

**Testimony of Commissioner Lorelei Salas
New York City Department of Consumer and Worker Protection**

**Before the Committee on
Small Business**

**Hearing on
Introductions 2233 and 2234: Civil Penalties, Cures, and Waivers**

March 1, 2021

Introduction

Good afternoon Chair Gjonaj and members of the Committee on Small Business. I am Lorelei Salas, Commissioner of the Department of Consumer and Worker Protection, or DCWP. I am joined by Michael Tiger, our Deputy General Counsel, and Steven Ettannani, our Executive Director of External Affairs. Thank you for the opportunity to testify today before the Committee.

I agree with and echo my colleague, Commissioner Doris, and his testimony in support of the intent of both the introductions under consideration. However, we are adamantly opposed to the proposal's dilution of DCWP's foundational law, the Consumer Protection Law, also known as the CPL.

Diluting the CPL, and not improving its protections, will have tremendously negative consequences for the most vulnerable of our city's constituents and stifle our agency's mission during a time of extreme crisis. In fact, we look forward to working with the Council to strengthen the protections of the CPL.

Small Business Support

To be clear, there is no question that the Administration and DCWP supports small business relief. We have prioritized giving small businesses the tools they need for compliance and worked with Council to cut red tape for licensees and other businesses.

Prior to the pandemic, our agency instituted robust language access and educational collateral to serve our small businesses. We established the "Visiting Inspector Program" to educate licensees about the laws and rules applicable to their businesses with one-on-one personal visits where we provide businesses with plain language checklists, so they know exactly what we will be looking for in the future. We have eliminated redundant license categories, saved businesses up to \$9.8 million through 31,000 cure-eligible violations issued since 2014 and have proactively approached the Council with new cure-eligible violations we believe should be implemented.

At the onset of the COVID-19 crisis, we partnered with Council to refund \$12 million in consent fees to restaurants, and extended license and renewal periods for more than 50,000 licensees. We also suspended patrol inspections at the start of the state of emergency, and our team has actively

been on the ground, educating more than 3,500 small businesses and counting, door to door, on safe reopening guidance.

NYC's Consumer Protection Law

This is all to say that the goals of these bills are broadly in-step with our own efforts to support our city's small businesses. However, we can achieve the goals of providing relief to small brick and mortar businesses without abandoning our most vulnerable consumers. Likewise, we do not believe that businesses who egregiously decided to price gouge consumers on goods used to treat, prevent and limit the spread of COVID-19 should have their civil penalties returned to them.

Since 1969, the CPL has been an essential component of our city government's obligations to protect our constituents from harm, including from the minority of businesses or corporations that would seek to deceive our consumers. Significantly, before the Council's consideration is Introduction 1622, which modernizes the CPL to reflect the Council's commitment to guard New Yorkers from deceptive online transactions, require documents be translated in a consumer's language of preference, and provide penalties that are effective deterrents of predation. That bill has the support of Councilmember Ayala, Chair of the Consumer Affairs and Business Licensing Committee, along with the majority of members of that committee.

In 1969, the cost of bread for a consumer was 20 cents. Since that time, the CPL's penalties have remained unchanged. Now, they are among the lowest consumer protection penalties in the entire country and are not an adequate deterrent for businesses. Fair penalties that protect New Yorkers from real harm make sense, much like the civil penalties in Council's recently passed legislation to protect our small businesses from unreasonable fees from online delivery apps, to require small businesses to disclose their collection of biometric data, or to require hotels to report their service disruptions.

Looking out upon our communities, the CPL enjoys broad support from labor, immigrant, legal advocates, and economic development organizations. These organizations, made up of everyday New Yorkers, know the impact of the CPL on our lives. They know it is the shield that deters "notarios" from preying on our immigrant New Yorkers, who much like I was, are in search of the American Dream. It is the safeguard that allows us to pursue cell phone companies who deceive consumers into buying used phones marketed as new, or for-profit schools who deceive students into taking grants that convert to private loans without the students' knowledge. In sum, the CPL gives the agency standing to pursue predatory practices citywide.

Take, for example, price gouging. This is work that we pioneered after public outcry from more than 12,000 New Yorkers. Businesses that used the darkest hours of the pandemic to exploit their consumers should not be given a reprieve from those acts. We, as a city, should strengthen the CPL's protections, and are concerned by measures to reduce them or forgive past penalties issued under its authority.

Conclusion

DCWP supports the intent and efforts to help our small businesses but are strongly opposed to weakening the nation's first ever municipal consumer protection law. DCWP at its core is dedicated to protecting our consumers and workers and diluting this law would go against this very mission. Intrinsicly tied to this, is the work we have done to protect our city from endemic price gouging that arose during the pandemic.

We encourage the Council to include Introduction 1622 or its core provisions with this legislative package. An update to the Consumer Protection Law is needed now more than ever. Thank you for the opportunity to testify and I look forward to any questions you may have.

TESTIMONY

BY

COMMISSIONER JONNEL DORIS

NEW YORK CITY

DEPARTMENT OF SMALL BUSINESS SERVICES

BEFORE

THE COMMITTEE ON SMALL BUSINESS

OF THE

NEW YORK CITY COUNCIL

MONDAY, MARCH 01, 2021

Good afternoon Chair Gjonaj and members of the Committee on Small Business. I am Jonnel Doris, the Commissioner of the New York City Department of Small Business Services (SBS). I am joined by Lorelei Salas, Commissioner of the Department of Consumer and Worker Protection (DCWP), and from my senior leadership team, Assistant Commissioner of Business Operations and Regulatory Reform, Amna Malik. At SBS, we aim to unlock economic potential and create economic security for all New Yorkers by connecting them to quality jobs, building stronger businesses, and fostering thriving neighborhoods across the five boroughs. I am pleased to testify on the work SBS, and partner agencies are doing to reduce the regulatory burden on small businesses.

At the beginning of the Administration, Mayor de Blasio tasked SBS, the Mayor's Office of Operations and regulatory agencies to find ways to ease the city's regulatory environment for small businesses. The City launched Small Business First (SB1) a multi-agency initiative with four key goals: provide clear information with coordinated service and support, help business owners understand and comply with regulations, reduce the burden imposed by complex regulations and penalties, and ensure equal access for all business owners. Using these principles, Small Business

First worked with more than 600 business owners, CBO's, chambers of commerce, local economic development corporations, BIDs, industry professionals, elected officials, and over 15 City agencies to identify 30 recommendations to target and implement.

SB1 streamlined the permitting processes and created an online business portal where businesses can complete applications, make payments, and get status updates. To date, there have been more than 7.2 million visitors to the portal with over 45,000 accounts created. We also produced 29 plain language guides and launched our compliance advisors' program. Additionally, punitive practices needed to be rooted out and prioritized for change through the lens of equity. Altogether, the City was successful in implementing all of the recommendations from SB1. These changes save businesses more than \$50 million annually by reducing fees for licenses and permits, reducing processing times for applications, reducing penalties, and educating businesses on how to avoid penalties. In total, SB1 reduced small business penalties by over 40 percent.

Building on the success of SB1, the Mayor committed to expanding civil penalty relief further for small businesses, including eliminating penalties

for first-time violations and expanding curable offenses. Ensuring that public health, safety and quality of life were maintained; SBS worked with our partner agencies and identified 73 violations for cure or first penalty elimination, which will greatly improve the business environment in the city. Expanding curable violations and eliminating first-time offense penalties allow enforcement agencies to prioritize education and compliance over financial penalties. To date, SBS's education efforts have helped save businesses \$118 million in avoided penalties. Our Compliance Advisors and Business Advocates have completed over 8,000 consultations working with business owners on a recurring basis to help them navigate and succeed in a complex regulatory environment. We provide targeted guidance through onsite consultations to help business owners become aware of and learn how to avoid common violations across City agencies. The advisors are able to conduct consultations on-site and in a business owner's preferred language. They cut through bureaucracy and red tape to bring equity and consistency to businesses. You can be assured that we are taking in all of this field information and using it to inform our work now and for the future.

In the midst of this work, we were thrown into the depths of the pandemic. SBS and city agencies had to adapt quickly and collaborate to design programs and services to support small businesses during this health and economic crisis. Brand new programs like Open Restaurants and Open Streets were created to reduce the public health risks and create opportunities for businesses. And although SBS is not a regulating agency, we worked with many of our partner agencies who made concerted efforts to prioritize outreach and education over penalties and enforcement for businesses struggling during the pandemic. The number of civil summonses issued by the City's enforcement agencies fell significantly in 2020. For example, compared to 2019, DOT issued 42% fewer summonses this past year, NYPD issued 56% fewer, and DOHMH issued 75% fewer. Despite the challenges of the pandemic, the City has successfully implemented changes to nearly 60% of the targeted 73 violations and we expect to complete the remaining changes this year. We estimate this will reduce penalties by an additional 10%, creating a total reduction in penalties of 50% by the end of this year.

During the pandemic we have seen the stark inequities our society holds in its framework laid bare. At SBS we have witnessed this challenge in the

City's neighborhood businesses every day. From the 55,000 calls to our hotline, to the 74 business corridor tours visiting thousands of businesses across all five boroughs, to deep collaboration with our BIDs, Chambers of Commerce, restaurant organizations, and business groups -- we recognized the problems and moved to address them. This work will not end with the pandemic. As you know, as laws are created, they need to be continually reviewed, modified, and eliminated to ensure they remain relevant and hold up to their intent. We have an obligation in government to continually search for laws and violations that lead to deeper inequality and move to correct them. This past year we launched over two dozen programs and initiatives, fielded over 55,000 phone calls, hosted over 350 webinars with nearly 50,000 attendees. We have done 74 corridor walks reaching thousands of small businesses. Our focus has been on supporting the needs of our small businesses in the hardest hit communities including minority- and immigrant-owned businesses.

Before closing, I would like to turn to the two bills being heard today sponsored by Chair Gjonaj and Council Member Gibson. We share the Council's goal to help small businesses by cutting penalties and allowing individuals to "cure" violations. We are still reviewing the extent of the

proposals and look forward to working with the Council in coming up with a balanced approach that achieves our mutual goals, while still giving our agencies the tools needed to deter those who seek to take advantage of New Yorkers. Commissioner Salas will go into more detail on the implications of the legislation on the city's Consumer Protection Law.

I end my testimony with the commitment from SBS to continue working to make the regulatory environment easier for small businesses while protecting the public health, safety, and quality of life of all New Yorkers. We know there is always more work to be done and we look forward to continued partnership with the Council to identify new opportunities to reduce the regulatory burden for small businesses across the City.

Thank you and I am happy to take your questions.



February 23, 2021

NYC Council Speaker Cory Johnson
City Hall Office
New York, NY 10007

Dear Speaker Johnson:

I am writing this letter on behalf of the Myrtle Avenue Brooklyn BID to express support for the proposed changes to current violation and civil penalty processes for NYC businesses.

These changes will bring critical relief to thousands of NYC's small businesses at a time when they are looking down a long-road of recovery from the economic impacts of COVID-19. Providing more "cure period" opportunities for these businesses to rectify any issues in good faith is an important step forward in the City's ongoing efforts to work with and support small businesses in serving New Yorkers safely.

Additionally, we commend the proposal's call to lower penalty ceilings and fixed penalties at a time when cash flow for many businesses is incredibly tight and every dollar is needed to keep storefronts open, lights on, and employees on payroll.

Lastly, we strongly support the proposal to provide temporary relief through waivers and refunds of certain civil penalties through The City of New York's current COVID-related state of emergency. While many small businesses are still required to be operating at reduced capacities – nearly for a full year now – this relief is one of many steps needed from all levels of government to ensure the longevity of our city's small business community.

Sincerely,

A handwritten signature in black ink that reads "Chad Purkey".

Chad Purkey
Executive Director

Chad Purkey,
BID Executive Director

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Cc: Majority Leader Laurie A. Cumbo

**Testimony of
the New York City Hospitality Alliance
Before the Committee on Small Business
March 1, 2021**

My name is Andrew Rigie, and I am Executive Director of the New York City Hospitality Alliance (“The Alliance”), a not-for-profit association representing restaurant and nightlife establishments throughout the five boroughs. The Alliance thanks Chair Mark Gjonaj, and members of the small business committee for the opportunity to testify in support of T2021-7182 and T2021-7181, which would reduce fines and create cure periods and warnings for a long list of violations issued to small businesses, while refunding certain civil penalties issued to them during the pandemic.

Since the beginning of the pandemic a year ago, thousands of local restaurants and nightlife establishments have shuttered and countless more are on the edge of survival. We have lost over 140,000 jobs in food and drinking establishments. Moreover, a report published by NYS Comptroller DiNapoli indicated that one-third to half of New York City’s approximately 25,000 restaurants and bars may permanently close. Now is the time for the City of New York to enact regulatory reform.

While we commend Mayor de Blasio’s administration for their efforts to reduce fines for small businesses during his tenure, much more needs to be done, and now is the time to seize the moment. Historically, the City of New York treated restaurants like its personal ATM with fines and fees. With this proposed legislation, the Mayor and City Council have a once-in-a-generation opportunity to improve the way the city regulates small businesses by focusing on education and compliance first, instead of punitive fines and fees.

This comprehensive punitive penalty reform is what The Alliance has advocated for years - amending and repealing unnecessary and inappropriate violations and mandates that have burdened the restaurant and nightlife community. The goal should be to reduce fines, increase education and compliance, and provide a cure or warning before a fine is levied for any violations that does not pose an imminent hazard to the public and workers.

In fact, throughout the pandemic, city agencies have focused on educating businesses about compliance before imposing fines and it appears it’s worked, and greater compliance can be achieved through education instead of harsh fines.

By reducing fines and providing cure periods and warnings for violations, the city will also change what has often been described as a tense relationship between their inspectors and small business owners. Inspectors may feel that if they focus on education, and don’t issue fines which generate revenue for the city, it will appear as if they aren’t doing their jobs. Small business owners feel that when an inspector arrives, the inspector’s only job is to levy violations and fines. By reducing fines and providing cure periods and warnings for violations, the focus of inspections can be more educational, collaborative and compliance oriented.

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While we strongly support T2021-7182 and T2021-7181, many more violations need to be added, especially violations issued by the NYC Health Department and Department of Consumer and Worker Protection, and The Alliance looks forward to working with you on that.

We appreciate the City Council and the Small Business Committee for their time and consideration on this matter. If you have questions, I'm reachable at arigie@thenycalliance.org

Respectfully submitted,



Andrew Rigie
Executive Director
NYC Hospitality Alliance



TESTIMONY OF
THIRD AVENUE BUSINESS IMPROVEMENT DISTRICT

Michael Brady, Chief Executive Officer

before the

New York City Council

Committee on Small Business

Monday, March 1, 2021, 1:00pm – City Hall, Remote Testimony

Good afternoon, Chair Gjonaj and members of the New York City Council Committee on Small Business. Thank you for the opportunity to speak on the recently introduced legislation for small businesses, specifically, Int. 2233 and 2234. I would be remiss if I did not acknowledge today's anniversary of the first case of COVID-19 in New York City and the catastrophic loss of life that has severely shaped how our city prepares for and reacts to disasters. So many New Yorkers have died and the economic and public health impact of this disease still rages in our communities – my personal thoughts are with every family member who has lost a loved one and every individual that is grappling with the economic fall out of this pandemic.

I am Michael Brady, Chief Executive Officer of the Third Avenue Business Improvement District and the Bruckner Boulevard Commercial Corridor, located in the South Bronx. Collectively, these organizations represent roughly 1,000 South Bronx, largely immigrant owned, mom and pop businesses. The work of these organizations address barriers for district small and micro business owners and build robust equitable economic development tools by demanding equitable City resources, safer & cleaner streets, and responsible, mission-driven development.

Our organization is helping drive the systemic change needed to support equitable economic development in the Bronx. We organize and build coalitions, provide strategic community services, provide research and data analysis, and support targeted advocacy efforts that strengthen community voices, build community power, and help to win economic development policies that invest in people as much as they invest in places.

I am here to lend our organization's support to Int. 2233 and 2234 as part of what I hope will be followed by a series of common-sense policies and roll backs which genuinely prioritize small businesses and local economies and attempt to counter a decade of punitive measures placed on small and micro business owners. The introduction of this legislation is a small step forward and must be accompanied by pro-small business policies which cultivate a message accompanied by actions which clearly state that New York City is open for business. Over the past decade the anti-small business sentiment in New York City has had a damning impact on our neighborhoods and local economies. These two bills are a small part of countering a decade of neglect where small businesses were seen as the proverbial piggy bank and not the foundational investment for our City's neighborhoods.

I would caution that the success of Int 2233 and 2234 is all about the roll out and getting into the weeds. Refunds on violations must be easy to submit, language ready, and take into account the severe digital divide that exists in our City. It cannot be onerous and refunds must be processed swiftly if these bills have any hope of positive impact.

The COVID-19 pandemic and a decade of anti-small business sentiment created a perfect storm that has led to the closure of over 30% of NYC's small businesses, only higher in industry specific areas like hospitality and

hotels. We need to fix this and fix it quickly. It is time for New York City to put small businesses first, prioritize business needs, grants, and capital over progressive sound bites.

This is also a warning for the incoming class of City Council representatives – legislation has consequences that far outlast your time in government. Smart legislators will evaluate those consequences and not stick their heads in the sand. Climbers seeking higher office without properly evaluating legislative impact beyond a term in office will continually be a detriment to New York City’s growth and the ability for small businesses to succeed.

Small businesses are in the struggle of their lives. We must mobilize every tool quickly and efficiently to protect as many small businesses as we can, and also deeply engage with entrepreneurs to fill the market gap left by so many closures over the past year. The public health impact has been great, and the subsequent economic impact will have a lasting effect on our City for at least a decade. It is my hope that this body not only understands the severity of COVID-19’s impact, but will take meaningful and purposeful steps to implement a comprehensive plan to address it. These two bills are a small step in that direction.

Thank you for the opportunity to speak today, I will take any questions you may have.



Consumer Federation of America

1620 I Street, N.W., Suite 200 * Washington, DC 20006

Testimony: Susan Grant, Director of Consumer Protection and Privacy, Consumer Federation of America

Hearing: Introductions 2233 and 2234: Civil Penalties, Cures, and Waivers

Date: March 1, 2021

Good afternoon Chair Gjonaj and members of the Committee on Small Business. My name is Susan Grant, and I am the Director of Consumer Protection and Privacy at the Consumer Federation of America, an association of non-profit consumer organizations and state and local consumer agencies across the United States. CFA was established in 1968 to advance the consumer interest through research, advocacy, and education. The New York City Department of Consumer and Worker Protection is a member of CFA and I am familiar with its work through a survey we conduct annually about the complaints state and local consumer agencies receive and the actions they take to protect the public. Thank you for the opportunity to testify today before the Committee.

I am concerned that these bills, as written, would be detrimental to the good work done by the department and to consumers in New York City. The department's work is crucial in protecting the city's most vulnerable residents from unscrupulous businesses that target and take advantage of them – from the hopeful immigrant scammed by a notario promising easy access to citizenship, to the African American single mother duped into overpaying for a car that stops working a week after driving it off of the lot, to the minimum wage worker who is charged four times the normal amount for cleaning supplies or face masks need to combat the spread of the coronavirus. Protecting these people is yeoman's work that city officials should celebrate and support, not undermine.

There is no reason to slash penalties for deceiving and abusing consumers, especially during a public health emergency when consumers are even more vulnerable to scams and abuse and even less able to afford losing their money. If anything, the penalties under the Consumer Protection Law, which dates back to 1969, should be updated to more effectively deter abusive practices in the marketplace.

It also seems unwarranted to impede the department's ability to engage in meaningful consumer protection. The proposed changes would require the department to scrap its current inspection regime in favor of a new warning system, requiring new documentation, new technological requirements, testing, and implementation. It's hard to see how this would benefit consumers or businesses that play by the rules. It would, however, benefit dishonest car dealers, fraudulent immigration services, electronics stores that use bait and switch tactics to trick consumers, and other businesses that violate the law by making it harder for the department to do its job. That job has already been made more difficult by the pandemic, which has spurred an increase in complaints and complicated its operations.

COVID-19 has impacted everyone – businesses, consumers, government agencies, and nonprofits such as mine. But we are all in this together, and we all want the same thing: a marketplace that is just and fair, in which businesses that treat their customers properly thrive and are not forced to compete with businesses that lie and cheat. I urge you to meet with the heroic people at the New York City Department of Consumer and Worker protection to ask what you can do to help them protect your constituents.

**Testimony of
Robert Bookman, Esq.
Before the Committee on Small Business
March 1, 2021**

Re: Regulatory Reform bills

HISTORY

This legislation is the culmination of over 15 years of work with the city council which has slowly been moving the ball forward on regulatory reform. Going back to speaker Gifford Miller when he asked me for a list of silly and outdated laws and regulations to eliminate, to Speaker Christine Quinn who actually passed, over objections from Mayor Bloomberg, a number of regulatory reforms, to Speaker Corey Johnson who has made this a priority and whose support we greatly appreciate in this effort.

It's important to remember that in the last year of Mayor Bloomberg's final term this Council passed legislation requiring multiple agencies that regulate small businesses to report within six months to the council a list of laws and regulations where fines could be eliminated and replaced with warnings and an opportunity to cure. Having objected to this legislation, Mayor Bloomberg made sure that the agencies gave the most minimal response possible, listing only sign violations. And even then, the health department was excluded altogether. Yet even that legislation saved tens of millions of dollars a year on needless fines for first time violations for not having one of many signs properly posted, signs that often no one reads.

At that time, Public Advocate and Mayoral candidate Bill de Blasio was highly critical of Mayor Bloomberg and his agencies for its addiction to fines. He even issued a report where he complained that the Council as well as the Mayor needed to do more to reduce fines, what he called a hidden tax on small businesses. He correctly argued that the laws needed to be changed.

And he was right then. The laws did need to be changed. Unfortunately, they still do, because while policies have reduced fines somewhat the past 7 years, they are still way too high and policies can change overnight and with a new administration. The laws need to be changed, and that is what you are starting today, a fundamental change of the relationship between city government and small businesses. From the traditional one of fines, fines and more fines to one that stresses compliance as the goal and to be achieved not with fines, but with education, opportunities to cure and warnings. Reserving fines only for the most egregious violations and repeat offenders.

SOME DATA ON FINES

As cited in the Public Advocates report from 2013, Consumer Affairs fines of small businesses went from \$4 million in 2002 to \$14 million in 2012. The Health Department's fines to the most famous restaurant city in the world went from \$8.2 million in 2002 to \$52 million in 2012.

While fines have gone down somewhat at the Health Dept. because of reforms this Council passed that year, such as no fines if you get an A inspection, we are nowhere near the 2002 numbers and we should be.

SPECIFICS ABOUT THESE BILLS

This legislation accomplishes many goals discussed over decades. It allows for warnings on the most minor violations. It allows for an opportunity to cure without a fine on some others.

And very importantly, it reduces the maximum fine that can be imposed at a hearing on yet other violations. This is critical because the agencies over the years by rule and by policy have effectively increased fines without Council action by raising the minimum fine the ALJ is allowed to impose. So for example, when the law says a fine should be no more than \$200, that means it should be anywhere from \$0 to \$200. But the agencies have stated that the minimum is \$100, thereby raising the floor of the violation. By creating a fixed fine and by reducing that amount this will correct that injustice.

It is important to note that the particular violations listed in the legislation especially at the Health Department and the Department of Consumer Affairs, is a good starting point but only a starting point. There are many more small businesses violations which should be subject to a warning or an opportunity to cure rather than a fine. We look forward to working with the committee in identifying these additional rules and regulations.

Finally, as there is a concern about the cost to the city's budget, we must point out that by reducing the bureaucracy associated with issuing fines, processing fines, holding hearings on fines and collecting fines, there will be considerable savings for the city.

In closing, I would like to quote what then-Public Advocate de Blasio pointed out all those years ago.

“We cannot hold small businesses hostage to the city's budget. It's time to stop treating small businesses like an ATM and take an honest look at what the fines are really costing the city. We can protect New Yorkers without running neighborhood businesses into the ground.”

Respectfully submitted,

Robert Bookman, Esq.
Pesetsky & Bookman



NEII

NATIONAL ELEVATOR INDUSTRY, INC.

SETTING STANDARDS IN MOTION

**Statement of the National Elevator Industry, Inc.
regarding Int. 2234-2021 an Act before the
New York City Council Committee on Small Business
March 1, 2021**

The National Elevator Industry, Inc. (NEII) submits this statement for consideration by the New York City Council Committee on Small Business. NEII wants to provide a perspective on sections 13 and 14 of Int 2234-2021 and Int 2233-2021 concerning the waiver of penalties associated with certain aspects of the building code and request a comparable waiver be added for elevator reporting.

NEII represents the interests of companies that install, maintain, and/or manufacture elevators, escalators, and other building transportation products, including parts or components. NEII's membership includes the top elevator companies in the United States, if not the world, as well as many smaller elevator companies as well. Collectively, our membership represents more than eighty-five percent of the work hours for the industry nationwide.

Int 2233-2021 and Int 2234-2021 currently provides a waiver for penalties associated with the filing of required reports concerning boiler inspections. Much like boilers, the elevator industry is also required to obtain building owners' signatures and file certain inspection and testing reports. It has been extremely challenging to complete this requirement in a timely way during New York City's state of emergency beginning in March 2020. We urge the committee to provide a waiver for elevator reporting comparable to what is currently proposed for boilers.

The request waiver for the elevator industry is necessary to provide relief for fines and penalties being assessed during one of the most challenging times – if not the worst – in the history of New York City and for which noncompliance may be outside the control of the business. For example, our member companies have experienced a wide array of challenges in utilizing the New York City Department of Buildings (DOB) DOB NOW electronic filing system. System outages, including being off-line for several days before the 2020 end of year filing deadline, have led to the imposition of expensive penalties. NEII has had a continuing dialogue with the Department regarding the DOB NOW system, but technical progress that would reduce exposure to penalties caused by the unavailability of the system at critical junctures is slow to be realized.

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(703) 589-9985 • 5537 SW URISH ROAD • TOPEKA, KS 66610

In addition, the New York City Council will soon consider code updates that may shorten the reporting timelines and create even more limitations on our industry's ability to obtain required signatures for inspection and testing reports. Our industry, as well as the building owners and landlords they serve have incurred numerous penalties as a direct result of the COVID-19 pandemic and the new mandates in the codes will only exacerbate the difficulties in securing the required signatures.

The elevator industry is concerned with safety first and foremost. Throughout the COVID-19 pandemic and the declared state of emergency, this industry has maintained a high level of service to ensure the safety of the riding public and the industry workforce. The request to include a waiver for the elevator industry will do nothing to undermine the safety of this equipment in New York City and will provide critical relief for the small businesses struggling to survive.

Please feel free to contact NEII's Director of Government Affairs, Chelsea Chaney at 620-332-9552 or via e-mail at cchaney@neii.org if you have any questions or need additional information. Ms. Chaney is available, as are representatives from NEII's member companies, to meet with members of the Committee to address any questions. Thank you for your time and attention to this important industry issue.

Testimony of Kendra Hems

On Behalf of

Trucking Association of New York

Before the

**New York City Council
Committee on Small Business
March 1, 2021**

Regarding

Intros. 2233 & 2234 – Reducing fines on small businesses

I would like to thank Chairman Gjonaj as well as the members of the committee for the opportunity to testify before you today. For over 85 years, the Trucking Association of New York (TANY), a non-profit trade group, has represented the trucking industry in New York, advocating for the industry at the local, state and federal levels. We provide educational programs to our membership, which enhance their safety and maintenance efforts and offer numerous councils and committees to meet the diverse needs of our membership. TANY comprises over 500 member companies from New York, Canada, every border state, and other states across the country and is the exclusive New York affiliate of the American Trucking Associations (ATA).

I would like to begin by commending the bill sponsors as well as the Council for proposing two pieces of legislation that will provide much-needed relief to the small business community. For years, small businesses have been battling a myriad of complicated regulations that often result in these establishments being saddled with hefty fines by the City. The COVID-19 pandemic only added insult to injury when many of these businesses were forced to shut their doors or reopen at a reduced capacity. Yet, the City continued to enforce a majority of these regulations and businesses were still incurring fines at a time when they simply cannot afford any additional financial strain.

While most would think of small businesses as brick-and-mortar stores and restaurants, the vast majority of trucking companies are in fact small businesses. Many of our member fleets consist of less than ten trucks and are family-owned and operated. As the Council examines a variety of regulations to temporarily reduce or suspend fines, we ask that you consider the addition of one regulation that is germane to the trucking industry. Specifically, the reconciliation of the New York City Department of Transportation's (NYCDOT) marking laws with that of the state and federal departments of transportations.

Under current federal and state law, commercial trucks must be marked on both sides of the vehicle with the legal business name or DBA as it appears on their USDOT registrations. The lettering must be written in a color that contrasts with the background color of the vehicle and it must be visible from a minimum distance of 50 feet. However, NYC Traffic Rules (4-01(b)(3)(i)(c)) mandates an additional requirement that commercial trucks include their full address in characters at least three inches high on both sides of

Trucking Association of New York

the vehicle, with such display being in a color contrasting with that of the vehicle and placed approximately midway vertically on doors or side panels. If the vehicle is not marked in this manner, it is deemed an “unaltered vehicle” and would not be in compliance with NYC laws for purposes of commercial vehicle parking. This subjects the company to the stacking of tickets for not having an altered motor vehicle as well as being in violation if that vehicle is parked in a commercial loading zone.

Additionally, an exception for this NYC marking requirement exists for vehicles which display widely-recognized “logo”-type markings such as UPS, Federal Express, Ryder and other nationally known companies. This is truly a small-business burden.

Many of our members do not operate solely within the confines of New York City, and are often not aware of this unique marking requirement until such time they receive a ticket, even though they are otherwise in compliance with both state and federal regulations. Requiring these companies to pull their trucks out of operation to add additional markings is a tremendous administrative and financial burden. There is no need for the street address to be marked on the vehicle as it is easily accessible by looking up the USDOT number or the vehicle registration information.

This additional requirement has no impact on safety yet results in a significant number of violations and subsequent fines for our members. We respectfully ask that the bill sponsors examine the additional requirement and consider repealing the full address requirement in Intro. 2233. This measure would go a long way in ensuring that our members are not saddled with significant fines for a regulation that does not comply with federal and state laws.

We look forward to working with the Council to address our concerns with the current legislation.

Thank you.

Trucking Association of New York



Testimony of Make the Road New York

New York City Council Committee on Small Business

Hearing on Int 2233-2021 and Int 2234-2021

March 1, 2021

Make the Road New York (MRNY) is pleased to submit this testimony to the New York City Council Committee on Small Business to express our concern that Introduction 2233 and Introduction 2234 will lower the fines for violations of the Consumer Protection Law (CPL) to such a degree that they will undermine any incentive for corporations or businesses to comply with vital protections for consumers across New York City, leaving consumers, especially immigrant New Yorkers, vulnerable to deceptive and predatory practices.

MRNY is a non-profit community-based membership organization with over 24,000 low-income members dedicated to building the power of immigrant and working-class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services, including legal services for workplace justice, immigration, and housing issues. MRNY's five community centers, including centers in the New York City neighborhoods of Jackson Heights, Bushwick, and Port Richmond, provide a broad array of support to thousands of New Yorkers every year.

Immigrants are often targets for fraudulent schemes based on their unique vulnerabilities, including language proficiency, education levels, and fear of reporting to law enforcement. Our members have been harmed by unscrupulous immigration attorneys and service providers who deceived them into paying thousands of dollars for visas which do not exist. Immigrants have been targeted to pay brokers' fees and even down payments on apartments that do not exist. The financial consequences of being defrauded is often devastating to low-income families. Even worse, some face deportation proceedings as a direct consequence of the fraudulent schemes.

New Yorkers rely on the DCWP to investigate these deceptive practices and enforce the protections, and to send a strong message to businesses that there will be real consequences for defrauding New Yorkers. These bills would unduly weaken the protections and leave DCWP without meaningful enforcement tools.

These bills would undermine the very mission of the Department of Consumer and Worker Protection (DCWP): protecting New York's consumers and workers. While we understand the support small businesses need during this pandemic, these bills would instead weaken already low incentives for businesses, including large corporations, to comply with critical consumer protections and benefit low-road employers. Make the Road New York has previously and again urges the Council to *increase* the civil penalties which are notably low and have not been updated in over fifty years. Stronger, not weaker, protections will more fully protect hard working New Yorkers and our small, local brick and mortar businesses who are competing with corporations that flout consumer protections.

We respectfully urge the New York City Council to consider alternative solutions that also ensure that New York's consumers are protected from fraudulent and deceptive practices, especially at this time when our communities are under tremendous stress and economic distress.

Thank you for your consideration.



Asian American Federation

Testimony for New York City Council Oversight Hearing on The Mayor's Recovery Agenda

Submitted to the New York City Council Committee on Small Business

Mar 1, 2021

Thank you, Chair Mark Gjonaj and the Committee on Small Business, for convening this hearing.

My name is Ahyoung Kim, and I am the Associate Director of Small Business Programs at the Asian American Federation (AAF). AAF's mission is to raise the influence and well-being of the pan-Asian American community through research, policy advocacy, public awareness, and organizational development. We represent a network of nearly 70 member and partner agencies that support our community through their work in health & human services, education, economic development, civic participation, and social justice.

Through our Small Business Program, we directly serve nearly 100 Asian-owned small businesses in Flushing and work together with groups that support thousands of Asian small business owners across the city, such as the Korean American Business Council of New York.

In our rapid response efforts in the face of this pandemic, we have facilitated the distribution of over 320,000 masks and hundreds of thermometers to small business owners all over New York City. We also set up an in-language resource web page for policy changes and government assistance programs, and continue to provide direct services for business owners who need marketing and administrative assistance. From July to August this year, we conducted a survey¹ to assess the impact of the pandemic on Asian small business owners across the State, through which we collected over 400 responses.

The majority of our survey respondents answered that their businesses were operating in limited capacity at the time of the survey, and over 31% of them said their business was temporarily closed. Almost all business owners reported a decrease in revenue—55% of them suffering from over 75% loss in revenue. Asian small business owners have been largely left out of outreach and information dissemination efforts in the time of this pandemic. In our small business survey, over 40% of business owners answered they experienced difficulty in finding information in their language.

Penalties from violations are one of the greatest challenges that small businesses face. For immigrant small business owners with limited English proficiency, there is not enough information regarding city regulations, nor adequate in-language assistance to help them navigate the complicated regulations.

Left to their own devices with little access to learn about government regulations, new immigrant business owners often rely on word-of-mouth or their children's translation to learn about regulations.

¹ AAF conducted a survey of Asian American small business owners in New York, from July 14 to August 31, 2020. A brief report summarizing the findings from this survey will be published in the near future.

Worse yet, many are ill-advised by landlords or vendors who may be looking to take advantage of owners' lack of knowledge. For instance, landlords commonly fail to inform their tenants of DOB violations on their property that will harm business operations. Vendors also misinform their customers of new regulations, leading to confusion and incompliance.

Asian small business owners across the city have consistently contacted AAF to share their concerns about city agency practices in enforcing regulations, even before the COVID-19 pandemic brought our economy to a screeching halt. **Immigrant small business owners have been struggling with lack of language access, adequate informational outreach, inconsistent or hostile inspection practices, and little guidance on how to navigate the City agency system to follow up on violations.**

While City agencies offer some avenue of assistance such as the Visiting Inspector Program, we must recognize the level of engagement in such programs in the immigrant small business community remains low. **There is simply not enough meaningful outreach to the immigrant small business community to overcome the fear of inviting an inspector they normally see as a figure of authority who can hurt their business.** There is also no way for small business owners to hold an inspector accountable in the case of hostile or unfair inspection practices.

The struggle for our small business community has only deepened over the duration of this pandemic, as fast-changing regulations were announced and implemented in panic while businesses dealt with the economic and public health concerns. In rushed enforcement of COVID-19 related regulations, inspectors gave **verbal instructions to immigrant small business owners with limited English** capacity then later held them accountable for not adhering to instructions they could not understand. Inspectors of various task forces and agencies made **multiple rounds of inspection in a short span of time, often giving wrong or contradictory information**, fomenting a sense of insecurity and lack of trust in the community. Business owners would call me to ask, "how come inspectors are so punitive and uncooperative, when the mayor promised support for small businesses?"

Given such difficulties immigrant small business owners face, we welcome this first important step towards lessening the unfair burdens for them. Our small business community needs this support and recognition for their contribution and the challenges they face. To ensure this effort benefits all communities, **we encourage the council to actively reach out to immigrant small business owners through CBOs and business groups who already established a trusting relationship with the community.**

We also welcome the discussion of waiving civil penalties on first time offenses for small businesses during the time of this pandemic. This effort gives a recognition to the small business owners who have struggled to survive this unprecedented challenge, all the while doing their best to cooperate with the fast-changing regulations to keep their communities safe.

In light of these challenges felt by the Asian American small business community in New York City, we request the following:

- **Actively invite immigrant small business owners for open conversation and feedback** on the regulations under review. Many industries in this city are disproportionately represented by immigrant communities of certain ethnicity, but there efforts to reach out to such groups to invite feedback on new policies that impact their livelihood remain insufficient.
- **Provide meaningful language support** for the immigrant small business community to ensure timely outreach and information dissemination. Out of over 400 Asian American small business

owners we surveyed last year, 93% of respondents answered they are not member to BID or a chamber of commerce. The appointment of an Asian liaison and his outreach work has shown it is possible to engage our small business owners more directly. We request this effort be expanded, to appoint more liaisons with language capacity working directly with small business owners to give timely support.

- **Allow ample time for cure period.** While 30 days may seem like a long time, administrative barriers and lack of procedural assistance requires more time to cure a standing violation.
- **Commit to better inform small business owners of their rights,** such as right to language access in the inspection process, and establish mechanisms of feedback on inspection practices on the ground. Strengthen outreach efforts for the hard-to-reach communities, such as commercial corridors with no BID/Chamber of Commerce presence or small business owners with limited English proficiency. Most immigrant small business owners are unable to participate in webinars City agencies have resorted to for informational outreach due to language barrier or technology gap.
- **Stop the current practice of 311 complaints automatically triggering inspections.** Many business owners are inspected multiple times for the same violation in a short timeframe because of 311 complaints automatically triggering inspection. This practice leads to unproductive use of city resources, while leaving business owners feeling harassed and unfairly targeted by city agencies. Repeated inspections on an issue already being dealt with greatly harms business operations and brand image for the storefront, while encouraging competition-driven 311 calls.

Thank you again for this important hearing and the opportunity to testify.



Brooklyn Chamber of Commerce NYC Council Testimony

Small Business Committee - Intros 2233 and 2234

The Brooklyn Chamber of Commerce enthusiastically supports Intros 2233 and 2234. These two respective bills will provide some measure of relief for excessive fines and violations that have plagued small businesses even before the pandemic. A recent year-end small business survey indicated that 80% of small businesses throughout the borough saw a decline in year-over-year revenue from 2019 to 2020. 47% of the small businesses that lost revenue, indicated the loss was more than half. Any measure of relief for these small businesses is essential and welcomed, as we move towards recovery.

While violations may be a necessary tool to ensure public safety, it is no secret that many violations are minor infractions that can easily be cured. Additionally, some violations are no longer relevant and should be abolished outright. This noted, Intros 2233 and 2234 are a good first step in overhauling a system that tries to balance the city budget on the backs of small businesses and entrepreneurs, the majority of whom are minority, women and/or immigrant-owned enterprises. These are the very businesses that make up the character of our neighborhoods and serve as a local job creation engine.

As a small business chamber of commerce, we are grateful to the many councilmembers who have drafted this legislation, and we look forward to working with them on even more comprehensive set of overhauls as we look to support our small business economic recovery.

Contact:

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President & CEO

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March 1st, 2021



Testimony of Matthew Shapiro, Street Vendor Project, on Int. 2233 and 2234

Thank you for the opportunity to provide testimony on Intros 2233 and 2234, which provides penalty relief for NYC's small business community.

The Street Vendor Project (SVP), at the Urban Justice Center, is a membership-based organization of over 2,000, mostly immigrant, street vendors who work in NYC's public spaces and are subject to regulation and enforcement by numerous City agencies. Vendors are subject to dozens of administrative laws and agency rules governing licensing, sidewalk placement, and food safety. Currently vendors are subject to potential fines reaching as high as \$1,000 for violations of the City's laws and rules.

Street vendors, who are largely from immigrant communities, have been among the most impacted by the COVID-19 pandemic. Vendors mostly live in the neighborhoods with the highest infection rates, and many vendors worked in neighborhoods most affected by the decrease in office worker and tourist foot traffic. In addition, vendors have mostly been excluded from government assistance due to immigration status and less formal business structures.

SVP supports the intent of Intro 2233 and 2234 by providing lower penalties and the opportunity to cure minor small business violations. For years, other types of businesses have been able to cure numerous violations before receiving a fine imposed by the Office of Administrative Trials and Hearings. Street vendors, however, have never had an opportunity to cure any types of alleged violations, instead receiving automatic fines upon being found in violation.

Intro 2233 amends §17-325(c)(2) of the NYC Administrative Code which lays out the Multiple Offense Schedule ("MOS") for minor administrative violations such as vending too far from the curb (§ 17-315(a)), and failing to keep all items in or under a vendor's cart (§ 17-315(c)). Lowering the incremental and maximum fines is necessary to keep the penalties proportionate to the offenses. In addition the proposed penalty schedule with a \$250 maximum fine for MOS violations is consistent with the amount in place prior to 2005 when it was raised to \$1000 during the Bloomberg administration.

However, the bill does not amend § 17-325(b) which lays out the same MOS schedule for food vendor violations. The Administrative Code amendments should be clear and not leave any room to disregard the Council's intent.

The bill also allows for penalty waiver and cure opportunities for three MOS violations for mobile food vendors, § 17-311 (failing to display a license) and § 17-315(a) and (b) (vending too far from the curb and touching a "structure"). This is welcomed, but SVP strongly believes that the penalty waiver and cure opportunities should apply to all MOS violations for mobile food vendors contained in Title 17 of the NYC Administrative Code. Violations such as having a box next to your food cart (§ 17-315(c)) and vending less than 20 feet from a building entrance (§ 17-315(d)) should also have cure

opportunities. These MOS violations are minor violations not related to public health or food safety and are able to be cured before a fine is imposed.

Additionally, the bill does not provide any penalty relief or cure opportunities for General Vendors whose rules are contained in Title 20 of the Administrative Code. SVP believes that opportunities for penalty relief and cure should also be extended to General Vendors who are subject to similar violations found in an identical MOS penalty schedule. Additionally, the MOS penalty schedule for General Vendors, found in § 20-472 should similarly be lowered.

Thank you for the opportunity to provide testimony and for the Council's efforts in finding relief for NYC's small business community.

**Prepared Testimony of Katherine Welbeck
Before the New York City Council
Committee on Small Business
March 1, 2021**

Introduction

Good afternoon Chairman Gjonaj, Members of the Committee. My name is Katherine Welbeck, and I serve as Civil Rights Counsel at the Student Borrower Protection Center (SBPC). The Student Borrower Protection Center is a national nonprofit organization solely focused on alleviating the burden of student debt in this country.

I would like to start by thanking the Committee for the opportunity to speak today to raise concerns about the effects of bills 2233 and 2234 on vital consumer protection enforcement across the city, especially in the wake of the COVID-19 pandemic.

Any recovery effort meant to address the economic fallout from the pandemic must center communities, and consumer protection is critical to that. Although this legislation is intended to provide much-needed economic stimulus to local communities, the breadth of regulatory rollbacks significantly hampers agencies like the Department of Consumer and Worker Protection (DCWP) from effectively enforcing the law against companies that prey on communities and protecting consumers all across the city from further harm.

New York City is on the frontlines for consumer protection, and strong consumer protections are essential to a robust economic recovery, keeping dollars in the hands of consumers and local businesses and out of the reach of predatory actors seeking to enrich themselves at the expense of consumers. Without meaningful consequences, such companies can and will operate with impunity. Rigorous consumer protection enforcement and civil penalties send a necessary message to predatory companies that they will be held accountable for illegal acts and practices.

I would like to provide one example of this critical role through the student debt crisis.

More than 45 million student loan borrowers collectively owe \$1.7 trillion of student loan debt, making student debt the second largest consumer finance market after mortgages.¹ And while this national crisis touches borrowers in every corner of this country, cities are on the frontlines, watching the fallout from student debt firsthand. You see the borrowers struggling to make ends

¹ Department of Education, Federal Student Aid, *National Student Loan Data System Portfolio by Loan Status* (Mar. 31, 2020), <https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfoliobyLoanStatus.xl>; Fed. Res. Board, *Historical Data: Consumer Credit Outstanding (Levels)* (accessed Oct. 19, 2020), https://www.federalreserve.gov/releases/g19/HIST/cc_hist_memo_levels.html.

meet because their wages are being garnished,² Social Security benefits are being seized,³ or even those who cannot move into an apartment because student loan companies have wreaked havoc on their credit.⁴ This is all because of the unprecedented student debt burden in this country—a crisis that spans across ages, races, ethnicities, and genders.⁵

But perhaps even more concerning is the effect of the student debt crisis on our local economies. Research shows that student debt stymies professional mobility and small business formation.⁶ If national trends are any indication, the presence of student debt may have reduced small business formation by almost 20 percent.⁷ For borrowers who left school with more than \$25,000 in student loan debt, the reduction in entrepreneurship may rise to 25 percent.⁸

In New York City, more than one-in-six—approximately one million—adults have a student loan, collectively amounting to nearly \$35 billion.⁹ This burden ripples across borrowers' financial

² See, e.g., Consumer Fin. Prot. Bureau (CFPB), *Consumer Complaint Database* (last visited Oct. 18, 2020), <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3434222> (“This garnishment poses a significant hardship for me. I am a single Mother . . . and am managing a chronic illness while employed full-time. The crushing stress and constraints brought on by the garnishment make it extremely hard for me to afford to take care of my children and afford medical care.”)

³ See Consumer Fin. Prot. Bureau (CFPB), *Snapshot of older consumers and student loan debt* 14 (2017), https://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf (“The Bureau’s analysis of survey data shows that older consumers with outstanding student loans are more likely than those without outstanding student loans to report that they have skipped necessary health care needs such as prescription medicines, doctors’ visits, and dental care because they could not afford it”).

⁴ See, e.g., Christine DiGangi, *Can You Be Denied an Apartment Because of Bad Credit?*, Yahoo Finance (Dec. 13, 2014), <https://finance.yahoo.com/news/denied-apartment-because-bad-credit-130049897.html> (“The most well-known consequence of having bad credit is trouble getting loans or credit cards, but a low credit score can also make it difficult to find a place to live.”).

⁵ See, e.g., William R. Emmons & Lowell R. Ricketts, *College Inadvertently Increases Racial and Ethnic Disparity in Income and Wealth*, Center for Household Financial Stability at the Federal Reserve Bank of St. Louis (Feb. 27, 2017), <https://www.stlouisfed.org/publications/in-the-balance/2017/college-inadvertently-increases-racial-and-ethnic-disparity-in-income-and-wealth> (“An analysis of data from a youth survey found that 58 percent of black young adults reported that their parents contributed an average of \$4,200 over the course of their college career. That compares to an average of \$12,000 given by 72 percent of white families.”), see also Mark Huelsman, *The Debt Divide: The Racial and Class Bias Behind the “New Normal” of Student Borrowing*, Demos (May 2015), <https://www.luminafoundation.org/files/resources/the-debt-divide.pdf>; Kevin Miller, *Women’s Student Debt Crisis in the United States*, Am. Ass’n. U. Women (May 2017), <https://www.aauw.org/research/deeper-in-debt>.

⁶ See, e.g., Krishnan, Karthik and Wang, Pinshuo, *The Cost of Financing Education: Can Student Debt Hinder Entrepreneurship?* (Nov. 2017), Management Science, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2586378; see also Annie Nova, *How student loans are making some people abandon their dreams*, CNBC (Jul. 8, 2019) <https://www.cnbc.com/2019/07/08/heres-how-student-debt-can-hurt-your-career.html>.

⁷ Brandon Busteded, *Student Loan Debt: Major Barrier to Entrepreneurship*, Gallup (Oct. 14, 2015), <https://news.gallup.com/businessjournal/186179/student-loan-debt-major-barrier-entrepreneurship.aspx>.

⁸ *Id.*

⁹ NYC Consumer and Worker Protection, Student Loans, <https://www1.nyc.gov/site/dca/consumers/Student-Loans.page> (last visited Mar. 1, 2021).

lives, affecting their ability to buy homes,¹⁰ start families,¹¹ and save for retirement.¹² The burden is amplified for the most financially distressed borrowers as student loan delinquency and default carries perhaps the most extraordinary consequences in all of consumer finance.

Research shows that student loan borrowers are not bearing this burden equally. The fallout of the crisis—the delinquencies and defaults, the increased cost of other forms of credit, the impact it has on housing and employment—disproportionately weighs on Black and Latino borrowers and their communities, many of those hit hardest by the COVID-19 pandemic.¹³

And this crisis is about more than just ballooning balances and monthly bills. It is also a consumer protection crisis wherein predatory actors build entire business models by targeting Black and Latino communities to bolster their bottom line:

- Private student loan companies routinely target Black and Latino consumers with high-cost, high risk products, leading borrowers to struggle.
- Student loan debt collectors single out communities of color with illegal and predatory tactics, amplifying racial disparities in the student loan system.¹⁴
- And as we saw in DCWP’s case against Berkeley College, for-profit schools engage in reverse redlining practices that exploit communities of color, drive the student debt crisis, and leave borrowers in distress.¹⁵

¹⁰ See, e.g., Zachary Bleemer et al., *Echoes of Rising Tuition in Students’ Borrowing, Educational Attainment, and Homeownership in Post-Recession America*, Fed. Res. Bank of N.Y. (July 2017), https://www.newyorkfed.org/research/staff_reports/sr820; see also Shahien Nasiripour, *Student Debt Is a Major Reason Millennials Aren’t Buying Homes*, Bloomberg (July 17, 2017, 10:25 AM), <https://www.bloomberg.com/news/articles/2017-07-17/student-debt-is-hurting-millennialhomeownership> (“There’s a good chance the number of millennials kept from buying homes because of their student loans has only grown since the period the economists studied. As tuition has risen, total student debt has increased 13 percent, and every new class graduates with more student debt than the preceding one.”).

¹¹ See, e.g., Robert Bozick and Angela Estacion, *Do student loans delay marriage? Debt repayment and family formation in young adulthood*, 30 *Demographic Res.* 69, 1865-1891 (June 13, 2014), <https://www.demographicresearch.org/volumes/vol30/69/30-69.pdf>; Dora Gicheva, *Student loans or marriage? A look at the highly educated*, 53 *Econ. of Educ. Rev.* 207-216 (2016).

¹² See *supra* note 6 (“Among household heads nearing retirement, age 50 to 59, those with outstanding student loan debt have less saved for retirement than their counterparts without student debt.”); see also Joseph Egoian, *73 Will Be the Retirement Norm for Millennials*, Nerdwallet (Oct. 23, 2013), <https://www.nerdwallet.com/blog/investing/73-retirement-norm-millennials/>.

¹³ Fed. Res. Bank of N.Y., *Reply to Senator Cory Booker’s Requested Report Detailing Racial Disparities in Student Loan Debt* (Sept. 2019), available at <https://www.scribd.com/document/428472893/Booker-Requested-Report-from-NY-Fed-Detailing-Racial-Disparities-Student-Loan-Debt>.

¹⁴ Student Borrower Protection Center, *The Long Legacy of Predatory Private Student Loans* (Jan. 2021), <https://protectborrowers.org/wp-content/uploads/2021/01/Maryland-NCSLT.pdf>.

¹⁵ Stephen Hayes & Andrea Lowe, Student Borrower Prot. Ctr., *Combating Exploitative Education: Holding For-Profit Schools Accountable for Civil Rights Violations* (Dec. 2020), https://protectborrowers.org/wp-content/uploads/2020/12/Combating-Exploitative-Education_2020.pdf.

These illegal practices and the predatory companies that perpetuate them impose billions of dollars in needless student debt, interest, and fees on borrowers.¹⁶ As research increasingly bears out, this massive burden comes with ripple effects that touch every area of borrowers' lives. People with student loan debt earn less,¹⁷ generate less wealth,¹⁸ and are forced to put off key lifetime financial milestones.¹⁹ These predatory practices are a threat to the economic health and well-being of local communities.

That is why any meaningful solution to end the student debt crisis will require action at every level of government—including from the cities bearing witness to it every day. That is why your work here today is so important.

Consumer protection must be an essential component of the city's COVID-19 recovery efforts, as consumer protection is critical to economic growth.

And I would like to end with this:

After the last economic crisis, recovery efforts had the ill-intended effect of further entrenching economic inequality.²⁰ As you begin down the road of pandemic recovery, you must prioritize a

¹⁶ See, e.g., CFPB, *CFPB Projects that One-in-Three Rehabilitated Student Loan Borrowers Will Re-default within Two Years* (2016), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-projects-one-three-rehabilitated-student-loan-borrowers-will-re-default-within-two-years/> (stating that program implementation failures may cost consumers \$125 million in unnecessary interest charges alone); CFPB, *CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment* (2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment> ("From January 2010 to March 2015, the company added up to \$4 billion in interest charges to the principal balances of borrowers who were enrolled in multiple, consecutive forbearances. The Bureau believes that a large portion of these charges could have been avoided had Navient followed the law.").

¹⁷ See, e.g., Justin Weidner, *Does Student Debt Reduce Earnings?*, Princeton (Nov. 2016), https://scholar.princeton.edu/sites/default/files/jweidner/files/Weidner_JMP.pdf (finding that "student debt is permanently scarring, as graduates with debt experience no faster income growth than their unburdened peers. Debt induces graduates to enter employment faster and select jobs in unrelated fields, leading to lower income levels and growth rates.").

¹⁸ See, e.g., Daniel Cooper & J. Christina Wang, *Student Loan Debt and Economic Outcomes*, Fed. Res. Bank of Bos., *Current Pol'y Persp.* (Oct. 2014), <https://www.bostonfed.org/-/media/Documents/Workingpapers/PDF/economic/cpp1407.pdf> ("In addition, the distribution of total wealth excluding student debt liabilities is lower for homeowners with student debt than for homeowners without student loan debt (again conditional on at least some college attendance). This wealth disparity remains even after controlling for a wide range of demographic and other factors.").

¹⁹ See, e.g., CFPB, *Snapshot of older consumers and student loan debt* 14 (2017), http://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf (finding that borrowers nearing retirement "had a lower median amount in their employer-based retirement account or an Individual Retirement Account (IRA) than consumers without student loan debt"); Joe Valenti, *A Look at College Costs across Generations*, AARP (May 2019), <https://www.aarp.org/money/credit-loans-debt/info-2019/recent-grads-delay-saving.html>.

²⁰ Benjamin Landy, *A Tale of Two Recoveries: Wealth Inequality After the Great Recession* (Aug. 28, 2013), <https://tcf.org/content/commentary/a-tale-of-two-recoveries-wealth-inequality-after-the-great-recession/>.

relief effort that centers communities that are all too often forced to the margins—many of those hit hardest by the pandemic.

A reduction of enforcement mechanisms only adds insult to injury. This is not a market that needs less regulation and enforcement but rather more capacity to employ all available tools to protect consumers in the wake of the pandemic, a point when many families are particularly vulnerable, grappling with dual crises, public health and economic.

New York must continue to take the critical step of ensuring consumer protection is a vital component of pandemic recovery.

Thank you for your time.



In support of Intros 2233 and 2234

Good afternoon. My name is Kathleen Reilly and I am the NYC Government Affairs Coordinator for the New York State Restaurant Association. We are a trade association representing food and beverage establishments in New York City and State. We are the largest hospitality trade association in the State, and we have advocated on behalf of our members for over 80 years. Our members represent a large and widely regulated constituency in New York City. Even more critically, we are one of the industries hardest-hit by this pandemic – now, nearly one year into the Covid crisis.

Our industry has been disproportionately damaged in New York City. The hardships experienced by the restaurant industry, specifically, mandated closures and rigid limitations of business operations, have led to losses in jobs, income, and entire businesses. Even today, indoor dining has only been back for just over two weeks, and we are still operating at a mere 35% capacity – compared to 50% in the rest of the state – and beholden to a curfew. The costs incurred by restaurant operators have been immense, and in many cases, operators are finding themselves in debt, unable to pay rent, unable to retain or rehire the staff they had pre-pandemic, and really struggling to see the light at the end of the tunnel.

In a recent survey we conducted in early February, in partnership with the National Restaurant Association, we found the following: 92% of NY operators had lower sales in January 2021 compared to January 2020, and 46% expected their sales to be lower in February and March 2021 compared to January. 83% of operators expect their staffing levels to be lower in February and March than they were in January, 2021. NY operators are struggling to be optimistic: 32% think it will take 7-12 months before their business returns to typical levels; 29% think it will take more than a year; 10% doubt it will ever happen.

These next few months will be critical to seeing the surviving restaurants through, and in this precarious atmosphere, we are so grateful to City Council, and specifically Council Members Gibson, Gjonaj, and the other sponsors for bringing forward Intros 2233 and 2234. We are here today to express our wholehearted support for this legislation. This pair of Intros would waive or reduce fines on businesses, in some cases even refund fines paid during the course of Covid, and increase the ability for businesses to correct violations without penalty by expanding cure periods. These changes would provide welcome relief for the struggling restaurant industry.

We applaud an enforcement strategy focused more on education and less on extracting fines from small businesses. We find education-focused enforcement to still be extremely effective at correcting any mistakes, and it fosters a much more collaborative relationship between enforcement agencies and the business community. At the end of the day, restaurants are working incredibly hard to meet vast and frequently-changing regulations both from the city and state, and we welcome the recognition by City Council that businesses are doing their best and

eager to fix any errors that come to their attention. Moreover, any dollar that can be kept in the pocket of a restaurant operator could truly be the difference between staying open and rehiring workers or closing for good.

In conclusion, the New York State Restaurant Association is so appreciative that City Council and this Committee are turning some necessary attention toward the enforcement strategy used for the small business community. A shift towards education-focused enforcement, and away from an extractive fine model, is the kind of common-sense change that can really make a difference to business operators struggling to survive. By lowering, waiving, or refunding fines, and creating more opportunities to cure, this legislation takes an important step towards making enforcement work for everyone. We fully support Intros 2233 and 2234, and we look forward to continuing the conversation on cultivating an environment where NYC businesses can survive, recover, and ultimately, thrive.

Respectfully Submitted,

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