



# State Regulation of For-Hire Passenger Transportation

**SPECIAL REVIEW**  
June 2020

**OFFICE OF THE LEGISLATIVE AUDITOR**  
STATE OF MINNESOTA

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## OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

June 2020

Members of the Legislative Audit Commission:

In response to a tragic 2018 limousine accident in New York and public concerns brought to our attention regarding for-hire passenger transportation in Minnesota, the Office of the Legislative Auditor undertook a “special review” in 2019 to examine the state’s regulation of such transportation. We focused on the extent to which the Minnesota Department of Transportation (MnDOT) audited the compliance of transportation companies—called “carriers”—with state requirements, as well as the extent to which the companies’ vehicles have received annual inspections.

We found that MnDOT’s oversight of for-hire passenger carriers has been inconsistent. MnDOT’s total number of carrier compliance audits declined significantly from 2014 through 2018, and then rose sharply in 2019. For one category of passenger carriers—limousine companies—there are no state requirements for periodic audits. In a review of one year of vehicle inspection data, we found that some state-registered vehicles did not receive their required annual inspections, and there are steps MnDOT could take to better monitor inspection compliance. Our report also notes that MnDOT staff are subject to some limitations when they inspect vehicles, raising questions about the comprehensiveness of these inspections.

We received full cooperation from the Minnesota Department of Transportation as we prepared this report. Carrie Meyerhoff of our office provided research assistance with a portion of this report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Nobles'.

James Nobles  
Legislative Auditor

A handwritten signature in black ink, appearing to read 'Joel Alter'.

Joel Alter  
Director, Special Reviews



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# Summary

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The Minnesota Department of Transportation (MnDOT) has inconsistently complied with state requirements governing its oversight of for-hire passenger transportation. Such transportation includes tour buses, party buses, vehicles that transport elderly or disabled persons, limousines, and other state-regulated passenger vehicles.

MnDOT's annual number of compliance "audits" of passenger transportation companies declined significantly from 2014 to 2018, and the number of audits then increased significantly in 2019. During these audits, MnDOT reviews company records to determine, for example, whether the company has done the required criminal background checks of its drivers, and whether the company has the required insurance. While state regulations require periodic audits of certain types of companies, there is no such requirement for limousine operators; MnDOT did no audits of limousine companies in 2018 and then 163 audits in 2019. For providers other than limousines, we concluded that the number of MnDOT audits in the years we examined usually fell short of what state regulations required. We recommend that state law specify the minimum frequency of limousine audits, and that MnDOT allocate the resources to meet the statutory audit requirements for all types of carriers.

We also found that more than 40 percent of limousines registered with MnDOT did not receive a state vehicle inspection in 2018, contrary to state requirements for annual inspections. MnDOT said 2018 was an unusual year for limousine inspections due to an influx of registered limousines to provide service during the 2018 Super Bowl in Minneapolis; however, MnDOT records did not allow us to determine the extent to which limousine companies continued (or did not continue) using their added vehicles once the Super Bowl was over.

For another category of vehicles—called Motor Carriers of Passengers (which includes tour buses and party buses, along with smaller vehicles designed to transport eight or more persons)—it is difficult to assess, in aggregate, the level of compliance with state inspection requirements. Most of these inspections are done by private inspectors, and the overall extent of private inspections cannot be readily queried in MnDOT's information systems.

It is worth noting that MnDOT's vehicle inspectors cannot lift, remove, or disassemble vehicle parts during inspections, in contrast to inspections done by private, certified mechanics. Such limitations are comparable to those faced by the State Patrol when it does roadside inspections or inspects school buses; however, private inspectors of "commercial motor vehicles" (such as those with a gross weight of more than 26,000 pounds) and "transportation network companies" (such as Uber and Lyft) are not subject to these limitations. Legislators should consider whether to authorize inspections of limousines and vehicles serving elderly and disabled riders by certified private mechanics rather than by MnDOT.

Differences in Minnesota's passenger carrier regulations sometimes reflect differences in the vehicles used or the passengers served, but some inconsistencies seem difficult to justify. We recommend that state law be amended to require more frequent background checks for drivers of Motor Carriers of Passengers. Criminal background checks for drivers of Motor Carriers of Passengers must be done every three years, in contrast to annual checks for drivers of limousines and regularly updated information regarding drivers of vehicles serving persons who are elderly or have disabilities.

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# Table of Contents

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<b>1</b>	<b>Introduction</b>
<b>3</b>	<b>Chapter 1: Background</b>
3	Types of Passenger Carriers
5	Regulatory Framework
9	MnDOT Role
<b>11</b>	<b>Chapter 2: Audits of Motor Carrier Records and Training Courses</b>
11	Regulatory Requirements
13	Frequency of Audits of Carrier Records
19	Audits of Training Courses
20	Adequacy of Carrier Records
21	Enforcement Options
23	Recommendations
<b>27</b>	<b>Chapter 3: Vehicle Inspections</b>
28	Regulatory Requirements
33	Inspection Frequency
35	Inspection Outcomes
36	Recommendations
<b>39</b>	<b>List of Recommendations</b>
<b>41</b>	<b>Agency Response</b>





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# Introduction

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In October 2018, a limousine (shown below) went through a stop sign and crashed in Schoharie, New York, killing the driver, all 17 passengers, and 2 pedestrians. The limousine had been rented to take people to a birthday party at a brewery. The accident remains under investigation by the National Transportation Safety Board.<sup>1</sup> The son of the limousine company's owner was indicted in 2019 on 40 counts of manslaughter and criminally negligent homicide.



Nationally, other incidents involving for-hire passenger transportation services have received attention, including the following:

- In 2019, a woman with disabilities was allegedly kidnapped and sexually assaulted by a driver for Miami-Dade Special Transportation Service after he dropped off other passengers. As of early 2020, the driver was in jail awaiting a court hearing.
- In 2018, a college student fell from a North Carolina party bus and died. The owner of the bus was cited for failure to have insurance and for having a fictitious license plate.
- In 2011, a tour bus driver struck and killed a pedestrian in Chicago. The driver tested positive for cocaine after the accident. At the time of the accident, he was wanted by law enforcement for sex crimes involving children, and he had an extensive history of traffic violations. The family reached a settlement with the bus company for \$6.75 million. The driver was sentenced to 14 years in prison for the accident, and another 20 years for the sex crimes.

For-hire passenger vehicles serve a variety of purposes. They provide transportation for individuals or groups in tour buses, airport or hotel transport vehicles, party buses, or limousines. For-hire vehicles also transport persons who are elderly or disabled. While some for-hire vehicles conduct interstate transportation, many provide intrastate transportation—that is, services provided entirely within the boundaries of a single state. State agencies—such as the Minnesota Department of Transportation (MnDOT) in Minnesota—have primary responsibility to oversee the companies that provide intrastate passenger transportation services and their fleets of vehicles; intrastate services were the focus of our review. The examples above—while not from Minnesota—help to illustrate the importance of regulatory oversight of passenger

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<sup>1</sup> The National Transportation Safety Board (NTSB) issued a preliminary report on the accident in February 2019. NTSB, *Safety Recommendation Report: Providing Occupant Protection for Limousine Passengers* (Washington, DC, September 2019), recommended that limousines have lap/shoulder belts for each passenger seating position. (That document is the source of the photo on this page.) NTSB also recommended that New York state inspectors ensure that seat belts are functional and accessible in limousines equipped with passenger seat belts.

vehicle regulation. Regulation cannot eliminate the risks of passenger transportation, but regulation is largely intended to promote passenger safety.

Our office initiated this review in response to some concerns expressed to us about the oversight of for-hire passenger vehicle services. We asked:

- **To what extent is there an adequate regulatory framework for various types of for-hire passenger transportation in Minnesota?**
- **To what extent has MnDOT audited the records of passenger vehicle companies in accordance with legal requirements?**
- **To what extent have vehicles received annual inspections in accordance with legal requirements?**

To conduct this review, we examined MnDOT data on state-regulated companies that provide passenger transportation services, and the extent to which these companies receive audits of their records and vehicle inspections. We also interviewed MnDOT staff, and we reviewed the statutes and rules that govern passenger services in Minnesota.

Our review did not examine the statutes or rules that govern passenger transportation in other states. We also did not systematically examine the extent to which there have been injuries or vehicle accidents involving passenger transportation in Minnesota, nor the role of state regulation in any such incidents.

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# Chapter 1: Background

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This chapter provides background information regarding Minnesota’s oversight of for-hire passenger carriers. It defines the three types of carriers we examined and provides information on the number of such carriers in the state. This chapter also provides an introduction to Minnesota’s regulatory framework, although we also discuss the regulations regarding carrier audits and vehicle inspections in subsequent chapters. Finally, we briefly describe the role played by the Minnesota Department of Transportation (MnDOT) in passenger carrier regulation.

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## Types of Passenger Carriers

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State laws and rules provide the regulatory framework for intrastate passenger transportation in Minnesota. The law requires various categories of passenger transportation companies and their vehicles to get MnDOT authorization prior to operating in a for-hire capacity. This report focuses on three categories of passenger carriers that must receive MnDOT authorization.

- **Special Transportation Service (STS).** According to state law, this category of service includes “motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed exclusively or primarily to serve individuals who are elderly or disabled and who are unable to use regular means of transportation but do not require ambulance service.”<sup>1</sup> STS includes service provided by specially equipped buses, vans, taxis, and volunteers driving private automobiles. STS also includes nonemergency medical transportation, which the 2015 Legislature added to the definition of STS.<sup>2</sup> The regulations for STS do not specify a minimum or maximum number of persons that may occupy STS vehicles. Payments for STS are typically covered by public health care programs, such as Medicaid; in contrast, private individuals or groups typically pay for services provided by the other types of carriers discussed below.



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<sup>1</sup> *Minnesota Statutes* 2019, 174.29, subd. 1.

<sup>2</sup> *Laws of Minnesota* 2015, chapter 71, art. 11, sec. 3, codified as *Minnesota Statutes* 2019, 174.29, subd. 1. Nonemergency medical transportation providers that had not been subject to STS standards prior to July 2014 could apply to MnDOT for temporary variances from the STS standards if they were unable to comply with the standards by January 2017. MnDOT said that about 40 of these providers received variances, typically for about two months.

- Limousine Service.** According to state law, this category includes service that: (1) is not provided on a regular route; (2) is provided in a luxury passenger automobile with a seating capacity of up to 15 persons, including the driver; (3) provides only prearranged pickup of passengers; and (4) charges more than a taxicab fare for a comparable trip.<sup>3</sup>



- Service Provided by Motor Carriers of Passengers.** This service involves “the for-hire transportation of passengers in vehicles designed to transport eight or more persons, including the driver.”<sup>4</sup> Examples of this service include tour buses, party buses, airport shuttles, and transportation provided in certain smaller passenger vehicles. State law excludes providers of Limousine Service from the definition of “motor carriers.”<sup>5</sup>



It is important to note that some types of for-hire passenger carriers are not subject to MnDOT regulation. For example, state law exempts services or vehicles operated by the Twin Cities region’s Metropolitan Council—such as Metro Transit buses or Metro Mobility vehicles—from MnDOT’s regulatory authority.<sup>6</sup> Likewise, the law says MnDOT may not “register” passenger transportation services provided through contracts by the Metropolitan Council or MnDOT.<sup>7</sup> In addition, school buses and Head Start vehicles are “inspected and certified” by the Minnesota State Patrol, not MnDOT.<sup>8</sup>

<sup>3</sup> *Minnesota Statutes* 2019, 221.84, subd. 1. State rules define “luxury passenger vehicle” as having (1) “a chassis and wheelbase that have been stretched beyond the length of the manufacturer’s original specifications for the vehicle”; (2) “a sedan that the manufacturer characterizes as a luxury automobile in sales or promotional material regularly distributed to the public”; or (3) “a sedan with an original manufacturer’s suggested retail price or present fair market value of more than \$25,000” (*Minnesota Rules*, 8880.0100, subp. 12, <https://www.revisor.mn.gov/rules/8880/>, accessed April 8, 2019).

<sup>4</sup> *Minnesota Statutes* 2019, 221.012, subd. 26.

<sup>5</sup> *Minnesota Statutes* 2019, 221.012, subd. 25.

<sup>6</sup> *Minnesota Statutes* 2019, 221.022. Metro Mobility provides transportation for individuals unable to use regular fixed-route transit because of a disability or health condition. The Metropolitan Council is responsible for regulation of Metro Transit and Metro Mobility services and vehicles.

<sup>7</sup> *Ibid.* The MnDOT Office of Transit and Active Transportation registers services provided through contracts by the Metropolitan Council or MnDOT.

<sup>8</sup> *Minnesota Statutes* 2019, 221.025, and 169.451, subds. 1 and 2.

Local units of government have primary authority to regulate taxicabs and “transportation network companies” (such as Uber and Lyft).<sup>9</sup>

For the three categories of passenger carriers that MnDOT regulates, the box below shows the number of carriers authorized to provide service, as of May 2019. These carriers represented a mix of corporations, sole proprietorships, and limited partnerships.<sup>10</sup>

Number of Authorized Carriers, May 2019		
Special Transportation Service	Motor Carriers of Passengers	Limousine Service
244	268	312

MnDOT records indicated that a total of 774 carriers had operating authority as of May 2019; some had authority to provide service in more than one of the three categories. About 68 percent of the carriers reported a primary business address that was in the seven-county Twin Cities metropolitan area. Another 30 percent of the carriers were based elsewhere in Minnesota, and less than 2 percent were based outside of Minnesota.

The scope of operations for passenger carrier companies varies widely. For carriers that were active as of May 2019, a majority had three or fewer vehicles authorized to provide service at some time during 2018. At the other extreme, 30 carriers had 50 or more vehicles each in 2018, and these carriers accounted for nearly half of all vehicles in operation. One carrier (Airport Taxi) had more than 600 vehicles that provided service at some time during 2018, mostly providing STS.

## Regulatory Framework

Federal regulations govern interstate passenger services—that is, services that cross state lines. In contrast, state statutes and rules govern intrastate passenger services—that is, services that are provided entirely within the boundaries of Minnesota. This report focuses on intrastate services, which are regulated and overseen by MnDOT.

Regulations governing passenger carrier transportation focus largely on safety. For example, state regulations require periodic inspections of vehicles (discussed in Chapter 3) to help ensure that the vehicles are roadworthy and have proper equipment.

<sup>9</sup> *Minnesota Statutes* 2019, 412.221, subd. 20, establishes city authority to regulate taxicabs. The Metropolitan Airports Commission has authority to regulate taxicabs that serve airports under its jurisdiction, such as Minneapolis-St. Paul International Airport (*Minnesota Statutes* 2019, 221.091, subd. 3). *Minnesota Statutes* 2019, 65B.472, subd. 1(e), defines a “transportation network company” as a company “that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides.” *Minnesota Statutes* 2019, 65B.472, establishes insurance requirements for transportation network companies, but other regulation of these companies is up to local units of government.

<sup>10</sup> Of the carriers for which MnDOT had information on business type, 52 percent were corporations, 27 percent were limited or other partnerships, and 21 percent were sole proprietors.

In addition, state regulations require carrier companies to conduct criminal background checks on certain employees and ensure that drivers have proper licenses.

The business of transporting groups of passengers comes with risks. According to a report prepared by Minnesota state agencies for the federal government, there were three fatalities over a recent five-year period in crashes that involved intrastate “commercial motor vehicles” regulated by MnDOT.<sup>11</sup>

The state regulations for for-hire passenger carriers appear in various state statutes and administrative rules.<sup>12</sup> The most recent changes to these statutes occurred in 2016 for STS and in 2014 for Motor Carriers of Passengers and Limousine Service. However, updates of the state rules—which sometimes have more detailed regulatory provisions than state statutes—have occurred less frequently.

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**MnDOT has not updated the administrative rules for passenger carrier regulation in many years.**

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Of the three categories of passenger carriers we examined, the one with the most recently updated state rules was STS. These rules were last updated in 2004, although one section dates to 1992. All of the Limousine Service rules were last written or revised in 1994. For Motor Carriers of Passengers, the state rules were last written or revised in 1988. Thus, the rules for passenger carriers range from 16 to 32 years old.<sup>13</sup>

MnDOT is currently working on updating some of the state’s passenger carrier rules. In November 2019, MnDOT published a “request for comments” for the STS rules. This signifies an early stage of the rule-writing process; MnDOT anticipates that revised STS rules will take effect in summer 2021.<sup>14</sup> MnDOT intends to publish in mid-2020 the document to formally initiate the process for revising the Limousine Service rules, and MnDOT staff have already had meetings to discuss possible revisions. MnDOT does not have immediate plans to update the rules for Motor Carriers of Passengers; MnDOT told us that most of the standards for these carriers are defined in state statutes, which MnDOT said have been updated periodically. The

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<sup>11</sup> *Minnesota Commercial Vehicle Safety Plan for the Federal Motor Carrier Safety Administration’s Motor Carrier Safety Assistance Program, Fiscal Years 2018-2020, Annual Update [Fiscal Year] 2019* (St. Paul, September 18, 2018). The fatality data in this report—for calendar years 2012 through 2016—showed a total of 21 deaths, but 9 involved school buses, 8 involved public transit vehicles not regulated by MnDOT, and 1 involved a passenger carrier vehicle operating in more than one state. The report does not discuss the cause of these fatalities. Vehicles defined in law as “commercial motor vehicles” require a commercial driver’s license, such as vehicles that surpass 10,000 pounds in gross vehicle weight. The scope of this report did not include STS vehicles or limousines.

<sup>12</sup> The primary regulatory statutes for the carriers include *Minnesota Statutes* 2019, 174.30 (STS); 221.0252 and 221.141 (Motor Carriers of Passengers); and 221.84 and 65B.135 (Limousine Service). The primary administrative rules for these services are *Minnesota Rules*, chapters 8840 (STS), 8850 (Motor Carriers of Passengers), and 8880 (Limousine Service).

<sup>13</sup> We do not know whether the lack of recent rule updates has had an impact on passenger or vehicle safety. However, the extended periods since the rules have been formally reviewed and revised represent a risk, given the focus of the rules on safety issues.

<sup>14</sup> Minnesota Department of Transportation, Office of Freight and Commercial Vehicle Operations, “Request for Comments for Possible Amendments to Rules Governing Special Transportation Service, *Minnesota Rules*, Chapter 8840,” 44 *State Register* 586 (November 12, 2019).

person who served as MnDOT's manager of commercial vehicle operations from 2017 until June 2020 told us that rule updates were not a top priority of her predecessor in that position. In contrast, she said, she hired a person to begin working on rule revisions after she assumed her position, and such revisions are now a priority.

Some state rules might not require frequent revisions, while others that been unrevised for many years are outdated. For example, MnDOT officials said that there has not been an urgent need to update the state rules pertaining to Motor Carriers of Passengers conducting intrastate business because state statutes specify that these carriers comply with certain federal regulations, which have been subject to periodic updates.<sup>15</sup> On the other hand, one of the definitions of a "luxury passenger automobile" (that is, a limousine) in state rules is "a sedan with an original manufacturer's suggested retail price or present fair market value of more than \$25,000."<sup>16</sup> While a \$25,001 sedan might have been a luxury vehicle in 1994—when this rule took effect—that definition would be harder to justify today.

The rules pertaining to the three types of carriers often have differing provisions. To some extent, this reflects different types of passengers served and vehicles used. For instance, STS serves exclusively individuals who are elderly or have disabilities, so they may be more likely than passengers of other carriers to be classified by law as "vulnerable adults."<sup>17</sup> Vehicles serving such individuals are subject to some requirements—for example, for wheelchair securement—to which other categories of vehicles are not subject. However, it is also possible that some differences in regulatory requirements may also reflect differences in when the rules were written or updated.

Examples of differences in the rules include the following:

- There are differing requirements for criminal background checks. First, the required background checks differ in frequency. All carriers must obtain background checks when a driver is first hired; after that, STS carriers receive ongoing updates on their employees' criminal records, Limousine Service

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<sup>15</sup> For example, see *Minnesota Statutes* 2019, 221.031, subd. 1(a) and (b); and 221.0314, subd. 1(a). However, the law does not defer entirely to the federal regulations; *Minnesota Statutes* 2019, 221.031, subd. 1(b), says: "The commissioner shall prescribe rules for the operation of motor carriers [engaged in intrastate commerce], including their facilities; accounts; leasing of vehicles and drivers; service; safe operation of vehicles; equipment, parts, and accessories; hours of service of drivers; driver qualifications; accident reporting; identification of vehicles; installation of safety devices; inspection, repair, and maintenance; and proper automatic speed regulators *if, in the opinion of the commissioner, there is a need for the rules*" (emphasis added).

<sup>16</sup> *Minnesota Rules*, 8880.0100, subp. 12, <https://www.revisor.mn.gov/rules/8880/>, accessed April 8, 2019.

<sup>17</sup> *Minnesota Statutes* 2019, 626.5572, subd. 21, defines "vulnerable adult." In general, a vulnerable adult is a person age 18 or older who (1) lives in a facility (as defined in law); (2) receives services from a provider required, pursuant to specified laws, to be licensed by the Minnesota Department of Human Services, with certain exceptions; (3) receives services from a person or organization that offers, provides, or arranges for personal care services; or (4) has a physical or mental disability that impairs the individual's ability to care for and protect himself or herself.

carriers must conduct checks annually, while Motor Carriers of Passengers must conduct checks every three years.<sup>18</sup>

The regulations also differ regarding which employees are subject to background checks. For Limousine Service carriers and Motor Carriers of Passengers, only the drivers are subject to background checks. In contrast, STS carriers' owners, managers, administrative support staff, and persons who assist passengers during transport are all subject to background checks, in addition to drivers.

In addition, the list of prior criminal offenses that exclude a person from serving as a driver (or another employee subject to a background check) is more extensive for STS carriers than for other carriers. For instance, a criminal conviction for indecent exposure to a minor permanently disqualifies a person from serving as an STS driver, but it would not disqualify a person from serving as a driver for a limousine or party bus.

- The amount of insurance coverage required is more substantial for Motor Carriers of Passengers and Limousine Service companies than for STS carriers. The minimum required coverage for Motor Carriers of Passengers is either \$5 million (for vehicles carrying 16 or more persons) or \$1.5 million (for vehicles carrying 15 or fewer persons).<sup>19</sup> The minimum coverage required for Limousine Service providers is \$1.5 million per accident.<sup>20</sup> The minimum coverage for each of a private providers' STS vehicles is \$100,000 or \$300,000 for bodily injury or death, depending on how many individuals were involved in the accident, and \$50,000 for property damage.<sup>21</sup>
- There are differences among carriers in the regulatory requirements for complaint procedures. STS carriers must display in each vehicle contact information for persons wishing to submit complaints, and the MnDOT commissioner must maintain a record of all such complaints.<sup>22</sup> The STS regulations also require MnDOT to investigate all STS complaints that are

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<sup>18</sup> For STS drivers, state law specifies that background checks be conducted using a Minnesota Department of Human Services system known as NETStudy 2.0 (*Minnesota Statutes* 2019, 174.30, subd. 10(6)(b); 245C.02, subd. 13; and 245C.03, subd. 12). *Minnesota Statutes* 2019, 245C.04, subd. 2, requires STS carriers to obtain background checks when drivers are first hired or begin providing service. NETStudy 2.0 receives ongoing updates from the courts if individuals registered in that system receive new criminal convictions, and the system sends notifications regarding new convictions to the carrier and the individual. Thus, this system should be alerting carriers on an ongoing basis of criminal convictions that would disqualify their drivers from providing services, assuming that the carriers have properly registered those individuals in NETStudy 2.0. MnDOT also queries NETStudy 2.0's records at the time a driver brings a vehicle in for inspection, but there is no assurance that all STS drivers will bring vehicles in for inspection.

<sup>19</sup> *Minnesota Statutes* 2019, 221.141, subd. 1(b); and 49 *CFR*, sec. 387.33 (2019).

<sup>20</sup> *Minnesota Statutes* 2019, 65B.135.

<sup>21</sup> *Minnesota Rules*, 8840.6000, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

<sup>22</sup> *Minnesota Statutes* 2019, 174.30, subd. 4(f); and *Minnesota Rules*, 8840.5700, subp. 2, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.



within its jurisdiction.<sup>23</sup> There are no provisions in the Limousine Service or Motor Carrier of Passenger regulations related to complaint procedures. MnDOT maintains a log of the complaints it receives. In the first six months of 2019, MnDOT received 88 complaints or allegations related to STS; it received 24 related to Motor Carriers of Passengers, and 5 related to Limousine Service.<sup>24</sup>

We discuss other regulatory differences in the chapters regarding audits of carrier records (Chapter 2) and vehicle inspections (Chapter 3).

## MnDOT Role

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From a fiscal and staffing perspective, the regulation of for-hire passenger carriers is a relatively modest responsibility within the broad scope of the Minnesota Department of Transportation's budget. In Fiscal Year 2019, the department as a whole spent more than \$3 billion and had an estimated 5,000 full-time-equivalent employees working on its wide range of transportation-related activities.<sup>25</sup> In contrast, expenditures related to MnDOT's regulation of motor carriers of passengers and freight totaled about \$5.0 million in Fiscal Year 2019.

MnDOT's Office of Freight and Commercial Vehicle Operations is the organizational home of the department's regulatory activities related to motor carriers. The self-declared purpose of the office is to "advance highway safety by working with providers of commercial transportation to improve and enhance the safety of their operations."<sup>26</sup> Exhibit 1.1 shows the location of this office within MnDOT; the office had about 68 full-time-equivalent staff in Fiscal Year 2019. Besides regulating motor carriers of freight and passengers, this office also performs tasks such as the following: monitors railroad compliance with state and federal safety standards; monitors and oversees improvements at more than 4,000 locations where railroads cross public roads; develops plans and initiatives to improve Minnesota's freight transportation system; administers grants to improve commercial waterway navigation in the state; and assists local authorities when there are incidents involving hazardous materials.

For regulation of motor carriers that operate across state lines, MnDOT and the Department of Public Safety share grants provided through the federal Motor Carrier Safety Assistance Program (MCSAP). According to federal regulations,

The goal of the MCSAP is to reduce [commercial motor vehicle]-involved accidents, fatalities, and injuries through consistent, uniform, and effective [commercial motor vehicle] safety programs. Investing grant monies in appropriate safety programs will increase the

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<sup>23</sup> *Minnesota Statutes* 2019, 174.30, subd. 9.

<sup>24</sup> Our review did not examine the relationship between complaint data and the safety of for-hire passenger transportation.

<sup>25</sup> Half of the department's expenditures relate to constructing and maintaining the network of 12,000 miles of state trunk highways.

<sup>26</sup> Minnesota Department of Transportation, *Minnesota Commercial Truck and Passenger Regulations: 2019* (St. Paul), 2.

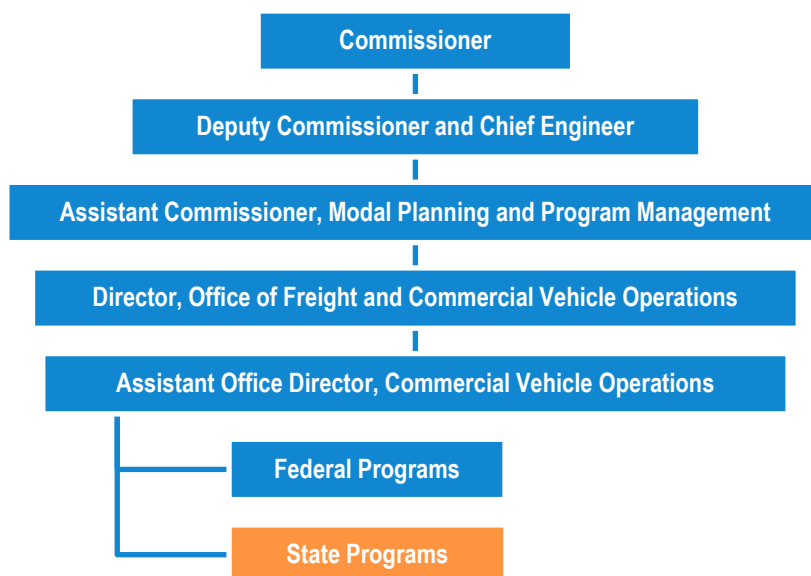
likelihood that safety defects, driver deficiencies, and unsafe motor carrier practices will be detected and corrected before they become contributing factors to accidents.<sup>27</sup>

MnDOT uses its portion of Minnesota’s MCSAP grants (and a required state share of up to 15 percent) to administer the “Federal Programs” unit shown in Exhibit 1.1 on behalf of the federal government. At the direction of the U.S. Department of Transportation’s Federal Motor Carrier Safety Administration, MnDOT’s Federal Programs unit examines the compliance of interstate freight and passenger carriers with federal regulations.

MnDOT’s “State Programs” unit—which was the focus of our review—regulates and monitors the compliance of intrastate motor carriers with requirements in state laws and rules. (In some cases, the standards specified in state law are ones set forth in federal regulations.) The State Programs unit is funded primarily with revenues from the Trunk Highway Fund, which was established in the Minnesota Constitution to support Minnesota’s state highway system.<sup>28</sup>

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### Exhibit 1.1: Minnesota Department of Transportation, Organizational Location of Regulation for Intrastate Passenger Carriers (“State Programs”)



NOTE: In the Commercial Vehicle Operations office, the “Federal Programs” unit administers federal regulations that pertain to interstate passenger carriers; the “State Programs” unit administers state regulations that govern intrastate carriers.

SOURCE: Office of the Legislative Auditor, based on Minnesota Department of Transportation organization charts.

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<sup>27</sup> 49 *CFR*, sec. 350.101(a) (2019).

<sup>28</sup> The Minnesota Constitution establishes a Highway Users Tax Distribution Fund, which receives revenues primarily from motor fuel taxes, motor vehicle registration taxes, and motor vehicle sales taxes. These revenues are then apportioned to the Trunk Highway Fund (which receives the largest share) and other accounts designated for local roads, streets, and bridges.

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# Chapter 2: Audits of Motor Carrier Records and Training Courses

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State law defines “motor carrier” as “a person engaged in the for-hire transportation of property or passengers”; our review focused on passenger transportation.<sup>1</sup> As described in this chapter, the law requires the Minnesota Department of Transportation (MnDOT) to audit certain passenger carriers’ records to determine whether these providers are complying with regulatory requirements.<sup>2</sup> During these audits, for example, state officials may examine whether providers have documentation of required criminal background checks on drivers. In addition, MnDOT may verify whether providers have the levels of insurance required by law. Periodic audits of carriers help to ensure that the operations of providers—as demonstrated through their records—meet minimum standards.

This chapter discusses regulatory provisions that require or authorize passenger carrier audits. It also discusses the extent to which such audits have been conducted in recent years, and it offers recommendations for changes.

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## KEY FINDINGS IN THIS CHAPTER

- **State law does not require MnDOT to audit the records of limousine carriers, in contrast to requirements for other passenger carriers.**
  - **Over a recent six-year period we reviewed, MnDOT’s number of carrier audits was highly variable, and MnDOT often did not meet state requirements for the frequency of these audits.**
  - **Some types of passenger carriers are required to conduct criminal background checks of vehicle drivers less frequently than others.**
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## Regulatory Requirements

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State laws and rules establish requirements that are intended to help ensure the safety of passengers transported by authorized providers. There are differing standards that apply to the three categories of providers: Special Transportation Service (STS) carriers, Motor Carriers of Passengers, and Limousine Service carriers. Depending on the type of carrier, these requirements may pertain to insurance, driver qualifications and training, vehicle construction and equipment, and vehicle operation and maintenance.

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<sup>1</sup> *Minnesota Statutes* 2019, 221.012, subd. 25.

<sup>2</sup> The term “audits”—as used in this chapter—does not refer to audits of financial controls or audits of compliance with generally accepted accounting principles.

To determine whether a transportation provider is complying with state requirements, it may be necessary for MnDOT to inspect the provider's records (1) at the provider's place of business (an on-site audit) or (2) at MnDOT, after the provider has given MnDOT its records (a desk audit). State laws and rules require each passenger carrier operating in Minnesota to keep its records at a Minnesota location.

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**State regulations have differing requirements—depending on the type of carrier—for how often (and whether) MnDOT must audit the records of passenger carriers.**

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As seen below, the strictest audit requirements are for STS carriers, which serve elderly or disabled individuals. These carriers must be audited by MnDOT annually, with no provisions in statute or rule for exceptions.<sup>3</sup> At the other extreme are Limousine Service carriers; they are required to keep certain records on file for possible review by MnDOT, but state laws and rules have no requirements for periodic MnDOT audits of those records.<sup>4</sup>

State Requirements for Frequency of MnDOT Audits of Carrier Records		
Special Transportation Service	Motor Carriers of Passengers	Limousine Service
<ul style="list-style-type: none"> <li>Required annually.</li> </ul>	<ul style="list-style-type: none"> <li>Required within 90 days of initial certification and annually thereafter, unless MnDOT commissioner makes exceptions in accordance with law. Audits must occur at least every four years.</li> </ul>	<ul style="list-style-type: none"> <li>No requirement.</li> </ul>

State law requires annual audits for a third category (Motor Carriers of Passengers), but the law also specifies an exception. As we discuss later, the law authorizes MnDOT to reduce its number of audits of these carriers if the department has information that allows it to determine a carrier's "safety fitness."<sup>5</sup> With this exception, MnDOT can forgo annual audits of some Motor Carriers of Passengers, although MnDOT is required by law to audit each Motor Carrier of Passengers no less than once every four years.<sup>6</sup>

A different type of audit authorized (but not required) in state rules is MnDOT's review of training courses for STS providers.<sup>7</sup> We discuss this type of audit later in the chapter.

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<sup>3</sup> *Minnesota Rules*, 8840.5650; and 8840.5700, subp. 4, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

<sup>4</sup> The record retention requirements for Limousine Services are in *Minnesota Rules*, 8880.0400, subp. 2; and 8880.1000, subp. 1, <https://www.revisor.mn.gov/rules/8880/>, accessed April 8, 2019.

<sup>5</sup> *Minnesota Statutes* 2019, 221.0252, subd. 3(b).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Minnesota Rules*, 8840.6250, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

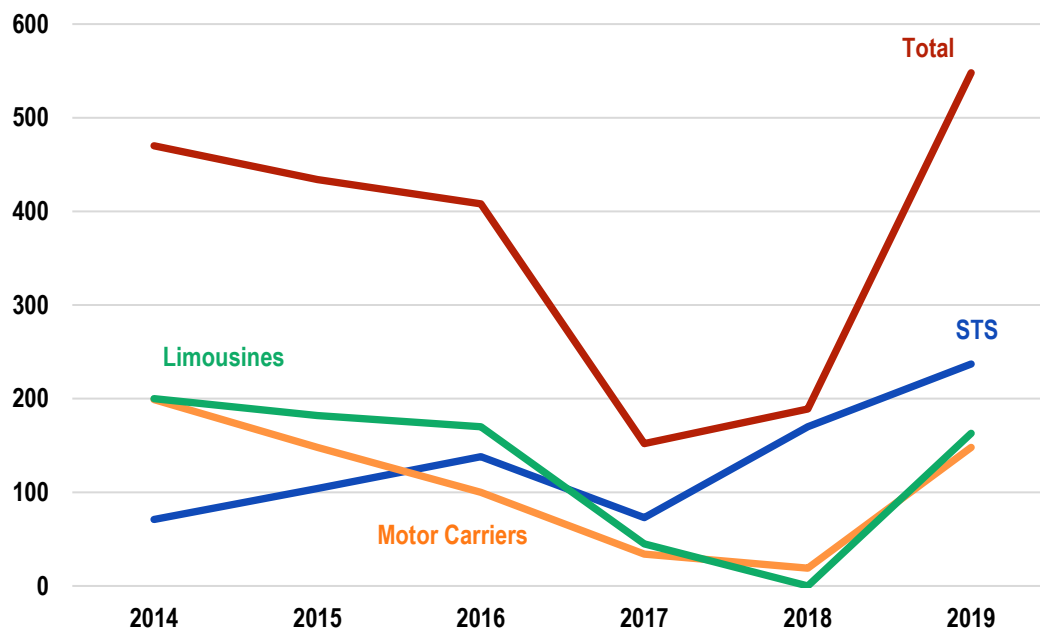
## Frequency of Audits of Carrier Records

To assess the extent to which MnDOT has conducted audits of carrier records, we obtained data on MnDOT audit activity for a six-year period (calendar years 2014 through 2019). We also obtained information on the number of carriers authorized to provide services and any changes in these carriers' authorizations since the beginning of 2014.

**In recent years, MnDOT's total number of passenger carrier audits was highly variable—from lows of less than 200 per year in 2017 and 2018 to more than 500 in 2019.**

Exhibit 2.1 shows the number of carrier audits conducted annually by MnDOT in calendar years 2014 through 2019. Altogether, the total number of MnDOT audits declined from 470 in 2014 to 189 in 2018, and the total then rebounded to 548 in 2019.

### Exhibit 2.1: Number of Audits of Carrier Records Performed by MnDOT, 2014-2019



SOURCE: Office of the Legislative Auditor, analysis of Minnesota Department of Transportation data.

Audit trends included the following for the categories of carriers we reviewed:

- MnDOT performed 200 audits of Limousine Service carriers in 2014, but its audits of such carriers declined to 0 in 2018. In 2019, MnDOT did 163 audits of Limousine Service carriers.

- Similarly, MnDOT conducted 199 audits of Motor Carriers of Passengers in 2014, but the annual number of such audits dropped to 19 by 2018. In 2019, MnDOT conducted 148 audits of these carriers.
- The number of MnDOT audits of STS carriers (serving elderly or disabled passengers) was also highly variable—ranging from 71 audits in 2014 to 237 audits in 2019. As we note later in this chapter, a statutory change increased the number of STS carriers that were subject to MnDOT oversight, effective in mid-2016.

Below, we further discuss 2014-2019 audit frequency for each of the three categories of passenger carriers. We also discuss audit frequency among companies that have been newly authorized by MnDOT to provide services.

### Special Transportation Service (STS) for Elderly and Disabled Passengers

For STS carriers, MnDOT is required to annually audit the records of each provider.



**MnDOT has not fully complied with state requirements for annual audits of STS carrier records, although its extent of compliance increased significantly in 2018 and 2019.**

During 2014 through 2017, MnDOT did not come close to meeting the STS requirements for annual audits. For example, we analyzed the annual audit rates of the STS carriers authorized to operate as of May 2019 that received their initial MnDOT authorization to provide STS services before 2014. As shown in the box to the right, only about one-quarter of these carriers received the state-required audits in 2014 through 2017.

The percentage of these carriers that received audits increased significantly in more recent years. As shown in the box, MnDOT audited 73 percent of the carriers in 2018 and 98 percent in 2019.<sup>8</sup>

**Percentage of STS Carriers First Authorized Before 2014 that Received Carrier Audits, by Year**

Calendar Year	Percentage Audited
2014	23%
2015	28
2016	25
2017	23
2018	73
2019	98

In addition to the above analysis—which focused on carriers active in 2019 that were first authorized to provide STS before 2014—we also examined the extent to which MnDOT audited all STS carriers that were authorized to operate for all or nearly all of two recent years. We found that MnDOT audited 73 percent of all STS carriers that

<sup>8</sup> Some of these carriers had periods—typically short—during 2014 through 2019 when their authority to operate was suspended or canceled, for example, due to lack of insurance or other violations. We excluded from our analysis instances in which a carrier did not have authority to operate for two or more months in a given year and was not audited during that year.

were active during all or most of 2018, and 95 percent of all STS carriers that were active for all or most of 2019.<sup>9</sup>

## Motor Carriers of Passengers

As noted previously, state law contains a requirement for annual MnDOT audits of Motor Carriers of Passengers but it also provides for an exception. The law states that MnDOT will conduct an audit of a carrier's records "[w]ithin 90 days of issuing a new certificate of registration to a carrier under this section, and before issuing an annual renewal of a certificate of registration."<sup>10</sup> The law also has the following provision:



To streamline the audit process and to reduce the regulatory burden on carriers, the commissioner may reduce the number of [motor passenger carrier] vehicle inspections and records audited...if the commissioner has sufficient information from federal and state motor carrier safety data about a carrier's operations to determine a carrier's safety fitness as described in Code of Federal Regulations, title 49, section 385.7.<sup>11</sup>

This exception may allow MnDOT to forgo annual audits of certain carriers, but the law says that MnDOT must audit the records of Motor Carriers of Passengers every four years, at a minimum.<sup>12</sup>

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### **MnDOT has not formally documented its reasons for excusing certain Motor Carriers of Passengers from annual audits.**

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We asked MnDOT (1) what evidence indicates to the commissioner that there are sufficient data about a Motor Carrier of Passengers to excuse that carrier from annual audits and (2) how this is documented. MnDOT staff told us that, prior to assigning an audit, they may consider violations, accidents, or weaknesses in management controls for a carrier that have been documented in previous audits; complaints (if any); and information contained in a federal database, if applicable. However, MnDOT told us that it has not formally documented that it has "sufficient information" about a carrier when making these decisions. Thus, for instances in which a Motor Carrier of Passengers did not receive an audit in a given year, MnDOT records do not indicate whether this reflected an explicit exclusion of the carrier by MnDOT based on its review of available data or a failure by MnDOT to comply with the requirement for annual audits.

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<sup>9</sup> Our analysis only included carriers that were authorized to provide STS for ten or more months of the year we examined—unless the carrier was authorized for a shorter period yet received an audit in that year.

<sup>10</sup> *Minnesota Statutes* 2019, 221.0252, subd. 3(a).

<sup>11</sup> *Minnesota Statutes* 2019, 221.0252, subd. 3(b). The federal regulations cited in this law identify several factors "to be considered in determining a [carrier's] safety rating." These include a carrier's safety management controls and its frequency and severity of regulatory violations.

<sup>12</sup> *Minnesota Statutes* 2019, 221.0252, subd. 3(b).

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**Substantial numbers of Motor Carriers of Passengers did not receive at least one MnDOT audit of their records during recent four-year periods, and this did not comply with state law’s minimum requirement for such audits.**

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Because of the requirement for an audit at least every four years, we began by reviewing audit data for two recent four-year periods (2015-2018 and 2016-2019). We reviewed MnDOT’s data on audits of Motor Carriers of Passengers that (1) were active as of May 2019 and (2) had received their initial authorization from MnDOT to provide service prior to the beginning of the four-year period we examined. For carriers that were active between January 2015 and December 2018, MnDOT did not conduct audits of 48 percent of these carriers during that period.<sup>13</sup> For carriers that were active between January 2016 and December 2019, MnDOT did not conduct audits of 28 percent of these carriers during that period.

In addition, as with other types of carriers, we examined annual trends in MnDOT’s audits of Motor Carriers of Passengers over a six-year period (2014-2019). The box to the right shows the extent to which carriers active as of May 2019 that were first authorized before 2014 received audits during the years shown. The high point for audits was 2019, when 47 percent of the carriers were audited; in contrast, there were few audits conducted in 2017 and 2018.<sup>14</sup> Finally, we examined the extent to which Motor Carriers of Passengers that were authorized to operate for most or all of the 2018 or 2019 calendar years received MnDOT audits during those years.<sup>15</sup> We found that only 6 percent of carriers authorized to operate during 2018 received 2018 audits. In contrast, 59 percent of carriers authorized to operate during 2019 received 2019 audits.

**Percentage of Motor Carriers of Passengers First Authorized Before 2014 that Received Carrier Audits, by Year**

Calendar Year	Percentage Audited
2014	37%
2015	28
2016	28
2017	5
2018	0
2019	47

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<sup>13</sup> Eight of the carriers that did not receive audits had at least 12 months during this four-year period when they were not authorized to provide service. If we exclude these carriers from the analysis, then 45 percent of the carriers did not receive a MnDOT audit between 2015 and 2018.

<sup>14</sup> For each year, we excluded from our analysis carriers whose authority to operate during that year was inactive (such as suspended or canceled) for two or more months and which did not receive an audit in that year.

<sup>15</sup> *Ibid.*



## Limousine Services

**There are no requirements for MnDOT to audit the records of limousine carriers, and MnDOT did not conduct any audits of these carriers in 2018.**



Although there are no state requirements for audits of Limousine Service carriers, MnDOT has conducted quite a few audits of these carriers over the years. But, as shown in the box at right, the percentage of longstanding Limousine Service carriers (that is, those that were authorized by MnDOT to provide limousine transportation as of May 2019 and were first authorized before January 2014) that were audited decreased each year from 2015 to 2018, and there were no audits of longstanding Limousine Service carriers in 2018. During 2019, in contrast, MnDOT audited 45 percent of the longstanding Limousine Service carriers, the highest percentage over the period we examined.

**Percentage of Limousine Service Carriers First Authorized Before 2014 that Received Carrier Audits, by Year**

Calendar Year	Percentage Audited
2014	12%
2015	25
2016	16
2017	14
2018	0
2019	45

We also examined the extent to which MnDOT audited all Limousine Service carriers that were authorized to operate throughout all or most of two calendar years.<sup>16</sup> There were more than 280 Limousine Service carriers active during most or all of 2018, and none received a MnDOT audit during 2018. In contrast, 65 percent of the Limousine Service carriers that were active during most or all of 2019 received a MnDOT audit in that year.

## Newly Authorized Carriers

For all three types of carriers, we also examined the extent to which MnDOT conducted audits of carriers that did not have lengthy histories as state-authorized providers. Specifically, we examined the extent to which MnDOT audited carriers that became authorized providers for the first time in either 2017 or 2018. (For purposes of this discussion, we will refer to such carriers as “newly authorized carriers.”) We looked at this group of carriers because (1) in the case of Motor Carriers of Passengers, state law requires that MnDOT audit the carrier within 90 days of their initial certification as a provider and (2) carriers that have limited experience as state-authorized providers might be especially likely to benefit from MnDOT audits.<sup>17</sup>

<sup>16</sup> We excluded from our analysis Limousine Service carriers whose authority to operate was inactive for two or more months during the year we examined and which did not receive an audit in that year.

<sup>17</sup> MnDOT staff suggested to us that carriers not previously regulated by MnDOT face a steep learning curve and may need to be given substantial staff attention initially.

We found that many of the newly authorized carriers did not receive MnDOT audits in 2017 or 2018, according to MnDOT records.<sup>18</sup> Limousine Service carriers were the least likely type of newly authorized carrier to be audited; only 6 percent received audits in 2017 or 2018. In contrast, 57 percent of newly authorized Motor Carriers of Passengers were audited in 2017 or 2018, and 46 percent of newly authorized STS carriers received audits in 2017 or 2018.<sup>19</sup>

## Workload Challenges

MnDOT told us that one reason it did not conduct more audits of Motor Carriers of Passengers and Limousine Service carriers in recent years was the increased number of STS carriers and vehicles for which MnDOT was responsible. In 2015, the Legislature amended state law to bring nonemergency medical transportation providers under the definition of STS, effective July 2016. As a result, MnDOT assumed regulatory responsibility for these carriers and their vehicles. MnDOT told us that this change resulted in about 100 new STS carriers; this is a substantial portion of the 244 STS carriers that—as reported in Chapter 1—MnDOT oversaw as of May 2019. Due to these new STS responsibilities, MnDOT shifted resources to STS that had previously been devoted to other carriers. For example, the director of commercial vehicle operations told us that because Limousine Service audits were not required in statute, “I made the business decision to just stop the limo audits for a while” to help get caught up on STS work. MnDOT subsequently developed a policy—effective April 2019—that was intended to ensure a MnDOT audit of each limousine carrier once every three years, and MnDOT hired an employee in May 2019 to conduct limousine audits.

The 2015 Legislature authorized a fee to help offset the costs of MnDOT’s added STS responsibilities. Specifically, the Legislature required all STS providers to pay \$45 per vehicle annually to obtain decals from MnDOT that authorize the operation of their vehicles. The law specified that revenues from these fees would be appropriated to the commissioner “to pay for costs related to administering the special transportation service program.”<sup>20</sup> However, MnDOT said it was unclear at the time this law passed how many providers and vehicles would transfer to MnDOT’s jurisdiction, and the amount of revenue generated by these fees has not come close to covering MnDOT’s STS regulatory costs.

MnDOT officials told us that staff in the passenger carrier regulation unit have been reorganized and retrained since 2017 in an effort to improve the effectiveness and efficiency of staff work. For example, the audit staff have been separated into federal and state units, and the “state program” staff now focus largely on carrier compliance with state requirements.

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<sup>18</sup> We examined all carriers that were initially authorized between January 1, 2017, and September 30, 2018. For this analysis, we included even those carriers that lost operating authority for a period of time due to suspensions or cancellations.

<sup>19</sup> We did not update this analysis for 2018-2019 because it would have required us to get new data from MnDOT (on carriers’ initial dates of authorization, through 2019) at a very late stage of our review. However, it is plausible that the percentage of newly authorized carriers that received audits was higher in 2018-2019 than it was in 2017-2018, given that MnDOT significantly increased its overall number of carrier audits in 2019.

<sup>20</sup> *Laws of Minnesota* 2015, chapter 71, art. 11, sec. 5. Providers of ambulance service were exempted from this annual fee.

## Audits of Training Courses

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State rules require that drivers and attendants who provide Special Transportation Service complete specialized training.<sup>21</sup> For example, before they can provide services, drivers and attendants must be trained in passenger assistance, operating two-way communication devices, what to do in the event of medical emergencies, and, if applicable, operating specialized equipment (such as wheelchair lifts and wheelchair securement devices). State rules also require additional training—such as first aid training and abuse prevention training—for drivers and attendants to complete within 45 days of when they start to provide services. In addition, the rules require each STS driver and attendant to complete specified refresher coursework every three years after completing initial training.

State rules require that MnDOT certify the training courses and instructors that provide this instruction.<sup>22</sup> MnDOT's website contains a list of certified instructors, the courses they teach, and their contact information. As of November 2019, there were 84 certified trainers on MnDOT's list.

The rules also authorize—but do not require—MnDOT to audit these courses. According to the rules, “The audit may include course inspection, classroom observation, review of instructor qualifications, and student interviews.”<sup>23</sup> If the MnDOT commissioner determines that the course or instruction do not meet standards specified in the rules, the commissioner “must immediately withdraw certification of the course, the instructor, or both.”<sup>24</sup>

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### **MnDOT certifies instructors and courses for STS driver/attendant training, but it has not directly observed these courses until recently.**

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MnDOT administers a process for determining whether STS instructors and course content comply with state requirements. MnDOT's certifications of instructors and courses are valid for three years. For several years and until recently, however, MnDOT's oversight of STS training has not included on-site activities, such as observation of courses. MnDOT officials told us that they hired a person to conduct such audits in late 2019.

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<sup>21</sup> *Minnesota Rules*, 8840.5910, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

<sup>22</sup> *Minnesota Rules*, 8840.6200, subp. 1, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

<sup>23</sup> *Minnesota Rules*, 8840.6250, subp. 1, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

<sup>24</sup> *Minnesota Rules*, 8840.6250, subp. 2, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019. There is an appeal process for instructors who wish to contest the commissioner's withdrawal of certification.

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## Adequacy of Carrier Records

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When MnDOT conducts compliance audits, its staff examine records that carriers have on file. To conduct effective audits, MnDOT needs access to carrier records that have useful, timely, and sufficiently detailed information. We have particular concerns about one area that may be deficient in this respect.

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**Motor Carriers of Passengers are required to conduct criminal background checks of drivers less frequently than other carriers, and state law does not clearly specify which records of criminal background checks they should maintain.**

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In Chapter 1, we noted that Motor Carriers of Passengers are required by state law to conduct criminal background checks of drivers every three years; in contrast, Limousine Service carriers must do these checks annually. (These two types of carriers conduct checks by obtaining individuals' criminal conviction records from the Minnesota Bureau of Criminal Apprehension.) For STS, state law mandates that carriers maintain rosters of their drivers, and a Minnesota Department of Human Services system (NETStudy 2.0) receives constant updates of criminal convictions for individuals on these rosters.<sup>25</sup> Thus, state law does not require STS carriers to initiate criminal background checks at statutorily specified intervals because that information is provided to carriers on an ongoing basis.

The requirement for Motor Carriers of Passengers to conduct criminal background checks every three years is not only less frequent than the requirements for other carriers, but it is also less frequent than the checks of driving records that Motor Carriers of Passengers are required to conduct. Under federal regulations that Minnesota's Motor Carriers of Passengers are required by state law to meet, a carrier must annually review the driving record of each driver it employs.<sup>26</sup> It seems odd for Motor Carriers of Passengers to annually review whether a driver meets minimum qualifications for safe driving, yet checks to determine if a driver has criminal offenses that would exclude the individual from driving—such as criminal sexual conduct—are required only every three years.

In addition, the state statute regarding criminal background checks for Motor Carriers of Passengers is vague. It says carriers “shall keep a record, identified by the employee's name, of a background check conducted under this section.”<sup>27</sup> This provision does not

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<sup>25</sup> *Minnesota Statutes* 2019, 245C.02, subd. 17a; 245C.03, subds. 5 and 12; and 245C.04, subds. 2 and 4a.

<sup>26</sup> 49 *CFR*, sec. 391.25 (2019). The required annual review examines whether the driver has the proper license or permit, the driver's accident record, and whether the driver has driving-related offenses specified in federal regulations. However, the list of offenses that, by state law, exclude an individual from being a Motor Carrier of Passengers driver is much more extensive than the list of driving-related offenses specified in federal regulations, and that broader list is not required to be checked during the annual review.

<sup>27</sup> *Minnesota Statutes* 2019, 221.178, subd. 3.

explicitly require the carrier to record the date and result of the background check. In contrast, state rules for Limousine Service carriers require those carriers to maintain:

...a statement signed by the person who conducted the most recent review of the driver's driving and criminal records [as required by state rules]. The statement must show the name of the person who checked the records, the date the records were checked, and whether the driver was found to meet the standards [of state rules]. If the driver was found not to meet the standards, the statement must show the date the driver became disqualified and the reason for the disqualification.<sup>28</sup>

## Enforcement Options

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We examined what enforcement options MnDOT has when it identifies violations of statutes or rules during carrier audits. This discussion also applies to MnDOT's options when it discovers violations during vehicle inspections (discussed in Chapter 3).

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### **MnDOT has more limited options for enforcing compliance with statutes or rules for Special Transportation Service carriers than it has for Motor Carriers of Passengers or Limousine Service carriers.**

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For Motor Carriers of Passengers or Limousine Service carriers, state law authorizes MnDOT to suspend or revoke the operating authority of carriers in response to violations of certain statutes or rules. For example, MnDOT may suspend, revoke, or deny the registration of Motor Carriers of Passengers for "serious or repeated violations."<sup>29</sup> Likewise, MnDOT is authorized to suspend a Motor Carrier of Passenger's registration without a hearing if that carrier fails to procure the required insurance, fails to pay permit fees, or fails to pay administrative penalties.<sup>30</sup> In addition, state law authorizes MnDOT to "suspend or revoke a [limousine] permit for violation of applicable statutes and rules."<sup>31</sup> For Motor Carriers of Passengers and Limousine Service carriers, state law classifies violations of the law as misdemeanors, and MnDOT is authorized in law to ask a district court to enforce its orders related to violation of state statutes or rules.<sup>32</sup>

In contrast, MnDOT has more limited enforcement authority with regard to STS carriers. State statutes authorize the MnDOT commissioner to suspend or revoke the operating authority of an STS carrier if it (1) fails to pay an administrative penalty or (2) continues to use an employee who should have been disqualified from his/her duties

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<sup>28</sup> *Minnesota Rules*, 8880.1100, subp. 5D, <https://www.revisor.mn.gov/rules/8880/>, accessed April 8, 2019.

<sup>29</sup> *Minnesota Statutes* 2019, 221.021, subd. 2. Carriers may request administrative hearings in response to these actions. *Minnesota Statutes* 2019, 221.84, subd. 3, authorizes MnDOT to suspend or revoke the permits of limousine carriers for violations of state laws or rules, and carriers may appeal these actions in contested case hearings.

<sup>30</sup> *Minnesota Statutes* 2019, 221.185, subd. 1.

<sup>31</sup> *Minnesota Statutes* 2019, 221.84, subd. 3.

<sup>32</sup> *Minnesota Statutes* 2019, 221.291, subd. 1; and 221.293.

by the findings of a criminal background study.<sup>33</sup> State rules authorize MnDOT to suspend or revoke the authority of carriers in certain additional circumstances.<sup>34</sup> But, in contrast to other types of carriers, STS carriers' violations are not classified by law as misdemeanors, and MnDOT is not explicitly authorized in law to pursue redress of violations in district court. MnDOT officials told us they perceive their enforcement authority regarding STS carriers to be more limited than their authority for other passenger carriers.

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**State law authorizes MnDOT to issue administrative penalty orders to passenger carriers, but MnDOT has not issued any such orders since at least 2013.**

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Administrative penalties are one tool for regulatory agencies to strengthen compliance. In theory, a regulatory agency with authority to impose a monetary penalty (or forgive a penalty if the violating company corrects a violation promptly) may have more leverage over the regulated entities than agencies without this authority. For example, according to the Minnesota Pollution Control Agency:

[Administrative p]enalties are designed to remove any economic benefit a party received from violating a statute, rule or permit condition.... Monetary penalties also create a level playing field for all parties affected by environmental rules and regulations.<sup>35</sup>

Minnesota's statutes for STS carriers, Limousine Service carriers, and Motor Carriers of Passengers each have provisions authorizing MnDOT to issue administrative penalty orders in response to carrier violations.<sup>36</sup> The maximum penalty amounts authorized by statute vary: from \$1,000 per order for STS carriers and Limousine Service carriers to \$5,000 for Motor Carriers of Passengers. For all types of carriers, state laws or rules allow for penalties to be forgiven in certain circumstances.

We asked MnDOT to identify any instances in which it imposed or forgave administrative penalties between 2014 and 2018. For this five-year period, MnDOT said it found no record of any such penalties. When asked to explain this, MnDOT staff said the department's authority to suspend or revoke the operating authority of carriers or vehicles—when MnDOT is authorized to do so—has been a preferable enforcement mechanism that gets the attention of carriers. MnDOT staff also said the cost and time required to go through the administrative penalty process may outweigh the value of the penalty amounts received. This chapter offers no recommendation on whether the Legislature should repeal or revise MnDOT's administrative penalty authority in statute, but it is worth noting that this authority has not been used in recent years.

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<sup>33</sup> *Minnesota Statutes* 2019, 174.30, subd. 8(a) and (c).

<sup>34</sup> *Minnesota Rules*, 8840.5800, subps. 3 and 3a, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

<sup>35</sup> Minnesota Pollution Control Agency, *Administrative Penalty Orders* (St. Paul, November 2018), 1.

<sup>36</sup> *Minnesota Statutes* 2019, 174.30, subd. 8; 221.036; and 221.84, subd. 3.

## Recommendations

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In our view, it is important for MnDOT to conduct periodic audits of passenger carriers. These carrier audits provide a valuable, independent way to monitor and enforce compliance with certain legal requirements set forth in state laws and rules. For example, carrier audits can help to ensure that the drivers of vehicles serving people with disabilities, party buses, limousines, tour buses, and other passenger carriers have appropriate licenses and do not have criminal histories that should prohibit them from providing these services.<sup>37</sup>

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### RECOMMENDATION

**The Legislature should amend state law to specify the required frequency of MnDOT audits of limousine carriers' records.**

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The absence of a requirement in state laws or rules for periodic audits of limousine companies' records contrasts with the requirements that apply to other carriers. Despite the lack of such a requirement, MnDOT has sometimes done extensive auditing of limousine carriers. However, MnDOT did not conduct any audits of limousine carriers' records in 2018. Although MnDOT was not required by state regulations to conduct limousine audits, there were risks in MnDOT's decision to entirely forgo such audits for a period of time. It is reasonable for customers of these services to expect that limousine companies will comply with state requirements.

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### RECOMMENDATION

**MnDOT should obtain or allocate resources to ensure that it meets state audit requirements for all types of passenger carriers.**

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Our analysis suggested that MnDOT has not met state requirements for audits of STS carriers and Motor Carriers of Passengers, especially between 2014 and 2018. In 2018, MnDOT's total number of carrier audits was much smaller than it was a few years earlier, and nearly all of MnDOT's 2018 audits focused on transportation providers for elderly or disabled individuals. We did not assess whether MnDOT has deployed its existing staff in an efficient manner. We also did not assess whether MnDOT needs additional staff to fulfill its passenger carrier regulatory duties, although we observed that the governor's budgets in recent years have not requested additional staff for these activities. If necessary, however, MnDOT should seek additional resources from the Legislature so that it can comply with requirements in state laws and rules.

It is difficult to assess the possible impact of MnDOT's limited audit presence in past years. We considered whether to supplement our analysis of MnDOT data on audit frequency by conducting record reviews at selected carriers—to see, for example,

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<sup>37</sup> Carrier audits are not MnDOT's only tool for checking the compliance of carriers with legal requirements, although they may be the most comprehensive. MnDOT can also check compliance with certain requirements during complaint investigations, roadside vehicle inspections, review of a driver's qualifications at the time the driver brings a vehicle to MnDOT for inspection, or unannounced visits to carriers.

whether there were carriers that employed drivers whose criminal histories should have disqualified them. However, it was unclear that our office had statutory authority to review the records of state-regulated providers who do not receive public funds (such as Limousine Service providers or Motor Carriers of Passengers).<sup>38</sup> We do not recommend changes in law to address this, but it is important to note that MnDOT is the only entity with explicit authorization in law to review carrier records. Because of this, it is critical for MnDOT to comply fully with statutory requirements for audits of motor carriers.

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## RECOMMENDATION

**For instances in which MnDOT has reduced a carrier's audit frequency due to that carrier's "safety fitness," MnDOT should maintain written documentation to support this determination.**

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The statutes governing one passenger carrier type (Motor Carriers of Passengers) contain potentially confusing language. One part of the statutes appears to require that such carriers receive annual audits; another provision says that audits must occur at least every four years. These differences are explained by the fact that the statutes allow MnDOT to make exceptions to the annual audit requirement "if the commissioner has sufficient information from federal and state motor carrier safety data about a carrier's operations to determine a carrier's safety fitness."<sup>39</sup> However, the statutes do not explicitly require MnDOT to document its reasons for such exceptions, and MnDOT told us that it does not have a formal documentation process. In our view, MnDOT should audit carriers annually unless it documents—in writing—how it concluded that the carrier was fit to operate without an annual audit.

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## RECOMMENDATION

**The Legislature should amend state law to require (1) more frequent criminal background checks of drivers employed by Motor Carriers of Passengers and (2) better carrier documentation of those checks.**

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In our view, the drivers of tour buses, party buses, and other Motor Carriers of Passengers should be subject to annual criminal background checks—just like the drivers of limousines. The Legislature should amend *Minnesota Statutes* 2019, 221.178, subd. 1, which now requires background checks for Motor Carriers of Passengers every three years. In addition, the Legislature should clarify in law the information that Motor Carriers of Passengers must retain (and for how long) to document the criminal background checks they have conducted. In our view, the

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<sup>38</sup> *Minnesota Statutes* 2019, 3.978, subd. 2, authorizes the Office of the Legislative Auditor to review the records of "all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds." The law does not explicitly address our office's authority to review records of companies regulated but not funded by the state, although *Minnesota Statutes* 2019, 3.971, subd. 6, says: "The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds and other public resources are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance."

<sup>39</sup> *Minnesota Statutes* 2019, 221.0252, subd. 3(b).



language (quoted earlier) that is currently in state rules governing Limousine Service carriers would be a good model. Implementation of this recommendation would result in more consistent regulatory requirements, and it may help MnDOT assess Motor Carrier of Passenger compliance with background check requirements during audits of carrier records.

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## RECOMMENDATION

**The Legislature should amend *Minnesota Statutes* 2019, 174.30, to give MnDOT broader authority to take enforcement actions against Special Transportation Service carriers that violate this statute or related rules.**

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State law gives MnDOT the authority to suspend or revoke the authority of Limousine Service carriers and Motor Carriers of Passengers for various types of violations of statutes and rules. In contrast, there are very limited circumstances specified in state law in which MnDOT may suspend or revoke the authority of STS carriers. Also, STS violations are not classified in law as misdemeanors, and the law does not specify that MnDOT may pursue their enforcement in district court. We think MnDOT should have consistent authority to impose such sanctions for the different types of carriers it regulates, with appropriate statutory provisions regarding appeals and due process.



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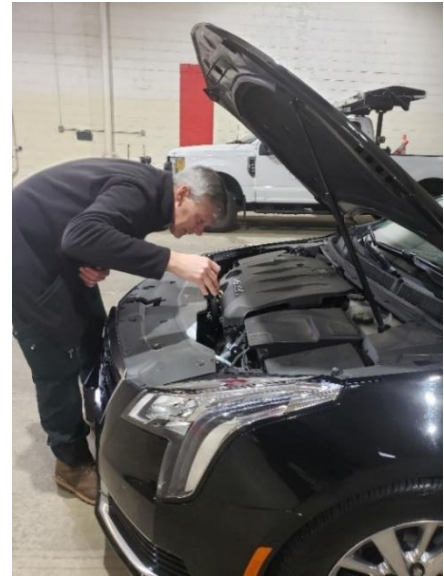
# Chapter 3: Vehicle Inspections

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As described in Chapter 2, audits of the records of companies that provide passenger transportation indicate whether those companies are complying with regulatory requirements. In contrast, inspections of for-hire passenger vehicles help to ensure that individual vehicles are safe, properly equipped, and ready for the road.

This chapter discusses the state's vehicle inspection requirements for passenger carriers. It also discusses the extent to which inspections that were conducted in one year (Calendar Year 2018) complied with state requirements.<sup>1</sup>

In April 2020, MnDOT temporarily suspended its vehicle inspections due to the COVID-19 pandemic.<sup>2</sup> Our review examined inspection practices prior to the pandemic, and our inspection-related recommendations should be considered by MnDOT and the Legislature once regular inspection practices resume.



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## KEY FINDINGS IN THIS CHAPTER

- **Nearly half of the limousines that were authorized to operate in 2018 did not get a state-required annual inspection in that year.**
  - **For the category of passenger vehicles that includes tour buses, charter buses, party buses, and airport transportation, MnDOT has been unable to readily determine the overall extent to which these vehicles were inspected in a given year.**
  - **MnDOT's vehicle inspections are subject to some limitations, raising questions about whether it might be preferable to have those inspections conducted by certified mechanics.**
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<sup>1</sup> At the time (May 2019) we obtained most of our data from MnDOT for our analysis of carrier audits and vehicle inspections, 2018 was the most recent year of complete data for both. In May 2020, as we were preparing to release this report, we decided to obtain 2019 carrier audit data from MnDOT because those data could be updated fairly readily. In contrast, analyzing 2019 data on vehicle inspections would have been much more time consuming, so we did not obtain those data.

<sup>2</sup> To address the COVID-19 threat, Governor Walz issued executive orders starting in March 2020 that directed Minnesotans to stay at home, except for those working in certain exempt activities and professions. In response to the Governor's order on April 8, 2020 (Emergency Executive Order 20-33, "Extending Stay at Home Order and Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation"), MnDOT suspended its vehicle inspections while this order remained in effect; MnDOT's intent was to delay the inspection of certain vehicles by a few months, thus limiting the exposure of MnDOT's field staff to carrier staff.

## Regulatory Requirements

There is one MnDOT facility (in Richfield) at which MnDOT staff conduct inspections of passenger vehicles. As noted previously in this report, there are three types of passenger carriers MnDOT regulates—(1) Special Transportation Service (STS), (2) Motor Carriers of Passengers, and (3) Limousine Service. Carriers can make appointments with MnDOT to bring their vehicles to the Richfield site for inspections. For carriers with large numbers of vehicles in the Twin Cities area, MnDOT sometimes makes arrangements to conduct its inspections at the carrier's business location. For inspections conducted by MnDOT outside the Twin Cities area, MnDOT asks passenger carriers to arrange for these inspections individually.

**Regulations mandate an annual independent inspection of each vehicle operated by the three types of passenger carriers, but state inspection requirements have some noteworthy differences among carrier types.**

For STS carriers, state law says: “The commissioner shall inspect *or provide for the inspection of* vehicles at least annually” (emphasis added).<sup>3</sup> This language seems to leave the door open to the possibility of non-MnDOT inspections. However, according to state rules for STS carriers, “The commissioner shall annually evaluate” the carrier's compliance, and the evaluation shall include “an inspection of the vehicles to determine that the vehicle meets the standards” of the rules.<sup>4</sup> Thus, while the STS statutes are not fully clear about who will inspect STS vehicles, state rules specify that STS vehicles must receive their annual inspections from MnDOT.

### State Requirements for Frequency of Passenger Vehicle Inspections

#### Special Transportation Service

- Inspection by MnDOT required annually



#### Motor Carriers of Passengers

- Inspection by MnDOT, State Patrol, or state-certified inspector must be done (1) within 90 days of a carrier's initial certification to operate and (2) annually thereafter
- Commissioner may authorize less frequent inspections if commissioner has other information that shows that the carrier operates safely



#### Limousine Service

- Inspection by MnDOT required annually



<sup>3</sup> *Minnesota Statutes* 2019, 174.30, subd. 4(a).

<sup>4</sup> *Minnesota Rules*, 8840.5650, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

The state laws and rules that apply to Limousine Service carriers require that independent inspections of limousines occur annually.<sup>5</sup> As in the case of the STS rules, the Limousine Service rules require that these inspections be conducted by MnDOT.

For Motor Carriers of Passengers, state law says that the annual vehicle inspections may be conducted by MnDOT or other specified entities. The law states that the commissioner may “accept for filing proof that a complete vehicle inspection was conducted within the previous one year by a *commercial vehicle inspector of the Department of Public Safety or an inspector certified by the commissioner of public safety*” (emphasis added).<sup>6</sup> Consequently, for this category of carriers—unlike the other two categories—there are options regarding who will inspect the vehicles.

In addition, the statutory language for Motor Carriers of Passengers provides latitude for MnDOT to authorize inspections that are conducted less frequently than annually. The law says, “[T]he commissioner may reduce the number of vehicle inspections and records audited...if the commissioner has sufficient information from federal and state motor carrier safety data about a carrier’s operations to determine a carrier’s safety fitness as described in [federal regulations].”<sup>7</sup> We asked MnDOT whether it uses this provision to authorize exceptions to the annual inspection requirement. MnDOT officials told us that they have used this language at times to authorize less frequent *audits* of carrier records (discussed in Chapter 2), but they have not used this provision to authorize vehicle *inspections* less than annually.

Certain Motor Carriers of Passengers—such as (1) buses and (2) vehicles with gross weight of more than 26,000 pounds—are classified by law as “commercial motor vehicles” and must receive their annual inspections from individuals certified by the Minnesota Department of Public Safety.<sup>8</sup> On behalf of that department, the Minnesota State Patrol administers the “Mandatory Inspection Program,” which trains individuals to become inspectors. MnDOT employees may inspect commercial vehicles if those staff have been certified by the Department of Public Safety.

In addition to the state-required independent inspections, there are also state requirements for carriers to inspect their own vehicles (or arrange for such inspections). These requirements differ among the various categories of carriers, as summarized in Exhibit 3.1. According to state rules, STS carriers must maintain records of their

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<sup>5</sup> *Minnesota Statutes* 2019, 221.84, subd. 2(b); and *Minnesota Rules*, 8880.1100, subp. 1, <https://www.revisor.mn.gov/rules/8880/>, accessed April 8, 2019.

<sup>6</sup> *Minnesota Statutes* 2019, 221.0252, subd. 3(a)(2).

<sup>7</sup> *Minnesota Statutes* 2019, 221.0252, subd. 3(b).

<sup>8</sup> *Minnesota Statutes* 2019, 169.781. *Minnesota Statutes* 2019, 169.011, subd. 11, defines “bus” as a “motor vehicle designed for carrying more than 15 passengers including the driver and used for the transportation of persons.” *Minnesota Statutes* 2019, 169.781, subd. 1(a)(2), excludes school buses, Head Start buses, and buses operated by the Metropolitan Council or local transit commissions from the definition of commercial motor vehicles. *Minnesota Statutes* 2019, 169.011, subd. 32, defines “gross vehicle weight.”

### Exhibit 3.1: Required Checks of Vehicle Components or Equipment by Carriers or Their Drivers

	Special Transportation Service		Motor Carriers of Passengers		Limousine Service	
	Daily <sup>a</sup>	Weekly <sup>b</sup>	Daily <sup>c</sup>	90 days	Daily	Annual
Coolant level	X				X	
Lights and turn/hazard signals	X		X		X	
Tires	X		X		X	
Wipers, washer fluid	X		X		X	
Mirrors	X		X		X	
Fuel level	X				X	
Oil level		X				
Tire pressure		X				
Brakes or brake systems		X	X			X
Brake fluids		X				
Instrument panel		X				
Horn		X	X		X	
Fan belt		X				
Wheelchair ramps/lifts		X				
Wheelchair securement devices		X				
Emergency doors, windows		X		X		
Steering mechanism		X	X			X
Exhaust mechanism/system		X				X
Frame		X				X
Suspension		X				X
Wheels and rims		X	X			
Fuel system		X				X
Emergency equipment, such as fire extinguisher and reflective triangles			X		X	
Coupling devices			X			

<sup>a</sup> These items must be reviewed in a “daily visual safety inspection.”

<sup>b</sup> These items must be inspected once each week or every 1,000 miles, whichever comes first.

<sup>c</sup> These items must be addressed in a daily report by each vehicle driver at the completion of a day’s work.

SOURCES: *Minnesota Rules*, 8840.5950, subp. 1, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019; *Minnesota Rules*, 8880.0900, subps. 3 and 5, <https://www.revisor.mn.gov/rules/8880/>, accessed April 8, 2019; *Minnesota Statutes* 2019, 221.0314, subd. 10; and 49 *CFR*, secs. 396.3(a)(2) and 396.11(a) (2019).

weekly (and perhaps daily) safety inspections.<sup>9</sup> By comparison, Limousine Service carriers are required to inspect certain items daily and annually, but they are only required to keep a record of their *annual* self-inspections.<sup>10</sup>

Another difference in the state regulations for various types of carriers is whether they specify a time frame for correcting problems identified in inspections that are not

<sup>9</sup> *Minnesota Rules*, 8840.6100, subp. 10, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019. This rule states that “the daily and weekly [STS] safety inspection records required under [Minnesota Rules] part 8840.5950 must be kept for only a three-month period.” However, while *Minnesota Rules*, 8840.5950, explicitly requires carriers to create written records of their weekly inspections (in subp. 1.C), it does not clearly establish a comparable requirement for daily inspections (in subp. 1.B).

<sup>10</sup> *Minnesota Rules*, 8880.0900, subd. 6, <https://www.revisor.mn.gov/rules/8880/>, accessed April 8, 2019.

serious enough to warrant the vehicle's immediate removal from service. State rules say that STS carriers face suspension if they do not correct vehicle violations found in inspections within 15 days of receiving written notice of the violation; the rules also authorize MnDOT to conduct reinspections after 15 days to determine if a violation has been corrected.<sup>11</sup> For Limousine Service carriers and Motor Carriers of Passengers, there are no similar requirements.<sup>12</sup>

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**MnDOT's inspections have some important limitations, raising questions about whether these inspections should count toward state requirements for annual vehicle inspections.**

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We observed MnDOT conducting several vehicle inspections at its Richfield inspection site. During those inspections, we learned that MnDOT inspectors are not allowed to look at certain vehicle components that might be reviewed in a private mechanic's inspection. These limitations include the following:

- Some vehicles' engine compartments have a plastic cover that does not allow key components under the hood to be readily viewed. MnDOT inspectors may not remove this cover.
- The condition of certain types of brakes—such as drum brakes—cannot be readily viewed by MnDOT's inspectors because of the way they are constructed.
- Although MnDOT inspectors conduct visual checks of vehicle fluid levels, when possible, they are not allowed to remove the dipstick to check a vehicle's oil level.
- The main MnDOT inspection station in Richfield does not have a pneumatic lift to enable inspectors to readily examine the underside of a vehicle. Rather, inspectors can use mirrors to inspect the underside of a car, or—if the vehicle has sufficient ground clearance—they may use a “creeper” to slide underneath the vehicle. Also, inspectors may listen for problems that are not readily viewable, such as exhaust leaks.<sup>13</sup>

As one MnDOT inspector told us, “We can only inspect what we can see” without opening or lifting parts of the car to get better views. A MnDOT attorney told us that one of the reasons for this practice is potential liability if MnDOT were to damage vehicle components during removal or disassembly.

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<sup>11</sup> *Minnesota Rules*, 8840.5800, subps. 2 and 3, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

<sup>12</sup> For all types of vehicles, when a vehicle is cited for a violation that results in removal of the vehicle from service, that vehicle cannot be used in for-hire service until the violation has been addressed or repaired.

<sup>13</sup> In some instances, an inspector might be able to have a vehicle placed on a ramp to allow for a more complete underside inspection.

The Minnesota State Patrol faces similar limitations when it conducts roadside inspections of freight or passenger vehicles. For instance, a State Patrol official said roadside inspections can only check air pressure in tires that appear to be low, rather than routinely checking the air pressure in all tires. Because of the limitations of roadside inspections, the State Patrol does not count these inspections under the annual inspection requirement for commercial vehicles. According to the captain of the State Patrol's Commercial Vehicle Enforcement unit,

When annual inspections are taking place, it is our expectation that all components are inspected, regardless if it requires the removal of other components.... We would not consider a roadside inspection to count towards an annual inspection on a commercial motor vehicle (or the trailers they pull) because we are limited in what can and cannot be inspected. We do not have the tools (vehicle lifts, heavy duty jacks, impact wrenches, etc.) or the mechanical knowledge on taking apart and putting components back together after the inspection is complete. That is the job of the annual inspector.<sup>14</sup>

During our visit to the MnDOT inspection facility, a MnDOT inspector told us that the nature of passenger vehicle inspections performed at that facility may be very similar to roadside inspections (which may be conducted by the State Patrol or MnDOT).

Due to the limitations of MnDOT's inspections, it is worth asking: Is it sufficient for for-hire passenger vehicles' annually required inspections to be done by state employees who cannot lift or remove parts of a vehicle and may not be trained as vehicle mechanics? As a point of reference, it is worth considering the ordinances adopted by Minneapolis and St. Paul for "transportation network companies," such as Uber and Lyft. Those ordinances require that such vehicles be inspected annually at city-approved facilities. The list of Minneapolis-approved facilities appears to be entirely composed of private companies.<sup>15</sup> St. Paul provides the following direction regarding which facilities can do inspections:

Inspections may be conducted at a City of Minneapolis or City of St. Paul owned facility, a taxicab service company owned facility approved by the [Department of Safety and Inspections] Director, or a privately owned, public motor vehicle repair garage approved by the [department] Director. To qualify as an approved inspection facility, the facility must employ an [Automotive Service Excellence] Certified Automotive Technician who will sign the inspection form and have the facilities to perform a "wheels off" inspection and be able to inspect the under carriage of the vehicle by means of a hoist or lift.<sup>16</sup>

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<sup>14</sup> Captain Jonathan Olsen, Minnesota State Patrol, e-mail message to Joel Alter, Office of the Legislative Auditor, "Re: Two Follow-up Questions," December 2, 2019.

<sup>15</sup> MnDOT told us that there are more Uber and Lyft vehicles in use than local governments could reasonably inspect with their own staff. Consequently, this makes it necessary for local governments to rely on inspections of those vehicles by private mechanics.

<sup>16</sup> City of St. Paul, "Transportation Network Companies (TNC) License Application Requirements Checklist," [https://www.stpaul.gov/sites/default/files/Media%20Root/Safety%20%26%20Inspections/DSI.Licensing.TNC\\_Application\\_Requirements\\_Checklist.pdf](https://www.stpaul.gov/sites/default/files/Media%20Root/Safety%20%26%20Inspections/DSI.Licensing.TNC_Application_Requirements_Checklist.pdf), accessed November 25, 2019.



While MnDOT inspection practices for passenger vehicles would not comply with the sort of local requirement for Uber and Lyft vehicles described above, MnDOT noted that its inspection practices are comparable to those used by the Minnesota State Patrol when inspecting school buses.

## Inspection Frequency

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As indicated above, state regulations require annual MnDOT inspections of two categories of passenger vehicles: STS and Limousine Service. For the third category (Motor Carriers of Passengers), the required annual inspections may be conducted by either MnDOT or other statutorily authorized inspectors.

For all three categories of for-hire vehicles, we obtained statewide data from MnDOT regarding all inspections that were conducted by MnDOT during Calendar Year 2018.<sup>17</sup> We then identified for-hire passenger vehicles that were registered to operate during 2018, and we examined the extent to which those vehicles received a MnDOT inspection in 2018.<sup>18</sup>

In an effort to make a fair assessment of inspection frequency, we limited our analysis to vehicles that were registered for at least 330 days during 2018. For example, we did not think it would be reasonable to report on 2018 inspections for a vehicle that an STS provider sold in February 2018 and which was not used to provide for-hire transportation in Minnesota during the remainder of 2018. On the other hand, we thought it was fair to include vehicles that were registered for all but a small number of days during 2018. In MnDOT's data, we observed that there were often short gaps between the expiration date of one registration period for a vehicle and the start of a new registration period.

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**A large majority of Special Transportation Service vehicles that were registered to operate throughout 2018 received a MnDOT inspection in 2018. Registered limousines, on the other hand, were less likely to have a 2018 inspection.**

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Our analysis indicated that 87 percent of STS vehicles that were registered for all—or nearly all—of 2018 received at least one inspection from MnDOT during 2018.

By comparison, we found that only 56 percent of limousines that were registered for all—or nearly all—of 2018 received at least one inspection from MnDOT in 2018. The absence of inspections for some vehicles could have placed passengers at risk if those vehicles had mechanical or other problems that would have been detected in an inspection.

**56%**

**of state-registered  
limousines received  
inspections in 2018.**

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<sup>17</sup> We limited our analysis to inspections categorized in MnDOT data as Inspection Levels 1, 5, or 7. State-required inspections are termed Level 7 inspections by MnDOT, and MnDOT told us that Level 1 and Level 5 inspections have components and processes that are comparable to Level 7 inspections.

<sup>18</sup> We used vehicle license numbers to match data from two files—one with records of vehicle registration dates and another with records of inspections—and it is possible that some nonmatches reflected errors in the MnDOT data or missing data.

It is possible that some of the STS vehicles and limousines that were registered in 2018 but not inspected were taken out of service by their carriers for a portion of the year. If a carrier stops using a vehicle that it has registered with MnDOT, there is no state requirement for the carrier to notify MnDOT that it has taken the vehicle out of service. Without knowing which vehicles have been taken out of service, it can be challenging to definitively assess whether some active vehicles did not receive their required inspections. This would be true for MnDOT, just as it is true of our analysis.

MnDOT contends that the relatively low rate of limousine inspections we observed in 2018 reflected the fact that 2018 was an unusual year for such inspections, due to Minneapolis hosting the Super Bowl in February 2018. MnDOT said that some limousine providers got authorization to operate additional vehicles for this event, and many of these vehicles were only used during the days around this event.<sup>19</sup> However, limousines receive authorization from MnDOT to operate for one year, and—as noted above—MnDOT does not have information on when any of these vehicles may have been taken out of service.<sup>20</sup> Thus, it is difficult to know the extent to which an influx of vehicles used just for the Super Bowl may have affected MnDOT’s limousine inspection rates.

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**For the third category of passenger vehicles (Motor Carriers of Passengers), it is difficult to systematically assess compliance with inspection requirements on a statewide basis.**

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MnDOT has data regarding its own inspections in its main passenger vehicle database, but it does not enter data regarding non-MnDOT inspections.<sup>21</sup> MnDOT keeps on file copies of non-MnDOT inspection reports, but it could be time-consuming to comprehensively determine the extent to which all vehicles used by Motor Carriers of Passengers have been inspected in a given year.

For our analysis of inspection frequencies for Motor Carriers of Passengers, we began—as we did with the other categories—by identifying vehicles in this category that were authorized to operate for all (or nearly all) of 2018. We then used MnDOT records to determine that 4 percent of these vehicles received a MnDOT inspection in 2018. For the vehicles that did not receive a MnDOT inspection, we selected a sample of 200 vehicles for which we asked MnDOT to find records of non-MnDOT inspections. For our vehicle sample, we determined that 82 percent of the vehicles that did not receive a MnDOT inspection in 2018 were inspected by a state-certified private mechanic or the State Patrol in 2018.<sup>22</sup>

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<sup>19</sup> According to MnDOT, Limousine Service carriers and Motor Carriers of Passengers together added a total of more than 400 vehicles to their fleets for the Super Bowl.

<sup>20</sup> Around the time of the Super Bowl, MnDOT conducted seven “saturation events,” at which it inspected certain limousines and other passenger carrier vehicles that were providing services related to the Super Bowl. The MnDOT inspection data we analyzed for limousines and other passenger carriers included inspections that were done as part of these events.

<sup>21</sup> According to MnDOT, the department requires Motor Carriers of Passengers to provide proof of inspection at the time the carriers annually renew vehicle registrations, consistent with *Minnesota Statutes* 2019, 221.0252, subd. 3.

<sup>22</sup> We sampled 200 vehicles out of 1,699 statewide that were registered with MnDOT but did not receive MnDOT inspections. With such a sample, we can be 95 percent sure that the true percentage of vehicles that received non-MnDOT inspections was within +/-6.5 percentage points of the percentage we found (81.5).

Overall, our analysis suggested that a sizable majority of STS and Motor Carrier of Passengers vehicles received inspections in 2018; limousines had much lower inspection rates. Again, because carriers are not required to report when they remove MnDOT-registered vehicles from service, we cannot be sure whether the uninspected vehicles posed possible threats to public safety.

## Inspection Outcomes

During an inspection, a vehicle may be checked for a wide range of possible problems. For example, inspectors may “pass” or “fail” items such as brakes, rear vision mirrors, headlamps, turn signals, suspension U-bolts, and tires. Some of the inspected items may not pose a threat to vehicle safety—for example, failure to have a “No Smoking” sign posted clearly in an STS vehicle.<sup>23</sup> Other violations are significant enough that the vehicle may need to be removed from service until the problem is fixed—such as bad tires or brakes, or loose tie rods. Our review focused on the extent to which vehicles were removed from service as a result of 2018 inspections. State regulations specify that a common set of standards (the North American Standard Out-of-Service Criteria) will be used to determine whether to remove a vehicle from active service.<sup>24</sup>

**There were 544 instances in 2018 when MnDOT removed an inspected vehicle from service—typically a vehicle serving elderly or disabled passengers.**

The box at right shows the number of instances in which MnDOT cited vehicles for violations that were significant enough to result in removal of the vehicle from service. In 84 percent of these cases, the vehicle removed from service was an STS vehicle.

The fact that STS vehicles accounted for a larger share of vehicles removed from service likely reflects, in part, the fact that STS providers, as a group, have more vehicles on the road than other categories of for-hire passenger vehicles. MnDOT data indicate that, among carriers authorized to operate as of May 2019, there were more than 7,800 for-hire passenger vehicles authorized to operate at some time during 2018, and 52 percent of

**Passenger Vehicles Taken Out of Service  
by MnDOT, 2018**

Carrier Category	Number of Vehicles Taken Out of Service by MnDOT	Percentage of All Vehicles Taken Out of Service by MnDOT
Special Transportation Service	459	84%
Limousine Service	44	8
Motor Carriers of Passengers	29	5
Unspecified	12	2
<b>Total</b>	<b>544</b>	<b>100%</b>

Percentages do not sum to 100 percent due to rounding.

<sup>23</sup> *Minnesota Rules*, 8840.5950, subp. 2, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019.

<sup>24</sup> *Minnesota Statutes* 2019, 221.221, subd. 2 (for Motor Carriers of Passengers and Limousine Service); and *Minnesota Rules*, 8840.5700, subp. 1, <https://www.revisor.mn.gov/rules/8840/>, accessed April 8, 2019 (for Special Transportation Service). These standards are produced by the Commercial Vehicle Safety Alliance.

those vehicles were STS vehicles.<sup>25</sup> In contrast, the vehicles used by Motor Carriers of Passengers and Limousine Service carriers accounted for 34 and 13 percent of all authorized passenger carrier vehicles, respectively.

In addition, as discussed earlier, MnDOT conducts relatively few of the inspections of Motor Carriers of Passengers, so this explains the small number of vehicles in this category that were removed from service by MnDOT. Private mechanics have conducted most inspections of Motor Carriers of Passengers. Although the sample we reviewed of such vehicles that received inspections from private mechanics in 2018 was limited (less than 200), we observed no instances in which a vehicle failed a private mechanic's inspection and was not allowed to operate.<sup>26</sup>

## Recommendations

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Many for-hire passenger vehicles have received annual inspections as required by state law, but some have not. While carriers are primarily responsible for ensuring that their vehicles receive annual inspections, we think there is room for improvement in MnDOT's oversight and enforcement of the annual vehicle inspection requirement.

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### RECOMMENDATION

**MnDOT should more closely monitor the compliance of carriers with state requirements for annual vehicle inspections.**

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Our data showed that a sizable share of the vehicles registered to provide Limousine Service in 2018 did not receive a mandatory state inspection in that year. We only looked at one year of inspection data, so we do not know whether this was an anomaly. MnDOT suggested to us that an influx of registered limousines that provided service only during the period around the Super Bowl may have made the inspection rates appear worse than they were; however, the data collected by MnDOT did not allow us to determine whether this was correct.

Nevertheless, MnDOT should monitor the extent to which registered for-hire vehicles have received inspections and take enforcement actions, where appropriate, against carriers that have been noncompliant. MnDOT should also consider whether to propose amendments to state laws or rules that would require carriers to report to MnDOT instances in which the carriers remove vehicles from service for extended periods.

In the case of Motor Carriers of Passengers—in contrast with Limousine Service and Special Transportation Service—it may be difficult for MnDOT to systematically assess

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<sup>25</sup> Our review of out-of-service violations resulting from 2018 inspections revealed few that were related to special equipment, such as wheelchair lifts. Thus, although STS providers serving elderly or disabled riders have some requirements that other carriers do not, this did not seem to explain the much larger share of violations for STS vehicles.

<sup>26</sup> This may reflect the fact that when private mechanics inspect vehicles, repairs to items flagged by the inspector are sometimes completed on the spot. Most inspection forms we reviewed that were completed by private inspectors showed no components (out of more than 60 possible inspected components) that failed the inspection, but we were told that the forms might not indicate items that were initially flagged but subsequently repaired. We did not assess the adequacy of the inspections done by private mechanics; the State Patrol conducts periodic audits of these inspections.

compliance with the annual inspection requirement because private mechanics do most of these inspections. MnDOT receives copies of the private mechanic inspection reports, which MnDOT stores centrally but not in its main passenger carrier database. MnDOT staff can access these reports individually, but they cannot run database queries to readily determine which vehicles or carriers are complying with inspection requirements. MnDOT should consider better ways to track the occurrence of inspections by non-MnDOT inspectors.

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## RECOMMENDATION

**The Legislature should consider whether to continue requiring MnDOT—rather than other inspectors—to conduct inspections of limousines and Special Transportation Service vehicles.**

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State regulations require that MnDOT conduct all inspections of limousines and STS vehicles. As noted in this chapter, there are some limitations when MnDOT conducts vehicle inspections. MnDOT cannot remove, uncover, or disassemble vehicle parts during an inspection, so some components might not be thoroughly reviewed. Ideally, vehicles would be elevated on lifts so that inspectors could readily view the vehicle from underneath; MnDOT's inspection facility in Richfield does not have a lift.

In contrast, state regulations for Motor Carriers of Passengers do not require that their vehicles—such as tour buses, party buses, charter buses, and airport shuttles—be inspected by MnDOT. In fact, MnDOT does relatively few of these inspections. From the samples of inspections we reviewed, it appears that a large majority of Motor Carrier of Passenger inspections are done by private mechanics who have been trained and certified in Minnesota's Mandatory Inspection Program, which is administered by the State Patrol. The State Patrol audits the performance of these mechanics, and it can suspend the certification of mechanics it finds to be fraudulent.

We offer no recommendation about who should conduct inspections of limousines and STS vehicles, but this is a question worthy of further discussion. MnDOT's director of commercial vehicle operations told us that her unit would comply with whatever the law requires.

If the Legislature were to authorize non-MnDOT inspectors to conduct STS inspections, it would need to consider how to address some current statutory requirements. Specifically, state law says MnDOT and the State Patrol shall cooperate in the enforcement of requirements for wheelchair securement devices in STS vehicles (and the law does not authorize private inspectors to do so), and it requires MnDOT to check compliance with the safety provisions established in statute for vehicles designated as "protected transport."<sup>27</sup>

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<sup>27</sup> *Minnesota Statutes* 2019, 174.30, subd. 3(a) and (c). *Minnesota Statutes* 2019, 256B.0626, subd. 17(i)(6), says "protected transport" includes "transport provided to a client who has received a prescreening that has deemed other forms of transportation inappropriate and who requires a provider: (i) with a protected vehicle that is not an ambulance or police car and has safety locks, a video recorder, and a transparent thermoplastic partition between the passenger and the vehicle driver; and (ii) who is certified as a protected transport provider."



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# List of Recommendations

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- The Legislature should amend state law to specify the required frequency of MnDOT audits of limousine carriers' records. (p. 23)
- MnDOT should obtain or allocate resources to ensure that it meets state audit requirements for all types of passenger carriers. (p. 23)
- For instances in which MnDOT has reduced a carrier's audit frequency due to that carrier's "safety fitness," MnDOT should maintain written documentation to support this determination. (p. 24)
- The Legislature should amend state law to require (1) more frequent criminal background checks of drivers employed by Motor Carriers of Passengers and (2) better carrier documentation of those checks. (p. 24)
- The Legislature should amend *Minnesota Statutes* 2019, 174.30, to give MnDOT broader authority to take enforcement actions against Special Transportation Service carriers that violate this statute or related rules. (p. 25)
- MnDOT should more closely monitor the compliance of carriers with state requirements for annual vehicle inspections. (p. 36)
- The Legislature should consider whether to continue requiring MnDOT—rather than other inspectors—to conduct inspections of limousines and Special Transportation Service vehicles. (p. 37)







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James Nobles, Legislative Auditor  
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June 12, 2020

Dear Mr. Nobles and Mr. Alter:

Thank you for the opportunity to review and comment on your office's report entitled "Special Review: State Regulation of For-Hire Passenger Transportation." We appreciate the role the Office of the Legislative Auditor (OLA) performs in ensuring that state programs are run properly and in accordance with all legal requirements.

The Minnesota Department of Transportation (MnDOT) is responsible for developing and implementing transportation policies, plans and programs that enhance the quality of life for Minnesota citizens and promote the safety of the traveling public. MnDOT has provided oversight of certain types of vehicles and modes of transportation, including those for-hire passenger transportation services examined in your report, for over 40 years.

The Department values continuous improvement, and we are committed to exploring the areas in our programs where you have identified opportunities for improvement, such as:

- The legislature should amend state law to require (1) more frequent criminal background checks of drivers employed by Motor Carriers of Passengers and (2) better carrier documentation of those checks.
- State law should be amended to specify the required frequency of MnDOT audits of limousine carriers' records.
- MnDOT should obtain or allocate resources to ensure that it meets state audit requirements for all types of passenger carriers.

As you acknowledge in your report, the rules and regulations applicable to providers of for-hire passenger transportation services are complex. MnDOT will work with partner agencies, the Governor's Office, stakeholders and the legislature to explore statutory changes that would address areas in need of updating, improvement, or creating consistencies across programs, where appropriate.

The tragic crash in upstate New York undoubtedly prompted people around the entire country, including legislators, state and federal regulatory entities, and industry stakeholders to look at how these types of transportation services and providers are regulated and what can be done to help ensure the safety of future passengers. The New York Department of Transportation inspected the vehicle involved in the crash, noted several critical violations, and placed the vehicle "out-of-service." Based on what we know now, the company chose to use the vehicle, even though it had failed inspection and had been deemed not roadworthy. The lives lost in this crash remind us of the risks associated with driving, regardless of vehicle

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type or capacity, and that unfortunately, even with regulations in place, preventing all crashes is nearly impossible.

MnDOT works closely with other government entities, including the Minnesota Departments of Public Safety and Human Services, the Federal Motor Carrier Safety Administration, and industry stakeholders to navigate applicable rules and regulations and help carriers improve and maintain the safety of their business operations.

MnDOT will continue to:

- Help ensure the safety of a provider’s business operation through the work that is done by staff from the Office of Freight and Commercial Vehicle Operations;
- Streamline regulations by working with industry stakeholders and executive branch partners to identify areas of state statutes or rules in need of updating or improvement; and
- Make our business functions and processes as efficient and effective as possible.

Transportation today is about providing access to critical connections for all Minnesotans through managing an efficient, safe, and reliable system, which supports a robust quality of life by linking people to education, healthcare, jobs and recreation. Safety is a core value of the Minnesota Department of Transportation, and we are committed to helping ensure the health and well-being of all the individuals using our transportation system.

The table below includes several of the recommendations from your report and identifies possible next steps and timeframe. Additionally, the statements following the table provide more detailed information in response to several of the findings and recommendations included in your report.

Recommendation	Next Steps & Timeframe
The Legislature should amend state law to specify the required frequency of MnDOT audits of limousine carriers’ records.	MnDOT plans to address this through the limousine rulemaking project. The updated rules will likely not be finalized and published for another 18 – 24 months.
For instances in which MnDOT has reduced a carrier’s audit frequency due to that carrier’s “safety fitness,” MnDOT should maintain written documentation to support this determination.	MnDOT is exploring options to formalize this process.
The Legislature should amend state law to require (1) more frequent criminal background checks of drivers employed by Motor Carriers of Passengers and (2) better carrier documentation of those checks.	MnDOT is committed to working with the Legislature and industry stakeholders to explore recommended changes.

<p>The Legislature should consider whether to continue requiring MnDOT—rather than other inspectors—to conduct inspections of limousines and Special Transportation Service vehicles.</p>	<p>MnDOT is committed to working with the Legislature and industry stakeholders to explore recommended changes. Over the last several years, MnDOT has suggested to the limousine industry, through an industry association, that they could propose legislation that would allow inspections of limousines by certified, non-MnDOT inspectors, but that proposal has not been introduced.</p>
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## Summary

**OLA Report:** The Minnesota Department of Transportation (MnDOT) has inconsistently complied with state requirements governing its oversight of for-hire passenger transportation.

**MnDOT Response:** Based solely on the data presented in the OLA’s report, MnDOT does not disagree that during the years 2014 – 2018, certain aspects of records audits were done inconsistently with respect to Motor Carriers of Passengers or minimally with respect to limousine providers. However, as noted in your report, MnDOT has significantly increased the number of audits conducted since 2018. MnDOT agrees with your statement in Chapter 2, that carrier audits are a valuable way to monitor and enforce compliance with certain legal requirements set forth in state laws and rules. Additionally, MnDOT also checks compliance with certain requirements during complaint investigations, roadside vehicle inspections, review of a driver’s qualifications at the time the driver brings a vehicle to MnDOT for inspection, or unannounced visits to carriers. These are all tools used by MnDOT to help ensure the safety of a provider’s business operation, as well as the safety of the traveling public.

We will continue to take proactive steps to further increase the level of compliance with regulatory requirements, as well as explore options and dedicate resources to establish a more consistent approach moving forward.

**OLA Report:** “Differences in Minnesota’s passenger carrier regulations sometimes reflect differences in the vehicles used or the passengers served, but there are some inconsistencies that seem difficult to justify.”

**MnDOT Response:** The OLA report focuses on intrastate transportation services provided by limousine operators, motor carriers of passengers, and special transportation service providers. These three programs serve different populations, are used for different purposes, and the vehicle equipment varies widely. The complexities of the regulations governing these programs is one of the reasons MnDOT is completing rulemaking to amend the rules governing both the STS and Limousine programs, and will be looking for places to add consistency between these programs and chapters of rules. With respect to your specific recommendation that “state law be amended to require more frequent background checks for drivers of Motor Carriers of Passengers,” MnDOT is open to discussing this recommendation with legislators and industry stakeholders to pursue options for an updated standard for background checks that is more consistent with the other programs addressed in your report.

## Chapter 1

### OLA Report: Limousine Service Rules

MnDOT Response: MnDOT is currently working on updating the rules for limousine service. The “preliminary proposal” form was approved by the Governor’s office, the “request for comments” was published in the State Register for the week of June 8, 2020, and the rulemaking webpage has been developed by MnDOT and OFCVO communications staff and is currently accessible.

Your report specifically calls out as an example of outdated language, the fair market value of a limousine, and we believe it is worth noting that this does not impact safety. When this rule was written, members of the industry were adamant that a price point be included, for the purpose of trying to ensure that vehicles used as limousines would conform to the idea of a traditional luxury-style limousine. So while the limousine service rules may be outdated in certain respects, that in and of itself has not changed or impacted the safety of those individuals using the service.

### OLA Report: Motor Carriers of Passengers Rules

MnDOT Response: The OLA report states that the rules for motor carriers of passengers were last written or revised in 1988, and that MnDOT does not have immediate plans to update the rules. What the report fails to mention is that many of the rule parts, which included the applicable standards and adoption of federal regulations, were repealed through legislation in 2003 and 2010, and those standards were moved into state statute. States are encouraged (and required in some instances) to have laws that are compatible with the federal regulations, which frequently change. Frequently amending the rules to maintain and update the standards would not be feasible, which is why the standards are in statutes and changes are made through the legislative process.

### OLA Report: Complaint Procedures and Data

MnDOT Response: While there are differences across the programs with respect to complaint procedures, it should be emphasized that OFCVO has made every effort to establish an easy and accessible complaint process. We value continuous improvement, and have improved the complaint process and procedure by conducting outreach, developing a webpage with complaint contact information for MnDOT and other agencies, and creating multiple ways for a complaint to be submitted to MnDOT (e.g., phone, email, mail, and online form submission).

As the OLA is aware, based on the data that was provided (January – June 2019), the vast majority of the complaints MnDOT received were not related to safety, but instead were related to issues such as the timing of pick-up/drop-off, driver no-show, or routes selected by the drivers.

## Chapter 2

### OLA Report: 2019 Audit Data

MnDOT Response: The OLA made its first request for data in May of 2019, seeking information about various OFCVO functions (e.g. audits and inspections) for the years 2014 – 2018. We appreciate the

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inclusion of 2019 audit in your report as it shows the work that MnDOT has done, and is currently doing, to help ensure the safety of for-hire transportation operations and the individuals who use those services.

OLA Report: “MnDOT told us that it has not formally documented that it has “sufficient information” about a carrier...Thus, for instances in which a Motor Carrier of Passengers did not receive an audit in a given year, MnDOT records do not indicate whether this reflected an explicit exclusion of the carrier by MnDOT based on its review of available data or a failure by MnDOT to comply with the requirement for annual audits.”

MnDOT Response: In an email to the OLA, dated August 7, 2019, MnDOT provided the OLA with the following information in response to questions about audits of motor carriers of passengers:

*Prior to assigning an audit, and in preparation for the audit itself, OFCVO staff look at a carrier’s history/file, including results of past audits, complaints (if any have been received), and information contained in the federal database (if applicable). As the statute cited above indicates, the federal regulations inform this process— 49 CFR 385.7 lists the factors that may be considered in determining the safety of a carrier. The regulation notes that the consideration can include all or only some of the following: Adequacy of safety management controls; Frequency and severity of regulatory violations; Frequency and severity of driver/vehicle regulatory violations identified during roadside inspections; Number and frequency of out-of-service driver/vehicle violations; Increase or decrease in similar types of regulatory violations; Frequency of accidents; and Number and severity of violations of motor carrier safety rules and regulations.*

There is no definition in state law or federal regulations for “sufficient information,” nor is there a prescribed form or process for doing this. So, while we don’t have a form we can show you that memorializes our process, careful consideration and thought goes into scheduling and assigning an audit, preparing for it, and actually conducting it.

In this instance, where there is statutory complexity and lack of specificity, along with an interplay between state law and federal regulations, the result has been a process that MnDOT has developed on its own. One of your recommendations is that MnDOT formalize this process, and we are committed to exploring options to do so.

## Chapter 3

OLA Report: “Nearly half of the limousines that were authorized to operate in 2018 did not get a state-required annual inspection in that year...MnDOT contends that the relatively low rate of limousine inspections we observed in 2018 reflected the fact that 2018 was an unusual year for such inspections, due to Minneapolis hosting the Super Bowl in February 2018. MnDOT said that some limousine providers got authorization to operate additional vehicles for this event, and many of these vehicles were only used during the days around this event. However, limousines receive authorization from MnDOT to operate for one year, and—as noted above—MnDOT does not have information on when any of these vehicles may have been taken out of service. Thus, it is difficult to know the extent to which an influx of vehicles used just for the Super Bowl may have affected MnDOT’s limousine inspection rates.”

MnDOT Response: In 2018, Minnesota hosted the Super Bowl, in which approximately 150,000 visitors attended events in the Twin Cities over a 10-day period. Previous Super Bowl host cities offered a number of suggestions and lessons learned through their experience. In preparation for hosting the Super Bowl, MnDOT utilized the streamlined process for credentialing providers and vehicles to temporarily operate

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that had been successful in other host cities. Over 400 vehicles were granted temporary authority to operate during this time, and of those 422 vehicles registered to temporarily operate, 350 had a model date of 2016 or newer. This is worth noting as newer model vehicles are more likely to have traveled fewer miles, have fewer mechanical issues, and generally be considered safe and roadworthy. During 2018, MnDOT conducted a similar number of annual inspections as had been inspected in previous years, however the massive infusion of additional temporary vehicles skews the statistics.

While MnDOT did not have the ability to issue temporary limousine vehicle decals to those providers operating only during the Super Bowl, the Driver and Vehicle Services Division of the Department of Public Safety (DPS) issued temporary limousine plates that were valid for 30 days after the date of issuance, but not valid after February 28, 2018. For-hire limousines cannot operate without a designated limousine plate issued by DPS, so regardless of the lack of a temporary decal, a vehicle could not operate as a limousine without an "LM Plate" as required by law. Additionally, providers who registered a vehicle for the Super Bowl used an application that was specifically designated to reflect that. As such, while MnDOT may not have this data available in a readily query-able manner, it would have been saved as part of a provider's file.

Over the course of the 10 days surrounding the Super Bowl, MnDOT conducted seven roadside saturation events, and as part of that work, inspected 40 vehicles (both limousines and motor carriers of passengers). MnDOT was an integral part of the many committees and task forces that planned and ultimately carried out a safe and successful event. Prior to and during the Super Bowl, MnDOT worked closely with industry stakeholders and partner agencies such as DPS, to help ensure the influx of vehicles that were being used on a short-term basis could be issued operating authority in an efficient manner and that the vehicles being used would be done so safely.

OLA Report: "MnDOT's vehicle inspections are subject to some limitations, raising questions about whether it might be preferable to have those inspections conducted by certified mechanics."

MnDOT Response: The report identifies a few specific examples of vehicle components that, due to liability and other issues, cannot be removed or modified by MnDOT staff during the course of a vehicle inspection. It is unclear how the changes suggested in the OLA report would have affected or prevented the small number of injuries sustained in those passenger vehicles regulated by MnDOT over the past 5 to 7 years. MnDOT is always interested in improving the safety of the traveling public, but it is not clear how the suggestions made in the report will result in greater safety. There's no indication that transferring the inspection duties to private certified mechanics would result in safer vehicles being used to provide for-hire transportation services.

Thank you for identifying opportunities to update and improve MnDOT's oversight of for-hire passenger transportation services.

Sincerely,



Margaret Anderson Kelliher, Commissioner  
Minnesota Department of Transportation

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