

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS

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January 14, 2016
Start: 10:24 a.m.
Recess: 2:03 p.m.

HELD AT: 250 Broadway-Committee Rm, 14th Fl.

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Chairperson

COUNCIL MEMBERS:
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Julissa Ferreras-Copeland
Karen Koslowitz
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A P P E A R A N C E S (CONTINUED)

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Mark Fellin
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Laura Ornstein
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A P P E A R A N C E S (CONTINUED)

Steven Levy
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Joe Shamie
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Sam Shamie
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Abe Mamiye
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Jordan Chistensen
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Maida Galvez
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Rob Kornblum
NYPIRG

Muhammad Dalhatu
Behalf

1
2 CHAIRPERSON ESPINAL: Welcome. Good
3 morning and welcome to today's hearing of the
4 Committee on Consumer Affairs. My name is Rafael
5 Espinal, and I'm the Chair of the Committee and your
6 host for this morning's hearing, and joining from the
7 Committee is Council Member Karen Koslowitz from
8 Queens and we are also joined by Donovan Richards who
9 is the sponsor of this bill. Our hearing this
10 morning concerns a topic of utmost concern, the
11 health and wellbeing of our children. For decades, if
12 not longer, we have known that the presence of toxic
13 chemicals in our homes, work places and communities
14 pose a serious threat through human health. As a
15 nation, we have taken action against lead in our
16 paint and gasoline, DDT in pesticides, and we have
17 removed asbestos from the walls and floorboards of
18 our homes. Nevertheless, more work remains to be
19 done. Countless common household products from
20 cleaning supplies to carpets, clothing and cosmetics
21 continue to contain toxic chemicals. Children are
22 especially susceptible to harmful effects of toxic
23 chemicals in the environment. Because they are still
24 growing and developing, children breathe more air,
25 drink more water and consume more food pound for

1 pound than adults. Toddlers and babies explore the
2 world by crawling on the ground and putting objects
3 in their mouth, including products and toys made for
4 their use. In utero, during infancy and in early
5 childhood, the developing human brain is particularly
6 vulnerable to the harmful effects of chemical
7 exposure and such exposure has been linked to
8 neurological disorders such as those along the autism
9 spectrum, ADHD, dyslexia, and other cognitive
10 impairments, and since heavy metals such as lead,
11 antimony, mercury and arsenic cannot be dispelled by
12 the body, early exposure means longer exposure as
13 toxins accumulate in the body over time. According
14 to a series of investigative reports by Clean and
15 Health New York, the Center for Environmental Health
16 and WE ACT for Environmental Justice, toxic chemicals
17 are found in children's products and children's toys
18 across the five boroughs. Their investigation found
19 such children's products in discount retailers, mid-
20 priced big box stores such as Target, and high-end
21 department stores as well. Toxic chemicals should
22 not be sold in stores as children's products,
23 clothes, shoes, and toys. Federal laws have proven
24 insufficient—have proven to be insufficient to
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1 protect consumers, especially children from these
2 risks. Under the current federal regulatory scheme,
3 chemicals produced for everyday use are regulated by
4 the Environmental Protection Agency while consumer
5 products are regulated by the Consumer Product Safety
6 Commission. Under the Toxic Substances Control Act
7 of 1976 the EPA reviews new chemicals produced for
8 use of everyday products to determine if they are
9 harmful to human health. Unfortunately, due to flaws
10 in that law, only a handful of approximately 80,000
11 chemicals in consumer products have been successfully
12 studied and regulated by the EPA, and despite major
13 advances in our ability to study and predict health
14 impacts caused by chemicals, the act has not been
15 substantially revised or updated over the four
16 decades of its implementation. Further, while the
17 language of TSCA appears to grant the EPA wide
18 authority over chemical production, the agency's
19 ability to promulgate restrictions over chemicals has
20 been hampered. Congress has considered two bills to
21 reform TSCA which will strengthen the EPA's ability
22 to ban harmful chemicals. Consumer product's safety
23 Commission can identify additional chemicals of high
24 concerns be tested and limited. Consumer Products
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1 Safety Improvement Act of 2008 approved regulation of
2 children's products and toys and allows localities to
3 regulate certain chemicals that are not regulated by
4 the CPSC. Today the Committee will hear two pieces
5 of legislation that seek to close the gaps in the
6 Federal Regulatory scheme, Proposed Intro 803A and a
7 Pre-considered Resolution. Intro 803A would prohibit
8 the sale or distribution of children's products
9 containing specified chemicals such as lead, arsenic
10 and mercury exceeding a specified total content
11 level. The Pre-considered Resolution calls upon the
12 Consumer Product Safety Commission to establish lower
13 total content standards of regulated chemicals for
14 children's toys and also for the Commission to
15 establish consistent standards for all children's
16 products. The New York City Council has a history of
17 protecting children from harm. The Council banned the
18 sale of realistic toy guns. The Council passed the
19 Childhood Lead Poisoning Prevention Act requiring
20 landlords to identify and remediate lead hazards in
21 apartments where young children dwell. The City
22 Council will consider how the new legislation before
23 us may protect our youngest New Yorkers from toxic
24 and chemical exposures that may lurk on shelves
25

1 across the city. We also hope to encourage the
2 Federal Government to create a consistent system that
3 protects us all. We look forward to hearing
4 testimony from DCA, the advocates, representatives of
5 the industry, and any other interested parties.
6 Before inviting the first panel, I'd like to offer my
7 colleague Council Member Richards, sponsor of the
8 Resolution, the opportunity to make a statement and a
9 newborn—and a new dad, actually.
10

11 COUNCIL MEMBER RICHARDS: Well, thank
12 you, Council Member Espinal for your leadership and
13 certainly helping us reach this day, and I certainly
14 can attest to your testimony that newborns certainly
15 do eat like six times as much as we do, but they
16 definitely sleep less. So, and I want to thank--and
17 I know we're joined by WE ACT for Justice whose been
18 at the forefront of this conversation as well. I want
19 to thank them for joining us as well. Good morning.
20 I am Council Member Richards and I'm Introducing Bill
21 Number 803 and Pre-considered Resolution Number 803
22 today to call upon the United States Consumer Product
23 Safety Commission to lower total content levels of
24 regulated chemicals for children's toys and to
25 establish consistent standards for all children's

1 products. Last year, I joined Speaker Melissa Mark-
2 Viverito to introduce legislation to ban these toxin-
3 tainted toys in New York City, but unfortunately that
4 bill can only go so far without the Federal
5 Government enforcing stricter standards on these toys
6 that can be particularly harmful to children.

7 According to the agency for toxic substances and
8 diseases, a division of the United States Department
9 of Health and Human Services, Children can be
10 especially susceptible to the adverse effects of
11 environmental toxins. As any parent can attest to,
12 young children love to put anything and everything in
13 their mouth and are always playing on the ground
14 where contaminants are found. Chemicals like
15 formaldehyde, benzene, lead, mercury, arsenic,
16 cadmium, and cobalt can impact the ability of
17 children to learn, harm their reproductive systems
18 and are linked to various cancers. The New York City
19 Council is moving to make sure that the children in
20 the largest city in the United States of America will
21 be protected from harm, and their parents can rest
22 assured that when they go shopping for clothing,
23 school supplies and other children's products that
24 they are not playing Russian Roulette with their
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1 children's future and lives. Placing stricter
2 standards on these chemicals is not only good for
3 consumers, but it is also good for business. When
4 you have business groups like the American
5 Sustainable Business Council and businesses like
6 Seventh Generation recognizing that protecting the
7 public health and the environment is not oppositional
8 to the concept of long-term profit. You have find a
9 sweet spot in public policy. Leading companies are
10 increasingly looking to identify new safer
11 alternatives to their toxic chemicals currently used
12 in their products. Regulating chemicals like these
13 would send a strong signal that there is a market end
14 [sic] for those businesses to thrive. Some parents
15 can afford to buy less toxic toys and children's
16 products either here in the United States or maybe
17 they can shop in Europe for their children when their
18 laws--where their laws are more protected, but if you
19 live in the Rockaways, East Harlem or the South
20 Bronx, that is not likely an option open to you. We
21 need to level the shopping field for all parents in
22 the City of New York. It would make the dollar store
23 in the corner where a recent study conducted this
24 year found that 81 percent of those products tested
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1 contained at least one hazardous chemical as safe as
2 the most high-end stores. Therefore, I would like to
3 call on my colleagues to pass this bill and
4 preconsidered resolution and show the United States
5 Product Safety Commission that New York City wants to
6 put the safety and health of their children first and
7 that it is imperative that we act now to rid our
8 stores of these silent contaminants and killers. I
9 want to thank once again Council Member Espinal and
10 the members of this committee for hearing both of
11 these today. I will have to step out unfortunately. I
12 am hosting a--holding vote in around 10 minutes, but
13 I will try to come back to be here for the rest of
14 the hearing. So, I want to thank you for your
15 leadership once again. Thank you.

17 CHAIRPERSON ESPINAL: Thank you, Donovan.
18 I want to call up the first panel. We have ECA Kai
19 Falkenberg, Alba Pico, Steve Ettannani, Shira Gans--
20 Sorry, if I mispronounce your name. I'm trying to
21 read the cards. We also have Alvin Liu and from NYC
22 DOHMH we have Chris D'Andrea. Before you give your
23 testimony, can you please raise your right hand? Do
24 you affirm to tell the truth, the whole truth and
25 nothing but the truth in your testimony before this

1 committee and to respond honestly to Council Member
2 questions? Thank you. You may begin.

3
4 KAI FALKENBERG: Good morning Chairman
5 Espinal as well members of the Committee on Consumer
6 Affairs. I am Kai Falkenberg, Senior Legal Counsel
7 at the Department of Consumer Affairs, and I'm joined
8 by several colleagues from the agency, Amit Bagga,
9 Deputy Commissioner of External Affairs, Alba Pico,
10 First Deputy Commissioner, Shira Gans, Senior Policy
11 Director, Steve Ettannani, Senior Advisor External
12 Affairs, and Alvin Liu, Senior Staff Attorney. We
13 are also joined today by our colleagues for the New
14 York City Department of Health and Mental Hygiene,
15 Daniel Kass, Deputy Commissioner of Environmental
16 Health, Eric Colchamiro, Senior Legislative Analyst,
17 and Chris D'Andrea, Director of Environmental health
18 Assessment. I greatly appreciate the opportunity to
19 speak with you about the bill before the Committee
20 today, Introduction 803A. This bill, which would bar
21 the sale of children's products and toys with
22 hazardous chemicals and metals is consistent with
23 DCA's mission to protect and empower New York City's
24 consumers and businesses. DCA is the country's
25 largest municipal consumer protection agency. We

1 license approximately 80,000 businesses across 55
2 different industries, resolve complaints between
3 consumers and businesses, conduct legal
4 investigations, enforce the city's paid sick leave
5 and commuter [sic] benefits loss, and operate the
6 city's Office of Financial Empowerment, which is
7 focused on empowering low income New Yorkers. DCA's
8 work includes protecting consumers from deceptive and
9 illegal practices that may be harmful to New Yorkers.
10 In addition to our robust enforcement of sales of
11 tobacco to underage consumers, we regulate items such
12 as box cutters, toy guns as you mentioned and laser
13 pointers, all of which may pose health and safety
14 risks if misused by minors. Given the scope of our
15 work, we have found it appropriate and necessary to
16 call attention to the issue of toxic chemicals and
17 heavy metals in children's products and toys. We
18 applaud the committee for highlighting this very
19 important issue, and in particular would like to
20 recognize the leadership of Council Speaker Melissa
21 Mark-Viverito for introducing the bill we are
22 discussing here today. Following a discussion of
23 DCA's efforts to address the safety of children's
24 products we will provide specific comments on Intro
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2 803A. Toxic chemicals and heavy metals pose a serious
3 health risk to children and infants in New York City
4 and throughout the Country. Young children are
5 especially vulnerable since as you mentioned they
6 often put objects in their mouth and exposure to even
7 small quantities of harmful chemicals can affect
8 their development. Diseases caused by toxic
9 chemicals can be prevented by protecting children
10 from environmental threats to their health. That
11 goal has been hampered, however, by the Federal
12 Government's failure to mandate the elimination of
13 many toxic chemicals from children's products. In
14 2008, Congress took a step in the right direction by
15 enacting the Consumer Product Safety Improvement Act,
16 which established Federal standards for the use of 14
17 chemicals in children's products. That law, however,
18 is limited to certain subgroups of children's
19 products, specifically toys and products that are
20 small enough to be ingested. Beyond that limitation,
21 the Federal standards do not sufficiently address the
22 breadth of chemicals that can have potentially
23 harmful effects on children. In addition, the
24 Federal Regulatory Regime is complicated by the fact
25 that the same product may be subject to oversight by

1 multiple agencies and standards. In the State of New
2 York alone, chemicals in children's products can fall
3 under the jurisdiction of up to four different
4 agencies governed by no fewer than five federal and
5 state statutes. Accordingly, while the Federal
6 Government is best positioned to address these
7 concerns, existing laws and regulations are
8 inadequate to ensure that the products being used by
9 our children are free of toxic chemicals.

10 Recognizing the serious risks posed to children by
11 harmful chemicals, DCA has urged the CPSC to engage
12 in greater efforts to restrict the use of these
13 substances in children's products. In December 2014,
14 the Agency petitioned the CPSC to launch an
15 investigation into 66 chemicals of high concern that
16 are currently being used in children's products. We
17 called upon the CPSC to assess the risk of adverse
18 health effects associated with the continued use of
19 each of those chemicals and ask the agency to issue
20 rules banning the sale of any children's product that
21 contains any of the named chemicals in sufficient
22 concentrations to result in adverse health effects.
23 Following receipt our petition, Chairman Elliot Kay
24 [sp?] of the CPSC expressed to DCA his intent to work
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1 with Congress to help address our mutual concern on
2 the matter. A copy of DCA's petition has been made
3 available to members of the committee today. DCA has
4 also reached out to the toy industry directly seeking
5 their commitment to remove unsafe toys from the
6 marketplace. In late 2014, just as the holiday gift-
7 buying season was set to begin, the agency teamed up
8 with New York State Attorney General Eric
9 Schneiderman to urge retailers to commit to
10 manufacturing and selling toys that are safe for
11 children. Specifically in a letter to the President
12 and CEO of the Toy Industry Association, DCA urged
13 the Association to voluntarily adopt the standard, a
14 safety standard that goes beyond the federal law and
15 ban toxic chemicals from all products made and sold
16 by its members. The agency also urged the
17 association to pull all toys with suspected toxins
18 off of their shelves and support legislation that
19 would keep toxic toys out of the marketplace. In
20 conjunction with that effort, we issued tips for New
21 York City consumers on how they can avoid hazardous
22 children's toys. You should all have received copies
23 of our letter and the Toy Industry Association's
24 response. Like this agency, other jurisdictions have
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1
2 been similarly frustrated by the lack of robust and
3 comprehensive federal standards. As a result, a
4 number of individual states and counties have taken
5 actions like the bill we are considering here today.
6 Five states, Maine, Minnesota, Oregon, Vermont, and
7 Washington have enacted bans or require reporting on
8 chemicals and consumer and children's products.
9 There are also bills pending in New York State that
10 would similarly restrict the sale of children's
11 products containing chemicals and metals beyond the
12 federal standards. Four counties in New York,
13 Albany, Suffolk, Westchester, and Rockland have also
14 passed legislation regulating the sale of children's
15 products with certain chemicals and heavy metals. As
16 we are all aware, the passage of these laws by state
17 and local governments has however raised questions of
18 federal pre-emption. The legislation in Albany
19 County has been stayed pending resolution of a
20 challenge on pre-emption grounds and it is our
21 understanding that Albany's law has since been
22 amended to address these concerns. Given similar
23 questions regarding preemption, the New York City Law
24 Department is currently reviewing Intro 803A to
25 identify any preemption issues that could be posed by

1 any portion of the current version of the bill. To
2 the extent federal statutes allow the city to enact
3 local legislation in this area, this bill presents
4 New Yorkers with an opportunity to minimize existing
5 hazards to our children's health. If crafted and
6 implemented effectively, it will significantly
7 increase protections for New York City children and
8 would send a strong signal nationwide that the
9 presence of these toxic chemicals in children's
10 products will not be tolerated. That said, there are
11 a few points we would like to raise concerning
12 implementation and enforcement of the legislation in
13 its current form. We note that all of these points
14 presume resolution of the preemption concerns by the
15 Law Department as I just mentioned. First, Intro
16 803A bars retailers only from knowing violations. To
17 establish a violation, DCA would have to prove that
18 the retailer was aware that the product contained a
19 banned substance. Since there was no requirement that
20 retailers test all of their products, a defense that
21 the retailer was unaware of the toxic chemicals in
22 the product will be difficult to overcome.
23 Conversely, requiring testing could unfairly burden
24 small businesses which often don't have the means and
25

1 methods to analyze their stuff. Further limiting the
2 legislation to knowing violations may actually
3 discourage retailers from testing the products they
4 sell since knowledge could trigger future liability.
5 Second, the legislation does not address the methods
6 for detecting the presence of the banned substances.
7 We have preliminarily explored the use of portable x-
8 ray fluorescent guns, known as XRF guns, for this
9 purpose. The CPSC has conveyed to us that these
10 machines do not produce definitive results and as
11 such can only be used for screening purposes.
12 Subsequent and expensive lab testing would be
13 required for confirmation and enforcement action.
14 Even as a screening tool, XRF guns are of limited use
15 as they are only suited to screen a small subset of
16 the products covered by Intro 803A. Based on
17 conversations with federal regulators and their
18 accredited labs, we have determined that XRF guns and
19 wet testing, as it's called, at a contracted
20 laboratory would be required for enforcement. Third,
21 the cost of enforcement would be high. A single XRF
22 gun ranges in price from 20,000 to 75,000 dollars.
23 These prices do not include the cost of training
24 staff and the requisite safety protocols required to
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1
2 operate the equipment and to use it in a public
3 space. Lab testing is also expensive. Certified
4 laboratory testing fluctuates depending upon the
5 design and makeup of the product. Large labs will
6 charge fees to test each component of the item.
7 Those components can include things like snaps,
8 buckles and zippers on a product. And even those
9 component rates at least as the lab that we contacted
10 can vary by product type. For example, to test one
11 children's backpack for all the metals banned in
12 Intro 803, it was estimated by the lab that we
13 contacted to cover at a minimum a thousand dollars by
14 a CPSC certified lab. Fourth, DCA does not currently
15 have the staffing or expertise to enforce Intro 803A.
16 There are approximately 40,000 brick and mortar
17 locations in the five boroughs that could potentially
18 sell children's products as defined by the
19 legislation. This includes 99 cents stores, clothing
20 stores, supermarkets, drug stores, and bodegas all of
21 which sometimes sell children's products and toys.
22 The agency would need additional inspectors, legal
23 and administrative staff as well as experts trained
24 in commissioning and interpreting the lab results.
25 Recognizing the complex regulatory landscape,

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2 preemption concerns and potential consideration of
3 New York State legislation, we look forward to
4 working with you to address these issues before Intro
5 803A is put up for a committee vote. Thank you for
6 the opportunity to testify today. My colleagues and
7 I will be happy to answer any questions you may have.

8 CHAIRPERSON ESPINAL: Thank you. I'm
9 going to quickly turn it over to Donovan, but before
10 I do I just have one quick question. Does DCA
11 currently enforce any of the federal laws or
12 regulations on toxic chemicals, any of them?

13 KAI FALKENBERG: We have authority under
14 the Consumer Protection Law to enforce false
15 advertising when it comes to hazardous chemicals and
16 consumer products, but beyond that it would require
17 additional legislation.

18 CHAIRPERSON ESPINAL: So, any of the
19 chemical that's barred under the federal legislation
20 DCA does not go into stores looking to see which
21 products carries the chemical.

22 KAI FALKENBERG: That is correct.

23 CHAIRPERSON ESPINAL: I also wanted to
24 note that we've been joined by Councilman David
25 Greenfield from Brooklyn. Donovan?

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2 COUNCIL MEMBER RICHARDS: Alrighty, just a
3 few questions, and I want to thank you certainly for
4 the work DCA has done around this in your testimony,
5 and I just want to add my two cents in that. I don't
6 think we can, and I know that you alluded to the
7 pricing of gun ranges to test these things, but we
8 can't put a price on the lives of our children, you
9 know, and I think it's important that the city, you
10 know, certainly takes that into consideration as we
11 move forward. So, you said DCA currently doesn't
12 have the staffing levels to--if this bill were to
13 pass in this current state, to enforce this bill.
14 Can you go into how much staffing do you believe you
15 would need to have to effectively police this--

16 KAI FALKENBERG: [interposing] Sure, I can
17 go into a categories--

18 COUNCIL MEMBER RICHARDS: bill?

19 KAI FALKENBERG: of staff that would be
20 required. So, we would need inspectors if we were do
21 to do field inspections. We would need inspectors
22 that would be trained in the use of the XRF guns,
23 which as I mentioned is a significant amount of
24 training. Both--

25

1
2 COUNCIL MEMBER RICHARDS: [interposing]
3 That's good.

4 KAI FALKENBERG: as to calibrating the
5 device.

6 COUNCIL MEMBER RICHARDS: Training is
7 always good.

8 KAI FALKENBERG: Training's always good,
9 right? Calibrating the device and interpreting the
10 results, and also in the safety protocols that are
11 necessary in using the device. We would then need
12 additional legal and administrative staff to
13 administer it as well as in-house experts with some
14 scientific knowledge in order to commission the
15 testing required by the lab, and then in order to
16 interpret the lab results.

17 COUNCIL MEMBER RICHARDS: And would you
18 say New York City has a pool of--we have eight
19 million people here. Would you assume that we have a
20 pool of bright-minded people who we would be able to
21 train in this area?

22 KAI FALKENBERG: I certainly think that's
23 likely.

24 COUNCIL MEMBER RICHARDS: And would this
25 create how much jobs do you think this would offer as

1 well? Wanted to get into--so you did, and I think
2 Council Member Espinal sort of alluded to it, but I
3 just want you go to a little bit more into it. So
4 you said obviously the onus would be on the business
5 owner to know which chemicals and what not to sell in
6 the store. Can you go into is DCA thinking of taking
7 more of a lead role in that area if this bill were to
8 pass?
9

10 KAI FALKENBERG: So, under the--

11 COUNCIL MEMBER RICHARDS: [interposing]

12 And if you can just speak into your mic.

13 KAI FALKENBERG: Sure. So, under the
14 current version it applies only to knowing
15 violations, so we would not be able to enforce or
16 issue a violation or establish a violation unless the
17 retailer was aware that the particular substance was
18 present in the product in an amount that would
19 violate this law.

20 COUNCIL MEMBER RICHARDS: Right. So you
21 spoke of other municipalities who obviously passed
22 this particular legislation. Can you go into--so I
23 know obviously is the preemption issue, you know,
24 that that possibly, you know, the federal government
25 would obviously preempt this. Can you go into why

1
2 New York City sees it--these municipalities, Albany
3 in particular and other places we're able to enact
4 this legislation, what is holding New York City back
5 in particular from doing the same? And I understand
6 that there were issues with their bills as well, but
7 why can't New York City?

8 KAI FALKENBERG: Right. They're
9 certainly motivated by the same motivation that we
10 have, that New York City has pursuing this
11 legislation. Each of those separate bills has
12 different chemicals that they are regulating and
13 different penalty structures, and we're not aware
14 that any of them are actually enforced at this time.
15 They go in to enforce, I think. I mean, one of them,
16 the Albany one has been stayed. Suffolk County one
17 doesn't go into effect until next December. So, they
18 are not currently being enforced.

19 COUNCIL MEMBER RICHARDS: And can you
20 just go into--so, is DCA looking at--alright. So,
21 let's obviously we hear that. What does DCA--are you
22 looking at any other solutions to addressing this
23 issue outside of this legislation? If you're saying
24 this legislation may, you know, be preempted, what
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1
2 are some things DCA is doing to ensure the public is
3 aware of the dangers of these chemicals.

4 KAI FALKENBERG: Sure. So, I mean, I
5 mentioned a couple of things that we've done already
6 in terms of our petition to the CPSC. We do have
7 other investigations underway on the issue of toxic
8 chemicals and products, but beyond that I will defer
9 to my colleague Amit Bagga to speak to other
10 awareness efforts.

11 AMIT BAGGA: Thank you. As my colleague
12 Kai mentioned in her testimony, DCA has also issued
13 consumer tips for New York City consumers that are
14 available on our website that help inform New York
15 City consumers about how to avoid certain types of
16 products that may contain hazardous materials. In
17 addition to that, DCA does routinely issue tips of
18 all different types for consumers to help consumers
19 stay informed of how to find out what material--what
20 types of products to procure.

21 COUNCIL MEMBER RICHARDS: So, on that I
22 will say, as I--because I do have to step out in a
23 second. The population that most likely these
24 products are being sold in may not have as much
25 access to the internet. So, I'm sort of questioning

1
2 how effective your outreach really is. You know, and
3 I'm not saying that, you know, you're not doing
4 outreach, but you know, if I went to a public housing
5 development in the Rockaways right now I'm sure the
6 dollar store across the street, you know, Christmas
7 just happened, I'm sure that people just went in
8 there and bought toys because they were more
9 affordable, right? How are you working with stores
10 in particular then? And then, I'm interested in
11 hearing their strategy around ensuring that perhaps
12 you have a listing of--so when we go in and we see
13 people's store selling cigarettes it may say, you
14 know, "cigarettes are dangerous." Right? You know,
15 cancer, it could cause cancer. Have you guys put
16 thought into--or have you put thought into having
17 similar signage posted, in particular in some of
18 these stores selling, you know, these dangerous toys
19 with chemicals?

20 AMIT BAGGA: So, I can answer your
21 question and I'll defer to my colleagues if they wish
22 to add to my answer. I think as my colleague Kai
23 mentioned, it's extremely difficult for retailers to
24 be able to determine what types of chemicals and
25

1 metals are in fact in the products that they are
2 selling.

3
4 COUNCIL MEMBER RICHARDS: I'm not saying
5 the retailer, I'm saying DCA.

6 AMIT BAGGA: So, as it is difficult for
7 the retailers to determine, it is similarly difficult
8 for DCA to determine. Absent the type of testing
9 that we discussed in our testimony, there's no way
10 for DCA to be able to determine whether or not a
11 certain type of product has exactly a certain type of
12 chemical or metal in it.

13 COUNCIL MEMBER RICHARDS: But you send the
14 petition to them, right?

15 AMIT BAGGA: We did send the petition to
16 the CPSC asking them--

17 COUNCIL MEMBER RICHARDS: [interposing]
18 With listing [sic], and I think when I looked in the
19 petition I saw a listing of chemicals of that you--

20 AMIT BAGGA: [interposing] Correct.

21 COUNCIL MEMBER RICHARDS: would assume--

22 AMIT BAGGA: [interposing] That--

23 COUNCIL MEMBER RICHARDS: thought were
24 dangerous as well.

1
2 AMIT BAGGA: That's correct. However, we
3 don't know whether or not those 66 chemicals are
4 necessarily in any particular products.

5 Manufacturers are not required by federal law largely
6 with the exception of certain types of metals, I.e.
7 lead, to either omit or disclose the presence of
8 these types of chemicals and metals in their
9 materials, excuse me, in their products. And so
10 absent that type of disclosure, which was been
11 explored for example by the State of California, but
12 has not in fact been implemented due to the
13 challenges of implementation. It is very difficult
14 for any municipal agency or retailer to be able to
15 clearly inform consumers that certain individual
16 products contain those materials, those harmful
17 chemicals and metals.

18 COUNCIL MEMBER RICHARDS: Okay. So, I want
19 to thank Council Member Espinal, and I look forward
20 to obviously continuing the dialogue, and I'm very
21 happy that you didn't just shoot the bill down, which
22 was good, and I know that there's still a lot of work
23 to do around it, and I look forward to getting to a
24 place where we can pass this legislation. So, thank
25 you.

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2 CHAIRPERSON ESPINAL: Thank you, Donovan.
3 We have questions also from Karen Koslowitz and David
4 Greenfield, and I also want to note we've been joined
5 by Rory Lancman from Queens.

6 COUNCIL MEMBER KOSLOWITZ: Thank you, Mr.
7 Chair. I want to continue on what Council Member
8 Donovan said. Why can't there be a law to make the
9 manufacturers of the toys put down what is in the toy
10 and that it could be dangerous?

11 KAI FALKENBERG: So, the--to answer your
12 question, that is the approach that the CPSC at the
13 federal level takes, and they generally target the
14 manufacturers and the importers directly with the
15 thought that they are best positioned to address any
16 harmful components of the children's products, and
17 that is a general approach that we will support.

18 COUNCIL MEMBER KOSLOWITZ: Okay, because
19 it just seems that if there are chemicals in the toys
20 that are dangerous to children why we keep promoting
21 these toys, and it has to be done. I mean, if we have
22 to go to Washington and, you know, we demand that it
23 be done like it was done to cigarettes--when you buy
24 food it tells you what ingredients are in the food.
25 Why shouldn't it tell you what is in the toys that

1
2 you buy? I mean, to me it just seems that there's
3 nothing you can do so let's just sell the toys that
4 have the chemicals that possibly can be harmful to
5 our children.

6 KAI FALKENBERG: Right--

7 COUNCIL MEMBER KOSLOWITZ: [interposing] I
8 mean, it just seems to me it's like--I don't want to
9 sit here and take, you know, take that stand that oh,
10 okay, there's nothing we can do about it, so here,
11 have a toy. It doesn't matter. I don't know what
12 it's going to do to you, but here's the toy. Because
13 children, especially small children, take toys in
14 their mouth. I mean, we make--we don't give out
15 children toys that have little things on them so that
16 they may swallow them, so why can't we continue? I
17 think if the Department and everybody gets together
18 and urges Congress to take a stand on this. I mean,
19 toys gun, when people were being killed because they
20 took out a gun that was a toy, we did something about
21 it. We changed it. I mean, I worked with Consumer
22 Affairs on that. We made them psychedelic. You
23 can't mistake it for a real gun. So, to me, I just
24 feel that something has to be done to make people
25

1
2 aware of what's in the product that they're buying
3 for their children. To me, it's very simple.

4 KAI FALKENBERG: Yes, we understand.

5 COUNCIL MEMBER KOSLOWITZ: Thank you.

6 CHAIRPERSON ESPINAL: Thank you, Karen.

7 AMIT BAGGA: I would say we whole-
8 heartedly agree with that, which is why we've worked,
9 you know, we've sent our petition to the CPSC to
10 encourage the federal government to take action in
11 the space. I should also mention that last year when
12 we did send our petition to the CPSC we stood with
13 United States Senator Kirsten Gillibrand whose been a
14 strong voice on this issue to help advocate for the
15 passage of legislation at the federal level that we
16 do exactly what it is that you're describing. We've
17 also met extensively with environmental advocates and
18 children's advocates in this space to discuss with
19 them opportunities at the state level. There is--
20 there was legislation pending in the last session.
21 We anticipate that there will be legislation once
22 again in the upcoming session in Albany that would
23 take action in this space, and we look forward to
24 working very closely with our partners in Albany and
25

1
2 also our advocacy partners on pushing that
3 legislation.

4 CHAIRPERSON ESPINAL: Thank you, Karen.
5 Thank you. David?

6 COUNCIL MEMBER GREENFIELD: Thank you,
7 Mr. Chairman, and thank you folks for your testimony
8 today. I really just sort of want to break it down
9 because I'm genuinely a little bit confused, and
10 obviously I think that, you know, people who watch
11 these hearings and they hear information and there's
12 press, and I think it's important just sort of we
13 know what is and what isn't going on. We don't want
14 to panic people from stopping to buy clothing and
15 toys, right? I mean, that probably would not be good
16 either. So I just want to just sort of figure it
17 out. The federal government has standards, right?

18 KAI FALKENBERG: Yes.

19 COUNCIL MEMBER GREENFIELD: Okay. You're
20 saying that these standards are not good enough. Is
21 that basically what you're saying?

22 KAI FALKENBERG: That's correct.

23 COUNCIL MEMBER GREENFIELD: Okay, good.
24 The Federal Government standards that currently
25 exist, are you enforcing these standards?

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COMMITTEE ON CONSUMER AFFAIRS

KAI FALKENBERG: We do not enforce those.

COUNCIL MEMBER GREENFIELD: Why not?

KAI FALKENBERG: WE don't have the authority to enforce those standards.

COUNCIL MEMBER GREENFIELD: Okay. Can we give you--can we give--can we--we can give you, you think, right? That would certainly not have preemption issues, right? We could give you as the Council the authority to enforce these standards so at the very least we know whether those standards are being met or not.

KAI FALKENBERG: I think that is the intent of certain portions of this bill, yes.

COUNCIL MEMBER GREENFIELD: Yeah, okay. So and if we gave you--if we gave you--so, I guess, here's what I'm backing up on is that those standards the Federal Government has, they're using it because presumably they think those are the right standards. Let's call them they're safe or they could be safe, and that's probably the subject of a lot of political rang [sic] like everything else that happens in this world, right? But we don't even know who's--and to Donovan Richard's point, we don't even know if the

1
2 toys that are currently in the stores are even
3 meeting those standards at all, right?

4 KAI FALKENBERG: That's correct.

5 COUNCIL MEMBER GREENFIELD: Okay. So
6 wouldn't it seem like step one should be that let's
7 make sure-- I mean, it was a great letter and
8 certainly I'm, you know, appreciative that the
9 Commissioner cares about this, right? But you are
10 the Department of Consumer Affairs, right, and your
11 job is to protect the consumers. There's a law
12 already on the books that says that there are certain
13 standards, but no one's enforcing that law.

14 KAI FALKENBERG: Well, it is being
15 enforced to certain extent at the Federal level, but
16 they of course--

17 COUNCIL MEMBER GREENFIELD: [interposing]
18 Well, I don't care about what happens on the federal
19 level.

20 KAI FALKENBERG: But they have a limit--

21 COUNCIL MEMBER GREENFIELD: [interposing]
22 I'm focused on the city.

23 KAI FALKENBERG: Right.
24
25

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2 COUNCIL MEMBER GREENFIELD: My authority
3 doesn't extend beyond the five boroughs,
4 unfortunately.

5 KAI FALKENBERG: Right.

6 COUNCIL MEMBER GREENFIELD: So, yes.

7 KAI FALKENBERG: Right, no. We currently
8 do not enforce, and I think the intent of this law
9 would in part allow us to enforce at least as to the
10 federal standards.

11 COUNCIL MEMBER GREENFIELD: But this law
12 would get to new standards, which I want to get to in
13 a second.

14 KAI FALKENBERG: Exactly.

15 COUNCIL MEMBER GREENFIELD: Okay, so can
16 we at least agree at the very minimum, right? I mean,
17 if there's something that we want to do which speaks
18 to Karen's point as well. The minimum we can do is
19 we can have a law that authorizes you. You sure you
20 need that authorization? Just to be clear, I mean,
21 you guys are the lawyers as well as we do. I mean,
22 what stops you from doing that right now? I'm not
23 convinced that you need that authorization honestly.
24 So, I see that little side bar going on over there.
25 You need us to explicitly authorize you to do this?

1 Under the current legislation--on the current
2 framework of DCA you can't--

3
4 KAI FALKENBERG: [interposing] That's our
5 understanding, yes.

6 COUNCIL MEMBER GREENFIELD: Okay. So, at
7 the very least, we could pass a law that gives you
8 the authority. You can now go into stores and we can
9 find out who the good actors are, who the bad actors
10 are, and that I think would--has no constitutional
11 issues at all, right? Because there's no preemption
12 issue because all we're doing is enforcing the
13 federal standards, and we could probably do that
14 tomorrow. Am I incorrect? I just want to focus on
15 actionable items, right? As opposed to sort of--

16 ROBIN FENLEY: [interposing] Right, we
17 would still have--

18 COUNCIL MEMBER GREENFIELD: [interposing]
19 hyperbole. Yes?

20 ROBIN FENLEY: We would still have the
21 enforcement and implication issues that we addressed
22 earlier. Let me defer to--

23 COUNCIL MEMBER GREENFIELD: [interposing]
24 I mean, we'll give you some money for it, don't
25 worry.

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ROBIN FENLEY: So--

COUNCIL MEMBER GREENFIELD: [interposing]

We know that--we know that comes with those strings attached. Yes?

ROBIN FENLEY: One additional point we'd like to add is that in terms of the federal enforcement of the laws that are on the book, speaking to the CPSC they focus their enforcement on manufacturers and importers, and in terms of this legislation being focused on the retailers--

COUNCIL MEMBER GREENFIELD: [interposing]

Yes.

ROBIN FENLEY: To my colleague's points, because there are no federal rules that require the disclosure of the contents of these products, it's extremely difficult and a burden for retailers in order to determine. So, to distinguish good actors and bad actors, I think, is perhaps a false premise and that's there's no real way--

COUNCIL MEMBER GREENFIELD: [interposing]

Good point.

ROBIN FENLEY: for a retailer to really be able to discern the content, and--

COUNCIL MEMBER GREENFIELD: [interposing]

I like it. So, let's just focus on what Council Member Koslowitz just said, which is that if we have a law that requires disclosure plus testing by DCA, so that would solve that problem as well, right, which goes back to the knowingly issue, which is that if you believe that you're selling something that-- and then you'd be able to actually send them a letter, right? DCA--I just want to be practical. I'm always a little bit nervous when we start jumping into federal issues without actually focusing on how we can practically have an impact here in the city, right? So, if we did both of these, which is if we actually passed a law that said that you have to disclose, and DCA has the authority to walk into store and enforce, you'd be able to send them a letter and say, "Hey, please be advised that you need to follow those following federal regulations. When there's a tag, you need to do that, and we're going to come in and test."

KAI FALKENBERG: We agree that that would be the best approach. Unfortunately, at the local level, we would be preempted. Labeling requirements are federal jurisdiction, and as such, a Local Law

1
2 requiring disclosures through labeling would be
3 preempted, and you could think from an interstate
4 commerce perspective--

5 COUNCIL MEMBER GREENFIELD: Got it.

6 KAI FALKENBERG: if every single locality
7 had a different disclosure and labeling rule it would
8 be very challenging.

9 COUNCIL MEMBER GREENFIELD: So, then the--
10 fair enough. So, then all we're left with then is in
11 fact the testing, right? So that would not be
12 preempted. So, that's what we can actually do.

13 KAI FALKENBERG: Correct.

14 COUNCIL MEMBER GREENFIELD: Good.

15 KAI FALKENBERG: Correct.

16 COUNCIL MEMBER GREENFIELD: Okay. So, to
17 me that seems like that would be a pretty good start
18 honestly. To the next point, and this is also what
19 I'm not really clear about which is, so I read the
20 letter that the Commissioner sent to the US Consumer
21 Product Safety Commission. It wasn't honestly very
22 clear on what exactly she was asking for in terms of
23 the standards, right? So, she cites a report from
24 Mount Sinai Hospital that toxic chemicals are
25 obviously hazardous. Of course, I think we all agree

1
2 toxic chemicals are hazardous, right? I mean, so are
3 we looking to get rid of toxic chemicals altogether,
4 zero chemicals? I mean, because it also says that--I
5 think you also said that something like 85,000
6 chemicals that are out there. So, I'm just a little
7 bit unclear on what is the new standard that
8 Commissioner Menin would like to see when it comes to
9 these chemicals, and how has she arrived to that
10 particular standard?

11 KAI FALKENBERG: Sure. So, we're happy to
12 answer that.

13 COUNCIL MEMBER GREENFIELD: Aside for the
14 aspirational, which we all--we're all concerned about
15 it.

16 KAI FALKENBERG: Right.

17 COUNCIL MEMBER GREENFIELD: but it comes
18 back to the same thing. I don't want to start
19 panicking people that, you know, our kids should role
20 around naked, and we shouldn't buy them toys anymore.

21 KAI FALKENBERG: I understand.

22 COUNCIL MEMBER GREENFIELD: So, okay.

23 KAI FALKENBERG: So, she didn't ask for a
24 specific standard in the petition that was sent to
25 the CPSC. She asked that they identify and

1 investigate 66 specific high-concern chemicals that
2 are currently being used in children's products and
3 investigate whether the presence of those particular
4 chemicals in children's products result in any
5 adverse health effects in children.
6

7 COUNCIL MEMBER GREENFIELD: Okay, so the
8 answer is that when it comes to these 66 chemicals,
9 they may or may not be harmful.

10 KAI FALKENBERG: We don't know.

11 COUNCIL MEMBER GREENFIELD: We're not
12 sure. We want to find out more.

13 KAI FALKENBERG: Please look into it.

14 COUNCIL MEMBER GREENFIELD: Got it.
15 Sounds good. Can we do that? Do we have the ability
16 in the city to, you know, open up a little factory or
17 a laboratory of some sort and start investigating
18 this ourselves?

19 KAI FALKENBERG: I mean, that in part
20 would be--

21 COUNCIL MEMBER GREENFIELD: [interposing]
22 No, once again, I'm just trying to be practical.

23 KAI FALKENBERG: Yes, we hear you.

24 COUNCIL MEMBER GREENFIELD: I'm trying to
25 understand what we can and can't do.

1
2 KAI FALKENBERG: That would be in part
3 required by the current version of the bill. It
4 would require us at least to contract out to a lab or
5 to build a lab in-house that would give us the
6 capacity to test for these products. The way in
7 which they're tested, and I'm not a scientist, but my
8 understanding is--and we'll need to defer to the
9 folks from the Department of Health and Mental
10 Hygiene on exactly the procedures for the testing,
11 but it involves what's called a solubility test, wet
12 testing, in which you take a piece of the product and
13 you digest in hydrochloric acid to mimic the
14 digestion that would occur, and then you analyze the
15 substance for the chemical or heavy metal that you
16 are looking for.

17 COUNCIL MEMBER GREENFIELD: Okay--

18 KAI FALKENBERG: [interposing] That's the
19 process.

20 COUNCIL MEMBER GREENFIELD: That wasn't
21 my question. I mean, obviously you'd have to have an
22 ability to test them. My question was we, I imagine,
23 do not have the resources to figure out whether these
24 66 chemicals, you know, at what level they're
25

1 harmful, at what level they're not harmful. I mean,
2 that's sort of above our let's call it technical--

3 KAI FALKENBERG: [interposing] Current.

4 COUNCIL MEMBER GREENFIELD: abilities. Is
5 that sort of fair?

6 KAI FALKENBERG: Right now, yes.

7 COUNCIL MEMBER GREENFIELD: SO, this is
8 sort of just pushing, which we agree with you, we
9 want to push the Consumer Product Safety Commission
10 to be a safe--as safe as possible.

11 KAI FALKENBERG: As comprehensive, yes.

12 COUNCIL MEMBER GREENFIELD: As
13 comprehensive as possible when it comes to the--

14 KAI FALKENBERG: [interposing]
15 Investigating the chemicals--

16 COUNCIL MEMBER GREENFIELD: regulations.
17 Okay.

18 KAI FALKENBERG: and the hazards of the--

19 COUNCIL MEMBER GREENFIELD: [interposing]
20 Okay, so my final point is, and unfortunately like
21 Council Member Richards, I also have another
22 committee that I chair and I have to go across the
23 street to, is that so--what we can do today, what
24 we're not doing, and I just want to be clear so that
25

1 we know that, and I also don't want to scare parents
2 into not buying toys. My children would be very
3 upset. Can you imagine if I came tonight and I said,
4 "Kids, bad news for you, on your next birthday you're
5 not having toys because I sat in a hearing and all
6 toys are harmful." Right? I don't think that would
7 be correct, and I think that would probably anger my
8 children. And so, just to be clear, what we can do
9 if we wanted to immediately without any legal issues
10 is we could give you the authority, and I'm sitting
11 next to the Chair of the Finance Committee, she can
12 give you the money, to go in and to make sure that
13 the federal levels are in fact being adhered to so at
14 the very least that is the case, because I imagine
15 for all we know, and I'm going to go out on a limb
16 and say it's probably the case, that in many of these
17 stores they're not even--they're selling items that
18 are not even meeting those federal standards.

19
20 KAI FALKENBERG: That may well be true.

21 COUNCIL MEMBER GREENFIELD: Okay, well
22 that was helpful. Thank you very much.

23 CHAIRPERSON ESPINAL: Thank you, David.
24 We have been joined by Julissa Ferreras from Queens.
25 Speaking on that same point, XRF guns are used in I

1 believe in Suffolk County, and they usually do like a
2 small pool of stores and they send some inspectors to
3 go in and test about 10 products. You know, are we
4 able to do something similar here? Because I think
5 that if we start doing that in New York we can send a
6 signal up to the manufacturers that we are actually
7 cracking down on their products.

9 KAI FALKENBERG: Yeah, so that is what's
10 contemplating by the Suffolk County legislation. It
11 has not yet gone into effect. It doesn't go into
12 effect until next December so they're not yet doing
13 that, but it is what is contemplated. As I said
14 though, in speaking to the CPSC, CPSC experts have
15 said to us that the XRF results are not sufficiently
16 accurate for enforcement purposes. That said, even
17 as using the XRF guns for screening purposes, they
18 can only be used on products that are homogeneous.
19 That is products that are not multilayered, and it
20 also involves some additional concerns. So, for
21 example, the inspectors are wearing monitoring
22 devices to monitor any radiation emitted from the
23 device. Typically to the extent that they do on site
24 screenings, they do it in a back room of the
25 retailer. They do not do it in front of other

1 consumers. In many instances they have to remove the
2 product from the packaging, which is not something
3 that we currently are authorized to do. So, if we
4 were to do it, we would most likely in many instances
5 have to purchase the item and then bring it back to a
6 different location to do the initial screening by the
7 XRF guns, and then send it out to a lab for
8 confirmatory testing.

9
10 CHAIRPERSON ESPINAL: So it's expensive
11 and limited you're saying. Alright, but you know, I
12 guess I just want to voice my opinion that, you know,
13 I don't think there's a price to the health of our
14 children, and if these guns can test toys and find
15 certain toys that are carrying these chemicals, I
16 think it's an avenue we should explore. Any other
17 questions from my colleagues? No? We're good?
18 Alright, thank you so much, appreciate it.

19 KAI FALKENBERG: Pleasure.

20 CHAIRPERSON ESPINAL: We're going to call
21 up some of the public so they can have their
22 testimony on record, and I know that some might have
23 to go to work as well. So, we're going to call John
24 Weiland [sp?], Hillary Baum [sp?], James Beck [sp?],
25 Daniella Rin Hover, and if I mispronounced your name,

1
2 again, I do apologize. Please state your name for
3 the record, and you can begin giving testimony.

4 HILLARY BAUM: Hello, my name is Hillary
5 Baum. I'm a resident of the Bronx and I'm represented
6 in the City Council by Andrew Cohen. I'd like to
7 thank this committee for providing the opportunity to
8 offer these comments on proposed bill 803A to
9 prohibit the sale of children's products containing
10 certain toxic chemicals, and I'd like to thank
11 Councilman Cohen for being a co-sponsor. I'm here
12 today speaking primarily as a mother, an aunt and a
13 grandmother of several children. Our children, our
14 most vulnerable citizens, are swimming in a sea of
15 unregulated harmful chemicals, and we must create
16 laws to protect them. I used to think it unbelievable
17 that our federal government has restricted the use of
18 only a handful of chemicals, but now my disbelief has
19 been replaced by my conviction that our federal
20 system of laws and regulations has been poisoned
21 itself by certain corporate interests and
22 congressional inaction. Let New York City be
23 different, please. I believe that the New York City
24 Council can and must take action that is bold,
25 effective and protective our children. I understand

1 that this action will be disruptive to some
2 manufacturers, importers, wholesalers, and retailers
3 of toys and harmful chemicals, but there is consumer
4 demand for safer products and citizen demand for
5 regulation. We know some companies are able to make
6 products without harmful chemicals. We as caregivers
7 shouldn't have to work so very hard to find toys and
8 other products, and you as policy makers should
9 support programs that may seek out some of these
10 companies to do business here in New York City.

11 Sorry. After hearing recent stories of extensive
12 chemical contamination by DuPont [sp?] and the
13 landfills and waterways in West Virginia and a very
14 current study about lead contamination of drinking
15 water in Flint, Michigan, the urgency to protect our
16 most vulnerable, our own children, from toxic
17 chemicals and heavy metals whenever and wherever we
18 can is tantamount in our minds. Thank you.

19
20 JOHN WEILAND: Thank you for the
21 opportunity to speak before the Council this morning
22 in support of Intro 803A. It's working? Yeah. My
23 name is John Weiland, and I'm a single father of two
24 young girls. I became aware of the issue of toxic
25 chemicals while working on a documentary about the

1 chemicals in everyday products over the last four
2 years. Many children's products like jewelry,
3 apparel, toys, clothing contain chemicals linked to
4 cancer and also chemicals linked to endocrine
5 disruption. Shockingly, companies selling products
6 with harmful chemicals are not breaking any federal
7 law. The law is broken. The Federal Government is
8 failing to protect our kids. The Consumer Product
9 Safety Commission does not have the authority to keep
10 the chemicals of greatest concern out of children's
11 products. Because there's so little federal
12 regulation, manufacturers have no incentive to be
13 proactive and voluntarily switch to safer chemical
14 formulations. Using the cheapest chemistry possible
15 may be good for corporate cash flow, but not so good
16 for our children, and we're paying for it. A recent
17 economic analysis in the European Union estimates
18 that the cost of exposure from endocrine disrupting
19 chemicals alone in the EU cost more than 209 billion,
20 that's billion with a "b", a year in actual
21 healthcare expenses and lost wages. I can't tell you
22 what the total cost of exposure to cancer causing
23 chemical is in economic terms, but I can tell you
24 that 50 percent of Americans will be diagnosed with
25

1 cancer in their lifetime. The President's most
2 recent Cancer Panel Report warns Americans to avoid
3 toxic chemical exposure. Perversely, we allow
4 companies to sell us products that contain these
5 harmful chemicals that the Cancer Panel warns us
6 about. The report goes on to say that toxic chemical
7 exposures are devastating American lives.

8 Unfortunately, I can relate to this. My wife died of
9 cancer seven years ago. So now it's my job, it's my
10 sole responsibility to protect my two young
11 daughters, but I need your help. We need to get the
12 chemicals of greatest concern out of children's
13 products. Consumers need full chemical disclosure on
14 product labels. If manufacturers were required to
15 disclose all chemicals on product labels, then they'd
16 make better choices about the chemicals they sold us,
17 and consumers would in turn be empowered to make
18 better choices about the products they brought into
19 their homes. Most consumers believe that if a
20 product is on a store shelf that it must be safe,
21 that someone somewhere is making sure of it, right?

22 Nope, it's not true, but the Council can make it come
23 true in New York City by passing a bill that
24 restricts the sale of children's products with
25

1
2 harmful chemicals. I hope you do, and if there's
3 anything I can do to help, just ask. Thank you.

4 CHAIRPERSON ESPINAL: Thank you so much.
5 I appreciate your testimony.

6 JAMES BECK: Hello, and thank you for
7 letting us speak today. My name is James Beck and
8 this is my daughter Josephine. I was happy to come
9 here today to add my personal story to this as well.
10 I'm fully aware of the effects of toxic chemicals on
11 the human body, and seven years ago I also lost
12 someone. My dad passed away from leukemia seven
13 years ago, and while the doctors couldn't pinpoint
14 the cause directly, most of them agreed that it was
15 from benzene in the hand soap he used while working
16 for the petroleum industry in Texas. Fortunately,
17 benzene is one of the more regulated chemicals now
18 because it's been one of the most studied chemicals,
19 but there's plenty of evidence that has been shown
20 here today I guess that there are other chemicals
21 that are well known to cause damage, especially to
22 toddlers, and if there's anything we can do on this
23 bill, I think we'll do something to help protect
24 them. I think we should do it as quickly as possible.
25 Thank you.

1
2 CHAIRPERSON ESPINAL: Thank you so much.
3 Thank you guys all. Oh, there's one more? Okay.

4 DANIELLA RIN HOVER: Thank you for your
5 time and for listening. My name is Daniella Rin
6 Hover. I am a WE ACT member, and have been a
7 resident of New York City since 1993 and Harlem
8 throughout the years. I'm here today to show my
9 support for the Child Safety Product Act. The issue
10 is important to me as a parent of two of the city's
11 future productive citizens. They will be leaders,
12 and the issue may be resolved today by City Council's
13 action or during their roles as leaders in the
14 future. The fact is that none of the dirty dozen are
15 required to make toys. Fun does not have to come
16 with antimony, arsenic, cadmium [sic], cobalt, lead,
17 and mercury. The Child Safe Product Act will have an
18 impact on all children, including the children who
19 are working in factories internationally making these
20 toys, children who are expecting to play and enjoy
21 their tools of trade, toys. All children in the city
22 deserve to grow, learn and be safe in their indoor
23 and outdoor environments. Environmental hazards that
24 can be avoided must be, and through our actions here
25 today and through your leadership we can get that

1 done. City Council should pass this bill because
2 funds should not be compromised by exposure to
3 toxins, including the antimony, arsenic, cadmium
4 [sic], cobalt, lead, mercury, and many of the many
5 other 66 that we talked about. City Council are
6 elected leaders of our community and have access to
7 information, including the testimony heard here
8 today, which thank you guys because it was moving to
9 me, and are charged with acting. Pass the Child
10 Safety Product Act to allow parents the comfort of
11 knowing that their leaders have aided them in giving
12 their children the best toys and tools possible.
13 They want to give their best to their children and
14 may not have the luxury of researching chemical
15 compositions of their products they're giving to
16 their children. Pass the Child Safety Product Act to
17 allow parents the peace of mind that they are in fact
18 giving the best to their children. The Child Safety
19 Product Act allows you to act today on behalf of all
20 the children, and we simply need them to have what
21 they need to play. I am part of this Harlem and New
22 York City community, and given public's interest at
23 stake in the regulation of the unsafe products, we
24 demand that toys are simply just for fun. Thank you.
25

1
2 CHAIRPERSON ESPINAL: Thank you. I just
3 have one question to you all as consumers and
4 parents. When you go shopping, you know, the issue
5 of labeling products that can be the decision [sic]
6 was brought up, when you go shopping are there
7 products that are labeled saying "safe for children?"
8 Like, for example, when you go shopping and you buy
9 an organic piece of meat or something, are there
10 toy's labeling that says this is safe or organic?

11 JOHN WEILAND: I think even if there was a
12 label saying, I think, that the fact that--because
13 there's not disclosure, there's no real incentive for
14 manufacturers to use better chemistry, and you know,
15 I don't even--if a product, it's a like a product
16 saying it's a natural food there's no legal
17 definition. It doesn't really mean anything.

18 HILLARY BAUM: I mean, I think there are
19 brands that are developing now that are known for
20 being less harmful and are being marketed that way.
21 Of course we have to see through some of the
22 marketing, but I think you can tell by looking at
23 some of the ingredient list, but I think that there
24 clearly is a lot more room for communication with the
25 consumer, and the consumer really wants--there are a

1
2 lot of consumers who really want to know and that are
3 looking for labeling.

4 DANIELLA RIN HOVER: I would say maybe
5 I'm more of an active shopper than maybe some of you
6 in the room, but I can point back to just BPA. Toys,
7 when my children were very young, there was no BPA-
8 free label, but now you can see it on there, but in
9 seeing that label I'm also seeing that price
10 increase, and I don't think that that's necessarily
11 correlating to the fact that they're saying, okay, I
12 want to do something better as much as they're saying
13 there's a market, there's a niche for these parents
14 who want to make sure their children aren't putting a
15 cancer-causing pacifier in their mouth. But maybe I
16 can't buy that at my local 99 cents store, and that
17 doesn't mean that I don't want that for my child, and
18 I don't think that a 99 cents store should be given
19 leeway to choose the cheapest, if you will, and I
20 don't think manufacturers or importers should be
21 given that leeway either. We need to make action and
22 laws and have it on the books so that way they don't
23 have a red tape kind of balloon to kind of fiddle and
24 play through when it comes to our children's safety,
25 because there's no cost attached to that.

1
2 CHAIRPERSON ESPINAL: Okay, alright.
3 Great. Thank you. Appreciate it. We're going to
4 call up the next panel which are the advocates, and
5 then after the advocates we're going to hear from the
6 industry. So, Ansje Miller from the Center for
7 Environmental Health, Kathleen Curtis from the Clean
8 and Healthy New York, Bobbi Chase from Clean and
9 Healthy New York, David Evans from WE ACT, Stephanie
10 Hoyle from WE ACT, Rita Miller from WE ACT,
11 Christopher Goeken from NYLCV, and Tina Johnson from
12 WE ACT, and if I mispronounced your name again I
13 apologize. You may begin, just state your name for
14 the record.

15 ANSJE MILLER: My name is Ansje Miller,
16 and I'm the Eastern State Director for the Center for
17 Environmental Health. Doctors and scientists are
18 warning us of a silent epidemic of dangerous health
19 effects from exposure to toxic chemicals in our
20 homes. The government has only safety tested 200 out
21 of the 85,000 registered chemicals that are on the
22 market today, but the chemicals that we are talking
23 about here today are well-studied by academics and
24 other scientific researchers, and their negative
25 health effects are well known. These are brain-drain

1 chemicals. They're cancer causing chemicals. They
2 are chemicals linked to genetic abnormalities,
3 hyperactivity, asthma, obesity, infertility that we
4 have readily found in products at the end of the
5 table that are sold to New York City's children. We
6 went out shopping in New York City stores on only one
7 day and found a whole host of products that are at
8 the end of the table that contain these dangerous
9 chemicals. Congress is now working on conferencing a
10 chemical reform bill that they've been working on for
11 more than five years, but nothing in that bill would
12 protect children from many dangerous chemicals and
13 toys. It's shocking that so much time has been spent
14 on a bill that doesn't provide basic protections for
15 our children's health. As has been discussed
16 earlier, a simple XRF gun can protect the presence
17 and levels of the dangerous chemicals that are named
18 in this proposed local law. At the Center for
19 Environmental Health we actually are private
20 enforcers of California's Prop 65, and so every day
21 we go out and use the XRF gun and test products for
22 the presence of these chemicals. On the Prop 65 list
23 there's actually 800 chemicals, and just to--I'm
24 going to go off script a little bit here to address
25

1
2 some of the things that were raised in the earlier
3 panel. Just as an example of resource, we have one
4 to one and a half full time equivalent employees that
5 go out and test products. In a given year we will
6 visit 200 stores and will test 1,000 to 1,500
7 products per year, and that is, you know, because
8 we've been able to identify what are the types of
9 products that are likely to contain these chemicals
10 that we'd be worried about and then sort of spot-
11 check. We also independently--for every product we
12 test that finds violations, we send them to a third
13 party lab to have them independently verified, and
14 over 99 percent of the time the independent lab
15 verifies the results that we get from the XRF gun.
16 We can absolutely rely upon the data that we get from
17 that XRF gun. So, you know, the chemical industry is
18 telling us to wait until they fix the broken federal
19 chemical system to wait for the feds to act, but
20 Samuel Beckett [sp?] wrote a play about that. Two
21 guys are standing around for this other guy named
22 Goddeau [sp?] who they think that once Goddeau comes
23 they'll be saved. Spoiler alert, Goddeau never shows
24 up and the guys are still standing around waiting.
25 We will no longer wait for Goddeau while New York's

1 children are being exposed to these brain-drain
2 chemicals. So, I want to thank the New York City
3 Council for stepping up and saying no more waiting.
4 Our kids must be protected from these dangerous
5 brain-drain chemicals and increase our children's
6 chances for a bright future.

8 CHAIRPERSON ESPINAL: Thank you.

9 DAVID EVANS: My name's David--

10 CHAIRPERSON ESPINAL: [interposing]

11 Sorry, just a quick question so I won't forget when
12 the panel's done. So, which neighborhoods were you
13 targeting when you went out shopping for these toys?

14 ANSJE MILLER: Well, I did some shopping
15 in Brooklyn and then also in, you know, sort of the--
16 around Harold Square area.

17 CHAIRPERSON ESPINAL: What parts of
18 Brooklyn? Only because I'm from Brooklyn.

19 ANSJE MILLER: Flatbush.

20 CHAIRPERSON ESPINAL: Flatbush area?
21 Mostly immigrant? Lower income communities.

22 ANSJE MILLER: Exactly.

23 CHAIRPERSON ESPINAL: Okay, thank you.

24 DAVID EVANS: My name's David Evans. I
25 work at Columbia University as well as with WE ACT,

1 and I'm the Director of the Community Outreach
2 component of our two Environmental Health Science
3 Centers. I'm not a researcher in environmental
4 health toxicants, but I do know that--and I actually
5 I want to say that the testimony heard here so far
6 makes a lot of what I had--was going to say not
7 necessary. The chemicals are bad. They aren't
8 needed in the process. They should be gotten out.
9 Those things I think we can all agree on. I think
10 that I would like to add to something really
11 interesting, that back in the 70's and 80's when we
12 were fighting, the battles were being fought over
13 vinyl chloride and PCB's and I think perhaps benzene
14 in the industrial process the industry complained
15 that it cost a tremendous amount of money to deal
16 with this problem, and their estimates were roughly
17 ten times higher than the public health advocates
18 were making at the time. Once the chemicals were
19 banned and the companies had to do it, someone went
20 back and did a report on what it actually costs, and
21 it turned out that the cost to the industry was in
22 fact 10 times lower than even what the environmental
23 health advocates had done. In other words, about one
24 percent of what the companies had originally claimed.
25

1
2 Now, I'm not saying that they knew that and were
3 pulling the wool over their eyes, but I think that
4 once they were actually faced with having to go ahead
5 and do it, they figured out inexpensive ways to get
6 these things out of the manufacturing process. And
7 interestingly, I think that there's a similar thing
8 that could happen with the cost of testing, which was
9 talked about before, and that is to say once you
10 create a market for testing and begin to access
11 scientific people who can try and reduce the--you can
12 reduce those costs dramatically. The XRS [sic] gun
13 is one example, but I think there are probably others
14 that could be less expensive and yet effective test
15 that would make this whole monitoring process easier
16 to do. So, thank you very much.

17 ANSJE MILLER: I just want to-- I'm
18 sorry. We also went to the Rockaways.

19 KATHLEEN CURTIS: Good afternoon. Good
20 morning. Thank you for the opportunity to speak
21 today in favor of Intro 803A. My name's Kathy
22 Curtis. I'm the Executive Director of Clean and
23 Healthy New York, a statewide environmental health
24 advocacy organization with thousands of supporters,
25 many of which live in New York City. I'm also a mom

1 and a grandma, so the issue of keeping our kids safe
2 from toxic chemicals has personal as well as
3 professional importance. In fact, my daughter just
4 texted me a picture of my grandson and said, "Good
5 luck," because she knew I was at the hearing today.
6 So, again, you know, I echo you that we don't need to
7 continue to make the case that toxic chemicals play a
8 significant role in our health. They can cause
9 cancer, promote learning and developmental
10 disabilities and wreak havoc with our ability to have
11 children to begin with. They can lead to obesity, a
12 huge burgeoning health crisis, diabetes, asthma.
13 They can damage organs and more. I'm going to--
14 interestingly the rates, many of these problems have
15 risen with the influx of untested chemicals in daily
16 lives. So, they sort of track like this. I'm just
17 going to pick one, learning disabilities. Children,
18 poor children in communities of color are two and a
19 half times more likely to have learning disabilities,
20 and children with learning disabilities are more
21 likely to be incarcerated, to have--to fail to
22 graduate from high school, to have teen pregnancies,
23 to act out, you know, have anger issues, and you
24 know, a number of other impacts on society that the
25

1 chemical industry is tending to externalize onto
2 every other sector of the economy. So, just to take
3 one example of one health impact that is--instances
4 man made and therefore preventable by this bill. And
5 children, as others have noted, are more vulnerable
6 to the effects, eat, breathe, and drink more per
7 pound, etcetera. You know, my older children even
8 still put things in their mouths. It's like, if it's
9 not food, don't put it your mouth, okay, rule number
10 one. More than once a day, even they bring more of
11 their environment into their bodies, doesn't even
12 stop at the age of 10 or whatever, so and in fact,
13 there have been studies on the flame retardant
14 chemicals that are endocrine disrupting and cancer-
15 causing and brain draining. That found that toddlers
16 have levels of these toxic chemicals on average of
17 five times as high as their mothers, because of the
18 rapid body changing, and for very young children,
19 those entering puberty, they're going through
20 critical windows of development that this bill would
21 address by dealing with chemicals for children age 12
22 and under. So, one--I just have a couple of
23 responses to the DCA testimony and other testimony
24 that's been given so far. One idea, one way to
25

1
2 implement the law would be if retailers required
3 vendors to certify that their products--I sort of
4 agree that it shouldn't be all on the retailer and
5 that the people who are actually making the products
6 should be the ones that are certifying their safety.
7 So, vendor--if retailers require then then they would
8 not be knowingly selling the products. They would
9 have the certification that says no, we--this--
10 everything in this box--piece of paper on top of the
11 box when they open it. Everything in this box
12 complies with Local Law 803A. So, and actually in
13 terms of going out and doing spot testing, several
14 states are now requiring the disclosure of the use of
15 these chemicals in products. So, the DCA could
16 access that database and they could do targeted
17 testing looking for those exact products in stores
18 and not just be shooting blind, and because of course
19 our testing does find that a lot of products, a lot
20 of children's products--one of the members expressed
21 concerns about empty store shelves and having to go
22 home and telling their children there's no toys.
23 There are plenty of products that CEH and Clean
24 Healthy New York has tested that are perfectly, you
25 know, don't contain any of these toxic chemicals.

1 So, clearly it's totally possible for them to make
2 products without using these chemicals. We just want
3 everyone to be doing so. And they also talked about
4 pushing for state legislation. DCA has said that
5 they would support the push for state legislation.
6 The absolute best way to do that is for New York City
7 to pass this law. That would be the biggest push for
8 state legislation that anyone in New York City could
9 possibly provide. So--and also, I just want to note
10 that none of these initiatives that have passed and
11 are pending ban a single product. They only ban the
12 chemical in the product. So with the empty store
13 shelves concern is really not, you know, valid, and
14 it's just totally doable. So, I agree with Council
15 Member Donovan that it sounds like a job creator and
16 that you really can't put a price on children's
17 health. So, this could have ripple effects. Not
18 only are you protecting children in New York City,
19 but children across the entire globe, and not only
20 are you protecting during use, children during use,
21 but also the extraction community, the production
22 community, the disposal community, and you know,
23 often which are low income communities of color as
24 well. So, thanks for listening.
25

1
2 CHAIRPERSON ESPINAL: Thank you.
3 Appreciate it.

4 BOBBI CHASE WILDING: Good morning.

5 CHAIRPERSON ESPINAL: Good morning.

6 BOBBI CHASE WILDING: My name is Bobbi
7 Chase Wilding and I'm the Deputy Director at Clean
8 and Healthy New York, and I'm the person who actually
9 did the testing, and you might wonder just to start
10 why I have this really gross bag in my hand, and if
11 you look at it, I don't know if it'll show up on the
12 camera, but there's red paint. One of the items that
13 I think is really shocking that we tested are these
14 baseball keychains. We found more than 4,000 parts
15 per million lead in the red paint on these key
16 chains, and now I want you to look at this bag. This
17 bag has that red paint right here already coming off.
18 This is a really clear illustration, and obviously
19 this is something that's being marketed to children,
20 you know. It's got a hippopotamus in a tutu with
21 some red paint on her. It's got an elephant. It's
22 got an orangutan. This is not something being
23 marketed to adults. This is being marketed to
24 children. This is just one example of this dirty
25 dozen of products that we've identified that contain

1 dangerous chemicals here in New York City. We've
2 also done testing across New York State from Eerie
3 County to Long Island, and you can go into stores in
4 every single county in the state and find chemicals
5 of concern in children's products. So, that's sort
6 of where I start from, but I want to say that when I
7 walk into the store, while I've done a lot of
8 shopping and testing, so I'm a pretty good guesser at
9 which products are likely to be toxic and which ones
10 are likely not to contain chemicals of concern. I'm
11 not perfect at it. You know, people were talking
12 earlier about, you know, DCA doesn't know. The
13 retailers don't know. Well, it's impossible for
14 parents. You are playing Russian roulette when you go
15 shopping. You do not know whether the product you're
16 picking up is entirely benign or whether it's going
17 to have a zipper pull with high levels of lead that
18 your kid is going to be sucking on. It is incumbent
19 on New York City to take action. Obviously, it's the
20 manufacturers that are making these decisions about
21 what materials they're allowing into their products,
22 and obviously as Kathy mentioned and others have
23 said, there are manufacturers that are doing this
24 right. There are--the stores are full of products
25

1 that would stay on the shelves if this law goes into
2 effect, but unfortunately not all manufacturers are
3 playing attention, and unfortunately here in New York
4 City in order to solve this problem for New York City
5 residents you need to take action here, and the
6 people who can take action here are the retailers.
7 And so, that is why the law is constructed that way.
8 That is why we need to be going to the retailers at
9 this time, because manufacturers aren't doing their
10 job. They're not saying, "Well, I'm making a product
11 for a child. I need to make sure that it does not
12 contain a single chemical that could harm their
13 health." So what we found, lead in sandals, a
14 keychain, two necklaces, overalls, a lunch box, a
15 small purse, a charm bracelet. We found lead in
16 eight items of the dirty dozen that we're
17 highlighting. We found cadmium in a pencil case and
18 a key chain. We found arsenic in sandals, two key
19 chains, a lunch box, and a necklace. We found
20 antimony in two pairs of sandals, in two of the key
21 chains, two necklaces, a doll, and a bag. So, five
22 items contained antimony, and we found cobalt in
23 sandals, two necklaces, overalls, a key chain, and a
24 charm bracelet. So, obviously many of these items
25

1 here contain more than one chemical of concern that
2 would be addressed by this legislation. You know,
3 Ansje I think spoke to the question about XRF use. I
4 think there's a really beneficial way to minimize the
5 cost to New York City for implementing this law by
6 using XRF technology. You know, the idea that then
7 you need to spend extensive amounts of money to test
8 every item in a lab, when you know where the problem
9 is you can do targeted testing in the laboratory to
10 confirm, and I think that we really can't wait for
11 the gridlock in Washington to resolve this problem.
12 I was pregnant with my second child when I started
13 working on this legislation at the state level, and
14 she is now in kindergarten. My older daughter was a
15 baby when we were taking on the problem of lead and
16 the Consumer Product Safety Improvement Act passed,
17 and she is now in fifth grade. You know, this is
18 something where generations of children are growing
19 up continuing to be exposed to toxic chemicals. We
20 can't wait anymore. That's why it's so important for
21 New York City to act, and we hope to work with you to
22 make sure that the strongest law, the most effective,
23 implementable law possible gets on the books and
24 starts being implemented. Thank you.
25

1
2 CHAIRPERSON ESPINAL: Thank you, and
3 thank you for bringing samples of what you picked up.

4 STEPHANIE HOYLE: Good morning. My name
5 is Stephanie Hoyle. I'm a member of WE ACT and I'm a
6 concerned mother of three. WE ACT has provided me
7 with the knowledge of such issues like the passing of
8 this Act, Children's Safety Act product. With the
9 knowledge of this issue that is very harmful for our
10 children, our future. I'm asking the Committee of
11 Consumer Affairs to pass this bill. I am a resident
12 of Harlem Wagner [sic] Houses, low income
13 development, which these products are being sold.
14 I'm a mother of three, again, provided a voice, an
15 advocate for them, my future, your future, these
16 children that has no voice, but I have the voice to
17 speak for them, and I'm asking you to pass this bill.
18 Most importantly, I state that the government is here
19 to protect our future, to protect us as we are here
20 to protect our children, our future, and teaching
21 them. I have a third [sic] year old, sorry, a third
22 grader daughter right now today is learning about the
23 City Council, Mayor, cabinet and the functioning of
24 the government, and I'm teaching her to know that it
25 is their obligation to protect us from the unknown

1
2 and the known, and I feel that with this Act that
3 needs to provide for us, our future, our children.
4 It's a must. It's an obligation to do so. Thank
5 you.

6 RITA MILLER: Good morning. I think it's
7 still morning. I'm not sure. My name is Rita Miller
8 and I am a member of WE ACT for Environmental
9 Justice. I would like to thank the Committee for
10 inviting the public to be a part of this process. In
11 extension I would like to voice my support for the
12 Child Safety Product Act, 803-A. I am a resident of
13 Harlem. In the community we see many, many children
14 going around playing, you know, with toys and so on,
15 and also I am a mother, a grandmother and great
16 grandmother, 24 grands, seven great grands. I also
17 note very important as the gentleman mentioned about
18 his dad, you know, with my condolences. It does
19 affect the adults eventually, you know, as well. So,
20 I have concerns for the newborns, the school-aged
21 children who are our future. There are currently
22 many children's products being sold which have
23 dangerous chemicals at various 99 cents stores. To
24 name a few products, these are plastic, baby bottles,
25 plastic cups, toys, and baby hygiene products,

1 etcetera. These things that we look at when I think
2 of some of my grands with their little sippy cups,
3 and you know, drinking on their cups and how they
4 like to keep it in their mouths and play with it and
5 so on. So, it's extremely dangerous for them. These
6 things are being sold at low prices, which invites
7 all the community residents in any financial status
8 to buy them. I'd like to also say that we have been
9 to Albany and Washington D.C. addressing the issues
10 concerning the dangers for children. Every year all
11 over the United States all our children are subjected
12 to this, and the importance of the Child Safety
13 Products Act and the need to explicitly remove
14 hazardous chemicals from the children's products.
15 Members of WE ACT endeavor to continue to work on
16 having this act approved and we believe that if
17 there's anywhere the protection for our children in
18 the city can be done, it could be done in New York.
19 And because New York can get it done, we're hoping
20 that the Council will look very closely at protecting
21 that them for the future of our environment, for the
22 future of our leaders, the future of everyone that
23 will have something to do with how we live. That
24

1
2 does affect them, you know, physiologically. Okay,
3 thank you.

4 CHAIRPERSON ESPINAL: Thank you.

5 CHRISTOPHER GOEKEN: Hi, is this one on?
6 Great. Good morning. My name is Christopher Goeken
7 with the New York League of Conservation Voters. I'm
8 the Director of Public Policy. I'm also an attorney.
9 So, you have my written comments. I'm going to, you
10 know, submit those, comment on them a little bit, but
11 also address some of the things that have been said
12 and that I expect to be said by the following panel
13 which is the industry panel. So, first let's take a
14 step back and talk about the chemicals that we're--
15 that this bill focuses on. These are chemicals like
16 mercury and lead and cadmium, things that common
17 sense would tell you should not be in a children's
18 product. This is not something that a child should
19 be putting in their mouth. I know the industry is
20 going to make some claims, so I will address those
21 without even hearing them come from their mouths
22 first, because I know what they're going to say.
23 They're going to say first off that the federal
24 standards are protective. They're going to say don't
25 worry about it, the products on store shelves are

1 safe. Well, I'm here to tell you that that's not
2 exactly true. For example, we've got a lunch box
3 here that had lead in the paint, not on the outside,
4 but here on the inside. Now, a child putting food in
5 here, the paint's going to come off. It's going to
6 get on the sandwich. It's going to get on the apple.
7 It's going to get on the napkin. The child's going
8 to be ingesting that lead. The fact that we're able
9 to find so many products that are not only in
10 violation of the current federal standards, but in
11 fact contain other chemicals that are equally
12 dangerous to children shows you that something's not
13 working on the federal level. Here's why this isn't
14 working. The chemical industry says that these
15 chemicals are safe and that they're bonded, and don't
16 worry about it. They're at really low levels.
17 They're present in the environment. It's not going
18 to be a problem for your kid to use this lunch box.
19 Well who says that? Well, the chemical industry
20 itself has said that, and they've said that many,
21 many years. Don't worry about it, these are really,
22 really low levels. So, they point to the test that
23 the Consumer Product Safety Commission uses to screen
24 products who designed those tests that the Consumer
25

1
2 Product Safety Commission uses to screen these
3 products for unsafe chemicals? Well, the chemical
4 industry and the manufacturing industry did. That's
5 the migration standard test which they're going to
6 talk about in a little bit. I won't get into
7 technical details about it. I'm happy to talk to you
8 guys about it at any time. We could have a whole
9 day-long hearing about it. Bottom line is they
10 designed the game so they're winning the game at the
11 federal level, and our kids are being exposed to
12 these chemicals and toxic chemicals in ways that they
13 shouldn't be. Now, one of the concerns that was
14 expressed earlier by the DCA, the Department of
15 Consumer Affairs, was the inner-play [sic] between
16 federal and state laws and concerns about preemption.
17 I know looking at the federal--at the New York City
18 Council legislation that has been proposed, I can
19 tell this was carefully crafted to address those
20 issues, mainly by looking at the donut hole that
21 exists in federal regulations. The federal
22 regulations that exist mainly focus on toys. There's
23 a few exceptions having to do with lead and cadmium
24 and cadmium jewelry and whatnot, but the most part,
25 the federal regulations look at toys. These are all

1 children's products. This is a children's product.
2 The baseball, which I'm glad you don't have on the
3 table, I'd be getting all that lead paint on me. The
4 baseball keychain is a children's product. These are
5 products, and for the most part they're not covered
6 by the federal legislature, the federal regulations.
7 So, the Council has very carefully crafted this to
8 make sure that it's looking at that donut hole and
9 addressing the preemption issue, which is terrific.
10 It's an important distinction too because just in
11 general states and localities are free to create
12 regulatory standards where the federal government has
13 not specifically regulated the market and market
14 safety for a particular product. If there is a
15 vacuum in product safety regulation, states and
16 localities can act, and that's what this legislation
17 here would do. A locality could also mirror what
18 happens on the federal level and do the local
19 enforcement, which is one of the things particularly
20 for lead which we would encourage the Department of
21 Consumer Affairs to be doing, because it was found so
22 easily. These products, by the way, were bought all
23 across the city. They were bought in Queens. They
24 were bought in the Bronx, Staten Island and
25

1
2 Manhattan. I helped with--in Brooklyn. I helped with
3 some of the shopping. I did Jackson Heights and
4 Elmhurst in Queens, and I also know the Rockaways was
5 done in Queens. So, all over the city. It was
6 easier to find products that are not only not in
7 compliance with federal law, but also wouldn't be in
8 compliance with 803-A in low income communities and
9 communities of color in dollar stores. So, clearly
10 we have a problem. This legislation is looking at
11 filling that donut hole. We really encourage the
12 Council to adjust it accordingly so that DCA can feel
13 comfortable with it, but to focus on bans and not
14 product testing--excuse me, product labeling. The
15 product labeling is not going to get us the safe
16 products that we need, that a parent needs when
17 walking into a store. It shouldn't be--you shouldn't
18 be playing Russian roulette in trying to read a label
19 in a store to see whether or not it's safe. The
20 product should be safe on the shelf, and they should
21 be safe by standards that the industry doesn't make
22 up itself. Thank you very much, and if you have any
23 questions, I'm happy to answer them.

24 [applause]

1
2 CHAIRPERSON ESPINAL: So, you say you
3 found lead in the lunchbox, is that--I understand
4 lead is one of the chemicals that's federally banned.

5 CHRISTOPHER GOEKEN: Since Bobbi did the
6 testing--

7 BOBBI CHASE WILDING: Yes, lead, there
8 are strict total content levels set in the Consumer
9 Product Safety Improvement Act for toys for that, but
10 I don't know that this qualifies as a toy and
11 therefore it becomes a question mark.

12 CHAIRPERSON ESPINAL: Okay.

13 BOBBI CHASE WILDING: You know, and I
14 think that's really what's here is, you know, these
15 are products that are not toys, but they're the
16 things that kids are touching, handling, using every
17 day.

18 CHAIRPERSON ESPINAL: Okay. Is, to your
19 knowledge, is the federal government looking at
20 children's products as a whole not just toys
21 currently?

22 BOBBI CHASE WILDING: They're currently
23 regulating toys, and so the--as Chris discussed,
24 there's a gap, and we very much appreciate that New
25 York City is looking to step into that breach.

1
2 CHAIRPERSON ESPINAL: Okay, thank you.
3 Appreciate. Call up the next panel. We have Mark
4 Bellum from JPMA, Rick Locker [sp?] from Safe to Play
5 Coalition, Danielle Iverson from AAFA, and Steven
6 Rosario from the American Chemistry Council.

7 DANIELLE IVERSON: Okay. So, good
8 afternoon. My name is Danielle Iverson, and I'm a
9 Government Relations Manager with the American
10 Apparel Footwear Association, also known as AAFA.
11 AAFA is a National Trade Association representing
12 apparel, footwear and other sewn [sic] product
13 companies and their suppliers which compete in the
14 global market. AAFA's membership consists of more
15 than 1,000 name brands, including major companies
16 headquarter in New York City. These companies have
17 substantial presence in the city and account for
18 thousands of jobs. Consumer safety and education is
19 a core part of AAFA's mission. AAFA stages several
20 product safety compliance conferences in the US,
21 including in New York City and around the world each
22 year. We also work closely with the US Consumer
23 Product Safety Commission, known as the CPSC, and
24 many state agencies on product safety initiatives,
25 including implementation of a 2008 Consumer Product

1 Safety Improvement Act. We are pleased to have the
2 opportunity to share our experience and perspective
3 with you today. We recognize the efforts taken by
4 the New York City Council to protect its most
5 vulnerable citizens. Like many people here I am also
6 a mother, so product safety is very important to me.
7 I will speak for our members a little bit, but
8 product safety is stitched into every fiber of our
9 clothes. So, the people--and this is the most
10 intimate thing that is next to your skin. So, our
11 members would not clothe their children and their
12 grandchildren in something that they don't feel is
13 safe. So, that's just something to let you guys know
14 from the outset. So, we don't believe that this
15 proposed bill represents the best route to protecting
16 our children based on a number of factors that I'll
17 discuss today. So, the proposed bill as you know
18 will prohibit the sale and distribution of children's
19 products containing more than the specified amount of
20 certain chemicals. However, it fails to acknowledge
21 that the presence of a chemical in a product does not
22 inherently mean that that product is unsafe. Safety
23 assessments should be based on information regarding
24 how a chemical in a product are used with the
25

1 potential for risk and exposure of that product
2 chemical combination. If a product safety is judged
3 simply on whether or not it contains one of the
4 listed chemicals, the New York City Council may be
5 condemning a product and thus a company which is
6 completely safe. Let's take antimony for example.
7 Antimony is a catalyst used in about 90 percent of
8 the world's polyester. However, the presence of
9 antimony resulting from the use of antimony trioxide
10 as a catalyst in the production of polyester is not a
11 safety issue for consumers. This fact is based on
12 extensive research to antimony through various
13 pathways. Several countries including Canada, the
14 United States and the Netherlands have evaluated the
15 safety of antimony in consumer products and have not
16 identified concerns for human health or environmental
17 relief related to possible exposure of the antimony
18 trioxide. There is little risk to a child from
19 wearing polyester or even from accidental consumption
20 as there might be for other children's products.
21 Antimony trioxide is poorly absorbed through the skin
22 or exposure is limited by poor systematic absorption.
23 Additionally, the legislation proposes to enact
24 requirements contradictory to federal regulations
25

1 already in place to address chemical safety in
2 children's products. The US Consumer Product Safety
3 Commission already has a statutory authority to
4 regulate any children's product that CPSC deems is a
5 substantial product hazard. In fact, two of the
6 chemicals targeted for restriction in the draft
7 legislation are already specifically regulated by the
8 federal level by the CPSC, and more importantly,
9 under the law, any entity including local government
10 are already allowed to petition the CPSC to regulate
11 new chemicals in children's products under this
12 provision. I'll wrap up by just saying the rising
13 number of county and state level initiatives across
14 the country have a created an unmanageable patchwork
15 of requirement that it make it nearly impossible for
16 a company to reduce and test for a product that meets
17 all of the regulations at once. Unfortunately, these
18 are overly complex state level regulations and now
19 possibly county level regulations that
20 disproportionately affect the apparel and footwear
21 industry, many which are based--of these companies
22 are based in New York and support thousands of jobs
23 and millions of dollars in economic activity. The
24 best strategy to protect the health and safety of our
25

1 children while encouraging innovation and
2 productivity is to strengthen federal regulations and
3 not undermine them. And I'd just like to say that in
4 terms of the apparel footwear industry, we have
5 actively undertaken work to reduce and eliminate the
6 use of hazardous chemicals from the manufacturing
7 process. The industry recognizes the need for
8 manufacturers to be aware of chemical safety and are
9 actively working to restrict the use of certain
10 chemicals. To this end, they have developed
11 restricted substances lists, also called RSL's.
12 These lists level the playing field for proactive
13 responsible manufacturers by providing consistent
14 information on chemical substances that are banned or
15 restricted in clothing and footwear not only in the
16 United States, but wherever US-branded clothing
17 issues are sold around the world. In fact, our
18 organization established an RSL for the industry that
19 is widely used and we update it twice a year. So, we
20 urge the New York City Council on Consumer Affairs to
21 consider the numerous concerns raised in my testimony
22 today and what you will hear from my colleagues here,
23 as well as the fact that New York City has the right
24 to petition the federal government to regulate
25

1
2 chemicals in children's products. With these points
3 in mind, we strongly urge the committee not to
4 proceed with the legislation. Thank you for your time
5 and consideration.

6 MARK FELLIN: Good afternoon, Chairman
7 and members of the Committee. My name is Mark Fellin
8 and I'm the Director of Regulatory and Legislative
9 Affairs for the Juvenile Products Manufacturers
10 Association. On behalf of JPMA and our member
11 companies that make juvenile products, 25 of which
12 are based in New York, we are pleased to have been
13 provided the opportunity to appear before this
14 committee and share our concerns with the proposed
15 legislation. JPMA has a proud history in ensuring
16 that juvenile products are built with safety in mind.
17 As a new father to a two-week-old son, an uncle to
18 six young children under the age of 10, and a former
19 staffer at the Consumer Products Safety Commission I
20 know the importance of ensuring that our children are
21 safe in all environments and that parents and
22 caregivers are educated about the importance of
23 juvenile safety and best practices. JPMA is a
24 national not for profit New York trade association
25 representing more than 240 companies that represent

1
2 95 percent of the prenatal [sic] industry including
3 the producers, importers, distributors and a broad
4 range of childcare articles that provide protection
5 to infants and assist in their care and comfort. Our
6 members make car seats, cribs, bassinets, play yards,
7 monitors, and other household safety products that
8 play a vital role in preventing death and serious
9 injury to children of all ages. The safety benefits
10 of such products are uncontroverted. Our
11 manufacturers make high chairs, strollers, carriers,
12 breast pumps, cups, and bottles among a wide range of
13 products that help parents feed, care and safely
14 transport their babies. Our association is dedicated
15 to advancing the interest, growth and wellbeing of
16 prenatal to preschool children. Our activities are
17 conducted with an appreciation for the needs of
18 parents, children, small businesses, and retailers.
19 We continue to work with government officials,
20 consumer groups and industry leaders on programs to
21 educate consumers on the safe selection and use of
22 juvenile products. Like many on this committee and
23 many of the advocates we share the mutual objective
24 of eliminating the use of hazardous chemicals and
25 products and wish to be an active and forthcoming

1 participant in the process. It is important to note
2 that our member's products are already highly
3 regulated under the federal Hazardous Substances Act,
4 the Consumer Product Safety Act and the Consumer
5 Product Safety Improvement Act which restricts acute
6 and chronic hazardous exposure to children from
7 hazardous substances including but not limited to the
8 same substances that this bill seeks to regulate.
9 Our association has long supported the concept that
10 consumers should be able to choose products made with
11 natural materials for the care of their children.
12 Unfortunately, the approach taken under the proposed
13 legislation is simply inconsistent with such
14 requirements and as a consequence would ban all
15 children's products containing any amount of the
16 listed substances, regardless of whether such content
17 limits correlate any hazard and regardless of whether
18 there is reasonable possibility that a child using
19 the product would actually be exposed to the listed
20 substance. This results in a conflicting approach to
21 regulation of hazardous substances from children's
22 products. As a consequence, this legislation would
23 ban perfectly safe products that contain any level of
24 the listed substances without regard to whether such
25

1 action is justified and actually necessary to ensure
2 child health and safety. So products that we know
3 would help and save children's lives would not be
4 able to be sold in New York. This is why we cannot
5 support it in its current form. Like you, JPMA has
6 the shared interest of ensuring that only safe and
7 reliable products are available for use by the
8 consumer. However, it is important that these
9 regulations be based in sound science, reasonable
10 risk assessment models applied in a consistent,
11 nationally uniformed manner so that our New York
12 members are not harmed or disadvantaged. Laws that
13 restrict the sale of perfectly safe products
14 throughout the city while permitting sales by
15 businesses that compete with New York businesses
16 elsewhere, harm local businesses without any
17 demonstrate able justification. Please know that we
18 remain committed to working with you in the New York
19 City Council and making our shared goals a reality.
20 In this regard, we are not opposed to local
21 enforcement of the stringent National Safety
22 Requirements we referenced. If you have any
23 questions, please feel free to contact me. Thank
24 you.
25

1
2 RICK LOCKER: Good afternoon already.
3 We're passed the morning time. So, my name is Rick
4 Locker and I'm a lawyer in New York. I act as a
5 General Counsel to the Juvenile Product Manufacturers
6 Association you just head from. And also to the
7 Halloween Industry Association, the Toy Industry
8 Association and I'm Co-counsel to the Safe to Play
9 Coalition which is composed of associations of
10 industries representing a wide array of
11 manufacturers, importers, distributors, and retailers
12 of children's' products in New York. We do--now, I
13 want to be very clear about something that we've all
14 talked about today. I don't think there's anyone in
15 this room that is not in favor safe products and
16 regulation of hazardous substances including the
17 specific substances you've cited from children's
18 product. It's a misconception and it's an error to
19 really think otherwise. The reality is what we're
20 discussing here has been touched upon by my
21 colleagues in the apparel and juvenile industry is
22 it's not a question of presence. It's a question of
23 exposure and harm. So if you remove that item, the
24 element of scientific causation, from the equation,
25 what you do is you set up untenable regulations that

1 do not necessarily further the safety of these
2 products. And so as an example, if we apply the same
3 standards being proposed, literally, to the school
4 houses in New York City, to the libraries, to every
5 piece of item in this room, you would be banning
6 those items. You would have to re-outfit every
7 school and every library, every office in New York,
8 and the reason for that is not because any of the
9 products that we're talking about in those situations
10 or toys or apparel or children's or juvenile products
11 are unsafe, it's because the basis of the regulation
12 is mere presence rather than harm. So, when you had
13 that earlier panel, I mean I would have heard from--
14 New York City, by the way, has fantastic group of
15 toxicologists and epidemiologists in your Health
16 Department. It's world renown, but no one really has
17 stepped forward to talk about that. I would pause
18 [sic] it that the best place for enforcement if
19 you're really focused on health and safety from the
20 toxicological risk assessment point of view is to
21 vest it with the agency with the expertise and
22 resources to do that, which would be the New York
23 City Department of Health, because they have
24 epidemiologists and they have toxicologists, and they
25

1 can talk about safety and exposure. Let me--I want
2 to touch a little bit upon what your previous panel
3 of the Consumer Affairs Department talked about and
4 also what my esteemed colleague Chris Goeken talked
5 about which is this concept of--and I think
6 Councilman Greenfield also touched on this, this
7 concept of conflict, preemption, what can be done,
8 what can't be done, and so that was the basis of the
9 action when we brought the lawsuit against Albany
10 County, and we've also worked with Rockland County to
11 fashion a solution to solve those problems, which is
12 very similar to what Councilman Greenfield was
13 talking about, which is putting in place a framework
14 that allows for greater local enforcement of existing
15 standards. This concept that the existing
16 regulations don't do enough is misplaced, and let me
17 explain why. And I think it's been touched upon, but
18 children's products by federal law must meet the
19 requirements of the Federal Hazardous Substances Act
20 and the Consumer Product Safety Act and the Labeling
21 of Hazardous Art [sic] Materials Act, and a whole
22 array of regulations implemented under those acts and
23 focus specifically on children's products. In
24 addition, when we're talking about sippy cups for
25

1
2 example or baby bottles, those are subject to
3 regulation by the Food and Drug Administration, and
4 you cannot have unsafe products that contain food.
5 These statutes ensure that these regulations provide
6 very specifically that any children's product that
7 presents a mechanical, thermal, electrical hazard,
8 and here's the key, represents any acute or chronic
9 chemical hazard to a child is already under a law a
10 banned hazardous substance. It can't be sold and
11 shouldn't be sold. Those very products that were
12 cited to you before, the lunchbox with lead, the
13 keychains with lead on them, if they are children's
14 products, they can't have lead in them or accessible
15 from paint and surface coatings to children, period.
16 It would already be against the law. So, that brings
17 the issue of the Councilman Greenfield talked about,
18 are we enforcing those laws up to the forefront?
19 Because I would argue that the umbrella already
20 exists under federal law of FSHA and the Consumer
21 Product Safety Act and New York State's own law under
22 the general business law, which I'll touch on, to
23 actually go out and already enforce the law. What's
24 needed is resources and expertise to do so. If you
25 were to apply that, that would be the case, because

1 whether you're Bergdorf Goodman or whether you're at
2 the dollar store, you're subject to the same loss,
3 and let me touch on that a bit. There's been a lot
4 of talk about, you know, these assumptions that
5 manufacturers and retailers don't take these issues
6 seriously. Every supplier and every vendor to every
7 retailer has to represent and warrant that their
8 products are fit, merchantable and comply with
9 federal laws and every state law in the United
10 States, period. They ensure that they're fit for
11 sale. They take that obligation quite seriously.
12 Under the Consumer Product Safety Improvement Act
13 since 2008 manufacturers of children's products
14 actually have to file and have available to any
15 retailer that requests it a Children's Product
16 Certification which basically certifies that their
17 products are safe, and the violation of presenting a
18 false certificate is a violation of federal law. So,
19 this panoply, you will, of regulations already
20 exists, and let me touch a bit on why that is. And
21 specifically as regards to toxic substances, and just
22 follow along here quickly. The FSHA defines
23 hazardous substance of being any substance, mixture
24 of substances which is toxic, if such substance
25

1 during or is approximate result of any customary or
2 reasonably foreseeable handling or use including
3 reasonably foreseeable ingestion by children has the
4 capacity to produce personal injury or illness
5 through ingestion, inhalation or absorption through
6 any body surface. That's what the federal law says,
7 and that sounds pretty much like what we're talking
8 about here today. So, together these statutory
9 provision ban the sale of any children's product and
10 that's not just toys, any toy or other article
11 intended for use by children containing levels of a
12 toxic substance that could potentially cause
13 substantial injury or illness through reasonably
14 foreseeable ingestion, inhalation and absorption, and
15 they've issued regulations to enforce these
16 provisions. They include regulations explaining
17 precise circumstances and what qualifies a substance
18 as toxic. They sum up the requirements as follows.
19 A toy or other article intended for use by children
20 that contains an accessible or harmful amount of a
21 hazardous chemical is banned, cannot be sold, period.
22 In this regard, the proposed 803A banning substances
23 by total weight, and this was touched upon by the
24 Consumer Affairs Department, regardless of whether
25

1 content limits correlate to any hazard, regardless of
2 whether there's any reasonable possibility of the
3 child using the product would actually be exposed to
4 that substance conflicts with this federal scheme of
5 regulation, and that's why people say the problem
6 here and the unintended consequence is not the
7 motivation to have good public policy and safety in
8 place, which we all agree on that, but that's why we
9 say the consequence here if not carefully thought
10 through would be to ban perfectly safe products that
11 contain substances without whether there really is an
12 impact on child health and safety, and we're talking
13 about products that protect children. When you
14 reference car seats, that's the number one killer of
15 children in the United States are automobile
16 accidents, and car seats or CRS are the most
17 effective product in saving children's lives. That's
18 true for protective glasses and eyewear that people
19 use and sports equipment that protect children. They
20 may have substances there just like the schools and
21 this room and libraries do, but it doesn't
22 necessarily equate what's missing from the entire
23 conversation is the discussion of is it hazardous.
24 And then you've heard that the FSHA both contains
25

1 expressed preemption provisions. The standard for
2 preemption under the FSHA, the CPSA, the Food, Drug
3 and Cosmetic Act is both specific and implied, and
4 when we talk about preemption we talk about avoiding
5 these conflicts. Now, so I just want to be clear, no
6 person, and person means a manufacturer, importer,
7 distributor, or retailer, or an individual, can now
8 distribute or sell any children products that
9 contains hazardously accessible antimony, arsenic,
10 cadmium, cobalt, mercury, lead, or lead paint or any
11 other similar surface coating as we sit here today in
12 New York City. And if they are, and if you believe
13 they are, report it because they're violating the
14 existing law, and if they are, enforce it. Let me
15 touch a bit about New York State, because no one's
16 talked about New York State. So, when you talked
17 about, you know, a focus a year ago by Clean and
18 Healthy New York and NYPERG [sic] and groups on
19 hazardous substances and products, I believe at the
20 time Attorney General Schneiderman issued a position
21 statement to every retailer in New York and around
22 the country. And basically, the Attorney General
23 went on record as indicating that New York State
24 currently has authority presented to Executive Law
25

1 Section 6312 and the New York General Business Law
2 section 396K to prohibit--which prohibits the sale,
3 import, manufacturer of children's products that pose
4 a reasonable risk of injury, and he went on to
5 further state that such laws apply to regulation of
6 children's products containing toxic substances at
7 unsafe levels authorize an injunctive relief as well
8 as penalties up to 1,000 dollars per violation, and
9 in connection with that authority he said the way to
10 determine whether a product violates that law is to
11 key in to the CPSC requirements that we were just
12 talking about, those protocols, test methods and
13 certification requirements, and so that umbrella
14 already exists under New York State Law, at least
15 according to the Attorney General of the state. So,
16 when we look at all this, then we have to talk about
17 what are practical considerations, because everyone
18 in this room is in favor of safety.

20 CHAIRPERSON ESPINAL: I appreciate your
21 testimony, just asking you to wrap it up.

22 RICK LOCKER: I'm fine. That's it. The
23 only thing I would like to end on is that, you know,
24 look, as New Yorkers we all have this shared interest
25 in ensuring that only safe products are available for

1 use by consumers, and with children, we do recognize
2 this as a responsibility that's even greater, and so
3 it's important though when we do this to be
4 consistent, to be rational and to avoid unintended
5 consequences that potentially harm our local economy
6 to a disadvantage compared to other places, because
7 the reality is if you don't have laws that are based
8 on sound science and risk assessment applied in a
9 consistent nationally in a global uniform matter, you
10 will harm your local businesses, because people can
11 go elsewhere and get products like buy them online
12 and that would harm your local businesses. We do
13 support local enforcement of these stringent national
14 standards we've discussed and thank you for the
15 consideration. Thank you.

17 STEPHEN ROSARIO: Good afternoon,
18 Chairman Espinal, members of the Committee. For the
19 record, my name is Stephen Rosario. I'm Senior
20 Director Northeast Region for the American Chemistry
21 Council. We represent the Business of Chemistry and
22 Plastics Industry here in New York as well as the
23 United States and around the world. It was
24 interesting what my good friend, colleague, Chris
25 said about knowing what I was going to say. I think

1 that means we've been hanging out a little bit too
2 much over the years on this issue. I represented the
3 chemical industry for over 25 years, and it's, you
4 know, real easy to say bad things about the chemical
5 industry, but the people that I deal with are the men
6 and women, the mothers and fathers, grandfathers and
7 grandmothers who work in our facilities every day
8 that I have the pleasure of meeting, and they're your
9 neighbors. We are also as my colleagues mentioned
10 just as concerned about our children and
11 grandchildren. I don't think anyone can corner the
12 market on that front. The question is, you know, how
13 do we get there in terms of providing the jobs that
14 we do while also providing the safety for our
15 children and for adults as well in all of our
16 products? As my colleague had mentioned, safety is
17 built into our DNA. Do accidents occur? They do.
18 But I think the bottom line is that we are just as
19 concerned about our products, not only what we put in
20 the marketplace but how we make them, because we are
21 also concerned about always protecting our employees
22 and those who work for us. You hear a lot about the
23 fact that our industry is not regulated. Well, we
24 have 14 federal agencies. You've heard some of them
25

1 here. We have 50 state health departments and
2 Departments of Environmental Conservation that we are
3 charged with responding to, and then we have large
4 cities like New York and Philadelphia, Boston, Los
5 Angeles. So there is certainly plenty of regulation
6 and it's a lot easy to throw around things like TOSCA
7 and CPSC, FDA, FHAS and really confuse people. Part
8 of our job is to kind of set the record straight on
9 what these various laws do because as you heard, CPSC
10 is for children. TOSCA is for other products. FDA
11 is food contact, etcetera, etcetera. I think the
12 testimony that DCA gave really shows how complicated
13 this is and how difficult enforcement is. We only
14 get one chance to do this correctly, because if not,
15 as Councilman Greenfield said, you set off that
16 panic, and that hurts not only the very children
17 we're trying to protect, but those who make the
18 products and rely on their reputation--goes down the
19 drain. You don't get a second chance at the apple on
20 this one. Councilman Greenfield also mentioned the
21 zero standard or are we trying to get to a zero
22 standard. Well, again, you're going to learn more
23 about chemistry dealing with this issue because
24
25

1 chemistry is in everything, whether it's naturally
2 occurring, known as organic chemistry.

3
4 COUNCIL MEMBER GREENFIELD: My fifth
5 grade teacher was right, apparently.

6 STEPHEN ROSARIO: Yes, yes, she was. And
7 as a graduate of Queens College, organic chemistry in
8 any college is not an easy subject, or that which is
9 made to replicate what is in the environment for
10 actual application in a product, and the reason why
11 chemistry is used is because we as consumers ask this
12 product to do something, to hold liquid so that it
13 doesn't leak and is safe. We may ask another product
14 that holds other liquids, milk. Two plastics may
15 look alike, totally different because we've asked--we
16 as consumers have asked that bottle to be different.
17 In terms of the XRF, again, you've heard a lot about
18 that. In Suffolk County, the Health Commissioner
19 there testified. I was there during that hearing,
20 and he specifically said that the county has an XRF
21 machine, but he said they could only use it for one
22 application and that was for lead testing, that if
23 the county was going to get involved with XRF they
24 would need to purchase more. So, again, it's a good
25 screening tool, but it has its limitations, and you

1 heard a lot from DCA. We hear a lot about
2 alternatives, which is a great concept. You know, we
3 all want safer this or that, whether it's in our
4 products, in our cars, in our homes, but what is not
5 being said is that these alternatives first are not
6 plug in play. They've got to go through the same
7 testing, the same protocols to make sure that they
8 are safe, and a lot of the chemicals that we use, we
9 have years and years of experience, testing, studies
10 done by multiple agencies. We don't necessarily have
11 that with the alternatives. So, it is certainly
12 something that needs to be kept in mind. And I just
13 have two more comments. We've heard a lot about EPA
14 and the Consumer Product Safety Commission and what
15 they do or not do, but what I have found very
16 interesting about these hearings, and I've been to
17 many, is that I've never seen a representative of
18 CPSC or EPA attend one of these hearings to actually
19 talk about their standards, what they do, how they
20 can work with the states, how they work with the
21 states and how they can work with New York City. The
22 last thing I'll end with as my colleague Rick said,
23 exposure is critical in all of this. I'll use this
24 example again, we all drink water. There is
25

1 naturally occurring arsenic in water. We don't stop
2 drinking water, but yet, if you drink enough of it--
3 and this occurred several years ago. I don't recall
4 if it was Indiana or Illinois where there was a
5 contest and a woman died because she drank way, way
6 too much water. So, even water can be dangerous, but
7 within acceptable limitations of exposure we still
8 drink water because it is absolutely necessary to our
9 health and it's the same thing with any product. And
10 I think Rick addressed that. So, again, I would
11 reiterate what Senator Gr--Senator, I'm sorry. I
12 made you a Senator. Councilman Greenfield said, you
13 know, we don't want to create that panic situation.
14 Let's do it right. Thank you very much.

16 CHAIRPERSON ESPINAL: Thank you. Do you
17 have any questions, David, you want to ask? I'm
18 going to ask one or two. [off mic comments] So, you
19 spoke a lot about exposure. You know, in my opening
20 statement I talked about how children exposure is
21 much more unique than adult's exposure. Do you feel
22 that the exposure to these children that children
23 have to these toys is totally safe? You know,
24 because we're not putting our mouths on our desks,
25 or--

1 RICK LOCKER: I rather not. The chem--

2 CHAIRPERSON ESPINAL: [interposing] Maybe
3 our pens, but, you know.

4 RICK LOCKER: I would rather the chemical
5 industry didn't talk about toys. So, I will talk
6 about toys and I'll talk about other children's
7 products as well, and that's because--and I would
8 take exception to what was said before that somehow
9 we created these standards and that's how--and that's
10 why the city needs to create different ones. The
11 standards that are applied in terms of exposure and
12 toxicity are specifically modeled by toxicologists
13 for children. So, they model it and assume with 100,
14 200-fold margins of error and exposure, exposure
15 limits for children, and if we look at how the CPSE
16 regulates and deals with toys and other children's
17 products, we can look at what they do. So, when it
18 was alleged for example that cadmium was in a lot of
19 plastic children's products, a whole ray [sic], toys
20 included as well as other materials made from vinyl
21 and a range of other products, they went out to the
22 marketplace and they took those 50 different products
23 and they tested it, and they used a risk exposure
24 model similar to what your department of health would
25

1 do. So, what they created--they used these accepted
2 models of toxicology, and they said if this is a
3 product that's going to be mouthed and sucked on,
4 we'll model it and test it that way. If this is
5 something that can be ingested into the body, we'll
6 assume it's degraded with simulated stomach acid, and
7 if it can't be either of those it could be touched or
8 worn like apparel or a desk where you might touch
9 something and then put it to your mouth or through
10 your skin. They use a dermal absorption model. So,
11 those models are actually pretty well developed and
12 in place at the EPA and at the CPSC and also at the
13 city's Department of Health, and that's how you would
14 model exposure.
15

16 CHAIRPERSON ESPINAL: And just to clear
17 this up, you don't believe CPSC is affectively
18 enforcing the current federal law?

19 RICK LOCKER: No, actually I think
20 they're doing a pretty good job. So, according to
21 their own data and statistics--

22 CHAIRPERSON ESPINAL: [interposing] But
23 it's a good job. I mean, we had DCA just come out and
24 say that--

25 RICK LOCKER: [interposing] Well, let me--

1
2 CHAIRPERSON ESPINAL: [interposing] no
3 one's really checking in on these stores.

4 RICK LOCKER: Well, what they're saying
5 is no one at DCA is checking on the stores, but the
6 CPSC actually has designed something called a RAM, a
7 Risk Assessment Model. They're focusing their
8 resources at ports of entry and points of
9 manufacture, because they think it's most efficient
10 if you go to that top of that distribution pyramid
11 and you test the products. So they're spending
12 annually a budget of--they have a budget of 63
13 million dollars a year and they employ over 435
14 people, which by local standards is pretty good. By
15 federal standards it's, you know, still a small
16 agency, but they're doing it very efficiently because
17 they get to deputize and use Department of Homeland
18 Security Border Protection Agents as their surrogates
19 and it's been pretty effective, which is why you
20 really haven't heard very recently a lot of recalls
21 for lead in children's products.

22 MARK FELLIN: And I think it's also
23 important to note that the products that were brought
24 up and shown as having high levels of lead or cadmium
25 or whatever chemical it was, we stand in agreement

1 that we don't want those products on the shelves as
2 well. The products that at least I work with in the
3 juvenile industry are so highly regulated in terms of
4 the testing requirements that are already put on them
5 that any time these types of products show up as
6 having these high levels of lead or arsenic or
7 whatever, give our products a bad name the same way.
8 We're all trying to play by the same rules, and I
9 think the important thing here is that if this bill
10 goes through, who is it really targeting and who is
11 it really addressing, because those people that are
12 already violating the law are going to continue to
13 violate the law.

14
15 CHAIRPERSON ESPINAL: Okay, David?

16 COUNCIL MEMBER GREENFIELD: Thank you,
17 Mr. Chairman. So, Mr. Locker, I just want to clarify
18 a point. You think that CPSA is doing an okay job or
19 a good enough job, but you as an industry or this
20 representative of these industries--I think you're
21 here representing three potentially industries. You
22 would be okay with the city making sure that those
23 standards are being enforced as well, is that
24 correct?

25 RICK LOCKER: Absolutely.

COUNCIL MEMBER GREENFIELD: Okay, good.

So, I think that's important. The other thing that I would--the other thing that I want to understand is-- I genuinely don't understand this because I think I've heard two different things, and I just want to-- I just want to get your perspective on this.

According to testimony that was submitted or was said actually before, except that I was chairing another hearing, so I'm sorry that I missed it, but I did read it. It was the New York League of Conservation Voters who said that, "While there are federal laws that deal with some of the toxic substances, they're mostly focused on toys, not children's products in general." However, from what I've heard from you, you said something different. So, can we just--if I was here for the New York League of Conservation Voters I would have asked them, so I apologize. I just--as I said, I have multiple responsibilities. One of my hats is I Chair the Land Use Committee, and we meet on a regular basis, but I'm really trying to understand this. So, which one is it? These products, or at least the folks that you represent, are they currently regulated or not?

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RICK LOCKER: It's--they're regulated because you cannot have and sell a product that contains a substance which creates an acute or chronic hazard. Now, the confusion comes apart because in some aspects of the FHSA you go through that exposure modeling and testing that we've talked about like they did with the dermal, saliva and ingestion simulations to develop the protocols and hazards, and in others, when they adopted the ASTM International Toy Standard, they had a limit set for certain substances, but also were based on the same concept and the same integral model which was an exposure model, an accessible soluble exposure model to the human being.

MARK FELLIN: And I think it's important to note that the Consumer Product Safety Improvement Act defines a child anything intended for use primarily by the--for anyone under the age of 12, and so as a result products that like juvenile products which is cribs and highchairs and strollers are all subject to that law as well. So, they fall under the jurisdiction with lead content and applying the toy standard and all those other requirements.

1
2 RICK LOCKER: And I'll guess you'll hear
3 form manufacturers on the law of the marketplace
4 which I touched on before, which is that retailers
5 require pretty much absolute integrity in terms of
6 the products.

7 COUNCIL MEMBER GREENFIELD: Okay. I
8 apologize, but I still don't--I still don't really
9 understand the, I guess the difference of opinions.
10 So, I'm going to phrase that a little bit
11 differently. You're an attorney and as an attorney
12 myself, you know, when you don't get the answer that
13 you want you rephrase a question.

14 MARK FELLIN: You keep--you keep going,
15 sir.

16 COUNCIL MEMBER GREENFIELD: That's right.
17 So, pacifiers, changing pads, cribs, mattresses--
18 pacifiers have no--have no standards right now? I
19 mean, I'm just--and I apologize, because I really
20 should be asking this for the NYLCV, so I'll get back
21 to them afterwards, I guess Chris--

22 RICK LOCKER: No, there actually is a
23 very detailed pacifier standard, and under the CPSIA
24 you cannot have any lead in those products. Under
25 the Food Drug and Cosmetic Act because it could be

1 joint jurisdiction on some of these products. It's
2 because--

3
4 COUNCIL MEMBER GREENFIELD: [interposing]
5 Okay, I'm going to have to call--I will--the other
6 attorney, he's not up right now, Chris and I will
7 sidebar--

8 RICK LOCKER: [interposing] Right.

9 COUNCIL MEMBER GREENFIELD: on this a
10 little bit later, but you're saying there are
11 standards.

12 RICK LOCKER: And--

13 COUNCIL MEMBER GREENFIELD: [interposing]
14 But you're saying there are standards. They're
15 saying, I guess, there's not or there's not enough
16 standards. Perhaps that's the difference.

17 RICK LOCKER: And offline or a side bar--

18 COUNCIL MEMBER GREENFIELD: [interposing]
19 Yes.

20 RICK LOCKER: we're happy to provide you
21 with detailed answers to specific questions on any
22 substance in any product.

23 COUNCIL MEMBER GREENFIELD: Okay. Chris,
24 maybe, the qualifiers in your testimony is mostly
25 focused. Perhaps that what you were referring to as

1
2 opposed to--see, there you go. The lawyers have
3 figured it out without bringing him up here, but
4 there are standards, it's just the focus. Fair
5 enough. Okay, final question for the panel, very
6 important question. A lot of what we discussed here
7 today, a lot of what Chair Richards--well, previous
8 Chair Richards of a different, I guess. He used to
9 be the Chair of the Environmental Conservation, when
10 he wrote this legislation is really focused on the 99
11 cents stores, right? And sort of, you know, the
12 products, many of them that are ending up in the
13 hands of his constituents. I think you said
14 specifically minority constituents. Can you give us
15 a little bit of a detail on, I mean, who is that?
16 And this goes back to my original point, right, which
17 is once again, I don't want people watching this on
18 TV, and there's always at least six, by the way.
19 You're like, "Who watches it on TV?" I meet at least
20 six people who are going to be like, "I saw you on
21 TV." I'm like, "Really?" Yeah, they watch it on the
22 TV. So, thank you guys for watching.

23 [laughter]

24 COUNCIL MEMBER GREENFIELD: I don't want-
25 -by the way, I'm also on Twitter @nycgreenfield for

1 those of you who are watching as well. If you're
2 watching at three o'clock in the morning, might as
3 well follow my Twitter feed. But seriously speaking,
4 I don't want people to walk away and be like, "Oh, my
5 God." You know, start knocking things out of their
6 kid's hands and say, "Don't suck on that toy." Or,
7 as I said before and I was kidding, I hope for those
8 watching at home. You know I don't want the kids
9 running around naked because they think that there's
10 harmful chemicals, and as you pointed out, my fifth
11 grade teacher pointed out, there's chemistry in
12 everything. That's why I went to law school, by the
13 way, because I didn't want to deal with chemistry,
14 but can't escape it apparently because I'm here. So,
15 just to be clear, right? The members of your
16 association, right, and you're not speaking for
17 everyone, you're speaking just for your association
18 members.

19
20 MARK FELLIN: Correct.

21 COUNCIL MEMBER GREENFIELD: You believe
22 or do you know, or how do you know that they are
23 following the standards that currently exist?

24 RICK LOCKER: Well, first of all, let me
25 clear to address your point, and I said it before.

1
2 Whether it's, you know, Bergdorf Goodman or the local
3 Jack's 99 Cents store, or--

4 COUNCIL MEMBER GREENFIELD: [interposing]
5 You represent Bergdorf Goodman?

6 RICK LOCKER: No.

7 COUNCIL MEMBER GREENFIELD: Alright, I
8 was going to say we should talk afterwards. Yeah,
9 okay.

10 RICK LOCKER: I just said whether it's
11 any of those retailers from our point of view, from
12 our member's point of view, we treat them the same.
13 We sell the same product that meets the same high
14 standards to the same retail stores.

15 COUNCIL MEMBER GREENFIELD: But those--
16 just to be fair, though, to the bigger point that
17 only speaks to your members.

18 RICK LOCKER: Yes, it does.

19 MARK FELLIN: Correct.

20 COUNCIL MEMBER GREENFIELD: Would you
21 concede the point that most likely, as I said a
22 couple hours ago, that there are in fact bad actors
23 who are, let's say they're smuggling them in or
24 however they get in. There's only these 435 agents
25 for the whole these United States of America, right?

1
2 And so that potentially the stuff that is in those 99
3 cents stores may be of in fact inferior quality and
4 they're not following the federal guidelines. Is
5 that certainly possible or even perhaps dare I say
6 probable?

7 RICK LOCKER: Absolutely, both possible
8 and probable, and--

9 COUNCIL MEMBER GREENFIELD: [interposing]
10 Okay.

11 RICK LOCKER: we actually have a concern
12 with counterfeit goods, too. So, our focus is very
13 simple in that regard.

14 COUNCIL MEMBER GREENFIELD: So you're
15 representing what would be the legitimate folks in
16 the industry who follow the standards as opposed to
17 the folks who are not following it and you therefore
18 have no issue with us going after--

19 RICK LOCKER: [interposing] None
20 whatsoever.

21 COUNCIL MEMBER GREENFIELD: those guys?

22 RICK LOCKER: Matter of fact, we would
23 encourage you to do that.

24 COUNCIL MEMBER GREENFIELD: Okay.
25

1
2 RICK LOCKER: And we would help in any
3 way we can.

4 COUNCIL MEMBER GREENFIELD: Better for the
5 legitimate guys as well. I mean, if you're willing to
6 pay for a portion of those guns. Apparently they're
7 very expensive. I heard they're a thousand dollars
8 apiece, but--

9 DANIELLE IVERSON: [interposing] Twenty-
10 thousand.

11 COUNCIL MEMBER GREENFIELD: What's that?

12 DANIELLE IVERSON: Twenty-thousand.

13 MARK FELLIN: Minimum.

14 COUNCIL MEMBER GREENFIELD: Twenty-
15 thousand dollars each gun?

16 DANIELLE IVERSON: Minimum.

17 STEPHEN ROSARIO: Forty--[off mic]

18 COUNCIL MEMBER GREENFIELD: Forty-
19 thousand? The good news is the City of New York has
20 an 80 billion dollar budget and for the safety of our
21 children we can find a few bucks, so I'm hoping we
22 can do that. Thank you very much.

23 RICK LOCKER: Thank you.

24 DANIELLE IVERSON: Thank you.
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COMMITTEE ON CONSUMER AFFAIRS

CHAIRPERSON ESPINAL: Thank you, David,
and if it's 3:00 a.m. and you're watching this,
please follow David Greenfield on Twitter. I assure
you that he might be tweeting at that time.

COUNCIL MEMBER GREENFIELD:
@nycgreenfield. I do regularly tweet at 3:00 a.m.,
speaking of which, because I have a baby at home who
doesn't like to sleep at 3:00 a.m., and therefore I'm
usually sitting in his room hoping to cajole him to
sleep by my presence, but obviously I certainly will
admit to checking Twitter at that time as well.

RICK LOCKER: In fundamental fairness,
would other Council Members like to provide their
twitter?

CHAIRPERSON ESPINAL: rlespinal. Vinnie,
Twitter?

COUNCIL MEMBER GENTILE: I don't know my
Twitter.

CHAIRPERSON ESPINAL: Alright. I also
want to note that we've been joined by Vinnie Gentile
from Brooklyn who's a member of this committee.
Thank you.

RICK ROCKER: Thank you.

STEPHEN ROSARIO: Thank you.

CHAIRPERSON ESPINAL: I'd like to call up Steven Levy from Star Ride Kids, Laura Ornstein from NYS Sustainable Business Council, David Levine from American Sustainable Business Council, and Martin Wolf from Seventh Generation.

STEVEN LEVY: Chairman, should I start, sir?

CHAIRPERSON ESPINAL: Just start and just state your name.

STEVEN LEVY: Okay.

CHAIRPERSON ESPINAL: For the record.

STEVEN LEVY: As you, I'm from Brooklyn also. Councilman Greenfield is my councilman. Thank you. My name's Steven Levy and I am from Brooklyn. I have four children. I'm also the Chief Operating Officer for Star Ride Children's Wear. We make children's clothing. We design it. We import it into the New York area, and we sell it to retailers that are in New York as well as around the country. We've been doing this for 25 years. We employ 35 New Yorkers. Our offices are located a few blocks north of here in New York's famous Fashion and Garment District. My company is typical of the industry, the wholesale children's apparel industry. It's small.

1
2 It's family-run. It's located in New York, and to
3 just give a little perspective, most of the
4 children's wear companies are small and family-run in
5 New York. We're not big, huge, multinational
6 corporations. The children's wear industry is about a
7 20 billion dollar industry at retail, and by
8 comparison, the ladies' and men's market is close to
9 200 to 300 billion. So, out of a US economy of 18
10 trillion dollars, we're kind of a niche industry. We
11 don't have dozens and dozens of attorneys or
12 laboratories. We operate very efficiently in New
13 York. One of the things I could say is that my
14 company and our industries have the same goal as the
15 New York City Council, to make sure that we continue
16 to sell safe and affordable children's clothing to
17 consumers in New York and around the country. And
18 how do we do that? Well, by its nature, clothing,
19 children's clothing, is safe. The materials that
20 we're using to make the clothing has been safe. If
21 you look at the history of children's products, I'm
22 talking sportswear specifically, there are not any
23 materials in it which are inherently dangerous. But
24 having said that, after 2008--so for the last six
25 years. We have been now moved into a regime of

1 testing, of laboratory testing. So, all of our
2 products are laboratory tested before they enter the
3 United States to make sure that they're in compliant
4 with both the Consumer Product Safety Act of 2008 as
5 well as the Federal Hazardous--the FHSA law. Just to
6 clear up a little bit of maybe misconception from
7 before. So how is this enforced and how is this
8 done? So, as listed in the CPSIA, every shipment
9 that's coming into the country, the importer has to
10 submit a document. It's call a General Conformity
11 Certificate to US Customs, and on that certificate it
12 lists out the laboratory where the garment was
13 tested, the report date and as well as the number.
14 So, if at any point anyone wanted to go back they
15 could go back and check the report. So, part of the
16 entry process is to submit a certificate to US
17 Customs that says we have tested this product and it
18 meets the Consumer Product Safety Improvement Act of
19 2008. And then the next question is, well how--the
20 retailers. So, our retailers require us as well as
21 my fellow companies that prior to us selling
22 merchandise we sign an agreement with them that every
23 product that we have will meet the CPSIA, and within
24 a 24 to 48 hour notice, if they ask us we will
25

1 provide them with our certificate of conformity and,
2 if they want, the lab test report. So, products are
3 tested. It's already being submitted to Customs and
4 it's available to retailers upon their request, and
5 most of our retailers will not buy from us unless we
6 affirm that we--even though it's in the law, they
7 want a separate affirmation. In addition to this,
8 the Consumer Product Safety Commission has agents at
9 US ports with XRF guns, and I know this because we've
10 had random tests of our material, and I've spoken to
11 CPSIA agents and they've come into my office.
12 They'll go down to the piers and they'll randomly
13 open up a container in conjunction with Border
14 Security and scan it, and if they want they could
15 then send it for lab testing as well. So, those
16 standards are in effect. That is how they are being
17 enforced. The agents are at the piers, and I just--I
18 want to just say two things about something that
19 prior people who had testified is, not all chemicals
20 are bad. Not all chemicals are dangerous. We have
21 chemicals all around us, and just as in the first or
22 the second panel, there was a father here and his
23 daughter and she was walking around on the floor, and
24 he was a good parent, because he wasn't letting her
25

1
2 put things in her mouth, etcetera, and we really, we
3 have to think about this, and I had the opportunity
4 to testify before Congress in 2008 regarding the
5 CPSIA, and I had a pair of jeans with me, and I will
6 say the same thing here. A child whether they're two
7 or they're 12, they're not opening up and looking at
8 the label and saying, "Oh, this is a size two
9 toddler. I could put this in my mouth because it's
10 conf--oh, this is mommy's pair of jeans. I better not
11 put the zipper in my mouth from mommy's pair of
12 jeans, because that's not regulated by the CPSA, and
13 that's not regulated by the law that you're going to
14 put." We have to be good parents. So, when it comes
15 to the products around us, what's in the room,
16 whether it's a jeans for a man or jeans for a child,
17 we have to make sure that our kids aren't putting the
18 wrong things in their mouths. So, we can't think
19 that by passing this law that oh, that's it now,
20 because children aren't reading the labels. We have
21 to be parents and we have to watch them. Having said
22 that and alluding to what the gentleman before on the
23 panel said, we have standards. They're science
24 based. They're tested. They're based on hazards.
25 We don't have the speed limit at one mile an hour

1 because that would be the safest and nobody will be
2 killed, although you did reduce it to 25 miles an
3 hour and that's killing us in the boroughs. So, the
4 one other thing I want to say and just end this, if
5 you look at the hundreds and hundreds of product
6 recalls for children's products over the last 10
7 years, my God it's a disaster. Almost every one of
8 those recalls are due to drawstrings, not because of
9 chemicals. I think if there's been any chemical or
10 substance recall for apparel, it's probably less than
11 a handful, almost all--and the drawstrings are
12 regulated by the Federal Government. They're
13 regulated by New York State, and if you dig deeper
14 and you look at the list of companies who are making
15 those items with recalls, the majority of them are
16 adult clothing manufacturers who decide to make a
17 hoodie or a windbreaker and they were not familiar
18 with the drawstring regulations. We in the industry,
19 children's industry have very, very few drawstring
20 recalls because we know what it is. That doesn't
21 cost money to test. You just have to take out a tape
22 measure. As a manufacturer we don't make any hoodies
23 with drawstrings for children, and most of our
24 children's wear we don't. So, I would have to just--
25

1
2 I want to just conclude and say thank you for the
3 opportunity. We have regulations. They're in
4 effect. The goal of the industry is to make safe and
5 affordable children's wear. That's what we do, and
6 that's what we will continue to do, and I--just
7 please, as you draft this legislation, keep in mind
8 both the history as well as the risk assessments, and
9 I think if you follow the federal model it will be
10 very good for all of us. Thank you very much.

11 CHAIRPERSON ESPINAL: Thank you. So, quick
12 question. You say that when you sell the merchandise
13 to a retailer that you also go to a separate--there's
14 also another layer of check through them?

15 STEVEN LEVY: Well, yes. The retailers--
16 there's two levels. The retailers can ask us to
17 provide a certificate that we're following the
18 Federal CPSIA, and then many of the major retailers,
19 Walmart, Kmart, Target, Kohl's, etcetera will say,
20 "It's good that you're testing it. Also send to my
21 laboratory, my laboratory separate, and we're going
22 to test for the same set of tests."

23 CHAIRPERSON ESPINAL: Have you dealt with
24 discount stores?

25 STEVEN LEVY: You're talking about--

1
2 CHAIRPERSON ESPINAL: [interposing]
3 Smaller discount stores.

4 STEVEN LEVY: the dollar--right. So, the
5 smaller stores will typically ask us to provide them
6 with the general conformity certificate which means
7 that you're conforming with the CPSIA.

8 CHAIRPERSON ESPINAL: Okay, do you--have
9 you seen a trend where these discount stores do not
10 ask to see documentation?

11 STEVEN LEVY: You know what, I'm going to
12 say something to you, and I think the gentleman
13 alluded to it also before. We're law abiding. The
14 retailers that we sell are law abiding. Having said
15 that, I'm sure a few blocks from here we could buy
16 counterfeit products. So, if someone is bringing the
17 product in which is circumventing the law whether
18 it's because they're not respecting intellectual
19 property and trademarks or they're not respecting the
20 testing, I really can't speak to that. I could speak
21 to the majority--

22 CHAIRPERSON ESPINAL: [interposing] I'm
23 not trying to say discount store are breaking the
24 law, I'm just saying maybe owners of these discount
25

1 stores may be that negligent or just careless when it
2 comes to the process of not checking.

3 STEVEN LEVY: It could be. You know, we
4 have to look at the volume of apparel today. The
5 volume of apparel today is sold through the big box
6 retailers and Macy's and Amazon. So, if there's
7 apparel being sold in those discount stores, it's a
8 very negligible amount, so I can't speak really to
9 that. I'm sorry I have to--

10 COUNCIL MEMBER GREENFIELD: [interposing]
11 Do you sell to those discount stores? I guess that's
12 the Chair's questions? I mean, like--

13 STEVEN LEVY: [interposing] That ones that
14 you were talking about--

15 COUNCIL MEMBER GREENFIELD: [interposing]
16 Yes, yes.

17 STEVEN LEVY: we probably don't sell. I
18 don't think most establishment wholesale companies
19 are selling.

20 COUNCIL MEMBER GREENFIELD: Got it.

21 CHAIRPERSON ESPINAL: Alright, thank you.
22 Appreciate it.

23 DAVID LEVINE: Good afternoon. Thanks
24 for the opportunity to speak today. So, my name is
25

1 David Levine and I'm the cofounder and CEO of the
2 American Sustainable Business Council, and the
3 Council is a growing network of business
4 organizations and companies that now represent over a
5 quarter of a million businesses across the country,
6 across all sectors and many here in New York, and you
7 know, we believe as a part of our basic mission that
8 it is possible to grow the economy, grow businesses,
9 create jobs, at the same time to protect public
10 health and the environment, and I'm also here today
11 representing Companies for Safer Chemicals, which are
12 thousands of companies that are committed to working
13 explicitly on driving fair, transparent, clear,
14 chemical regulation in this country at all levels,
15 and you know, that's why today, you know, we're
16 speaking in favor of moving forward on this
17 legislation. We believe that there's a role in that
18 our businesses are proving every day that you can
19 produce healthier and safer products, but there's a
20 role for government in creating the basic platform
21 and the framework that sort of drives businesses to
22 the table, in particularly the laggards in moving
23 towards safer chemicals and safer products. A lot of
24 talk about, you know, the science, and you know,

1 there's new scientific research links that, you know,
2 link the exposure to chemicals commonly found in
3 products to the increase incidences of serious
4 chronic illnesses, particularly for children. So,
5 form asthma to childhood cancers, infertility, right,
6 later on in learning and developmental, right,
7 occurrences. So, the uncertainty though around the
8 connection between chemicals and products, right, for
9 the public is driving this uncertainty in terms of
10 their buying patterns and alike, and so every attempt
11 by government to sort of create that level playing
12 field to create those common understandings drives
13 more and more businesses to be more responsible.
14 That's what's bringing more and more of these
15 conversations to the table at the local, state and
16 federal level where they talk about the patchwork of
17 different legislations. That's because what we're
18 finding is a growing incidence of these diseases, a
19 growing concern amongst consumers. Therefore, growing
20 concern amongst the many businesses that we represent
21 that without that clarity we're going to have
22 confusion in the marketplace and it's going to be bad
23 for the economy as well as for the health of these
24 families, the kids and the country as a whole. So,
25

1
2 more and more of these companies are taking
3 responsibility and are motivated to use safer
4 alternatives to toxic chemicals. They're concerned
5 about the health impacts as well as the business
6 impacts that arise if the products that are sold
7 contain toxic chemicals. They're recognized as the
8 safer chemicals and safer products protect human
9 health and environment, but will also cut the cost to
10 their business, cut the cost of regulation, cut the
11 cost of hazardous waste storage, cut the cost of
12 disposal, cut the cost of worker protection, cut the
13 cost around liability, right, and the future lawsuits
14 that might come. So, all of this makes good economic
15 and business sense. However, in the absence of
16 government regulation to ensure the safety of
17 chemicals, the leading [sic] uses--the individual
18 companies are taking action and it's costing them
19 thousands and thousands of dollars to do the
20 additional work to create their clarity within their
21 own store, to create the clarity throughout their
22 supply chain that they then provide that information
23 back out to the public. So, again, the role of
24 government is to create that greater clarity so all
25 businesses and all consumers are operating with the

1 same framework. So, these regulations will drive
2 greater responsibility, greater transparency, and
3 then at the end of the day greater health and safety
4 and therefore a greater opportunity for businesses.
5 So, it's time really for New York City to take action
6 alongside all of the others that are concerned about
7 this, but if we had solved the problem, we wouldn't
8 be seeing these incredible rises in disease. If we
9 had solved the problem, they wouldn't be showing up
10 with products that still contain the toxic chemicals.
11 If we had solved the problem, you know, it still
12 wouldn't be, you know, individual companies needing
13 to try and figure out how to create the safer
14 products. So, therefore, more work needs to get
15 done. So, there is a great business case for driving
16 this forward. It increases the trust amongst
17 consumers. It expands the market for safer products
18 and chemicals. Europe's legislation, you know, has
19 long since been driving even further than the
20 legislation here in this country, and that's
21 providing, you know, additional guidance, you know,
22 for the fact that there needs to be more work done in
23 this country. As I talked about it, reduce the
24 liability in the risk. Studies that we've done are

1 showing hundreds and millions of fines, hundreds and
2 millions of clean up activity, right? All these
3 kinds of things that are avoidable, right, at every
4 level at every sector because there are safer
5 alternatives that are being driven every day. They
6 talked about the products, right, in the furniture,
7 and we talked about--well, the consciousness around
8 green buildings and safer buildings has grown over
9 the last decades or so. We didn't understand the
10 same things we knew before, and now you can find wood
11 products, right? Major retailer are removing
12 formaldehyde from wood products just announced from
13 all the stores. This greater consciousness, the
14 greater understanding of the science is driving us to
15 take new actions that we didn't need to take before
16 because we have the new understandings of the
17 science, but it--

19 CHAIRPERSON ESPINAL: [interposing] Thank
20 you, sir. Would you mind wrapping it up?

21 DAVID LEVINE: Sure enough.

22 CHAIRPERSON ESPINAL: Thank you.

23 DAVID LEVINE: So, what we found is that
24 90--73 percent of small businesses support stronger
25 regulations to create greater transparency and

1 strengthen the legislation in general. The
2 opportunity is here now to create greater health at
3 the same time that we can grow businesses, create
4 jobs and build the New York City economy.
5

6 CHAIRPERSON ESPINAL: Thank you.

7 [applause]

8 CHAIRPERSON ESPINAL: Do you believe that
9 small businesses should be just as responsible as the
10 manufacturers in making sure that their products--

11 DAVID LEVINE: [interposing] So, we
12 represent--

13 CHAIRPERSON ESPINAL: [interposing] don't
14 contain chemicals?

15 DAVID LEVINE: a large majority of small
16 businesses, and as you heard in the polling that
17 we've done that they believe the regulations should
18 be there, but they also believe that they should have
19 access, you know, easier access to the information
20 and support system to enable them to meet the
21 regulations since they're not sitting with the same
22 level of capacity as the larger businesses. So, some
23 building--and this goes across all regulations, some
24 capacity to enable them through ombudsperson or
25 others to here's how you can meet the regulations,

1 building those connections between universities that
2 are doing the research, you know, between these small
3 business, between the consumer advocates, between
4 others in the industry like the ones that we're
5 working with that have been able to figure these out.
6 Those sorts of partnerships will enable us to move
7 towards greener and safer chemistry and products.

8 CHAIRPERSON ESPINAL: Okay, great. Thank
9 you so much. Appreciate it.

10 DAVID LEVINE: Thank you.

11 LAURA ORNSTEIN: Good afternoon. My name
12 is Laura Ornstein. I'm the Director of the New York
13 State Sustainable Business Council, an emerging
14 alliance of business organizations and individual
15 businesses from around the state, but along with our
16 member groups represent nearly 1,500 independent and
17 small businesses. I appreciate the New York City
18 Council taking the time to focus on the prevalence of
19 hazardous chemicals in children's products in
20 considering this legislation which I urge you to
21 pass. Earlier in 20--or actually last year now that
22 it's 2016. Last year we launched in collaboration
23 with the American Sustainable Business Council the
24 campaign Companies for Safer Chemicals New York,
25

1 which represents now over 1,000 businesses based in
2 New York or doing businesses in New York. Social
3 enterprises such as Green Depot, ABC Carpet and Home,
4 Eileen Fisher, Poshe [sic] Kids, and Seventh
5 Generation are calling for policy reform that
6 promotes safety, transparency and innovation of
7 alternatives. These businesses demonstrate that they
8 can do well while doing good, and that it's not only
9 possible, it's profitable. You know, some examples
10 of instances where the market has proven that they're
11 able to respond and eliminate these toxic chemicals
12 out of their products, with BPA when there was the
13 growing consciousness about the prevalence of BPA in
14 products. It only took a year for the market to
15 respond and rebound. So, you know, I want to
16 emphasize that this is possible. The market, you
17 know, companies are innovative. They're able to
18 develop alternatives. So, it's time for the city
19 government to step in where the state and federal
20 governments have failed and send a clear signal to
21 the market. Using harmful chemicals in children's
22 products is unacceptable. The market is already
23 shifting as large and medium-sized companies respond
24 to consumer demand. It was mentioned by the fellow
25

1 who spoke previously that companies with the
2 resources to do so are playing the role of regulator.
3 However, small independent business owners do not
4 have the same clout to demand their distributors
5 comply with their principles, but by passing this
6 legislation and putting the law on their side you'll
7 expand the tool box of New York City business owners
8 and empower them to require safer products from their
9 vendors they wish to continue doing business with in
10 the city. Improving transparency and communication
11 throughout the supply chain will lead to increased
12 confidence for downstream users and reduce supply
13 chain interruptions. The non-toxic designation will
14 also boost marketability and attract shoppers from
15 outside of the boroughs. Parents and grandparents
16 will be able to confidently shop for safe products
17 for children at stores throughout the city. As more
18 and more resources are being invested in early
19 childhood education to give the next generation the
20 best shot at a productive and successful life, let us
21 make sure they are able to fully take advantage of
22 these opportunities by ensuring kids are not exposed
23 to chemicals associated with learning and
24 developmental disorders. The children of today are
25

1
2 New York City's workforce of tomorrow. I implore you
3 not to wait and hope for another level of government
4 to step in and enforce existing--and enforce or
5 strengthen existing law, and instead take encouraging
6 a healthy community and marketplace into your own
7 hands. I commend the New York City Council for
8 considering taking action to protect kids and work
9 with business owners to make responsible choices. We
10 need elected officials to lead this effort and not
11 depend on voluntary efforts to level the playing
12 field for responsible businesses and drive
13 innovation. On behalf of the New York State
14 Sustainable Business Council and Companies for Safer
15 Chemicals New York, I strongly urge you to pass this
16 legislation. Thank you. And also there were a few
17 of our members that had hoped to be here today that
18 weren't able to, so if you'd be interested in setting
19 up separate conversations with some of our actual
20 business owners based here in New York City, I'd be
21 happy to do that.

22 CHAIRPERSON ESPINAL: Alright, thank you,
23 and thank you for addressing the point on the smaller
24 businesses not having the same amount of resources as
25 the larger ones. Thank you.

1
2 CECIL CORBIN-MARK: So, although--I'm
3 Cecil Corbin-Mark. I'm with WE ACT for Environmental
4 Justice, and I'm certainly not Martin Wolf who is a
5 wonderful human being and sadly couldn't be here
6 today. I'm reading his testimony on behalf of
7 Seventh Generation. He wants to thank the Committee
8 for this opportunity to submit written testimony in
9 support of Intro 803A, a Local Law prohibiting the
10 distribution, sale or offering or for sale [sic] a
11 children's product containing certain chemicals.
12 Seventh Generation is the nation's leading brand of
13 household and personal care products designed to help
14 protect human health and the environment.
15 Established in 1998 the Burlington, Vermont based
16 company employs over 140 people and remains an
17 independent privately held company distributing
18 products to natural food stores, supermarkets, mass
19 merchants, and online retailers across the United
20 States and Canada. Among the products that are
21 manufactured and sold by Seventh Generation are
22 laundry detergents, dish detergents, disinfectants,
23 paper products, feminine hygiene products, baby
24 diapers and baby wipes. As such, we manufacture
25 products subject to regulation by this Local Law.

1
2 The proposed Local Law is needed to ensure the health
3 and wellbeing of New York City children and would
4 stand as a statement that companies must not reduce
5 cost by increasing the risk of harm to our children.
6 As noted in Resolution T2016-3941, the Agency for
7 Toxic Substances and Disease, a division of the
8 United States Department of Health and Human
9 Services, children can be especially susceptible to
10 the adverse effects of environmental toxicants due to
11 their higher metabolic rate, increased dermal
12 exposure, shorter stature, causing them to live and
13 play closer to the ground where contaminants are
14 found, and the ability of some toxicants to be more
15 readily--to more readily penetrate children's skin.
16 As also noted in Resolution T2016-3941 validated peer
17 review and scientific research finds that a large
18 number of chemicals in use today can cause
19 respiratory and cardiovascular damage, skin disorders
20 and gastrointestinal disorders, cause skins legions,
21 cancer, developmental delays, neurotoxicity and
22 diabetes, cause kidney disease, bronchitis,
23 emphysema, and damage to the liver, lungs, bone,
24 immune system, blood, and nervous system, cause
25 cardiomyopathy, cause behavior and learning problems,

1 lower intelligent quotients, and cause hyperactivity,
2 slowed growth, hearing problems, and anemia. Can
3 also cause damage to the brain development, impacts
4 on cognitive thinking, a decrease in fine, motor and
5 visual skills, and muscle weakness. The states of
6 California, Maine, Vermont, and Washington along with
7 Albany and Suffolk and Westchester and Rockland
8 Counties in New York have each passed chemical
9 management legislation to protect children in their
10 jurisdictions. Approximately 20 other states have
11 recently seen legislation introduced. The proposed
12 Local Law is needed to protect New York City children
13 from chemicals of concern and the chronic childhood
14 conditions and costs associated with them. The use
15 of chemical hazard is a scientifically sound way to
16 prioritize chemical for lab--chemicals for labeling
17 restriction and elimination. Hazard is the ability
18 of a chemical to cause harm. Risk of harm can be
19 reduced by controlling exposure to a hazard, but the
20 only reliable way to limit risk of harm is to
21 eliminate the chemicals of concern that cause that
22 harm. Limiting exposure by other means is not
23 reliable. Few children under six have the ability to
24 read caution statements on labels. Few consumers
25

1
2 consider that products they are lovingly giving to
3 their children are the products contacting their skin
4 or being placed in their mouths may result in a
5 higher exposure to a chemical of concern than a
6 manufacturer anticipated. Attempts to limit exposure
7 ultimately fail. The only certain way to eliminate
8 the risk of harm is to eliminate the hazard.

9 Regulation of toxic chemicals protects responsible
10 businesses. Seventh Generation already excludes
11 thousands of chemicals from its formulation palate.

12 We will not use and there is no need for us to use
13 substances that are known or likely to cause cancer
14 or substances known to cause reproductive or
15 developmental harm, or that persists in the

16 environment. By prohibiting the distribution and

17 sale or offer for sale of children's products with

18 these toxic chemicals, New York City will protect

19 responsible businesses from manufacturers willing to

20 trade human safety for extra profit, lead, cadmium

21 and other heavy metals in children's products are not

22 quality assurance issues as some manufacturers will

23 have you believe. They are the consequence of a

24 value system that places pennies of profit over

25 increased risk of harm to human health. Regulation

1 of toxic chemicals promotes innovation. Seventh
2 Generation stands as proof that cost-effective
3 products that only meet consumer demands, but are
4 increasingly demanded by consumers can be formulated
5 and manufactured without chemicals of concern.
6 Failure to pass legislation to manage chemicals of
7 concern will maintain the status quo. Without this
8 local law there will be no reason for companies to
9 innovate to create safer products. Adopting the
10 proposed Local Law will force other companies to
11 innovate as Seventh Generation has while
12 simultaneously reducing the risk of harm to our
13 children from chemicals of concern. Childhood
14 exposure to toxic chemicals costs the US 76.6 billion
15 annually. On a prorated basis, this is an increased
16 cost of 700 dollars annually to every household in
17 the United States for medical expenses to treat
18 childhood diseases related to toxic chemicals
19 exposure. This more than compensates for the pennies
20 of extra cost for children's products without toxic
21 chemicals. In summary, this proposed legislation is
22 scientifically sound and would protect New York
23 City's children from exposure to toxic chemicals and
24 associated diseases and save the healthcare cost to
25

1
2 treat and manage those diseases. This legislation
3 would also protect responsible businesses from those
4 businesses willing to trade their profits for risk of
5 harm to human and environmental health. Passing this
6 legislation would drive more competitive, innovative
7 and economically sustainable industries both within
8 New York City and beyond its borders. Thank you for
9 your consideration of these comments. Respectfully
10 submitted, Martin H. Wolf, the Director of
11 Sustainable and Authenticity.

12 CHAIRPERSON ESPINAL: Thank you. Thank
13 you. I won't ask any questions since he's not here.

14 CECIL CORBIN-MARK: I could channel him
15 very well.

16 CHAIRPERSON ESPINAL: I'd like to call up
17 the next panel. Thank you for your testimonies
18 again. Joseph Shamie, Sam Shamie [sic] from Delta
19 Children's Products, Joe Shamma [sp?] from Baby Fair,
20 and Abraham Mamiye from Mamiye Brothers. Whenever
21 you're ready to begin, just state your name for the
22 record.

23 JOE SHAMIE: Good afternoon. My name is
24 Joe Shamie, Co-President of Delta Children's
25 Products. Delta is the largest manufact--

COUNCIL MEMBER GREENFIELD: [interposing]

If you could just move the microphone, that way you don't have to actually extend yourself. There you go. Thank you.

JOE SHAMIE: Thank you. I owe you one, David. Okay, Delta's the largest manufacturer of children's cribs and toddler beds in the world. We sell everybody from Pottery Barn and Restoration Hardware at the top end at 1,000 dollars down to a Walmart at 100 dollars across the board. We are a family company. Presently we have three generations, and the fourth generations are now catalogs. We are a continual company, and our children, like everyone else states here, is using our same products.

Literally half of all kids in America sleep in a Delta product. We employ nearly 200 people in the New York area. We have manufacturing in Wisconsin, places of business in California, Arkansas and basically across America. Nine test labs--it's nine correct at this point? Nine test labs throughout the world, one which I'd love you to visit right across the bridge over the tunnel actually in New Jersey to see what we do to keep children safe. Sam was instrumental in developing the Niton Analyzer. It's

1
2 the same analyzer as guns that are used to test for
3 all the lead and heavy metals. Sam was instrumental
4 in developing those back in 2007 before everything
5 started to happen and realization of where lead and
6 those other issues are. Today, we have 14 of those
7 guns at--stationed at our factories, at our test
8 facilities and in our own facility. That is an
9 investment of nearly half a million dollars. In
10 fact, we invest several million dollars a year in
11 testing all of our products, and we understand--we
12 are proud of the millions that we spend. So, where
13 someone says there's a penny pitching [sic] situation
14 going on, I take insult to that, because we actually
15 go out of our way to make sure that every single
16 product that we produce is not safe by the government
17 standards, but actually way beyond government
18 standards. Let me go on to say we also have a thing
19 called the Safe Sleep Campaign. I'm going to wait
20 for him to be listening to this one.

21 COUNCIL MEMBER GREENFIELD: We're
22 listening, you can continue.

23 JOE SHAMIE: Okay, the Safe Sleep
24 Campaign, which is the Delta Safe Sleep Campaign
25 where we providing millions of dollars in cribs at no

1
2 cost, free, to less fortunate families throughout the
3 country. We've worked with Brooklyn Borough President
4 Eric Adams to provide 500 cribs in the Brooklyn area
5 on one situation. We've worked with Senator Corey
6 Booker in New Jersey. We work with the Governor's
7 sister, Maria Cuomo-Cole, to provide in the Bronx in
8 another situation. I could go on and on and on and
9 on and on whether we--millions of dollars in safe
10 cribs provided to less fortunate families. What we
11 feel, families that would possibly do the wrong thing
12 and buy a used crib which probably would have lead
13 and other issues dealing with it. We want to make
14 sure that every child has a safe place to sleep. I go
15 out and give education classes to parents literally
16 around the country traveling to teach all parents
17 what it is to have a safe place to sleep for those
18 kids. Sam is a Chairperson of the ASTM Safety
19 Committee on Cribs. We have two other Chairperson
20 positions, two of the most sensitive issues--product
21 lines, bassinets, cribs and toddler beds, three areas
22 where the government will say you put your child to
23 sleep and you leave the room and you assume and you
24 have to know that those products are safe. It's
25 unheard of to have three people chairing and spending

1 that kind of money on that. The Consumer Product
2 Safety Commission actually insisted on Sam being
3 involved because of his commitment, and I mean strong
4 commitment, to safety along the way. Let me go on.
5 We've also produced a video together with Eric Adams
6 on safety, which is being shown at many of the
7 hospitals throughout the Brooklyn area. So, all in
8 lines [sic], our continuing commitment way beyond
9 what this panel would be aware of, way, way, way
10 beyond is our commitment to safety and making sure
11 that every child is safe in our products and all
12 products. The biggest issue facing the industry and
13 facing parents is products that don't meet these
14 standards, the basic government standards. We need
15 enforcement. We don't need additional rules, because
16 that's only going to drive more sales of less safe
17 products that are being sold on the web or in those
18 discount stores that you mentioned about earlier.
19 You're just going to turn around and make a product
20 more expensive for the people that are doing and that
21 are following the standards, driving those costs up
22 and making it less affordable for a mom, a single mom
23 or a regular family to afford products. What happens
24 is they end up buying it in a used store, on eBay,
25

1
2 *Craigslist, a used furniture store, a used clothing*
3 *store, etcetera, which will be the most unsafe,*
4 *something that you don't want. Actually, the*
5 *unintended consequences will be much more*
6 *catastrophic than leaving the existing rules and*
7 *enforcing the existing rules. We need enforcement.*
8 *All major retailers as people have stated require the*
9 *testing, buy from a reputable retailer, and you know*
10 *that these additional testing that goes beyond. I*
11 *don't think you want every state to have a different*
12 *standard as well. We need one strong standard within*
13 *America. I think that pretty much sums it up.*
14 *Anything--[off mic]*

15 SAM SHAMMIE: So, we are strong
16 supporters of the TOSCA [sic] amendment. We want the
17 government to determine, the federal government, to
18 determine what's safe and what's not. So, that is
19 extremely important to us, and we have to be careful
20 of unintended consequences of legislation.
21 Substitution chemicals do not necessarily work, and
22 they are not necessarily safer. So, we must take
23 time to vet the chemicals that are in use, the
24 chemicals that might be substituted. We must be very
25 careful on that. The federal legislation really does

1 work when enforced, and we plead with the Council to
2 enforce current federal regulation. It would be in
3 the interest of the consumers to do that. That 99
4 cents, those items that they brought here do not meet
5 federal standard. It's not about adding more
6 regulation. It's about enforcing the regulation that
7 we have. I'm extremely passionate about this because
8 I'm the one that deals with safety. I sit in with the
9 CPSC. I see details of all the incident datas and we
10 want and only try to produce safe product. Thank
11 you. Oh, by the way, every one of my children, my
12 grandchildren, my nieces, my nephews, and extended
13 family has slept and used our product. I picked it
14 up off the shelf. It wasn't specially made.

16 CHAIRPERSON ESPINAL: Now, the chemicals
17 that this bill introduced--

18 COUNCIL MEMBER GREENFIELD: [interposing]
19 I hope they got a good deal on it.

20 CHAIRPERSON ESPINAL: Now, the chemicals--

21 -

22 JOE SHAMIE: [interposing] Full retail.

23 CHAIRPERSON ESPINAL: The chemicals in
24 this bill, are they in your products?

1
2 SAM SHAMIE: We test for--you know, my
3 Niton Analyzer, the 14 guns that we do, we screen for
4 that. Now, what this legislation does is not take
5 into account use of the product. It does not take
6 into account how that chemical could be released, and
7 that's where we have issue with it. We do screen for
8 those constantly, and we have those guns at the
9 factory before the product even gets made. We're
10 testing the paint. We're testing the metals, but the
11 way this legislation is written it would actually
12 take safe product and make them illegal. So, we
13 support enforcement.

14 JOE SHAMIE: Can I just add? If you go
15 on our website, deltachildren.com, you'll actually
16 see the test wave in action, see what we do to test
17 all products, and again, I invite you to come see the
18 test facility, because I think if you're concerned,
19 which I know you are, with safety and making things
20 happen, let me show what goes on.

21 CHAIRPERSON ESPINAL: I would love to go.

22 JOE SHAMIE: Okay, so we'll work on an
23 invitation on that. David, you going to join us,
24 Dave?

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COUNCIL MEMBER GREENFIELD: I'm very impressed at how you managed to plug your own website on--

[laughter]

JOE SHAMIE: [interposing] I have a Twitter feed also.

COUNCIL MEMBER GREENFIELD: at our hearing.

JOE SHAMIE: Let me give you the Twitter.

COUNCIL MEMBER GREENFIELD: Yeah. Is that nycgreenfield, is that the same Twitter feed as me?

JOE SHAMIE: I saw your Twitter--

COUNCIL MEMBER GREENFIELD: [interposing] Let me ask you a serious question, though, before we move on, because I'm really not an expert in this, but something that you mentioned was, and I've been googling it while you're--that's actually kind of scary. I've been googling it while you mention this, is the problem with used cribs. Can you talk a little bit more about why used cribs are actually a problem for those same six people who are watching at home?

1
2 JOE SHAMIE: Okay, several reasons.
3 First of all, they don't meet the current latest
4 standards. It depends on how used they are, how many
5 years ago that they were produced. So, they could
6 have missing parts. Very, very common that you buy a
7 used crib, it has a make-shift screw, a broken slide
8 rail, a slate, the glue gave--is no longer holding
9 through. It's been stored in a garage, stored in a
10 basement, mildew conditions. Just like think about
11 your own furniture, over a course of many years
12 doesn't it lose some of its strength, and--

13 SAM SHAMIE: [interposing] Sometimes used
14 as shelves in garages.

15 JOE SHAMIE: Exactly. So there's a lot
16 of wear and tear that could have happened in where it
17 was stored as well as missing parts. It's literally
18 the most dangerous thing. I say I'm glad I'm being
19 filmed on this. It is the most dangerous thing a
20 parent could do for their child is to buy a used
21 older crib. It doesn't meet the current standards
22 and it probably is super unsafe. You could buy a
23 really safe, brand new crib for about 100 bucks. It
24 doesn't have to be a Delta crib, but
25

1
2 deltachildren.com. You don't have to buy a Delta
3 crib. Buy any crib at the current standard.

4 COUNCIL MEMBER GREENFIELD: So your point-
5 -so part of your point is that the standards have
6 changed and improved over the years, and therefore,
7 aside for the wear and tear, standards have changed
8 and improved. So if you have a--if your neighbor has
9 a crib that's 10 years old, that may no longer meet
10 the current standards.

11 JOE SHAMIE: It 100 percent does not meet
12 the current standard.

13 COUNCIL MEMBER GREENFIELD: Okay.

14 JOE SHAMIE: One hundred percent. Sam
15 worked with the CPSE and wrote new legislation about
16 three, four years ago? About four years ago we wrote
17 new legislation.

18 SAM SHAMIE: It eliminated drop-sides.

19 JOE SHAMIE: Exactly, drop-sides
20 eliminated, strength, the slat testing were
21 increased, everything went across the board was
22 changed. And again, come see the testing.

23 CHAIRPERSON ESPINAL: Thank you. Thank
24 you. Thank you, appreciate it.

1
2 SAM SHAMIE: Abraham, I'm sorry if we
3 took over.

4 ABE MAMIYE: No problem. Good afternoon
5 Chairman Espinal, Councilman David Greenfield and
6 other members of the City Council. We're here today
7 to help us figure out how to make our New York City
8 families, children safer. My name is Abe Mamiye, and
9 I was born and currently living in Brooklyn. I'm the
10 father of five children, two grandchildren, and their
11 health, safety and wellbeing is my highest concern.

12 I am the Vice President of Global Sourcing and Mamiye
13 Brothers. Mamiye Brothers was established in 1947.

14 My father, a World War II veteran and his three
15 brothers established the company. We're based right

16 here in New York City on this very street up on
17 Broadway and currently employ approximately 200

18 people. We pride ourselves in producing and
19 distributing only high quality, safe, fashionable,

20 and affordable branded apparel under several

21 different national brand names such as Little Me,

22 Flapdoodle [sic], Splendid, Ella Moss [sic], Guess,

23 and Best Beginnings. In 2008, I was involved in

24 performing a coalition of over 100 apparel companies

25 called the Coalition for Safe and Affordable

1 Children's Wear in order to work with members of
2 Congress, government agencies and industry
3 associations to make the CPSA more practical and
4 manageable for the children's apparel industry. I
5 commend the city for its initiative and efforts to
6 make children's products safer. We share this goal,
7 and it is quite frankly it is what I focus on every
8 working day. However, I learned long ago that what we
9 do has to be practical and sensible. I read and
10 reviewed the pending legislation, and quite honestly
11 I believe it will add unnecessary complication,
12 unnecessary redundancy and cost to our business and
13 cause more confusion to an already complex process.
14 Frankly speaking, it will have devastating effects on
15 the many businesses and could unfairly put some
16 companies at danger of closure. The new proposed
17 standards and chemistry levels would be nearly
18 impossible for companies to follow correctly leaving
19 apparel companies susceptible to massive fines and
20 penalties which will certainly hurt their business.
21 As Council Member David Greenfield alluded to
22 earlier, New York City probably does not have the
23 ability to determine what chemical levels and what
24 products can be deemed hazardous and unsafe. Let's
25

1 focus on enforcing existing standards. Honestly
2 speaking, all the products shown earlier was subject
3 to federal laws and clearly the failure's not in
4 legislation, but in enforcement. We urge you to
5 amend the legislation that would establish a
6 burdensome, unworkable, chemical regulatory program
7 that it would only add to the existing federal laws
8 as well as the increase in the complex patchwork of
9 state chemical laws. Without demonstrating a public-
10 -a benefit to public safety, there's no need to add a
11 new standard, but instead just follow the local
12 enforcement of the federal laws that already exist.
13 For example, CPSC, FSHA, these laws ensure that
14 hazardous children's product would not be able to be
15 distributed. Additionally, many of our retailers
16 have standards that are equal to or higher than
17 federal standards and are rigorously enforced. I
18 invite any of you to speak to me on any of these
19 matters at your convenience. Thank you.

21 CHAIRPERSON ESPINAL: Thank you.
22 Appreciate your testimony. David, you have any
23 questions for anyone [sic]?

24 COUNCIL MEMBER GREENFIELD: I do not.

25 CHAIRPERSON ESPINAL: Thank you.

1
2 COUNCIL MEMBER GREENFIELD: Thank you
3 all.

4 SAM SHAMIE: Thank you.

5 JOE SHAMIE: Thank you.

6 ABE MAMIYE: Thank you.

7 CHAIRPERSON ESPINAL: I'll call the last
8 panel. I look forward to visiting your shop soon.
9 Jordan Christensen, Maida Galvez, Rob Kornblum,
10 Muhammad Dalhatu, Cheryl Reig [sic], and Cecil
11 Corbin-mark, and again I apologize if I mispronounced
12 your name. I'm trying to read 10 different hand
13 writings at the same time, little difficult.

14 JORDAN CHRISTENSEN: Am I on? Okay. Hi,
15 my name's Jordan Christensen and I'm here today
16 representing Citizens Campaign for the Environment.
17 We're an 80,000 member nonprofit, nonpartisan
18 advocacy organization based in New York and
19 Connecticut, and we're here to strongly support the
20 legislation. According to the Washington State
21 Department of Health, over 5,000 children's products
22 contain chemicals of high concern. So as we've heard
23 from so many other speakers, these are linked to
24 learning disabilities, chronic health problems,
25 cancer, reproductive issues, and children are

1 especially vulnerable due to their developing bodies
2 and their small size. Researchers estimate that
3 children can ingest 10 times the amount of toxic
4 chemicals as adults due to their proximity to the
5 ground and their tendency to put their hands and
6 other objects in their mouths. Manufacturers that
7 willingly and knowingly utilize toxics and items
8 designed for children should find stop sign in all
9 five boroughs. Tolerating toxics in children's
10 products is not supported by the public and should
11 not be supported by our elected officials either.
12 Some of the most worrisome chemicals found in
13 children's products are the heavy metals that we're
14 discussing today, and these can cause significant
15 harm to human health. So, just a quick run-down.
16 Lead, particularly dangerous to children under six
17 and under. Even low levels of lead exposure can
18 result in behavior and learning problems, lower IQ,
19 hyperactivity, slowed growth, hearing problems, and
20 anemia. Mercury damages gastrointestinal tract,
21 nervous system, kidneys, and cause muscle weakness
22 and memory loss. Antimony exposure can cause long
23 term damage to the lungs and heart as well as stomach
24 ulcers. Arsenic has been linked to cancer of the
25

1 bladder, lungs, skin, kidneys, nasal passages, liver,
2 and prostate. Cobalt effects the lungs causing
3 respiratory irritation, wheezing, asthma, pneumonia,
4 and emphysema. Cadmium can cause cancer, emphysema,
5 bone disease, and kidney damage. It's not only
6 directly through these products that children are
7 exposed to these chemicals, but some of the chemicals
8 are released over time and bind to dust particles in
9 the air. Others are found in water, and mercury in
10 particular is found in fish. Banning the worst
11 offenders from children's products is just common
12 sense. It's irresponsible to continue allowing
13 children to be unnecessarily exposed to these
14 chemicals. Other counties throughout the state, as
15 you've heard Rockland, West Chester, Suffolk, Albany
16 have all enacted similar legislation, as have other
17 states. We urge you to pass this introduction today
18 not only for New York City but also to push the state
19 and federal regulatory agencies and legislators to
20 act. Thank you.

22 MAIDA GALVEZ: Good afternoon, Council
23 Members. My name is Maida Galvez. I'm a
24 pediatrician at Mount Sinai and I'm representing
25 pediatricians and scientists at the Children's

1
2 Environmental Health Center at the Icahn School of
3 Medicine at Mount Sinai, which is a collaborating
4 center in children's environmental health of the
5 World Health Organization. I'm also here today
6 representing the New York State American Academy of
7 Pediatrics, which fully supports this bill. We
8 strongly support New York State's proposed
9 legislation entitled the Child Safe Products Act
10 Intro 803A in relation to regulation of toxic
11 chemicals in children's products. This legislation
12 is a major step forward with respect to chemical
13 reform in New York State and has significant
14 potential to reduce exposures to toxic chemicals in
15 vulnerable populations including infants, children,
16 adolescents, and pregnant women. We have witnessed
17 firsthand the need for chemical reform. Reports of
18 documented children's exposures to lead, cadmium,
19 arsenic and mercury in a wide array of children's
20 products. Determining which children's products are
21 safe is an impossible task for parents, leaving them
22 overwhelmed, frustrated and concerned about their
23 children's safety. As an environmental pediatrician,
24 the single most common clinical question we get from
25 parents is, "Is this product safe for my child?" And

1
2 it's an impossible question to answer even with the
3 work we're doing here at Mount Sinai, it is hard to
4 get to the bottom of that question. The burden
5 cannot remain on the consumer to figure this out.
6 When reports come out on the latest children's
7 products of concern with respect to the media,
8 parents ask, "Why didn't I know about this?" And so
9 that points to the fact that the existing regulatory
10 system is not good enough. Legislation that
11 specifically addresses children's unique
12 vulnerabilities with respect to environmental
13 exposures is urgently needed. Most critically,
14 children's products must be deemed safe prior to them
15 being placed on the market for mass consumption. The
16 CDC report on human exposures documents that as a
17 family walks through their daily lives they're
18 exposed to a wide array of environmental chemicals.
19 Disparities and exposures are seen by race,
20 ethnicity, income, with the poorest families at
21 highest risk of exposure. Pregnant women and
22 children are the most vulnerable to these exposures.
23 The proposed legislation allows for more
24 comprehensive consideration of potentially harmful
25 chemicals in children's products, and as we heard,

1 many locations have enacted such legislation.
2 Parents across New York State and their pediatric
3 care providers throughout the country are demanding
4 such reform. In summary, passage of this legislation
5 sends a clear statement that children's environmental
6 health is a top priority and that New York State will
7 not continue to allow products to be tested in the
8 global market only to see whether decades later there
9 is a potential for harm. To protect the health of
10 New York State children, we must ensure that
11 children's toys, products and clothing are free from
12 harmful chemicals, and we'd be more than happy to
13 follow up with you regarding any potential questions.
14 I can also speak a little bit to the issue that you
15 had raised, Council Member Greenfield, on the CPSC
16 existing framework and Consumer Product Safety
17 Improvement Act of 2008 from my pediatrician's
18 understanding, and I am not an expert on this at all,
19 but from what I understand, Consume Product Safety
20 Commission regulates children's toys. The Safety
21 Improvement Act of 2008 then further said the
22 existing standards for lead are not safe enough, so
23 we must expand that regulatory framework to include
24 children's toys and products and lower the allowable
25

1 level of lead in those children's toys and products
2 as defined by an expert panel. It wasn't across the
3 board in terms of products, and it was specifically
4 only for lead and cadmium, and something else that's
5 not on this bill specifically, but thaloids [sic].
6 And so there are existing gaps in existing framework.
7 There are gaps in the existing Improvement Act of
8 2008, and this legislation tries to address some of
9 those gaps, and what I appreciate from hearing today
10 is your efforts to say what can we do now to act,
11 because we can't wait, and I was also glad to hear
12 from all the presenters this morning that there's
13 common ground, that we all agree that the safety of
14 the children comes first, and I think if we all work
15 together we can identify ways to ensure that what we
16 all want, safe products for kids on the market, can
17 happen. And I think there's expertise here in New
18 York City really as was mentioned earlier, premier
19 expertise. You have some of the top environmental
20 advocates here in the room. You have some of the top
21 environmental health scientists and clinicians, and
22 premier public health agencies and consumer affair
23 agencies. I think if there are--if there's a group
24

1
2 that can figure this out, I think New York City can
3 do it. Thank you.

4 ROB KORNBLUM: Thank you, Council
5 Members. My name is Rob Kornblum. I'm a Staff
6 Attorney and a Consumer Protection Campaign Organizer
7 with NYPIRG, New York Public Interest Research Group,
8 which is the largest student-directed advocacy
9 organization in New York State specializing in
10 consumer and environmental protection. More than 50
11 years ago President Kennedy laid out the cornerstones
12 of modern consumer protection, identifying principles
13 necessary to protect the public and form effectively
14 functioning market economy. President Kennedy's
15 Consumer Bill of Rights was held at the time in 1962
16 as opening a new era in consumer protection. There
17 are three key principles that are very relevant and
18 continue to be vital today in 2016. First, the right
19 to meaningful information, not just enough
20 information for right now, but truly meaningful
21 information, the right to choice and the right to
22 safety. Not just enough safety to get us over a
23 line, the right to real safety, and these rights are
24 fundamental. They're synergistic and inseparable.
25 They complement each other and ensure that the other

1 rights are meaningful and realized themselves. If
2 there's no choice, meaningful information becomes
3 mute. If there is choice, but no meaningful
4 information, then the choice was elusory all along,
5 and if a product is unsafe, information and choice
6 are of little benefit. And despite what we've heard
7 from some, you know, from parents, just close enough
8 to safe is not safe enough. Consumers shopping for
9 children's products have right now an astounding
10 array of varieties and choices, but when unsafe
11 constituents come in the form of invisible yet potent
12 toxic chemicals, consumers are deprived of meaningful
13 information about these products intended for use by
14 their children to wear normally, to sleep in, to
15 handle, and use throughout the day. Accordingly,
16 consumers have no way to know if the products they
17 buy that will be in close and regular contact with
18 their children when use as intended will make their
19 children ill now or in the future. This is a
20 correctable market failure. Parents and other
21 caregivers as has been said by plenty cannot be
22 expected to bring a testing kit with them every time
23 they go shopping to sample and laboratory test each
24 product for toxic chemicals before a purchase, and
25

1 obviously not every parent can afford or find
2 products that are guaranteed to be toxic-free if such
3 products even exist at all. But ensuring that
4 children's products are safe is not only an
5 appropriate role for government, specifically local
6 government in New York City, it is an essential role
7 for government. This legislation, which we strongly
8 support, will improve parent's confidence that the
9 children's products on store shelves within New York
10 city are free of dangerous levels of these six toxic
11 chemicals, and that confidence must be based in the
12 reality that New York City specifically this
13 committee and this New York City Council won't allow
14 products that can harm their children when use as
15 intended to be sold in store shelves. In prohibiting
16 the sale and distribution of such dangerously toxic
17 children's products, we're encouraged that New York
18 City--that the New York City Council an lead the way
19 for our state, for our nation to take similar
20 measures and protect children's health, and it would
21 also--passing this legislation would also send a very
22 important message to product makers to eliminate the
23 presence of toxic chemicals in consumer products,
24 particularly those designed for use by children.
25

1
2 NYPIRG strongly urges the New York City Council and
3 this Committee on Consumer Affairs to approve this
4 important legislation. Thank you.

5 MUHAMMAD DALHATU: Good afternoon
6 distinguished members of committee. My name is
7 Muhammad Dalhatu. I'm here representing Stephan
8 Edel, the Policy Director of the Center for Working
9 Families. I am pleased to offer the following
10 testimony in support of the proposed Introduction
11 Number 803A to amend the Administrative Code of the
12 City of New York in relation to the sale of
13 children's products containing certain chemicals.
14 This bill would provide penalties for ignoring [sic]
15 within [sic] children's products that contain known
16 hazardous chemicals. The Center for Working Families
17 is a nonprofit, nonpartisan organization committed
18 policy development and promotion. Through research,
19 public education, leadership, government, issue
20 campaign organizing, we work to articulate and
21 implement concrete policy, public policies that
22 advance working people and working families. Expert
23 chemists and advocates have identified serious health
24 impacts of these chemicals that toxicity is not a
25 debate. There's a scientific consensus that total

1 content standards are reasonable and effective
2 measure with the presence of toxic chemicals. The
3 only contested issue whether the city should have a
4 role in enforcing reasonable standards with civil
5 penalties. The center for working families strongly
6 supports the passage of the proposed introduction
7 which will reduce the chance of exposing children to
8 harmful chemicals and encourage industries producing
9 of purchasing products for the New York market adhere
10 to high standards when making decisions. While
11 various state and federal agencies attempt to
12 regulate children's product safety, many experts have
13 argued for higher standards. Businesses and
14 consumers alike want children's products to be safe
15 by setting a clear bar to this level of toxins. The
16 bill offers clarity to businesses and reassures
17 families. Complying with the law will not be unduly
18 burdensome and will ensure our children's products do
19 not contain unsafe levels of known toxic chemicals.
20 This is a concern for low income communities of color
21 that are already burdened by disproportionately
22 environmental and toxic burdens. One report by the
23 physician [sic] for children [sic] show [sic]
24 responsibility on toxic chemicals. Exposure from the
25

1 toxic chemicals exposures create a specific burden by
2 communities of color, indigenous people and low
3 income communities. Their research showed that New
4 York City discount stores in low income areas were
5 commonly, and I quote, "selling more lead laden toys
6 and truly [sic] contain cadmium, a known cartigen
7 [sic] that causes kidney and immune system damage,
8 than in other stores in more affluent communities."

9 As our city government focuses on creating an
10 equitable and healthy city, ensuring that we are not
11 for [sic] the burden [sic] of the movement [sic], the
12 most vulnerable children must be a top priority.

13 Thank you for the opportunity to provide this
14 testimony. We urge you to pursue [sic] the health of
15 New York City's children by passing the Introduction
16 803A. Thank you.

17
18 CHAIRPERSON ESPINAL: Thank you for your
19 testimony. David?

20 COUNCIL MEMBER GREENFIELD: Once again,
21 in my attempt to get some more clarity here, because
22 you folks are the experts. I'm a mortal City Council
23 Member. So, one of the things that sort of struck me
24 in the testimony is that honestly we heard a little
25 bit of different things from different folks, and

1 this is sort of my concern. I guess back to my
2 original point, I would love to have some clarity.
3 Some of the folks originally were saying we should
4 have none of these chemicals in the--in anything,
5 right? And then other folks were saying, well it's
6 okay to have some of it, and I heard there are safe
7 levels. So I'm little bit confused honestly. I'm
8 really trying to understand what--I mean, so are we
9 trying to get rid of all the chemicals? Are we
10 trying to get rid of the some of the chemicals, a
11 certain percentage of the chemicals? I mean, Doctor,
12 I'm looking at you in particular because you happen
13 to have a fancy title in front of your name and
14 you're representing an institute. So, can you
15 explain us how do you determine how much chemicals
16 are okay, what if we had a little bit less? Why
17 shouldn't we just get rid of all the chemicals? I
18 mean, you know, we have organic fruit. I try to buy
19 it for my kids. It's healthier. There's nothing
20 they claim at least. The Governor yesterday at the
21 State of the State said that maybe the organic fruit
22 is not organic now. I'm stressing out. But the point
23 is that that's why the Attorney General's going to
24 start enforcing the standards, but the point that I'm
25

1 saying is that was a good idea, right? The Attorney
2 General is now going to enforce standards on what's
3 organic. So, I'm all for that. Let's start
4 enforcing the levels that are already there, but how
5 are you determining sort of what standards there
6 should be or how the standards should be? That
7 honestly has me little bit confused. Can you provide
8 some clarity on that, Doc?

10 MAIDA GALVEZ: Sure. I will do my best to
11 answer that question. I think it is a very difficult
12 question actually, is what is safe for kids, and I
13 think if you use the example of lead, it was a moving
14 target over the past several decades. So, in the
15 past they used to think a lead level of 100 was
16 normal. It was totally fine to have that, and now we
17 know that levels as low as five are associated with
18 IQ deficits, and so I have--

19 COUNCIL MEMBER GREENFIELD: [interposing]
20 You're talking about five per million?

21 MAIDA GALVEZ: Five micrograms per
22 deciliter.

23 COUNCIL MEMBER GREENFIELD: I don't know
24 what that means.

25 MAIDA GALVEZ: So, your--

2 COUNCIL MEMBER GREENFIELD: [interposing]

3 I'm looking at the legislation--

4 MAIDA GALVEZ: I'm talking about--

5 COUNCIL MEMBER GREENFIELD: [interposing]

6 that we have.

7 MAIDA GALVEZ: I'm talking about
8 population levels. So this is the lead level in the
9 blood in the child, and as we've identified that
10 blood lead levels--

11 COUNCIL MEMBER GREENFIELD: [interposing]

12 Yeah.

13 MAIDA GALVEZ: are associated with
14 clinical affects in population based--

15 COUNCIL MEMBER GREENFIELD: [interposing]

16 Okay.

17 MAIDA GALVEZ: studies--

18 COUNCIL MEMBER GREENFIELD: [interposing]

19 We all agree.

20 MAIDA GALVEZ: Some of those standards
21 that you're seeing--

22 COUNCIL MEMBER GREENFIELD: [interposing]

23 Yeah.

24

25

1
2 MAIDA GALVEZ: have also dropped, and so
3 that's why it's been a moving target, and that's why
4 it's so hard to sort of--

5 COUNCIL MEMBER GREENFIELD: [interposing]
6 Okay, but then that becomes difficult for us as
7 legislators who aren't necessarily experts in this
8 field to figure out. So, when you're saying you don't
9 want antimony, I don't even know what antimony is
10 quite frankly, but it sounds scary. You don't want
11 antimony over 40 parts per million. Why shouldn't it
12 be 35 parts per million or 45 parts per million? I
13 don't even know how many parts per million there are
14 right now or according to the first person who
15 testified--what was your name ma'am?

16 JORDAN CHRISTENSEN: Jordan.

17 COUNCIL MEMBER GREENFIELD: Jordan
18 doesn't want any antimony, at least that's what I
19 understood from her testimony, and--

20 JORDAN CHRISTENSEN: [interposing] No, we
21 support the legislation in its current body.

22 COUNCIL MEMBER GREENFIELD: Okay.

23 JORDAN CHRISTENSEN: Of course we would
24 like to have no lead in children's--
25

COUNCIL MEMBER GREENFIELD: [interposing]

Yeah, I understand, but that's actually what you said.

[cross-talk]

COUNCIL MEMBER GREENFIELD: Once again, I'm talking about whether we support the legislation or not, I'm talking about the goal, right? So the point is maybe we should ban antimony, which I still don't know what it means, but I'm sorry, it's for the panel only. So, can you just answer that specifically? I mean, it's honestly a little bit of a cop-out, Doc, to say, you know, it's difficult to say what isn't safe, but we want to legislate, right? So, like what is--how are we deciding that 40 parts per million of antimony is okay, but 41 parts per million is not okay, and why aren't we going down to 35 parts or no parts? Genuine question, I'm really trying to understand this.

MAIDA GALVEZ: It's a great question.

COUNCIL MEMBER GREENFIELD: And it relates to what I originally said, which is--and you know, some folks said, you know, no one can figure out. Certainly no one can figure it out. I don't even know what antimony is. Which is, I don't want to be

1
2 COUNCIL MEMBER GREENFIELD: But that's
3 okay with me as well. I'm just once again, like I
4 said, at this point in the hearing only three people
5 are watching because the six people who watched,
6 three of whom fell asleep while watching, so for the
7 final--

8 MAIDA GALVEZ: [interposing] Four.

9 COUNCIL MEMBER GREENFIELD: So, for the
10 final three people, I'm just trying to loop in the
11 conversation.

12 MAIDA GALVEZ: So I'm saying for each--

13 COUNCIL MEMBER GREENFIELD: [interposing]
14 Okay. Yes?

15 MAIDA GALVEZ: chemical they take into
16 account all of those factors.

17 COUNCIL MEMBER GREENFIELD: Okay, but you
18 can't tell me why 40 versus 41 or 39, you cannot tell
19 me that.

20 MAIDA GALVEZ: Those, those--

21 COUNCIL MEMBER GREENFIELD: [interposing]
22 That's okay.

23 MAIDA GALVEZ: existing standards are
24 constantly debated as to whether or not they're
25 sufficiently--

1
2 COUNCIL MEMBER GREENFIELD: [interposing]
3 I understand.

4 MAIDA GALVEZ: protective of children's
5 health.

6 COUNCIL MEMBER GREENFIELD: I understand.

7 MAIDA GALVEZ: And sometimes they're
8 based on industry standards that have been in
9 existence for many, many years, and there's emerging
10 evidence that suggests that lower levels of exposure
11 place these children at greater risks now.

12 COUNCIL MEMBER GREENFIELD: Alright,
13 thank you for that information. If not quite the
14 answer, but I certainly appreciate it, and I thank
15 the panel for your advocacy and for your work, and
16 I'm certainly hopeful that working together we can
17 get something done here in the City of New York.
18 Thank you very much.

19 CHAIRPERSON ESPINAL: Thank you, David.
20 I think we have one more?

21 UNIDENTIFIED: So, for Council Member
22 Greenfield in particular, rather than sort of go
23 through my full testimony which will be submitted to
24 you guys, what you would have heard from me is a lot
25 of focus on the fact of health disparities in

1
2 particular communities like the one that I've lived
3 in all my life, West Harlem, but I think you all know
4 about that. I want to focus a little bit on some of
5 the things that we have heard over the course of the
6 day, and I particularly want to sort of help Council
7 Member Greenfield part in parcel how some of those
8 numbers are arrived at.

9 COUNCIL MEMBER GREENFIELD: I have three
10 minutes, just for the record. So, take as much time
11 as you want as long as it's not more than three
12 minutes.

13 UNIDENTIFIED: As long as--

14 COUNCIL MEMBER GREENFIELD: [interposing]
15 Because I have other things that unfortunately I have
16 to attend to today.

17 UNIDENTIFIED: So, I don't want to take
18 more than three minutes. Some of those standards,
19 the standards that you're looking at in the bill, by
20 the way, come from the ASTM, which is in fact sort of
21 industry derived and driven process setting of those
22 standards. I wanted to be clear about that. When you
23 look at some of those standards, the numbers that you
24 see there are arrived at in part by what is
25 technically achievable in a repeated way to find and

1 test for the particular level in a particular
2 product. So that's one way in which those things are
3 determined. It's not sort of like completely
4 arbitrary, although what we are finding what we are
5 finding which is what connects to what Doctor Galvez
6 was saying, is that as the knowledge around what's
7 harmful to the health of particularly children
8 changes, those numbers need to change. Instead, what
9 you have happening is that industry stands in defense
10 of those, and we as the advocates have really worked
11 hard to try to make sure that this is not an anti-
12 business bill. We do not want store shelves empty.
13 In fact, you can see with regulations that already
14 exist, whether they're at the federal level which
15 I'll come to in a second, there are no empty store
16 shelves. The problem is not that we will have empty
17 store shelves, it's that there are loopholes in the
18 way in which these laws are enforced, and there are
19 also loopholes in what they are looking for. Those
20 things expose our children, and that's why we know
21 that the City Council needs to act. It's in that
22 breach that we need these bills to actually come
23 forth and protect children. That's why we're calling
24 for it. It's not about trying to make it more
25

1
2 difficult for business. In fact, you have the
3 European Union under the reach protocols and they're
4 doing just fine. I mean, this notion that all of a
5 sudden because we try to protect the health of our
6 kids, we try to protect the environment that we are
7 suddenly burdening businesses in such a way, it's
8 ridiculous. You've heard today from Seventh
9 Generation, a very robust company. We have other
10 folks that we can bring forth that are right here in
11 the City of New York. They are doing business by
12 respecting the health and the environment and doing
13 well at the same time. And so when you ask about
14 things like how it's confusing, yes, it is confusing
15 I understand that, but I want you to be clear, these
16 are not arbitrary standards. In fact, these are the
17 very same standards that these folks pushed to have,
18 and when I say these folks I'm talking about the Toy
19 Industry Association, juvenile products
20 manufacturers, the chemical--the American Chemistry
21 Council. These folks sat at the table when the
22 advocates pushed for more protection and were able to
23 get these standards in place, and so now they come
24 before you and say, oh it's written in this bill like
25 they've not read the bill, and suddenly saying that

1
2 it is too much regulation and we don't need more
3 regulation. So, I just want to be clear about that.
4 On the issue of the sort of federal sort of trica
5 [sic], if you will, of policy pieces that are in
6 place whether it's CSPA and the Hazardous Substances
7 Act. Just to be clear so the Council Members know,
8 and as a lawyer, Council Member Greenfield, you can
9 go back and read the Hazardous Substances Act. What
10 it does is it makes labeling. It's a labeling bill
11 at its core. It essentially requires them to label
12 things, and so that labeling in and of itself is not
13 something that will protect children, right? It's
14 not protective of children just to put a label. In
15 fact, you heard someone here testify that six year
16 olds aren't reading caution statements. You said you
17 have kids. I have had a child, and you know how they
18 get into things and they're certainly not reading
19 labels.

20 COUNCIL MEMBER GREENFIELD: Yeah, and
21 listen, I'm out of time. I just want to--I hear what
22 you're saying. Here's my--here's still the
23 confusion/concern. I own products by Seventh
24 Generation, but I would not agree with the idea, and
25 if that's what you're proposing I just want to just

1
2 be clear that with all due respect to Seventh
3 Generation that we should only be able to buy Seventh
4 Generation products.

5 UNIDENTIFIED: Not at all.

6 COUNCIL MEMBER GREENFIELD: Let me just
7 finish my point. And that is part of the problem
8 here, which is that at the end of the day there are a
9 lot of products, and quite frankly, you know, I'm as
10 concerned about the detergent, right? Think about
11 that for a second, the detergent that I use for my
12 children's clothing, which is actually one of the
13 projects, one of the environmental products that I--
14 safe products that I purchase. Perhaps even more
15 concerned than the clothing itself, right, because
16 that's the--that's the soaps and detergent that
17 you're using literally goes into--so you could have
18 the--right? Think about what happens, right? People
19 don't realize this, and just to show you that I'm
20 actually aware of the issue. You can have perfectly
21 wonderful toxic-free clothing and then you use the
22 detergent, and you've now made that clothing toxic,
23 right? So, I'm well aware of the basic issues, I
24 think as an informed consumer. But I do want to be
25 clear is that even though I own Seventh Generation's

1 laundry detergent and I think it's lovely and
2 wonderful and it smells nice, I would not pass a law
3 that only Seventh Generation--we can only use Seventh
4 Generation laundry detergent. You see what I'm
5 saying? Let me just finish my point over here. And
6 at the same time, I also don't parents who are
7 watching this to be like, "Oh, my God, I got to throw
8 out the Tide." I'm not going to comment on Tide, but
9 I don't want them to do that either, right? So, this
10 is my point in terms of sort of finding the balance.
11 So, I'm all for getting something done, and I'm all
12 for the enforcement of the standards that already
13 exist because it seems like especially in communities
14 of color that those are not being enforced in those
15 communities. They're getting a higher proportion of
16 toxic laden toys than other communities. I do
17 however think that before we create a standard, which
18 is what we're being asked to do, a new standard, we
19 need to understand and know and have the ability to
20 sort of run through it and figure out why it is,
21 which comes back to my original question on antimony,
22 and I'm sure you can give me a lecture on what
23 antimony is, but I don't have time. Why we're doing
24 40 parts per million as opposed to 39 or 41, that's
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1 the point, and that's a salient point, and also the
2 point that, you know, there is always a balance that
3 has to be found, right? Seventh Generation is great.
4 We plugged them already four times over here. I'm
5 sure they have a website as well, but other
6 manufacturers are entitled to sell their detergent as
7 well, and that's sort of part of the struggle that we
8 have. So, I certainly--

10 UNIDENTIFIED: [interposing] We're doing--

11 COUNCIL MEMBER GREENFIELD: [interposing]

12 I certainly--I apologize, but I have to leave, but I
13 certainly appreciate what you guys are doing and I
14 support what you guys are doing. I'm just trying to
15 figure it out and make sure that we're doing it in a
16 responsible way.

17 UNIDENTIFIED: Very simply, we're doing
18 antimony at 40 parts per million because that is the
19 standard that the industry drove for and that's
20 what's in the ASTM. That's why we're doing it. We
21 did not arbitrarily pick these standards ourselves.
22 They are exactly as I've just said. That's where
23 they come from and they're based on what can be
24 technically achievable--

COUNCIL MEMBER GREENFIELD: [interposing]

If you can send me--I'd be happy to read it. So here's what I would say, because that's not what we heard from people who are testifying today, right? So, if we could--if you could send me that information in more detail--

UNIDENTIFIED: [interposing] Absolutely.

COUNCIL MEMBER GREENFIELD: in terms of what is it, why is that magical. My point is, and I'm seriously speaking about this, we're not--it's not about the industry. If we think that 30--if you think that 35 million per parts is better than 40, then let's talk about that, right? Let's have a conversation with more of the facts, and if you could send me some of those details--

UNIDENTIFIED: [interposing] I certainly will.

COUNCIL MEMBER GREENFIELD: I would be grateful--

UNIDENTIFIED: [interposing] It's not what we think. Again, it's not what we thing.

COUNCIL MEMBER GREENFIELD: I would be--I would be grateful for that. No, I'm disagreeing with you. I think what you think important. I want to know

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2 what you think, because if you have a salient point
3 that it's better than the industry, perhaps we should
4 be pushing for that, and that's what we're trying to
5 figure out over here. Thank you very much.

6 UNIDENTIFIED: I appreciate that. Just a
7 few other points as I make it clear as I wrap up. You
8 know, one of the things that we heard today from the
9 folks at the Chemistry Council, the juvenile products
10 manufacturers and so forth was that, you know, there
11 are these existing standards, and part of what we are
12 coming here today to say to you is that yes, there
13 are these existing standards and absolutely we have
14 no problem with co-enforcement. We will gladly say
15 co-enforce what the federal standards are, but there
16 is still a gap even when you co-enforce the federal
17 standards, and so we urge you all to really look at
18 that fact and figure out how you can sort of work
19 with information you've had to pass this piece of
20 legislation. The risk paradigm that is bandied [sic]
21 about is what a lot of the folks will say is why we
22 should have, you know, chemicals in products at
23 particular types of doses, but one of the things
24 about the risk paradigm that's used is that it
25 actually is based on a one chemical at a time

1 analysis and a one product at a time analysis, and
2 the reality is is that many of our kids, particularly
3 those in low income communities are coming into this
4 world, as has been documented by studies by groups
5 like the Environmental Working Group and others,
6 folks out of North Carolina and the Environmental
7 Research Center down there, those studies are telling
8 us that folks, particularly people of color, children
9 of color are coming into this world already pre-
10 exposed, and so the notion that they're living in a
11 world where they're only interacting with one
12 chemical at a time or one product at a time is a
13 false notion, and that's the complexity of all of
14 these multiple synergistic kinds of chemical
15 exposures that we have to recognize that our kids
16 need to protected from. And that's why we advocate
17 for pushing for these things to be even further
18 protective of our children. You know, the fact that
19 these laws, the federal laws, are out there on the
20 books, we--I encourage you Chairman Espinal to come
21 with us and we will go shopping wherever you want in
22 as many boroughs that you want. If you don't think
23 that what we did was really sort of comprehensive, we
24 literally spread out over all five boroughs and
25

1
2 bought products all over the place, even on Broadway
3 in your district.

4 CHAIRPERSON ESPINAL: I would love for you
5 guys to come to East New York and Bushwick and take
6 that walk.

7 UNIDENTIFIED: I will be happy to do that,
8 and I can't say with 100 percent certainty that we
9 will find stuff, but we have been doing this long
10 enough to understand that yes, these products are out
11 there and they are available. I urge you all to pass
12 this bill. I hear the, you know, the stuff that the
13 industry has to say, and I recognize that it's not as
14 Council Member Greenfield said, "Well, do you want no
15 chemicals?" We are no unrealistic. There are
16 chemicals in everything everywhere. Even the chairs
17 we sit on. All of this stuff has chemicals in it.
18 So how do we suddenly spring up and say we want no
19 chemicals anywhere? That's not who we are. We're
20 not unrealistic, and so we urge you all to recognize
21 that this is a realistic approach to closing a donut
22 hole that exists for the protection of kids and pass
23 this bill.

24 CHAIRPERSON ESPINAL: Alright. Thank you
25 so much. I really want to thank all the advocates and

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the parents that came in earlier today and individuals from the industry. I want to thank my Committee Staff, Labani [sp?] and Israel for the work you have done to put this together. With that said, I would like to adjourn this meeting.

UNIDENTIFIED: We want to thank Labani too, and you as well, sir.

CHAIRPERSON ESPINAL: I guess she's a superstar.

UNIDENTIFIED: She is.

CHAIRPERSON ESPINAL: [gavel]

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COMMITTEE ON CONSUMER AFFAIRS

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 <INSERT TRANSCRIPTION DATE>