

# National Transportation Safety Board

Office of Highway Safety

Washington, DC 20594



HWY23MH004

## **MOTOR CARRIER**

Group Chair's Factual Report

October 17, 2023

## **CRASH INFORMATION**

Location: Williamsburg, York County, Virginia  
Date: December 16, 2022  
Time: 1:36 a.m. Eastern Standard Time (EST)

## **MOTOR CARRIER GROUP**

Group Chair	Shawn Currie National Transportation Safety Board/Highway Safety Washington, DC
Group Member	Craig A. Feister Federal Motor Carrier Safety Administration/Virginia Richmond, VA
Group Member	Travis Zaremba Federal Motor Carrier Safety Administration/Illinois Springfield, IL

## **MOTOR CARRIER OPERATIONS**

For a summary of the crash, refer to the *Crash Information and Summary Report*, which can be found in the NTSB docket for this investigation.

This investigative report addresses the motor carrier history and operations of 2000 Eldorado medium-sized bus and the 2022 Freightliner truck tractor in combination with a 2020 Great Dane semi-trailer involved in this crash, operated by Futrells Party Adventures LLC of Chesapeake, Virginia and Triton Logistics Incorporated of Romeoville, Illinois, respectively. This report also documents the employment and driving history of the driver of the truck tractor. The employment and driving history of the bus driver were not covered in this report as the trip and driver's actions were not regulated by federal regulations. Federal and State oversight, regulatory applicability and compliance for the drivers and carriers are also addressed in this report.

### **1.0 FUTRELLS PARTY ADVENTURES LLC**

The first carrier in this crash is Futrells Party Adventures LLC (Futrells). This business is located at 2973 S. Military Highway, Chesapeake, Virginia and was

registered as a company on June 12, 2020. The owner states that the business was an event planning business focusing on children's parties. The owner further stated she had bought the "party bus" approximately two years ago to offer more services to her clients. She obtained the bus from a company in Arizona. The party bus was described as a medium-sized bus with a seating capacity of >16 passengers and a Gross Vehicle Weight Rating (GVWR) of 21,440 pounds. The passenger capacity required the operator to have a commercial driver's license (CDL) with a passenger endorsement and be medically qualified to operate the vehicle.

The carrier primary provided the bus as a "party bus" and operated within Virginia (Intrastate). The carrier was not registered with the US Department of Transportation (USDOT) and did not have nor was it required to have a USDOT number by Virginia law.

### **1.1 Crash Trip**

The bus had started its trip from Norfolk, Virginia traveling to Richmond, Virginia. The bus was returning from Richmond to Norfolk when it was involved in the crash. The trip was about 93 miles one way with an estimated drive time of 2 hours at normal highway speeds.

### **1.2 Management Safety Practices**

In speaking with the owner, it was established that the carrier lacked any written policies or procedures. The driver of the bus involved in the crash had not been required to fill out an application, take a pre-employment-controlled substance test or have a review of his driving history.

The carrier was exempted from many of the regulations being intrastate and even more being a private trip (described below). However, the fact the bus required a CDL would require controlled substance testing.

The carrier did not maintain files for maintenance. The owner stated she had various maintenance receipts on her phone as pictures, but the Virginia State Police still had her phone in custody. Due to those circumstances, NTSB investigators were unable to obtain any records. Numerous attempts to obtain any records from either the owner or her attorney have been unsuccessful.

### **1.3 Government Oversight/Federal Motor Carrier Safety Administration (FMCSA)**

The bus in this crash was operating within Virginia from Norfolk to Richmond and back. During the interview with the owner, it was determined the trip was personal. The owner stated that she had not charged anyone for the trip, was not paying the driver, and it was in support of her family and friends. The crash trip,

being an entirely intrastate and not in commerce was outside of the regulatory arena of the FMCSA and the Federal Motor Carrier Safety Regulations (FMCSRs).

FMCSA later visited the owner of Futrells to determine if a compliance review was warranted. It was determined that Futrells was no longer planning to operate as a passenger carrier and the owner of Futrells provided FMCSA with a signed statement stating they were no longer a passenger carrier and if they were to re-enter the business, they would educate themselves in the regulatory and safe operation requirements.<sup>1</sup> FMCSA did not do an investigation or take any enforcement action.

#### **1.4 Government Oversight/Commonwealth of Virginia**

Virginia regulates the intrastate transportation of passengers and property several ways. The Department of Motor Vehicles (DMV) issues operating authority to carriers<sup>2</sup>. DMV has three types of passenger operating authority:

1. Public convenience - Common carriers
2. Fitness - Contract carriers commonly charters and limousines.
3. Permitted - Taxis

Under the Virginia law, Futrells was classified as a contract passenger carrier. As such, it would have been subject to the following process to obtain fitness operating authority.<sup>3</sup>

- Complete an application for a contract passenger carrier.
- Provide evidence of a \$25,000 surety bond.
- Be evaluated by a case manager for fitness.
  - This included a review of the carrier for complaints.
- Ensure the carrier's vehicles have the proper registration.
- A public notice is posted on the DMV website allowing a 2-week comment period.
- If the application is approved, the carrier would then have to file proof of proper liability insurance.

The Virginia Department of Motor Vehicles law enforcement division would normally conduct a new licensee inspection of a carrier with newly issued operating authority. This inspection would be similar to a FMCSA new entrant audit. The inspection would be conducted 60-90 days from the issuance of the authority. In this case, Futrells was issued authority on November 15, 2022.<sup>4</sup> This was less than 60 days prior to the crash and the new licensee inspection had not been scheduled or conducted.

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<sup>1</sup> Motor Carrier Attachment - Futrells Statement

<sup>2</sup> [Va. Code § 46.2-2011.24.](#)

<sup>3</sup> [Virginia Department of Motor Vehicleshttps://www.dmv.virginia.gov/commercial/](https://www.dmv.virginia.gov/commercial/)

<sup>4</sup> Motor Carrier Attachment - Operating Authority Letter

## **2.0 Bus Driver**

The driver of the bus was a 23-year-old male with a Class D non-commercial driver's license.<sup>5</sup> The vehicle required a CDL with a passenger endorsement due to the number of passengers the vehicle was equipped to transport, and the driver did not have one. The driver's privilege to operate a motor vehicle was suspended.<sup>6</sup> The license was issued in December 2021 and was due to expire in August 2028. The driver was described as not the normal driver and was a fill in driver for the carrier. The owner stated the driver had only made an estimated 4-5 previous trips driving this bus.

### **2.1 Controlled Substance and Alcohol**

The driver of the bus was required to have had a pre-employment test due to the vehicle requiring a CDL.<sup>7</sup> The driver had not been subject to a pre-employment-controlled substance and alcohol test as required by the Federal Motor Carrier Safety Regulations (FMCSRs).

### **2.2 Vehicle Maintenance**

#### **2.2.1 Bus**

Maintenance records for the period the bus was operated by Futrells were unavailable. The owner stated she did not keep a formal maintenance file but did keep receipts for work that had been done on the vehicle. These records were on her cellular phone and that phone was in the custody of the Virginia State Police. The Virginia State Police produced a download for the owner's phone. A single receipt was located.<sup>8</sup>

The Virginia State Police's inspection unit was able to produce annual inspection reports for the bus. The current annual inspection was conducted on December 23, 2021, and expired in December of 2022, after the crash.

NTSB investigators were able to locate the previous owners of the bus in Arizona and Texas. The Arizona company was able to email 5 records of service for the bus. After looking through their archives, the Texas owner did not locate any additional records.

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<sup>5</sup> [Virginia Department of Motor Vehicles](#)

<sup>6</sup> For further information refer to the docket for this crash.

<sup>7</sup> 49CFR382

<sup>8</sup> For further information refer to the docket for this crash.

### **3.0 Triton Logistics Incorporated**

Triton Logistics Incorporated (Triton) originally started as a carrier in 2011. The current owner acquired the carrier in 2013. According to FMCSA's Motor Carrier Management Information System (MCMIS), the carrier was issued USDOT number 2255842. The carrier was registered as an Interstate "For-Hire" carrier of general freight and other non-hazardous materials loads. The carrier's primary place of business is in Romeoville, Illinois. The carrier had an active operating authority and had been issued Motor Carrier (MC) #769725. Per the carrier's latest MCS-150<sup>9</sup>, the carrier operates 247 power units, 272 trailers and employs 167 drivers.<sup>10</sup>

Triton Logistics, Incorporated is a subsidiary of Triton Logistics Holding LLC. Other subsidiaries are Triton Express LLC (brokerage), AV Logistics Management, Inc (asset management), AV Leasing LLC (vehicle and trailers), AV Estates LLC (real estate company), Triton Portsmouth LLC (Virginia based location), AV Repair LLC (Maintenance) and Triton Logistics UAB (Offices in Lithuania).

#### **3.1 Crash Trip**

The combination vehicle in this crash was traveling from Anheuser-Busch, 2814 S Second Street, St. Louis, Missouri to Triton's Portsmouth, Virginia facility about 919 miles with an estimated driving time of 13 hours and 43 minutes.

#### **3.2 Management Safety Practices**

Triton had procedures and policies in effect at the time of the crash. These included rules of conduct for drivers, a formal written orientation procedure, post-accident procedures, a drug and alcohol policy, a ban on cellular phone use and texting, and a roadside inspection rewards and penalties document.

The rewards ranged from \$100 for a violation free Level 3 inspection to a \$200 reward for a violation free Level 1 roadside inspection<sup>11</sup>. Violations discovered during roadside inspections were subject to progressive discipline. A first violation could result in a verbal warning, safety acknowledgment and retraining. A second or third violation could be penalized at \$50 per violation with an additional \$200 per out of service violation. Penalties for drug and alcohol violations and cell phone use were \$1000 and/or termination.

Triton had the speed of all its truck tractors electronically governed at 69 miles per hour (MPH). The carrier utilized Samsara as a provider for a forward-facing video system. Samsara provided the carrier with email alerts for certain events. These

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<sup>9</sup> Motor Carrier Identification Report

<sup>10</sup> Motor Carrier Attachment - MCS-150 dated 11/15/2022.

<sup>11</sup> [All Inspection Levels - CVSA - Commercial Vehicle Safety Alliance](#)

events included speeding, harsh driving which included harsh acceleration, turning and braking. Events involving following distance issues and violation of traffic signs and signals were also sent to the carrier's safety group via email. The group would evaluate the events and counsel and discipline the driver, if necessary. The three-person safety group was comprised of the claims manager, human resources manager and the safety administrator.

Samsara also ranked all drivers' performance and provided a "safety dashboard" utilizing the risk factors listed above and accounting for distance and time driven over a period. At the time of the crash, the crash driver's Samsara dashboard score was 82 out of 100 (100 being a perfect score). The driver was ranked above the average according to carrier officials.

In addition to the three-person safety group, Triton had two different people that were responsible for separate parts of safety management. A Safety Administrator, based in the Illinois office and an Hours-of-Service Manager based in the carrier's Lithuanian office. In speaking with Triton's personnel, it was discovered they previously had a full-time safety manager that was responsible for the overall safety program. The position had remained unfilled since the previous employee left to form his own company approximately 2-years ago.

The safety administrator was responsible for working closely with fleet management to ensure permits, vehicle inspections and registrations were up to date and in compliance. Also monitoring and tracking DOT inspections and applying corrective actions when required. Disputing FMCSA violations via the DataQ process.<sup>12</sup> Monitoring the carrier's drug and alcohol program, CSA scores and assisting with toll violations.

The hours-of-service manager described himself and his team's duties as being able to check all driver's logs to make sure they are all filled and updated with all mandatory information, ensuring the drivers were not in a violation overnight and that they were notified and stopped in time, ensuring drivers did not abuse the personal conveyance allowance, and making sure no one drove with an unplugged or broken electronic logging device. The hours-of-service group communicated with drivers daily regarding logs to remind the drivers what was required.

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<sup>12</sup> The DataQ process is an online portal where carriers can dispute roadside violations.

### 3.3 Hiring

The carrier had an established formal hiring process that was documented through written policy and procedure. Upon having an opening for a driver position, the carrier posted an advertisement. The potential employee would fill out an application on Tenstreet.<sup>13</sup> Once that application had been received, two separate emails would be sent. One to the carrier's insurer and the other to the carrier's Human Resources (HR) department.

The insurer would determine if the applicant was insurable and met the carrier's pre-approved requirements. These requirements included: a minimum of age 23, a minimum of 2 years commercial driver's license experience, no more than 3 prior accidents or a series of accidents and violations agreed upon by the carrier and insurance.

If the applicant met the standards, the insurance company would notify the HR department. The HR department would evaluate the applicant to determine if the potential employee was qualified. If the applicant met the standards, the applicant would be passed on to the recruiting team who was located at the carrier's Lithuanian offices.

The recruiting team would schedule pre-employment-controlled substance testing and make an appointment time for the applicant to travel to the carrier's main office in Illinois.

The applicant would then travel to the main office in Romeoville, Illinois. Upon arrival, the applicant would fill out another application to include previous work/driving history questions. The applicant would then watch two training videos: "Eyes on Defensive Driving" and "Accident Procedures". These videos are commercially available from J.J. Keller.<sup>14</sup> While the applicants were viewing the videos, HR staff would verify the applicant's medical card and CDL. Once verified, HR continued to on-board the applicant with HR paperwork and additional company policies and procedures that are outlined in the management safety practices portion of this report.

Once the on-boarding was completed, the applicants would be hired as drivers. They would be assigned a vehicle and provided with an Electronic Logging Device (ELD) tablet and trained on its use.

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<sup>13</sup> [Tenstreet - Software That Connects Drivers and Carriers](#)

<sup>14</sup> [DOT Training Courses | Driver Safety & Compliance | J.J. Keller \(jjkeller.com\)](#)



### 3.4 Controlled Substance and Alcohol

The carrier had an established controlled substance and alcohol testing program. The carrier provided copies of their annual drug and alcohol testing for the past four quarters. The controlled substance testing program met the regulatory requirements under 49 CFR 382.305. The crash-involved driver was not subject to post-crash drug or alcohol test, due to his ongoing medical treatment. The carrier also had on file an inquiry into the FMCSA Drug and Alcohol Clearinghouse for the crash-involved driver, which was negative for any positive drug tests.<sup>15</sup> For information concerning the driver's post-crash testing refer to section 5.4 of this report.

### 3.5 Hours of Service

As of December 18, 2017, 49 CFR 395 required carriers to install and maintain an ELD to track the driver's hours of service.<sup>16</sup> An ELD is a device or technology that automatically records a driver's driving time and facilitates the accurate recording of the driver's hours of service.

There are certain parameters that would allow carriers to be exempt from the ELD requirements. These parameters include operating a commercial vehicle in a manner requiring completion of a record of duty status on not more than 8 days within any 30-day period; in a driveaway-towaway operation in which the vehicle being driven is part of the shipment being delivered; in a driveaway-towaway operation in which the vehicle being transported is a motor home or a recreation vehicle trailer; or in a commercial vehicle manufactured before model year 2000. Since the operations of the truck tractor combination with a semitrailer operated by Triton did not meet any of these conditions, an ELD was required.

Triton used a tablet based ELD with Road Star LLC as the provider.<sup>17</sup> This was verified through an electronic transmission of ELD data and confirmed by the carrier. The ELD provider was self-certified and on FMCSA's approved device list.

As previously stated, Triton used a hours-of-service manager to oversee the compliance of driver's hours of service. This position was in the carrier's Lithuanian office and oversaw a team of three other employees who were responsible for tracking compliance with the hours-of-service regulations defined in 49 CFR 395.8. The hours-of-service manager stated that the carrier had switched its ELD provider to the Road

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<sup>15</sup> The Federal Motor Carrier Administration (FMCSA) established the Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse (Clearinghouse). This database contains information pertaining to violations of the U.S. Department of Transportation (DOT) controlled substances (drug) and alcohol testing program for holders of CDLs. For additional information see: [Commercial Driver's License Drug and Alcohol Clearinghouse | FMCSA \(dot.gov\)](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&ty=HTML&h=L&mc=true&=PART&n=pt49.5.395).

<sup>16</sup> <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&ty=HTML&h=L&mc=true&=PART&n=pt49.5.395>

<sup>17</sup> [RoadStar - ELD Solution | Dash Camera | Tail Light Tracker \(brightroadstar.com\)](https://www.roadstar.com/)

Star system approximately 6 months prior to the crash. The hours-of-service manager stated his office was manned to mirror the office hours in the United States, even though there was a significant time difference (8 hours ahead) between his location and the carrier's Illinois location.

#### **4.0 Federal Oversight/Federal Motor Carrier Safety Administration (FMCSA)**

##### **4.1 CSA and SMS**

In 2010, the FMCSA introduced the Compliance, Safety, Accountability (CSA) system as an initiative to improve large truck and bus safety and ultimately reduce crashes, injuries, and fatalities that are related to Commercial Motor Vehicles (CMVs). It introduced an enforcement and compliance model that allows the FMCSA and its state partners to contact a larger number of carriers earlier to address safety problems before crashes occur. Along with CSA, the FMCSA also rolled out an operational model called the Safety Measurement System (SMS), which replaced its predecessor, known as the SAFESTAT model. SMS uses a motor carrier's data from roadside inspections, (including all safety-based violations), state-reported crashes, and the Federal Motor Carrier Census to quantify performance in the following Behavior Analysis and Safety Improvement Categories (BASICS).

##### **4.2 CSA BASICS<sup>18</sup>**

- **Unsafe Driving** – Operation of CMVs by drivers in a dangerous or careless manner. *Example violations:* Speeding, reckless driving, improper lane change, and inattention. (FMCSR Parts 392 and 397)
- **Hours-of-Service (HOS) Compliance** – Operation of CMVs by drivers who are ill, fatigued, or in non-compliance with the HOS regulations. This BASIC includes violations of regulations pertaining to records of duty status (RODS) as they relate to HOS requirements and the management of CMV driver fatigue. *Example violations:* false HOS RODS and operating a CMV while ill or fatigued. (FMCSR Parts 392 and 395)
- **Driver Fitness** – Operation of CMVs by drivers who are unfit to operate a CMV due to lack of training, experience, or medical qualifications. *Example violations:* Failure to have a valid and appropriate commercial driver's license (CDL) and being medically unqualified to operate a CMV. (FMCSR Parts 383 and 391)
- **Controlled Substances and Alcohol** – Operation of CMVs by drivers who are impaired due to alcohol, illegal drugs, and misuse of prescription

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<sup>18</sup> CSA Methodology retrieved from [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov)

or over-the-counter medications. *Example violations:* Use or possession of controlled substances/alcohol. (FMCSR Parts 382 and 392)

- **Vehicle Maintenance** – Failure to properly maintain a CMV and/or properly prevent shifting loads. *Example violations:* Brakes, lights, and other mechanical defects, failure to make required repairs, and improper load securement. (FMCSR Parts 392, 393, and 396)
- **Hazardous Materials (HM) Compliance** – Unsafe handling of HM on a CMV. *Example violations:* Release of HM from package, no shipping papers (carrier), and no placards/markings when required. (FMCSR Part 397 and Hazardous Materials Regulations Parts 171, 172, 173, 177, 178, 179, and 180)
- **Crash Indicator** – Histories or patterns of high crash involvement, including frequency and severity based on information from state-reported crashes.

A carrier's measurement for each BASIC depends on the following:

- The number of adverse safety events (violations related to that BASIC or crashes).
- The severity of violations or crashes.
- When the adverse safety events occurred (more recent events are weighted more heavily).

After a measurement is determined, the carrier is then placed in a peer group (i.e., other carriers with similar numbers of inspections and carrier size). Percentiles from 0 to 100 are then determined by comparing the BASIC measurements of the carrier to the measurements of other carriers in the peer group. A percentile of "100" indicates the worst performance.


The FMCSA established threshold levels that would require agency action. Unsafe Driving, HOS, and Crash BASICs were set at lower thresholds because of their inherent risk. Additionally, passenger carriers and hazardous materials carriers have lower thresholds than all other carriers because of their inherent risk. **Table 1** represents the thresholds set by the FMCSA that help prioritize agency intervention and resource management.<sup>19</sup>

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<sup>19</sup>Retrieved from [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov)

**Table 1.** BASIC thresholds.<sup>20</sup>

<b>BASIC</b>	<b>Passenger Carrier</b>	<b>HM Carrier</b>	<b>All Other Motor Carriers</b>
Unsafe Driving, HOS, Crash	50%	60%	65%
Driver Fitness, Drug & Alcohol, Maintenance	65%	75%	80%
Hazardous Materials	80%	80%	80%

On a carrier's SMS profile, which is publicly available on the SAFER website for only passenger carriers, an alert symbol, , is displayed in any designated BASIC where the carrier has exceeded the corresponding threshold.<sup>21</sup> This is also referred to as having an "alert" in a BASIC.

At the time of the crash, Triton displayed an alert in the unsafe driving BASIC. The SMS profile also shows that at the time of the crash, the carrier's driver out of service rate was 2.5 percent and the vehicle out of service rate was 17.1 percent. These rates were in comparison to the national averages of 6.0 percent and 21.4 percent, respectively. This information was based upon roadside inspection data discussed below.

Since becoming a carrier, Triton had not been subject to an on-site comprehensive compliance review. The carrier was subject to an off-site New Entrant Safety Audit on April 10, 2013, and with that audit, successfully exited the New Entrant Program. At the time of the audit, the carrier had one driver, one vehicle, and had different owners.

A focused compliance review (CR) is used when two or fewer BASICs have exceeded their thresholds or when only certain portions of the Code of Federal Regulations (CFR) are reviewed related to the carrier's operations. A focused CR normally does not result in a safety rating and usually is classified as "non-rated" when completed, however it may result in an adverse safety rating (conditional or unsatisfactory).<sup>22</sup> A comprehensive CR is used when three or more BASICs have

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<sup>20</sup>Retrieved from <http://csa.fmcsa.dot.gov/FAQs.aspx>.

<sup>21</sup>FMCSA BASIC information publicly available for Passenger and Hazardous Material carriers only. See additional information at the FMCSA Safer website: <http://safer.fmcsa.dot.gov/CompanySnapshot.aspx>.

<sup>22</sup> Safety rating or rating means a rating of "satisfactory", "conditional", or "unsatisfactory" using the factors prescribed in 49CFR385.7 as computed under the Safety Fitness Methodology. **Safety Ratings:** (1) **Satisfactory** means a motor carrier has in place, functioning safety management controls to meet the safety fitness standards prescribed in 49CFR385.5. (2) **Conditional** means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standards that could result in occurrences listed in §385.5 (a) through (k). (3) **Unsatisfactory** means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in §385.5 (a) through (k). (4) **Unrated** means that a safety rating has not been assigned to the motor carrier by FMCSA.

exceeded their thresholds. A comprehensive CR may also be used if the carrier was involved in a crash or there has been a complaint made. A comprehensive CR addresses all aspects of the carrier’s operation and normally results in a safety rating. The safety rating is determined by the FMCSA using safety rating methodology outlined in 49 CFR 385.5 which evaluates patterns of critical and acute violations.<sup>23</sup> **Table 2** summarizes the carrier’s CR history to include the post-crash CR.

**Table 2.** Compliance Reviews.

Type of CR	Review Date	Safety Rating
On-Site Focused review - Significant crash	03/23/2023	Conditional
Drug & Alcohol	08/27/2018	Non-Rated

The drug and alcohol review from 2018 was a result of a recently hired driver that had tested positive for marijuana use at a previous carrier. When the intervention by FMCSA occurred, the driver had already been fired by Triton and had failed to disclose his issues. There were no civil penalties or other enforcement action noted for the carrier as a result.

### 4.3 Post-Crash Compliance Review

As a result of the post-crash on-site focused review, FMCSA proposed a conditional safety rating due to violations discovered. The following is a summary of the violations listed in the CR conducted by FMCSA.

- Fraudulent or intentional alteration of a supporting document - 49CFR390.35
  - Carrier submitted a false payroll document for a fictitious co-driver.
- Failing to conduct post-accident alcohol testing on a driver involved in a reportable crash. 49CFR382.303(a)\*

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<sup>23</sup> Acute violations are those identified where non-compliance is so severe as to require immediate corrective action by the motor carrier regardless of the overall safety posture of the carrier. Critical violations relate to management and/or operational controls that show a pattern of non-compliance. A list of acute and critical violations is listed in Appendix B of 49CFR385.

- Making or permitting a driver to make a false report regarding duty status. 49CFR395.8(e)(1)
- Failing to use hazard warning flashers. (49CFR392.22(a))
- Failing to conduct post-accident-controlled substance testing. 49CFR382.303(b)
- Failing to conduct a pre-employment query. 49CFR382.701(a)
- Operating a vehicle in violation of local/state laws - unsafe driving. 49CFR392.2
- Driver not properly using safety belt. 49CFR392.16
- Commercial motor vehicle equipped with a radar detector. 49CFR392.71(b)
- Driver using handheld mobile telephone while operating a CMV. 49CFR392.82(a)(2)
- Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14<sup>th</sup> hour after coming on duty. 49CFR395.3(a)(2)
- Requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours. 49CFR395.8(a)(3)(i)
- Failing to require a driver to prepare a record of duty status using the appropriate method. 49CFR395.8(a)(1)
- Motor carrier failed to manage ELD accounts per 395.22(b)(2). 49CFR395.22(b)(2)(i-iv)
- Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year and tire size. 49CFR396.3(b)(1)
- Failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed. 49CFR396.3(b)(2)

\* Pertains to the crash driver

Additionally, as part of the CR process FMCSA reviewed the carrier to ensure that it was not operating under an out of service order or a subsidiary of a carrier that was under an out of service order. FMCSA determined the carrier was not a reincarnated carrier.<sup>24</sup>

#### 4.4 Roadside Inspections

Triton had been subject to 375 roadside inspections since November 23, 2020, resulting in 202 violations of the FMCSRs. The driver had several roadside inspections on file prior to the crash. These are outlined in **Table 3**.

**Table 3.** Driver’s Prior Roadside Inspections

Date	Location	Carrier	USDOT	Violation(s)
09/18/2020	Ohio	Great Divide Transport LLC	2899739	Failing to use seat belt. Failure to maintain lane
12/16/2020	Texas	Triton Logistics Inc	2255842	Inoperable lamp Hood not securely fastened. Improper lane change Speeding-1 to 5 mph over
10/12/2021	Ohio	DAS Expedited LLC	2548139	Inoperable headlamp
01/24/2022	Tennessee	Haidar Dawood Inc	2551243	Flat tire
07/25/2022	Kentucky	Triton Logistics Inc	2255842	No Violations
11/07/2022	South Dakota	Triton Logistics Inc	2255842	No Violations

#### 5.0 Truck Driver

The driver of the truck tractor was a 61-year-old male. The driver had a Class AM Alabama commercial driver’s license (CDL) with restrictions for corrective lenses and permissions for tank, hazardous materials and motorcycles.<sup>25</sup> The CDL was issued in September of 2022 and was due to expire in June of 2026.

#### 5.1 Driver’s Qualification

The driver’s qualification (DQ) file followed the regulatory requirements of 49CFR391.51 and contained all the required documentation to include a driver’s application, copy of the driver’s motor vehicle record, and a copy of the driver’s medical certificate.

According to the DQ file the driver had a medical certificate on file which showed an issue date of September 28, 2022 and was valid for two years with an

<sup>24</sup> For a definition of reincarnated carrier see 49CFR386.73

<sup>25</sup> [Driver Licenses - Classes, Endorsements, and Restrictions | Alabama Law Enforcement Agency \(alea.gov\)](http://alea.gov)

expiration date of September 28, 2024. The DOT physical was performed by a medical examiner that was listed on FMCSA’s national registry.

## 5.2 Driver’s Work History

The driver of the truck has had a Class AM CDL since May of 2006. He attended ABC Testing and Training CDL school in Horton, Michigan from April 2006 to May 2006.<sup>26</sup> Since graduating from that course, he has had at least 20 commercial driving jobs as summarized in **Table 4**. The information obtained for **Table 4** was obtained from the driver’s latest application to Triton and a previous application to Haidar Dawood LLC in 2021. There were instances where the driver contradicted his employment dates and omitted former employers from either application. The driver worked for Triton previously, from October 2020 to August 2021, and stated he left due to not receiving the number of driving miles he had originally been promised.

**Table 4.** Prior Employment History

Company	Dates of employment
FedEx Custom Critical	06/2006 to 12/2006
CRST Expedited	01/2007 to 05/2008
Dart Transit	06/2008 to 06/2009
Forward Air	06/2009 to 06/2011
XPO Logistics	06/2011 to 06/2016
Forward Air	07/2016 to 06/2017
Platinum Transportation	06/2017 to 10/2017
JMSA	10/2017 to 11/2017
V2 Transportation LLC	11/2017 to 11/2017
TAK Trucking Inc	11/2017 to 04/2018
Premium Transportation Logistics LLC	05/2018 to 03/2019
Ascent Global Logistics LLC	04/2019 to 04/2019
Foremost Transport Inc	05/2019 to 07/2020
Boyd Bros. Transportation	04/2020 to 06/2020
Great Divide Transport LLC	07/2020 to 09/2020
Triton Logistics Inc	10/2020 to 08/2021
DAS Expedited LLC	09/2021 to 11/2021
Haidar Dawood LLC	11/2021 to 04/2022
Floyd Inc	12/2021 to 04/2022
Triton Logistics Inc	04/2022 to crash date

## 5.3 Hours of Service Issues

As previously stated, the carrier required the driver to track his hours of service via ELD. The carrier provided ELD data to investigators on December 16, 2022 at 15:46 hours (CST) as a .PDF file.<sup>27</sup> Examination of the ELD data showed the driver to be operating in a driver/co-driver operation. The data contained the driver’s

<sup>26</sup> [ABC Training and Testing - CDL](#)

<sup>27</sup> Motor Carrier Attachment - December 16<sup>th</sup> ELD



information, driver's license number and driver's log-in. The driver and co-driver information was very similar. The driver's license number and state were the same for the driver and co-driver. The driver's log-in was his last name followed by his first name and the number 2 with no spaces. The co-driver's log-in was also the same with the addition of letters "tl" at the end of the driver's log-in. The driver had told the Virginia State Police that he had dropped his co-driver off at truck stop just prior to the crash.

Interviews and evidence developed determined that the alleged co-driver was no longer an employee of the carrier and had been dismissed on December 8, 2022. A phone interview with the alleged "co-driver revealed that he did not know the driver, had never occupied the truck with him or driven over-the-road for Triton.

The carrier uploaded the ELD data for both driver and "co-driver" to FMCSA's eRODS program.<sup>28</sup> This information was generated on December 19, 2022 at 16:48 hours (CST).<sup>29</sup> This information differed from the original information provided on December 16<sup>th</sup>. The license number for the co-driver showed a Virginia license which corresponded to the alleged co-driver's proper license number.

Triton officials stated this discrepancy was due to the carrier reviewing and editing improper information to ensure it was compliant and correct. Even though the driver was using a fictitious or "ghost" co-driver, the ELD was functioning and connected to the truck tractor and showed accurate driving and stopped times, location, and other telematics information.

Using the data from the ELD, the driver and fictitious co-driver information was combined to determine the driver's true hours of service record from midnight on Saturday December 10<sup>th</sup>, 2022 to the date and time of the crash. The information was superimposed onto one graph to show the times when the vehicle was in motion (driving) and stopped (off-duty and sleeper birth). For further information see **Figure 1**.

Utilizing the information in Figure 1, the driver's hours of service was determined including the calculation for the driver's 60/70-hour rule (49CFR395.8(b)(1-2)). Normally the 70-hour rule is calculated by the taking the date of the inspection or crash and adding the on-duty and driving hours for that day and the previous 7 days. The driver showed off-duty on both the 8<sup>th</sup> and 9<sup>th</sup> of December in Pell City, Alabama so the driver accumulated those hours in only 7 days as opposed to the normal 8 days. By adding all on-duty and driving time from Midnight on December 10<sup>th</sup> until the time of the crash at 12:45 am on the 16<sup>th</sup> the driver

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<sup>28</sup> [ELD - Web eRODS \(dot.gov\)](https://www.eRODS.gov)

<sup>29</sup> See Motor Carrier Attachment - December 19<sup>th</sup> ELD.

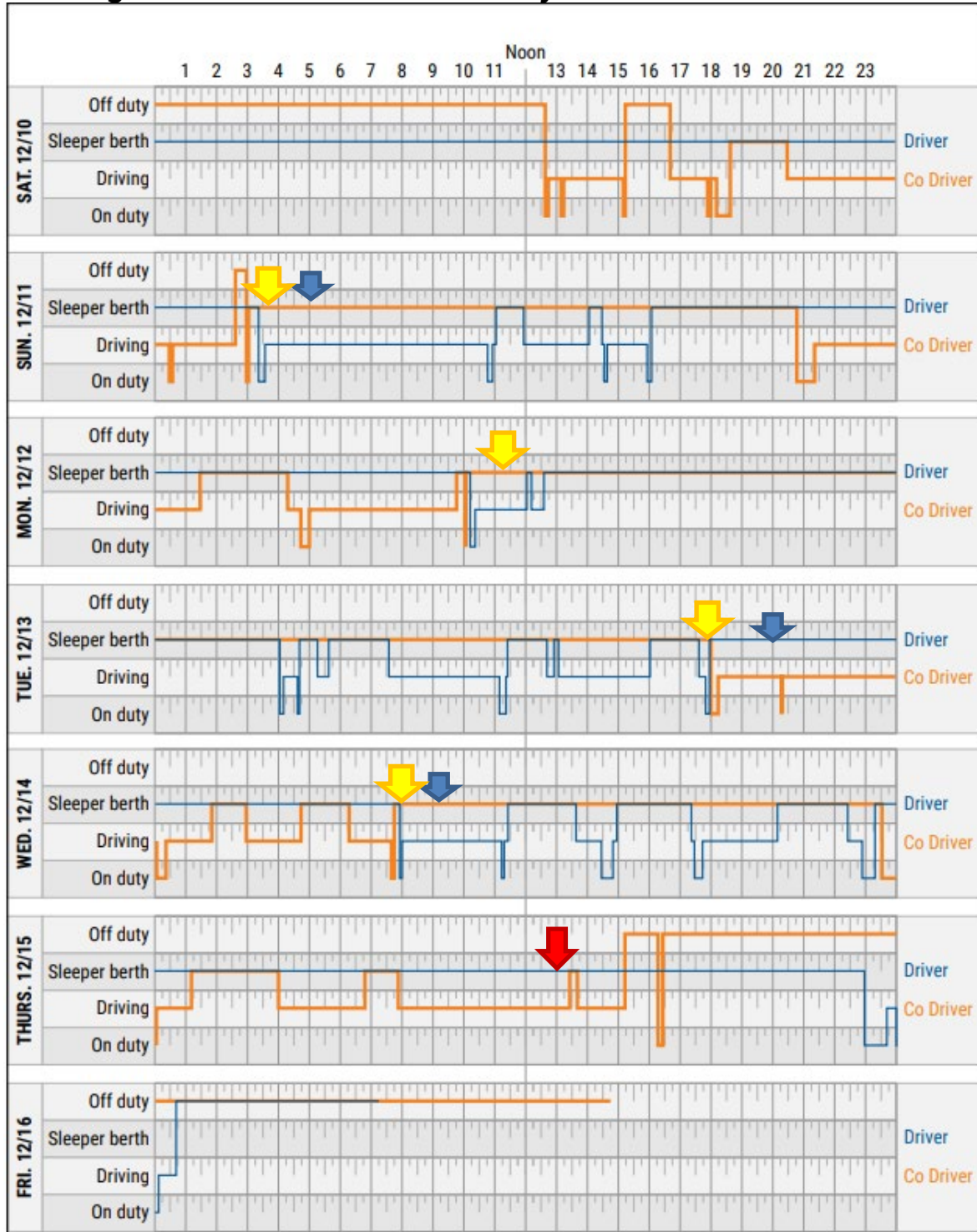
exceeded the 70-hour rule by over 4 hours. This is depicted by a red arrow at the time the driver reached his 70<sup>th</sup> hour of driving/on-duty time in **Figure 1**.




NTSB investigators were able to interview the truck driver. He stated that he had stopped for a rest break at the rest area the evening prior to the crash (December 15). After his break, he went to the Pilot truck stop and fueled his truck. The driver stated he had no co-driver and was not assigned to a team. He explained that the carrier had given him instructions during his orientation where if he was running out of driving hours, to stop, log out of his ELD and call the carrier's hours-of-service department. The hours-of-service department would change his ELD to another driver, he would log back in and would then have additional hours to drive. He stated that his ELD would show his information, but the hours would be attributed to another "driver".<sup>30</sup>

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<sup>30</sup> See Truck Driver Interview Transcript in the docket for this investigation

**Figure 1. Combined Records of Duty Status**



 = 14-hour rule  
 = 11-hour rule  
 = 70-hour rule

## **5.4 Controlled Substance and Alcohol**

The driver had two pre-employment-controlled substance tests on file with Triton, as he had been previously employed by Triton from October 2020 to August of 2021. The first was administered on October 19, 2020, and the second was April 22, 2022. The test results were negative for illegal drugs. There were no random or other tests on file with the carrier. The carrier was unable to obtain either an alcohol or controlled substance test from the driver due to his post-crash hospital admission. FMCSA cited this as a violation in the post-crash compliance review.

## **6.0 Vehicle Maintenance**

### **6.1 Truck tractor and Semi-trailer**

Triton's maintenance facility in Romeoville, Illinois is collocated with its corporate office. The facility has multiple bays which can accommodate truck tractors and trailers and is a full-service garage. Triton completes its preventative and other maintenance at this facility. Triton was able to produce maintenance files for both truck tractor and trailer that demonstrated a systematic and routine maintenance program. The latest preventive maintenance service for the truck tractor was on November 1, 2022 and the latest maintenance for the trailer was on December 7, 2022. The annual inspection for the truck tractor had been completed on April 25, 2022 and the trailer's annual inspection had been completed on October 4, 2022.

## **7.0 Post Crash Actions**

Triton has taken the following post-crash actions to address issues discovered during this investigation.

Triton decided to change ELD providers from Roadstar to Samsara and XELD. Triton is currently testing to determine which application has better account management and user management controls.

Triton has also hired Simplex Safety consultants with the purpose of coach and training its drivers on safety topics, focusing on hours of service.<sup>31</sup> Simplex is also providing a dedicated account safety manager to review ELD records and verify that Triton's hours of service team does everything correctly.

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<sup>31</sup> [Simplex Group - Trucking Company Compliance](#)

## **8.0 Attachments**

- Motor Carrier Attachment - Futrells Statement Transcript
- Motor Carrier Attachment - Operating Authority Letter
- Motor Carrier Attachment - MCS-150 dated 11/15/2022.
- Motor Carrier Attachment - Dec 16<sup>th</sup> ELD
- Motor Carrier Attachment - Dec 19<sup>th</sup> ELD
- Motor Carrier Attachment - Virginia Title Application

Submitted by:

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