



New York City Council
Joint Finance and Transportation Committee
Hearing
New York City Department of Finance

Testimony of Jeffrey Shear
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Good afternoon, Chairs Dromm, Rodriguez, Cabrera, and members of the Committee on Finance, Transportation and the Committee on Government Operations. I am Jeffrey Shear, Deputy Commissioner for Treasury and Payment Services at the New York City Department of Finance. With me today is New York City Sheriff Joseph Fucito and Sheelah Feinberg, director of intergovernmental affairs at the Department of Finance, and Joshua Benson Deputy Commissioner for Traffic Operations at the DOT.

Intro 1141

The first of the bills that DOF would like to address is Intro 1141, which relates to our Stipulated Fine and Commercial Abatement programs. Before addressing the specifics of the bill, we would like to provide some context as to why these two programs exist.

All motorists receiving parking summonses have a constitutional due process right to contest the summonses if they choose. This right applies to both individuals and commercial entities.

There is no way to compel motorists to pay for parking summonses without first offering the chance to contest them. Further, motorists may offer a variety of defenses in contesting a parking ticket, including that their vehicle was not properly identified, that the ticket agent did not properly indicate the parking infraction, that proper notice was not given regarding the prohibited action, or that their vehicle did not commit the specified infraction.

One defense for commercial vehicles is provided by the City's parking rules. The rules recognize the lack of available parking spaces and the need for commercial vehicles to make deliveries to city businesses by providing an expeditious delivery defense for some parking infractions. The expeditious defense is often asserted by companies and their parking ticket brokers, and many tickets are dismissed in this manner. For example, in FY18, 67% of tickets for double parking outside of Midtown were dismissed as part of our Fleet Program, in which companies receive regular reports of their parking tickets and retain the right to contest them.

In addition, it is generally more difficult for traffic agents and police officers to identify commercial vehicles than passenger vehicles. 98% of tickets issued to individuals are incurred by vehicles with a passenger registration type. But tickets issued to business vehicles are more evenly divided between vehicles with registration types such as commercial, medallion, livery, rental, light trailer, regular trailer, and semi-trailer. The mis-identification of vehicle registration type may result in the dismissal of a parking ticket.

Traffic agents and police officers must also make fine distinctions between commercial vehicle body types. Recent court decisions resulted in the dismissal of tickets that did not correctly distinguish between tractor trailers and other truck body types and between international registration plan and apportioned truck body types—even for vehicles registered out of New York in a state that does not make such distinctions. DOF is drafting state legislation that would prevent tickets from being dismissed for such technical reasons.

Lastly, companies are more likely to hire parking ticket brokers who are experts in finding deficiencies in parking tickets and are, therefore, also more likely to contest parking tickets

With this in mind, DOF created the Stipulated Fine and Commercial Abatement programs. The purpose of the programs was not to “discount” tickets, but rather to look at the dismissal rate of parking tickets by companies enrolled in our Fleet Program and charge the same expected value for contested tickets, without the need for formal hearings. Companies participating in the programs waive their right to a hearing and agree to pay roughly the same rate as companies that actively contest their tickets. As a result, program participants do not need to hire a parking ticket broker to review outstanding tickets, establish a defense, or attend a hearing. The Department of Finance, for its part, does not need to hire judges to adjudicate these hearings.

In FY19, DOF did make an important adjustment to the programs. We determined that as an inducement to get large companies to join the program back in 2003, we did charge rates that were significantly less than those warranted by the dismissal rates in the Fleet Program. We therefore conducted a review in 2018 that included outreach to DOT, to the NYPD, and to many

of the companies enrolled in the programs. As a result, DOF made major changes to the payment schedule for the programs as of December 3, 2018.

For the Stipulated Fine Program, rates were increased for 38 violations, including 11 violations for which we decided that the seriousness of the offense would not cause us to charge less than the base fine. We also aligned the smaller Commercial Abatement Program payment rates with those of the Stipulated Fine Program. These changes will increase payments from program participants by \$7.2 million in FY19 and by \$12.3 million in each fiscal year thereafter.

With this context in mind, DOF opposes Intro 1141. Intro 1141 would prohibit the Stipulated Fine and Commercial Abatement programs. Current participants would simply hire parking ticket brokers rather than pay the full base fine amounts. With no change to the payments made for illegal parking, there would be no impact on congestion in the city.

The impact of the law would be to drive up the business of the parking ticket brokers but leave parking ticket revenue unchanged while significantly increasing the City's costs. First, the City would have to hire more judges for additional parking ticket hearings. Second, the bill requires that our judges write formal decisions for all parking tickets contested in our Commercial Adjudications Unit, as opposed to the current practice in which judges enter the results of each contested ticket without having to write a formal decision. This includes parking tickets that are currently adjudicated in CAU for companies that contest tickets outside of the Stipulated Fine and Commercial Abatement programs.

The combined cost increase would be over \$9 million annually. Furthermore, we would expect a cash flow issue in FY20, as our ability to hire and train more judges would lag behind the demand for more hearings and hearing decisions, creating a backlog of tickets awaiting a hearing.

Intro 1066

The Department of Finance is committed to transparency and fairness and our current adjudication process allows for every New Yorker to contest their parking tickets and be heard by an administrative law judge. While DOF understands the council's interest in allowing judges to abate a penalty without dismissing an entire violation, the bill in its current form does not provide a methodology or rubric that would give guidance to our judges as to when to abate a penalty without dismissing the entire ticket. The dismissals would likely be subjective, which would be unfair to the public and to the judges who are trying to fairly and consistently apply the law. The likely result would be complaints from motorists who did not receive penalty abatements and who could not receive a satisfactory explanation as to why. Furthermore, without a methodology, DOF has no way to estimate the impact the bill would have on parking ticket revenue. DOF therefore must oppose the bill.

However, DOF would like to have time to further explore the possibility of giving judges the ability to dismiss penalties under limited, well-defined circumstances and to begin a conversation with the council on this matter. We envision taking into account, for example, the length of time that has elapsed before a member of the public has received a parking ticket to encourage good behavior and to tailor penalty abatements to individual motorists, who now can be assisted by DOF's parking summons advocate but do not have access to the wide variety of programs that are offered to commercial motorists. We look forward to having this conversation.

Intro 0122

The Department of Finance understands that this bill would increase the monetary threshold for the removal of motor vehicles for the purpose of satisfying parking violation judgments from \$350 to \$500. While it may have been unintended, this bill rewards people who hold off on resolving their parking tickets by making payments or contesting the tickets. It also runs counter to some of the City's Vision Zero goals because it applies to all parking violations, including red light camera violations.

The Department of Finance's Scofflaw Enforcement Program seized 118,000 vehicles in CY18.

Vehicles are initially booted and are then towed if payment is not made within 48 hours. This represents the enforcement of 551,000 outstanding parking, speed, and red light camera violations.

This legislation, if enacted, would result in a 65% reduction in scofflaw seizures annually. A 65% reduction in scofflaw seizures would exempt approximately 240,000 parking, speed, and red light camera violations from being enforced. It would trigger a 46% reduction in deterrence enforcement for speed, camera, and other public safety violations. The 46% reduction would amount to approximately \$24 million in lost revenue annually.

In addition to creating a culture of compliance for parking and camera violations, the booting program provides DOF with an opportunity to check that seized vehicles have proper registration and insurance. Of the 118,000 vehicles seized in CY18, 13,000 were retained in sheriff's custody for being unregistered and uninsured, making New York City's streets safer. If the boot threshold were raised to \$500, approximately 6,000 fewer unregistered and uninsured vehicles would be kept off the streets.

Intro 0661

This bill requires the Department of Finance to report on the motor vehicles which were removed to satisfy outstanding judgments for parking violations totaling more than \$350. DOF is committed to transparency and broadly supports this bill. We already provide some of this data on the Open Data portal, including the date of removal, the amount of outstanding judgments for parking violations, whether the motor vehicle had been booted prior to being removed, and whether the motor vehicle was redeemed or sold at auction. DOF can provide a report to the council on these data points, but we wanted to make sure that the council is aware that this information is already available on Open Data.

There are two additional datasets the council is requesting: the location and council district from which the motor vehicle was removed. DOF has strong concerns about the former, as releasing the specific location information on Open Data or in a report would be a violation of the privacy

of the owners of the booted vehicles. In addition, releasing this data could serve as a roadmap for predatory businesses and individuals to approach the vehicle owners. As for the council district-level information, that data is not yet available, but DOF will soon have a new vendor and it will be possible to provide this information on Open Data later this year.

Intro 1520

This local law would require the Department of Finance to report on the operations of the Parking Violations Bureau including specific information about the number and types of parking violations issued by the bureau, the efficiency of its parking violation penalty collection, and the adjudication process's efficiency and outcomes. DOF is supportive of this bill, as it aligns with our transparency goals. We do want to note, however, that staff working on parking summons-related matters, are located in various divisions throughout the agency and not together in a central unit.

Bills added last week

As for the six bills that were added last week, DOF, other impacted agencies, and the administration are still reviewing, but we do have some preliminary thoughts on Intro 168.

Intro 168

Let me begin by sharing some of the efforts DOF has undertaken to improve the customer's experience with regard to appealing parking tickets and navigating the adjudication process.

In April 2017, DOF introduced its Pay or Dispute mobile app, which allows motorists to use their cell phones to pay or request a hearing for a parking ticket. The app also allows users to upload photographs as evidence for contested tickets. Since its introduction, the Pay or Dispute app has been downloaded over 862,000 times. Over 1.4 million tickets have been paid using the

app and over 489,000 hearings have been requested. For the 23-month period before and after the launch of the mobile app, the increase in hearings adjudicated was approximately 230,000.

In April 2018, the Department of Finance launched a new office, the Office of the Parking Summonses Advocate, which is headed by Jean Wesh. The purpose of this office is to help New Yorkers with parking and camera violation issues and complaints that cannot be resolved through normal Department of Finance channels. Mr. Wesh and his team provide services to motorists in person in our five borough business centers on a rotating basis, in addition to receiving referrals via mail and email. The office gives customers tips on how to effectively present their evidence in contesting summonses, assists them in filing appeals, and brings systemic issues to the attention of DOF and DOT staff. It is important to note that the Office of the Parking Summons Advocate supports individuals directly, not individuals and companies that can afford to hire parking ticket brokers to advocate on their behalf. Also, many people are not aware that the dismissal rate for individuals who contest summonses before an administrative law judge is 45%.

Furthermore, DOF has taken steps to ensure that its different divisions performing parking summons functions operate independently of one another. In particular, the Adjudications Division is separate from the Legal Affairs Division, which handles enforcement matters. Please note that the Adjudications Division and its administrative law judges do not have revenue goals. The judges are trained to fairly apply the law and issue impartial decisions on the cases before them. Their primary performance measure is how quickly the public is served. Wait time for the public to see a judge for a parking summons is typically under two minutes and the entire hearing process for individual respondents takes ten to fifteen minutes. Hearings run by the Office of Administrative Trials and Hearings are typically longer and more detailed.

For these reasons, and because the City's Law Department is still reviewing the bill, DOF and OATH oppose Intro 168, as the current system works for all New Yorkers.

As mentioned earlier, DOF, other impacted City agencies, and the administration are still reviewing the other bills that were added to this hearing. However, our not testifying or

commenting on these bills should not be interpreted as support or even neutrality. We look forward to continuing the conversation with the council before the bills are considered for passage.

In closing, thank you for the opportunity to testify today. We are happy to answer any questions you may have.