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# TRAGEDY IN SCHOHARIE, NEW YORK, and Stretch Limousine Regulatory Reform

MATTHEW W. DAUS

The author, a transportation lawyer, is Transportation Technology Chair and Distinguished Lecturer at the City University of New York's transportation research center, City College of New York, and former Commissioner and Chair, New York City Taxi and Limousine Commission.

Above: The intersection in Schoharie, New York, where a limousine crashed, killing 20. The incident has renewed the need to revisit safety requirements for stretch limos, especially those modified after assembly.

A tragic limousine crash took the lives of 20 people in Schoharie, New York, in 2018. As the small town mourns the loss of life from one of the deadliest transportation disasters in almost a decade, policy makers across the United States may be reexamining the regulations surrounding stretch limousines to ensure more uniform and heightened safety laws and protocols are in place. This article will explore the implications of this high-profile crash; the response of legislators, investigators, and policy makers; and what may happen next. Also explored are past and present stretch limo industry trends and safety protocols, as well as the federal, state, and local regulatory framework.

## What Is Known

It is not yet known what caused or contributed to the Schoharie crash, though the circumstances surrounding the incident are highly unusual. How does a limousine crash, in a quiet part of town—leaving no skid marks on the road—lead to the death of 17 passengers, the driver, and two pedestrians?

In the early afternoon of October 6, 2018, a 2001 Ford Excursion that had been stretched to seat 18 people crashed at the junction of SR-30 and SR-30a in upstate New York. The intersection—situated at the bottom of a hill on a long and winding two-lane rural road—was notoriously dangerous. For reasons that are not yet known, the vehicle blew through the intersection without stopping and into a parking lot, where it struck a parked vehicle and two pedestrians before careening into a gully. Autopsy results confirmed that all 20 victims died from the impact of the accident, with "multiple severe traumatic blunt force injuries" (*1*).

The 17 passengers—including four sisters, two brothers, and their friends—were celebrating a birthday, taking a midday wine and beer tasting excursion. The limousine had been the second choice for the group; the bus they intended to reserve broke down on the day of the celebration. On the surface, the details of

the limousine crash show that there were many factors for alarm: the driver did not hold the required commercial driver's license to operate the vehicle; the limousine itself had failed its vehicle inspection and was tagged with a collection of violations that deemed it unsafe to drive; and the inspection report of September 28, 2018, states that the brakes were out of service.

Two days before the crash, the owner of the limousine tried to sell the vehicle for $9,000 in an ad posted on Craigslist. Contradicting the inspection report, the ad states that the vehicle had accrued 180,000 miles, could carry 18 passengers, and was "DOT Ready" and "full[y] serviced" (*2*).

## Response of Regulators

The National Transportation Safety Board (NTSB) is investigating the crash, and federal and state legislators and government transportation officials already have proposed legislation and have called for investigations and regulatory changes to improve the safety of stretch limousines. Local prosecutors have granted federal safety investigators only limited access to the vehicle involved in the crash because of the ongoing criminal investigation against the limo company's operator, Nauman Hussain (*3*). The vehicle has been in the possession of the New York State Police since Hussain was charged with criminally negligent homicide, and it is not known when NTSB will be allowed to examine the limo fully.

On February 11, 2019, without having had any access to the vehicle, NTSB issued a preliminary report of its investigation, which presented no new information beyond what had already been reported. According to the preliminary report, all aspects of the crash remain under investigation "as the NTSB focuses on determining the probable cause, with the intent of issuing safety recommendations to prevent similar crashes."

It has been widely reported that the vehicle should not have been on the road after it failed inspection and that state inspectors had placed a sticker on the vehicle the month before the crash, declaring

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An 18-passenger stretch Ford Excursion, similar to the one that crashed in Schoharie.

it "unserviceable" (*4*). In April 2019, it was reported that the driver had a "significant" amount of marijuana in his system at the time of the accident (*5*).

## What Limo Crash Statistics Show

Although the magnitude of the Schoharie limousine crash caused intense media attention, available statistics reveal that the number of motor vehicle fatalities declined slightly from 2016 to 2017 (Figure 1, below)—from 37,806 to 37,133, or 1.78% (*6*). Limousine crashes accounted for only one out of 34,439 police-reported fatal crashes in 2016, the most recent year for which National Highway Traffic Safety Administration (NHTSA) data are available. NHTSA data also show only 12 crashes involving large limos from 2012 to 2016, with a total of 12 fatalities (*7*).

Based on New York City data tracked by the city's Taxi and Limousine Commission (NYC TLC), limousine crashes declined between July 2014 and September 2018 (Figure 2, above). None of these

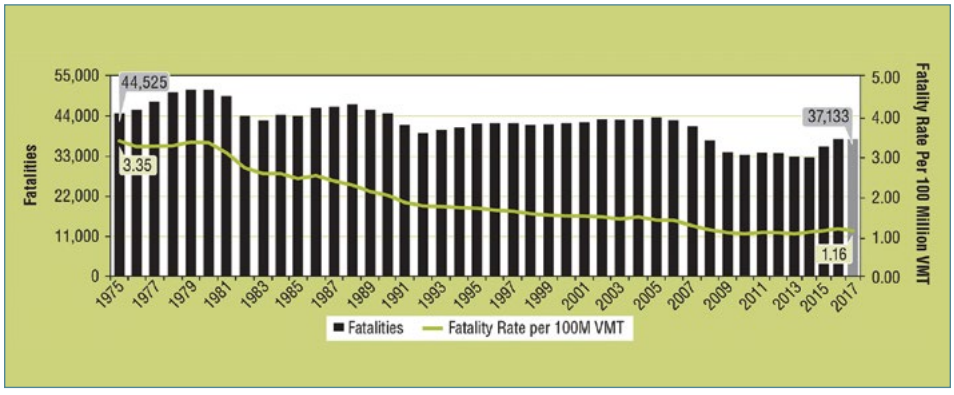


**FIGURE 1** Fatalities and fatality rate per 100 million vehicle miles traveled (VMT) by year, 1975–2017. (Source: Federal Highway Administration.)

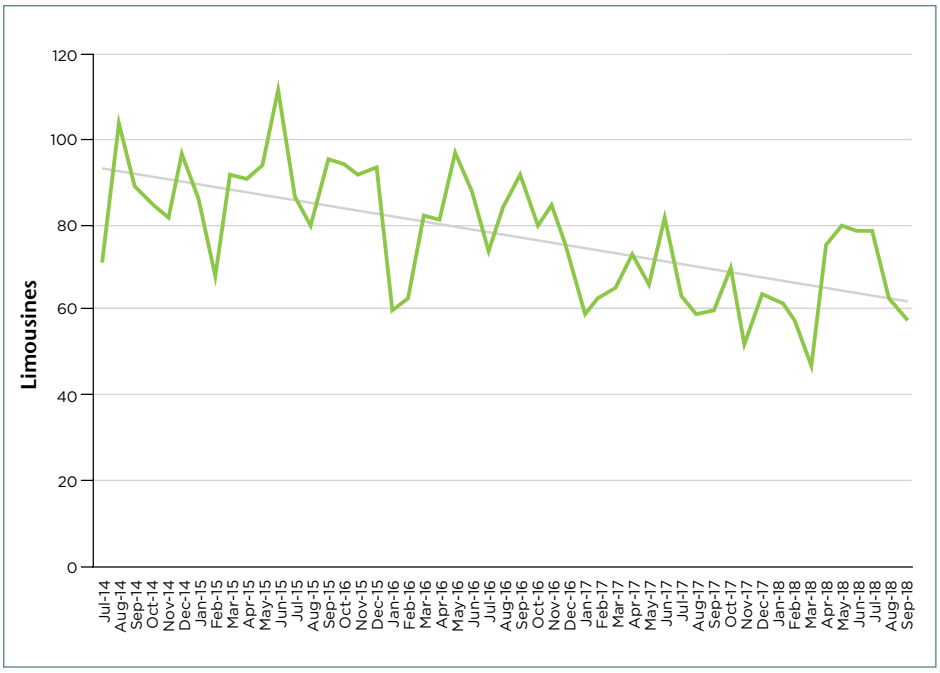


**FIGURE 2** Luxury limousines involved in a crash, 2014–2018. (Source: NYC TLC.)

cases involved critical injuries or fatalities. Because of the large size of limousines, however, when high-impact crashes do occur—even if crashes themselves are not frequent—the risk of serious bodily injury or death is elevated, as with buses and trains.

## Not the First Tragic Limo Crash

The birthday celebration-turned-tragedy in October 2018 featured many of the issues in the stretch limousine industry that have not been addressed since previous crashes. On July 18, 2015, 3 years before the Schoharie crash, a similar incident near Long Island, New York, prompted the Suffolk County Supreme Court Special Grand Jury to investigate the facts and circumstances of the crash, in which the front of a pickup truck drove into the side of a limousine. From this investigation, the grand jury issued a 159-page report that provided a list of legislative, executive, and administrative recommendations intended to prevent similar crashes in the future (*8*).

The report recommended legislative changes, including prohibiting limousines from making U-turns; requiring that limo passengers wear seat belts; classifying stretch limousines that seat nine or more passengers under the definition of "bus"; requiring that limo drivers have a commercial driver's license (CDL), which would include drug testing; and increasing the penalties for professional drivers who cause fatalities while driving for hire. The report also recommended creating a task force with limousine industry officials to "study the safety of stretch limousines."

Most of the recommendations were not implemented at the time; however, New York State lawmakers passed many of the recommended measures in April 2019 as part of the state budget process—including the ban on U-turns, tougher inspection laws, increased fines, reclassifying certain offenses as felonies, and higher insurance rates for higher-seating-capacity limousines. Following the passage of those laws, the New York State Senate Committee on Transportation held a hearing on limo and bus safety, at which the family members of many limo crash victims testified about the need to adopt additional legislation, such as requiring seat belts in limos and that limo drivers have a CDL license.

In another crash, which took place in Cranbury, New Jersey, in June 2014, a semi truck driver collided with a 2012 Mercedes-Benz Sprinter limo van, killing one passenger, severely injuring four passengers, and leaving five passengers with minor injuries. According to an NTSB report, no passengers in the limo van had been wearing their seatbelts when the crash occurred, even though limo van occupants are required by New Jersey and Delaware law to wear seatbelts (*9*). The report also found that the limo van operator, Atlantic Transportation Services, did not inform the passengers that they were required to wear seatbelts, nor were there any placards in the vehicle prompting passengers to wear seatbelts (*9*).

Photo: Larry Lamsa, Flickr

Many limousine deaths occur because passengers do not wear seatbelts, despite laws requiring their use.

In San Mateo, California, a limousine caught fire on May 4, 2013, killing five of the vehicle's nine passengers. The converted 1999 Lincoln Town Car limousine had been carrying two people in excess of its seven-passenger capacity (*10*). The rear doors of the vehicle were compromised in the fire, making the only available exit from the vehicle the small pass-through partition into the driver's compartment. This limousine crash prompted California to amend a section of its motor vehicle code to require modified limousines to be equipped with at least two rear side doors and one or two rear windows that may be used by rear-seat passengers or all passengers for immediate exit in case of a fire or other emergency (*11*). Among other things, the amendment requires owners or operators of a limousine to inform all passengers of safety features at the beginning of any trip, as well as to disclose to the contracting party and passengers whether the limousine meets safety requirements (*11*).

## Evolution of the Regulatory Landscape

In the 1980s and 1990s, unregulated coachbuilders modified vehicles aftermarket to create stretch limousines that included hot tubs, beds, or private rooms—even an articulated limo that bent when turning corners. Bigger was better in the eyes of passengers and limo companies alike.

One of the key safety issues involved in stretch limousines is the structural integrity of the vehicle when, after the vehicle is manufactured, coachbuilders cut the chassis and extend the car's length. In April 1987 in Long Island, New York, a groom and best man were killed when the limousine they were taking from the wedding to the reception was hit crossing an intersection and split in half.

Although the trend of creating super-stretch limousines may be fading, many older vehicles remain on the road. Also, a new trend of excess has emerged with aftermarket modifications to party buses—dance floors and poles, stairs to access the roof, and other modifications—that may not involve the structural integrity of the vehicle but that raise other safety concerns.

Photo: PxHere

California now requires limousines to have rear side doors and windows for emergency exits.

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### CERTIFICATION PROGRAMS

Unlike in most areas of the country, anyone who wants to operate a stretch limousine in New Jersey and New York City must prove that the vehicle was modified by a manufacturer-certified stretch limousine builder. After national media coverage of fatal limo crashes, limousine fires, and tire blowouts in the late 1980s, NHTSA pushed Ford, General Motors (GM), and the limousine industry to develop a testing and certification program to ensure compliance with federal safety standards. As a result, Ford formed a vehicle certification program called Quality Vehicle Modifier (QVM) in 1990, and GM created its own Fleet Cadillac Master Coachbuilders (CMC) program in 1992. Through these programs, Ford and GM distributed information explaining how to convert certain vehicles into limousines that met federal motor vehicle safety standards. The manufacturers also certified coachbuilders to perform aftermarket modifications on certain vehicles in accordance with automotive engineering standards. QVM and CMC coachbuilders are required to adhere to specific engineering and quality-control guidelines, which are designed with the vehicle's capabilities in mind. An attempt by a specialty limousine builder in Missouri to challenge the QVM and CMC programs as anticompetitive ultimately was unsuccessful.

The QVM and CMC programs limit conversions to specific vehicles that are specifically engineered, designed, and built for heavy-duty application and coachbuilder conversion; for example, current QVM rules state that only the Lincoln MKT Town Car model is approved for conversion into a stretch limousine,

and that these vehicles may be stretched a maximum of 120 inches. The CMC program is limited to modifications of the Cadillac XTS Professional Vehicle chassis. These programs provide manufacturer approval, oversight, an extended limited warranty on major components, and—most importantly—safety. They are not, however, mandatory for licensing outside of New York City.

### DIFFERING JURISDICTIONS

Commercial vehicles that are used to transport passengers could come within the jurisdiction of federal, state, or local regulators, depending on vehicle size, seating capacity, and whether passengers are being transported across state lines. Governance is disjointed and regulation inconsistent among states and localities with differing standards, especially regarding stretched vehicles.

Since the plethora of government agencies base their differing definitions and jurisdiction on seating capacity, one of the threshold questions is whether a stretch limousine is to be treated as a bus or a for-hire vehicle. In New York, the grey areas and loopholes in state law make it possible to evade New York City's jurisdiction by designing the vehicles to carry 10 or more people, including the driver, and registering the vehicles as buses with the New York State Department of Transportation (DOT), which inspects these vehicles.

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## What Happens Next?

In the aftermath of the Schoharie crash, legislators and government transportation officials may closely examine their own laws and transportation policies regulating the stretch limousine and party bus industries. There are many directions new regulations could take. For instance, legislators could pass a mandatory vehicle retirement age for stretch limousines that are not part of a manufacturer's program. NYC TLC is the only agency in the United States that has implemented regulations for taxicabs to be retired and replaced by new vehicles 7 years after a vehicle has been placed into service, ensuring that the cabs meet the latest NHTSA standards (*12*).

Another direction regulators could take is to subject older stretch limousines and vehicles with higher mileage to more frequent, rigorous safety inspections. Any stretch limousine that was not modified by a manufacturer-certified stretch limousine builder could be subjected to heightened inspections and required to be equipped


Photo: PxHere

New York City mandates drug testing, probationary licensing, defensive driving courses, and ease of driver removal for traffic violations for limousine companies.

with crash-avoidance technology, telematics devices that record driver behavior, and vehicle diagnostics.

In terms of limousine vetting, New York City implemented reforms for all TLC-licensed drivers in 1998, requiring mandatory drug testing, probationary licensing, mandatory defensive driving courses, and lowest-point thresholds for removing drivers from the road for traffic convictions (*12*). State and local regulators may explore adoption of similar standards for drivers in their jurisdictions (*13*).

On the federal level, the Federal Motor Carrier Safety Administration (FMCSA), which regulates interstate buses and trucks, also regulates limousines with a seating capacity of more than 11 passengers. FMCSA has rigorous rules to ensure that drivers receive medical certifications and now uses technology to ensure that drivers cannot work longer than a certain number of consecutive hours.[1]

Federal Motor Carrier Safety Regulations (FMCSRs) require companies that operate commercial motor vehicles (CMVs) and vehicles for hire with a designed seating capacity of more than eight, including the driver, to register with the FMCSA and undergo a safety inspection if operated interstate. Many states, including New York, New Jersey, and Connecticut, require all CMV carriers to register with FMCSA and obtain a U.S. DOT number, even if the carrier does not cross state lines.[2]

FMCSA, part of U.S. DOT, tracks and regularly audits CMV operations to ensure they comply with FMCSRs. These regulations include driver qualification, vehicle inspection and maintenance requirements, and driver hours of service. Under FMCSRs, every CMV must be inspected every 12 months by a qualified inspector who has training or certification to examine and maintain CMVs—which could be the motor carriers themselves (*14*). Motor carriers are banned from using a CMV unless each component identified in an appendix to FMCSA regulations has passed an inspection at least once during the preceding 12 months (*15*).

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Regulatory reform could be a call to action for legislators, transportation officials, and vehicle manufacturers everywhere to immediately identify and implement uniform best safety practices for limousine vehicles and drivers. Any such regulation should be reasonable and effective, leveraging technology and providing for safety and accountability at every level. Even if the cause of the crash may not result from faults or shortcomings in government regulation, government typically reacts to high-profile crashes and takes a fresh look at issues and laws. In memory of the victims of the Schoharie crash, manufacturers and regulators should do everything they can to prevent future tragedies, and identify shortcomings or gaps as a result of the attention this crash has received.

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[1] The FMCSA Electronic Logging Device (ELD) Rule, which went into effect in December 2017, requires motor carriers to install and use ELDs for more accurate hours of service recording. The devices, which range from $200 to $800 each, replace paper logs and make it easier to track, manage, and share records of duty status (RODs) data. Connected to the vehicle's engine, the ELD records all activities when the vehicle is in use—not just drive time—and allows drivers to manually log when they are off duty or in the sleeper berth.

[2] The ELD rule has four key components: 1) mandating that commercial drivers who are required to prepare hours of service and RODS must use an ELD, unless they are exempt; 2) setting ELD performance and data standards and requiring FMCSA self-certification of all ELDs; 3) identifying categories of supporting documents that drivers and carriers are required to keep; and 4) prohibiting harassing drivers based on ELD data and providing recourse for drivers who believe they have been harassed.