



★ Brother Hood - Friendship - Safety ★

Testimony of the Metropolitan Trucking Association
New York City DCAS Public Hearing - August 10, 2022
Regarding CAPA REGULATORY AGENDA – FY 2023
Chapter 15 – Installation of Side Guards

Good afternoon. I would like to thank you for holding this hearing and for allowing me to address the agency. My name is Patrick Hyland and I am the Executive Director of the New York Metropolitan Trucking Association (NY MTA). Our association represents employers who exclusively hire Teamster Local 282 drivers to operate their trucks performing heavy construction throughout the five boroughs of New York City. To be even more specific; our members own dump trucks, dump trailers, flat bed trailers, and flo-boys. Approximately half of these companies are M/WBE certified businesses.

Our membership are the sub-contractor trucking companies working on Public Works projects in the city and obviously subject to these requirements. Due to the nature of our day-to-day operations in the heavy construction industry, all NY MTA employers are also under the purview of the Business Integrity Commission (BIC) who will be in charge of enforcement.

There are a couple of provisions within the law that I would like to address this afternoon. I will begin with the “waivers” provisions. This legislation addresses both “off road construction vehicles” and “hauling vehicles that cannot maintain a side guard due to the design or operations of the vehicle”. The NY MTA feels that this specifically refers to our members; especially those who own and operate dump trucks and dump trailers. Those vehicles should receive waivers prior to 2023 and be exempt from this law in perpetuity due to the nature of the work they perform.

The next item I would like to address is time frame for our other class of vehicles. The 2023 implementation date must be moved back; especially if waivers are not granted. Nobody in this room needs to be reminded what we all endured the past two years. I do not even like to think about it and am thrilled to be talking about the future. I would be remiss if I did not applaud all those working in New York government for their collective response(s). Our industry has survived this pandemic and the NY MTA is thrilled to see Government’s commitment to Capital Construction going forward.

That being said, we are all emerging from an unprecedented slowdown. Members had equipment parked for months upon months. This is equipment that had recently fallen under BIC emissions and insurance requirements. What does this mean? It means insurance costs had risen dramatically and newer low-emission vehicles were subject to financing costs. The resilience of our membership cannot be understated during these trying times. Yes, construction has picked back up and trucks being operated by Teamsters Local 282 drivers are rolling over our roadways. But that does not mean these employers can currently absorb the costs of side guard implementation.

I believe this date should be moved to Fiscal Year 2025. The delay of implementation will allow employer Associations to work with The Adams Administration and New York City Council on procuring grant opportunities for the purchase and installation of these sideguards. Additionally, it will also provide more time for the current supply chain crisis to subside. The timeline for acquiring parts for these vehicles is still way behind pre-pandemic scheduling and shows no signs of improvement. The bottom line is setting mandates on small business owners is just not good policy right now. We collectively need to be thoughtful on how these rules get rolled out and that will take some more discussion.

One more issue I would like to touch upon is the role of the sub-contractor on heavy construction Public Works projects. It has been mentioned to me that these costs "should just be absorbed in the bidding process". Well, in a majority of instances our members do not directly bid with the agency overseeing the project. Conversely, our membership typically gets employed by general contractors doing business with New York City. What does this mean? It means that our members are reliant on their relationship with the general contractor(s). "Passing along these costs" is simpler said on paper than it is this competitive industry. The bottom line is that the truck(s) do not earn anything when it is parked in a yard. On the flip, side it burns money when it is parked. The contractors understand this and our employers will do what they need to do to work their equipment, pay their employees, and maintain their health benefits. I will reference this one more time...our members employ Teamsters Local 282 drivers earning prevailing wages and benefits. Their expenses are significant and I have not even referenced tolls and fuel yet. I will also point out that Public Works projects are often long-term projects with multi-year contracts. These prices are negotiated and agreed upon at the beginning of the project. "Passing along the costs" of a mandate like this is just not feasible on these large-scale projects as a sub-contractor.

In closing, I would like to thank you in advance for your consideration and for allowing me the time to speak today. I hope you enjoy the final days of summer and I welcome the opportunity to further this discussion with you. Thank you.



DCAS public hearing on Local Law 108 of 2021 regarding side guards on trucks

**August 10, 2022
125 Worth Street**

Hi, my name is Martha Valenzuela and this is a photo of my beautiful precious son Mario Valenzuela Jr. Our sweet Mario was just 14-years-old and full of life on that dreadful Saturday in September 2019 when he was riding his bicycle with friends, on his way to play soccer. Mario loved to ride his bike and he knew how to keep safe in traffic. But the design of our streets and the trucks using them, could not keep my son, who had an incredible future ahead of him, safe. My sweet sweet Mario was killed by a garbage truck driver making a right turn from the left lane, as all of his friends watched in horror.

Mario never came home to me that Saturday. There was nothing I could do to protect him from that truck driver. I never had a chance to even say goodbye to my 14-year old son. To this day, it is too painful for me to watch the video. My heart just aches. Each one of us in my family is broken.

Mario was such a wonderful boy. I'm proud of how he helped many of his friends in any way he could. I know that his friendly heart will stay with everyone he touched and to this day I tell him "siempre en mi mente y en mi corazón" that means always in my mind and in my heart.

I'm here today because I want our decision makers to hear not only my family's anguish but the rippling effects that each and every senseless traffic death and serious injury has, not just on mothers like me, but on whole families. Entire communities. Crashes have killed 153 people so far in 2022 — a 15 percent increase over the Vision Zero average, and just shy of 2021's record-breaking fatalities. I'm here because these are not just

numbers. I'm here for Mario. I'm here for all of my fellow Families for Safe Streets members who have been injured by trucks and who have lost loved ones. I'm here for you and your families too.

While I know nothing can be done to bring Mario back, or any others' loved ones, we can and must prevent anyone else from experiencing this nightmare.

We applaud NYC for instituting Local Law 108 of 2021 and look forward to its broad implementation on both the city fleet and other trucks contracting with the city, without delay. Having side guards as a physical barrier to cover the exposed area of vulnerability to pedestrians, cyclists and other motorists, is critical. Reports shared at hearings on this topic over recent years, including 'Volpe's review of available information related to sideguard design and crash outcomes in countries requiring these safety devices for up to three decades, indicates that the safety effectiveness of side guards has been well established. The fatality rate for bicyclists and pedestrians colliding with the side of a truck decreased by 61% and by 20%, respectively, following a national side guard requirement in the United Kingdom in the 1980s."

These truck design changes can not come soon enough, in our city and across our country. Precious human lives, like my sweet Mario's, are at stake. Mandatory side guards are a commonsense, low-cost safety measure that must be part of every truck in the city.

We need our leaders and city agencies to give us every tool to save lives and to let our great city reach the full potential of Vision Zero. We need you to hear our voices and our pain. The cost of human lives is far greater than any dollars or cents that may be referenced by the trucking industry. Over the previous 5 years there have been 93 pedestrians, 32 cyclists, and 45 motorists killed by trucks. I ask you to again look at this photo of sweet Mario. My precious son, who had a lifetime ahead of him, is more than just one of these numbers.

We know that investing in design, both of our streets and of our vehicles, is the gold standard for preventing traffic violence and saving lives. Not one more family should have to bury a loved one in a preventable traffic crash and experience this heartache and nightmare.

Thank you for implementing these side guard rules without delay.



Almost 13 years ago, my only child, Seth Kahn was 22 years old. He was living in NYC in Hells Kitchen and attending FIT studying Toy Design. During the day he had a job creating and installing window displays for the holidays. On his way walking to work on a bright sunny day, Seth walked across the street in the crosswalk with the right of way when an off duty MTA bus driver at the end of his shift made left turn, while off route driving over my son and killing him. If the bus had any sort of wheel guards my son wouldn't have been killed and would still be alive today. I believe that all large vehicles, including garbage trucks, should have rear, front and side wheel guards to protect pedestrians, bicyclists, micro-mobility and every person on the street. Drivers are inherently fallible. Please help protect more people from dying and being injured on our streets.

Thank you,
Debbie Kahn,
Seth's mom and
Founding member
Families for Safe Streets

Debbie Marks Kahn, ATR-BC, LCAT
Art Therapist, Private Practice