

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS

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November 6, 2008
Start: 10:23 am
Recess: 12:23 pm

HELD AT: Council Chambers
City Hall

B E F O R E: LEROY G. COMRIE, JR.
Chairperson

COUNCIL MEMBERS:
Charles Barron
James F. Gennaro
G. Oliver Koppell
John C. Liu

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

Fran Freedman
Assistant Commissioner
New York City Department of Consumer Affairs

Cary David Kessler

Rick Kirby
President
Betson Enterprises

Danny Frank
Executive Director
Amusement and Music Owners Association of New York

Charles T. Peitz
President and Owner
Tricorp Amusements

Allen Weisberg
Owner
Apple Amusements

Mike Maas
President CEO
Merit Entertainment

Joseph Bossolina
McGee Amusements, Inc.

Thomas Faranda
General Sales Manager
American Vending Sales

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2 CHAIRPERSON COMRIE: I'm sorry to
3 start late, on my way here, a parent called me,
4 who lives in my district, her son is attending
5 school in Phoenix, Arizona, the police--the local
6 police rang her doorbell this morning at 6:30 to
7 tell her they got a report that her son had died.
8 And since Phoenix is two hours behind us, we can't
9 get any information, the number that they gave her
10 is to someone that's not answering their phone, so
11 you can imagine a parent finding that out. So
12 we've been trying to get the information to the
13 parent as quickly as possible. So that's why I'm
14 late this morning, I don't normally like to start
15 hearings late, but we will start now. I am Leroy
16 Comrie, I'm Chair of the Committee on Consumer
17 Affairs. Today we'll be hearing details regarding
18 Introductory Bill number 853, a Local Law to amend
19 the Administrative Code of the City of New York in
20 relation to amusement devices. I'd like to thank
21 the Department of Consumer Affairs and the members
22 of the of amusement industry for coming today to
23 testify on this piece of legislation. The
24 Department of Consumer Affairs currently considers
25 establishments with five or more player-operated

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2 amusement devices to be arcades and requires them
3 to obtain a license from the Department.

4 Generally, licensed arcades are required to
5 restrict their operations to commercial or mixed-
6 use areas. In 2003, the Department of Consumer
7 Affairs clarified that if a player-operated
8 amusement device like an arcade game could be
9 played by two persons, then it would be considered
10 two devices. Suddenly the pizzeria down the block
11 from your house that had three arcade games now
12 had six games and was required to get a license
13 from DCA for being an arcade. Industry advocates
14 feel that limiting to five the number of arcades,
15 therefore--to limiting to five the number of
16 arcades permissible without a license is fair--and
17 unfair and arbitrary. Today's bill would increase
18 to 10 the amount and number of amusement devices
19 an arcade must have to be considered an amusement
20 arcade and, therefore, be required to obtain a
21 license from the Department of Consumer Affairs.
22 Consumer advocates, however, have voiced their
23 concern that increasing the number of arcade games
24 permissible without a license would result in an
25 increase in the number of amusement arcades in

1 residential neighborhoods and other areas not
2 traditionally zoned for gaming establishments. I
3 just want to add an ammendum [phonetic] that this
4 Council recently did some legislation to limit
5 that and in no way are we looking to change the
6 location and the technical allowances as to where
7 gaming establishments are located. The purpose of
8 today's hearing is to learn more about the
9 potential effects, both positive and negative, of
10 increasing the number of arcade games an
11 establishment may possess without a license. Both
12 sides of the debate have valid concerns. Today, I
13 hope the committee will get to hear them in
14 greater detail. With that I would like to note
15 that Council Member Jim Gennaro has called me
16 three times to tell me he's on his way, even
17 though he's been involved in something highly
18 important to his future, but he wanted everyone to
19 know that this issue was important to him and,
20 even though he'll probably have to go to court
21 right from here, he's on his way here. I told him
22 not to bother to come but he wanted to come and
23 Council Member Oliver Koppell who is always on
24 time is always here this morning and I want to
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2 thank him for always being on time. Did you want
3 to have anything to say in the opening Council
4 Member Koppell?

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Council Member Koppell: No, I'm--I
6 must tell you, Mr. Chair, I'm somewhat sympathetic
7 to the proposal, but I'm willing to listen to
8 arguments and, unfortunately, I have another
9 hearing at the very same time, so I'm not going to
10 be able to stay for the whole hearing, but I will,
11 if I don't get a chance to hear everybody who's
12 here, make sure that I have all of the statements
13 and I will review them, certainly.

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CHAIRPERSON COMRIE: Well we'll make
15 sure certain your office gets copies of anything
16 that was--

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COUNCIL MEMBER KOPPELL: Thank you.

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CHAIRPERSON COMRIE: --written today
19 and--

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COUNCIL MEMBER KOPPELL: Thank you.

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CHAIRPERSON COMRIE: --I know your
22 diligence--

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COUNCIL MEMBER KOPPELL: Thank you.

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CHAIRPERSON COMRIE: --to an issue
25 so--

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COUNCIL MEMBER KOPPELL: Thank you.

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CHAIRPERSON COMRIE: --I appreciate that, thank you. We are joined this morning by Fran Freedman, the Assistant Commissioner for the New York City Department of Consumer Affairs. So thank you for being here this morning, Ms. Freedman, and we will--as you come up to the mike to share with us the opinion and focus on this matter from the Department of Consumer Affairs. And thank you for my sustenance to stay this morning. Thank you very much.

FRAN FREEDMAN: Want you to--we want you to stay strong.

CHAIRPERSON COMRIE: All right.

FRAN FREEDMAN: Thank you and good morning, Mr. Chairman, good morning, Council Member Koppell. I'm Fran Freedman, the Associate Commissioner of the New York City Department of Consumer Affairs, and I want you all to know that Commissioner Mintz has asked me to thank you for the opportunity to appear before you today at this hearing on Intro 853. This is the bill that would raise the trigger for requiring a premises to be licensed as an amusement arcade from the presence

1 of five or more devices instead to 10 or more.
2 Our feeling is that new regulations always should
3 be targeted to address real problems and at the
4 same time the relaxing of public regulations
5 should be based upon data demonstrating a
6 significant lessening of the concerns which led to
7 such regulations in the first place, particularly
8 in the ambit of public safety and community
9 quality of life issues. Given that precept, this
10 administration is concerned that Intro 853 indeed
11 may not be wise. For context, DCA licenses
12 amusement arcades throughout the city, of which
13 there are 20. Most notably, only three of those
14 20 operate five or more, but less than 10 devices.
15 The annual license fee for an arcade is \$340.
16 Businesses required to be licensed as arcades are
17 subject to public safety and quality of life
18 regulations that would include the ability of the
19 Commissioner to prescribe the conditions for
20 operations to minimize adverse impact on the
21 surrounding area, including requirements for
22 security and supervision and hours of operation.
23 The authority to do so is particularly important
24 given the historical attraction of minors and our
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2 concerns regarding truancy. Other regulations
3 govern prize redemption to inhibit gambling and
4 pricing and rule disclosures to ensure fair
5 playing conditions. Also of particular concern is
6 the interplay between the requirement for the
7 licensing of arcades and the zoning resolutions
8 that prescribe where they may be located. These
9 zoning requirements were enacted to limit
10 unwelcome community impact given the arcade's
11 traditional role as magnets that draw in crowds of
12 players engaged in competitive gaming that can
13 lead to boisterous behavior. This department is
14 unaware of either data or public sentiment that
15 would suggest that a location with nine devices,
16 for example, was no longer the type of
17 establishment that might raise these public
18 concerns. An establishment with only four devices
19 or fewer does seem intuitively of lesser concern.
20 But beyond intuitive appeal, we would note as
21 illustrative, the licensing requirement for the
22 recently enacted authorization to operate Internet
23 cafés. There, this committee required that an
24 establishment need have only three or more
25 computers or electronic devices before triggering

1 regulatory concern. One final note that may be of
2 help to this committee--a few years back, the
3 department interpreted the law's five or more
4 trigger to address the advent in the industry of
5 quote linked devices and multi-person play. To
6 clarify for this Committee, that interpretation
7 holds that if a single device can accommodate more
8 than one player, it is nonetheless considered a
9 single device for purposes of the numerical
10 trigger, but the ability of multiple devices to be
11 linked to each other to accommodate joint play
12 does not transform such linked devices into a
13 single device. I thank you for this opportunity
14 to comment and I will be glad to answer your
15 questions.
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17 CHAIRPERSON COMRIE: Okay. Let me
18 start with your last statement first. Are you
19 saying that most of the industry is incorrect in
20 their assumption that because they have multi-
21 person played devices that those devices are
22 considered an individual device, not a multiple
23 [phonetic] device?

24 FRAN FREEDMAN: That's correct.
25 Each device--I mean, you can link as many devices

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as you want with whatever you want, spaghetti, confetti, steel, whatever, but each device is counted as a device. So if you have linked devices--two linked devices, for example, each device is a single--is counted as a single device towards the trigger.

CHAIRPERSON COMRIE: Let's talk about the types of devices. Now a lot of these people have the double shooter type games where it is a--

FRAN FREEDMAN: [Interposing] You mean where two people can play?

CHAIRPERSON COMRIE: Right.

FRAN FREEDMAN: Yeah, if two people playing on--

[Off mic]

CHAIRPERSON COMRIE: Okay.

FRAN FREEDMAN: --two people playing on a single device is a single device.

CHAIRPERSON COMRIE: Is a single device.

FRAN FREEDMAN: Yeah. So that you can have the two people playing.

CHAIRPERSON COMRIE: Okay. So it's-

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FRAN FREEDMAN: [Interposing] But you can't have two devices linked and count that as one.

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CHAIRPERSON COMRIE: So two standalone devices are--

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FRAN FREEDMAN: [Interposing] Precisely, even if they're linked.

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CHAIRPERSON COMRIE: --are two devices.

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FRAN FREEDMAN: Exactly.

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CHAIRPERSON COMRIE: Right. So--

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FRAN FREEDMAN: A device--

CHAIRPERSON COMRIE: --what about

the--

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FRAN FREEDMAN: --is a device.

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CHAIRPERSON COMRIE: --what about the motorcycle device where it is a--the game where they have people that sit on the motorcycle or sit in a car booth and they're driving a car, is that considered a single device? That the [crosstalk]--

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FRAN FREEDMAN: [Interposing] A single person sitting--

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CHAIRPERSON COMRIE: --you're

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actually rocking back and forth or acting like

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[crosstalk]--

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FRAN FREEDMAN: --sitting on a

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single--

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CHAIRPERSON COMRIE: --driving,

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right.

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FRAN FREEDMAN: Yeah, that's one

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device.

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CHAIRPERSON COMRIE: Okay. And if

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those devices are in one unit, is that considered

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one device with two--

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FRAN FREEDMAN: [Interposing] You

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mean a--

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CHAIRPERSON COMRIE: --seats on it?

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There's a two-seater--

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FRAN FREEDMAN: [Interposing] You

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mean if it's one with two seats--

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CHAIRPERSON COMRIE: Right.

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FRAN FREEDMAN: I guess the same

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principle applies as two people being able to play

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on one device.

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CHAIRPERSON COMRIE: Okay.

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FRAN FREEDMAN: Okay?

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CHAIRPERSON COMRIE: All right.

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And--

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FRAN FREEDMAN: But I can get a

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definitive--

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CHAIRPERSON COMRIE: Yes.

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FRAN FREEDMAN: --let me get a

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definitive [crosstalk]--

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CHAIRPERSON COMRIE: Yes--

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FRAN FREEDMAN: --let me get a

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definitive [crosstalk] on that.

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CHAIRPERSON COMRIE: --I'd

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appreciate that. So I think--

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FRAN FREEDMAN: Okay.

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CHAIRPERSON COMRIE: --that would

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be, that would be helpful. And you're saying

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that--just to go back to the beginning [background

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noise] that the--right now, you only have three

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locations that operate more than five but less

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than 10 devices.

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FRAN FREEDMAN: That is correct,

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that is correct.

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CHAIRPERSON COMRIE: And do you know

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what those locations are?

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FRAN FREEDMAN: I can't tell you

1 that, Mr. Chairman, off-hand, but I'll be happy to
 2 send you that information. There are only 20 in
 3 the universe so--
 4

5 CHAIRPERSON COMRIE: Right

6 [crosstalk]--

7 FRAN FREEDMAN: --in our universe.

8 So--

9 CHAIRPERSON COMRIE: --it won't be
 10 too hard to [crosstalk]--

11 FRAN FREEDMAN: --I'd be happy to do
 12 that.

13 CHAIRPERSON COMRIE: --okay. And so
 14 when those--and how often do they have to get the--
 15 -how often are they inspected by you during [off
 16 mic] I know you said that annual fee is
 17 [crosstalk]--

18 FRAN FREEDMAN: [Interposing] It's
 19 an annual fee and they're--I wouldn't hazard a
 20 guess as to how often they're inspected, but I can
 21 also find that out.

22 CHAIRPERSON COMRIE: Mm-hmm. And do
 23 you respond to complaints from the--

24 FRAN FREEDMAN: [Interposing]
 25 Always, always, and that clearly a complaint

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2 always triggers and it--for anything, triggers an
3 inspection.

4 CHAIRPERSON COMRIE: Do you have a
5 list of how many complaints you've gotten from
6 community or civics regarding the quality-of-life
7 at any establishment, they're either licensed or
8 unlicensed, about the ambit or quality-of-life
9 issues that you spoken--

10 FRAN FREEDMAN: [Interposing] I
11 don't have the complaint history with me, again,
12 I'd be happy to send those.

13 CHAIRPERSON COMRIE: Okay. Because
14 you're talking about the issues of perception and
15 possibility and intuition and we--in order to
16 discern and to, you know, create facts which we're
17 trying to do here, we need to move beyond
18 intuition to try to get some kind of, some kind of
19 idea on have there been complaints, is there a
20 possibility that this would create negative
21 quality of impact of life on people and, you know,
22 what are the people's moods and desires as far as
23 the types of machines that are put in
24 establishments, so--and I think that we're just--I
25 don't think we're talking about gambling devices

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2 in any of these locations, I don't think that's
3 the focus at all here, but we'll find out from the
4 industry if they were talking about those types of
5 devices at all, but I'm sure that that's not part
6 of their focus.

7 FRAN FREEDMAN: We'll be happy to
8 provide complaint history of [crosstalk]--

9 CHAIRPERSON COMRIE: Okay. The
10 zoning areas that the arcades are currently
11 permitted in, what zoning areas are they currently
12 permitted--I thought I turned [off mic], sorry.
13 I'm sorry, what kind of zoning areas are they
14 currently permitted in? Do you have that
15 information?

16 FRAN FREEDMAN: That's--city
17 planning would have that.

18 CHAIRPERSON COMRIE: Okay. But you-
19 -your inspectors do know the zoning requirements
20 and they have their--

21 FRAN FREEDMAN: [Interposing] As
22 they go out, yes.

23 CHAIRPERSON COMRIE: Okay. And then
24 what would be--what--so well you don't have any
25 answers for me today, Fran.

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FRAN FREEDMAN: I'm sorry to

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disappoint.

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CHAIRPERSON COMRIE: You're batting

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a thousand on the negative so far. So let's keep

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it going. Are billiard rooms subject to the same

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zoning requirements as arcades, billiard--

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FRAN FREEDMAN: There are different

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rules--

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CHAIRPERSON COMRIE: Okay.

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FRAN FREEDMAN: --for that.

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CHAIRPERSON COMRIE: Okay. So

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primarily--

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FRAN FREEDMAN: And I [crosstalk]--

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CHAIRPERSON COMRIE: --the arcade

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zoning is really focused on the number of devices--

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FRAN FREEDMAN: On--right.

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CHAIRPERSON COMRIE: --and not

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anything else, other than the--and it's also the

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type of devices, right? No, you don't allow

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gambling machines in any of the arcades.

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FRAN FREEDMAN: [Interposing] Right,

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that is correct.

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CHAIRPERSON COMRIE: So even if we

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2 increased it to 10 gambling machines, would not be
3 part of that acceptance, either. What's the
4 matter with my phone today? It's just picking up
5 everything. I'm sorry. Okay. Okay. So your
6 concern is that the--also, that you're saying that
7 there may be public concerns. We did, just for
8 your information, send out a notice of this
9 meeting and the purpose of this meeting to every
10 Community Board, District Manager, and Chair,
11 there are none here this morning, so I don't think
12 that they've gotten any calls about major issues
13 on quality-of-life with any of the establishments
14 that have been licensed so far. We will send
15 another letter to them, just to make sure that if
16 there are any specific concerns, that we can hear
17 from them 'cause we would like to know if they
18 feel that there would be a specific impact. You
19 talked about the issues of minors and truancy,
20 right now most of the locations we already have, a
21 mandatory time limit as to when children should be
22 allowed to go into those locations and they're not
23 right now allowed to go in between nine and three
24 and that would not change even if there were more
25 establishments--more machines per establishment

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2 that were detailed because we already have a city
3 regulation and children should not be in arcades
4 or in playing at any machine in the hours between
5 nine and three, we established that when we did
6 the requirements for the Internet cafés and also
7 the billiard establishments, so that would stay in
8 effect for the--they're not arcades yet, but the
9 business [crosstalk]--

10 FRAN FREEDMAN: [Interposing] Would
11 that stay in effect--

12 CHAIRPERSON COMRIE: --arcades
13 [crosstalk]--

14 FRAN FREEDMAN: --would that stay in
15 effect for even arcades that would not be required
16 to be licensed?

17 CHAIRPERSON COMRIE: I think that's
18 part of what we were putting in our bill to fall--

19 FRAN FREEDMAN: [Interposing] That
20 would be key.

21 CHAIRPERSON COMRIE: --under that
22 gambit--

23 FRAN FREEDMAN: That would be key.

24 CHAIRPERSON COMRIE: So, to make
25 sure that the people would not be in there to be

1 truants, we don't want to increase truancy in the
2 city that's for sure, to do that. I'm just trying
3 to see if there's anything else missing from
4 our...

6 FRAN FREEDMAN: But if I may say,
7 Mr. Chairman, it might be important to look at
8 what would happen to zoning--to the zoning
9 regulations if these non-arcade arcades were then--
10 --did not fall under regulations and would they--

11 CHAIRPERSON COMRIE: Right.

12 FRAN FREEDMAN: --in fact be able to
13 open in areas for which they are not currently
14 zoned. I mean, that's just an interesting
15 question, you might want to consider--the
16 committee might want to consider with City
17 Planning.

18 CHAIRPERSON COMRIE: I think we'll
19 definitely talk with City Planning about the
20 zoning. I think that we need to talk to get some
21 more details from your office regarding the number
22 of complaints, we need to definitely--we'll hear
23 from the industry in a few minutes as to their
24 concerns as to why they'd like to see it increase
25 and I'm sure that the issues of--they'll talk

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2 about the--what they feel about the impact or
3 zoning requirements also, but making sure that
4 they are--making sure that the public is safe is
5 always a main concern and that the consumer is
6 safe is always a main concern of this committee
7 also, but making sure that businesses have an
8 opportunity to stay viable especially in this
9 negative economy is something that we have to
10 consider also and being able to allow businesses
11 the flexibility to grow in this ever-changing age
12 that we're in especially since technology changes
13 and games change and, you know, a desire to--the
14 type of game that would want to bring a child out
15 from their computer into a store is always
16 changing also. So we need to look at all of that,
17 but definitely the need to make sure that small
18 businesses in the city have an opportunity to
19 thrive and survive especially in an economic
20 downturn is important to me, which is why I wanted
21 to bring the bill forward.

22 FRAN FREEDMAN: And you know that
23 DCA shares your concern.

24 CHAIRPERSON COMRIE: Right. We
25 cannot afford to have our local commercial strips

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2 vacant again and whatever we can do to maintain
3 the viability of the stores that are struggling in
4 this economy, well we need to try to help them
5 look at... I don't have any other questions for
6 you at this particular time. I hope that you can
7 stay for a little bit, I know that Council Member
8 Gennaro might have one or two questions. He was
9 stuck in heavy traffic this morning, I know when I
10 left Queens at 8:15, I didn't get here until 9:47,
11 but Then that was a lot of fun, so I'm sure he's
12 having the same--

13 FRAN FREEDMAN: [Interposing] I'll
14 try to stay for a little bit, but I do have
15 another meeting. But thank you, Mr. Chairman.

16 CHAIRPERSON COMRIE: I appreciate
17 that. All right. Thank you. Next we'll hear
18 from Cary David Kessler, Esquire, Richard Kirby,
19 and Danny Frank.

20 MALE VOICE: And, Chairman, should
21 we all sit up here [off mic]

22 CHAIRPERSON COMRIE: Yes, you can
23 all sit together. I don't think you guys will not
24 speak to each other politely. Can hand the
25 testimony to the Sergeant-of-Arms and he'll pass

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2 them up.

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Off mic]

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[Pause]

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CHAIRPERSON COMRIE: All right.

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Whenever, whoever [crosstalk]--

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CARY DAVID KESSLER: Good morning,

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Chairman.

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CHAIRPERSON COMRIE: Good morning.

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CARY DAVID KESSLER: And I want to

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just say first off that we're just as concerned as

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anyone regarding the budget problems facing the

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city of New York in this legislation--

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CHAIRPERSON COMRIE: [Interposing]

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You have to identify yourself on tape for the

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record. So--

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CARY DAVID KESSLER: Sure.

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CHAIRPERSON COMRIE: --I'm sorry.

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CARY DAVID KESSLER: My name's Cary

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David Kessler, I'm an attorney at law also general

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counsel to the amusement machine--is it coming

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across now?

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[Off mic]

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CARY DAVID KESSLER: That's great,

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okay. So as I said, Mr. Chairman, on New York One

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2 last night I again watched Mayor Bloomberg detail
3 the budget woes facing the city of New York. And
4 as the testimony will reveal from the industry,
5 and I represent the not-for-profit organization
6 that works only for the betterment of the
7 industry, this will bring in revenue without
8 causing any problems. The handouts, in addition
9 to my little remarks, include stapled documents,
10 the first two are two violations issued to two
11 locations, I believe one is in Brooklyn and one
12 was in lower Manhattan--and I hope I crossed out
13 the names, even though it is a public document,
14 you can foil the documents at DCA. The reason why
15 I do that is, unlike some attorneys that get the
16 famous Gore versus Bush cases in the Supreme
17 Court, I get the, I guess, the other end of that
18 when I have to go to the criminal courts
19 throughout the boroughs and also the
20 administrative courts throughout the city, and I
21 enjoy that, so there's no shame to that. And
22 what's interesting about these two violations that
23 most Council Members may not have seen what a
24 violation actually looks and I've given you two
25 examples, and what's interesting about these two

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2 examples is they're not based on any consumer or
3 resident complaint. They're only because a DCA
4 inspector--and I was trying to look for one that I
5 had where a police officer walked into a location--
6 --and found that, instead of four games, there were
7 five games or six games. And there was no
8 complaints called into 3-1-1, 9-1-1, it was simply
9 because they had too many games--the reasons for
10 which can be innocent, such as the operator
11 dropped off extra games 'cause one wasn't broken
12 and then somebody plugged in and couldn't count,
13 but there's never any problem to the public or
14 safety issues. It's just simply a violation for
15 the sake of the law and what I've also given you--
16 and, Mr. Chairman, thank you for alluding to this--
17 --is the famous September 17th, 2003, letter from
18 the Commissioner--actually, he was then the Deputy
19 Commissioner, when he rescinded Commissioner
20 Hoffman's direction to count linked games as one.
21 We had from 2001 to 2003 the ability to count
22 linked games as one, which increased--

23 CHAIRPERSON COMRIE: [Interposing]

24 I'm sorry, what date did you say, that letter...

25 CARY DAVID KESSLER: After the

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2 violations, Mr. Chairman, is a two-page letter
3 from Deputy Commissioner Mintz.

4 [Off mic]

5 CHAIRPERSON COMRIE: Mm-hmm. Okay.

6 CARY DAVID KESSLER: And as the
7 letter will reveal, the Department rescinded
8 Commissioner Hoffman's direction to okay the
9 linking of games as you alluded to in your opening
10 remarks--

11 CHAIRPERSON COMRIE: Mm-hmm.

12 CARY DAVID KESSLER: --and I know of
13 no violations, no public safety issues, no
14 children running from 9 to 3 or from 3 to 11, to
15 locations that had these games linked. It was a
16 severe blow to us in 2003 that we had to take out
17 these linked games because we could only have a
18 max of the four games.

19 CHAIRPERSON COMRIE: Mm-hmm.

20 CARY DAVID KESSLER: But you asked
21 for a track record, well, gee, how do we know
22 we're not going to cause mayhem in the City of New
23 York if we allow 10 games? 'Cause we had a track
24 record of over two years and nothing happened.
25 And then last but not least, thanks to this

1
2 Committee and the Mayor, you allowed us to have an
3 extra pool table at locations throughout the city
4 of New York, but as indicated in the letter from
5 Susan Kassapian dated April 17th, 2008, my
6 colleague--and I hope she considers me a friend, I
7 consider her a friend--the department has decided
8 that they're not going to allow a coin-operated or
9 player-operated pool or billiard table to be
10 included in the arcade law, it has to come under
11 the billiard laws, which means that some of our
12 members and clients had four player-operated pool
13 tables, now they can only have two before they
14 have to go through the zoning process if they
15 wanted three player-operated billiard or pool
16 tables at a bar or a tavern. And what's
17 interesting about that is that--and you, again,
18 Mr. Chairman, you were very perceptive, you hit
19 the nail on the head--if you're not in a certain
20 use group, you can't get a billiard license, I
21 don't care if you've been a bar for 50 years and
22 don't have one mark against you, the zoning laws
23 are very, very strict, very tough--you can't do
24 it. I cannot name the name--cannot name the
25 client in midtown Manhattan that wanted to have 10

1
2 machines in their basement for their toy store
3 just to get some people, some movement in there
4 couldn't do it.

5 CHAIRPERSON COMRIE: [Interposing]
6 So you're saying that the Department of Consumer
7 Affairs arbitrarily changed regulation that we--or
8 legislation that we did within the Council by
9 these two regulations.

10 CARY DAVID KESSLER: I wouldn't use
11 the word arbitrarily, they have decided in their
12 wisdom--and my letter, by the way, to commissioner
13 Mintz, August 22nd, 2007, asked him to please
14 count the billiard--the billiard or pocket
15 billiard tables under a different law, they
16 answered I guess what's almost nine months later
17 in April, they reason that it shouldn't be under
18 the arcade law or the player-operated law, but the
19 billiard law and for their reasons that are
20 contained in Ms. Kassapian's 5-page--5-paragraph
21 letter, that it's not happening, whether that's a
22 dig at the law that you sponsored and Mayor
23 Bloomberg signed, I don't want to characterize it
24 like that. However, it is what it is, we can't
25 use, we can't use billiards and pool tables

1
2 anymore in the arcade law. It's strictly in the
3 billiard law and we're stuck with two tables
4 'cause no one's getting zoning. It's not
5 happening not happening.

6 CHAIRPERSON COMRIE: And so if
7 people had had four tables had to lose two tables.

8 CARY DAVID KESSLER: Correct,
9 correct. Or, they had to go to the impossible
10 task, which they're not getting, of trying to go
11 through the hoops of the use group--I think it's
12 use group 8 and 12 for pool tables and use group--
13 yes, it is, it's use group 15 for arcades and I
14 think it's 8 and 12 for pool tables.

15 CHAIRPERSON COMRIE: Mm-hmm.

16 CARY DAVID KESSLER: I wouldn't even
17 begin to pretend that I can understand the zoning
18 codes in the city of New York. I had, in this
19 particular example, this toy store in midtown
20 Manhattan, an architect and someone who's an
21 expediter in DOB and they disagreed as to what the
22 rules are, as you know--as we all know, the zoning
23 codes in the city of New York are sometimes
24 Byzantine, sometimes helpful, and sometimes very
25 harmful to the economy of this city. Mr.

1 Chairman, in the 1990s, the city of New York, the
2 Department of Consumer Affairs began to review its
3 regulatory functions. After that review, the
4 department produced a report dated September 1994
5 entitled Re-thinking the Agency's Regulatory
6 Functions--an Agenda to Provide Small Business
7 Relief and Enhance Consumer Protection. Of great
8 importance in that report is the repeal of any
9 licensing for coin-operated devices which are
10 defined in New York City Administrative Code
11 Subchapter 3, Amusement Devices, Arcades, and
12 Operators, Section 20 dash 211, it's now called,
13 by the way, Player-Operated Amusement Devices. It
14 was clear, based on consumer complaints that the
15 department tracked, that the incidents involving
16 coin-operated devices or games were--if they
17 weren't zero, they were so negligible, it doesn't
18 make the radar screen. In 1995, along with many
19 other consumer affairs licenses, the common show
20 license was repealed by the City Council and, of
21 course, signed by the Mayor. Remaining in the
22 city statutes were licenses to operate an
23 amusement arcade under Section 20 dash 211 of the
24 code, which means that any premises where there's
25

1
2 operated, as we know, five or more requires that
3 you have to have a different license and the
4 zoning that goes along with it. Please note that
5 jukeboxes are not counted and, by the way, Mr.
6 Chairman, I didn't want to cut more trees down and
7 give everybody copies of the application, but this
8 is the application and it's onerous. I mean, we
9 all have to have the usual ones about you have to
10 pay your child support if you get a city or state
11 license--I support that, I do enough Family Court
12 work, you need it--but the zoning parts, getting a
13 letter of no objection from the Department of
14 Buildings. I would rather, I would rather go to
15 the moon then have to go--and I--and this is not a
16 dig at any of the people at DOB, they're wonderful
17 people from the Deputy Commissioners on down that
18 I deal with--you just can't get it done. Now as I
19 said before, the amusement machines--I apologize,
20 I did not say before--the amusement machines have
21 changed in size. My colleagues here and hopefully
22 those who have been in the industry--believe it or
23 not for three generations, some of these
24 businesses go back three generations--maybe 50
25 years ago, 60 years ago, it was a good idea to

1
2 limit the amount of amusement machines at a
3 location. First of all, they were much bigger, I
4 remember as a kid how big they were, now some of
5 these machines that I--when I go around, I look,
6 they're tabletop models, they fit on a literally
7 opposite a bar stool. Now as we did say before,
8 in 2000, we finally asked DCA, we need help, we
9 have to add more games to locations. Then
10 Commissioner of Consumer Affairs, Jane Hoffman,
11 granted locations the right to have two amusement
12 machine games that connected with each other. In
13 effect, you could have eight games, obviously,
14 four pairs--did I get the math right on that?
15 Yes. I'm a lawyer, not an accountant, Mr.
16 Chairman. But then, unfortunately, in 2003, the
17 then Deputy Commissioner, and now Commissioner
18 Mintz, saw fit--and he said, our understanding of
19 our responsibilities under the existing law and,
20 of course, determined that he had to rescind
21 Commissioner Hoffman's. Interestingly enough, in
22 his letter that's in his letter he said that they
23 were going to have an internal inquiry regarding
24 the proper regulatory role, if any, for this
25 industry. Now that was 2003, hard to believe it's

1
2 now 2008, and it's clear that without this
3 Council's help, we're not going to have any hope
4 for the amusement machine industry. It's as plain
5 as that. I believe, based on my research, that
6 the department licenses over 50,000 businesses and
7 individuals and I'll be happy to defer to my
8 colleague here for the exact number.

9 FEMALE VOICE: More than 60,000.

10 CARY DAVID KESSLER: It has changed
11 over the--since we last looked at this and there
12 are about--help me out on this, a 173 complaints
13 annually or more? I will go on record, I will
14 stick my neck out that I doubt out of those
15 173,000 complaints, you going to have someone
16 coming in and saying they lost their quarter, they
17 lost their dollar at Kerry's bar and Grill on [off
18 mic] Boulevard--I doubt it. I sincerely doubt it.
19 Whether a location in the five boroughs has four
20 or ten amusement machines should not be on the
21 department's radar screen. Mr. Chairman, we can't
22 thank you and the members of this committee that
23 we've spoken to for recognizing the need to help
24 small businesses when you increase the amount of
25 pool tables, that was crucial even going from one

1
2 to two is crucial, but as we know, the department
3 now has taken any coin-operated pool tables out of
4 the definition and stuck it into the billiard
5 parlor definition. And again, lastly, over the
6 past 15 years I have represented many businesses
7 that have received notices from either a police
8 officer or DCA that has run afoul of section 20
9 dash 212 and, again, to reiterate not one has been
10 generated by a consumer complaint, it was strictly
11 based on an inspection. I'll leave it to my--the
12 other speakers that will tell the committee how
13 much money these machines cost and how much
14 revenue, how much revenue you could be generated,
15 what are we, 8.25 in the city on sales tax?
16 That's a lot of money for absolutely no negative
17 impact. Mr. Chairman, we thank you for
18 considering it and we look forward to any
19 questions that the committee may have.

20 CHAIRPERSON COMRIE: Thank you.

21 Just one thing before we move on to the next
22 speakers, you're saying that the limit is four,
23 not five, machines, is that what you're saying?

24 CARY DAVID KESSLER: At five, at
25 five you trigger an application process.

1
2 CHAIRPERSON COMRIE: Okay. So the
3 limit right now without triggering an application
4 is four, actually. Okay.

5 CARY DAVID KESSLER: Five or more of
6 the amusement machine devices or coin-operated
7 require--come under 20 dash 211.

8 CHAIRPERSON COMRIE: Okay. All
9 right, I just wanted to be clear, so, all right.
10 Thank you. Next speaker?

11 RICK KIRBY: Chairman, my name is
12 Rick Kirby, I'm President of Betson Enterprises,
13 we're a distributor of coin-operated amusement
14 equipment out of Carlstadt, New Jersey. Talk
15 about three generations, we're a four generation
16 family-owned company. We happen to be the largest
17 distributor of coin-operated equipment in the
18 United States with 12 offices around the country
19 and one up in upstate New York in Syracuse. I
20 urge you and your members to vote allowing us to
21 increase the amount of machines from four to 10.
22 If passed, that would allow our customers, or the
23 vendors, to be able to control what's going on in
24 the economy today. We're all losing business and
25 we need to stabilize our businesses. We're all

1
2 looking for ways to find more ways to make money.
3 Frankly, the tripling of gas prices in the past
4 year, combined with inflationary spiral items like
5 food has depleted the spare change and pocket
6 money that many of our customers use to play these
7 machines and jukeboxes. The failure of government
8 to properly enforce infringement of copyright laws
9 on music played in commercial venues has meant a
10 severe loss to income to all the operators, not
11 only in the city, but all over. And, frankly,
12 many people with high-tech Palm Pilots and home
13 computers have games that are far more powerful
14 than that, what vendors in my industry are
15 offering in the marketplace and I really must tell
16 you that also our games are scrutinized by the
17 government. There's warning labels of--there's
18 codes on the games and I can tell you that the
19 home computer games do not have that. We are
20 family-friendly games, the coin-operated amusement
21 business back from the last 16 years when the
22 process went into to look at the games and to rate
23 them, we have yet to have a failing mark. And I'm
24 a past president of the National Association and I
25 was very involved in that going on, so I can speak

1
2 with that with knowing that it's a correct
3 statement. If we're able to change the antiquated
4 laws that would afford New York vendors the
5 opportunity to compete with amusements that are
6 far more exciting, more relevant, and have a
7 better variety of choice and overall greater
8 customer appeal, the bar owners, the business
9 owners would be buying more equipment and most of
10 their locations which are bars, taverns, clubs,
11 and entertainment centers would benefit. How
12 would they benefit? It would increase employment,
13 more pieces of equipment means more service jobs,
14 more provider jobs, and more supplier jobs. These
15 are all blue collar jobs which are well needed
16 within the city of New York. My company alone,
17 figuring with sales that would come, would add an
18 additional \$600,000 approximately in sales tax.
19 It may not sound like a lot of money, but if we're
20 able to provide potential economic growth in many
21 other--in many different industries, it will add
22 up to a sizable number. One of the reasons we
23 need this new law is the amusement industry, its
24 customers, and its culture has changed and
25 continues to evolve daily. Most of our video

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2 machines are offered online, which mean--connected
3 by DSL. This new technology allows customers to
4 play in local and national tournaments. To better
5 entertain the public, we can now offer players
6 golf games, hunting games, trivia in real-time
7 competition. Add to the above mix of equipment
8 jukeboxes, pool tables, and dart machines, and you
9 can see why we're asking for this change in the
10 law. I'd just like to go back quickly and discuss
11 what was mentioned before, linked games versus
12 online games. A linked game is, in definitions of
13 our industry, are driving games or some other type
14 games that myself, sitting next to you, Mr.
15 Commissioner, we could play against each other and
16 compete or a family can come in and all members of
17 the family can come in and play the driving game
18 or the motorcycle game that you mentioned. What
19 our industry is evolving now is the online games,
20 meaning I could be playing that golf game and I
21 could be in a bar or a tavern or family
22 entertainment center or a bowling alley in
23 Secaucus, New Jersey, and you could be playing
24 within your district in an establishment that has
25 that game and we could be competing in a

1
2 tournament against each other. So I just wanted
3 to clarify linked games versus online games and
4 the online games being trivia and so on and so
5 forth, it's really adding excitement to our
6 business and it's bringing patrons back into the
7 establishments, basically to play these games
8 'cause they're fun, they're a lot of fun. I also
9 want to point out with the cost of major sporting
10 events, the ticket prices are just ridiculous,
11 they've gotten out of hand and their prohibitive
12 for the average working person. The neighborhood
13 bar, tavern, club, bowling alley, and
14 entertainment center is indeed becoming more
15 important to many New Yorkers. We feel that the
16 opportunity for vendors to offer up to 10 machines
17 where it makes economic sense is important at this
18 time. Our industry employs hundreds of people in
19 the New York City region and we are hoping to be
20 able to continue providing the entertainment that
21 our patrons expect. Basically this industry has a
22 proud legacy which has survived for more than 100
23 years. I appreciate your time and look forward to
24 any questions you might have.

25 CHAIRPERSON COMRIE: Thank you.

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2

Next speak.

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DANNY FRANK: I--Chairman Comrie,

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I'm Danny Frank, I'm the Executive Director of the

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Amusement and Music Owners Association of New

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York, which is a trade industry organization that

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has been around since the 1940s and I have been

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involved with this organization on and off since

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1975. And before I make my comments, I want to

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commend you on your understanding and knowledge

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and comprehension of this industry and what it's

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about and how it works. You've taken the time to

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examine it and study it. But in fact, I remember

14

in 1977, Chairman Comrie, sitting in the blue room

15

across the street at City Hall as Mayor Abraham

16

Beame at that time signed into law the

17

legalization of pinball games at the time. And I

18

had a full head of black hair back then and I

19

weighed a few pounds less, but during what was

20

then an economic crisis in New York City at the

21

time, and some of you may remember the city was on

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the brink of bankruptcy when Mayor Beame was in

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office, Mayor Beame in his wisdom saw the value of

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economic development through the small family

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businesses that comprise a lot of this industry.

1
2 He knew that more amusement games would be sold,
3 he understood that consumers would be motivated to
4 take money out of their pockets and spend it on
5 electronic music and games at the time,
6 entertainment for themselves and their friends,
7 and, indeed, back then, what Mayor Beame did was
8 an economic milestone for this industry, 30 years
9 ago. Mr. Comrie, this industry needs similar help
10 today. In 1975, this Association represented
11 about 300 business owners in the New York tri-
12 state region and in 2008, I'm sad to report to you
13 that, unfortunately, through consolidation and
14 shrinkage, we have a universe of about 60 business
15 owners in the greater New York region. And in
16 contrast to many different causes and
17 constituencies who come before the City Council
18 and ask for monetary aid of say 5 million or \$10
19 million, all we are asking for here through this
20 legislation, this change in the law, is really
21 just a crust of bread and through this Bill we're
22 not asking for a cash handout, we are asking you
23 to give business owners of this industry the
24 ability and opportunity so that they can help
25 themselves so that they as demonstrated survivors

1
2 and entrepreneurs can build their businesses and
3 make them grow. And in turn, this will enable
4 them to employ more people, pay more taxes that
5 pay the salaries of these people working at these
6 different agencies, it will help them to spin off
7 income to other businesses like bars, taverns,
8 clubs, bowling alleys, entertainment centers--
9 revenue, the extra type of revenue which helps
10 these enterprises pay items like their rising Con
11 Ed bills, their rising oil heating costs and so
12 much more. Consider that with all the
13 restrictions and prohibitions which have been
14 placed on bars, taverns, clubs, and entertainment
15 centers, especially in the past four or five
16 years, many would-be customers of those places are
17 now staying home simply playing games on the
18 Internet and, as you know, there is a rage about
19 offshore Internet gambling games. Okay? Which
20 people can play right at home from the Internet,
21 all right? Then there are the children today who,
22 through their Pac Man and iPods, are carrying
23 around in their school bags high-tech devices that
24 are much more powerful and exciting than what our
25 operators right now can competitively put out and

1
2 offer, okay? So this is what we're up against,
3 it's why we need the freedom and autonomy to go to
4 10 games when it makes economic sense for the
5 business owner or the bar owner or tavern owner or
6 entertainment center owner. Before I conclude, I
7 just want to make a footnote point on the iPod,
8 okay? The widespread illegal use of this has
9 increasingly severely hurt our industry in the
10 past three or four years, even though there are
11 copyright laws on the books specifically
12 prohibiting iPods for commercial use in public
13 places. And for more than 30 years, the business
14 owners of this industry have consistently, loyally
15 paid fees to the recognized copyright
16 organizations under government regulations,
17 agencies like ASCAP, BMI, RIAA, and SESAC for the
18 right to operate electronic music and jukeboxes
19 and now when these rights of these businesses are
20 being flagrantly violated across New York City and
21 elsewhere, I must tell you that government
22 enforcement by and large has been nonexistent and
23 all public officials, unfortunately, have turned a
24 deaf ear. This failure of government to enforce
25 the existing laws on the books has meant an

1
2 economic blow to these members, okay? Chairman
3 Comrie and your Consumer Affairs Committee
4 members, please support this change we are seeking
5 to allow 10 coin-op devices, give these business
6 owners and their employees some breathing room,
7 especially during this very distressed economic
8 period. Thank you.

9 CHAIRPERSON COMRIE: Thank you.

10 What kind of locations now or are any locations
11 that solely operate just machines, other than the
12 five or six amusement arcades now? Are any
13 businesses that you think if the regulation was
14 extended to from 4 to 10 would just solely operate
15 machines?

16 DANNY FRANK: Well that comes under
17 an arcade classification right, Cary? I mean--

18 CARY DAVID KESSLER: [Off mic] The
19 arcade business has dwindled immensely, it's
20 better known today as the family entertainment
21 center--

22 CHAIRPERSON COMRIE: Mm-hmm.

23 CARY DAVID KESSLER: --and within
24 that, there are amusement rides, restaurants,
25 food--it's become a family destination. I would

1
2 bet, and I'm not a betting man, but I would bet
3 that across the country, if there are 15 locations
4 that just have games in them and nothing else I'd
5 be shocked. I think--matter of fact, at 15, I
6 know I'm--an extremely high number, it just
7 doesn't make sense.

8 CHAIRPERSON COMRIE: And right now
9 you're saying also that because of the power of
10 the iPod and the handheld games, your businesses
11 are not getting the traffic that they were getting
12 and your businesses that you're advocating for are
13 primarily what type of businesses that have these
14 types of games? What types of businesses because--
15 -

16 DANNY FRANK: Bars--

17 RICK KIRBY: Oh, well the bars and
18 so forth. I think one of the things we're looking
19 at is we're looking for increased games. As I
20 mentioned before, the online games with only
21 allowing four games in an establishment and the
22 countertop, which are online also, is that if
23 somebody's playing the game, he's--he doesn't--a
24 lot of places would like to have a second or third
25 game of that, even of the same type so people can

1
2 practice 'cause these national tournaments are
3 huge and they're a lot of fun, and that's what
4 we're selling, is we're selling fun and we're
5 selling entertainment and we're entertaining the
6 patrons of these establishments. Not sure if that
7 answered your question, but...

8 CHAIRPERSON COMRIE: No, I wanted--
9 'cause you keep saying owners and I wanted--I just
10 wanted you to establish for the record, are you
11 talking about the Amusement and Music Owners of
12 Association--they're not operating solely
13 entertainment businesses, they're--so I just
14 wanted you to clarify for the record, what type of
15 ownership are you talking about when you're
16 talking about those owners?

17 CARY DAVID KESSLER: The typical
18 member of the Association sales and services to--
19 would you say, 95% are bars and taverns and--in
20 other words, licensed liquor establishments with
21 no children are going to go in these
22 establishments to begin with. Yes, there are
23 bowling alleys; yes, there are other kinds of
24 similar movie theaters and you're not going to
25 have, you're not going to have this, you know,

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2 legislation where people are going to set up
3 kiddie centers, it's not going to happen for two
4 reasons. Number one, you can't--it's not
5 profitable for 10 and, number two, as was stated
6 before, and I have a 13-year-old middle school
7 student to prove it, all of his games are in the
8 palm of his hands now. He doesn't want to go to a
9 location anymore.

10 CHAIRPERSON COMRIE: Um.

11 CARY DAVID KESSLER: He wants to
12 play on his iPod, this Pod, and that Pod, that's
13 what he wants to do and that's what the kids are
14 doing.

15 CHAIRPERSON COMRIE: So just to
16 establish for the record, 'cause, you know, just
17 to make sure that it's on the record, you're
18 talking about the owners are the people that
19 maintain, supply, and distribute the machines to
20 the businesses that are trying to establish them,
21 correct?

22 CARY DAVID KESSLER: That's
23 absolutely correct.

24 RICK KIRBY: Right.

25 CHAIRPERSON COMRIE: Okay.

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2

CARY DAVID KESSLER: That's

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absolutely--

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CHAIRPERSON COMRIE: So just for the

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record, you don't have any owners that solely

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operate machines in a store or storefront or any

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type of--

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CARY DAVID KESSLER: No.

9

CHAIRPERSON COMRIE: --facility.

10

RICK KIRBY: None whatsoever.

11

CARY DAVID KESSLER: No, Mr.

12

Chairman, no.

13

CHAIRPERSON COMRIE: All right. And

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so you're just looking to allow those businesses

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that would like to have the devices to have more

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variable--more variety and more--a higher number

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of devices so that they can now be more

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competitive in an electronic market.

19

CARY DAVID KESSLER: Correct, and

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just one more example. Unfortunately, the Mets

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and Yankees didn't make it in the playoffs, here's

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a story in the daily news, October 4th, city bars

23

strikeout. Well, of course, they didn't get as

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many patrons in as before. People go in there, as

25

I like to do, I like to watch a game with other

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2 people. If there are games there for people to
3 say, let's go and play, they will attract that
4 kind of crowd. If there's attractions in the bar,
5 whether it's watching the Super Bowl, a playoff
6 game with the Mets, or amusement machines, that's
7 absolutely correct, Mr. Chairman.

8 DANNY FRANK: Chairman Comrie--

9 CHAIRPERSON COMRIE: Yes.

10 DANNY FRANK: --as an example, in
11 the building I'm in midtown Manhattan, 1 River
12 Place, just this past month, 30,000 square feet of
13 space that's been empty since the building opened
14 in 2000, Lucky Strike Bowling went in there. Now,
15 I hate to think of the figures that they're paying
16 on a lease, the number of people that they employ,
17 what that payroll must be, all of the construction
18 interest that made money there in putting up
19 everything, and installing the bowling alleys,
20 everything. It's a beautiful business that they
21 set up. Now, right now these people, under the
22 current law, could only put in four games, right?
23 And, you know, the opportunity to give a business
24 that just got off the ground, just opened in this
25 environment, okay, an extra opportunity to earn

1
2 some income through a few extra games, how is that
3 hurting anybody? I don't understand the Consumer
4 Affairs Department's logic. I mean, if Ms.
5 Freedman is concerned about things like gambling
6 and behavior, I would submit she ought to go to
7 every supermarket or candy store where there is a
8 Lotto machine, where it's open and exposed to
9 youngsters and there's no policing, where
10 youngsters could buy these Lotto tickets. I mean,
11 you know, we're not talking about gambling
12 devices, we're talking about fun and amusement and
13 we're enabling business' locations to generate
14 some extra income to stay alive, so...

15 CHAIRPERSON COMRIE: We've been
16 joined by Council Member Gennaro and Council
17 Member Barron, not in that order. Thank you both
18 for coming today and just take the opportunity to
19 congratulate Councilman Gennaro on achieving what
20 many people didn't think could be achieved and
21 that was not an--I want to say winning the State
22 Senate, 'cause I'm just going to claim it for you.

23 COUNCIL MEMBER GENNARO: Okay.

24 Okay.

25 CHAIRPERSON COMRIE: You know, but--

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COUNCIL MEMBER GENNARO: Not

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official yet, but--

4

[Applause]

5

COUNCIL MEMBER GENNARO: --there you

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go, there you go. It's on the record now, it's on

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the record now.

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CHAIRPERSON COMRIE: There you go,

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but to take on a--to take on someone of the

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stature of a Frank Padavan, who is not a withering

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flower in the community, that has a record and to

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do what people didn't think could be done and

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people counted you out, so I want to congratulate

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you on your perseverance and endurance.

15

COUNCIL MEMBER GENNARO: Thank you,

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thank you, Leroy.

17

CHAIRPERSON COMRIE: Just a couple

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of questions for the industry, so would you be a--

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would you have a problem with coming under a

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regulation or a licensing for 10 games, as long as

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you had the license with the Department of

22

Consumer Affairs so that they could make sure that

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the games that you had met a certain context?

24

CARY DAVID KESSLER: That'd be

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something to consider and I'm sure that it would

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be--if it's reasonable, it's something very interesting as a compromise, of course.

3

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CHAIRPERSON COMRIE: Right. And

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just to make sure that you had the--that you didn't put any games in that were not contrary to anything that would be against gambling or any other existing regulation that it is in now, that's on the books now, 'cause--

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CARY DAVID KESSLER: Well let me

11

speak to that because that's something I have a lot of knowledge about--

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13

CHAIRPERSON COMRIE: Right.

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CARY DAVID KESSLER: --because I do

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a lot with the State Liquor Authority 'cause

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they're the ones that have an addition to

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authority that we have for the police officers

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under the penal law against gambling, you have a

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whole another section under the Alcohol Beverage

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Control Law under Section 106, they'll go into any

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establishment whenever they want and if they think

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that machine is promoting gambling, they don't

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care about New York's penal law, they'll shut the

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place down. You have remember, Mr. Chairman,

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these machines--Mr. Kirby will bear me--5,

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2 \$10,000--they're owned by our members, they're not
3 going to allow a location to fool around with
4 their machines and risk an investment 10 times
5 ten, that's \$100,000. You don't have to have
6 Consumer Affairs policing, you've got the police,
7 who, by the way, have done, I think sometimes, a
8 too good a job going into licensed liquor
9 establishments, but you also have the State Liquor
10 Authority and they've been holding hearings,
11 contrary to what you might be reading, I know for
12 a fact, they're holding hearings for any kind of
13 local violation, whether it's a Health Department
14 violation or a Sanitation Department violation.
15 So there is oversight, big oversight on these bars
16 and taverns.

17 CHAIRPERSON COMRIE: Right. Well I
18 think that just to put on Consumer Affairs hat for
19 a second that they're not just concerned about
20 bars and billiard places, they're concern that
21 this, if enacted, that bodegas would turn into 10
22 machine facilities or other businesses might turn
23 into locations that would have a preponderance of
24 games also. So I'm--I have no doubt that the
25 onerous amount of regulations on tavern owners and

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2 bars, to my mind, almost demands that you have
3 more flexibility to be competitive and stay
4 competitive, you know, and although in an economic
5 downturn people, tend to be more depressed and
6 drink more, but, you know, hopefully it's a New
7 Age, everybody's into health food now, so you have
8 to have other reasons to bring customers in. But
9 you know, I think that just from a licensings
10 point of view, I think Consumer Affairs is more
11 worried than that bars and bowling alleys, they're
12 worried about stores that might now take advantage
13 and turn into mini-arcades as--

14 CARY DAVID KESSLER: [Interposing]

15 Absolute, it's an excellent point, but let me
16 address that again.

17 CHAIRPERSON COMRIE: Right.

18 CARY DAVID KESSLER: Because I do a
19 lot of administrative law, the fire department is
20 another layer of supervision. The Fire Marshal
21 and their agents, members of the fire department,
22 go, believe it or not, store to store and they
23 check to see blocked exits, they check to see fire
24 hazards, and how do I know that? I've been
25 enough--I've been in enough what's called SAP

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2 [phonetic] parts in Cue Gardens and in Brooklyn
3 and in Manhattan fighting with the fire department
4 as to, no, the exit is not blocked, no, there is
5 plenty of room in the aisle space for an extra row
6 of food or an extra row of some kind of
7 merchandise. So they would be the first ones that
8 would be absolutely closing down a bodega saying,
9 you can't put in two more music machine games
10 here, you don't have enough room here to--for
11 people, God forbid, there's an accident.

12 CHAIRPERSON COMRIE: Mm-hmm.

13 CARY DAVID KESSLER: So, again, no
14 problem talking about that, but I'm--just so you--
15 -the committee can rest assured between the
16 police, the fire department, and the State Liquor
17 Authority, the oversight is enormous.

18 CHAIRPERSON COMRIE: Okay. Great.
19 My committee members have some questions I'll
20 start with Council Member Barron.

21 COUNCIL MEMBER BARRON: You know,
22 first I'd like to say, you know, it sounds good,
23 you know, what you're saying may be good for
24 business is good for you, but sometimes it's not
25 good for our neighborhoods. You know, in our

1
2 neighborhoods, anymore distraction from youngsters
3 going to school instead of playing games--and it
4 may not be a bar in our neighborhood, it could be
5 a bodega, it could be something--and that
6 oversight that you speak of, believe me, there's
7 so many things going on in some neighborhoods
8 where oversight is not that meticulous, it's not
9 that, you know, done that well. So my concern,
10 would you be concerned about these kinds of things
11 coming into particularly low-income black, Latino
12 neighborhoods and even any neighborhood, just
13 really being a distraction to young people and in
14 terms of them going to school and taking care of
15 business, 'cause we have a whole lot of
16 distractions in our neighborhoods and we certainly
17 don't need more.

18 CARY DAVID KESSLER: What was
19 testified to before is that maybe 90, 95% of these
20 machines, these amusement machines, are not going
21 to be in areas where there are children. It's
22 mostly in licensed liquor establishments where
23 [crosstalk]--

24 COUNCIL MEMBER BARRON:
25 [Interposing] Yeah, but see, and I don't mean to

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2 cut you off, just 'cause you said that doesn't
3 mean that that's so. You know, anybody can say it
4 won't be in a certain area, but if the law is
5 changed, you won't have to have a liquor license
6 to increase the amount of games in the
7 neighborhoods. So that's--anybody I could just
8 get up here and say stuff, but the reality is that
9 if people see an opportunity to put more games in
10 there and attract more people to their
11 establishment, whether they have a liquor license
12 are not, don't you think that that more than
13 likely would happen?

14 CARY DAVID KESSLER: Most likely not
15 and I'll tell you why from the testimony before.
16 We had a track record from 2001 to 2003 where the
17 department allowed us to literally double the
18 amount of amusement machines called linked games
19 and that's in the testimony provided to the
20 committee members. There were no adverse impacts,
21 there was no distractions in any neighborhoods,
22 whether it was low income, middle income, or
23 whatever.

24 COUNCIL MEMBER BARRON: You know, I
25 find that hard to believe, you know, studies are

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2 studies are studies, we can get studies to say
3 anything and I just find that hard to believe
4 that, you know, if we change the law now to allow
5 10 games in the store and either owners won't do
6 it or if they do it, it won't have--it would have
7 zero impact. And I think I would appreciate it
8 more if we'd be a little more real and say it
9 might have an impact, it's a possibility that
10 it'll have an impact in some areas, but we think
11 the larger good--if you could find [phonetic] that
12 for me--the larger good outweighs the possible
13 negative impact. When people come and testify and
14 say it's zero impact, this is going to be perfect,
15 fine, no way this'll happen. You know, we had
16 some studies and some people said and testified
17 that's not a good look.

18 CARY DAVID KESSLER: Council Member-
19 -

20 COUNCIL MEMBER BARRON: --not a good
21 look, we got to do, we got to be real here. As my
22 Chairman says, make them be real and I'm under
23 those orders.

24 CARY DAVID KESSLER: --Council
25 Member, you are correct, no one can ever state

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with--

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COUNCIL MEMBER BARRON: Right.

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CARY DAVID KESSLER: --the absolute certainty--I was up in Albany for 20 years as legislative aide counsel and one of the things we were fighting for was--you remember the seatbelt law, well we didn't realize when people did start buckling up, now we have a crisis 'cause there weren't enough donors for kidneys and livers and other things and now we have a crisis, people aren't getting to the operating table in time for transplant purposes. So you'd never really know when you have a law if it's going to have any adverse impact, except for two things: I'm down at 42 Broadway enough and representing enough people to see well, what happened during that two, three year period when they doubled the amount of games they could have? Did neighborhoods call up? Did we get more increased 3-1-1 and 9-1-1 calls? And, believe it or not, there were no calls to that effect, there were other calls from bad neighbors, as we all know, because the media has done a good job in detailing the hotspots, which is why I deal with the police department a lot when they have

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2 problem areas and some of them, unfortunately, are
3 licensed liquor establishments, but not games and
4 one of the things that [crosstalk]--

5 COUNCIL MEMBER BARRON:

6 [Interposing] See, one of the things that I hear
7 what you're saying and make those analogies,
8 sometimes analogies work, sometimes they breakdown
9 and they don't really connect. But, you know,
10 it's like saying in my neighborhood if there is no
11 complaints about police brutality, does that mean
12 it's not happening? Some people just don't bother
13 complaining sometimes 'cause it doesn't mean
14 nothing and go nowhere. But in my neighborhood,
15 we, often sometimes, go around trying to get
16 children out of the stores and into the schools
17 with the games that they already have. So to get
18 more of that to me is not a good thing for a
19 neighborhood, it might be a good thing for certain
20 areas where you may not be around young people
21 enough and it'll be good for your establishment,
22 but I'm just concerned about the impact in those
23 areas where, you know, we already having problems
24 with distractions from youngsters [crosstalk]--

25 CARY DAVID KESSLER: [Interposing]

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I'm going to try to find the member of our not-for-profit association that has locations in your Councilmatic district that I'd like the opportunity to come in and we'll outline for you what those locations, what establishments they sell and service amusement machines to. I'd like to learn also.

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COUNCIL MEMBER BARRON: Right, I'll show you a few, but show me the ones that you have and--

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CARY DAVID KESSLER: You got it, we'll do that--

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COUNCIL MEMBER BARRON: --I'll show you ones in my neighborhood--

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CARY DAVID KESSLER: --absolutely [crosstalk]--

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COUNCIL MEMBER BARRON: --'cause I already know most of them.

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CARY DAVID KESSLER: --it will be a pleasure.

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22

COUNCIL MEMBER BARRON: You got it.

23

DANNY FRANK: Councilman Barron, if I may, you--

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CHAIRPERSON COMRIE: [Interposing]

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2 Just so, you know, we're [off mic], there is a
3 restriction that children are not supposed to be
4 in establishments between nine and three and there
5 are not supposed to be any gambling in
6 establishments--

7 MALE VOICE: Nice law.

8 CHAIRPERSON COMRIE: --that's
9 [crosstalk]-

10 [Crosstalk]

11 CHAIRPERSON COMRIE: I understand
12 the practice--

13 MALE VOICE: The law is awesome.

14 CHAIRPERSON COMRIE: I just want to
15 say that that's there and that also, you know--

16 MALE VOICE: That's [crosstalk]

17 CHAIRPERSON COMRIE: --this
18 committee worked on zoning for the Internet cafés
19 to make sure that--

20 MALE VOICE: Yeah, I remember them.

21 CHAIRPERSON COMRIE: --we didn't
22 deal with that, so we--I'm not--

23 COUNCIL MEMBER BARRON:

24 [Interposing] But it's always, you know, Mr.
25 Chairman, it's always a challenge between the law

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2 and the practice.

3 CHAIRPERSON COMRIE: And reality,
4 right.

5 COUNCIL MEMBER BARRON: And reality
6 and just how much laws are enforced because some
7 laws are priorities and some aren't and sometimes
8 you just put them there so people could choose not
9 to do it--

10 CHAIRPERSON COMRIE: Right.

11 COUNCIL MEMBER BARRON: --like no
12 one's going to arrest nobody for smoking in the
13 theater or, you know, but it's more for signage--

14 CHAIRPERSON COMRIE: Right, right.

15 COUNCIL MEMBER BARRON: --they won't
16 do it.

17 CHAIRPERSON COMRIE: Right, but
18 there's--it's an opportunity also to push the
19 police department if they're not following up to
20 do the things necessary to [crosstalk]--

21 COUNCIL MEMBER BARRON:
22 [Interposing] Well if we don't have the law, we
23 don't have to push the police, just leave--

24 CHAIRPERSON COMRIE: Well
25 [crosstalk] I'm talking about the existing law

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2 about children [off mic] businesses, but we'll
3 see. I'm sorry, Mr. Frank, you were [crosstalk]--

4 DANNY FRANK: Councilman Barron, I'd
5 like to point out why we need relief competitive
6 relief, the bars, taverns, clubs, entertainment
7 center where our games go, past five or six years
8 marketplace forces that have had an adverse impact
9 on us, you know, you just turn on the radio and
10 look in newspapers about Yonkers, okay, urging
11 people to leave New York City and to go up and
12 play gambling devices up at Yonkers. And we have
13 one of these racinos coming into Queens, you know,
14 in the next year I guess it is, I'm looking at an
15 article from back in the summer in the New York
16 Daily News about the illegal lotteries that go on
17 in many communities, okay? These are all market
18 forces that, you know, the small business bar,
19 tavern, club owner, the entertainment center owner
20 who, again, is trying to survive and stay alive,
21 these are all new market place forces that we're
22 trying to compete against, which five, six, seven
23 years ago, we didn't have, you know, so...

24 COUNCIL MEMBER BARRON: Well, I
25 certainly wouldn't want you to go out of business

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2 and I certainly would want you to remain
3 competitive and even be more increasingly
4 competitive, but not at the expense of what could
5 happen in local neighborhoods. So I'm just trying
6 to see how we can make sure that as we going forth
7 in this hearing and development of the legislation
8 that we bear in mind that in addition to helping
9 you become more marketably compatible [phonetic],
10 if we can put those things together, that we look
11 out for the neighborhoods that we might be
12 overlooking because you might be thinking of a
13 tavern, you might be thinking of, you know, your
14 particular area, but what impact could that have
15 on other areas, but certainly we definitely want
16 people to remain marketable and then that kind of
17 entertainment is not like detrimental to health,
18 it's, you know, it's a decent entertainment--I'm
19 not a big fan of, you know, arcade games, but I
20 certainly, I don't see it detrimental unless it's
21 a preoccupation, unless it's habitual, 'cause
22 some--sometimes it's--they have some habits, you
23 know, some of our youngsters are just so into them
24 that it's--takes up an enormous amount of their
25 time and then it doesn't give them the time to

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2 develop their mind and they play these arcade
3 games. So I'm very, very concerned about that.

4 DANNY FRANK: And we look forward to
5 exploring that with you.

6 COUNCIL MEMBER BARRON: Absolutely.

7 DANNY FRANK: I appreciate that.

8 COUNCIL MEMBER BARRON: Thank you.

9 CHAIRPERSON COMRIE: Thank you [off
10 mic]

11 COUNCIL MEMBER BARRON: Thank you,
12 Mr. Chairman.

13 CHAIRPERSON COMRIE: Thank you,
14 Councilman, I think your points are valid and it
15 goes back to how we try to work to make sure that
16 the community benefits and the community doesn't
17 get inundated by negative impact, but we also have
18 to try to balance the needs so that we don't lose
19 our commercial strip, so that they fall back into
20 the abyss of the 70s where they were abandoned and
21 left unmanned and with no owners and businesses,
22 we're losing major tax base to the city in a time
23 when the Mayor wants to try to eliminate 3,000
24 municipal jobs, which I think is a horrible idea--

25 MALE VOICE: That's [crosstalk] been

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2 trying to tell you all--

3 CHAIRPERSON COMRIE: Yeah.

4 MALE VOICE: --and have them come
5 back [crosstalk]--6 CHAIRPERSON COMRIE: Well, I'm not--
7 I didn't--I'm not--I didn't say vote for him, I
8 didn't say vote for him. Now that's a whole,
9 that's a whole another discussion.10 MALE VOICE: [Off mic] billionaire
11 [crosstalk]--

12 CHAIRPERSON COMRIE: A check.

13 [Off mic]

14 CHAIRPERSON COMRIE: Yeah, well, you
15 know, my community voted for him last time as he
16 likes to--17 MALE VOICE: Well we got some work
18 [crosstalk]--19 CHAIRPERSON COMRIE: --nag me, talk
20 to my community, 'cause I didn't endorse him in
21 2005, but, you know, what are you going to do?
22 But, Council Member Gennaro, is itching to ask a
23 couple of questions. So actually I should just
24 say Mr. Gennaro 'cause you're going to be a State
25 Senator in a minute, so we'll see.

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2 COUNCIL MEMBER GENNARO: Thank you,
3 Mr. Chairman. Thank you for your kind words and
4 I'm sorry I was late to today's hearing, there's a
5 lot of legal wrestling that's going on regarding
6 my election and that took up a chunk of my
7 morning, that took me an hour and 45 minutes to
8 get here in all of the traffic, but I'm here and
9 I'm happy I'm here and I'm happy to be a sponsor
10 of this bill and I'm certainly happy to support
11 you, Mr. Chairman, and your leadership in working
12 with the industry to put forward this bill and
13 which, as I said, I'm happy to cosponsor, happy to
14 support. And, notwithstanding the comments of my
15 colleague, Council Member Barron, and we have to
16 be sensitive to the issues that he puts forward
17 and I certainly have an appreciation of that being
18 a former teacher myself and wanting to keep young
19 people, you know, doing the right thing and
20 occupied along the lines of excellence. You know
21 there are always this time to have these kinds of
22 amusements and I want to talk about what you
23 mentioned, Mr. Chairman, in a time when the
24 Mayor's coming forward and tax hikes, layoffs, all
25 kinds of economic problems, I think it's, you

1 know, critically important in this time that we
2 do, you know, what we can to help small businesses
3 that are trying to survive and so we have to
4 recognize the impacts to the extent that there
5 are, but I think we have to do--I think it's
6 incumbent upon us to do everything that we can to
7 help small businesses thrive--survive. This is
8 like what they're, you know, trying to do and I
9 think what's put forward in the bill is eminently
10 reasonable and I don't find the testimony of the
11 Department of Consumer Affairs that I read in
12 full, compelling at all, so I think we have to,
13 you know, sort out whatever issues there are, but
14 certainly we have to move forward. I'm sorry that
15 I missed the opportunity, you know, to hear the
16 testimony of DCA live, but I read it in full, it
17 does not move me. I'm sure, Mr. Chairman, you and
18 the other Council Members here put forward
19 questions to poke holes in, you know, some of what
20 they've postulated here. And I want to thank the
21 industry for being organized, for coming forward,
22 for advocating for their industry. All they're
23 really looking for is the ability to make a
24 living, to pay taxes, to have employees, to give
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2 people health insurance and this is what small
3 business tries to do. I mean, I was a product of
4 a small-business family, my father owned a shop,
5 he operated for 40 years and if not for having
6 that background, I don't think I'd have the work
7 ethic that I have today. And so to the panel, I
8 would say or I would ask and I'm sorry if this has
9 been asked already because I was late, just paint
10 a brief sketch if you haven't already done so of
11 the--of what you had to suffer over the last
12 couple of years in terms of handheld videogames,
13 people having these units that they play at home,
14 and, you know, what that's done to your industry,
15 and, you know, why we have to take this step to
16 make sure that we can, you know, protect your
17 businesses.

18 RICK KIRBY: Rick Kirby, I'm
19 President of Betson Enterprises, Councilman, which
20 is the largest, absolute largest--

21 COUNCIL MEMBER GENNARO:
22 [Interposing] You got to speak right into the mic,
23 just move it over around that way--

24 RICK KIRBY: --okay. Which happens
25 to be the largest distributor of coin-operated

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2 equipment in the country with 12 offices and with
3 one happens to be in New York State and in
4 Syracuse. So I'm pretty on top of decline in the
5 marketplace and it's--we're all, I know my own
6 company alone, we've probably just laid off over a
7 hundred people.

8 COUNCIL MEMBER GENNARO: A hundred
9 people.

10 RICK KIRBY: A hundred people
11 throughout the country, that's correct. We've
12 done downsizing as well as all of my customers
13 have and all of my brother distributors, and the
14 manufacturing community also. It's because of our
15 industry is changing and what we're really asking
16 here is for the ability to change. We've been
17 decimated by the home computer and by the handheld
18 computers that kids have.

19 COUNCIL MEMBER GENNARO: Right.

20 RICK KIRBY: I mean we've been
21 decimated and, as I stated prior--before you were
22 able to get here--I am past President of the
23 National Association for the Manufacturers and
24 Distributors, which was two-year term and I happen
25 to be lucky, under my two years is when Senator

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2 Herb Kohl and Senator Lieberman brought upon video
3 violence issues, which, as an association, we
4 adapted and we have yet to get a failing grade
5 since the starting of rating of games where I can
6 sit here and tell you that the home computer
7 market has not had that same report card.

8 COUNCIL MEMBER GENNARO: Of course.

9 RICK KIRBY: And that's hurt our
10 business somewhat, but that's okay, we've--we're
11 an industry and the Association in New York and
12 also the National Association, as we've stated
13 over and over, they're all independent family-
14 owned companies. And, you know, they--most of
15 them are just three, four, five people, you know--

16 COUNCIL MEMBER GENNARO: Right.

17 RICK KIRBY: --some of them more and
18 the regulations and what we've gone through is
19 just--it's hurt us, it's hurt us bad, the economic
20 decline, gas prices, which, you know, the city
21 isn't responsible for, I understand that, but all
22 of that has added up to our business being hurt.
23 Smoking issues, I don't want to have to tell you--

24 COUNCIL MEMBER GENNARO: Oh, sure.

25 RICK KIRBY: --whether you're for

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2 smoking or not, that's not the subject here, but
3 that has absolutely killed our business, it's hurt
4 the barrooms, and it's hurt the tavern owners and
5 the bar owners--I can't imagine how many have
6 closed in the last few years. But, overall, our
7 industry has suffered and we're looking for a way
8 because the games are changing, we're going--
9 getting more online games, meaning they're
10 connected to DSL lines. I'm able to play a game
11 against somebody in Iowa in national tournaments,
12 so on and so forth, and without the ability and
13 without more games in the locations, we're not
14 going to be able to do that and we're not going to
15 be able to be competitive and hopefully to bring
16 people out of their homes to enjoy.

17 COUNCIL MEMBER GENNARO: And like
18 you said, the standards that these games are held
19 to is a much higher standard than what people
20 could buy for their home use. I see these things
21 depicted, it's unbelievable to see the violence,
22 the stuff that is portrayed in these games. Talk
23 about that and the standard that you're held to
24 versus what people are doing in their homes and
25 presumably in these handheld devices.

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2 RICK KIRBY: Well, we've been under
3 the watchful eye of the government, which has been
4 good, in my opinion. I have no concern, I'm a
5 parent, I have two children, they're just out of
6 their teenage years, so they've--I've lived
7 through the video game era with them. I can tell
8 you, and not to bore anybody, my son came home
9 with one of the games when he was a minor, when he
10 was 16 years old, and he bought a game for the
11 computer system that we have and it was
12 unacceptable and I asked him where he got it and
13 he told me. Well I took it back and told the
14 people, you know, I want my money back, you cannot
15 sell these games to children. But the coin-
16 operated games that we've been operating and have
17 been for many, many years have all passed
18 regulatory issues, have all passed the regulatory
19 laws that are out there. They're kid games, I
20 mean, they really are.

21 COUNCIL MEMBER GENNARO: Well let me
22 ask this question and it goes to, I guess Danny or
23 whoever could speak to this. Now this industry of
24 distribution of these devices or whatever, once
25 upon a time, you know, there was a New York City

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presence, there was more robust, you know, network of businesses in New York City that used to distribute these things, [off mic] were involved in the business and what has happened over the last couple of years and, you know, what is the presence of this, the profile of these businesses now that are, you know, in the distribution and what has New York City lost in terms of presence of this industry here?

RICK KIRBY: You can answer that.

DANNY FRANK: We, Councilman Gennaro, I've been involved on and off with this industry, the trade group since 1975 and this association has been around since the 1940s and I remember we used to have about 300 operators, as we call them, in the tri-state New York region.

COUNCIL MEMBER GENNARO: Operator means someone that has these in their establishment.

DANNY FRANK: Someone--no, the operator buys the game from the distributor or manufacturer, that might be Betson, okay? And he lines up the location, he identifies the location that this would be a good place to have a game, be

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2 it a bar, tavern, club, bowling alley, movie
3 theater, entertainment center.

4 COUNCIL MEMBER GENNARO: Right,
5 yeah.

6 DANNY FRANK: And then he makes the
7 investment, he buys the game, he puts the game
8 out, okay, in the location and then he has a
9 negotiated split on the income and revenue with
10 the location owner, okay? And then he must
11 service that game, okay, he must empty it out from
12 the coinage, he must repair it if it gets damaged,
13 so he has to provide service and from time to
14 time, maybe if the location rates a different game
15 or a new game, you know, he has to update that or
16 if new games come out, he has to then make another
17 investment and buy these newer games. And that's
18 what those operators do--

19 COUNCIL MEMBER GENNARO: Right.

20 DANNY FRANK: --so they are
21 entrepreneurs, they take a risk in business, and
22 typically they're employing 5 to 10 people, a lot
23 of them, and they're family-run businesses--

24 COUNCIL MEMBER GENNARO: Right.

25 DANNY FRANK: --and we only have--

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COUNCIL MEMBER GENNARO:

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[Interposing]. Once upon a time [crosstalk]--

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DANNY FRANK: --about 60 right now

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in the New York area due to consolidation

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shrinkage--

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COUNCIL MEMBER GENNARO: Right.

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DANNY FRANK: --what have, you know,

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we used to--

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COUNCIL MEMBER GENNARO: So once

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upon a time--

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DANNY FRANK: --have 300.

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COUNCIL MEMBER GENNARO: Three

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hundred now down to 60.

14

DANNY FRANK: Right, right, right.

15

COUNCIL MEMBER GENNARO: Well, I,

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Mr. Chairman, I think this is, you know, very

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compelling testimony on how on--on what the

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situation that's out there for these business

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people and, you know, how they're, you know,

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trying to adapt and it seems to me critically

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important that, you know, we in government, as I

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stated before, can, as you said, can't just be

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talking about laying workers off and raising

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people's taxes, we have to figure out a way to

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1
2 work with businesses to grow businesses because
3 that's where all money comes from. I mean that's,
4 that is the economy and I think it's incumbent on
5 us in this instance and in any other instance we
6 can think of to work with the business community
7 to make sure that, you know, these people can do
8 what they need to do in order to survive,
9 hopefully thrive, provide jobs, pay taxes, and
10 keep the economy going. So I thank you for your
11 leadership, Mr. Chairman, in putting this bill
12 forward and happy to cosponsor it and happy to
13 work with these good people here to get this done
14 as soon as possible. And, once again, I'm sorry
15 that I was late, but I wanted to be here to state
16 my, you know, strong support for what you're doing
17 here and anything that I can do to help move this
18 sooner rather than later, I'm very willing to do.
19 Thank you, Mr. Chairman. Thank you. Thank you,
20 gentlemen.

21 CHAIRPERSON COMRIE: Thank you. I
22 hope we get to move it before you move on to your
23 next [crosstalk]--

24 COUNCIL MEMBER GENNARO: Yeah, the
25 clock is ticking, the clock is ticking, yeah.

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2 CHAIRPERSON COMRIE: Council Member
3 Barron?

4 COUNCIL MEMBER BARRON: Yeah, I just
5 wanted to ask you, just some concerns of the bill,
6 and I guess that'll be for you and Jim Gennaro.
7 Presently, you can not be more than 200 feet near
8 a public school, elementary school, or secondary
9 school--

10 CHAIRPERSON COMRIE: [Interposing]
11 We're not changing any of the--

12 COUNCIL MEMBER BARRON: No, I
13 understand, let me finish it, Mr. Chairman, I know
14 you're the boss, but let me just get the rest out
15 and I know--want to mess with your authority here,
16 this could be dangerous, but if we have this new
17 law and they are expanded to 10 operating devices
18 or arcade devices, could that apply--could there
19 be an amendment that they still couldn't be in
20 front of 200 feet in front of elementary schools
21 and--

22 CHAIRPERSON COMRIE: Yes, yes, as I
23 stated in the beginning, we're not looking to
24 change any of those laws that would prohibit their
25 location. As we did in this--at which I was a

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cosponsor of that bill to limit people within 200 feet of schools or religious establishments, we're not looking to expand their scope--

COUNCIL MEMBER BARRON:

[Interposing]. No, I understand that but let me ask you this and maybe I'm just a little confused. Presently, the four devices--

CHAIRPERSON COMRIE: Mm-hmm.

COUNCIL MEMBER BARRON: --could they be 200 feet in front of this--

CHAIRPERSON COMRIE: No.

COUNCIL MEMBER BARRON: Oh, not even with the four.

CHAIRPERSON COMRIE: Not even the [crosstalk]--

CARY DAVID KESSLER: Mr. Chairman, it's one device, doesn't matter if it's one or a million--

CHAIRPERSON COMRIE: Right.

CARY DAVID KESSLER: --section 20 dash 216 would have no effect, it's one or million, doesn't matter.

CHAIRPERSON COMRIE: Okay. All right, we're not looking to create any more

1
2 opportunities than they have now, they're just
3 looking to the locations that they are in for
4 those locations that have more machines in there,
5 correct.

6 CARY DAVID KESSLER: That's correct,
7 thank you, Mr. Chairman.

8 CHAIRPERSON COMRIE: I want to thank
9 you gentlemen for being here, appreciate your
10 testimony.

11 DANNY FRANK: [Interposing] Thank
12 you, Council Members, thank you.

13 CHAIRPERSON COMRIE: Thank you. The
14 next panel will be consisting of Mr. Charles T.
15 Peitz, P-E-I-T-Z from Tricorp Amusements, Mr. Mike
16 Maas from Merit Entertainment and Mr. Allen
17 Weisberg from Apple Amusements.

18 [Off mic]

19 MALE VOICE: Oh, yeah. 26,000 votes
20 yes, highest vote, had nothing to do with Barack
21 Obama [off mic]

22 [Off mic]

23 CHAIRPERSON COMRIE: Excuse me.
24 Whoever would like to go first.

25 MALE VOICE: Good job, good luck.

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2 CHUCK PEITZ: Okay. I'll start
3 first, my name is Chuck Peitz, I'm President and
4 Owner of Tricorp Amusements. We are out of
5 Somerset, New Jersey, we are owners and suppliers
6 of coin-operated amusements, placing equipment
7 within bars, taverns, movie theaters, bowling
8 centers within the boroughs of the city, but also
9 within a number of states: New Jersey,
10 Connecticut, Maryland, and such. The reason I was
11 very interested in speaking is related to, let's
12 say, within the boroughs we have customers who are
13 looking for, in these difficult times, looking for
14 any avenue to increase, I'll call it the ancillary
15 income, the discretionary spending that their
16 customers may have when they are at their
17 establishments. What they're finding is, and what
18 they're asking, let's say, of my company is, is
19 there anything that you can bring, can you expand
20 on your physical presence, can you create greater
21 added value to what these establishments have so
22 the customers will, in fact, come more often, stay
23 a little longer, you know, it's come early, stay
24 late. And for the boroughs, let's say, what it
25 does is that it helps my customers to keep their

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2 employees gainfully employed, they don't have to
3 cut back, it increases sales tax revenues within
4 those establishments, and I think in the overall
5 welfare and good of, let's say, both the
6 establishment and the community, I don't think
7 there's a negative impact to it. I think that the
8 fact that we are truly, within these
9 establishments, we are ancillary to what those
10 establishments do and so I think that the, let's
11 say, the expansion of from a 4-game limit to a 10-
12 game limit will in no way change that. The
13 bowling center won't be a different establishment
14 because it has 10 games versus 4 games. What it
15 will do is that it will afford the establishment
16 the opportunity to have their customers come a
17 little early, stay a little longer, spend a little
18 bit more money. And I think that when it comes
19 down to--again, I fully understand the desire of
20 the city to, let's say, protect the health and
21 welfare of the community. I think that along
22 those lines, while we could--there might be a
23 debate as to whether there--is there no negative
24 impact? I can't tell you that, but I think that
25 as long as, again, we are ancillary to what we do,

1
2 what our customers do, so we're not going to make
3 the bowling center anything different than the
4 bowling center that it is by just having a few
5 additional pieces of equipment and I believe that
6 what we see both, let's say, within the boroughs
7 and in the other states and cities and
8 municipalities that I do business in, what we do
9 find is that most cities or municipalities have
10 regulatory affairs or departments that make sure
11 that what is going on within the presence, within
12 the confines of that business, they maintain,
13 let's say, I'll call it order within that box,
14 they make sure that the, as we talk about, you
15 know, the nine to three regulations for kids and
16 school as far as occupancy and things like that,
17 the health and welfare of the community is
18 maintained by those regulations that are already
19 put in place. And so I think that, again, while
20 I can't say there's no negative impact, I think
21 that as long as--and what we're asking for is
22 truly ancillary to what these places do--I don't
23 think it will be negative. And at the same time,
24 I would say that while, let's say, on this given
25 day, I am allowed to place four games anywhere.

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2 The reality is I can't do that and when I say I
3 can't do that, is that if I went into an
4 establishment and said I'm going to place four
5 games because I'm allowed to, but the only place I
6 can put these games is in front of the fire exit,
7 there is going to be an authority that's going to
8 say, well Tricorp, while you do, in fact, have the
9 right to place these games within this
10 establishment, the health and welfare of the
11 community is going to be protected and you're not
12 going to be able to do that and I think that
13 that's kind of the safety net in all of this
14 that's going on. So I go back to the idea of it's
15 an ancillary--an expansion of an ancillary use of
16 which the city has many different departments and
17 regulations and codes that protect almost like all
18 the other questions that you really have in mind.
19 And I think that on the positive side, the
20 locations will be the beneficiary of additional
21 revenue in very, very difficult times and the
22 state and city will be the beneficiary of the
23 additional tax revenue of those businesses doing
24 better.

25 CHAIRPERSON COMRIE: Thank you.

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MALE VOICE: Thank you.

CHAIRPERSON COMRIE: Next person.

ALLEN WEISBERG: Hi, my name is Allen Weisberg, I own a company called Apple Amusements, we're an operator of coin-operated amusement devices in and around New York City exclusively. We operate in movie theaters, bowling centers, bars and restaurants, some chain stores, such as Kmart. A lot of what I wanted to say has been said, so I'm not going to repeat it, but I would like to add that the concept of an arcade that was the licensing for an arcade years ago is not necessary in the same standard of business environment that we're in now. So the 10--the placement of 10 machines does not--we're not in the same business environment that we were years ago. Our product has become more of an impulse item rather than at a destination point. We don't have children coming to our establishments for the sole purpose of playing a videogame--they're at home playing a Nintendo game. What we have, we offer a different type of product and, because we can't link games, we can't put large number of games into an establishment,

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2 we're hindered. There is a game called Dance
3 Dance Revolution, it's been written up in many
4 magazines, studies that it's an exercise, it's a
5 form of exercise, it's good for children, brings
6 them out of their basement from playing a video
7 game or their apartment. We can't link up these
8 games because two people can play that game. If
9 we wanted to link those machines and put four or
10 five games in, we can't do that. So we're
11 hindered by the rules and regulations that we have
12 now. So I think it would be a good thing to add,
13 as I said before, all the rules that are--of
14 regulation are in effect, whether we have 4 games
15 or 10 games and I think it would help us small
16 business people keep our employees. We employ 10
17 people at our company, we're now facing a crisis,
18 our revenue is down by 30% across the board, we're
19 looking for ways to figure out a way I can
20 continue to employ all of them, we're looking
21 right now at laying off three people, we pay
22 health care for those people, they all have
23 families. They've been with me for over 20 years,
24 some of these people. I'm second-generation and I
25 take it very personal the responsibility of

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2 keeping them employed. Some of my customers are
3 also facing the same situation, owns the bowling
4 centers, bars, restaurants. They, too, are
5 looking at the same situation. If we can do
6 something here that can help in that--in this
7 matter and not have any negative implications, I
8 think it's a good thing. I do see a light at the
9 end of the tunnel on a good note, I see technology
10 from factories that supply us with product with
11 the online tournaments, I see that as a good
12 thing. It's going to give us the ability down the
13 road to be competitive with the home games and
14 bring people out, earn some more dollars, keep our
15 employees employed, but we need this change. We
16 needed it, we need it, it's very important to keep
17 our companies alive. Thank you.

18 CHAIRPERSON COMRIE: We've been
19 joined by Council Member John Liu. The next
20 speaker? And did you want to--no, not yet, did
21 you want to say anything?

22 [Off mic]

23 CHAIRPERSON COMRIE: I know you're
24 chairing another committee, so I know you have to-

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COUNCIL MEMBER LIU: Yeah, Mr.

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Chairman, I just want to thank you for holding

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this hearing because these issues have been

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broiling up in the community and so thank you for

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chairing and I apologize that I have to chair the

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committee across the street simultaneously.

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CHAIRPERSON COMRIE: That's too

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little rooms, too little time. We have

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simultaneous hearings going on, thanks for

11

stopping by. Next week speaker?

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MIKE MAAS: Council Members, thank

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you for having me, my name is Mike Maas, I am the

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President CEO of two manufactures in this

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industry, one is a company called Merit, we make

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gaming systems, the ones that we're talking about

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here, the leader in that space. The other

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company, it's in Michigan, a company called Rowe

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International, you may know that name. Rowe will

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be 100 years old next year. It's a maker of

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jukeboxes for literally a century as of next year.

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Thank you for letting me be here to support the

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operators and the community here in New York.

24

I'll be relatively brief and just really reinforce

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a few things that have been said. I may have a

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2 slightly different perspective because, unlike
3 most of the folks in this industry who have--who
4 are second, third, fourth generation, I'm new to
5 this industry as of a couple of years ago, came
6 from the computer industry's with Microsoft for a
7 few years and previous to that about a decade
8 right here in New York with IBM Corporation. So I
9 may have, to the extent that the Council has some
10 questions from a relative new person to the
11 industry, I may be able to serve that purpose.

12 Just a couple things I want to reinforce, number
13 one, this focus on gambling versus amusement, I
14 think is very, very important. These are
15 amusement devices, they serve a purpose as was
16 just alluded to in terms of keeping people in a
17 very social environment entertained and spending
18 money in ways that go well beyond this industry.
19 You know, we support and really are the tip of an
20 ecosystem, it's a critical piece, it's not the
21 sole piece, I think Councilman Barron's concern
22 about this change breeding solely entertainment,
23 you know, centers, that's really, in my opinion,
24 not a relevant concern and if you look beyond New
25 York to the rest of the country, you know, there

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2 are many, many places where this constraint does
3 not exist and yet we don't see that effect. If
4 you think about the economics of trying to operate
5 that kind of center in today's time with these
6 kinds of systems, just the economic equation
7 wouldn't close. So I'm personally not too
8 concerned about that. I do think that this
9 industry needs some change and some vision and,
10 together with New York, which is a leading
11 community and geography for that. Working with
12 manufacturers and the distributors, we think that
13 we can make some significant change, but we need
14 some freedom to innovate and some freedom to be
15 able to take these new technologies and make good
16 use of them and that's really what's behind all of
17 this. So on behalf of Merit, Rowe, the 400 or so
18 employees that those companies are distributors
19 and all the operators here, as well as the
20 locations that we serve, I want to say thank you
21 for being supportive of this and moving us
22 forward. It's going to help the industry a lot.

23 CHAIRPERSON COMRIE: Thank you all
24 for testifying today and we will be looking at
25 your concerns. The ability to, you know, as

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2 you've heard from Council Barron who eloquently
3 cited his concerns, the siting I think is the big
4 issue, once we have an expanded amount, so we have
5 to make sure that we're cognizant of the siting
6 and that we're not doing anything that would
7 create more, as I think Mr. Kessler said earlier,
8 you know, unintended consequences. But clearly
9 we're going to work on this, I think, you know, as
10 I've said earlier, making sure that we can
11 maintain small business in a difficult time is
12 important. Also keeping the industry focused on
13 making sure that we have a situation where we're
14 not creating problems or we're not running to
15 bodegas in grocery stores to try to do everything
16 we can to site machines is a concern, I think,
17 also. So we have to do everything with a balance
18 and with integrity and also trying to maintain the
19 economic income in the city, so there's always a
20 balance in what everything we do and I appreciate
21 you coming down and expressing your concerns. We-
22 -you know, one of the things that you want to do
23 is to be able to create jobs and create revenue as
24 a legislature, you know, and as a member of a
25 legislative body, my main--one of the things that

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2 I need to try to do is create opportunities for
3 the creation and maintenance of revenue. So it's
4 important that we have to work to maintain both to
5 watch out for the quality of our life for
6 constituents that we're always concerned because
7 it's the ones that are--scream the loudest that
8 are always concerned about quality-of-life issues
9 and they're always in your ear when you stop
10 anywhere in your district. So we have to be very
11 careful of how we perceive, but I think that this
12 bill can achieve both and we'll have to work
13 together to make that happen. So thank you for
14 being here. The next panel--oh, did you have a--
15 oh, I'm sorry. No, next panel and final panel,
16 unless anyone else wants to fill out an appearance
17 card is Mr. Joseph Bossolina and Mr. Thomas
18 Faranda? I'm not sure if that's an F, looks like
19 an F--from A & S East?

20 [Off mic]

21 CHAIRPERSON COMRIE: Oh, you weren't
22 planning on speaking or...

23 MALE VOICE: I'll [off mic]

24 CHAIRPERSON COMRIE: Okay. All
25 right. [Off mic] Whoever wants to go first.

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2 JOSEPH BOSSOLINA: Councilman Comrie
3 and your staff, Thank you very much and is it Mr.
4 Gennaro now?

5 COUNCIL MEMBER GENNARO: Oh, it's--
6 call me Jim, that's fine.

7 JOSEPH BOSSOLINA: Thank you very
8 much for giving us this opportunity to speak on
9 behalf of this legislation. We, like some of the
10 previous speakers had said, a lot of what we
11 needed to cover was spoken eloquently by some of
12 the preceding speaker, so I would just say my
13 company is McGee Amusements, we're a third-
14 generation company. We service primarily--we have
15 some business in New Jersey, but primarily it's
16 New York City and New York State and we operate,
17 and what that means is we buy equipment and then
18 place it into bars and make financial arrangements
19 with those bars for the sharing of income. Our
20 main product lines are digital music jukeboxes,
21 video games, pool tables, and the things that you
22 are also familiar with. I did have an opportunity
23 to speak with Council Member Barron outside just
24 to explain a little bit more about what my company
25 actually does so that, you know, we were on the--

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2 kind of on the same page and it was a very useful
3 conversation. Just for the record, we operate
4 things such as countertop games, provided by Merit
5 Industries, photo booths, pool tables, foosball
6 games, skeet ball machines, video golf games,
7 whatever is appropriate for a particular venue.

8 CHAIRPERSON COMRIE: Is a photo
9 booth considered a device?

10 JOSEPH BOSSOLINA: That's a good
11 question, I don't know the answer to that, perhaps
12 I could reach out to the audience--no, it's not.

13 CHAIRPERSON COMRIE: Okay. All
14 right. Just curious. Go ahead, I'm sorry to
15 interrupt.

16 JOSEPH BOSSOLINA: That's okay, no,
17 so the specific one thing that I'd like to add to
18 the discussion, most of the time, I don't have
19 any, you know, I don't have any desire to put more
20 than four items. Usually space limitations, as
21 has been spoken to--spoken about before, but the
22 change of technology is really important when it
23 comes to the number that we're talking about.
24 There is an item which I am testing currently in a
25 beta test for a company that I do a lot of

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2 business with, Touchtunes, who's a digital jukebox
3 company, they've created a new mechanism by which
4 to get the games and music choices into the hands
5 of players. It's called a Playportt, it's a
6 portable--it looks like a laptop computer, the top
7 end of a laptop computer and it stands on a stand
8 and you actually can take it with you to your
9 table and that's the whole idea is to make the
10 choices available to people at the table at a bar,
11 let's say. And so, if I were to have as
12 designated or as perceived or as they're providing
13 for us to be able to have this, they went to have
14 three or four of five of these things that will
15 stand in a caddie as you're walking through the
16 door and you'll be able to take one if you, you
17 know, choose to take one to your table and at that
18 table, you'd then be able to play a jukebox right
19 through it wirelessly, it's really actually quite
20 cool, and it's also you'd be able to play the
21 games. So it's a expansion of the exact same
22 technology that we have except it's going to be
23 wireless. And so I suspect that I would be
24 running afoul if I were to have four or five of
25 these in a location that has 10 or 20 tables and I

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2 already had three machines, a jukebox--excuse me,
3 not a jukebox, a pool table, a golf game, and a
4 current countertop, I would be running afoul of
5 the city rules which--and I don't believe that the
6 city really had any, would have any real interest
7 in prohibiting me from doing that. So it's a very
8 real thing, it's happening right now and I think
9 that's one of the main things that I'd like to
10 speak to the Council about that and let you hear
11 that. And the only thing--other thing I would
12 mention that, Councilman Comrie, you had mentioned
13 earlier about a licensing. The one thing that
14 scares me about licensing is that we had a license
15 years ago and it created the most unbelievable
16 nightmare for businesses like mine. We had to go
17 down, we had to file individually, we had to have
18 certified funds, you had to have--each individual
19 location had to have it's own notarized
20 application--it was devastating, and the city, at
21 the time of the repeal of that requirement,
22 realized after great amount of lobbying on our
23 part that all we were doing was making busywork
24 and it was actually cost--we had to have a person
25 here in New York City three days a week at the

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2 Department of Consumer Affairs. So I would only
3 just caution against that, although we would
4 obviously be interested in working with you in any
5 way and I really appreciate your knowledge of our
6 industry, I was actually stunned at how much this
7 committee realizes and knows about our business.
8 So I really appreciate that and we'd be willing to
9 work with you in anyway. Thank you very much for
10 the opportunity to speak.

11 CHAIRPERSON COMRIE: Thank you.

12 What is a Chuck E. Cheese considered? Is that
13 considered an arcade or what is that?

14 JOSEPH BOSSOLINA: That would be
15 what we now refer to as a family entertainment
16 center.

17 CHAIRPERSON COMRIE: Family
18 entertainment center.

19 JOSEPH BOSSOLINA: And, generally
20 speaking, in a family entertainment center, the
21 people who you are seeing here today, don't
22 operate those family entertainment centers, those
23 operations are, again, this is not an across the
24 board statement, but primarily owned by a large
25 corporation--

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CHAIRPERSON COMRIE: Mm-hmm.

JOSEPH BOSSOLINA: --like a Dave & Busters and they own their own equipment--

CHAIRPERSON COMRIE: Mm-hmm.

JOSEPH BOSSOLINA: --and in those cases--

CHAIRPERSON COMRIE: [Interposing].

We don't have any in--we don't have a Dave & Busters within New York.

[Off mic]

MALE VOICE: Time Square.

CHAIRPERSON COMRIE: In New York City? Yeah, well Times Square is a little different, but nothing in the five boroughs, right?

FEMALE VOICE: There's a Chuck E. Cheese--

JOSEPH BOSSOLINA: Not that I'm aware of, no.

CHAIRPERSON COMRIE: Right, I know there's a Chuck--

[Off mic]

CHAIRPERSON COMRIE: --there's a Chuck E. Cheese in Long Island City--

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2 FEMALE VOICE: There's one in
3 Brooklyn [crosstalk]--

4 CHAIRPERSON COMRIE: --and there's
5 one in Brooklyn, I think out in--

6 FEMALE VOICE: [Off mic]

7 CHAIRPERSON COMRIE: --in Atlantic
8 Center and there's one in the Bronx, but I think
9 that's right near a highly dense municipal
10 downtown area, also, I think so I was just curious
11 as to--

12 JOSEPH BOSSOLINA: [Interposing]
13 Once our children have passed the target age, we
14 all try to, I think, avoid those places as much as
15 possible.

16 CHAIRPERSON COMRIE: Well, yeah,
17 mine are 11 and 14, thank God, they don't want to
18 go to--they found out about Dave & Busters from
19 watching too much TV though, but...

20 JOSEPH BOSSOLINA: Right.

21 CHAIRPERSON COMRIE: We need to
22 figure out how to see to create other
23 opportunities for establishments because there is
24 a need--to just go back to the Dance Dance
25 Revolution thing, in Japan they have, you know,

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2 and in Asia and China, when I went, they had
3 locations that were set up just to have people
4 come in to--in groups, large groups to enjoy those
5 types of entertainment and, you know, and there's
6 a whole culture around, you know, doing that thing
7 in a group setting and as opposed to only be
8 limited to your home. So clearly there's--if
9 there's and an--if there's a need, we should
10 create an opportunity for that need to be
11 realized. But yes, the--what else--the, you know,
12 I have been looking at this and I have been
13 talking to some of the people that have testified
14 today before and, you know, as I said earlier, we
15 need to make sure that small businesses strive in
16 this city and we need to temper that with the need
17 to deregulations 'cause we don't want to create
18 problems for anyone while we're allowing people to
19 earn an income, so there's always a balance. I
20 appreciate you being here, you don't feel that
21 this legislation would create too many onerous
22 provisions for you as it is stated at this
23 particular time.

24 JOSEPH BOSSOLINA: No, it would be,
25 in my opinion, it would be what government should

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2 do for business. When there's no adverse effect,
3 let us make our own decisions that that can be
4 justified based upon the interaction between the
5 venue and the supplier of these amusements. So I
6 think it's a terrific piece of legislation.

7 CHAIRPERSON COMRIE: Thank you.

8 Mr.--do you want to say your last name because I
9 don't think I said it right.

10 TOM FARANDA: Yeah, my name is Tom
11 Faranda, I'm a General Sales Manager for American
12 Vending Sales and I'd just like to say that I
13 thank Councilman Comrie and Councilman Gennaro for
14 allowing me just to come into your courtroom
15 today. I'll be very brief, I just give an
16 overview of basically what you said. We're a 3-
17 year-old company that entered the distribution
18 marketplace with my brother, that's an enterprise,
19 we compete for the sales of the equipment that go
20 to the operators. And we're three years here and.
21 quite honestly, 60% of our sales are done with New
22 York operators and it would be very detrimental if
23 we couldn't increase that number from the 4 to 10
24 product. And manufacturing of different products
25 is limited today because of the economic times

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2 that are out there and it would be very beneficial
3 to our company, and I'm sure as well as Betson if
4 you could increase that number from 4 to 10 and
5 I'll just expand upon what you said as far as
6 keeping business and keeping the sales tax
7 revenues consistent and that's pretty much what
8 we're all looking to do is keep our jobs. So
9 thank you.

10 CHAIRPERSON COMRIE: Thank you.

11 Well thank you for coming down today. Again,
12 Council Member Gennaro wanted to make a statement.

13 COUNCIL MEMBER GENNARO: Oh, sure, I
14 just wanted to--well I wanted to thank this panel
15 and the other folks that are here. Just wanted to
16 point out for the record, Mr. Chairman, something
17 that you've probably already seen and were
18 probably going to note yourself that I don't see
19 anyone here anymore at this hearing from
20 Department of Consumer Affairs. Anyone here from
21 Department of Consumer Affairs? Anyone here from
22 the Bloomberg Administration? I don't see anybody
23 here and so this is a day when, you know, the
24 Mayor is talking about raising taxes and, you
25 know, cutting services and laying off employees

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2 and renegeing on the property tax rebate and what
3 he--he claims to have real sensitivity for
4 business and I would venture to guess that this is
5 probably the only hearing going on right now in
6 the City Council that's dealing with an issue
7 relating to business development and keeping
8 businesses here. But the Bloomberg Administration
9 and the agency, the Department of--DCA is not in
10 the house, not in this room. If they cared about
11 what these gentlemen had to say, they would be
12 sitting right here, they're not here, shame on
13 them. I just wanted to note that for the record
14 and if there were legitimate issues regarding
15 public safety, regarding whatever, they would
16 have--they would've brought in, you know,
17 ancillary witnesses from other agencies, you know,
18 police community affairs people or whatever who
19 can bolster their points. And so I don't give
20 much credence to the DCA testimony and the
21 bogeyman about--the trotting out bogeyman in their
22 testimony about what it's going to do to local
23 communities. If they really believe that, they
24 would've had other people here to, you know, back
25 up those assertions, they certainly would have

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2 stayed in this hearing throughout the entire time
3 if they really cared about small business, they're
4 not here and I just wanted to state that for the
5 record. And to thank you, Mr. Chairman, once
6 again for your leadership in putting this forward
7 and working with these good people and how we can
8 grow business and how we grow the economy and I
9 thank you for holding this hearing. I'll do
10 whatever I can to move this with you and to work
11 with these good people to get this done. So I
12 also want to give a special shout out, I know this
13 is taking a little privilege here, we have a guest
14 in the house, my son Chris Thompson from the great
15 state of Georgia is here visiting his--

16 [Applause]

17 COUNCIL MEMBER GENNARO: --and you
18 want a guy that knows how to campaign, he's the
19 guy. So thank you, thank you, Chris, and thank
20 you, Mr. Chairman. Thank you everybody

21 [crosstalk]--

22 CHAIRPERSON COMRIE: He just came
23 yesterday or...

24 COUNCIL MEMBER GENNARO: No, he's
25 been here for like two weeks and he is really

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2 looking--he's really looking to get back to
3 Georgia, yeah.

4 CHAIRPERSON COMRIE: Oh, okay.

5 COUNCIL MEMBER GENNARO: He's had
6 enough of New York City politics, yeah.

7 CHAIRPERSON COMRIE: Ah, we need him
8 here for a little while longer so we'll see. Nice
9 to meet you, Chris. Thank you. All right. Yeah,
10 just to respond, DCA was here, you know, I
11 politely refuted everything, she didn't have any
12 statistics, no status on complaints, no status on
13 quality of life calls, no stats on anything really
14 and it was, you know, as when she talked about the
15 issues of public safety, she didn't have any facts
16 on that as you succinctly pointed out. So, you
17 know, I was polite, but they, you know, the issue
18 of trying to keep businesses is critical and
19 generate revenue is important, especially during
20 these particular times that we find ourselves in,
21 in the city and in the nation. So if we can, you
22 know, I agree with you, wholeheartedly allow our
23 small businesses to thrive and grow, we need to
24 find a way to make that happen. So, you know,
25 notwithstanding the concerns of Council Member

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2 Barron, which are legitimate, we don't want our
3 children in these establishments all day, but we
4 have to make sure that the police do their job
5 because it's already on the record that kids
6 shouldn't be in any establishment playing games
7 between 9 a.m. to 3 p.m. so we have to help him
8 with that also and you know. But clearly we need
9 to make sure that we find a way to stimulate
10 revenue and I think that, you know, we can't allow
11 government to interfere with stimulating possible
12 revenue. And, you know, my son has been after me
13 for the last month to try to get him an Xbox 360,
14 I got him a Wii, you know, but the--and, you know,
15 I enjoy the Wii 'cause that's a family
16 entertainment type of device, but the Xbox
17 clearly, you know, as I researched, most of those
18 games are single person shooters, they're not the
19 type of family games that are on the Wii and, you
20 know, to have this industry to be able to go
21 online to do competitive national and
22 international tournaments I think is good for
23 bringing the family back out to a local location
24 so that they don't have to go all the way to Great
25 Adventure or even to Coney Island--hopefully, we

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2 have a Coney Island next year, but if we don't,
3 you know, that's a bigger problem. So, you know,
4 I want to thank all of the people that came today.
5 Rest assured we will be asking DCA to provide
6 those statistics that they did not have today, we
7 will be working with them to try to get this done
8 as quickly as possible. It's not a no-brainer,
9 clearly we have to make sure that there is some
10 opportunity for oversight, but we don't want the
11 oversight to be onerous. In this day and age, you
12 should not have to fill out a gazillion forms and,
13 while there needs to be a opportunity to be
14 cautious, there shouldn't be an opportunity--or it
15 should not drive businesses to the point where
16 they don't want to do business. So I want to
17 thank everyone for coming today and I look forward
18 to talking with all of you soon and, with that,
19 I'll declare the hearing closed, since I don't
20 have a hammer. Thank you. Thank you very much.

21 MALE VOICE: Thank you.
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C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature Tammy Wittman

Date November 24, 2008