statistically invalid.

Further review of statistics from the National Safety Council and a survey conducted at the National Standards Conference for Pupil Transportation in Missouri failed to indicate an increased incidence of accidents involving drivers in the 65 and older age group. Since there was insufficient data to support the establishment of any maximum age limit for school bus drivers the amendment was passed on October **23**, 1985.

On July 18, 1997 another amendment to the regulations concerning the qualifications of school bus drivers was approved. The amendment clarified the standards for fitness for school bus drivers and required all school bus drivers to take and pass a physical performance test every **2** years. The bus driver passed a physical performance test conducted by a New York State school bus driver instructor on September **30**, 1998.

A handwritten signature in cursive script, which appears to read "James G. LeBerte", is written over a thick black horizontal redaction bar. The signature is positioned above a thin horizontal line that serves as a separator between the signature and the printed name below.

James G. LeBerte
Human Performance Investigator