

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
*District Department of Transportation*



Public Hearing:

B21-0335, the Bicycle and Pedestrian Safety Act of 2015;  
B21-0383, the Vision Zero Act of 2015;  
B21-0021, the Enhanced Penalties for Distracted Driving Amendment Act of 2015;  
and  
B21-0029, the Failure to Yield for Emergency Vehicles Amendment Act of 2015

Testimony of  
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Before the

Committee on Transportation and the Environment

Council of the District of Columbia

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Good morning Chairperson Cheh, members and staff of the Committee. I am Leif Dormsjo, Director of the District Department of Transportation or “DDOT.” I am accompanied today by: David Glasser, General Counsel at the Department of Motor Vehicles; and Lamar Greene, Assistant Chief of the Metropolitan Police Department. I am pleased to testify on behalf of Mayor Bowser today on the proposed legislation entitled B21-0335, the Bicycle and Pedestrian Safety Act of 2015; B21-0383, the Vision Zero Act of 2015; B21-0021, the Enhanced Penalties for Distracted Driving Amendment Act of 2015; and B21-0029, the Failure to Yield for Emergency Vehicles Amendment Act of 2015.

On behalf of the administration I would like to applaud your leadership and that of your fellow Councilmembers in recognizing the importance of transportation safety. I think the number and breadth of the bills before you today are a great indication of the seriousness with which the leadership of the District of Columbia, both the legislative and the administrative branches, take the goal of reducing and eventually eliminating serious injuries and fatalities on the District’s transportation network. We need to work together to protect the most vulnerable users and to ensure that all modes of transportation are protected equally.

This past January, the federal Department of Transportation Secretary Foxx challenged city leaders across the country to raise the bar for bicyclist and



pedestrian safety by joining a year-long “Mayors' Challenge for Safer People and Safer Streets” effort. In March, Mayor Bowser was one of the first mayors to sign on to this initiative and at the same time the Mayor announced plans to launch a Vision Zero Initiative. And you, Council Member Cheh, took the lead in April by convening a Bicycle and Pedestrian Working Group to address safety issues facing these vulnerable users of the District’s transportation network. It is as a result of the work of these groups that we now come together to craft legislation that will help achieve our mutual safety goals.

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Before addressing the specific bills before you today, I would like to provide some context and share recent data points that illustrate the state of safety for our travelers. We have made great progress over the past 20 years. According to the Metropolitan Police Department (MPD), in 1995, the District had 62 fatalities. In 2005, there were 49 fatalities. In 2014, there were 26 fatalities. The evolution of the District's traffic laws and enforcement practices have been critical to this progress, as have our efforts around re-engineering streets and improving the education of the traveling public. But we know there are still issues. From 2010 to 2014, 67 people in a motor vehicle, 57 people walking, and 7 people biking died in traffic crashes. While we have been successful in bringing down overall



fatalities, we nonetheless have a low but persistent number of pedestrian and bicycle fatalities. Our trends are similar to those found around the country.

According to NHTSA, in 2014, the national fatality rate fell to a record-low of 1.07 deaths per 100 million vehicle miles traveled. But estimates for the first six months of 2015 show that fatalities are up 8.1 percent from the same period last year. This shows the need for us to remain vigilant about traffic safety and make sure our own trends continue in the right direction.

As of 2014, approximately 17% of District residents commute by walking or biking as their primary means of travel, and another 36% commute on transit. DDOT's programs like Capital Bikeshare and Circulator mean that more people are walking, biking, and taking transit for recreation and entertainment too. This is why we agree with you that a more aggressive stance on bike and pedestrian safety issues are warranted.

This summer, as part of the Vision Zero Initiative, DDOT held 10 public awareness events around the city and surveyed more than 2,500 people at these events. We found that 47 percent of respondents knew someone who has been killed or seriously injured in a crash. While the trend is moving in the right direction, these numbers are unacceptable. The District has been a national leader in transportation safety; from our 15-year old automated traffic enforcement



program to leadership in bicycle and pedestrian safety provisions we have launched programs that serve as models for jurisdictions across the country. In fact, DDOT staff have been invited to multiple conferences to share the District's Vision Zero model and just last week they were asked to assist Philadelphia in launching their new Vision Zero program.

Earlier this year, through the Initiative, we began convening interagency working groups involving more than 30 District agencies. The administration will soon release a detailed Action Plan indicating how, through various actions across the District government, we intend to eliminate traffic fatalities and serious injuries within 10 years. The Vision Zero Act of 2015 is an initial step; this Friday we will publish in the DCMR a Notice of Proposed Rulemaking to implement additional safety measures. We look forward to your continued partnership in the work to come.

Vision Zero requires a shift in mindset. We know there will be traffic crashes in the District, but we need to reduce the severity, improve emergency response times, and ensure the most dangerous and irresponsible drivers do not have repeated opportunities to kill or seriously injure people on our streets. We need to provide the enforcement tools that prevent dangerous behavior and back up the education, engineering, and analysis that will form the other pillars of Vision



Zero. The Vision Zero Initiative and the other bills under discussion today will help build this foundation of safety.

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I would like to now discuss a few highlights of the bills before you today.

### **B21-0383, the Vision Zero Act of 2015**

The Vision Zero Act of 2015, introduced by Chairman Mendelson, on behalf of Mayor Bowser, contains provisions that address safety through improved education, engineering, data and enforcement and is designed to ensure greater safety for people walking, biking and driving across the city. While DDOT’s rulemaking addresses multiple administrative safety improvements, this set of proposed amendments focuses on issues requiring legislative action.

- **Complete Streets** – The administration’s proposed legislation formalizes, as a citywide policy, Complete Streets - streets designed and operated to enable safe access for all users, including pedestrians, bicyclists, transit riders and motorists of all ages and abilities. This ensures that all phases of DDOT’s projects measure and promote safe and efficient travel for all modes. The legislation also provides for an annual report to the Council on progress towards implementing Complete Streets.



- **Impaired Driving** – The administration proposes an ignition interlock program that would be mandatory for a second DUI conviction, and mandatory for a first conviction if the driver’s Blood Alcohol Content (BAC) is 0.16 or above. A third DUI conviction would result in permanent revocation of a driver’s license. Nationally, the District’s laws against impaired driving rank poorly. According to Mothers Against Drunk Driving, only 14 states have weaker drunk driving penalties than the District. In Virginia, DUI penalties for drivers 21 years old or older vary. When a driver’s BAC is under 0.15 percent, the third conviction results in a minimum of six months jail time, a minimum \$1,000 fine, and indefinite suspension of a driver’s license. In Maryland, The second DUI offense requires jail time of at least five days, and a maximum of two years. The fine is \$2,000 and a driver’s license may be suspended up to one year.
- **Distracted Driving** –The administration’s proposal discourages distracted driving with an increased fine of \$500 and 2 points assessed on a driver’s license. Currently, there are no points associated with distracted driving violations. The region as a whole is lacking strong deterrents for distracted driving. In Virginia, the fine for texting while driving is \$125 for the first offense, and \$250 for subsequent offenses. In Maryland, the use of a handheld cell phone and texting while driving for first-time offenders carries



a maximum of an \$83 fine, a maximum of \$140 fine for second-time offenders, and a maximum \$160 fine for third-time offenders. Points cannot be given unless the offence results in a crash.

- **Driving All-Terrain Vehicles (ATVs) and Dirt Bikes in Public Space -**

Operating ATVs and dirt bikes in the District is already illegal because of the inherent danger involved. The proposed bill further clarifies that MPD is authorized to impound ATVs if they are operated or parked on public space, and prohibits the sale, lease or rental of such vehicles.

As mentioned earlier, we are addressing, through a Notice of Proposed Rulemaking, other dangerous behaviors such as excessive speeding, ignoring traffic signals, failure to yield to pedestrians, failure to clear the scene of crash, failure to provide clearance for first responders, disobeying right-turn-on-red prohibitions, parking in bike lanes, dooring, and several other violations.

### **B21-0335, the Bicycle and Pedestrian Safety Act of 2015**

The Bicycle and Pedestrian Safety Act of 2015, introduced by you Chairperson Cheh, contains valuable proposals that would promote open and transparent safety data, and policy and engineering strategies to protect people walking and biking. Many of these proposals complement the multi-agency strategies in the Vision Zero Action plan.



- **Publish Crash Data And Moving Violation Data** – This legislation requires DDOT to publish monthly crash data including specific information on location, severity and numbers of injuries by mode and specific factors that might have contributed to the collision. It also requires monthly reports on moving violations. The administration agrees with this approach and has recommended similar measures in the Vision Zero action plan. Using the Vision Zero website, and the District’s open data portal ([opendata.dc.gov](http://opendata.dc.gov)), agencies will be able to share crash and moving violation data in an open format, so that residents can interact with these statistics, and perform their own analyses.
- **Sidewalk Closure Information, Petitions for Traffic Calming, and Public Space Permits** – The legislation requires DDOT to publish data, at least weekly, on sidewalk closures, traffic calming petitions and public space permits. DDOT currently provides all this information virtually real time to the various data sources like OCTO's data warehouse, the Mayor's Call Center 311 app and other smart phone apps like the DDOT Permit Viewer. All of these are open for the public to view "live" as needed or for specific location.
- **Pedestrian And Bicyclist Priority Area Program** – The legislation requires DDOT to create a pedestrian and bicyclist priority area program.



The priority areas would be designated based on heavy usage by bicycles and pedestrians, number of collisions and would require at least one priority area in each ward. The administration agrees with the intent of this proposal, but would prefer a data-driven approach to the designation of such areas rather than a mandated number of areas. DDOT is building its capacity to quantify bicycle and pedestrian exposure, crash frequency, and crash severity. Where priority locations are identified, DDOT and partner agencies will employ treatments and countermeasures proven to mitigate the risk of crashes, including enhanced bicycle and pedestrian facilities, and strategic enforcement measures. DDOT's preference is to identify the number and location of priority areas solely on the basis of an analysis of bicycle and pedestrian safety data.

- **Complete Streets Policy** – The legislation requires DDOT to adopt a Complete Streets Policy and incorporate this policy into DDOT documents such as the Transportation Strategic Plan, the Pedestrian Master Plan, the Bicycle Master Plan. The administration fully supports this proposal; the Vision Zero Act of 2015 also includes similar detailed language for implementation of a formal Complete Streets Policy.
- **Universal Street Safety Education** – The legislation requires DDOT, in collaboration with the State Board of Education and MPD to notify schools



and make available an educational curriculum for individuals under age 18 regarding the safe use of public streets and sidewalks by pedestrians and bicyclists. The administration is eager to incorporate transportation safety into all aspects of life in the District including in our public school curriculum. Working with the MPD and the District of Columbia Public Schools (DCPS) and relevant stakeholders DDOT will make available a street safety educational program. DDOT, working with DCPS and Charter Schools, also plans to expand the universal bicycle education program to all second graders to teach critical traffic safety behaviors.

- **Public and Private Vehicles for Hire** – The legislation amends the District of Columbia Taxicab Commission (DCTC) Establishment Act to include a provision for training digital dispatch operators. The administration agrees that there is need for better training on the District’s traffic laws for drivers of public vehicles for hire, with a special emphasis on rules designed to protect vulnerable travelers such as people walking and biking.
- **Deferred Disposition/Adjudication** – The legislation requires the administration to conduct a best practices review and study of the efficacy of remediation and deferred disposition programs and to recommend whether the District should implement such a program for individuals who commit



moving and nonmoving violations in the District. The administration supports this requirement.

- **Penalties for Repeat Offenders** – The legislation provides that repeated, dangerous behaviors on the District’s streets carry a greater penalty. While the administration agrees on the intent, there are a few potential problems with implementing the language as proposed. We would like to work with the committee on refining the approach. In the forthcoming rulemaking, we will also propose increased fines and in some cases additional points assessed to a driver’s license for such violations.
- **Aggressive Driving** – The legislation defines an aggressive driver as a person who commits three or more offenses at the same time or during a continuous period of driving over one mile. These include offenses such as: exceeding the speed limit; improper lane change; passing on the right; failure to use a turn signal; and failure to obey a traffic control device. We agree with the creation of this new violation termed “aggressive driving.”
- **Side Guards and Blind Spot Mirrors** – The legislation requires that, effective January 1, 2016, all heavy duty vehicles registered in the District be equipped with: blind spot mirrors or cameras; reflective blind-spot warning stickers; and side-underrun guards to prevent bicyclists, other



vehicles or pedestrians sliding under rear wheels. While supporting safety measures wherever possible, the administration is concerned about the implementation date included in the legislation. The side-underrun guards are already required on District government vehicles and through the Vision Zero Initiative; DPW will complete the retrofitting of all their existing fleet during FY16. The Vision Zero Action Plan proposes to pilot the installation of blind spot mirrors.

While the Administration’s Vision Zero Initiative did not identify these as specific priorities for near-term safety efforts, we support the following proposals as included in the Bicycle and Pedestrian Safety Act of 2015:

- **Clarifying the “Dooring” Rule** - The current regulations state: “No person shall open any door of a vehicle unless it is reasonably safe to do so and can be done without interfering with moving traffic or pedestrians and with safety to such person and passengers.” This legislation would add the “bicyclists” thus clarifying that doors shall be opened without “interfering with moving traffic, bicyclists or pedestrians.”
- **Amending The Compulsory No-Fault Motor Vehicle Insurance Act** - The bill amends the Compulsory/No- Fault Motor Vehicle Insurance Act of 1982 to adopt policies related to bicycle insurance.



- **Audible Warning from Public Sector Large Vehicles** – The bill requires the Mayor to transmit to the Council by January 1, 2017 a report and recommendation as to whether DC Circulator buses and District-owned heavy-duty vehicles should be equipped with pedestrian- alert technologies.

The administration does have several concerns with the following provisions in the bill:

- **Access To Collision Video** - The legislation requires that, if an automated traffic enforcement or other camera owned by the District with a capacity to record video, captures a collision handled by MPD’s Major Crash Unit then the Mayor shall inform all parties of the existence of the footage; preserve the footage and assist the parties in obtaining access to the footage. This provision to provide access to collision video should be clarified. Any crash investigated by MPD’s Major Crash Unit – which only investigates crashes with fatalities or some cases with very serious injury – is a potential criminal case. Thus, any video is potential evidence of a crime, up to and including homicide. While we agree that the Mayor can notify involved parties if video is captured by a District camera, as evidence in a criminal proceeding, access to the video should be handled through the existing discovery process for criminal cases.



- **Major Crash Review Task Force** – The legislation requires the creation of a Major Crash Review Task Force to review every crash handled by the Major Crash Unit and to recommend changes to the District’s statutes, regulations and policies to reduce the number of crashes resulting in serious injury or death. While the Administration supports the concept of a Major Crash Review Task Force, all crashes investigated by the Major Crash Unit are potential criminal cases. Therefore the Vision Zero action plan recommends a similar strategy intended to aid DC government agencies. The Mayor will establish a multi-agency response team for crashes involving fatal/disabling injuries, which would be responsible for holistic analysis of contributing factors and recommendation of countermeasures. This team will not perform investigations of a legal nature.
- **Stop as Yield** – The legislation provides that a person operating a bicycle or human-powered vehicle approaching a stop sign or a steady red traffic sign shall slow down and, if required for safety, stop before entering an intersection. The administration understands the intent behind this provision, but we feel it is not appropriate for a bill focused on bicycle and pedestrian safety. The bill states that a bicyclist could proceed through a red signal while slowing to a “safe speed”. We believe that all users should obey traffic signals, and allowing a certain group of users not to follow these



regulatory signs would create confusion among the broader traveling public.

The bill also states that a bicyclist could slow to a safe speed and proceed through a stop sign yielding to other traffic. We believe this would also be confusing to pedestrians, bicyclists, and drivers, leading to more crashes and conflicts.

- **Distracted Driving** -- The proposed bill would change the definition of distracted driving to prohibit “operating a motor vehicle” instead of just “operating a moving motor vehicle.” Based on previous court decisions, a person is deemed to be operating a motor vehicle if he or she is sitting in the driver’s seat and the keys are in the ignition. In effect, this would prohibit someone from even pulling over to the side of the road to make a call, or texting while sitting in a parking space with a car running. If this is broader than the original intent of the bill, we would recommend that the intent be clarified.

### **B21-0021, the Enhanced Penalties for Distracted Driving Amendment Act of 2015**

The Enhanced Penalties for Distracted Driving Amendment Act of 2015, introduced by Chairman Mendelson and Councilmembers Allen, Bonds and Nadeau, would increase fines for distracted driving and suspend the driver’s



license of a person violating the prohibition on distracted driving three times within a 18 month period. As previously mentioned, the administration supports stronger deterrents of distracted driving. While we support the concept of escalating fines for repeat offenses, and eventual suspension of a driver's license, there are significant challenges to implementing this requirement.

**B21-0029, Failure to Yield for Emergency Vehicles Amendment Act of 2015**

The Failure to Yield for Emergency Vehicles Amendment Act of 2015, was introduced by Councilmember McDuffie, and co-sponsored by Councilmembers Allen, Alexander, Bonds, Cheh, Evans, Nadeau and Silverman. The Administration supports the bill's requirement for drivers to yield the right-of-way and to pull over as close as possible to the right-hand side of the roadway, when a police vehicle or authorized emergency vehicle is approaching the scene of a traffic incident. Again, DDOT's proposal includes a different fine amount and point assessment, but we fully support the intent of this legislation.

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That concludes my testimony today on the legislation before the committee.

I want to thank you again for your leadership and for the opportunity to testify before you and the Committee today. We look forward to continuing to work with you and your staff to refine the language of these bills and to move forward on these important safety changes. My colleagues and I are happy to answer any questions you might have.

