

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS

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February 26, 2013
Start: 12:27 p.m.
Recess: 12:46 p.m.

HELD AT: Council Chambers
City Hall

B E F O R E: DANIEL R. GARODNICK
Chairperson

COUNCIL MEMBERS:
Charles Barron
Leroy G. Comrie, Jr.
Karen Koslowitz
G. Oliver Koppell
Michael C. Nelson
Julissa Ferreras

CHAIRPERSON GARODNICK: Good

afternoon everyone, and welcome to the Consumer Affairs Committee of the New York City Council. Today's date--I think you have a microphone on folks over there just so you know. Today's date is Tuesday February 26th, 2013. Today the Committee will vote on a package of bills designed to improve the way we regulate food and general vendors. My name is Dan Garodnick. I have the privilege of chairing this committee. I am joined today by fellow committee members, Mike Nelson, Leroy Comrie, Oliver Koppell and Karen Koslowitz, We also are joined by bill sponsors, Steve Levin, who is the sponsor of bill today concerning vendor fines, Council Member Mark-Viverito, who is sponsor of a bill today regarding reporting, and that is the full assortment. Street vending has a long history in New York City. As early as the 1800s many immigrants began the road to a new life in this country by making a living as a street vendor, and although Silicon Valley has made the idea of a startup culture popular, we shouldn't forget that long before tech companies existed, street vendors, which have relatively low cost of

1 entering business were the original startups;
2 however, it is crucial that we balance the needs
3 of all New Yorkers, vendors and non-vendors alike.
4 That is why we decided to hear a package of bills
5 in April 2012 that tried to strike the right
6 balance to crack down on bad actors and ensure
7 that fines get paid to improve the public's
8 quality of life, to increase reporting, and to
9 create more fairness for the vendors themselves.
10 We heard testimony from vendors, community
11 leaders, owners of brick and mortar businesses,
12 and many other concerned citizens. Vendors and
13 advocates spoke to the unfair and excessive nature
14 of the current regulations. The owners of a
15 number of brick and mortar businesses, some of
16 whom has started out as vendors themselves, also
17 came out to support our efforts to reform the
18 rules. Residents and community leaders were also
19 represented. They raised important concerns about
20 vending, such as the need to combat illegal
21 operators, unsanitary conditions, and unsafe
22 congestion of sidewalks. They made the very
23 important point that vendors should not operate to
24 the detriment of other New Yorkers' quality of
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2 life. As it was well put during the hearing, we
3 should condone neither illegal vendors nor legal
4 vendors doing illegal things. We took testimony
5 on seven bills during that hearing, two of which
6 have been combined leaving us with the six bills
7 that we have before us today. I have no doubt
8 that there remain many more ways in which vendor
9 regulation can be improved, but I believe that
10 this package of bills will address some
11 significant problems with the current regulatory
12 scheme. Three of the bills, Intro 684-A, 789-A
13 and 727-A would help residents and pedestrians by
14 tightening the regulations concerning where
15 vendors may set up. Intro 727-A, which I
16 sponsored would mandate that all vendors maintain
17 a distance of at least 20 feet from building
18 entryways. Vendors would also be required to
19 maintain this distance from the exits, including
20 service exits of residential buildings. Intro
21 789-A, which I also sponsored, would prohibit any
22 vending on portions of a sidewalk next to no
23 standing zones by a hospital. We heard strong
24 support for this bill during our April hearing as
25 food carts in these areas can become a danger to

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2 the safety of patients as they are being dropped
3 off in front of a hospital. Intro 684-A,
4 sponsored by Council Member Brewer would prohibit
5 food vendors from vending within taxi stands or in
6 a space immediately abutting a taxi stand. Taken
7 together, these three bills should help to create
8 more order on the streets and to address some of
9 the concerns expressed at our last hearing. We
10 are also voting today on Intro 434-A, which would
11 restructure how fines are issues for vendor
12 violations. As it stands today any repeat
13 violations cause fines to escalate dramatically
14 even if those violations are unrelated. This can
15 result in astronomical fines completely out of
16 proportion with the actual offenses. It makes no
17 sense that a series of unrelated violations, which
18 could be as minor as having a table that is too
19 large or having your license tucked into your coat
20 when an inspector comes by leads directly to
21 \$1,000 fine. Those fines are disproportionately
22 high and too infrequently get paid in any event.
23 434-A would cause fines for violations to escalate
24 only if the violations are for the same offense.
25 It would also lower the maximum fine to \$500. I

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2 would also like to note that this bill speaks to
3 the broader need for us to consider how the city
4 levies fines in general not just with regard to
5 vendors. This issue came up at our last meeting
6 and especially pertinent at a time of escalating
7 fines against New York businesses. Next we have
8 Intro 16-A sponsored by Council Member Mark-
9 Viverito. This bill would set up reporting
10 requirements for the Department of Consumer
11 Affairs, the Department of Health and Mental
12 Hygiene, and the Environmental Control Board. It
13 would require that DCA and DOH submit a yearly
14 report with relevant statistics about the
15 suspension, renewal and revocation of licenses and
16 permits for vendors. It would also require the
17 Environmental Control Board, which hears many of
18 the violations issues to vendors to issue a report
19 every three months with details of these
20 violations, such as how many were upheld and how
21 many were thrown out as well as the details of the
22 fines imposed. This bill would impart some much
23 needed transparency to the adjudication - -
24 process. Finally, we have Intro 817-A, which I
25 sponsored. This bill would require that

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2 violations issued to food vendors cite the permit
3 number of the offending vehicle or push cart. As
4 a result, permit holders would no longer be
5 buffered from violations by the licensees who
6 actually received them. We can jack up fines and
7 fees all we want, but I firmly believe that the
8 most effective way to solve our problems with
9 vendor violations is to create a system that gives
10 people an incentive to do the right thing. By
11 holding permit holders directly responsible for
12 what happens under their watch. This bill would
13 provide just that incentive. I believe this
14 package of bills would go a long way toward making
15 things better for all New Yorkers, vendors and
16 residents alike. At this point, I would like to
17 turn the mic over to one of the sponsors of
18 today's bills, Intro 434-A on restructuring vendor
19 fines, Council Member Steve Levin.

20 COUNCIL MEMBER LEVIN: Thank you
21 very much, Chairman Garodnick, for allowing me the
22 opportunity to speak today on Intro 434-A. I'd
23 also like to thank you and Speaker Quinn for
24 bringing this important package of legislation to
25 a vote today. Intro 434-A, which reduces the

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2 maximum fine for vending violations from \$1,000 to
3 \$500 and defines unrelated violations as separate
4 offenses will create a penalty structure that is
5 fair for these small business owners. The
6 complexity of the vending code, which is mind
7 boggling for both vendors and the officers in
8 charge of enforcement often results in major fines
9 for minor offenses. Most fines are issued for
10 non-health related violations, such as vending too
11 far from the curb or not conspicuously displaying
12 one's license as the chairman mentioned.

13 Compounding the problem, these fines escalate for
14 unrelated offense leading to \$1,000 tickets for
15 vendors far more than the average vendor can
16 possibly pay. The higher fines may seem like a
17 deterrent for illegal behavior as the mayor said
18 last week, but as a University of Wisconsin study
19 details this does not actually accurately reflect
20 the reality today. Fines of over \$800 were only
21 paid seven percent of the time whereas fines below
22 \$400 were paid 47 percent of the time. Today the
23 city spends \$7.4 million to collect a meager
24 \$419,852 in fines from vendors. This isn't
25 because vendors are a group of scofflaws. Most

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2 vendors are law abiding citizens simply trying to
3 make a living, but they simply cannot pay these
4 outsized fines. Reducing the maximum fine to \$500
5 and changing the escalating penalty structure will
6 ensure that vendors are able to pay their fines
7 and not risk losing their licenses. Working
8 together we can create a better system for small
9 business owners. I thank you again, Chairman
10 Garodnick, for your work on this issue. I also
11 want to thank my colleague, Melissa Mark-Viverito
12 for working steadfastly with me and my office on
13 this bill and on the previous two bills as it was
14 before and working with the Street Vendor Project.
15 Sean Basinski and all of the vendors that have
16 organized around this issue, they have done a
17 remarkable job in getting involved in the
18 legislative process, and I want to urge my
19 colleagues to vote yes on Intro 434-A. Thank you.

20 CHAIRPERSON GARODNICK: Thank you,
21 Council Member Levin. I want to recognize your
22 hard work in pushing this legislation. You
23 certainly--we respect the perseverance and we know
24 this was a high priority, so thank you. I also
25 want to note we have been joined by Council Member

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2 Barron, also Council Member Dromm, and I'd like to
3 call on Council Member Melissa Mark-Viverito, the
4 sponsor of Intro 16-A.

5 COUNCIL MEMBER MARK-VIVERITO:

6 Thank you, Mr. Chair. Just you know vending as
7 you had indicated has been an essential part of
8 the fabric of New York City life for generations.
9 Instead of supporting these hard working
10 entrepreneurs however, the city has too often
11 resorted to overly aggressive enforcement. Under
12 the current fine structure, the punitive fines
13 leveraged against vendors can easily amount to the
14 thousands, making it difficult for vendors to make
15 a living. Hard work is not something we should be
16 criminalizing in the city of New York. I am proud
17 that the Council acting on this important
18 legislation today sponsored by Council Member
19 Steve Levin, which will cap the maximum fine at
20 500 and reform the unfair escalation of fines.
21 These measures should help alleviate some of the
22 heavy burden of fines and will hopefully serve as
23 a critical first step towards efforts to provide
24 greater support to our vendor community. I want
25 to thank Speaker Quinn, Council Member Levin,

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2 Chair Garodnick also for their bills, and I
3 particularly want to thank the street vendor
4 project for their incredibly effort that has gone
5 to this hard fought and very effective advocacy
6 campaign. I am also happy that the Council will
7 be voting on my bill, Intro 16-A, which will
8 require the reporting of data related to vendor
9 licenses and permits as well as the outcomes of
10 vendor adjudications. It is only with information
11 like this that we can continue looking at ways to
12 make additional reforms to vendor policy in the
13 city of New York, which is long overdue. I want
14 to thank again, Chair Garodnick for your support,
15 for your legislation as well, for Richard Cordero,
16 counsel to the Consumer Affairs Committee, and
17 thank you all. I hope our colleagues will vote
18 aye on the whole package of bills that are being
19 voted on today. Thank you.

20 CHAIRPERSON GARODNICK: Thank you,
21 Council Member Mark-Viverito, and with that, are
22 there any comments from members of the Committee?
23 Council Member Koppell?

24 COUNCIL MEMBER KOPPELL: Yes, Mr.
25 Chairman. Let me say first of all that I am the

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2 sponsor of many of these measures, and would like
3 to be added as a sponsor of two that I am not the
4 sponsor of. That is 16-A and 817-A because I
5 think all of the proposals are meritorious and I
6 would simply comment briefly that I think the
7 mayor is simply wrong when he objects to lower the
8 fine because the idea of a fine is not to put
9 people out of business in my view. The idea of a
10 fine is to try and induce people to obey the law,
11 and if you put the fine too high, you either put
12 people out of business or ask people to do
13 business illegally, and I think that is
14 inappropriate, so I think the mayor overreacted or
15 reacted inappropriately. I think it's worth
16 saying. I would like to say that I have been a
17 member of this committee now for 11 years, almost
18 12, and I know we have two former chairman as
19 members, and we have been trying to deal with all
20 of those with this vendor problem, and this only
21 deals with a part of the vendor issue, and I hope
22 that before the end of the current legislative
23 session and the end of our terms we will look at
24 some of the other issues involved. I have spoken
25 to counsel about one issue that vexes me, and that

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2 is that there are certain streets in New York that
3 don't permit vendors and also don't permit
4 merchants to put goods outside their store,
5 although in most areas you can put goods outside
6 the store to a limit of three feet, with the
7 exception of fruit and vegetable markets and such
8 where there are different rules. The city doesn't
9 seem to have been able to deal with a request
10 certainly made on my behalf to eliminate sidewalk
11 selling in certain key neighborhoods, and there
12 are many neighborhoods where vendors should be
13 permitted. I am not interested in eliminating
14 vendors. That should be indicated by my support
15 for this package, but there are areas where
16 vendors should not be permitted, and the whole
17 area really has been not properly covered by
18 modern legislation if you will--legislation to
19 deal with the problem because it is difficult.
20 Now the fact that we pass these bills today
21 indicates that we can at least in part deal with
22 the difficult problem, but I hope we will do more.
23 With that, I appreciate being able to talk, and
24 I'll vote when my name is called.

25 CHAIRPERSON GARODNICK: Thank you

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2 very much, Council Member Koppell. Now
3 Councilwoman Koslowitz?

4 COUNCIL MEMBER KOSLOWITZ: Thank
5 you. I would also like to add my name to Intro
6 16-A, 684-A and 817-A, and I just want to say that
7 I was the chair of Consumer Affairs from '91 to
8 2001, and when I returned to the Council, I was
9 the chair of Consumer Affairs for about a year.
10 When I left the Council, we had passed a bill, and
11 there is something on the books that there is
12 supposed to be a street vendor panel that would
13 meet periodically to discuss the issues of street
14 vendors. From the day I left, this panel has
15 never met, and I think it's time that we revisit
16 that and have the street panel committee that
17 meets on a regular basis. These are hardworking
18 people. It takes a lot for them to earn a dollar,
19 and they deserve the benefits of our look at what
20 they do. Thank you.

21 CHAIRPERSON GARODNICK: Thank you,
22 Council Member Koslowitz. Now Council Member
23 Comrie?

24 COUNCIL MEMBER COMRIE: Thank you.
25 I want to congratulate Council Members Viverito,

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2 Levin and Garodnick for putting these bills
3 together and working with the staff, and the
4 Street Vendors Project, Sean Basinski for their
5 continued advocacy. Almost every stated meeting,
6 they are outside talking to members and everything
7 that they have done. I want to make sure that my
8 name is added to Intro 16-A, 434-A, 684-A and 817-
9 A as well as I will be voting aye on all bills. I
10 want to echo the sentiments of Council Member
11 Koppell and what the issues that he raised, and I
12 want to raise an additional issue. For too long
13 this city has refused to deal with the cap on
14 vendors. We have so many people that want to do
15 vendors. We have the carts now that are out here
16 actually acting unregulated the food carts, the
17 food trucks rather that are acting unregulated.
18 We need to have a real resolution on the caps on
19 vendors this year. I think it is something that
20 has really inhibited the ability of the city to -
21 - opportunities. It has definitely inhibited
22 entrepreneurship on a major level. It has people
23 that have ideas and creativity that are out here
24 acting trying to make money, but are always in
25 fear of regulations because they don't have any

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2 real rules or restrictions so I think that Mr.
3 Chairman, you have a been a good Chair of Consumer
4 Affairs since I gave it up in 2009, and to the
5 Land Use Chair, I have been very distinguished in
6 doing it, and we are working with it. I think
7 that together the members of this Committee, we
8 could find some way to have that resolution done
9 before the end of this legislative session. It
10 has been too long that we haven't dealt with the
11 issue of the amount of licenses that are truly
12 needed to reflect today's marketplace and
13 entrepreneurs, and the spirit of New York as
14 Council Member Viverito said earlier and
15 Councilman Koppell is entrepreneurism. New York
16 was started on vendors and carts in the street - -
17 shopping. We need to make sure that we recognize
18 that the new spirit of people that are wanting to
19 try to provide a service to New Yorkers in a fair
20 and concise way and to do that with making sure
21 that all of the needs of New Yorkers are
22 respected. Thank you.

23 CHAIRPERSON GARODNICK: Thank you,
24 Council Member Comrie. Council Member Nelson?

25 COUNCIL MEMBER NELSON: Thank you,

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2 Mr. Chair. First I was a little reluctant to go
3 along with some of these intros, but thoroughly
4 reading it over I believe it's not productive to
5 overly fine for obvious reasons. It actually
6 works in reverse--the less revenue as a matter of
7 fact, and it gets to be really too punitive, so
8 I'd like to have my name added please to 16-A,
9 817-A, 789-A, 727-A and 684-A. Thank you.

10 CHAIRPERSON GARODNICK: Terrific.
11 Thank you, Council Member Nelson. I thank all of
12 my colleagues for their support of these bills. I
13 think it is a package that is fair and advances
14 the ball on all fronts. So with that, I encourage
15 an aye vote, and we will ask the clerk to call the
16 roll.

17 COMMITTEE CLERK: Kevin Pin,
18 committee clerk. Roll call in the Committee on
19 Consumer Affairs. Council Member Garodnick?

20 COUNCIL MEMBER GARODNICK: I vote
21 aye.

22 COMMITTEE CLERK: Nelson?

23 COUNCIL MEMBER NELSON: Aye.

24 COMMITTEE CLERK: Barron?

25 COUNCIL MEMBER BARRON: I'd like to

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2 say I - - agree with Council Member Comrie has
3 been working years working on raising the cap. A
4 lot of vendors are trying to make ends meet, and
5 especially during these economic hard times if
6 people are creative enough to come up with
7 entrepreneurial ideas to have income, we really
8 need to move toward that legislation in raising
9 the cap. I want my name added to all of the times
10 that I am not added on to, and I vote aye on all.

11 COMMITTEE CLERK: Comrie?

12 COUNCIL MEMBER COMRIE: Can Council
13 Member Barron repeat the first part of what he
14 said?

15 [laughter]

16 COUNCIL MEMBER COMRIE: Aye on all.

17 COMMITTEE CLERK: Koppell?

18 COUNCIL MEMBER KOPPELL: Aye.

19 COMMITTEE CLERK: Koslowitz?

20 COUNCIL MEMBER KOSLOWITZ: Aye on
21 all.

22 COMMITTEE CLERK: By a vote of six
23 in the affirmative, zero in the negative and no
24 abstentions, all items have been adopted. Members
25 please sign the committee reports.

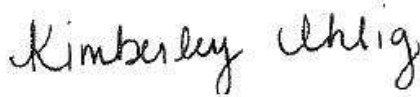
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2 CHAIRPERSON GARODNICK: Thank you
3 very much, everyone. With that, this committee is
4 adjourned. I thank my colleagues for all of their
5 support.

6 [gavel]

C E R T I F I C A T E

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

Signature

Handwritten signature of Kimberley Uhlig in cursive script, written over a horizontal line.Date 3/12/13