



James C. Owens, Deputy Administrator
U.S. Department of Transportation
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE., Washington, DC 20590

Dear Mr. Owens:

America Walks appreciates that NHTSA has created a Pedestrian Safety Month and we have been excited to participate. Indeed, we are interested in working closely together on pedestrian safety issues in the months and years ahead. It is in that spirit that we share the following concerns.

We just reviewed the Pedestrian Safety Playbook, and are very concerned about the materials that seek to shift blame and responsibility to pedestrians for injuries and fatalities that are due to driver behavior, often caused by unsafe road design.

Many of the statements and graphics in the playbook are going to expose NHTSA to criticism from pedestrian advocates and transportation professionals. That will deeply undercut the goals of Pedestrian Safety Month. We strongly suggest that you revisit and revise your materials, particularly for Week 2 and Week 4, in response to the concerns we outline below. We want to fully participate in promoting pedestrian safety, and not correcting misperceptions and misinformation.

Here are some examples of what we are talking about:

The Playbook claims Pedestrian distraction is a real problem; ... *"[it] changes the way pedestrians walk, react, and behave, including safety-related behaviors."* Or *"It is absurd how common it has become to see people walking down the street looking at their phones,"*

There is not data to support the claim that pedestrian distraction is the cause of fatalities and injuries. For example, the New York City Department of Transportation did an extensive analysis in 2019 and found little concrete evidence that device-induced distracted walking contributes significantly to pedestrian fatalities and injuries. <https://visionzeronetwork.org/webinar-recap-dont-be-distracted-by-distracted-walking/>

NHTSA also claims equal responsibility between pedestrians and drivers: *"Whether motorist or pedestrian, all road users share the responsibility of keeping themselves and others safe while interacting with traffic."* **In fact almost every state law puts the responsibility on drivers to exercise "due care" even in the presence of impaired pedestrians.** See for example Idaho law (emphasis added):

49-615. DRIVERS TO EXERCISE DUE CARE. Notwithstanding other provisions of this title or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or any person propelling a human-powered vehicle and shall give an audible signal when necessary. Every driver shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person.

The logic of such a rule is clear given the harm that can be caused by an individual driving a car, as opposed to walking.

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Here are additional doubtful or confusing claims:

“About one-third (33%) of pedestrians killed in crashes were over the legal alcohol limit for drivers (a BAC of .08 g/dL or higher)” and “an alarming number of all crash fatalities on Halloween involved a drunk pedestrian.”

This is dubious because BAC tests are not given to pedestrians as walking while intoxicated is not a crime.

“No one is trying to blame the victims who may have been trying to do the right thing by not drinking and driving,” said [Local/State Official]. Instead – just like motorists - pedestrians traveling to locations or celebrations where they know they’ll be drinking should plan a way to get home safely at the end of the night before the festivities begin.”

Is NHTSA suggesting that either A) no one drink, B) people who are traveling on foot should have someone come and walk them home, or C) People who are traveling on foot should take a cab or uber instead of walking? None of these seem either appropriate or useful suggestions.

“Carry a flashlight or attach reflective materials - such as fluorescent tape - to clothing, backpacks, purses, and briefcases. These materials reflect light from headlights back to drivers, making it easier to see you.”

Is NHTSA suggesting that all the pedestrians in urban areas flash their way through commuting from October-April? Maybe if this recommendation was focused on walking at night in rural areas it would make sense. But again, NHTSA is putting the burden on walkers, and creating a fear of walking that does not make sense.

“It’s important for loved ones to take steps to ensure older pedestrians’ safety. After observing and assessing an older adult’s walking abilities, a family member or friend may want to discuss questions or concerns. Be prepared to discuss transportation alternatives and other potential solutions to increase an older pedestrian’s safety.”

Given the known public health benefits of walking, we should be encouraging older adults to walk so they stay in better health as they age. If the point is to focus on seniors suffering cognitive decline, then say that instead of suggesting all seniors are taking their lives in their hands by walking. This creates fear of walking when we should be encouraging healthful activity.

We also have concerns about the proposed graphics that amplify the inappropriate messaging. A close review of the Playbook would probably lead to other specific requested changes. We hope these are sufficient to give you notice of the types of statements which concern us.

America Walks hopes that NHTSA can give serious consideration to our request to revise the Playbook materials for Weeks 2 and 4. I am available personally to talk at any time about the revisions, or participate in a group discussion with other advocates. And we are of course willing to review any materials before publication, including any materials that you may develop in the future.

Thank you for your consideration of these concerns, and I look forward to working with you on pedestrian safety.

Sincerely,

A handwritten signature in black ink that reads "Michael McGinn". The signature is written in a cursive, flowing style.

Mike McGinn, Executive Director