

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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JANUARY 31, 2019
Start: 1:15 P.M.
Recess: 2:25 P.M.

HELD AT: Council Chambers - City Hall

B E F O R E: FERNANDO CABRERA
Chairperson

COUNCIL MEMBERS: Ben Kallos
Alan K. Maisel
Bill Perkins
Keith Powers
Ydanis A. Rodriguez
Kalman Yeger

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

Janette Williams, Families for Safe Streets

Madelyn Labadie, Senior Advisor for Strategic Initiatives, Taxi and Limousine Commission, TLC

Leandra Eustache, Managing Attorney, Prosecution Unit, Taxi and Limousine Commission, TLC

John Castelli, Deputy Commissioner of Legislative Affairs Office of Administrative Trials and Hearings, OATH

Amy Slifka, Deputy Commissioner, Office of Administrative Trials and Hearings, OATH

Peter Mazer, General Counsel, Metropolitan Taxicab Board of Trade

Mark O'Connor, Deputy Director, Transportation Alternatives

2 [sound check] [pause]

3 SERGEANT-AT-ARMS: Quiet please. There
4 are still people speaking also with the debt
5 violation, you will soon be. [gavel]

6 CHAIRPERSON CABRERA: Thank you. Good
7 morning and welcome to this hearing of the City
8 Council's Committee on Governmental Operation. I am
9 Fernando Cabrera the Chair of the Committee. Today,
10 the Committee will be considering two bills. The
11 first bill Proposed Introduction No. 1249-A sponsored
12 by myself would streamline two overlapping TLC
13 programs to make them more effective in entrance fair
14 as vital Vision Zero enforcement tools. The second
15 item is Introduction No. 991 sponsored by myself in
16 relations to required the Office of Administrative
17 Trials and Hearings to dismiss a Taxi and the
18 Limousine Commission related violation pertaining to
19 vehicle lines (sic) upon proof of timely correction.
20 First, let me acknowledge my colleagues—colleague who
21 is with us here today and as always in a timely
22 fashion, Council Member Yeger. It's good to see you
23 again. TLC maintains two enforcement programs that
24 result in points on a driver's licenses, which can
25 lead to license suspensions or revocation. In the

2 early 1990s, the TLC created the Persistent Violators
3 Program, the program and science points to licensed
4 drivers for various TLC rules violations. Drivers
5 who accumulate a number of points within a 15-month
6 period face either license suspension if they
7 accumulate 6 points or revocation if they accumulate
8 10 points. The second program is the Critical
9 Driver's Program. This program operates exactly as
10 the Persistent Violators, but takes into account the
11 points assigned by the State's Department of Motor
12 Vehicles for certain traffic violations. This
13 program is important because DMV points represent the
14 bulk of points issued. Up into 2014, these two
15 program were separate. Local Law 30 of 2014 changed
16 this to allow TLC to count both TLC issued points and
17 the—and the issued points for enforcement purposes
18 against drivers. This was an important change
19 because it avoided a loophole where for example a
20 driver could have more than 10 points total, but less
21 than 10 points in each program. Thus will—would not
22 have his or her license revoked. However, the way
23 this was done while certain well meaning, has created
24 confusion in the industry. Some drivers feel like
25 they are penalized twice for the same offense. Other

2 drivers feel like TLC is using the two programs as
3 ways to raise revenue instead of keeping bad driver's
4 off the road by offering settlements instead of
5 suspensions or revocation. Even the TLC Commissioner
6 Meera Joshi testified at a Council hearing that the
7 Critical Driver Program is very confusing that it
8 does not do what it's intended to do, that drivers
9 often feel like they are getting two tickets for the
10 same act. At the hearing the TLC Commissioner urged
11 the Council to take up this issue. So, we are here
12 today to do just that. We want to hear from the
13 Administration, drivers, the industry, and safety-
14 street safety advocates on how these programs have
15 worked in practice. While there is confusion, what
16 is it this committee and the Council can do to make
17 things better? Proposed Intro 1249-A is our first
18 attempt to address the issue in a concrete way. It
19 is intended to streamline the two programs in order
20 to make the system more transparent and thus-thus
21 more effective as a Vision Zero tool. This bill will
22 consolidate the Critical Driver Program under the
23 Persistent Violators Program while retaining all of
24 the essential Vision Zero elements of the Critical
25 Driver Program merely counting the DMV points to make

2 sure that nothing of substance is lost and to make
3 sure that TLC does not lose any enforcement tools.
4 Let me be clear that the intent of this legislation
5 is not to reduce safety or roll back the measures
6 that the city has successfully implemented under
7 Vision Zero. Far from it, instead intends to bring
8 clarity to this enforcement mechanism in a way that
9 makes all New Yorkers whether drivers, passengers or
10 pedestrians better off. If drivers don't understand
11 why they are being penalized, the penalty cannot be
12 an effective deterrent to dangerous driving.
13 Finally, the other bill being heard today,
14 Introduction No. 991 will require the Office of
15 Administrative Trials and Hearings, OATH to dismiss a
16 violation enforced by the TLC pertaining to a
17 driver's defective vehicle lights if the driver
18 proves that the problem was corrected in a timely
19 manner. This is a matter of ensuring that our
20 streets remain safe. Drivers are not off the hook
21 for fixing their tail lights or other vehicle lights.
22 Instead, this law would encourage them to make those
23 repairs immediately while ensuring that they are not
24 drowning under the weight of violations that are
25 easily fixable and can't keep them from making an

2 honest living. I thank the Administration for being
3 here with us today and for your attention to this
4 issue. I look forward to your testimony. I also
5 want to thank our Committee staff: Brad Reed,
6 Elizabeth Cronk, Emily Forgione, Zach Harris and
7 Elliott Linn as well as my own Legislative Director
8 Claire McLeveign for making this hearing possible,
9 and now I would invite forward, and I want to thank
10 the Administration for allowing this first speaker to
11 come first: Janette Williams from Families for Safe
12 Streets to come forward. [pause] You could begin as
13 soon as you're ready.

14 JANETTE WILLIAMS: [off mic] Thank you
15 Councilman. [background comments]

16 CHAIRPERSON CABRERA: If we could press
17 the—the button. Thank you so much.

18 JANETTE WILLIAMS: Thank you for this
19 opportunity to testify today. My name is Janette
20 Williams and I'm a member of Families for Safe
21 Streets. My son Troy Williams was killed by a hit
22 and run driver on March 1, 2018 on Sedgwick Avenue
23 near Undercliff in the Bronx. I received a telephone
24 call from the police around 2:00 a.m. stating that
25 Troy was dead. This is a day I will never forget.

2 The past 10 months has been so devastating. I feel
3 as if I'm in a never ending dream and can't wake up.
4 Troy's death made me understand how it feels to have
5 a broken heart. Truly, my heart is broken, and I
6 don't know how or when it will ever be mended. Troy
7 was the father of four young men and the grandfather
8 of a grandson and grand daughter who will never have
9 the opportunity to know him. He also left a younger
10 brother and a host of other family members and
11 friends. Troy was my first born son. He and I had a
12 wonderful relationship, which meant more to me than
13 anything in the world. Troy was a wonderful guy that
14 cared about others and often put them before himself.
15 He was a funny guy who loved to have fun, and his
16 smile would light up any room that he entered. My
17 son was a hard worker, and at the time of his death,
18 he was employed at Columbia University as a Fire
19 Safety Officer. Troy was a graduate of John Jay
20 College and continued to advance his career. Troy
21 also volunteered at-with boys at the Harlem Jets
22 Athletic League and hold some record community
23 meetings. At Troy's homecoming service I was able to
24 see how many lives he had touched in his short time
25 on this earth. Though his life came to a tragic

ending, I am able to hold onto the wonderful things that he accomplished in his life. Through my sorrow, I have chosen to work with Families for Safe Streets to advocate for change. I'm here today to remind everyone how important it is—how important it is to support legislation that prevents these senseless deaths. We are horrified to see the original version of this legislation that would have weakened—that would have been weakened by TLC's effort to get dangerous drivers off this—off the road. But personal drivers have the obligation to be the safest drivers in NYC streets. We are please that this version maintains the critical enforcement rule because we need to be doing more not taking steps backward—backwards. I hope some—someone—someone here today from the City Council can also help me pressure the police to find—find who was responsible for killing my son. I have heard nothing from NYPD and cannot even get them to certify the cause of death. Finally, I—I welcome you—finally, I welcome your help fighting for better lighting, more speed cameras and other traffic safety measures in that area, and other areas throughout the city to prevent any other family

2 from experiencing the devastation that me and my
3 family have endured for the past year. Thank you.

4 CHAIRPERSON CABRERA: Thank you so much,
5 and I can only imagine. I'm looking at the picture
6 over here of—of your son. Actually, you don't live
7 too far. You're in the district, the Councilmanic
8 district below mine. Council Member Gibson is your
9 Council Member, but not too far literally from where
10 I live. I can only imagine how you feel, how tragic
11 it was. I know you carry him and think about him
12 every single day, and we are going to continue I know
13 for your whole organization that both of you here
14 today and under your leadership we're going to make
15 sure that every piece of legislation we pass here is—
16 is—will pass under the bar of safety. Safety must
17 come first. That's the first role of government to
18 make sure that we have safety, and we appreciate your
19 input on the first version of the bill. We made
20 revisions, and it's a stronger, better bill, and
21 appreciate your support both of you and your whole
22 organization. Keep up the really tremendous work
23 that you're doing, and I'll—I'll definitely—I heard
24 your cry regarding justice to communicate with
25 Council Member Gibson to, you know, to help and to

2 bridge the communication with the NYPD. At the very
3 least, they should be communicating, you know, what's
4 going on on a weekly basis because a life was taken,
5 and it should have not happened, and justice must be
6 brought to pass. So, I don't know if the Council
7 Members have a question or comment. Okay. So, thank
8 you so much. We really, really appreciate it. Thank
9 you for being a champion. Don't stop. Please don't
10 stop. What you're doing matters. You're making a
11 difference. You're already making a difference in
12 today's hearing. Thank you so much.

13 JANETTE WILLIAMS: Thank you.

14 CHAIRPERSON CABRERA: Alrighty. God
15 bless you. [background comments/pause] So, at this
16 point we're going to be calling the Administration,
17 and we're going to start with Madelyn Laba-Labadie,
18 Senior Advisor for Strategic Initiatives from the
19 TLC; John Castelli from OATH; Amy Slifka from OATH
20 and Leandra Eustache. If I butcher your name, please
21 I apologize, from the TLC, Managing Attorney
22 Prosecution Unit from TLC and our counsel will swear
23 you in.

24 LEGAL COUNSEL: Please raise your right
25 hand. Do you swear or affirm to tell the truth, the

2 whole truth, and nothing but the truth in your
3 testimony before this committee and to respond
4 honestly to Council Member questions?

5 DEPUTY COMMISSIONER COSTELLI: I do.

6 MADELYN LABADIE: Yes.

7 LEGAL COUNSEL: Thank you.

8 CHAIRPERSON CABRERA: You may begin.

9 MADELYN LABADIE: Is it on now? Thanks.

10 Good afternoon Chair Cabrera and members of the
11 Government Operations Committee as well as the safe
12 streets advocates I see here today. My name is
13 Madelyn Labadie. I'm the Senior Advisor for
14 Strategic Initiatives at the New York City Taxi and
15 Limousine Commission. I serve as TLC's Vision Zero
16 Program Lead. Joining me is Leandra Eustache,
17 Managing Attorney for TLC's Prosecution Unit. We are
18 here together today to provide an overview of TLC's
19 Critical Driver and Persistent Violator Programs, and
20 to give our views on the Intros No. 1249-A and Intro
21 No. 991. On February 18, 2014, Mayor de Blasio
22 launched the Vision Zero Initiative, a comprehensive
23 plan to end traffic fatalities in New York City. The
24 message of Vision Zero is that traffic crashes that
25 kill or seriously injure New Yorkers and visitors are

preventable. The city's Vision Zero work focuses on education, enforcement and engineering to drive down the number of serious crashes. This means ensuring that drivers are paying attention to the rules of the road. For five years, the Vision Zero Initiative has succeeded in reducing traffic fatalities on New York City streets each year in contrast with other large cities throughout the country where crash rates have increased. This success is due to the effective coordination of many city agencies including the Department of Transportation, the Police Department and the TLC, key transportation stakeholder, advocates, industry groups and the public. As a regulator agency, the TLC has an obligation to ensure that each passenger's riding experience is safe, reliable and accessible. The City Charter gives the TLC the power to establish and enforce the rules and regulations necessary to protect drivers, passengers and members of the public. TLC rules and the New York State Vehicle and Traffic Law are enforced in the field the TLC's 200 enforcement officers and the NYPD. The NYPD with its much larger force issues the majority of traffic violations received by TLC licensed drivers. Along with the NYPD and DOT, TLC

1 is one of the three lead Vision Zero agencies and our
2 role of regulating the largest professional fleet in
3 New York City, which includes over 135,000 vehicles
4 and 200,000 drivers, it's critical to the city's
5 Vision Zero success. TLC's licensed drivers cover
6 over 2 billion miles each year meaning they have a
7 big impact on New York City streets. Our mission is
8 to hold all TLC licensed drivers to a high standard
9 so that the TLC driver license is synonymous with
10 safety. As an agency, we do this by requiring safe
11 driving education by developing pilot programs,
12 exploring in-vehicle technologies to deter unsafe
13 driving patterns and by incentivizing safe driving
14 via positive reinforcement through our Annual Driver
15 Honor Roll, which recognizes our safest drivers.
16 Although the majority of TLC drivers are safe, in fact
17 95% of TLC licensed drivers maintained a safe driving
18 record in 2018. There are outliers who are not. A
19 comparative to identify those drivers immediately, it
20 is necessary to remove them from the road before a
21 tragedy occurs. The Council provides TLC with
22 several important tools that support the Mayor's
23 Vision Zero agenda including the Critical Driver
24 Program, which monitors DMV violations committed by
25

2 drivers, and the Persistent Violator Program, which
3 tracks TLC violations committed by drivers. The
4 Critical Driver Program authorizes TLC to suspend or
5 revoke the TLC driver licenses of drivers who
6 accumulate too many DMV points on their state issued
7 drivers licenses. DMV points are given for dangerous
8 moving violations such as speeding, failure to yield
9 to a pedestrian and running stop lights or stop
10 signs. TLC license points are accrued for similar
11 traffic safety violations as well as violations that
12 puts passengers at risk. Through the Persistent
13 Violators Program the TLC holds drivers to a high
14 standard to retraining, suspension, or license
15 revocation against drivers who accrued too many TLC
16 license points. The TLC enforces this strict
17 standard as a frontline protection for the public.
18 Under the Critical Driver Program, if a driver
19 receives 6 DMV points within a 15-month period, TLC
20 can suspend the driver's TLC license. If the driver
21 accrues 10 DMV points within a 15-month period, TLC
22 can revoke the driver's TLC license. The Persistent
23 Violator Program works the same way except for TLC
24 points. Only 5% drivers received any penalties under
25 these programs last year because most maintain safe

1 driving records. We know that traffic safety
2 violations and serious crashes are correlated. TLC
3 analysis found that TLC licensed drivers who received
4 at least one traffic safety violation for dangerous
5 driving behaviors that accrued DMV point such as
6 speeding or running red lights were subsequently
7 involved in 85% of all crashes that led to injuries
8 or fatalities. The Critical Driver and Persistent
9 Violator Programs are supported by evidence as
10 effective enforcement tools to prevent crashes from
11 happening in the first place. As a sign of City
12 Council and the Administration's partnership on
13 Vision Zero, the Council passed Local Law 30 in 2014.
14 The bill directed TLC to combine TLC points and DMV
15 points for purposes of suspension or revocation. So,
16 the driver was issued violations by a combination of
17 TLC officers and police officers. They driver
18 wouldn't be treated differently than if all the
19 points had been issued by the same agency. After
20 voice-voicing our significant concerns last month, we
21 received Intro No. 1249-when we received Intro 1249
22 Version A, which reversed the serious negative safety
23 implications of the original bill, Intro 1249 would
24 have eliminated the city's ability to use the
25

2 Critical Driver Program to get dangerous drivers off
3 the road. The amended version, however, restores
4 this power by combining critical driver and
5 Persistent Violator Programs under one title.
6 Substantively, this revised legislation does not
7 change TLC's ability to suspend or revoke the TLC
8 driver license or drivers who accumulate too many TLC
9 or DMV points for dangerous moving violations. While it
10 ensures TLC licensees understand their safety
11 obligations as professional drivers. The Mayor and
12 City Council have made great strides in reducing
13 traffic fatalities in the last five years, and
14 there's still much work to do. Working together I
15 know we can continue to make the city's streets
16 safer. My colleague Leander Eustache will now
17 provide testimony on Intro No. 991.

18 LEANDRA EUSTACHE: Thank you, Madelyn.
19 Good afternoon Chair Cabrera and members of the
20 Governmental Operations Committee. My name is
21 Leandra Eustache and I'm the Managing Attorney for
22 TLC's Prosecution Unit. Intro No. 991 would require
23 the Office of Administrative Trials and Hearings to
24 dismiss a violation enforced by the TLC for defective
25 vehicle lights as soon as the driver provides proof

2 that the defect had been corrected no later than one-
3 half hour after sunset on the first full business day
4 after the date of the violation. The points of proof
5 include statements from DMV inspectors, fleet
6 operators, direct inspection of the vehicle by OATH
7 and evidence acceptable to the Tribunal from any
8 person that such person made the correction together
9 with proof of purchase of any equipment needed to
10 make such correction. We support Council's intent in
11 Intro No. 991 to provide our licensees with an
12 opportunity to correct the violation without penalty
13 rather than having to pay a fine. However, we think
14 by working together that we can improve the
15 Introduction as currently drafted so that those
16 changes would be beneficial for all drivers. For
17 example, the Introduction as currently written could
18 be read as applying to only those summonses issued by
19 a TLC enforcement officer. As other enforcement
20 agencies issue TLC summonses such as the NYPD, the
21 Port Authority, and MTA, we feel Intro No. 991 should
22 be drafted to clearly apply to all TLC summonses
23 irrespective of the issue—irrespective of the issuing
24 enforcement agency. Additionally, we would encourage
25 simplifying the process through which a driver can

2 demonstrate that a light was fixed through the use of
3 a TLC Condition Corrective Receipt, which is a form
4 of proof regularly used by TLC and accepted by OATH
5 Hearing officers to show a vehicle defect was fixed.
6 We are committed to working with together with you,
7 Chair Cabrera to ensure the text of Intro 991 and the
8 TLC's implement-implementation of it benefits drivers
9 and addresses vehicle violations quickly in the
10 interest of safety. Thank you for inviting us to
11 testify today, and we will now-I'll pass it over to
12 OATH.

13 DEPUTY COMMISSIONER COSTELLI: Good
14 afternoon Council Member Cabrera. Council Member, I
15 want to thank you on behalf of Commissioner De Valle
16 who would have been here if he could, but obviously
17 he's been away on a personal emergency medical leave,
18 but he does have tremendous respect for this
19 committee, for the work that you've done, Council
20 Member Yeger, Council Member Maisel, Council Member
21 Powers and he wanted me to express that respect that
22 he has for everyone and the great work that you've
23 been doing. Sitting to my left I Deputy Commissioner
24 Amy Slifka. She's-Deputy Commissioner Slifka is the
25 head of OATH's Hearings Division, and I'm going to

2 read [coughs] excuse me—I'm going to read into the
3 record the testimony on behalf of Commissioner Del
4 Valle. The—in connection with Intro 991, and the
5 Office of Administrative Trials and Hearings, OATH is
6 the city's independent administrative law court. In
7 1979, Mayor Koch established OATH by executive order
8 with the goal that there would be—would eventually be
9 one centralized administrative law court to
10 adjudicate cases. The Health Tribunal, Taxi and
11 Limousine Tribunal and Environmental Control Board
12 were subsequently transferred into OATH in accordance
13 with Mayor de Blasio's overall commitment to provide
14 city residents and small businesses with an
15 administrative law process that impartial and fair,
16 OATH established the Trials Division and Hearings
17 Division to ensure a more streamlined Administrative
18 Law Court. OATH's Trials Division's Administrative
19 law judges serve five-year terms, one more year than
20 the Mayor and adjudicate the more complicated cases
21 including New York City Civil Servant disciplinary
22 cases, Loft Law case, city contracts disputes, city
23 issued licenses, disciplinary—I'm sorry—
24 discrimination cases under the city Human Rights Law
25 and lobbyist registration cases among others. OATH's

2 Hearings Division adjudicates summonses issued to
3 residents and small businesses by New York City
4 enforcement agencies including among there the
5 Department of Health and Mental Hygiene, Department
6 of Transportation, Department of Sanitation,
7 Department of Environmental Protection, Department of
8 Buildings, Fire Department of New York, Taxi and
9 Limousine Commission and the New York City Police
10 Department. OATH's mandate is to foster judicial
11 professionalism, fairness, impartiality, equality,
12 and a commitment to the integrity of the
13 Administrative Law Judicial decision making process.
14 As the city's administrative law court, OATH's
15 function is to provide due process in cases that
16 originate from the city's numerous enforcement
17 agencies in a fair and impartial forum that is also
18 convenient and accessible to the public. OATH has
19 been working for the past four years to consolidate
20 adjudications and improve court services to ensure
21 greater transparency, equity and fairness for city
22 resident and small businesses. Now, in regards to
23 Intro 991, this bill in its current draft seeks to
24 require that upon proof of corrections, OATH dismiss
25 Taxi and Limousine Commission issued summonses for

violations pertaining to inoperable vehicle lights.

In particular section 19-902 of this bill seeks to

clarify 35 RCNY Section 80-22 (b) of the rules of the

City of New York by granting to OATH Hearings

Division hearing officers the authority to dismiss a

violation enforced by the TLC where a driver fails to

personally inspect and reasonably determine whether

the driver's vehicle lights are in working order. If

the driver corrects the violation with one-half hour

after sunset on the first full business day after the

violation occurred, and presents proof of the

corrections to OATH on or before the hearing date, as

drafted, evidence ascertained and evaluated outside

of the hearing does not comport with OATH's mission

to provide due process to the parties appearing

before the hearing officer whether any proof of

correction—I'm sorry. Before the hearing officer.

Moreover, the petitioner agency, in this case the TLC

must have an opportunity to further examine on the

record before the hearing officer whether any proof

of correction submitted by a respondent driver is

satisfactory in order to comply with the due process

requirements. Furthermore, Section 19-902 (a) (5) of

this bill seeks to require that OATH exclusively

2 accept from the respondent evidence that a correction
3 was made. As an administrative law court OATH does
4 not have any regulatory function. OATH's powers are
5 exclusive to adjudications. The legal authority to
6 regulate the safety standards for the for-hire
7 vehicle industry resides within TLC and correction of
8 the condition resulting in a summons also lies within
9 the administrative agency that has the expertise to
10 make such a determination pursuant to the applicable
11 law. That said, OATH regularly encounters
12 corrections in mitigation of penalties for summonses
13 issued by other enforcement agencies. For instance,
14 certification of corrections of violations of the
15 respective codes enforced by the Department of
16 Buildings and Fire Department of New York must be
17 approved by DOB and FDNY pursuant to the Building
18 Code and Fire Code respectively in order for it to be
19 sufficient as proof of correction. If certification
20 of correction is not approved by the respective
21 agency pre-hearing, then the respondent can present
22 such evidence of correction at the hearing. Such
23 evidence must comport with the regulatory agency's
24 standards so as to constitute a cure or other
25 mitigation of penalties. The enforcement agency then

2 agrees or moves to amend the charge or penalty or
3 otherwise withdraw the summons OATH renders a
4 decision and penalty or not based on some combination
5 of proof of correction and review of the enforcement
6 agency that has the expertise in this area.

7 Similarly, OATH does not have the regulatory power,
8 expertise nor capability to inspect repairs as
9 provided in Section 19-902 (a) (6) technically
10 ascertaining whether a vehicle is road worthy exceeds
11 the authority and expertise of the administrative law
12 court. OATH is exclusively responsible for weighing
13 the sufficiency of evidence presented at the hearing
14 and applying the applicable law. Finally, Oath is
15 committed to providing greater access to justice by
16 Improving the efficiency and timeliness of
17 adjudications without impairing due process. And
18 again, the Chair and members of this committee are
19 commended as always for the fantastic work they have
20 done to further this commitment. Thank you very
21 much.

22 CHAIRPERSON CABRERA: Thank you so much
23 for your testimony, and I know your Commissioners
24 couldn't be here today. Give them my regards, and my
25 great admiration for the work that they do and you

2 all do. Let me just recognized that we were joined
3 by Council Member Maisel and Council Member Powers
4 and let me just turn it over to Council Member Yeger.
5 He has a question

6 COUNCIL MEMBER YEGER: Thank you, Mr.
7 Chairman. This is for Deputy Commissioner of OATH. I
8 read your testimony before you delivered it and I
9 listened intently, and I'm-I'm trying to understand
10 if-if you're indicating that the Council does not
11 have the authority to-to pass a law that would
12 require that you accept as evidence of a correction
13 and thus dismiss the summons as stated in the statute
14 the tribunal shall dismiss a violation. It seems to
15 me from your testimony that what you're saying is the
16 petitioner agency must have an opportunity to rebut
17 or further examine on the record before the hearing
18 officer whether any offer of proof of correction
19 submitted by a respondent driver is satisfactory in
20 order to comply with due process requirements. My
21 question to you, sir, is why? Why must the
22 petitioner have the ability to question the evidence
23 when the Council says that your agency the
24 adjudicatory body shall accept it?

2 DEPUTY COMMISSIONER COSTELLI: Well, it's
3 a good question, Council Member. I want to thank you
4 for that question because it—the core of the issue is
5 whether or not OATH as—as the city's administrative
6 law court, has the expertise to make a determination.
7 It comes down to whether OATH should get into that
8 area, and no administrative law court as far as I'm
9 aware of in the history of the city has taken a
10 position that would allow them to act as experts.

11 COUNCIL MEMBER YEGER: Commissioner,
12 we're not asking you to act as experts and we're not
13 asking you to investigate the car, and we're not
14 asking you to go down and flick the lights on and
15 off. What we're saying is if a piece of document is
16 offered by a respondent, and your judge looks at it,
17 and the judge says the document doesn't appear to be
18 fraudulent. It doesn't appear to be created by the
19 driver. It surely appears to comport with the
20 various different provisions of the statute, then a
21 dismissal shall thereafter follow, and what I'm
22 trying to understand is why you're inserting into the
23 statutes something that we didn't say. We're not
24 saying that the agency has to have the ability to-to
25 contest this document. What we're saying is we're

2 taking it out of the petitioner's hands. Sorry for
3 not affording the TLC due process, but in our view
4 the TLC doesn't need to have due process when it
5 comes to something as simple as a light correction
6 that's made within 24 hours plus a half hour after
7 sunset. And I'm not sure why you're reading
8 something in that was not the intent of the Council.
9 The Council's intent is that this document is
10 presented. There are several different means by
11 which a driver can authenticate to the satisfaction
12 of the judge, and obviously the judge maintains the
13 authority to look at the documents and say, I'm
14 sorry, respondent but this looks like it's
15 fraudulent. I'm not going to accept it, but other
16 than that, to the extent that the document meets any
17 of the various criteria of the statute, the agency-
18 the-the judge will accept it and, thereafter, a
19 dismissal will follow. I'm really not sure I
20 understand the objection.

21 DEPUTY COMMISSIONER COSTELLI: Well, I
22 wouldn't say it's an objective-an objection per se, I
23 would say it's a clarification here that our position
24 as an administrative law court is not to make the

2 standards or determine standards for what is
3 acceptable.

4 COUNCIL MEMBER YEGER: That's—that's what
5 we do. We—we do that.

6 DEPUTY COMMISSIONER COSTELLI: But you're
7 saying we don't do that.

8 COUNCIL MEMBER YEGER: No. We do that
9 here. This body the 51 of us that went to the voters
10 and took their votes--

11 DEPUTY COMMISSIONER COSTELLI:
12 [interposing] Absolutely.

13 COUNCIL MEMBER YEGER: --and took an oath
14 and came here, we set the standards.

15 DEPUTY COMMISSIONER COSTELLI: Yes.

16 COUNCIL MEMBER YEGER: You enforce the
17 standards--

18 DEPUTY COMMISSIONER COSTELLI:
19 [interposing] Well--

20 COUNCIL MEMBER YEGER: --and what we're
21 saying is the standard is going to be a document
22 issued by the police officer that a necessary
23 correction has been made or evidence acceptable to
24 the tribunal. You can make a rule that says you
25 don't have that, you're not going to accept evidence

2 other than what's in the statute, but we have put
3 forth a series of different kinds of evidence that
4 are going to be acceptable to the tribunal, and since
5 we make the policy here, and you enforce the policy,
6 your judges will thereafter dismiss the summons upon
7 such time as the evidence is presented
8 notwithstanding that the TLC hasn't gone and flicked
9 the lights on and off. Notwithstanding that the
10 judge hasn't gone down to the car and flicked the
11 lights on and off. We're trying to make things
12 easier.

13 DEPUTY COMMISSIONER COSTELLI: Right.

14 COUNCIL MEMBER YEGER: We're trying to
15 make it easier not just for the driver, but we're
16 trying to make it easier for the petitioning agency,
17 and we're trying to make it easier for the court
18 where the court receives a document that says this is
19 corrected. The court says corrected, dismissed.
20 Everybody move about their day.

21 DEPUTY COMMISSIONER SLIFKA: The problem
22 here is—

23 COUNCIL MEMBER YEGER: [interposing]
24 That's right.

2 DEPUTY COMMISSIONER SLIFKA: --the statute
3 actually doesn't--it says it provides it to the
4 tribunal. It doesn't say at a hearing. So, when you
5 say to the tribunal, who are you referring to? Would
6 an administrative clerk be looking at this because
7 the point is that we have to have a hearing one way
8 or the other. Whether you leave it within the
9 discretion of the hearing officer to review the
10 documents that you set out here, at this point in
11 time there's no--there's--it's not getting to a hearing
12 officer currently the way the statute is written.

13 COUNCIL MEMBER YEGER: We are authorizing
14 you within 180 days after this becomes law for you to
15 take such measures as are necessary for the
16 implementation of the Local Law including the
17 promulgation of rules prior to such date or
18 thereafter if that's what it takes you. If it takes
19 you more than 180 days promulgate the rules
20 accordingly, figure out how to do it. You're the
21 court. Decide what it is you wish to do. If you
22 wish it to be an administrative dismissal by a clerk
23 then such is it. If you wish it for--for it to be an
24 administrative hearing on paper, then such is it. If
25 you wish it for--for it--if you wish for it to be an

2 administrative hearing in the sense that the driver
3 has to actually walk in, swear under oath that this
4 is a true document and submit it, that's your
5 authority to make the rules. If we don't like your
6 rule, we'll get together right here in this beautiful
7 chamber and we'll enact the statutes that fixes the
8 rule that you've done. But I don't know how this
9 statute can possibly be clearer than it is with the
10 exception of the testimony from the TLC where the TLC
11 requests that we make it clear that it applies to all
12 issuing agency. I don't know that it's not clear
13 that it does, but we-we can certainly—I'm sure the
14 Chair whose—whose statute this is can certainly make
15 that adjustment, but the reason that I've signed onto
16 this is because it looked to me like such a common
17 sense thing. A common sense thing. A guy has his
18 left rear light not working. He gets pulled over
19 because the TLC guys have a quota that they have to
20 meet, and they see that his brake light is not on,
21 and they write him up, and he immediately: Well, I
22 didn't know it was broken. It just happened. It's
23 snowing outside. It's freezing. The bulb cracked,
24 and he goes to the mechanic, and he gets it fixed
25 that day or the next day before that half hour prior

2 to sunset and he gets a—a letter signed by the
3 mechanic and an invoice and a receipt showing that he
4 paid \$112 to fix the light. And he goes down to the
5 court and he says I fixed my broken light. Dismiss
6 the summons. That's the way the city is supposed to
7 work. The Mayor said a couple of weeks ago this is
8 the fairest big city in the world. Is it not the
9 fairest big city in the world? This is such a simple
10 thing. We're trying to make the court work more
11 efficiently for the agency, for the—for the driver
12 and for the court and for the taxpayers, and I really
13 don't understand. I really, really don't understand
14 why you're looking to create a problem with a statute
15 that seems to be so clear to me.

16 DEPUTY COMMISSIONER SLIFKA: Current—
17 currently actually there's a protocol in place that I
18 thin, that Taxi can speak to.

19 MADELYN LABADIE: Yes. Thank you, Amy
20 and thank you for your question Council Member. So
21 TLC actually does currently operate what we call our
22 Notice of Violation Program, and under this program
23 TLC enforcement officers who observe certain
24 equipment violations in the field they do have
25 discretion to issue a notice of violation. But what

2 a notice of violation does it gives the vehicle owner
3 an opportunity to correct the violation, bring the
4 vehicle back to TLC's Woodside Inspection Facility
5 and completely avoid being issued a summons entirely
6 so they don't receive a fine or—and they don't get
7 issued a summons so they get to avoid the entire OATH
8 adjudication process completely.

9 COUNCIL MEMBER YEGER: Okay. So, you
10 have a process that requires the driver to besides
11 getting his light fixed to come back to the TLC so
12 that you guys can go and flick the light on and off?

13 MADELYN LABADIE: Correct.

14 COUNCIL MEMBER YEGER: Okay. We're saying
15 no thank you. Thank you very much, but no thank you.
16 We're not interested in that. What we're looking for
17 is a simple streamlined process where a driver can
18 get evidence that he has fixed the light just like if
19 I am pulled over for having a broken tail light, and
20 I get a moving violation, I can go down to the—the
21 DMV Court and present to the judge evidence that I
22 fixed the light within a day, and I'll get the
23 summons dismissed as well. We're offering the Taxi
24 and Limousine Commission the same opportunity to
25 streamline your bureaucracy, and to streamline the

2 court so that—and I really don't understand what is
3 that we're looking for. Is it that you don't want to
4 let it go, that you want the ability to control
5 whether or not there's a dismissal that only the TLC
6 should be able to do that? You want—you don't want
7 the court to have that authority. What is it that
8 you're looking for? I'm trying to understand the
9 objection from two agencies, the court and the
10 petitioner. The respondents are not here to tell us
11 why they support it. We think we understand why they
12 would.

13 MADELYN LABADIE: Uh-hm. Thank you
14 Council Member. So, at TLC we are, of course, very
15 committed to allowing our licensees the ability to
16 correct conditions, but we are also very committed to
17 public safety, right and ensuring that dangerous
18 equipment violations be corrected timely and also to
19 TLC's robust standard. Currently our enforcement
20 officers do retain the discretion to issue summonses
21 for very dangerous—for dangerous equipment violations
22 and they do have the option to issue notice of
23 violations for, you know, the serious non-safety
24 related violations, equipment violations
25 specifically. In terms of TLC's position on

2 correction, we do believe that as the most active
3 Taxi and Limousine Commission regulatory agency in
4 the country, that we are best equipped to inspect the
5 vehicles and ensure that these corrections are made.

6 COUNCIL MEMBER YEGER: Okay. I appreciate
7 that and I understand your objection now, and I
8 understand OATH's concern. We have the most active
9 City Council in the country, and we've heard your
10 concern and in my view and in I believe—I don't want
11 to speak for the Chair. It's his bill, and he is
12 certainly able to speak on his own behalf. But in my
13 view and the reason that I signed onto this bill is
14 that I believe that the TLC does not need to have
15 this foot on the neck of the driver with respect to a
16 busted tail light, and I agree with you. Serious
17 equipment violations need to be addressed seriously,
18 but when I get into my car, I don't know necessarily
19 if my brake light is working or not. It's very
20 difficult to check if my brake light is working
21 because that would require me to put my foot on the
22 brake, and also reach behind me with my head to look
23 at the back of my car to see if my brake light is on.
24 It's not something that somebody who's shorter than
25 14 feet is able to do. So, sometimes—sometimes it

2 happens that somebody gets into a car, starts his or
3 her engine, starts to drive, and then taps the brake,
4 and doesn't realize their left brake light is out.
5 It just—it happens from time to time, and what we're
6 saying is on those occasions when a TLC officer has a
7 quota to meet and nails a guy for having a missing
8 brake light and gives them a summons that that person
9 can then get that corrected with 24 hours up to a
10 half hour after sunset, get a piece of paper that
11 proves that it was done, send it off to court and the
12 court dismiss the summons. Now if this is not clear
13 enough in this statute, we can put in a provision
14 that requires you to do that by mail that requires
15 you to accept it by electronic means. OATH we can—we
16 can make it clearer for you. We can—we can do the
17 rules so you don't even don't even have to promulgate
18 any. The reason that we passed broad legislation and
19 allow agencies to promulgate rules is to kind of, you
20 know, take the guess work out of it. But if what the
21 agency—if what OATH is telling us, if what the court
22 is telling us today is that it's not clear enough
23 what the intent of this Council is, then we can sure
24 amend this statute to require you to accept it by an
25 electronic upload or a fax or an email, and that you

2 administratively dismiss it by having the clerk do
3 it. We can even specify the title of the clerk. We
4 can all these kind of things, but we like to let
5 agencies run themselves. Here I think what we're
6 saying very clearly and in case this is not clear to
7 TLC, we are taking that authority away from you to
8 have the driver come back the next day and flick his
9 lights on and off. What we're saying is give the guy
10 the summons. He now knows he has to fix it. He's
11 got to do it within 24 hours or within the next
12 business day. OATH will dismiss the summons and I-I
13 don't know how we can possibly be more clear, but I
14 hope—I hope that the Chairman from today's testimony
15 will go back to the—with the drafters and maybe we
16 could make the statute a little more clear so that
17 there's no confusion at the end.

18 MADELYN LABADIE: Okay. Thank you
19 Council Member and TLC we're actually very open to
20 collaborating with the committee to be sure that the—
21 the text in 991 is acceptable to—to all.

22 COUNCIL MEMBER YEGER: We don't need it
23 to be acceptable to you. We pass the laws here. WE
24 just have to read them and enforce them. Okay. Thank
25 you very much, Mr. Chairman.

2 DEPUTY COMMISSIONER COSTELLI: Thank you—
3 thank you, Councilman.

4 CHAIRPERSON CABRERA: Council Member
5 Yeger, when I'm done here in three years from now,
6 I'm going to hire you as my lawyer. [laughter]
7 Thank you, Council Member Yeger and let me just
8 acknowledge that we've been joined by Council Member
9 Ben Kallos. Look, I've read both of your testimonies
10 today. We will continue negotiations and speaking
11 back and forth, too. I believe at the end of the
12 day, we want the same thing, which is safety and
13 fairness, and I believe that both of them could co-
14 exist together, and so we're going to look closely,
15 and we'll be getting back to you and be able to have
16 a fruitful dialogue that I think at the end of the
17 day we could come up with something that-that is
18 going to be fruitful and beneficial. And with that,
19 if we don't have any more questions, thank you so
20 much to the Administration. We've got one more
21 panel. I'm going to call from Peter Mazer from the
22 Metropolitan Taxicab Board of Trade, and then Marco
23 Conner from Transportation Alternative, and you could
24 begin as soon as you're ready. [pause]

2 PETER MAZER: Alright, I'll just wait for
3 the other panelist to come up. [background
4 comments/pause]

5 CHAIRPERSON CABRERA: You can begin.

6 PETER MAZER: Okay, thank you.

7 CHAIRPERSON CABRERA: Thank you.

8 PETER MAZER: Good afternoon members of
9 the committee and Chairman Cabrera. My name is Peter
10 Mazer and I'm the General Counsel to the Metropolitan
11 Taxicab Board of Trade. We represent the owners and
12 operators of about 5,000 Medallion taxicabs and
13 operate a full service drivers' resource service
14 center. From 1998 to 2004, I served as-with the Taxi
15 and Limousine Commission first as an Administrative
16 Law Judge, then as a Chief Judge and finally as its
17 General Counsel. I'm going to deviate a little bit
18 from my written remarks because I did not address the
19 light bill. I just want to make one comment that as
20 someone who probably handles more light violation
21 summonses than anybody else in the city of New York
22 based on the 5,000 medallion taxicabs we represent,
23 the procedure that the TLC has in place right now
24 where we bring the car in for inspection and don't
25 get a summons issue is working fine. We do not do a

2 service to any of our drivers and any of our owners
3 by having them go to OATH. OATH is—for a driver to
4 go to OATH is an all-day process. I don't care what
5 the Tribunal will tell you. If you walk in and you
6 have a hearing at 10:00, if you're out of there by
7 3:00 you're lucky, and that's every day 7-5 days a
8 week. It never varies. You don't want to go to
9 OATH. If you can avoid going to OATH, that would be
10 great. If there are procedures in place if you get a
11 summons and you want to have it administratively
12 dismissed without requiring a physical appearance at
13 OATH, that would be good. The second point just on
14 that bill that I want to make as you apply to
15 drivers, most summonses are issued to owners who are
16 not necessarily the drivers. Drivers are not
17 responsible for fixing the car. So, you don't do the
18 drive a service if you make the driver pay for
19 something he doesn't have to pay. The driver, if
20 he's not the owner of the car, if there's a defect he
21 brings it back to the garage. The garage is
22 responsible to pay it. The garage should get the
23 summons. Drivers shouldn't even get summonses for
24 operating with defective lights. Those summonses
25 belong to the vehicle owner and that's--

2 COUNCIL MEMBER YEGER: [interposing] Mr.
3 Mazer, I-I--I thank you very much and I'm sorry for
4 interjecting--

5 PETER MAZER: Sure.

6 COUNCIL MEMBER YEGER: --and I'll let you
7 continue and I appreciate the Chair's indulgence. We
8 signaled and he let me do this, but--

9 PETER MAZER: [interposing] Yeah,

10 COUNCIL MEMBER YEGER: --and I apologize.
11 I have a dentist appointment that I must run to.
12 It's a root canal so forgive me.

13 PETER MAZER: Sure.

14 COUNCIL MEMBER YEGER: It's maybe some of
15 where my aggressiveness was coming off earlier, but--
16 but our point about this, and I believe why--why we're
17 looking at this is we're trying to figure out a way
18 to make the--the experience easier. We don't want a
19 driver sitting in court all day, okay, but I think
20 that it is likely possible that a driver is driving a
21 car a TLC car licensed vehicle, it has a broken rear
22 brake light and does get pulled over, and receives
23 summons, and what we're trying to say is that if that
24 should happen--if that should happen, we want to give
25 them the out at OATH, and perhaps we do need to

2 clarify as my interaction with OATH indicated that
3 this should be some kind of a mail-in written
4 submission program where you could just kind of
5 staple the summons to the letter, send it into OATH
6 and it gets administratively dismissed without ever
7 having to show up there. I think that's really the
8 intent. The intent is not to force a driver to go
9 down to OATH, but the intent is to give the driver
10 the ability to get this administratively dismissed
11 without a back and forth between TLC, the driver and
12 OATH who has the Administrative Law Court. With
13 regard to the TLC's process, you still have to go
14 down to the TLC and flick the lights on and off, and
15 let the TLC look at it. What we're trying to develop
16 is—is a way where this can be done by paper, and
17 where the driver doesn't have to physically go back
18 and if we could ever figure out a way, and maybe you
19 can offer a suggestion not today, but maybe you can
20 correspond with the Chari whose bill it is, and—and
21 say, you know, what makes more sense. But I think
22 the goal here is that the driver gets the summons for
23 something that's—that's really simple. Not—not that
24 he's driving with his bumper hanging off and taped
25 together with duct tape, but that he's got a broken

2 tail light. He didn't notice it. So simple to fix.
3 Let's get it done. Let's get him back on the road
4 and, you know, end his misery for the today. Any
5 suggestions that you can offer that accomplishes that
6 I think will be welcome.

7 PETER MAZER: Yeah, we work on that, and
8 we will put together some suggestions.

9 COUNCIL MEMBER YEGER: And I apologize,
10 but I do have to leave early but-

11 PETER MAZER: [interposing] No, but--

12 COUNCIL MEMBER YEGER: --I have your
13 testimony. I will read it. Thank you.

14 PETER MAZER: Of course.

15 COUNCIL MEMBER YEGER: Thank you, Mr.
16 Chair.

17 PETER MAZER: My testimony is on the
18 other bill.

19 CHAIRPERSON CABRERA: Thank you so much,
20 Council Member.

21 PETER MAZER: Okay, now I--oh, okay, that--

22 CHAIRPERSON CABRERA: Go for it.

23 PETER MAZER: Yeah. I will jump now to
24 the--

2 CHAIRPERSON CABRERA: [interposing] No
3 problem.

4 PETER MAZER: --to the other bill, and
5 I'm sitting here before you. The Critical Driver
6 Program was created in 1998 and you're looking at the
7 author. I wrote that Critical Driver Program, the
8 very program that you're now working to repeal and
9 consolidate with the TLC's base Permanent Persistent
10 Violator Program. I drafted the Critical Driver rule
11 in 1998 because we were then in a crisis with many
12 dangerous drivers on the road with no clear mechanism
13 for the TLC to suspend or revoke their licenses. At
14 the time, TLC staff argued to the Commissioners that
15 this program was needed because the Department of
16 Motor Vehicles and its Traffic Violations Bureau were
17 ineffective after spending and revoking unsafe
18 drivers. We argued at the time that without the
19 proposed Critical Driver Program, the TLC did not
20 have a mechanism readily at its disposal to keep
21 dangerous drivers from transporting passengers for
22 hire. While it was evident to me and other TLC staff
23 that this rule was absolutely needed to keep the
24 public safe, the Commissioners did not vote to pass
25 the rule believing it was duplicative of other

2 provisions of law and an unfair to drivers, but the
3 TLC did not give up, and in 1999, the Commissioners
4 reconsidered and passed rules establishing the First
5 Critical Driver Program. At the time we celebrated
6 this accomplishment as a major step in protecting the
7 riding public. Subsequent changes were made over-to
8 the rules over time including amendments approved by
9 the City Council and Local Law but the general
10 concept has remained the same: Get DMV points on
11 your license, your TLC license is in jeopardy of
12 suspension and revocation. Nineteen years later, I'm
13 before you today to urge the repeal of the very
14 program that I helped to create. I also urge you not
15 to replace it with a program that simply combines a
16 driver's DMV points with his TLC points, and if I
17 believed for one minute that discontinuing this
18 practice of suspending or revoking drivers based on
19 accumulation of DMV points would in anyway whatsoever
20 make the public less safe or allow more dangerous
21 drivers to be on the road, I would not be—I would be
22 joining the chorus of those who are urging the
23 retention through this bill. But unlike 19 years ago,
24 when it was necessary for the TLC to discipline
25 drivers based on the accumulation of DMV points,

1 today this is no longer necessary. Today this is no
2 longer necessary. In fact, penalizing drivers with
3 DMV points including points accrued in their personal
4 vehicles is unnecessary, redundant. It deprives
5 drivers of due process and, in fact, does nothing to
6 get unsafe drivers off the road. So what has
7 changed? The first big change occurred when the City
8 Council enacted provisions, which are now codified as
9 19512.1 of the Administrative Code granting the TLC
10 broad powers to summarily suspend and ultimately
11 revoke any driver who the TLC believes is a threat to
12 public safety. The TLC can commence a proceeding
13 before the Office of Administrative Trials and
14 Hearings to revoke a license for any act it deems
15 unsafe irrespective of the driver's prior record and
16 irrespective of the driver's prior record and
17 irrespective of the number of points a driver may
18 have. Indeed, in just the past several months the
19 TLC has used its powers to seek revocation of
20 driver's license who committed no violation other
21 than red light camera violations, a violation which
22 carries zero points under the state law. I may
23 disagree with the TLC's use of red light camera
24 tickets in this manner, but I agree that the TLC has
25

2 broad powers to commence revocation proceeding
3 against any licensee it deems to be a threat to the
4 public. That driver goes before an independent OATH
5 judge and receives a hearing, and the judge will
6 determine if the driver is a threat to the public,
7 and the chairperson gets to review the driver's
8 recommendation. What else has changed is that the
9 disciplining of drivers based on per se accumulation
10 of DMV points there is no determination regarding a
11 driver's fitness or threat to the public before he or
12 she is stripped of the license. All that you need is
13 a calculator and a calendar. If you have the
14 requisite points within a few—within a certain
15 period, you are guilty. End of story. No review of
16 your record. No determination on whether your record
17 makes you an unsafe driver. If you have been
18 previously suspended by DMV for the same violation,
19 it does not matter. With the TLC you are punished
20 again. What has also changed is that unlike in 1999
21 we see today a Traffic Violations Bureau hearing
22 officers are far more likely to impose suspensions
23 and revocations for repeat offenders, and since 2004
24 every driver who accumulated 6 DMV points also faces a
25 Mandatory Driver Responsibility Assessment from DMV.

1 The net result? Pay a fine or get suspended. At the
2 MT DOT Driver Center, last year we handled 1,668
3 Traffic Court summonses. About 40% of these are
4 dismissed, which tells you something about the
5 Tribunal and—and the accuracy of the Traffic
6 Violations Bureau, but that's not before you because
7 this body has no control over a state agency, but
8 before we do anything when we look at the
9 accumulation of DMV points we have to see—look at the
10 Tribunal where they're accumulated. Of the remaining
11 people who were convicted last year, 31 received DMV
12 suspensions or revocations, and in every one of those
13 convictions the hearing officer reviewed the entirety
14 of the driver's record including when the offenses
15 occurred and made the determination as to penalty
16 including possible suspension or revocation. That's
17 done in every single traffic case where there is a
18 conviction even if the conviction was for zero points
19 and every driver involve in a serious accident will
20 attend a DMV safety hearing, which can result in
21 license revocation. So, the DMV and its Traffic
22 Violations Bureau arm today is taking their driving
23 far more seriously than it did 19 years ago. Under
24 the Critical Driver Program of today most drivers
25

2 settle for a fine in lieu of suspension or
3 revocation. While I applaud the Commission for
4 offering these settlements and softening the harsh
5 effects of the rule, it belies the argument that
6 critical drivers are necessary, public safety, too,
7 becomes a cost of doing business. During the past
8 two years we handled 258 critical driver cases.
9 Fifty-three percent of these were dismissed. So that
10 again tells you something about the quality of-of the
11 summons that is being written. This was generally
12 because the driver took a defensive driving class-
13 course of the computer that generated the summons,
14 miscalculated the points because nobody is looking at
15 what the record is, just the computer. Of the 120
16 cases in which drivers were found in violation there
17 were 29 30-day suspensions in caused 15 drivers were
18 revoked. The remainder 76 drivers paid a fine and
19 continued driving. If the Commission believed any
20 one of those drivers presented a threat to public
21 safety, it could have commended revocation
22 proceedings. Let me say this again: Let's get
23 unsafe drivers off the road. We all agree on that,
24 and I'm not standing or sitting before you today in
25 any way advocating for anything but public safety.

2 Let's give every driver a fair hearing, and an
3 opportunity to defend his or her record, but again,
4 penalizing drivers per se for DMV points including
5 points accrued in their person vehicles is
6 unnecessary, redundant, deprives drivers of due
7 process and, in fact, does nothing to get unsafe
8 drivers off the road. I'm not attacking the
9 Persistent Violator Program. That's TLC based
10 program. It has assigned points. Drivers are—are
11 fully aware of the system. TLC license—licensees
12 should obey TLC rules. TLC licensees should not be
13 penalized because of activities that happen not
14 necessarily in the TLC licensed vehicle, but maybe in
15 their private vehicle, and before a tribunal, which
16 has a questionable record let's say of providing due
17 process and fairness to its drivers in cases where
18 points are accumulated, and if the panel has any
19 questions, I would be very happy to answer them and I
20 thank you for the opportunity to testify this
21 morning, this afternoon.

22 MARK O'CONNOR: Good afternoon Chairman
23 Cabrera, Council Member Power and thank you for the
24 opportunity to testify before you today on this
25 really important issue. My name is Mark O'Connor. I

2 am Deputy Director with Transportation Alternatives.

3 We strongly support the amended A version of this

4 legislation Intro 1249-A and we must absolutely keep

5 the Critical Driver Program making sure that drivers

6 are operating safely and improving drivers' working

7 conditions are not mutually exclusive. I want to

8 thank you Chairman for amending the original bill the

9 language of which we believe did not reflect your

10 actual intent to streamline TLC's enforcement

11 programs on behalf of for-hire vehicle drivers, and

12 we are encouraged by your concern for both TLC

13 licensed drivers' livelihoods and for victims off

14 traffic violence and safety on our streets, and we

15 fully support your commitment and quest to address

16 both issues. The Critical Driver Program has helped

17 save lives by holding professional drivers to a

18 higher standard. Under this program in 2018 more

19 than 2,000 licensed drivers had their licenses

20 suspended, and more than 800 had their licenses

21 revoked for dangerous driving. This pales in

22 comparison to the enforcement capability of the TLC's

23 second most effective enforcement program, the

24 Persistent Violator Program, which deals with just

25 over 100 suspensions and no more than a handful of

1 revocations in 2018 that same year. Replacing the
2 former program with the latter would have made our
3 streets less safe for everyone including drives
4 themselves and their families. Despite the success
5 of Vision Zero in our city with consistent reductions
6 in traffic fatalities, which has bucked the national
7 trend of alarmingly increasing traffic fatalities
8 during that same period since 2013, New Yorkers are
9 still killed at tragic rates, and are exposed to
10 unacceptable dangers when simply walking, biking or
11 driving. These are dangers that result overwhelmingly
12 from speeding, from failing to yield to pedestrians
13 and distracted driving. In 2017, drivers licensed by
14 the TLC were involved in at least 30 fatal crashes.
15 That's an increase of approximately five deaths from
16 2016. So from 5 to 30—in 2016 to '17. None of those
17 drivers, not a single one lost their TLC license that
18 year. Citywide 222 people died in traffic last year
19 in 2018 and since 2001 more than 5,000 people have
20 died in crashes on city streets with more than 60,000
21 people injured every single year. Dangerous driver
22 choice is the primary cause or a contributing factor
23 in 70% of the pedestrian fatalities. People of color
24 and low-income New Yorkers are up to 3 times more
25

2 likely to be—to be struck and injured by motor
3 vehicles, and as such stand to gain—gain the most
4 from effective enforcement by the TLC . Addressing
5 this epidemic of carnage and suffering is a
6 responsibility that is shared by all. Professional
7 drivers in particular have the greatest
8 responsibility. They spend more time in traffic and
9 through their driving lead the way for even more
10 reckless or safer driving by all New Yorkers, and in
11 closing, I want to thank you again Council Member for
12 your commitment to this issue. We urge this
13 committee and the full Council to ensure that the
14 important work by the TLC to protect New Yorkers is
15 strengthened and not diminished in our laudable and
16 important quest for justice and safety on behalf of
17 all New Yorkers include for-hire vehicle drivers.
18 Thank you.

19 CHAIRPERSON CABRERA: Thank you so much
20 and thank you for those words. I really appreciate
21 it and thank you, both of you for championing safety
22 for all your efforts. You are not new kids on the
23 block. You have worked for many, many years. I did
24 have a couple of questions really quickly. You
25 mentioned that—I didn't know these numbers before.

2 People of color and low-income New Yorkers are up to
3 three times more likely to be struck and injured by
4 motor vehicles. Do you happen to know why is that
5 the case?

6 MARK O'CONNOR: [off mic] Well this-[on
7 mic] So there is a number of reasons why we believe
8 that that happens. One, is, and you can see just on
9 the-along the eastern side of Manhattan we did a
10 study in 2011 called essentially the Unequal Burden
11 of Child Traffic Crashes, which showed that on the
12 Upper East Side of Manhattan compared-well, on the-in
13 East Harlem and Spanish Harlem and in the Lower East
14 Side, children were three times more likely to be
15 struck than children in the Upper East Side, right.
16 So with those two higher crash locations being to the
17 north and to the south, and there is a difference in-
18 in-in wealth, in-in those locations, and there is a
19 high-high concentration of public housing north and
20 south of the Upper East Side, and often accompanying
21 public housing in New York and have wide streets, and
22 you also have a lack of space-green space for
23 children to play. And with wider streets, also
24 usually comes more speeding. Another factor that we
25 don't have specifically-specific data for New York

2 City on, but we have—we see it elsewhere in the U.S.
3 is that in high income areas in U.S. cities that have
4 far more sidewalks, there's a far lower—far lower
5 rates of people being struck while walking compared
6 to lower income areas in those cities that have a far
7 lower rate and presence of sidewalks. So, again we
8 haven't looked at the data specifically in New York
9 City to back up the—the notion that—that there's an
10 underinvestment in safe infrastructure, but we
11 believe the could certainly be part of the reason
12 why.

13 CHAIRPERSON CABRERA: You know, that
14 would be an interesting study for the study to really
15 look at all the variables and break them down as to
16 the exact reasons because then we could have
17 strategies in the city and investments that will
18 follow to make sure that our pedestrians, you know,
19 are safe. I had a question for both of you, and let
20 me recognize that we've been joined by Council Member
21 Ydanis Rodriguez who is also the Chair of the
22 Transportation Committee, and being a leader in the
23 forefront when it comes to safety as well. And that
24 you were for the Administration's testimony. Any
25 feedback regarding their testimony? Anything that

2 you could see that we can make these bills better?

3 [background comments]

4 PETER MAZER: Well, I think I've made
5 myself clear on the critical driver piece, and where
6 I stand and—and where we stand with respect to point
7 based suspensions and revocations for offenses that
8 are outside of the control of the Taxi and Limousine
9 Commission and outside of the control really of the
10 city because the city has no control over what goes
11 on at the Traffic Violations Bureau. On the other
12 bill, I think my suggestions, which I will probably
13 follow up further is that it needs to cover both
14 owners and drivers because most—to make it clear that
15 it's the owner who has the responsibility of
16 repairing the vehicle not the driver and we don't
17 want to shift the burden to a driver who doesn't own
18 a vehicle to undertake an expensive repair on—a
19 vehicle to avoid a summons. I'm very clear on this.
20 I don't believe that drivers who don't own the
21 vehicle should ever get summonses for one light out
22 or something like that. That's summons belongs to
23 the owner. The owner owns the car. The owner is
24 responsible for maintaining the car, and I do
25 support—I—I did say I—I find that the system that's

2 in place now with respect to at least with taxicabs
3 where you bring the car in to correct the notice and
4 don't get a summons issued is working fine. I can be
5 modified a little bit if there is a way of accepting,
6 you know, acceptable proof. The problem is that a
7 lot of the taxicabs are operated through garages and
8 so they're not going to get a repair bill. They're
9 going to bring the car back to the-to their own
10 garage and the mechanic is going to fix the-the
11 problem. Now, do you want the mechanic to sign an
12 affidavit that he did it or take picture of it, or
13 whatever from work. Right now we have the system
14 where we go to the TLC and it's working fine. I'd
15 like to see a more robust program that where
16 summonses and I agree that when summonses are issued
17 and they're issued by police or they're issued by
18 another agency, I'd like to see those dismissed if
19 there's a repair within a reasonable period of time.
20 I just a little bit of a clarification. Everybody
21 assumes that the system works 100% correctly at the -
22 at the Traffic Violations Bureau that if you get a-an
23 equipment violation and you correct it within 24
24 hours, you go to Traffic Court and the summons is
25 dismissed. I can tell you it doesn't always happen.

2 There are times the judges will look at the repair
3 bill and say I'm not going to accept it. I don't
4 like it, or something like that, and we do see a
5 number of drivers and vehicle owners who have been
6 found guilty of violations even though they thought
7 they had a timely repair. So, that system isn't
8 perfect. I-I think we can work out with the system.
9 I think we're all in agreement that—that what we want
10 to see is nobody paying a fine per se if they make a
11 timely repair on a-a relatively minor equipment
12 defect. I think we're all in agreement on that. It's
13 just how we get to that point that's going to be
14 essential.

15 CHAIRPERSON CABRERA: I appreciate that
16 feedback.

17 MARK O'CONNOR: You know, thank you
18 Chairman. So, specifically to Intro 991, we-we fully
19 support in principle the ability to bring you're your
20 vehicle into compliance, and then avoid the—the
21 penalty. The goal of any enforcement should never be
22 penalizing in and of itself. It should always be to
23 deter dangerous behavior or to correct dangerous
24 conditions, and so in principle we—we support that

2 probably with some of the modifications that have
3 been mentioned.

4 CHAIRPERSON CABRERA: Fantastic. Well, I
5 want to thank you both. Thank you for being
6 champions, our veterans. Keep up the fantastic work
7 that you're doing in your respective orientations,
8 and with that, there are no more questions, we
9 conclude today's hearing. [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date February 27, 2019