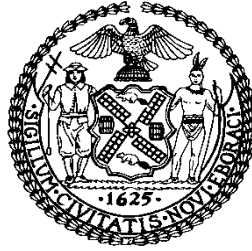


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THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT AND BRIEFING PAPER
OF THE HUMAN SERVICES AND GOVERNMENTAL AFFAIRS DIVISIONS
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COMMITTEE ON TRANSPORTATION

Hon. Ydanis Rodriguez, Chair

COMMITTEE ON PUBLIC SAFETY

Hon. Vanessa Gibson, Chair

May 2, 2017

Oversight – Engaging New Yorkers to Help Hold Hit-and-Run Perpetrators Accountable

INT.NO. 1418:

By Council Members Rodriguez, Levine, Salamanca, Dromm, Maisel, Gentile, Crowley, Menchaca, Rose, Levin, Richards, Rosenthal, Gibson and Torres

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to establishing a reward for individuals who provide information leading to the apprehension, prosecution or conviction of a person who seriously injures or kills another individual in a hit-and-run accident.

ADMINISTRATIVE CODE:

Amends subchapter 1 of title 10 by adding a new section 10-174.

INT.NO. 1463:

By Council Members Rodriguez, Gibson, Van Bramer, Levine, Dromm, Torres, Lancman, Deutsch, Gentile, Vallone, Richards, Espinal, Koslowitz, Salamanca, Rosenthal, Koo and Maisel

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to establishing a program to provide public notification of hit-and-run incidents

ADMINISTRATIVE CODE:

Amends title 10 by adding a new chapter 9.

INTRODUCTION

On May 2, 2017, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, and the Committee on Public Safety, chaired by Council Member Vanessa Gibson, will hold a hearing on the oversight topic “Engaging New Yorkers to Help Hold Hit-and-Run Perpetrators Accountable” and on Int. No. 1418, a Local Law in relation to establishing a reward for individuals who provide information leading to the apprehension, prosecution or conviction of a person who seriously injures or kills another individual in a hit-and-run accident; Int. No. 1463, a Local Law in relation to establishing a program to provide public notification of hit-and-run incidents. This is the first hearing on these items. The Committees expect to hear testimony from the New York City Police Department (“NYPD”), the New York City Department of Transportation (“DOT”), and other interested stakeholders.

BACKGROUND

Hit-and-Runs

Incidents of drivers leaving the scene of a traffic collision, also referred to as a “hit- and-run,” has been an ongoing public safety issue despite efforts made by New York State and New York City to deter them. The NYPD’s Collision Investigation Squad, investigates traffic crashes that result in death or critical injury. According to the NYPD, there were 11 hit-and-run incidents in the first quarter of 2017, 6 of which led to an arrest.¹ Furthermore, from late December 2016 through the early days of 2017, there was an alarming streak of traffic fatalities. According to

¹ NYPD, First Quarter Report of 2017.Steps Taken to Investigate Collisions Involving Critical Injury Where Driver Left Scene Without Reporting,” available at: http://www.nyc.gov/html/nypd/downloads/pdf/traffic_data/1-qtr-2017-leaving-the-scene.pdf. Pursuant to N.Y.C L.L 5 of 2014.

press accounts, drivers killed seven pedestrians in 8 days and in four of these instances, the driver left the scene.²

In total in Fiscal Year 2016, there were 44,865 hit-and-runs and 510 arrests (see chart below).³ Thirty-eight of these incidents resulted in the death of a pedestrian but only 13 arrests were made, and 22 incidents resulted in serious injuries but only 14 arrests were made.⁴ While no annual report is available for 2015, the NYPD indicated that in 2015 there were roughly 38,000 hit and runs.⁵

Total Hit-and-Run Incidents (Fiscal Year 2016)

	Complaints	Arrests	N.O.V.
Death	38	13	0
Serious Injury	22	14	0
Personal Injury	5006	423	0
Property Damage Only	39799	58	0

According to the AAA Foundation for Traffic Safety, there is little research conducted on why drivers leave the scene of an incident, but since so few drivers are caught, collecting data is difficult.⁶ Transportation Alternatives indicated in a report released in 2016, that when drivers believe they are likely to face consequences for unsafe actions they change their behavior.⁷

² Aaron, Brad. Streetsblog USA, “*Brutal Holiday Season on NYC Streets –Drivers Killed 7 Pedestrians in 8 Days*” (January 3, 2017), available at: <http://nyc.streetsblog.org/2017/01/03/brutal-holiday-season-on-nyc-streets-drivers-killed-6-pedestrians-in-8-days/>

³ NYPD. Fiscal Year 2016 Annual Report Leaving the Scene. Pursuant to N.Y.C . LL 5 of 2016, available at: http://www.nyc.gov/html/nypd/downloads/pdf/traffic_data/leaving_scene-fy-2016nycc.pdf

⁴ *Id.*

⁵ City Hall Bureau. New York Daily News. “*NYPD reports ‘staggering’ number of hit and runs, backs bill that would raise penalties*”(December 2, 2015), available at: <http://www.nydailynews.com/new-york/hit-runs-staggering-nypd-backs-higher-penalties-article-1.2452767>

⁶ Cohn, Meredith. Baltimore Sun. “*Hit-and-Run Drivers not uncommon, but not well understood.*” (February 6,2015), available at: <http://www.baltimoresun.com/health/bs-hs-hit-and-run-20150205-story.html>

⁷ Transportation Alternatives Report: “*Death, Danger, and Ignoring the Data: How the NYPD is Getting Vision Zero Wrong.*”(July 2016),

City and State Legislation on Hit-and-Runs

Under New York State law, any driver who knows or should know that they have caused property damage or personal injury with their vehicle is required to remain at the scene in order to provide the property's owner or the injured party with their insurance and personal contact information.⁸ In the case of property damage, if the owner is not present at the time of the incident, the driver must go to the nearest police station or officer as soon as they are physically able to report the incident and provide them with all required information.⁹ If a person was injured, a driver must also report the incident to law enforcement and provide such information to a police officer.¹⁰ Failure to remain on the scene and report in the event of property damage is deemed a traffic infraction under State law, punishable by a fine of up to \$250 and up to 15 days imprisonment.¹¹ Hit-and-runs causing personal injury can result in criminal charges ranging from a class A misdemeanor and a fine of up to \$1,000, to a class E felony and a fine of up to \$2,500.¹² However, if the incident causes death, a driver leaving the scene can be charged with a class D felony, which is punishable by up to seven years imprisonment and a fine of up to \$5,000.¹³ Drivers convicted of leaving the scene of an incident where a personal injury occurred will have their license revoked.¹⁴ Moreover, as the criminal penalties for leaving the scene of an incident are lower than that of penalties for driving while intoxicated or impaired, they may provide an incentive for some drivers to flee following an incident.¹⁵ For example, a driver who leaves the

available at:

https://www.transalt.org/sites/default/files/news/reports/2016/Death_Danger_and_Ignoring_the_Data_How_the_NY_PD_is_Getting_Vision_Zero_Wrong_2.pdf

⁸ N.Y. Vehicle and Traffic Law §§ 600(1) and (2)

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at § 600(1)(b).

¹² *Id.* at § 600(2)(c).

¹³ *Id.*

¹⁴ *Id.* § 510.

¹⁵ N.Y. Vehicle and Traffic Law § 1192

scene after causing personal injury likely only faces a class A misdemeanor with a maximum penalty of one year imprisonment, but if they remained on the scene and were found to be intoxicated or impaired, could be charged with a class E felony and face four years imprisonment.¹⁶ Additionally, a driver convicted of vehicular manslaughter faces a class D or C felony, while the maximum penalty for leaving the scene of an incident resulting in a death is only a class D felony.¹⁷

The State Legislature attempted to remedy some of these concerns in 2005 by making it a class D felony for a person to leave the scene of a crash resulting in a death. The State Legislature also increased the penalty for those who leave the scene when personal injury results from a B misdemeanor to an A misdemeanor, but did not amend the burden of proof required in prosecuting such cases.¹⁸

This session, the Council has passed several pieces of legislation directly related to hit-and-runs. In January 2014, the Council overrode the veto of former Mayor Michael Bloomberg, when the Council passed Local Law 5 of 2014, which required that the NYPD report quarterly on hit-and-runs beginning in the third quarter of 2015.¹⁹ Each report must contain the number of hit-and-run incidents resulting in critical injury, the number of such cases closed, and the number of incidents closed without an arrest being made.²⁰ Additionally, the NYPD is required to provide the Speaker of the Council with a brief summary of steps taken to investigate hit-and-runs.²¹ The City Council further expanded upon Local Law 5 of 2014, when the Council passed and the Mayor signed Local Law 5 of 2016, which requires that NYPD include in their quarterly report the number

¹⁶ N.Y. Vehicle and Traffic Law § 1193.

¹⁷ N.Y. Penal Law §§ 125.12 and 125.13.

¹⁸ L.2005, c. 49, § 1, eff. May 24, 2005.

¹⁹ N.Y.C. Local Law 5 of 2014, *available at*:

[http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1444192&GUID=3C1FC4B3-5683-4D7E-B175-4670E2A589C9&Options=Advanced&Search=.](http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1444192&GUID=3C1FC4B3-5683-4D7E-B175-4670E2A589C9&Options=Advanced&Search=)

²⁰ *Id.*

²¹ *Id.*

of notices of violation issued pursuant to section 19-191 of the Administrative Code (which relates to the civil penalties discussed below) as a result of such incidents. The law requires the NYPD to annually report on the number of complaints for leaving the scene of an incident that involved property damage, personal injury, or death and the number of arrests for incidents resulting in death and injury.

In September of 2014, the Council also passed legislation imposing civil penalties on hit-and-run drivers, in addition to criminal penalties imposed under State law.²² As the burden of proof required in an administrative proceeding in order to impose a civil penalty—generally, a preponderance of evidence—is a lesser standard than is required in a criminal matter, it is arguably less difficult to impose warranted penalties under this law than to successfully bring charges under State law. More recently, the Council passed and the Mayor signed, Local Law of 4 of 2016 increasing the civil penalties for leaving the scene of incident for repeat offenders.²³ The law requires that repeat offenders be subject to pay a civil penalty of up to \$1,000 if property damage results from the incident; \$2,000-\$5,000 if a person is injured; \$10,000-\$15,000 if there is a serious injury; and \$15,000-\$20,000 if death results.²⁴ Local Law 4 of 2016 also raised the maximum penalty for a first offense involving property damage to \$1,000 and the penalty for a first offense resulting in death from \$5,000-\$10,000 to \$10,000-\$15,000.²⁵ As of the end of Fiscal Year 2016, zero notices of violation (N.O.V.) imposing these civil penalties had been issued.

²² N.Y.C. Local Law 50 of 2014, *available at*: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1805832&GUID=58457ECB-6873-414B-B947-3D745E0CA78B&Options=Advanced&Search=>.

²³ N.Y.C. Local Law 4 of 2016, *available at*: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2103613&GUID=80B60905-B7DD-4B9F-906C-0EE05563E4E2&Options=Advanced&Search=>.

²⁴ *Id.*

²⁵ *Id.*

Alert Systems and Rewards

In response to several hit-and-incidents in early 2017, Council Member Rodriguez introduced two bills, which are being heard today, aimed at assisting with the apprehension of hit-and-run drivers who leave a collision that resulted in a serious injury or death. Int. No. 1418, would create a reward for individuals who provide information leading to the apprehension, prosecution or conviction of a driver who leaves the scene of a collision that result in a death or serious injury. Int. No. 1463 would establish an alert system that would provide rapid notification to the public when a hit-and-run incident occurs.

Several U.S. cities and states have passed legislation at both the local and state level creating hit-and-run alert systems and rewards. Denver and Aurora, Colorado both created citywide hit-and-run alerts in 2012. According to local news reports, in the two years after the alert systems were initiated, 17 alerts resulted in 13 arrests.²⁶ Following the success of the alert system in Aurora and Denver, in December 2014, the State of Colorado became the first state to pass a statewide alert system, called the Medina Alert named after a 21-year old hit-and-run victim, Jose Medina.²⁷

In California, the Los Angeles City Council passed legislation in February 2015 creating a public reward for help apprehending hit-and-run assailants.²⁸ Rewards range from \$1,000 for incidents involving only property damage, \$5,000 for an injury, \$25,000 for permanent or serious

²⁶ Associated Press. Denver Post. “*Roadside Hit and Run Alerts become Law in Colorado*” (March 25, 2014), available at: <http://www.denverpost.com/2014/03/25/roadside-hit-and-run-alerts-become-law-in-colorado/>

²⁷ Colorado Bureau of Investigation: Department of Public Safety. Media Alert, available at: <https://www.colorado.gov/pacific/cbi/medina-alert>

²⁸ Trihn, Jean. LAist. “*Hit-and-Run Drivers Will Soon Be on Blast with New Yellow Alerts*” (September 29, 2015), available at: http://laist.com/2015/09/29/yellow_alert_hit_and_runs.php?_ga=1.257066827.1329423098.1462285814 and Linton, Joe. L.A. Streetsblog. “*L.A. City Council Gets Tough on Hit-and-Run Crimes: New Rewards and Alerts*” (February 10, 2015), available at: <http://la.streetsblog.org/2015/02/10/la-city-council-gets-tough-on-hit-and-run-crimes-new-rewards-and-alerts/>

injury, and \$50,000 for incidents resulting in fatality.²⁹ Los Angeles also passed a citywide hit-and-run alert system there referred to as the “Yellow-Alert” system.³⁰ Following Los Angeles, in September of 2015, the State of California created a statewide “Yellow-Alert” that displays the make, model and license plate number of cars that left the scene of a collision on digital freeway and road signs.³¹

In February of 2017, New York State Senator Marisol Alcantara and Assembly Member Carmen De La Rosa introduced legislation that would make create a similar statewide “Yellow Alert” hit-and-run notification system in New York.³²

ANALYSIS OF INT. NO. 1418

Section one of Int. No. 1418 would amend subchapter 1 of title 10 of the Administrative Code of by adding a new section 10-174.

Subdivision a of the new section would define “serious physical injury” as having the same meaning as set forth in Section 10 of the State’s Penal Law.

Subdivision b of the new section would authorize the Mayor, upon the recommendation of the Police Commissioner, to offer and issue a reward of up to \$1,000 to any person who provides information leading to the apprehension, prosecution, or conviction of any person who may have violated the provisions of Section 600 of the State’s Vehicle and Traffic Law resulting in serious physical injury or death to an individual, including to a pedestrian, a bicyclist, or an individual in another motor vehicle.

²⁹ *Id.*

³⁰ *Id.*

³¹ California State Assembly Bill No.8 of 2015.

³² N.Y.S Assembly Bill No. A.5261-A and N.Y.S Senate Bill No. S.4257-A.

Subdivision c of the new section would prohibit such offer and reward from being made available to any City or State employee, including law enforcement officers, or anyone who has obtained the information directly or indirectly from such a person.

Section two of Int. No.1418 provides that the local law would take effect 90 days after it becomes law.

ANALYSIS OF INT. NO. 1463

Section one of Int. No. 1463 would amend title 10 of the Administrative Code by adding a new chapter 9.

New section 10-901 of new chapter 9 would define the following terms as follows:

- Administering agency: Any city agency, office, department, division, bureau or institution of government, the expenses of which are paid in whole or in part from the city treasury, as the Mayor designates.
- Hit-and-run: When any driver who, knowing or having cause to know that serious physical injury has been caused to another person due to an incident involving the driver's motor vehicle, leaves the scene of an incident without complying with all of the provisions of paragraph a of subdivision two of section six hundred of the State's Vehicle and Traffic Law.
- Serious physical injury: The same meaning as in section 10.00 of the State's Penal Law.

New section 10-902 of chapter 9 would create a hit-and-run alert system. Subdivision a of new section 10-902 would direct the administering agency to establish a hit-and-run alert system to provide rapid notification to the public when a hit-and-run involving serious injury or death occurs.

Subdivision b of new section 10-902 would direct the administering agency to develop a protocol for notification to organizations such as media organizations, medical facilities, and community organizations when a hit-and-run alert is issued.

Subdivision c of new section 10-902 would direct the administering agency to issue a hit-and-run alert within 12 hours of the determination that a hit-and-run involving serious injury or death occurred, provided the driver involved in such incident has not been located. The hit-and-run alert could be issued by any appropriate means, including, but not limited to, email notifications, text messages, telephone calls, television broadcasts, or radio broadcasts. The hit-and-run alert could be issued at repeated intervals within the discretion of the administering agency until the driver involved in such hit-and-run has been located or until the administering agency determines that the issuance of a hit-and-run alert is no longer appropriate.

Section two of Int. No. 1463 provides that the local law would take effect 60 days after it becomes law.

Int. No. 1418

By Council Members Rodriguez, Levine, Salamanca, Dromm, Maisel, Gentile, Crowley, Menchaca, Rose, Levin, Richards, Rosenthal, Gibson and Torres

A Local Law to amend the administrative code of the city of New York, in relation to establishing a reward for individuals who provide information leading to the apprehension, prosecution or conviction of a person who seriously injures or kills another individual in a hit-and-run accident

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of title 10 of the administrative code of the city of New York is amended by adding a new section 10-174 to read as follows:

§ 10-174 a. Definitions. For the purposes of this section, the following term has the following meaning:

Serious physical injury. The term “serious physical injury” has the same meaning as set forth in section 10 of the penal law.

b. The mayor, upon the recommendation of the police commissioner, is authorized to offer and pay a reward in an amount not exceeding \$1,000 to any person who provides information leading to the apprehension, prosecution or conviction of any person who may have violated the provisions of section 600 of the vehicle and traffic law resulting in serious physical injury or death to an individual, including to a pedestrian, a bicyclist or an individual in another motor vehicle.

c. The offer and reward made available by this section is not available for:

1. Any police officer, peace officer or other law enforcement officer or official in the state;

2. Any other officer, official or employee of the city or state; or

3. Any person who has obtained the information directly or indirectly from a person specified in paragraphs 1 and

2 of this subdivision.

§ 2. This local law takes effect 90 days after it becomes law.

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Int. No. 1463

By Council Members Rodriguez, Gibson, Van Bramer, Levine, Dromm, Torres, Lancman, Deutsch, Gentile, Vallone, Richards, Espinal, Koslowitz, Salamanca, Rosenthal, Koo and Maisel

A Local Law to amend the administrative code of the city of New York, in relation to establishing a program to provide public notification of hit-and-run incidents

Be it enacted by the Council as follows:

Section 1. Title 10 of the administrative code of the city of New York is amended by adding a new chapter 9 to read as follows:

CHAPTER NINE

HIT-AND-RUN ALERT

§ 10-901 Definitions. As used in this chapter, the following terms used in this chapter have the following meanings:

Administering agency. The term “administering agency” means any city agency, office, department, division, bureau or institution of government, the expenses of which are paid in whole or in part from the city treasury, as the mayor designates.

Hit-and-run. The term “hit-and-run” means when any driver who, knowing or having cause to know that serious physical injury has been caused to another person due to an incident involving the driver's motor vehicle, leaves the scene of an incident without complying with all of the provisions of paragraph a of subdivision two of section six hundred of the vehicle and traffic law.

Serious physical injury. The term "serious physical injury" has the same meaning as in section 10.00 of the penal law.

§ 10-902 Hit-and-run alert system. a. The administering agency shall establish a hit-and-run alert system, pursuant to the provisions of this chapter of the code, to provide rapid notification to the public when a hit-and-run involving serious injury or death occurs.

b. The administering agency shall develop a protocol for notification to organizations such as media organizations, medical facilities, and community organizations when a hit-and-run alert is issued.

c. The administering agency shall issue a hit-and-run alert within 12 hours of the determination that a hit-and-run involving serious injury or death occurred, provided the driver involved in such incident has not been located. The hit-and-run alert may be issued by any appropriate means, including, but not limited to, email notifications, text messages, telephone calls, television broadcasts, or radio broadcasts. The hit-and-run alert may be issued at repeated intervals within the discretion of the administering agency until the driver involved in such hit-and-run has been located or until the administering agency determines that the issuance of a hit-and-run alert is no longer appropriate.

§ 2. This local law takes effect in 60 days.

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