

# Gulf Coast Mariners Association



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## CREW VAN – DEATH VAN?

GCMA Director Captain David C. Whitehurst forwarded the attached article about 15-passenger vans from the internet stating that he had watched a Fox News program on the subject and obtained the internet article to pass along to other mariners. He simply stated that: “This type of van is used by (boat) companies to transport crews.” He pointed out that these vans often pull trailers loaded with cargo and boat supplies that place additional weight on the rear axle and contribute to the vehicle’s instability.

One recent example reported to GCMA comes to mind. A towing company 15-passenger van with a company driver assigned to drive it drove from Memphis, TN, to Mobile, AL, (approx. 366 miles) thence to Houston, TX, (approximately 465 miles) thence to New Orleans, LA, (approx. 340 miles) and back to Memphis, TN, (approximately 398 miles). The company used the same van driver for a total of 1,569 road miles and 30 hours driving time with no reported stopovers during a prolonged crew change period.

As a passenger (and as a mariner), you should be concerned about the training, skill, health, and amount of rest the person driving your crew van has had. Vehicle insurance and the status of your own health insurance are also legitimate concerns in light of the way some companies have treated their injured mariners. A 15-passenger van driver needs additional training as the following report indicates.

In addition, if you are a licensed officer, understand that 46 U.S.C. §8104(a) states: “An owner, charterer, managing operator, master, individual in charge, or other person having authority may permit an officer to take charge of a deck watch on a vessel when leaving or immediately after leaving port only if the officer has been off duty for at least 6 hours within the 12 hours immediately before the time of leaving.”

Transportation of a watch officer to his duty station, as a passenger or as a driver is “on-duty” time.<sup>(1)</sup> [<sup>(1)</sup> Based upon the USCG investigation of the allision of the M/V Robert Y Love with the Interstate 40 bridge, GCMA file #M-275.]

## 15-PASSENGER VAN SAFETY AND ROLLOVER

## RISKS AND LEGAL ASSISTANCE

### INTRODUCTION: ROLLOVER CRASHES INVOLVING 15-PASSENGER VANS

Fifteen-passenger vans typically have seating positions for a driver and 14 passengers. They are widely used by churches and community organizations to take members on short trips and outings. Colleges use them to drive sports teams to games. Many businesses also employ the vans for transporting commuters.

It is estimated that 500,000 of the vans are in use in the United States. The vans include certain models of the Ford Econoline or E-Series, such as the Ford E350 and Club Wagon E350, the Dodge Ram Wagon B350 and Ram Van/Wagon B3500, the Chevrolet Express 3500 and the GMC Savanna 3500 and Rally/Vandura G3500. Ford builds and sells most 15-passenger vans in the U.S.

In lawsuits by injured passengers and families of loved ones who have died, it has been alleged that the vans are defective because they are unreasonably likely to rollover during foreseeable driving conditions. Lieff Cabraser represents families in 15 passenger van accident lawsuits

### A NATIONAL TRAGEDY: REPEATED, HIGH-PROFILE 15-PASSENGER VAN ACCIDENTS

According to government statistics, over 1,200 fatal crashes have occurred involving the large, heavy vans since 1990. Recent high-profile crashes have included:

- In 2004, three members of a Bronx, New York church group were killed and nine more injured in the rollover of a Ford van at the Canadian border.
- In 2003, in East St. Louis, Illinois, a Ford E350 15-passenger van, used by a local church, fishtailed on wet pavement, veered into a ditch and turned on its side. A thirteen year old boy was killed in the accident, and five other children were seriously injured.
- In July 2002, a Ford Super Club Wagon van carrying six cheerleaders rolled over near Birmingham, Alabama. Five passengers were ejected. Two were killed. The others suffered injuries ranging from a dislocated hip to partial paralysis.
- Five firefighters from Oregon that were traveling toward a massive wildfire south of Denver, Colorado, were killed in June 2002 when their 21-year-old colleague and driver reportedly reached for something inside the 15-passenger van, a Ford E-350, allowing the van to drift into the median and then overcorrected, which caused the van to roll over four times.
- In 2000, there were four separate crashes involving athletic teams, killing five and injuring five others.

## **GREATER RISK OF ROLLOVER ACCIDENTS IN LOADED VANS**

On June 1, 2004, Dr. Jeffrey Runge, head of the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA), issued a warning to users of 15-passenger vans because of an increased rollover risk under certain conditions. Similar warnings were issued in 2001 and 2002.

The safety agency reported that 15-passenger vans handle similarly to large sport utility vehicles when lightly loaded. But when filled with passengers, or driven above 50 miles per hour, the vehicles become substantially more unstable than SUVs or pickup trucks. Large vans are five times more likely to roll over when filled than when only the driver is in the vehicle, the report said.

## **WHY 15 PASSENGER VANS ARE MORE LIKELY TO ROLL OVER?**

The greater passenger weight in a fully loaded van raises the van's center of gravity and shifts it rearward. As a result, the van has less resistance to rolling over in an accident or emergency situation. Placing any load on the roof also raises the center of gravity and increases the likelihood of a rollover.

Federal law prohibits the sale of 15-passenger vans for the transport of students in high school or younger. There is no prohibition for college-age students or other passengers. In 2000, within a three-month period, accidents claimed the lives of athletes from Urbana University, Kenyon College, DePaul University, the University of Wisconsin-Oshkosh and Prairie View A&M University.

## **15-PASSENGER VAN SAFETY RECOMMENDATIONS**

The NHTSA has recommended that:

- 15-passenger vans be operated by trained, experienced drivers;
- All occupants wear seat belts at all times. NHTSA found that eighty percent of those who died in 15-passenger van rollovers nationwide in the year 2000 were not buckled up;
- Regularly check tire pressure and tread wear to ensure that the tires are properly inflated and the tread is not worn down.

## **LAWSUITS FILED TO OBTAIN COMPENSATION FOR INJURED PASSENGERS**

On May 8, 2001, 12 women were driving to a Gainesville, Texas, outlet mall in a church-owned van when one of its Michelin XCH4 tires suddenly lost its tread. The driver, Dorothy Griffin, a 62-year-old church member with the First Assembly Church of God in Burkburnett, Texas, could not bring the 1993 Dodge Ram under control. The

Dodge Ram quickly crossed into the center median and rolled over several times. Griffin and three friends were killed, and other passengers were disabled.<sup>(1)</sup> [<sup>(1)</sup>*NTSB Investigates 15-Passenger Van Single Vehicle Rollover Accidents, NTSB #HAR-03/03 was added to this report below.*]

Eleven victims or their families sued Daimler-Chrysler AG, the maker of the Dodge Ram 3500 van, and Michelin for product liability. The plaintiffs alleged that Daimler-Chrysler was aware of the possibility of a tire failure and how difficult the vehicle would be to handle in that event, but failed to provide proper warning about the risks of driving the van. Even though 15-passenger vans are marketed to a wide range of groups and drivers of the vehicles are not required to have any special training, Plaintiffs charged that the problems encountered in an emergency with a fifteen passenger van are more severe than the average driver can handle.

On the eve of trial, in October 2002, Daimler-Chrysler settled the litigation with the families. Although the settlement was confidential, it was reported that one victim's family and another crash survivor received \$3.8 million.

## **INSURANCE COMPANIES WEIGH IN ON THE SAFETY OF 15-PASSENGER VANS**

Many insurance companies that specialize in the largest van markets, like churches and schools, reportedly have investigated the growing controversy and decided to drop coverage for these vans. On October 4, 2002, the Detroit News reported that Guide One, the nation's largest church insurance company, undertook a study of claims data.

During the two years ending in 2002, it had processed claims for eight deaths and 42 serious injuries involving 15-passenger vans, compared with one death and 12 serious injuries for all other vehicles combined. And the vans represented a small fraction of the total vehicle population Guide One insures, company officials said. "We were seeing a widespread problem," said Jeff Hanna, executive director for the Guide One Center for Risk Management.

The company now urges church groups to purchase small school buses instead. It will no longer write new policies that cover 15-passenger vans. "I've always known that buses were safer," Hanna said. "I just didn't know how unsafe vans were."

## **NATIONAL VAN ROLLOVER ACCIDENT ATTORNEYS/LAWYERS**

Persons who have been injured in accidents involving a 15-passenger van, or family members of loved ones who have died in such an accident who would like to learn more about their legal rights, are welcome to contact an attorney at Lief Cabraser...There is no charge or obligation for our review of your case.

You may call Lief Cabraser toll-free at 1-866-313-1973 and ask to speak to partner Kathryn E. Barnett.

## **ABOUT LIEFF CABRASER**

We are a national law firm with offices in San Francisco, California, New York, New York, Washington, D.C., Beverly Hills, California and Nashville, Tennessee.

We are recognized for our successful prosecution of individual and class action lawsuits involving personal injuries and property damage due to defective products, ranging from faulty building and home products to faulty cars, tires and computer devices.

Our clients in these cases have come from across America, including persons living in Alaska, Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Montana, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Virginia, Vermont, Washington, Wisconsin, West Virginia and Wyoming.

**NTSB INVESTIGATES 15-PASSENGER VAN SINGLE VEHICLE ROLLOVER ACCIDENTS**

*[Source: NTSB #HAR-03/03. Emphasis is ours.]*

**Executive Summary:** On May 8, 2001, about 8:57 a.m., central daylight time, a 1993 Dodge Ram 15passenger van was eastbound on U.S. Route 82 near Henrietta, Texas, en route from Burkburnett, Texas, to an outlet mall in Gainesville, Texas. The driver and 11 passengers, all members of the First Assembly of God Church, occupied the van.

As the vehicle approached milepost 538 in the left lane, at a calculated speed of 61 to 67 mph, the left rear tire experienced a tread separation and blowout; subsequently, the van departed the roadway and rolled over at least two times in the median, ejecting seven passengers before coming to final rest. The driver and three of the ejected passengers sustained fatal injuries, and eight passengers sustained serious injuries.

On July 1, 2001, about 2:30 p.m., eastern daylight time, a 1989 Dodge Ram 15-passenger van was northbound in the left lane on U.S. Route 220, near Randleman, North Carolina, en route from Myrtle Beach, South Carolina, to Roanoke, Virginia. The van, owned by Virginia Heights Baptist Church of Roanoke, Virginia, was occupied by the driver and 13 passengers, ages 13 to 19.

As the vehicle approached the Level Cross, North Carolina, exit, at a witness-estimated speed of 65 mph, the left rear tire experienced a tread separation and blowout; subsequently, the van moved from the left lane into the right lane, then back into the left lane, where it overturned and came to rest in the travel lanes. During the accident sequence, four passengers were ejected, one of whom was fatally injured and three of whom sustained serious injuries; the driver and the other nine passengers sustained injuries ranging from none to serious.

The National Transportation Safety Board determines that the probable cause of the accidents was tire failure, the drivers' response to that failure, and the drivers' inability to maintain control of their vans. Contributing to the accidents

was the deteriorated condition of the tires, as a result of the churches' lack of tire maintenance, and the handling characteristics of the vans. Contributing to the severity of the injuries was the lack of appropriate Federal Motor Vehicle Safety Standards applicable to 15-passenger vans in the areas of restraints and occupant protection.

The major safety issues discussed in this report are 15-passenger van classification, driver training, occupant protection, and tire condition, inspection, and maintenance.

As a result of its investigation of these accidents, the Safety Board makes recommendations to the National Highway Traffic Safety Administration, the Federal Motor Carrier Safety Administration, the 50 States and the District of Columbia, the American Driver and Traffic Safety Education Association, the American Automobile Association, the National Safety Council, the American Association of Motor Vehicle Administrators, Ford Motor Company, and General Motors Corporation. *[End of Executive Summary]*

*[GCMA Editorial note: The report is accompanied by ample pictures and text material to amplify material in the Executive Summary. GCMA edited a portion of the available text material.]*

**15-PASSENGER VAN ISSUES**

**Pupil transportation**

- Use of non conforming vehicles for pupil transportation
- 15-passenger vans are not built to the same protection standards as school buses.
- Pupils should be transported in vehicles built to school bus standards
- NHTSA prohibits sale of new vans to schools

**15-Passenger Van Rollovers**

- Accidents continue to occur
- These vans are more likely to roll over when loaded
- Rollover rating system
- Electronic stability control
- Congressional action is necessary

**Occupant Protection – Survival Factors Issues**

- Occupant protection for 15-passenger vans. The most frequent contact point in rollovers is the roof, pillars, rails, and headers. Current Federal Motor Vehicle Safety Standards require occupant protection of these areas in passenger cars, trucks, and multi-purpose vehicles. 15-passenger vans are exempt from Federal Motor Vehicle Safety Standard (FMVSS) 201, Part 6.

**Seat belts:**

In the **Henrietta, TX, accident** the driver and front seat passenger were lap/shoulder belted. Of the 10 passengers in the rear, only one (1) was lap-belted and all the others were unrestrained. **Injuries:** The driver sustained fatal injuries while three (3) passengers received fatal injuries. Unrestrained passengers received serious injuries. The lap-belted passenger received a right arm fracture.

In the **Randleman, NC, accident** the driver and front seat passenger were lap/shoulder belted. 12 unrestrained passengers were in the rear of the van. **Injuries:** The driver received serious injuries while the front passenger received minor injuries. Four (4) passengers were ejected, and one of them was injured fatally. Eight (8) passengers were not ejected and received minor injuries.]

**Causes of the injuries** were impact forces from the rollover; lack of restraint (seat belt) use, impact with non-protected interior surfaces, ejection from the vehicle, abd intrusion of steel body into the passenger compartment.]

- Center position seat belt requirements and belt accessibility. The center seat positions were only equipped with lap belts. Lap belts can increase the risk of abdominal, spinal, and head injury. Center seat occupants should receive the same level of protection as other occupants with lap/shoulder belts. In the **Randleman, NC, accident** seat belt accessibility was limited in five (5) seats without accessible belts. Four (4) of these seats were occupied by children under 16 years of age and were required by NC law to be belted. Three of these children were ejected from the van and one of the ejected children was fatally injured.
- Fourth row seating lap belt assembly design. The lap belt assemblies could be used in a manner that did not conform to regulations (e.g., the wrong belt could be selected by a passenger) and could increase the risk of injury to passengers.
- Roof crush and loss of survivable space. Roof crushing contributed to the severity of the driver's injuries where the roof crushed to top of the driver's seatback and in other areas, only 4 to 6 inches above the seatback leaving a significant shortage of survivable space. FMVSS-216 standard for roof crush resistance applies to passenger cars and multi-purpose vehicles but not to these vans. However, 15-passenger vans are in a higher percentage of rollover accidents.
- Occupant simulations. Ejections and restraint usage were graphically illustrated in the full NTSB report.
- **Summary:** Occupant protection needs improvement in 15-passenger vans that are used in a manner similar to passenger cars but with lower requirements for safety. A systems-approach to occupant protection includes: lap/shoulder belts, seats, interior structures, and increased roof strength.

#### Tire Condition, Inspection & Maintenance

- Five (5) of the Eight (8) tires were degraded by weather-

checking, underinflated operation, and use of improper load rating.

- Causes of degradation were the age of the tires, infrequent use; and poor maintenance. Both vehicles were inspected, one by Texas and the other by Virginia. Neither state nor the American Association of Motor Vehicle Administrators address excessive tire cracking, weather checking (i.e., dry rot), tire deterioration, or use of improper load-rated tires. Neither Texas nor Virginia inspect for proper tire inflation pressure.
- Tire Inflation Pressures. The rear tires were underinflated. The causes of underinflation were the pressure differential; high pressures, tire gauge limitations, lack of inspection., and sedentary vehicles. Effects of underinflation are shorter tire life, elevated operating temperatures, reduced load capacity – all of which affected the van handling characteristics.
- Tire Inflation Monitoring Systems: Under current detection threshold requirement is 25% or 30% below the recommended pressure. The warning range is below 56 to 60 psi. The accident tire pressures 58-60 psi and would be undetected.

#### Driver Issues

- Both drivers had valid drivers licenses.
- Both were familiar with their vans.
- There is no evidence they received specialized training.
- There is no evidence of an emergency situation while driving the vans.
- Both drivers tried to correct the vehicle's rotation by steering and possibly braking. These are natural reactions when a driver begins to lose control of the vehicle.
- Vehicle dynamics of a loaded 15-passenger van differ from those of a passenger vehicle.
- Guidance: Remove your foot from the accelerator, gently brake the vehicle, and avoid abrupt steering maneuvers.
- Driver input is magnified, leading to further instability.
- In testing the vehicle, a trained driver could not maintain his lane.
- NHSTA issued a safety advisory, but the van owners were not aware of the advisory.
- "Coaching the Van Driver" and the advantages of training.
- Driver's licenses: Consider van driver license classes and/or endorsements along with specialized training and testing.

#### Vehicle Classification

- Classification issues include occupant protection, vehicle inspection, pre-trip inspections, driver training, and licensing.
- U.S. Department of Transportation Classifications.
- Federal Motor Vehicle Safety Standards. NHTSA defines a 12-15 passenger van as a bus and excludes them from passenger car safety standards.
- Federal Motor Carrier Safety Regulations (FMCSR). Passenger vehicles are commercial vehicles when they transport more than 8 passengers for compensation and

when they carry more than 15 passengers. 12 & 15-passenger van used as a commercial vehicle must file a motor carrier identification report, mark the vehicle with a U.S. DOT number, and maintain an accident register.

- 12 & 15-passenger vans do not meet safety standards of passenger cars, are sometimes considered buses, may be registered as a passenger vehicle or a commercial vehicle, and require some additional knowledge on the part of a consumer.
- There are variations in vehicle classifications. These result in lesser occupant protection standards, no pre-trip inspections, no special driver licensing requirements, and adversely affect safety and operation of these vehicles.

### Vehicle Handling

- The vans were initially traveling about 60-67 mph.
- Rear tire failure changes vehicle handling.
- There is a very short time to adjust to these handling changes.
- The driver (in the left lane) steered right then left before leaving the roadway.
- The vans rolled two or more times before coming to rest.
- The purpose of accident simulations is to gain a better understanding of the driver's actions prior to leaving the road and to obtain crash pulse estimates for use in occupant kinematics study. (*Vocabulary: Kinematics = the branch of mechanics that deals with pure motion without reference to the masses or forces involved in it.*)