

Dr. Mary Brown
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15-Passenger van use by public school districts in Illinois

Introduction

Is it legal for Illinois school districts to use 15-passenger vans for student transportation? This article seeks to address this question based on state and federal laws and to offer a research-based look at the extent of 15-passenger van use for student transportation by public school districts in Illinois. Analysis of the purposes and reasons for district use of 15-passenger vans will be presented. Vehicle division types will be defined along with the driver license requirements of each. The structure of school buses and 15-passenger vans will be described. The safety concerns associated with 15-passenger vans will be presented along with examples of van accidents and their humanistic and legal repercussions. Finally, suggestions will be cited for improving the safety of 15-passenger van occupants. This article will provide readers with an overview of the issue of using 15-passenger vans for student transportation in Illinois.

State and federal laws

Can Illinois school districts use 15-passenger vans for student transportation? The answer is a qualified yes. In July 1995, the Illinois Legislature added an exception clause to the state's definition of a school bus (Illinois Compiled Statutes, n.d., 5/1-182, p. 1). This clause exempted 15-passenger vans from meeting the Federal Motor Vehicle Safety Standards (FMVSS) of school buses. Thus, Illinois law currently permits schools to use 15-passenger vans, but only for purpose of transporting students to or from interscholastic activities that do not require student attendance or participation. The Illinois School Code (2004) reads as follows:

Any school district may transport not more than 15 students to and from an interscholastic athletic or other interscholastic or school-sponsored activity in a motor vehicle designed for the transportation of not less than 7 nor more than 16 persons, commonly referred to as a van... (105 Illinois Compiled Statutes, 5/29-6.3, p. 534)

Prior to July 1995, Illinois schools were not permitted to use 15-passenger vans for any form of student transportation since the vans did not comply with the FMVSS of school buses.

In addition to state law, federal laws also govern school use of vehicles for student transportation. Specifically, Title 49 of the United States Code (USC) prohibits dealers from selling new 15-passenger vans to schools, if the vans are intended to be used primarily for the transportation of students (United States Code, n.d.). Congress passed Title 49 of the USC in 1974 as part of the school bus safety amendments with the intention of prohibiting schools from using 15-passenger vans for student transportation, since these vans did not meet the FMVSS of school buses (Gergel, 1998a; United States Code, n.d.). However, as originally written, Title 49 of the USC only prohibited dealers from selling new vans to schools if the vans are intended to be used primarily for student transportation, it did not prohibit schools from purchasing 15-passenger vans. This apparent loophole was closed on August 10, 2005, when President Bush signed an amendment to Title 49 of the USC to prohibit schools from purchasing new 15-passenger vans, defined as vehicles that seat between ten and fourteen passengers, not including the driver, if the vans are intended to be used primarily for the transportation of students (Wood, November 4, 2005). This federal law does not prohibit schools from using 15-passenger vans for student transportation, neither does it prohibit dealers from selling used 15-passenger vans to schools, regardless of their intended use (Gergel, 1998b). Currently, individual states are responsible for monitoring vehicle use and tracking the sale of used vehicles. Some states, such as South Carolina, prohibit school use of 15-passenger vans for student transportation purposes (Gergel, 1998a).

Van Research

Research was conducted during the 2004/2005 school year to determine the extent of 15-passenger van use by public school districts in Illinois. Surveys were mailed to 882 of the 889 public school districts in Illinois. Fifty-five percent, or 485, of these surveys were returned, with 32 percent reporting the use of 15-passenger vans for student transportation. Table 1 reflects data gathered from the surveys. Data from districts reporting 15-passenger van use were separated into

types of school districts (elementary-serving students from kindergarten-5th grade, high school-serving students from grades 9-12, and unit school districts-serving students from kindergarten-12th grade), grade levels categories (kindergarten – 5th grade, 6th grade – 8th grade, and 9th grade – 12th grade), and district sizes (small-enrollment of 1,000 or fewer students, medium-enrollment of more than 1,000 and fewer than 5,000 students, and large-enrollment of more than 5,000 students).

Table 1

Frequency of Percentage of the Combined Sample Using Vans

Category	Frequency using vans	Percent using vans	Standard error	Lower 95% bound	Upper 95% bound
Combined sample ($n = 485$)	156	32.16	2.12	28.01	36.32
Elementary districts ($n = 211$)	34	16.11	2.53	11.15	21.07
High school districts ($n = 54$)	32	59.30	6.69	46.15	59.26
Unit school districts ($n = 220$)	90	40.91	3.31	34.41	47.41
Unit school districts using vans by grade level category ($n = 89$)					
Kindergarten – 5 th grade ($n = 39$)	39	43.82	5.26	33.51	54.13
6 th grade – 8 th grade ($n = 60$)	60	67.42	4.97	57.68	77.15
9 th grade – 12 th grade ($n = 85$)	85	95.51	2.20	91.20	99.81
Small school districts ($n = 260$)	79	30.38	2.85	24.79	35.98
Medium school districts ($n = 185$)	63	34.10	3.48	27.23	40.88
Large school districts ($n = 25$)	9	36.00	9.60	17.18	54.82

The survey included the following five stated purposes for using 15-passenger vans for student transportation: to transport students to or from school, curricular activities, interscholastic activities, transporting special education students to or from out-of-district placements, and transporting special education students to or from community activities related to the curricula. As Table 2 and Figure 1 indicate, 15-passenger van use was reported for each of these stated purposes in the following percentages: 26% transported students to or from school, 62% transported students to or from curricular-related activities, 76% transported students to or from interscholastic activities, 48% transported special education students to or from out-of-district placements, and 23% transported special education students to or from community activities related to the curricula. Of

these five stated purposes, the only one allowed by Illinois law is the transportation of students to or from interscholastic activities, since student attendance and participation in these activities is voluntary (Illinois School Code, 2004). Illinois school districts cannot use 15-passenger vans for the other four stated purposes since they require student attendance and participation.

Table 2

Frequency Distribution of Van Use for Stated Purposes

Stated purpose for using vans for student transportation	Frequency using vans for purpose	Percent using vans for purpose	Standard error	Lower 95% bound	Upper 95% bound
To/from school	41	26.30%	3.52	19.40	33.19
To/from curricular-related (required) activities	97	62.20	3.88	54.59	69.80
To/from school interscholastic (non-required) activities	119	76.30	3.41	69.61	82.98
Special Education students to/from out-of-district (required) placements	76	48.70	4.00	40.86	56.54
Special Education students to/from community (required) activities	36	23.10	3.37	16.49	29.70

School districts using vans ($n = 156$)

Bar graph of districts using vans for stated purposes by percentage

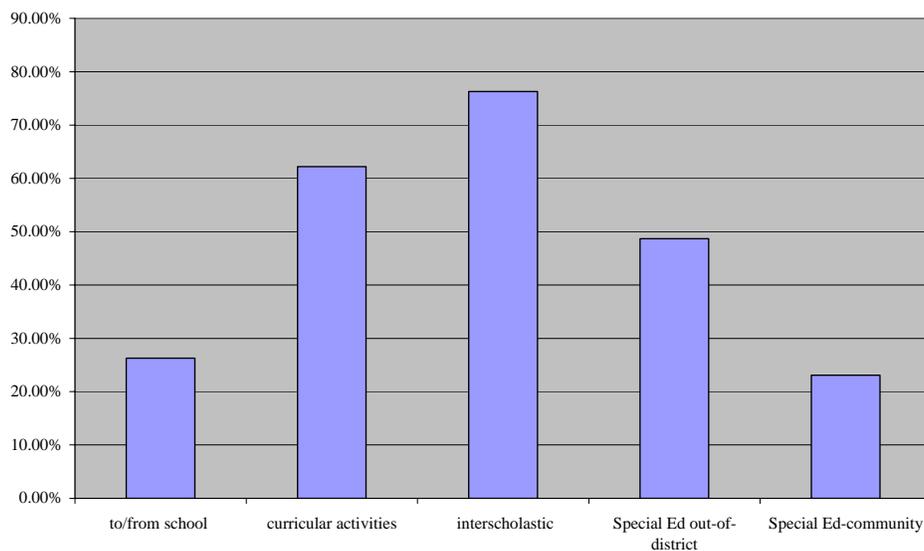


Figure 1. Bar Graph of Districts Using Vans for Stated Purposes by Percentage

The following stated reasons were included in the survey: vans are easier to drive than buses, vans are less expensive than buses, vans are a convenient size, van drivers are not required to hold school bus permits, vans have cargo areas, van drivers are not required to have any training,

districts already own vans, districts cannot afford to replace their vans with buses, districts need vans for transportation to or from student activities, vans have luggage racks, and districts do not have enough buses to transport students to or from activities without the use of vans. Districts were asked to indicate and rank the importance of the stated reasons for using 15-passenger vans for student transportation. Table 3 and Figure 2 indicate the four most important reasons for using vans: vans are less expensive than buses, vans are a convenient size, van drivers are not required to hold school bus permits, and districts already own vans.

Table 3

Importance of Stated Reasons for Using Vans for Student Transportation

Category	Level of importance	Standard error	Lower 95% bound	Upper 95% bound
Vans are easier to drive than school buses	1.50	0.086	1.28	1.72
Vans are less expensive than school buses	2.19	0.083	1.98	2.40
Vans are a convenient size	2.16	0.073	1.97	2.35
Van drivers are not required to have school bus permits	1.78	0.090	1.55	2.01
Vans have cargo areas convenient for carrying gear	1.33	0.076	1.13	1.53
Van drivers are not required to have annual training	1.25	0.082	1.04	1.46
My school district already owns vans	1.88	0.085	1.66	2.10
My school district cannot afford to replace their vans with buses	1.44	0.096	1.19	1.69
Without vans, our students would not be able to participate in interscholastic activities	0.94	0.082	0.73	1.15
Vans have luggage racks convenient for carrying gear	0.53	0.062	0.37	0.69
My school district does not have enough school buses or white activity buses to accommodate student participation in interscholastic activities without using vans	0.94	0.092	0.70	1.18

Districts using vans ($n = 156$)

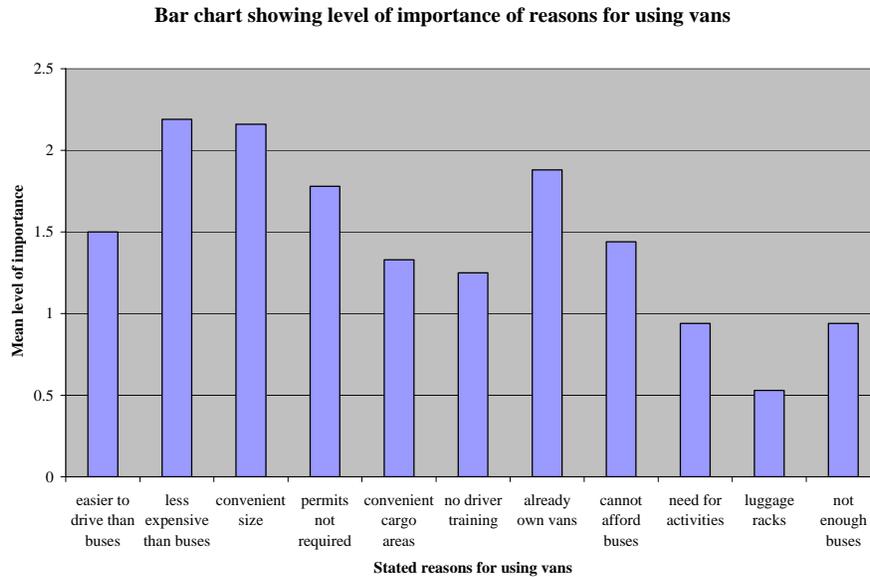


Figure 2. Bar Chart Showing Level of Importance of Reasons for Using Vans

Vehicle divisions

According to the Illinois Vehicle Code, there are two divisions of vehicles. Division I vehicles are designed to carry no more than nine occupants and Division II vehicles are designed to carry between ten and fifteen occupants and must meet the FMVSS of school buses if used for transporting students for purposes that require student attendance (Illinois Compiled Statutes, n.d.). School buses are defined as vehicles that comply with the FMVSS for school buses and are designed to carry a driver and more than ten passengers to or from school or curricular-related activities (Illinois Compiled Statutes, n.d.). Illinois requires drivers of Division I and Division II vehicles that transport students to or from school or curricular-related activities to hold a school bus permit, unless the drivers are the parents or legal guardians of the students they are transporting (Illinois Compiled Statute, n.d.). The same requirements hold true for drivers transporting special education students to or from out-of-district placements or community activities related to the curricula (Illinois Compiled Statutes, n.d.). In addition to having a school bus permit, drivers of vehicles designed to carry sixteen or more passengers and drivers of vehicles with a gross motor

vehicle weight of more than 26,000 pounds are also required to hold a Commercial Drivers License (CDL) (Illinois Compiled Statutes, n.d., 5/6-500). While Division I vehicles, such as taxi cabs, can be used to transport special education students to or from out-of-district placements or community activities related to the curricula, assuming the driver holds a school bus permit, experts advise that school buses be used for all forms of student transportation (Barnett, 1998; Elias, Hinch, Hott, McCray, Prasad, Sullivan, Willke, 2002; Womack, 1997a).

School bus construction

Thirty-five FMVSS apply specifically to school buses. These FMVSS include requirements for reinforced roofs and sides, tires, rims, brake systems, signage, color, fire extinguishers, emergency exits, flashing lights, stop arms, window releases, and passenger crash protection known as compartmentalization (Federal Motor Vehicle Safety Standards, n.d.). In their forward to the FMVSS, the National Highway Traffic Safety Administration (NHTSA) explains that the purpose of these safety standards is to protect the public against undue risks related to the design and performance of vehicles and to protect passengers from injury or death resulting from vehicle crashes (National Highway Traffic Safety Administration, 1999). Congress concurred with the importance of establishing strict safety standards for school buses when they said, “school transportation should be held to the highest level of safety, since such transportation involves the Nation’s [sic] most precious cargo—children who represent our future” (National Highway Traffic Safety Administration, n.d., p. 1).

Van Construction

How do vans differ from school buses? Contrary to the numerous state and federal safety requirements that govern the design and use of school buses, no such regulations apply to 15-passenger vans used by school districts for student transportation. Experts explained that while school buses are reinforced with sturdy sheets of metal, the sides of vans are reinforced with cardboard (Gergel, 1998a; Hanna, 2002). Schindel (n.d.) reasoned that van sides are poorly reinforced because they were designed for the purpose of carrying cargo, not people. The Detroit

News reported that vans are not required to meet the safety standards applicable to cars or light trucks since they are considered cargo vehicles (“Van rollovers spark driver training,” 2004). In addition to the structural deficiencies of vans, research suggested that vans are also prone to rollovers.

The rollover propensity of vans has been researched. Pelley (2002) estimated that four hundred twenty-four (424) people have been killed in van rollover accidents since 1990. The United States Department of Transportation (USDOT) concluded that occupying the passenger area of vans causes them to have a higher center of gravity, making them prone to rollovers (2001). Researchers from the NHTSA agreed, as they explained that fully loaded vans contribute to rollover propensity (Garrott, Rhea, & Subramanian, 2001; Subramanian, 2004). Engineer Chase cautioned, “I don’t think a vehicle with their rollover rate should be on the road” (Pelley, 2002, p. 2). Claybrook, a former administrator with the NHTSA, stated, “It’s inherently unsafe to manufacture a vehicle that gets more unsafe the more you use it as intended...I’d call them [vans] a death trap” (Griffin, 2002a, p. A-1). In her comments about the rollover propensity of vans, Claybrook referred to vans as “rolling time-bombs” (2002b, p. 2).

The NHTSA alerted the public about the rollover propensity of vans in 2001, 2002, 2004, and again in 2005 (National Highway Traffic Safety Administration, 2002; Paul, 2005; Tyson, 2005; “Van rollovers spark driver training,” 2004). Richard Healing of the National Transportation Safety Board (NTSB) testified at the committee on environmental matters on February 24, 2004, stating, “Children riding in these non-conforming vehicles (15-passenger vans) are at greater risk of fatal or serious injury in the event of an accident. These vehicles need to be removed from the school transportation service” (Healing, 2004, p. 5).

Subramanian (2004) researched the rollover propensity of 15-passenger vans in relation to their level of occupancy. This study indicated that vans that were loaded beyond half of their capacity were 2.2 times more likely to roll over than vans that were occupied with less than fifty percent occupancy (Paul, 2005; Subramanian, 2004). The largest differences in rollover propensity

were noted in vans that were fully occupied, as they were found to be more than five times as likely to roll as vans occupied by only the drivers (Paul, 2005; Subramanian, 2004).

In fact, the Ford Motor Company conducted safety tests on their own 15-passenger vans that indicated the vans were “not reasonably safe or stable” and then claimed that these safety studies did not exist (Porretto, 2003a, p. 1). This information came to light in January 2003 when a federal court judge in Chicago ordered the Ford Motor Company to produce the results of Ford’s safety tests during a legal proceeding in a case filed on behalf of two children who were killed in a Ford van (Porretto, 2003a). The judge also assessed fines against Ford for “concealing evidence” (Porretto, 2003a, p. 1). Ford explained that semantics played a part in the confusion regarding the existence of their safety studies on the rollover propensity of their vans, since Ford did not consider vans that tipped over sideways as having rolled over (Porretto, 2003b).

Van accidents

Landmark accidents involving school use of vans for student transportation have occurred. One such van accident claimed the life of six-year old Jacob Strebler. On July 12, 1994, Jacob was killed when an 18-wheel truck ran a red light and hit the side of his school’s van (Gergel, 1998a). According to Gergel, the Streblers’ attorney, a dealer sold Jacob’s school the new van that did not meet the FMVSS of school buses in violation of Title 49 of the USC. Court records indicated that the dealership, upon realizing it violated the federal law in selling this new van to the school for the purpose of transporting students, contacted school officials on several occasions seeking to nullify the sale (Gergel, 1998a). During these communications, the dealership informed school officials that the van did not meet the FMVSS of school buses (Gergel, 1998a). Despite these pleas, officials at Jacob’s school refused to return the van to the dealership (Gergel, 1998a). The last known communication from the dealership to school officials was on July 11, 1994, the day before Jacob was killed (Gergel, 1998a).

In an attempt to raise awareness about the lack of safety features of vans not meeting the FMVSS of school buses, Jacob Strebler's parents filed a lawsuit naming the dealership that sold the new van to Jacob's school, the trucking company responsible for the accident, and school officials as defendants (Gergel, 1998a). This was the first time in United States history where a dealer was sued for negligence in a wrongful death case under Title 49 of the USC. The trucking company paid \$1,000,000.00 to settle this case. The amounts paid by the other defendants are confidential; however, they represent the largest settlement in a single-fatality accident in the state of South Carolina (Gergel, 1998a). The ramifications of the Strebler case did not end here.

After losing her only child to this van accident, Lisa Strebler made it her life's mission to educate others about the dangers of using vans in place of school buses. She travels around the country sharing her experience with school administrators, transportation directors, state and federal legislators, and parents (Strebler, personal communication, February 1, 2002). Her persistence led to South Carolina passing Bill 3300, known as Jacob's Law, which went into effect July 1, 2000 (Hodges, 2000). Jacob's Law requires schools in South Carolina to only use vehicles meeting the FMVSS of school buses when transporting students to or from school, curricular-related activities, out-of-district placements, community activities, or interscholastic athletic or other interscholastic or school-sponsored activities (Hodges, 2000).

Van fatalities

Unfortunately, additional South Carolina children were killed in other van accidents before Jacob's Law went into effect. In 1996, Joshua Wood was pronounced brain dead and later died after the van he was traveling in was involved in a rollover accident (Pelley, 2002). In 1999, six more South Carolina students were killed in Bennettsville as they were being transported to an after-school program in a van that was struck by a tow truck (National Transportation Safety Board, 1999). In 2003, a rollover accident involving a van rented by a family resulted in fourteen casualties (Frazier & Menchaca, 2003).

Tragic van accidents have occurred in other states, as well. Arkansas, Colorado, Florida, Georgia, Illinois, Texas, and Maine have all reported casualties from van accidents (Paul, 2002; “Thirteen injured,” 2001). Gergel (1998a) reported that 4,333 deaths resulted from van crashes during the five year period from 1992 through 1996, while school bus accidents during the ten years from 1986 to 1995 resulted in only nine fatalities. Subramanian (2004) estimates that 1,111 van occupants were killed between the years 1990-2002.

Fatalities from van accidents continue to mount. Vernon James, Jerome Jackson, Houston Watson, and Jason Sturns, all Texas school athletes, were killed in 2000 when their school van rolled (Pelley, 2002). Texas lost four more lives a year later when Virginia Bean, Dorothy Griffin, Asline Hinostrosa, and Patricia Oliver were killed in yet another van rollover accident (Pelley, 2002). Three students were killed in September 2001 when the van they were riding in rolled over (“15-passenger vans: High riding,” n.d.).

Many died in van accidents in 2002. Two Alabama school cheerleaders were killed in a van crash (“Fifteen-passenger van safety,” 2003). A Memphis, Tennessee day care center owner and director were found guilty of reckless homicide and served years in prison following a van accident in April 2002 that claimed the lives of five children (Myers, 2003). Five firefighters were killed in June 2002 when their van rolled over in Colorado (Rodriguez, 2004). Bethany Bosarge, Malori Smith, and Jonnathan Lomeli were killed in another van rollover accident in 2002 (“Ford settles,” 2004).

Students Corinne Bardessono and Belen Campos of Washington State were killed in December 2003 when the van they were traveling in rolled over (“NTSB concerned,” 2004). Another victim of a December 2003 van accident, a foreign exchange student from France, remained anonymous while authorities tried to contact his parents (“New York,” 2003). A rollover accident in 2003 involving a rented van claimed five lives in California (King, 2004). According to Bisnar (2005), three passengers were killed in another 2003 rollover accident.

Illinois has also experienced fatalities resulting from van accidents. Two such accidents involved 15-passenger vans used by The Salvation Army. The first of these fatal accidents took place on January 26, 2001, when a van rolled over on Interstate 55, killing all ten passengers and the driver (National Transportation Safety Board, 2002a). A similar rollover accident claimed the lives of two children traveling in a Salvation Army van in 2003 (“Suit filed in Illinois,” 2003). Another Illinois child was killed in 2003 when the van he was traveling in rolled over (“Fifteen-passenger vans press articles,” 2004).

Two more Illinois children were killed in February 2005 as a result of a van rollover accident (“A national tragedy,” 2005). A lawsuit was filed in Chicago on behalf of two Illinois children who were killed in a van rollover accident in 1996 (“Federal court judge,” n.d.). Brezosky (2004), attorney for the plaintiff in the Chicago case, described vans this way: “Ford essentially put rows of seats in a work van, creating a minibus that is top heavy and prone to rollover” (p. 1). Claybrook, a former administrator with the NHTSA, concurred stating, “vans are simply not designed to be people haulers. The vans were designed to carry cargo and are fundamentally unsuitable for carrying people” (“Feds propose safer vans”, 2002, p.1). These fatalities suggest that van rollover accidents may be deadly.

Despite these accidents and the reasons behind the safety requirements of school buses, Illinois legislators voted to change the IVC, allowing school districts to use vans not meeting the FMVSS of school buses for transporting students to or from interscholastic athletic or other interscholastic or school-sponsored activities. Ironically, this change, that may put Illinois students at risk, became effective July 14, 1995, almost a year to the day after Jacob Strebler was killed on July 12, 1994 (Illinois Compiled Statutes, n.d.).

Safety options for vans

Despite the apparent lack of mandatory safety features or testing requirements for 15-passenger vans, there are safety measures and optional equipment available that may improve the safety of van occupants. These safety measures include: providing van drivers with training,

conducting vehicle safety inspections before every trip, removing the rear seat, not loading gear on top of or in the rear of the van, limiting van occupancy to ten or fewer, checking that all tires are in good condition and filled to proper capacity, using dual wheels on the back of the van, keeping gas tanks full to lower the center of gravity, not exceeding speeds of 55 miles per hour, and strictly enforcing seatbelt usage (Claybrook, 2002a; Deutermann, 2002; Hanna, 2002; National Highway Traffic Safety Administration, 2004; Subramanian, 2004). In October 2003, the NHTSA issued hangtags for 15-passenger vans to inform van drivers about these safety suggestions (National Highway Traffic Safety Administration, 2004).

The NHTSA applauds these measures and believes that wearing seatbelts may reduce the number of fatalities associated with van rollover accidents (“Fifteen-passenger van safety,” 2003; Hanna, 2002; Paul, 2005). A report from the United States Department of Transportation (USDOT) affirms the effectiveness of seatbelt use in vans in the following statement: “a very high percentage of fatal rollover crashes are characterized by a failure to use restraints” (Deutermann, 2002, p. 43).

Vehicle manufacturers have also considered options for improving the safety of 15-passenger van occupants. Some manufacturers have placed alarm sensors in their vans to alert occupants when the vans are about to roll (Shinoda, 2003). These sensors may allow van occupants time to brace themselves or fasten their seatbelts before rolling, possibly increasing their chances of survival in rollover crashes. Research indicates that restrained occupants are 80% less likely to be killed in rollover accidents than unrestrained occupants (National Highway Traffic Safety Administration, 2004). Also, some 15-passenger vans are available with dual rear wheels which are believed to reduce the likelihood of rollover by providing more stability in the event of rear tire blow outs (Claybrook, 2002a). These simple suggestions may increase the safety of van occupants. Despite these precautions, attorneys warn that school district administrators and boards of education are not immune from liability resulting from their use of 15-passenger vans for student transportation purposes (Barnett, 1998; Bryant, 1995; Gergel, 1998a; Seales, 1998; Womack, 1997b).

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