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CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS AND  
BUSINESS LICENSING

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SEPTEMBER 27, 2018  
Start: 11:19 A.M.  
Recess: 11:32 A.M.

HELD AT: COMMITTEE MEETING ROOM - CITY HALL

B E F O R E: RAFAEL L. ESPINAL, JR, CHAIR

COUNCIL MEMBERS: PETER KOO  
ALAN MAISEL  
KAREN KOSLOWITZ  
BRAD LANDER

A P P E A R A N C E S (CONTINUED)

RALPH BOMBARDIERE, Executive Director of  
the New York State Association of  
Service Stations and Repair Shops

CASEY ADAMS, Director of City  
Legislative Affairs for the New York  
City Department of Consumer Affairs

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BUSINESS LICENSING

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SERGEANT JESSICA PELLIGRINO: Mic check,  
mic check one two. Today's Committee is on Consumer  
Affairs. Today's date September 27, 2018, being  
recorded by Sargent Jessica Pelligrino. (gavel  
pounding).

CHAIR RAFAEL ESPINAL: Good afternoon, my  
name is Rafael Espinal. I am the Chair of the  
Committee on Consumer Affairs and Business Licensing.  
I am joined today by my colleague Peter Koo from  
Queens who is a member of the Committee. Today the  
Committee will be hearing testimony on the top of Gas  
Stations. We will also be seeking feedback for a  
related Bill from Council Member Maisel. Intro Bill  
#164, in relation to conducting a study on the  
decline of number of gas, service stations in the  
City and exploring methods to prevent their further  
decline. The first gas station in the County opened  
in Pennsylvania in 1913. The gas stations of today  
have developed into convenient stores selling food,  
tobacco and beer; however, they are still responsible  
for selling 80% of the fuel consumed in the United  
States which is 5% of all consumer spending. In New  
York, gas stations have had a checkered past with the  
industry having a reputation for being a hot bed for

organized crime and corruption. During the 80s and 90s when a dozen individuals were indicted for running a multi-million dollar tax evasion scheme using bootlegged gasoline and a similar scheme was uncovered as recently as 2006. With new technological developments, consumers now face different types of scams and deception. For example, the credit card readers at fuel pumps are particularly susceptible to skimmers that wirelessly capture and copy the card details of users. Each year, consumers are defrauded out of million dollars because of such scams and the issue has become so prolific that the Secret Service has been investigating gas stations across multiple states. Consumers can also be defrauded by gas station attendants charging the customers added fees or paying with credit even if they are paying with cash or providing regular gasoline because customers will tend to buy premium gas. Although most people don't think of New York City as a driving city about half of the households own cars as of 2016. Similarly the city has experienced a massive increase in the number of at base for hire vehicles. There were more than 100,000 as of 2017. Despite the clear need for gas

stations, parts of New York City as experiencing severe fuel deserts as gas stations are being sold and redeveloped. If current trends continue, gas stations in New York City can soon become a relic of the past. We look forward to hearing today from the Administration, Business and Industry Representatives and other interested stakeholders in how we can mitigate some of these pressures on a gas station industry. Before I call on the Administration to testify, I do have a piece of testimony from my colleague Alan Maisel who is a sponsor of the Bill that we are also hearing and overseeing today. Uhm so I am going to read a statement it starts with:

"The passing of this Bill will require the Department of Consumer Affairs to execute a study to investigate an research the factors that contribute to the declining quantity of gas service stations in the City. New York State has seen a 75% decrease in number of service stations just from a decade ago. This decrease is becoming more noticeable especially in areas of Brooklyn and Queens. One prime example of this decline is Manhattan as the number of service is severely limited. Motorists that are traveling to and from the City are finding the need to drive into

the outer boroughs and even neighboring cities to refuel their tanks. There are few service stations available and the ones that are available are causing premium prices for gasoline. According to Ralph Bombardiere the Executive Director of the New York State Association of Service Stations and Repair Shops, the premium pricing is a reflection of the high rental and lease fees that these service stations are dealing with. Additionally, Mr. Bombardiere stated that the Federal, State and City Regulations for Service Stations are very complex. Therefore many prospective service stations will turn down the opportunity of establishing their own business since navigating the regulations are quite difficult. The result of this study will be able to identify the factors that are primarily causing decline, how this decline may be affecting the local areas, residents and our constituents as well as recommendations on how to deal with the decline. By being proactive on this issue, it may very well preserve the gas station industry and better the quality of the life citywide. I very much appreciate Rafael Espinal and the Committee taking up before Legislation. I am thankful for the Chairman for his

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leadership. Thank you Alan Maisel." Uhm so with  
that said I would like the Administration to testify  
and the Committee Staff with administer the oath.

COMMITTEE STAFF: Do you swear to tell  
the truth to the best of your knowledge?

CASEY ADAMS: I do.

CHAIR RAFAEL ESPINAL: Thank you, you may  
begin.

CASEY ADAMS: Good morning Chair Espinal,  
Council Member Koo and Members of the Committee. My  
name is Casey Adams and I am the Director of City  
Legislative Affairs for the New York City Department  
of Consumer Affairs. I would like to thank the  
Committee for the opportunity to testify today on  
behalf of Commissioner Lorelei Salas regarding DCA's  
role in the Regulation of Gas Stations and  
Introduction 164-2018 a Bill that would required DCA  
to study and make recommendations on the gas station  
industry. I will first discuss DCA's role in  
regulating gas stations before turning to Intro 164.  
DCA does not license of permit gas stations. We do;  
however, enforce several laws governing this  
industry. DCA's jurisdiction over gas stations falls  
into two main categories. First, State Weights and

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Measure Requirements enforced by DCA under a delegation from the state and two, local requirements related to signage, price posting, disclosure and record keeping among other things. DCA is the Director of Weights and Measures for the City of New York and enforces several requirements under that authority. DCA is charged with enforcing a state law mandate that all commercial gas dispensing devices be inspected and tested for functionality and accuracy at least once a year. Inspectors also check to ensure that, among other things, pumps need state required specifications, fuel grade and content are properly disclosed. Required safety equipment is installed and functioning and proper records of deliveries, inventory and sales are maintained. DCA also collects fuel samples from each station which are sent to state approved labs to test for required chemical content in the fuel. Both state and local law impose labeling, price posting and disclosure requirements on gas stations. DCA inspectors check pump signs to ensure that prices and product specifications are accurately and clearly disclosed and that meters accurately the amount of fuel dispensed and reflect the posted prices at point of

1 sale. DCA inspectors will also check any store or  
2 mini-mart section of a station if present for  
3 compliance with general retail labeling and price  
4 posting requirements. Local law also regulates the  
5 form and content of curb side signs used by gas  
6 stations. Curb side signs are often the most visible  
7 part of a station and are an important way for these  
8 stations to attract customers. Laws and rules  
9 enforced by DCA ensure that these signs clearly and  
10 accurately disclose prices and products so the  
11 customers can make decisions about which gas station  
12 to use and that they aren't surprised by fees or  
13 charges after they fill their tank. A business owner  
14 who opens a gas station must contact DCA to schedule  
15 an inspection of their gas dispensing devices. DCA  
16 has a dedicated petroleum unit that operates citywide  
17 to fulfill inspection requests and respond to  
18 complaints. Pumps that are found to be inaccurate or  
19 nonfunctional may be condemned by DCA and wired shut  
20 until a licensed repairer fixes the problem. Based  
21 on a review of publicly available and internal  
22 enforcement data we believe that there are about 730  
23 gas stations operating in New York City today. In  
24 Fiscal Year 2018, DCA received about 370 complaints  
25



related to gas stations, inspected almost 7,200 pumps at about 1,000 attempted inspections and issued about 120 violations under all the laws and rules described in my testimony earlier. The most common complaints was that a business had overcharged a consumer or mis-represented the price of a product and the most common violations issued were for missing or incorrect disclosures or signs or for uninspected faulty or nonfunctioning pumps. For the past two Fiscal Years, the Mayor's Management Report showed a 99% Weights and Measures Compliance Rate for gas station pumps. I will now turn to Introduction 164 which requires DCA to conduct a study of the number of gas stations in the City and if that number has declined in the past 10 years, make recommendations to stop or reverse the decline. DCA understands and appreciates Council's concern about a decline in the number of gas stations available to New Yorkers. As this Bill moves forward, we would appreciate the opportunity to work with Council to find the right agency to conduct such a study. Any potential decline in the number of gas stations is likely related to factors outside the scope of DCAs jurisdiction such as Real Estate Prices, Real Estate

Development and larger macro-economic trends including the price of oil and the growing importance of electric and alternative fuel vehicles. DCA's regulatory role in and expertise on this industry does not equip us to undertake the broad scope study and recommendation development process contemplated by this Bill. Of course, DCA is pleased to assist wherever our experience is relevant to the questions raised by this proposal. We look forward to working with the Council to identify workable path forward on this Bill. I would like to thank the Committee for opportunity to testify today and I am now happy to answer any questions you may have.

CHAIR RAFAEL ESPINAL: Thank you Casey. We also have been joined by Karen Koslowitz from Queens and Brad Lander from Brooklyn. Uhm, I usually like to give my colleagues the opportunity to ask questions first. So if anyone has a question? Alright, so uhm in your testimony I guess you do, you do recognize that there has been a decrease in gas stations, correct?

CASEY ADAMS: Uhm what I can say is that anecdotically our inspectors do report that there have been fewer stations to inspect over the past few

years, I just want to be careful uhm about how we talk about that because as I mentioned we don't license or permit those stations so it's not, we don't think it's an exact number but anecdotal evidence suggests that the number has decreased in recent years, yes.

CHAIR RAFAEL ESPINAL: Have you a seen a decrease or increase in complaints?

CASEY ADAMS: Complaints? They've remained about steady and on the same topics over the past few years.

CHAIR RAFAEL ESPINAL: And what usually are the, are the topics for those complaints?

CASEY ADAMS: So as I, as I mentioned the most common complaints are misrepresentation or overcharging but I want to be clear that that complaint in our data could correspond with overcharging at the pump for fuel or overcharging or misrepresenting within the mini-mart attached to the gas station, because when our inspector goes out, uhm they are not only looking for compliance with weights and measures and gasoline related laws and rules but also with general consumer protection law violations. Yeah.

CHAIR RAFAEL ESPINAL: I, I, I have one pet peeve with gas stations, right, and it's usually when you go to the pump and decide to use your credit card or your debit card, depending on whether you, you, what happens is when you use your credit card they charge you a higher fee, right, and sometimes it is clear that they are going to charge you the higher fee.

CASEY ADAMS: Uh-huh.

CHAIR RAFAEL ESPINAL: But sometimes when you use a credit card they don't charge you the higher fee, or if you use your credit card they might charge you the cash price or you know, it's, it's, just a confusion. It feels like you are playing you know Russian roulette with the machine, you are not sure what you actually are going to get charged.

CASEY ADAMS: Uh-huh.

CHAIR RAFAEL ESPINAL: Because each gas station has a different policy for how they are going to charge the specific card.

CASEY ADAMS: Uh-huh.

CHAIR RAFAEL ESPINAL: Is DCA able to require, let's say we pass Legislation to require certain signage on the pump, uhm kind of notifying

the consumer what price they would pay depending on  
the method of payment that is actually used.

CASEY ADAMS: So obviously I would have  
to review any potential Legislation before I could  
have an opinion on it but what I will say is that we  
recognize that problem and as a result, DCA rules now  
require that the roadside sign uhm if different  
prices are charged for cash or credit, both prices  
must be disclosed on that sign.

CHAIR RAFAEL ESPINAL: Uh-huh.

CASEY ADAMS: And so there are, I think  
there are still gas stations that are still coming  
into compliance with that but uhm we recognize that  
it is really important for a consumer to be able to  
tell what they are going to pay with their method of  
payment before they come in and fill up their tank,  
because as you describe it is not a good experience  
for a consumer to fill up their tank thinking they  
are paying a certain amount only to find out that  
they are actually paying a surcharge or a higher rate  
because they chose to use a credit card. So that is,  
uhm required on the sign. We are working to make  
sure that gas stations are in compliance with that  
and I, we can certainly talk to you about any

potential proposals to increase disclosure for the consumer, but as you know, we are generally in favor of increased disclosure, putting more information at the fingertips of the consumer.

CHAIR RAFAEL ESPINAL: Going back to signs, a few years ago, we passed Legislation through this Committee that would allow for the LED road signs to be, to be legal for gas stations to be able to use. Have you seen an increase in those signs or? Is there?

CASEY ADAMS: I would have to check with our inspectors, certainly we've promulgated rules implementing that law change uhm and we have been working with the industry so that, I would, I would assume uhm without hard data in front of me that yes the number of signs has, of the LED signs has gone up.

CHAIR RAFAEL ESPINAL: Uh-huh, okay.  
Yeah, uhm Council Member Koo.

PETER KOO: Yeah so uhm who licenses the gas stations, you said DCA doesn't license gas stations.

CASEY ADAMS: No we don't.

PETER KOO: No which agency licenses them?

CASEY ADAMS: Uhm I'm not aware of other agencies jurisdictions with gas stations, I can only speak to what we do which is Weights and Measures Law and local law and price posting and disclosure. I am under the impression uhm and again it is not our jurisdiction but I am under the impression that there are a number of different regulatory bodies involved here both at the state and federal level because you are dealing with uhm tanks that are installed underground. You are dealing with substances that can be hazardous that can cause, that are flammable and explosive in some cases, uhm so I'm under the impression that there is a number of different regulatory bodies. I don't have a complete picture for you, but what I can speak for is our jurisdiction.

PETER KOO: Well can we find out who licenses gas stations, federal or state or a combined combination of them?

CASEY ADAMS: Yeah I think I think it is a combination of different licenses and permits that are required for different components of the

business. Uhm we can follow up with you to get more information after this hearing.

PETER KOO: So you mentioned that your agency is not, is not the agency to conduct a study about closure of gas stations. So which agency would you suggest to do, to do this kind of study? EDC or who?

CASEY ADAMS: I think EDC would certainly be in the mix for when we start to have those discussions with you about what the best agency to conduct the study is. There are other agencies that the city could potentially assign this to. What we wanted to just ensure is that have on the record that while we understand that this is certainly an issue of concern and we have experience that would be relevant to one piece of the story about why gas stations are closing, we think that to get a complete picture you need someone with expertise in macro-economic trends and real estate and the kinds of things that a small business owner is thinking about when they think do I want to continue operating this business or do I want to turn this piece of property into something else or sell it to someone else. So we think that it is going to require a process of



1  
2 looking at all of the potential factors here which is  
3 acknowledged by the Bill and then determining who,  
4 which agency or group of agencies are best placed.

5 PETER KOO: So, so, do you have any  
6 recommendations on, what uhm, what uhm, the City can  
7 do to decrease the closure of gas stations? Because  
8 you are a Consumer Agency, right?

9 CASEY ADAMS: That's right.

10 PETER KOO: So on behalf of the  
11 consumers, now we have a hard time to find gas  
12 stations, the, all, sometimes a when a driver be very  
13 cautious, I look at my the gas needle first and so I  
14 don't want to drive too far and fill up the gas  
15 first, you know.

16 CASEY ADAMS: No one wants to run out of  
17 gas, that's for sure.

18 PETER KOO: You know in Queens in my  
19 neighborhood, fortunately which is booming but we see  
20 closings uhm at least half of the stations are closed  
21 in the last uhm 20 years. You know. So we do see a  
22 decrease of gas stations and what happens when they  
23 are all closed and then we have to drive to New  
24 Jersey.

1  
2           CASEY ADAMS: Certainly we don't want to  
3 end up in a situation where we have to cross state  
4 lines to get gas. I think as I said earlier, we as  
5 an agency believe that consumer, that more consumer  
6 choice is generally better. But my comments today  
7 and in the testimony reflect the fact that this is a  
8 complex issue and there is a lot of different factors  
9 that play here so I think as the Council's Bill  
10 recognizes the best way to go about address it would  
11 be to first identify all those factors with the  
12 relevant stakeholders and experts and then think  
13 about what could be done to mitigate them.

14           PETER KOO: Well my only explanation is  
15 that real estate prices go so much that sometimes  
16 it's not it is easier or the owners to just sell the  
17 property then, than run the gas stations. All of  
18 these regulations, you know.

19           CASEY ADAMS: I think, I think certainly  
20 the price of real estate is one factor that we talk  
21 about in our testimony and that would be relevant to  
22 this discussion.

23           PETER KOO: Thank you Mr. Casey.

24           CASEY ADAMS: Thank you Council Member.  
25

CHAIR RAFAEL ESPINAL: Uhm so going back  
to the road signs.

CASEY ADAMS: Uh-huh.

CHAIR RAFAEL ESPINAL: There is, so we  
passed a Bill that would require all these different  
price points to be posted, right? Different price  
points people will be paying depending on their  
method of payment. Uhm is there a reason why not all  
gas stations have these signs up yet? Or. Is it  
just not being enforced?

CASEY ADAMS: So we at this point we  
promulgated regulations that changed the gas station  
requirements under those, that law at the beginning  
of the year and so as we typically do we have been  
going through an education process. I think the  
industry would be cautious about letting me speak for  
them as the regulator but what we hear is that these  
signs are quite expensive and they require  
contracting out to install them typically so I think  
it's a process for a lot of these stations to figure  
out who they want to install their sign and to figure  
out how they are going to figure to fit that change  
into their budget. So what I can say is that we have  
had a very positive experience with gas station

1 operators coming to us first and asking uhm about the  
2 sign that they want to purchase and want to install  
3 and saying is this going to... am I going to get in  
4 trouble with this? Does this comply with everything  
5 uhm and we can review that and tell them ahead of  
6 time yes this complies or no you might want to change  
7 some of this lettering or this isn't big enough and  
8 then that saves them a lot of time and hassle and  
9 money trying to figure out what is compliant and what  
10 is not. So I think there are a lot of different  
11 pressure that impact a business owners ability to  
12 come into compliant right away and we've been, we  
13 recognize that we are working on helping them get  
14 there.

16 CHAIR RAFAEL ESPINAL: So currently you  
17 are not actively enforcing you are working with the  
18 industry to make people come into compliance.

19 CASEY ADAMS: That's right.

20 CHAIR RAFAEL ESPINAL: Okay have there  
21 been any violations that have been given out that you  
22 are aware of?

23 CASEY ADAMS: Under the specific law I  
24 would have to get back to you but we can look into  
25 that. We, I mean the way that the law was set up the

penalty range clearly recognized that this was intended to be enforcement focused on people who don't come into compliance even after being given a chance to. So the penalties are lower on the low end but quite high on the high end and we recognized the Council's intent that there was, there should be enforcement for people who are knowingly not fixing their sign but an opportunity for people to come into compliance otherwise.

CHAIR RAFAEL ESPINAL: Uh-huh, okay, uhm alright so I don't, I don't really have any more questions but I guess I will just end off with a statement, uhm you know I just think that it is important to the city uhm as you mentioned for us to recognize this trend of, of these gas stations closing. You know the gas stations do provide a vital service during Hurricane Sandy when we did, when we did lose access to gasoline and created a lot of issues for a lot of New Yorkers trying to get around and also uhm you know when we do have fewer gas stations, less competitions we do so inflated prices. You know in Manhattan, in the borough of the Manhattan you are paying maybe a dollar more than what you would pay in Brooklyn and Queens and you

1 know that also creates a problem for consumers and  
2 just thinking about the future as well, you know gas  
3 stations could be converted to charged electric  
4 vehicles and we know that we are making a shift here  
5 in the city or just globally in getting people to buy  
6 more electric vehicles and you know these spaces will  
7 be vitally important and you know we do recognize  
8 that it's, it's a real estate issue and I'm sure that  
9 maybe DCP will have to play a larger role in coming  
10 up of ways that we can zone these, these spaces and  
11 protect the gas stations because of the service they  
12 provide for New Yorkers. Well great, thank you.  
13

14 CASEY ADAMS: Thank you Council Member.

15 CHAIR RAFAEL ESPINAL: Thank you I  
16 appreciate it. Is anyone here to testify? No.  
17 Alright well with that said this hearing is  
18 adjourned. (gavel pounding).  
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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date OCTOBER 22, 2018