

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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HELD AT: Committee Room - City Hall

B E F O R E: COSTA G. CONSTANTINIDES
Chairperson

COUNCIL MEMBERS:

Donovan J. Richards
Stephen T. Levin
Rory I. Lancman
Eric A. Ulrich

A P P E A R A N C E S (CONTINUED)

Anthony Fiore, Director
Energy Regulatory Affairs
Mayor's Office of Sustainability

John Lee, Deputy Director
Green Buildings and Energy Efficiency
Mayor's Office of Sustainability

Julie Menin, Commissioner
Department of Consumer Affairs

Alba Pico
First Deputy Commissioner
Department of Consumer Affairs

Amit Bagga
Deputy Commissioner of External Affairs
Department of Consumer Affairs

Marla Tepper, General Counsel
Deputy Commissioner of Legal Affairs
Department of Consumer Affairs

Mary Cooley
Director of City Legislative Affairs
Department of Consumer Affairs

Eric Goldstein, Attorney
National Resources Defense Council, NRDC

Shula Warren, Policy Director
Manhattan Borough President Gale Brewer

2 [sound check, pause]

3 [background comments]

4 [gavel]

5 CHAIRPERSON CONSTANTINIDES: All right.

6 Good morning.

7 SERGEANT-AT-ARMS: Quiet, please.

8 CHAIRPERSON CONSTANTINIDES: Good

9 morning. I'm Costa Constantinides Chair of the
10 Environmental Protection Committee. Before I read my
11 formal opening statement, this is my first committee
12 hearing as chair of this committee. I want to make
13 sure I thank our Speaker Melissa Mark-Viverito for
14 her strong environmental leadership, and for her--all
15 the great work that she's done. I look forward to
16 serving in this new role. This committee has a long
17 history of environment chairmen that have done much
18 good work for the people of the City of New York,
19 Councilman James Gennaro, my former boss, who I
20 worked for, for six years, passed over 48 bills
21 during his time, and also my predecessor Chairman
22 Donovan Richards. I want to acknowledge both of
23 their good work, and I look forward to following
24 their good footsteps. I want to also thank our
25 committee attorney Samara Swanston, and our Policy

2 Analyst William Murray for all their great work with
3 this committee over the last-- Samara, eight years?
4 And Bill for--he's been part of this committee I
5 think going on six. So, I thank you for all of your
6 great work for this committee.

7 Today, we hear--we hold a hearing on
8 Intro 850-A, a local law to amend the Administrative
9 Code of the City of New York in relation to the use
10 of air conditioning systems. Heat wave impacts--heat
11 waves impacts the city's electrical grid more
12 frequently than any other type of weather event. We
13 are experiencing a heat wave right now, and have had
14 more days over 80 degrees this summer in New York
15 City than any other time in recorded history. In
16 2006, for example, which was in Astoria and I
17 remember too well, a heat wave triggered an
18 electrical outage in Astoria Long Island City
19 resulting the loss of power to over 100,000 customers
20 some for over a week. Heat waves cause issues with
21 the electrical grid in two ways. First, the very
22 temperatures that occur during a heat wave strain the
23 electricity generating and distribution equipment.
24 Second, heat waves lead to a sizeable increase in air
25 conditioner usage, and thus a jump in the electricity

2 demand. These issues can lead to the failure of the
3 electrical grid equipment, and in severe cases
4 cascade (sic) from the services across the grid
5 system.

6 Commercial, residential, institutional
7 and industrial buildings account for over 94% of the
8 electricity consumed by the city. The use of
9 electricity in buildings not only impacts the
10 reliability of the electrical grid and the cost of
11 electricity in the city, but it also impacts the
12 environment. The city's more than one million
13 buildings are responsible for approximately 70% of
14 citywide greenhouse gas emissions, and approximately
15 47% of emissions from buildings are attributable to
16 electricity consumption. Of total emissions
17 generated by the building sector, residential
18 buildings account for 48%; commercial buildings 29%;
19 industrial buildings 11%; and institutional buildings
20 account for 12%. Of emissions from the city's
21 commercial buildings, the category of buildings that
22 Intro 850-A addresses, 58% are due to electricity
23 consumption to power things like lighting, mechanical
24 equipment, air conditioners, and plug loads. In
25 2008, subsequent--subsequent to a significant heat

2 wave induced power outage in 2006, and amid reports
3 that is common practice for commercial establishments
4 and businesses to leave doors open on hot days
5 allowing their air conditioned environment to escape
6 onto the sidewalk in an attempt to lure pedestrians
7 in, the City Council passed and Mayor Bloomberg
8 signed into law Local Law 38 of 2008. Local Law 38
9 prohibits commercial establishments from leaving
10 their doors open while air conditioners or central
11 cooling systems are on. The current law applies to
12 all commercial buildings in all retail stores except
13 for those that occupy less than 4,000 square feet of
14 retail or wholesale space. Unless the small store is
15 a chain store divide--defined as five or more stores
16 located within New York that engage in the same
17 general field of business.

18 Intro 850-A of 2015 amends Section 20-910
19 of the Administrative Code of the City of New York
20 amending the definitions section to make this far
21 more consistent. The bill also amends the definition
22 section by adding a definition for the term window,
23 deleting the definition of small store, deleting the
24 language of the definition of commercial building or
25 structure such that small stores will no longer be

2 exempt from this law. The bill amends Section 20-910
3 such that in addition to doors, applicable persons
4 shall be prohibited from having any window open when
5 operating an air conditioner or central cooling
6 system with few exceptions.

7 Recently the Department of Consumer
8 Affairs has launched a Shut the Front Door Campaign
9 to coordinate public education and outreach letting
10 store owners know that they must shut their doors
11 while air conditioners or central cooling systems are
12 on. This local law will support that initiative by
13 ensuring that businesses understand that leaving
14 their doors open during hot weather when the air
15 conditioning is on promotes a waste of energy,
16 increases carbon dioxide emissions and a cavalier
17 attitude towards our collective responsibility to
18 reduce emissions for future generations.

19 I want to recognize we have from Queens
20 Council Member Rory Lancman. I look forward now to
21 hearing from--from our administration. So with that,
22 the Samara can swear in the witnesses?

23 LEGAL COUNSEL SWANSTON: Anthony Fiore.

24 [pause] Please raise your right hands. Do you swear

2 or affirm to tell the truth, the whole truth and
3 nothing but the truth today?

4 CHAIRPERSON CONSTANTINIDES: I guess you
5 can go first.

6 ANTHONY FIORE: Good morning, Chairman
7 Constantinides and members of the Committee on
8 Environmental Protection. I'm Anthony Fiore,
9 Director of Energy Regulatory Affairs in the Mayor's
10 Office of Sustainability, and I'm joined by my
11 colleagues John Lee, Deputy Director of Green
12 Buildings and Energy Efficiency. The Mayor's Office
13 of Sustainability applauds Chairman Constantinides
14 and Council Member Richards in conjunction with the
15 Mayor for addressing this important effort to
16 increase citywide energy conservation, sustainability
17 and resiliency through this bill. Thank you for
18 inviting us to testify in support of Introduction
19 850. Intro 850 expands on Local 38, which requires
20 stores of 4,000 square feet or larger and small
21 chains of at least five or more stores to keep their
22 doors--their front doors closed when using air
23 conditioning. Intro 850 proposed to expand this
24 requirement to all retailers regardless of size and
25 number of chain stores. We believe that this

2 expansion aligns with the original language of Local
3 Law 38, which states that it is public policy of the
4 City of New York to conserve energy, reduce peak
5 power demands during hot weather periods and limit
6 environmental pollution and local contributions to
7 global warming.

8 Businesses that leave their doors open
9 with the air conditioners running during the summer
10 months waste energy, threaten the reliability and
11 affordability of our energy supply and generate
12 unnecessary greenhouse gas emissions. A store with
13 open doors letting cool air leak out onto the
14 sidewalk is one of the most conspicuous wastes of
15 energy in New York City. The Office of
16 Sustainability's analysis of Local Law 87 energy
17 audit data tells us that 10 to 20% of energy use and
18 greenhouse gas emissions in buildings comes from
19 cooling in commercial spaces. Con Edison has
20 estimated that if 1,000 businesses kept their doors
21 open this summer while running their air
22 conditioning, it would mean 4.3 million kilowatt
23 hours of electricity wasted, \$1 million added to
24 summer electric bills, \$2,300 tons of carbon dioxide
25 released into the atmosphere, equal to 366 more cars

1 on the road. This practice also occurs at the most
2 inopportune time of the year from an energy
3 reliability standpoint. Wasteful cooling coincides
4 with peak electricity load demand days. These are
5 the hottest days of the year when our aging energy
6 generation and distribution systems are already
7 struggling to meet demand from added air
8 conditioning. Wasteful air conditioning increases
9 the likelihood of brownouts and blackouts, which can
10 be extremely costly to the economy. In order to
11 reliability serve peak demand, utilities
12 traditionally invest in more power generation and
13 distribution infrastructure. The cost borne by
14 utilities to provide the reliability in our power
15 supply are passed onto consumers for rate increases.
16 The great this peak demand level, the larger the cost
17 to consumers. Wasteful cooling in business, which
18 open doors--with open doors adds to peak demand and
19 thereby works against the reliability and
20 affordability of electricity in New York City. With
21 energy reliability and affordability an ongoing
22 concern in New York City, it makes sense to curtail
23 this unnecessary practice. The City has also been
24 working hard top meet the twin goals of reducing
25

2 greenhouse gas emissions by 80% from 2005 levels by
3 2050, and to reduce greenhouse gas emissions from
4 buildings by 30% by 2025. Over 70% of New York
5 City's greenhouse gas emissions in 2014 came from
6 buildings or roughly 34 million tons of carbon
7 dioxide equivalent.

8 It is difficult to calculate the impact
9 of this building greenhouse gas emissions largely
10 because it is unknown how many businesses run their
11 air conditioning with their doors open. However, we
12 assume that 10,000 businesses will be compelled to
13 change their practice of running their air
14 conditioning with doors open. This bill would have
15 the result of reducing greenhouse gas emissions by
16 22,000 tons of carbon dioxide equivalent equal to
17 removing more than 3,600 cars from the road. The
18 emission reductions from this segment represent a
19 helpful contribution to reducing the city's
20 greenhouse gas emission goals. While the initial
21 reduction stemming from this bill will help the city
22 reach the 2050 goal, it also will help deliver an
23 important message about energy conservation. It's a
24 wasteful energy practice to run air conditioning with
25 open doors, which places an economic burden on the

2 rest of New York City rate payers. In addition to
3 saving energy, the city would be sending the message
4 that it does not condone such wasteful practices that
5 supports the type of behavioral change needed for the
6 city to realize its carbon reduction goals.

7 Eliminating this type of egregious energy waste will
8 eliminate a behavioral barrier removing some of the
9 discord in how our city thinks about energy
10 conservation.

11 In April, the Mayor released the OneNYC
12 Report. This report articulated four key visions for
13 the city's future. It described a growing, thriving
14 city that is just and equitable, is resilient against
15 the impacts of climate change, and it is the most
16 sustainable big city in the world. This bill
17 supports each of those four visions. Considering the
18 energy efficiency, resiliency, affordability and
19 sustainability benefits of Intro 850, the Mayor's
20 Office of Sustainability urges the Council to pass
21 this bill into law. Thank you for the opportunity to
22 testify today. John and I will be happy to answer
23 any questions you might have.

24 JULIE MENIN: Thank you so much Chairman
25 Constantinides, Council Member Lancman. I'm Julie

2 Menin, Commissioner of the Department of Cultural
3 Affairs, and it is an absolute pleasure to testify
4 before you today. And I want to commend you on
5 picking the right day to hold this hearing, as the
6 weather is supposed to be in excess of 100 degrees.
7 So it certainly points out why this bill is so
8 important. I also want to mentioned colleagues that
9 I'm joined by who are sitting here, Alba Pico, our
10 First Deputy Commissioner, Amit Bagga, our Deputy
11 Commissioner of External Affairs, Marla Tepper,
12 Deputy Commissioner of Legal Affairs and General
13 Counsel, and Mary Cooley, Director of City
14 Legislative Affairs. So again, thank you so much for
15 inviting DCA to testify today in support of Intro
16 850, which would require brick and mortar storefront
17 businesses in New York City to keep their doors and
18 windows closed while an air conditioner or central
19 cooling system is operating. Intro 850, as you said
20 in your introduction, is an expansion of Local Law
21 38, which only requires those stores that are a
22 minimum of 4,000 square feet in size or part of a
23 chain of five stores or more in New York City to keep
24 their doors closed when the AC is running.

Intro 850 is being introduced in conjunction with Mayor de Blasio, who has made the protection of New York City's environment and the reduction of greenhouse gases a top priority. This bill will surely enable the City to make progress toward reductions in energy use and regeneration of such emissions. As my colleagues at MOS have testified, nearly three-quarters of New York City's greenhouse gas emissions come from energy used to heat, cool and power buildings. In the context of climate change, and the need for a more sustainable and resilient city, the Mayor has committed to a significant reduction in emissions, and businesses, consumers and city government all collectively share responsibility in working to reduce those very emissions. One of the easiest ways in which businesses in our city can curb their demand for energy is by keeping their doors and windows closed while the AC is running. We know that many businesses leave their doors open with the AC running during the hot summer months, a practice that might prove a momentary reprieve from the heat to consumers or someone who passes by, but is very harmful to our

2 city's environment as well as to a business' bottom
3 line.

4 DCA has been enforcing Local Law 38 since
5 it went into effect. We fully support the proposed
6 changes to the existing law and urge the Council to
7 pass Intro 850. Once passed, the new law will
8 significantly reduce confusion on the part of
9 business owners, and reduce challenges an agency
10 faces in ensuring compliance, and I'm going to talk a
11 little bit later in my testimony about what some of
12 those challenges are. I'll be brief in terms of
13 energy and environmental benefits since MOS has
14 provided very compelling testimony on that. But let
15 me just say the case for requiring businesses to keep
16 their doors closed while the AC is running is clear.
17 According to MOS, commercial buildings are
18 responsible for 10 million metric tons of greenhouse
19 gas emissions in New York comprising approximately
20 20% of the city's total emissions. Many of these
21 emissions are generated by heating and cooling
22 systems, which themselves are often outdated, and
23 inefficient.

24 Even as buildings are retrofitted to
25 become more efficient, leaving doors and windows open

2 while the AC is on during summer increases emissions
3 and the cost of doing business. When a business
4 leaves its doors open with the cooling system
5 running, large amounts of cool air escape the
6 building forcing the cooling system to expand more
7 energy to maintain a lower temperature. The
8 expenditure of more energy increases emissions, which
9 in turn contributes to pollution and climate change.
10 Based on data published by Con Ed, as MOS said, if
11 just 1,000 business in New York City were to keep
12 their doors open during the summer for eight hours
13 each day, \$1 million would be added to summer
14 electric bills and 22,000 tons of carbon dioxide
15 would be released, which is the equivalent of an
16 additional 366 cars on the road. As New York City is
17 home to tens of thousands of businesses, we know that
18 requiring businesses to keep their doors and windows
19 closed while the AC is running could have a major
20 impact on the city's environment, and would literally
21 put money back into the pocket of businesses and
22 building owners. It is with the important goal of
23 reducing emissions that Intro 850 enforcement
24 provisions have been designed. As Local Law 38 has
25 been difficult to enforce, which I'll talk about in a

minute, compliance has been challenging. Under Intro 850's provisions, small businesses will not face onerous burdens with respect to compliance, and DCA will have an enhanced ability to conduct enforcement.

I'm not going to talk a little bit about outreach and enforcement. As is the case with any new law that is passed regulating business practices, small businesses will, of course, need time to learn about and come into compliance with Intro 850's expansion of existing law. Intro 850 would allow businesses to receive warnings, not fines, for the first violation observed before June 1st, 2016 giving DCA, our sister agencies and our partners such as chambers of commerce and industry associations and groups sufficient time to conduct outreach to businesses about the expansion of existing law. The agency is a strong proponent of business education efforts and is deeply committed to raising awareness about this issue with small businesses. As many of the members Council are aware, and as you alluded to in your testimony, Mr. Chairman, on July 22nd of this year, DCA undertook a major education and outreach effort to encourage businesses to Shut the Front Door while their air conditioning is on. And I put in

2 your folders materials, but here are some of the Shut
3 the Front Door materials. We had over 200 volunteers
4 including many Council members and other elected
5 officials who visited several thousand businesses in
6 all five boroughs to educated businesses about the
7 environmental and fiscal impacts of keeping their
8 doors open while running the AC.

9 The public awareness campaign included
10 many components including the distribution of a
11 multi-lingual information flyer and a cling that a
12 business could post on its front door demonstrating
13 that it is proud to Shut the Front Door. The
14 campaign also featured social media engagement tools
15 and posters installed in bus shelters and on phone
16 kiosks. As I mentioned, examples of these materials
17 are in your folders that you have received this
18 morning. Through our outreach efforts, DCA has
19 communicated with business owners across all five
20 boroughs about Local Law 38. While a large number of
21 business owners have expressed support for the law
22 and are readily complying, we have, of course, also
23 spoken with business owners who have raised certain
24 concerns. And we appreciate that Intro 850 addresses
25 some of those concerns, and one in particular which

2 is related to sidewalk cafes. As members of the
3 committee are aware, DCA licenses businesses to
4 operate sidewalk cafes in our city. As these cafes
5 are often crucial sources of revenue for many
6 restaurants and are certainly indelible to New York
7 City's streetscapes and civic life, Intro 850 exempts
8 restaurants with doors or full-length windows that
9 must remain open so that sidewalk cafes can be
10 serviced. There are approximately 1,350 licensed
11 cafes in New York City, a figure quite frankly that
12 is small enough compared to the total number of brick
13 and mortar businesses in our city to justify and
14 exemption especially when the absence of one could
15 have particular adverse effects on a business'
16 revenue.

17 To ensure the bill is effective in
18 achieving its goal of reducing energy use, Intro 850
19 also requires businesses to keep their windows closed
20 while the AC is running. Attendant to this
21 requirement, DCA supports exemption that allows for
22 an exterior window to remain open if it is being used
23 in direction relation to customer service.
24 Considering exemptions provided for in the bill and
25 taking into account the amount of money that

2 businesses could potentially save by keeping their
3 doors and windows closed, DCA believes the burden
4 imposed on small businesses would be minimal. We are
5 not aware of any studies, reports or data that
6 demonstrate a substantial correlation between keeping
7 the doors open and increased profits, an absence that
8 should underscore the strength of the environmental
9 and fiscal cases supporting the passage of Intro 850.
10 Intro 850 will also enhance DCA's ability to
11 effectively enforce existing law, which as we have
12 noted, only applies to chain stores with five or more
13 locations in New York City or retail businesses that
14 are 4,000 square feet or larger.

15 When inspecting a business on patrol, our
16 DCA inspectors do not have the ability to easily
17 determine the exact size or square footage of a
18 business, or whether or not it has more than five
19 locations in New York City. Additionally, while
20 business owners or landlords might have information
21 about the exact size of a storefront area, managers
22 or employees are oftentimes not privy to nor can they
23 easily access such information. Between constraints
24 faced by our inspectors and confusion faced by
25 business owners, enforcement of this existing law has

1 proven to be quite challenging. Considering the
2 importance of the law, however, DCA has prioritized
3 enforcement of existing law under Mayor de Blasio's
4 leadership. In 2015 to date, the agency has
5 conducted 1,357 inspections, a 132% increase over
6 last calendar year when we conducted 584 inspections.
7 We have issued 19 violations and 267 warnings this
8 year also a significant increase from 2014 when only
9 64 warnings were issued. In 2015, more inspections to
10 determine compliance with this law have taken place
11 than in any year since the law went into effect. By
12 expanding the Door and Window closure requirement to
13 nearly all storefront businesses, Intro 850 will take
14 the guess work out of enforcement with respect to
15 square footage. If all businesses with just a few
16 exemptions must comply with the law our inspectors
17 would not longer be forced to forego enforcement
18 because they are uncertain about the size of the
19 store. Additionally, by expanding the law,
20 businesses are less likely to be confused about
21 whether or not the law applies to them, which will
22 hopefully encourage greater compliance.
23

24 Enforcement will also be more effective
25 as a result of the recently higher penalties proposed

2 in Intro 850. So let me talk about the penalties for
3 a minute. The current law, which requires DCA to
4 issue warnings in perpetuity for all first violations
5 and has a low fine structure does not incentivize
6 compliance. Intro 850 contemplates that chain stores
7 are more likely to comply if they have to pay \$500
8 for initial or \$1,000 for repeated violations as
9 compared to the current fines, which reach a ceiling
10 of \$400. Non-chain stores, which are often smaller
11 businesses, would still only be subject to fines that
12 are similar to the current fine structure with fines
13 now proposed at \$250 for the initial and \$500 for
14 repeat violations. Additionally, DCA will no longer
15 issue warnings for the first violation after June 1st
16 2016, which would also make the proposed penalty
17 structure more of a deterrent.

18 In conclusion, New York City must play
19 its role in reducing emissions and decreasing the
20 demand for energy that guard against the ills of
21 climate change. The implementation of Intro 850 will
22 enable us to protect our natural environment, and
23 also foster a regulatory environment that is friendly
24 to businesses. Considering the significant
25 environment and fiscal benefits Intro 850 will

2 provide to our city's environment and business, DCA
3 urges the Council to pass this bill into law. We
4 thank you so much for your leadership and the
5 opportunity to testify today, and myself and my
6 colleagues are happy to answer any questions that you
7 might have.

8 CHAIRPERSON CONSTANTINIDES: Thank you
9 for your testimony. I just want to recognize that we
10 have from Brooklyn our Council Member Steve Levin and
11 from Queens and co-sponsor of the bill, the
12 aforementioned chairman emeritus, Donovan Richards.
13 [laughter] I'll ask a few questions before I give my
14 colleagues an opportunity, too. I'll try to be
15 brief. Just very quickly, how does air conditioning
16 usage affect the operation of our in-city power
17 plants and what does that mean for the City of New
18 York?

19 ANTHONY FIORE: As we mentioned, their
20 air conditioners are running at the peak periods of--
21 of temperature in the city. That's the time when the
22 energy system is most strained, and that's the time
23 that in-city generators will most likely be running.
24 So, many of these plants or over 76% of our in-city
25 generating units are 30 plus years old. So they're

2 inefficient, and the most--the dirtiest plants that
3 are out there. So, we have--we have the worst
4 running plants running at those times as a result.

5 CHAIRPERSON CONSTANTINIDES: So we're
6 talking about, when we talk about this bill we're not
7 only talking about saving the emissions that would be
8 the crude from shutting the doors, but also it's
9 Queens residents and I represent Astoria and Long
10 Island City, we're also talking about the emissions
11 reductions that would occur from there not being this
12 additional strain on the grid, correct?

13 ANTHONY FIORE: That's correct.

14 CHAIRPERSON CONSTANTINIDES: So that's
15 pretty big number. We need to--this is a--as a
16 Queens resident, obvious (sic) thing what it is in
17 many of our communities especially in Queens we need
18 to get these power plants to not run quite as often.

19 ANTHONY FIORE: Yes, we agree and the
20 Mayor's Office of Sustainability has been working
21 with state and federal regulators to--to change the
22 rules that currently disincentivize these power
23 plants from--from repowering. And so, until that can
24 happen this is--this is a positive step in reducing
25 their use.

2 CHAIRPERSON CONSTANTINIDES: And I mean
3 you've already talked about just if just 1,000
4 businesses kept their doors open eight hours a day,
5 we're talking about, you know, saving 366--the
6 equivalent of 366 cars off the road, correct?

7 ANTHONY FIORE: That's right, and that's
8 a--that's not a small number.

9 CHAIRPERSON CONSTANTINIDES: And you
10 multiply that by the tens of thousands that the
11 Commissioner talked about. So we're talking about a
12 rather large number just from having people shut
13 their door.

14 ANTHONY FIORE: That's correct.

15 CHAIRPERSON CONSTANTINIDES: And so
16 lastly before I hand it over to my colleagues, as far
17 as, you know, enforcement, will people be able to
18 Tweet if they see a door open or like how will--how
19 will--you know, how can we--how will--how will the
20 public be able to better assist our enforcement
21 measures. I know people now with social media, I get
22 it, you know, there's a garbage can overflowing and
23 we get a Tweet, and that's the first next thing.

24 COMMISSIONER MENIN: We always encourage
25 all consumers across New York City to contact us

2 whether it's by calling 311, whether it's through
3 social media, whether it's going onto our website.
4 Specifically, in the past year we had 142 complaints
5 on the law of people who saw non-compliance. It's
6 very helpful to us because for--it's helpful to have
7 consumers of New York also be our eyes and ears. We
8 have a certain number of inspectors. They can't be
9 in every single store. In total, there are
10 approximately 195,000 retail spaces in New York that
11 would be subject to this. So that's the approximated
12 amount. So it's a large number. So yes, social
13 medical Tweeting, Facebook. We always appreciate
14 that kind of contact, and I will tell you when we did
15 the Shut the Front Door Campaign, the Tweets, the
16 social media component was incredible, and very
17 helpful.

18 CHAIRPERSON CONSTANTINIDES: That's
19 fantastic and--and so getting back on enforcement
20 also the outreach. The outreach will also be sort of
21 that type of sort of drum beat until next June 1st?

22 COMMISSIONER MENIN: Exactly. I mean one
23 of the things that DCA has endeavored very strong to
24 do in the past year and a half is a new method of
25 outreach whether it was through our enforcement of

2 paid sick leave, whether it was through the work we
3 did around the earned income tax credit, whether it
4 was through this, we have done numerous days of
5 action, a lot of increased outreach on the street,
6 grass level, grassroots community outreach. And we
7 are going to do the same for this as well to make
8 sure that businesses know the new law. And also
9 working very closely, as I mentioned in my testimony
10 with the chambers of commerce, with BIDS, with trade
11 associations because of the unique relationship we
12 already have as a licenser of approximately 80,000
13 businesses in New York. We have those relationships
14 and we'll continue to do that kind of granular
15 outreach.

16 CHAIRPERSON CONSTANTINIDES: Of course,
17 you know, being a resident of Queens and it being as
18 diverse as it is, it's going to have diverse outreach
19 as well. So many of our business owners speak, you
20 know, 150 languages I think are spoken in Queens, and
21 many of them are business owners that line our
22 streets. So we want to make sure that--

23 COMMISSIONER MENIN: Absolutely.

24 CHAIRPERSON CONSTANTINIDES: --they are
25 reached out to them in a way that they understand.

2 COMMISSIONER MENIN: So, absolutely. So
3 let me say a couple of things on that. We are very
4 proud of the fact that earlier this year we changed
5 the way that our inspectors did outreach. Our
6 inspectors when they inspect a business now carry a
7 laminated card, and the inspections are done in
8 language of choice. This is really a sea change for
9 the Department of Consumer Affairs. We're really
10 excited about it. We started that over a year ago,
11 and that's really working. I can also tell you
12 another example on the multi-lingual types of
13 outreach that we do is certainly the work we did
14 around paid sick leave. The Paid Sick Leave Law
15 required our agency to have materials in seven
16 languages. We decided on our own accord to have
17 materials in 26 languages. We are going to keep up
18 that level of outreach to immigrant owned businesses
19 and we will absolutely do that in terms of the AC law
20 as well.

21 CHAIRPERSON CONSTANTINIDES: All right.
22 Thank you Commissioner. With that, I'll turn it over
23 to my colleague for questions. First Rory Lancman.

24 COUNCIL MEMBER LANCMAN: Thanks. Good
25 morning.

2 COMMISSIONER MENIN: Good morning.

3 COUNCIL MEMBER LANCMAN: So the only
4 question I have is whether or not you have
5 encountered from any of the businesses that might be
6 affected by this regulation or any of the businesses
7 that--that are affected by the existing law, a
8 rationale for why they might keep their doors open
9 with the air conditioning blasting other than a means
10 of getting the attention of a sidewalk shopper.
11 They've certainly gotten my attention on very hot
12 days, and I appreciate it, but for the greater good I
13 think this is a good idea. (laughter) But is there
14 any business rationale other than, you know, we just
15 want to get people's attention and maybe draw them
16 into the store?

17 COMMISSIONER MENIN: We have not heard
18 any other rationale proffered in all the businesses
19 that I've spoken to in the last year and a half I've
20 been Commissioner. It has been focused on exactly
21 that, luring in customers and trying to be welcoming
22 to customers. One of the things that I've found most
23 interesting about our Shut the Front Door Campaign is
24 in speaking to business owners, many of them, the
25 managers at least and many of the employees were not

2 aware of the cost savings to the business if they
3 shut the door. On average they can save
4 approximately \$1,000 on their summer electric bill.
5 This is very important for businesses to be aware of.
6 But that was the main rationale we heard.

7 COUNCIL MEMBER LANCMAN: Okay. Thank
8 you.

9 CHAIRPERSON CONSTANTINIDES: Thank you,
10 Council Member Lancman. I'll turn it over to Council
11 Member Donovan Richards.

12 COUNCIL MEMBER RICHARDS: It's a pleasure
13 to be here, Mr. Chairman. It looks like the seat is
14 hot already. [laughter] He hasn't even had a chance
15 to warm it and he's already moving. It's an honor to
16 be here, and I certainly thank--

17 CHAIRPERSON CONSTANTINIDES: I'm trying
18 to fill your seat. (sic)

19 COUNCIL MEMBER RICHARDS: Exactly. I'm
20 telling you, but definitely some great legislation.
21 I'm happy to do it joint with you, and, you know, I
22 think just moving onto point, this is a common sense
23 measure. It's like saying turn the lights off when
24 you're not using them, right. So very grateful to
25 see the administration is certainly support of this

2 effort. Just a quick question I had in terms of
3 enforcement. So how many enforcement agents do you
4 have in particular that would focus I guess on
5 helping businesses by telling them to shut the door?

6 COMMISSIONER MENIN: We have almost 70
7 inspectors, and those inspectors currently now on
8 patrol are enforcing this. As I mentioned in my
9 testimony, we've really stepped up enforcement this
10 past year, this past summer in particular 132%. In
11 large part because the Mayor has prioritized this as
12 an issue. We want to make sure we're educating
13 businesses about the important environmental effects
14 at stake here.

15 COUNCIL MEMBER RICHARDS: And can you
16 just go into how does the campaign--and I'm not sure
17 if you went into this earlier--how does the campaign
18 look to ensure very business across the city
19 understands that this is important and they're not
20 going to issued necessarily a warning. I think
21 you're--you're removing in 2015.

22 COMMISSIONER MENIN: Uh-huh.

23 COUNCIL MEMBER RICHARDS: So does the
24 enrollment--sorry not the enrollment, but the--the
25 promotion--

2 COMMISSIONER MENIN: Sure

3 COUNCIL MEMBER RICHARDS: --of this
4 particular initiative look.

5 COMMISSIONER MENIN: Sure. We really
6 began it this summer with a new campaign, and you've
7 got materials in your folder called Shut the Front
8 Door, and we distributed to businesses a cling that
9 they could literally post in their door. We went
10 door to door to thousands of businesses to talk to
11 them about the environmental effects, and we didn't
12 just focus by the way on businesses that were subject
13 to the current law. We went really to all retailers
14 because we thought it was important for everyone to
15 know about the environmental effects. What we would
16 do moving forward, if the bill passes, would be to
17 increase our outreach to businesses, both using our
18 inspectors, using the relationships we have with the
19 chamber of commerce, with the BIDs with the community
20 boards, with the trade associations. I think we've
21 been able to strongly prove that the outreach we do
22 is incredibly impactful. We did it on paid sick
23 leave and we're about to do it on transit benefits.
24 We did it around our earned income tax campaign. So
25 we have a really new methodology of outreach that

2 we're using agency wide, and it involves repeated
3 presentations to community boards, repeated
4 presentations to chambers of commerce, that granular
5 door-to-door going business-to-business is incredibly
6 impactful. We are also going to send letters top
7 businesses about this, because that one-on-one
8 mailing is incredibly important. And so we would do
9 that as well.

10 COUNCIL MEMBER RICHARDS: All right, well
11 you answered my question. I was going to mention the
12 mail is very important.

13 COMMISSIONER MENIN: Yes.

14 COUNCIL MEMBER RICHARDS: So no one has
15 the excuse that they--

16 COMMISSIONER MENIN: Absolutely

17 COUNCIL MEMBER RICHARDS:--didn't receive
18 it. So thank you, Mr. Chairman. Congratulations.
19 Already came in and ready to pass legislation. I'm
20 telling you it's great. Thank you. Thank you for
21 your leadership.

22 COMMISSIONER MENIN: Thank you very much.

23 CHAIRPERSON CONSTANTINIDES: Thank you,
24 Donovan and thank you for everything, and all of your
25 great work as chair. I recognized you before you got

2 here before, but thank you for your great time as
3 chair. You've made an indelible impact here in New
4 York City as your time as chair. So thank you.
5 Thank you for being here and your good questions. I
6 also want to thank you for your testimony, and
7 definitely the back and forth that we've had to
8 ensure that those--those sidewalk cafes and windows
9 that are active, in active use are--that they're
10 business models for attracting that. We're able to
11 reduce emissions in New York City, reduce our
12 electricity, reduce our stress on the electricity,
13 the stress on the electricity--the electrical grid
14 while still supporting small business. So I want to
15 thank you for that.

16 COMMISSIONER MENIN: Thank you very much.

17 CHAIRPERSON CONSTANTINIDES: Well, thank
18 you for your testimony. Steve, do you have any--?
19 All right so, our next witnesses we have--I don't see
20 her in the room, but we have the Manhattan Borough
21 President Gale Brewer. Okay, so I will--is she--is
22 she--oh, yeah. Next, we'll have Eric Goldstein from
23 the National Resources Defense Council.

24 [pause]

2 CHAIRPERSON CONSTANTINIDES: Eric, great
3 to see you as always. I'm just going to have Samara
4 swear you in.

5 ERIC GOLDSTEIN: Okay.

6 LEGAL COUNSEL SWANSTON: Please raise
7 your right hand. Do you swear or affirm to tell the
8 truth, the whole truth and nothing but the truth
9 today?

10 ERIC GOLDSTEIN: I do. Good morning, Mr.
11 Chairman, Chairman Richards, Council Member Levin and
12 members of the committee. My name is Eric Goldstein
13 and as you know, I'm an attorney with the Natural
14 Resources Defense Council. NRDC is a national non-
15 profit legal and scientific organization active on a
16 whole host of national public health and
17 environmental and quality of life issues around the
18 national as well as right here in the city since
19 1970. We're pleased today to be here to support the
20 Constantinides/Richards Energy Conservation Bill,
21 that's what we're calling it, Intro 805, and we
22 congratulate for holding this hearing on a day when
23 it will most likely hit 90 degrees again. There will
24 be a demand on peak energy sources, and unfortunately
25 many New York retail businesses will be wasting

2 energy by leaving their doors open with their air
3 conditioners blasting.

4 The need for this legislation is self-
5 evident. When you leave the doors open, you're
6 wasting energy. You're boosting global warming
7 emissions and increasing the risks of brownouts and
8 blackouts in neighborhoods throughout the city. The
9 Long Island Power Authority estimated that leaving
10 store doors open while air conditioners are operating
11 can send some electricity usage in such
12 establishments up by 20 to 25%. A 2008 analysis that
13 was conducted by Steven Winter Associates, a
14 consulting firm that contracted with NRDC, concluded
15 that the operating costs for retail establishments
16 that left their doors open could be up to \$1,000
17 higher over the course of the summer months. And as
18 has been previously testified by the Commissioner and
19 by the de Blasio Administration, the impact of this
20 policy on leaving doors open on global warming
21 emissions is significant. Con Edison suggests
22 closing the doors could cut 2.5 tons of carbon
23 dioxide emissions from a single New York City
24 business. And, of course, since this peak power
25 demand forces Con Edison to rely on fossil fuel

2 plants that are emitting more pollutants, we are
3 burning more oil and more gas than modern power
4 plants, and producing more pollution in our city
5 neighborhoods at the time when air pollution is
6 typically among the worst in New York City.

7 Finally, the extra demand for power
8 that's required to cool the sidewalks during these
9 dog days of summer increases the risks of blackouts
10 and brownouts. That's just not a theoretical
11 concern. Earlier this summer on July 20th and 21st
12 when the temperatures soared into the 90s and power
13 demand surged, NRDC staff observes stores around the
14 city with their doors open and air conditioners
15 blasting. Now, this took place even as the Mayor was
16 calling on all New Yorkers to conserve power, and
17 despite that Con Edison was forced to reduce voltage
18 in parts of Brooklyn and Queens and more than 19,000
19 customers in two Staten Island neighborhoods actually
20 lost power completely. So we are today hopefully
21 taking action on a legislative change that will
22 reduce this very wasteful practice that threatens
23 blackouts and brownouts. The Council, as you know,
24 sought to address this in 2008 when under the
25 leadership of then Council Member Brewer, they passed

2 Local Law 38. That statute made in advance set out a
3 clear policy goal, but it had a critical gap, which
4 is that it did not apply to stores under 4,000 square
5 feet. So this loophole has enabled small retailer
6 establishments to evade the statutory mandate. There
7 is no scientific basis for that. It was a political
8 necessity at the time to get the bill passes, and
9 it's made enforcement more difficult since city
10 inspectors don't have an easy way to determine the
11 square footage of offending stores. And so that
12 surprisingly, there has not been full-scale
13 compliance with Local Law 38, and indeed informal
14 NRDC surveys taken during July and August of this
15 year have confirmed that lack of compliance. We
16 surveyed four neighborhoods in Chelsea, Harlem, the
17 Upper West Side and neighborhood section of Brooklyn.
18 And we found that 21% of all stores surveyed, 62 out
19 291 had their doors propped open while the
20 temperature was 90 degrees or higher. Many, but not
21 all of these offending stores were probably smaller
22 than 4,000 square feet, but the energy they were
23 wasting was significant nonetheless.

24 Intro 850 would address the gaps
25 identified in Local Law 38 and help achieve the

1 objectives first spelled out by the Council in 2008.
2 If you take a look at the two photos that we've
3 attached to the back of this testimony, you'll see
4 that even stores for--that the statute does apply to,
5 chain stores, have been violating this statute. And
6 so, there's a--the first photograph is a pictures of
7 a shore store on Kings Highway in Brooklyn, a
8 neighborhood I grew up on or near, and the
9 temperature was 93 degrees, doors wide open. Here
10 earlier this summer on the day that there were
11 brownouts in parts of Brooklyn and Queens and
12 blackouts in Staten Island, a chain store on Fifth
13 Avenue and 19th Street, open doors.

14
15 And so, clearly what's needed is an
16 amendment to the statute as you have proposed and
17 tougher enforcement by the city. We're glad to see
18 that the de Blasio Administration is interested in
19 enhancing this statute and enforcing it. We're
20 delighted that both the immediate former chairperson
21 of this committee and the current chair are co-
22 sponsoring this legislation. We thank you for your
23 efforts. We stand ready to work with you on the
24 passage of the sensible energy conserving brownout
25

2 reducing and pollution preventing legislation. Thank
3 you.

4 CHAIRPERSON CONSTANTINIDES: Thank you,
5 Eric, for your testimony as always. I mean you, too,
6 brought up--I asked the same question of the
7 administration, but by having these--during the
8 highest usage time that's when we have our in city
9 power plants burning the most, and that's a bad
10 thing. What does it mean for air quality in the five
11 boroughs?

12 ERIC GOLDSTEIN: Well, the--the summer
13 months and September/October are usually the highest
14 air pollution months in New York City anyway. That's
15 when the ozone smog is the traditionally worst, and
16 in the summer months the number of health advisories
17 issued by the State Department of Environmental
18 Conservation are highest. So we already are
19 suffering because of inversion and other factors some
20 of the highest pollution levels of the year. Also,
21 of course, when the temperatures are higher, there
22 are other impacts. So on our elderly and children
23 who are least able to absorb increases in pollution.
24 And ironically because in part folks are leaving
25 doors open, that's placing further demand on Con

2 Edison to generate peak power. In order to do that,
3 they have to run the most inefficient, highest
4 polluting plants. Some of them are in the city. So
5 not only are they spewing out more global warming
6 gases, but they're putting out other poisons in the
7 air that adversely affect public health. Finally,
8 it's extremely expensive to operate these plants. So
9 there's a direct impact on consumers. That's why Con
10 Edison has been trying and the administration and the
11 previous administration have been trying so hard to
12 get New Yorkers to conserve energy during times of
13 peak power demand. To be able to turn on these
14 plants, they--it's--it's not just like flipping the
15 switch. And so, it's--it's costly, it's the most
16 expensive. Con Edison rate payers who have already
17 got very high electricity rates as you and all of you
18 all of your constituents know. And so, there's
19 really--it's a win, win, win here for public health,
20 for consumer's pocketbooks, for reducing the impacts
21 on climate change. This legislation really ought to
22 be one that sails through this committee, and we look
23 forward to standing with you co-sponsors and Mayor
24 when the signing ceremony takes place later this year
25 we hope.

2 CHAIRPERSON CONSTANTINIDES: I will look
3 to it as well, and this bill is green all the way
4 around. It's--it's--

5 ERIC GOLDSTEIN: Nicely state.

6 CHAIRPERSON CONSTANTINIDES: It's good
7 for the environment, and it's good for pocketbooks.
8 So we definitely good--all green all the way around.
9 I have never seen and I'm just going to ask
10 anecdotally--I know it's not your area of expertise--
11 but I have never seen a study that has indicated that
12 keeping your door open in the summer somehow
13 increases business at the cash register. Have you
14 seen any studies to that effect? I have not.

15 ERIC GOLDSTEIN: No, we--we haven't seen
16 those studies, and when on occasion we've spoken to
17 business people about their open doors, either the
18 sales people or the folks we've spoken to have told
19 us they were unaware of the policy and immediately
20 closed it. Or, a couple of folks have indicated that
21 it was either company policy, or the boss had told
22 them to keep it open? Why? They believe it lures
23 customers in. I know I'm probably hanging out with a
24 different crowd because when I walk by those stores
25 with colleagues and all, we think it's an incredibly

2 wasteful practice. We're less inclined to walk in.

3 So it's really--it--it's--it's--it's such a senseless
4 policy, it would be hard to think of a use of energy
5 that is more wasteful and less useful for New York
6 City retailers than this practice of leaving doors
7 open on the hottest days of the year.

8 CHAIRPERSON CONSTANTINIDES: It sounds
9 like the urban myths. It sounds like the alligators
10 in the sewers, right?

11 ERIC GOLDSTEIN: Yeah.

12 CHAIRPERSON CONSTANTINIDES: So with
13 that, I'll turn it over to Donovan, or Councilman
14 Donovan Richards. Do you have any questions?

15 COUNCIL MEMBER RICHARDS: Okay. Thank
16 you for your support as always, and I neglected to
17 thank Samara and Bill. You have a great team, and
18 for all their hard work as my time as chairman, and I
19 without a doubt know that this committee is in the
20 right hands, and know that it will move forward. So
21 I'm very excited about what's to come this year, and
22 I'm hoping that we're going to continue to work with
23 the de Blasio Administration to make this city more
24 green, more resilient, more sustainable. But also,
25 do common sense things like just conserve energy, and

2 it doesn't cost anything. You know, it pays for the
3 it. You're actually saving money. It pays for
4 itself. You can pay for motion sensors, and other
5 things eventually if you--if you save money. So I'm
6 just happy at the direction we're moving and excited
7 for this session. Thank you, Mr. Chairman.

8 ERIC GOLDSTEIN: Thank you Mr. Chairman.
9 Thank you, Mr. Chairman. Thank you, Samara.

10 CHAIRPERSON CONSTANTINIDES: Thank you.
11 Thank you, Eric. Thank you for your testimony. Our
12 last witness, but certainly not least we have Shula
13 Warren who is going to be reading testimony on behalf
14 of Manhattan Borough President Gale Brewer. Great to
15 see you Shula.

16 SHULA WARREN: I see everyone here. I
17 know, please state that (sic) or not, but my name is
18 Shula Warren. I'm the Policy Director for Manhattan
19 Borough President Gale Brewer, and I'm here to offer
20 testimony on her behalf. Good morning. My name is
21 Gale A. Brewer, and I'm the Manhattan Borough
22 President. Thank you to Chair Constantinides and the
23 members of the Environmental Protection Committee and
24 Council Member Richards, for the opportunity to
25 testify today. As a member of the City Council, I

1 worked to pass Local Law 38 of 2008 to prohibit the
2 practice of businesses to propping open their doors
3 while operating the air conditioning or central
4 cooling system. The current law only applies to
5 those businesses that are either larger than 4,000
6 square feet, or part of the team with five or more
7 locations. Violators would receive a written warning
8 upon first offense, and shall be liable for a \$200
9 fine for each open door or window upon the second
10 violation. Following a series of summers fraught
11 with blackouts and brownouts across the five
12 boroughs, this measure presented a common sense
13 approach to reducing electricity usage and preventing
14 energy abuse. I would especially like to recognize
15 Eric Goldstein of NRDC and Clyde Haberman formerly a
16 reporter of the New York Times for his tireless
17 advocacy on this issue.

18
19 After the law went into effect, my
20 councilmanic (sic) office developed information for
21 the businesses in the Upper West Side District, which
22 were distributed by me, my staff and volunteers. This
23 type of proactive education and outreach is
24 essential, and after bringing the law to the
25 attention of the store managers, most complied with

2 the law. Each warm weather season, though, my office
3 would be contacted by constituents complaining of the
4 pattern of disregard displayed by some of our city's
5 large retailers especially on Fifth Avenue, south of
6 Central Park and along 34th Street between Fifth and
7 Seventh Avenues. There my staff and I went to
8 witness a myriad of businesses keeping their doors
9 open on hot days, wasting energy and breaking the law
10 with seeming little to no enforcement by the City's
11 Department of Consumer Affairs. This year the
12 Department of Consumer Affairs to the credit of
13 Commissioner Menin have made the most significant
14 efforts to date of enforcement of the law through
15 education and staff teams and the issuance of
16 violations where appropriate. Intro 805 of 2015
17 embrace the same environmental influence by proposing
18 to expand the current law to apply to small stores,
19 retail or wholesale establishments under 4,000 square
20 feet, and also requiring the stores, which are part
21 of the team, to post a notice in each store stating
22 the violations may be reported to 311.

23 Open door policies epitomize pointless
24 waste at the cost of the common good, and the law
25 should be amended to cover all businesses. But prior

2 to enforcement of actions against small businesses in
3 particular, the city should undertake a comprehensive
4 education campaign utilizing multiple languages,
5 various forms of media and door-to-door outreach to
6 communicate about the law before violations are
7 issues. Thank you again for the opportunity to
8 testify. City organizations must work together to
9 protect the environment, and I urge this committee to
10 vote in favor of the bill.

11 CHAIRPERSON CONSTANTINIDES: Thank you,
12 Ms. Warren, for your testimony, and please thank
13 Manhattan Borough President Brewer for all of her
14 great work, and her testimony. So this was her bill
15 back in 2008, which we well recognize, and looking
16 forward to expanding it, and building upon that
17 success. So thank you. All right, that's--do we
18 have anyone else that's looking to testify today on
19 this particular matter? All right with that, I want
20 to make sure again, I'm looking forward to working
21 with the administration. I want to recognize Reggie
22 Thomas, who is leaving us for the Mayor's Office and
23 thank him for his good work on behalf of the people
24 of the City of New York, and the City Council. I
25 want to thank again our attorney who does an amazing

2 job, Samara Swanston. Thank you, Samara, for all of
3 your great work, and our Policy Analyst. Oh, wait,
4 we--do we have one more witness? Okay.

5 [pause, background comments]

6 CHAIRPERSON CONSTANTINIDES: But I want
7 to make sure to also thank our Policy Analyst for the
8 Committee, who worked formerly for Jim Gennaro, and
9 now is a member of this--as this committee, has been
10 involved with this committee for many years as well.
11 So thank you, Bill. And my own staff Nick Widzowski,
12 my Legislative Director, who has been working
13 tirelessly on this issue and many others, and my
14 Chief of Staff Nick Roloson, and Communications
15 Director Shachar Sharon. I want to make sure we
16 thank our Speaker Melissa Mark-Viverito as well. I
17 think I'm going to wait to bang the gavel for a few
18 minutes as we wait to see if anyone else needs to
19 testify. So, we'll keep it--the hearing open for
20 about five minutes before close. Thank you.

21 [pause, background comments]

22 CHAIRPERSON CONSTANTINIDES: All right,
23 seeing no others that want to testify, I gavel this
24 hearing on Intro 850-A. The Environment Protection
25 Committee closed.

1 COMMITTEE ON ENVIRONMENTAL PROTECTION

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2 [gavel]

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C E R T I F I C A T E

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



Date SEPTEMBER 9, 2015