



2026 Joint Budget Hearing Testimony
Public Protection
District Attorneys Association of the State of New York
February 12, 2026

Thank you for the opportunity to submit written testimony on behalf of the Coalition to Protect New Yorkers from Drugged Driving, the Vehicular Crimes Subcommittee of the District Attorneys Association of the State of New York, Suffolk County District Attorney Ray Tierney and victims of drugged driving across New York State.

The loopholes in New York State’s drugged driving law simultaneously impact the budget hearings for both Transportation and Public Protection. Last week New York State Department of Transportation (DOT) Commissioner, Marie Therese Dominguez, testified that keeping DOT workers and contractors safe is her “prime directive”. She urged the legislature to “continue additional measures” to keep them safe.

She testified that three members of DOT’s bridge maintenance crew were injured after an “impaired driver” crashed into their work zone in Steuben County last June and commented that based on the video “it’s a miracle they survived”. What she did not say is that the driver is alleged to have been high on nitrous oxide that she purchased just before the crash. She also did not say that driving while high on nitrous oxide cannot be prosecuted for drugged driving because it is not on the Public Health Law list of controlled substances in section 3306.

An “additional measure” to keep vulnerable DOT/Civil Service Employee Association (CSEA) roadway workers safe is to close the loophole that illogically allows some drugged drivers to be prosecuted but not others. (Assembly Transportation Chair Magnarelli alluded to this in his comments). This discrepancy is not based on the danger of the substance. It is based only on whether the drug can be named on the PHL list.

It is time for the legislature to implement the National Transportation Safety Board’s (NTSB) 2023 safety recommendation to New York State to remove the “list limitation”. New York is lagging behind the forty-six other states that do not tie drugged driving to a list and do not experience the issues cited by some legislators as “reasons” to keep the list while roadway users pay the price. The National Highway Traffic Safety Administration (NHTSA) has downgraded New York from its long-standing position as a “high performing state” to a “mid-range state” in the prevention of impaired driving deaths.

Closing this loophole is common sense. As Commissioner Dominguez stated, “By protecting them (roadway workers), you are protecting all New Yorkers”. CSEA provided written testimony supporting passage of the Deadly Driving Bill (S.6485c/A.3981c) (and other bills) to the December 10, 2025 Legislative Symposium hosted by sponsor, Sen. Chris Ryan, co-sponsor Steve Stern and District Attorney Tierney.¹

The Deadly Driving bill has been amended and streamlined by sponsors, Chairman Bill Magnarelli and Senator Ryan who have listened to legislator’s concerns and addressed them.

- The bill now requires the higher standard of intoxication, rather than the lesser “impairment to any extent” that is required for existing drugged driving involving controlled substances on the PHL list (VTL §1192.4). The effects of energy drinks, coffee or allergies do not produce intoxication and could never result in an arrest.² A medical/allergy affirmative defense is also part of the bill. (Drivers having medical episodes are directed to medical treatment already but this is an extra precaution).
- The bill has no impact on the MRTA or the prosecution of cannabis-impaired drivers. Car searches remain restricted. There is no expansion of police powers or car stops. The standard for arrest is the same as it has been for 60 years: actual impairment. Science does not support a universal amount of the psychoactive component of cannabis, THC, in the bloodstream as evidence of impairment at this time. (This is true for all drugs). The actual impairment standard is supported by National Organization for the Reform of Marijuana Laws (NORML) and toxicologists.² NORML does not support a blood amount or “per se” charge.
- The bill does not create a new crime. It makes the existing law – and its intent to protect roadway users from dangerous drivers – workable. It is unfair (and potentially an issue of equal protection) that two drivers who are high on drugs can be stopped at a checkpoint. The driver on cocaine (or fentanyl, PCP or any other drug on the list) will be arrested and prosecuted but the driver on xylazene ("tranq"), bromazolam ("street Xanax"), propofol (the anesthetic that killed Michael Jackson), nitrous oxide, dust-off, or anything not on the list) will not.
- The concerns expressed about the potential for the over-policing of minorities are addressed by requiring 5 years of demographic yearly reporting in conjunction with a 5-year sunset clause for the bill. A 5 year look-back was conducted and does not show disparate drugged driving arrests.²

Drugged driving has victimized every community in New York State. Any complacency or compassion fatigue relating to these deaths and injuries must be overcome. Lives are at stake. In the ten years ending in 2023, drug-involved driving fatal crashes increased 85.15%. In the same time period, drinking driver crashes decreased 12.3%. In three of the last five years of the time

period, drug-involved fatalities exceeded drinking driver fatalities and overall impaired driving fatalities are up 17.70%.³

These statistics are terrible and yet, incomplete. They do not account for drugs that are not on the PHL list. The scope of the problem of people driving high on unlisted drugs/substances is self-concealing. There is no mechanism to collect data on arrests that could not take place; case dismissals because the drug could not be named; and video of drivers in dismissed cases is sealed by the courts so it cannot be gathered and reviewed. (See the blurred video aired by WCBS-NY while the case of a high truck driver who crashed during rush hour on the Long Island Expressway was still open [Body Worn Camera of Dismissed High Driver](#).)

New York State law does not work. Relying on a list cannot work. NTSB Board Member, Tom Chapman testified at the Legislative Symposium that 500 new drugs per year are produced.² Legislative action would be required to add each of them to the PHL list and there is resistance to do so. Labs cannot keep up with testing protocols for every emerging synthetic and altered drug. Our labs do an admirable job but there are not resources to test for every impairing substance.² And the reality is that even when a drug is on the list and able to be tested, a driver can escape responsibility by simply refusing to submit to an identifying test under the existing law.

The Deadly Driving Bill simply levels the playing field while building in safeguards. New York State law (VTL §1192.3 and its predecessors) has prohibited driving “in an intoxicated condition” since 1910. (It was the first state in the nation to do so). Court interpretation held that the law only applied to intoxication by alcohol although the wording of the statute does not say so. The bill “expands” the provision by codifying the definition of intoxication and relying on the plain meaning of the statutory words. Under the bill, a person may not drive in an intoxicated *condition* - regardless of what is causing it.

The provision has always been based on the common-sense observations of drivers who are not safe to drive. Those observations are now buttressed by body-worn camera footage and increased police training. A test, or the name of the type of alcohol, has never been required and would not be required for other drugs/substances. As a result, an intoxicated driver could not circumvent arrest by refusing a test.

Stopping and prosecuting intoxicated drivers, getting them treatment,² having license repercussions, driver rehabilitation and supervision will save lives. Passing the Deadly Driving Bill (S.6485c/A.3981c) will meet the NTSB recommendation and align New York with the rest of the country. It currently has 96 co-sponsors and broad-based support among organizations including the Public Health Association, drug treatment providers, physicians, the NYS PTA, MADD, Families for Safe Streets as well as traffic safety and law enforcement organizations.⁴ The families of victims of this preventable traffic violence support this bill. They consistently “show up” because they want to prevent the suffering of more families. They need to know the legislature is listening and that their loved ones’ lives mattered.

Footnotes:

¹ See the attached/included written testimony of CSEA.

² See the attached/included Background “One Pager” that has a second page of links to data and supports. The links include background on the claim that defendants have been arrested for drinking coffee and a reference to the DCJS look-back data on the demographics of drugged driving arrests. There are also links to the video segments of each speaker at the Legislative Symposium on Drugged Driving in the document. In reference to this written testimony, that includes statements by the Los Angeles County Vehicular Crimes Division about the issue of non-controlled substances, medical episodes, allergies, etc. in drugged driving enforcement in a state that has never had the restriction of a list and the effect of no list on the policing of minority communities. Other critical testimony that is footnoted above is the statement of NTSB Board Member Tom Chapman; (Chairperson Homendy also made a powerful opening statement); the statement of NHTSA Toxicology liaison Sabra Jones and drug treatment provider, Dr. Jeffrey Reynolds. Other valuable information, includes statements from the DOT workers who survived the nitrous oxide impaired driver crash referred to by DOT Commissioner Dominguez; the parents of Timothy Carpenter who was killed by a drugged driver; advocacy groups and more.

³ Statistics based on the analysis of data collected by the Institute for Traffic Safety Management and Research.

⁴ See the attached the membership of the Coalition to Protect New Yorkers from Drugged Driving (CPNYDD), the coalition’s most recent letter of support and please know that more than 4,900 people have signed the petition supporting the bill.