

New York State Assembly | Sheldon Silver, Speaker



committee on

Transportation

David F. Gantt, Chairman

December 15, 2009

Honorable Sheldon Silver
Speaker of the New York State Assembly
Room 932, Legislative Office Building
Albany, NY 12248

Dear Mr. Speaker:

I am pleased to submit to you the 2009 Annual Report of the Assembly Standing Committee on Transportation.

The 2009 Legislative Session was a notable year in Committee achievements on issues relating to transportation safety, which remains one of the chief priorities of the Committee. Due in part to the Committee's continued success in enacting stronger safety laws and in implementing key traffic safety performance measures, New York has seen the number and rate of traffic fatalities improve. For example, from 2004 to 2008 the number of motor vehicle fatalities dropped 18%, while in 2007 the fatality rate dropped to 0.97%. Building on the legislative successes of previous sessions, several bills reported out of the Committee this year were enacted into law. Among them were laws that addressed unsafe driving behaviors, driver inexperience, and child passenger safety.

Further among this year's accomplishments was the passage of "Leandra's Law," the strongest law against driving while intoxicated (DWI) in the nation. Leandra was one of a number of children in the State this year killed, seriously injured, or endangered before the hands of drunk or drug-impaired drivers. In an effort to deter such reckless behavior, this new law makes it a felony to drive drunk or drug-impaired with a child in the vehicle, while mandating that all convicted drunk drivers install ignition interlock devices on their vehicles.

The Committee has long recognized that child passengers are especially vulnerable to serious or potentially fatal injuries when the vehicle in which they are traveling is involved in a collision. Because of their small size and stature, children do not fit properly into adult safety restraints, rendering the restraints ineffective and the potential cause of head, brain, and other devastating injuries due to the lack of protection they provide. As such, the Committee advanced legislation, subsequently enacted into law, which increases from six to seven the age child passengers are required to be restrained in an appropriate child restraint system.

The Committee also has worked for many years to protect other occupants. Credited with the passage of the nation's first seat belt law, New Yorkers should be proud to know that seat belt law compliance in our State is at an all-time high. Current law requires drivers, front seat passengers, and rear seat passengers under the age of sixteen to be properly restrained. Research shows that seat belts save lives and reduce injuries in the event of a collision. Thus, the Committee advanced legislation requiring that seat belts be worn by all passengers aged sixteen and over riding in the rear seats of a motor vehicle.

The Committee's ongoing dedication to improving the safety of young, inexperienced drivers and those who share the road with them led to the enhancement of the State's graduated licensing law which eases young drivers into full licensing privileges. This group of drivers tends to be the most susceptible to involvement in motor vehicle crashes. The new provisions strengthen the existing graduated licensing law to ensure that, among other things, young, inexperienced drivers are required to retain their learners' permits for a full six months and to spend more time practicing behind the wheel.

There are over 10.5 million registered vehicles in New York State. Combined with the vast numbers of vehicles from outside the State traversing the State's roadways throughout the year, it is imperative that motorists, bicyclists and pedestrians be protected from the dangers of unsafe driving habits. Technological advances over the past few years have resulted in a variety of electronic devices that have become an integral part of daily life. Such devices have functions that, while convenient and useful, can easily become distractions and contribute to serious accidents. To address the dangers of drivers using certain electronic devices when their attention should be focused on the driving task, the Committee obtained the enactment of legislation to prohibit the use of portable electronic devices while operating a motor vehicle.

I would like to take this opportunity to express my gratitude to the members of the Committee for their support of, and contributions to, this year's legislative efforts. I also wish to thank the State agencies for their assistance and cooperation, and the staff for their dedication and hard work.

Mr. Speaker, on behalf of the members of the Committee, I want to thank you for your encouragement and support of our efforts throughout the 2009 Session. With your continued leadership, we look forward to developing new programs and initiatives for the 2010 Legislative Session.

Sincerely,

David F. Gantt, Chairman
Assembly Standing Committee
on Transportation

DFG:nr
Enclosure

**2009 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON TRANSPORTATION**

David F. Gantt, Chairman

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Najay F. Roache, Committee Assistant
Kathryn F. Curren, Committee Clerk
Laura Inglis, Program & Counsel Executive Secretary

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I. INTRODUCTION AND SUMMARY

A. Committee Jurisdiction

New York State's transportation network moves millions of people and tons of freight annually. This network includes a State and local highway and bridge system of more than 17,000 bridges and almost 114,000 miles of highways, upon which more than 141 billion vehicle miles are driven annually. Over five hundred public and private aviation facilities provide service to at least 84 million passengers annually. Four port authorities (NY/NJ, Albany, Oswego, and Ogdensburg), the Port of Buffalo and numerous private ports handle more than 150 million tons of freight each year. There also are 4,200 miles of rail in the State, moving over 73 million tons of freight annually. About 1.5 million riders use Amtrak's Empire and Adirondack services, and over 8 million rail passengers pass through Penn Station using Amtrak service with an origin or destination within New York State. Over 130 public transit operators provide service to approximately 5.2 million passengers per day.

The Assembly Transportation Committee is charged with the responsibility of advancing policies for coordinating the management of these systems and ensuring the employment of measures designed to provide and encourage safe travel. The Committee also is responsible for developing and reviewing legislation covering a wide range of topics affecting the movement of people and goods throughout the State.

The Committee's jurisdiction includes oversight and analysis of the activities, including the implementation and administration of programs, of the Departments of Transportation (DOT) and Motor Vehicles (DMV), the New York State Thruway Authority, and various regional transportation authorities and commissions. Committee action primarily affects the following consolidated laws: Vehicle and Traffic, Highway, Transportation, Navigation, Canal, and Railroad.

B. Summary of Committee Action

During the 2009 Legislative Session 636 bills were referred to the Assembly Standing Committee on Transportation. A number were ultimately signed into law, such as legislation to enhance various requirements of the graduated licensing law to protect young drivers and their passengers, and to prohibit the use of portable electronic devices by any person when operating a vehicle on roadways in the State. The Committee also continued its commitment to protecting the safety of children who are passengers in motor vehicles by increasing, from six to seven years old, the age of child passengers who are required to be restrained in an appropriate child restraint system. Legislation was also enacted to authorize the Cities of Buffalo, Rochester, Syracuse, and Yonkers, and the Counties of Nassau and Suffolk, to adopt local laws or

ordinances for a Red Light Camera Demonstration Program in each locality, as well as to extend and expand the current New York City Red Light Camera Demonstration Program. Other enacted bills included legislation to improve the safety of boaters in New York State by enhancing the applicable penalties for individuals who leave the scene of a personal injury boating accident; to strengthen cyclist safety by authorizing bicycles to be equipped with either a red or amber rear light when operated on roads; to clarify the commercial driver's license exemption for persons operating police, fire, or emergency vehicles; to modify the Navigation Law's definition of "deck continuity" for the purpose of determining a vessel's pilotage fees; and legislation to strengthen penalties for the unlawful solicitation of ground transportation services at the State's airports.

The Assembly also acted upon a number of other bills enhancing traffic and occupant safety, including bills that would have: required all passengers aged 16 and older seated in the rear of a motor vehicle to wear a safety belt; prohibited the operation of a pick-up truck or commercial vehicle with children seated in the cargo area; prohibited the unauthorized use of devices capable of changing the color of traffic lights from red to green; and further limited the age of passengers who can ride in the front seat of a motor vehicle.

The Committee conducted two public hearings in 2009 on the subject of New York State Department of Transportation federal stimulus projects and the New York State Department of Transportation Five-Year Capital Program.

II. 2009 LEGISLATIVE ACTION

A. Traffic Safety

Safe Driving

(A.8568-B, Gantt; Chapter 403 of the Laws of 2009)

For several years, the Centers for Disease Control and Prevention have reported that a major cause of serious motor vehicle accidents involving injuries and fatalities is the inexperienced driver¹. Some of the major contributing factors cited for this trend include the likelihood of teen drivers to underestimate dangerous situations, and also their limited driving experience and how they are unlikely to recognize potentially hazardous situations. According to the Insurance Institute for Highway Safety (IIHS), the motor vehicle crash risk for teenagers is particularly high during the first year that they are eligible to drive.² NHTSA reports that motor vehicle crashes are the leading cause of death for 15 to 20 year olds though this age group accounts for only 6.4% of licensed drivers. Nationwide in 2007, the last year for which data is available, 13% of all drivers involved in fatal crashes were between 15 and 20 years old.³ Studies have also shown that teen drivers overall have a higher risk of involvement in motor vehicle accidents due to their inexperience with road conditions, risky driving practices such as speeding and tailgating, and their lack of defensive driving knowledge.

The graduated driver license law that New York enacted in 2002 contains many of the provisions shown by studies to reduce the incidence of fatal crashes in young drivers, such as a minimum waiting period for licensure, supervised driving hours, and passenger restrictions. To further enhance the safety of young, inexperienced drivers, the Legislature enacted Chapter 403 of the Laws of 2009 to modify the existing junior licensing structure. This Chapter strengthens the existing requirement that all new drivers under age 18 hold a learner's permit for at least six months before a road test may be scheduled by eliminating the option of obtaining a limited class junior license prior to the expiration of the six month permit holding period. This will ensure that there is sufficient time for the permit holder to develop safe driving skills while under the supervision of a more experienced driver. The law will also increase from 20 to 50 the required number of practice driving hours before the road test may be taken, with at least 15 of the hours completed after sunset.

The Insurance Institute for Highway Safety continues to report that another contributing factor to the high incidence of motor vehicle accidents among young drivers is the presence of teenage passengers. An IIHS analysis of national accident reporting data revealed that 61% of teenage passenger deaths in 2007 occurred in vehicles driven by another teenager. Among deaths of passengers of

¹ Centers for Disease Control and Prevention (CDC). *Teen Drivers: Fact Sheet*. (Atlanta, GA, 2009.)

² Insurance Institute for Highway Safety (IIHS). *Fatality Facts: Teenagers 2007*. (Arlington, VA, 2008.)

³ NHTSA. *Traffic Safety Facts: Young Drivers*. DOT HS 811 001, 2008, pp. 1, 2.

all ages, 20% occurred when a teenager was driving.⁴ The analysis also concluded that the relative risk of death or serious injury for teen drivers increases with each additional passenger traveling in the vehicle.

Chapter 403 aims to lower the number of fatal accidents involving teenaged drivers and their passengers by reducing, from two to one, the number of non-family members under age 21 who can ride as a passenger in a motor vehicle operated by a holder of a junior learner's permit or junior license, unless the driver is accompanied by a parent, guardian, driver education teacher or driving school instructor.

In recent years, there has been widespread attention given to the frequency of motor vehicle accidents due to driver distraction. In 2001 the Legislature passed legislation to ban the use of a mobile telephone while driving unless a "hands free" device is used. With the advances in technology since that time, there are a variety of hand-held electronic devices that pose risks of distraction for drivers. This is particularly true since the sending and receiving of text messages and electronic mail has become increasingly popular with the evolution of cellular phones and personal digital assistants (PDAs). In 2007, the New York State Department of Motor Vehicles (DMV) reported that driver inattention or distraction was the largest contributing factor in motor vehicle accidents. Approximately 17% of all reported accidents in New York State cited it as a contributing factor.⁵ Chapter 403 would also seek to reduce the prevalence of these types of accidents by prohibiting the use of portable electronic devices to engage in certain actions while operating a motor vehicle.

Driving While Intoxicated with a Child Passenger ("Leandra's Law")

(A.40008, Rules/Weisenberg; Chapter 496 of the Laws of 2009)

The State of New York has an exemplary record of fighting drunk driving based upon strict laws, vigorous enforcement, an outstanding STOP-DWI Program,⁶ and public education efforts. The 2008 fatality rate for alcohol-related traffic deaths in New York was 0.25%, an eleven percent drop from the State's 2007 rate and the fifth lowest in the nation. However, while alcohol-related crashes represent approximately four percent of all police-reported accidents occurring within New York State, alcohol-related fatal crashes represent about 31% of fatal accidents and 12% of non-fatal injury accidents reported by the police.⁷

Since July of this year, a number of children were killed, injured or placed in harm's way by drunken or drugged drivers at the wheel of the vehicle in which

⁴ Insurance Institute for Highway Safety. Highway Loss Data Institute, "*Fatality Facts 2007: Teenagers*." (Arlington, VA, 2008). Table entitled "Passenger vehicle passenger deaths by passenger age and driver age, 2007."

⁵ New York State Department of Motor Vehicles. "*Summary of Motor Vehicle Accidents: 2007 Statewide Statistical Summary*." (New York, 2008). Table entitled "Table 7(P) Accident Contributing Factors."

⁶ "Special Traffic Options Program – Driving While Intoxicated," see *Vehicle and Traffic Law Section 1197*.

⁷ New York State Department of Motor Vehicles. *Summary of Motor Vehicle Accidents 2008 Statewide Statistical Summary*. "Accident Summary Totals," Table 1 and "Alcohol-Related (A-R) Accidents," Table 1(P).

the children were riding. Responding to the danger posed to this very vulnerable population, the Committee was successful in seeing through to enactment a bill to make driving while intoxicated (DWI) or while impaired by drugs with a child passenger aged 15 years or younger a felony. Enacted during Extraordinary Session and known as “Leandra’s Law” after one of the many children who have lost their lives to drunk and/or drug impaired drivers operating the vehicles in which they were passengers, Chapter 496 of the Laws of 2009 (A.40008, Rules/Weisenberg) also requires arresting officers (who are mandatory reporters under the Social Services Law) to contact Child Protective Services if the driver is a child passenger’s parent, guardian, custodian, or is otherwise legally responsible for such child, if the circumstances so warrant.

Another provision of Chapter 496 strengthens the existing crimes of first degree vehicular assault and manslaughter, aggravated vehicular assault, and aggravated vehicular homicide by adding the operation of a vehicle while drunk or drug impaired with a child passenger as an element of such crimes. Additionally, Chapter 496 mandates the installation of ignition interlock devices on vehicles operated by persons convicted of misdemeanor or felony DWI or any DWI-related Penal Law felony.

Illegal Altering of Traffic Signals

(A.7508, Canestrari; Passed Assembly)

A traffic-control signal preemption device allows the normal operation of a traffic light to be overridden, thereby changing a red light to green or extending the duration of a green light. These devices are usually used by emergency vehicles (e.g., ambulances and fire vehicles) and law enforcement officers to reduce emergency response times, as well as to improve traffic safety during emergency responses. The devices also have been used to prevent collisions at highway-railroad grade crossings and to provide priority access through intersections by public transportation systems such as buses.

However, members of the general public have been able to purchase these devices over the Internet. Their use of these devices could be detrimental to traffic safety. Assembly bill 7508 (Canestrari) would amend §1115 of the Vehicle and Traffic Law, which currently prohibits the alteration of a traffic-control signal, to clarify that such alteration would include but not be limited to changing or attempting to change signal indications of a traffic signal (i.e., red, amber and green lights) by the use of a traffic control signal preemption device. The bill would define a traffic control signal preemption device as a device that is designed or used to change or attempt to change the signal indications of a traffic-control signal. The bill also would deem the presence in a vehicle of such a device connected to a power source to be presumptive evidence of its use by a vehicle’s operator. That presumption could be rebutted by any credible and reliable evidence that tends to show that such device was not in use.

B. Occupant Safety

Child Passenger Safety

A.8612-A, Gantt; Chapter 405, Laws of 2009

Since their inception, seat belts have saved the lives of countless motor vehicle occupants who were involved in automobile accidents. Research continues to prove that in the event of a collision, the occupant who is unrestrained faces a significantly higher chance of death or serious injury. Child passengers are especially at risk to the dangers of traveling unrestrained in a motor vehicle due to the fact that safety belts are designed for adults. In order for them to be effective for children, seat belts must be used with a child restraint system that is appropriate for the size of the child who will be wearing it. In their fall 2008 Status Report, IIHS noted that one of the main reasons that children who have outgrown child restraint systems (rear-facing car seats, booster seats, etc.) are still at risk is if they are made to use an adult seat belt prematurely.⁸

The Institute recommends that children should ride in booster seats until they have reached a height of at least four feet nine inches tall. According to growth charts formulated by the Centers for Disease Control and Prevention (CDC), this height is typically reached at around age eight. This stature is essential to guaranteeing that the seat belt will operate effectively in the event of a collision or impact. A national survey of the use of booster seats conducted by the National Highway Traffic Safety Administration (NHTSA) found that 43% of six to seven year-olds were in booster seats during 2008 while 34% used safety belts and 11% were unrestrained (note: the remaining 12% were properly restrained in a child safety seat).⁹

Current law requires children traveling in a motor vehicle to be seated in an appropriate child restraint system until they are seven years of age. To bring New York State closer in line with the recommendations of health and traffic safety experts, the Legislature enacted Chapter 405 of the Laws of 2009 to require children under the age of eight to be properly restrained in an appropriate child restraint system when traveling in a motor vehicle.

Seatbelt Use in Rear Seats

(A.225-A, Jeffries; Passed Assembly)

The National Highway Traffic Safety Administration estimates that 270 fatalities are averted for every one percent increase in seatbelt use. Statistics indicate that seat belt use in New York State rose from 16% in 1984 (the year the seat belt law was enacted) to 89% in 2008. Despite this compliance rate, at least 35% of individuals aged five and older actually killed in traffic crashes in 2008 in

⁸ Insurance Institute for Highway Safety. *Status Report: Booster That Fits*. Special Issue Vol.43. No. 6. October 1, 2008. p. 7.

⁹ NHTSA's National Center for Statistics and Analysis. *Traffic Safety Facts: Booster Seat Use in 2008*. DOT HS 811 121 (Washington D.C., 2009.) Table entitled "Restraint Use for Children Age 4-7" p.1.

New York State were not wearing their seat belts.¹⁰ The majority of unrestrained fatalities nationwide tend to occur among persons aged 16 to 64 years, followed by persons aged 65 and older, while occupants under the age of 16 suffer the fewest numbers of deaths due to failure to use restraints.¹¹

There is a high personal and societal cost incurred from the failure of vehicle occupants to wear seat belts. The economic cost of motor vehicle traffic crashes to New Yorkers, adjusted to today's dollars, is \$27.92 billion.¹² The Federal Bureau of Transportation Statistics estimates that those directly involved in a crash pay approximately one-quarter of the total costs, while society in general pays the remaining three-quarters through higher insurance rates, taxes, and the like.

Research conducted by the Center for Transportation Injury Research, affiliated with the University of Buffalo, has shown that drivers are twice as likely to suffer fatal injuries in a head-on motor vehicle crash if an unbelted passenger was seated behind them, and the risk of death to unbelted passengers is three times higher.¹³

In New York State, all front seat passengers are required to be properly restrained. However, in the middle and rear seats, only persons under the age of 16 are required to wear seat belts (or be restrained in appropriate child restraints). Assembly bill 225-A (Jeffries) would close the final gap in the law by removing the age limitation on the statutory requirement to wear seatbelts, thus requiring all passengers who are seated in the middle or rear seating positions to buckle up regardless of age.

Children Under Seven to Occupy Rear Seats

(A.4181, Galef; Passed Assembly)

Information from NHTSA indicates that more than 1,200 children who were motor vehicle occupants were killed in motor vehicle accidents nationwide in 2007, while approximately 174,000 were injured. Experts ranging from NHTSA to the American Academy of Pediatrics agree that children are safest when buckled up properly and in the back seat. NHTSA has said that children are much less likely to suffer fatal injuries in a crash if they are riding in the back seat. Placing children in the back seat of a motor vehicle provides greater protection from head-on collisions, the most serious type of crash, by getting children farther

¹⁰ National Highway Traffic Safety Administration. "Traffic Safety Facts New York, 2004-2008," *State Traffic Safety Information for Year 2008*. (Washington D.C., 2008.) Table entitled "Passenger Vehicle Occupant Fatalities Age 5 and Above by Restraint Use and Lives Saved Estimates."

¹¹ National Highway Traffic Safety Administration, National Center for Statistics and Analysis. *Traffic Safety Facts 2007: A Compilation of Motor Vehicle Crash Data from the Fatality Analysis Reporting System and the General Estimates System*. DOT HS 811 002, Table 84, p. 119.

¹² National Highway Traffic Safety Administration. *The Economic Impact of Motor Vehicle Crashes 2000*. DOT HS 809 446, Table 15, p. 44 which notes that, in year 2000 dollars the economic cost to New Yorkers of motor vehicle crashes is \$19.49 billion.

¹³ J. Mayrose, D. Jehle, Hayes, D. Tinnesz, G. Piazza, G. Wilding. "Influence of the unbelted rear-seat passenger on driver mortality: "The Backseat Bullet" Abstract, *Academic Emergency Medicine* 11 (5)(2004):442.

away from the point of impact. Additionally, in vehicles equipped with front airbags, placing children in the rear seats protects them from the risk of serious injury or death from a deploying airbag.

New York's Vehicle and Traffic Law requires all front seat passengers to be restrained, regardless of age, and all rear seat passengers up to and including the age of 15 to be restrained. To build on these safety requirements, the Assembly passed A.4181 (Galef). The bill would prohibit the operation of a motor vehicle with any passengers under the age of seven seated in the front seat of the vehicle. However, this prohibition would not apply under the following circumstances: the motor vehicle is not equipped with rear seats; the rear seat cannot accommodate the proper installation of the child safety or booster seat in which such passenger is being transported; all other seats are occupied; or the passenger has a medical exemption.

C. School Bus Safety

Safe Transportation of Pre-School Children

(A.762, Gantt; Passed Assembly)

The safety of children while being transported to and from school is of critical importance. Article 19-A of the Vehicle and Traffic Law provides protection to school-aged children by requiring drivers of school buses to undergo criminal history background checks, medical examinations, annual driving record reviews, and biennial testing of their skills behind the wheel and of their knowledge of the rules of the road, defensive driving practices, and the laws regulating driving a bus in New York State. Article 19-A also provides for the disqualification of drivers from operating school buses if they are convicted of any of a number of specified violations. However, persons driving pre-school-aged children to pre-school or nursery school are not subject to these strict standards and requirements.

Assembly bill 762 (Gantt) would subject persons operating vehicles owned by governmental agencies, pre-schools or nursery schools transporting children less than school age, teachers and other persons acting in a supervisory capacity to and from a pre-school or nursery school or school activities, as well as vehicles privately owned and operated for compensation for such transportation pursuant to an agreement with such entities, to the requirements of Article 19-A.

Stopped School Buses

(A.4054, Gantt; Passed Assembly)

Under current law, it is illegal to pass a stopped school bus when its stop sign-shaped arms are extended and its red lights are flashing. However, the problem of motorists illegally passing school buses continues to be a recurring one, raising concerns among parents, drivers, and transportation administrators alike. The Governor's Traffic Safety Committee (GTSC) estimates that over 50,000

vehicles illegally pass a stopped school bus each day in New York State, and that between 2002 and 2004, 69 students were injured and one student was killed by motorists in New York passing stopped school buses. Since the law already imposes significant penalties upon motorists convicted of passing a stopped school bus (\$250 to \$1,000 in fines and/or 30 to 180 days imprisonment), the Assembly passed legislation to address this critical issue through public education and the development of proposals to reduce violations. Assembly bill 4054 (Gantt) would direct DMV to design and implement a “school bus motorist education program” in conjunction with the GTSC, the State Education Department (SED), DOT, the Division of the State Police (DSP), and the State Comprehensive School Bus Driver Safety Training Council. The purposes of this program would be to educate motorists of the dangers of passing stopped school buses, to reduce the number of such violations, and to promote school bus safety.

The bill would also establish a “school bus motorist education fund” and redirect surcharges collected for illegally passing stopped school buses into such fund. Fifty percent of the monies collected would be directed to the “school bus motorist education program” and the remaining fifty percent of the monies collected would be directed to the State Comprehensive School Bus Driver Safety Training Council, for the study of the illegal passing of stopped school buses and the development of proposals to reduce the number of such violations.

D. Enforcement and Deterrence

Leaving the Scene of a Boating Accident

(A.2262-A, Stirpe; Chapter 297, Laws of 2009)

Recreational boating in New York State attracts thousands of people to the scenic waterways every season. There are over 488,000 registered vessels in New York State as well as other vessels that are not required to be registered such as non-motorized recreational vessels. As with the use of any motorized vehicle, it is not uncommon for accidents to occur. According to the State Office of Parks, Recreation and Historic Preservation (OPRHP), in the 2008 boating season (the year for which the most recent data is available) there were 215 accidents involving 104 injuries and 21 fatalities.

Current law requires that whenever any vessel, including but not limited to rowboats, kayaks, and canoes, meets with an accident involving damage to any vessel or the real or personal property of another, the operator must stop, provide his or her name and address, the name and address of the vessel owner, and the identification number of the vessel (if there is one) before leaving the scene of the accident. If, as a result of the accident, the operator knows or has cause to know that any person is injured or has disappeared under the water, he or she must provide his or her name and address, the name and address of the vessel owner, and the vessel identification number. In addition, he or she must

provide a report as soon as possible to the nearest authority. Despite this law, in the summer of 2007 two tragic boating accidents occurred on lakes in Central New York in which boaters in each accident left the scene without assisting the injured boaters or notifying the appropriate authorities.

In response to these tragic events and to deter similar occurrences in the future, the Assembly passed A.2262-A (Stirpe) to increase the penalties for those convicted of leaving the scene of a boating accident. Signed as Chapter 297 of the Laws of 2009, the new law clarifies that a violation resulting solely from a vessel operator's failure to provide the vessel owner's name and address and/or the vessel identification number is a class B misdemeanor, rising to a class A misdemeanor for any subsequent violation. The new law increases the penalty for leaving the scene of a personal injury boating accident from a class B misdemeanor to a class A misdemeanor, subject to a fine of \$500 to \$1,000 in addition to any other penalty provided by law. A repeat violation for leaving the scene of a personal injury boating accident is increased to a class E felony (from a class A misdemeanor), subject to a \$1,000 to \$2,500 fine in addition to any other penalty provided by law. Finally, Chapter 297 increases the penalty for leaving the scene of a personal injury boating accident where the personal injury results in death to a class D felony (from a class E felony).

Unlawful Solicitation of Ground Transportation at an Airport

(A.4552-A, Aubry; Chapter 481, Laws of 2009)

The United States Department of Transportation (USDOT) estimates that in 2007, the last year for which data is available, over 40 million passengers traveled through New York State's airports. The State is home to over 150 public use airports, ten of which provide international service. Many passengers arriving at these airports who do not have pre-set travel arrangements upon landing utilize ground transportation services that are offered at the airports, such as that which is available through information counters, bus stops, and taxi dispatch stands. Unsuspecting passengers face many potential dangers, however, if they accept offers for transportation services from persons who approach them in the arrival terminals. These individuals are oftentimes not employed by a properly licensed or insured for-hire vehicle service.

Under current law, the unlawful solicitation of ground transportation services at an airport is a violation punishable by a variety of fines and/or imprisonment. Despite the efforts of airport security and law enforcement personnel to apprehend the individuals who are committing these offenses, concerns were raised that the current penalty structure had become an expected cost of doing business for some repeat offenders. Various entities including the Port Authority of New York and New Jersey, the City of New York's Taxi and Limousine Commission, the Queens County District Attorney and others indicated that in recent years this activity has become increasingly difficult to manage in New York City, where incidents at John F. Kennedy International Airport and LaGuardia Airport have been on the rise. Passengers at these airports continue to be aggressively approached by individuals posing as legitimate transportation

providers, who then subject travelers to exorbitant fare pricing and other predatory acts.

Chapter 481 of the Laws of 2009 enhances the penalties for unlawful solicitation of ground transportation services at an airport by making all violations a Class B misdemeanor, and increases the current fine structure to a range of \$500 to \$1,250. Additionally, the new law raises the possible jail time from 15 days to a new maximum 90 days.

Red Light Cameras

(A.7328, Silver; Chapter 18, Laws of 2009;
A.7329, Lavine; Chapter 19, Laws of 2009;
A.7330, Spano; Chapter 20, Laws of 2009;
A.7331, Hoyt; Chapter 21, Laws of 2009;
A.7332, Gantt; Chapter 22, Laws of 2009;
A.7333, Eddington; Chapter 23, Laws of 2009;
A.7420-A, Magnarelli; Chapter 383, Laws of 2009)

In 1988 the Legislature authorized the City of New York to enact a local law to implement a demonstration program to impose liability on the owners of vehicles whose operators ran red lights, through the use of red light cameras. Since the inception of this program, the City has cited over four million vehicles for failing to obey red traffic signals. In 2007 alone, the City issued nearly 950,000 notices of liability (“NOLs”) for violations. City statistics show that there has been a 40-60% reduction in red light violations at intersections equipped with cameras. To further enhance the safety of pedestrians, bicyclists and vehicle occupants at intersections, the Legislature approved a bill (A.7328, Silver; Chapter 18 of the Laws of 2009) to expand this Demonstration Program by an additional 50 cameras (to a total of 150) and to extend the current authorization for an additional five years, to December 1, 2014.

Responding to calls from other localities for similar authorization to install red light cameras, the Legislature also approved legislation authorizing Nassau (A.7329, Lavine; Chapter 19 of the Laws of 2009) and Suffolk (A.7333, Eddington; Chapter 23 of the Laws of 2009) counties, as well as the cities of Rochester (A.7332, Gantt; Chapter 22 of the Laws of 2009), Buffalo (A.7331, Hoyt; Chapter 21 of the Laws of 2009), Yonkers (A.7330, Spano; Chapter 20 of the Laws of 2009) and Syracuse (A.7420-A, Magnarelli; Chapter 383 of the Laws of 2009) to adopt local laws or ordinances to establish five year demonstration programs imposing monetary liability on vehicle owners for operators’ failure to comply with traffic control signals, and to install and operate traffic-control signal photo violation-monitoring devices at up to fifty intersections (Nassau, Suffolk, Rochester, Buffalo) and at up to twenty-five intersections (Yonkers and Syracuse). These new laws are patterned after the authorization for New York City, including provisions related to privacy, procurement of equipment, due process, notice to owners of their liability, adjudication, fines for violations, prohibition of driver’s license points, defenses, and reporting requirements.

E. Department of Motor Vehicles (DMV)

Commercial Drivers' Licenses (CDLs)

(A.6051-A, Sweeney; Chapter 36, Laws of 2009)

The federal Commercial Motor Vehicle Safety Act of 1986 and the Motor Carrier Safety Improvement Act of 1999 ("MCSIA") establish minimum national standards for the licensing of drivers of commercial motor vehicles with which states must comply or risk the loss of a percentage of federal highway aid. Regulations promulgated by the Federal Motor Carrier Safety Administration (FMCSA) authorize states, in their discretion, to exempt from CDL requirements firefighters and other operators of commercial motor vehicles that are necessary to the preservation of life or property or to the execution of emergency governmental functions, that are equipped with audible and visual signals and that are not subject to normal traffic regulation during emergency situations.

Prior to the enactment of Chapter 36, New York State law exempted drivers of police vehicles, fire vehicles and vehicles used to provide emergency medical service from CDL requirements in emergency situations. This Chapter (Sweeney, Chapter 36 of the Laws of 2009) further clarifies the exemption applicable to emergency drivers authorized pursuant to federal law and regulation, providing that the current exemption from CDL requirements for police vehicles, fire vehicles and vehicles used to provide emergency medical service applies not only during their use in emergency situations but also in the performance of official duties, or activities related to the execution of emergency governmental functions. Examples of these duties or activities include, but are not limited to, training, parades, funerals, hydrant maintenance, and commercial building inspections.

Accident Report Processing

(A.5547, Titus; Passed Assembly)

Factors contributing to motor vehicle-related deaths and injuries generally fall into two categories: factors that contribute to the actual cause of a crash and factors that contribute to the severity of a crash. Collisions can be caused by factors ranging from the human (e.g. driver inexperience, inattention, alcohol involvement, etc.) to the non-human (e.g., equipment defects, weather, pavement conditions etc.). The severity of a crash can be attributed to factors such as speed, angle of collision, rigidity of the object impacted, the design of the roadside environment, the vehicle itself, and the location and action of the occupants.

Engineering and the design of the roadside environment can help to reduce both the probability and the severity of vehicle crashes. But one of the most important features of a preventative safety program is ensuring that crash data is reported to the appropriate agency in a timely manner. Such data assists agencies in identifying high risk or problem areas and supports a more rapid response in mitigating crash factors at such locations.

Assembly bill 5547 (Titus) is intended to ensure that the data necessary for roadside accident mitigation efforts is available in a more timely manner than current practice allows. It would require DMV to prioritize the processing of accident reports involving serious physical injury or death. Having this data available more quickly after the occurrence of a collision would facilitate prompt responses in making any necessary changes at crash locations to prevent or reduce the severity of potential future crashes.

III. PUBLIC HEARINGS

New York State Department of Transportation Federal Stimulus Projects and New York State Department of Transportation Five-Year Capital Program

Albany, Thursday, November 12, 2009

Rochester, Tuesday December 8, 2009

The American Recovery and Reinvestment Act ("ARRA") of 2009 provided federal funds to the states to reinvigorate the economy, create or retain jobs, and address infrastructure needs. To obtain testimony from the New York State Department of Transportation (NYSDOT) on the progress of these federal stimulus projects, the Assembly Standing Committee on Transportation conducted two public hearings. The first hearing took place on Thursday, November 12, 2009, in Albany, and the second on Tuesday, December 8, 2009, in Rochester. In keeping with the State's practice of multi-year transportation capital planning, these hearings also provided an opportunity for the Committee to obtain testimony on the Department's recently proposed \$25.8 billion Five-Year Capital Program.

Witnesses providing oral testimony in Albany included Acting Commissioner Stanley Gee, New York State DOT; Beverly Jackson, RMBDC, Inc.; Jay Simson, American Council of Engineering Companies of New York; Randy Gibbon, New York State County Highway Superintendents Association; David Bell, New York State Association of Town Superintendents of Highways; James Melius, New York Road Improvement Coalition; Marc Herbst, Long Island Contractors Association; Joel Russell, New York Aviation Management Association; and Casey Morgan on behalf of John Donohue, General Contractors Association of New York State. The Committee also received written testimony from Joanne Genovese, from Genovese Transport & Cartage W/DBE.

NYSDOT updated the Committee on the Department's continuing efforts to maintain the safety of the State's aging highways and bridges in the face of daunting fiscal challenges as well as to balance demands on the heavily used public transit systems. After providing an overview of the economic downturn, its impact on the construction industry, and the cost of preserving the State's transportation network, DOT testified about the boost provided by the ARRA and how those funds are being utilized in the areas of infrastructure repair and development, rail, and public transit, among others. With regard to the progress of the projects thus far, the Department provided testimony on the accomplishment of attaining one-hundred percent certification for all of the funds that were allotted to New York as well as the thousands of jobs that the new projects will create in the various sectors of engineering, contracting, labor, and the private sector.

NYSDOT went on to provide the Committee with a summary of the Department's investment priorities, strategies, and performance goals as outlined in its 2010 – 2015 Capital Plan proposal. According to NYSDOT, the Plan focuses on

addressing needs that were previously outlined in the 20-year needs study that was completed in 2007. These proposals include investment in passenger rail, replacement of the current vehicle fleets in use by the State's transit systems, continued improvement and repair for highways and bridges as well as ports and airports.

Other witnesses testified on a variety of issues ranging from the progress of the approved stimulus projects and the implications of the proposed Capital Program to the importance of the State's continued financial support of local roads and bridges. Testimony was offered regarding the participation of minority and disadvantaged business enterprises in the contracting process, as well as the ongoing challenges being faced by the contracting and engineering industries. Additionally, the Committee heard testimony on the importance of completing initial planning phases for some of the State's future high priority transportation projects so that when funding becomes available, those projects could be advanced expeditiously. Witnesses also testified about the difficulties facing the aviation industry and the importance of increased and continuous State funding to aid with the maintenance and improvement of airports.

At the second hearing in Rochester, witnesses providing oral testimony included Robert Traver, New York State DOT; Paul Holahan, Rochester Department of Environmental Services; Frank Kobliski, New York Public Transit Association and Central New York Regional Transportation Authority; C. Douglas Hartmayer, Niagara Frontier Transportation Authority; Kenneth Johnson, New York State Motor Truck Association; Kenneth Warner, Unions and Businesses United in Construction; and Deb Najarro on behalf of Railroads of New York. The Committee also received written testimony from the Public Employees Federation; Bill Wright, Ontario County Commissioner of Public Works; and the University of Rochester.

NYSDOT offered a general overview of the types of ARRA projects that have been certified to date and also described the Department's increased efforts to provide maximum opportunities for minority and disadvantaged business owners while addressing local transportation needs. NYSDOT's testimony also highlighted the needs identified during the Department's outreach to stakeholders during the formulation of the Five-Year Capital Program. The testimony also described the Program's new initiatives to support local infrastructure as well as the importance of sustained funding for future transportation projects. Other witnesses provided testimony on a variety of transit and local infrastructure issues such as how their respective municipalities and mass transit services have been impacted by the boost of stimulus funds, and also how the proposed Capital Program will affect their levels of operation. The Committee also heard testimony from the freight rail industry on the transportation alternatives provided by the rail system and how with adequate and sustained funding New York's rail network could continue to be a cost saver for transporting products and services throughout the State.

IV. OUTLOOK FOR 2010

During the 2010 Legislative Session, the Committee will continue to oversee legislation affecting the transportation system of the State and the safety of the walking, boating, biking and motoring public. Among the issue areas to be considered are those relating to pedestrians and bicyclists, motorcyclists, motor vehicle occupants, school bus safety, and improved accessibility for the disabled, as well as issues relating to the State's transportation infrastructure.

APPENDIX A: 2009 SUMMARY SHEET

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; not returning to Committee	4	0	4
To Floor; recommitted and died	0	0	0
To Ways and Means	13	0	13
To Codes	49	0	49
To Rules	3	0	3
To Judiciary	<u>0</u>	<u>0</u>	<u>0</u>
Total	69	0	69
<u>Bills Having Committee Reference Changed</u>			
To Corporations Committee	2	0	2
To Tourism Committee	<u>1</u>	<u>0</u>	<u>1</u>
Total	3	0	3
<u>Senate Bills Substituted or Recalled</u>			
Substituted		1	1
Recalled		<u>1</u>	<u>1</u>
Total		2	2
<u>Bills Defeated in Committee</u>	0	0	0
<u>Bills Never Reported, Held in Committee</u>	89	0	89
<u>Bills Never Reported, Died in Committee</u>	454	7	461
<u>Bills Having Enacting Clauses Stricken</u>	12	0	12
<u>Motions to Discharge Lost</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL BILLS IN COMMITTEE	627	9	636
Total Number of Committee Meetings Held		15	

APPENDIX B: BILLS THAT PASSED BOTH HOUSES

<u>BILL/SPONSOR</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
A.226 Latimer S.1181 Oppenheimer	Authorizes the Town of Mamaroneck to adopt a local law or ordinance providing for a residential parking permit system.	Chapter 245
A.669 Cahill S.2250 Dilan	Authorizes bicycles to be equipped with either a red or amber rear light.	Chapter 16
A.2262-A Stirpe S.1610-A Valesky	Modifies penalties for leaving the scene of a personal injury boating accident.	Chapter 297
A.4552-A Aubry S.5643 Dilan	Would make unlawful solicitation of ground transportation services at an airport a class B misdemeanor.	Chapter 481
A.5493-A Spano S.4392-A Stewart-Cousins	Authorizes the City of Yonkers to adopt a local law or ordinance providing for a residential parking permit system.	Chapter 308
A.6051-A Sweeney S.1624-C Foley	Clarifies the commercial driver's license exemption for persons operating police, fire or emergency medical services vehicles.	Chapter 36
A.7328 Silver S.3750 Dilan	Extends the New York City Red Light Camera Demonstration Program for an additional five years and authorizes an additional 50 intersections.	Chapter 18
A.7329 Lavine S.3749 C. Johnson	Authorizes Nassau County to adopt a local law or ordinance providing for a five year Red Light Camera Demonstration Program.	Chapter 19
A.7330 Spano S.3745 Stewart-Cousins	Authorizes the City of Yonkers to adopt a local law or ordinance providing for a five year Red Light Camera Demonstration Program.	Chapter 20

<u>BILL/SPONSOR</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
A.7331 Hoyt S.3747 Thompson	Authorizes the City of Buffalo to adopt a local law or ordinance providing for a five year Red Light Camera Demonstration Program.	Chapter 21
A.7332 Gantt S.3746 Thompson	Authorizes the City of Rochester to adopt a local law or ordinance providing for a five year Red Light Camera Demonstration Program.	Chapter 22
A.7333 Eddington S.3748 Foley	Authorizes Suffolk County to adopt a local law or ordinance providing for a five year Red Light Camera Demonstration Program.	Chapter 23
A.7420-A Magnarelli S.3812-A Valesky	Authorizes the City of Syracuse to adopt a local law or ordinance providing for a five year Red Light Camera Demonstration Program.	Chapter 383
A.7692-A Kolb S.4201-A Nozzolio	Designates a portion of State Route 38 as the "New York State Vietnam Veterans' Memorial Highway of Valor".	Chapter 323
A.7740 Destito S.4241 Griffo	Designates the bridge across the Erie Canal on State Route 291 as the "Army Captain George A. Wood Memorial Bridge".	Chapter 324
A.8186-A Cahill S.4911 Bonacic	Adds an alternate route to the Shawangunk Mountains Scenic Byway.	Chapter 394
A.8210 Cusick S.5482 Savino	Modifies the Navigation Law's definition of continuity of a deck for the purpose of determining a vessel's pilotage fee.	Chapter 395
A.8252-A Townsend S.5467-A Griffo	Designates a portion of State Route 365 as the "Marine Lance Cpl. Blaise Oleski Memorial Highway".	Chapter 333

<u>BILL/SPONSOR</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
A.8568-B Gantt S.3619-A Dilan	Modifies various provisions of the graduated licensing law for young drivers and prohibits the use of portable electronic devices while operating a motor vehicle.	Chapter 403
A.8612-A Gantt S.3623-A Dilan	Requires motor vehicle passengers who are under the age of eight to be restrained in an appropriate child restraint system.	Chapter 405
A.40008 Rules (Weisenberg) S.66008 Dilan	Increases penalties for driving while intoxicated (DWI) or impaired by drugs with a child passenger and requires ignition interlock devices for DWI and DWI-related convictions.	Chapter 496

APPENDIX C: BILLS THAT PASSED THE ASSEMBLY

<u>BILL/SPONSOR</u>	<u>DESCRIPTION</u>
A.225-A Jeffries S.1169-B Dilan	Would require all passengers aged sixteen and older to wear a seat belt when riding in the rear seat of a motor vehicle.
A.762 Gantt	Would impose upon drivers of pre-school and nursery school-aged children the same qualifications and requirements as are imposed upon school bus drivers.
A.872 Dinowitz	Would provide a statutory defense to any traffic ticket issued for failure to obey a traffic control signal that was manipulated immediately prior to the issuance of the ticket.
A.1039 McEneny S.396 Breslin	Would authorize the City of Albany to adopt a local law or ordinance providing for a two-year residential parking permit system.
A.1589 Englebright	Would require the prompt removal or covering of highway work zone traffic control signs when they are not applicable.
A.1951 Morelle S.3074 Valesky	Would require the Thruway Authority to install local attraction videos at Thruway service areas.
A.2393 Gantt S.4014 Morahan	Would define the term "electric assisted bicycle."
A.2408 Gantt S.6178 Montgomery	Would authorize courts to require the reexamination of drivers by DMV.
A.3238 Englebright	Would direct the Thruway Authority, the Metropolitan Transportation Authority, and the Port Authority of New York and New Jersey to study E-ZPass lanes.
A.4054 Gantt S.1244 Thompson	Would direct DMV to design and implement a "school bus motorist education program" and redirect surcharges collected for illegally passing stopped school buses into an associated fund.
A.4181 Galef S.2238 Alesi	Would prohibit the operation of a motor vehicle with a passenger under the age of seven seated in the front seat, with limited exceptions.

<u>BILL/SPONSOR</u>	<u>DESCRIPTION</u>
A.4210 Brennan	Would permit DMV to credit the unused portion of a stolen vehicle's registration fee to the registration fee of any motor vehicle, motorcycle or trailer already owned by the registrant.
A.5125 Lentol	Would prohibit the operation without a conductor of a train traveling under any body of water.
A.5547 Titus S.3785 Thompson	Would require DMV, when processing accident reports, to give priority to those involving death or serious physical injuries.
A.7064 Fields S.6018 Rules S.50046 Rules S.60451 Rules S.65106 Rules S.65111 Rules	Would establish a mandatory surcharge for Vehicle and Traffic Law crimes, offenses and infractions in Nassau and Suffolk counties.
A.7153 Alessi	Would direct DOT to prepare a report on noise abatement procedures at certain heliports and airports in Suffolk County.
A.7508 Canestrari S.4128 LaValle	Would prohibit the altering of a traffic control device through the use of a traffic control signal preemption device.
A.7848 Latimer S.6120 Dilan	Would require access aisles of parking spaces reserved for the disabled to be marked with a sign and diagonal stripes.
A.7849 Lavine	Would require access aisles of parking spaces reserved for the disabled to be a minimum of eight feet in width.