

April 2, 2021

Testimony in SUPPORT of LD 821--"An Act To Improve the Investigation and Prosecution of Cases that Involve Vulnerable Road Users"

Good Afternoon Members of the Transportation Committee. My name is Sydney M Duck, and I live at 17 Zeitler Farm Road, Brunswick, ME 04011. I am now 75 years old thankfully.

I am here today as a survivor of a horrific traffic crash to urge you to vote in SUPPORT of LD 821.

I support LD 821 because having a system in place that ensures that District Attorneys know about and review crashes that injure or kill vulnerable users in their counties serves several important purposes, including:

1. it sends a message to the public and law enforcement agencies across the state that the State of Maine wants Maine roadways to be safe for all users and is prioritizing the proper investigation and review of vulnerable road user crashes;
2. it encourages law enforcement officers, who know that their work will be reviewed by a District Attorney to use uniform crash investigation practices and thoroughly investigate and collect evidence in situations where the injured vulnerable road users often cannot do this for themselves due to their injury, incapacitation or death;
3. It ensures that busy and potentially understaffed and underfunded law enforcement agencies are not attempting to make legal judgment calls on difficult cases and can defer to attorneys who have passed the Maine bar and are trained in legal analysis;
4. It prevents potential biases and/or misunderstandings on the part of individual law enforcement officers with varying levels of training from impacting how different crash victims are treated;
5. It encourages fairness and uniformity in how these types of crashes are investigated, reviewed and handled across the state; and
6. It improves statewide data collection on the details and handling of vulnerable user crashes.

I believe my personal story is relevant to this legislation, so I want to share it with you.

Last year, I became the victim of a motor vehicle operator v. bicycle rider crash in Brunswick, Maine. I was knocked down by a driver of a large truck who decided to try and pass me and turn right in front of me when it was not safe to do so. She knocked me down with the truck as

she turned and then drove the back wheel of her truck over my pelvis and delaminated the skin on my left leg from my knee up to my hip.

Two operations later, and with a third looming, I still deal with numbness in my left hip, lower back pain, an incompletely repaired pelvis and 4 -2 plus inch long screws still in my pelvis. One 6 inch screw had to be removed because it was backing out and impeding the movement of my right leg. I had 14 staples in my abdomen and 5 staples just above my right hip where the 6 inch screw was installed. My Wife had to give me anti blood clot injections every day in my leg for 14 days. Pain medication created its own set of challenges.

I could not lie on my left side due to the seroma (skin delamination), could not sleep on my right side due to the large installed screw and staples, could not lay on my stomach due to the staples in my abdomen and my back just hurt everywhere. This was my lot for months. It was a nightmare but I was alive.

At the time of the incident, I was not in a position to take photos, talk to witnesses, ask about cell phone use or other potential distractions, or record statements of the driver and others who had witnessed the event. The police report assigned fault to the driver, but the operator was issued NO citation for a traffic violation of any kind. When speaking with the police commander he stated the issuing of a violation was at the discretion of the responding officer.

My case was only forwarded to the DA after I retained legal counsel and by that time the investigation was over, witnesses and evidence were not readily available, and the DA did not press charges.

I often wonder whether things would have been different had the local law enforcement agency known in advance that the State of Maine prioritizes the safety of vulnerable road users enough to have a process in place involving automatic review of crashes like mine by a District Attorney.

- If the law enforcement officer who investigated my case knew that the information being collected would be reviewed by an attorney, would he have preserved any relevant footage from any cameras in the vicinity? Recorded statements from the driver and witnesses? Checked her phone? Inspected her vehicle for distractions? Made a better effort to preserve evidence? Taken photos of the relevant signage in the area that the driver did not obey?
- Had the officer issued a ticket to the driver and cited all of the statutes she violated on the crash report, would the DA have been more willing to prosecute the case?

At the discretion of the officer, that driver faced no legal repercussions for nearly killing me. I ask you whether the system we presently have in place for investigating, reviewing and analyzing these cases is really working? I don't believe it is. The state needs a better checks and balances system in place to protect people in crashes like the one I was involved in.

What I experienced as a crash victim was not good for me. It is also not good for the State's residents, nor is it good for our economy, particularly in a State that prides itself on hosting bicycle tourists and other outdoor enthusiasts on our roadways.

LD 821 will help correct flaws in our system and offer better protections for residents and others walking, biking, recreating, working and traveling on Maine's roadways.

I believe that when DAs see these cases with more regularity, they may decide that it is important to be prosecuting some of them. I also believe that when DAs are seeing these cases more frequently, they will encourage responding officers to adopt better and more uniform practices with respect to bicycle and pedestrian crash investigation. Even if a DA does not decide to charge a case, it is likely that there will be increased discussion between the DA's office and law enforcement agencies about the epidemic on our roadways, applicable laws and improvements in investigation, ticketing and charging practices.

My life both physically and emotionally has changed. The traffic trauma I experienced on Maine roadways and the local and state response to the same has not only undermined my confidence while riding my bike (or driving for that matter), it has also undermined my trust in our legal system to do what is right and necessary.

The driver who ran me down received no points on her license, paid no fine, had the bare minimum of insurance, and so went home and had dinner and pressed on with her life - healthy. My bet is that she is as unrepentant now almost nine months after the crash as she was the day she hit me. She offered no apology for changing the lives of my wife and, in the end, the law protected her—not me and not the public.

Our legal system enabled that.

We have to do better.

Please pass LD 821.

Regards,

Sydney M Duck

Sydney Michael Duck
Brunswick

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