

**Council of the District of Columbia
Committee on the Environment, Public Works, and Transportation**

Draft Committee Report

1350 Pennsylvania Avenue, N.W., Washington, DC 20004

To: Members of the Council of the District of Columbia

From: Mary M. Cheh, Chairperson
Committee on the Environment, Public Works, and Transportation

Date: November 28, 2012

Subject: Bill 19-1013, the “Safety-Based Traffic Enforcement Amendment Act of 2012”

The Committee on the Environment, Public Works, and Transportation, to which Bill 19-1013, the “Safety-Based Traffic Enforcement Amendment Act of 2012” was referred, reports favorably on the legislation and recommends its approval by the Council of the District of Columbia.

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STATEMENT OF PURPOSE AND EFFECT

Bill 19-1013, the “Safety-Based Traffic Enforcement Amendment Act of 2012,” would require the Mayor to assess the potential safety impact from lower fines, post automated enforcement warning signs, evaluate the appropriateness of existing speed limits, and to submit an automated enforcement expansion plan. The bill would amend the Pedestrian Protection Amendment Act of 1987 to require a vehicle to yield the right-of-way to a pedestrian in a marked or unmarked crosswalk in the absence of traffic signals. The bill would amend DCMR to reduce fines for speeding, failure to clear the intersection, failure to stop and give right-of-way to a pedestrian in the roadway, failure to come to a complete stop before turning right on red, and failure to obey a no turn on red sign.

LEGISLATIVE HISTORY

October 16, 2012	Introduction of B19-1013 by Councilmembers Cheh, Wells, and Barry
October 16, 2012	Sequential referral of B19-1013 to the Committee on the Environment, Public Works, and Transportation, and the Committee on the Judiciary
October 26, 2012	Notice of Intent to Act on B19-1013 is published in the <i>District of Columbia Register</i>
November 2, 2012	Notice (abbreviated and revised) of Joint Public Oversight Hearing on automated traffic enforcement is published in the <i>District of Columbia Register</i>
November 5, 2012	Joint Public Hearing on automated traffic enforcement and B19-1013 held by the Committee on the Environment, Public Works, and Transportation and the Committee on the Judiciary
November 9, 2012	Notice (abbreviated and revised) of Joint Public Oversight Hearing on automated traffic enforcement and B19-1013 is published in the <i>District of Columbia Register</i>
November 13, 2012	Reconvened Joint Public Hearing on B19-1013 held by the Committee on the Environment, Public Works, and Transportation and the Committee on the Judiciary
November 28, 2012	Consideration and vote on B19-1013 by the Committee on the Environment, Public Works, and Transportation

BACKGROUND/COMMITTEE REASONING

During this year's summer recess, Councilmembers Mary M. Cheh and Tommy Wells agreed that the District needed to review the underlying philosophy and rationale for automated traffic enforcement (ATE), with special attention paid to fines. The councilmembers formed a task force comprised of interested stakeholders, agency representatives from MPD and DDOT, and topic matter experts from American University and Howard University. The task force reviewed the District's ATE program, and looked at research from around the U.S. and the world. From this analysis and research, the task force distilled a set of broadly agreed-upon policy recommendations which the councilmembers used as the basis for B19-931.

The task force developed several key findings¹: 1) the one thing that ensures high compliance with traffic laws is the certainty that violators will be caught and punished, 2) the level of the fine does not need to be very high to achieve compliance, rather the presence of any non-*de minimus* fine seems to accomplish this, (3) the main tool to achieve the greatest safety benefit is a large and continual expansion of automated traffic enforcement, 4) to avoid the charge that ATE is about general fund revenue, revenues should be reinvested into the program's expansion, 5) roadway users should have advance warning through signage and other indications of the District's ATE program and specific zones of enforcement, 6) speed limits must strike a balance between the reasonable expectations of drivers and the safety needs of all roadway users, 7) the goal of ATE should be to achieve a saturation point where everyone knows that if they speed in the District of Columbia, they will be caught and fined. In addition to these principles, the take force learned of the experience of other jurisdictions, notably Houston, which rolled back or their ATE programs after widespread public backlash to camera enforcement and the perception that it was about revenue.

Councilmembers Cheh and Wells devised a plan to achieve the greatest safety benefit for citizens: rapidly expand ATE, and lower the fines for most ticketable offenses, while maintaining high fines for egregious or willful behavior. Councilmembers also believe this strategy has the best chance of avoiding a public backlash and maintaining long-term legitimacy for the ATE program among many parties.

During the drafting process, the Committee discovered several inconsistencies in existing District law in areas that will soon be part of the ATE program, notably, stopping for a pedestrian crossing the street. As part of this comprehensive review, the Committee drafted clarifications of the existing law to make ATE enforcement in these areas consistent with expectations of roadway users.

Ultimately, the Committee's goal is to ensure that drivers comply with the District's traffic laws, and in doing so, all roadway users - pedestrians, cyclists, and drivers - will be safer.

¹ The Task Force Report is included as Attachment G.

SECTION BY SECTION ANALYSIS

Section 1 provides the long and short titles of the legislation.

Title I

Section 101 requires the Mayor to study the impact of the change in fines and transmit any findings to Council.

Section 102 requires the Mayor to post signs identifying the District as a strict enforcement zone, and provide advance warning of speed enforcement zones.

Section 103 requires the Mayor to submit a plan for expansion of automated traffic enforcement.

Section 104 requires the Mayor to complete a District-wide assessment of speed limits.

Title II

Section 201 amends section 2 of the Pedestrian Protection Act of 1987 to clarify the rules on stopping for pedestrians within the crosswalk or at an unmarked crosswalk.

Title III

Section 301 amends Section 2600.1 of title 18 of the District of Columbia Municipal Regulations to adjust speeding fines, crosswalk fines, certain intersection fines, and pedestrian endangerment fines.

Title IV

Section 401 adopts the fiscal impact statement.

Section 402 contains the effective date.

Section 403 would make this bill apply as of April 1, 2013.

Section 404 would make this bill sunset as of September 30, 2013.

SUMMARY OF PUBLIC HEARING

On Monday, November 5, 2012, the Committee on the Environment, Public Works, and Transportation and the Committee on the Judiciary held a joint public hearing on Bill 19-1013, the “District Department of Transportation DC Safety-Based Traffic Enforcement Amendment

Act of 2012.” Councilmember Mary M. Cheh, Chairperson of the Committee on the Environment, Public Works, and Transportation, called the hearing to order at 10:43 a.m. in room 412 of the John A. Wilson Building.

Chairperson Cheh, Council Chairman Phil Mendelson, and Councilmember Tommy Wells all made opening statements concerning the reasons Council is taking action on this area. Councilmember Cheh described the task force’s conclusion that the best way to achieve the greatest safety for our residents is to rapidly expand automated enforcement, and lower the fines for most ticketable offenses, while maintaining high fines for egregious and willful behavior. This approach will support the long-term legitimacy for the program among the public and many other stakeholders. Chairperson Cheh then called the first panel of witnesses.

Kristopher Baumann, Chairman of the DC Police Union, testified on the bill. The DC Police is opposed to the bill because it would lower fines. Mr. Baumann said that it would be a message to drivers to not take the DC government seriously, and that if the bill passed, the Council could expect drivers speeding more frequently. He said that cameras work, but in areas without cameras, drivers act with impunity. He said that it was a good thing that DC gets a lot of revenue from the ATE program, and that it should not be viewed negatively because it produced revenue. He also criticized the automated traffic enforcement task force process.

David Alpert, of Greater Greater Washington, testified on the bill. Mr. Alpert was a participant on the ATE task force; he defended the task force’s process and said the bill reflected the consensus of the task force. He said society needs to change driver behavior, and to do so we must ensure laws are just. He went on to mention several points of consensus from the task force: that certainty of getting caught is the best tactic to change behavior, that ATE devices need to expand exponentially, and that we need political consensus on the ATE program.

John Townsend, a representative from AAA Mid Atlantic, testified on the bill. He was also a member of the ATE task force, and said there was no evidence of a link between the level of fines and behavior. He discussed the experiences of neighboring jurisdictions with ATE, both successes and failures. He said that there was broad public support for ATE in the District prior to the increase in fines that occurred in 2010.

Louis Davis, a representative from AARP DC, testified on the bill. He was also a member of the ATE task force, and had three main points: 1) basing fines on the rates set by surrounding jurisdiction was a poor way to craft public policy, 2) any changes to the law should be reviewed after 18 months, 3) AARP supports a comprehensive review of road speeds in the District. He also added supports improved signage, and investing revenue into public traffic safety measures.

Councilmember Bowser joined the hearing at this time, and offered an opening statement. She said that she was not in favor of raising speed limits in DC, and that speeding was a major issue of concern for residents of Ward 4.

Councilmember Cheh asked the panelists about the best way to gain community support for ATE. Mr. Baumann said a better explanation of speed limits, keeping the fines where they

are and adding a dedicated fund for the revenue would achieve this goal. Mr. Davis reiterated many of the points from his testimony, as did Mr. Townsend, adding only that locations for ATE devices should be based on crash data. Mr. Alpert stated that there was an implied hypothesis that lowering fines would lead to public support, though there is little to base this on, and that Council could lower fines and still lack public support. He concluded by saying that Council should make the changes temporary as a type of pilot program.

Council Chairman Mendelson asked what the fine levels should be for the most common speeding infractions. John Townsend said fifty dollars, though he mentioned the analysis did not specify an exact amount, then went on to note that the Council has always supported cameras. Mr. Alpert interjected that the Council's support wasn't in question, but a problem arose from episodic funding events that result in delay in rolling out cameras broadly. Councilperson Wells expressed his fear that a rollout of new cameras without changes to the fines would result in a loss of the ATE program as a traffic safety tool. Mr. Alpert added that the criteria for camera locations should be the potential for harm to vulnerable users. Mr. Townsend said an engineering study was desperately needed for new speed limits and camera locations. Mr. Davis added that the criteria for locations should include school zones, wellness centers, elderly center, work zones, and crash data.

Councilperson Bowser asked if the District should use funds from the program to hire more DDOT traffic control officers (TCOs), to which Mr. Baumann responded "no", because TCOs can't perform traffic stops, only traffic control. The Councilperson continued by asking about the need for warning periods, expansion of the program, and if using more stop signs had a role. Chairperson Cheh added that the fine range the task force academics developed was between forty and seventy five dollars. The Chairperson went on to describe several aspects of the bill, and stated that the fundamental objective is safety. Mr. Alpert added the concept of a sunset provision as a means to do a trial period for new fine levels. Mr. Townsend advocated for eliminating the practice of using a 3rd party contractor to keep more of the revenue within the District's control. Mr. Wells added that the Mayor's proposal to add 400 police officers from surplus ATE revenue was a false choice, and that the Mayor ought to decide on the officers irrespective of where the revenue comes from, and that this tactic was in fact a political weapon to derail the Council's attempt to regulate automated enforcement. The witnesses re-iterated several of their positions in response to the general discussion of moving the bill forward.

Michael Sindram, a public witness, testified on the bill. Mr. Sindram was opposed to reducing fines.

Martin Moulton, a public witness, testified on the bill. Mr. Moulton was opposed to reducing fines.

Jack McKay, a public witness, testified on the bill. His main concern was Porter Street NW, and he discussed his view that MPD should only enforce against aggressive speeding, and should publish what level of speeding they will enforce against.

Jameel Alsalam, on behalf of the DC Bicycle Advisory Council, testified on the bill. He shared the position of the DCBAC, which broadly supported ATE expansion, with some objections to lowering fines for right-turn on red violations.

Lucinda Babers, Director, Department of Motor Vehicles, Patrick Burke, Assistant Chief, Metropolitan Police Department, Terry Bellamy, Director, District Department of Transportation, and Eric Goulet, Mayor's Budget Director testified under oath on the bill and the Mayor's proposed changes to the ATE program.² Councilmembers asked several questions related to the Mayor's timing on initiating emergency rulemaking changes to fine levels the day prior to the hearing on the same subject. Director Babers testified that the specific date she learned of the emergency rulemaking was October 31, 2012. Chief Burke testified that he learned of the rulemaking the week of October 29, 2012, and that he provided the same advice to the Mayor as he had to the ATE task force (which he participated in). Mr. Goulet testified that the Mayor's review of the ATE program began during eight townhall meetings held during the 2013 budgeting process, and that the Mayor learned of the \$27 million surplus from the ATE program, then held a meeting during the week of October 22, 2012 with senior staff to move forward with recommendations from Chief Lanier.

Council Chairman Mendelson asked what recommendations or research contributed to the Mayor's plan. Chief Burke reiterated some of the research presented to the ATE task force, and said he shared them with executive staff, adding that based on review, Chief Lanier decided that a \$100 fine for the most common infractions would achieve the goals. Mr. Bellamy added that DDOT will provide peer agency research on setting fines. Chairman Mendelson brought up a February 2006 hearing where DDOT committed to a citywide speed limit analysis, and asked if it was completed, but Mr. Bellamy did not seem familiar with this analysis. Cheh asked Director Babers about the administrability of warning systems, and the director added some options for warning notices, including a 25 day "quiet period" where citations would not be issued to a particular vehicle. Mendelson reiterated his frustration at the inconsistency of the city's speed limits, and the apparent inability by DDOT to provide a comprehensive explanation for how speed limits are set District-wide.

Chairperson Cheh asked Mr. Goulet about a handout he provided, and specifically the source of his numbers, which claimed that B19-1013 would cost \$54 million. Chairperson Cheh expressed skepticism about that estimate. She also asked about the timing of the Mayor's regulatory action, and said that it was no coincidence, and that the Mayor was clearly seeking to circumvent the Council's deliberations on the same subject, adding that the Mayor's plan seemed to simply set fine levels at a rate that would not have a budget impact for FY13. Mr. Goulet disagreed, saying that changes had been in progress for some time, and that the Mayor and his officers had agreed that the fine levels they had chosen would have a positive effect on traffic law compliance.

² On November 2, 2012, one business day before the Joint Hearing on this legislation, Mayor Gray announced an emergency rulemaking to change fines for speeding. *See* 45 DCMR 12903 (Nov. 9, 2012). The emergency rulemaking was "necessitated by the immediate need to promote the public welfare by instituting a more equitable fine schedule for a limited number of moving violations." *Id.* Under this change, the fine for speeding up to 10 mph over the limit is \$50; for speeding 11 to 15 mph over the limit is \$100; and for speeding more than 25 mph over the limit is \$250. *Id.*

Chairperson Cheh recessed the hearing at 2:15 p.m., noting that to provide sufficient public notice of consideration of the bill, the hearing would reconvene on Monday, November 13, 2012.

The hearing was reconvened by Chairman Mendelson on Monday, November 13, 2012 at 11:42 a.m. No witnesses testified at the reconvened hearing, and the hearing was adjourned at 11:45 a.m.

A video recording of the hearing can be viewed at oct.dc.gov. A copy of the witness list is included as Attachment D and a copy of witness testimony is included as Attachment F.

FISCAL IMPACT

A fiscal impact statement prepared by the Chief Financial Officer and dated November __, 2012 is attached to this report. The fiscal impact statement notes that B19-1013 would have a fiscal impact.

IMPACT ON EXISTING LAW

Bill 19-1013 would amend Section 2 of the Pedestrian Protection Amendment Act of 1987, and would amend certain fine levels under Title 18 of the District of Columbia Municipal Regulations 2600.1.

COMMITTEE ACTION

On November 28, 2012, the Committee on the Environment, Public Works, and Transportation convened a mark-up on Bill 19-1013, the “Safety-Based Traffic Enforcement Amendment Act of 2012.” Present and voting were Chairperson Cheh, Councilmembers Alexander, Bowser, Graham, and Wells. Chairperson Cheh gave a brief opening statement on the bill.

Chairperson Cheh then asked for discussion on the bill. ...

Chairperson Cheh then moved for approval of the amended Committee print of Bill 19-1013. The Committee voted X-X to approve the Committee print with the members voting as follows:

YES:

NO: 0

PRESENT: 0

Chairperson Cheh then moved for approval of the Committee report on Bill 19-1013. The Committee voted unanimously X-X to approve the Committee report with members voting as follows:

YES:

NO: 0

PRESENT: 0

The meeting was adjourned.

LIST OF ATTACHMENTS

- (A) Bill 19-1013, as introduced
- (B) Notice of Intent to Act, published in the *District of Columbia Register*
- (C) Public Hearing Notice, published in the *District of Columbia Register*
- (D) Public Hearing Agenda and Witness List
- (E) Committee Print of Bill 19-1013
- (F) Testimony
- (G) Automated Traffic Enforcement Task Force Report
- (H) Fiscal Impact Statement

ATTACHMENT
A

ATTACHMENT
B

ATTACHMENT
C

ATTACHMENT
D

ATTACHMENT
E

ATTACHMENT
F

ATTACHMENT
G

ATTACHMENT
H
