

KANSAS CITY STAR

7, November 12, 1993



A trucker's drowsiness has been blamed in the July 16 accident that killed Desiree (above left) and Amber Ferguson. Their mother also was killed when their disabled car, parked on the shoulder of Interstate 70, was hit from the rear by a tractor-trailer.



Crash sparks crusade to get truckers to rest

By RICK MONTGOMERY
Staff Writer

Truck-driver fatigue was something Jeffrey Burns rarely pondered until he stood in the weeds along Interstate 70, surveying the effects of one trucker's drowsiness.

The lawyer crouched to pick up items that once belonged to two little girls and their mother, all of whom died after a tractor-trailer smashed into the rear of their parked car July 16.

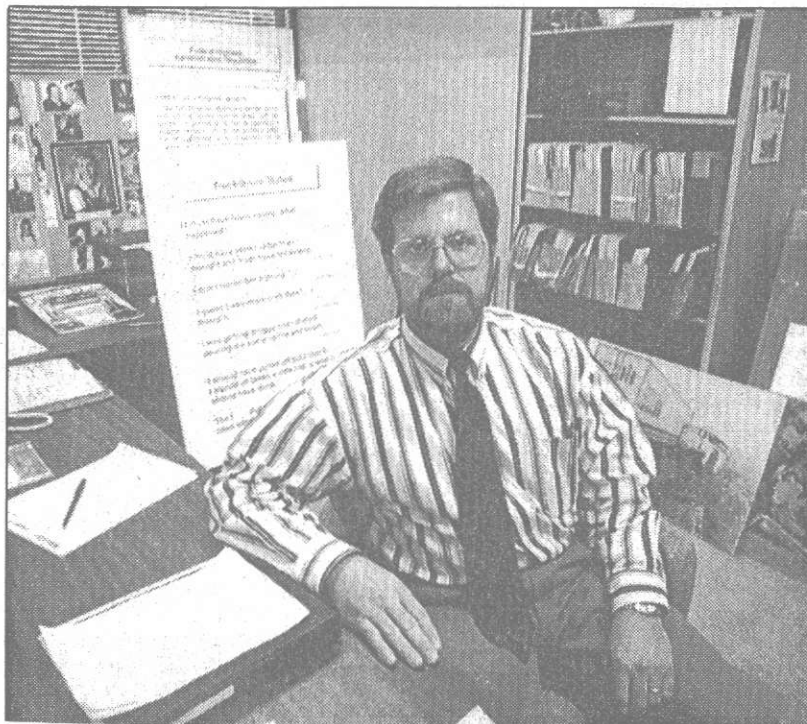
A roller skate. Some hair barrettes. For days the debris sat in

the mud, 100 feet off the roadway — remnants of a crash so powerful, so sudden, that it reminded one witness of explosions he saw in Vietnam.

Burns thought of his 7-year-old daughter. The toys could have been hers.

"That's when I really got scared," he said. "If this case doesn't scare a person, nothing will."

Burns was hardly a victim, just the family's attorney. But the wrongful-death lawsuit he handled against the Case Corp. truck-
See **CRASH, A-16**, Col. 1



Continued from A-1

ing company, which ended in a swift settlement last month, will forever change the way he feels on a highway, he said.

The same goes for Ed Beard, the girls' grandfather.

"A sleepy truck driver took three of my family, just like that," said Beard of Kansas City.

The image of the speed-popping, seldom-sleeping long hauler has existed for years, but statistics show that most of the nation's 5 million commercial drivers perform their jobs without tragic consequences. Since 1988 the number of traffic fatalities involving big rigs actually has dropped — about 2,800 deaths were reported last year.

Still, other studies indicate fatigue is a real hazard that has been largely overlooked in an era of mandatory seat-belt laws and crackdowns on drunken driving.

So Burns, Beard and others affected by the July 16 accident are taking a stand to urge truck drivers to take a nap.

"For me this has been a life-changing event," said Burns, 37, of the Shook Hardy & Bacon law firm. "Society woke up to the dangers of drunk driving. In 10 years I hope that's the case with fatigued driving."

The numbers:

■ About one-third of fatal truck accidents are caused by driver fatigue, according to the National Transportation Safety Board.

■ Of more than 1,249 truck drivers surveyed by the Insurance Institute for Highway Safety, 19 percent admitted to having fallen asleep at the wheel within a month of their interviews.

Almost three out of four truckers in that study said they violate federal laws governing work hours and resting time.

"These are not accidents. These are predictable tragedies, and it's time we address them," said Chuck Hurley, a senior vice president at the Insurance Institute. "The economic pressure on truck drivers is there to drive long hours at high speeds."

Even Gerald Iburg, the veteran trucker involved in the wreck that killed Jeannie Ferguson and her two daughters, conceded in a court deposition that delivering the goods on time — "to get

down the road, you know" — is critical in his business.

Money is "what it's all about," he said.

The accident

July 16, 4:30 a.m.

Jeannie Ferguson, 33, rose early at her parents' home in Kansas City to prepare for a trip to meet her husband in Indiana. She woke her daughters — Desiree, 9, and Amber, 6 — who had slept together in their grandmother's waterbed.

"The girls were all excited because they were going to surprise Daddy. He wasn't expecting them until late the next day, Saturday," recalled Ed Beard. "They were into these surprise deals."

Daddy had left his family's rural Henry County home to seek work at Indiana steel mills. He landed a job and found a place to live. His wife and daughters were heading east to join him, the trunk of their Plymouth Reliant loaded with clothes, toys and cosmetics.

The girls' mother allowed them to ride in their pajamas, as long as they put on shoes. The girls' cousin hopped in the back seat, looking forward to reuniting with her own parents in Kentucky after a stay with the Beards.

"I'll call you when we get there," Jeannie Ferguson assured her mother.

6 a.m.

Gerald Iburg was hauling 32 tons of loading equipment to Illinois. He revved up his Case rig about four hours earlier in Newton, Kan., where he had "maxed out my driving time" and rested eight hours to comply with federal law, Iburg later said.

After driving through Kansas City, however, he began to feel "droggy," according to his deposition. He pulled off Interstate 70 for about 10 minutes. He stepped around his rig to get some fresh air.

6:40 a.m.

Mike Planer, a trucker heading west on I-70 near Columbia, Mo., turned up his citizens band radio. Other drivers were swapping chatter about an eastbound Case rig drifting from lane to lane:

"Try to wake him up," a voice cracked in. "He must not have his ears on," which meant the errant driver evidently had his radio off.

Farther west, between mile

"For me this has been a life-changing event. Society woke up to the dangers of drunk driving. In 10 years I hope that's the case with fatigued driving."

Jeffrey Burns

markers 86 and 87, Planer saw Ferguson's red Reliant pull onto the shoulder and park about three feet from the edge of the eastbound lane. Steam rose from her hood.

Planer grabbed the microphone on his radio to alert his trucking colleagues to the stalled vehicle.

Then, from behind Ferguson's car came Iburg's rig.

"Oh, my God," Planer uttered into the microphone.

In a later interview, he said: "That car actually lifted into the air — about as high as the headlights on the truck. It looked like a Jeep getting blown up."

7 a.m.

Planer and another passing trucker, Al Dooty, yanked at the crumpled rear door of the Reliant. One occupant, the girls' cousin,

was pleading for help. She escaped with a bloody nose.

Iburg, with a bump on his head, walked around in the weeds as the others tried to free the family. He lit a cigarette despite the odor of leaking diesel fuel, Dooty later said.

Iburg told a Missouri trooper, "I was getting droggy, and I started pouring some coffee and boom."

The aftermath

In court, Iburg contended he had no recollection of the moment of impact, nor any reason to believe he had fallen asleep.

"To the best of my knowledge," he told Burns in a deposition, "(my eyes) were open yet," though he said he didn't remember seeing the Fergusons' car.

A judge in Saline County fined Iburg \$500 for failing to control his rig. The judge commented that everyone drives fatigued once in a while.

Beard fumed. The dead girls' grandfather appeared at the same criminal hearing to present the trucker with a pebble from each victims' grave.

"It made me wish for the Old West days when you could take

How many truck wrecks are caused by fatigue?

The percentage of accidents caused by truck-driver fatigue varies, depending on the nature of the wreck and the group compiling the figures.

31%

National Transportation Safety Board (reporting on the likely cause of accidents in which truckers are killed)

41%

American Automobile Association (surveying truck drivers involved in accidents that required towing)

36%

Regular Common Carrier Conference (reporting what drivers said in a poll on how many accidents might be caused by fatigue)

2%

American Trucking Association (citing a federal data base in which carriers voluntarily report accidents)

The Star

someone out to the street for a shootout," Beard said.

Tackling the civil case, lawyer Burns had better luck. The Case trucking company not only agreed to a \$4 million wrongful death settlement but accepted Burns' demands that the company create a training program to warn drivers about fatigue.

Now Burns wants to organize a national effort to raise public awareness.

"The last thing I want to do is to imply that truck drivers are evil," he said. "Truckers have been our biggest help. They were out there trying to pull this family out of the wreckage. They stepped forward when we needed information.

"Most truckers don't want tired drivers on the road because it puts them at risk, too. It's up to the trucking companies to emphasize safety."

Experts such as University of

Florida researcher Richard Biellock say the factors behind fatigue-related accidents are inherent in the way most truckers are compensated — by the mile.

The more miles they drive, the more money they can earn in a day. Besides that, idleness can mean missing a shipping deadline, even losing a job.

Federal law dictates that truck drivers put in no more than 10 consecutive hours on the road. After resting eight hours, they may then work 10 more, then rest for eight, work for 10 and so forth.

These hours usually are recorded in the driver's log — commonly referred to as a "comic book" in the trade because of the belief that many truckers concoct the figures.

Still, the American Trucking Association disputes studies that suggest drivers constantly push the limits of alertness. Spokesman John Doyle said the association is funding its own research into driver fatigue to formulate industry regulations.

"If I'm a safety manager for a trucking firm and I know my driver is breaking the law, you bet I'm going to put a stop to it," said association spokesman John Doyle. "That's the company's equipment he's driving out there."

"Anyone with common sense knows if you're driving fatigued, you pull over and sleep. It would take a great leap to apply what happened in one terrible accident to the 5 million drivers out there with commercial licenses."

Doyle also questioned the need for trucking companies to encourage drivers to rest when they're sleepy. "I'm sure most company manuals don't say, 'Go to the bathroom when your bladder is full.' It comes down to common sense."

For Jeff Burns, it comes down to public safety, respect for life and that scene in the weeds.

The skate, the barrettes . . . The memory can drive the lawyer to tears.

"Amber, the 6-year-old, had died in the hospital a short time earlier," Burns said. "Her grandfather and I said a little prayer at the crash site, and that was it."

Buy, sell, trade, morning and Sundays with Star Classified Ads. To place your ads dial 234-4000.—Adv.