

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL SERVICE AND LABOR

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December 12, 2013
Start: 01:10 p.m.
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HELD AT: 250 Broadway - Committee Rm,
14th Fl.

B E F O R E:
MICHAEL C. NELSON
Chairperson

COUNCIL MEMBERS:

JAMES F. GENNARO
MELISSA MARK-VIVERITO
DOMENIC M. RECCHIA, JR.
ERIC A. ULRICH

[gavel]

CHAIRPERSON NELSON: Welcome everybody.

Good afternoon. Thank you for coming. My name is Mike Nelson. I chair the committee on civil service and labor. This is my last hearing as chair of this committee. Although we'll likely meet again next week in order to vote. It's been an honor to serve on and as chair of this committee. Today we have three items on our agenda; one resolution, and two bills. Resolution 1741 calls upon the US Department of Labor to assume the cost of all hurricane Sandy related unemployment claims through the federal disaster unemployment program and on the New York State Department of Labor to exempt businesses from paying unemployment claims due to hurricane Sandy and all future disasters. Super storm Sandy as you know had a profound effect upon our city. One of the many things it caused was unemployment. This resolution calls upon the federal government to ease just a little of the pain caused to the City of New York by this natural disaster. And Council Member Reyna comes she'll be speaking to that as well. As no witnesses have signed up to testify on this resolution I'd like to recommend that the

2 committee be reconvened to pass this resolution
3 before the end of the term. We now move on to
4 proposed Introduction 1208-A which is a local law
5 to amend the administrative code of the city of New
6 York in relation to the provision of sick time
7 earned by employees. This bill makes three
8 technical fixes to the earned sick time act which
9 was local law 46 of 2013 which this council passed
10 in May. Then when Council Member Brewer comes we'll
11 ask her to speak to that. We'll be hearing from one
12 witness who will explain the changes which would be
13 Cherry Lewont. Now part three, excuse me. She's
14 going to go now and then we'll do this?

15 UNIDENTIFIED MALE: [off mic] Yeah do
16 Lewont[phonetic] first.

17 CHAIRPERSON NELSON: Okay will Cherry
18 Lewont[phonetic] please come up to the stand? And
19 then we'll go on to the other ones okay. Thank you.

20 CHERRY LEWONT: Thank you Chairman
21 Nelson and thanks for this opportunity to testify
22 on the technical amendments to the Earned Sick Time
23 bill that this council passed in May and made law
24 by override of the mayor's veto in June. The Earned
25 Sick Days law appears at section 20-912 of the

2 administrative code of the City of New York. It was
3 added by local law 46 this year 2013. I was part of
4 the negotiating team that developed the final
5 agreement on earned sick days last March and then
6 negotiated the final language of the bill along
7 with Alison Hirsh[phonetic], Jamie
8 Carroll[phonetic], Addy Barken[phonetic], Jarrod
9 Make[phonetic], Gale Brewer, Shula Warren, Laura
10 Pope[phonetic], Matt Carlen[phonetic], and Terser
11 Nassir[phonetic]. I can assure you that we all
12 worked very long and hard on every aspect of this
13 bill literally day and night and that everyone was
14 operating in good faith with respect to the
15 elements and language of the bill. Nevertheless as
16 often happens when there are as many details as
17 there were in this Earned Sick Time bill mistakes
18 can be made. And this is what happened with our
19 bill. So we have these three technical amendments
20 to the bill. It's simply conforming what we
21 understood to be the agreement to what the language
22 says. From our standpoint the most important
23 provision here is that on manufacturing workers our
24 negotiations resulted in the agreement that certain
25 manufacturing workers would receive unpaid job

2 protected sick days but not paid sick days. But the
3 bill was written to exclude manufacturing business
4 that met certain federal definitions from the
5 definition of employer. The bill then went on to
6 require that certain employers which would provide
7 paid sick time and that all other employers were to
8 provide unpaid sick time. Because certain
9 manufacturing employers were defined out of the
10 definition of employer therefore their workers were
11 not covered by the technical language of the bill
12 either for paid or unpaid time. And this was not
13 our agreement. So the technical amendments will
14 revise the law in a straight forward way to exclude
15 manufacturing employers from having to provide paid
16 sick time but saying that all other employees which
17 would include employees of excluded manufacturing
18 employers will receive unpaid sick time. The fix is
19 necessary to effectuate the agreement made with
20 respect to the law and to ensure than manufacturing
21 workers are not totally excluded from the benefits
22 of being able to stay home when sick without being,
23 risking their jobs. The other, the other amendments
24 one of which, one of which limits carry forward is
25 really a conforming amendment to really the idea of

2 the bill which is that you can only use 40 hours of
3 paid sick time in a year and so unlimited carry
4 forward would be very difficult to administer. So
5 that's, that's it. They're technical amendments and
6 we hope they'll be adopted and I thank you for the
7 opportunity.

8 CHAIRPERSON NELSON: Thank you Ms.

9 Lewont. I'd like to say that we've been joined by
10 Council Member Melissa Mark-Viverito and Council
11 Member Erik Ulrich. And I want to thank Matt
12 Connolly Council to the Committee for putting this
13 together the, doing great work since I've been
14 chair of this committee. Okay as I was... We now move
15 on to proposed Introduction 1208-A which is a local
16 law. I did that one? Okay Brewer's not here. Okay
17 third by no means least is proposed Introduction
18 852-A, a local law to amend the administrative code
19 of the city of New York in relation to a licensing
20 car washers. This bill would seek to license the
21 business of washing cars in New York City. It's
22 relatively small number of businesses and employees
23 in the grand scheme of things. There are about 200
24 car washes in the city employing about 5,000
25 workers as we heard in an oversight hearing on this

1 industry last year. Today we will hear the truth
2 about how these workers are paid and treated. Many
3 of these workers do not always get the minimum wage
4 forget about overtime. Sometimes they're sent home
5 in the middle of the shift because business is slow
6 and they're lucky if they get all their tips which
7 are frequently quote, unquote shared with managers
8 or used to pay off consumers with complaints about
9 damage to their vehicles. These low paid workers
10 are given harsh noxious chemicals to clean and
11 degrease cars usually without any protective gear
12 provided which is a violation of federal law. I
13 expect we will hear from workers today who have
14 been harmed on the job which of course do not
15 provide health care plans. It also concerns me that
16 this industry's practice for dealing with consumer
17 complaints is to pay for damage out of the pockets
18 of the low paid employees. If consumers were being
19 harmed it would be up to the business to compensate
20 customers. No one is putting money in the jar
21 thinking it's going to anyone but the workers. And
22 finally there's the environment. This is an
23 unregulated industry that deals with only who knows
24 what kinds of chemicals and thousands of gallon of
25

2 waste water a day. We don't know whether these
3 chemicals are getting into the environment in the
4 neighborhoods where they operate. There is some
5 good news. Last year the New York Department of
6 Labor obtained a multi-million dollar settlement
7 against the car wash in Manhattan for back-pay and
8 some car washes have unionized in the city so
9 hopefully the city is moving in the right direction
10 to make this industry shape up. The Department of
11 Consumer Affairs is not coming but sent a letter
12 stating that they do not think this industry has
13 the type of consumer issues that warrants a
14 licensing scheme. Now we'll call our first witness.

15 [background comments]

16 CHAIRPERSON NELSON: Oh before the first
17 witness Melissa Mark-Viverito.

18 COUNCIL MEMBER MARK-VIVERITO: Thank you
19 Mr. Chair for holding this hearing. Obviously this
20 is the second hearing as you mentioned and in
21 support for this bill. I am the lead sponsor. So I
22 thank you again for holding this hearing on the car
23 wash accountability act and as we've indicated it's
24 almost been two years that some of the unions that
25 are represented here and the organizations like New

1
2 York Communities for Change, Make the Road, RWDSU
3 have been organizing the carwash workers who we
4 call the carwasheros. And I know there are some
5 here. Thank you very much for being here. And we
6 stood with them as they have risked everything to
7 organize. So now it's time to exert some simple
8 common sense oversight to bring this industry into
9 compliance with existing environmental and consumer
10 protection laws. Today we're going to hear
11 testimony from workers, advocates, and
12 environmental experts in support of this bill. And
13 it's really amazing to me that an industry that
14 uses the kind of, of, of ingredients or of, of, I'm
15 sorry I'm just like, lost my, right here, the
16 chemicals that are used in car wash are not
17 regulated. The fact that a car wash does not have
18 to ask for a license from the City of New York to
19 operate really doesn't seem to make sense to me. So
20 as our current session is coming to a close it is
21 my hope to work with my colleagues and ensure that
22 this bill continues to move through the legislative
23 process next year. So I want to really thank as I
24 mentioned at the beginning the carwasheros who are
25 here today Make The Road, New York Communities for

1
2 Change, RWDSU, all of whom have been doing amazing
3 organizing work around the city which is helping
4 make real strides for carwash workers to improve
5 the quality of the work conditions to provide
6 dignified work and to protect them in the work
7 place as they are using very harsh chemicals and to
8 make sure that they're being protected. So again I
9 want to thank Chair Nelson and my colleagues for
10 joining us at this hearing today and the details of
11 the bill will be described as we move forward in
12 the testimony. Thank you.

13 CHAIRPERSON NELSON: Thank you Council
14 Member. First two witnesses. I hope I pronounce
15 your names correctly. First one is Miguel Portillo.
16 Close? Perfect huh? And Rosie Valerio
17 Guinzavier[phonetic]

18 ROSIE GONZALEZ: [off mic] Gonzalez.

19 CHAIRPERSON NELSON: Oh it is Gonzalez.
20 I thought so.

21 ROSIE GONZALEZ: [off mic] Sorry my hand
22 writing..

23 UNIDENTIFIED MALE: [off mic] Yeah
24 there's no L there.

2 CHAIRPERSON NELSON: Is no L okay. Not
3 the Chair okay.

4 [pause]

5 ROSIE GONZALEZ: Do I have to... Okay. So
6 first of all I wanted to thank everyone especially
7 the carwasheros who made it out here today and
8 Melissa Mark-Viverito for sponsoring this bill. I'm
9 here today to testify in favor this act as Melissa
10 Mark-Viverito, Council Member Melissa Mark-Viverito
11 mentioned before. This is an extremely unregulated
12 industry that we really need to set some laws and
13 rules and regulations for not only to protect the
14 workers which is something that we've strived for
15 but also to protect consumers and to protect the
16 clients and customers that go into, into the car
17 washes and also the community that is, that lives
18 nearby the carwashes. I work with New York
19 Communities for Change and I have been part of NYCC
20 since 2011.

21 CHAIRPERSON NELSON: Oh I'm sorry Ms.
22 Gonzalez could you please just mention your name
23 for the record who you are.

24 ROSIE GONZALEZ: Sure. My name is Rosie
25 Valerio Gonzalez.

2 [pause]

3 ROSIE GONZALEZ: See?

4 CHAIRPERSON NELSON: I, I'm sorry are
5 we... oh translation. Oh, oh.

6 UNIDENTIFIED MALE: Yeah whoever has a
7 headset just put it on now.

8 CHAIRPERSON NELSON: Oh.

9 ROSIE GONZALEZ: Okay.

10 CHAIRPERSON NELSON: Okay. Alright
11 thanks.

12 ROSIE GONZALEZ: Okay thank you.

13 CHAIRPERSON NELSON: You're welcome.

14 ROSIE GONZALEZ: So as I mentioned
15 before I work with New York Communities for Change
16 and I have been part of this campaign since 2011
17 when we first started. Currently I'm the carwash
18 campaign coordinator for Wash New York. When we
19 first started talking to workers in 20, in
20 September of 2011 right away we knew that the
21 workers were concerned about their health and
22 safety. We had a lot of workers that gave testimony
23 about the harsh chemicals that they were using at
24 work and the impact that they had on their skin, on
25 the respiratory system. Some of the allergens that

1
2 were... A lot of our young workers would complain
3 that they begin to see acne results because of
4 using the chemicals. So one of the things that we
5 have sought out as the campaign is not only to
6 protect the workers but also protect the
7 communities that we are a part of, to protect the
8 customers. We recently surveyed some of the workers
9 that, that we've been working with over 25 car
10 washes in the city of New York and some of the,
11 some of the responses from the surveys really raise
12 a lot of questions. For example all car washes are
13 supposed to use a filtering system of water right?
14 So a lot of the water gets recycled over and over
15 and over again which means that customers are
16 actually getting their car washed with dirty water.
17 And we know this because the workers have told us
18 that they often have to run, once a car wash is
19 like done cleaning they have to run to wipe it off
20 really really fast otherwise you'll start seeing
21 brown spots on the car wash and then that's when
22 customers begin to complain that their car, that
23 their car wasn't actually clean. So that, that's
24 one of our, our concerns is that the water that's
25 being filtered, that's not being filtered that is

1
2 being used over and over we also don't know where
3 that run off water ends up. We don't know, we know
4 that there's a, a filtering system we, but we also
5 know that a lot of that water just runs off into
6 the city's sewer. And like we said before a lot of
7 these car washes use very harsh chemicals, very
8 harsh solvents, very harsh degreasers, so it's hard
9 for us to determine whether or not this has a
10 negative impact on our community which is why we
11 need a regulation. In the surveys that we conducted
12 34, 37 percent of the carwasheros said that from
13 this sludge that's collected there is a company
14 that picks up the sludge and takes it to a waste,
15 to, it is properly disposed. And an overwhelming 62
16 percent said that a lot of the sludge is just
17 disposed on the city sewer. They just throw it
18 either in the garbage where a lot of the trash goes
19 you know things like plastic bottles or which
20 should be recycled but places where we're just
21 throwing away like regular things. They are also
22 using the garbage just to use, to throw away a lot
23 of that sludge. The workers have complained that
24 when they have to clean out the sludge they see a
25 lot of like rashes on their skin. So we're throwing

1 this to the places where our communities are living
2 in and where we're supposed to be protected. We
3 have to know what is the real impact that this has
4 on our, on our, on our communities. Finally our
5 concern is about customers. As it was read on the
6 bill before a lot of the workers before starting
7 the carwash campaign had complained that when cars
8 get damaged at the, at the sight often times it is
9 the workers who have to pay up front either with
10 their tips or out of pocket. And that's just
11 absolutely uncalled for. It's, it's unfair not only
12 to the workers but also due to the customers that
13 are going in through the carwashes. So we really
14 need to have better protective laws, better
15 protective legislation that's actually going to
16 oversee how these bad actors, if they are being bad
17 actors how are we going to hold them accountable.
18 So I really, really hope that we pass this, this
19 accountability act and thank you for your time.

20
21 CHAIRPERSON NELSON: Thank you Ms.

22 Gonzalez.

23 MIGUELL PORTILLO: [speaking Spanish]

24 ROSIE GONZALEZ [translating]: Good

25 morning.

2 MIGUELL PORTILLO: [speaking Spanish]

3 ROSIE GONZALEZ [translating]: My name
4 is Miguel Portillo and I am a carwash worker for
5 about five years.

6 MIGUELL PORTILLO: [speaking Spanish]

7 ROSIE GONZALEZ [translating]: I have
8 worked in a couple of different carwashes.

9 MIGUELL PORTILLO: [speaking Spanish]

10 ROSIE GONZALEZ [translating]: In the
11 course over the five years I have been, made
12 friends with a lot of other carwasheros that work
13 in different carwashes and we're always share our
14 experiences at the car washes.

15 MIGUELL PORTILLO: [speaking Spanish]

16 ROSIE GONZALEZ [translating]: This is
17 helpful not only for us to learn how to be, give
18 better services to the clients and learn how to
19 preform our job better.

20 MIGUELL PORTILLO: [speaking Spanish]

21 ROSIE GONZALEZ [translating]: And the
22 reason that I'm here today is to tell you about the
23 different types of equipment and chemicals that are
24 used at the carwash.

25 MIGUELL PORTILLO: [speaking Spanish]

1
2 ROSIE GONZALEZ [translating]: So I just
3 want to say that you know I, some of my
4 observations seem to raise a lot of questions on
5 this carwash industry.

6 MIGUELL PORTILLO: [speaking Spanish]

7 ROSIE GONZALEZ [translating]: My
8 testimony is based on my personal experience. Like
9 I said before I've been working for five years in
10 the carwash industry so I have been able to observe
11 a lot of things.

12 MIGUELL PORTILLO: [speaking Spanish]

13 ROSIE GONZALEZ [translating]: So I hope
14 that my testimony helps to put into context
15 everyone else's testimony.

16 MIGUELL PORTILLO: [speaking Spanish]

17 ROSIE GONZALEZ [translating]: So I want
18 to explain to you the process of what it, what
19 happens when you get your car washed. I'm sure a
20 lot of you all have cars and have gone through a
21 car wash but just to give you a little bit more
22 specific information.

23 MIGUELL PORTILLO: [speaking Spanish]

24 ROSIE GONZALEZ [translating]: So the
25 first thing is that a client rolls into the car

1
2 wash and drives through the car was and the first
3 thing is that you ask what kind of service you
4 want. You are given, they are given a ticket and
5 then it goes on through the vacuuming.

6 MIGUELL PORTILLO: [speaking Spanish]

7 ROSIE GONZALEZ [translating]: After
8 that a driver make, takes the car about two feet
9 into a conductor, conveyer belt and that conveyer
10 belt carries the car in through the car wash.

11 MIGUELL PORTILLO: [speaking Spanish]

12 ROSIE GONZALEZ [translating]: And right
13 at the very beginning there is workers who are
14 brushing off any of the grease, any of the dirt
15 that is on the bumper underneath the car and on the
16 rims and tires.

17 MIGUELL PORTILLO: [speaking Spanish]

18 ROSIE GONZALEZ [translating]: And let
19 me tell you that the chemicals that are used in the
20 process right at the beginning are very very strong
21 especially when you are washing white cars. You
22 have to get a strong soap in order to degrease and
23 take out all the dirt at the bottom of the car.

24 MIGUELL PORTILLO: [speaking Spanish]

2 ROSIE GONZALEZ [translating]:

3 Especially in the summer time when it's really hot
4 you can actually feel as the, as the soap, it's
5 become steamy and it hits the worker's face and you
6 can feel almost as it's some kind of dizziness or
7 daze.

8 MIGUELL PORTILLO: [speaking Spanish]

9 ROSIE GONZALEZ [translating]: After
10 that the car wash goes through, after that the car
11 goes through different processes and it depends on
12 the type of service that you get but there is
13 different soaps that then are, are sprayed into the
14 car.

15 MIGUELL PORTILLO: [speaking Spanish]

16 ROSIE GONZALEZ [translating]: Basically
17 we're here today because we are worried about not
18 just our health but the, but the health of the
19 customers and the community as a whole.

20 MIGUELL PORTILLO: [speaking Spanish]

21 ROSIE GONZALEZ [translating]: I want to
22 say that in my personal experience I've had some of
23 that soap fall onto my skin and basically it
24 creates a, a huge blister almost as if it was, it
25 was a burn with, with acid.

2 MIGUELL PORTILLO: [speaking Spanish]

3 ROSIE GONZALEZ [translating]: So I do
4 think that there needs to be a law that regulates
5 all the carwashes.

6 MIGUELL PORTILLO: [speaking Spanish]

7 ROSIE GONZALEZ [translating]: Because
8 especially during the rainy days you have to clean
9 out the tunnel and the canals where the cars are
10 passing through.

11 MIGUELL PORTILLO: [speaking Spanish]

12 ROSIE GONZALEZ [translating]: So
13 especially because in carwashes like the one that
14 I've, that, the ones that I've worked in there is
15 about 80 percent of the tunnel is water that's
16 reused and recycled and it's dirty water. There's
17 only a very, very small portion of the tunnel that
18 uses clean water.

19 MIGUELL PORTILLO: [speaking Spanish]

20 ROSIE GONZALEZ [translating]: So one of
21 the things that I want to emphasize is that when
22 the workers are forced or asked to clean out those
23 tunnels, clean out those, clean out those canals
24 you have to push all that sludge, all of that mud,
25 all of that dirtiness that has been collected over

1 a course of a month that could include chemicals,
2 degreasers, all kinds of bad stuff, you push it out
3 just into the, the, to the sewer that is the city's
4 sewer.
5

6 MIGUELL PORTILLO: [speaking Spanish]

7 ROSIE GONZALEZ [translating]: So just
8 as she, referring to me, mentioned before a lot of
9 my coworkers and a lot of my friends have
10 complained about the, the adverse chemical effects
11 that they've, that they've seen on their personal
12 health, things like acne or asthma in the worst
13 cases.

14 MIGUELL PORTILLO: [speaking Spanish]

15 ROSIE GONZALEZ [translating]: So I'm
16 here to ask you to pass this law to regulate these
17 car washes. I know that I cannot pass it myself and
18 I cannot do a lot to regulate these carwashes but
19 you can. You're empowered to do so.

20 ROSIE GONZALEZ: Thank you.

21 MIGUELL PORTILLO: Thank you.

22 [pause]

23 CHAIRPERSON NELSON: Thanks very much
24 for your testimony. Appreciate it.

25 [pause]

2 [background comments]

3 CHAIRPERSON NELSON: Oh okay. And okay
4 Mr. Jack Caravanos. Did I say that right?

5 JACK CARAVANOS: You did.

6 CHAIRPERSON NELSON: Good. Okay. Oh
7 yeah.

8 [pause]

9 JACK CARAVANOS: Good afternoon. Before
10 I start I want to personally thank Mr. Nelson for
11 his service to New York City. It's admirable and
12 you're never appreciated enough in this position.
13 So thank you and best wishes to you. My name is
14 Jack Caravanos. I am a New York City resident born
15 in Washington Heights, grew up in Astoria next to
16 Astoria Park and the river. I was educated at City
17 University of New York. I then went on to
18 Polytechnic for my master's, Columbia for
19 doctorate, and now I'm a professor of environmental
20 and occupational health at CUNY School of Public
21 Health Hunter College. So you have in front of you
22 my testimony and being a professor I tend not to
23 just read these things and just talk to you and the
24 audience. Just about everything I say is in the
25 document so if you allow me to proceed this way I

1 think it's sort of easier for everybody. The, the
2 hazards which were recently introduced by the
3 previous speaker are apparent. What was not said is
4 very often that these chemicals are not cosmetics
5 that go on our skin. They're very powerful
6 chemicals that go on hard, durable materials. So
7 don't compare this to Dove soap or any shampoo that
8 you're used to. These come in concentrates and I
9 have no doubt that the concentrate in and of itself
10 would probably be deemed by USEPA as hazardous
11 waste. So if you were to throw out this concentrate
12 into a sewer you would be in violation of federal
13 law. But of course there's significant dilutions so
14 what appears on the waste water coming off is much
15 lower. We have degreasers, we have odorants,
16 fragrances, we have ammonia compounds, caustics,
17 all sorts of agents that go on to these vehicles
18 and of course everything that comes off the
19 vehicles including sludges, dog feces,
20 particulates, the works. So there's no doubt that
21 the rinsings from these operations are, are
22 significant environmental contaminants. Now the
23 occupational risks are, are fairly well elucidated.
24 You heard from two people today on that and I just
25

1
2 wanted to encourage you to read Steve
3 Mosner's[phonetic] report on the occupational
4 health risks from a previous testimony. It really
5 does specify the risks to workers. But I know your,
6 your regulations protecting occupational health are
7 limited given that there is a federal OSHA but I
8 think it is important to bring that up. What I sort
9 of want to focus on in this particular regulation
10 is really the responsibility of industries. And
11 some industries don't need much regulation. Other
12 industries like the nuclear industry, chemical
13 industry, pharmaceuticals it's very serious. And
14 you really don't think of this as a chemical
15 industry but when you, when you start assessing it
16 as many municipalities nationwide have already done
17 before New York City you see that the rinsings and
18 the wastewater is a regulatable substance. And I do
19 believe that this material entering our waterways
20 still continues to degrade our waterways and
21 ultimately is holding back the restoration. So
22 essentially when you look at a hospital, when you
23 look at a dry cleaners, these chemical, these
24 processes are, are paid for. So hospitals have to
25 pay for infectious waste to come off, chemical

1 waste. Dry cleaners; of course the
2 trichloroethylene. Even some place like Starbucks
3 and McDonald's has to pay for the waste they
4 generate. And in this particular case what we see
5 in the carwash industry is that the substantial
6 amount of waste water really goes sort of remedied,
7 unaddressed in the sense that you can see these
8 industries reducing the quality of the environment
9 at no cost to them. And the cost comes to the
10 people of New York. So look I, I, as I said I grew
11 up in Astoria. I used to stare at the East River
12 under the Hell's Gate all my life. It was a murky
13 brown water and now I am so proud of New York City
14 that we can now swim in our waters, we can fish in
15 our waters, there are seals in our waters. This is
16 unthinkable. I can't believe I work in East Harlem
17 and there are people fishing in the Harlem River
18 and I have no qualms about diving in if the
19 currents were amenable because of New York City and
20 the City Council and its strong environmental
21 program. We're not swimming in the Gowanus Canal or
22 Newtown Creek but I, I am convinced that in our
23 lifetime Newtown, Gowanus Canal will be a wonderful
24 conoeable area. And, and that's because of these
25

1 regulations. And it all begins by addressing and,
2 and admitting that this industry does need some
3 type of oversight. Do I agree with every sentence
4 in the regulation? Probably not. However it does
5 need to be monitored. I have a lot of faith in
6 Department of Environmental Protection, DEP. They
7 regulate many industries. I think they can be
8 reasonable and address this without hurting
9 business owners yet protecting the environment and
10 subsequently protecting workers. So I, I really
11 appeal to the City Council to consider this and of
12 course approve it and, and again it may just be 200
13 establishments but the quantity of waste water
14 entering these waterways is substantial. Water is
15 their business. So I thank, I'd like to thank my
16 student Julia who made me aware of this regulation.
17 Back there, she's shy. She doesn't want to testify
18 today. She is a student at Hunter College in
19 Environmental Health. She said Professor Caravanos
20 you have to do something. You have to help us with
21 this. And I'm glad and honored to be here speaking
22 to you today so thank you very much.

24 CHAIRPERSON NEWTON: Well thank you
25 professor. Because emotionally we'd like to do this

1
2 type of legislation of course because it seems to
3 be the right thing but it's phenomenal when you get
4 scientific data. But if there's actually a strong
5 reason to do and not just emotional knee jerk
6 reaction to a situation. So I want to thank you for
7 taking the time out... [interpose]

8 JACK CARAVANOS: Yes.

9 CHAIRPERSON NEWTON: For coming and
10 testifying and, and to Julia.

11 JACK CARAVANOS: Yes. You're quite
12 welcome. And if I could be a resource to the city
13 council in clarifying that point what is the
14 decrement cause by soaps, industrial soaps I'd be
15 happy to oblige. So... [interpose]

16 CHAIRPERSON NEWTON: Terrific.

17 JACK CARAVANOS: ...thank you very much.

18 CHAIRPERSON NEWTON: Thank you. Thank
19 you Sir. Next person to testify Paulette
20 Saltani[phonetic] Okay. Ms. Gonzalez.

21 PAULETTE SALTANI: So as he said my name
22 is Paulette Saltani[phonetic] and I'm here
23 testifying on behalf of Joanna Lang. My name is
24 Joanna Lang. I am a law student intern at Make the
25 Road. I am here to discuss the mistreatment of

1 consumers by New York City carwashes. Primarily I
2 will discuss research which my organization Make
3 the Road New York conducted in order to investigate
4 consumer complaints regarding carwash misconduct.
5 What we found is that the carwash customers often
6 reported frustration with the apparent indifference
7 of management to their concerns. This was
8 especially prominent in the area of vehicle damage.
9 Many consumers reported that their vehicle was
10 damaged at the carwash and managers refused to fix
11 it or compensate it. When conducting this research
12 we surveyed 284 online customer reviews describing
13 customer experiences at 54 New York City carwashes.
14 We found their reviews on popular consumer forums
15 including Yelp, Yahoo Local, City Search, Insider
16 Pages, and Google +. 148 of the reviews, more than
17 half of them were complaints. As we read them we
18 found the same types of stories repeated over and
19 over. The most prominent of these stories is that
20 consumers repeatedly reported that carwash managers
21 do whatever they can to avoid paying for damage
22 done to vehicles. Almost a quarter, 24.2 percent of
23 customer complaints dealt with damage to a vehicle.
24 A carwash customer in Brooklyn described the
25

1 indifference of management. They damaged my auto
 2 and I required a tow truck to get my vehicle off
 3 their premises. To make matters worse their
 4 managers, their manager was useless. None of the
 5 work would assist, none of the workers would assist
 6 me in any way and I was stuck trying to locate a
 7 tow truck and repair shop on my own. A customer in
 8 carwash in Queens echoed back that experience.

9 While washing my car another car, yellow cab, was
 10 parked too close and when opening the door one of
 11 the workers dented my car. They never fixed it for
 12 me. The cost to individual customers can be quite
 13 significant. For example a customer of a Brooklyn
 14 carwash, a customer from Brooklyn, from Brooklyn
 15 carwash explained. I paid 50 dollars for the car
 16 wash and they broke my 250 dollar key. The manager
 17 didn't want to help. He just told me to file a
 18 police report. Unfortunately carwash customers
 19 report that carwash managers are unmoved by threats
 20 of police action. For example a customer of one
 21 Manhattan carwash explained; carwash machine
 22 malfunctioned in the middle of, of the wash
 23 slamming my car into the vehicle in front of it. I
 24 now have cracks in the middle of, of the grill and
 25

1 the hood was lightly bent. The owner of the shop
2 negated all responsibility for the incident. To add
3 insult to injury he forced me to pay for the wash.
4 When I threatened to call the police he mentioned
5 that it happened before and police can do nothing
6 with regard to these incidents. Another consumer at
7 a carwash in Manhattan attempted to file a police
8 report after having a conflict with the carwash
9 manager and lamented to filling the police report
10 did nothing. In addition to the repeated instances
11 of consumer complaints related to the refusal of
12 managers compensate the customer for damage to the
13 vehicle there are also some isolated reports of
14 managers swindling customers in other ways. For
15 example a customer at a carwash in Manhattan said.
16 They refused to honor my Groupon, they're that
17 scammy so they collected all the Groupon income and
18 then refused to honor the certificates. Other
19 problematic reports include carwashes that pedal
20 unnecessary services and or track on unexpected
21 costs to the carwash bill. And the lack of onsite
22 supervision by carwash managers. 7.4 percent of
23 complaints reported that the customer struggled to
24 get in touch with the manager. Further 37.8 percent
25

1 of complaints state that carwash managers if
2 available don't listen or pay attention to their
3 requests or complaints. It is clear that misconduct
4 at carwashes exacts a cost on customers whether due
5 to vehicle damage, poor service, or deceptive
6 business practices. As is common we expect these
7 costs to hit low income New Yorkers hardest. This
8 type of mistreatment is simply unacceptable. New
9 York City must protect carwash consumers by passing
10 legislation such as the Carwash Accountability Act.
11 The Carwash Accountability Act would help protect
12 customers by requiring carwashes to be licensed and
13 overseen by the Department of Consumer Affairs. As
14 part of this licensing requirement the
15 commissioner, commissioner of the DCA shall refuse
16 to issue a license to an applicant who lacks good
17 character, honesty, and integrity. In addition to
18 this general provision carwashes would be required
19 to keep a detailed log documenting consumer
20 complaints of damage to vehicles and the manner and
21 amount of compensation. Carwashes would also be
22 required to obtain a surety bond which would
23 guarantee payment of any judgments against the
24 carwash including those brought, brought by
25

2 customers. New York City must develop oversight
3 over the car wash industry in order to protect car
4 was consumers from vehicle damage, mistreatment,
5 and poor service at carwashes. Thank you very much
6 for your time and consideration. Joanna Lang.

7 CHAIRPERSON NELSON: Thank you Ms. Lang.
8 And Mr. Benjamin Losh[phonetic]?

9 BENJAMIN LOCH: Loch.

10 CHAIRPERSON NELSON: Loch okay. As in,
11 oh John Loch. That's right. It's spelled that way I
12 think. Alright hi.

13 BENJAMIN LOCH: Actually no relation.

14 CHAIRPERSON NELSON: No? That's a shame.

15 [laughter]

16 BENJAMIN LOCH: Well good afternoon. And
17 thank you for inviting me to speak with you today.
18 My name is Benjamin Loch. I'm a staff attorney with
19 Make the Road New York. Make the Road is the lead
20 author of the Carwash Accountability Act. The
21 testimony we've heard today highlights a range of
22 possible misconduct taking place at New York City's
23 carwashes. Consumers report unscrupulous business
24 practices. Workers are reporting suspect
25 environmental practices. In 2012 this committee

1
2 also heard testimony raising concerns about
3 compliance with environmental health and safety
4 standards and worker's rights. When it comes to New
5 York City's carwash industry it seems the old adage
6 holds true. The more you dig the more dirt you come
7 up with. That is to say that we don't know the full
8 range of bad practices that take place at
9 carwashes. And we can only begin to calculate the
10 toll they take on the city. The research and
11 testimony presented today tell only a part of the
12 story. But we know enough to conclude that this is
13 an industry that needs oversight. With city
14 oversight we can begin to tally noncompliance and
15 finally reign in carwashes. The bill proposed here
16 is intended to create a mechanism for doing this.
17 As the committee is aware this is a proposal to
18 extend the licensing requirement of the Department
19 of Consumer Affairs to cover carwashes. The
20 Department of Consumer Affairs is the most
21 appropriate agency in which to house oversight
22 authority. Under New York City's licensing law the
23 DCA already oversees 78 thousand businesses in 55
24 industries. And frankly we heard today from the DCA
25 that they believe this industry doesn't merit

1
2 licensing, it doesn't have the kinds of practices
3 that fit into a licensing regime.

4 [background comments]

5 BENJAMIN LOCH: Yeah with good reason.

6 [background comments]

7 BENJAMIN LOCH: Sure. But I'm surprised
8 to hear the explanation. I don't think the reason
9 is justified. Tow truck, tow truck companies I'll
10 give you some fodder for that. Tow truck companies,
11 garages, parking lots, and car booters must all
12 have licenses to operate. I think car washes would
13 be a very logical addition to this list. Moreover
14 the DCA has legal authority to enforce wide ranging
15 reporting requirements which would go a long way
16 toward bringing transparency to an industry who's
17 opacity otherwise shielded from effective scrutiny.
18 The DCA also has the power to require businesses to
19 supply a proof of compliance with laws that are
20 ordinarily the province of other agencies. For
21 example under the licensing law laundry operators
22 have to demonstrate compliance with the building
23 code and the health code. This means the DCA's
24 authority to examine compliance across a broad
25 range of practices means that the city can identify

1 and target the worst offenders in the industry. So
2 we welcome a conversation with the DCA if they
3 specific concerns that we can respond to. We'd be
4 more than happy to engage in that conversation.
5 Carwash licensing requirements are already enforced
6 in other jurisdictions. California's experience is
7 perhaps the most remanent to today's, to today's
8 discussion. California's licensing law also emerged
9 from a carwash campaign. It was passed in 2003 and
10 it was set to sunset at the close of 2006. The
11 sunset has since been extended twice and most
12 recently this past October the sunset provision was
13 eliminated thus making the licensing requirement
14 permanent. The licensing requirement has also
15 ushered in the start of a transformation of the
16 industry. Within the first four years of the laws
17 statewide enactment the percentage of carwashes
18 deemed to be in compliance went from 18 percent to
19 63 percent. The main industry group were treated
20 from its outright opposition to the law. And
21 carwash operators even went on the record calling
22 for stronger enforcement so that rouge operators
23 would not gain an advantage over compliant
24 carwashes. It's our belief that a licensing
25

1 requirement would have the same effect in New York
2 City. By rewarding good conduct and targeting bad
3 conduct we can turn honest carwash operators into
4 the reformers of their industry. The bill addresses
5 the issues that we've heard today. It requires
6 proof of compliance with rules on waste water
7 discharge. It also requires that carwashes maintain
8 a log documenting consumer complaints. But it also
9 incorporates broader transparency requirements. Car
10 washes are required to disclose cooperate
11 information and the identities of their officers.
12 In our experience with, with carwashes this
13 information is often very difficult to track down.
14 Also carwashes are required to furnish proof of
15 insurance coverage. By introducing new transparency
16 to the industry these provisions will promote
17 compliance, inform consumers, and provide the
18 wherewithal for effective enforcement. In sum New
19 York City's carwash industry is in need of
20 oversight. The committee has heard about a range of
21 bad practices impacting New Yorker's general
22 welfare and their pocket books. The Carwash
23 Accountability Act would hold carwashes to a new
24 standard of transparency and oversight. One that
25

1 numerous other businesses follow while competing
2 successfully and contributing to the life of the
3 city. The result will be a marketplace that rewards
4 integrity and good, and good business practices for
5 all the, for the benefit of all New Yorkers. Thank
6 you.
7

8 [pause]

9 COUNCIL MEMBER MARK-VIVERITO: Thank you
10 for the testimony and I just. I think you were
11 talking, I'm just trying, from looking at your
12 testimony we're talking about in California..
13 Because I guess the question here is about how many
14 different agencies might have some level of
15 oversight. Right? Over let's say, if we wanted to
16 regulated a, a carwash and there's obviously the
17 DEP stuff in addition to the Department of Consumer
18 Affairs but there may also be some other
19 regulations. It might be like you're saying,
20 Department of Buildings. Are you saying that the
21 law in California, yeah housing and buildings, the
22 Department of Buildings would have some level of,
23 should have some say but, that the agency that does
24 the licensing also has oversight? Not oversight but
25 is able to bring together I guess. Well of the

2 other agencies that might have some role to play in
3 regulating the carwashes. Because you mention
4 about, I'm just trying to find it here I just saw
5 it in your, in your, your testimony.

6 BENJAMIN LOCH: Yeah, I think I get the
7 question though. I think that it, it, no in fact.
8 And I think in this regard the bill that we're
9 proposing here represents an improvement over the
10 bill that they've got, well the law that...

11 [interpose]

12 COUNCIL MEMBER MARK-VIVERITO: Okay.

13 BENJAMIN LOCH: ...they've got in
14 California. The law in California is entirely, it,
15 it's, the regulation is entirely through the
16 Department of Labor. They have a different name for
17 it there. And I think that one of the obstacles
18 that they have encountered although they have had
19 tremendous success I think that one of the
20 limitations has been that the Department of Labor
21 just isn't the appropriate agency for this kind of
22 regulation. I think that they're finding that
23 they've encountered a lot of, there, they keep
24 hitting against walls with enforcement. For example
25 presumably when you have a licensing regime if a

2 business doesn't have a license it should be shut
3 down. And that's a, that's a power that the
4 Department of Consumer Affairs has. That's not a
5 part, a power that the Department of Labor has. And
6 so that's been an issue in California that
7 businesses without licenses are able to continue
8 operating because they just don't have the means to
9 shut them down. They have to take them to court and
10 seek an injunction. Whereas here the, the
11 Commission of Consumer Affairs can just go and seal
12 an establishment after and administrative process.
13 So, but your question I think had more to do with
14 whether they can fold in...

15 COUNCIL MEMBER MARK-VIVERITO: Right
16 because I found it here. You said the DCA has the
17 power to require businesses to supply proof of
18 compliance with laws that are ordinarily the
19 province of other agencies.

20 BENJAMIN LOCH: Right.

21 COUNCIL MEMBER MARK-VIVERITO: That's
22 actually our Department of Consumer affairs.

23 BENJAMIN LOCH: Right. Right.

24 COUNCIL MEMBER MARK-VIVERITO: Right.

25 BENJAMIN LOCH: Right.

2 COUNCIL MEMBER MARK-VIVERITO: So then
3 it, it basically has kind of a like a broader
4 responsibility so it could demand proof with laws
5 regarding environmental right?

6 BENJAMIN LOCH: Exactly.

7 COUNCIL MEMBER MARK-VIVERITO:
8 Regulations?

9 BENJAMIN LOCH: Yeah.

10 COUNCIL MEMBER MARK-VIVERITO: Okay.

11 BENJAMIN LOCH: And I think that's...
12 [interpose]

13 COUNCIL MEMBER MARK-VIVERITO: Well
14 that's interesting.

15 BENJAMIN LOCH: Yeah. So I think that
16 the, the idea is, is that we can centralize the
17 enforcement as opposed to relying on piecemeal
18 enforcement by numerous agencies. And I, I mean I
19 think that, there's no question that the agencies
20 are, are attempting, making earnest attempts to
21 regulate carwashes but I, I think that there's a
22 question of, of resources and, and maybe they,
23 interagency coordination so that we can end up
24 having one carwash that has violations spread
25 across a number of... [interpose]

2 COUNCIL MEMBER MARK-VIVERITO: Agencies.

3 BENJAMIN LOCH: ...practice areas. They
4 can hopscotch I think between agencies, between
5 enforcement and kind of duck, duck in the shadows.
6 One maybe they'll get fined on one thing but they
7 can continue you know, continue another illegal
8 practice potentially. But I think with the
9 Department of Consumer Affairs there's the
10 opportunity to, to bring all that under one
11 umbrella. And I think really that the effect would
12 be, we would be able to identify the worst
13 offenders because we'd be finding people who were
14 committing violations in multiple areas of law all,
15 all through the same regulatory process.

16 COUNCIL MEMBER MARK-VIVERITO: Now I
17 just wants to clarify that because I think that's,
18 that's an important distinction.

19 [background comments]

20 BENJAMIN LOCH: Okay thank you very
21 much.

22 CHAIRPERSON NELSON: And I think the
23 last person to testify in Juan Carlos Rivera. Juan
24 Carlos? Okay.

25 [pause]

2 CHAIRPERSON NELSON: Juan Carlos need a
3 translator? Okay thank you. Gonzalez- Whenever
4 you're ready you can begin sure.

5 [off mic]

6 CHAIRPERSON NELSON: Push the button.

7 ROSIE GONZALEZ: [translating]

8 JUAN RIVERA: [speaking Spanish]

9 ROSIE GONZALEZ [translating]: My name
10 is Juan Carlos Rivera and I'm a carwash worker.

11 JUAN RIVERA: [speaking Spanish]

12 ROSIE GONZALEZ [translating]: I have
13 been working for more than eight years in the
14 carwash industry in various different businesses.

15 JUAN RIVERA: [speaking Spanish]

16 ROSIE GONZALEZ [translating]: The, the
17 thing that has seemed most important to me is when
18 these owners send us to do something..

19 JUAN RIVERA: [speaking Spanish]

20 ROSIE GONZALEZ [translating]: So when
21 they send us to dig out this sludge or mud it
22 contains many microbes of many toxins.

23 JUAN RIVERA: [speaking Spanish]

24 ROSIE GONZALEZ [translating]: In one
25 company where I was working they would, they used

2 to pay a certain amount of money to a company that
3 would come with a container and carry away this
4 sludge.

5 JUAN RIVERA: [speaking Spanish]

6 ROSIE GONZALEZ [translating]: But
7 noticing that it was costing them a lot of money
8 they instead decided to order us to dig the sludge
9 out and just dump it into the sewers.

10 JUAN RIVERA: [speaking Spanish]

11 ROSIE GONZALEZ [translating]: Though
12 even just noticing the way that this sludge
13 affected us personally, directly it really caused a
14 lot of stinging and pain on our bodies.

15 JUAN RIVERA: [speaking Spanish]

16 ROSIE GONZALEZ [translating]: So I, I
17 also, that is the reason that I, I really am
18 appreciating this conversation because I think it,
19 knowing what the sludge did to our bodies it must
20 be causing great damage to the city. It's important
21 to be having this conversation.

22 JUAN RIVERA: [speaking Spanish]

23 ROSIE GONZALEZ [translating]: To see
24 how we have ourselves gotten sick cleaning this
25 sludge...

1 JUAN RIVERA: [speaking Spanish]

2 ROSIE GONZALEZ [translating]: ...I, I
3 think the sludge is also contaminating the rest of
4 New York with this, since they make us dig it out
5 and, and dispose of it.
6

7 JUAN RIVERA: [speaking Spanish]

8 ROSIE GONZALEZ [translating]: And when
9 I, I have actually asked the boss sometimes is it
10 not a problem that we're dumping this sludge in the
11 sewer and they have in fact warned me to be careful
12 not to be caught by the police or any from, from
13 the city because they could get a ticket.

14 JUAN RIVERA: [speaking Spanish]

15 ROSIE GONZALEZ [translating]: So that's
16 why I, I think it's important to give this
17 testimony, and my testimony has been short but I, I
18 think this is very important for you all to hear.

19 CHAIRPERSON NELSON: It's fine. Thank
20 you very much. Thank you both.

21 [background comments]

22 CHAIRPERSON NELSON: Okay that was a
23 good review of what's going on out there and the
24 scientific version as well besides for seemingly
25 obvious mental and physical anguish of those who

1
2 were working in this industry. So having said that
3 nobody further to testify we'll continue with this
4 into next week I would guess and certainly a new
5 council will take this up and make sure it
6 proceeds. We'd like to have a closing remarks.

7 COUNCIL MEMBER MARK-VIVERITO: I just
8 wanted to, I just want to thank everyone that's
9 here. Obviously there is growing support for this
10 to happen in terms of regulation of this industry.
11 It just makes sense obviously to protect workers
12 and also with regards to protecting the environment
13 here in New York City. So a lot of times and I want
14 to thank again the grassroots organizations and the
15 unions because it is as through these campaigns
16 there's a lot of, a lot of light is being shed on
17 things that have been kept hidden or, for too long.
18 So I really want to thank [speaking Spanish]. So
19 thank you very much.

20 CHAIRPERSON NELSON: Thank you Council
21 Member and if I started trying that I would sound
22 even worse than Michael Bloomberg.

23 [laughter]

24 CHAIRPERSON NELSON: Who by the way
25 gives a very good shot. I respect him for that. I

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really do. So this meeting's now adjourned. Thank
you all for showing up. I appreciate it.

[gavel]

[applause, background comments]

C E R T I F I C A T E

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



Date December 29, 2013