

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON SMALL
BUSINESS

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Wednesday, April 12, 2023
Start: 1:05 p.m.
Recess: 1:50 p.m.

HELD AT: Committee Room, City Hall

B E F O R E: Julie Menin, Chairperson

COUNCIL MEMBERS:

Selvena N. Brooks-Powers
Tiffany Cabán
Shekar Krishnan
Darlene Mealy
Sandra Ung
Marjorie Velázquez

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

Jumaane D. Williams
Public Advocate of New York City
PUBLIC ADVOCATE WILLIAMS:

Kevin D. Kim
Commissioner
Department of Small Business Services

Jacqueline Mallon
First Deputy Commissioner
Department of Small Business Services

Representative
Department of Sanitation

Representative
Department of Health and Human Services

Representative
Department of Environmental Protection

Representative
Department of Consumer and Worker
Protection

2 SERGEANT AT ARMS: Good afternoon and welcome to
3 today's New York City Council hearing for the
4 Committee on Small Business. If you would like to
5 submit testimony, you may add
6 testimony@council.nyc.gov. At this time, please
7 silence all electronic devices. Just as a reminder,
8 no one may approach the dais. Thank you. Chair, we
9 are ready to begin.

10 [GAVEL]

11 CHAIRPERSON MENIN: Great. Thank you very much.
12 Good afternoon. I'm councilmember Julie Menin, Chair
13 of the Committee on Small Business, and I just want
14 to welcome everyone today. And thank you for joining
15 today's hearing to discuss two of my bills,
16 Introduction 845 and Resolution 243.

17 I will be recognizing my colleagues as they come
18 in, and I believe we're going to also be joined by
19 the Public Advocate shortly.

20 New York City's small businesses are integral to
21 the landscape of our city. Our small businesses
22 contribute to the vibrancy and uniqueness that makes
23 New York City so special. Over the last three years,
24 we've seen these small businesses struggle,
25 unfortunately, in response to the COVID-19 pandemic.

2 Reports show that since the beginning of the
3 pandemic, almost 26,000 small businesses were forced
4 to shut down permanently.

5 In response to the financial hardships from the
6 pandemic small businesses were forced to find
7 alternate methods for funding. Financial assistance
8 was made available at all levels of government to
9 support struggling small businesses, and some
10 business owners took out loans and cash advances from
11 lenders throughout New York. However, in some of
12 these cases, predatory lenders caused more strife for
13 business owners through their use of Confessions Of
14 Judgment, which when attached and signed with the
15 business loan, leaves borrowers without their right
16 to due process, and lenders can obtain judgments
17 without a lawsuit.

18 New York State has proposed legislation to ban
19 the use of Confessions Of Judgment in business loans
20 in New York, and my resolution, Resolution 243, calls
21 for the state legislature to pass these measures.

22 However, the complexity and strenuous nature of
23 owning a business does not stop with these efforts to
24 maintain its financial stability. Business owners
25 are also subject to numerous regulations and

2 violations from city agencies. The makeup,
3 intention, and severity of these violations can vary
4 widely, and while some of these violations must be
5 steadfastly upheld to protect our communities, others
6 are unnecessarily onerous and complicated city
7 businesses.

8 New York City has previously introduced
9 legislation to analyze and reform burdensome
10 penalties. Local Law 80 of 2021 stands as a model
11 for effectively reducing regulatory burdens and
12 compliance costs through the elimination of penalties
13 for certain first-time violations, and provision of
14 new opportunities to fix violations without paying a
15 price also, of course known as curing.

16 This local law was referenced as an example for
17 the Adams Administration's Executive Order 2, which
18 sought to review and reform compliance costs on
19 businesses. The culmination of this executive order
20 was a list of recommendations of regulation reform
21 from multiple city agencies, including the Department
22 of Consumer and Worker Protection, Health and Mental
23 Hygiene, Environmental Protection, and Sanitation.

24 These recommendations which include over 40
25 penalty reductions for certain violations, and new

2 opportunities to cure violations have been assembled
3 into my bill, Intro 845.

4 Today's hearing looks to ensure that the
5 provisions outlined in Intro 845 are beneficial to
6 small businesses and do not compromise the
7 protections of consumers, workers and communities.

8 I look forward to hearing testimony from the
9 Department of Small Business Services and really
10 appreciate the Commissioner being here today. And we
11 look forward to asking questions to the additional
12 city agencies that are present. I similarly look
13 forward to hearing from small businesses and
14 advocates on today's legislation. And I want to thank
15 Nicole Cata and Rebecca Barilla from Central Staff
16 for their work putting today's hearing together, as
17 well as my Chief of Staff Jonathan Szott, and
18 Legislative and Budget Director, Brandon Jordan for
19 their assistance.

20 I do just want to add that this issue of the
21 reducing fines is very personal to me. I am a former
22 small business owner, so I know how much this matters
23 to small businesses. I also used to serve as DCWP
24 Commissioner, where we launched a small business
25 relief package, where we instituted 25 reform, and

2 were able to lower fines on small businesses by one
3 third where there was no consumer harm.

4 So I'm very passionate about this subject and
5 really excited about today's hearing.

6 Before we turn it over To the Committee Counsel
7 to administer the oath, I see we've been joined by
8 our Public Advocate, and I want to turn it over to
9 him to make some comments and also want to recognize
10 my colleague, Councilmember Marjorie Velázquez.

11 PUBLIC ADVOCATE WILLIAMS: Thank you so much,
12 Madam Chair, and I want to align myself with the
13 words you just said. As a former small business
14 owner myself, I know how impactful those fines can
15 be, and anything we can do to help our small
16 businesses will be helpful.

17 My name is Jumaane Williams, and I'm the Public
18 Advocate for the City of New York. Again, I want to
19 thank Chair Menin and members of the Committee on
20 Small Business for holding this hearing today.

21 I'm here to advocate on behalf of Resolution
22 0243, which calls on the New York State legislature
23 to pass and the governor has sign Senate Bill S2632.
24 and its accompaniment Assembly Bill A2443. These
25 bills will prohibit the use of a Confession Of

2 Judgment in a contract or agreement for financial
3 product or service. Confessions of Judgment lend
4 themselves to the facilitation of predatory lending
5 practices. In spirit if not the letter of the law,
6 they often violate the principle of due process for
7 someone by waiving their right to assert a robust
8 defense in court regarding debt assigned to them by a
9 creditor.

10 In 2019, New York State limited the use of
11 Confessions of Judgment against out-of-state debtors.
12 On the federal level, the use of Confessions of
13 Judgment has long since been prohibited for consumer
14 loans, yet the practice remains legal for business
15 loans. At a 2019 forum on small business financing.
16 Rohit Chopra, who was then Commissioner of the United
17 States Federal Trade Commission, called for the
18 elimination of Confessions of Judgment in small
19 business lending contracts. That same year, Governor
20 Cuomo signed into law S6395, A7500-A, amending
21 Section 3218 of New York City Civil Practice Law and
22 rules to mitigate and remedy abuses in the uses of
23 Confessions of Judgment by creditors against out-of-
24 state debtors. Resolution 0243 seeks to build on
25 this progress and end the loophole that enables

2 creditors within New York State to obtain a judgment
3 against borrowers without any further notification,
4 and furthermore, legally seize the assets of
5 borrowers without a court proceeding. These bills
6 will help protect small-- The bills I mentioned in
7 the state will help protect small businesses from
8 predatory lenders that offer loans and cash advances
9 on the condition of a signed confession of judgment.
10 I urge the Council to pass the Resolution, close the
11 loophole, and protect everyday New Yorkers from this
12 predatory lending practice. Thank you.

13 CHAIRPERSON MENIN: Thank you so much public
14 advocate. And now I'm going to turn it over to
15 Committee Counsel to administer the oath.

16 COUNSEL: Thank you, Chair Menin. We will now
17 hear testimony from the Administration. Before we
18 begin, I will administer the affirmation. Panelists,
19 please raise your right hand. Do you affirm to tell
20 the truth, the whole truth and nothing but the truth
21 before this committee and to respond honestly to
22 council member questions?

23 COMMISSIONER KIM: I do.

24 FIRST DEPUTY COMMISSIONER MALLON: I do.

25 COUNSEL: Thank you. You may begin when ready.

2 COMMISSIONER KIM: Good afternoon, Chair Menin
3 and members of the Committee on Small Business and
4 Public Advocate Williams. My name is Kevin D. Kim
5 and I am the Commissioner of the New York City
6 Department of Small Business Services or SBS. I am
7 joined by First Deputy Commissioner Jackie Mallon and
8 colleagues from our sister agencies.

9 We are pleased to offer our support for Intro 845
10 which implements Mayor Eric Adams Small Business
11 Forward initiative. SBS's mission is to unlock New
12 York City's economic potential and create economic
13 security for all New Yorkers by connecting them to
14 good jobs, creating stronger businesses, and building
15 thriving vibrant neighborhoods.

16 On just day 4 of his administration, Mayor Eric
17 Adams demonstrated his strong and clear commitment to
18 New York City small business community by signing
19 executive order 2, or EO2, also known as Small
20 Business Forward. With this executive order, Mayor
21 Adams directed six agencies, the Department of
22 Consumer and Worker Protection, the Department of
23 Health and Mental Hygiene, the Department of
24 Buildings, the Department of Sanitation, the
25 Department of Environmental Protection, and the Fire

2 Department to overhaul regulations impacting small
3 businesses, cut down on fines and penalties, and
4 ignite a paradigm shift which places education over
5 enforcement.

6 As a result, this Administration identified over
7 100 reforms to save small businesses more than \$8
8 million per year. These reforms, which focus on
9 reducing fine schedules, creating cure periods, and
10 implementing warnings to first time violators who are
11 not endangering public health or safety will allow
12 small businesses to continue to lead our economic
13 recovery efforts.

14 Every dollar that a small business spends on
15 penalty is \$1 that could have been invested in staff
16 or upgrades and business processes. Every minute
17 that a small business spends on navigating the City's
18 sometimes complex rules and regulations is time that
19 could be used to better serve their customers.

20 That is why the passage of Intro 845 is so
21 important. This initiative saves businesses both
22 time and money. SBS is proud of the role. Excuse
23 me. SBS is proud of the role we've played in this
24 process, and we are eager to continue the work of
25 making New York City a City of Yes for small

2 businesses. We are revamping our New York City
3 Business Portal, expanding the reach of our New York
4 City Business Express Service Team that will help
5 businesses avoid fines and violations, and we are
6 giving voice to small business owners through our
7 Small Business Advisory Commission.

8 I would like to take a moment to recognize and
9 thank Chair Menin for sponsoring this bill. And
10 being such a consistent partner in our agency's
11 efforts to help clear hurdles for all of our small
12 businesses. I also want to thank our sister agencies
13 for all the work they put into this effort.
14 Together, we are sending a message that New York City
15 is not only open for business, but is committed to
16 propelling small businesses forward.

17 Thank you and I look forward to answering any
18 questions you may have.

19 CHAIRPERSON MENIN: Great, thank you so much,
20 Commissioner for your testimony today. I do have a
21 number of questions and I'm sure my colleagues have
22 questions as well.

23 So SBS was the Chair for the working group that
24 were acquired submission of city agencies under
25 Executive Order 2 to review and reform compliance

2 costs of businesses. How did SBS decide which
3 amendments should be included in Intro 845?

4 COMMISSIONER KIM: Thank you, Chair Menin, for
5 that question. The way we did this was: In the
6 executive order, it asked us to look at the top 25
7 violations imposed on small businesses by the
8 regulatory agencies you see here today, as well as
9 DOT and DOB who are not here. We looked at those 25
10 most-imposed violations. Then we went further, and
11 we looked at additional violations that were
12 unnecessarily burdening small businesses, while not
13 endangering public health and safety. So through
14 that exercise, we came up with this list.

15 CHAIRPERSON MENIN: And was it a unanimous
16 decision that was required among the working group
17 members to reject a recommended amendment from an
18 agency?

19 COMMISSIONER KIM: It was a very collaborative
20 process. There was a lot of back and forth between
21 the agencies and the work-- within the working group,
22 and we were able to come to a consensus on which of
23 these violations we wanted to reform to better serve
24 small businesses.

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2 CHAIRPERSON MENIN: And what does SBS believe in
3 terms of the impact of small businesses from this
4 bill?

5 COMMISSIONER KIM: We think the impact will be
6 extremely meaningful. As I mentioned in the
7 testimony, we anticipate that there would be over \$8
8 million per year of savings for small businesses. At
9 the same time, we also know that there's a lot of
10 challenges for small businesses, especially
11 immigrant-owned small businesses in interacting with
12 agencies. And we believe that this bill will also
13 improve the communication and the relationships that
14 exist between small business owners and our agencies.

15 CHAIRPERSON MENIN: And are there any other
16 potential effects of implementing this bill that have
17 not been discussed?

18 COMMISSIONER KIM: We believe that the overall
19 impact will be extremely positive and meaningful, and
20 look forward to implementing all of these as soon as
21 the bill is passed.

22 CHAIRPERSON MENIN: Are there other violations
23 you believe should be included in intro 845?

24 COMMISSIONER KIM: The violations that exist on
25 the books are thousands and thousands. And so we

2 know that in a short period of time, we couldn't
3 review every single violation. But we did want to
4 start with the ones that were the most burdensome on
5 small businesses. The Mayor put together a Small
6 Business Advisory Commission last fall that is
7 diligently working on looking at all-- all other
8 violations and continuing the work that we started
9 here with Small Business Forward.

10 CHAIRPERSON MENIN: And if this bill is passed,
11 how will SBS notify small businesses about the this?

12 COMMISSIONER KIM: One of the real positives from
13 SBS's work last year in improving and reorganizing
14 into an-- a specific outreach team from our
15 organization: We've been able to extend the reach of
16 communicating all of the programs and policies that
17 the city has to a larger portion of the small
18 business community. So we already, of course, have
19 our extensive BID network, and our strong
20 partnerships with the Chambers of Commerce, and not
21 just the five main borough Chambers of Commerce, but
22 all the other Chambers of Commerce that exist, and
23 then the merchants associations as well.

24 So we know that we have an extensive reach and
25 will work with the Councilmembers as well through

2 your extensive reach into the community to get the
3 word out about all of these great changes that are
4 coming.

5 CHAIRPERSON MENIN: Okay, that's great. Thank
6 you. Does SBS know how much money is owed to the
7 city by small businesses for unpaid civil penalties?
8 And if so, how much is that amount?

9 COMMISSIONER KIM: That is a very difficult
10 number to track. So at this time, I would say we
11 don't have that information. I think there's a
12 number of challenges: First, trying to figure out
13 what's defined as a small business in some ways, and
14 that's something we're working on with the New York
15 City Business Portal as well. But I think the
16 challenge of knowing that total amount is something
17 that is not easily in reach at this time.

18 CHAIRPERSON MENIN: Okay. I have questions for
19 Sanitation, for DOHMH, and other agencies. So maybe
20 we can pause at this moment, and I want to see if my
21 colleague Councilmember Velázquez has any questions
22 for SBS at this time.

23 COUNCILMEMBER VELÁZQUEZ: No questions.

24

25

2 CHAIRPERSON MENIN: Okay. Okay. Great. So I
3 have questions for Sanitation. So maybe we could
4 bring up sanitation as well, that would be great.

5 And I want to note, we've been joined by Majority
6 whip Selvena Brooks-Powers.

7 So in terms of sanitation-- So Sections 7 and 8
8 of Intro 845 would amend 16-401 of the Admin Code to
9 rescind provisions relating to plastic straws, such
10 as a prohibition on providing plastic straws that are
11 used for the restaurant, and the requirement for
12 certain restaurants to provide a receptacle
13 exclusively for the disposal of compostable beverage
14 straws. Does sanitation expect any projected
15 environmental effects from these provisions and if so
16 what are they?

17 DEPARTMENT OF SANITATION: Thank you, Chair
18 Menin, for that, and thank you for inviting us to
19 this hearing. So as far as the implications of this,
20 I think, actually, the implications are net positive
21 all around. What we're trying to do is simplify the
22 Straw Bill to focus on the two sort of core
23 principles: One, that no plastic straws are provided
24 except when requested by the customer, and two, that

2 any customer that requests a plastic straw is
3 provided with one.

4 CHAIRPERSON MENIN: Okay, and what about any
5 effects, potential effects on consumers with
6 disabilities of these changes related to the plastic
7 straws?

8 DEPARTMENT OF SANITATION: Yes. So I think the
9 bottom line here is we are continuing the requirement
10 that all establishments must provide a plastic straw
11 upon request, and all of the remedies under city
12 human rights law continue to apply.

13 CHAIRPERSON MENIN: Okay, and in terms of how
14 many violations are issued annually by Sanitation and
15 have the penalties imposed, what percentage are
16 actually collected?

17 DEPARTMENT OF SANITATION: So in terms of total
18 violations across residential and commercial
19 establishments, it's around 295,000 last year. Most
20 of those are core cleaning violations, things like
21 dirty sidewalks, failure to clean, failure to store
22 your receptacle. As far as, you know, what's
23 collected, it's, you know, just under 60% of-- of
24 summonses are paid. And then most of the remainder
25 is either docketed or in default.

2 CHAIRPERSON MENIN: Okay, are there any concerns
3 with the penalty changes outlined in Intro 845 that
4 are relevant to sanitation? And if so, what are
5 they?

6 DEPARTMENT OF SANITATION: No. There are no
7 concerns.

8 CHAIRPERSON MENIN: No? Okay. And do you feel
9 that there are any obstacles to implementing Intro
10 845?

11 DEPARTMENT OF SANITATION: No.

12 CHAIRPERSON MENIN: And how will the agency
13 notify small businesses of this?

14 DEPARTMENT OF SANITATION: Yeah. So the changes
15 here primarily relate to our commercial recycling
16 organics and straws bills, which is something-- which
17 is a space where we're doing a lot of outreach right
18 now. So we will incorporate these changes into that
19 outreach. I think also the benefit of having this
20 education-first approach with the \$0 first time
21 penalties will allow us to have those conversations
22 with-- with commercial establishments outside of an
23 enforcement context.

24

25

2 CHAIRPERSON MENIN: Okay. All right. I'm going
3 to move on to DOHMH. Are they here? Great thank you
4 so much.

5 Okay. Hello. Should you do this one?

6 COUNSEL: Yeah, we should.

7 Before we begin, we can-- I can administer the
8 oath. Do you affirm to tell the truth, the whole
9 truth, and nothing but the truth before this
10 committee and to respond honestly to councilmember
11 questions.

12 ALL: I do.

13 COUNSEL: Thank you, you may begin when you're
14 ready.

15 CHAIRPERSON MENIN: Okay, thank you so much. So
16 Section 13 of Intro 845 would amend 17-1702A of the
17 Admin Code to allow a pet shop to collect required
18 information about the source of a dog or cat by a
19 sworn affidavit from the source. Has the
20 administration discussed this provision with animal
21 rights advocates?

22 DOHMH REPRESENTATIVE: Yes, we have. So when we
23 promulgated proposed rules, obviously, that process
24 allows for public comment and at least two animal
25 advocate organizations. The New York chapter of the

2 Humane Society of the United States and the shelter
3 reform Action Committee, among other entities
4 describing themselves as animal advocates, provided
5 comments, and these two organizations testified in
6 support of those rules.

7 CHAIRPERSON MENIN: Okay, thank you. And Section
8 13 of the Bill would amend 17-1903 of the Code to
9 reduce to \$400 the minimum penalty for a restaurant
10 violating the prohibition on selling force-fed
11 products. Does the Administration know what
12 percentage of restaurants are affected by the Foie-
13 Gras fines?

14 DOHMH REPRESENTATIVE: So this law actually has
15 been enjoined and never went into effect. So we
16 don't have that data.

17 CHAIRPERSON MENIN: Okay. So with the temporary
18 injunction on enforcing Foie Gras that is still in
19 place, has a fine become relevant to New York City
20 restaurants or no?

21 DOHMH REPRESENTATIVE: The fine is currently not
22 relevant. But if the city was able to implement the
23 Local Law, then it would be relevant.

24 CHAIRPERSON MENIN: Okay. And how many
25 violations are issued annually by DOHMH?

2 DOHMH REPRESENTATIVE: I actually do not have
3 that information with me today. But I'm happy to
4 follow up with you.

5 CHAIRPERSON MENIN: Yeah . If you could get that
6 to the Committee please. As well as the violations
7 that are issued, and of the penalties and pose what
8 percentage are actually collected? And are they
9 typically collected in the calendar year that they
10 are issued? So if you could please provide those
11 three?

12 And then lastly, are there concerns with the
13 penalty changes outlined in Intro 845?

14 DOHMH REPRESENTATIVE: No concerns.

15 CHAIRPERSON MENIN: Okay. Okay, I'm now going to
16 turn it over to my colleagues to see if they have any
17 questions. So Majority Whip? Questions. Great.

18 COUNCILMEMBER BROOKS-POWERS: Thank you, and I
19 apologize if some of the questions may be a little
20 redundant, but I want-- I had a few questions for
21 SBS. The first one was Executive Order 2 required
22 various agencies to look at whether various
23 provisions were necessary to promote an important
24 public purpose. Can you elaborate on how the

2 determination was made as to whether a provision
3 served as an important public purpose?

4 COMMISSIONER KIM: Absolutely. So this was a
5 very collaborative process, and from SBS's
6 perspective, we were obviously advocating, and after
7 surveying a large number of small business owners,
8 bringing issues that were impacting them in a real-
9 time, real-life basis. And the agencies who are the
10 subject matter experts on the various issues would
11 then have entered into a discussion with us in the
12 working group. And together, we came up with a
13 consensus of the list of violations that we deemed to
14 be reformable in whatever way it was possible,
15 whether it was to eliminate them from the books
16 altogether, whether it was to reduce the fines, or
17 whether it was to provide a cure, a warning period.
18 In those ways we were really focused on emphasizing
19 education first over fines first. And that's how we
20 came to this process.

21 COUNCILMEMBER BROOKS-POWERS: Thank you. And EO2
22 also required examining whether the amount of the
23 penalty was appropriate to achieve the public purpose
24 sought. Can you go into more detail on how an agency
25 determined whether an amount was appropriate? And

2 was there some kind of formula used to determine the
3 appropriateness?

4 COMMISSIONER KIM: During this process, during
5 the very collaborative process of full cooperation of
6 the agencies, they were able to look at each of their
7 datasets, and look at the number of violations, the
8 number of repeat violations that happened based on
9 however much fines or penalties were imposed the
10 first time around. And again, with the lens of
11 really focusing on education first for the small
12 businesses, we were able to come up with a number
13 that we-- we believe will still bring businesses into
14 compliance, which is extremely important, but do it
15 through an education-first mentality.

16 COUNCILMEMBER BROOKS-POWERS: Thank you. In my
17 final section of questions, I want to ask a few quick
18 questions about the provisions enforced by the
19 department of transportation that are addressed in
20 Sections 1 and 2 of this legislation. So in Section
21 1, it would amend the Admin Code to reduce the civil
22 penalties for failure to maintain a roster of bicycle
23 operators. Can you elaborate on why this change was
24 needed?

2 And then in section two, it would similarly
3 reduce the penalty for failure to post required
4 signage outlining bicycle safety procedures. Can you
5 elaborate on why this change was needed?

6 And lastly, only two provisions related to the
7 Department of Transportation were included in this
8 review, and DOT was not included in the initial EO as
9 an agency that would have to review provisions issued
10 to businesses. Can you explain why this was the
11 case?

12 COMMISSIONER KIM: Absolutely. So the two
13 reforms that you're referring to, we believe that it
14 is important for businesses to be in compliance on
15 these two violations. But we also believe that
16 current-- at the time, currently, it's \$100 first
17 violation. And to really, again, help educate a lot
18 of these business owners, many of them who are
19 immigrants, small business owners who just don't know
20 the rules, we made the first violation to be zero
21 instead of \$100. But of course, in future
22 violations, then they would be paying fines.

23 But the compliance-- the importance of compliance
24 was never lost on this group. We knew that these
25 rules are in place for a very good reason. At the

2 same time, we know that small business owners, they
3 just want to do what they do best, which is run their
4 business, provide services, a diverse and unique set
5 of services for the city of New York, and that just
6 knowing more about the thousands of regulations that
7 are out there that they have to go through to
8 understand that this education-first approach would
9 be most effective.

10 And then to answer your question about DOT, not
11 being part of the Executive Order, but being added
12 on, I think what we really wanted to do was take a
13 holistic approach and continue to look at all the
14 agencies that impact small businesses, not just the
15 ones that were originally put into the executive
16 order, and that's how we brought in DOT.

17 And then finally, we are continuing this review
18 of all violations through our Small Business Advisory
19 Commission, which is made up of 49 members all
20 throughout the five boroughs, a very diverse group of
21 businesses, a very diverse group of people who have
22 been in business for different number of years,
23 employ a very diverse number of people, some are
24 solopreneurs, to some having 100 employees. And so
25 that work of continuing to look at every violation

2 where we can make reforms to alleviate the burden on
3 small businesses, even continues today and will be
4 ongoing.

5 COUNCILMEMBER BROOKS-POWERS: Thank you.

6 CHAIRPERSON MENIN: Great. Thank you. And I'm
7 now going to call on Councilmember Marjorie
8 Velázquez. But first, I want to recognize our
9 colleague, Councilmember Darlene Mealey has joined
10 us.

11 COUNCILMEMBER VELÁZQUEZ: Thank you, Chair. So
12 Commissioner, we discussed compliance at length just
13 now, and education and awareness. How much are we
14 focused on language access and making sure that we're
15 approaching people where they're at, and their
16 cultural competency, if you will?

17 COMMISSIONER KIM: Absolutely. So everything we
18 do at SBS is about trying to get the message out to
19 the historically underserved communities, and that
20 includes communities that have not had access to the
21 language languages-- in languages that they need.

22 So for example, when we did small-- the
23 Opportunity Loan Fund, we went beyond the required
24 law of having the 10 languages, having the services
25 in those languages, to I believe it was 17 or more

2 documents in place at launch. And so that's, I
3 think, just an example of how much of a focus we give
4 to language access, and that any of these changes
5 that happen, we expect to be able to get the word out
6 into the communities using our community partners to
7 provide the in-language information they need.

8 COUNCILMEMBER VELÁZQUEZ: Thank you so much.

9 CHAIRPERSON MENIN: Councilmember Mealy, do you
10 have any questions?

11 COUNCILMEMBER MEALY: I just have one. Thank you
12 chair. I was thought about the-- when the fines--
13 what's the grace period that you would give store
14 owners, and if they could not comply, and if it could
15 leads to them losing their business, what apparatus
16 do you have in place that can maybe save a small
17 business that does not have the funds to pay for the
18 fine? And maybe they were warned twice. So what do
19 you have in place to make sure that we keep our small
20 businesses. They are the heartbeat of America.

21 COMMISSIONER KIM: Absolutely. Councilmember,
22 thank you for that question. And we agree with you
23 that small businesses are the heartbeat of America,
24 of New York City, of all of our commercial corridors
25 and neighborhoods.

2 The way we looked at grace periods was with each
3 of the agencies because they're-- they're the subject
4 matter experts. And so we had a very collaborative
5 process where we discussed what would be a reasonable
6 time to give a small business owner-- Whatever was
7 there currently, we tried to expand out adding,
8 whether it was 15 or 30 more days. Wherever we
9 could, we tried to expand that out. Where there were
10 cases where there were no cure periods or warning
11 periods, we did find dozens of those that we were
12 able to put into this bill, and-- and through other
13 rulemaking processes.

14 So we think that the grace periods that were put
15 in are just the right amount of time for businesses
16 to be able to either get educated on what they need
17 to get into compliance and then get into compliance
18 so as to avoid all these fines. We're hoping that
19 this education-first emphasis that we put on-- we're
20 putting on through all of our various programs. For
21 example, SBS has compliance advisors, that will go
22 out now with all of our services to say, "We will do
23 a free walk around with you through your store. And
24 if one of the regulatory agencies did come in for an
25 inspection, here is where you would get fined." But

2 they will obviously wouldn't get fined when they're
3 going through this walkthrough with our compliance
4 advisor.

5 So a lot of it is preventive. A lot of it is
6 education first. And we believe what we have now
7 will go a long way in saving small businesses up to
8 \$8 million per year through this-- through this
9 effort.

10 COUNCILMEMBER MEALY: Could I ask: If they do
11 not have the funds, will you give them the grace
12 period, and then help them get a small business loan,
13 maybe? Do you have an apparatus in place? We're
14 trying to save the average man and woman, small
15 business owner.

16 COMMISSIONER KIM: So SBS has a very robust
17 Capital Access Program. We have a network of over 40
18 CDFIs that--

19 COUNCILMEMBER MEALY: Does a small business owner
20 know how to do to that?

21 COMMISSIONER KIM: We will help them through
22 that. If they-- through this education process.
23 It's not only about educating them about what
24 compliance they need to be in, what rules they need

2 to know not to violate, but also to understand what
3 SBS's full services are.

4 So the compliance advisors, as well as our
5 Capital Access Team and their advisory services, we
6 are going to make a big effort-- we continue to make
7 a big effort every day to make sure that all the
8 communities in New York City who have been
9 historically underserved know about those particular
10 services.

11 COUNCILMEMBER MEALY: I have one last question.
12 I didn't read NYC BID Association. But have you
13 assessed all the BIDs in different neighborhoods to
14 see how-- because I see one of my colleagues is
15 joining a couple of BIDs, Farah Louis. They're
16 making three BIDs into one. What is your take on
17 that? Do you think that is best for the districts?
18 Or should they stay separate?

19 COMMISSIONER KIM: I think the BIDs are very
20 important organizations and associations there exists
21 to help our commercial quarters thrive. And so SBS
22 works with and manages the 76 bids.

23 We have a strong partnership with all of our
24 BIDs, and they work with us to tell us what they
25 think is best for their community and we work with

2 them. So in this particular case that you're talking
3 about, where three BIDs are being combined into one,
4 I think that a lot of it is coming from-- driven from
5 them as well, and there's been positive response to
6 it.

7 COUNCILMEMBER MEALY: Okay, thank you. Because I
8 feel the BIDs-- We need more BIDs, I believe, but we
9 need the people to run them also. So that would be
10 good for the city in whole. Thank you.

11 COMMISSIONER KIM: Thank you.

12 CHAIRPERSON MENIN: I'm so glad that you asked
13 that question, Councilmember. And I want to make
14 sure you know that we work to get the Administration
15 to allocate money to smaller BIDs. So 35 of the
16 smaller BIDs that have a budget of, I believe it's
17 \$500,000 or less, are receiving direct city money.
18 So this has never happened before. It's really
19 fantastic. And I think it's a game changer for small
20 businesses, because these BIDs can help to market and
21 promote them. So I just want to make sure you're
22 aware of that.

23 I have a few questions for DEP. So could we
24 bring DEP up? Thank you so much. And could you do
25 the honors?

2 COUNSEL: And before we begin with questioning, I
3 will administer the oath of affirmation. So if you
4 could please raise your right hand? Do you affirm to
5 tell the truth, the whole truth and nothing but the
6 truth before this Committee and to respond honestly,
7 two council member questions?

8 DEP REPRESENTATIVE: I do.

9 COUNSEL: Thank you very much.

10 CHAIRPERSON MENIN: Great. Thank you. So
11 Section 22, would repeal 24-2018.1 of the Admin Code
12 which restricts the use of mobile telephones in
13 places of public performance as well as associated
14 penalties. How many penalties yearly does DEP issue
15 related to mobile telephones in places of public
16 performance?

17 DEP REPRESENTATIVE: We haven't issued any.

18 CHAIRPERSON MENIN: Uh-huh. Okay. So what--
19 So, I assume-- Well, I don't want to assume. Why
20 does DEP believe this provision is necessary to amend
21 under Intro 845?

22 DEP REPRESENTATIVE: Sure, thank you for that
23 question, Councilmember. So overall, we've made
24 these changes, including this one to the noise code
25 section of our admin code, just to clarify the code

2 overall, streamline it, make it easier for people to
3 understand and comply with.

4 CHAIRPERSON MENIN: Okay, now Section 23 would
5 amend 24-233 of the Code to remove the prohibition on
6 unreasonable noise from a personal audio device. How
7 many penalties yearly does DEP issue related to that?

8 DEP REPRESENTATIVE: Yes. So first, I just want
9 to clarify for the record that this provision amends
10 one portion within 24-233. It doesn't remove that
11 section entirely. And so the section that's being
12 removed by this bill, we also have not issued any
13 violations for.

14 CHAIRPERSON MENIN: So I couldn't hear that.
15 Could you just speak closer to the microphone?

16 DEP REPRESENTATIVE: Of course.

17 CHAIRPERSON MENIN: Thanks.

18 DEP REPRESENTATIVE: We have not issued any
19 summons for this section that's being affected.

20 CHAIRPERSON MENIN: You have not. Okay. So what
21 enforcement mechanisms can the city of New York use
22 to manage noise complaints if this section is
23 repealed?

24 DEP REPRESENTATIVE: Well, like I just want to
25 repeat again, for the record that this is not

2 repealing the entire section, just a provision within
3 that section.

4 CHAIRPERSON MENIN: Just that one provision. Got
5 it.

6 DEP REPRESENTATIVE: And so the bulk of the noise
7 code that is consistently used will still be in
8 effect.

9 CHAIRPERSON MENIN: And how many violations are
10 issued annually by DEP?

11 DEP REPRESENTATIVE: The total overall, I don't
12 have with me. I'll have to follow up with you for
13 that one.

14 CHAIRPERSON MENIN: Okay, if you could get that
15 to the Committee. Really, again, that that's the
16 type of information I've asked of some of the other
17 agencies. And of the penalties imposed, what
18 percentage are actually collected? And are they
19 typically collected in the calendar year that they
20 are issued? That would be very helpful.

21 DEP REPRESENTATIVE: Yes, we will get back to you
22 with that.

23 CHAIRPERSON MENIN: Are there any concerns with
24 the penalty changes outlined in intro 845 relevant to
25 DEP?

2 DEP REPRESENTATIVE: No.

3 CHAIRPERSON MENIN: And any obstacles in
4 implementing this bill?

5 DEP REPRESENTATIVE: No, we don't expect any.

6 CHAIRPERSON MENIN: Okay. Are there any
7 additional DEP violations related to small businesses
8 that should be considered for amendment under intro
9 845?

10 DEP REPRESENTATIVE: No. We think the list
11 that's included is a good list.

12 CHAIRPERSON MENIN: Okay. Great. Those are my
13 questions. Any questions? Colleagues? No? Okay.
14 Okay. And then I've got some questions for DCWP, so
15 that would be great. All right.

16 COUNSEL: And before we begin with questioning, I
17 will administer the oath of affirmation. If you
18 could please raise your right hand. Do you affirm to
19 tell the truth, the whole truth and nothing but the
20 truth before this committee and to respond honestly,
21 to council member questions?

22 DCWP REPRESENTATIVE: I do.

23 CHAIRPERSON MENIN: Thank you. Wonderful. Thank
24 you. So a provision of this legislation would set an
25 initial civil penalty of \$0 for failing to provide

2 consumer bill of rights regarding tax preparers to a
3 client. So I know the answer to this question, but
4 I'm going to ask it for the record: Does DCWP make
5 the consumer Bill of Rights available to tax
6 preparers?

7 DCWP REPRESENTATIVE: Yes, Councilmember we do.
8 We are required to post-- we are required to post it
9 in the City Record annually. We also make it
10 available on our website. Frequently we have
11 taxpayers reach out to our committee affairs team
12 with requests for the Bill of Rights. And lastly, we
13 do bring it to outreach events that are business
14 facing.

15 CHAIRPERSON MENIN: And in terms of providing the
16 Bill of Rights, what languages is it in? And is that
17 posting it in other languages, is that the
18 responsibility of tax preparers?

19 DCWP REPRESENTATIVE: So, the Bill of Rights is--
20 is available in 11 languages. We-- We have produced
21 those translations. And yes, the taxpayers do have
22 to post the Bill of Rights in their place of business
23 and provide it to the consumer.

24

25

2 CHAIRPERSON MENIN: And has DCWP received
3 feedback on any inaccessibility related to assessing
4 this consumer Bill of Rights.

5 DCWP REPRESENTATIVE: I think with respect to--
6 if they're not receiving it from the tax preparer,
7 and if we received that complaint, we would we would
8 inspect that complaint. And with respect to maybe a
9 constituent that's coming towards us to request the
10 Bill of Rights, we would facilitate making sure that
11 they got a hard copy or whatever was most convenient
12 for them.

13 CHAIRPERSON MENIN: All right. Another provision
14 of the bill would repeal Subchapter 9 of Chapter 5 of
15 Title 20 of the Admin Code that regulates the sale of
16 travel tickets. Why does the Administration seek to
17 repeal this particular provision of the code?

18 DCWP REPRESENTATIVE: I think with respect to
19 this industry, it's not necessarily as common as it
20 once was. And along those lines, we haven't seen a
21 lot of complaints from them. And we have recognized
22 that there is less consumer harm with respect to this
23 provision.

24 CHAIRPERSON MENIN: And another provision of the
25 bill would repeal Subchapter 15 of Chapter 5 of Title

2 20 of the Admin Code, and that particular provision
3 regulates disclosure of certain information by
4 childcare facilities. Why does the administration
5 seek to repeal that particular provision?

6 DCWP REPRESENTATIVE: So these disclosures in the
7 subchapter are actually duplicative of current DOHMH
8 enforcement efforts. And along those lines, I guess
9 as part of this process of reviewing laws that could
10 be amended or repealed, I think redundancies in
11 agencies was-- was one aspect of our review. So we
12 feel DOHMH is best-suited for this type of work, and--
13 - and they have no objections to this repeal.

14 CHAIRPERSON MENIN: One concern I did have that I
15 want to make sure that we get a clear answer for is a
16 provision that would set an initial civil penalty of
17 \$0 for selling expired over-the-counter medication.
18 What does the agency believe would be the effect on
19 consumers, particularly those with limited English
20 proficiency?

21 DCWP REPRESENTATIVE: Well, um, with respect to
22 consumers, I-- we don't-- there isn't-- our
23 understanding is there's not significant consumer
24 harm from over the counter medications that have
25 passed an expiration date.

2 That said, I would want to reiterate that this is
3 just for a first-time violation. If a business is
4 repeatedly violating this, they will be issued higher
5 and higher penalties. So along those lines, we feel
6 it is a reasonable amendment that balances both small
7 business-- business friendly reforms, but as well,
8 consumer protection.

9 CHAIRPERSON MENIN: And is there any concern with
10 compromising the safety of consumers by reducing
11 penalties for selling expired over-the-counter
12 medication?

13 DCWP REPRESENTATIVE: We do not have concerns
14 with reducing the first time penalty for this
15 particular violation.

16 CHAIRPERSON MENIN: And is there any reason why
17 this provision wasn't this provision amended to
18 include an accepted expiration time limit eligible
19 for those penalty reductions, such as, for example,
20 six months post expiration, instead of including all
21 expired medication?

22 DCWP REPRESENTATIVE: I think in terms of the
23 provision itself that we were amending, we were
24 seeking something streamlined that was easy for
25 businesses to understand. Again, we don't feel that

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2 there's a significant consumer harm here, which is,
3 of course, what helped give us perspective on all of
4 our reviews here.

5 CHAIRPERSON MENIN: Okay, thank you. And then
6 last question, which I've asked all the agencies:
7 How many violations are issued annually by DCWP?

8 DCWP REPRESENTATIVE: In 2022, we issued about
9 11,000 summonses. And since I know that the other
10 question is coming, we've also collected about \$12
11 million in 2022 as well.

12 CHAIRPERSON MENIN: Okay, great. And those are
13 all typically collected in the calendar year,
14 correct?

15 DCWP REPRESENTATIVE: I'm-- I'm not sure about
16 that. I think it could be.

17 CHAIRPERSON MENIN: If you could get that to the
18 committee.

19 DCWP REPRESENTATIVE: Generally, it's possible
20 that it could roll over from a previous year, but I
21 can certainly get you some more information on that
22 as well.

23 CHAIRPERSON MENIN: Okay. Great. Thank you,
24 Councilmember Mealy, any questions?

25

2 COUNCILMEMBER MEALY: I just had one. You said
3 "redundancy." What was redundant?

4 DCWP REPRESENTATIVE: Excuse me. I think when I
5 was speaking toward the repeal of certain disclosures
6 that are currently duplicative of DOHMH's enforcement
7 efforts in that space. That was redundant. And I
8 think-- we've made-- we've made a decision in the
9 Administration that it makes more sense for DOHMH to
10 enforce those provisions than us.

11 COUNCILMEMBER MEALY: Okay, thank you.

12 CHAIRPERSON MENIN: Okay, wonderful. That
13 concludes my questions. We have no members of the
14 public that have signed up to speak. We have a
15 number who have submitted written testimony, which we
16 have. But I really want to thank the Commissioner
17 and the Administration, and all the city agencies who
18 have been here today.

19 I think it's incredibly exciting to have this
20 bill move forward in terms of really helping small
21 businesses in a very meaningful way. So I really
22 want to thank all the agencies for being here. Thank
23 you so much. And then this concludes our hearing.

24 [GAVEL]

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 04/18/2023