

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON TRANSPORTATION

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September 6, 2012
Start: 10:10 a.m.
Recess: 12:19 p.m.

HELD AT: Committee Room - 14th Floor
250 Broadway

B E F O R E:
JAMES VACCA
Chairperson

COUNCIL MEMBERS:
Gale A. Brewer
Daniel R. Garodnick
David G. Greenfield
Vincent M. Ignizio
Peter A. Koo
G. Oliver Koppell
Jessica S. Lappin
Stephen T. Levin
Deborah L. Rose
Eric A. Ulrich

A P P E A R A N C E S

Kate Slevin
Asst. Commissioner for Intergovernmental Affairs
NYC Department of Transportation

Leon Heyward
Dep. Commissioner for Sidewalks & Inspection Mgmt.
NYC Department of Transportation

Kim Wiley-Schwartz
Asst. Commissioner of Education & Outreach
NYC Department of Transportation

Susan Petito, Esq.
Asst. Commissioner Intergovernmental Affairs
NYC Police Department

Brian Kavanagh
Assembly Member
New York State Assembly

Nancy Gruskin
Founder and President
Stuart C. Gruskin Family Foundation

Robert Bookman
Counsel
NYC Hospitality Alliance

Andrew Rigie
Executive Director
NYC Hospitality Alliance

Juan A. Martinez
General Counsel & Policy Analyst
Transportation Alternatives

Rahul Saksena
Policy Organizer
Restaurant Opportunities Center of New York

A P P E A R A N C E S (CONTINUED)

Jack Brown
Spokesperson
Coalition Against Rogue Riding

Susan Siskind
Director
New York Alliance for Pedestrian Safety

Christine Berthet
Co-Founder and Chair
Clinton Hell's Kitchen Coalition for Pedestrian Safety

Richard Conroy
Education Programs Director
Bike New York

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2 CHAIRPERSON VACCA: ... the upper
3 West Side and her efforts have been focused on
4 raising awareness of the problem that we face.
5 This morning, we're going to hear testimony on a
6 package of bills aimed at enhancing commercial
7 cycling enforcement, education and safety.
8 Commercial cyclists remain the #1 cycling-related
9 complaint my office receives, and it is past time
10 that we did something about it. For too long we
11 have had little to no enforcement of existing
12 laws, and delivery cyclists are frequently called
13 out for running red lights, riding the wrong way
14 on one-way streets, or riding on the sidewalk.
15 New Yorkers want what they want when they want it,
16 but nothing is more important than safety; this is
17 not the wild, wild west. This package of bills
18 comes at a time where we in the Council are
19 insisting action be taken. On one side, we have
20 the businesses, who are already required under
21 current law to provide their delivery cyclists
22 with lights, bells, helmets and vests, as well as
23 post the rules of the road in their workplace. On
24 the other side of the coin are the cyclists who
25 must be educated about the rules of the road to

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2 begin with. With this set of legislation, we
3 acknowledge that everybody has a part to play in
4 making our city streets as safe as they can.
5 Intro 910, which is legislation I am sponsoring,
6 creates a civil penalty for the laws already on
7 the books requiring business owners to provide the
8 lights, the helmets, the bells and the vests to
9 their cyclists, as well as posting the rules of
10 the road inside the workplace. The laws currently
11 on the books are criminal penalties, but
12 prosecutors clearly have other cases to pursue, or
13 so they feel, over the past many years since the
14 criminal penalties have been in effect, since
15 approximately 1986. And even when criminal
16 charges are filed, they effectively are pled down
17 to nothing. That means no penalty for the
18 business hiring the cyclist. The civil penalty I
19 propose would be \$100 for the first violation and
20 \$250 for subsequent violations for each offense,
21 and would be returnable to the Environmental
22 Control Board, and there would be no pleading down
23 of the fines. The criminal penalties could still
24 be applied, but at least with a civil penalty, we
25 know that something will actually stand, something

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2 will have teeth, and people who walk the streets
3 of our city will know that their safety is
4 paramount and we are determined to do something
5 about that. Intro 896, which is introduced by
6 Council Member Gale Brewer, extends enforcement
7 authority to the Department of Transportation for
8 these new civil penalties. Instead of needing
9 additional police resources, DOT will send a group
10 of inspectors to the businesses to make sure they
11 are providing their cyclists with the required
12 safety equipment and proper workplace signage.
13 The New York City Police Department has been asked
14 to do more with less for long enough, and
15 commercial cycling enforcement in that agency has
16 not been a priority. This legislation will allow
17 DOT to shoulder the responsibility, taking a
18 significant burden off the Police Department, even
19 though they will still have a role to play
20 relative to the criminal enforcement aspects I
21 spoke of before. Intro 683, sponsored by Council
22 Member Van Bramer, closes a loophole in the
23 administrative code with respect to the cyclists'
24 vests. Currently only the lettering is required
25 to be reflective and visible at a distance of up

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2 to ten feet. The vest itself is not required to
3 be reflective, although a reflective vest is
4 clearly an important safety feature for cyclists
5 who deliver at night. This law requires the vest
6 to be reflective in addition to the lettering.
7 And finally we will hear testimony on Stuart's
8 Law, otherwise known as Intro 783. Stuart's Law
9 is named in memory and honor of Stuart C. Gruskin,
10 who was killed by a commercial cyclist riding the
11 wrong way on a one-way street in 2009. Stuart's
12 Law would require all commercial cyclists to
13 complete a bike safety course so they are educated
14 on the rules of the road. Once cyclists know the
15 rules of the road, there's no excuse for breaking
16 them. We will hear testimony in support of
17 Stuart's Law from his wife Nancy, about her
18 efforts to work with businesses to bring their
19 commercial cyclists into a culture of compliance.
20 This legislation, I feel, represents a fair
21 approach to the commercial cycling problem in our
22 city. It requires compliance on both the part of
23 the cyclist and the business, and it gives DOT the
24 tools it needs to be an effective enforcer. Once
25 these bills are passed, there will be no excuses

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2 for a lack of compliance or lack of enforcement.
3 With that said, I would like to introduce the
4 members of the Committee that are here today, on
5 my right, Council Member Vincent Ignizio from
6 Staten Island, to my left Council Member Peter Koo
7 from Queens. My first speaker will be Assemblyman
8 Kavanagh, but I don't see him, is he here?

9 FEMALE VOICE: Not yet.

10 CHAIRPERSON VACCA: Not yet. Okay,
11 then we will call up the Department of
12 Transportation for their testimony. I will first
13 call Kate Slevin, Department of Transportation,
14 and Leon Heyward from DOT. Good morning, I don't
15 think your microphone is on, Commissioner. Can
16 you introduce yourself also? Is it okay? The red
17 ...

18 MS. SLEVIN: Is it on? Good
19 morning, Chairman Vacca and members of the
20 Transportation Committee, my name is Kate Slevin
21 and I am the Assistant Commissioner for
22 Intergovernmental and Community Affairs at the New
23 York City Department of Transportation. I am
24 joined by my colleague, Leon Heyward, Deputy
25 Commissioner for Sidewalks and Inspection

1 Management. Thank you for the opportunity to
2 testify on the proposed legislation related to
3 commercial cyclists. We are pleased to be working
4 with the Council on this important issue. The
5 commercial cyclists who make deliveries for
6 businesses and restaurants, either directly or
7 through a messenger service, have been a fixture
8 on New York City streets for some time. Its
9 hardworking men and women are from the communities
10 you represent throughout the five boroughs and
11 provide a valuable service, but if they fail to
12 obey traffic rules or lack necessary bicycle
13 safety equipment, they pose danger to themselves
14 and to others. We share the concerns of Council
15 members and communities who are eager for better
16 compliance with traffic laws by commercial
17 cyclists. Partnering with other agencies we have
18 worked hard to address these concerns, and before
19 I get into the details of our commercial cyclists
20 education program, I would like to put it in
21 context as part of a broader safety initiative at
22 the Department to cut traffic fatalities in half
23 by 2030. We are working diligently in every way
24 possible to meet that goal and protect all people
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2 on our roadways regardless of whether they are
3 walking, driving or riding a bike or bus. We have
4 already made substantial progress in improving
5 safety on our streets, with traffic fatalities at
6 their lowest levels since records were first kept
7 in 1910. Our popular Safe Routes to School, Safe
8 Routes for Seniors and Safe Routes for Transit
9 Programs are being implemented throughout the
10 city. We received over 90 applications for our
11 Neighborhood Slow Zones Program this year, and
12 have selected 13 new areas for implementation this
13 year and next. We run education programs on
14 traffic safety tailored children, parents,
15 educators and senior citizens, and we also utilize
16 a broad toolbox of traffic-calming measures
17 selected to meet the unique needs of the
18 intersection or corridor safety needs. These may
19 include signal-timing changes, daylighting or
20 pedestrian islands. Our popular countdown
21 pedestrian signals are no longer a rarity at our
22 intersections, with 1,850 intersections already
23 signalized, and a contract for another 1,500
24 intersections to start within the next three
25 months. Additionally we have launched safety ad

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2 campaigns like Heads Up, to remind New Yorkers to
3 pay attention and to follow the rules of the road
4 while walking, riding or driving. Our commercial
5 cyclist education program, which started this
6 summer, is our latest safety program. It is the
7 largest program ever implemented in any city to
8 educate businesses on the requirements for
9 commercial cyclists. A new unit within the agency
10 was created to conduct this outreach, and
11 following NYPD's special patrolman designation and
12 training, the commercial bike unit now has the
13 authority to enforce the provisions of the New
14 York City Commercial Cyclist Law, such as
15 requiring to provide a bicycle safety poster and
16 equipment such as helmets. This unit has already
17 gone door-to-door to over 1,350 businesses to
18 discuss these requirements and leave literature in
19 multiple languages on safe cycling. We are
20 already hosting a series of ... also hosting a
21 series of neighborhood forums to educate business
22 owners and shift managers in detail on commercial
23 cycling laws and safe riding. These forums have
24 been extremely well-attended, with businesses
25 voluntarily participating. We have provided these

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2 businesses with over 500 packets containing bells,
3 lights and upper-body apparel for their delivery
4 cyclists, and we have a couple of those packets
5 for you that we will give to you after my
6 testimony. DOT has hosted four forums already,
7 and at least 11 more are scheduled for 2012. I
8 want to thank Chairman Vacca and Council Members
9 Brewer, Garodnick and Lappin for their support of
10 this program. Our efforts to date have focused on
11 the West Side of Manhattan from 181st Street to
12 Canal Street, but we plan to move to other parts
13 of the city, by the end of December we will cover
14 the entire East Side of Manhattan, as well as all
15 of Lower Manhattan and Sunset Park in Brooklyn.
16 After that we will continue hosting educational
17 forums, and will expand the program to other
18 neighborhoods where the local community and
19 Council members are interested in partnering with
20 us. It's worth reiterating that this program is
21 focused on education not enforcement at present.
22 We expect that our comprehensive educational
23 outreach to businesses will result in better
24 compliance with the law and reduce the enforcement
25 burden on both DOT and NYPD. However, we have

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2 told businesses that after a six-month period,
3 which started in July, DOT will start issuing
4 fines to businesses for violations such as not
5 displaying the commercial cyclist safety poster or
6 not providing employees with proper
7 identification, helmets or bike equipment, such as
8 bells, lights and brakes. The Department is also
9 enhancing communication with the public and key
10 stakeholders within the restaurant and delivery
11 industries. New Yorkers can now call 311 to
12 report delivery cyclists associated with a
13 particular business who are not obeying the law,
14 and DOT's inspection unit can include these
15 reported businesses in their outreach. DOT is
16 working closely with the restaurant industry
17 groups, such as the Restaurant Association, as
18 well as the New Business Acceleration team at City
19 Hall, to communicate commercial cyclist laws and
20 requirements directly to businesses and to answer
21 any questions. As you can see, DOT is undertaking
22 education outreach efforts on a variety of fronts
23 to enhance safety in general and improve
24 compliance with the commercial cyclist laws
25 specifically, yet these steps can only take us so

1 far. To achieve better behavior by these cyclists
2 and better compliance with the requirements,
3 revisions to the existing laws must be pursued.
4 These existing laws for commercial cyclists were
5 established in the 80's and later amended by local
6 law 76 of 1995 and local laws 9 and 10 of 2007,
7 which mandate that businesses make an effort to
8 provide for safe operation of their delivery
9 workers. While these laws provided a framework
10 for enforcement, there's a need to enhance them in
11 ways that clarify responsibility, lessen
12 unnecessary administrative burdens on businesses
13 and enhance the city's ability to enforce against
14 illegal and unsafe behavior. DOT has partnered
15 with the NYPD and Law Department to identify ways
16 in which the law can be improved to effect better
17 cycling behavior, and we are pleased to be working
18 closely with the Council to make these necessary
19 revisions. Intro 910A would support these goals
20 by amending the existing laws to clarify
21 responsibilities of, and lessen unnecessary
22 administrative burdens on, businesses. For
23 example, a business no longer needs to maintain a
24 logbook of all delivery trips or submit an annual
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2 report, but would instead be required to keep a
3 roster of cyclists, making recordkeeping less
4 cumbersome. We believe these revisions would
5 greatly enhance the law, help create safer
6 streets, and ultimately prove beneficial to
7 businesses and the cyclists they employ. While
8 the administration fully supports the concepts
9 behind this bill, we have some technical language
10 concerns that we look forward to working with the
11 Council on over the coming weeks to finalize a
12 bill that achieves all of our goals and allows for
13 appropriate enforcement. Intros 896 and 683 are
14 two other bills that would greatly improve
15 commercial cyclists' behavior, and we are happy to
16 support them. Specifically, Intro 683 would
17 require a bicycle operator to wear retro-
18 reflective apparel while working, thus making the
19 cyclist more visible to motorists, pedestrians and
20 other cyclists. Intro 896 would clarify that
21 authorized personnel of both the NYPD and the DOT
22 are empowered to enforce the provisions of the
23 commercial cyclist law. This revision would
24 provide the city with even greater flexibility to
25 enforce the requirements, and ultimately would

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2 lead to better compliance with the law. To be
3 clear, even if Intro 896 were enacted, DOT
4 personnel would only issue violations to
5 businesses that fail to meet the requirements of
6 the law. Illegal cycling behavior, such as
7 failure to stop at red lights or riding in the
8 wrong direction, will remain the responsibility of
9 police officers. That being said, if adopted
10 these laws would further enhance traffic safety on
11 city streets, and while the administration has
12 some suggested revisions to the specific language
13 of both bills, we look forward to the passage of
14 this legislation. In order to successfully
15 integrate the commercial cyclist industry into the
16 first-class transportation network the city is
17 building, education must go hand-in-hand with the
18 enforcement provisions that Intro 910 and Intro
19 896 seek to provide. However, Intro 783, which
20 would mandate that all commercial cyclists undergo
21 a bicycle safety course with certification of
22 completion, would be a significant administrative
23 and financial burden on behalf of DOT and the
24 delivery industry. Requiring commercial cyclists
25 to carry and produce program certification upon

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2 request of a policy officer may discourage a
3 delivery worker from taking part in the education
4 program, possibly leading to a forgery of
5 certifications. In addition, with an estimated
6 50,000 commercial cyclists operating in the city,
7 it would be extremely onerous to locate, train and
8 certify all of them, as the bill would require,
9 and then continue to certify new employees on an
10 ongoing basis. While we are extremely invested in
11 educating commercial cyclists and will continue
12 our robust programs for voluntary safe cycling
13 education, DOT cannot support this bill as
14 written. Instead, DOT is currently moving forward
15 with what we believe will be a more effective way
16 to educate, train and enforce commercial cyclists
17 through the outreach program I outlined earlier in
18 my testimony. As we work together on the
19 revisions to Intro 683, 896 and 910 to create
20 safer more orderly streets, DOT looks forward to a
21 continued partnership with the Council to maintain
22 a focus on traffic safety, cyclist education, and
23 to strengthen and streamline existing laws and
24 enforcement. Thank you again for the opportunity
25 to testify on this important matter, and at this

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2 time we would be happy to answer any questions.
3 But before I do, I wanted to hand out the packets
4 that we give out at our forums, and they include a
5 poster in a variety of languages, reflective
6 vests, some education materials, along with lights
7 and a bell. Thank you.

8 CHAIRPERSON VACCA: Okay, thank
9 you, Commissioner, for your testimony. I would
10 like to mention that we're joined by Council
11 Member Jessica Lappin, Council Member Steve Levin,
12 Council Member Dan Garodnick. Okay, we thank you
13 for your testimony, let me just go into several
14 questions. You mentioned that you now have people
15 educating businesses as to the requirements
16 concerning helmets, bells, signage, and that
17 you're beginning this type of outreach and
18 education program. I'd like to know, of those
19 businesses you've spoken to, how many are now
20 complying with what you spoke to them about? Do
21 you have people in your agency going back within
22 several weeks to see if that business you spoke to
23 has complied with the information, or has followed
24 up on the information you gave them?

25 MR. HEYWARD: Yes, yes we have.

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2 One of the first things that we did, after having
3 some of the forums in the community boards, is we
4 sent out the members of the commercial bike unit
5 out to all of the restaurants on the West Side of
6 Manhattan. Once we've done from Canal Street all
7 the way up to 181st Street, we actually went back
8 and what we found out is, presently -- and we're
9 not finished, we still have the rest of the week
10 to do it -- 64% of the restaurants that we visited
11 once are presently in compliance in terms of
12 having their posters up. So we feel that as a
13 first trip that we are being successful in getting
14 the word out there.

15 CHAIRPERSON VACCA: The posters are
16 posters you gave them.

17 MR. HEYWARD: That is correct.

18 CHAIRPERSON VACCA: And they ... and
19 you found that 64% now it in the window?

20 MR. HEYWARD: That is correct.

21 Well, not in the window, but--

22 CHAIRPERSON VACCA: (Interposing)
23 In the store somewhere?

24 MR. HEYWARD: In the store, yes.

25 CHAIRPERSON VACCA: But do you have

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2 compliance numbers for those who now use bells,
3 helmets, vests? Where is the compliance there?

4 MR. HEYWARD: We are presently
5 focused on making sure that we provide the
6 information package to the business. We have not
7 stopped to really do a real survey around the
8 store to check the bikes and to check specifically
9 what the commercial cyclists are wearing. So we
10 have not done that, our focus was on the store,
11 getting them the information, and making sure the
12 information was properly posted.

13 CHAIRPERSON VACCA: Are these
14 stores made aware that this is an education
15 program but that within a six-month period, as
16 your testimony indicated, there would be penalties
17 assessed to them if they did not comply with all
18 aspects of existing law?

19 MR. HEYWARD: Yes, they are made
20 aware, in fact--

21 CHAIRPERSON VACCA: (Interposing)
22 In writing, or verbally?

23 MR. HEYWARD: Verbally they are
24 made aware, and also in the material that we
25 provide they are aware that they will be getting

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2 summonses for violations that they do not comply
3 with.

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CHAIRPERSON VACCA: Now your agency
... you have a new unit in your agency that was
created to conduct this outreach, page two of your
testimony at the bottom indicates that. Has the ...
is this the six-person unit, is it a six-person
unit?

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MS. SLEVIN: Yes it is.

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MR. HEYWARD: Yes it is.

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CHAIRPERSON VACCA: And I wanted to
ask you, have these individuals been deputized to
enforce existing criminal penalties that are on
the books?

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MS. SLEVIN: Yes.

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MR. HEYWARD: Yes they are.

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CHAIRPERSON VACCA: Okay. How many
existing ... how many summonses have been served so
far for ... of a criminal penalty nature?

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MR. HEYWARD: We are presently not
issuing summonses, we are presently going out,
providing the educational information, to make
people aware. So so far this unit has not issued
any summonses at all.

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2 MS. SLEVIN: Right now we're in the
3 education component of our outreach, and that will
4 end at the beginning of next year when we'll start
5 enforcing. Well, it will continue for 18 months,
6 but we will start enforcing and issuing violations
7 at the beginning of next year.

8 CHAIRPERSON VACCA: Now should this
9 Council enact civil penalties as my legislation
10 proposes, your six-person unit would also be the
11 unit that would assess those penalties, am I
12 correct?

13 MR. HEYWARD: Correct.

14 CHAIRPERSON VACCA: Okay. These
15 six individuals undergo training through the
16 Police Department? What is the relationship you
17 have with PD, and do you have internal training
18 from DOT as well as to what to look for, what to
19 do, and how to use discretion in these matters,
20 and so forth, and so forth?

21 MR. HEYWARD: The training that
22 they've undergone is special patrolman training,
23 which is given by a private vendor, which is then
24 certified by the Police Department. You know, the
25 Police Department actually gives us the

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2 certification to become special officers, so they
3 agree with us on that front. So once they're
4 given the special patrolman, then within the
5 agency they are trained on the law that they are
6 looking to go out and enforce, and we also give
7 them, you know, safety training and other training
8 that we do with our other inspectors in the agency
9 as well.

10 CHAIRPERSON VACCA: Now you
11 mentioned calling 311, but isn't it going to be
12 difficult for people to call 311 until we have
13 legislation that forces the bicyclist to have an
14 ID on the bike that a person could identify?
15 Right now we have that legislation on the books,
16 but it's not really enforceable, so how does
17 someone call 311 to complain about a commercial
18 cyclist who is going the wrong way on a one-way
19 street? How do we enforce against that
20 individual?

21 MS. SLEVIN: Well, when someone
22 calls 311 now, if they know the business that
23 employs this cyclist, they can report that
24 business. But certainly this legislation will
25 help with enforcement efforts.

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2 CHAIRPERSON VACCA: See, this
3 legislation will mandate that the bicyclist that's
4 doing the delivery have a ... basically an insignia,
5 a license plate almost, similar to a license
6 plate, so that someone who calls 311 can get that
7 information off the bike. It would have to be of
8 a reflective nature, and that would be a way for
9 people to complain and for your agency to follow
10 up.

11 MR. HEYWARD: Correct.

12 CHAIRPERSON VACCA: Do you think
13 six people is enough? Because the extent of the
14 problem that I see is tremendous. There's not a
15 day that goes by that I'm not in Manhattan where I
16 don't see a commercial cyclist on the sidewalk,
17 going the wrong way on a one-way street. This is
18 a constant occurrence, and my question is, I guess
19 each individual works a seven-hour shift, I would
20 assume, but is six people enough, and is DOT
21 prepared to go beyond six people if the problem is
22 not attacked with only six?

23 MS. SLEVIN: I think we're always
24 interested in ways to improve safety, and if
25 resources allow we'd certainly be able to be

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willing to discuss that with you.

CHAIRPERSON VACCA: My legislation proposes that there be a penalty for each offense that was found, so not just one penalty for the offenses of the law, but a penalty for each offense. Is that something the DOT supports?

MR. HEYWARD: Yes.

MS. SLEVIN: Yes.

CHAIRPERSON VACCA: Okay. Is DOT prepared, since these violations will go to the Environmental Control Board, is DOT prepared to have people at the Environmental Control Board should the need be, to make sure that these summonses are fought and adjudicated from our perspective, in so much as advocacy is concerned?

MR. HEYWARD: DOT presently goes to the Environmental Control Board with the other summonses that we issue in the city. So we presently have staff that work very closely with ECB to adjudicate our present summonses, and that same group will be able to take these forward as well. So we're totally prepared to address that issue.

CHAIRPERSON VACCA: I would like to

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2 work with you regarding the concerns on Council
3 Member Brewer's legislation. I think we can do it
4 with a more minimal charge to your agency and I do
5 think that groups would come forth willing to help
6 you with the education component, so I look
7 forward to working with DOT on that.

8 MR. HEYWARD: Okay.

9 MS. SLEVIN: Okay, thank you.

10 CHAIRPERSON VACCA: Thank you.

11 We'll go to questions from the Committee. Council
12 Member Koo.

13 COUNCIL MEMBER KOO: Thank you,
14 Chairman Vacca. Thank you for coming in here,
15 Commissioners. My question is, since you said you
16 have done educational information for businesses
17 right now, but you are only concentrating on the
18 West Side of New York City, how about Queens and
19 Brooklyn, which has a high concentration of
20 Chinese take-outs? In Flushing alone we have
21 thousands of restaurants there.

22 MS. SLEVIN: We'd be happy to
23 partner with you on that. Our education program
24 will last 18 months and we're very interested in
25 going to communities where we're needed.

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2 COUNCIL MEMBER KOO: Because I
3 don't want you to just go there as a surprise and
4 enforce that without education.

5 MS. SLEVIN: Right, we'll be happy
6 to follow up with you and make that happen in
7 Flushing.

8 COUNCIL MEMBER KOO: Another
9 question is on the safety course these delivery
10 persons have to take, how do they take it now, if
11 they're going to take it?

12 MS. SLEVIN: Well, when we visit a
13 restaurant, we provide them with educational
14 materials and explain the safe cycling rules, and
15 we do host forums throughout the city on safe
16 cycling behavior and have a variety of public
17 campaigns to educate folks about these things. So
18 there's a variety of ways in which they get that
19 information now.

20 MR. HEYWARD: There's also in the
21 package, in the package that we give to the
22 businesses, there's a folding pamphlet that also
23 has the rules, you know, the safety rules of the
24 road, as well as the garments that they have to
25 wear as well. So you have a nice little small

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package that can be handed to each individual cyclist as well.

COUNCIL MEMBER KOO: So do they have to complete a test to make sure they understand the regulations and they sign off at the bottom?

MR. HEYWARD: Presently, no.

COUNCIL MEMBER KOO: No? So how do they get approved, that they completed the course?

MS. SLEVIN: We generally think that education and enforcement and outreach is more effective than requiring licenses or certifications of education.

COUNCIL MEMBER KOO: How would it be if you put a safety course on the internet, they can complete it on their leisure time? That would be a good idea, right?

MS. SLEVIN: Yeah, that would be something that we would be interested in discussing with you.

COUNCIL MEMBER KOO: And another thing is you mentioned about enforcement. I think right now New York City has ... we have one of the most efficient department that could handle this,

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2 that's the traffic ticket agents, they are very
3 efficient, you know, if you're five minutes late,
4 they will give you a ticket. So why don't we
5 empower these agents to do bicycle safety too?

6 MS. SLEVIN: Well, we can't speak
7 for the NYPD, but we do know that violations to
8 cyclists have increased about 50% between 2010 and
9 2011. So there is increased enforcement
10 presently.

11 COUNCIL MEMBER KOO: I think you
12 have to be in discussion with the Police
13 Department, use these traffic-ticketing agents to
14 do the job, because since we have them already,
15 why hire extra people? We have all these people
16 in the streets.

17 MS. SLEVIN: Yeah, we agree and we
18 have been working with them very closely on this
19 initiative.

20 COUNCIL MEMBER KOO: Okay, thank
21 you. I have no further questions, thank you.

22 MS. SLEVIN: Okay, thank you.

23 CHAIRPERSON VACCA: Okay, sorry for
24 that interruption, but as I did say, we had to go
25 to Land Use and now we don't have to go to Land

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2 Use, we're back. It's good to be back, by the
3 way. Okay, let me call on Council Member
4 Garodnick, who has the next question.

5 COUNCIL MEMBER GARODNICK: Thank
6 you very much, Mr. Chairman, and we apologize for
7 our rudeness to Council Member Koo, for our
8 departure suddenly. I just wanted to follow up on
9 a couple of points. First of all, I'm glad that
10 we're having this conversation, so I thank
11 Chairman Vacca and also the DOT for your
12 initiative, to try to tackle the challenge of
13 commercial cycling violations. My constituents
14 continue to be terrified of bikes that are
15 breaking the rules, whether it is riding on
16 sidewalks or going through red lights, or going
17 the wrong way down the street. And the electric
18 bikes that are proliferating continue to compound
19 and exacerbate that problem. So we are glad that
20 we're having this conversation, and I wanted just
21 to ask a couple of follow-up questions to you
22 about the initiative that you announced, we all
23 announced together over the summer, and the speed
24 and the progress. I noted in your testimony that
25 you have provided over 500 packets with all the

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2 safety equipment, and that you have gone door-to-
3 door to over 1,350 businesses to discuss the
4 requirements of the cycling law, and that you also
5 anticipate all of the East Side of Manhattan by
6 the end of December. So if 1,350 is where you
7 have been today, what is the number here? Put
8 this in scale for us as to the number of
9 businesses that you expect to hit by the end of
10 December, because as Chair Vacca was pointing out,
11 and we all sort of understand, six people is not a
12 lot of people for this task, and we just want to
13 get a sense of the likelihood of our, you know,
14 ability to meet these goals.

15 MR. HEYWARD: I would say by the
16 end of the year we should be in the 4,000 number,
17 we should have been able to go into and visited
18 4,000 restaurants, maybe even a little bit more,
19 by the end of the year. And again, our goal is to
20 complete the entire of Manhattan, as well as go to
21 I think it's Greenpoint in Brooklyn.

22 MS. SLEVIN: Sunset Park.

23 MR. HEYWARD: Sunset Park in
24 Brooklyn, where we are presently scheduled to go
25 to.

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2 COUNCIL MEMBER GARODNICK: So okay,
3 we'll do a little math to figure out exactly how
4 many that is per day or per hour, but how much
5 time are these six inspectors spending with the
6 businesses when they go in?

7 MR. HEYWARD: We're in the store
8 for about five minutes, and basically what they
9 do, they come in, they introduce themselves, they
10 let them know that they're here to provide them
11 with information. They explain to them the
12 information that's in the packet, they make them
13 aware that there are upcoming forums where they
14 can get additional information, and then we also
15 provide them with a business bill of rights, in
16 terms of what their rights are as a business. And
17 then of course the last thing we do is we let them
18 know that in the beginning of next year we will be
19 back, we will be enforcing the laws, rather than
20 just informing you about the law. So usually
21 they're ... an agent goes in individually, and
22 they're usually there for five minutes, and then
23 they're out and they're off to the next location.

24 COUNCIL MEMBER GARODNICK: Do they
25 know that you're coming in advance? Is there

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somebody there to receive you who is a person of authority?

MR. HEYWARD: We have been very good at identifying a manager at each location. When we find out that there is no manager there, there's no one available, we make a note of that and we actually come back for a second visit.

COUNCIL MEMBER GARODNICK: So the visit is not regarded as complete, and does not count on your list of 1,350 unless you've spoken to a manager.

MR. HEYWARD: That is correct.

COUNCIL MEMBER GARODNICK: Okay.

MR. HEYWARD: And handed out a package as well.

COUNCIL MEMBER GARODNICK: Okay, because I think that's important, as somebody who has gone at various times door-to-door to small businesses in my district, I know that when you walk in the door, you know, you encounter whoever is there at that moment in time, and it may or may not be the person who knows or enforces the rules of that business. So I think that that's an important point. And it's also important that

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you're telling them that enforcement is coming.
You are telling them that it's coming in January,
is that what you're saying?

MR. HEYWARD: Yes, we tell them
it's in the beginning of the year, the beginning
of next year, we will begin to come back to
actually enforce these laws.

COUNCIL MEMBER GARODNICK: And what
are you going to tell the folks on the East Side?

MR. HEYWARD: The same thing.

COUNCIL MEMBER GARODNICK: Okay, so
... okay. The last question from me. The 311 calls
that Chair Vacca was asking about and the way that
they're handled today. If somebody is fortunate
enough to be able to get their eyes on exactly the
business that is responsible for the rider and
they call 311, and they say, "I saw somebody from
business X and they were riding like a maniac, and
I want New York City to do something about it",
what would be the next step for 311 and the city
internal process?

MS. SLEVIN: We'll be monitoring
the 311 complaints as they come in, and if there's
a particular neighborhood where it's clear that

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our education is needed, we will respond to that.

COUNCIL MEMBER GARODNICK: So it becomes a point on a map, a pin on a map essentially, as opposed to you go to do something specific as to that business, is that correct? And when I say "pin on a map", I mean to say you look at--

MR. HEYWARD: (Interposing)

Statistics.

COUNCIL MEMBER GARODNICK: ... where you're seeing hot spots.

MS. SLEVIN: Correct.

COUNCIL MEMBER GARODNICK: Complaints, and then you focus education and enforcement areas in those general areas, is that right?

MS. SLEVIN: Correct. We want to focus our education and enforcement in areas where the community wants us there and you all want to be partners with us, and where there's a real need for our services.

COUNCIL MEMBER GARODNICK: So you would encourage New Yorkers to make those complaints so as to focus your attention on those

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areas where problems exist, is that right?

MS. SLEVIN: Definitely.

COUNCIL MEMBER GARODNICK: Okay, well look, I will close with that, except to say that, you know, we all appreciate the ability to get quick hot-food delivery in New York City, it is something that many New Yorkers rely on, but we need to make sure that our rules are being followed, and I believe that we are on the right track here, and certainly with the legislation we're talking about today too. Thank you.

MS. SLEVIN: We agree, thank you, Council Member.

CHAIRPERSON VACCA: Thank you. I want to comment too, you know, I understand the need for education and one of the bills we're considering today would formalize the education requirements. But I find it hard to believe that a commercial cyclist who's going the wrong way on a one-way street, or who's driving on a sidewalk, I doubt that these people think that they're doing the legal thing. I think they have to ... even if they don't know it's illegal, they'd have to look, maybe they'd look around them and see that they're

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2 turning people around literally on sidewalks and
3 streets. I mean, I have to believe that the
4 commercial cyclist today knows it's wrong to go
5 the wrong way on a one-way street, and knows it's
6 wrong to go on the sidewalk. Don't you think that
7 that's the case? Because education is fine, but I
8 just don't want education to be used as a way of
9 even thinking that we have commercial cyclists who
10 don't know that they're doing the wrong thing.

11 MS. SLEVIN: Well, the whole point
12 of our education program is to make sure that
13 commercial cyclists do know the rules of the road
14 and do follow them. To be clear, we will not be
15 enforcing against individual cyclists.

16 CHAIRPERSON VACCA: Right.

17 MS. SLEVIN: We'll be enforcing
18 against the businesses and working, you know, with
19 the businesses.

20 CHAIRPERSON VACCA: Well, certainly
21 it--

22 MS. SLEVIN: (Interposing) That
23 will remain within the purview of NYPD.

24 CHAIRPERSON VACCA: Yes. And
25 that's why I think that there has to be a two-

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2 pronged approach, which we can take immediately.
3 The Police Department can immediately let it be
4 known that they mean business when it comes to
5 these characters who do these types of things.
6 Because it's too prevalent and it's too
7 frightening to too many people. What's going on
8 now, it's not the exception that I'm telling you
9 about, it's the rule, it's the rule that we have
10 commercial cyclists on sidewalks, going the wrong
11 way against one-way streets and running through
12 red lights, that's too often the rule in this
13 city, and something has to be done. I mean, I
14 mean business about this, and I think the Council
15 means business, and I hope that action is truly
16 taken this time. Your unit of six people, I
17 voiced concern about that as part of our opening
18 conversation, and I know Council Member Garodnick
19 voiced concern about it. I don't think six is
20 enough, and if your assessment is in line with
21 mine, I think that this unit might have to be
22 increased, especially initially, when this
23 legislation is passed, as I expect it to be
24 passed, after we've had further discussion. I
25 want to make sure that this unit has enough people

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2 in it to make one understand that the days of
3 yesterday are gone, that this city having laws on
4 the books that are not ... that were not enforced
5 adequately, if at all, that those days are gone.
6 So I bring that up to you. Council Member
7 Garodnick mentioned about the electric bicycles
8 and I have to mention, these electric bicycles are
9 especially frightening. They're not legal in New
10 York City, but there's a proliferation of electric
11 bicycles. They go very quickly, they are heavy-
12 equipment type things, and they're doing the same
13 thing that the commercial cyclist does with the
14 non-electric bicycle. So the legislation we
15 proposed would be enforced against the electric
16 bikes as well, but are you alerting people when
17 you go with the education approach which you had,
18 are you alerting them to the electric bikes being
19 illegal? Are you talking about electric bikes?

20 MR. HEYWARD: We are not talking
21 about electric bikes when the six units go out to
22 the individual restaurants to provide them with
23 information, but that is a topic that does come up
24 at the forums, and we do make it very clear that
25 they are ... those e-bikes are considered--

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MS. WILEY-SCHWARTZ: (Interposing)

That they're prohibited on ...

CHAIRPERSON VACCA: Can you identify yourself as well?

MS. WILEY-SCHWARTZ: Yes, I'm Assistant Commissioner for Education and Outreach, Kim Wiley-Schwartz. What we've been educating business owners ... well, the e-bikes obviously, as you've raised, is a tricky situation. So they are prohibited on the streets of New York City because they're not able to be registered by the New York State Department of Motor Vehicles, and that's what we're letting everyone know who has a fleet, who owns and operates these electric bikes. Currently they're prohibited because they simply can't be registered and tracked.

CHAIRPERSON VACCA: I'm glad you explained that for the record. The electric bikes in New York City are not allowed because--

MS. WILEY-SCHWARTZ: (Interposing) They're prohibited.

CHAIRPERSON VACCA: They're prohibited, because there's no way of registering them with the New York State Department of Motor

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Vehicles.

MS. WILEY-SCHWARTZ: That's correct.

CHAIRPERSON VACCA: Okay. Now, through your education program, not through going door-to-door to see merchants, but through your group sessions.

MS. WILEY-SCHWARTZ: Yes.

CHAIRPERSON VACCA: You are talking about electric bikes.

MS. WILEY-SCHWARTZ: Yes.

CHAIRPERSON VACCA: Okay. What percentage ... I mean, do you agree with me, do you see the electric bike usage in New York City is proliferating? Do you see more and more electric bikes? Are you concerned about the use of electric bikes?

MS. WILEY-SCHWARTZ: Yes, we see that there are a lot of electric bikes out on the streets.

MS. SLEVIN: And we're trying to improve safety on the streets for everyone who uses them, so we certainly are concerned about that.

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2 CHAIRPERSON VACCA: Initially let
3 me say, the legislation that we're proposing
4 includes electric bikes, but I would ask that your
5 education program include that as well, that when
6 you go door-to-door, you tell people that the
7 electric bikes are illegal, because they are.
8 There may not be a knowledge of this, and I don't
9 know what enforcement actions we're taking against
10 electric bikes, I'm not aware of any enforcement
11 actions in our city against electric bikes.

12 MS. WILEY-SCHWARTZ: So I should
13 just tell you that when we do go door-to-door, we
14 have this, which you have, and it does state very
15 clearly on the front that electric bikes are
16 prohibited.

17 CHAIRPERSON VACCA: Oh, okay,
18 include that, thank you. I want that mentioned.
19 I hope you understand, I think you do, you know,
20 this is a problem that has people really upset.
21 We're going to hear testimony later on from
22 someone who lost her husband, not by an electric
23 bike, but by a bicycle that was out of control,
24 basically, errant is the word. But the electric
25 bike situation is especially frightening,

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2 especially frightening, because of the weight and
3 the speed that they can pick up on the streets.
4 Their speed is much greater than an average
5 bicycle, of course. Okay, I thank you. Okay, the
6 next question? Oh, Council Member Lappin.

7 COUNCIL MEMBER LAPPIN: Thank you,
8 Mr. Chair. I understand that New Yorkers expect
9 their hot food in a hot minute, but we cannot cut
10 corners and put safety at risk, and you talked a
11 lot about the education enforcement campaign,
12 which is great, I'm proud to be a sponsor of these
13 bills, and I think it's really important to do for
14 the business owners and for their employees. But
15 I want to be clear, we're really talking about
16 safety for the bike riders and not really for the
17 pedestrians, because the provisions about wearing
18 the reflective vest and the lights and the bells
19 and the whistles and all of that are really to
20 help the rider of that bike. And I'm a little
21 concerned that we're not doing enough to keep the
22 pedestrians safe, and when we had our
23 announcement, I actually, to be honest, thought
24 that there was going to be more of that. And so I
25 want to understand a little better your six-person

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2 team, why won't they be issuing summonses for
3 bikes riding the wrong way on the sidewalk, riding
4 the wrong way down the street, running red lights,
5 disobeying traffic laws? Because it is the
6 Department of Transportation, if these are
7 transportation traffic violations, why won't you
8 be issuing summonses?

9 MR. HEYWARD: Okay. First of all,
10 we feel making sure that the bike is properly
11 equipped and the rider is wearing the proper
12 safety equipment makes them more visible to
13 pedestrians, as well as to vehicles that they
14 share the road with. So we feel that the safety
15 gear, the safety equipment that we are requiring
16 helps both the person wearing it, as well as those
17 around them. So we actually feel that it does
18 assist.

19 COUNCIL MEMBER LAPPIN: I think
20 people see them as they're going by at a 25-mile-
21 an-hour clip and almost knock them over, or do
22 knock them over. I don't think that's so much the
23 problem, I mean, from the calls I get, the
24 incessant calls I get in my office, people
25 complaining about them are seeing them. They're

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2 just feeling threatened, are being hit or almost
3 hit by them. So do you have the ability, the
4 legal authority, to write summonses for ... after
5 people have been duly educated and informed, for
6 ignoring the laws?

7 MR. HEYWARD: We will not be
8 writing traffic enforcement infractions. Those
9 will be left up to the--

10 COUNCIL MEMBER LAPPIN:

11 (Interposing) But that wasn't my question, my
12 question was, can you? Do you have the ability
13 to? Could you?

14 MS. SLEVIN: We cannot issue
15 violations for riding the wrong way on the
16 sidewalk.

17 MR. HEYWARD: Traffic infractions.

18 MS. SLEVIN: Traffic infractions
19 are the purview of NYPD, not the Department of
20 Transportation, we're an infrastructure and
21 planning agency, and that's largely what we do.

22 CHAIRPERSON VACCA: Can I
23 interject, Council Member Lappin?

24 COUNCIL MEMBER LAPPIN: Sure.

25 CHAIRPERSON VACCA: I thank you for

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2 your line of questioning, but let me clarify
3 something. I asked the question before about the
4 six individuals now constituting your education
5 unit, and you indicated that those six individuals
6 were deputized by the New York City Police
7 Department, and if they are deputized by the New
8 York City Police Department, why can't they issue
9 the criminal summonses now prescribed under the
10 law if they see something going on in the streets
11 of the city?

12 MS. SLEVIN: Right now we do have
13 the ... well, our focus is going to be on the
14 businesses, the whole intention of this bill, and
15 I think the Council shares the intention of these
16 bills, is to put more responsibility on the
17 businesses to help their riders and their
18 employees be safe when they're riding for their--

19 COUNCIL MEMBER LAPPIN:
20 (Interposing) But can I go back? I'm all for
21 that, I want the riders of these bikes to be safe.
22 I want pedestrians to be safe, so I don't
23 understand why the NYPD can deputize you to write
24 some kinds of tickets but not others. Do you
25 currently ... does the Department of Transportation

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issue speeding tickets to drivers?

MS. SLEVIN: No.

MR. HEYWARD: We do not.

COUNCIL MEMBER LAPPIN: Okay. So who deputized ... how did this whole deputizing thing happen? Was it like a ... I mean, did somebody wave a wand? I'm sure it was a little more formal than that. So can you explain to me how you were deputized and what you were deputized to do?

MR. HEYWARD: I think the first thing to understand is that both our commissioners got together to discuss who would be enforcing what in this law. It was agreed that the Police Department would continue to be responsible for enforcing traffic enforcements, and the Department of Transportation would come in to begin to enforce the safety aspects of this rule. So as of the beginning--

COUNCIL MEMBER LAPPIN:

(Interposing) But they're one and the same, and that's where ... we're talking about safety, we're talking about the safety of the people walking on our streets. So I don't think you can split the

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2 baby, and I am really a little disappointed, to be
3 honest, because I want this to accomplish what I
4 know we're all trying to accomplish, and I'm not
5 sure that it will, because the precincts often
6 don't have the resources, although they have the
7 intentions, and they want to issue summonses, and
8 I know they're issuing record numbers across the
9 city. But they have other priorities, and they've
10 got fewer boots on the ground to do the work that
11 they need to do. So if the whole idea of this was
12 to create a unit to make commercial biking and New
13 Yorkers safer, I want to make sure we do that. So
14 I don't know, Mr. Chair, how you--

15 MS. SLEVIN: (Interposing) Council
16 Member, the NYPD has increased enforcement of
17 bicyclists, we have some numbers here we'd be
18 happy to share with that show that enforcement,
19 the numbers of summonses issued to cyclists
20 between 2010 and 2011 increased 50%.
21 Additionally, your concern is pedestrian safety on
22 our streets, that's a complete, a 100% priority
23 for the agency as well, and as you know, traffic
24 fatalities are at an all-time low in the city, we
25 have a tremendous number of pedestrian safety

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2 programs, we have a Safe Routes to School Program,
3 a Safe Routes to Transit Program, we just started
4 a Neighborhood Slow Zones Program, so these
5 programs are really getting at your concern,
6 they're meant to improve safety for pedestrians
7 and everyone using the streets, and this
8 commercial biking is our latest safety program,
9 and we think it's going to be effective in
10 improving safety as well.

11 COUNCIL MEMBER LAPPIN: I hope
12 you're right, I don't think the statistics help
13 the people who've lost a loved one, who for them
14 obviously there's no making that right. But I
15 just don't think this is going to accomplish all
16 that I would like it to, and I don't know if the
17 Chair is open to having a conversation, or
18 continuing to have a conversation, about how this
19 team can take the education one step further,
20 because we've done a lot of education. I've had
21 flyers for years, I've had teams of volunteers go
22 to these businesses and talk to the managers for
23 years. So it's not as if we haven't tried this, I
24 think you're doing it on a larger scale and in a
25 very focused manner, and so I applaud you for

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2 that, but after we educate people, I think we have
3 to do enforcement that's really going to be
4 meaningful enforcement, and I think that involves
5 summonses for traffic violations that are putting
6 people's lives at risk. The last thing I wanted
7 to discuss was electric bikes, because now I'm a
8 little confused. The administrative code in the
9 City of New York very specifically says that
10 electric bikes are legal up to 15 miles an hour,
11 is that correct, counsel? Is it 15? Right, so as
12 long as an electric bike does not go more than 15
13 miles an hour, it is legal. So now you're telling
14 me that they're not, so I want to be very clear,
15 does corp counsel have a legal position, does
16 counsel within the Department of Transportation
17 have a decision about this? Because what you said
18 may very well be true, but it's in direct conflict
19 with existing law in the City of New York.

20 MS. WILEY-SCHWARTZ: Yeah, well we
21 can look into this and follow up, you know, we can
22 follow that up. Our, you know, our understanding
23 is that they're prohibited, and you know, whether
24 or not they go 15 miles an hour or not.

25 COUNCIL MEMBER LAPPIN: Okay, so it

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was a local law passed, I believe, in 2004.

MS. SLEVIN: I think there's a state and city issue here that the state law does not address them, and so therefore they cannot be registered with the state, and I think that's why ... that's our interpretation, but we'd be happy to follow up with you on that.

COUNCIL MEMBER LAPPIN: I think we need to have clarity of exactly what is permitted on our city streets and what's not. Thank you.

CHAIRPERSON VACCA: Thank you, Council Member Lappin. I think the greater question is, and certainly Council Member Lappin raises the point, that the legislation we're proposing here at the Council today would be civil penalties, but the civil penalties that we're assessing are meant to do something about the problem, because the criminal penalties have not been enforced. When we had a news conference, DOT had a news conference, I think it was in August, many Council members attended, it was announced by DOT that there would be a working relationship with the Police Department, because the Police Department and now your six-member deputized unit,

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2 they can do something about what's going on in the
3 streets concerning commercial cyclists, so I would
4 like to know if you are aware what has the Police
5 Department done since they've been working with
6 you cooperatively as per the August news
7 conference. How many summonses have been issued
8 for any type of commercial cyclist violations
9 since the news conference?

10 MS. SLEVIN: We have been working
11 very closely with NYPD, I can follow up and get
12 you those numbers. As I stated before, violations
13 for bicyclists have increased between 2010 and
14 2011, we can get you those specific numbers as
15 well to follow up, and I know we can't speak for
16 them additionally, you know, but we'd be happy to
17 follow up, communicate that concern.

18 CHAIRPERSON VACCA: Is part of the
19 relationship that DOT has with the Police
20 Department, is part of that relationship increased
21 enforcement beyond what existed before that news
22 conference, for example? Is there a commitment
23 from the PD to you that there will be more
24 enforcement based on the cooperative relationship
25 you announced?

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2 MS. SLEVIN: Sue, would you like to
3 address that?

4 CHAIRPERSON VACCA: Sue Petito is
5 here from the Police Department and I would call
6 her up, if that's okay with her.

7 MS. PETITO: Thank you, Mr.
8 Chairman. I'm not aware of a specific commitment
9 that the Police Department has made, but I was not
10 involved in the press conference that has been
11 referred to, so I can't speak to that. I do know
12 that the Police Department has an ongoing
13 commitment to safety in the streets, that we have
14 increased our enforcement against commercial
15 bicyclists, but I don't have any numbers for you
16 since August, if that was the question. I think
17 that we respond to complaints, to community
18 complaints, and doing by bicycle enforcement is
19 something that local precinct commanders focus on
20 based on the complaints that come to them. And
21 depending on where the location is and what our
22 resources are, that is a focus. We also have
23 instituted what we call Operation Safe Cycle,
24 where there's a video on our website and we
25 distribute materials to all cyclists, not just

1 commercial cyclists, regarding their
2 responsibility to follow the rules of the road.
3 But for specific numbers since August, I'm sorry,
4 I can't provide that at this point.
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6 CHAIRPERSON VACCA: Okay. I need
7 to make sure that this cooperative relationship is
8 bearing fruit, that's what I'm asking. If you can
9 get back to me, you get back to me, whatever it
10 is, because when we announce that we have a
11 cooperative relationship interagency to do
12 something about a problem that is dangerous to
13 people in the city, we need to have transparency
14 and accountability. What is that cooperative
15 relationship producing? How many summonses, how
16 many bicyclists, how many cyclists? I'm not aware
17 of ... I'm not aware of any fruits from the
18 cooperation beyond education, which I think
19 education is important. But I'm not aware of
20 anything beyond that.

21 MS. PETITO: Part of what we've
22 been working very closely with DOT on is the
23 legislation before you.

24 CHAIRPERSON VACCA: Yes.

25 MS. PETITO: We've had lots of

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2 communication and have thought through together
3 how the law should be changed so that it is more
4 capable of enforcement, of meaningful penalties,
5 against both the cyclists and the businesses,
6 which will encourage legal behavior. So that my
7 part of it, the thing that I'm most familiar with
8 in terms of our cooperation to date is working on
9 the legislation before you together, to try to
10 address some of the inadequacies in the law and
11 make it stronger.

12 CHAIRPERSON VACCA: You may want to
13 look at, because I'm thinking of the six-person
14 unit, and I have to tell you, I'm thinking out
15 loud, but perhaps when the legislation the Council
16 is considering, hopefully it passes, also the six-
17 month period will be over, the DOT has said there
18 will be an education component that will be
19 finished, and then there will be a compliance
20 phase based on the six deputized individuals. You
21 may want to look at what is going to be the Police
22 Department's role in making sure there is
23 compliance. I'm thinking, for example, of traffic
24 enforcement agents. We have traffic enforcement
25 agents in this city that give out \$600 million a

1
2 year in summonses, and they're under the control
3 of the PD. So if those traffic enforcement agents
4 are going up and down blocks giving summonses,
5 perhaps they could look to see if merchants on
6 that block have bicycles that have bells, whether
7 they are putting the notice in their store. If
8 you want to really work cooperatively, I think
9 that is a way for the Police Department to
10 cooperatively work with the Department of
11 Transportation, and I hope you take that back,
12 because these traffic agents are on blocks in our
13 city every day, and there's no reason why they
14 cannot be educated as to what the laws are for
15 commercial cyclists, and they could see if stores
16 on their route are complying with the law.

17 MS. PETITO: Mr. Chairman, I will
18 certainly take that back. I would say that
19 traffic enforcement agents are specifically
20 trained and specifically designated to deal with
21 motor vehicle parking violations at this point,
22 so, but I will certainly take that suggestion
23 back.

24 CHAIRPERSON VACCA: Yes, and they
25 can be retrained in a matter of hours for one

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2 added responsibility. Council Member Koo
3 mentioned this, I want to say, it's not my idea.
4 I don't credit for everything, Council Member Koo,
5 I thought it was a good idea. Now that I'm
6 elaborating on it, I think it is a good idea.

7 MS. SLEVIN: Council Member, it
8 does seem like the--

9 CHAIRPERSON VACCA: (Interposing)
10 It is, I like it.

11 MS. SLEVIN: It does seem that the-
12 -

13 CHAIRPERSON VACCA: (Interposing)
14 You know, when you think of something, you don't
15 know sometimes, but then when you hear it, you
16 talk out loud, it is a good idea. I like it and I
17 hope you like it, I hope you like it, take it
18 back. What are they trained to do, just give
19 summonses to people? Aren't they trained also ...
20 if they're trained in summonses, why aren't they ...
21 why can't they be trained, it's very easy, it's an
22 extension of their existing responsibility and it
23 would put teeth into the commercial bicycling laws
24 that we're going to implement here.

25 MS. PETITO: Well, it is a

1
2 different body of laws and regulations, completely
3 different from what their current mandate is.

4 CHAIRPERSON VACCA: Yes, I
5 understand. Okay. Thank you. There are no
6 further questions. Oh, I'm sorry, Council Member
7 Brewer, we welcome you, and you have a question.

8 COUNCIL MEMBER BREWER: I'm sorry,
9 I was at the opening of Harry's Shoes, their new
10 store on 82nd and Broadway, very exciting.
11 Everybody goes to Harry's Shoes, I love that
12 place. My question is the following: I have ...
13 thank you, Chairman Vacca. I have with the Police
14 Department before we had the wonderful individuals
15 from DOT, I went store-to-store, and I think we
16 covered about, I don't know, 70 or 80 restaurants,
17 and what I learned was something very interesting,
18 which is to further what the Chairman was stating
19 about the relationship between your officers at
20 DOT and PD. At PD they order every day, all day
21 long, from the restaurants in the neighborhood. I
22 learned that. So when you go to the restaurants,
23 the fact of the matter is, the PD is going to know
24 who obeys the law and who doesn't, really because
25 they get food from them. And I say that, that's

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2 positive, because that's a good economic
3 development for the neighborhood. But the only
4 criticism I would have, and I think you're doing a
5 great job with your individuals, I want to ask you
6 specifically how do you think you can strengthen
7 specifically the relationship between PD and your
8 officers? Because your officers don't have the
9 eyes and ears that we do in the neighborhood, and
10 the fact of the matter is, when I went door-to-
11 door to 70 restaurants myself, with the Police
12 Department, I learned two things, not only about
13 the ordering and the knowledge, but also the
14 managers in these small restaurants and the
15 restaurants themselves unfortunately change often.
16 And so the person you train one day, and despite
17 all the work we're doing to train in the
18 neighborhood and having these wonderful forums,
19 and I thank you for scheduling them with us, you
20 still have a constant change. And so my question
21 is, the eyes and ears that your staff learns needs
22 to be brought back, how is it done systematically
23 to bring the information back to PD? In other
24 words, you learn that somebody doesn't have what
25 they need in a restaurant, you learn that not

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2 everybody is Lenny's with the amazing work that
3 they've done to institutionalize the way in which
4 they deliver. You learn that somebody doesn't
5 really ... how does that get back to PD, so that
6 they can be on the lookout and maybe do some
7 education when they're moving around the
8 neighborhood?

9 MS. SLEVIN: We work very closely
10 with PD on a variety of traffic safety
11 initiatives, but coordination can always be
12 improved and, you know, we're happy to talk with
13 you further about how to get that done.

14 COUNCIL MEMBER BREWER: Okay,
15 because that's ... the fact of the matter is, you've
16 got language challenges, you've got challenges
17 between the manager and the people who are
18 delivering. There's like the management will say,
19 "I have worked so hard to educate, the bell, the
20 helmet, etc., etc., but they don't do it." That's
21 a situation where you need to help them do it, and
22 you need different kinds of training perhaps. I
23 say this from experience. I mean, 70 or 80
24 restaurants, I get it, and I can see that people
25 want to do it often, but for whatever reason they

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2 don't have the resources internally. One final
3 issue would be how ... are you looking really
4 closely at the fantastic model that Lenny's has?
5 They were at the press conference, all around the
6 city their bicycle commercial staff are respected,
7 appreciated, applauded, but it's because there's
8 leadership at the top. So my question is, are any
9 other restaurants doing that? Are you going to be
10 honoring them? I've learned from Hospitality
11 Alliance that it's important to honor people and
12 thank them, not just to criticize them. What are
13 we doing to honor those who are doing it right?

14 MR. HEYWARD: As you mentioned,
15 Lenny's is definitely the example that we have
16 started out trying to make sure that this is where
17 we want everybody to be. As you also know, they
18 were at the press conference that we had.

19 COUNCIL MEMBER BREWER: They're in
20 my district, I get my coffee there.

21 MR. HEYWARD: And we definitely
22 acknowledged ... we definitely acknowledged the work
23 that they have done, and, you know, one of the
24 things that they've passed on to us where we think
25 this law will be effective, is that regardless of

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2 how many times the managers will change, that
3 store is responsible, that store will be the one
4 that's held accountable for making sure that the
5 poster is up, for making sure that their cyclists
6 are following the law. So the onus becomes, yes,
7 they're going to go out and enforce it on their
8 workers, but they also know that it is now their
9 responsibility, and that's the one thing that we
10 got from Lenny's, and that's why we feel that the
11 discussions that we've had on these bills and the
12 changes, that's why we think that they're going to
13 be very good, because again, Lenny's is the one
14 that we've been working with to try to get
15 everybody else to follow.

16 COUNCIL MEMBER BREWER: Okay, but
17 if you find another Lenny's -- then I'll shut up,
18 Mr. Chair -- if you find another Lenny's, you need
19 to honor them, you need to thank them, you need to
20 do it publicly, because that would then tell
21 everybody else that there's a positive aspect to
22 this discussion. Is that something that you're
23 considering?

24 MS. SLEVIN: That's something we
25 certainly would like to follow up with you on.

1
2 COUNCIL MEMBER BREWER: I have lots
3 of other ideas, thank you very much.

4 MS. SLEVIN: Thank you, Council
5 Member.

6 COUNCIL MEMBER BREWER: Thank you
7 very much for your testimony, we appreciate it,
8 and our next speaker is Assembly Member Brian
9 Kavanagh. He's quite good, by the way. And
10 several members had to go vote in Land Use and
11 they'll be right back. Big deal. Go ahead,
12 Assembly Member.

13 ASSEMBLYMAN KAVANAGH: Thank you.
14 I first want ... am I correct that we have a
15 birthday to acknowledge? Council Member Gale
16 Brewer, it's her birthday today. So I just, first
17 of all let me begin, I understand my name was
18 called a little earlier, I was running late, I
19 apologize for that. And also I'm disappointed I
20 did not get here in time to get a bag of DOT bike
21 safety swag. But apparently I did, thank you. So
22 I just, I have, I'll submit, be submitting a
23 written version of my testimony today, I just
24 want, I think I will highlight, I just want to
25 highlight a few points. First of all, you know,

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2 what you're all doing today is extraordinarily
3 important. We are currently in a process in this
4 city that has been accelerated in recent years, in
5 transitioning to a city where bicycling has
6 largely been unwelcome for various reasons in our
7 city, partly physical infrastructure reasons, and
8 partly just having a culture where bicycling was
9 not easy or particularly common, to a city where
10 we have a culture that bikes are a major mode of
11 transportation. We've facilitated that, the
12 administration and the City Council deserve great
13 credit for facilitating that through bike lanes,
14 through, you know, promoting the bike share
15 program, which is still coming, and of course
16 through making sure we have laws on the books that
17 provide for safety. I've been a big proponent of
18 that, and I think although New York City still
19 lags behind many other cities in terms of ... even
20 cities in the United States, in terms of use of
21 bikes as a primary mode of transportation, that is
22 growing and that is good. Having said that, we
23 have appropriately focused on the safety of
24 bicyclists and because obviously if you can't
25 create a safe environment, people aren't going to

1
2 use bikes. And again, it's an important addition
3 to our transportation mode. We've also focused
4 significantly on educating people other than
5 bicyclists, vehicle users, pedestrians, to
6 interact safely with bicyclists, and that's an
7 important step. But it continues to be a major
8 problem, not just for bicyclists, but also for
9 pedestrians and other users of our sidewalks and
10 our streets, that bicyclists themselves, many of
11 them have not adopted a sort of culture of being
12 law-abiding and being safe. And it's not true, it
13 seems that the vast majority of bicyclists
14 understand that a bicycle can cause harm to
15 themselves and cause harm to other people in the
16 community, and abide by the laws. But like every
17 activity, those who choose not to do that cause
18 problems that are much greater than their numbers.
19 It does also seem, just mostly this is anecdotal,
20 but I've had the experience like many of you on
21 the Council have had, of having it being a
22 perennial frequent complaint that commercial
23 cyclists are a big part of the problem. So
24 turning to the legislation you have here. First
25 of all, it just should be observed that New York

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2 City is really on the forefront of this. 9-157,
3 which is part of the administrative code that all
4 of these bills amend, has been on the books for a
5 number of years, it's been updated a couple of
6 times over the years, and it is, I've looked at
7 laws around the state and also the state law on
8 this topic, and it is quite substantially better
9 than the protection we offer in other parts of the
10 state, in other jurisdictions. So I have a
11 different bill than the one I'm about to talk to
12 in a moment, which would impose some of these
13 really basic requirements throughout the state,
14 requiring that businesses give helmets and other
15 basic equipment to delivery cyclists, because so
16 far that is not the case in much of the state. I
17 also am excited that the changes that you're
18 proposing today, I support each of the bills
19 today, they're a big step. What I want to focus
20 on though, is something that has been sort of
21 floating around in some of the questioning today,
22 and particularly that Council Member Lappin
23 focused on, which is the question of how we
24 address the fact that one of the biggest
25 complaints is that bicyclists working for delivery

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2 people are not so much violating the provisions of
3 section 9-157, although they are, and that's the
4 substantial focus of the DOT's program is to
5 address violations of this existing law, 9-157.

6 The biggest complaint is that they are violating
7 provisions of the vehicle and traffic law. And as
8 Council Member Lappin was pointing out in her
9 questioning, there is not much in either this law
10 or in the DOT's enforcement and education programs
11 that will address that directly. The reason for
12 that is simple, the vehicle and traffic law is a
13 piece of state law, it governs basically all users
14 of the sidewalks and the streets. And as far as I
15 can tell, the City of New York on its own does not
16 have the power to do something which is critical
17 here, which is to enforce the vehicle and traffic
18 law to the extent that it is violated by operators
19 of commercial bicycles against the businesses that
20 employ them. So if I run a business and I want to
21 get the food out in the time that my colleagues on
22 the Council have been extolling, the hot food in a
23 hot minute, as it was said before, and I, my
24 primary business objective is to get deliveries
25 done rapidly, I will encourage my bicyclists to

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2 move as rapidly as possible. And if I'm not
3 particularly scrupulous about it, I will make it
4 clear that, you know, I don't care how they do it,
5 if you need to drive on the sidewalks, if they
6 need to go the wrong way, they need to do whatever
7 they're going to do. Many businesses will do
8 that. The operators or the cyclists under current
9 law are responsible for that, and we do have a
10 very large number and a growing number of
11 violations issued against cyclists. I don't
12 believe the NYPD is able to break them down
13 between commercial cyclists and recreational
14 cyclists, but they are doing an increasing amount
15 of enforcement, and that's a positive. The
16 problem is that if you give an individual cyclist
17 a summons, and then their employer is continuing
18 to require them to operate in a certain way, and
19 continuing to encourage them to violate the law,
20 it is unlikely that you're going to solve the
21 problem. Either that person will decide, I'm not
22 working here if I'm going to get summonses in the
23 course of my business, in the course of a
24 relatively low-wage job, or they will just
25 continue to take the summonses and, you know, wait

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2 and see if anybody tracks them down, and not pay
3 them. Or perhaps they'll just consider it a cost
4 of doing their job. If you have a business that
5 has cyclists that are routinely violating the law
6 and going the wrong way, I agree with Council
7 Member Vacca, his point before, it is very likely
8 that the cyclists know that it's illegal, it's
9 also very likely that the businesses already know
10 that their cyclists are violating the law, because
11 people complain to the businesses, people complain
12 to their legislators, and it is just the case that
13 in a community most people know that there are
14 certain businesses that have this problem. It's
15 also the case that if you pass and enforce the
16 bills that you're talking about, we will increase
17 the knowledge of that by having people wear vests
18 and ID, we'll in no uncertain terms be able to
19 ascertain which businesses are having cyclists
20 violating the law. The problem is, under current
21 law that won't have any effect on the business, it
22 won't have any consequence to business. You can
23 go back and re-educate them, you can go back and,
24 you know, discuss with them their obligations
25 under the law, and you can possibly continue to

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2 fine their cyclists, but at the end of the day the
3 business will have no responsibility for that and
4 no liability. So we've had a bill in the State
5 Legislature for a couple of years now, it is a
6 bill that would impose this kind of liability, it
7 would basically specify the provisions of the
8 vehicle and traffic law that if a bicyclist, a
9 commercial bicyclist, violates them, they will be
10 ... the business that employs those folks will be
11 liable for that, will be answerable to the ... the
12 bill calls for them to be answerable to the ECB,
13 and that is a bill that we would need a home rule
14 message from this body, we need the City Council
15 to work with us on that and pass a home rule in
16 order to move it through the Legislature, and I'm
17 here to strongly encourage you, in addition to
18 being supportive of these bills, to strongly
19 encourage you to continue to consider working with
20 us on that.

21 CHAIRPERSON VACCA: Thank you very
22 much. Is there a Senate sponsor on the bill
23 involved?

24 ASSEMBLYMAN KAVANAGH: Yes, the
25 Senate sponsor has been Senator Liz Krueger, and I

1
2 will say also that Council Member Lappin has
3 worked with us directly on this issue in the past.

4 CHAIRPERSON VACCA: Okay. My
5 office will be in touch with yours and see what we
6 can do. Great, I thank you, Assemblyman.

7 ASSEMBLYMAN KAVANAGH: Thank you.

8 CHAIRPERSON VACCA: Thank you,
9 Assemblyman. I do want to mention we have been
10 joined by Council Member Greenfield and Council
11 Member Ulrich.

12 COUNCIL MEMBER KOPPELL: And me.

13 CHAIRPERSON VACCA: Oh, I'm sorry,
14 Council Member Koppell just joined us. I said
15 hello to him when he walked in. Okay, Nancy
16 Gruskin, Stuart Gruskin Foundation.

17 MS. GRUSKIN: Hi, my name is Nancy
18 Gruskin, I am the founder and President of the
19 Stuart C. Gruskin Family Foundation. For those of
20 you here that are not aware of my story, my
21 husband Stuart was struck and killed a little over
22 three years ago by a delivery biker speeding in
23 the wrong direction as he crossed a mid-town
24 street on his lunch hour. Soon after I created
25 this foundation to understand what was happening

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2 on our city streets with regard to bicycle-
3 pedestrian incidents. In two short years we've
4 accomplished a lot, we passed a law regarding
5 collection and reporting of statistics, and last
6 year we released a hospital study stating that
7 over 550 people are in a hospital room due to an
8 incident with a cyclist. But our proudest
9 accomplishment was the creation of our 5 to Ride
10 citywide bike safety campaign that is the impetus
11 for the bike education bill we are speaking about
12 today. Because there is no law two years ago
13 mandating that businesses provide their employees
14 with education, our 5 to Ride grassroots campaign
15 two and a half years ago went into individual
16 businesses asking owners to voluntarily take a
17 pledge to educate their delivery riders on the
18 rules of the road. I met personally with Lenny
19 Chu from Lenny's and had a wonderful conversation
20 with him, and I am the first one here to make a
21 testament that the entire city should follow his
22 efforts. So we've come a long way in the past two
23 years with the introduction of this bill, Stuart's
24 law, that is now requiring businesses to provide
25 their employees with cycling education. I support

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2 this bill and thank Chairman Vacca and the City
3 Council from the bottom of my heart for naming the
4 law in my husband's memory. Nothing we do now
5 will ever bring Stuart back, but he can be proud
6 that an education law named in his memory might
7 help someone else to not suffer the same fate. We
8 support this bill because it has always been our
9 feeling and belief that if a bicycle is treated as
10 a motor vehicle under vehicular laws and those
11 bicycles follow the same traffic laws ... sorry, the
12 same traffic laws as cars, then it stands to
13 reason that bicycle riders should have education
14 about how to operate their vehicles safely on city
15 streets, the same way drivers of cars do. It is
16 also our belief that ... I'm sorry, Chairman Vacca,
17 that many delivery riders might not be aware of
18 the correct rules of the road due to language and
19 other barriers, and it follows logically that a
20 business employing those drivers be responsible
21 for educating the people they are hiring. A bill
22 of this scope is imperative. In addition,
23 restaurants are doing commerce on our city
24 streets, so they have not only the responsibility
25 for the safety of food quality within their

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2 establishments, but for the safe delivery of that
3 food on our city streets. Their responsibility
4 should not stop within their four walls when they
5 are making a profit delivering their food all over
6 the city. Shouldn't they be held responsible to
7 keep our roads safer and not put the public in
8 danger when they are reaping the financial
9 rewards? I absolutely do support the vicarious
10 liability that Assemblyman Kavanagh was talking
11 about. I would like to just take a little bit of
12 a departure from the written remarks to say a very
13 passionate plea that I honestly believe that a
14 mandatory education bill is very important because
15 really no change will be made without that. What
16 Council Member Koo suggested, maybe having a
17 course on the internet, because maybe the cost
18 would be a little bit too much to bear, I think we
19 can work ways around this, but the idea of the
20 riders of the bicycles be tested, the same way
21 that we take a driver's test, so we make sure that
22 they absolutely know what they're doing, and in
23 tandem with the enforcement that we talked about,
24 I think that we'd have a real fighting chance of
25 making a real change, and that's absolutely what I

1
2 want to do. So I would like to extend a heartfelt
3 thank you to Chairman Vacca for all of his
4 wonderful work championing these issues and to the
5 entire Council, thank you very much.

6 CHAIRPERSON VACCA: I must say that
7 Nancy Gruskin's continued work on this issue is ...
8 it speaks volumes of her, and it speaks volumes to
9 what we need to do. And I thank her personally
10 because her persistence and her always cooperative
11 suggestions really have gone a long way. So we
12 thank you so much, as always. Our next panel--

13 COUNCIL MEMBER KOPPELL:

14 (Interposing) Mr. Chairman, before you go there.

15 CHAIRPERSON VACCA: Council Member
16 Koppell.

17 COUNCIL MEMBER KOPPELL: I just
18 would like to, my name is on the other bills, but
19 not this one, so I would like to add my name as a
20 sponsor.

21 CHAIRPERSON VACCA: We'll do that,
22 that will be done, Council Member. I would like
23 to call up Juan Martinez, Transportation
24 Alternatives, Rahul Saksena, ROC New York, Robert
25 Bookman and Andrew Rigie of the New York City

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2 Hospitality Alliance. We'll start with Mr.
3 Bookman, okay?

4 MR. BOOKMAN: Are we good? Yes?
5 Okay, good morning, my name is Robert Bookman,
6 with me is Andrew Rigie, respectively we are
7 Counsel and Executive Director for the new New
8 York City Hospitality Alliance, which is a broad-
9 based membership association founded in 2012 to
10 foster the growth and vitality of the industry
11 that has made New York City the hospitality
12 capital of the world. It is also the first
13 association ever formed in New York City
14 representing all facets of this diverse industry,
15 restaurants, bars, lounges, destination hotels and
16 major industry suppliers. The New York City
17 Hospitality Alliance thanks Chairman Vacca and his
18 staff for working so closely with us in drafting
19 this important legislation, the hospitality
20 industry supports commercial bike safety, while at
21 the same time allowing us to satisfy the needs of
22 thousands of New Yorkers who every day have their
23 food delivered hot and fast. These bills
24 accomplish both goals. We ... and we believe they
25 accomplish them in a thoughtful and balanced way.

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2 As business owners we accept our responsibility to
3 provide our employees with appropriate safety
4 equipment, after all, our employees are our most
5 valuable asset, and to have them attend and pass,
6 if offered, and we are now learning today, a
7 training course on the rules of the road. We
8 would even happily teach such a class if DOT would
9 create a curriculum and work out the mechanics of
10 it. Of course, the customers and the people on
11 the street are our second most valuable asset.
12 The bicycle riders also have responsibilities
13 however, and these bills correctly address that as
14 well. But as it was raised in some of the
15 questioning today, I think DOT needs to do more to
16 enforce the rules of the road against the riders
17 as well. Clearly as business owners we have a
18 responsibility to make sure our employees are
19 well-trained, licensed, if there's a license, you
20 know, that results from all of this, provide them
21 with safe equipment, and to encourage them,
22 without a wink and a nod, to comply with the law.
23 Once they leave, you know, the business, however,
24 there is some individual responsibility, and this
25 notion of vicarious liability, which is not

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2 contained in these bills, and we thank you for
3 that, that Assemblyman Kavanagh argued for, based
4 on some gross speculation on his part that
5 business owners would encourage employees to break
6 the law, I don't think that's certainly the norm.
7 And we would certainly have serious problem with
8 that. We can't shadow every person who works for
9 us. We do believe that if the laws are enforced,
10 both against the business owner for what our
11 responsibilities, and then the riders for what
12 their responsibilities are, which is complying
13 with the rules of the road, over a series of ...
14 over a period of time and serious balanced
15 enforcement, you will see vast improvement and
16 vast compliance with the laws. You know, a taxi
17 fleet owner is not issued a summons if a taxi
18 driver goes through a red light, simply because
19 he's driving a car and works for that fleet owner
20 and they're sharing profits. That should not be
21 the case here either, these bills don't provide
22 that, and we think, you know, that's very good.
23 One point where we do have some concerns, and we
24 hope you still look to amend it, is the concept of
25 the \$100 civil fine for each count on a first

1 violation. As you know, Speaker Quinn has been
2 leading the effort for regulatory reform for two
3 years now, and one of the eight points on
4 regulatory reform was that the Council and the
5 administration need to work together
6 prospectively, which this now is, to have more
7 warnings on more regulatory issues on a first-time
8 violation. And then giving time to comply, and
9 then coming ... and those who don't comply a fine.
10 This bill would be a good opportunity to do that,
11 and it does not, and we think that's unfortunate.
12 At a minimum we should hold off on fining
13 individuals until at least DOT has done their
14 little basic outreach to each area, for them to
15 say that it's going to take us two years to
16 outreach throughout the entire city, but we're
17 going to start issuing summonses in six months
18 when we haven't reached, you know, three quarters
19 of the, you know, of the businesses yet, you know,
20 seems counterproductive to the whole regulatory
21 reform process that I know all of you, and Council
22 Member Brewer and Koppell, were supportive of. So
23 I think you need to work with them a little bit
24 more on that issue of first time warning, second
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2 time fine. Beyond that, you know, we think this
3 is an excellent step in the right direction, the
4 Hospitality Alliance, New York City Hospitality
5 Alliance, is happy to continue to work with the
6 Council, you know, on improving safety on these
7 issues, and I think the entire issue of bike
8 safety is something that will only be growing as
9 the city encourages tens of thousands of non-
10 commercial bikers to join the streets. So I think
11 we're going to have to look at who's really
12 responsible out there for enforcing the rules of
13 the road, whether it's a commercial biker or a
14 recreational biker. Thanks. Do you have anything
15 to add, Andrew?

16 MR. RIGIE: There we go. Good
17 morning, thank you, Mr. Chairman, Council members,
18 I'm Andrew Rigie, the Executive Director of the
19 New York City Hospitality Alliance. I just wanted
20 to support and echo Mr. Bookman's comments. You
21 know, restaurant delivery is really quintessential
22 to New York City, it's great for small businesses,
23 it's great for local neighborhoods, New Yorkers
24 love their, you know, food delivered to their
25 front door. So it's just great overall for the

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2 city. Obviously the fact that we are here today,
3 you know, is a point that this has to be addressed
4 because there are some different issues as it
5 pertains to restaurant delivery, as well as just
6 the everyday pedestrian crossing the road. So
7 just generally we support outreach, education, you
8 know, with appropriate enforcement, and we look
9 forward, on behalf of the Hospitality Alliance, to
10 work with the Council, the Department of
11 Transportation, to insure that pedestrians are
12 safe and businesses can flourish with delivery and
13 continue to keep New York City a restaurant hub,
14 where you can have fine dining or delivery to your
15 front door. So thank you again.

16 MR. MARTINEZ: Hello there. Oh
17 good. Hi there, Juan Martinez, Transportation
18 Alternatives, I can't agree more. Delivery in New
19 York City, food delivery, is like taxis, they're
20 prevalent, they're everywhere, they're part of New
21 York's identity, and it's also a huge industry,
22 it's a massive amount of restaurants' revenue is
23 through food delivery. And as prevalent as food
24 delivery is, are complaints about delivery
25 cyclists. We, Transportation Alternatives, are

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2 really appreciative for this package of bills,
3 they're attacking a very serious problem and
4 they're attacking it very well. From our
5 perspective, after having done years of outreach
6 to businesses that hire delivery cyclists,
7 conducting training with restaurant workers, years
8 of producing and distributing these rules of the
9 road posters that I just tried to hand out, and
10 biking rules pamphlets, which I forgot in my bag,
11 I'll get them out later, all in English, Spanish
12 and Mandarin, participating at community board
13 meetings, reviewing and studying crash data and
14 hearing from New Yorkers every day, it's a serious
15 problem and this is a terrific first step. Where
16 I would like to respectfully disagree with my co-
17 panelists though, is on the root cause of the
18 problem, and the root cause of the problem is the
19 way the industry is set up and designed. Delivery
20 restaurants make their money on volume, they make
21 their money by making as many deliveries as they
22 can in as short an amount of time as they can.
23 And as such, they encourage their delivery
24 cyclists to bend the rules, break the rules, and
25 it may not be an outright encouragement, but that

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2 encouragement is there, that pressure is there,
3 and that pressure is there from the employer, the
4 pressure is there from the customer, the pressure
5 is there. The fact is though, there's a very
6 direct, elegant solution to that pressure, and it
7 has to do with making the person who is best
8 positioned for managing that employee's conduct,
9 the employer, responsible for the way that
10 employee works. To make an analogy, if a waiter
11 in a restaurant doesn't wash his hands before
12 serving food, the employer gets the ticket, not
13 the waiter, because we expect the employer to
14 manage the waiter's conduct. The responsibility
15 for that restaurant employee doesn't end at the
16 front door. Whether they're serving the food at
17 your table or at your doorstep, the employer is in
18 the best position to make sure that that employee
19 is following the rules. And if the employer is as
20 invested as the employee, they will do that, they
21 will make sure in daily briefings to make sure
22 that their employees follow the rules, because
23 they don't want the ticket. And now the ticket
24 doesn't have to be the \$300 or the \$200 ticket
25 that happens to a delivery cyclist when they run a

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2 red light, but there has to be some connection
3 directly to the employer, because again, we can't
4 have enough enforcement, and that's a point I
5 forgot to make, let me just briefly make it. The
6 best thing, one of the most exciting things about
7 today's package of bills, is that DOT is going to
8 provide that reliable, predictable enforcement
9 that actually changes behavior. In order to get
10 people to change what they do, they have to know
11 that they're going to get caught. An employee
12 knows that their boss is going to tell them what
13 to do on a daily basis. That's why we should
14 align the interests of employers, employees and
15 the public by making employers responsible for the
16 employees' traffic violations. One last little
17 anecdote, which I want to bring up, there's a
18 resident of Sunset Park who did a survey of the
19 businesses that do delivery on this particular
20 stretch of Sunset Park. 29 of the 38 businesses
21 that do delivery employed delivery cyclists. He
22 took that information to the local BID and the BID
23 supported bike lanes, because all those employers,
24 when they got together, realized that their
25 employees' safety was part of their responsibility

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2 as well. And it's that point that I think is
3 really important for us all to take away from
4 this, and I'm excited to continue the discussion.
5 Thank you very much.

6 MR. SAKSENA: Hi, everybody. Thank
7 you to the Committee for holding this hearing and
8 happy birthday, Council Member Brewer. My name is
9 Rahul Saksena and I'm policy organizer with the
10 Restaurant Opportunities Center of New York, ROC
11 New York organizes restaurant workers citywide for
12 improved working conditions in the restaurant
13 industry. We're a membership-led organization of
14 restaurant workers with approximately 5,000
15 members who reflect the diversity of the New York
16 City restaurants. A number of our members are
17 delivery cyclists, and we appreciate the City
18 Council's interest in addressing safety concerns
19 that arise out of this dangerous profession. The
20 proposed bills are a very good start, but we
21 believe that to get to the root of the problem,
22 the way to insure safety is through vicarious
23 liability, similar to what Assemblyman Kavanagh
24 had proposed. Here's why. Delivery cyclists have
25 it rough, they face pressure from customers, who

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2 demand that the food be delivered quickly, and who
3 often withhold tips for even the smallest delay.
4 They face pressure from their employers, whose
5 profits increase with faster, more frequent
6 deliveries. Accordingly, employers often tell
7 their employees to rush the deliveries in order to
8 get to the customers and back as quickly as
9 possible. And they face pressure from the
10 streets. Both the employer and the customer
11 expect them to be quick, and as a result they
12 don't have the luxury to choose the calmer and
13 safer routes, or the roads with less bike lanes.
14 Instead, delivery cyclists have to choose the most
15 direct and often less-safe route in order to get
16 the food hot and fresh to the customer. The
17 delivery cyclists themselves have little power to
18 object to the pressures they face. Nearly all are
19 paid poverty wages and experience wage theft.
20 Many are undocumented and live in fear of having
21 their immigration status exposed. This means they
22 are afraid to speak up, even in the face of
23 rampant exploitation and dangerous working
24 conditions. Just a few days ago I spoke to a ROC
25 New York member who has worked since December

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2 delivering sandwiches for a sandwich shop near
3 Union Square. He told me that he was paid five
4 dollars per hour in cash and that tips varied day-
5 to-day and hour-by-hour, so his income was
6 unpredictable. He could not tell me if he
7 consistently received at least \$2.25 per hour in
8 tips to bring him, as required by law, to the
9 minimum wage. And he said that no one ever asked
10 him to make sure he was making at least \$7.25 an
11 hour. He also revealed to me that he worked 60
12 hours per week, but was never paid overtime for
13 the extra hours. Further, his boss did not
14 provide him with a helmet or any safety training,
15 despite expecting quick deliveries. He was once
16 stopped by a police officer and given a ticket for
17 not wearing a helmet. Fortunately for him the
18 ticket was dismissed, otherwise he would have had
19 to pay the ticket out-of-pocket. There was never
20 any penalty against the employer for failing to
21 provide him with the helmet, and even after being
22 ticketed, the employer still did not give him one.
23 This particular ROC New York story reminded me
24 that delivery cyclists don't want to violate
25 traffic laws, just like they don't want to have

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2 their wages stolen from them by their employers.
3 The reality is though that the pressures working
4 against them are too great, and their individual
5 power is often too small. They need to be
6 supported by sensible laws, laws that will
7 mitigate those pressures against them. The best
8 way to do this is to change the laws so that
9 employers are responsible for paying the cost of
10 traffic violations their employees earn on the
11 job. This will insure that employers provide
12 their workers with helmets, and it will insure
13 that employers encourage their employees to
14 prioritize safety over speed. Thank you.

15 COUNCIL MEMBER BREWER: Thank you,
16 I have a couple of questions. One is for either
17 Rob or Andrew and Hospitality Alliance. We hear
18 Lenny's discussed quite a bit, it's quite an
19 impressive business model, and so I'm wondering,
20 do you think that's something that could be
21 replicated, not cost a lot? I'm just wondering if
22 you think that is a good business model, and if
23 you think it's something that we should be
24 suggesting, etc.? And not everybody is as large
25 as Lenny's, so obviously you have to be a certain

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2 size in order to do that, but we were so impressed
3 with the quality.

4 MR. BOOKMAN: Are we back on?

5 Okay. As you said, Lenny's is a large operation
6 whose employees, by the way, I don't think have
7 their wages stolen or believe they're being
8 exploited simply because they have a low-wage job,
9 but it's an honorable job. I think that while our
10 Hospitality Alliance tends to represent more
11 people and more businesses like Lenny's, you know,
12 than some that my co-panelists may have been
13 speaking of, I think these laws just go a long way
14 towards basically requiring a certain minimum
15 level of compliance and, you know, while every
16 business may not wind up being as well supervised
17 with their deliveries as Lenny's, at least they
18 will all now have to provide this equipment. They
19 will have to provide the training, if that comes
20 about. And they will get summonses if, you know,
21 their bikes don't have all that equipment. So I
22 think you bring, you know, you raise all boats a
23 little bit, and while you're not bringing
24 everybody to Lenny's, you're going to bring
25 everybody, you know, a lot closer. I just,

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2 parenthetically though, I just can't understand
3 the logic of why employers should get a summons
4 for an employee who is provided with a helmet, who
5 chooses not to wear it, and why ... how that's going
6 to, you know, cause greater compliance by
7 summoning the employer. There is a certain
8 amount of individual responsibility that all
9 employees have, and the analogy of the waiter who
10 is not washing his hands, that doesn't work,
11 because in my place I can see it, I have an
12 obligation to observe what he does inside the
13 place. With somebody who is delivering, all I can
14 do is insure that they're properly trained,
15 properly equipped, have all the safety equipment,
16 that the bike works well, that I've done
17 everything I'm required to do, that they have the
18 ID, and then, you know, after that I can't insure
19 that they are doing what they're supposed to do,
20 any more than I get in a taxi, than we can insure
21 with a taxi driver. So I think this helps.

22 COUNCIL MEMBER BREWER: Well,
23 that's helpful.

24 MR. BOOKMAN: And there's no
25 question, it's very ... I think it's a very helpful

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set of bills.

COUNCIL MEMBER BREWER: Okay. For Rahul I have a question, which is that as somebody who has a lot of individuals delivering in the neighborhood, and I'm very supportive of how hard they work, do you think that these bills will go a ways toward helping them follow the laws? I understand there are language issues, the pressure is phenomenal, are there other things that we should be doing to try to address the issues that both support the business and also support the worker? Because it is a hard balance.

MR. SAKSENA: Right, no, I completely agree that it is a hard balance, and I think that these bills will go quite a ways towards helping out. I mean, I'm very ... I was particularly impressed by the work that DOT is doing in terms of education and outreach and prevention, and focusing on the employer's responsibility I think is really important, so I, you know, we support the concept, the ideas of these bills, but we also support vicarious liability.

COUNCIL MEMBER BREWER: Okay, all

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right. Thank you, Mr. Chair.

CHAIRPERSON VACCA: Council Member Koppell.

COUNCIL MEMBER KOPPELL: Yes, Mr. Bookman, you're not suggesting that the laws or doctrine of respondeat superior doesn't apply to bicycle employees, are you?

MR. BOOKMAN: You're a much better lawyer than I am, and you know, I haven't done a lot of this stuff since law school. But as I recall, there was some exemption under that when an employee, you know, violated laws that ... even though, you know, even though it was during the time of employment. So I am suggesting that an employee who goes through a red light should not ... that the employer should not be held responsible for that, yes. I don't think respondeat superior, but if you were the attorney general, I don't think respondeat superior covers that.

COUNCIL MEMBER KOPPELL: Well, I do. So let me say that with respect to civil liability, there's no question in my mind that if an injury is caused by an employee within the scope of employment in making a delivery for a

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2 restaurant, it's clearly within the scope of
3 employment that that individual be responsible.
4 Now, with respect to responsibility for fines or
5 penalties, it is a somewhat different issue.

6 MR. BOOKMAN: Right.

7 COUNCIL MEMBER KOPPELL: However, I
8 would remind you that if somebody is making a
9 delivery in a car, and a car gets a parking
10 ticket, the registered owner of the car is
11 responsible for paying the parking ticket. I
12 don't know whether they can make a requirement
13 with their employees, and this I don't know,
14 whether they could have some agreement with the
15 employee that the employee would be responsible,
16 but certainly the car owner is responsible to the
17 city, and I see no reason why similar
18 responsibility shouldn't apply here. It may not,
19 I'm talking about for penalties, both civil and
20 criminal. But with respect to respondeat
21 superior, I have no doubt in my mind, and in fact,
22 as you may know, I am also a lawyer in private
23 practice, and if respondeat superior didn't apply
24 I wouldn't have gotten a settlement for my client
25 who was hit by a delivery bicycle from a pizza

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shop.

MR. BOOKMAN: Yeah, but that's first ... you are talking about personal injury.

COUNCIL MEMBER KOPPELL: Yes.

MR. BOOKMAN: Rather than civil--

COUNCIL MEMBER KOPPELL:

(Interposing) But respondeat superior does still apply if they're working within the scope of employment. If they're taking the bike on a joy ride, maybe not. But if they're making a delivery, certainly they would be responsible, and I see no reason, honestly, given the ticket analogy, why they shouldn't, but we won't debate that. All right, thank you.

MR. BOOKMAN: We can debate it later.

CHAIRPERSON VACCA: Mr. Bookman, one thing you were talking about is that you were in favor of a warning for a first offence.

MR. BOOKMAN: Yes.

CHAIRPERSON VACCA: You know, I respectfully disagree with you. I mean, if someone--

MR. BOOKMAN: (Interposing) I know

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you do. It was still my responsibility to put it on the record.

CHAIRPERSON VACCA: All right, all right, okay. Then we're fine. You know, I drive a car and I ... if I double-park, I don't get a warning, I get a ticket. So I don't know if giving out warnings is just a weakening of the law, and I certainly don't want to weaken anything in this respect, I want to strengthen what we're doing.

MR. BOOKMAN: And it is safety issues and we can reasonably debate if, you know, on a safety issue. But, you know, I said at a minimum, since DOT was stating ... was giving a long timeframe before they were reaching all the businesses in the City of New York with their basic information, that it seems a little ... but they're starting enforcement in six months citywide, that it seemed a little unfair that certain areas will have enforcement after they've had some DOT education, and other areas in the city are going to have enforcement prior to receiving the DOT education. So that at a minimum enforcement should wait until they've at least

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2 reached out to those businesses in that area with
3 their nice little packets and inform them, you
4 know, about what minimum training they do offer.

5 CHAIRPERSON VACCA: All right, I
6 see your point, but we'll disagree.

7 MR. BOOKMAN: All right.

8 CHAIRPERSON VACCA: Okay. The next
9 ... thank you so much, panel.

10 MR. BOOKMAN: Thank you.

11 CHAIRPERSON VACCA: Our next panel
12 is Jack Brown, Coalition Against Rogue Riding,
13 Susan Siskind, New York Alliance for Pedestrian
14 Safety, Christine ... Christine, I can't pronounce
15 your last name, Christine, but I know who you are.
16 Christine Berthet, CheckPeds, and Rich Conroy,
17 Bike New York. Why don't we start with Susan
18 first? Okay, this is our last panel. Ms.
19 Siskind, do you want to start? Okay, and then
20 Christine will go after.

21 MS. SISKIND: Good morning, and
22 thank you. Is it on? I'm Susan Siskind, the
23 Director of New York Alliance for Pedestrian
24 Safety. My organization believes the local laws
25 to amend the administrative code of the City of

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2 New York in relation to operators of bicycles used
3 for commercial purposes are inadequate. These
4 sets of laws exclude the thousands of commuter
5 bicycles, recreational bicycles, who ride
6 recklessly, run red lights, travel in the wrong
7 direction, and where there's a bike lane, prefer
8 to use the traffic and bus lanes. Our streets are
9 in chaos. There was a research study conducted by
10 Dr. Tuckel at Hunter that provided statistics that
11 showed pedestrian-bicycle accident incidents
12 occurred equally among commercial riders,
13 recreational and commuter bicyclists. We don't
14 fine commercial trucks, taxis or business cars any
15 different than a private car owner, and it's just
16 not right, that's why the thousands of bicyclists
17 must learn to be responsible, and the only way to
18 do this, assuming they're educated, is to fine
19 them with penalties. More and more accidents are
20 taking place between pedestrians and recreational
21 riders. On August 16th and 18th, three high-profile
22 accidents occurred on the Upper East Side which
23 appeared in the news and on TV. Richard
24 Bernstein, a blind tri-athlete and lawyer,
25 suffered broken pelvis and hip fractures, facial

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2 cuts and lost some teeth from being hit by a
3 cyclist, a recreational cyclist, not a commercial
4 cyclist, who was speeding on the Central Park
5 pedestrian path at 90th Street at 35 miles an hour.
6 Richard is still in Mt. Sinai Hospital. Mt. Sinai
7 Hospital has recorded victims in their ER from
8 Central Park every day, according to police in
9 Central Park. Richard thinks New York is the wild
10 west, and I'll have to agree. We know it's bedlam
11 and without an education and enforcement. Also,
12 on Central Park on the 90th Street pedestrian path
13 on August 16th, Dr. Gerald Ginsberg, whom I know
14 personally, was also hit in the back and suffered
15 head trauma. Dr. Ginsberg was named one of New
16 York's best doctors in the last ten years in
17 issues of New York Magazine, he has been named the
18 top doctor in the New York Times Magazine. He
19 spent two days at New York Hospital. He was not
20 hit by a commercial bicyclist. On August 16th,
21 Lingbo Shen, a 52-year-old woman, was walking
22 towards her Queens home on the pedestrian lane of
23 the Queensboro Bridge. Shen is a research analyst
24 at Memorial Sloan Kettering Cancer Center. The
25 cyclist crashed into her at about 8:30 p.m. and

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2 she awoke at midnight and is being treated for
3 cracked skull, broken collarbone and three
4 fractured ribs. A hematoma caused her to bleed
5 from the ears. She was not hit by a commercial
6 cyclist. These are just three high-profile cases
7 that were reported in a two-day span, there are
8 many more that go unreported, or are treated by
9 private physicians or clinics. It's time for the
10 city to provide tests for licenses, require
11 insurance and pass effective laws to protect the
12 millions of pedestrians who walk our streets and
13 allow our police to do their job. Now is the time
14 to bring order to our streets before 10,000 older
15 uninsured bike sharers hit the city who we know
16 are in deep financial debt and due to arrive in
17 2013. Thank you.

18 CHAIRPERSON VACCA: Thank you.

19 Christine, introduce yourself.

20 MS. BERTHET: Yes, Christine
21 Berthet, founder of CheckPeds, the Clinton Hell's
22 Kitchen Coalition for Pedestrian Safety. We have
23 about 1,500 businesses, individuals and
24 institutions dedicated to pedestrian safety. in
25 Hell's Kitchen some restaurants have more than ten

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2 delivery bicyclists, and their behavior is one of
3 the top pedestrian complaints. Co-current with
4 the installation of the bike lane, we have gone
5 around to about 30 restaurants and delivered an
6 education program to each of them, which I have
7 given you a copy of. And we think ... and we have
8 done that with the NYPD with us. I have some
9 comments, I'm totally in favor of the proposals
10 here, I have some comments on each of them,
11 hopefully constructive comments. First of all, we
12 applaud the initiative of the training, we believe
13 it should be two different trainings, one for the
14 owners and one for the workers. It's a very
15 different approach, and on one there is a
16 responsibility and the other one is learning how
17 to ride the road. And in our work I kind of
18 disagree with you, we have learned that a lot of
19 those delivery people are coming from other
20 countries. This is their first job, and they are
21 absolutely not fluent with what is being done in
22 this country. They believe that being on the
23 sidewalk and going the wrong way is normal. Even
24 the owners believe that, which is amazing. So
25 there is a huge vacuum of education. We also

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2 believe that the owners should give the education
3 to the employees. They are the ones who speak the
4 same language, they are the ones who match them,
5 and I think in Lenny's case that's exactly what
6 they are doing. So that would be a good channel,
7 and as far as the responsibility, bus companies
8 are getting the safety record based on the
9 performance and the tickets that their drivers get
10 on the highways. And I think a similar model
11 could be used of giving the safety rating on those
12 restaurants to say, based on the number of
13 infractions that are being recorded by the
14 tickets. They already have the ABCD, and they
15 could have another one, which is ABCD for the
16 safety of their deliveries, and people would not
17 order from them. So that's the first piece. The
18 second piece is I'm very concerned about the
19 motor-assisted devices which is the electric
20 bicycle. I am concerned ... we are concerned
21 because it's a major issue, and as you said, they
22 are faster and heavier than other bicycles, and
23 when they are in conflict with pedestrians, it's a
24 higher risk of accidents and, you know, injuries.
25 The fact that we are defining in the rule, in the

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2 law, bicycle to include that makes me very nervous
3 that it would get us on the path of making those
4 bicycles legal, whether they are legal or not, we
5 don't know. So I think we need the language to be
6 very, very careful, not to get the impression that
7 those bicycles are legal. By the way, the NYPD
8 today says that they cannot enforce the rule on
9 electric bicycles because they can't capture them
10 for one day, say it's illegal, but they have to
11 return them. They cannot seize them permanently.
12 So as Council Member Lappin said, clarity on that
13 and making that very, very clear that it's illegal
14 and what the NYPD can do when they capture that,
15 and what tickets should people get, would be a
16 huge help in this score. And finally, a very
17 small point on improving the administrative
18 burden, today there is a requirement to have a
19 plate on the back of the bicycle and a number on
20 the back of the vest. So first of all, the two
21 numbers should be consistent, right, the number of
22 the bicycle and the number of the plaque or
23 whatever, the vest, should be the same. But
24 because people change so much, and they cannot
25 reuse the same number, that would force the owner

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2 to change the plaques all the time. I think the
3 plaque is unnecessary, the vest is very bright,
4 very wide, you can see it much better, and it's
5 not necessary to have both essentially. And
6 finally, the addition of new personnel to enforce
7 the laws is welcome, I would submit to you, you
8 have health inspectors going to all those
9 restaurants all the time, they check a zillion of
10 safety issues, and asking five more questions
11 about, you know, do you have helmets, do you have
12 this, do you have that, would be a very simple
13 thing to add to their requirement, and it could
14 even become part of the safety rating of the
15 restaurant, the letter A-B-C-D, and that would
16 make a huge improvement, because that would be a
17 big burden. So these are my suggestions, as
18 usual, thank you so much for all your work for us.

19 CHAIRPERSON VACCA: Jack.

20 MR. BROWN: I'm going to read a
21 prepared statement and then offer a couple of
22 suggestions regarding the proposed intros.
23 Members of the City Council and the public, my
24 name is Jack Brown, former bike shop owner,
25 cyclist, and spokesman for the Coalition Against

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2 Rogue Riding. Nearly three years ago there was a
3 similar hearing in the chambers of City Hall,
4 intros addressing the epidemic of scofflaw cycling
5 that had acutely increased stress in a dangerous
6 environment on the streets and sidewalks of the
7 city were presented. Those intros had been held
8 up, sat on, until then-Transportation Committee
9 Chair John Liu and then-eligible bachelorette,
10 Speaker Christine Quinn, had realized their
11 temporary political ambitions. They went nowhere.
12 In the view of many, what this city endured was
13 three additional years of bike bedlam, of what
14 former Labor Secretary Robert Wright calls
15 radicalism at all costs, three years of
16 indifference to public safety by this
17 administration. In my view, this constitutes a
18 radical distortion of the value of cycling in this
19 city, an unbalanced and irresponsible application
20 of the tools of responsible bike cultures
21 established diligently over time in cities with
22 different density and logistics. These intros are
23 necessary but not sufficient, and even more so now
24 when the problem is more acute, the laws will
25 require effective enforcement. As it was three

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2 years ago, these intros do not address the
3 prevalence of rogue riding by recreational and
4 commuter cyclists. A rigorous 2009 study by
5 Professor Peter Tuckel of Hunter College showed
6 that commercial cyclists are more likely to break
7 the law, but not by much. This study was ignored
8 by DOT's commissioner. It is reasonable that fees
9 and licensing for use of the road should apply
10 evenhandedly, there are no special class
11 exceptions warranted or deserved. Recently NYT
12 writer -- New York Times, sorry -- writer David
13 Goodman observed, "The transportation alternatives
14 had basically taken over DOT. The commissioner
15 openly acknowledges that she takes her direction
16 from TA. TA functions as a well-funded lobbyist
17 organization while dictating public policy."
18 Intro 783 states that any employee cyclist must
19 complete a bicycle safety course within 90 days of
20 commencing work after the bill becomes law. Why
21 not prior to starting work? Is this not putting
22 the cart before the horse? Is this not more of
23 the same from TA and DOT who are virtually one and
24 the same? They ignored a 2001 study by the Rudin
25 Center of NYU that concluded the only effective

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2 approach to establishing a responsible bike
3 culture was a cooperative one. Operating from a
4 presumption of moral and logistical superiority,
5 these organizations have lost control of that
6 which they never seemed to want to control in the
7 first place. What about an accident victim's
8 ability to recover damages from a law-breaking
9 rider? That would be vicarious liability or some
10 variation. Commercial or otherwise, these intros
11 are necessary but not sufficient. I leave you
12 with a question: does this city feel safer and
13 saner to you since the appointment of Janette
14 Sadik-Khan as the commissioner of the Department
15 of Transportation in 2007? Now, I would like to
16 address some concerns that Chairman Vacca has as
17 expressed in particular to the clarity of
18 legislation or the enforcement concerning the
19 electric vehicles. I know that the NYPD has
20 problems issuing tickets because they have dual
21 capacity, that would be motor-powered and foot-
22 power, and apparently the lawyers point out that
23 since it is able to be powered by foot, that it
24 doesn't constitute a motorized vehicle. I would
25 submit that ... and having worked in this field with

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2 a degree of futility that I really don't care to
3 dwell on a number of years ago, I think that a
4 small group, a working group, of elected public
5 officials I would suggest for instance that
6 Assemblyman Kavanagh, who's been on this issue
7 diligently for years, Senator Krueger, who was a
8 rookie up in Albany, began introducing
9 legislation, and also Council Member Garodnick,
10 they share offices in the same building a couple
11 of floors apart. What I had suggested to
12 Assemblyman Kavanagh out in the hall was, get a
13 law student as an intern and have them try to find
14 out from the NYPD what laws are difficult to
15 enforce, for instance, the ability to issue a
16 violation that sticks on a cyclist who is talking
17 on his cell phone while riding a bike came back
18 void by the Division of Motor Vehicles because the
19 word bicycle was not included in that VTL statute,
20 under the umbrella of motor vehicle. Now, I was
21 on the phone for an hour with a legislative lawyer
22 up on Albany and nothing ever got done. I submit
23 that if you really want to achieve some clarity
24 and some tangible results, put together ... I
25 suggest those three elected public officials, I've

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2 worked with them. Give them, or anybody else that
3 you care to include on a group like that, people
4 that have a track record and concern, and get an
5 intern or two, capable law students who have an
6 interest in resolving this issue, give the NYPD
7 with its limited resources the ability to enforce
8 the laws that they can with a greater degree of
9 efficiency. Enforcement, responsible enforcement,
10 is a backbone of a responsible bike culture. I
11 would also submit that it seems that whenever this
12 Mayor chooses to spend money or focus on
13 something, there are funds found. I have
14 suggested, at the request of Chief Banks, who's
15 the head of community affairs for the NYPD, that
16 in addition to these current efforts, that you can
17 use the traffic police, and you can use the Health
18 Department. Furthermore, it would seem, based on
19 previous hearings, that this accident
20 investigations unit at this point in time it would
21 be entirely appropriate to establish a reasonable-
22 sized working group unit of the NYPD dedicated to
23 enforcement of the traffic laws, and to have that
24 group, or that unit, work with the individual
25 precincts, circulate them around the city, hitting

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2 the hot spots, which CompStat Program will readily
3 show. This is practical, this is doable. I mean,
4 think of how much money gets squandered one way or
5 another. Let's fund a specific dedicated unit.
6 Let's have an impact, they've dissolved the impact
7 zones around Times Square, this is a moving impact
8 zone, this is a real problem. People are hit,
9 people are hurt, people are scared, people are
10 killed. It seems to me entirely appropriate and
11 timely to do this, tangible, discreet and doable.
12 And with that I will give up the microphone.

13 CHAIRPERSON VACCA: Thank you. Our
14 last speaker.

15 MR. CONROY: Thank you, Council
16 Member Vacca, for inviting Bike New York to
17 participate in this public hearing. My name is
18 Richard Conroy, I'm the Director of Education at
19 Bike New York. For those of you who don't know
20 Bike New York very well, our mission is to promote
21 cycling and bike safety through events, our
22 education program, and partnerships with public
23 and private agencies. We believe that New York
24 City needs more cycling and that commercial
25 bicycle delivery is good for New York. Imagine if

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2 all those deliveries were being made by motor
3 vehicles. But we also believe that New York needs
4 more safe, legal, courteous cycling, not the other
5 kind. Since its inception in 2005, the message of
6 Bike New York's education program to its students,
7 who are almost always cyclists, is very clear.

8 Cyclists can make a big difference on behalf of
9 their own safety and others' safety, and can make
10 a big difference on behalf of positive public
11 perceptions of bicycling by obeying city and state
12 traffic laws. We teach our students what the
13 traffic laws are and how to use the laws and the
14 streets to interact safely and courteously with
15 everybody else. We don't see how it can be taught
16 any other way. Providing more education to
17 working cyclists is only one part of a solution to
18 a complex problem. We do like the idea of
19 providing a class or education to the cyclists who
20 are making commercial deliveries. I was very
21 interested in the discussion earlier about whether
22 or not these cyclists really know the laws. I
23 would say a lot of people in New York City streets
24 take their tips on what you're supposed to do by
25 watching what other people do. I have had

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2 pedestrians, when I stop at a red light, I have
3 had pedestrians tell me, "Hey mister, you don't
4 need to stop at that red light", like yes I do,
5 it's a state traffic law. And that's coming from
6 the pedestrians, who have a different
7 understanding. So I think we ought to take the
8 assumption that folks coming from other countries
9 who are newly-arrived, and those countries may not
10 have any laws regarding cycling, or they may have
11 different laws than ours, that we need to
12 establish a baseline for working cyclists. We do
13 like the best idea of the visibility, we think
14 that there is ... it improves the visibility of
15 cyclists and makes them safer to other road users,
16 pedestrians and motorists alike, as well as other
17 cyclists. And we like the enforcement function of
18 those vests, in other words, having the
19 restaurant's name on the back. We like this idea
20 that somebody who feels like a cyclist has behaved
21 dangerously can call 311, that there's an
22 enforcement possibility there. I also think that
23 we need to think very creatively about how
24 enforcement can work with commercial cycling or
25 any kind of cycling in New York City, and what is

1
2 the relationship between education and
3 enforcement. Somebody, I believe Christine, just
4 said, you know, each restaurant in New York City
5 is being reached by a health inspector. Those
6 health inspectors should have a bike checklist of
7 five or six things they should look at in the
8 restaurant and on the delivery bikes, and on the
9 delivery cyclists. Do those cyclists have vests,
10 are the bikes equipped with a sign identifying the
11 restaurant, do the vests identify the restaurant,
12 do the bikes have lights, are there traffic safety
13 rules posted in the restaurant? We approve of
14 DOT's outreach program, we think it's a great
15 idea, a great initiative, it's also under-
16 resourced. Six people to reach the thousands and
17 thousands of restaurants that are in New York City
18 is not enough. We also think that NYPD has a
19 valuable role to play here. I think traffic
20 enforcement police, the light-blue-shirted folks
21 who write parking tickets, they don't enforce
22 traffic, they enforce parking. Traffic is people
23 moving on the streets, and I'm wondering if
24 there's a role for those traffic enforcement
25 agents to have in terms of writing tickets to

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2 scofflaw cyclists. Finally, I just want to add
3 that Bike New York's education program stands
4 ready to assist the city and to assist other
5 organizations like the Hospitality Alliance, like
6 CheckPeds, in whatever capacity we can to improve
7 traffic safety for all street users. Our
8 specialty lies in the area of training people to
9 teach what the traffic laws are and how to stay
10 safe, or teach cyclists at least, and we provide
11 classes directly ourselves. We have a network of
12 dozens of instructors, and I am budgeting this
13 year to add bilingual instructors who can speak
14 Spanish and I hope who speak Chinese languages, so
15 that we can ramp up this kind of outreach. In
16 this year alone we've offered more than 250
17 classes, most of them in English, and we've
18 reached more than 10,000 children and adults in
19 2012 alone. So we do have some capacity to offer
20 classes and to partner with city agencies on
21 behalf of commercial cyclist education program.
22 Thank you.

23 CHAIRPERSON VACCA: Thank you. I
24 want to thank all of you who've added to the
25 conversation, and certainly many of the points you

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2 raised were points that we had spoken about when
3 we were talking to the Department of
4 Transportation, and many points are things that we
5 have to take under consideration as we further
6 talk about this legislation. So I thank you all
7 the time, I get your emails and I know you're out
8 there, so thank you so much, all of you. There
9 being no further speakers, this hearing is now
10 adjourned.
11

C E R T I F I C A T E

I, Richard A. Ziats, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature _____

Date _____September 9, 2012_____