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TO: Detroit City Council

FROM: David Whitaker, Director 
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RE: BUS DRIVER SUPPORT

DATE: October 6, 2023

Councilmember Mary Waters requested LPD provide a report relative to Bus Driver Support. The following represents our response to this request.

The Occupational Safety and Health Administration (OSHA) is the federal agency that operates under the United States Department of Labor and its mission is to ensure that employees work in a safe and healthful environment by setting and enforcing standards, and by providing training, outreach, education, and assistance. ¹

Federal OSHA regulations are adopted by reference in Michigan’s Occupational Safety and Health Administration Standards, “Part 474 Sanitation” Toilet and Washing Facilities.²

(OSHA) requires employers to “provide their employees with toilet facilities separated for each sex in all places of employment”. In the case of positions which require constant coverage such as bus drivers, assembly line workers and other employees at workstations that require constant coverage, employers must establish a system so that these workers can request a substitute when they need a restroom break.³

¹ <https://www.osha.gov/laws-regs>

² www.Michigan.gov/mioshastandards

³ OSHA.gov

However, OSHA requirements relative to bathroom access for these constant coverage positions are not one-size-fits-all and have been described as rather loose. Provisions can require certain adaptations depending upon workplace situations and the specific nature of the job.

When it comes specifically to bus drivers, they do not have access to bathrooms like other occupations. Bus drivers are discouraged from leaving buses unattended, making it difficult for them to take bathroom breaks in the middle of their routes. Also, they often cannot use restrooms mid-route unless they have relationships with area businesses.

Under OSHA Sanitation Standard (29 CFR 1910.141), all employers are required to provide access to an adequate number of sanitary and fully-equipped toilet facilities at places of employment. Further, employers must honor their workers' request for relief as long as there are enough relief workers to ensure there is not an unreasonable long wait.⁴

But a bus operator can only make an OSHA complaint if they requested to use the bathroom and were denied. Most operators don't even get the chance to ask.⁵

While bathroom policies for transit workers vary from state to state, the inability for bus drivers to access, safe, clean, and convenient bathroom facilities has been a long-standing national problem. As early as 2014, the State of Washington fined Seattle's King County Metro Transit \$3500 for not providing drivers enough restroom resources and for disciplining drivers who were late after visiting bathrooms.⁶

In 2015, bus operators in D.C., Las Vegas, and Seattle voiced concerns about the impact of limited restroom breaks and its effect on their health and jobs. Described as a common occurrence in the transit industry, bus operators in Virginia reported that they were routinely forced to work 10 hours without a bathroom break.⁷

A survey of 400 bus operators conducted by the Amalgamated Transit Union (ATU), found that 81% of operators reported "holding it in while on the job, 64% reported avoiding drinking and eating anything while they're at work, and 25% of operators reported soiling themselves while driving a bus". While some bus operators resorted to wearing diapers.⁸

In response to this problem, cities and unions have responded in a few ways. A number of cities have initiated contracts with businesses along bus routes to allow drivers to utilize their restrooms. In addition to these measures, cities have also begun campaigns to expand the general availability of public restroom facilities. From a labor perspective, there has been a push to have more specific language relative to access to bathroom facilities access included in Collective Bargaining Agreements.

The Minneapolis, the Metro Transit and Amalgamated Transit Union began its restroom use initiatives in the 1980's, by assigning a few of its operators to travel along each route and work with local privately-owned businesses and organizations to secure restroom locations for operator use. The initiative sought

⁴ oshaeducationcenter.com

⁵ Gray Babbs, (<https://www.Publichealthpost.org/authors/Gray-Babbs/>)Transit Workers Right to Pee, May 20, 2020

⁶ Bus drivers force to "go" on the bus because they don't have access to restrooms, union says. Luz Lazo, The Washington Post, June 24, 2015

⁷ Bus Drivers & The Right to Pee - TransitCenter, November 29, 2019

⁸ Bus Drivers & The Right to Pee - TransitCenter, November 29, 2019

to get community buy-in from business owner along routes by offering contracts to businesses if the use of restrooms would affect the businesses' bottom line.⁹

In 2018, Connecticut bus drivers held demonstrations and renewed their pleas to transit authorities to provide adequate restroom services to the workers. In response, the bus company stated that it was in the process of creating a "bathroom committee" composed of management and drivers to address the problem by helping to locate accessible bathroom facilities along bus routes.¹⁰

While some cities and transit management seem to downplay the issue. The city of Houston transit authority instituted a program designed to give bus operators safe, reliable, and clean places to take breaks. The program allocated approximately \$13,000 annually in quarterly payments to businesses to provide restroom facilities. The agency paid quarterly payments of \$45 to each business.¹¹ As Dug Begley of the Houston Chronicle explained, "the businesses on Metro's payment vary from local favorites to national chains. Many fast-food establishments are represented, as well as neighborhood-run gas stations. The list includes three McDonald's restaurants, two coin-operated laundries, a hospital, a college campus, and a barber shop."¹²

A general lack of the availability of public restrooms in communities around the country has also contributed to the problem. According to the 2021 Public Toilet Index by the British company QS, Madison Wisconsin, one of the less populated midwestern cities, currently has the most public restrooms per one thousand persons, with 35 restrooms per one hundred thousand people.¹³ Milwaukee ranks 25th with 11 restrooms per one hundred thousand persons, while Detroit is currently ranked 50th with only 6 public restroom facilities per one hundred thousand persons.

However, in order to make more public restroom facilities available in Detroit, it would require the city to maintain the safety and cleanliness and these facilities. If we look to some of our current and previous city owned and operated public restroom facilities, such as Belle Isle and Hart Plaza, keeping these facilities in safe, clean, and working order has been a tremendous challenge for our city government.

Ensuring public safety, meeting schedules, dealing with unruly passengers, and traffic congestion are all components of the job of being a bus driver in the city of Detroit. The addition of worrying about where and when bus drivers will be able to relieve themselves can only escalate the stress of an already difficult and taxing job.

Both the ATU and Detroit Department of Transportation Administration seem to agree that this problem still exists, and they are open to exploring ways to better address the situation. There is some confusion as to whether, in the past, the department might have offered a payment program to area businesses along bus routes. But whatever policy that might have been in place prior to the pandemic, it no longer exists or has changed significantly.

⁹ Tia Brown, Bus Operator restroom Use, Case Study and Practitioner Resources from Minneapolis, Joint Training Standards Committee, January 2012

¹⁰ "We Need to Pee!": CT Transit Drivers Demand Bathroom Access by Dan Corcoran • Published June 28, 2018

¹¹ Cost figures are reflective of pricing from 2015

¹² Tale of two cities: public transit drivers and bathroom breaks (thepumphandle.org)

¹³ <https://www.qssupplies.co.uk/the-public-toilet-index.html>

According to ATU, there is an ongoing need to identify clean and sanitary restroom facilities at the end of routes, specifically longer routes. However, it would be optimal to also have access to facilities mid-route. ¹⁴ DDOT is currently in discussions with the union to update the list of available restrooms

locations. Additionally, at present there are no contractual agreements in place to allow drivers access to private restroom facilities, and businesses have been gracious in allowing TEOs access as a courtesy. ¹⁵

Neither the administration nor union are opposed to seeking partnerships with businesses to allow bathroom access along the routes. However, if funding is necessary, this would likely have to be authorized by Council.

Significant steps toward improving the working conditions of our bus drivers can be accomplished through a combination of initiatives we have seen in other parts of the country. It could be beneficial for the department and union to form a committee to identify potential locations and work to establish partnerships with businesses along the routes. If necessary, the City may enter contracts with business owners to cover cost associated with the use of the restroom facilities, as this is commonplace in the industry. The unions can work to have language placed in their collective bargaining agreements addressing the need for adequate restroom facilities and the ability to take bathroom breaks. In the meantime, the city can explore the necessity of expanding the availability of public restroom facilities within the city, and all the additional responsibilities that would come with such an undertaking.

Now that the conditions brought about by the pandemic have somewhat eased, it is a good time for the administration and unions to work together with the help of City Council, to find a way to provide access to safe and sanitary restroom facilities for our dedicated bus drivers who serve such a vital role within our city.

¹⁴ Glenn Tolbert, Vice President ATU Local 26, phone conversation, September 14, 2023

¹⁵ De'ashia Taylor, Assistant Director of Administration, Detroit Department of Transportation, email communication, September 20, 2023