

December 13, 2024

Dear council members,

There is a saying attributed to H. L. Mencken: “For every complex problem there is an answer that is clear, simple, and wrong.” At Wednesday's hearing, we heard the author of Intro 606 repeatedly characterize his bill as a “simple” and “common sense” solution. It is certainly simple—too simple to meaningfully address the problems it is claimed to address. Those problems are serious and complex, and they deserve a serious answer.

I write today (and I also testified on Wednesday) to **oppose the unserious approach in Intro 606, as well as to support Intro 1131**, not because I have any particular fondness for more task forces and studies, but because it is clear we do not yet know the right answer to these problems and they deserve a thoughtful answer.

Nobody is disputing that we have issues on our streets with new forms of motorized transport. Nobody with a shred of humanity can dispute, after listening to the heartbreaking stories at the hearing, that the lives and livelihoods of victims of traffic violence matter and that we should be willing to take action to prevent those kinds of tragedies from ever happening to anyone else. Their testimonies, however, consistently demonstrated that **Intro 606 would not have protected them:**

- Several testimonies, as well as one story relayed by Councilmember Brewer, spoke specifically about mopeds. Under state law, mopeds are already required to have license plates and registration, and their operators are already required to have motorcycle-class driver licenses and to stay out of bike lanes. A few testimonies mentioned bikes going 30 mph; anything whose motor accelerates it past 25 mph does not fit in any e-bike category under state law and must be licensed as a moped. If this law is not effective at achieving its goals (and it is quite clear to me that it is not), **it is hard to see how a city law making the same demands will change anything.**
- Many people told stories of crashes where the rider stayed on the scene and provided identifying information. In one case, the rider and the pedestrian were both badly injured and taken by ambulance to the same hospital and stayed in the same room overnight. Several testimonies made it clear that when there is more than enough

information for a wanted rider to be identified and found, the police do not take action. One testified that the police said, because you didn't lose a limb, there's nothing we can do. In the awful case of Priscilla Loke's death, the rider stayed on the scene and met with police who gave him a ticket and let him go. Proponents of Intro 606 say it will provide "accountability," but **in all of these cases, accountability was already available.**

- In other stories of crashes, people went to police and were told that they could not seek recourse because they "left the scene"—in an ambulance with serious injuries—or because more than a certain number of days had passed—which they had spent in the hospital. These are real and disturbing problems that Intro 606 does not address. **If the NYPD is not allowing police reports to be created in the first place, being able to identify the other party won't change anything.**
- The idea that license plates will provide accountability for bad behavior is plainly disproven by the experience of those people who testified that **in crashes involving vehicles with license plates, the license plates did not achieve accountability**; the NYPD refused to accept evidence of photos of a license plate and refused to follow up to hold the driver accountable.
- A few comments were asking for things that are already legally required, such as bells on electric scooters. Intro 606 neither directly addresses these nor helps the existing requirements to be better enforced.
- A few comments pointed out issues like the difficulty of slower manual cyclists and fast e-bikes sharing a bike lane, which I have experienced myself. Again, Intro 606 does not address this. E-bikes will continue to be legally allowed to go 25 mph in bike lanes with children going a fraction of that speed; they will just have license plates.

Intro 606 is a classic case of "Something must be done, and this is something, so it must be done." Something must indeed be done. Lives are at stake. The tragic and moving testimonies on Wednesday made this clear; indeed, they changed my mind about whether there is a problem that needs legislative action. But it is precisely because lives are at stake that we must take the problem seriously and act in a way that will realistically save those lives. **The Council would be failing its duty to the victims who spoke up on Wednesday by allowing them to be placated by a bad bill that would in truth not help them.**

Furthermore, as I testified on Wednesday, Intro 606 as written **cannot be meaningfully enforced**. The bill purports to place a licensing requirement on all electric bicycles, scooters, and other conveyances. My own electric bicycle¹ is a new variant of the 50-year-old Brompton folding bicycle owned by probably thousands of people in this city. The bill says that I need a license plate (which I will of course get, if this bill passes) and they do not need license plates—but it does not have an answer for how to distinguish those thousands of law-abiding riders, who would not have a license plate because they do not need one (and presumably would not be able to get one if they tried because their bike is not electric), from a scofflaw on a Brompton Electric who does need a license plate but wants to avoid identification. Many other bicycle manufacturers are also making electric variants these days, and electronics and batteries are getting smaller and more efficient. There are probably hundreds of thousands of non-electric bicycles in this city that have an electric model that looks almost identical. Repeatedly pulling over every rider of a non-electric bicycle, just in case, is clearly not the stated intent of this bill, nor, I hope, is it a policy outcome desired by any of the sponsors of this bill. But that leaves us without the ability to enforce the license requirement on cyclists who are breaking no other law, in which case this bill does not serve a purpose. If such a scofflaw commits a hit-and-run, there will be no plate caught on camera, leaving the victim without the accountability this bill promises. Meanwhile, if the rider is found breaking some other law, such as riding on the sidewalk, the situation is just the same as today, without the law: there is an unlicensed rider who needs to be stopped by the NYPD in the act. This law will serve no purpose in that case either. **The Council would be failing its duty to the victims who spoke up on Wednesday by telling them to put their hopes in a bill that will not work.**

(One solution which would be logistically more plausible is to require a license plate on every bicycle, electric or otherwise, so the question of distinguishing them does not arise. Under this scheme, anything bike-shaped without plates is clearly in violation. That said, I would oppose such a proposal strongly, and I imagine most voters, including many people who turned out this week in support of Intro 606, would

¹ If any councilmember or staff member would like to try my e-bike out to get a sense of what Intro 606 as written would regulate, please get in touch with me; I am more than happy to let you try it, and since it is an e-bike, I can meet you most anywhere in the city.

likewise oppose it. The costs and bureaucracy would also be much higher. The fact that this is *more realistic* than Intro 606 is a sign of how seriously to take Intro 606.)

Given all of this, it should be unsurprising that every other jurisdiction that has tried a law like this to solve the problems we face has decided that it wasn't working. They did not repeal the laws because they suddenly ceased to care about safety or about victims; rather, they repealed the laws because they found out that they were not doing anything to improve safety or help victims. (Contrary to Councilmember Holden's assertion in the course of questioning, Toronto indeed does not require licenses for e-bikes.² They do wholly ban e-scooters, which is to say, there is no license that makes e-scooters legal on Toronto streets. If the Council wishes to consider that option for NYC, it would at least be based on real experience.) **The Council would be failing its duty to the victims in particular, as well as its duty to the whole city to govern responsibly, by passing a law that has failed to achieve its goals in every other jurisdiction where it was tried.**

Finally, of course, as both one lawyer testified and the committee's own counsel have said, this bill is likely legally impermissible. **The Council would be insulting victims and wasting taxpayer money by passing a bill that they know will get overturned in the courts.**

Councilmember Holden challenged opponents of Intro 606 to provide solutions. This is, by itself, a perfect argument for Intro 1131, which acknowledges that every problem Intro 606 claims to address is indeed a problem, but also admits that we don't yet have a solution. In addition, I would like to offer the following potential solutions either for the committee and the Council to consider now or for the Intro 1131 task force to study:

- A state law is taking effect in January to require mopeds to be licensed at the point of sale. This would be a good opportunity to further work on **regulations on the vendor side**. The brand name "Fly E-Bike" is on many of the delivery *mopeds* in the city, which I am sure plays a significant part in the confusion of terms, including the confusion by their riders of whether they can ride in bike lanes and whether they need to register

² <https://www.toronto.ca/services-payments/streets-parking-transportation/cycling-in-toronto/cycling-and-the-law/electric-bicycles-e-bikes-e-scooters/>

their vehicle. The city could refuse to license vendors with the term "E-Bike" in their name who sell mopeds. There are also several stores in the state—including one in Chelsea—that sell the “Onewheel” balance board, which is not allowed on any roads in the state. Anything the city can do to prevent the sale of devices that simply cannot be used on our streets should be uncontroversially a good idea.

- There was almost universal agreement that **the incentives of delivery work are a contributor to unsafe behavior**. One participant raised a good point that this is not exclusive to apps, and that when he delivered pizza many years ago, he received more tips the more he delivered. These incentives can be directly addressed. Create limits on how quickly a delivery can be promised, how far a delivery can be from the restaurant, or how many deliveries or how much distance stores or apps can assign to a single delivery person per hour. Alternatively, tap into the growing frustration over tipping culture and find ways to compensate delivery workers hourly instead of per delivery, giving them a steadier paycheck while also making our streets safer.
- There are clearly many concerns with e-scooters, which under current state law can have motors that run up to 20 mph but have a speed limit of 15 mph. There does not seem to be a good reason for this discrepancy, and it is probably intended to address the realities of e-scooter manufacturing / to harmonize with non-New York regulations instead of being intrinsically desirable. Work with the state and manufacturers to **reduce the physical limit to 15 mph for new e-scooters** (or via firmware updates). Because e-scooters are effectively top-heavy and cannot brake as quickly as a bike or moped, even 15 mph is quite high; 10-13 mph would still be much faster than walking and able to keep up in bike lanes. The Bronx shared e-scooter pilot currently restricts a rider's first few rides to 10 mph; this could be extended to all trips.
- New York City is the only place in the state where class 3 e-bikes (top speed between 20 and 25 mph) are allowed. I am hesitant to suggest disallowing them; a friend who lives in Queens (who also testified on Wednesday) relies on his class 3 e-bike to keep up with vehicular traffic in parts of the city where there are no bike lanes, and he slows down once he is in a bike lane. Simply removing the class 3 provision would legally turn his e-bike into a moped, but lacking a VIN, it could not be registered with the state DMV. In practice, he would probably get a car and drive it 25 mph, which would be no safer for anyone and also likely would not be a policy outcome this Council would want to support. However,

- If you can **work with the state DMV to figure out how to license class 3 e-bikes without a VIN**, then reclassifying them as mopeds is worth considering. My friend would need a license plate, but since the purpose of his bike is to ride in traffic, that seems more defensible than Intro 606 as written. This change would still require careful consideration because several of the concerns about Intro 606 would apply, but they would apply in lesser measure. Note that the commercial e-bike license plate scheme proposed in state bills S7587 / A7833 and supported by Res 224 also would need the state DMV to develop the capability to issue license plates to e-bikes without a VIN.
- Applying a **speed limit of 20 mph or even 15 mph to all bike lanes**, even for devices that can go faster, seems like an obviously good idea. It would be much safer for people with non-electric or low-speed electric bicycles or scooters who are usually going at most 13 mph, it would make mopeds illegally in bike lanes much more obvious, and it would be safer for pedestrians crossing the street.
- Of course, the arguments for lower speeds apply to all moving objects on our streets, and all the more so to the heavier ones. As of this summer, "Sammy's Law" gives the DOT discretion to lower a street's speed limit to 20 mph. Simply **lower all city street speed limits to 20 mph** (or less), and my friend no longer has any need to go faster even when in traffic. This would also apply to mopeds / motorcycles, and since it applies to every single vehicle, enforcement would be vastly simplified.
- The data (which remains valid despite the booing from the more unruly corners of the audience at the hearing) clearly shows that existing street safety measures that NYC DOT already knows how to implement, including barrier-protected bike lanes, raised crosswalks, and "daylighting" intersections to increase visibility, reduce crashes, injuries, and deaths for *everyone*, whether in a car, on a bike or moped, or on foot. The Council already recognized the importance of many of these measures in the Streets Plan, which legally requires DOT to do work of which they have only completed a small fraction in the past two years. It is not clear to me whether this violation of law is an issue of political interference from the executive, a lack of resources or staff in DOT, a failure of prioritization, or some combination of all of these compounding on each other. The Council could **ensure DOT has the resources to follow the Streets Plan and hold them accountable**, and also **pass Intro 1138 for universal daylighting**,

removing a special exception for the city and bringing our streets into conformance with the law that applies to the rest of the state.

- Clearly, there is a lot of work to be done in getting NYPD to take crash reports seriously. No measure that aims for accountability will be effective without changes here. Everyone on every side of this issue knows first-hand that many crashes and injuries go unreported, and not for a lack of trying, with deadly consequences. Apart from criminal prosecution, DOT relies on NYPD data to plan work, and insurance and civil recovery often requires police reports. Work with victims and their advocates (including both EVSA and Families for Safe Streets) to figure out why the process doesn't work and how to **make sure crashes are accurately reported and victims get the assistance they need.**

Supporters of Intro 606 have been asking opponents, why do we oppose safety? Why do we not take the lives of victims seriously? I counter that it is the supporters of Intro 606, a bill that is logistically unworkable, is quite possibly legally impermissible, and demonstrably will not help the victims, who are not taking the lives of victims seriously and who are opposing safety. **Passing Intro 606 will tell the most vulnerable New Yorkers that the problem is solved when it is not.** It will tell them to put their hopes in accountability after a crash instead of prevention before a crash—and even so, their grieving families will find that they can do nothing with this accountability. I urge you to make the responsible, respectful, and caring decision and reject Intro 606.

Thank you for your consideration, and thank you to Chair Brooks-Powers and all the councilmembers and staff who attended Wednesday's long hearing for your willingness to listen to all perspectives on this important issue.

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