The City University of New York

CUNY School of Public Health
@ Hunter College
2180 Third Avenue
New York, NY 10035

Jack Caravanos, DrPH, CIH
Associate Professor and Program Director,
Environmental and Occupational Health Sciences
(212) 396-7780
jcaravan@hunter.cuny.edu

Committee on Civil Service and Labor
The City Council of New York, New York

December 12, 2013

RE: Intro 852-A: The Car Wash Accountability Act

Dear Members of the New York City Council:

I am here today to express my opinion regarding the environmental impact of Car Wash Facilities as related to Intro 852-A, "The Car Wash Accountability Act." I will address the environmental consequences of car wash facilities, and am not specifically expressing support for or against this legislation. However, I am surprised that the car wash industry has escaped regulation for so long. The wastes coming from car washes pose grave environmental concerns, and city oversight over the car wash industry would go a long way towards protecting New York City's people and environment.

As background, I am a tenured Associate Professor and program director of the Environmental and Occupational Health Sciences program at City University of New York School of Public Health (Hunter College) and have over 35 years of experience. Our program has been teaching and training professionals in the identification, evaluation and control of environmental and industrial health hazards since 1978 and has graduated over 600 students. Our alumni conduct environmental health assessments throughout the United States and abroad.

With regard to my experience and expertise commenting on the New York City Sewage Treatment System, I studied the process and engineering aspects of the sewage treatment system during my studies at CUNY and The Polytechnic Institute. During my course of study, I did an extended internship at three New York City Department of Environmental Protection (DEP) wastewater treatment plants (Bowery Bay, Newtown Creek, Ward's Island), as well as a summer on the New York Harbor Survey Boat out of Flushing Bay. As a Professor, I received a large training contract in the late 1980's from DC37, whereby I conducted safety and health training for all sewage treatment workers who were members of Local 1320. I also authored a Right to Know Handbook for Sewage Treatment Workers, which describes sewage treatment plant processes and the chemicals that go into the sewage system. In short, I am very familiar with both the theoretical and practical aspects of wastewater treatment. Finally, on a personal note, I am born, raised and educated in New York City. I've lived in Washington Heights, Astoria, and Flushing and now East Midtown in Manhattan.

The car wash industry and its wastes present a serious ecological threat to our city preventing citizens from enjoying the water, and endangering the lives of the plan in the water. The untreated wastewater coming out of car wash operations contain environmentally persistent chemicals that impact New York City's waterways. M are not removed (i.e. treated or destroyed) during the city's normal secondary sew That means that harmful materials will enter the waterways: the East River, Hudsc Sound, Jamaica Bay, and Lower New York Harbor.

Let me briefly describe some of the harmful compounds. First, car wash wastewat petroleum hydrocarbons – the oils, greases, and lubricants associated with automo unlike the biodegradable fats, greases, and oils associated with food. Petroleum hy readily degrade and may pass through the secondary sewage treatment process. A compound is the particles coming off of the cleaning process, which are both orga and are often coated with numerous surfactants –ionic and non-ionic cleaners. The simply roadway grit. They, too, will likely pass through the secondary sewage tre our waterways.

Wastes from the car wash industry might also pose a serious human health threat. the health consequences of the car wash wastes are, but it is indisputable that the c washing are corrosive and harmful. When wastes are sufficiently concentrated wit wastes themselves pose public health dangers.

In short, the wastewater coming out of car washes contains unacceptably high leve therefore imperative that car washes have a wastewater filtration system that will a harmful materials from its wastewater before that wastewater is sent to the city sew system must have oil/water separators and be adequately maintained such that slud the filter and overflow the system. Without these filters, harmful chemicals and co our city's waters.

If car washes aren't maintaining the proper filters – which I suspect they aren't – th serious ecological risk. Grasses, plants, shellfish, birds, and other wildlife are thre pollutants. Car wash pollution might also pose a human health threat. And it's ce concern – surfactants like those found in car wash wastewater produce sudsing (foa water's surface), and suds are ugly. People don't want to recreate in polluted wate pollution from the car wash industry is affecting waterways throughout the city. It Bay, which has finally become a nice recreation area. It's affecting the waterways

New York City has had tremendous success with improving its wastewater treatme quality has improved by a great order of magnitude, to the point where we now hav fishable waters. And this is all due to strong and effective environmental regulation wash industry is a necessary next step towards protecting the city's environment.

If we don't take measures to regulate the car wash industry, we risk nearly irreversi ecosystem. A prime example is the Gowanus Canal, a Superfund site. Years ago, stopped polluting the Gowanus Canal, it would be restored naturally. But it's been over the decades that it's just not happening fast enough. Finally, the EPA decided Canal is too contaminated, so we have to take affirmative measures to clean it out. (Superfund) process of sealing it up and digging out tons of sediment. This goes to from commercial operations can be long-lasting and costly.

Another concern, in addition to concerns related to wastewater, is the way in which disposing of the sludge that collects in their filtration system. The federal Resource

Recovery Act (RCRA), 42 U.S.C. § 6901 *et seq.*, requires that businesses which generate "hazardous wastes" must treat, store, and dispose of their wastes in specific, safe ways. They can't just throw hazardous wastes into the garbage or down the city sewers.

To my knowledge, the EPA doesn't know one way or the other whether car wash sludge is classified as hazardous waste. But there's a good chance that car wash sludge is what's called a "characteristic" hazardous waste due to its corrosive properties. When concentrated, many of the chemicals in car wash cleaning agents are *definitely* hazardous wastes; it's just a question of whether the sludge itself has sufficiently high quantities of these chemicals to be considered hazardous in its own right. In any case, pursuant to 40 C.F.R. § 262.11, the burden is on the car wash to test their solid waste and determine whether it is hazardous or not. I doubt that car washes are doing this. Thus, the sludge from car washes is yet another environmental concern posed by the car wash industry.

All in all, I was surprised to learn that this industrial group is completely unregulated with regard to water use and waste disposal. Comparable industries like dry cleaners are regulated. Even the fat coming out of a restaurant is more heavily regulated than the chemicals coming out of a car wash. While I realize that such regulations could be economically burdensome to car wash owners, the cost of environmental damage and deterioration should be internalized. Currently, car washes are imposing untold costs on New York City, and they are getting away without paying for any of the damage they're causing.

The importance of the City Council in protecting the citizens of New York City is historic and indisputable. Numerous initiatives generated by this body have made NYC one of the safest and healthiest places to live; be they targeted at crime, disease eradication or cleaner streets. Today, the Council should act to protect New York from the hazards posed by the car wash industry and to make our city a healthier, more beautiful, and more ecologically friendly place to live.

Thank you for your time and consideration.

Sincerely:

Jack Caravanos, DrPH, CIH
Associate Professor of Environmental Health
Track Coordinator; EOHS MS / MPH degree programs

N·Y·S·A
NEW YORK STAFFING ASSOCIATION

FOR THE RECORD

Jennifer D. Kelley | Executive Director

Comments from the New York Staffing Association

on Proposed Legislation to Amend Local Law 46

We thank the Council for clarifying that only a maximum of 40 accrued hours may be rolled over from one calendar year to the next. While that was the original intent, it was unclear in the original bill language. We would like to present several other points which we think would help clarify the LL46's intent which could be incorporated into this new bill:

1. *Clarify that employees only accrue paid sick time for those hours actually worked within the City of New York*. It is clear that the City Council's intent was to link the accrual of benefits to time worked within the City of New York. For instance, Section 20-912(f) of the Act defines a covered "employee" as a person "employed for hire *within the city* ...." (emphasis added). However, there is a technical fix required to effectuate this intent. Specifically, Section 20-913(b) should be modified to read "All employers shall provide a minimum of one hour of sick time for every thirty hours worked by an employee **within the City of New York** ...." In the absence of this fix, an employee may argue that time spent working in Westchester, Long Island, or Albany (or California for that matter) should be counted toward calculating the amount of paid sick time accrued.

2. *Clarify that employees may only use accrued paid sick time for absences from work within the City of New York*. Again, it is clear that the City Council's intent was to affect the terms and conditions of employees working within the City of New York. To make this clear, Section 20-914(a) should be modified to read "An employee shall be entitled to use sick time for absence from work **within the City of New York** ...." In the absence of this technical fix, employees might argue that they are eligible to use accrued time for absences from work anywhere in the nation.

3. *Clarify whether existing employees must be given notice of their rights under the Act*. As currently drafted, Section 20-919 only requires employers to provide new employees with a notice of their rights under the Act. That is, the Act does not address providing such notice to existing or continuing employees as of the Act's effective date. This Section should modified to make clear whether existing employees must be provided with such notice of rights.

4. *Clarify whether a notice posting is required in addition to providing individual employee notice*. As currently drafted, Section 20-919 also states that, in addition to providing individual workers with a notice of rights under the Act, employers "may also" conspicuously post a notice of rights at the employer's place of business. Because of the permissive ("may" also) language used by the City Council, this Section should be clarified to read that "**In the alternative, [s]**uch notice may also be conspicuously posted at an employer's place of business ...."

Please feel free to contact us directly if you wish to discuss any of these points. Thank you.

110 East 42nd Street, Suite 802 | New York, NY 10017

Phone: 646-723-3215 | Toll Free: 800-264-7029 | Fax: 646-723-3216

info@nystaffing.org | www.nystaffing.org

definition of "employer," therefore, their workers were not covered by the technical language of the bill either for paid or unpaid sick time.

This was not our agreement. The technical amendments will revise the law in a straightforward way to exclude manufacturing employers from having to provide paid sick time but saying that all other EMPLOYEES (which would include employees of excluded manufacturing employers) receive unpaid sick time.

This fix is necessary to effectuate the agreement made with respect to this law and to insure that manufacturing workers are not totally excluded from the benefits of being able to stay home sick without risk of being fired.

Thank you for this opportunity to testify, for making these technical corrections, and above all for passing a paid sick days bill that will cover millions of workers in one form or another in the city of New York.

Testimony of Benjamin Locke on Int 0852-A
The Car Wash Accountability Act of 2012

Hearing before the Committee on Civil Service and Labor
December 12, 2013

Benjamin Locke
Staff Attorney, Make the Road New York

My name is Benjamin Locke. I am a staff attorney with Make the Road New York. Make the Road is the lead author of the Car Wash Accountability Act.

The testimony we have heard today highlights a range of possible misconduct taking place at New York City's car washes. Consumers report unscrupulous business practices. And workers are reporting suspect environmental practices. In 2012 this Committee also heard testimony raising concerns about compliance with environmental health and safety standards and worker rights. When it comes to New York City's car wash industry, it seems the old adage holds true: The more you dig, the more dirt you come up with.

That is to say, we don't know the full range of bad practices that take place at car washes. And we can only begin to calculate the toll they take on the City. The research and testimony presented today tell only a part of the story. But we know enough to conclude that this is an industry that needs oversight. With City oversight, we can begin to tally non-compliance and finally rein in car washes.

The bill proposed here is intended to create a mechanism for doing this. As the Committee is aware, this is a proposal to extend the licensing requirements of the Department of Consumer Affairs to cover car washes. The Department of Consumer Affairs is the most appropriate agency in which to house oversight authority. Under New York City's Licensing Law, the DCA already oversees 78,000 business in 55 industries. Tow truck companies, garages, parking lots, and car booters must all have licenses to operate. Car washes would be a very logical addition to this list. Moreover, the DCA has legal authority to enforce wide-ranging reporting requirements, which would go a long way toward bringing transparency to an industry whose opacity otherwise shields it from effective scrutiny.

The DCA also has the power to require businesses to supply proof of compliance with laws that are ordinarily the province of other agencies. For example, under the Licensing Law, laundry operators must demonstrate compliance with the building code and the health code. The DCA's authority to examine compliance across a broad range of practices means that the City can identify and target the worst offenders in the industry.

Car wash licensing requirements are already in force in other jurisdictions. California's experience is perhaps the most germane to today's discussion. California's licensing law also emerged from a car wash campaign. It was passed in 2003 and set to sunset at the close of 2006.

The sunset has since been extended twice. And most recently, this past Oct provision was eliminated, thus making the licensing requirement permanent requirement has also ushered in the start of a transformation of the industry. years of the law's statewide enactment, the percentage of car washes deeme went from 18% to 63%. The main industry group retreated from its outrigh law and car wash operators even went on the record calling for stronger enf rogue operators would not gain an advantage over compliant car washes. It licensing requirement would have the same effect in New York City. By re conduct and targeting bad conduct we can turn honest car wash operators in their industry.

The bill addresses the issues we heard about today. It requires proof of com wastewater discharge. It also requires that car washes maintain a log docur complaints. But it also incorporates broader transparency requirements. Ca to disclose corporate information and the identities of their officers. In our washes, this information is often difficult to track down. Also, car washes a proof of insurance coverage. By introducing new transparency to the indust will promote compliance, inform consumers, and provide the wherewithal f enforcement.

In sum, New York City's car wash industry is in need of oversight. The Co about a range of bad practices impacting New Yorkers' general welfare and The Car Wash Accountability Act would hold car washes to a new standard oversight, one that numerous other businesses follow while competing succ contributing to the life of the City. The result will be a marketplace that rew good business practices for the benefit of all New Yorkers.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card | 84

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: Dec 12

(PLEASE PRINT)

Name: Paulette Sakhai

Address: 1399 Pacific Street

I represent: Joanna Laine

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card | [ ]

I intend to appear and speak on Int. No. _____ Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Sherry Leiwant

Address: ~~80 Maiden Lane~~ 375 ASP, NJ, NY 10038

I represent: Arthur Balance

Address: 80 Maiden Lane

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card | [ ]

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Benjamin Locke

Address: 301 Grove St. Brooklyn

I represent: Make the Road NY

Address: 301 Grove St. Brooklyn

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☑ in favor ☐ in opposition

Date: 12/12/2013

(PLEASE PRINT)

Name: Juan Carlos Rivera

Address: 2019 Franklyn Ave, Bronx NY 10456

I represent: WASH NY

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☑ in favor ☐ in opposition

Date: 12/12/2013

(PLEASE PRINT)

Name: Rocio S. Valerio-Gonzalez

Address: 129 Ft. George Ave, Apt #A2 NY, 10040

I represent: WASH NY

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☑ in favor ☐ in opposition

Date: 12/12/2013

(PLEASE PRINT)

Name: Miguel Portillo

Address: 9840 57th Ave/ Queens 11368

I represent: NASH NY

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 852 Res. No. _____

☒ in favor ☐ in opposition

Date: Dec 12 2013

(PLEASE PRINT)

Name: JACK CARAVANOS

Address: 333 EAST 55 STREET NYC 10022

I represent: CUNY School of Public Health Hunter College

Address: 2180 Third Avenue NYC 10035

Please complete this card and return to the Sergeant-at-Arms