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**Official Report
of Debates
(Hansard)**

Wednesday 11 March 2009

**Journal
des débats
(Hansard)**

Mercredi 11 mars 2009

**Standing Committee on
General Government**

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Loi de 2009 sur la sécurité routière

Chair: David Oraziotti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 11 March 2009

Mercredi 11 mars 2009

The committee met at 1600 in room 151.

**COUNTERING DISTRACTED DRIVING
AND PROMOTING GREEN
TRANSPORTATION ACT, 2009**

**LOI DE 2009 VISANT À COMBATTRE
LA CONDUITE INATTENTIVE
ET À PROMOUVOIR
LES TRANSPORTS ÉCOLOGIQUES**

ROAD SAFETY ACT, 2009

LOI DE 2009 SUR LA SÉCURITÉ ROUTIÈRE

Consideration of Bill 118, An Act to amend the Highway Traffic Act to prohibit the use of devices with display screens and hand-held communication and entertainment devices and to amend the Public Vehicles Act with respect to car pool vehicles / Projet de loi 118, Loi modifiant le Code de la route afin d'interdire l'usage d'appareils à écran et d'appareils portatifs de télécommunications et de divertissement et modifiant la Loi sur les véhicules de transport en commun à l'égard des véhicules de covoiturage ; and Bill 126, An Act to amend the Highway Traffic Act and to make consequential amendments to two amending acts / Projet de loi 126, Loi modifiant le Code de la route et apportant des modifications corrélatives à deux lois modificatives.

The Chair (Mr. David Oraziotti): Good afternoon, everyone. I call the committee meeting to order. We're here to continue public hearings on Bills 118 and 126.

ONTARIO TRUCKING ASSOCIATION

The Chair (Mr. David Oraziotti): We have our first presenter, the Ontario Trucking Association, if you'd like to come forward.

Good afternoon. Please state your name for the purposes of our recording Hansard. You have 15 minutes for your presentation, and we have five minutes for questions should members wish to take that opportunity. Please proceed when you're ready.

Mr. Doug Switzer: Thank you very much. My name is Doug Switzer. I'm the vice-president of public affairs with the Ontario Trucking Association. I appreciate your giving me the time today. I should also, just at the outset,

mention that I know that the Ontario Road Builders' Association was supposed to present today. Unfortunately, they weren't able to be here, but they did ask me to pass on to the committee that they share some of the concerns that I'm going to be raising in my presentation.

First, let me just very briefly mention who we are. The Ontario Trucking Association has been around for 80-odd years—we've been around since 1926—and we represent the trucking industry in Ontario. We have some 1,100 members, representing the majority of trucking interests in the province, and the positions that we bring forward are developed by a board of directors of some 80-odd people.

First, let me say at the outset that, in general, we're very supportive of Bills 118 and 126. Road safety isn't just an abstract idea or a slogan with the trucking industry. No one knows better than the trucking industry how important road safety is. It is our workplace, it is where we do our business, and obviously, road safety impacts us on a daily basis. For many of our members, it's even more personal than that. Many of them have had to go to visit families of their employees in the middle of the night to tell them that their loved ones had been seriously injured or worse. So for them, it's a very, very real issue. That's why we've long been advocates for improved road safety and truck safety. That's why we developed positions on issues like speed limiters and on electronic on-board recorders for monitoring hours of service. Compliance is very important to us and we want people to obey the rules of the road. Much work has been done—and a lot of credit to the government for doing that—and there's still much more that can and should be done.

Bills 118 and 126 deal with a number of key safety issues primarily related to car drivers—this isn't fundamentally a truck bill—and these provisions are very positive steps that we believe will improve road safety. But I did want to point out that there are some elements of the bills that we do have some concerns with, fundamentally around the basic principle that trucks are not just big cars. We all know that cars occasionally make that mistake on the road and assume that a truck is going to be able to stop the way another car will, but we would urge you, as policy-makers not to make that same mistake.

There are differences between cars and trucks. Trucks operate under a different and tougher regulatory regime

than cars do. We are subject to random inspections for vehicle fitness; we have to follow hours-of-service rules and keep log books; we are subject to audits; we have a CVOR system that keeps track of our on-road performance and punishes us if we're not doing what we should be doing; drivers are subject to frequent—they have to have medicals and retesting when they get to be 65 years of age, which car drivers don't. I should say that we accept and support that tougher set of rules. Indeed, we helped to create it. We've advocated for many of those things because we know we're different than cars and we know that we need to play by different rules.

Trucks pose very different challenges for policy-makers. Because we have loads that are attached to the trucks, we're not just like a car. What you do to a truck also impacts the shippers that we're servicing. It's a work vehicle, not a personal vehicle, and that brings a whole host of challenges. What you do to us impacts our ability to compete with out-of-province competitors etc. I would urge you to understand that we do indeed need to play by a different set of rules on occasion. "We can't treat you differently than the cars" is a line that we hear frequently from government, to which our response is that you can, you already do, and you should treat trucks differently than you do cars, from a regulatory perspective. Some things which are appropriate for trucks are not appropriate for cars, i.e., speed limiters, and some things which are appropriate for cars are not appropriate for trucks.

With that, let me address two specific things, one in Bill 118 and one in Bill 126. First, with respect to cell-phones, I should say that the industry is very much in support of banning hand-held cellphone use. Certainly our drivers see the impact of people who are distracted while they're using cellphones and other electronic communications devices, and we don't want to share the road with them any more than other motorists want to share the road with them. So in that sense, this is a very positive step forward.

But at the same time, trucks are working vehicles that do need to be in contact with their dispatchers and with their head offices. One particular issue that I would bring your attention to is the issue of empty miles. We're frequently asked what we can do, in the trucking industry, to reduce the amount of trucks that are travelling on our roads, taking up space, causing congestion, that are running with empty miles. Certainly, the industry does everything that it can to eliminate empty miles. One of the key elements in doing that is the ability to reach the truck from dispatch and reroute them en route, if they need to change their routing for whatever reason.

All we're asking for is for reasonable accommodation to be made under the regulations for some specific communications devices used by commercial vehicles, such as hands-free cellphones, satellite links, push-to-talk phones and CB radios. That can all be done through the regulations, and we look forward to working with the government on that once the bill is passed.

With respect to Bill 126, the one area of the bill that I'd like to draw the committee's attention to is admin-

istrative vehicle impoundments. Again, we would support the provisions, in general. Our members are as concerned as anyone about unlicensed and uninsured drivers, in some ways maybe a little bit more so. One of the problems that I frequently hear about from trucking companies is that when they're in an accident and there's an uninsured driver, because of the way the insurance system works in this province, trucks are deemed to be the loss-causer, and we bear a disproportionate burden of the resulting insurance claim that comes from that uninsured driver. So eliminating uninsured drivers from our roads is certainly something that we would applaud, and we encourage the government to do whatever they can do on that.

We are not seeking a general exemption for the trucking industry. For those who make no effort to ensure that their drivers are properly licensed or for those who drive their own trucks when they know they are suspended, we certainly support impoundment, just as we supported impoundment—truck jail—10 years ago for vehicles that have defects. That's certainly something that we would not oppose.

But there are two specific issues that arise with respect to the difference between cars and trucks when it comes to administrative vehicle impoundments. Again, just pointing out the difference between cars and trucks and the insurance issue: It is different when you've got a car and a truck. If a car driver is unlicensed and they're in an accident, their insurance is invalid, but if a truck driver were unlicensed and they were in an accident—they're driving a company vehicle—we've been told by the insurance industry that the fleet coverage would continue to apply. So an unlicensed truck driver doesn't bear the same liability risk as an unlicensed car driver, because the insurance policy would still be in effect. The insurance company would have cause to go after the trucking company if they wanted to sue them, but in terms of payment for injured third parties, they would still be covered by the fleet policy.

The first issue is, again, with respect to the loads. Unlike cars, when a truck is impounded there are issues around the load. There's obviously the impact on the shipper who's waiting for that load. There are also issues around perishable goods and dangerous goods. If you impound a straight tanker full of gasoline, there's no reasonable way to transfer a load of gasoline at a truck inspection station or at the side of the road, wherever the vehicle has been stopped. So there are definitely issues with respect to what you do with the load.

The policy that comes out of this legislation needs to accommodate delivery of the load. We would suggest that, rather than seize the vehicle at roadside as you do with cars, the commercial vehicles be allowed to complete their delivery—obviously with another driver; we don't suggest that the suspended driver be allowed to continue; the company would have to get another driver out to that vehicle—following which the vehicle's plate would then be surrendered to MTO within 12 hours, thereby getting rid of the load, dealing with those load

issues. And then you would then still be able, in essence, to impound the vehicle for seven days.

The other issue is that, unlike cars, most truck drivers are driving someone else's vehicle: the company's vehicle. That's not to say that the carrier should not be accountable. We believe they should be accountable for making a reasonable effort to ensure that their drivers are properly licensed. But despite the carrier's best efforts, some drivers may not let their employer know. Obviously, it's not something you're proud to go and tell your boss, that you've defaulted on your family support payments and you've had your licence suspended, particularly if you think that you've got a solution that's going to solve that problem in the next day or two or within the next week. You think that you may be able to skate through, so you don't let anyone know about it. That driver may get behind the wheel of a company vehicle and take it out on the road despite the fact that they're suspended, because they think that they can get away with it.

In our opinion, it's unfair to seize the truck, which is a valuable piece of working equipment that that carrier needs to continue their business, from a carrier who's done everything right and made a reasonable effort to check their driver's status. Again, no argument for those who've made no reasonable effort: If they haven't made the effort to do their due diligence, seize the vehicle. But if you've done everything right, if the carrier is blameless in this, to inflict a penalty on a blameless person seems to us to be a bit unfair.

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So our recommendation is that, as part of the regulation-making process following passage of the bill, MTO should establish a mechanism whereby a company can demonstrate that they have in fact exercised due diligence in attempting to ensure that their drivers are properly licensed. If they can prove that, they can make an appeal to the ministry to have the impoundment of their vehicle lifted in a timely manner. The reason I mention "in a timely manner" is because this is a seven-day suspension. Currently, in the longer suspensions under the Criminal Code, you can appeal to a licence appeal tribunal under the same sort of due diligence defence. The problem is, with a seven-day suspension, to make an appeal to the licence appeal tribunal will take longer than the suspension will, so you won't get the vehicle back before the suspension is already served.

Thank you very much for your time, and I'd be happy to answer any questions.

The Chair (Mr. David Oraziotti): Thank you very much for your presentation. We'll start with the official opposition. We have about two minutes per caucus.

Mr. Frank Klees: Thank you for your presentation. With regard to impoundments, I think the ministry has already undertaken, has it not, that there will be exemptions for commercial vehicles. Have you had any discussion with the ministry regarding that?

Mr. Doug Switzer: No, I'm not sure that I've got that impression. There was some discussion that they would

release the trailer. The problem is, of course, that not all trucks are tractor-trailers. We have heard that they would take the tractor but release the trailer. But in the event that it's a straight truck or a dump truck or a concrete mixer, that load is not separable from the tractor. So we have no assurances with respect to that.

Mr. Frank Klees: With regard to cellphone use and two-way radios and whatever, I think we did hear at the previous committee hearing that there was an undertaking by the ministry that they'll provide some exemptions for commercial vehicles. You've had that assurance as well?

Mr. Doug Switzer: Yes; I would say that that is true. We have had that assurance, that they understand that there are some very specific types of communication that are used for commercial applications that they would create exemptions for.

Mr. Frank Klees: Okay, thank you.

The Chair (Mr. David Oraziotti): Mr. Prue?

Mr. Michael Prue: Just the whole question here about a driver driving with a licence suspended: The way it works in Ontario—and I've had constituents call me on this, and people I know—you have your licence suspended, but they mail it out and you don't get it for about a week, so you don't even know. That would happen to truck drivers too, because I know that one of the people who called me had his truck impounded at the US border when they checked his documentation and saw that his licence had been suspended the day before, you can imagine being caught in a foreign country. Is this the kind of thing you're talking about? Because I can see inadvertence and nobody's fault.

Mr. Doug Switzer: Yes, certainly that is a problem, where there's a gap between the knowledge of the suspension and the effective date of the suspension. I think really what I'm driving at is the knowledge of the carrier who owns the vehicle. With cars, I understand why the government has put in place the policy that says that if you're driving someone else's vehicle they will seize the vehicle regardless of who owns the vehicle if you're unlicensed to take the vehicle. That's to avoid someone who has a suspended licence from borrowing a friend's car whenever they want to drive, thereby trying to escape the law. But the reality is, most car drivers are driving their own vehicle, whereas with truck drivers, they're actually driving someone else's vehicle. So the burden of punishment of impoundment doesn't fall on the driver, who's the one who's guilty of whatever has caused them to have their licence suspended; the carrier is bearing the burden. They're losing the vehicle but they've done nothing wrong. Again, if they have done something wrong, if they haven't done their due diligence, if they haven't made a reasonable effort, then by all means; they do deserve the punishment. But if the carrier has done everything that the government asks them to do, whatever that may be—checking twice a year or three times a year; whatever is deemed to be due diligence on a licence. It's obviously impractical for a company to check on a daily basis, every day, every single driver who's

taking one of their vehicles out. So there's always going to be some lag time between the last time you checked the validity of their licence.

Right now, most companies should—I won't say that they do, but should—check twice a year to get a full abstract on their drivers to make sure that they're properly licensed.

Mr. Michael Prue: If there's time, just the whole question of perishable goods: I can just see a whole load of foodstuffs rotting, sitting in a warehouse for seven days; it would be rendered inedible. Your suggestion seems reasonable. Would unloading it do, or just simply driving it away is the only answer?

Mr. Doug Switzer: Unloading it works in some cases, but it doesn't always work. For example, perishable goods might be live pigs. I don't think anyone wants to get in the business of trying to herd pigs at the side of the road from one truck into another. Again, if it's a tractor-trailer where the trailer can be easily separated from the tractor, sure; having another tractor come and take that away makes perfectly good sense. The problem is, not all trucks are tractor-trailers and not all loads are easily moved. Even if they're perishable goods, they may be livestock. They may be chickens; you can imagine the chaos that would cause. It's not always easy to transfer from one truck to another if the vehicle has been seized.

Mr. Michael Prue: Good points; thank you.

The Chair (Mr. David Oraziotti): Thank you, Mr. Prue. Ms. Jeffrey?

Mrs. Linda Jeffrey: Thank you for coming today. It has actually been quite helpful to have you here, because I think we ran out of time in the last delegation. Mr. Klees has touched on it briefly because we had the Canadian Courier and Logistics Association come in. At the very end of their presentation, they talked about what you've been talking about this afternoon: about separating the driver from the carrier from the customer. In the last dying moments of their presentation, they talked about the fact that you could separate a trailer from the truck, but you're telling us that it helps to have another option available so that the truck and the driver are separated and that there's a consequence for the driver, not the company. That's very helpful.

The other thing we heard from the courier company was the fact that they use hand-held tablets. Do you use that type of communication? Would that be something you would need some exemption for with regard to being distracted as a driver?

Mr. Doug Switzer: Yes, I think that would be part of the discussion that we would expect to have following the bill's passage. I think the tablets are more of an issue specifically in the courier industry. Our guys—to be honest, most of them would be using satellite text messaging rather than the tablets that the couriers use. That, actually, I think would be exempt under the bill because they're usually affixed to the vehicle; they're actually embedded in the dashboard of the vehicle. So I'm not so sure that the tablets are as big an issue for the long-haul

trucker. They certainly are for the local dispatch and expedited service and courier.

Mrs. Linda Jeffrey: Okay, thank you very much.

The Chair (Mr. David Oraziotti): Thank you very much for your presentation.

Toronto Cyclists Union—the second presentation. Is there anyone here from the Toronto Cyclists Union?

ONTARIO TRAFFIC CONFERENCE

The Chair (Mr. David Oraziotti): We're going to move on to the Ontario Traffic Conference.

Mr. D'Angelo, state your name for the purposes of the Hansard recording secretary. I understand that you're speaking to both Bills 118 and 126. You'll have 15 minutes for your presentation and five minutes for questions.

Mr. Marco D'Angelo: Thank you very much. I'm Marco D'Angelo, the executive director of the Ontario Traffic Conference. On behalf of my association, I'd like to thank you very much for having this hearing today and for giving me a few minutes to speak to you about Bills 118 and 126.

By way of introduction, the Ontario Traffic Conference was formed in 1950. We're a very unique association in that we bring together road safety professionals in a multidisciplinary way. We bring together municipal traffic engineering managers, transportation planners and the enforcement side. We take road safety with a broader view, and I just want to share some of the views of our membership today.

At the outset, we would like to appreciate the amount of focus that the Legislature has placed on road safety over the past few years through successive bills. We agree that many of the changes put forward in Bills 118 and 126 are very positive, but I'd just like to take a few moments to outline some of the areas of concern that have been expressed by our membership, as well as highlighting some of the areas that we are pleased to give our support to.

I'll start with Bill 118—charging a distracted driver. The OTC supports the principle that drivers on Ontario roads be fully focused on safe driving at all times. We also support strengthening provisions for allowing dangerous-driving charges to be laid and to be combined with a distracted-driving charge when a driver, because of their inattention, is not driving safely for whatever reason, but specifically to deal with hand-held devices—BlackBerries and cellphones. However, we have a few questions about the gathering of evidence, and these come from some of the members of the police community who are involved in OTC.

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Some of the questions that they've asked the committee to consider are: Will police officers be able to search the vehicle for the distracting device to document the item being held at the point of observation by the officer? That goes back to when a driver is using an illegal radar detector so that they can speed excessively, and the officer is able to inspect inside the vehicle to con-

fiscate that unit or to document the unit that is in fact in the car at the time that the charge is laid. The second question is: Will police officers be required to make a determination if the perceived device is in fact an actual distracting device and not another object? Will it be up to the police officer to determine that that device is in fact a cellphone and was the same device that they were using? One of the concerns that they've raised is that perhaps a person may be driving erratically but may not be using a device at the time. For example, if they use their wallet, which is shaped very much like a BlackBerry, and for whatever reason may be holding it and driving erratically, will it be up to the officer to make that determination at the time? Those are some of the technical questions that are being asked.

Interjection.

Mr. Marco D'Angelo: Well, people drive all kinds of ways.

With respect to public transit employees, just to change topics, also dealing with Bill 118, we're concerned that public transit employees were not included on the initial list of exempted users of hand-held devices in the same way that police, fire and ambulance were. Transit, of course, is an important municipal service, and there are times when an operator may need to use a communicating device. There are a lot of telephone handsets that are located in the driver's cabin. So we'd request further discussion with our municipal partners to ensure that if they do need to use a device on the road, they may continue to do that within the law.

On the Public Vehicles Act amendment, I can tell you that we're very pleased to see the improvement for making it easier for informal carpooling to take place and for varying types of carpools, including those that cross between municipalities, and for allowing carpools that are not necessarily restricted to home-work journeys.

Those are our comments on Bill 118.

I'd like to turn to Bill 126 and deal with a few issues within that bill.

First, on power-assisted bicycles: We're very pleased to see that there is a definition of power-assisted bicycles being added to the Highway Traffic Act. We are pleased to also see that there's a restriction that those road users need to be over 16 to use those power-operated bicycles. We also believe that they should be treated the same as motor-assisted bicycles, which means that we are calling for the users of a power-assisted bicycle to also be insured and have that vehicle registered, and to hold insurance on that vehicle and have a plate on that vehicle. We're also calling for defining power-assisted bicycles as motor vehicles, to ensure that somebody who has a suspended licence isn't able to continue to use our roads as a driver simply by buying an e-bike and getting around their suspension, which could be for a number of reasons. We want to ensure that people aren't uninsured on our roads, because these vehicles travelling at these types of speeds can cause the same kinds of accidents and perhaps even more personal damage, because the person may or

may not be wearing a helmet at the time. So we have concerns about that.

With respect to the zero blood-alcohol content for young and novice drivers, we're very supportive of that. Our police officers who are traffic sergeants from across Ontario were supportive of that.

With respect to the second breath analysis at the roadside, certainly we welcome that. It helps to make the timeline much more clear as to when a person who had registered a "warn" or "alert" signal would have to request a second test. We're glad to see that that window has been reduced so the person would have to request that second test immediately. We believe too much time can elapse if a second test is taken on an approved instrument at the station. So we do support authorizing a second test on a second approved screening device, which can be administered at the scene if that's requested, if the driver does ask for that second test immediately after registering the "warn" or "alert" signal.

Two more points very quickly: With respect to "move over," we support the idea of having motorists driving safely and moving to an adjacent lane with caution when there is a stopped emergency vehicle, but we are very concerned about the low level of knowledge about the move-over law among the general public, given that it has been around since 2003, I believe. We recommend that if there is going to be a change to the fines for violating the move-over law, that be accompanied with a public education campaign as well, something like the yield-to-bus public education campaign that came in to accompany that legislative change as well.

Finally on seat belts, we know that Ontario already has a very strong record of seat belt use, and that was also aided by strong public education over many years. We recognize that not all Ontarians buckle up, and fines should reflect the need for compliance. That said, we recommend that medical letters which exempt drivers from having to use a seat belt no longer be recognized given that there is a wide array of adjusting devices that exist to make it possible for any driver to safely use a seat belt today. We did want to make that recommendation to the changes with respect to seat belt fines.

That said, I would be happy to take any questions that you might have of me.

The Chair (Mr. David Orazietti): Thank you very much for your presentation. We have about three minutes per caucus. Mr. Prue, we'll start off with you.

Mr. Michael Prue: I have a couple of questions. The whole issue of having communications devices I think is a thorny one for TTC drivers, as an example, or bus drivers in general across the province. I was appalled and shocked to hear this week the statistic that one TTC employee an hour is assaulted. It makes sense to me that they have the wherewithal to telephone either for an ambulance, for police, for whatever, and that they have it with them. Would you concur that they may have to be an exemption?

Mr. Marco D'Angelo: Oh, absolutely. We call for that in our report. I can tell you that my father, as an

example, was a municipal bus driver in Ottawa for 31 years. Many times in that career that he had, he had to use that emergency telephone for a wide variety of needs or just to communicate as well with the control tower to ensure smooth operation of service. So I think that it's essential.

Mr. Michael Prue: I'm also worried about the taxi industry because that, too, can be a very dangerous industry, particularly at night. We know that there are a number of taxi drivers robbed and even killed. They do have flashing lights, so if you see one on the street, a taxi flashing, you're supposed to call the police, but a lot of people may not know what it is. Should they be allowed to have—most of them have radios, or at least they used to, but now they seem to rely more on cellphones.

Mr. Marco D'Angelo: Some of them have continued radio, but they also have a GPS device. So they have their own methods of communicating.

But about public education, I do think that's important because if people know that they're not allowed to use their cellphone, I think it will be important as part of that to remind people that for emergency calls, they are able to do that, and remind people of when they are able to use a cellphone. We want to make sure that crimes in progress or very dangerous driving is reported in a timely manner to police. We want to make sure that would continue. That's one of our concerns as well.

Mr. Michael Prue: I am a little concerned on the sobriety—the second test. The reason for the second test at the police station is that the hand-held device is not as accurate as the more complex device that's not carried around. The reason people are taken there is to get a sample that will hold up in court. So if somebody asks for the second one, it's a little problematic to me to simply hand him another tube or have another officer administer it, because you may get the same result, whereas the other one is scientific. I don't know of too many courts that throw out the second one.

1630

Mr. Marco D'Angelo: That's a very good point. Our position is that we would recommend that the second test be taken on a different approved instrument at the roadside. So it wouldn't be the same machine; it would be a second—

Mr. Michael Prue: A second similar machine.

Mr. Marco D'Angelo: —a second or different, but same purpose, machine.

Mr. Michael Prue: Even though the veracity of that machine is open to question in court? You see, I don't know of any judges who will take the hand-held device alone and say that is proof that you blew over 0.08, but they will take the one at the police station as absolute proof.

Mr. Marco D'Angelo: Okay. I would say—

Mr. Michael Prue: This is the problem I have.

Mr. Marco D'Angelo: Okay. All right.

Mr. Michael Prue: If somebody's guilty, I want to make sure that when you go to court, you have the best evidence.

Mr. Marco D'Angelo: I agree with that as well, and I thank you for that assistance. Our position is that we would call for that second test to be administered. We believe it could happen, legally, for that to be requested immediately, so we think that it could be done in a narrower time frame.

Mr. Michael Prue: Thank you.

The Chair (Mr. David Orzietti): Okay. Thank you, Mr. Prue. Mrs. Jeffrey?

Mrs. Linda Jeffrey: You covered a lot of material. That was very helpful. You really went through the bill. Some people just can't cover all this. Clearly you've looked at both bills and asked some questions that other people haven't, so that always gives us some homework to do.

I'm interested to know a little bit more about the public transit employees, because we have had letters from municipalities asking for the exemptions. Could you expand a little bit about—clearly, you have some municipal officials sitting at the Ontario Traffic Conference from around Ontario.

Mr. Marco D'Angelo: That's right, representing municipalities and regions from across the province. We have people who manage transportation departments. That's the basis of our membership.

On the public transit issue, my understanding is that there are specific exemptions in the legislation for some types of employees, and it specifically adds two-way radios. These telephones are not exactly cellphones, but they're also not two-way radios. It's an area that I think should be clearly demarcated, the same way that it is for police, fire and ambulance, because they perform a function where they need to communicate for a number of reasons with the control tower.

Mrs. Linda Jeffrey: You spoke about the public education campaign. That's very helpful. We have heard from some groups. Is there a recommendation, besides the yield-to-bus, that you have found to be effective when the Ontario Traffic Conference has worked with the public? Is there some medium that you find better than others? Obviously, we're going to be trying a younger audience on some of our messaging. Is there something that's worked for you that you would recommend that we consider?

Mr. Marco D'Angelo: Yield-to-bus has a real advantage because you can put signage right on the vehicle. With respect to "move over," there is some limited opportunity for signage on the messaging boards or on the 400-series highways. But in the experience that I have doing public education in transportation, I think there would have to be perhaps a more direct approach, whether it's in print, whether it's included when licence renewals are mailed out. "Move over" has some nuance to it because it's not in every situation. It's only when it's safe. When do I need to move over? Is it just when they have the lights on? What if the emergency vehicle is just stopped, with no lights, at the roadside?

I think there needs to be some verbiage to it. It would not be simple enough to just have a "yield-to-bus" sticker

on a bus. I think perhaps if something is mailed to drivers, maybe when they have to do their sticker renewal—that might be very helpful to do, at least in the first year, to give them that information.

I know Ontarians want to follow the law. We have the safest roads in North America. But we have to make sure that they understand what it is, and I think “move over” is one of the places where we could do a better job at helping the public to understand what the rules of the road are.

Mrs. Linda Jeffrey: Do we still have time?

The Chair (Mr. David Oraziotti): Thank you. Mr. Klees?

Mr. Frank Klees: With regard to the two questions you put, I think you framed them on behalf of the police. That’s coming from whom? Who asked you to ask those questions?

Mr. Marco D’Angelo: These are questions that we had. We have a legislation and enforcement committee and it’s made up of traffic sergeants who are responsible for managing road safety units in police services across Ontario. In the discussions that we had—they had done their review of the bill. They heard some information through their police services, and so these were just some additional questions with respect to how they would prove that the device was indeed distracting, and then the questions about how they would go about documenting the presence. Would they have the ability to verify that it’s there in the same way that they’re able to check for radar detectors?

Mr. Frank Klees: So they’re asking for two specific things. One is that the legislation be clear that they have the right to search the vehicle for the device, and second, that they be given discretion to determine whether or not the device they found was, in fact, impairing.

Mr. Marco D’Angelo: They’re not asking for that discretion, but they are asking for guidance as to whether that’s going to be their role. Are they being asked to document the presence of the device? Are they being asked how far in the vehicle they are able to examine to determine that the distracting device is present and it’s a device that’s on the list of unauthorized devices to use while driving?

Mr. Frank Klees: Okay. I think we will pursue that with the ministry, then, to get clarification—not now, but during our clause-by-clause. These are good questions and I think we need to know that. If there are some amendments that you or your stakeholders would propose that would help clarify that, we’d like to hear from you so that we can include those in our discussions.

Mr. Marco D’Angelo: Okay.

Mr. Frank Klees: Finally, with regard to the second test, I found it actually quite curious that this legislation would contain that provision and I’m still wondering where the recommendation for that came from, because we’re essentially saying in legislation that the test that’s being taken at the roadside is not reliable. That’s quite an admission for the government, as a starting point. If it’s up to the individual to request the second test and the

second test is a piece of equipment that is not portable, that in itself speaks to the unreliability of the equipment that is roadside. Do you have a comment on that?

Mr. Marco D’Angelo: I don’t have a comment on the ministry’s view of the first test; I’m not aware of what their view is. The part that we’re commenting on mostly is that we are happy to see that if a second test is requested, there is at least now a point in time where it must be asked for, beyond which it is considered too late. For example, as it stands now, much more time—a not necessarily defined amount of time—can pass if the person asks for a second test at some other time.

Mr. Frank Klees: Mr. Chair, if I might make a request of research in preparation for our clause-by-clause, if there could be some research done on the issue of getting some information from the ministry as to the motivation for this second test and on the whole issue of reliability of this roadside equipment. It’d be very helpful for us to understand what’s going on here in this part of the legislation.

The Chair (Mr. David Oraziotti): Okay. Point well taken. Thank you very much for your presentation. That’s all the time we have for questions.

TORONTO CYCLISTS UNION

The Chair (Mr. David Oraziotti): I believe our next presenter is here, the Toronto Cyclists Union, if you’d like to come forward.

Good afternoon. Please state your name for the purposes of our recording Hansard and you can begin your presentation. I understand you’re speaking to Bill 126; you have 10 minutes.

Ms. Yvonne Bambrick: Thank you. My name is Yvonne Bambrick. I’m the executive director of the Toronto Cyclists Union. We launched in May 2008 to represent the cyclists of Toronto, not just focused on the downtown core but across the wards of Toronto. I’m here to speak on behalf of the “we” who are the cyclists of the city, specifically about the definition of e-bikes. Our position statement is coming around to you. I’m just going to go through it and if you guys have questions, that would be great.

We believe that e-bikes or electric bicycles should be nothing other than traditional-style bicycles, primarily powered by pedalling, that have minimal power assist, not capable of exceeding 20 kilometres per hour and simply available to boost the cyclist’s ability to get up hills and to keep them moving if they need a short break on longer-distance rides. Any electric bike that resembles a scooter or moped should be considered an e-scooter and be subject to the rules that apply to that type of motor vehicle, a slow-speed motorcycle.

1640

I’d like to echo the previous speaker and suggest that anything that falls in that category of more scooter-like vehicles be subject, as they mention—this is not in my notes; this is in addition to them, obviously, as per the recent speaker, that moped-style electric vehicles be sub-

ject to licensing and insurance. As per some of the points that I'll make now, I think they'll need it.

Some of our concerns around e-bikes that are more moped-style: I think one of the biggest problems is that currently there is a lack of specific rules about what exactly qualifies as an e-bike. We've heard of one scooter-style e-bike that was being sold with marketing materials that described the pedals as being removable as one of the features—so, really making it very clear to any manufacturers that removable pedals is not a way to sell an e-bike if it's supposed to be something that's pedalable.

Scooter-style e-bikes are far too heavy. You guys know what I mean when I say a scooter or a moped, right? The sort of broader, heavier frame, not even resembling a bicycle at all—that's really our concern. We'd like to see e-bikes defined as bicycles. Scooter-style e-bikes are too heavy and could easily harm regular cyclists in a collision if they are allowed to use bike lanes and pathways. They much more closely resemble and behave like motorcycles and should be classified in a manner that reflects this.

Scooter-style e-bikes have no place on sidewalks. We have seen them parked in the middle of sidewalks, blocking the entire path, as well as being driven down sidewalks. It's one thing for bikes to come up onto sidewalks if they need to use the bike parking that's stationed on sidewalks, but the way it's currently listed in the bill, these e-bikes would have access to the same facilities as bicycles. So there's just a concern about them in the pedestrian realm, in particular given their size and their speed.

E-bikes appear to be too silent when running on electric power. Not having the regular giveaway sounds such as chain and weight-bearing/shifting sounds that occur as the rider pedals make these hard to perceive when they are approaching. This could be of particular concern when the vehicles come into contact with the pedestrian realm at crossings, in particular when considering the visually impaired, who rely even more heavily on audible cues.

The Toronto Cyclists Union does understand the need for accessible and active transportation options for those who have decreased physical capacity to ride a regular bicycle. However, we strongly believe that if the Ministry of Transportation is going to promote e-bikes—and we'd love to see the promotion of something that is much more closely resembling a bicycle with power-assist—the definition of what qualifies as an e-bike should be much more clearly defined, expressly communicated and strictly enforced.

We believe that the MTO should also seriously address the fact that the cycling infrastructure currently in place in relatively few parts of mainly urban centres is sorely inadequate for accommodating current users, let alone the additional users that would come from promoting e-bikes as a new form of transportation.

The Toronto Cyclists Union therefore strongly recommends the following:

- that support, encouragement and resources for the implementation of additional cycling infrastructure across Ontario accompany any e-bike promotion initiative pursued by the MTO;

- that the MTO do more to promote traditional cycling as an active form of transportation in tandem with, and perhaps even as a priority over, e-bikes; and

- that both the driver education training guidelines and driver's licence testing be updated to include much more content regarding how cyclists use the roadways and the need and responsibility of all drivers to share the road.

Within the bill, I think we need much more clarity around what an e-bike actually is. I think specifically around the shared use of cycling infrastructure, that's where there's concern on behalf of Toronto cyclists. We're just barely starting to get the political will to really start moving—I speak for Toronto, obviously—to get cycling infrastructure in place. I don't know if any of you noticed, but last summer there were more cyclists than ever and not quite enough bike parking and space on the roads to accommodate them all. When you keep that in mind, on top of which something like this promoting a vehicle that may or may not fit into what's already there, I think there's more to be done. We need more clarity around the definition, and I don't think the definition should include anything other than, as I said, a bicycle that has minimal power-assist.

I think that's it. Any questions?

The Chair (Mr. David Orazietti): Thank you very much for your presentation. We have about three minutes for each caucus for questions.

Mr. Bill Mauro: One quick question, perhaps not directly related to the legislation or your presentation. In Europe they've just come up with an interesting solution to accommodate more cyclists, encourage the use of bicycles and get people out of their cars. I can't remember exactly what it was about, but it was something where they had these stations and the bikes were owned by the government, municipal or otherwise; I'm assuming municipal.

Ms. Yvonne Bambrick: There's Vélib' in Paris.

Mr. Bill Mauro: I'm sorry?

Ms. Yvonne Bambrick: It's almost like it's part of the transportation system. It's a public bike-sharing system.

Mr. Bill Mauro: Right. Can you talk to us a bit about that?

Ms. Yvonne Bambrick: Sure. I know that the city of Toronto is looking into a bike-share system here that closely resembles what has been rolled out in Montreal, which is the Bixi program. I know that's currently in development. We had a bike-share system in Toronto, but that was run by a non-profit—not very large. It only had about a dozen and a half stations, mostly across downtown.

The success of bike-sharing programs is usually related to the size and the availability of them around the city. I know the city is now looking at a wider-spread

system here and it's currently in development. Again, we come back to infrastructure. It's one thing to have a system like that, but if you don't have the bike lanes that make people feel safe enough to get on a bike in the first place, especially if they're going to have to compete with an e-bike that's actually a moped that should be licensed and have insurance, we're getting into dangerous territory there, which is why we're very concerned about what that definition is.

The Chair (Mr. David Oraziotti): Mrs. Jeffrey, we have time for one question.

Mrs. Linda Jeffrey: Just a quick question: Can you tell me a little bit about the Toronto Cyclists Union? Is it recreational? Is there anybody who does this for a living, like couriers, as part of the group?

Ms. Yvonne Bambrick: Does which for a living, exactly?

Mrs. Linda Jeffrey: I'm just wondering if there are any couriers as part of your cyclists' union.

Ms. Yvonne Bambrick: Not really. We're mostly representing commuter cyclists. That seems to be the focus. There are groups like TBN, the Toronto Bicycle Network, that seem to work with more recreational cyclists. We've been focused on infrastructure in the urban setting across Toronto, but really focused on commuters and making the circumstances around which you would ride a bike feel better. The number one concern has been the lack of bike lanes. Second to that is the lack of parking enforcement in the bike lanes that exist already: delivery vehicles, taxis, people stopping. Making people go out into traffic is the second concern. But no, we're really focused on infrastructure and commuting as part of the transportation system.

The Chair (Mr. David Oraziotti): Mr. Klees.

Mr. Frank Klees: Thank you, Ms. Bambrick. How many members does your organization have currently?

Ms. Yvonne Bambrick: Five hundred and fifteen thus far.

Mr. Frank Klees: How many commuter cyclists would there be in Toronto on the road on any given day?

Ms. Yvonne Bambrick: In the most recent census, I believe there were close to a million people who said they take their bicycles to move from A to B, either to run small errands or to get to work.

Mr. Frank Klees: I'm interested in your comment about the infrastructure, because I'm seeing it as I'm driving to Queen's Park. It seems to me that maybe we've got this thing backwards. Your concern is with regard to e-bikes. Now we're releasing another class of vehicles into those bike lanes that you say already are inadequate. It seems to me that what we're moving towards is bicycle gridlock if we don't get the infrastructure catching up with the good intention of this legislation, particularly with regard to the e-bikes.

We had a presentation at our last hearing from someone—I think Sinatra was the name of this e-bike. It looked like a scooter and was pretty substantial, actually. I'm trying to picture how that vehicle, a so-called e-bike, will coexist with what I see as the traditional bicycle, and

how this is going to all shape up. Could you just comment on that?

1650

Ms. Yvonne Bambrick: That's the problem. That's why I'm here. I don't think mopeds have any place in the little infrastructure that we currently have for bicycles. I think we're only barely scratching the surface of accommodating bikes within our transportation system with the bike plan that exists.

Mr. Frank Klees: I think that particular vehicle has a speed up to 35 kilometres an hour.

Ms. Yvonne Bambrick: Yes, I think that's a big mistake, to allow that in.

Mr. Frank Klees: There aren't too many cars that travel 35 kilometres an hour in the city of Toronto. Would you go so far as to say that those e-bikes, with those specifications, should actually be precluded from the bicycle lanes that are currently in place now?

Ms. Yvonne Bambrick: I don't want to see them in bike lanes or using bike parking. There's barely enough of that stuff to accommodate bicyclists. These are self-propelled people who move through the city, right? Having a motor makes a huge difference, for all the reasons stated before: the weight, the way they move. If you can imagine someone who's on their motorized moped, bicycle, whatever you want to call it—there's good standstill traffic; they want to go fast; they jump into the bike lane and speed past cyclists, squeeze between almost-parked cars in traffic. Think of all the different things that could happen in that scenario. There's danger there.

Mr. Frank Klees: You've raised some important issues. I think it behooves this committee to deal with that, perhaps through some amendments, because I think, obviously, the intention of the government is good. I think there are some circumstances here where we could regret putting some of these vehicles into conflict with cyclists in the city. I'm sure that the ministry will be open to that, and, through the leadership of the parliamentary assistant on this and other matters, we'll be able to improve this legislation considerably.

Ms. Yvonne Bambrick: We would be happy to assist in anything around this issue.

Mr. Frank Klees: If you have any recommendations with regard to specific amendments that you would like to see, if you would send those in to us, please?

Ms. Yvonne Bambrick: Sure. Yes.

The Chair (Mr. David Oraziotti): Thank you, Mr. Klees. Thank you for your presentation, Ms. Bambrick.

Ms. Yvonne Bambrick: Thank you.

The Chair (Mr. David Oraziotti): I'm sorry. Pardon me. Mr. Prue has questions. My fault.

Mr. Michael Prue: Thank you. A couple of questions. I think it goes without saying that people in these scooters and some of the larger e-bikes should be licensed. I've heard people, though, talk about licensing of bicyclists. I have to tell you: Some of them should pass a road safety test.

Ms. Yvonne Bambrick: I would agree with you. Yes, there are bad cyclists just like there are bad drivers; you're right.

Mr. Michael Prue: But there doesn't seem to be any way to control adults driving at pretty high speeds on sidewalks with pedestrians. I see that almost every day.

Ms. Yvonne Bambrick: We have a lot of public education to do around that. I would agree.

Mr. Michael Prue: And you were talking about cyclists locking up bicycles on sidewalks. Should there be somewhere other than sidewalks to lock them up on?

Ms. Yvonne Bambrick: Absolutely.

Mr. Michael Prue: I think the sidewalk is for pedestrians. The bike lane is for the bikes. The rest of the road is for the cars. That's the way I see it, at least.

Ms. Yvonne Bambrick: Except where there's no bike lane. Every roadway is a shared roadway. Bike lanes, when they exist, are definitely where bikes should be.

As for parking, one of the recommendations of the Toronto Cyclists Union, in order to accommodate the parking needs of cyclists on really heavily used routes, is to remove one car parking spot and add bike parking in a car parking spot. You can get 10 to 15 bikes in one car parking spot. That's a great way to get bikes off sidewalks, remove clutter from sidewalks and accommodate the new street furniture, and it's something that can be seasonal as well. So in the months when there are the most cyclists on the roads, you can have those parking spots be dedicated to cyclists. Montreal has been doing this successfully for at least a couple of years now, so there's no reason we can't do it here.

Mr. Michael Prue: The reason I ask in terms of cyclists being licensed is because, if you have to get a licence, first of all you have to pass a test; you have to understand the rules of the road. But you can also have the licence taken off you if you continue to flout the law. I don't know how you stop someone who continues to flout the law on a bicycle from doing all the things—I saw one yesterday go through a red light. Didn't care; just looked and just went through. I can't do that in my car, but he certainly did it.

Ms. Yvonne Bambrick: Sure. Let's go back to riding on sidewalks. One of the reasons cyclists have been doing that to date is because they don't feel safe on the roads, because there is no safe place for them to ride. There's not enough of a bike lane network in the city yet. We're getting there. We're only just starting to really respect cyclists on the road, and even that is pretty limited to the downtown core. If you try and ride out to North York or over to Etobicoke or Scarborough, it changes dramatically. So people haven't felt safe on bikes. There's a critical mass of people riding now, and I think drivers are starting to understand that bikes are even allowed to be there, but daily I'm told, "Hey, what are you doing on the road?" There are still a lot of drivers who don't respect cyclists. So that does scare some people onto the sidewalks, and that's another reason we're asking Ontario to get behind more bicycle infra-

structure. We can help people fix their bad behaviour by making them feel safer on our streets.

Mr. Michael Prue: We also make motorcyclists wear a helmet. Should we be making people on e-bikes wear a helmet? Conversely, should we be making adults riding on major busy streets, like in Toronto, wear a helmet?

Ms. Yvonne Bambrick: The helmet issue, on a motorized vehicle, especially one that's a moped—I would definitely agree. The speeds that you can reach depend on the vehicle and what its capacity is, but I think, on a motorized vehicle, a helmet is probably a good idea. I think it's already the case that it's required for mopeds. Licensing and helmets are a deterrent to getting people out of their cars to take bikes, to choosing cycling as an alternative to motor vehicles. I don't believe that licensing should be pursued and I don't believe helmet use should be mandatory for anybody over 18. It's not a necessity in Copenhagen. We can do that here. What we require is better infrastructure to accommodate those cyclists and better public education to let folks know that they have to share the roadway. It feels like battle gear, to a certain extent, when you're on a bike. You're not going to be going much faster than 15K to 20K, and it's a turn-off for a lot of people. If we want to have people making healthier, greener choices, decreasing their personal footprint, taking better care of themselves physically through exercise, having anything that stands in the way of that choice I think is a mistake. But for higher-powered vehicles, yes, I believe a helmet does make sense, as it does for motorcycles.

The Chair (Mr. David Oraziotti): Thank you very much. That's all the time we have for questions. Ms. Bambrick, again, thank you for your presentation.

ALEXANDER POVOLOTSKIY

The Chair (Mr. David Oraziotti): Our next presenter is Alexander Povolotskiy. I hope I pronounced that correctly.

Mr. Alexander Povolotskiy: Yes, quite correctly. Thank you.

The Chair (Mr. David Oraziotti): You can just state your name for the recording Hansard. I understand you're speaking to both Bill 118 and Bill 126. You'll have 15 minutes for your presentation, and five minutes for questions.

Mr. Alexander Povolotskiy: Mr. Chairman, members of the committee, members of the public, good evening. I'm Alexander Povolotskiy and I would like to present my viewpoint on two bills: One is Bill 118 and the other one is Bill 126.

I understand you've been hearing public speakers for all day yesterday and most of today, so I won't take all the 15 minutes of my time. I'll just, if you allow me, walk through the major ideas and bullet points for each bill, so it'll take me about five minutes. If you have questions I'd be delighted to answer them afterwards.

Bill 118 is the bill prohibiting the use of devices having displays in cars, not to distract drivers. In the way

this bill is being presented to the public it is simply not passable, for a number of reasons. One is that it is not enforceable. I understand that this bill is aimed at prohibiting or avoiding distractions of drivers caused by mostly mobile and cellphones. But when the potential offender is caught by the police officer, it is his word against mine, and basically there are very few ways to prove that the offender actually broke the law. So I see no way how this bill, if it is passed, could be effectively enforced. We've all heard the stories of police officers in BC and, "Who is overseeing the police force there?" So basically, is it the question of more legislation or enforcing the existing ones? In my understanding, it is more important to enforce the existing ones.

1700

In addition, Bill 118 is phrased out in such a manner that such devices as your in-car radio, MP3 or CD player actually fall into the category that has display screens that don't show technical car details, like the speed and so on and so forth, which are allowed. Basically, if you read this bill by the letter, one could get a feeling that a built-in, in-car radio or MP3 or CD player could also be prohibited.

In the way that it is written right now, it could not be passed for these two reasons. Those are basically my two major points for Bill 118.

Should I stop here, Mr. Chairman, and wait for questions, or should I proceed to Bill 126?

The Chair (Mr. David Oraziotti): No, I'll ask you to present all of the information that you have, and then we'll proceed to questions, if that's okay.

Mr. Alexander Povolotskiy: Thank you. The next bill, Bill 126, is basically about the young offenders, young drivers using alcohol and driving, so drinking and driving. I am in full support of that bill but, in my understanding, it should include intoxication by means of drugs as well, because youth and kids these days have more ways than alcohol to intoxicate themselves. This bill is mostly about the abuse of alcohol, but it should include intoxication by drugs and other substances such as glue, cigarettes etc.

This is all I wanted to present to you, gentlemen.

The Chair (Mr. David Oraziotti): Thank you for your presentation. We'll start with members of the opposition. Mr. Klees, if you have questions, we have about three to four minutes per caucus.

Mr. Frank Klees: Could I ask what your occupation is?

Mr. Alexander Povolotskiy: Yes. I am regional manager for an industrial real estate firm.

Mr. Frank Klees: Okay. I thought perhaps you had some expertise in terms of law enforcement, or I thought maybe you were a lawyer.

Mr. Alexander Povolotskiy: Not necessarily. I hold two MBAs, two master's degrees from the States. Therefore, it gives me a certain understanding of legal procedures and—

Mr. Frank Klees: You raise interesting points regarding enforcement. We've asked some of those questions as well and will continue to.

The previous witness came forward and, on behalf of police services, was asking some questions that we'll look to the government to respond to in terms of what role the police officer will have, what discretion they'll have and on what basis they'll lay the charge.

I think what is particularly important here is, at the end of the day, what this will do to our court system if this legislation is not tightened up. In fact, there are no demerit points that will be assessed for conviction under that section. When I asked the question why, if in fact the government believes so strongly that this is an important issue, they would not put in place appropriate consequences for breaking the law, the response was, "Well, our concern is that if it involves demerit points, this will in fact clog up the court system"—because now it's no longer a cost of doing business, where you simply pay the tax; now people have something at stake, like their licence, and they will challenge it.

I think you raise a very important point here that the government is well advised to look at very carefully and tighten that area up, so that everyone knows what the rules are and it can be enforceable, if they choose to continue.

With regard to your comments about the lack of definition about the devices within the car, again you make a good point. I'm still trying to understand how the government is going to deal with equipment such as a GPS. We're told that as long as it's built into the dashboard and is there by the manufacturer's specifications, then it's okay. But there are portable GPS units that you can permanently fasten onto the dashboard. Does that qualify? We don't know. I would think that someone is going to deal with that relatively quickly, and we're going to want some explanation from the ministry. But I think, again, we'll need some amendments to this legislation to clarify all that, unless the ministry staff already have answers, in which case it would be really good to hear from them when we get to, perhaps, the clause-by-clause discussion of this bill. I want to thank you for raising the points.

I'd love to give the parliamentary assistant an opportunity to respond specifically to these questions. She doesn't have to do that, but if she would like to, I'm happy to give her the rest of my time.

The Chair (Mr. David Oraziotti): You've left her about 15 seconds.

Mr. Frank Klees: Can you do it in 15 seconds?

Mrs. Linda Jeffrey: I have questions of my own—

Mr. Frank Klees: Okay. We will look forward to discussing those issues with the government. I thank you for raising them.

Mr. Alexander Povolotskiy: Thank you. You complemented my introduction well.

The Chair (Mr. David Oraziotti): Mr. Prue?

Mr. Michael Prue: You were talking about alcohol, and I think everybody agrees you shouldn't drink and

drive. I have two questions. The first is, it seems to be targeting young people. Is somebody who gets a licence at 60 years of age and starts driving a car for the first time and has had a drink any more or less likely to be in an accident than somebody who is 19? Both are legally entitled to drink, both are legally entitled to drive, both have just learned how. What's the difference?

Mr. Alexander Povolotskiy: Very good question. First of all, the laws should be the same for everyone. Statistically speaking, younger drivers tend to have more accidents on the road, and alcohol just adds to that. As to people with grey hair, let's put it this way: They have more experience and are better prepared for the situation on the road. Therefore, the enforcement of alcohol abuse and driving intoxicated by young drivers—they should have more penalties, in terms of up to the suspension of their driver's licence.

Mr. Michael Prue: So you agree, then, that this is a form of ageism: that we will give harsher penalties for the same offence to somebody who's young than to somebody who's old, even though the circumstances are identical. They've both had a licence for less than a year. They both are legally entitled to drink.

Mr. Alexander Povolotskiy: Yes. The laws should be the same. I understand your point. Should there be any age discrimination? Well, actually—

Mr. Michael Prue: It seems to me you're indicating yes.

Mr. Alexander Povolotskiy: I indicate yes, because actually Bill 126 is all about this, if you read through the lines. Honestly speaking, there is no excuse for drinking and driving at any age. What I am saying is, statistically speaking, younger drivers have less experience than adult drivers, and therefore there is no room for error. Let's put it that way.

Mr. Michael Prue: You also made a comment which I found intriguing, and that is that you think anything that causes an intoxication, including cigarettes, should be banned.

Mr. Alexander Povolotskiy: I put it in a broader way. What I meant to say was, if you smoke a pack of cigarettes, for instance, will you be as intoxicated as after a couple of shots of whatever alcohol—

Mr. Michael Prue: I think you'd be at least as dizzy if you did it in a short time, yes.

Mr. Alexander Povolotskiy: Absolutely, one after another. I would include intoxication from a number of substances, not limiting that to alcohol. So I would include glue, drugs, cigarettes.

Mr. Michael Prue: So if somebody were tested and they had nicotine in their system to a greater extent than was deemed normal or acceptable, they too could be charged and lose their licence?

1710

Mr. Alexander Povolotskiy: It's not about the chemistry of the blood. It is about the response, or the delayed response, that they have to the road conditions and situations. So if that substance delays their response to the road situations to the state where they could be in

an accident or can cause an accident, then they should be suspended.

Mr. Michael Prue: How would that be tested?

Mr. Alexander Povolotskiy: By the ways currently available to the police force. Breath sampling is only one of the methods. As far as I'm concerned, other methods are still in use to determine if the person is intoxicated or not and if his reaction is appropriate.

Mr. Michael Prue: Thank you.

The Chair (Mr. David Oraziotti): Thank you for your response. Thank you, Mr. Prue. The government side, Mr. Mauro.

Mr. Bill Mauro: Thank you, Mr. Povolotskiy, for your presentation. Mr. Prue has raised the issue of the zero-alcohol part for drivers up to the age of 21, describing it, I guess, as ageism and discrimination. I'm not sure if he supports it or not. He seemed intent on trying to get you to state your position on this.

I guess my question would be, if that's considered ageism or discrimination, then likely the entire graduated licensing system, which treats an age parameter of younger adults differently than someone 60 years old as a first driver, would be considered ageism and discrimination as well. Would you agree with that also?

Mr. Alexander Povolotskiy: Yes, I would agree to that statement. But what we face in reality is age discrimination throughout any field, be it employment or education or even driving.

Mr. Bill Mauro: Right. Thank you. Thank you, Chair.

The Chair (Mr. David Oraziotti): Thank you, Mr. Mauro. Mrs. Jeffrey?

Mrs. Linda Jeffrey: Thank you for coming today. We have had lots of groups come before us, but not as many individuals, so thank you for being here today.

What I would like to make sure—one of the things you said was that Bill 118 was not passable, wasn't enforceable. Certainly, in the discussions we've had with external stakeholders, one of those stakeholders was the Ontario Association of Chiefs of Police. I don't think we operate independently; we try to find out that the people who are likely to enforce this legislation have been consulted.

I don't think we would have put something together that was unenforceable. It's important that we work with the police services and the officers to make sure that what we put on the table has some chance of success, ideally because we want to reduce the number of injuries across Ontario. If we're losing hundreds and thousands of people due to collisions, it's important that we put something on the table.

It would appear from the first comments you made that rather than put something on the table that you feel is unenforceable, we should do nothing. What would your recommendation be? I think everybody in the room has seen a distracted driver. Would you have us do nothing? What other suggestions would you have?

Mr. Alexander Povolotskiy: I've seen distracted drivers myself. We're all drivers, and we're all users of

mobile phones. Some of us are users of GPS systems that are not built into the system.

What I would suggest is to specify what falls into the category of forbidden items to be used in the car by the driver. A mobile phone: If I read a text message, is it prohibited or not? Am I breaking the law? If I turn the screen down on my mobile phone, if I hide it in the glove compartment, is it still prohibited? So it needs to be clarified exactly.

After all, will it still be enforceable after that? If a police officer stops me on the road, seeing me using the phone when I was driving, and I put it down to speak to the police officer, it's his word against mine. There are no witnesses. So it might clog, really, the judicial system and the courts because there will be disputes for sure. There is no certain way to determine if the offender has actually broken the law or committed the offence. This particular bill, Bill 118, could be read in more than one way, in multiple ways, so interpretation is multiple.

Mrs. Linda Jeffrey: Thank you for coming. I think our intention here is, to be absolutely clear, we don't want distracted drivers. We want people who are focused on their driving. We will make the bill as clear as we possibly can based on delegations like yours. Thank you.

Mr. Alexander Povolotskiy: I agree on that.

The Chair (Mr. David Oraziotti): Thank you, Mrs. Jeffrey. That's all the time we have for questions.

Thank you very much, Mr. Povolotskiy, for your presentation.

Mr. Alexander Povolotskiy: Thank you, Mr. Chair.

ROBERT BATEMAN HIGH SCHOOL

The Chair (Mr. David Oraziotti): The last presentation before the committee today is Robert Bateman High School. I understand we have some students here to make a presentation, if you'd like to come forward, please.

Good afternoon. I understand that you're going to be speaking to Bill 126. If you could please state your names for the purposes of our recording Hansard, you can begin your presentation when you like. You have 10 minutes for your presentation.

Mr. Dylan Gibson: My name is Dylan Gibson. I'm here to talk to Bill 126, and actually, I do mention Bill 118 as well.

Ms. Chelsey Meehan: Chelsey Meehan, on Bill 126.

Mr. James Gike: James Gike, on Bill 126.

Mr. Dylan Gibson: My colleagues and I stand before you today not to argue and criticize but to ultimately achieve the same result concerning youth. Our goal, as kids first, but also as academics, is to represent the views of our generation to the best of our abilities while also expressing personal opinions in the process. Some might agree or choose to disagree with our statements, but variety is what makes us uniquely human and allows us to thrive in a free and democratic society.

Teenagers all over Ontario are responding to the proposal of these laws, and attention must be paid. It is only

fair that the public governed by these laws be able to contribute their ideas. We are the voices of teenagers. So I stand before you today to ask to be heard and considered, not as another teen, but as your son or daughter looking for answers to questions that matter.

The Chair (Mr. David Oraziotti): Excuse me, can you just speak a little closer to the microphone so they can pick you up a little better? Thank you.

Mr. Dylan Gibson: Yes.

I do agree with the proposal of the new driving laws but go further in stating that the immense task of protecting youth drivers must be the shared responsibility of the government, police and parents. The government must enact tougher legislation with harsher penalties for lawbreakers. Police must focus on the effective enforcement of driving laws, and parents must continually be aware of their responsibility as role models and the impact they can have upon their children.

It is concerning to note that motor vehicle accidents are the leading cause of death for 15- to 24-year-olds. The government must make changes to the existing graduated licensing system and street-racing laws, as well as move ahead with the proposed cellphone ban. In today's traffic, young drivers need to spend more time on the road with an experienced driver. That's why the most productive alteration to the graduated licensing system is the amount of time necessary to achieve a full G license. Studies have determined that practical experience has a direct correlation to road safety and awareness.

Another significant change restricted drivers under the age of 21 to a blood-alcohol concentration of zero, as opposed to the current 0.08% with the G licence. The proposed law would also have restricted the number of teens in a G2 driver's car at any time during the day. This provision was dropped due to tremendous negative feedback; however, studies have shown that each passenger in a new person's vehicle increases the risk by 50%. It has been proven that due to the development of the human brain, youth drivers cannot handle multiple teens in the car. Instead of completely dropping this provision, the government should consider changing the amount of time from six to 12 months for carrying teenaged drivers between the hours and 12 and 5 a.m.

Bill 203, or the street-racing law, defines street racing and reckless driving, among other things. Unfortunately, it does not differentiate between the age and driving ability of those driving 50 kilometres an hour over the speed limit. It has been discovered that an increase of 50 kilometres per hour will make a driver six times more at risk of death. Due to the variances in ability, the threshold for street racing should be lowered for novice drivers until 21, similar to drinking.

The proposed cellphone ban is relevant in this situation because teens are generally more dependent on their phones than others. The main function of a young person's cellphone is texting. Not surprisingly, this phone-related action poses the greatest threat to safety. Any type of cellphone use has a negative effect on response time and cognitive ability. The University of

Western Ontario and the Ontario Medical Association went as far as to say that the risk of collision is four times higher when using a cellphone, and the distraction is equivalent to having a blood-alcohol concentration of 0.08%, which is the limit.

The police can only enforce laws as well as they are written. Driving laws need to be prioritized by police agencies, and courts need to emphasize that youth will get punished if they break the law. Currently, our driving laws are not deterring kids from committing illegal acts. For example, after 12 months, only one eighth of drivers charged with street racing were actually convicted. However, these laws should be beneficial because they change procedures for youth infractions and repeat offenders using a new three-strike system.

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On a slightly different note, the Ministry of Transportation should change the content and method in which driver's education courses are taught. Despite new technology, little has changed in the way teens have been educated over the past 15 years. We can all testify to that. The number of in-car training hours should be increased because the most effective way to develop ability is through practical experience.

Finally, parents of teenage drivers are another determining factor in life or death on the road. The laws in place aren't always enough and parents need to be role models and instill the proper mindset and morals needed for safe road conduct. Twenty-five per cent of teens will have a crash in their first year of driving, meaning the odds are in favour of your son or daughter being in an accident. Parents must make road safety their top priority when their child is of driving age. A tough-love mindset is necessary, because a child is nine times more likely to die while driving than their parents, and death while driving poses the single greatest threat to a young person's well-being.

The simple matter is that teenage drivers are in real danger. The government, in collaboration with police and parents, need to facilitate change in order to stop this continuing trend. Protecting youth drivers is a three-tiered initiative: When one level fails, all come down with it. The cost of inaction is far too high. We have all seen the sad roadside reminders of young lives lost too soon. It is within our power to help stop the carnage.

Now my colleague and friend has a couple of words.

Ms. Chelsea Meehan: I believe the government is on the right path, but revisions are still necessary. To begin, Bill 126 limits young adults to make it even more impossible for them to become independent. Ontario students enter their first year of university roughly at the age of 18, when they are expected to become much more independent, yet they are unable to drive legally by themselves. If they have to have a G1 for up to 18 months, as the bill proposes, that means that teenagers are dependent on a parent or guardian for that much longer, which is a full half-year longer than it is now. Moreover, driving tests are taken at any time after the age of 16, and therefore it is true that teenagers become much more

knowledgeable of the technical points of driving. As well, they are much more focused on driving carefully compared to adults who have not taken technical tests in many years and feel more comfortable on the road.

This begs us to ask the question, "Why 21?" At the age of 18 you become a legal adult with the ability to vote, but you are unable to drive on your own? If they are going to raise the age at which young adults are able to drive, why not lower the age of when seniors have to retake their test? This also leads to the slippery-slope effect. If we change the new laws to 21, what else will the government want to change to this age? Furthermore, in cities where public transportation is limited, how does the government expect young adults to get around? Parents cannot always be relied upon to drive everywhere, and by changing specific laws to the age of 21, teenagers may become stranded or extremely reliant on parents or guardians, possibly causing much unneeded stress.

In addition, many teens are intimidated by the entire system, and by making it even more difficult to obtain a licence with these laws, many more teens will be deterred from obtaining a licence right away, possibly waiting until they are older and might feel more comfortable on the roads, and therefore people will be in their early 20s before they obtain a full G licence.

Finally, there also seems to be a contradiction. The NDP government of 1994 brought in graduated licensing in order to either elongate childhood or seemingly make it harder to become independent, yet only a few years later the Conservative government shortened high school by an entire year. How does this make sense without looking at the big picture? This also asks us to question where this bill fits into the big picture.

Thank you for your time, and now my friend and colleague James will speak.

Mr. James Gike: Ladies and gentlemen of the committee, let me begin by first restating to you that we all believe that the piece of legislation you have drafted contains excellent rules and protocols; however we are merely here on behalf of the young driving population of Ontario to offer some constructive criticism from our perspective on the parts of the legislation that we believe require improvement. We do not mean to inspire a total change in the legislation, although the public had influenced the removal of the passenger rule. This is because the three of us all firmly agree with the blood-alcohol content rule as well as the proposed cellphone ban. The middle ground is what we are attempting to achieve with you here today. Our hope was to provide you with a perspective of the demographic for which the legislation is targeted.

Eighteen-year-olds such as us are getting ready to go out into the world in which our freedoms and responsibilities are increased. The extension of the graduated licence program will, in fact, hinder our freedoms. In today's economy, many students will need to commute to school. This legislation will prove to be yet another barrier to post-secondary education in Ontario. Also, young

adults need to get to their own jobs by way of their own vehicles, and prohibiting them to do so is prohibiting the economy to advance. Being that we're in a recession, the government should look to the demographic with the most dispensable income and enable them to spend more. If this legislation were to pass, young adults would be hindered from the amount of income they would receive and, in turn, spend.

Furthermore, the question of "Why 21?" may be raised. If you were to make this legislation concrete, it may result in the slippery-slope effect, in which some of the privileges currently guaranteed at ages 18 and 19 would be moved to age 21. If this were to happen, we, as youth, would become more sheltered from the real aspects of life and not be prepared for the day we step out into the real world.

We encourage you to take the perspective of the young driving population of Ontario into consideration as you further your work on this piece of legislation. This legislation was drafted quite hastily and therefore, before any decision to pass it or not is made, it must be revised.

The teenaged population of Canada cannot always rely on their parents for everything until we turn 21. If we are not rewarded with some responsibilities prior to that, we will be unwilling to leave the comfort of our own homes. In essence, you would be extending the age barriers of the youth demographic from age 18 to age 21.

Yes, it is true that driving is a privilege for teenagers and young adults, but that privilege comes with benefits to families and the government. And yes, there is an inherent danger in anyone driving; however, there is danger in a multitude of things that we may do around the world. This very day, there are soldiers fighting overseas in Afghanistan, risking their lives for our country. So I ask you, if the age we are able to go overseas and fight and possibly die for our country is 18, then why may we not get behind the wheel? Thank you.

The Chair (Mr. David Oraziotti): Thank you for your presentation and your thoughtful comments. We will start with the member of the third party. Mr. Prue, do you have questions?

Mr. Frank Klees: Could I just ask, Chair, how much time we have?

The Chair (Mr. David Oraziotti): We have about two and a half minutes.

Mr. Michael Prue: When I came in today, there was a letter on my desk—I think all members got it—from a Meghan Stenson. I think Meghan is probably a young person, and she asked the question: "And bottom line for me, you can die for your country at 18, yet the Ontario government wants to restrict driving privileges to 21. A solution: drinking age 21, driving age 21, smoking age 21, armed services 21, voting age 21 etc. Level playing field for all."

What do you think of that?

Ms. Chelsey Meehan: Is that directed to any specific person?

Mr. Michael Prue: Pardon? I don't know—

Ms. Chelsey Meehan: Is that to any specific one or can we all—

Mr. Michael Prue: No. You came together, so whoever wants to answer.

Mr. James Gike: I believe that might be the effect of passing this piece of legislation. However, if you were to extend all those ages to 21, then why are the three of us able to go to university? Why was grade 13 eliminated? In essence, the freedoms we have going into university are almost nonexistent. For example, I've been accepted to the University of Guelph-Humber, which is just off Highway 27. That is a commuter school. On occasion, I do intend to drive down there, and if I'm unable to drive down there, I will be spending just about \$5,200 a year in transportation fees.

Moreover, 18-year-olds who go into the army often enlist at that age to go into the reserves as a possible career choice. So you'd be restricting those who have just graduated high school from pursuing a career and possibly gaining more income to be able to live on their own and such.

Mr. Michael Prue: Okay. I think the person was upset that it was going up to 21. I think she was trying to say this is the consequence; I don't think she was advocating that.

The Chair (Mr. David Oraziotti): Mr. Prue, that's the time we have.

Mr. Michael Prue: That's the time, okay.

The Chair (Mr. David Oraziotti): Thank you. Government members, please?

Mrs. Linda Jeffrey: Thank you for coming. I tried to encourage some of my high schools to come out and have an opinion on this, but you're the only one that I've seen so far on our agenda, so congratulations. This is difficult, to come and talk before a committee. I know it can be a little shell-shocking to come in here.

I think there's a little bit of confusion about what the legislation is proposing. I think what we are proposing is a longer graduated licensing system, which would make it go from 12 months to 18 months with a six-month discount. So the earliest age at which one could graduate a G2 would be 17 years, as opposed to 16 years, 8 months today.

1730

I think the 21 that everybody is talking about right now is the blood-alcohol level, so you have to have a zero blood-alcohol level if you're 21 or under. I don't think any of you, based on your comments today, would disagree that you shouldn't be drinking and driving. If anybody's been led astray today that you can't get your licence till you're 21, that's not the case.

There are a lot of very motivated young people. I know I had three sons who were very motivated get their licence. Frankly, I would have been happy to have a longer G1-G2 process available because I think younger drivers need a little longer to become proficient. I hope you would agree that anyone under 21 years of age needs to have a blood-alcohol level of zero in order to ensure that the driving skills that they're just beginning to get

under their belt—they would be given time to get that experience. Would you agree with that?

Mr. Dylan Gibson: I think, after what we said today and also our personal opinions, we do agree with the fact that people our age and up to 21 shouldn't be drinking and, generally, everyone shouldn't be drinking while driving. It's just an unsafe practice. We—maybe me more so than my friends—understand that it does affect a young person's driving more so than someone who is older.

Mrs. Linda Jeffrey: Good. Thank you very much.

The Chair (Mr. David Oraziotti): Thank you. Mr. Prue, do you want to just make a point on the record on that last comment?

Mr. Michael Prue: Yes, if I could for the record—and I should have read this a little more. It says at the top “Meghan Stenson” but now, on further reading it, I see that Meghan Stenson was the person who forwarded it on and that the writer of the letter was in fact a Ralph McDowell.

The Chair (Mr. David Oraziotti): Right. That's the clerk's assistant, Meghan Stenson. Thank you very much. Members of the opposition, Mrs. Savoline?

Mrs. Joyce Savoline: First of all, I want to thank these young people for making the trek from Burlington to Queen's Park—I'm sure that was an adventure in itself—and also for having the courage to appear here. There are many adults who would shrink away from the responsibility of speaking out in a democratic arena, and my hat goes off to you today for making this trip here to Toronto and for extending your points of view to us as decision-makers.

I want to ask you just one question. I know that the three of you are interested and that your entire class was interested in this piece of legislation and you did a lot of your background checking and your homework. How much more extensively did you research with other young people you know, and what was their feeling? Do they agree with you?

Ms. Chelsey Meehan: I did find most of my high school colleagues did agree more with me than with my colleague Dylan, only because they did find a lot of the parts of legislation were limiting to people my age. As well, not only did I speak to colleagues, I did speak to parents and teachers. A lot of them did feel more comfortable on the roads, therefore they felt safer doing, I guess, more unsafe things, going back to Bill 118. A lot more parents feel more comfortable, I find, texting on the road or doing things like that; whereas, in my opinion, I find it much harder to do anything like that while I'm driving. I find myself very paranoid that something could happen. I find myself very focused on the road. So I found a lot of my colleagues who are all new drivers or have been driving only for a few months also all feel the same way. They do feel the need to become safer drivers because they do know of the unsafety. So I do believe that a lot of people did agree that some of these parts of the legislation were not as well thought through as they should be.

Mrs. Joyce Savoline: Thanks, Chelsey.

Mr. Frank Klees: Chair, might I just make one comment? I want to let these young people know that the Minister of Transportation made a point to come into this hearing and he was here for the full presentation that you made. He did have to leave, but it's a compliment to you, and I think all of us really want to thank you for coming forward. We appreciate the thought that you've put into this, and you're to be commended for that. Thank you.

The Chair (Mr. David Oraziotti): Thank you for that, Mr. Klees, and I think the entire committee certainly appreciates you coming here today and taking the time to share your thoughts and concerns with the committee. Safe travels back.

That concludes the presentations for today. The committee stands adjourned until Monday, March 23 in this room at 2 p.m.

The committee adjourned at 1735.

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