

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS  
AND BUSINESS LICENSING

----- X

DECEMBER 18, 2018  
Start: 1:10 P.M.  
Recess: 2:32 P.M.

HELD AT: 250 BROADWAY COMMITTEE RM. 14<sup>TH</sup> FL.

B E F O R E: RAFAEL L. ESPINAL, JR., CHAIR

COUNCIL MEMBERS: MARGARET S. CHIN  
PETER A. KOO  
KAREN KOSLOWITZ  
BRAD S. LANDER  
ANDREW COHEN

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

CASEY ADAMS, Director of City Affairs for  
New York City Department of Legislative  
Consumer Affairs

BRANDON SEXTON, Director of Organizing  
and Political Coordinator of United Foods  
and Commercial Workers (UFCW) local 1500

EDGAR LOMBARDI (SP?), behalf of Retail  
Wholesale Department Store Union (RWDSU)

ALEX GLEASON, Director of Policy,  
Research and Legislation at the New York  
City Central Labor Council (CLC)

ANDREW WASSERMAN (SP?), Fairway Market

NELSON USAMUEL (SP?), Director of  
Governmental Relations for the National  
Supermarket Association

JAY PELTZ, General Counsel and Vice-  
President of Governmental Relations for  
the Food Industry Alliance (FIA)

MICHAEL KING, Director of Governed  
Regulatory and Retail Services for  
Krasdale Foods

LAWRENCE MANDELKER (SP?), Lawyer  
representing New York Metropolitan Retail  
Association (NYMRA)

COMMITTEE ON CONSUMER AFFAIRS  
AND BUSINESS LICENSING

3

1

2

SARGEANT AT ARMS: This is a mic check.

3

Today's date is December 18, 2018. Committee on

4

Consumer Affairs being recorded by John Biando (SP?)

5

14<sup>th</sup> Floor Committee Room.

6

CHAIR RAFAEL ESPINAL: (gavel pounding).

7

Good afternoon, my name is Rafael Espinal and I am

8

the Chair of the Committee on Consumer Affairs and

9

Business Licensing. I am joined today by my

10

colleague, and Bill sponsor, Andy Cohen. Today the

11

Committee will be hearing testimony on two pieces of

12

Legislation. My Bill, Intro Bill 1145 in relation to

13

creating an exception to the item pricing requirement

14

for retail stores with scanners available for

15

consumer use and my colleague, Council Member Cohen's

16

Bill, Intro Bill 1181 in relation to prohibiting the

17

use of dogs or cats as security in certain contracts.

18

In New York City, retail stores are required to

19

comply with the City's Item Pricing Law that requires

20

all products offered for sale to be individually

21

labeled with a price sticker. The Law also sets out

22

specific exemptions, for example, provided that a

23

shelf price is listed, products such as milk, eggs,

24

or fresh produce or small products priced under \$1 do

25

not have to be individually stickered. Under the

COMMITTEE ON CONSUMER AFFAIRS  
AND BUSINESS LICENSING

4

1  
2 definition of retail store, the Legislation also  
3 specified that this does not include stores with less  
4 than 2 full-time employees that make less than \$2  
5 million in annual gross sales or that primarily sell  
6 food for consumption on the premises. Over the past  
7 few years, the Council has revisited the issue of  
8 item pricing, for example, in 2011, the previous  
9 iteration of this Committee held an Oversight Hearing  
10 on the Department of Consume Affairs Enforcement of  
11 supermarket regulations. After some were accused of  
12 overcharging customers, however, at this time they  
13 initially voiced a concern that due to technological  
14 advancement with check out and price scanner,  
15 individual item pricing was somewhat redundant. They  
16 also argued that due to high rates of inventory  
17 turnover relying on price stickers may actually  
18 increase the changes of improper pricing. Similarly,  
19 last year the City enacted my bill Intro 436 which  
20 gives retail stores a 30-day window to remedy a  
21 first-time item pricing violation. In order to  
22 minimize the strict item pricing requirements on  
23 business that have become redundant due to  
24 technological advances, my Bill, intro 1145 that we  
25 are hearing today will provide further exemptions.

1  
2 Under this Legislation, retailers who make price  
3 scanners available to customer, will no longer have  
4 to abide by the individual pricing regulation. Under  
5 the Bill, the Commissioner will determine how many  
6 scanners need to be available depending on the size  
7 of the store. The second Bill that we are hearing  
8 today, testimony on today is Council Member Cohen's  
9 Bill, Intro 1181, the growing demand for a  
10 specialized dog and cat breeds have spurred a new  
11 industry within the pet world and that's pet  
12 financing. Under this scheme, pet stores offer  
13 customer payment plans in order to purchase their  
14 dog, cat or dog. Instead of paying the hefty price  
15 up front, usually thousands of dollars, customers  
16 sign agreement to pay a certain amount each month  
17 under the assumption that the agreement gives them  
18 ownership of the animal. However, some customers  
19 soon realize that they are simply leasing their pet  
20 and will not have ownership rights until the end of  
21 the payment plan. Customers have also felt  
22 blindsided by the small print within the contracts,  
23 such as, if they miss a payment their pet can be  
24 repossessed or to gain ownership rights, they may  
25 also be required to pay additional fees once they

1  
2 have completed their payment plans. Council Member  
3 Cohen's Bill will prevent this practice and assure  
4 that a cat or dog cannot be used a security in such  
5 financing agreements and therefore cannot be  
6 repossessed every time we fill a holiday, I thank  
7 Andy. We look forward to hearing from the  
8 Administration, Industry Reps, Advocates and other  
9 interested stakeholders on these Bills today but  
10 before I call on the, on the Admin to, to testify, I  
11 want to acknowledge that we have been joined by Brad  
12 Lander from Brooklyn and I give Andy a few minutes to  
13 uhm speak on his Bill.

14                   ANDREW COHEN: Uhm, thank you uhm Mr.  
15 Chair, I do really want to uhm voice my appreciation  
16 for your expeditious hearing of this Bill that was  
17 recently introduced. I do think that you make a good  
18 point, uhm particularly at the holidays, pet purchase  
19 can sometimes can be an emotional decision as well as  
20 not you know and not always, not everyone goes into  
21 it as thoughtful and as rational as we should. I  
22 know when we got our dog and we took my daughter, if,  
23 there was no changing my mind once my daughter saw  
24 our puppy so uhm I think that this is appropriate  
25 Legislation. I think we would be, if it ultimately

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

passed and enacted, I think we would be the third jurisdiction that would outlaw this practice uhm and it's simply unfortunate the industry of you know puppy retailers are often using the pet as security and when it's, it's a lease agreement, you don't own the pet, they can threaten to take the pet away from you and when you own it they cannot repossess it that way but through the uhm, through the vehicle of leasing it does give the uhm the st... the retailer greater repossession rights and people are now emotionally attached to their pet. Uhm so I think that this really is a practice that should be outlawed. I hope that the uhm, I appreciate the Committee hearing the Bill and I hope ultimately to get to pass it. Thank you very much!

CHAIR RAFAEL ESPINAL: Thank you Andy.

With that said, can you please administer the oath too?

COUNSEL: Please raise your right hand, uhm do you affirm to tell the whole truth, nothing but the truth in your testimony before this Committee and to respond honestly to Council Member question?

CASEY ADAMS: I do.

COMMITTEE ON CONSUMER AFFAIRS  
AND BUSINESS LICENSING

8

1  
2                   COUNSEL: Please state your name for the  
3 record as well?

4                   CASEY ADAMS: Casey Adams.

5                   COUNSEL: Thank you.

6                   CASEY ADAMS: Good morning Chair Espinal  
7 and members of the Committee. My name is Casey Adams  
8 and I am the Director of City Legislative Affairs for  
9 the New York City Department of Consumer Affairs. I  
10 would like to thank the Committee for the opportunity  
11 to testify today on behalf of DCA Commissioner,  
12 Lorelei Salas about Introduction 1145, a Bill that  
13 would create an exception to the item pricing  
14 requirement for retail stores with price scanners  
15 available for consumer use and Introduction 1181, a  
16 Bill that would prohibit the use of dogs or cats as  
17 security in contracts for their purchase or the  
18 obtaining of any lesser right or interest in such  
19 animals. DCAs mission is to protect and enhance the  
20 daily economic lives of News Yorkers to create  
21 thriving communities. As part of this mission, DCA  
22 supports efforts to simply requirements imposed on  
23 businesses while preserving important consumer  
24 protections. I will first discuss Intro 1145 which  
25 DCA supports because we believe it will make it



1  
2 easier for businesses to comply with item pricing  
3 requirements without diminishing the price  
4 transparency protection whose requirements, those  
5 requirements afford to consumers. DCA enforces two  
6 types of item pricing requirements. General Item  
7 Pricing which applies to small stores like bodegas  
8 requires that all items offered for sale show a price  
9 exclusive of tax either by a stamp, tag or label on  
10 the item itself or a sign that is plainly visible  
11 where the item is displayed. Chain Stores and stores  
12 with an annual revenue of more than \$2 million must  
13 individually label each item and do not have the  
14 option to satisfy Item Pricing Requirements by a sign  
15 like smaller stores. Specified items like milk, eggs  
16 and ice cream need not be individually labeled, so  
17 long as a shelf price and price look up function are  
18 provided to the consumer. Penalties for Item Pricing  
19 range from \$185 to \$250 for small stores and from \$18  
20 per item to \$1000 total for chain or large stores.  
21 As Council Member Espinal mentioned, pursuant to  
22 Local Law 5 for the year 2017, which was sponsored by  
23 Council Member Espinal as well as Committee Members  
24 Chin, Koo and Koslowitz, chain and large stores may  
25 avoid paying a fine for the first Item Pricing

COMMITTEE ON CONSUMER AFFAIRS  
AND BUSINESS LICENSING

10

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Violation they receive by curing the violation.  
Intro 1145, would exempt chain and large stores that  
have retail price scanners available for consumer use  
from Item Pricing Requirements. Stores would  
continue to be subject to the Shelf Pricing  
Requirements imposed by the State Agriculture and  
Markets Law. Consumers would be able to determine  
the price of items by checking the shelf posting or  
by using one of the price scanners made available to  
them. Intro 1145 would empower DCA to determine the  
number of scanners that should be made available  
based on store size. DCA believes that this approach  
will save businesses the time and cost of  
individually labeling items displayed for sale while  
ensuring that consumers can still quickly and easily  
view the price of items. Intro 1181 would prohibit  
and render unenforceable contracts for the purchase,  
lease or financing of dogs or cats where the animal  
is used as security and may be repossessed by the  
seller, lessor or lender. DCA understands and shares  
the Council's concern about consumers being confused  
by complex leasing and finance arrangements that may  
allow a company to repossess a loved and valued  
companion animal. In September, Governor Andrew

1  
2 Cuomo signed into a Law a bill that prohibits the  
3 types of contracts contemplated by Intro 1181. The  
4 Bill will be going into effect in the near future.  
5 We believe this new Law may address many of the  
6 Council's concerns and DCA would appreciate the  
7 opportunity to gather more information about how the  
8 State of New York plans to implement and enforce  
9 those prohibitions. I would like to thank the  
10 Committee for the opportunity to testify today. DCA  
11 looks forward to working with the Council to ensure  
12 that 1145 protects consumers while making life easier  
13 for New York City Businesses. We think the concerns  
14 underlying Intro 1181 may be addressed by changes to  
15 State Law and look forward to gathering more  
16 information about their implementation. I am now  
17 happy to answer any questions that you may have.

18 CHAIR RAFAEL ESPINAL: Uhm thank you  
19 Casey. Uhm I usually like to allow my colleagues to  
20 ask questions first, so, Andy?

21 ANDREW COHEN: Uhm I do understand that  
22 the Governor did ultimately sign the State  
23 Legislation. Do you think there is any reason why  
24 these two Bills should be mutually exclusive or that  
25 we can't as a standalone people of Legislation, uhm

1

2 we wouldn't be, we be prepared, they wouldn't protect  
3 consumers, New Yorkers?

4

5 CASEY ADAMS: I think DCA would  
6 appreciate the opportunity to take a good look at  
7 what the, how the State will be implementing the Law  
8 that the Governor signs uhm before we have the  
9 information to make that judgment.

9

10 ANDREW COHEN: I'm going to maybe  
11 embarrass myself by my lack of knowledge but what  
12 infrastructure is there on the State side and the  
13 City to for enforcement?

13

14 CASEY ADAMS: So, that I think is a  
15 question that we would like the opportunity to  
16 answer. So, I don't think that you've embarrassed  
17 yourself at all, Council Member, I am with you there.  
18 Uhm I think that the one of the questions that comes  
19 out of that Bill is how is the State going to be  
20 going, finding out about Violations? How is the  
21 State going to be proactively enforcing? Will it be  
22 proactively enforcing? I think those are all uhm  
23 pieces of context that will be helpful to know uhm  
24 from the Agency side as we formulate a position on  
25 this Legislation. On the City side, uhm we do have,  
we enforce other Laws that regulate the uhm the types

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

of exchanges between businesses and consumers that happen here and especially financing, so we do have an infrastructure for enforcement that is uhm that consists mainly of enforcement by our legal staff at the general council in conjunction with uhm inspections. So, in a situation like by our inspector, in situations like this, where the, uhm the violation would be contained in the contract, uhm it would probably be a combination of those, of those two tools.

ANDREW COHEN: Uhm can you, can you think of sort of though an analogous situation where the State does do enforcement in the City on uhm consumer issues? That, and again just for my own edification.

CASEY ADAMS: Sure, I can't speak for the attorney general obviously but they have, that office has broad powers to, to take actions against deceptive consumer practices in the same way that that Local Law empowers DCA to do so. Uhm I'm not aware of a situation that I would be comfortable characterizing as analogous to hear, but certainly the Attorney General has broad authority on consumer protection at the State level.

1

2

ANDREW COHEN: Well I'm pleased that it passed the State but it could be a case of belt and suspenders here uhm so I do appreciate you taking a look at this and trying to see if there, again if there is no harm, then there is no foul either in having again a belt and suspenders, a belt and suspenders approach. Thank you Chair.

9

CHAIR RAFAEL ESPINAL: Thank you Andy. Uhm we've also been joined by Peter Koo from Queens. Brad, do you have a question?

12

BRAD LANDER: I would like to be. Alright well thank you so thank you Mr. Chair and thank you for being here and uhm I'm I've got, I think that 1181 looks like a good Bill and I would like to sign on to it as a co-Sponsor. Uhm I have a few, I like the in concept of 1145 but I have a few questions uhm that I guess are you know for the Administration although in a certain way they are for the Sponsor as well. Yeah you know so. It makes sense to me that we would not require in this day and age you know putting a little price sticker on every single item but I guess I want to make sure of two things, one consumer protection and one is a worker protection. On the consumer protection side, it is

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

my understanding now but I don't see it in the current Law, maybe it is just a practice that stores do that if you have a scanner, uhm and there is also is a sticker on the item and there comes to be a discrepancy between the scanner, what's on the item or what they ring you up at the register, that the customer gets the lowest of those prices, uhm that the store has communicated. And I guess I, 1) do you know whether that is true? And I guess in a certain way for the Sponsor it seems to me like that would be a good protection here. So that if there is a price on a shelf, a price on the scanner, a price on the receipt and there are discrepancies that the Law just makes clear, they are resolved to the customer getting the lowest price that the price told them that the item was?

CASEY ADAMS: So, it is my understand that that is a current legal requirement, that where there is a price discrepancy between what is advertised and what is actually rung up at the register, the consumer must receive the lower of the two prices. We, uhm I'm happy to discuss with you about the exact underpinning of that, so that we can

1  
2 ensure that this doesn't impact it but it is my  
3 understanding that they are.

4           BRAD LANDER: And just to make sure that  
5 it covers what potential internal discrepancies, not  
6 just like what you go. You know amongst all of those  
7 things, if the store sent you an ad, and the  
8 newspaper gave you one price, on the shelf, one price  
9 on the scanner, one price on the receipt and the rare  
10 case where there is a discrepancy that they should  
11 give you the lowest price would be the, that they  
12 told you the item was that there should be a.

13           CASEY ADAMS: I think we, we absolutely  
14 agree with you Council Member and I want to also add  
15 that we, we at DCA do scanner accuracy checks,  
16 already. That's part of our mandate. Uhm as the  
17 Director of Weights and Measures under, under State  
18 Law so we do already send our inspectors in and we  
19 check for accuracy of the scanners.

20           BRAD LANDER: That's great. You are  
21 telling you another name for Commissioner Salas is  
22 the Director of Weights and Measures?

23           CASEY ADAMS: That's right.

24           BRAD LANDERS: That's how I'm going to  
25 start referring to her, as the Director of Weights



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

and Measures, that is a good title. Uhm alright and then my second question is about Worker Protection and uhm this is another, you know on the one hand, we, are, are a small supermarkets they are having a hard time, we want to do everything they can and we don't need to require them to do work that is unnecessary, now on the other hand we definitely don't want to expose workers to layoffs, because there is less work required, so, do you know whether there has been any conversations to try to uhm you know make sure that this is like looks forward and prevents future work from being required that is unnecessary but in a way that does not, uhm risk you know a reduction of work for existing workers?

CASEY ADAMS: Sure, so, certainly we share the sentiment of that protecting workers is something that we need to keep in mind whenever we are looking at regulations like these, uhm we've analyzed this mostly from a consumer protection perspective, we have not done an analysis of whether there would be a reduction in work hours for example, uhm but I think that in general the uhm the industry would be better equipped to address that point and I hope that some of the industry's members and

1  
2 advocates that are here today can talk to you a  
3 little bit more about how these stores actually do  
4 the work on their side to comply with the Law. From  
5 our perspective, we think that the Consumer  
6 Protection Goal can be met without the requirement  
7 for individual labeling and that's why we support  
8 this Bill. Thank you.

9 BRAD LANDER: Thank you Mr. Chair.

10 CHAIR RAFAEL ESPINAL: Thank you Brad.

11 Uhm Peter?

12 PETER KOO: Thank you Chair. Hi Casey.

13 As a small business owner, myself, I like this Bill  
14 1145 because for small business owners, it's really  
15 hard to take care of all of the items and put the  
16 stickers there. Sometimes they might have stickers  
17 there, they might fall off or something. So, instead  
18 of, so having a scanner in stores where they can, I  
19 mean technology now makes scans really cheaper than  
20 they used to be, is over \$1000 to buy a scanner.  
21 Now, it is maybe a couple of, a few hundred dollars.  
22 A couple of hundred dollars, with \$400, \$500 you can  
23 buy two scanners in the store and then customer scan  
24 before they pay. So, they know. All of this is  
25 unfair for store owners. To get, every year with DCA

1  
2 comes they always find something, there is no  
3 stickers there. They search on the bottom, on the,  
4 yeah and all stickers fall off and then they \$100,  
5 \$135. It is very unfair and also about the lower  
6 price sticker, right, you said. I know there is some  
7 customers they will strip stickers. So, its not fair  
8 to the store owner that oh, this is \$1 how come you  
9 are charging me \$3 because sometimes people do. They  
10 make mistakes in pricing. Employees, right, and its  
11 not fair to the business owners to sell something for  
12 \$1 but it cost them \$3 to buy it. So, mistakes  
13 sometimes happen. So, having a scanner is good.  
14 There is, hey you scan it, you want to buy it, you if  
15 it's too expensive you can leave it on the shelf and  
16 you don't need to buy it. So, its nothing to force  
17 the, the store owners say hey you must sell these at  
18 this price. So, uhm I support this Bill a lot and I  
19 will be supporting this Bill, maybe I'll be a co-  
20 sponsor of this Bill. This Bill is way overdue you  
21 know. So, and overall, in Consumer Affairs,  
22 sometimes they are just too overzealous when they  
23 come because they think oh, I must show something  
24 when I go back, so they find something. So, its very  
25 unfair for small business owners to have fines.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Little things, uhm you don't have plastic. You don't have certain posters and, and, most, most small business owners they want to do their job and help the people. They want to follow the Law too. Sometimes they do Weight and Measurements and something moves, the signs fall off, they move them. So, it always happens, when you do have the sign there, the, you expect it is there during inspection. So, thank you very much Chair Espinal for sponsor.. for sponsoring this Bill, yeah.

CHAIR RAFAEL ESPINAL: Thank you Peter.

CASEY ADAMS: And Council Member I want to say that uhm we absolutely agree that most small business owners want to do the job, comply with the Law and help the community and I think that there are, well while we are charged with enforcing the Law and we are committing to do that to its fullest extent and to trying to motivate compliance, we certainly have gone out of our way to help business owners understand their obligations and comply because that's ultimately what we are looking for, is compliance with Consumer Protection Laws. We are not looking to fine businesses for the sake of fining them and I think you have seen that throughout

1  
2 Visiting Inspection Program which we have talked  
3 about with you uhm and I think we share that goal  
4 with the Council which was behind Council Member  
5 Espinal's Law to make some of these violations  
6 curable in recognition of the fact that sometimes it  
7 is just an honest mistake.

8 CHAIR RAFAEL ESPINAL: Thank you Casey,  
9 just along those lines. I remember the first two or  
10 three years of this Administration. There was a lot  
11 of talk about the efforts to reduce the owner fines  
12 that are being given to businesses. There are always  
13 numbers that were, that are presented. Do you have  
14 any numbers on what those reductions have to look  
15 like over the years?

16 CASEY ADAMS: I don't have the most up-  
17 to-date numbers but I am happy to get them to you.

18 CHAIR RAFAEL ESPINAL: Okay thank you  
19 does DCA have any data on how many Pricing Violations  
20 they issue per year?

21 CASEY ADAMS: Uhm yes, I do, so, on  
22 average we issue about uhm 2,000 violations for the  
23 uhm Violation of General Item Pricing. So that is  
24 small stores. For the violations that are, that  
25 would be impacted by these Bills. Over the past

1  
2 three years, there has been an average of between  
3 12,000 and 13,000 so it is an area where we issue a  
4 lot of violations. And that's why I think that we  
5 are, we are behind the effort to achieve the Consumer  
6 Protection Goal uhm without necessity to issue that  
7 many violations.

8 CHAIR RAFAEL ESPINAL: So, when the  
9 Agency gives, gives one of these violations, that's  
10 2,000? Correct?

11 CASEY ADAMS: Uhm 12,000.

12 CHAIR RAFAEL ESPINAL: 12,000 number.  
13 That 12,000 number, do businesses receive multiple  
14 violations?

15 CASEY ADAMS: Yes.

16 CHAIR RAFAEL ESPINAL: Does like one  
17 small business receiving multiple violations at the  
18 same time?

19 CASEY ADAMS: So, let me, I would like to  
20 clarify for you. Because the way that we look, we  
21 look at violations in two ways, we look at the number  
22 of legal instruments, notices of violations that have  
23 been issued and we look at the number of charges  
24 counts that are contained on those documents. So,  
25 for the actual number of violations, Notices of

1  
2 Violation, the number is closer to 900, but on those  
3 Notices of Violation, the charges are closer to  
4 12,000.

5 CHAIR RAFAEL ESPINAL: Okay uhm, any, any  
6 data on how many of those 12,000 or 900, whatever the  
7 number is, how many of those were curable and got  
8 cured since the Law was uhm?

9 CASEY ADAMS: I don't have that  
10 information but we will follow up with you.

11 CHAIR RAFAEL ESPINAL: Okay yeah that  
12 will be, that will be interesting to see how  
13 effective the Law has been. Have you ever, does the  
14 Agency receive 3-1-1 complaints from consumers about  
15 Item Pricing?

16 CASEY ADAMS: Uhm, we do. It, I don't  
17 believe that it is one of our more significant  
18 complaint categories but we do receive complaints  
19 yes.

20 CHAIR RAFAEL ESPINAL: How often does DCA  
21 go out to businesses to inspect Item Pricing  
22 Compliance?

23 CASEY ADAMS: So, Item Pricing is part of  
24 the normal inspection routine for a general retail  
25 store, uhm so in a supermarket. So, the Enforcement

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Cadence is different for each category but in, so as a supermarket may be visited less frequently for example than a bodega depending on where they are located and depending on a past enforcement history. Because we will also go back if we find that there are, there are issues in a particular place. So, I can't give you a number, a specific timeframe in which a DCA inspector will come out but it, but it depends on a number of different factors.

CHAIR RAFAEL ESPINAL: Okay, so what would warrant and Item Pricing Violation? Is the, if the inspector comes into a shop if they find one item, will they receive a viol... that doesn't have a sticker on it, will they receive a violation?

CASEY ADAMS: So, there are, yes, there are different triggers. There are violations for, for example for scanner inaccuracy as I said earlier. There are violations because a Stock Keeping Unit doesn't, because none of the items on a Stock Keeping Unit have a sticker or one of them. Uhm there are different violations for five or more Stock Keeping items that fail to have a sticker attached to them and then of course there are violations for failure to have any uhm any prices posted at all. In



1  
2 addition, we can charge for situations as we were  
3 discussing earlier where there are, the price is  
4 incorrect. Where there, an item is labeled for \$5  
5 and you get up to the exclusive of tax and you get up  
6 to the register and they charge you \$6, that would  
7 also be a violation that we would issue.

8 CHAIR RAFAEL ESPINAL: Okay. Uhm, so if  
9 an inspector walks into a shop, sees one item without  
10 a sticker, they will receive a fine of \$125 to \$250.

11 CASEY ADAMS: Uhm it, it depends but it  
12 is not a typical situation where we find one items.  
13 Typically, we will issue the violation for 5 or more  
14 uhm that's, that's one of the more typical violations  
15 that we write.

16 CHAIR RAFAEL ESPINAL: Okay. Does the  
17 DCA foresee any problems with customers using price  
18 scanners instead of relying on the stickered items?

19 CASEY ADAMS: Uhm, we haven't heard, so,  
20 we are aware of other jurisdictions that gone with  
21 similar uhm regimens so for example, West Chester has  
22 a system where stores can be applied for an exemption  
23 from item pricing if they have sufficient scanners.  
24 We are not aware of problems coming from those  
25 jurisdictions. The Law contemplates that we will

1  
2 ensure that there, that each store is installing a  
3 sufficient number of price scanners, so larger stores  
4 will need to have more scanners. So, we think that  
5 there is some flexibility in the Law for DCA to  
6 respond to issues as they pop up and certainly will  
7 be alert for those, but in general, we think that  
8 consumers are well acquainted with the process of  
9 using price scanners, they are fairly common. Uhm  
10 and we uhm we will be on the lookout if any issues do  
11 come up.

12 CHAIR RAFAEL ESPINAL: Uh-huh, alright,  
13 great. We have been joined by Karen Koslowitz, from  
14 Queens. Do you have any questions, Karen?

15 KAREN KOSLOWITZ: No thank you very much.  
16 Uhm I was, I was in the Council when this was put  
17 into Law. I happen to be a sponsor of this Bill and  
18 I'm not for the scanners because I run into a  
19 supermarket and many people like me run into a  
20 supermarket, they don't want to run around looking  
21 for scanners to scan their items. And also, it, it  
22 lessens the amount of people that they need to work  
23 in the stores, because you are putting people out of  
24 jobs. Because you don't need those people to go and,  
25 and hit the cans with the prices.

1  
2           CASEY ADAMS: I think that it's important  
3 to remember, that, the Shelf Pricing Requirements and  
4 the Agriculture and Markets Law will not be changed  
5 by this so, when we talk about Item Pricing in terms  
6 of this Law we are talking about the stickers on the  
7 individual items.

8           KAREN KOSLOWITZ: I understand that. I,  
9 I did, I seeing it is my Bill.

10           CASEY ADAMS: Right and but for  
11 consumers, they will still have the opportunity to  
12 see the price on the shelf below. Uhm so they, the  
13 hope is that there will be no need to run around the  
14 store because the consumer will have access to that  
15 price, to that price label and if they don't, then,  
16 that in and of itself will be a violation of the Law.

17           KAREN KOSLOWITZ: Well, how will you know  
18 unless you scan the item, if, if the item pricing is  
19 on the, below the item and the you do the and the can  
20 doesn't have the price, how will you know?

21           CASEY ADAMS: Well the, when the Item  
22 Pricing happens at the shelf level has to refer to  
23 the item itself, so we would be able to see what  
24 store, what price the store is labeling the shelf uhm  
25 at and we would be able to test the accuracy of the

1  
2 scanner, so to go to the, to take the item to the  
3 scanner and check whether that is actually what's  
4 being charged. And the State Law requires that the  
5 uhm, the shelf price be below or immediately adjacent  
6 to the item that it's, that it's marked for. So, if  
7 we were not able to tell, then that again would be a  
8 violation of the Law because it would not, they would  
9 not have been made clear to the consumer, which shelf  
10 price applies to that item.

11 KAREN KOSLOWITZ: I'm, I'm not very sure  
12 on this, that this is a good thing.

13 CASEY ADAMS: Well, we are, you know we  
14 believe that the consumers will be able to use price  
15 scanners if they are already in the price of using  
16 it. Uhm I'm happy to. We are happy to hear if there  
17 are advocates or from you Council Member who feels  
18 that the individual price labeling yields other  
19 benefits, from our experience enforcing we believe  
20 that that consumers are well acquainted here and that  
21 the benefit to consumers that is yielded from the  
22 individual price stickers uhm is not as high as the  
23 cost that is imposed on the businesses of uhm of  
24 doing all of those labeling. So, as a Consumer  
25 Protecting Agency, we are focused on making sure that

1  
2 the consumers are protected but we are also focused  
3 on making sure that there aren't unnecessary burdens  
4 placed on it.

5 KAREN KOSLOWITZ: How much does the  
6 scanner cost?

7 CASEY ADAMS: Uhm I'm not, I'm not sure  
8 how much the scanner costs, I know Council Member Koo  
9 cited a price earlier, and I'm sure and there are  
10 members of the business community who can tell you  
11 with more accuracy than I can.

12 KAREN KOSLOWITZ: And what happens when  
13 the scanner goes down?

14 CASEY ADAMS: The, the store would be  
15 required to keep a scanner operational. So, a  
16 scanner must be available to consumers. If there  
17 are, if there is a situation where one is temporarily  
18 down that wouldn't necessarily trigger a violation  
19 but it is the store's responsibility to meet the  
20 legal requirement that a scanner be available and  
21 functional for consumer use.

22 KAREN KOSLOWITZ: And how many scanners  
23 would be, let's say in a store like uhm Whole Foods,  
24 how many scanners would be in that store?

1  
2           CASEY ADAMS: So, the Law contemplates  
3 that larger stores with more square footage would be  
4 required to have uhm more scanners. So.

5           KAREN KOSLOWITZ: How much more?

6           CASEY ADAMS: That is something that  
7 would need to be determined by the Agency if the Law  
8 is enacted. So, we would take a look at what has  
9 been done by other jurisdictions and what is the, and  
10 try to figure out what the proper balance is between  
11 the square footage of the store and the number of  
12 scanners uhm that need to be there in order for  
13 consumers to have easy access to them.

14           KAREN KOSLOWITZ: Well, I would say that  
15 every aisle in a store should have the scanner.

16           CASEY ADAMS: Well, we can.

17           KAREN KOSLOWITZ: I mean why should I be  
18 in aisle one taking something off the shelf and  
19 having to run to aisle four to have it scanned.

20           CASEY ADAMS: I think that is definitely  
21 one approach that we will consider and uhm we will  
22 take into account that you've told us that because it  
23 thinks that was one thing that people had brought to  
24 our attention was that if we are doing scanners,  
25 there should be a scanner on each aisle. We will, we

1  
2 will take that approach into consideration when we  
3 promulgate the rule that actually sets up how many  
4 scanners need to be in each store.

5 KAREN KOSLOWITZ: And the price of how  
6 many scanners and what, what would be the savings?

7 CASEY ADAMS: Yeah, I think we will  
8 definitely also be looking at the price of the  
9 scanners, because one of the other variables here, is  
10 we need to understand how this is going to impact  
11 businesses who will now have to install new scanners.

12 KAREN KOSLOWITZ: And how, how much it  
13 would impact the employees and how many people lose  
14 their job because now they have the scanners and they  
15 don't punch.

16 CASEY ADAMS: We hear you on that, yes.

17 KAREN KOSLOWITZ: Thank you.

18 CHAIR RAFAEL ESPINAL: Thank you Karen,  
19 Andy.

20 ANDREW COHEN: Uhm thank you, you know  
21 maybe it would give us a greater, a comfortability  
22 level if you could just explain what the Shelf  
23 Pricing Requirements are. So that I mean I find it  
24 hard to envision myself going to scan but at least if  
25 the price is, is marked on the shelf, I can read

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

that, because I'm a terrible. When I go to the supermarket the first thing that I want to do is get out. But, so, but like sometimes even I notice wow, this is, you know the same product or you know a similar product and one is \$4 and one is \$6 I notice that, but so maybe if you could talk to us a little bit more broadly about what the Shelf Pricing Requirements are to make sure that the consumers whether they are willing to scan or not willing to scan will have, know what the price of the item is that they are buying at least at the, you know in front of them.

CASEY ADAMS: Sure, so under the State Agriculture and Markets Law, the uhm retail stores are required to display and I'm going to read, I'm reading you the provisions here, display the retail price of each stock keeping unit offered for sale, either on each unit or on easy to read shelf tags or signs located directly above or below or immediately adjacent to every stock keeping unit or group of stock keeping units of the same brand, size and price. And so, as I mentioned earlier, DCA is the Director of Weights and Measure for the City under State Law. So, uhm as I was describing the Law



1  
2 imposes the requirement that the tag be easy to read  
3 and be located in a way that is easy for the customer  
4 to identify what item it is associated with.

5 ANDREW COHEN: Thank you very much.

6 CHAIR RAFAEL ESPINAL: Thank you Casey.

7 CASEY ADAMS: Thank you.

8 CHAIR RAFAEL ESPINAL: Up next we have  
9 Brandon Sexton from UFCW local 1500, Edgar, Edgar  
10 Lombardi from RWDSU and Alex Gleason from CLC. You  
11 guys may begin. Do you want to go first?

12 BRANDON SEXTON: Sure. Good afternoon,  
13 my name is Brandon Sexton, I am the Director of  
14 Organizing and Political Coordinator of United Food  
15 and Commercial Workers local 1500. Thank you Chair  
16 Personal Espinal and other Committee Members for this  
17 opportunity to speak on Intro 1145. With over 19,000  
18 members, local 1500 is one of the largest locals in  
19 the UFCW and the largest in New York State. Our  
20 Union represents men and women in New York City along  
21 with Nassau, Suffolk, West Chester, Putnam and  
22 Dutchess Counties. Our Members work for companies  
23 that have a long history in New York City. Companies  
24 such as Stop and Shop, Fairway, King Kullen, Shop  
25 Rite, D'Agostinos, Gristedes and the workers at the

1  
2 Helen Hardy Commissary. Our members have earned  
3 better salaries, better benefits and most importantly  
4 job security because of the hard work local 1500 has  
5 done negotiating over the last 80 years. After  
6 careful review, we have concerns over Intro 1145, the  
7 quest to remove a consumer protection should not be  
8 taken lightly. The truth in Pricing Law specifically  
9 designed to protect consumers from unscrupulous  
10 supermarket operators. We have seen time and time  
11 again low road retails manipulate prices to benefit  
12 themselves and not the consumers. Having access to  
13 clearly marked items is essential to consumers.  
14 Average New Yorkers often must make tough economic  
15 decisions sometimes coming down to the nickels and  
16 pennies. Why would a piece of Legislation make this  
17 process more difficult? The Bill is unclear to how  
18 the appropriate number of scanners will be  
19 determined. Also, we have concern over the ambiguity  
20 of enforcement. Will it be through a complaint  
21 system or through monthly inspections? In New York  
22 there is a justifiable revolt against Amazon and  
23 their community and labor practices. We are thrilled  
24 that so many of you and your colleagues are standing  
25 up against bad employers. With Intro 1145, the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Council will be codifying job loss. We will never advocate for automation to replace our members jobs. As we all watch Amazon being exposed for automating and decreasing overall jobs, why are we trying to replace workers with automation. We should be trying to create more jobs and economic growth instead of hindering it. Operators will say that it frees up workers to be more productive in other areas, making us feel more profitable, therefore creating more jobs. When bosses talk about being more productive, that thought is for reducing hours and weekly wages. Over time, more jobs will be lost through attrition than actually created. For the 19,000 members of the UFCW local 1500 to support any exemption for item pricing, we would expect the following to be included in any Bill, a clear definition of how many price scanners per skews in a location, a clear definition of price scanners and to clearly remove cash registers as a price scanner. The enforcement process, will it be consumer complaints or monthly inspections should be defined and one of the requirements to be eligible a supermarket operator must be considered a high road employer, meeting or surpassing these guidelines, living wage and benefit

1  
2 packages broken down between part-time and full-time  
3 work reported monthly and made public, stable  
4 scheduling, job training for advancement, either  
5 assigned CBA or a signed labor peace agreement with a  
6 relevant union and a sign off from a relevant union  
7 as well. Protecting consumers and jobs can go hand  
8 in hand. If we were to allow an exemption, it should  
9 be a privilege bestowed upon responsible employers  
10 and not supermarket operators that model their  
11 business practices on the Wal-marts and the Amazons  
12 of the world. With the amount of questions and  
13 ambiguity we would recommend that a more robust  
14 conversation take place with all the stakeholders to  
15 ensure consumers and workers are not negatively  
16 impacted. We encourage the Committee to vote no on  
17 Intro 1145, thank you.

18                   EDGAR LOMBARDI (SP?): Good afternoon,  
19 thank you to the Chair and the Committee for the  
20 opportunity to testify today on Intro 1145, which  
21 amends the City's truth and pricing law. My name is  
22 Edgar Lombardi (SP?) I'm here on behalf of the Retail  
23 Wholesale Department Store Union (RWDSU) which  
24 represents 100,000 members including 7,000 members of  
25 RWDSU local 338. These members live and work in the

1  
2 City of New York and are employed at over 130 food  
3 retail establishments including Gristedes, Martin  
4 Williams, Stop and Shop, Associated Food Town and  
5 other small speciality and gourmet shops. RWDSU  
6 stands opposed to the Legislation as written. The  
7 Legislation will result in the direct loss of jobs at  
8 grocery stores throughout the City. Our members are  
9 responsible for ensuring the accuracy of pricing and  
10 tagging of items sold in our retail locations.  
11 Grocery and supermarket operators regularly state  
12 that these clerks can be utilized in a more  
13 productive and efficient manner; however, this  
14 efficiency often translates to a reduction of hours  
15 and thereby a reduction in worker's weekly wages.  
16 Many of our local officials have stated that they  
17 find the use of technology to replace workers  
18 irresponsible and they have taken a stand against it.  
19 This was particularly evident during the recent  
20 discussions around Amazon's impact on the local work  
21 force. Intro 1145 is simply another attempt to  
22 supplant grocery clerks. The intent of the current  
23 Truth and Pricing Law is to ensure that consumers  
24 have access to clear and precise pricing. We are  
25 concerned that this amendment would have several

1  
2 unintended consequences above and beyond job loss.  
3 The City Council should engage again with the  
4 Department of Consumer Affairs prior to this passage  
5 to ensure that there are no additional unintended  
6 consequences for consumers. As written, there is no  
7 clarity on how many scanners retailers would be  
8 required to have as well as what constitutes a  
9 scanner. Without individual pricing, what happens if  
10 a scanner break? What happens if a scanner is being  
11 used by others? Would a shopper upon entering a  
12 store take a scanner for their entire shopping  
13 experience and use it to scan every item they seek to  
14 buy? How would the City ensure there are no scanners  
15 in such an event? In the likely event that a  
16 consumer could not find a scanner, that person would  
17 be left to wait in the check out line to determine a  
18 price. This is unreasonable and this is a burden and  
19 the point of sale should not be the adequate means  
20 for price checking. The Bill also does not  
21 adequately address the enforcement of the scanner  
22 exemption. We do know if inspections to verify  
23 compliance with the accurate number of functioning  
24 scanners occurs randomly or if it will solely be  
25 based on complaints received by DSA, DCA, excuse me.

1  
2 We are worried that Intro 1145 leaves several  
3 unanswered questions around implementation and  
4 safeguarding basic consumer protections. New York  
5 City offers retailers the opportunity to access Item  
6 Pricing Waivers. We understand the burden that  
7 traditional brick and mortar retailers are facing due  
8 to the increased competition from on-line retailers  
9 and the changing nature of the industry, yet, these  
10 burdens should not be born by hardworking grocery  
11 clerks. The City Council has long been a champion of  
12 neighborhood grocers and the women and man employed  
13 in the industry. Supporting this Bill would be  
14 taking a step backwards on the needs of grocery store  
15 workers. Moreover, any program that offers a direct  
16 benefit to grocery and supermar... supermarket  
17 operators should also focus on how to prioritize the  
18 needs of high-road retailers who are good community  
19 partners that meaningful invest in their workforce  
20 either by abiding by collective bargaining agreements  
21 or offering living wages and benefits. We urge you  
22 to fully consider the impact that this proposal will  
23 have on workers, consumers, and brick and mortar  
24 stores that invest in their workforce and vote no on  
25 the proposed amendment. Thank you.

COMMITTEE ON CONSUMER AFFAIRS  
AND BUSINESS LICENSING

40

1  
2           ALEX GLEASON: Good afternoon my name is  
3 Alex Gleason, I'm the Director of Policy, Research  
4 and Legislation at the New York City Central Labor  
5 Council. Comprised of 1.3 million members, uhm  
6 across 300 affiliated unions, the New York City  
7 Central Labor Council, AFLCIO supports policies that  
8 lift the floor for workers across the five boroughs.  
9 The Central Labor Council appreciates the opportunity  
10 to testify on Intro 1145, an exception to the Item  
11 Pricing Requirement for retail store workers with  
12 scanners available for consumer use. Our affiliates  
13 representing 10s of 1000s of workers across the  
14 retail food industry have expressed concerns over  
15 this Bill and the implications on the entire  
16 industry's workforce. Concerns stem from the  
17 consequences on the workforce, Precise Pricing  
18 Information and the Enforcement of the Law. There  
19 are concerns that proposed exemption on employees in  
20 this Legislation will adversely affect the workforce.  
21 A recent report by Cornerstone Capital finds the  
22 Retail and Industry and Grocery Stores in particular  
23 to be at high risk of computerization. This echos  
24 the sentiments of an analysis by McKenzie and Company  
25 finding automation in many forms is slated to



1  
2 disproportionately impact the retail grocery  
3 workforce. It is very likely the reduced demand for  
4 workers will lead to a reduction in hours. This is  
5 consistent with analysis published in the peer  
6 reviewed, Journal of Industrial Economics which found  
7 stores utilizing scanners "reduced their" "employer  
8 labor cost by approximately 4.5%". For our members  
9 and workers in this industry this reduction in labor  
10 costs is a diminishment in livelihood. Another  
11 concern relates to accurate pricing information for  
12 the Consumer. The intent of the Truth and Pricing  
13 Law is to protect New Yorkers from an accurate or  
14 deceptive pricing policies. Reports from other  
15 localities where scanners have proliferated retail  
16 shops found consumers being overcharged at a myriad  
17 of different retails where price differentials from  
18 scanner to register vary between \$0.20 and \$5 above  
19 the list price advertised or charged at the register,  
20 this is from a very radical news source ABC News  
21 Philadelphia. The title of the story was Scanner  
22 Scandal: Prices Changing from Shelf to Register.  
23 The other issue here is how the Law will be enforced.  
24 It does not seem clear how there will be verified  
25 compliance on accurate numbers, properly functioning

1  
2 scanners, will it be random? Based on complaints?  
3 Or something entirely different? It is important for  
4 there to be clarity on exactly how many scanners will  
5 be required as well as what can be classified as a  
6 scanner? Our affiliates in the industry recommend  
7 exempting point of sale so consumers aren't forced to  
8 wait in line to check the price of an item. The New  
9 York City Central Labor Council has long sup... uhm the  
10 New York City Council has long supported working  
11 people of the retail and grocery industries and it is  
12 understandable the Council would want to provide  
13 support to businesses under significant economic  
14 stress; however, any effort to support the retail  
15 industry should support high-road actors and not be  
16 balanced on the backs of workers hours. Without the  
17 concerns of workforce reduction, symmetric pricing  
18 and enforcement being addressed, the New York City  
19 Central Labor Council, AFLCIO urges a no vote. Thank  
20 you for your time and consideration.

21 CHAIR RAFAEL ESPINAL: Thank you, any  
22 questions from the colleagues? Brad?

23 BRAD LANDER: Uhm, let's see I think it  
24 was Brandon, in your testimony amongst the things  
25 that you mentioned as high-road employment was stable

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

scheduling. As you know, that is something that Council has taken up in other sectors and so I just wonder, I guess I'm assuming that in any store covered by a, a CBA there is advanced notice and stable scheduling provisions but do you know if in non-union stores in the industry that the kinds of things that you know that we heard in other retail and in uhm fast food are also a problem in green markets, grocery stores, small supermarkets?

BRANDON SEXTON: Yeah, so uhm,

supermarkets don't have Collective Bargaining Agreement in place. They often have their schedules posted but then they get manipulated, they get changed, you know, when, when, a store is slow, they send people home. They will have people travel down to work and then send them home if there is not enough business. Uhm, they will change people's days off. They will add people onto the schedule without notification. So, yeah it is pretty rampant within the grocery industry.

BRAD LANDER: Okay and that is something you know that I, and I see you suggesting here would be like a requirement for someone on Item Pricing, we could also just look at doing it in the way that we

1  
2 did for fast food workers and that retail workers  
3 that the Governor did by the Wage Board Order could  
4 be done for the supermarket and grocery store  
5 industry for all of those workers to have Fair Work  
6 Week Protections.

7           BRANDON SEXTON: Yeah, I think the reason  
8 why it was included was just to show uhm A) that it  
9 is a good operator uhm and it is just showing that  
10 they are in good faith, that they are actually going  
11 to be partners with the workers and good community  
12 partners. So, that is just a definition of what a  
13 high-road retailer is. Yeah.

14           BRAD LANDER: You know I'm in, you know,  
15 I mean that we will followup I'm sure on these issues  
16 that you are raising in your testimony but I will  
17 follow up with you afterwards, you know separately on  
18 whether that might be something that we should look  
19 at, industry, industry wide.

20           BRANDON SEXTON: Great, thank you.

21           BRAD LANDER: Okay, thank you Mr. Chair.

22           CHAIR RAFAEL ESPINAL: Thank you Brad.

23 Uhm we have been joined by Margaret Chin. So, I have  
24 a question, uhm or maybe a suggestion or maybe trying  
25 to get your thoughts on something. So, I hear your

1  
2 concern about the workers. The attention of, for me  
3 to you know to have a hearing on this Bill is  
4 figuring out ways that we can lower the amounts of  
5 punitive fines against, against the businesses,  
6 right? What if, what if scanners were put in as a,  
7 as like a form of protection in case there are some  
8 items that weren't marketed, weren't tagged properly,  
9 for example, as DCA mentioned, that if they find more  
10 than 5 items that haven't been marked, what if they  
11 had this, if they had this machine, the scanner up  
12 they could avoid getting a fine? Does that make  
13 sense?

14                   BRANDON SEXTON: Yeah, I'm sorry and that  
15 would still include the Item Pricing on the actual  
16 individual item?

17                   CHAIR RAFAEL ESPINAL: Right, so it's  
18 kind of a form of protection, meaning if, if for some  
19 reason if DCA finds more than 5 items that do not  
20 have the sticker on it that because they have the  
21 scanner up that somehow it will protect them from  
22 receiving an Item Pricing Violation?

23                   BRANDON SEXTON: Okay, the, the, the  
24 operator?

25

COMMITTEE ON CONSUMER AFFAIRS  
AND BUSINESS LICENSING

46

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CHAIR RAFAEL ESPINAL: Yeah, I mean

that's something that we could definitely talk about

and think about as long as the consumer and the

workers are protected, I don't see why not but that

is something that we definitely bring back and talk

about. Up next we have Andrew Wasserman (SP?) from

Fairway Market, Nelson Usamuel (SP?) from NSA, Jay

and I'm sorry if I mispronounce your name, just

having trouble reading some of these Jay Peltz from

the Food Industry Alliance. Michael King and

Lawrence Mandelker (SP?). You guys, you may begin

whenever you are ready.

LAWRENCE MANDELKER (SP?): Hello? Is it

on? Okay, great. Good afternoon, Chair Person

Espinal and members of the Committee. I'm Lawrence

Mandelker (SP?) I'm a country lawyer trying to make

my way in the big City. I represent NYMRA the New

York Metropolitan Retail Association, an organization

of national chain retailers with stores in the City.

Thank you for providing us with an opportunity to

discuss this Bill with you. Numerous members of

retails, retail is the 4<sup>th</sup> largest source of jobs in

the City following financial services, healthcare,

and professional technical services. But our jobs

1  
2 are open to all without years of training and  
3 certification and no barriers preventing a stock  
4 clerk from rising to the highest levels of  
5 management. Over the past number of years, the City  
6 has imposed many requirements on us. Each worthy  
7 from a public policy point of view but each bearing a  
8 cost. All of the City taxpayers, all of your  
9 constituents are our customers. We are forced to  
10 operate on small profit margins that are sensitive to  
11 every cost and expense that Government and the market  
12 impose on us. We either have to pass the cost on to  
13 our, our customers or lay employees off in our brick  
14 and mortar stores and increase on-line operations.  
15 We've been warning about this for years and it has  
16 now come to pass. What a pleasure, therefore, to  
17 adopt of Intro 1145. The Bill would exempt retail  
18 stores from the item pricing requirement of the Truth  
19 in Lending Pricing Law where consumers have access to  
20 in-store price scanners. Stores qualifying for the  
21 exemption would be relieved from the cost of labeling  
22 or tagging the price of each item individual,  
23 individually, instead retail stores would provide a  
24 bar code on the item which consumers could scan to  
25 ascertain its price using an in-store scanner. The

1  
2 number of scanners would be based on the size of the  
3 store as determined by the Department of Consumer  
4 Affairs which is directed to promulgate implementing  
5 regulations over the 120 days prior to the Bill's  
6 effective date. NYMRA supports Intro 1145 and is  
7 grateful for the Chair's understanding of the  
8 difficulties brick and mortar retailers face in  
9 competing with on-line marketers. Your willingness  
10 to relieve retailers from the Burden of Unit Pricing  
11 for the use of readily available technology. I mean  
12 we are now approaching the third decade of the 21<sup>st</sup>  
13 Century. Technologies that will protect consumers is  
14 much appreciated. NYMRA does have one operational  
15 issue with the Bill. At presently drafted, the Bill  
16 would take effect 120 days after adoption. Most  
17 respectfully that is too short a time. In preparing  
18 to testify, I reached out to the various operational  
19 people uhm in the NYMRA chain stores, we have been  
20 advised that our members would need at least a year  
21 to go through their respective internal Budget  
22 allocation processes for selection and procurement of  
23 in-stores scanners, determination of the best places  
24 in a store to install them for both enhancement of  
25 the shopping experience and providing consumers with



1  
2 the information they need and adoption of policies  
3 and provisions of employee training. We therefore  
4 recommend that the Bill's effective date be pushed  
5 back to 1 year. Thank you.

6           NELSON USAMUEL (SP?): Good morning  
7 Chair, good afternoon Chair Espinal and other members  
8 of the New York City Council Committee on Consumer  
9 Affairs and Business Licenses. My name is Nelson  
10 Usamuel (SP?) I'm the Director of Government  
11 Relations for the National Supermarket Association.  
12 I am here today to testify on Intro 1145 which would  
13 recreate an exception for the Item Pricing  
14 Requirement for retail stores with guidance available  
15 for consumer use. We would like to commend Council  
16 Member Rafael Espinal for taking a meaningful and  
17 comprehensive look at the business climate for  
18 grocery stores. It is, it is no secret that the  
19 industry is in crisis with local grocery stores  
20 closing their doors regularly and leaving  
21 neighborhood void of healthy food options due to  
22 financial hardships. Creating an exception for Item  
23 Pricing Requirement would eliminate one of the  
24 biggest fines in this industry. While scanners are  
25 available and shelves are properly marked, grocery

1  
2 stores still must find time to individually mark each  
3 item to avoid huge fines. Managers must find time to  
4 employee to mark every item which could be very time  
5 consuming. This Bill would allow managers to utilize  
6 employees time for better, more efficient uses around  
7 the store. I would like to clear up any  
8 misconception that the elimination of this burdensome  
9 regulation would in no way cause hours or jobs. It  
10 would simply save our businesses from enormous fines  
11 and make our employees more efficient which benefits  
12 everybody including the consumer. At a time when  
13 businesses are struggling in New York City with high  
14 rent, burden regulations and most recently with the  
15 challenge of losing business to on-line retailers  
16 like Amazon this will provide much relief to local  
17 grocery stores. It will also provide show of faith  
18 for the local brick and mortar business and let them  
19 know that the City has not forgotten them. Uhm I  
20 just like to add that, I am a former clerk at a  
21 supermarket and I grew up as a child working in  
22 supermarkets and one of the most tedious things that  
23 we had to do was item price can by can. I believe  
24 that most of the clerks throughout New York City are  
25 going to stand up and cheer the day that this Bill is

1  
2 introduced because they won't have to do this chore  
3 anymore. Also, the burden for a young man or an  
4 immigrant making sure that he prices these cans right  
5 is relieved from them. The burden now is more on the  
6 manager of the store or the owner of the store that  
7 the equipment is working properly. Not on a poor  
8 store clerk who usually gets the blame and who is the  
9 person unfortunately as we might not want to hear it  
10 but 99% of Item Pricing is done by a clerk who marked  
11 the wrong price, not intentionally but by human error  
12 and it is that clerk that carries the burden when the  
13 Item Price is wrong. He must tell his manager, it  
14 was my mistake boss, sorry and this can build up on  
15 his person. Clerks are going to be relieved that  
16 they don't have to do this anymore and if we put the  
17 scanners on every aisle, that is going to create more  
18 jobs, because now there are going to be more people  
19 checking the scanners. Scanners have created also  
20 jobs, we have jobs in the office now, where you have  
21 a girl constantly checking the computer, you have  
22 people on the floor, going item, making sure that  
23 every item has a proper UPC code on it. Most clerk  
24 jobs are entry level, you hire people who just  
25 recently came from a country or what, with a high

1  
2 school education. For them, I think a burden will be  
3 lifted from their job. Thank you.

4           JAY PELTZ: Hello? Oh, now we are on,  
5 good, sorry about that. Thank you for the  
6 opportunity to testify in support of Intro 1145. My  
7 name is Jay Peltz, I am the General Counsel and  
8 Senior Vice-President of Government Relations for the  
9 Food Industry Alliance of New York. FIA is a non-  
10 profit association that advocates on behalf of  
11 grocery, drug and convenient stores throughout the  
12 State. Neighborhood grocers have never faced a more  
13 difficult operating environment. Operating expenses  
14 are increasing as rents soar, health insurance  
15 premiums rise and the minimum wage reaches \$15 an  
16 hour on December 31, of this year. Non-traditionally  
17 retailers that are largely non-union such as internet  
18 sellers, warehouse clubs, natural and organic stores  
19 and dollar stores are taking market share from  
20 neighborhood grocers. These circumstances are making  
21 it increasingly difficult for neighborhood grocers to  
22 net even a penny on the dollar. Accordingly, a  
23 rationalization of the Regulations Governing the  
24 City's Food Retailers is long overdue and in  
25 everyone's best interest. This Reform Bill is a

1  
2 great example for such rationalization. Since store  
3 level computerization began in the 90s, more than 20  
4 years ago this is not a new thing. Item Price Files  
5 have been sent to stores on a weekly basis which  
6 allows stores to update prices in real time. This  
7 means that Item Marking has no value. The Item  
8 Prices are clearly displayed on each to read monitors  
9 at check out. The computerized pricing systems are  
10 fully integrated so that shelf tags required by State  
11 Law and price signs are generated with the Item Price  
12 Files that are sent to the stores. The technological  
13 upgrades allow the City's neighborhood grocers to  
14 apply with State Unit Pricing and Price Accuracy  
15 Laws. The City's grocers spent millions implementing  
16 these systems over the last 20 years. Yet the City  
17 still requires the Food Retail Industry to spend  
18 additional millions over time to mark thousands of  
19 items by hand, even though accurate prices are  
20 already disclosed to customers and to pay fines for  
21 violating the arcane Item Pricing Law. These fines  
22 are unfair because even a grocer that makes a good  
23 faith effort to comply with the City's Item Pricing  
24 Law will make mistakes while trying to mark thousands  
25 of items in a store, thus guaranteeing that fines

1  
2 will be paid even if 95% of the items in the store  
3 are marked accurately and there are accurate shelf  
4 tags and price signs in front of unmarked items.  
5 None of the foregoing redundant disclosure of  
6 accurate pricing information through integrated  
7 computerized price systems as well as State Unit  
8 Pricing and Price Accuracy Laws existed when the  
9 City's Original Item Pricing Law was enacted. These  
10 developments caused the State to allow a State-Wide  
11 Item Pricing Law to expire in the early 90s, more  
12 than 20 years ago allowing localities to decide  
13 whether Item Pricing should be mandated. The vast  
14 majority of New York's Municipalities chose not to  
15 require Item Pricing. Accordingly, the City Policy  
16 is an expensive unnecessary outlier. Now, let us  
17 talk about the uhm, how the shifting labor dollars  
18 from unproductive to productive uses is somehow a  
19 domicile. Nothing could be further from the truth;  
20 the reality is that payroll and grocery stores is a  
21 function of average weekly sales. So, if average  
22 weekly sales are half a million bucks and the payroll  
23 percentage is 10% the grocer will spend \$50,000 a  
24 week on payroll which yields a certain number of  
25 hours. That formula is not affected in any way what

1  
2 so every by this Bill. You need a certain number of  
3 hours to service the business in the store,  
4 otherwise, you lose customers particularly because  
5 they lose in share constantly to all of these non-  
6 traditionally retailers. The second point is that  
7 Item Price, significant Item Pricing Reform has been  
8 enacted by all of the City surrounding jurisdictions  
9 that had sort of a pure Item Pricing Law in Nassau,  
10 Suffolk, West Chester, Mount Vernon and in none of  
11 those jurisdictions were jobs or hours cut because of  
12 the Item Pricing Law. The stats that you heard  
13 before, uhm they never spoke to the reason for the  
14 cuts. The cuts had nothing to do with Item Pricing  
15 Laws. The cuts were about average weekly sales. Uhm  
16 so in light of our testimony uhm we enthusiastically  
17 support Chairman Espinal's Bill. We thank you Mr.  
18 Chairman for your thoughtful leadership on this issue  
19 and we would be happy to answer any questions that  
20 you might have.

21 MICHAEL KING: Thank you Chair, Committee  
22 for allowing me to testify here today. My name is  
23 Michael King I am the Director of Governed Regulatory  
24 and Retail Services for Krasdale Foods. I would just  
25 like to make a couple of quick points uhm the way

1  
2 stores operate now that do have Item Price Exemption.  
3 They are checked quarterly on a regular basis for  
4 Item Price Exemption and depending upon their  
5 accuracy it goes down from there. So, it starts off  
6 with quarterly and then goes uhm every six months and  
7 then yearly after that and then so forth. Uhm as far  
8 as jobs being lost, I don't believe there were jobs  
9 that will be lost. I believe it will make employees  
10 more effective and more productive and I believe it  
11 will actually produce jobs because in order to  
12 maintain an effective and accurate system someone  
13 does have to run it. So dependent upon the size of  
14 the store, usually it is one or more people to do it.  
15 Thank you. So, we will be happy to answer any  
16 questions.

17 CHAIR RAFAEL ESPINAL: So, Andrew  
18 Wasserman is here from Fairway, he is here to show  
19 his support and answer any questions you might have.  
20 He won't be testifying. Okay, thank you, colleagues,  
21 Karen and then Brad.

22 KAREN KOSLOWITZ: I'm a shopper a food  
23 shopper. They just closed the supermarket across the  
24 street from me. I love Fairway and in order for me  
25 to go to Fairway I have to get in the car and go



1  
2 probably 5 miles to go to a Fairway. The store that  
3 closed had to do not with high rent it had to do with  
4 stale food, stale milk, and that's why they closed  
5 because people stopped going there. I am forced now  
6 to go on-line, deal with Fresh Direct, Pea Pad that  
7 is owned by Stop and Shop so it's not the store  
8 owners that are going away because of the high rent  
9 it because people stopped going there. I have Key  
10 Food in my area. I would say most of the grocery  
11 stores in my area and my area is Forrest Hills, Rico  
12 Park and Cue Gardens. Most of them aren't clean.  
13 And that's why they close and a lot of supermarkets  
14 are closing. Key Foods are owned by individuals,  
15 they are not owned by a conglomerate. They are owned  
16 by individuals and I think these people have not been  
17 checked on. I don't know how often Consumer Affairs  
18 goes out to check on the food or the Health  
19 Department goes out but that is why the supermarkets  
20 are closing. Not because of no business, because the  
21 supermarket across the street from me has a huge  
22 population of senior ce... seniors and now those  
23 seniors have no place to go. They would have to walk  
24 maybe 10 blocks to the closest supermarket. They  
25 just demolished my Key Food. It was bought by a

1  
2 builder who is building. I am dying to get a  
3 supermarket into that development. And nobody wants  
4 to come.

5           NELSON USAMUEL (SP?): It's funny that  
6 you should mention that particular store because it  
7 happened to be a member of ours. And that  
8 particularly, the developer refused to deal with the  
9 store owner and they didn't want him there because he  
10 was going to build on it. So, the reason that he  
11 left was because the developer didn't want the  
12 supermarket, he wanted to rent it out to a higher  
13 renting identity. The, the store owner wanted very  
14 much to stay there and was willing to invest millions  
15 of dollars in that location but the landlord told him  
16 no.

17           KAREN KOSLOWITZ: Why didn't, why didn't  
18 he? Why did he wait for? He could have invested the  
19 millions of dollars before the..

20           NELSON USAMUEL (SP?): No, no, because  
21 when you have a lease and your lease is up in three  
22 or four years and the landlord refuses the re-sign  
23 that lease then you can't make those, those  
24 investments in the store.

1

2

KAREN KOSLOWITZ: But I am telling you  
3 that store was dirty. It was absolutely dirty. I, I  
4 bring items up to them because they are old. They  
5 are old on the shelf.

6

NELSON USAMUEL (SP?): At the end of the  
7 day.

8

KAREN KOSLOWITZ: Milk.

9

NELSON USAMUEL (SP?): At the end of the  
10 day, the store went out because the landlord refused  
11 to give them a new lease.

12

KAREN KOSLOWITZ: I am just saying the  
13 stores aren't being made to maintained. Who, who  
14 takes care of that?

15

NELSON USAMUEL (SP?): The City does a  
16 very good job at that.

17

KAREN KOSLOWITZ: I don't agree with you.  
18 I really do not agree with you.

19

NELSON USAMUEL (SP?): Well, he went out  
20 because of his landlord. That's the bottom line.  
21 That's the fact. You can check that out. It's not  
22 me standing, it's a fact, check it out.

23

KAREN KOSLOWITZ: I will check it out, I  
24 will check it out.

25

1

NELSON USAMUEL (SP?): He went out  
because the landlord refused to renew his lease.

2

3

4

KAREN KOSLOWITZ: But he can come back  
because the landlord.

5

6

NELSON USAMUEL (SP?): No, no, he won't,  
the landlord said no. He's going to...

7

8

KAREN KOSLOWITZ: The landlord is not in  
charge.

9

10

NELSON USAMUEL (SP?): He's going to give  
it to a national chain that's going to pay four times  
the amount of rent that he was paying and you can  
also look that up. That is a fact.

11

12

13

14

KAREN KOSLOWITZ: Right now, he has  
nobody.

15

16

NELSON USAMUEL (SP?): That's the  
situation that we are going through in the City of  
New York. They would rather have nobody and wait for  
a national chain to come in and pay them three or  
four times the amount of money that these individual  
stores are paying. This is what we are living in New  
York. That's why we need this relief.

17

18

19

20

21

22

23

KAREN KOSLOWITZ: What would that happen  
to be with the supermarkets being clean or not clean?

24

25

1  
2                   NELSON USAMUEL (SP?): Well, it would  
3 give the time to the store clerk maybe to clean up  
4 the store where he doesn't have to item price can by  
5 can by can.

6                   KAREN KOSLOWITZ: I'm sorry, I don't  
7 agree.

8                   NELSON USAMUEL (SP?): I'm a former store  
9 clerk. I can tell you it was a fact.

10                  KAREN KOSLOWITZ: I mean the reason this  
11 item pricing was put into effect was because of this  
12 problem beforehand. I've dealt with the food  
13 industry for over 20 years.

14                  NELSON USAMUEL (SP?): Item pricing has  
15 been in effect as long as supermarkets have been  
16 around. When scanners were introduced that's when  
17 the industry thought the Item Pricing was going to be  
18 relief. That's the whole idea about scanners so we  
19 don't have to mark item by item but Item Pricing has  
20 been around since the invention of supermarkets.

21                  JAY PELTZ: So, poorly run stores aren't  
22 going to make it and we aren't defending it but I've  
23 been around the business for decades so what happens  
24 is if a store is poorly run there is an opportunity  
25 for another independent operator and they will buy

1  
2 that store as a value play and turn it around as long  
3 as they can get a lease. If they can't get a lease  
4 and they can't make the landlord provide the lease  
5 they are not going to put up millions of dollars to  
6 put up a store and renovate it and operate it  
7 properly when they don't have enough time left on the  
8 lease to make their money back and earn a return and  
9 the context is uhm the regulatory burden. So, what  
10 we, what we are asking is that the City rationalize  
11 the regulatory burden where ever possible, so  
12 everybody wins and that's what we think this Bill  
13 will do.

14 KAREN KOSLOWITZ: No, I think this Bill  
15 needs a lot of adjustments.

16 LAWRENCE MANDELKER (SP?): If you don't  
17 mind, I'd just like to comment. I'm not a  
18 supermarket person. I'm a department store person.  
19 Department stores and the reason that I wanted to  
20 comment is because your comments about how these  
21 stores are not being maintained properly and not  
22 being kept up properly. We in the department store  
23 industry are under attack by the on-line marketing  
24 industry and so we are trying to figure out how do we  
25 get people to come into brick and mortar stores and

1  
2 if you look at the advertising that is on the TV and  
3 you read the advertising that is in the papers and if  
4 you go into the department stores you see that they  
5 have re-arranged the department stores. They try to  
6 give much more service to the customers. They try to  
7 make each department store a fulfillment center.  
8 They try to put the workers that are there and to  
9 give them more duties and to hire additional workers  
10 so that they can improve the customer experience.  
11 Supermarkets, department stores, we are not in the  
12 business of having dissatisfied customers. We are in  
13 the business of trying to satisfy customers. When  
14 you have constituents, when you are dissatisfied  
15 because your store was not kept up and, and is gone,  
16 that's something that affects you but it affects all  
17 retailers because we want satisfied customers. There  
18 is a total compliance, I shouldn't say compliance,  
19 confluence between elected officials who have  
20 constituents and retailers where there are  
21 supermarkets or department stores who want satisfied  
22 customers. We all want the same things. Thanks.

23 KAREN KOSLOWITZ: Okay.

24 ANDREW WASSERMAN (SP?): I just wanted to  
25 give uhm. Food Service Establishments are inspected

1  
2 yearly by the U.S. Department of Agriculture Markets  
3 provided that they pass their inspection. If they  
4 fail their inspection, they are re-inspected within  
5 30 days and the Department of Agriculture Market does  
6 a very good job and they are very thorough in their  
7 inspections in the store. Uhm also one of my jobs  
8 too is I am also a Food Safety Professional License,  
9 so that is one of my jobs is to provide backup to a  
10 lot of supermarkets that do fail their inspection and  
11 everything and go in and make sure that they do pass.

12 KAREN KOSLOWITZ: A year is a long time.

13 ANDREW WASSERMAN (SP?): Uhm I do not  
14 make the rules we just have to follow them.

15 KAREN KOSLOWITZ: I've done this a long  
16 time.

17 CHAIR RAFAEL ESPINAL: Thank you Karen,  
18 Brad.

19 BRAD LANDER: Thank you Mr. Chair, I uhm  
20 so first thank you all for being here. Like everyone  
21 else on the panel I am eager that in a difficult  
22 retail environment we do what we can to preserve and  
23 strengthen and support brick and mortar retail. I  
24 work closely with a lot of you guys to try and make  
25 sure that we came up with a solution to the plastic



1  
2 bag issue that would actually work for the retailers  
3 and uhm in a recent project in my District not unlike  
4 the one Council Member Koslowitz describes worked  
5 very hard to get a developer to come in and work with  
6 the community to restore a supermarket into a  
7 development and you know whatever, we are all aware  
8 of Amazon and everything else, so I'm sympathetic and  
9 I think there are ways in which you know the relief  
10 from Item Pricing can be done in ways to protect  
11 consumers and make sense for New York but I want to  
12 ask about the, the question for workers because it  
13 may be true on the one hand that they don't enjoy  
14 putting every individual sticker on every individual  
15 can and it may be true that it creates work that uhm  
16 we might decide that doesn't need to be done, on the  
17 other hand, for folks who have jobs doing it, it is  
18 their livelihood, it's how they pay their rent and  
19 how they pay their food and I don't want to do  
20 something that is going to cause people to lose their  
21 livelihood even if we conclude that it is work that  
22 was not necessary any more. So, I did notice in the  
23 NSA testimony that you say that it will not cost  
24 hours or jobs and I guess in a different way Mr.  
25 Peltz you said the same thing. So, would you be

1  
2 willing in some form and I don't know if this would  
3 like something in the Legislation or whether it would  
4 look like sometimes in terms of you know signing  
5 something with the, with the worker organizations  
6 that provided us with some certainty, with some  
7 comfort that workers were not going to lose their  
8 jobs. Obviously, over time there might come to be a  
9 reduction of some 5 or 4% percent or something in  
10 hours, uhm so it might be that a new worker would  
11 need to be hired, less likely, less soon, you know  
12 that's not great but on the other hand, it is the  
13 pro... the existing workers are the ones that I would  
14 want to make sure that we are not in any jeopardy of  
15 losing their jobs, obviously, this is different,  
16 where there are union agreements and where there is  
17 not but what could you. You know, that is just a  
18 great concern that we would have here and it is one  
19 thing to say don't worry it's not going to happen.  
20 It would be another to work with us to provide some  
21 real guarantee or confidence that it was not going to  
22 happen.

23                   JAY PELTZ: Each clerk is assigned with a  
24 section in the supermarket, an aisle, it might be the  
25 dairy, it might be the frozen, it might be canned juice

1  
2 and not only is Item Pricing part of his job but he  
3 has to stock it. He has to make sure that that  
4 section is clean, that that station is rotated, that  
5 the signage on that station is up to date. But we  
6 are giving the clerk the opportunity now is to make  
7 his area sharper, cleaner, more updated. He is not  
8 going to be. He is not going to lose hours or jobs.  
9 We are giving him the opportunity to shine more.

10 BRAD LANDER: So, then, would you be  
11 willing to do something to provide the Council a  
12 guarantee that there would not be layoffs of workers.

13 JAY PELTZ: Due to this?

14 BRAD LANDER: Due to this Law.

15 JAY PELTZ: Due to this Bill?

16 BRAD LANDER: Law.

17 JAY PELTZ: Absolutely.

18 BRAD LANDER: With some clarity, you  
19 know, whatever, like that it would.

20 JAY PELTZ: Due to this Bill, absolutely.  
21 Because I'm confident it is not going to be happen  
22 100%.

23 BRAD LANDER: I guess I'm going to ask  
24 everyone here then. You know and I think it is a  
25 challenge to figure out what form it would take. I

1  
2 appreciate the, I don't, I don't disbelieve what  
3 people are saying but to be confident of it, I think  
4 we would want to figure out some way you know to ink  
5 it.

6 JAY PELTZ: You know I mean I'd have to  
7 followup with our members, but we are happy to talk  
8 to you about that. I mean the irony here is that  
9 this Law was not enacted originally to create hours.

10 BRAD LANDER: No, no, no, it was to  
11 create. To implement consisting and we have that  
12 through other means. I will broad accept that this  
13 was created as a consumer protection. That was the  
14 original idea, not to create work but over time  
15 people have come to have those jobs and now even if  
16 we conclude that this work is not necessary, that  
17 might be enough reason to say that we don't need to  
18 hire new people to do that work but that set of  
19 workers today have those jobs and they need them to  
20 pay the Bills and the fact that you and I and have  
21 decided we've decided here that that work is not  
22 necessary anymore. It is a rotten reason for someone  
23 to lose their job.

24

25

1

2                   NELSON USAMUEL (SP?): If you don't mind,  
3 I'm going to resist the invitation to have a  
4 philosophical discussion.

5

6                   BRAD LANDER: I think it is very  
7 practical for me. I'm looking for a practical  
8 guarantee.

8

9                   NELSON USAMUEL (SP?): It's too early to  
10 look for any kind of a guarantee.

10

11                   BRAD LANDER: But we are having the  
12 hearing on the Bill, I would also look for it.

12

13                   NELSON USAMUEL (SP?): I will take it  
14 elsewhere. This Bill isn't getting adopted tomorrow.  
15 If you want to sit with us, the Retail side of the  
16 supermarket side and really explore the nuts and  
17 bolts of the assignment of labor and how labor would  
18 shift if this Bill were adopted and what the  
19 consequences would be, that's something that I would  
20 help to facilitate but to sit here at a hearing  
21 without discussing this with uhm the members and say  
22 we are going to give you a guarantee, you take  
23 guarantees very seriously. As I seem to recall.

23

24                   BRAD LANDER: So, let me leave it, I'll  
25 leave it here I mean obviously the Chair cares about  
the employees, like this is the, this is the Chair's

1  
2 Bill. I look forward to you know having a  
3 conversation with him and I would be glad in some  
4 form to have a followup dialog with folks in the  
5 industry as part of that conversation. I will leave  
6 room for the possibility that I could just be  
7 persuaded it was nothing to worry about but I guess I  
8 would just encourage you guys to leave room for the  
9 possibility that you could find a way, to give a  
10 great deal of confidence that it was not something to  
11 worry about.

12 NELSON USAMUEL (SP?): If I could  
13 clarify, I didn't mean that we would give a  
14 guarantee. I was just saying that we are happy to  
15 address these concerns and see if, you know see where  
16 that goes.

17 BRAD LANDER: Thank you very much.

18 CHAIR RAFAEL ESPINAL: I guess I have  
19 just one question. So, what is, what is the biggest  
20 concern for the supermarket when it comes to the Item  
21 Pricing? Is it, is it the Labor that, that it  
22 creates for the worker there? Or is it, is it the  
23 fines that come if you don't? Mark... properly mark  
24 these items?

25

1  
2                   NELSON USAMUEL (SP?): I would say it is  
3 both. It is, it is labor and it is time consuming  
4 and I can't say it enough we place the burden on the  
5 clerk to make sure that that price is right so when  
6 the Department comes and gives us a fine and says the  
7 supermarket was engaging in deceptive practice. That  
8 is totally false. That is some poor individual who  
9 instead of an 8 saw a 4 and marked it down that way.  
10 By taking this burden away from him, we are relieving  
11 him of that burden and believe me you, most clerks,  
12 all the clerks are going to be very, very happy that  
13 they don't have to do this tedious job anymore.

14                   JAY PELTZ: And in terms of the labor  
15 cost, there are two aspects of it. There is a direct  
16 cost, the dollars that you pay people to, to perform  
17 an unnecessary function and there is the opportunity  
18 cost which are all the things that they could be  
19 doing in the store that would add value and would  
20 benefit everybody.

21                   CHAIR RAFAEL ESPINAL: Alright, great,  
22 well, thank you guys, thanks for coming. Alright  
23 with that said, this meeting is adjourned. (gavel  
24 pounding).  
25

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 JANUARY 18, 2019