Testimony of Commissioner Vilda Vera Mayuga
New York City Department of Consumer and Worker Protection

Before the Committee on Consumer and Worker Protection
Hearing on Introductions 780 and 1081

January 21, 2025

Introduction

Good morning, Chair Menin, and members of the Committee. I am Vilda Vera Mayuga, Commissioner of the Department of Consumer and Worker Protection (DCWP). I am joined today by my Deputy Commissioner of our Office of Labor Policy & Standards, Elizabeth Wagoner, and my Assistant Commissioner of External Affairs, Carlos Ortiz. Thank you for the opportunity to testify on Introductions 780 and 1081, and to highlight our comprehensive worker protection efforts across the city.

Protecting New York's Workers

DCWP enforces key protections and offers financial empowerment resources that improve critical aspects of New Yorkers' daily economic lives. We ensure that consumers who have been deceived or exploited have recourse, that workers have a passionate defender of their rights, and that all New Yorkers have the support they need to improve their financial health. Since 2022, DCWP has helped put more than $1 billion into the pockets of New Yorkers, through debt relief, restitution, minimum pay standards and financial empowerment programming.

DCWP serves as the City's central resource for workers in New York City, and a dedicated voice in City government to the issues workers face. DCWP enforces key municipal workplace laws that provide workers with greater stability in their schedules, income, and employment. We strive to ensure compliance with these essential workplace laws and secure restitution for workers who have faced violations in the workplace.

One of our cornerstone workplace laws is New York City's Paid Safe and Sick Leave law (PSSL), covering nearly 4 million workers across the City.[1] As a working parent myself, I rest easier knowing that if I need to take care of my children or my mother when they are sick, I will not face any repercussions when I go back to work. PSSL ensures New Yorkers have the right to take paid time off work to care for themselves or loved ones when they're sick, need preventive care, or to access services or take safety measures related to domestic violence, sexual violence, stalking or human trafficking. New Yorkers should never have to make a choice between their health and safety, or the health and safety of their loved ones, and their livelihood.

Another one of our key workplace laws, Fair Workweek, was designed to provide workers with greater job and income stability by prohibiting irregular and unpredictable scheduling practices. Since the Law went into effect in 2017, DCWP has received over 900 complaints and launched more than 400 investigations. This includes the largest worker protection settlement in New York City history, our 2022 settlement with Chipotle for violations of the Fair Workweek and

[1] https://www.nyc.gov/site/dca/news/019-24/department-consumer-worker-protection-celebrates-10-years-paid-safe-sick-leave

Paid Safe and Sick Leave laws, which delivered over $20 million in restitution to approximately 13,000 workers.[2] In 2023 and 2024, we built on that success, recovering over $10 million in additional monetary relief for fast food and retail workers under the Fair Workweek Law. We are very proud of these successes, not only because they have put money back into workers' pockets for harms they experienced, but also because they ensure that companies operating in our city understand their responsibility to comply with the law.

DCWP also pairs its strong enforcement with proactive outreach. Our team works tirelessly to ensure that New Yorkers know about and can exercise their rights under the Paid Safe and Sick Leave, Temporary Schedule Change, and Fair Workweek Laws, and all of our other workplace laws. Our education and outreach efforts inform workers through presentations, informational gatherings, and high visibility events partnering with key community-based organizations. Just last year, we held 259 worker-focused outreach events, serving 34,000 constituents, and educating New Yorkers on workplace rights.

Introduction 780

Turning to today's legislation, DCWP supports Introduction 780, which would provide New Yorkers with more protected reasons to take time off in order to care for themselves or their loved ones. The bill expands the reasons a worker can use paid safe and sick time, enabling workers to care for their children or family members with disabilities. It would also allow workers to use safe and sick time for certain legal obligations, such as a fair hearing for SNAP benefits or a housing court hearing. This bill would also require 16 hours of unpaid safe and sick time in addition to the 40 or 56 hours of paid safe and sick time that the law already provides. In addition to expanding protections to the full universe of people currently covered by the Paid Safe and Sick Leave law, this bill would also benefit an estimated 1 million households in NYC with children under the age of 18,[3] and 1.3 million New Yorkers who care for family members with disabilities.[4] We strongly support these amendments that are commonsense changes to help keep New Yorkers healthy, safe, and housed. DCWP is committed to ensuring that New Yorkers can exercise their rights under the Paid Safe and Sick Leave and Temporary Schedule Change law, and we applaud Council for working to expand the protections that these laws afford.

Introduction 1081

Introduction 1081 would require DCWP to confirm receipt of every complaint alleging a violation of the Fair Workweek Law within 30 days. It would also require DCWP to notify the employer of every complaint within 90 days of receiving the complaint. While we support the intent of this bill, we do have concerns with regards to unintended negative consequences for workers and employers. Currently, confirming receipt of complaints with workers within 30 days is standard practice at DCWP, and we support memorializing this in local law. However, requiring the department to notify an employer within 90 days of a complaint we receive from a worker could potentially harm employees by revealing their identity or negatively impact our investigate process. We look forward to working with the Council on this legislation as it advances in the legislative process.

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[2] https://www1.nyc.gov/office-of-the-mayor/news/581-22/mayor-adams-department-consumer-worker-protection-settlement-chipotle-mexican#/0

[3] https://popfactfinder.planning.nyc.gov/explorer/tracts/3002100

[4] https://www.nyc.gov/site/dfta/services/caregiving.page

Conclusion

Thank you for the opportunity to testify before your committee on our essential work uplifting New Yorkers, and today's legislation. DCWP remains committed to our efforts to protect workers and keep businesses in compliance with the law in collaboration with our partners in the Council. I welcome any questions you may have for further discussion.

NEW YORK STATE
RESTAURANT
ASSOCIATION

Regarding Intros 1081 and 780

Good afternoon. My name is Kathleen Irwin, and I am the NYC Government Affairs Manager for the New York State Restaurant Association (NYSRA). We are a trade association representing food and beverage establishments in New York City and State. We are the largest hospitality trade association in the state, and we have advocated on behalf of our members for 90 years. We represent independent restaurant operators as well as chain brands, including both corporate and franchise models.

We want to begin by thanking Chair Menin both for introducing Intro 1081 and for holding today's hearing. For our chain members, Fair Workweek represents a complex set of regulations they strive to follow, and it impacts their operations on a daily basis. We so appreciate your initiative to both seek feedback on the way Fair Workweek is being managed and to make improvements where you see problems. I know our chain members are incredibly grateful to be heard and to see concrete action follow. Last April, DCWP revealed at an oversight hearing that they do not have any time frame for informing employers when Fair Workweek complaints are made. Instead, they choose to "build a case," which means quietly allowing business operators to continue making the same mistakes with no correction, only to approach them months or even a year later with a hefty fine.

This approach is irresponsible and harmful to both workers and employers. Both workers and employers are better off when there is understanding and compliance with Fair Workweek. If DCWP truly shares that goal, prompt notification of complaints should be commonsense enforcement. Instead, the current practice of "building a case" comes off as both a "gotcha" tactic and a money grab.

Intro 1081 would help address this issue by creating time frames for DCWP to notify both the complainant and the employer when a Fair Workweek complaint is made. Right now, the proposal calls for 30 days to confirm with the complainant and 90 days to notify the employer. NYSRA would ask that the 30-day time frame be applied across the board, for both complainant and employer. I also ask that notification to the employer include several pieces of important practical information: the address of the business location related to the complaint, and the general nature of the complaint (i.e. incorrect method of getting approval for a long shift; schedules not given with enough advance notice; etc.).

It is the shared goal of NYSRA and our chain members for everyone to be in compliance with Fair Workweek all the time. If an operator is making a mistake, everyone involved is better off if the mistake is caught as soon as possible – the operator, their managers, and all levels of staff. Intentionally keeping restaurants in the dark about the ways they are noncompliant is simply not justifiable. We strongly encourage this committee to consider our suggestions to make Intro 1081 a meaningful improvement to Fair Workweek enforcement.

Today's hearing also includes Intro 780, which would create additional approved uses for paid safe and sick time, allow for temporary schedule change requests to be made instead, and create a new additional allowance of unpaid safe and sick leave (16 hours) at the start of each calendar year. There are a few implications of this legislation that we would like to address: first, it is a consequential administrative task to manage multiple different kinds of leave when you are an owner-operator of a labor-intensive business. Restaurant operators very often wear many hats including HR, and keeping all of their materials, policies, and knowledge up-to-date when changes are made to city policy on a regular basis is burdensome. The second concern relates to chain restaurants in particular, and the way this proposal would be set to interact with Fair Workweek. Effectively, Intro 780 would introduce both more covered reasons and more protected opportunities to call out at the last minute (unpaid leave). Because of the way Fair Workweek was written in New York City, chain operators are not permitted to use a voluntary call-in list to fill last-minute shifts without incurring a penalty. That means that when an employee calls out, and the operator asks another employee to fill the shift, this substitution costs the restaurant a penalty. Intro 780 would increase the frequency of these penalty costs.

Thank you for taking the time to consider our input today. We are very thankful and enthusiastic about putting a solution in place to the lack of notification guidelines for Fair Workweek complaints, and we hope the suggestions we put forward today can be included in the final version of Intro 1081. As always, we intend to continue to be a partner to the Council in this important work, and help create a fair and supportive environment for restaurants in New York City.

Respectfully Submitted,

Kathleen Reilly Irwin

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January 21, 2025

The Legal Aid Society and NELA NY's Testimony in Support of Int. 0780-2024

Submitted by Rebekah Cook-Mack, The Legal Aid Society and NELA/NY

Thank you for the opportunity to present this testimony. I am a Staff Attorney in the Employment Law Unit of The Legal Aid Society and a member of National Employment Lawyers Association/New York. I present this testimony jointly on behalf of both organizations.

We urge Council to pass Int. 0780-2024 with key modifications including: more expansive and inclusive definitions of terms like Care Recipient and Health Care Provider so that our laws' protections apply broadly; and, allowing New Yorkers to use ESSTA time to address a care recipient or minor child's educational needs.

The Legal Aid Society is the oldest and largest not-for-profit public interest law firm in the United States, working on more than 300,000 individual legal matters annually for low-income New Yorkers with civil, criminal, and juvenile rights problems. The Society also brings law reform cases that benefit all New Yorkers. The Society delivers a full range of comprehensive legal services to low-income families and individuals in the City. Our Civil Practice has local neighborhood offices in all five boroughs, along with centralized citywide law reform, employment law, immigration law, health law, homeless rights, consumer rights, and family law practices. Many of these units represent people experiencing discrimination who are impacted by the work of the Commission.

The Society's Employment Law Unit represents low-wage workers in employment-related matters such as claims for violations of leave laws, unpaid wages, claims of discrimination, and unemployment insurance hearings. Our clients are overwhelmingly people of color living paycheck to paycheck. The Unit conducts litigation, outreach, and

advocacy designed to assist the most vulnerable workers in New York City, among them, low-wage workers who are sexually harassed; discriminated against based on race, national origin, immigration status, pregnancy, disability, sex, sexual orientation, gender identify, age, domestic violence, or criminal background; or denied reasonable accommodations needed due to pregnancy or disabilities.

The National Employment Lawyers Association (NELA) is a national organization of attorneys dedicated to the vindication of employees' rights. NELA/NY, incorporated as a bar association under the laws of New York State, is NELA's New York State affiliate.

We urge Council to pass Int. 0780-2024 with key modifications.

The proposed legislation represents an important step forward for New York City's workers. It addresses shortcomings in our current law and ensures that New York City's ESSTA remains a national model. It guarantees that New Yorkers facing a housing crisis can take the time to attend to their housing needs without risking the loss of their jobs and avoid the downward spiral that occurs when workers lose their jobs. By offering unpaid leave upon hire, Int. 0780-2024 protects all New Yorkers by promoting the well being of our workforce and ensuring that newly hired employes can stay home when they get sick.

We are grateful to have the opportunity to work with Councilmember Nurse and her team to ensure Council's efforts to amend this law are informed by the experiences of our clients and meet the needs of all New Yorkers. The Legal Aid Society supports the adoption of this law with the following key amendments:

1. Include expansive and inclusive definitions of terms like Care Recipient and Health Care Provider so that our laws' protections apply broadly.
2. Ensure that New Yorkers can use ESSTA time off in response to remote school pivots and school or public transit closures of the sort we have experienced in recent years.
3. Allow New Yorkers to use ESSTA time to address a care recipient or minor child's educational needs and ensure no one loses their job to ensure their child can remain safely in school.

4. Enable the use of ESSTA time to meet with a legal or social services provider to obtain information or advice regarding public benefits, housing, or legal proceedings.
5. Provide eight additional hours of unpaid ESSTA time upon hire.

We look forward to working with the Council to adopt these changes and pass the proposed legislation, and I thank you for the opportunity to testify about it. For more information or to address concerns, please feel free to contact me at rcook-mack@legal-aid.org or (212) 298-5311.

Advocates of the Food Industry Since 1900
FIA
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Testimony from the Food Industry Alliance of New York
NYC Council Committee on Consumer and Worker Protection Hearing

January 21, 2025

The Food Industry Alliance of New York (FIA), the premiere trade association representing the full spectrum of the retail food industry, appreciates the opportunity to submit this testimony today regarding industry concerns related to Int. 780.

Int. 780 – Aligning the Earned Safe and Sick Time Act with the Temporary Schedule Change Act

Thank you, Chair Menin and members of the Committee on Consumer and Worker Protection for the opportunity to submit testimony on this important topic.

The Food Industry Alliance of New York State is the premier trade association representing the retail food industry throughout New York. Our members include chain and independent food retailers that account for a significant share of the city's retail food market and the grocery wholesalers that supply them.

Int. 780-2024 (Nurse) proposes to expand the use of paid safe/sick time to include providing care for a minor child or care recipient and attending legal proceedings for subsistence benefits or housing. It also introduces the option for employees to request a temporary schedule change as an alternative to using paid safe/sick time and mandates 16 hours of unpaid safe/sick time available immediately upon hire and annually thereafter. FIA is aligned with the Council in seeking to improve work-life balance and support employees facing personal or familial challenges. However, the proposed legislation raises several practical concerns for employers of all sizes.

Specifically, we are concerned that the bill's provisions will introduce significant operational challenges, particularly for independent grocers and other small to mid-sized businesses. Accommodating temporary schedule changes or immediate unpaid leave upon hire could create significant disruptions in staffing and scheduling, impacting overall productivity in essential industries.

Additionally, the overlap between this proposed bill and existing safe/sick time laws necessitates clarity. Employers are already navigating a complex web of federal, state, and local regulations, and adding another layer without clear guidelines risks confusion

and potential noncompliance. We are concerned that the added administrative burden of tracking and managing both paid and unpaid safe/sick time, alongside existing employee benefits, could strain resources.

While the bill's intent is to support employees, its unintended consequences may ultimately negatively affect the businesses they rely on for stable employment. The lack of restrictions or guidance on the frequency and duration of temporary schedule changes may leave employers vulnerable to misuse of the policy. While most employees will act in good faith, ambiguous language could open the door to unintended consequences, including operational inefficiencies and inequitable treatment among staff.

We urge the Council to refine the proposed legislation by considering the practical implications for employers and providing clearer guidance on implementation.

Respectfully submitted,

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Testimony from A Better Balance for New York City Council Committee on Consumer and Worker Protection:
Expanding Earned Safe and Sick Time Protections and Increasing Transparency in Fair Work Practices Investigations

January 21, 2025
Shyamala Ramakrishna, Skadden Legal Fellow

Dear Chair Menin and Committee Members:

Thank you for convening this hearing and for the opportunity to provide testimony on proposed legislation that will fill crucial gaps in the rights of New York City workers.

A Better Balance is a national legal advocacy organization headquartered here in New York City. We use the power of the law to ensure that workers can care for themselves and their loved ones without sacrificing their economic security. Through legislative advocacy, direct legal services and strategic litigation, and public education, our legal team combats discrimination against pregnant workers and caregivers and advances supportive policies like paid sick time, paid family and medical leave, fair scheduling, and accessible, quality childcare and elder care.

A Better Balance has developed expertise on paid sick time through drafting laws in cities and states across the country, including the New York State sick time law passed in 2020. A Better Balance also worked with Councilmember Gale Brewer to draft the New York City Earned Sick Time Act, and helped lead the coalition that fought for its passage and negotiated the final law. We have helped to draft rules and regulations in numerous other places where paid sick time requirements have been enacted.

Through our free legal helpline, we have answered questions for many New York City workers regarding the Earned Sick Time Act and their legally protected absences from work, and the experiences of these workers informs our testimony today.

I. We urge the Council to pass Int. 0780-2024 (Aligning the requirements of the Earned Safe and Sick Time Act and the Temporary Schedule Change Act), with key modifications.

We urge the Council to pass Int. 0780, which would, among other things, expand the availability of paid safe and sick time to newer employees and those with caregiving responsibilities.

This vital legislation would expand the applicability of earned safe time to cover absences to "provide care to a minor child or care recipient," meaning workers would have access to their bank of time off for caregiving needs that do not necessarily involve illness, injury, or medical care. The importance of this expansion of earned safe time to cover broader caregiving gaps cannot be understated. It is crucial for mitigating gender inequality in workforce participation, as women bear the brunt of the penalty at work for needing to be absent to provide emergency childcare and elder care. They are at most risk of being pushed out of their jobs, or out of the workforce entirely, because of unanticipated caregiving-related absences that do not have other legal protection. In a 2021 research report titled "Our Crisis of Care," we also noted that that women in New York City were more than four times as likely as men to experience retaliation related to their responsibilities as a caregiver during the COVID-19 pandemic, while individuals who live with someone with a disability were twice as likely as those who do not to have been retaliated against for this reason.[1]

When the city experienced school closures during the pandemic, our helpline heard from countless callers whose employers refused to give them flexibility for unanticipated childcare. For example, we spoke to Dorissa, a Public Health Advisor who assisted with COVID-19 initiatives in New York City. When her then-four-year-old daughter's school abruptly shut down due to a COVID-19 exposure, her manager insisted she should have already had care arrangements in place and compared taking time to arrange last-minute care for her daughter to "watching a movie" during the workday.

Even long after COVID-era closures, we continue to hear from employees who cannot call out from work under any existing legal protection to meet emergency care obligations. Some of them are subject to the strict "no-fault" attendance policies favored by large employers in meat and food processing, manufacturing, and retail, and can be punished with "points" or "occurrences" for a single unprotected absence (and, unfortunately, are often illegally punished for protected absences, too).[2] With even one fallen-through child care arrangement, these workers may lose their jobs—threatening their livelihoods and the well-being of their dependents and loved ones.

Additionally, in light of recent extreme weather events and public health crises in New York City and all over the country, it is not lost on us that periodic school closures, transit stoppages, and other events creating emergency care obligations are here to stay. We are heartened that the proposed legislation would grant workers access to their accrued safe time to provide care under

[1] Office of the New York City Comptroller Scott M. Stringer & A Better Balance, Our Crisis of Care: Supporting Women and Caregivers During the Pandemic and Beyond (March 2021), https://www.abetterbalance.org/wp-content/uploads/2021/03/Crisis_of_Care_Report_031521.pdf.
[2] Dina Bakst, Elizabeth Gedmark, & Christine Dinan, A Better Balance, Misled and Misinformed: How Some U.S. Employer Use 'No Fault' Attendance Policies to Trample On Workers' Rights (And Get Away With It) (2020), https://www.abetterbalance.org/wpcontent/uploads/2020/06/Misled_and_Misinformed_A_Better_Balance-1-1.pdf.

broad circumstances. We also note that the provision permitting employees to request a temporary schedule change in lieu of using earned safe and sick time would broaden the availability of those protections as well—a step forward for fair and flexible work.

The proposed legislation would also require employers to provide their employees with a minimum of 16 hours of *unpaid* safe/sick time immediately upon hire and on the first day of each calendar year. On our helpline, we regularly speak with callers who are new to their jobs and thus have absolutely no recourse for unanticipated illnesses, or for the unanticipated medical needs of their children and other dependents. We strongly support this addition; workers should not be a one-off emergency away from losing employment they worked hard to secure, and we believe they should not have to accrue a minimal cushion of unpaid job-protected leave.

Accordingly, we urge the Council to pass this significant legislation, and propose several changes we believe would make the bill even stronger:

- First, in section 1, we recommend expanding the definition of "care recipient" in Section 20-912 of the administrative code to "a person with a disability, including a temporary disability, or a person aged sixty-five or older, who relies on the caregiver for medical care or to meet the needs of daily living." In our experience, many lifesaving networks of care do not involve a biological or legal relationship, the sharing of a household, or even a family relationship pursuant to the definition of "family member" already set forth in section 20-912. In our callers, we regularly see models of kinship that rest simply upon the expectation that one individual is dependent on the other for care. 82.2% of households in the U.S. do not fit the "nuclear family" model of a married mom, dad, and their children.[3] We urge the Committee to consider an intentionally expansive definition of care recipient to make it clear that workers may themselves decide how to define their important networks of kinship, and to use their allotted safe and sick time accordingly. Our research into existing family leave laws with the most expansive family definitions has shown that such definitions provide protection to workers who need it without leading to abuse or even a significant increase in usage or uptake.[4]
- Second, we recommend amending Section 20-914 to explicitly allow the use of earned sick time for public disasters; during weather conditions creating transit stoppages that prevent workers from making it to work; and at the direction by government officials (like the MTA, Governor, or Mayor) to avoid travel or stay indoors during a public disaster. As we describe above, the increasing frequency of unprecedented weather and public health events highlights the need to protect workers whose employers pressure them to endanger themselves to meet strict attendance requirements.

[3] A Better Balance, Fact Sheet: The Importance of Inclusive, Realistic Family Definitions for Paid Leave (updated October 2023), https://www.abetterbalance.org/resources/fact-sheet-importance-of-broad-family-definitions-for-paid-leave/.

[4] *Id*. *See also* Washington State Employment Security Department, ESSB 5097 Family Member Expansion Analysis: 2nd Report (June 2023), https://media.esd.wa.gov/esdwa/Default/ESDWAGOV/newsroom/Legislative-resources/essb-5097-family-member-expansion-analysis-230629.pdf.

- Third, we recommend further amending Section 20-914 to explicitly allow the use of earned sick time to care for children whose school or childcare provider has been made *remote* due to a public health emergency or public disaster.
- Fourth, we recommend amending Section 20-914 to permit the use of earned safe time to address a care recipient's or minor child's educational needs.
- Fifth, we suggest amending the change to Section 20-914 that expands available uses of earned safe time to attend a "legal proceeding or hearing related to subsistence benefits or housing to which the employee, a family member, or the employee's care recipient is a party." We recommend slightly broader language permitting employees to use earned safe time not only to attend legal proceedings or hearings, but also to meet with a legal or social services provider to obtain information or advice in preparation for such proceedings or hearings.
- Sixth, we recommend amending section 20-914 to permit the use of earned safe time for absences from work due to threats or unlawful conduct in the workplace.

With these changes, we urge the Council to pass the proposed legislation, and I thank you for the opportunity to testify about it.

I. We urge the Council to make an important modification to Int. 1081-2024 (Requiring the department of consumer and worker protection to confirm receipt of complaints related to fair work practices and to notify the person or entity under investigation of the receipt of the complaint) to protect workers.

Int. 1081 would require that the Department of Consumer and Worker Protection (DCWP) confirm receipt of a complaint alleging a violation of the city's fair work practice laws within 30 days. DCWP would also be required to notify the employer of the complaint within 90 days.

We recognize and appreciate the intent of this proposed legislation. While greater transparency for workers initiating complaints about their workplaces is always welcome, we have significant reservations about the proposed 90-day employer notification requirement. First, we believe it would increase the risk of employer retaliation against workers who have initiated complaints with the agency. Even if, as detailed in subsection (b)(5), each complainant's identity is kept confidential, our experience tells us that many employers can easily and informally discern the identity of a complainant based on the nature and/or timing of a complaint. On A Better Balance's helpline, we consistently speak to workers who are concerned that if they approach the agency enforcing a law that protects them, that agency will inform their employer—or inadequately protect their identity—and they will be punished or fired long before the agency can reach a finding. We are aware that DCWP's existing practice is to initiate workplace-wide investigations without specific notifications as to worker complaints. We believe these investigations sufficiently inform employers that their practices are under scrutiny without divulging information that could enable them to retaliate against individual complainants.

Second, the 90-day employer notification requirement may require that DCWP needlessly alert employers to complaints that are without merit. We are aware that the agency periodically receives worker complaints that do not have a basis in the law and informs complainants as much before closing their complaints. On our helpline, we sometimes speak to workers who are considering initiating a complaint with an enforcement agency but misunderstand their legal protections. If employers had to be notified of every single complaint filed with DCWP, they may hire counsel or expend other resources preparing for legal consequences where such preparation is unwarranted.

Thus, we strongly recommend that the Council amend this proposed legislation by removing the 90-day employer notification requirement. Without this requirement, we have no further reservations about the proposed legislation.

Sincerely,

Shyamala Ramakrishna
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Consumer and Worker Protection: Expanding Earned Safe and Sick Time Protections

Long COVID Justice NYC ("LCJ-NYC") is a group of New Yorkers living with Long COVID and other infection-associated chronic conditions (IACC). The group's mission is to improve and expand related policies and programs through advocacy, media efforts, education and cultural events. LCJ-NYC is currently undertaking a pilot needs assessment in New York City, funded by the New York Health Foundation, to examine the needs of people with Long COVID, centering often-overlooked yet disproportionately impacted groups. LCJ-NYC would like to thank the Committee on Consumer and Work Protection for the opportunity to submit testimony in support of the expansion of protected leave.

Background on Long COVID

Long COVID (or post-acute sequelae of SARS-CoV-2) is an illness that can develop in children, adults, and seniors after a probable or confirmed case of COVID-19, and can last months and even years. Long COVID can occur following infection of SARS-CoV-2 regardless of severity of acute presentation, including in people who were asymptomatic, and in those who have been vaccinated.

According to the most recent Household Pulse Survey[1] conducted by the National Center for Health Statistics in conjunction with the Census Bureau, almost 15% of all adults in New York State have experienced Long COVID, including over 23% of all adults who have ever had COVID. Many New Yorkers are experiencing activity limitation as a result of Long COVID: Of all adults living in New York, almost 4% (over 620,000 people) have an activity limitation, and 1.7% have significant activity limitation (almost 275,000 people). These results include a note that the percentage of adults self-reporting a COVID infection is lower than scientific estimates, which may suggest that Long COVID symptoms are miscategorized by those who do not believe they have had COVID.

In New York City, the NYC Department of Mental Health and Hygiene estimated in June 2022 that approximately 30% of all New Yorkers who have ever had COVID also have Long COVID,[2] and a recent report flagged that 80% of New Yorkers who have ever had COVID have post-COVID symptoms for at least one month (with 50% having at least one moderate or severe symptom), even though only 13% of those with a symptom identified it as Long COVID.[3]

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[1] https://www.cdc.gov/nchs/covid19/pulse/long-covid.htm
[2] https://www.nyc.gov/assets/doh/downloads/pdf/covid/providers/letter-long-covid.pdf
[3] https://www.nyc.gov/assets/doh/downloads/pdf/epi/databrief144.pdf

Importance of Sick and Safe Time

LCJ-NYC strongly supports any expansion in the availability of sick leave. New Yorkers often have to make the almost impossible choice between the health and safety of themselves and their families and their financial security due to inadequate leave policies. For New Yorkers with Long COVID and other IACC, in particular, inadequate leave policies can be particularly harmful to their short- and long-term health, as they can struggle to remain employed while taking leave to attend to ongoing medical and related needs.

Commentary

With the above in mind, LCJ-NYC writes in support of and urges the passage of Int. 0780-2024 with the following caveats:

- Please expand the definitions of "care recipient" to include anyone (a)(1) with a disability, including a permanent disability, or (2) who is sixty-five or older and (b) who relies on a caregiver. Many care recipients do not have caregivers who live within the same household or who are biological or legal relatives. Especially in New York CIty, care recipients may need to rely on a network of caregivers, including chosen family, to meet their needs. LCJ-NYC has seen how crucial this network can be for people with Long COVID and other IACC to receive complex and varied medical care.

- Please amend Section 20-914(a)(1) to permit use of sick time for public disasters, remote school and government directives to remain indoors or avoid travel. As we have seen over the past few years and recently, many circumstances that do not rise to the level of a public health emergency have triggered changes to employees' daily routines. The government has strongly advised employees to stay home and schools have enabled remote learning, but employers have still required that employees report to work. Enabling employees to make the best, and safest, choices for themselves and their families is the right thing to do. This need is particularly acute for people with Long COVID and other IACC, as they are often at higher risk of adverse outcomes during public disasters.

- Please amend Section 20-914(b)(1)(c) to permit use of safe time for meetings with legal and social service providers, as well as proceedings themselves, relating to employees, their family member or their care recipient's public benefits, housing or legal proceedings. Accessing and navigating benefits and the legal systems take time, and employees should not be dissuaded from doing so due to a lack of paid leave during the information-gathering and preparation period. As people with Long COVID and other IACC continue to access these systems, paid leave is crucial.

- Please permit use of limited unpaid sick and safe time upon hire. Far too often, employees stay in unsuitable jobs rather than risk moving to a new opportunity that would require going a period without available leave. This risk is especially acute for people with Long COVID and other IACC and others with ongoing medical needs. Making leave, although unpaid, available to all employees, regardless of tenure, would support job mobility and employees' abilities to make the right long-term decisions for themselves and their families.

Once again, LCJ-NYC thanks the Committee for the opportunity to testify regarding the expansion in sick and safe leave. We thank the Committee for advancing these conversations and look forward to next steps

From: Rod Valencia
To: Testimony
Subject: [EXTERNAL] In Support of Intro 1081
Date: Wednesday, January 15, 2025 2:29:11 PM

[redacted]

Good Afternoon,

I am a franchisee of a chain quick service restaurant in New York City, which means I am impacted by the current Fair Workweek law. It also means that I am a small business operator doing my best to comply in one of the most heavily-regulated employment sectors in the city.

Last April, DCWP revealed at an oversight hearing that they do not have any time frame for informing employers when Fair Workweek complaints are made. Instead, they choose to "build a case," which means quietly allowing business operators to continue making the same mistakes with no correction, only to approach them months or even a year later with a hefty fine.

This approach is irresponsible and harmful to both workers and employers. Both workers and employers are better off when there is understanding and compliance with Fair Workweek, and if DCWP shares that goal, prompt notification of complaints would be the commonsense practice. Instead, the current "building a case" tactic comes off as both a "gotcha" moment and a money grab.

Intro 1081 would help address this issue by creating time frames for DCWP to notify both the complainant and the employer when a Fair Workweek complaint is made. Right now, the proposal calls for 30 days to confirm with the complainant and 90 days to notify the employer: I would respectfully ask that the 30 day time frame be applied across the board, for both complainant and employer. I also ask that notification to the employer include the address of the business location related to the complaint, and the general nature of the complaint (i.e. incorrect method of getting approval for a long shift; schedules not given with enough advance notice; etc.).

It is my goal to carefully follow the complex rules of Fair Workweek. If I am making a mistake, I want to know about it as soon as possible so I can fix it. Please, consider these suggestions to make Intro 1081 a really important improvement to Fair Workweek enforcement. Thank you for your consideration.

Regards,
Rod Valencia
[redacted]
Queens, NY 11435

From: Sherif Emera
To: Testimony
Subject: [EXTERNAL] In Support of Intro 1081
Date: Wednesday, January 15, 2025 2:19:47 PM

[redacted]

Good Afternoon,

I am a franchisee of a chain quick service restaurant in New York City, which means I am impacted by the current Fair Workweek law. It also means that I am a small business operator doing my best to comply in one of the most heavily-regulated employment sectors in the city.

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Regards,
Sherif Emera
[redacted]
New York, NY 10036

From: Yahya Siddiqi
To: Testimony
Subject: [EXTERNAL] In Support of Intro 1081
Date: Wednesday, January 15, 2025 1:01:06 PM

[redacted]

Good Afternoon,

I am a franchisee of a chain quick service restaurant in New York City, which means I am impacted by the current Fair Workweek law. It also means that I am a small business operator doing my best to comply in one of the most heavily-regulated employment sectors in the city.

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It is my goal to carefully follow the complex rules of Fair Workweek. If I am making a mistake, I want to know about it as soon as possible so I can fix it. Please, consider these suggestions to make Intro 1081 a really important improvement to Fair Workweek enforcement. Thank you for your consideration.

Regards,
Yahya Siddiqi
[redacted]
New York, NY 10016

Intro 1801, the proposal calls for 30 days to confirm with the complainant and 90 days to notify the employer: I would respectfully ask that the 30 day time frame be applied across the board, for both complainant and employer. I would also request that notification to the employer include the address of the business location related to the complaint, and the general nature of the complaint (i.e. incorrect method of getting approval for a long shift; schedules not given with enough advance notice; etc.). As a company it is our goal to always be in compliance with Fair Workweek Laws. If there is a complaint, we would like to investigate the accusation and correct any compliance issue we may have immediately. Since the laws came into effect, we have done our best to comply will all aspects of this complex law. We have looked for technology to aid us in compliance, but we have yet to find a company that covers all aspects. We know the laws and have developed our own methods of compliance since there is a lack of instruction on how exactly the DCWP would like us to comply with each piece of the law. If any of our practices are incorrect, we need to be informed as quickly as possible. Receiving this information quickly is beneficial to both employee and employer so we can all remain compliant and protected.

We understand this law was put into effect to protect hourly employees. We agree with the sentiment and only want to provide the best work environment for our employees. There are aspects of the law that do not work well for employees and employers. With costs on the rise, it is a very difficult time to run a business, especially a restaurant, and there are many additional costs this law entails for the employer. It has added to the administrative workload and stress levels of our managers, who have to sacrifice time spent serving our customers, who are members of the communities we serve to managing all aspect of these laws. 90% of our schedule changes are driven by the employee. All hours of the day we need to react to the changes that come our way in a QSR. Due to transportation in the city our employees are frequently tardy. They call at the last minute to inform us they cannot work if they call us at all to tell us they will not be coming in. Each time the managers need to decide whether they pay the premiums to have enough employees to serve customers or to go without those employees to avoid the extra cost. The customers and coworkers, other hourly employees, suffer when we must run shorthanded.

The regular, set schedules that are required by law are beneficial to some of our employees, but others work in QSR for the flexibility. We are no longer able to provide a flexible schedule to the single mothers, students, people with 2 jobs, ect. who do not have a routine lifestyle. It would be more beneficial if our employees had the option of choosing between a regular schedule or a flexible schedule with the promised number of scheduled hours each week. A QSR is one of the only jobs a person can be hired at entry level with no experience and through hard work and training provided by the

employers can rise to any position within the company, the sky is the limit. But some of the restrictions placed by Fair Workweek make these types of advancements hard.

The offer of work portion of the law is very unrealistic to any business. If you need to fill a specific position such as a daytime sandwich maker, you will need to fill the position with the right person for the job. Just because we work in a fast-food restaurant does not mean anybody could fill any positions. Certain skill sets and personality traits are better suited in specific positions. Taking a dishwasher who works at a slower pace and is easily stressed out when it gets busy, who wants to accept the offered hours and training them to fill the position of daytime sandwich maker does nothing but cause chaos for the entire restaurant and the customers who come to eat at our restaurants on their lunch break. In many ways this law ties our hands from being able to make our business a stress-free place to work for many of our employees and a quick place for customers to get a quick affordable meal.

QSR is a fast-paced business with changes occurring constantly and the task of documenting every change the moment it happens is a very difficult task. A restaurant could easily have 10-20 schedule changes a day due to the actions of our employees and we need to document every change. It is very understandable for us to document requests made by the manager and to pay a premium when we ask an employee to impact their personal life to work extra to help our business needs. But the current task of documenting all schedule changes is very taxing on all the people who work in the restaurants, managers and employees alike. We must require an employee to fill out paperwork for every change made. This law was put in place to help protect employees, but we have not seen employees staying employed with us for longer or any more interest in working for us because of the protections Fair Workweek laws provide. It has caused more stress in many cases and made it hard for all to work and do business in New York City.

FWW- Executive Summary

Administrative burdens:

- Unclear preferred method of documenting. The DCWP can give instructions on exactly how they want each section of the law documented or provide a system for businesses to use that meets all requirements
- Tracking down signatures – This a difficult task to manage during all hours of business, especially in a restaurant. All managers and employees are always on the move with both hands full and busy.
- Tech to compare punches to schedules and provide payroll changes - (i.e. tech doesn't exist in POS systems to compare to schedules), need for 3rd party and extra equipment or integrations on systems that are not built to do so)
- Tech that covers the record keeping required by FWW laws does not exist. Documenting all schedule changes and getting employee consent/signatures
- Cost of compliance. This is a daily process that needs to be closely managed. We have had to add positions to our office support to manage the compliance of FWW daily. Many extra admin hours.
- Offer of hours is unrealistic. When needing to fill a position you need to find the best person for the job. Not every employee is suited for every position no matter how much they are trained. (EX: you need to hire an accountant, so you offer the position and timeslot to everyone who works in the building and the janitor decides they want it) Certain payrates come into consideration when you are filling a certain time slot to make the labor percentage, we need to make money and stay in business.
- Regular schedules. Not every employee wants a set schedule. Employees should have the option to choose between a set schedule or a flexible schedule with the promised number of hours each week

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: Carlos Ortiz

Address: Assistant Commissioner of External Affairs

I represent: NYC DCWP

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: Vilda Vera Mayuga

Address: Commissioner

I represent: NYC DCWP

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: Christopher Leon Johnson

Address: [redacted]

I represent: Self

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. 1081 & 780 Res. No. _____

☐ in favor ☐ in opposition

Date: 1/21/25

(PLEASE PRINT)

Name: Kathleen Irwin

Address: 409 New Karner Rd, Albany

I represent: New York State Restaurant Assn.

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: Elizabeth Wagner

Address: Deputy Commissioner Office of Labor Policy and Standards

I represent: NYC DCWP

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 0780, 1081 Res. No. _____

☐ in favor ☐ in opposition

Date: 1/21/2025

(PLEASE PRINT)

Name: Shyamala Ramakrishna

Address: _____

I represent: A Better Balance

Address: 250 W. 55th St, New York, NY 10019

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