

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: February 1, 2022

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso *RET for*
Chief Legislative Analyst

Assignment No. 21-11-0873

SUBJECT: Department of Transportation 2021-22 Proposed Legislative Program

CLA RECOMMENDATION: That the City Council, with the concurrence of the Mayor, APPROVE the attached Resolutions recommending legislative positions for the 2021-2022 Federal and State Legislative Program, as submitted by the Department of Transportation (LADOT).

SUMMARY

As requested by the Rules, Elections, and Intergovernmental Relations Committee, LADOT prepared several proposals for the City's 2021-2022 Legislative Program, which seeks authority to pursue several ongoing priorities, as follows:

1. Setting and Enforcing Speed Limits

In accordance with the City's Vision Zero goals, LADOT seeks legislation that allows for automated and improved speed enforcement and provides enhanced protection for vulnerable road users. Following the passage of AB 43 (Friedman) in 2021, which allows local authorities to reduce prima facie speed limits by ordinance to facilitate orderly movement of traffic at reasonable and safe speeds, LADOT is in the process of repealing speed limit increases on nearly 200 miles of streets. To further traffic safety benefits in the City, LADOT seeks legislation that will improve enforcement of speed limits by allowing cities to participate in an Automated Speed Enforcement (ASE) program, in addition to legislation that will assign appropriate penalties for crashes that result in death or injury to those at a disproportionate risk.

A. *Automated Speed Enforcement (ASE):* This type of enforcement is a proven approach to reducing speeds by using cameras and vehicle speed sensors to capture images of cars at excessive speeds. In October 2020, Council directed LADOT to evaluate methods that reduce the presence of armed enforcement in traffic violations, including through an ASE program. The Department proposes to pursue legislation that would allow cities to opt-in to an ASE program as a supplement to existing enforcement practices. According to LADOT, over 140 communities across the United States have implemented an ASE program, resulting in a decline in fatalities by

up to 70 percent. In addition to improving compliance, the Department notes that consistent and predictable enforcement may decrease the price of citations and reduce the cost burden for low income drivers. LADOT also seeks legislative changes that reduces the fines, fees, and criminal penalties associated with automated citations. The Department further notes that the use of ASE has the potential to reduce the risk of violence for civilians and enforcement officers by eliminating the need to stop drivers to enforce speed limits. An ASE program could be particularly significant as the City addresses inequity issues in traffic stops.

Currently, ASE is expressly prohibited under California state law. In order to allow cities to employ ASE, California Vehicle Code (CVC) 21455.6(c) must be amended to allow an opt-in system. Implementing an ASE program in Los Angeles may include, but would not be limited to, the following components:

- **Privacy Protections** – Cameras can be programmed to capture license plate data only, and not the driver, and should incorporate best practices in surveillance technology.
- **Equity Considerations** – Locations and technical considerations will be evaluated to ensure that automated enforcement does not unduly burden low-income communities or communities of color that have historically experienced a disproportionate concentration of enforcement.
- **Notification, Outreach, and Warning Period** – Drivers will be informed no later than 30 days prior to any system implementation. Education will include ample signage and extensive outreach. Additionally, there will be an initial “grace period” where warnings will be issued, instead of citations.

B. *Vulnerable Road User Laws:* Pedestrians, bicyclists, and other vulnerable road users are at greater risk of death and serious injury in a vehicle crash. The Department’s report states that the CVC does not provide sufficient legal protection for road users who are physically vulnerable in circumstances of collision with a vehicle.

Vulnerable Road User laws increase civil fines and penalties and tend to address cases of carelessness or driver distraction in which a driver would otherwise receive a minor traffic offense. Other states have adopted laws specifically designating pedestrians and bicyclists as “vulnerable users.” LADOT seeks legislation to amend CVC 42001.19 to provide a definition of Vulnerable Road Users (i.e. pedestrians, bicyclists, wheelchair users, skateboards) and impose penalties in proportion to the increased risk faced by these groups.

In 2014, California considered defining vulnerable road users in AB 2398 (Levine). The bill passed in the Assembly and Senate with few no-votes before being vetoed by Governor Brown. The bill raised the penalties for drivers causing collisions and bodily injury to users deemed to be vulnerable users, including pedestrians and people operating vehicles other than motor vehicles such as bicycles, scooters, and personal assistive motor devices.

2. Parking Management and Enforcement

LADOT seeks legislation related to parking management and enforcement that would allow virtual administrative hearings and improve disabled placard policies.

A. *Virtual Administrative Hearings:* The CVC requires LADOT to conduct administrative hearings through mail or in person within the jurisdiction of the agency. In response to the COVID-19 pandemic and Governor Newsom's Executive Order (N-63-20; May 7, 2020), the Department reduced in-person hearings to emergency situations only, and currently conducts most hearings by mail to prevent spread of the virus. State law does not permit hearings via telephone and/or video conferencing.

Other California agencies, including the California Office of Administrative Hearings, Los Angeles County Court system, San Diego Community College District, UC Davis, and the cities of Fresno, Newport Beach, and Pasadena have implemented telephone and videoconferencing options for administrative hearings. These agencies report that hearing participants enthusiastically welcomed the alternative hearing options and felt that they better accommodated individuals with disabilities.

LADOT states that electronic hearing options comply with traditional notions of due process. The issuing agency provides motorists with an opportunity to submit all evidence prior to the hearing, and the new hearing options allow participants to contest parking citations by communicating directly with the hearing examiner. While the issuing agency does not force hearing participants to select a particular hearing option, LADOT indicates that the majority of participants willingly selected a telephone hearing because it is perceived as a better option than a hearing by mail, and offers the convenience of speaking with the hearing examiner.

LADOT recommends permanently offering these options to the public for parking administrative hearings by revising CVC 40215(c)(1) as follows: *The person requesting a hearing shall have the choice of a hearing by mail, in person, **telephone, or by other electronic means.** An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with an administrative provider, **in-person** hearings shall be held within the jurisdiction of the issuing agency or within the county of the issuing agency.*

B. *California Disabled Parking Placard Reform:* LADOT seeks legislation that would amend disabled placard policies to reduce fraud and abuse. California Department of Motor Vehicles records indicate there are approximately 2,800,000 active disabled parking placards. The full benefits of the existing disabled parking program include exemptions from parking fees and time limits. These benefits are intended to accommodate the specific challenges of people with mobility impairments, however, they unintentionally incentivize significant fraud and abuse, contribute to a shortage of parking spaces for people with disabilities, reduce parking turnover, and increase congestion from drivers looking for parking.

A number of large cities, including Los Angeles, continually experience the widespread problem of disabled placard fraud and abuse, as cited below:

- In 2016, LADOT parking enforcement conducted 206 stings, cited 1,867 individuals, and confiscated 836 placards.
- In some urban areas (including Downtown Los Angeles, Hollywood and Westwood Village) nearly 40 percent of vehicles parked at meters do not pay because of disabled placards. While many of these users have legitimate placards, street blocks are commonly occupied with up to 80 percent of the metered parking spaces, for the majority of the day, by a vehicle displaying a disabled parking placard.
- An April 2017 California State Auditor analysis of the Department of Motor Vehicle registration files found evidence that many approved placard applications lacked sufficient information to validate issuance; an estimated 260,000 applications approved from July 2013 through June 2016 may not be valid due to questionable medical provider signature, and a high number of active placards are registered to thousands of people who are most likely deceased.

LADOT first submitted a proposal for Disabled Placard Reform for the 2017-2018 legislative session, which was approved by Council. The proposal was endorsed by the Department on Disability/LADOT Task Force on accessible parking. This proposal is being resubmitted for the 2022 legislative session. LADOT also proposes a two-tiered disabled parking placard system to adequately address the various problems associated with the issuance and use of disabled placards. The Department notes that other states, including Illinois and Michigan, have implemented the concept of separate tiers of placard benefits.

The Department states that increased enforcement of placard abuse will result in additional workload by Traffic Enforcement Officers to a degree yet to be determined. The anticipated costs of increased enforcement, however, will be mitigated by increased citation revenue to the General Fund.

3. Emerging Mobility Options

Urban transportation systems continue to evolve with new technology that integrates a growing number of digitally enabled modes, from carshare and dockless mobility, to urban aviation and autonomous vehicles. LADOT supports emerging modes that provide additional mobility options for residents and advance key policy objectives, including safety, equity, and sustainability. Regulatory efforts, however, have struggled to keep pace with technological innovations, leaving cities to react to unanticipated uses of the public right-of-way. Legislation that addresses local concerns will ensure that the evolution of emerging mobility options support the City's objectives.

A. *Shared Mobility Data Provider*: LADOT seeks legislation that supports and clarifies the rights of local governments to continue requiring verifiable, de-identified mobility data from private mobility companies operating in the public right-of-way. In *Sharing Mobility Data for Planning and Policy Research*, the University of California's Institute of Transportation Studies notes that "City, regional, and state mobility planning and regulatory authorities have much to gain from access to data from shared mobility providers. But to date, significant challenges in collecting, distributing, and analyzing the data have kept these insights 'locked up.'" Similarly,

the National Association of City Transportation Officials released *Managing Mobility Data*, which sets out principles and best practices for city agencies and private sector partners to share, protect, and manage data to meet transportation planning and regulatory goals in a secure and appropriate manner.

By seeking clear authority to require verifiable, de-identified trip data in shared mobility permit programs, this proposal recognizes the increased need for data to regulate new modes and reiterates Council support for legislative proposals in previous sessions. In support of City policies and goals, LADOT seeks legislation that:

- Continues local permitting authority over commercially deployed fleets, including authority to require device-specific data, such as crashes and unplanned disengagement data for autonomous vehicles and trip data for shared modes;
- Governs public safety requirements for new technology deployment, including, but not limited to, urban aviation and autonomous vehicles, to ensure safe enforcement of local regulations over new mobility technology;
- Ensures local authority over short-range, low-altitude aircraft travel, including unmanned aerial vehicles and urban aviation for passenger and goods movement, and designation of explicit authority over the City's complex air space; and
- Incentivizes deployment for new modes, including autonomous vehicles and urban aviation that are electric and shared.

4. *Local Transportation Network Company Regulatory Pilot:* The rapid expansion of Transportation Network Companies (TNCs), such as Uber and Lyft, has increased congestion throughout California with studies finding an increase in vehicle miles traveled and a decrease in transit ridership. In addition, studies and TNC records have shown an increase in national traffic fatalities, drivers with criminal records and an increase in gas consumption and associated greenhouse gas emissions.

The California Public Utilities Commission (CPUC) oversees statewide policy making for TNCs. Without local permitting authority, however, cities cannot adequately manage their service in the public interest. Currently, the City does not have the ability to require TNC operators to implement business practices that meet its policy objectives of safety, equity, and sustainability. Additionally, under existing CPUC regulations, TNC drivers are not held to the same stringent background checks the City demands of its for-hire transportation drivers. The passage of AB 1069 (Low) in 2017 allowed cities and counties to permit taxi operations regionally. LADOT has recommended several taxi reforms and aims to regulate taxis and other for-hire transportation modes through one streamlined permitting system that can be applied to TNCs within its jurisdiction.

LADOT seeks legislation that authorizes cities to pilot local TNC permit programs. The Department indicates that local pilots will allow cities to enforce:

- Business license requirements
- Driver registration and background checks
- Vehicle inspections
- Minimum wage standards
- Trip fee collection
- Disaggregated data requirements for commercial fleets deployed in the public right-of-way

In the 2022 legislative session, LADOT seeks authority to implement a pilot program to permit and regulate TNC operations that originate within its jurisdiction. LADOT suggests that both the Public Utilities Code and Government Code must be amended to allow for local pilot regulation of TNCs.

AB 5 (Gonzalez), signed into law by Governor Newsom in September 2019, directs companies to reclassify drivers as employees as long as they are central to the TNC business model. The Council supported AB 5 and other legislation to ensure local wage mandates are met by TNCs. In response to AB 5, TNCs introduced Proposition 22, approved by voters on November 3, 2020, which allowed TNCs to exempt app-based ride-hail drivers from employee classification under AB 5. In a decision that may be appealed, however, Proposition 22 has been ruled unconstitutional and unenforceable by a Superior Court Judge.

This office, in response to Council direction, issued a report in December 2019 that provided options for sponsoring state legislation to improve regulatory oversight of TNCs (C.F. 18-0449). The report identified seven options for consideration, one of which is consistent with LADOT's request to seek authority to implement a pilot program to permit TNC operations that originate within its jurisdiction.

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SMT:mk
Attachments: Legislative Resolutions

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, unsafe speeding has been identified as a top factor in the severity of crashes that result in death or serious injury on the streets; and

WHEREAS, in 2015, through Executive Directive 10, the City committed to achieve zero traffic deaths by 2025 and prioritize safety as the City's number one priority in street design; and

WHEREAS, Automated Speed Enforcement (ASE), also known as speed safety cameras, is a safety tool that utilizes cameras and vehicle speed sensors to capture images of vehicles traveling at least 10 miles-per-hour over the speed limit; and

WHEREAS, ASE provides predictability and consistency of enforcement that has been shown to deter illegal speeding and reduce the incidence of crashes involving bicycles, vehicles, and pedestrians; and

WHEREAS, The California Vehicle Code currently prohibits the use of ASE;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program SUPPORT and/or SPONSORSHIP of legislation that would amend the California Vehicle Code Section 21455.6(c) to allow cities to "opt-in" to an Automated Speed Enforcement System.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, while speed is a high determinant of crash severity, it is not the only contributing factor to death and serious injury; and

WHEREAS, pedestrians, bicyclists, and other vulnerable road users are at a greater risk of death and serious injury in a vehicle crash; and

WHEREAS, the California Vehicle Code does not currently provide sufficient legal protection for these road users who are physically vulnerable in circumstances of collision with a vehicle, and for whom instances of driver carelessness or distraction can be fatal though with legally low-stakes; and

WHEREAS, Vulnerable Road User laws increase civil fines and penalties for cases of carelessness or driver distraction in which a driver would otherwise receive a minor traffic offense;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program SUPPORT and/or SPONSORSHIP of legislation that would amend California Vehicle Code Section 42001.19 to provide a definition of Vulnerable Road Users and provide heightened penalties that are appropriate to the disproportionate physical risk posed by negligent or errant behavior of motor vehicle drivers.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the California Vehicle Code requires the City to conduct administrative hearings through mail or in person; and

WHEREAS, in response to the COVID-19 Pandemic, the Los Angeles Department of Transportation (LADOT) conducts most administrative hearings by mail to prevent the spread of the virus and ensure motorists are afforded due process; and

WHEREAS, the public and LADOT have embraced expanded hearing options that provide to be convenient, secure, and effective; and

WHEREAS, the state law does not permit hearings via telephone and/or video conferencing on a permanent basis; and

WHEREAS, electronic hearing options would comply with notions of due process and provide motorists with an opportunity to submit all evidence prior to the hearing and furnish participants with the ability to contest parking citations by communicating directly with a hearing examiner;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program SUPPORT and/or SPONSORSHIP of legislation that would revise California Vehicle Code Section 40215(c)(1) to authorize the use of innovative technology for expanded administrative hearing options, include the use of telephonic and videoconferencing.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, California Vehicle Code Section 22511.5(a) provides that a driver who has a disabled placard may park for free in any parking zone and for any length of time; and

WHEREAS, this benefit has resulted in widespread abuse, including high volume use of placards by individuals who do not appear to be eligible, use of expired placards, registration of placards to the deceased, and the use of counterfeit or altered placards; and

WHEREAS, the Los Angeles Accessible parking Policy Advisory Committee has created a list of policy recommendations to increase access to street parking for drivers with disabilities and reduce parking placard misuse; and

WHEREAS, the recommendations include directives for both city and state policy and operational changes, implying a multi-level implementation;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program SUPPORT and/or SPONSORSHIP of legislation and/or administrative action that would implement a two-tiered disabled parking placard pricing system that better addresses the needs of the City's diverse communities while reducing widespread abuse of disabled placards.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, urban transportation systems continue to evolve and integrate digitally enabled modes from carshare and dockless mobility, to urban aviation and autonomous vehicles and the potential to dramatically change the future of transportation and mobility for people by minimizing human error, upending the commercial delivery system, improving traffic congestion, environmental issues, equity, and accessibility; and

WHEREAS, local governments authority to require verifiable, de-identifiable mobility data from provide providers operating on and profiting from the public right-of-way is unclear; and

WHEREAS, there are significant challenges in collecting, distributing, and analyzing this data, which restricts the City's ability to add benefit to residents and communities;

WHEREAS, by seeking clear authority to require verifiable, de-identified trip data in shared mobility permit programs, the City would be able to manage data to meet transportation planning and regulatory goals in a secure and appropriate manner;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program and 2021-2022 Federal Legislative Program SUPPORT and/or SPONSORSHIP of legislation and/or administrative action that would clarify and prioritize the following policies relative to new mobility technologies: local government permitting authority over commercially deployed fleets; public safety requires for new technology deployment; local authority over short-range, low-altitude aircraft travel; safe autonomous vehicle integration into the complex airport environment; and incentivize deployment of new modes that are electric and shared.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, recent studies have found that the rapid expansion of Transportation Network Companies (TNCs), such as Uber and Lyft, are increasing vehicle miles traveled and decreasing transit ridership, which is leading to more congestion; and

WHEREAS, California is not on track to meet its greenhouse gas (GHG) reductions targets for the automobile and light truck sector for 2020 and 2035; and

WHEREAS, the primary factor driving up GHGs from the transportation sector is the increasing use of single-occupancy passenger vehicles that began in 2010, including the popularity of TNCs; and

WHEREAS, the California Public Utilities Commission (CPUC) oversees statewide policy making for TNCs, preempting local jurisdictions from enacting their own regulations; and

WHEREAS, it is important to implement local regulatory models to better reflect the individual character and needs of large and densely populated cities, including issues related to safety, equitable access, environmental concerns, and multi-modal transportation system usage;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program SUPPORT and/or SPONSORSHIP of legislation that would amend the Public Utility Code and Government Code to explicitly allow for piloted local regulation of Transportation Network Companies.