



**Department of
Consumer Affairs**

**Testimony of Julie Menin, Commissioner
New York City Department of Consumer Affairs**

**On Proposed Int. No. 125-A
A Local Law to amend the administrative code of the city of New York
In relation to licensing car wash facilities.**

**Before the
New York City Council Committee on Civil Service and Labor**

July 19, 2014, 11:00am

Good morning Speaker Mark-Viverito, Chairman Miller, and members of the Committee on Civil Service and Labor. I am Julie Menin, Commissioner of the Department of Consumer Affairs. I am joined by Marla Tepper, General Counsel. We appreciate the opportunity to testify in support of the proposed bill authorizing DCA to license New York City's car washes. We believe that this licensing scheme is a step in the right direction to improving this industry for carwash customers, owners, and workers.

The Basis for DCA's Licensing of Car Washes

The Department licenses 55 categories of businesses, comprising approximately 78,000 businesses. The Department also regulates other industries, such as tax preparers and funeral parlors, through industry specific laws and rules. Currently, the Department does not license or specifically regulate car washes. As with other businesses that the Department does not license or specifically regulate, the Department may investigate car wash complaints, conduct inspections and issue violations pursuant to the City's consumer protection law. The proposed licensing scheme provides important protections to consumers and prevents car washes from contaminating the City's water system.

Specific Bill Provisions

Int. No. 125-A requires car washes to be licensed by the Department unless they fall within certain limited exemptions. Among other requirements, to obtain a license, car wash operators would be required to have certificates of insurance for workers' compensation, unemployment insurance and disability insurance coverage and copies of liability insurance policies or certificates of insurance for liability insurance. Importantly, car wash operators would be required to keep electronic records documenting complaints of damage to vehicles. The bill also

authorizes the Department to refuse to issue a license to an applicant who lacks good character, honesty and integrity. The law provides that to make this determination, DCA could consider failure by the applicant to provide truthful information or documentation in connection with the application or a finding of liability in a range of civil or administrative actions. We note that as with other fitness reviews DCA conducts, the purpose of this review would be to ensure that an operator is fit to hold a license, not to create a barrier to licensing. Consequently, in assessing an applicant's fitness, the Department would consider matters that are recent, relevant and bear a relationship to the operator's fitness to operate car wash; we would not deny a license based on old, insignificant or irrelevant matters. The proposed bill would also require car wash operators to maintain a surety bond from an authorized surety company payable to the People of the City, conditioned upon compliance with the provisions of this law. The bill proposes that the amount of the bond would be at least three hundred thousand dollars.

Under this law, no license would be issued or renewed and every license already issued would be subject to suspension or revocation, upon the failure of the applicant or licensee to pay or satisfy any judgment secured against him, provided that the judgment was secured in a court of competent jurisdiction against the applicant or licensee for acts with regard to the business or pursuant to the license. This requirement would apply to any successors or predecessor owners of the car wash according to criteria set forth in the bill. Under the bill, a car wash operator would have to pay five hundred and fifty dollars for a license. This fee is based on DCA's analysis of the costs of licensing this industry.

The bill also contains various provisions to safeguard the City's water supply. To obtain a license from the Department, car washes would have to provide, among other things, self-certification of compliance with various laws, regulations and rules, including environmental protection for

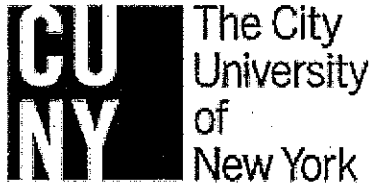
groundwater wastewater discharge and the discharge of materials and substances into the public sewer and verify that they obtained all necessary permits from New York City.

To date, we have worked cooperatively with the Council on the bill and the proposed bill takes into account concerns raised by the Department. We look forward to working with the Council.

Conclusion

Int.No.125-A delegates to DCA responsibility for ensuring that car washes will be held accountable for compliance with consumer and environmental protection laws. We embrace the opportunity to utilize the agency's licensing function to advance these important objectives.

Thank you Speaker Mark-Viverito, Chairman Miller and committee members for the opportunity to speak today. I welcome any questions you might have for the Department and look forward to working with you and your staff on this and DCA's other important initiatives.



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June 19, 2014

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

Dear Members of the New York City Council:

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

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

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

The car wash industry and its wastes present a serious ecological threat to our city's waterways, thereby preventing citizens from enjoying the water, and endangering the lives of the plants and animals that live in the water. The untreated wastewater coming out of car wash operations contains numerous environmentally persistent chemicals that impact New York City's waterways. Many of these compounds are not removed (i.e. treated or destroyed) during the city's normal secondary sewage

treatment process. That means that harmful materials will enter the waterways: the East River, Hudson River, Long Island Sound, Jamaica Bay, and Lower New York Harbor.

Let me briefly describe some of the harmful compounds. First, car wash wastewater contains many petroleum hydrocarbons – the oils, greases, and lubricants associated with automobile engines. They are unlike the biodegradable fats, greases, and oils associated with food. Petroleum hydrocarbons do not readily degrade and may pass through the secondary sewage treatment process. A second type of harmful compound is the particles coming off of the cleaning process, which are both organic and inorganic-based and are often coated with numerous surfactants – ionic and non-ionic cleaners. The particles are not simply roadway grit. They, too, will likely pass through the secondary sewage treatment process and into our waterways.

Wastes from the car wash industry might also pose a serious human health threat. I can't say exactly what the health consequences of the car wash wastes are, but it is indisputable that the chemicals used in car washing are corrosive and harmful. When wastes are sufficiently concentrated with these chemicals, the wastes themselves pose public health dangers.

In short, the wastewater coming out of car washes contains unacceptably high levels of contaminants. It is therefore imperative that car washes have a wastewater filtration system that will adequately remove harmful materials from its wastewater before that wastewater is sent to the city sewers. The filtration system must have oil/water separators and be adequately maintained such that sludge doesn't build up in the filter and overflow the system. Without these filters, harmful chemicals and compounds will end up in our city's waters.

If car washes aren't maintaining the proper filters – which I suspect they aren't – their wastewater poses a serious ecological risk. Grasses, plants, shellfish, birds, and other wildlife are threatened by these pollutants. Car wash pollution might also pose a human health threat. And it's certainly an aesthetic concern – surfactants like those found in car wash wastewater produce sudsing (foam that collects on the water's surface), and suds are ugly. People don't want to recreate in polluted water. In these ways, pollution from the car wash industry is affecting waterways throughout the city. It is affecting Jamaica Bay, which has finally become a nice recreation area. It's affecting the waterways in Pelham. And so on.

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

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

Another concern, in addition to concerns related to wastewater, is the way in which car washes are disposing of the sludge that collects in their filtration system. The federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 *et seq.*, requires that businesses which generate "hazardous wastes" must treat, store, and dispose of their wastes in specific, safe ways. They can't just throw hazardous wastes into the garbage or down the city sewers.

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

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

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

Thank you for your time and consideration.

Sincerely:



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

Testimony of Richard Muller
Director, Legislative Affairs, New York City Department of Environmental Protection
before the
New York City Council Committee on Civil Service and Labor
concerning

**Intro. 125-A: A Local Law to amend the administrative code of the city of New York, in
relation to licensing car wash facilities.**

Thursday, June 19, 2014

Council Chambers, City Hall, 11 a.m.

Good morning Speaker Mark-Viverito, Chairman Miller and Members. I am Rick Muller, Director of Legislative Affairs in the New York City Department of Environmental Protection (DEP). I am joined today by Leslie Lipton, Division Chief of Pollution Prevention in the Bureau of Wastewater Treatment. Thank you for the opportunity to testify on Introduction 125-A, which proposes to establish licensing for car wash facilities.

While my testimony is based on the bill that is posted on the Council's website, we continue to work together with Council staff to ensure that the final version improves the regulation of this industry as well as the quality of life for everyday New Yorkers.

You have heard from the Department of Consumer Affairs (DCA), which will have the principal role in the regulatory scheme that the bill would establish. DEP's role is limited to oversight of the provisions in the Plumbing Code that regulate the devices required for businesses such as car washes. These businesses discharge the water they use to the sewer system, and the equipment, such as sand interceptors (or traps) and oil / water separators, removes debris and pollutants that are not allowed, under DEP's sewer-use regulations, to enter the system.

When an applicant submits plans for the construction of a new car wash to the Department of Buildings (DOB), DEP's responsibility is to review the plans for this equipment to make sure it will retain the used water long enough for the sand or oil to settle or separate out so that it is not discharged with the wastewater to the sewer system. The plans are then approved and returned to DOB, which processes the entire application.

The other type of equipment that is important for the protection of the drinking water supply is the backflow prevention device. This device ensures that water that is used under pressure, such as in the spray-washing of cars, and that may have chemical additives, cannot be allowed to be forced back into the water main when the pressure created by the equipment is greater than the pressure in the water main. This equipment must also be approved for adequacy.

With regard to record retention, as with other businesses, such as restaurants that are required to install and maintain grease traps on their sinks and dishwashers, we require that maintenance records be kept on premises and made available to an inspector on request.

The bill contains provisions relating to Material Safety Data Sheets, now known simply as Safety Data Sheets, or SDSs. The bill proposes to require retention of SDSs, review of SDSs by the Commissioner and contemplates promulgation of rules. We understand that there is a

comprehensive body of federal regulation in this area, including regulations by the Occupational Safety and Health Administration, and we are reviewing whether this type of local regulation could be preempted by federal law.

We appreciate the Council's collaboration with the Administration to amend the provisions in this bill to make this regulatory scheme as simple and efficient as possible for all concerned. Thank you for the opportunity to present testimony. I would be glad to answer any questions.

FOR THE RECORD



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

TESTIMONY OF NEW YORK CITY COMPTROLLER
IN SUPPORT OF Int. 125-A

BEFORE MEMBERS OF THE
COMMITTEE ON CIVIL SERVICE & LABOR
OF THE NEW YORK CITY COUNCIL

June 19, 2014

Thank you to Chairperson Miller and the members of the Committee on Civil Service and Labor for holding this hearing today on Int. 125-A, the Car Wash Accountability Act, and to Speaker Melissa Mark-Viverito for her leadership on this issue in the council. This bill, if passed into law, would ensure that employees at over 200 car washes throughout the five boroughs are protected from workplace hazards and are paid the full value of their work.

For far too long car wash operations have been able to operate outside the realm of government oversight and accountability. A New York State Department of Labor investigation in 2008 revealed that almost 80 percent of city carwashes were in violation of minimum wage and overtime laws. Earlier this year the New York State Attorney General reached a \$3.9 million settlement with a car wash operator in New York City. The Attorney General's investigation found numerous labor law violations, including underpayments to car wash employees, underreporting of employees on state unemployment insurance returns and failure to carry required workers' compensation insurance for all employees that work.

This act will require car wash operators to join more than 78,000 businesses across 55 industries that are already licensed annually by the Department of Consumer Affairs. In order to be licensed, car wash operators would have to report details of ownership, show they comply with city, state and federal laws, and secure a surety bond to cover any unpaid fines or damages.

Workers shouldn't have to suffer the consequences of bad business practices or policies that could threaten their health. Car wash workers spend hours, day in and day out, surrounded by harsh chemicals. This legislation is designed to ensure that these workers have the same protections on the job as anyone else.

From the first minimum wage and workplace safety laws a century ago to more recent fights for environmental justice and paid sick leave, we have seen firsthand how well-designed regulation is a critical tool in protecting workers from hazardous work environments and ensuring they are treated fairly by employers.

The Car Wash Accountability Act shares this historic mission and I urge this Committee and the City Council to pass it. No hard-working New Yorker should ever feel threatened where they work or told that health is a luxury they can't afford.

Testimony of Juan Carlos Rivera
New York City Council Committee on Civil Service and Labor
June 19, 2014

My name is Juan Carlos Rivera, and I am a car wash worker. I have worked at a few different car washes for a total of about eight years. I also have many friends who work at car washes, and talk to them to learn more about different practices at different car washes.

I am here today to explain some observations about the car wash industry that might raise concerns. My testimony is based on my own experiences at car washes as well as what other car wash workers have told me. I'm not an expert and don't know the law, but I can tell you some things that I have heard about or observed at car washes. Hopefully, my testimony will help you put the testimony of today's other speakers into context.

Just like what Miguel described, working at a car wash is a dirty job, where workers often get paid less than the tipped minimum wage, our tips get stolen, and where we don't get proper compensation for overtime, spread of hours, or reporting hours. I will first talk about the waste disposal at some of the car washes where I have worked, or what other car wash workers have told me. I will also talk about how owners have in the past dealt with damages to cars, a practice that continues in some car washes.

I am aware of a few different ways that car washes have cleaned out their filters. One car wash used to put all of the sludge from the filter into special containers that would get taken away by a company. But these containers cost a few hundred dollars. After a while, that car wash began to clean its filter by opening up the pipe that's underneath the filter, turning on the faucet, and letting water rinse all of the sludge down the drain into the sewer.

At one car wash where I worked a long time ago, the other workers and I were asked to clean out the filter and throw the sludge into the sewer. But they told us "nobody can see you do this" as though they needed it to be a secret. At another car wash that I am familiar with, the sludge gets taken into the basement where there is a drain that leads directly to the sewer. The car wash takes the sludge from the filter and pours it down the drain. Disposing of sludge in the city sewer seems to be very common in the car wash industry, because many of my friends who work in different car washes have seen sludge poured into the sewer at their car wash.

I will also tell you what happens sometimes when a car gets damaged at a car wash. I witnessed situations where a car got damaged at a car wash, but when the customer pointed it out, the manager denied it. In these situations, the manager argued with the customer, saying that it didn't get broken at the car wash and refusing to pay for it. Sometimes, the manager would win and the customer would give up and leave. Other times, the customer would argue long enough that the manager would finally agree to replace the damaged part. But even then, it was the workers who had to pay for the damages. Workers would have to make payments from their paycheck, or it was taken from our tips.

Like Refugio and Miguel said, since we joined the union, the conditions at my car wash have changed drastically. I know there are still owners that are not complying with the law, but with your support we can make sure that these practices are eliminated. Thank you for listening to my testimony.

MIGUEL PORTILLO'S TESTIMONY

My name is Miguel Portillo, and I am a car wash worker. I have worked in the car wash industry for more than five years, at multiple car washes. I also talk with car wash workers all over the city, to learn more about the different practices at different car washes.

Before the car wash campaign began, my co-workers and I were the victims of wage theft, in many different ways: we had to split our tips with the managers; they would take money from our tips to cover lost or damaged items; we didn't make minimum wage with tips taken into account; we didn't get overtime. They also didn't pay us the mandatory four hours when they sent us home early on rainy days or slow days, or for the additional hour that the law requires after working ten consecutive hours.

There was a lack of protection that existed in every sense. For example, one of my co-workers suffered from asthma that he believes was made worse by using chemicals without protection. Another co-worker has serious problems with his skin, fingernails, and eyesight, which he believes is for the same reason.

We have also suffered physical abuse; one of my co-workers was physically attacked by one of the owners of the car wash.

Another thing that continually happened was that they would throw our personal belongings into the trash. If we bought coffee and the owner was in a bad mood, he would often throw that out as well.

All of these things, and much more, were part of our daily lives.

Our struggle isn't just about money, it's about respect, dignity, and above all, our responsibility as human beings to protect each other.

Car washes need to be regulated. Fortunately, at the car wash where I work now, many things have changed with the support of the union, but in many other car washes, there are many things that should be changed.

We have faith that justice will prevail and continue to improve the conditions of people living in this city.

I hope that my testimony will help you understand the reality of car washes in the city of New York.

Approving this legislation isn't the definitive solution for all of these problems, but it is a big step that we can't take without your support.

Testimony Prepared by Frank Roman
New York City Council Committee on Civil Service and Labor
Regarding Int. 125-A, Car Wash Accountability Act
June 19, 2014

Speaker Mark-Viverito, Chairman Miller and members of the Committee, good afternoon and thank you for giving me the opportunity to testify. My name is Frank Roman, I am the owner of Sunny Day Car Wash and a proud member of the Association of Car Wash Owners. I am testifying before you today out of strong concern for the livelihood of my business, which is in jeopardy of closing if Introduction 125-A is passed into law.

As someone who has worked on the line at a car wash, I understand the importance of this job to a lot of communities. I am a native New Yorker of Puerto Rican descent. I was born and raised in the Bronx, and I operate my car wash in the same neighborhood I grew up in. My parents emigrated to the United States from Puerto Rico in the early 1960s. Growing up, I did not come from a wealthy family. While I was in school, I worked several jobs to help support my family. One of those jobs was as an employee at a local car wash.

My childhood had a big influence on my decision to take a job at a car wash. As a child, I have fond memories of accompanying my father to a car wash that was located on 128th street and Second Avenue. I remember staying in the car as it went through the wash tunnel and I was fascinated and mesmerized by it from beginning to end. It was through many years of hard work, a second mortgage and my passion for cars, that gave me the opportunity to own my own car wash at the age of 30. My business is my only source of income and helps me provide for my family of five. However, the ability to make profits becomes more of a struggle every year. I have been in the car wash industry for 20 years and current operating costs are at unaffordable levels.

This piece of legislation, in its present form, will impose severe and unfair financial burdens onto an industry already suffering from high taxes, water and utility rates. Simply put, Introduction 125-A will cripple the car wash industry, forcing 3,000 hard working individuals out of work. I always battle to stay competitive against car washes that violate labor laws and charge their customers half of what I do. If I am forced to comply with the new rules in this bill, like the insanely high \$300,000 surety bond requirement, I will have no choice but to close the doors of my business. If Introduction 125-A is passed into law, I will spend my days fighting an uphill battle against unnecessary and irrational government regulations and requirements. The result will end in me losing the battle and my 20 employees losing their jobs. I ask the Council, what will this bill do then for myself and my workers when we are unemployed?

It is imperative that the Council revisit the wording and overall intention of this bill. If the intention is to shutter an entire industry citywide, then that is what will happen. If the intention is to ensure worker rights and safety, while promoting job and economic growth, then Introduction 125-A must be scrapped in favor of an amended bill. Again, thank you for allowing me to speak before the committee.

THE ASSOCIATION OF CAR WASH OWNERS, INC.

Testimony of Stephen Bernard

**Association of Car Wash Owners, Inc.
Before the New York City Council
Committee on Civil Service & Labor
June 19, 2014**

Madam Speaker, Chairman Miller and members of the committee. Thank you for the opportunity to testify today. My name is Stephen Bernard, I am a semi-retired car wash owner and executive board member of the Association of Car Wash Owners.

I've been in this business for over 45 years and have been proud of my personal impact on the lives of my employees. I've always paid my workers above minimum wage with full sick pay for workers all my life -- when there were no laws requiring it. I have personally helped teach and develop the skills of my workers -- employees who started wiping down cars, cleaning inside windows and vacuuming -- and eventually promoted them to managers and provided them with the opportunities to become my partners, and owners of their own car washes. These individuals are now sending their children to universities, owning their own homes, living the American dream and are have become proud citizens of this country.

I am one of the few to have been fortunate enough to have good locations and partners and to I have done well. By and large, we are not an industry of wealthy owners, but of small, "mom and pop shops." Many operators are very fragile and have difficulty paying their monthly bills in an industry that is extraordinarily weather sensitive, leading to closures for significant amounts of time. In addition, New York City car washes have some the most expensive electric and water bills in the country.

We are also an industry of honest, hard-working small business owners. Most of us are immigrants ourselves and not what the advocates of this legislation would make us out to be based on a few high-profile violators and a movement to unionize our industry. We are not

sophisticated corporate businesses. Most of the owners work and manage their own operations, even working the line, vacuuming and wiping cars at times. Most owners have large loans and second mortgages on their homes. They are terrified by what they have seen over the last two years with this legislation, as they sincerely believe their homes, their jobs and their families are at risk.

While every industry has its bad apples -- and the car wash industry is no exception -- it is unfair to paint a broad brush and demonize an entire industry of small businesses and burden them with unworkable and unaffordable regulations.

I am gratified that our representatives are working together with the Council and the advocates and have made progress regarding the burdensome environmental requirements and the overly broad licensing standards. I hope the discussions continue after today so we can come to a reasonable understanding and our industry can survive and thrive.

The biggest outstanding issue regarding the legislation remains the prohibitive Surety Bond requirements. Requiring a \$300,000 bond alone would put most our industry out of business as no surety company will provide such a bond to a car wash business. And that's the Surety Bond industry telling us that.

This bill is so burdensome and costly, that it will produce the opposite intent in terms of helping low-wage, immigrant workers. It will create mass unemployment in our industry because car washes will simply shut down or will operate with less employees, eliminating interior car services and go to an exterior only service -- which in many cases requires two men, not twenty or thirty. This is the way the industry operated in the 1970s, but changed with consumer demand for more services on the interior.

We want to work with you Madam Speaker, Mr. Chairman and members of the City Council. We have a shared interest in ridding our industry of those who continually and willfully violate the law, of those who do not treat their employees with the dignity and respect they deserve. They not only give our profession a bad-image, but our members simply can't compete with

them. Please understand that this legislation, as currently drafted, only hurts those who are trying every day to do the right thing.

After meeting with you, Madam Speaker, I believe in my heart, that you and your staff and are not anti-business and will make sure this bill in its final form will establish a fair licensing system for the car wash industry.

Thank you for the privilege of allowing me to speak.



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Testimony before City Council

Thursday, June 19, 2014

~~Jeffrey Price, President of Price and Price Enterprises, Inc dba Melwain Surety Bonds~~

Background/Introduction: Jeffrey Price is a third generation surety agent. He is the President of Price and Price Enterprises, Inc. dba Melwain Surety Bonds, a surety only agency, operating out of Valley Stream, Long Island. As a surety bond only wholesaler that does not do any insurance, Price and Price is aware of market trends, upcoming bond requirements, and the standard surety approach to these requirements. Since Price and Price represents over 18 different surety markets which do business in the City of New York, Mr. Price is able to provide a general consensus of what the majority of companies operating in this area thoughts are pertaining to this possible new bond requirement

Position: The proposed \$300,000 bond requirement will be difficult to obtain for the majority of Car Washes operating in the City for the reasons referenced below.

Reasoning:

- 1) **The Bond May be Un-obtainable For The Majority of Entities That Are Being Required to Post Bond** – Unlike insurance in the event the surety has to pay out on a loss, it has the right to seek to be made whole or seek partial reimbursement by the principal via the indemnity agreement they have signed with the surety. Therefore part of the standard underwriting of all bonds involves a financial assessment of the principal. All surety companies will require a certain threshold of financial strength which will be relative to the size of the bond required. For a larger bond the surety would have a higher threshold. Many smaller car washes would not qualify for the thresholds that would be in place for a \$300,000 bond. Additional hurdles associated with obtaining the bond come from how the surety would want to confirm the financial capabilities of the principals. For a bond of this size the surety would be looking for CPA prepared financial statements on the company. ~~The financial statements would~~ need to come from a CPA so they represent a third party representation of the financial capacities of the business. Financial statements are different from tax returns in that tax returns are normally prepared on a cash basis and financial statements are prepared on an accrual basis to take into account accounts receivable and accounts payable. Most if not all car washes to date will not have CPA prepared financial statements as they have not had a need for it in the past if ~~they have not sought bank financing for their business (banks often require~~ financials as well if they do not have property to collateralize the loan). As the car washes do not have financial statements available, they will need to retain a CPA to obtain these statements. Only when the statements are prepared will the client know if they qualify for bond, meeting the thresholds set forth by the surety company. For a \$300,000 bond the surety would be looking for a net

worth and working capital around \$300,000 to be shown on their financial statement. Many car washes may go through the extent of obtaining a CPA to prepare financial statements just to find out they do not qualify for a bond of this size. At which point they will either be declined by the surety company or be forced to pay usury rates.

2) **The Bond Is Unaffordable:** The wording in the bond form and the size of the bond requirement will impact the amount of surety companies willing to take on this class of business. The less onerous the bond form and the lower the penal sum required under the bond the more surety companies would be willing to write the requirement. The more sureties that write bond, the more competition there will be in the marketplace and the better rates will be for the principals. If only a few surety companies are willing to write this class they will control the market and cherry pick the principals they want to write this bond for. If this happens a \$300,000 bond can wind up costing the client close \$7,000. In addition to the \$7,000 cost would be the other costs of business these car washes would incur to qualify for the bond. They would need to pay a CPA anywhere between \$2,000 and \$10,000 depending on the size of their operation to obtain the financial statements the surety would require to do their review (referenced above). Additional costs will be incurred as well by the day to day business operations which would need to be changed in order to meet the thresholds (for example the CPA may ask their client to lower officer or employee salaries to make sure the business has the net worth required to meet the surety's threshold for bond).

3) **A \$300,000 Bond Is Not In Line With Other Bonds Required by Various City Agencies:** The City of New York currently requires bonds for various business licenses and permits. None of these businesses have a bond size anywhere near the \$300,000 mark. I have listed many examples below:

- a. Auctioneer - \$2,000 Bond posted to Dept of Consumer Affairs
- b. Employment Agency - \$5,000 Bond Posted to Department of Consumer Affairs
- c. Home Improvement Contractor - \$20,000 Bond posted to Department of Consumer Affairs
- d. Laundries - \$5,000 Bond posted to Department of Consumer Affairs
- e. Pawn Broker - \$10,000 Bond posted to Department of Consumer Affairs
- f. Process Server - \$100,000 Bond posted to People of City of New York
- g. Reseller of Tickets - \$1,000 Bond to Department of Consumer Affairs
- h. Second Hand Dealer - \$1,000 Bond to Department of Consumer Affairs
- i. Storage Warehouse - \$10,000 Bond posted to Department of Consumer Affairs
- j. Street Obstruction Bond – Tiered bond posted to Department of Transportation. \$10,000 for one permit, \$50,000 for 2-50 permits, \$100,000 for 51-100 permits, and \$250,000 for unlimited permits

Conclusion/Recommendation: A tried approach should be taken regarding the bond requirement just as done with the street obstruction bond. ~~These tiers can be based on the revenues of the business or the number of employees.~~ This way the smaller \$10,000 - \$50,000 bond requirements can be written as transactional business by most surety companies. This would make them affordable and obtainable. The larger car washes with more employees and higher revenues would be able to obtain financials and show the net worth to support a larger bond requirement. If a tiered approach is not available I would suggest the unions and trade groups be able to post a bond

for their members as they will have the financials to support the bond.

FOR THE RECORD

Testimony of Stephen Mooser, M.P.H., Director of Health and Safety
Retail, Wholesale and Department Store Union/UFCW

New York City Council hearing: June 19, 2014

Good Morning Council Members:

My name is Stephen Mooser. Since 2000 I have been Director of Health and Safety of the Retail, Wholesale and Department Store Union (RWDSU). I am responsible for assessing health and safety issues faced by our members nationwide, conducting hazard specific and general training classes, developing educational materials and providing worksite inspections and other technical assistance to help reduce hazards at our employers' worksites. Prior to my work at RWDSU, I was Director of Education at the Irving J. Selikoff Occupational and Environmental Medical Center here in Manhattan.

Work and environmentally related injuries and illnesses are not freak, unexplainable accidents. They result from exposure to hazards. This is why the work of our profession is guided by a hierarchy of controls which seeks to eliminate or reduce exposure to hazardous substances and conditions as much as possible.

Car wash work is dangerous. It involves exposure to numerous hazardous substances and difficult working conditions. Workers commonly complain of symptoms including eye, nose, skin and respiratory irritation and burning. While the hazards of this work cannot be completely eliminated, they can be significantly reduced thereby preventing needless injuries and illnesses. Unfortunately investigation of conditions at far too many of these facilities indicates a failure to take even the most basic steps to protect worker health such as proper labeling of chemicals, worker training on hazardous chemicals, personal protective equipment, eye wash stations, and protection from electrical hazards.

The Occupational Safety Health Administration (OSHA) Region 2, which includes New York State, has recognized the significance of hazards in the industry and has established a special emphasis inspection initiative for car wash facilities. Since January 1, 2012, 27 inspections have been conducted by OSHA at New York State car wash operations. 12 of these inspections were completed in New York City. OSHA found at least two serious violations in 11 of the 12 New York City inspections. A serious violation can be cited when "the workplace hazard could cause an accident or illness that would most likely result in death or serious physical harm". The 12th inspection was the most recent. It was in response to a fatality at a Brooklyn car wash facility in January of this year. OSHA did not issue a citation in relation to that inspection.

We know that hazardous substances in the workplace often do not remain just in the workplace. They pose a potential threat to the surrounding community. How and by what process contaminated substances are released from the workplace, as well as at what

concentration and frequency are of great importance. We need to monitor how the alkaline cleaning agents, petroleum distillates, solvents, polishes, acids and other toxic substances used at car wash facilities are disposed of. Is contaminated water and accumulated sludge properly disposed of to protect our environment?

New York City has a proud history of being a leader in recognizing the connection between workplace and community safety and health. Whether through our fire and building codes or awareness of the need to control exposure to toxics such as asbestos, lead, and dry cleaning solvents we have been committed to protecting the health of our community.

This legislation is important because it recognizes a need for due diligence, to set expectations that the potential risks from these operations need to be reduced. And it helps ensure that those who provide this service are capable and willing to honor their legal occupational and environmental obligations to protect the health and well being of our community.

**Testimony of Benjamin Locke on Intro. No. 125-A
The Car Wash Accountability Act**

**Hearing before the Committee on Civil Service and Labor
June 19, 2014**

Benjamin Locke
Staff Attorney, Make the Road New York

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

It is hard to take an exact measure of what goes on at New York City's car washes. It is an opaque industry.

The testimony we have heard today and at previous hearings raises a number of important questions about the industry's practices. Consumers report unscrupulous business practices. Workers report lax environmental practices.

And what do we learn when car washes are forced to open their books? The Attorney General's office recently investigated two car wash chains, comprising twenty-one car washes. They found that the businesses underreported employees on state unemployment insurance forms; they underreported employees on workers' compensation forms; and they stole years worth of wages from their workers.

The lesson is that we don't know the full range of bad practices taking place at car washes--at least until we start investigating. And we can only begin to calculate the toll they take on the City. The Attorney General settled his case for \$3.9 million. That's just for twenty-one car washes.

New York City's car wash industry needs a new way forward. Instead of prosecution, we propose reporting and oversight. The Attorney General's settlement addresses this, too. As part of the settlement, the car washes agreed to up to three years of independent monitoring, including unannounced inspections and audits.

Our proposal is more modest. Once every two years car washes would be required to get licensed, or re-licensed, by the Department of Consumer Affairs. They would have to report basic information identifying the business and its owners, just like every other of the 78,000 businesses that we require to apply for licenses from the DCA. Car washes would have to certify compliance with existing environmental laws and this bill's requirements to keep records of environmental practices. They would have to keep a log of consumer complaints of damages. They would have to provide certificates of insurance—unemployment, workers' compensation, disability, liability—as well as proof of compliance with the bill's surety bond requirement. And they would have to certify that they are no outstanding judgments or warrants against them.

With this bill, car washes will join car booters, parking lots, garages, and tow truck companies,



AlphaChemical™

June 19th, 2014

Madam Speaker, Chairman Miller and members of the New York City Council Committee on Civil Service and Labor, thank you for allowing me to testify today regarding Introduction 125-A.

My name is Anthony Mancari and I have been a supplier of chemical detergent solutions to the professional car wash industry for 35 years. Currently, I work for Alpha Chemical Services out of Stoughton, Massachusetts. I began my career with Zep Inc. in 1979 and have the privilege of servicing many members of the New York City car wash industry for a very long time.

Alpha Chemical Service is a manufacturing chemical cleaning solutions company with customers from a variety of industries. Throughout its history, Alpha Chemical has made a commitment to formulate all its products with the best interests of its employees, its customers and the environment in mind. Alpha has and will in the future formulate its solutions with the safest chemical alternative ingredients available.

The car wash products we formulate for the New York operators are primarily surfactant based with mild solvents, acids and alkalis. All of the components used in the manufacture of car wash chemical products are environmentally preferable. The surfactants used are alcohol ethoxylates which are NOT environmentally persistent and many components of our formulations are third party certified as "green" by the Environmental Protection Agency's Design for the Environment program.

The solvents used are non-carcinogenic and are not reactive or flammable substances. The acids and alkalis used are not hazardous to the environment and readily neutralized during the wash process. The ancillary builders are non-phosphate and pose no danger to the environment or the end user. In addition, as an OSHA General Industry Safety and Health Trainer, I perform chemical safety training on-site at many car washes throughout New York City. Operators, as part of their Written Hazard Communication Program, employ me to come to their car wash and perform chemical safety training for their employees.



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The program that Alpha has put together for the employees is bilingual and workers are required to sign in and watch a brief video in either English or Spanish on chemical safety and employee “Right to know”. Many employees have personally “thanked me” for the training they received which was made possible by the car wash owner, which takes a proactive approach to worker safety and worker education.

In the past several years, I have witnessed a remarkable turnaround in the professional car wash industry in New York City and the surrounding areas including the following:

1. Safer chemical alternative solutions are much more present in the car wash chemical storage area.
2. PPE or personal protective equipment is more available than ever before for employees to protect their skin, hands, eyes, and lungs from the dangers of chemical misuse.
3. Safety training of employees is performed at least annually so workers can be refreshed on their responsibility of safe chemical handling and understanding their companies Hazard Plan.
4. New York City car wash operators are taking a very proactive approach to the health and safety of their employees, their customers and the environment.

In my opinion, the professional car wash location right now is the safest and most compliant method in New York City for people to have their vehicles cleaned as opposed to any other way and especially more safer and environmentally friendly than washing a vehicle in a driveway or on the street.

I am proud to be a supplier to the New York City car wash operators for over 35 years. Again, thank you for giving me the opportunity to testify. I will be happy to answer any questions the committee may have.

Testimony of David Mertz, Assistant to the President
Retail, Wholesale and Department Store Union, UFCW

I am David Mertz of the Retail, Wholesale and Department Store Union, UFCW.

I am here to testify in support of The Car Wash Accountability Act, which would establish, for the first time, common-sense city oversight covering an industry with a history of pervasive and egregious wage theft, unsafe and illegal practices, and the potential to harm consumers and our city's environment in serious ways. The core of the legislation would require car washes to obtain operating licenses from the City of New York in order to do business. The City already requires that businesses in dozens of other industries – including restaurants, towing companies, car garages, dry cleaners, and even thrift shops – follow this elementary step. This industry handles hundreds of thousands of dollars' worth of consumer property every day, and a litany of consumer complaints has come to light.

This is an industry with a truly sordid history. Some two years ago we launched the campaign to reform the car wash industry and organize workers. What we found was shocking. Workers working for 60, 70 hours a week and more. All too often without getting overtime. Many of them not even getting paid minimum wage. Conditions were dangerous and unhealthy. Many workers do not get the proper equipment to protect themselves from the chemicals they have to use. And by proper equipment I mean in some cases a decent pair of gloves and goggles. We heard over and over again that tips were stolen, that managers abuse them.

The biggest, most "professional" owner in the industry has been forced to pay multi-million-dollar wage theft settlements TWICE since 2009. Workers, and advocates who have interviewed hundreds of workers in the industry, report that the smaller car washes are even MORE likely than John Lage and his partners to be liable for even bigger wage theft claims. The evidence of that standard of exploitation has been demonstrated time and time again since 2012, when New York Communities for Change and Make the Road New York launched a campaign to clean up the industry, a campaign which the RWDSU wholeheartedly supports.

Fortunately, the campaign is making some headway. My union, the RWDSU, has won collective bargaining agreements at seven car washes. By empowering workers, a union contract provides the best possible mechanism to halt wage theft and other illegal acts. This legislation is an effort to help the rest of the industry come into compliance with at least minimum standards – and stay there – for the first time.

Some carwash owners, like some of those you're hearing from today, are working hard to make it in this industry WITHOUT underpaying their workers. Many are working hard to come into compliance with the law, despite a history of following the industry standard of noncompliance. We congratulate and want to support those car wash owners – and this legislation, including the surety bond provision, is designed to do just that. We understand that car wash owners are worried about changes to the industry that

they can't fully control, and of course they are going to push back against requirements that cost them money – even necessary requirements that cost modest and appropriate amounts of money. But as things stand, responsible car wash owners are at a huge competitive disadvantage operating within the industry as things currently stand.

Surety bonds are a common, well-established requirement for industries that routinely handle consumer property. The Car Wash Accountability Act requires car wash owners, just like operators of laundromats, dry cleaners, and car garages, for instance, to obtain surety bonds to open for business. Surety bonds protect consumers and other damaged parties – of course including workers – by ensuring that legitimate claims are satisfied. A strong bonding requirement is a critical component of ensuring that individuals who secure judgments against a carwash for unpaid or underpaid wages, or damage to a vehicle, can keep the carwash owners from wriggling out from under that judgment. This is also absolutely critical to protecting law-abiding employers in the industry, who have for far too long been struggling to compete against an industry standard that depends on nonpayment and underpayment of workers.

A recent example illustrates the need: In June 2011, three former employees filed suit in the EDNY against Off Broadway for non-payment of wages. (*Mirek Ramirez, et al. v. H.J.S. Car Wash Inc., et al.*, CV-11-2664). In June 2013 the court entered judgment for damages to plaintiff in the amount of \$205,409.34 and \$41,740 in attorneys' fees and costs, a total judgment of nearly \$250,000. The judgment is to our knowledge date unpaid and unsatisfied, and the corporate entity operating the carwash has changed, leaving workers with virtually no way to collect their back pay. This particular judgment covered only three out as many as three dozen workers employed during that time period – some of whom have now come forward to confirm that they too were severely underpaid during that time period. And the judgment covers less than two years of wage underpayment, though workers are entitled to 6 years by law if the violation has gone on that long. Attorneys familiar with the industry estimate that meritorious wage claims at many car washes are likely to exceed \$750,000 or \$1,000,000 in value. The bond amount also takes into account the recent Attorney General settlement with the John Lage & Fernando Magalhaes car washes for \$2.2 million in unpaid wages (out of a total settlement of \$3.9 million), a mere 5 years after they were forced to pay \$3.4 million in an earlier unpaid wage case.

A strong surety bond requirement is one of the only ways to actually ensure that aggrieved workers can access the wages to which they are entitled. That would help to finally eradicate wage theft from the car wash industry business model, allowing law abiding car washes to thrive at last.

The bond amount also protects consumers. Worker testimony indicates that standard practice to resolve consumer complaints is that employers take cash from the workers' tip pool to make the customer whole for any damage that the machines may have inflicted. Workers have also told of having money taken out of their paychecks over time to pay for more expensive damage. As oversight and worker courage eliminates this approach, consumers will also need guaranteed access to a bond to protect their claims.

The bond level of \$300,000 is necessary to ensure payment of wage and consumer claims as described above. This is an industry with substantial capital investment in carwashing machinery and sometimes real estate. Depending on credit and other factors, bonds can often be obtained for 1-3% of the bond face value.

The key fact here is that this is an industry with a long history of pervasive and often extreme wage theft, where several governmental clean-up efforts have failed. Despite several high profile, multi-million-dollar wage settlements over the past decade, advocates and workers testify that rampant violation of minimum wage, and overtime law and tip stealing as a standard industry practice continued unabated. Let's follow through now to make sure that the signs industry clean-up that we have all collectively sparked, manages to actually succeed.

**Text of Testimony at Hearing before the Committee for Civil Service and Labor,
New York City Council**

June 19, 2014

*Magdalena Barbosa, Esq.
Supervising Attorney, Make the Road New York*

Good afternoon, my name is Magdalena Barbosa and I am the Supervising employment attorney with the organization Make the Road New York. For the last three years, I have been meeting with car wash workers throughout the city. Time and again, I have heard the same stories; long grueling hours, no overtime pay, tip stealing, unsafe conditions, workplace accidents, and questionable environmental practices.

Violations of the minimum wage and overtime laws are par for the course for many immigrant workers in New York City. But the egregiousness and pervasiveness of wage theft – and repeat violations of wage theft – in this industry has been shocking even to me and my team of attorneys who specialize in this kind of case. I am also familiar with the findings of the WASH NY report from March, 2012, as well as the 2009 US DOL settlement, which forced John Lage and his affiliated carwashes to pay \$3.4 million in unpaid wages, and the 2014 NYS Attorney General settlement that again forced John Lage and his business partners to pay \$3.9 million, including \$2.2 million in unpaid wages, plus unemployment and workers compensation penalties. Based on my analysis of direct professional experience with the industry and review of these studies and settlements, I can state unequivocally that wage theft is rampant to a truly shocking degree in this industry.

Wage theft in the carwash industry often takes the shape of unpaid overtime – it is common industry practices for employees to work 12 hour shifts, 6 and sometimes 7 days a week, without receiving time-and-a-half for hours past 40 in a week. There are other violations that are particular to the car wash industry. Some workers receive no wages at all – only tips. Wage theft also takes the shape of unpaid “reporting pay” where employees show up for work as scheduled, work a short period of time, and are sent home because of rain or other weather, and never receive the pay required by law. For example, Almost every car wash worker that we have interviewed has reported that it is common practice for managers to skim from workers’ tips or deduct from workers’ wages to pay for damages to customer’s cars.

Because of the egregiousness of wage and hour violations across the industry, courts and governmental agencies, including the state and federal departments of labor, have begun to crack down on car washes. Earlier this year, the State Attorney General announced a 3.9 million dollar settlement with one of the largest car wash owners in the city. This settlement comes after the U.S. Department of Labor in 2009 found that the same employer owed over 3.4 million dollars in unpaid wages. This example shows how unresponsive car wash operators have been to attempts to halt illegal pay practices. It is clear that more comprehensive legal framework is necessary to police this industry.

Wage theft is everywhere in this industry. In the past three years, car washes located in the Bronx, Queens, and Staten Island have faced lawsuits for unpaid wages. Two years ago, Make the Road filed a lawsuit against Hi Tek United Corp. in Brighton Beach, Brooklyn and Astoria Car Wash Hi Tek & Lube, Inc. in Astoria, Queens. Over forty employees complained of working up to 70 hours per week without proper overtime pay, misappropriation of their tips, unlawful deductions from their pay, and failure to provide proper wages notices and pay stubs. Both lawsuits settled for over one hundred thousand dollars.

Many workers, who have the courage to seek legal counsel and initiate cases against their employers are not as lucky. Car wash owners, like many employers of low wage and immigrant workers, have become adept at shirking responsibility and hiding their assets to avoid paying workers their legally earned wages. Last summer, three workers from the car wash Off Broadway in Queens, New York won a judgment for over two hundred thousand dollars. To date, the plaintiffs have not seen a dime of this money. Some workers believe that the new owners are actually affiliated with the former owners, and that ownership was transferred simply to avoid liability for the judgment and perhaps other liabilities. Under current law, there is virtually no recourse for workers whose employers transfer assets or close down one corporate entity only to reopen under another name. Unscrupulous employers know how to transfer or hide assets over the course of litigations and investigations. By the time the Department of Labor makes a determination or a court issues a judgment, employers many time close up shop and disappear. Collection of back wages under those circumstances becomes impossible, and unscrupulous employers know that option up front.

If we are to stop the prevalence of wage theft in this industry, a strong bonding requirement, as proposed in the Car Wash Accountability Act, is critical.

Testimony of Refugio Denicia
New York City Council Committee on Civil Service and Labor
June 19, 2014

My name is Refugio Denicia, and I am a car wash worker. I have worked at the same car wash for over 15 years. I also talk to workers at car washes all over the city, to learn more about different practices at different car washes.

I am here today to explain some observations about the car wash industry that might raise concerns. My testimony is based on my own experiences at car washes as well as what other car wash workers have told me. I'm not an expert and don't know the law, but I can tell you some things that I have heard about or observed at car washes. Hopefully, my testimony will help you put the testimony of today's other speakers into context.

I want to talk to you about wage theft in the car wash industry and share my story as a victim of wage theft. Before we joined the union, the owners were paying us \$4 dollars per hour, which is well below the legal tipped minimum wage. We were not compensated for overtime, even though on average we worked more than 40 hours per week. Often the owner would decide to close the car wash without notifying us, we showed up expecting to work, but we were immediately sent home without pay. When we worked 10-hour shifts of more we were not paid spread of hours, an extra hour of pay owed to us as required by law.

We tried talking to the owner about the money owed to us several times, but those conversations didn't go far. When we finally decided to consult with lawyers we found out that the owner had already been sued 3 years ago by 3 former workers. The judgment against the owner was of more than two hundred thousand dollars, but even after the court issued its ruling, the owner did not pay it. My co-workers and I were advised against filing a lawsuit, as we found out the owner sold the car wash and had nothing under her name. She has essentially disappeared.

Car wash workers are frequent and continuous victims of wage theft and currently, there isn't legislation to protect workers against owners like my previous boss. Wage theft will continue to run rampant if we don't begin address this problem. This is why I'm here, representing cawasheros from all over the city who are in favor of this legislation. We know this bill will allow us a better life and more protections at work and we know we will win with your support.

To close, I want to say that even though we have not been able to sue the previous owner; our conditions at work have changed drastically. Thanks to the protection of the union we now make sure the new owner is following the law.

Thank you for listening to my testimony.

Testimony of Dror Hershowitz, Car Wash Owner, before the New York City Council
Committee on Civil Service and Labor

In Opposition to Introduction 125-A

June 19, 2014

Good afternoon, my name is Dror Hershowitz. I am the owner of Hollywood Car Wash in Brooklyn and a proud member of the Association of Car Wash Owners. As my fellow colleagues before me, thank you Speaker Mark-Viverito, Chairman Miller and members of the Committee for giving me the opportunity to present testimony to you about a very concerning bill, Introduction 125-A, which, if passed into law, will place extreme hardships and burdens upon the car wash industry.

I understand that this piece of legislation emanated out of an issue related to a few bad apples in the car wash industry and that the overall goal is to ensure worker rights and safety. However, I sit here before you today to warn you that Introduction 125-A will accomplish the complete opposite, effectively destroying the car wash industry and putting 3,000 hard working individuals out of a job. My car wash business is my life and my employees are like my family. We see each other every day and even work side-by-side on the line making sure each and every customer leaves satisfied. We break bread at the same table, share stories of our families and help each other with any hardships we face. It may be a place of business, but my car wash has a family-like atmosphere where everyone looks out for each other. I am a small business owner struggling to stay afloat, like so many other small business owners. However, I do everything in my power to make sure I provide the best opportunities for my workers. All of my employees make a base hourly wage of \$8, but, with tips, it averages out to \$10-12 per hour. That is 25-50% more than the minimum wage and one of the highest base pays in the industry.

I offered paid sick days and paid vacations to my employees long before it was even a topic of conversation in New York City. In addition, I provide my employees with other forms of support when needed such as interest free loans to pay off the unexpected. In my eyes, none of my employees are seen as disposable or replaceable. They are hard working individuals that earn my respect every day and, for that, I try to give back as much as possible. In one case, an employee of mine fell ill for almost an entire month and was unable to work; he still received full pay for the duration of his illness. Another employee was having issues with his Visa and desperately needed legal representation. We provided an interest free loan to him for the purpose of hiring an attorney. I am proud to say that both men happily work at my car wash to this day.

Unfortunately, providing such benefits to my employees becomes harder every year and eats away at my bottom line. Ever-rising taxes, water and utility rates, among other operating expenses, consistently

and exponentially outpace any revenue generated. Water rates alone have increased 78% since 2005. I ask you to name me one business that can survive, let alone turn a profit, when the essentials needed to operate that business increase by so much in such a short period of time. Furthermore, the willful violators in the industry, the individuals that do not pay their workers fair wages and therefore charge lower prices for car washes, only steal potential customers away from my business. Adding to the hardship, if you factor in maintenance costs, equipment upgrades, sky high rent prices and inclement weather, one bad operating week could put us in a deficit. People forget that the car wash industry is a small business industry at the mercy of Mother Nature; if the weather is bad in any way, car washes do not make money. However, my employees still get paid for those days.

Aside from hard work, the reason I provide my employees with a fair wage, paid sick and vacation days, and financial assistance in any other way even though it is not required is because I know first-hand what it is like working as a car wash employee. I started out as a basic car wash employee over a decade ago, washing and drying cars inside and out. It was hard work but through hard work I was given the opportunity to climb the economic ladder and was promoted to manager and eventually became owner alongside my colleague Steve Bernard. I am eternally grateful to him and now I have the ability to provide the same opportunities to my employees.

I ask the Council, why am I being punished for doing right by my team? Why is the City going after my colleagues and I just because of a few bad apples? I am a small business owner, but this bill will effectively put an end to that. My business is too small to take out a \$300,000 surety bond as will be required by this bill. It is an amount so high that even the surety bond industry has confirmed is not possible for car washes to obtain. I am not a wealthy individual. I do not own my own home. I rent an apartment in the same neighborhood that I grew up in. I have no property or assets other than my business. I have a wife, two children and the livelihoods of 70 employees to take care of. I cannot predict the future, but what I do know is this bill, Introduction 125-A, will ensure many hard working New Yorkers will lose their jobs and any sense of financial security. I urge the New York City Council to please reconsider the bill as it is currently written and think about the potential damage it can cause. Thank you.

***Testimony by Manuel Viegas in Opposition to Introduction 125-A
New York City Council Committee on Civil Service and Labor
June 19, 2014***

Good afternoon, and thank you Speaker Mark-Viverito, Chairman Miller and members of the Civil Service and Labor Committee for allowing me to testify. My name is Manuel Viegas, I am a proud member of the Association of Car Wash Owners and a small business owner who is deeply troubled by the piece of legislation that is before the Council.

The bill that I am referring to is Introduction 125-A. Although it is known as the "Car Wash Accountability Act", the only thing it will be accountable for is the demise of modern-day car washes in New York City as we know it. It is a job-killing, anti-small business bill that will unfairly punish an entire industry and put thousands of hard working individuals out of a job and on the streets.

I have been working in the car wash industry since my immigration to the United States from Portugal in the early 1980s. I started at the bottom, washing and drying vehicles. It was a hard job that I took very seriously and in return it provided me with the financial resources I needed to build my new life in America. Approximately ten years ago I began to purchase car washes in hopes of turning them around into profitable ventures that provided the best quality wash. In order to provide the best quality wash I need to offer great customer service and that is only possible because of good employees.

I comply with all federal and state labor and employment laws. I pay my employees the minimum wage, allow them to collect tips and pay them performance-based bonuses. The individuals working for me are the foundation of my business. They earn my respect every day with their hard work and I attempt to equally compensate them. However, doing so requires a friendly economic climate and in recent years it has been anything but friendly. Taxes, rent, water, electricity and equipment costs have skyrocketed. Can any council member present here tell me when the last time water rates did NOT increase because I can't. Each year is a battle to make sure my revenue outpaces any rise in operating expenses but I've come to realize that just breaking even is considered lucky these days.

It is important for the Council to be aware that the car wash industry is not comprised of high margin businesses with exorbitant compensation packages for top executives and employees. Instead, we are a group of small businesses, and I use the word "small" strongly as there are only approximately 150 of us in all of New York City, that deal with

rising costs just like any other small business. These costs squeeze our profitability making it ever more difficult to survive.

As it is currently written, Introduction 125-A promises to make the squeeze that much harder. The bills requirement to obtain an absurdly high \$300,000 surety bond will almost be impossible for any car wash to do so let alone mine. If you dont believe me, please ask any surety bond company and expert as they will tell you the same thing. If by chance a car wash is able to obtain such a ridiculously high surety bond, it will come with another set of costs and will add another layer of bureaucratic red tape upon the business. Furthermore, any individual with less-than-stellar credit seeking to enter the car wash business will be faced with significant financial barriers.

I ask you, in a time when our city is still trying to recover the jobs lost because of the Great Recession, is it wise to impede job growth? No industry in New York City is required to furnish such a high surety bond. Why are we being forced to do so? I can assure the Council, if more hardships are placed on the car wash industry, my colleagues and I will be forced to switch to automated only washing systems that employ only 2-3 people per site. In fact, that would be the best case scenario if this bill was passed. Is the Council willing to put 3,000 individuals out of work?

I urge the Council to please reconsider Introduction 125-A as it is currently written. My colleagues and I are very happy to work with the Council to come up with a viable solution but we must first do away with the current piece of legislation and start over with an open mind. Thank you.

Victor Nardulli Testimony in Opposition to Introduction 125-A before the New York City Council
Committee on Civil Service and Labor

June 19, 2014

Madam Speaker, Chairman Miller and Committee members, my name is Victor Nardulli and I am an owner of 2 small neighborhood car washes - one in Corona and the other in Middle Village, Queens. Thank you for allowing me to testify today on this very important matter.

I have owned my car washes for over 20 years and I employ 30 mostly first generation immigrants. Some have been working with me for over 13 years. They are hard workers that rely on their job to provide for their family. If this law is passed, I will be forced to lay-off at least half of my employees. If I have to switch to exterior only car washes, I will have no choice but to lay-off the rest of my employees as exterior only washes require 1-2 workers to operate.

Simply put, small business owners such as myself are just getting by. We are already being squeezed by real estate taxes, insurance rates and utility bills that seem to increase every year. Our water rates sometimes rise by double digit percentages. I honestly cannot remember the last year in which water rates did not increase. I am also negotiating new garbage rates, which have also skyrocketed in recent years.

My business, which is my livelihood, is a seasonal business. When it rains, we are not washing cars. During the winter months, we sometimes wash half as many vehicles. This is a TOUGH BUSINESS that seems to get tougher every year. The \$300,000 surety bond requirement in this bill would ensure my having to lay off employees. \$300,000 is what it cost to buy or even build a car wash.

Also, the environmental regulations in this bill are ones I and my fellow car wash owners abide by and pay for. Why would you make us pay them again? My environmental costs already increased by 25 percent this year. There is only so much we can charge a person to wash their car and if these new financial burdens are placed on my business I will not be able to charge more for my services. I will either have to downgrade my operations or shut them down completely.

I am told that this insanely high surety bond requirement is to prevent criminal behavior, but I am not a criminal. I pay my employees at least minimum wage and overtime. Many of my employees have been with me for years, and I am proud of that!

I understand there are business owners who do not follow laws and take advantage of their employees, but I, and many of my fellow colleagues, are law-abiding small business owners. I ask you, is it necessary to punish the entire industry and effectively label all of us as criminals? This bill will not put the bad guys out of business; it will put everyone out of business and out of a job, including thousands of individuals who cannot afford to be without a job for even a short period of time.

I ask the Council to please rewrite this bill to protect the car wash industry. If you do not, I fear my business and the car wash industry as a whole will shut down. Thank you for allowing me to speak today.

Jack Belinsky Testimony – 6/19/14

Good morning. My name is Jack Belinsky. Thank you for the opportunity to testify about this bill.

I moved to this country 39 years ago because I believed in the American dream, and I knew if I worked 10 times harder than anyone else, I would achieve that dream.

I believed owning a small business was the key, and I sold my home, and bought a car wash. My thinking was I would make my business a success and buy another home. That was 23 years ago, and I am still renting.

I am a landlord for a car wash in Long Island, but I no longer own the car wash I bought. I sold it, and though I would like to purchase another, I will not if this bill is passed.

It is tough for any small business owner to survive, and it is even tougher for a car wash owner. We struggle with ever increasing tax, utility and water bills. We are not rich business owners, and every year our expenses go up, but we do not come even close to keeping up with inflation. This legislation will put us all out of business.

The \$300,000 surety bond in this bill will make it sure of it.

We are not a criminal enterprise, so I do not know why we are being treated like one. No other industry in New York City has this kind of bond.

I used to be in the auto repair business, and getting a license was easy. There was no \$300,000 surety bond. But in that industry, we were repairing cars, getting them safe for the road - you can imagine the liability involved. But there was no surety bond. In the car wash industry we are just improving the look of the car.

So why then the bond?

There are bad guys in every industry, and the car wash industry is no different. But why try to put an entire industry out of business, not to mention thousands out of work? There are already of plenty of laws that if enforced, would push out only the bad guys?

I left Russia to pursue the American dream, and I thought I could achieve it by working hard and following the rules. But this bill is not rules, it is the persecution of a select group of people. It is also why I left Russia.

I strongly urge the committee to reconsider this bill. It is unfair, it will destroy an entire industry, and put thousands out of work.

Thank you again for the opportunity to speak here today.

###

Car Wash Industries Greatest Hits

In 2008 the New York State Department of Labor finds that 80% of carwashes in New York City violate minimum wage and overtime laws. According to an early-2012 survey of 89 workers at 29 city car washes, more than half reported working in excess of 60 hours a week, yet 75 percent of workers who worked more than 40 hours in a week complained that they did not receive the legally-mandated overtime pay. The survey also found that two-thirds of workers reported making less than the state minimum wage of \$7.25 per hour and that approximately 80 percent of the workers reported making less than \$400 a week.

Below are settlements that the industry has reached with governmental agencies from the United States and New York State Departments of Labor to the New York State Attorney General.

- | | |
|------|---|
| 2005 | Savvy Car Wash and Hand Car Wash settles overtime violations for \$80,868 |
| 2007 | Bonus Car Wash settles for \$100,000 Pelham Bay Car Wash, Boston Road Car Wash and MCA Oil Change Corp. settles for \$208,000 Northridge Classic Car Wash settles for \$160,000 Northern Boulevard Car Wash Inc and Little Neck Car Wash Corp. settles for \$350,392 |
| 2008 | Tremont Car Wash Inc., Webster Car Wash Inc, 2 related companies and Jenny Monteiro settle for \$707,298 Lage Management Corp settles for \$535,838 |
| 2009 | Phenomena Wash LTD, doing business as Savvy Car Wash, and Glen Oak Enterprises, doing business as Hand Car Wash 2000 settle for \$219,985 Broadway Bridge Car Wash settles for \$1,900,000 with NYS DOL Lage Management settles with US DOL for \$3,400,000 for back wages for 1,187 workers |
| 2012 | Hi-Tek Lube Inc & Hi Tek United Corp settles a lawsuit from workers for \$200,000 Getty Car wash settles charges for \$150,000 with Jail time for employer |
| 2014 | Lage Management settles with NYS Attorney General for \$3,900,000 |

1 <http://www.dol.gov/opa/media/press/esa/esa20090528.htm>

2 <http://www.crainsnewyork.com/article/20101012/SMALLBIZ/101019965/car-wash-comes-clean-over-missing-wages>

3 <http://wagehourlaw.foxrothschild.com/2012/06/articles/class-actions/the-department-of-labor-cleans-out-car-wash-in-settlement-for-illegal-deductions/>

4 <http://www.ag.ny.gov/press-release/ag-schneiderman-secures-jail-sentence-bronx-car-wash-owner-who-underpaid-workers>

5 <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-nearly-4m-settlement-two-nyc-car-wash-chains-underpaying>

6 <http://www.crainsnewyork.com/article/20101012/SMALLBIZ/101019965/car-wash-comes-clean-over-missing-wages>

7 <http://observer.com/2012/07/new-report-names-worst-employers-in-new-york/>

The Car Wash Accountability Act of 2014 ■ FAQ

Proposed Int. No. 125-A (Mark-Viverito)

Regulating the NYC Car Wash Service Industry

Overview: Why the Act? Why now?

The Car Wash Accountability Act would establish, for the first time, common-sense city oversight covering an industry with a history of pervasive and egregious wage theft, unsafe and illegal practices, and the potential to harm consumers and our city's environment in serious ways. The core of the legislation would require car washes to obtain operating licenses from the City of New York in order to do business. The City already requires that businesses in dozens of other industries – including restaurants, towing companies, car garages, dry cleaners, and even thrift shops – follow this elementary step. This industry handles hundreds of thousands of dollars' worth of consumer property every day, and a litany of consumer complaints has come to light. The industry also poses serious environmental risks impacting New York city water and safety, relating to water usage, sewage discharge, and the use of caustic chemicals. Finally, wage theft is rampant in the industry, resulting in judgments and potential judgments that the city's police powers can help to enforce. The immediate need for the Act has become apparent as rampant abuses in the industry come to light and reveal just how dirty the New York car wash industry is. New York City has had virtually no oversight over the car wash industry until now. The Car Wash Accountability Act finally puts in place basic, common-sense oversight for the protection of our city.

The Specifics: What would the Act do?

The main provisions of the bill require that car washes: obtain licenses from the Department of Consumer Affairs (DCA); post surety bonds; provide basic information about their businesses to the City; and, comply with basic regulations concerning their wastewater discharge and public water usage.

1. Why require car washes to maintain licenses?

The New York City Department of Consumer Affairs already requires that 78,000 separate businesses, across 55 industries, apply for licenses to operate lawfully within the city. Businesses from sidewalk cafes to parking garages must obtain licenses through a process that involves certifying that the business operators are honest and that they meet minimum standards for the protection of consumers and the environment. No blanket licensing law exists. Instead, the City Council licenses industries one-by-one over time. Industries already covered by licensing requirements include laundromats, car garages, storage warehouses and towing vehicles to name but a few. Car washes pose comparable or more serious risks to consumers, workers and the environment. It is surprising that car washes have not been covered to date.

2. Who would be required to maintain the license?

Only bona fide car washes that operate for profit would be required to obtain a license. The Act does not cover charity car washes. Nor does it cover businesses for which washing cars is ancillary to some other service, such as selling or repairing vehicles.

3. What would the license cost car wash owners?

The license application would cost \$550 every two years, to cover administrative costs for the DCA.

4. What type of information would the car wash owner provide when applying?

An applicant would be required to supply the same information as is required in other industries including business address and ownership. In addition, applicants would certify compliance with existing environmental law and supply proof that they carry insurance required by law as well as the surety bond implemented through this legislation. Further, they would have to maintain records of consumer complaints and environmental practices and make those records available to the DCA upon request.

5. What would the Act do to help protect our environment, and why is this necessary?

The Bill would require car washes to provide written proof of their compliance with environmental regulations to end bad practices with regard to sludge disposal. "Sludge" is the oil and debris that becomes trapped through filtration.¹ Car wash workers report that many car wash managers, failing to appreciate the concerns sludge poses, take few if any precautions with regard to its disposal.

Prior City Council hearings on the industry and this legislation have included employee testimony that many car washes fail to handle "sludge" disposal in a safe manner. Other localities have passed wastewater regulations that are specific to car washes, thereby addressing the myriad of issues that car wash chemicals pose for human health and that residual oils and debris cause for the flow of the sewer system. The Act simply requires local car washes to meet some of the same minimum standards that are already in place in many other parts of the country, providing information that city agencies can use to determine whether action is necessary to protect our environment.

6. What is the surety bond requirement?

A surety bond is a form of insurance that protects the consumer and business owner in the event of damages or unpaid judgments or fines. Surety bonds are a common, well-established requirement for industries that routinely handle consumer property. The Car Wash Accountability Act requires car wash owners, just like operators of laundromats, dry cleaners, and car garages, for instance, to obtain surety bonds to open for business. The Act would implement a requirement that all car washes obtain a surety bond in the amount of \$300,000 in order to insure and ensure payment of any judgments for legitimate worker, consumer or other claims.

7. Why is the surety bond requirement necessary?

Surety bonds protect consumers, workers, and other damaged parties by ensuring that legitimate claims are satisfied. A strong bonding requirement is a critical component of ensuring that individuals who secure judgments against a carwash for unpaid or underpaid wages, or damage to a vehicle, can keep the carwash owners from wriggling out from under that judgment. This is also absolutely critical to protecting law-abiding employers in the industry, who have for far too long been struggling to compete against an industry standard that depends on nonpayment and underpayment of workers.

A recent example illustrates the need: In June 2011, three former employees filed suit in the EDNY against Off Broadway for non-payment of wages. (*Mirek Ramirez, et al. v. H.J.S. Car Wash Inc., et al.*, CV-11-2664). In June 2013 the court entered judgment for damages to plaintiff in the amount of \$205,409.34 and \$41,740 in attorneys' fees

¹ A study of the compounds in car wash wastewater and sludge for the International Carwash Association confirms this. See CHRIS BROWN, WATER EFFLUENT AND SOLID WASTE CHARACTERISTICS IN PROFESSIONAL CAR WASH INDUSTRY (International Carwash Association, Inc. 2003) ("The results of this study regarding contaminants in grit indicate that significant levels of some contaminants are caught in the grit by the oil/water separation tanks in professional car washes").

and costs, a total judgment of nearly \$250,000. The judgment is to date unpaid and unsatisfied, and the corporate entity operating the carwash has changed, leaving workers with virtually no way to collect their back pay. This particular judgment covered only three out of between one and three dozen workers employed during that time period – some of whom have now come forward to confirm that they too were severely underpaid during that time period. And the judgment covers less than two years of wage underpayment, though workers are entitled to 6 years by law if the violation has gone on that long. Attorneys familiar with the industry estimate that meritorious wage claims at many car washes are likely to exceed \$750,000 or \$1,000,000 in value. The bond amount also takes into account the recent Attorney General settlement with the John Lage & Fernando Magalhaes car washes for \$2.2 million in unpaid wages, a mere 5 years after they were forced to pay \$3.4 million in an earlier unpaid wage case. A strong surety bond requirement is one of the only ways to actually ensure that aggrieved workers can access the wages to which they are entitled, thus helping to finally eradicate wage theft from the car wash industry business model, allowing law abiding car washes to thrive at last.

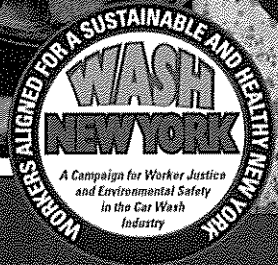
The bond amount also protects consumers. The WASH Campaign investigated the first of these concerns by launching a study of online consumer complaints. Results of the study are alarming. For instance, it shows the frequency with which car wash managers deny responsibility for damage to vehicles and for loss or theft of property. Substantially more than one-third of the complaints against the 50 New York City car washes that the Campaign surveyed pertained to exactly this scenario. In the absence of consumer protections, this unfortunate reality comes as no surprise given that car washes know they have the upper hand. By comparison, aggrieved consumers of parking garages can get quick reimbursement for damage to their property, since parking garages must carry surety bonds, whereas customers of car washes must rely on the good graces of car wash operators to remedy the same grievances. Worker testimony indicates that standard practice to resolve consumer complaints is that employers take cash from the workers' tip pool to make the customer whole for any damage that the machines may have inflicted. As oversight and worker courage eliminates this approach, consumers will also need guaranteed access to a bond to protect their claims.

8. Is the bond requirement too high?

No. The bond level of \$300,000 is necessary to ensure payment of wage and consumer claims as described above. This is an industry with substantial capital investment in carwashing machinery as well as real estate in some circumstances. Depending on credit and other factors, bonds can often be obtained for 1-3% of the bond face value. The fact is that this is an industry with a long history of pervasive and often extreme wage theft, where several governmental clean-up efforts have failed. Despite several high profile, multi-million-dollar wage settlements over the past decade, advocates and workers testify that rampant violation of minimum wage, and overtime law and tip stealing as a standard industry practice continued unabated.

For more information:

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**The Dirty Business
of Cleaning NYC's Cars:
Carwash Workers Face
Low Pay,
Offensive Conditions,
and Poor Treatment**

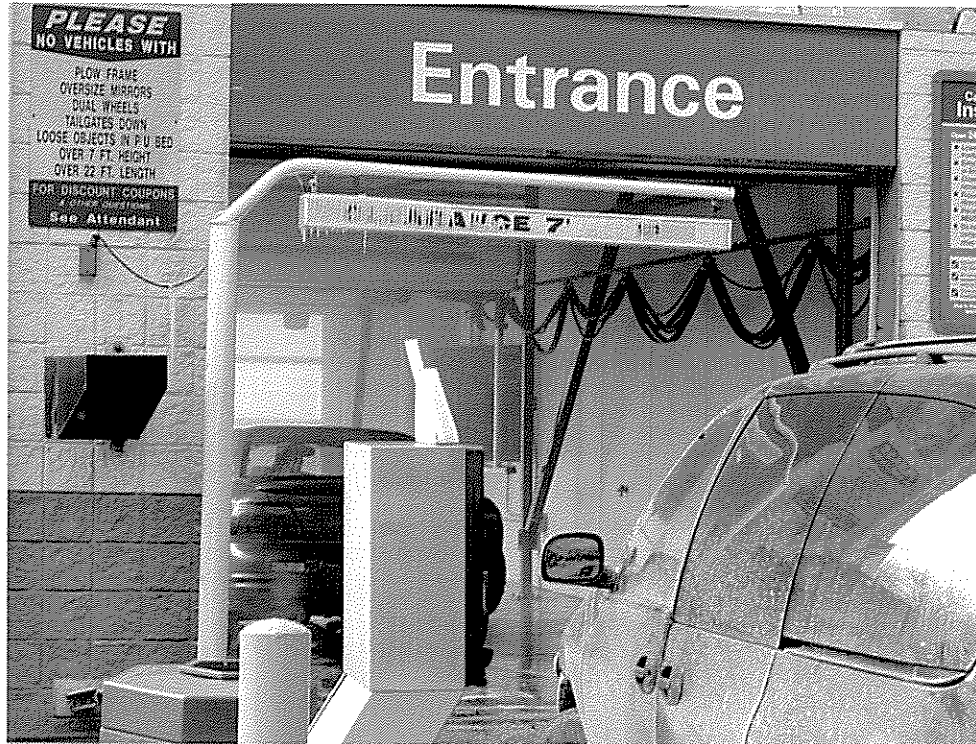
Overview

Every day in New York City, hundreds of thousands of taxis, livery cabs, and privately owned cars traverse hundreds of miles of roads, expressways, and parkways. It's impossible to quantify how much dirt and grime these cars attract everyday, but certainly it's enough that car washes in New York City have become a big business. Thanks to the ample supply of cars, drivers, and filth, New York City's car wash owners are cleaning up.

There are almost 200 car washes in New York City's five boroughs. Keeping the city's cars clean are over 1,600 employees. It's an exploited workforce with wages that are low and too often illegal.

In 2010, the operators of Broadway Bridge Car Wash in upper Manhattan agreed to a nearly \$2 million settlement with the state Department of Labor. The owners of the car wash agreed to pay \$1.3 million in back wages, overtime, and earned tips between 2003 and 2008 to workers who had not been paid their proper wages.

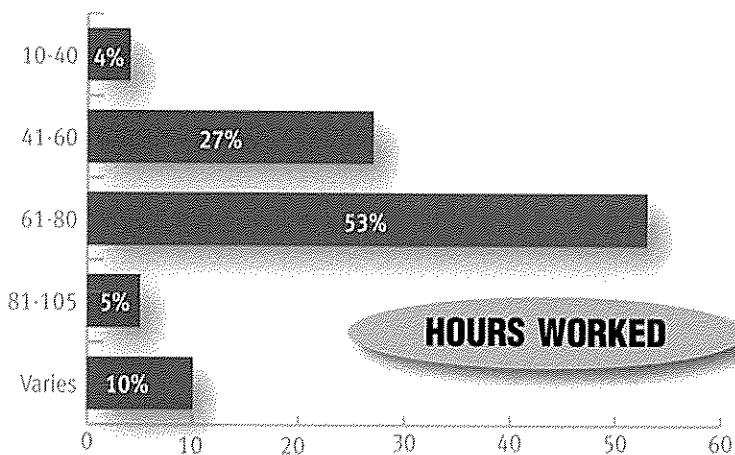
The investigation and resulting agreement was a clear sign that there's a dirty side to the city's car wash industry. In fact, New York State Department of Labor investigators found that close to 80 percent of New York City's car wash operators are guilty of wage and hour violations.

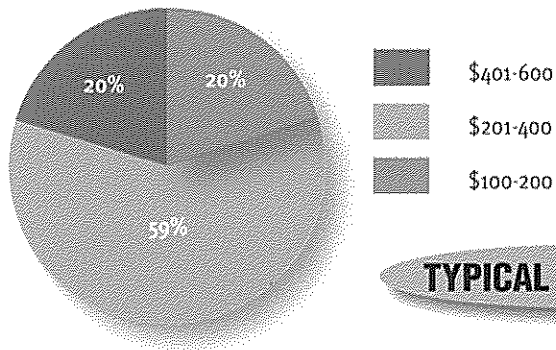
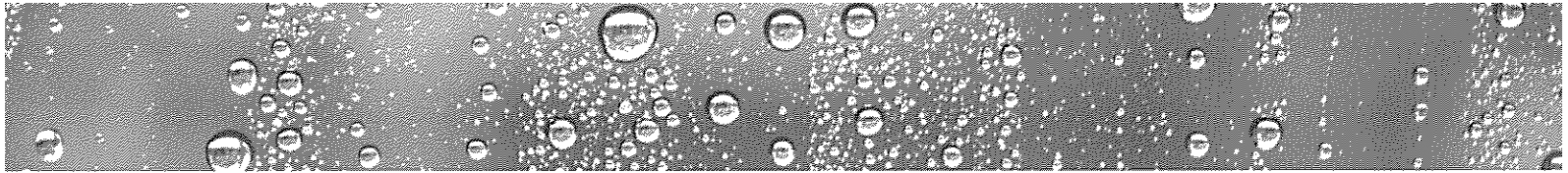


Long Hours, Low Pay

WASH New York, a coalition of Make the Road New York and New York Communities for Change, with the help of the Retail, Wholesale and Department Store Union, UFCW, conducted

in-depth interviews with 89 New York City car wash workers over several months at 29 different car wash facilities. This broad investigation revealed widespread mistreatment of New York City's car wash workers.





TYPICAL WEEKLY PAY

Over 71 percent of the workers were on the job for at least 60 hours a week, with some working as many as 105 hours. Despite the long hours, 75 percent of the workers didn't receive any kind of overtime pay for exceeding 40 hours. When workers did get overtime pay, it was often less than the legally mandated rate of time-and-a-half.

The state's minimum wage is \$7.25 an hour, but 66 percent of the workers reported being paid less than that at times. Only five workers reported that

they were paid the difference to make minimum wage if their earnings with tips were less than the legal rate.

Workers reported taking home as little as \$125 a week with small or non-existent breaks, and were frequently sent home without pay depending upon business. Not a single interviewed car wash employee received paid sick days, and only one was offered any kind of health care plan.

It's hard work keeping the city's cars clean, but it's even harder work building lives and providing for families on the poverty wage jobs that are the lifeblood of the industry.

Working at a Car Wash: Uncertainty, Stress, and Hazards

Besides receiving chronically low pay, the largely immigrant work force staffing New York City's car washes toil away on a job that subjects employees to extreme working conditions and little control over their own lives.

It all starts with unpredictable scheduling that varies wildly from day to day.

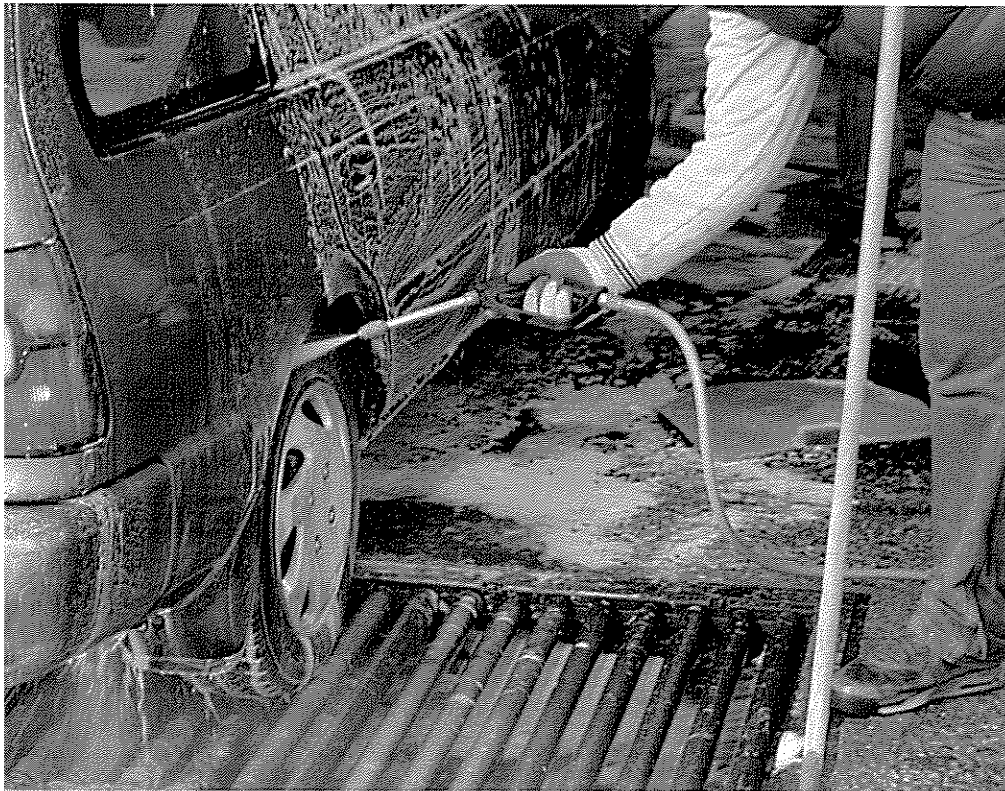
Scheduling, hours, and pay are subject to the whims of management, and especially, the weather. Car wash workers have no idea how many hours they'll be working a week or how many hours they'll be paid. They frequently waste huge chunks of their day being sent back and forth from work, and the extreme fluctuations in hours and pay makes sticking to a regular budget a struggle.

"Whenever there is any rain or snow, or if business is slow, the manager immediately sends some of the workers home. When the manager sends us home, they do not pay us for the rest of the day. Because of this, we never know how much money we're going to make during a day or a week. This makes it difficult to pay bills, like my rent and my cell phone," said a Brooklyn car wash worker who didn't want his name used in the report for fear of retaliation – a common occurrence among the workers WASH New York interviewed and surveyed.

The only thing predictable about scheduling hours is their unpredictability. With people constantly being sent home or recalled, workers often find themselves taking on the work of several people just to keep the operation running.

"Just today, my manager sent many people home in the morning. In the afternoon, the car wash was very busy. I had to do the work of three people—driving the cars, working the machine and doing everything else—but I was





still paid the same amount," another worker said.

The trips between work and home can start to resemble a crazed wild goose chase, and entire days of running back and forth – without pay – leave workers frustrated, tired, and broke.

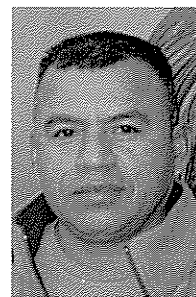
"Sending us home so quickly is also a problem because if the weather improves, the car wash gets busy again. This means that whoever stayed at the car wash will have more work than they can handle, because many of their co-workers have been sent home. Just yesterday, the manager called me asking me to return to the car wash, after sending me home in the morning. After

the snowstorm, about a week ago, the manager called everyone in and had us clear the snow from the car wash. When we had finished clearing the snow, he told us all to go home again. This only took an hour, and I made less money that day than I had to pay for my breakfast," one worker added.

Keeping Cars Clean in an Offensive Environment

Many of the workers our investigators spoke with described a workplace rife with health and safety issues. Car wash workers face a number of significant work-related hazards. They are exposed to offensive cleaning and de-

greasing substances, and work around high pressure hoses, unguarded machinery, and poorly protected electrical sources which are very close to water and wet surfaces.



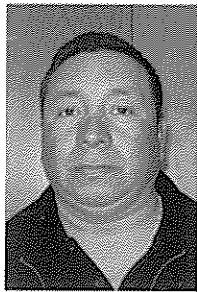
Raul, car wash worker

Raul, a Mexican immigrant who worked at a car wash upon moving to New York, experienced burns using chemical products, and like many immigrant workers, was afraid to speak up.

"I worked washing cars by hand. Specifically, my job was to scrub the cars after they had been soaped. This was made more complicated because we had inadequate protective equipment and sometimes soap and water would fall on me. This soap was a special kind of soap used to clean cars and contained acids used to clean the tire rims. I could tell how strong the soap was because it made the hair on my legs fall off. One day, soap fell on my ear. A few hours later it began to itch and burn and then became inflamed. I didn't say anything at the time, because I didn't know there were laws to protect me, as an immigrant, and I was also afraid that I would lose my job," Raul said.

Workers interviewed described the foul stew of chemicals they work with every day, and how it has affected their health.

"My lungs and throat hurt from breathing in the bad chemicals. The chemicals that are used in the shampoo are especially strong. I asked them if there was any different kind of shampoo, or protective gear we could use, but the management said no," said New York City car wash worker Carlos Garcia.



Carlos Garcia

"We use chemical products that are very strong and burn our skin. I have also started to notice that when I work with certain chemicals, even after I leave work

and go home, I have a burning sensation in my eyes. This wasn't the case before, and I have had to start using eye drops. What scares me is that I have seen how my brother, who also used to work in this car wash, has problems with his vision that have persisted even after he left this job," said Nelson Hernandez, who works at a Car Wash in Queens.

Making matters worse is an industry-wide aversion to providing the proper protective equipment to workers by bosses more concerned with protecting profits than the health of their employees.

OSHA standard 1910.132 calls for personal protective equipment (PPE) to be required at no cost when such equipment is necessary because hazards are "capable of causing injury or impair-

ment in the function of any part of the body through absorption, inhalation, or physical contact." But WASH New York's interviews with car wash workers revealed a common disregard for workers' safety. Only three of the workers reported that their employers provided them with any kind of information on the hazardous chemicals they work with, and only 23 percent of the workers interviewed were provided any kind of protective equipment by their employers. Of those who did receive equipment, usually gloves, many reported that they were of poor quality and "frequently broke" allowing soap and chemicals to make contact with the skin.

Heriberto Hernandez, a former employee at Metro Car Wash in Queens, said, "The company did not provide us with any protection from the strong chemicals. We did not have gloves, masks or smocks."

When Hernandez complained and asked for protective equipment, the manager said he was just "making excuses" and trying to get out of work.

The workers are often on their own as well when it comes to recovering from injuries incurred on the job.

"Sometimes, I'd cut my hand or arm, it's part of the job," Hernandez added. "There were no first-aid kits at the car wash."

"If we wanted Band-Aids, we had to bring them on our own," said a Brooklyn car wash worker.

The long hours, hazardous chemicals and work, and lack of protection take their toll on the workers, who rarely receive sick days or health care from their employers.





Car wash workers like these employees at LMC in Queens want dignity and respect on the job, and improvements in wages and benefits.

"Working at the car wash has been very bad for my health. My back hurts constantly. We're never paid when we take off a day for being sick, so I often work when in a lot of pain. When it's cold outside, my fingernails turn purple but we are never given opportunities to warm up," added the Brooklyn worker.

"At one point, I had to get an operation on my foot, which cost me \$3,000 that I had to pay out of pocket since the car wash does not provide insurance. Another of my co-workers broke his leg at the car wash, when part of the machine fell on him," he added.

"After 16 years working at a car wash, I'm feeling my age."

No Rest At The Car Wash

When it's slow at a car wash, workers are sent home. But when it's busy, they work hard with little in the way of

breaks. The breaks are often unpaid, and sometimes exaggerated to hurt workers' already meager paychecks.

"The manager is very strict about how much time we can take for lunch," a worker said. "He only gives us 10 minutes, but then deducts 30 minutes from our paychecks. We have no other breaks for the rest of the day."

Another worker reported a similar break pay scam, saying "we were only allowed to take 10 to 15 minute lunch breaks, but the company deducted a half hour daily from our paychecks."

Over 40 percent of the workers interviewed by WASH New York reported getting only 15 minute or less breaks for lunch. Eleven of the workers said they were given no lunch break at all. Other breaks were sparse, often allowed only when it is slow or raining, or denied altogether. All told, 41 percent of the workers said they receive

no breaks at all besides their short lunch breaks.

Sneaking in a short trip to the bathroom can be an ordeal.

According to one worker, "If I need to use the bathroom, I ask a friend to cover for me. If I am ever in the bathroom for more than five minutes, the manager yells at me and tells me to get back to work."

"A Frustrating Situation"

Car wash employees are hard-working people trying to support themselves and build better lives for their families. At the bottom of the economic ladder, they find themselves in a situation that many describe as helpless, working a low-paying, hazardous job with no respect or dignity. Besides the low pay, workers are often docked pay if cars are damaged, regardless of who is at fault, and poor treatment is rampant.

“All of the workers split the tips, and the manager is included in this split, even though he doesn’t do any work and gets paid much more than we do.”

— Carlos Garcia

“Sometimes we don’t make tip money all week. It can be held back by management if a carpet gets stained,” said Heriberto Hernandez.

Added Carlos Garcia, “If cars are damaged, we have to pay for it out of our tips. This can be very expensive, as it costs up to \$500 to replace a mirror. The owners don’t cover it, they are always looking to take it out of our paychecks.”



Tips can be withheld for alleged damage to customer cars, shared with or taken by managers, and inflated to cover the below minimum wage earnings received by many workers.

“All of the workers split the tips,” Garcia said, “and the manager is included in this split, even though he doesn’t do any work and gets paid much more than we do.”

Adan Nicolas, a car wash worker in Queens, reports that managers force employees to regularly inflate the value of their tips.

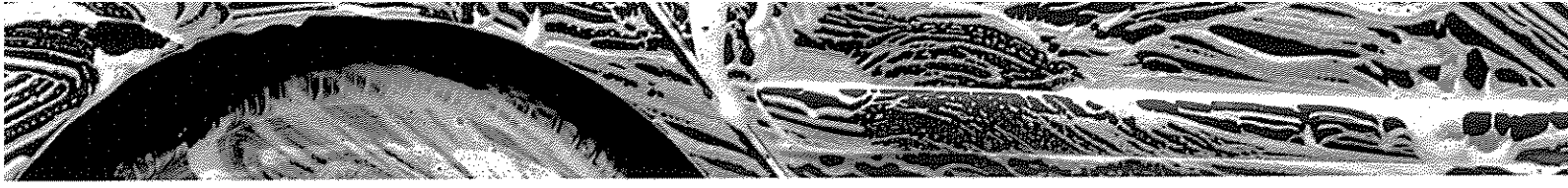
“Twice a week, every week, they make us sign a piece of paper that says we make \$20 or \$25 each day in tips, but we don’t always make that much. Sometimes we only make \$5 or \$10 dollars a day, and on rainy days, we’re sent home and make no tips at all,” Nicolas said.

Facing this kind of treatment creates an environment of hopelessness for car wash workers.

“I came to this ‘land of opportunity’ with so many hopes, but I have become disillusioned about being able to help my family,” a worker said. “The treatment we receive makes us feel powerless. They yell at us, they disrespect us, and they treat us as if we are not even human beings.”

It’s a sentiment shared by far too many workers in New York City’s car washes, and a situation that needs to be changed. The exploitation of car wash workers in the name of profits is a dirty business.





RECOMMENDATIONS

New York City's car wash workers deserve better. Here are five recommendations for how elected officials and government agencies can help transform hazardous and underpaid car wash jobs into quality jobs that help workers build better lives for themselves and their families:

1 Stronger and more vigilant enforcement of all wage and hour laws, and all applicable workplace health and safety regulations, at the state and city level. These laws and regulations are designed to ensure proper, legal wages are paid, and provide healthy and safe working environments.

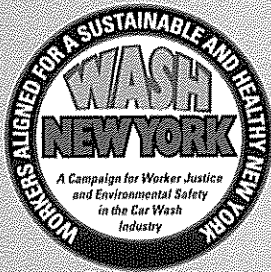
2 Make it easier to exercise the right to join a union and organize your workplace without fear of intimidation or retaliation--the very fear that, according to car wash workers like Nelson Hernandez, is often part of the job.

"We have been threatened many times if we fight for our rights, so for a long time I didn't do anything to stand up for myself. But I know that if we unite, we can make sure our rights are respected," Hernandez said.

3 Yearly state and city inspections to ensure compliance with labor laws and all applicable workplace regulations. All car washes found not to be in proper compliance should be subject to maximum fines and penalties under the law.

4 State and city publication of best practices for preventing unlawful treatment of car wash workers. Appropriate state and city agencies could publish online a clear code of conduct and guidelines for acceptable practices.

5 State and city hearings on mistreatment of car wash workers and unlawful industry-wide practices. Appropriate state and city legislative committees focused on labor and workplace safety could schedule hearings this year to determine if new legislation is required to protect our communities from bad operators.



WASH New York

WASH New York is a joint campaign of Make the Road New York and New York Communities for Change, with the help of the Retail, Wholesale and Department Store Union (RWDSU), UFCW. The campaign is fighting for worker justice and environmental safety in the car wash industry.

WASH New York

30 East 29th Street
New York, NY 10016

(212) 684-5300

www.washnewyork.org

**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: 6/19/14

(PLEASE PRINT)

Name:

Address:

I represent:

Address:

Julia Gotzel
3967 Sedgwick Ave, Bronx 10463
Dr. Jack Caravanos
2180 3rd Ave NY NY 10035

**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:

Address:

I represent:

Address:

Jack Belinsky
2955 SHERRID apt 12R
CAR Wash ASSO.

**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:

Address:

I represent:

Address:

Jeffrey Price
400 Eastwood Road Woodmere, NY 11578
Face and Price Enterprises, Inc / Melwan
181 S. Franklin Ave Ste. 605 Valley Stream
Surety bonds
NY 11581

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6/19/14

(PLEASE PRINT)

Name: MANUEL G. VIEGAS

Address: 35 ARDEN, BROOKVILLE, NY 10708

I represent: ASSOCIATION OF CARWASH OWNERS

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: Miguel Portillo

Address: 98-40-57 Ave Queens

I represent: Car Wash

Address: Jomar

**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: REUSIC DENICIA

Address: 81-38-BAXTER AV. APT 2R

I represent: CAR WASH

Address: FIVE STAR ON BROADWAY

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Juan Carlos Rivera

Address: 1299 Franklin Ave, Bronx NY

I represent: car wash workers

Address: Webster Car Wash

**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: Ben Locke

Address: 301 Grove St, Brooklyn, NY

I represent: 'Make the Rd. NY

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: Magdalena Barboss

Address: 301 Grove St, Bklyn NY

I represent: Make the Road NY

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Steve Mooser

Address: 30 E. 29th St. NY, NY

I represent: RWDSU

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: Julia Getzel

Address: 30 E. 29th St., NY

I represent: RWDSU

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: Dave Mertz

Address: 30 E. 29th St., NY, NY

I represent: RWDSU

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Rocio S. Valerio-Gonzalez

Address: 2-4 News St. 2nd Floor, BK, NY

I represent: New York Communities for Change

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: 6-19-14

(PLEASE PRINT)

Name: Stephen Mouser

Address: 30 E. 29th St.

I represent: RWDSU

Address: 30 E. 29th St

**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: Dr Raymond Rivera

Address: 14 West 170th St

I represent: Carwashero's RWDSU

Address: 30 E. 29th St

▶ 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. 125-A Res. No. _____

in favor in opposition

Date: 6/19/2014

(PLEASE PRINT)

Name: Peter Bruland

Address: 42 Broadway

I represent: NYC Department of Consumer Affairs

Address: _____

THE COUNCIL MENIN, Commissioner
THE CITY OF NEW YORK NYC
NYC Department of Consumer Affairs

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Marla Tepper, General Counsel

Address: 42 Broadway

I represent: Department of Consumer Affairs

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: JULIE MENIN, Commissioner DCA

Address: 42 Broadway NYC

I represent: NYC Department of Consumer Affairs

Address: _____

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

THE COUNCIL Panel 3
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____

in favor in opposition

Date: 6/19/14

Name: Steve Rotlevi (PLEASE PRINT)

Address: _____

I represent: Association of Car Wash Owners

Address: _____

THE COUNCIL Panel 3
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____

in favor in opposition

Date: 6/19/14

Name: Steve Bernard (PLEASE PRINT)

Address: _____

I represent: Association of Car Wash Owners

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: 6/19/14

Name: RICHARD MULLER (PLEASE PRINT)

Address: NYC DEP

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Panel 3

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____

in favor in opposition

Date: 6/19/14

Name: Jeff Price (PLEASE PRINT)

Address: _____

I represent: Price and Price Enterprises, Inc

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: 6/19/14

Name: LESLIE LIPTON (PLEASE PRINT)

Address: NYC DEP

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Panel 3

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____

in favor in opposition

Date: 6/19/14

Name: Frank Roman (PLEASE PRINT)

Address: _____

I represent: Association of Car Wash Owners

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Panel 3

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____

in favor in opposition

Date: 6/19/14

Name: Scott Cantone (PLEASE PRINT)

Address: _____

I represent: Bender Cantone Consulting

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Panel 5

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____

in favor in opposition

Date: 6/19/14

Name: Manuel Viegas (PLEASE PRINT)

Address: _____

I represent: Association of Car Wash Owners

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: _____

Name: Steven Figueroa (PLEASE PRINT)

Address: 280 Broadway

I represent: Dept. of Buildings

Address: _____

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**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: _____

Name: Marshall Kaminer (PLEASE PRINT)

Address: 280 Broadway

I represent: DEPT. OF BUILDINGS.

Address: _____

**THE COUNCIL Panel 5
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 125-A Res. No. _____
 in favor in opposition

Date: 6/19/14

Name: DROR HEISHOWITZ (PLEASE PRINT)

Address: _____

I represent: Association of Car Wash Owners

Address: _____

**THE COUNCIL Panel 5
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 125AA Res. No. _____
 in favor in opposition

Date: 6/19/14

Name: JACK BELINSKY (PLEASE PRINT)
DROR HEISHOWITZ

Address: _____

I represent: ASSOCIATION OF CAR WASH OWNERS

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Panel 5

Appearance Card

I intend to appear and speak on Int. No. 1235AA Res. No. _____

in favor in opposition

Date: 6/19/14

(PLEASE PRINT)

Name: Victor Radutti

Address: _____

I represent: Association of Car Wash Owners

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Panel 7

Appearance Card

I intend to appear and speak on Int. No. 1235A Res. No. 4

in favor in opposition

Date: 6/19/14

(PLEASE PRINT)

Name: Victor Radutti

Address: _____

I represent: Association of Car Wash Owners

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Panel 7

Appearance Card

I intend to appear and speak on Int. No. 125A Res. No. 1

in favor in opposition

Date: 6/19/14

(PLEASE PRINT)

Name: Anthony Marin

Address: _____

I represent: Alpha Chemical Car Wash Owners

Address: _____