

Health

Testimony

of

Daniel Kass, MSPH

**Deputy Commissioner, Division of Environmental Health
New York City Department of Health and Mental Hygiene**

before the

New York City Council Committee on Health

On the

Food Service Establishment Inspection Program

September 23, 2013

**City Hall – City Council Chambers
New York City**

Good morning. I am Daniel Kass, Deputy Commissioner for Environmental Health at the Department of Health and Mental Hygiene. On behalf of Health Commissioner Dr. Thomas Farley, I want to thank Chairwoman Arroyo and members of the Health Committee for inviting the Department to testify today on these bills regarding the Department's restaurant letter grading program.

It has been a year and a half since the Department last testified about the state of food safety in New York City's restaurants, and I want to begin by providing a status report on letter grading and its impact on restaurant hygiene. The Health Department began requiring the posting of letter grades based on sanitary inspection results in July 2010 with these goals: reduce unsafe food handling practices and improve restaurant hygiene; leverage consumer purchasing power to motivate restaurants to maintain high food safety standards; publicly reward high-performing restaurants; and to reduce, over time, the burden of foodborne illnesses.

Following a two-year planning process that included consultation with food safety experts and industry representatives, and extensive public comment on Health Code changes and Commissioner Rules, the Department designed a program that established multiple incentives that encourage restaurants to have the best food safety practices. I would like to briefly describe the essential features of the inspection and grading program. Unannounced inspections are conducted by public health sanitarians. A cycle of inspections begins with an initial inspection. A restaurant can earn an A grade at that time, or if it does not, it is re-inspected several weeks later. Re-inspection determines the grade that is assigned to the restaurant, and the restaurant may post that grade, or a sign indicating that its grade is pending. A restaurant may choose to contest one or more violations. A hearing at the Office of Administrative Tribunals and Hearings, or OATH, determines the final score and grade, and any penalties assigned. Restaurants with the greatest safety and health deficiencies are inspected more frequently than those that earn an A grade on an initial inspection.

Until these innovations, the principal external motivator for restaurant compliance with the rules of the Health Code was the threat of fines. Since the grading program, the incentives to maintain safe food handling and restaurant hygiene now include: being able to post an A grade card at an entrance, and have an A grade retrieved by mobile and web search tools; communicating regulatory confidence in sanitary practices; experiencing longer periods of time between inspections, having demonstrated the need for less Department oversight; and paying no financial penalties when an A grade is earned at the time of an inspection.

Together, these incentives are working to improve the sanitary conditions in the City's restaurants. Several indicators point to these improvements. Nearly half of all restaurants earn A grades at the time of their initial inspection, up from just 27 percent after the first six months of grading. For restaurants that do not earn an A on the initial inspection, more now improve to an A upon re-inspection than did at the start of the program. In July 2011, just under 40 percent of restaurants scoring in the B range on their initial inspection improved to an A upon re-inspection; now half of those restaurants improve to an A. And, where fewer than 30 percent of restaurants went from a C-range score on the initial inspection to an A on re-inspection twelve months into the program, now almost 40 percent do. Overall, 86 percent of restaurants across New York City ultimately post A grades.

As restaurants improve, they are assigned to a less frequent inspection schedule, because they have demonstrated that they require less Department oversight. In the first year of the program,

only 40 percent of restaurants were on a yearly inspection cycle and 31 percent were on the most frequent, three-to-five month cycle. But by 30 months, 53 percent of restaurants were on the annual inspection cycle, and only 21 percent required inspections every three to five months.

Improvements are driven by better practices in some of the most important food safety areas. In the year before grading began, the Department found that 14 percent of restaurants had inadequate hand-washing facilities. Now, just 4 percent of restaurants are cited for this deficiency, a 71 percent improvement. Prior to grading, 18 percent of restaurants were not keeping food at a hot enough temperature; now 14 percent are cited for this improper practice, a 22 percent reduction. Before grading, 32 percent of restaurants had mice at the time of inspection. That rate has improved by 38 percent, with one-in-five now having mice.

All of these improvements have occurred in part because grading has driven restaurants to increase the safety training of their workforce. Since the announcement that the Department would start grading restaurants, our Health Academy has trained thousands more food workers annually than before the program. In Fiscal Year 2009, a little over 20,000 restaurant supervisors completed the Department's Food Protection Course; in this past fiscal year, we trained 29,000. Our data demonstrates that restaurants that maintain trained personnel on-site are far less likely to have other violations cited, and studies have demonstrated that a trained workforce is associated with less risk of foodborne illness. As we announced last year, as food safety practices have improved, the Department has also seen a decline in the rates of salmonella cases in New York City since the grading program began. The decrease in infections in New York City is greater than in the rest of the State or in surrounding states.

We know that the vast majority of New Yorkers support restaurant grading and use the grades to make dining decisions. A poll by Baruch College in early 2012 found that 91 percent of New Yorkers approve of the program, 88 percent use grades in dining decisions and 76 percent feel more confident eating in an A-grade restaurant. Polls by Quinnipiac and most recently by the New York Times revealed similar levels of support. After a thorough review of this program, in April 2013 the Harvard University Ash Center for Democratic Governance and Innovation selected the grading program as one of 13 recipients in the nation for its Bright Idea in Government award.

Finally, let me say a few words about fines. Since we began grading restaurants, our inspection program has moved from a relatively uniform annual frequency of inspections to a risk-based approach. This means that the least compliant restaurants are now inspected two or three inspection cycles per year, and the potential for violations and fines has increased. As we expected, we saw an increase in the total penalties levied. The increase in penalties was a result of greater oversight of restaurants that posed the greatest risk of foodborne illness to the public. Because restaurant sanitary performance has improved so dramatically, and because we now collect no fines in restaurants getting A's on their inspection, collected fines began to decline in September 2012, and have fallen 27 percent since then. As we look back over the period of time before and since the grading program, the number of restaurants that paid no fines has increased nearly three-fold. In fiscal year 2010, the year prior to grading, just 14 percent of restaurants paid no fine in the prior year. In the past 12 months, 35 percent paid zero. Over this same period of time, the overall health of the restaurant industry improved significantly better than other retail activity in New York City, with taxable sales rising 9 percent. According to the Department of Finance, taxable sales rose by an average of \$69,000 per restaurant.

The Health Department has collaborated with the Council, over the course of this year, on this package of legislation to supplement aspects of the restaurant inspection program. We appreciate the ongoing dialogue, and many of the bills reflect ideas that we mutually agree on. They will offer additional opportunities to engage with a variety of stakeholders, increase transparency, and offer opportunities to further educate the food industry on food safety. Our mutual goal is to ensure the safety of the public, reduce the burden of foodborne illnesses, and promote the greatest possible understanding in the industry of how to practice food safety, comply with regulations, avoid fines and earn A grades.

The bill that describes the data the Department will make available via Data Share, the City's open data portal, will help clarify inspection types and findings to users. We look forward to seeing new and improved web and mobile device applications, as well as analyses of these data. The bill that enumerates an Inspection Code of Conduct will help the Department communicate its approach on inspections to restaurant operators and food service workers. There has been an interest by restaurants in risk-free consultation on how they can improve their practices, and we have already begun the process of preparing to offer consultative inspections for newly permitted restaurants, and for restaurants between inspection cycles that avail themselves of the opportunity.

The Department does have concerns about several provisions in Intro 1119, the ombuds office bill. Specifically, we do not think that the purpose of this office should involve the withdrawal of violations prior to adjudication, nor should the office take on supervisory and employee performance review functions. We propose that the ombuds annual report be unified with that of the Advisory Committee described in Intro 1134 to describe the work of the Department in evaluating concerns, complaints, and modifications it has made to its inspectional approach, rules and regulations.

In addition, Intro 1134, the advisory committee bill, offers an opportunity to codify and enhance with additional members and clarified agenda, its existing committee on food safety. But as an advisory committee, it should have the flexibility to describe its own agenda. The Department should issue an annual report on the activities and work of the committee -- but as a group of individuals selected to represent the perspectives and interests of restaurant owners, trade associations, food safety experts, and nutritionists -- there is no need for the committee to hold a public hearing, and indeed it is burdensome amidst the many public hearings we already hold when proposing rules and health code changes.

As we have discussed with Council staff leading up to this hearing, the Department will be issuing a proposed regulation shortly, which is aimed at reducing restaurant fines by an overall 15 percent, beyond the reductions occurring from the improved sanitary conditions. We will achieve that with a rule setting a fixed penalty amount for every violation, where now those amounts are set at the discretion of the judge who reviews the inspection results. Under this proposal, nearly 60 percent of all violations will be penalized at the minimum level allowed by the Health Code. Not only will a penalty rule enable fine reduction, but it will also enhance transparency and predictability for the industry.

I want to thank the Speaker, Chairwoman Arroyo and the Committee for working with the Department and for the opportunity to testify. I would be happy to take any questions.

Committee on Health, New York City Council
Monday, September 23, 2013 at 10:00
Council Chambers, City Hall, New York, NY

Comments of Neal Corman, Executive Chef, Alicart Restaurant Group on:

- Int. No. 1129 - In relation to creating a food service establishment inspection ombuds office within the New York city department of health and mental hygiene
- Int. No. 1132 - In relation to requiring the department of health and mental hygiene to develop and disseminate a food service establishment inspection code of conduct
- Int. No. 1134 - In relation to the creation of a Food Service Establishment Advisory Board.
- Int. No. 1141 - In relation to Food Service Establishment Sanitary Inspection Data.
- Int. No. 1146 - In relation to requiring the department of health and mental hygiene to develop a consultative inspection program for food service establishments.

I'm Neal Corman; Corporate Executive Chef of the Alicart Restaurant Group. I would like to take this opportunity to thank the board for allowing this testimony.

It is our responsibility as restaurant owners and operators to be fully versed in the health code and regulations however, a clear and concise procedural guide of the actual inspection, the standardized details of the walk-through and the tone and tenor of the inspector would instill clarity and confidence. The proposed Food service Inspection Code of Conduct will do just that. Upon arrival of the inspector, we will know the intended flow of the inspection and that the process is consistent with the previous visits. We can become an active participant in the inspection and a stronger operator. At the conclusion of the inspection, we should be informed of the results, as well as any compensatory measures. The inspector can take this opportunity to instruct us on any additions applications or interpretations of the code that are in effect for next cycle. In this way, our continued education will not be limited to our violations. We can be proactive!

If upon dissemination of the inspection code of conduct, food service operators desire further information on the format or requirements of the walk-through, the Consultative Inspection Program that is proposed, is an indispensable opportunity to find out directly from the source what is expected. The DOH helping us effectively comply through a mock inspection process is the shortest most efficient path to a safe environment.

We in the industry want the security and confidence of knowing that the information resulting from an inspection is objective as well as informative. Factual data needs to be focused on dates, times and type of inspection, violations, points assessed and any possible future tribunal. The option to contest any of the proposed violations should not constitute any deviation of this.

If through these proposed initiatives, a restaurant owner or operator questions the execution of the inspection process, he or she should have the ability to independently register a concern. The initiative to establish a food service ombuds office to address questions, comments and complaints will facilitate this. Such an office can act not only as an arbitrator, but also as a resource of current information on new initiatives, changes in the code and specific inspection trends and direction. I believe having this internal entity will greatly bolster confidence in the process.

As the letter grading system matures and DOH inspections go on, precedence will continue to be set. Consistencies as well as inconsistencies will surface and the impact on the food service community will be both positive and negative. How do we as the people "In the field" feel confident that our interests are being considered? That some knowledgeable entity is monitoring the process? We need a voice! The proposed initiative to create a Food Service Establishment Advisory Board is the source of that voice. Working with the Commissioner of the Department of Health and Mental Hygiene, we can, as a minimum, feel secure that members of our profession as well independent qualified representatives in fields of food safety, nutrition and industry associations will be present. With the creation of this board, we can ensure that inspections will be monitored and the code continuously reviewed. Most importantly, recommendations and resulting changes to the system will be in the interest of the safety of our guests as well as the safety of our industry. Thank you for the opportunity to testify.

- **GOOD MORNING, CHAIRWOMAN AND MEMBERS OF THE COMMITTEE.**
- **MY NAME IS MATT GRELLER, AND I AM THE LOBBYIST FOR THE NATIONAL ASSOCIATION OF THEATRE OWNERS OF NEW YORK STATE.**
- **KNOWN AS NATO, WE ARE THE ONES SHOWING MOVIES ABOUT THE COLD WAR, NOT THE MILITARY IN EUROPE.**
- **OUR PARENT ORGANIZATION, NATIONAL NATO, IS THE LARGEST EXHIBITION TRADE ORGANIZATION IN THE WORLD, REPRESENTING MORE THAN 29,000 MOVIE SCREENS IN ALL 50 STATES, AND ADDITIONAL CINEMAS IN 50 COUNTRIES WORLDWIDE.**
- **IN NEW YORK CITY, NATO REPRESENTS 52 MOVIE THEATRES AND 1,800 EMPLOYEES ACROSS THE 5 BOROUGHES.**
- **MOVIE THEATRES ARE FOOD SERVICE ESTABLISHMENTS UNDER THE HEALTH CODE, AND AS A RESULT ARE SUBJECT TO THE SAME LETTER GRADING AND INSPECTIONS AS RESTAURANTS.**
- **ACCORDINGLY, WE MUST COMPLY WITH ALL THE REGULATIONS AND POSTING REQUIREMENTS, WHETHER IT IS MENU LABELING, ALLERGEN POSTING, OR EVEN THE ILL-CONCEIVED SODA BAN, IF THAT EVER CAME TO FRUITION.**
- **WHILE THE PUBLIC MAY READ ABOUT HOW WELL CERTAIN MOVIES ARE PERFORMING AT THE BOX OFFICE, THEY DO NOT REALIZE THAT THOSE REVENUES ARE SHARED BETWEEN THE STUDIOS, DISTRIBUTORS AND THE THEATRES.**
- **THE PERCENTAGE OF REVENUE AT A FILM'S OPENING, WHEN DEMAND IS HIGHEST, TYPICALLY PROVIDES MORE OF A RETURN TO THE STUDIO/DISTRIBUTOR.**

- **IT IS NOT UNTIL A FILM RUNS LONGER, AND DEMAND DECREASES, THAT A HIGHER PERCENTAGE OF REVENUE GOES TO THE THEATRE.**
- **IN FACT, WITH TICKET SALES RELATIVELY FLAT, AND INCREASED COMPETITION FROM VIDEO ON DEMAND, COMPLIANCE WITH FURTHER MANDATES PRESENTS EVEN MORE HURDLES FOR THE MOVIE THEATRE BUSINESS.**
- **DESPITE A RISE IN RECENT YEARS DUE TO INCREASED TECHNOLOGICAL NEEDS, SUCH AS INSTALLING DIGITAL PROJECTION, IMAX OR 3D EQUIPMENT, TICKET PRICES REMAIN MUCH MORE AFFORDABLE IN COMPARISON TO OTHER FORMS OF ENTERTAINMENT.**
- **BY CONTRAST, CONCESSION REVENUE IS WHOLLY RETAINED BY THE INDIVIDUAL THEATRES.**
- **CONCESSIONS ACCOUNT FOR ROUGHLY 40% OF THEATER PROFITS, WHICH ALSO HELPS TO STABILIZE TICKET PRICES.**
- **WITH THE AVERAGE NEW YORKER ONLY ATTENDING A MOVIE ABOUT 4 TIMES A YEAR, AND ONLY PURCHASING CONCESSIONS TWICE, NEW YORK MOVIE THEATRE PROFIT MARGINS REMAIN VERY SMALL.**
- **IF THERE IS REDUCED CONCESSION REVENUE FROM THE SODA BAN, MORE COSTLY MANDATES, OR FINES FROM UNCLEAR INSPECTIONS, A NIGHT AT THE MOVIES WILL NO LONGER BE AFFORDABLE FAMILY ENTERTAINMENT.**
- **IF THERE IS LOST CONCESSION REVENUE, OR INCREASED COSTS TO COMPLY WITH MANDATES OR MORE INSPECTIONS, THEATRES WILL LIKELY RAISE TICKET PRICES, CUT BENEFITS, OR EMPLOY FEWER PEOPLE.**

- **I AM HERE TODAY TO SUPPORT THIS PACKAGE OF WELL CRAFTED LEGISLATION BECAUSE WE DO NOT WANT TO RAISE TICKET PRICES, CUT BENEFITS, OR CUT JOBS.**
- **CLEARLY, REFORMS ARE NEEDED.**
- **THESE ARE COMMON SENSE REFORMS THAT WILL HELP SMALL BUSINESSES WITHOUT COMPROMISING ON SAFETY.**
- **SIMPLY PUT, FINES ARE OUT OF CONTROL AND VERY OFTEN HAVE NOTHING TO DO WITH FOOD SAFETY, QUALITY OR PUBLIC HEALTH.**
- **BUSINESSES WANT CERTAINTY, CLARITY, THE ABILITY TO GIVE AND GET FEEDBACK, AND LESS FINES AND RED TAPE.**
- **THIS PACKAGE OF BILLS WILL MEET THESE GOALS, AND WE RESPECTFULLY URGE YOU TO SUPPORT THESE BILLS:**
- **INTRODUCTION-1129, SO THAT THEATRES KNOW WHO TO CALL IF THERE IS AN ISSUE;**
- **INT-1132, SO THAT THEATRES KNOW WHAT TO EXPECT AND WILL BE TREATED FAIRLY AND EQUALLY;**
- **INT-1134, SO THAT THEATRES WILL HAVE A VOICE ON THESE ISSUES;**
- **INT-1141, SO THAT INSPECTIONS CAN BE DATA DRIVEN AND THE DATA IS ACCESSIBLE;**
- **AND INT-1146, SO THAT THEATRES CAN KNOW HOW TO COMPLY AND WHAT TO EXPECT.**
- **TOGETHER, THESE COMMON SENSE REFORMS WILL BOTH HELP BUSINESSES AND THE PUBLIC.**
- **WE HOPE THAT YOU WILL SUPPORT THESE BILLS.**
- **THANK YOU.**

Kathleen Reilly

Vice President of United Restaurant and Tavern Owners of New York

Member of FSTAC

Restaurant Owner

Contact Info:

917 572 6886

212 557 5200

212 977 3523

Good afternoon My name is Kathleen Reilly and I am the vice president of the United Restaurant and Tavern Owners of New York Inc, a Member of the FSTAC committee and a second generation owner/ operator of several restaurants in New York City that my family has had since 1972. I would like to start out saying that I am in support of the legislation before us here today.

I think this is a great move forward towards a more effective and efficient way improve the standards of the operation of our industry, the safety of the public and the ways that it is over seen by New York Department Of Health without all the heavy burdens and fines that have been imposed on the industry.

The NYC Department of Health has worked hard with our industry to try and correct the many problems and discrepancies with the new letter grading system that was created in a rush to improve our industry for the safety and transparency of the public without the proper guidelines to implement it and as a result turned out to be a revenue generator for the city. This legislation has many of the new tools needed to finally develop our industry and create a much needed formal partnership with the health department and agencies of New York involved with over seeing them.

The one improvement that would improve this legislation is to include a another independent way of the appointment and number of members to the Food Service Establishment Advisory Board, to create a higher standard of transparency and the inclusion that our industry feels has been lost with the Mayor's office, City Council and the Health Department.

Thank you

**Submission to New York City Committee on Health
City Chambers – City Hall
Re: Int. 1129; 1132; 1134; 1141; 1146
Monday, September 23, 2013**

Public health is best achieved through education and its voluntary acceptance by the public and all stake holders. Therefore, this Local and its members support any effort by this committee to improve public health by encouraging participation and giving a voice to all affected parties. When public health conflicts with the individual profit motive or it becomes a revenue-generating mechanism suspicion and opposition develop and the public suffers.

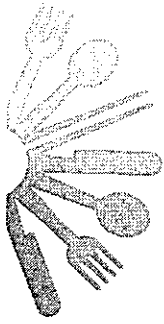
Accordingly, the Local and its members understand the complaints of food service establishments in terms of the amount of fines levied for violations of the Health Codes. Usually, the issue is not that there were no violations of the health codes but whether their prevention would be best achieved through an improved mix of education based on ongoing scientific research, consultation and the city's economic leverage to protect public health.

The committee's proposals seem to be directed at the level of the inspection process rather than the administration of the entire process - one in which the inspectors are compelled to follow the directions of the Department of Health as to what establishments are inspected, how inspections are done and what violations are cited. Inspectors have nothing to do with penalties and fines. If operators are victims of the current system as it is administered, so too are the inspectors. The very high turnover rate of inspectors in the Bureau of Food Safety testifies to this. And not surprisingly, the wraths of some operators are directed at the inspectors and the Local asks that the committee support efforts to protect these employees on a similar basis as the NYC Transit workers.

Finally, the Local wishes to point out that there already exists codes of conduct for the inspectors and several levels of monitoring of the inspection by the Department.

The Local is prepared to assist the committee in its goal to protect the items we consume from our food service establishments.

Fitz Reid,
President, Local 768, DC 37, AFSCME



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Comments

of

The New York State Restaurant Association

to the

Committee on Health

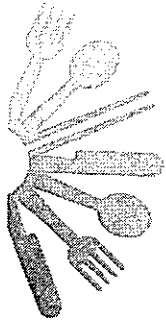
Int. 1129-2013, 1132-2013, 1134-2013, 1141-2013 and 1146-2013

September 23, 2013

10:00 a.m.

250 Broadway – Council Chambers - City Hall

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www.nysra.org



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Good morning members of the Committee. My name is Melissa Fleischut and I am the President and CEO of the New York State Restaurant Association ("NYSRA"), a trade group that represents approximately 5,000 food service establishments in New York City and over 10,000 statewide. NYSRA is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for over 75 years. Our members, known as Food Service Establishments ("FSEs"), represent one of the largest constituencies regulated by the City.

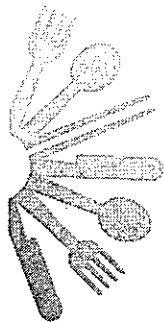
New York City is one of the pillars of the culinary arts world. Our restaurants employ hundreds of thousands of New Yorkers and are a backbone of the tourism trade. As one of the most important industries in New York City, its growth and survival should be supported by all levels of New York City and New York State government.

NYSRA would like to thank the Committee for taking proactive, logical, and necessary steps to introduce the five bills before the committee today. These bills, collectively, would help provide more transparency, accountability, and fairness in the Department of Health and Mental Hygiene's ("DOHMH") restaurant inspection process. Because of the oversight hearings requested by the NYS Restaurant Association, in March of 2012, this Council learned about the inconsistencies in the letter-grade inspection process, the well documented exponential increase in revenue to the City accumulated through letter-grade fines, and the common-sense reforms that should be implemented to improve the letter-grade system while ensuring that New York City's restaurants remain safe for the millions who visit them each year.

These bills demonstrate that the Council has appropriately responded to the hospitality industry's concerns. And for that, the New York State Restaurant Association expresses its support for the passage of each of these bills.

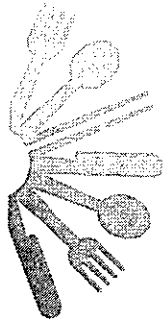
When combined with upcoming reductions in fines and changes to the fine issuance policies orchestrated by Speaker Quinn, these five bills will help the industry work closer with the DOHMH to protect consumers and ensure the vitality of the hospitality industry. Specifically,

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- Intro. 1129 will create a food service establishment inspection oversight (ombuds) office within the New York City Department of Health and Mental Hygiene. This office will provide the NYC hospitality industry with a formalized system to receive questions, comments, complaints, and compliments with respect to any food service establishment inspection. It will also provide for a much needed checks and balances system by investigating complaints received and monitoring inspection results for trends and inconsistencies to ensure a more objective inspection system.
- Intro 1132 will require the DOHMH to develop and disseminate a food service establishment inspection code of conduct prior to the commencement of each inspection. This will help remove the patina of fear that precedes every inspection and will allow FSEs to know what rights they have and what conduct is expected of inspectors.
- Intro 1134 will create a Food Service Establishment Advisory Board that will act as an advisor to the commissioner on all matters relating to the food service establishment inspection program. Much like the very successful Food Safety Technical Advisory Committee currently run by the DOHMH for food safety issues, the FSE Advisory Board will allow industry leaders such as the New York State Restaurant Association to work with the DOHMH to improve public safety and the inspection system; the New York State Restaurant Association looks forward to sitting on this committee.
- Intro. 1141 will require the publication of Food Service Establishment Sanitary Inspection Data. Like the ombuds office created by Intro 1129, Intro 1141 will allow the industry to review inspection data to ensure inspections are consistent for all FSEs.
- Intro 1146 will require the DOHMH to develop a consultative or mock inspection program for food service establishments. These consultative inspections will be performed on an optional basis for educational purposes only and will not result in a notice of violation. All efforts to assist in compliance and education of FSEs on food safety should be encouraged.



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The NYS Restaurant Association fully supports the enactment of these bills. They improve the inspection process while improving public safety – worthy goals that are supported by the industry. The New York State Restaurant Association looks forward to continuing its ongoing work with the Council to protect the restaurant and hospitality industry in the City of New York.

Respectfully Submitted,

Melissa Fleischut
President and CEO
New York State Restaurant Association
1001 Avenue of the Americas, 3rd Floor
New York, New York 10018
212-398-9160
(Read by James W. Versocki, Esq., Counsel NYC Chapter, NYS Restaurant Association)

736862

Committee on Health, New York City Council
Monday, September 23, 2013 at 10:00
Council Chambers, City Hall, New York, NY

Comments of Andrew Rigie, Executive Director, New York City Hospitality Alliance on:

- *Int. No. 1129 - In relation to creating a food service establishment inspection ombuds office within the New York city department of health and mental hygiene*
- *Int. No. 1132 - In relation to requiring the department of health and mental hygiene to develop and disseminate a food service establishment inspection code of conduct*
- *Int. No. 1134 - In relation to the creation of a Food Service Establishment Advisory Board*
- *Int. No. 1141 - In relation to Food Service Establishment Sanitary Inspection Data*
- *Int. No. 1146 - In relation to requiring the department of health and mental hygiene to develop a consultative inspection program for food service establishments*

My name is Andrew Rigie and I am the Executive Director of the New York City Hospitality Alliance, a trade association representing New York City's restaurants and nightlife establishments that are regulated by the NYC Department of Health and Mental Hygiene (DOH). First, I'd like to thank Speaker Quinn for her leadership, Committee Chair Arroyo, the Council and staff members for their support, and the Department of Health for their cooperation in working on these meaningful regulatory reforms.

Personally, I have worked in the NYC food service industry my whole life. For the past decade I have worked for associations that represent the restaurant industry. My work has provided me unique insight into the operations of restaurants and regulation of them.

My daily conversations with restaurant operators are often consumed with complaints about expensive fines, inconsistent inspections and what many describe as an adversarial relationship they share with the Department of Health. These conversations have never included a restaurateur telling me they don't care about food safety or that they opened a restaurant to get their customers sick. (over..)

In fact, restaurant operators usually tell me that they support high food safety standards and being inspected, however they believe the current Letter Grade inspection process is too punitive and burdensome.

That's why the NYC Hospitality Alliance made it our mission to advocate for reforms that would ensure high food safety standards and reduce regulatory burdens. We felt reforms would best be achieved by working cooperatively with the City Council and the Department of Health. That's why I am proud to be an active member of their Food Safety Advisory Committee, we co-host educational seminars on food safety with DOH, we created a partnership in which we provide restaurant workers with the Department's food protection certification course in English and Spanish, we also provide our members with digital, phone and on-site food safety training and consultations. The Alliance believes education and training is a key element to ensure public health. The good news is that The Alliance has built a much better relationship with the Department and there are many occasions when they have been responsive and supportive to the needs and concerns of our industry - we hope to continue down this path.

That is why today, The Alliance is happy to testify in support of the five bills being heard at this hearing. They are all sensible reforms that will reduce regulatory burdens without jeopardizing food safety, and they intend to create a more cooperative relationship between government and the small business community.

Collectively the five bills will provide restaurant operators with regulatory relief. Just as important however is that these bills will require inspection data to be collected and an advisory board be established to review the inspection system on an ongoing basis. This advisory board will be vital in providing ongoing oversight and in making additional recommendations that focus on food safety and additional regulatory reform. We respectfully ask that the Hospitality Alliance be invited to be an active member of this board.

Lastly, in addition to the bills being heard today, there are several additional agreed upon reforms that were announced at a press conference held on August 18th that would reduce fines by \$10 million. This fine relief is needed and we respectfully urge the Council and the Department to proceed immediately with these additional reforms - now is the time.

Now I'd like to introduce The Alliance's legislative counsel, Robert Bookman who will speak in more detail about the technical aspects of this legislation.

Respectfully submitted,

Andrew Rigie | Executive Director | Arigie@theNYCalliance.org

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/23/13

(PLEASE PRINT)

Name: Robert Edman (Edman)

Address: Assistant Commissioner

I represent: New York City Dept. of Health + H

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

WILL ARRIVE AT
11:00 A.M.

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: KATHLEEN REILLY

Address: THE COLISEUM PUB - WEST 58 ST. NYC

I represent: UNITED RESTAURANT & TAVERN OWNERS

Address: P.O. BOX 3055, NY, NY 10963 N.Y.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. ^{1129 1132 1134} _____ Res. No. ^{1141 1146} _____

in favor in opposition

Date: 9/23/13

(PLEASE PRINT)

Name: MATTHEW GRELLER, ESQ

Address: _____

I represent: NATIONAL ASSOCIATION OF THEATRE OWNERS OF NYS

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1129/1132/1134/1141/1146 Res. No. 1146

in favor in opposition

Date: 9/23/13

(PLEASE PRINT)

Name: JAMES VARSOKA, Esq.

Address: ONE HUNTINGTON AVENUE, SUITE 410, MELVILLE, NY 11747

I represent: NYS RESTAURANT ASSOCIATION

Address: 1001 6th AVE, 3rd FLOOR, NYC 10018

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1132/1134/1129 Res. No. 1146

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: NEAL GORMAN

Address: 561 TENTH AVE NEW YORK NY

I represent: HOSPITALITY ALLIANCE

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/23/13

(PLEASE PRINT)

Name: Daniel Kass

Address: Deputy Commissioner, Division of Environmental Health

I represent: New York City Dept of Health + Mental Hygiene

Address: New York City Dept of Health + Mental Hygiene

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/24/13

Name: Fitz Reid (PLEASE PRINT)

Address: 125 Barclay Street NY NY 10007

I represent: President, L. 768

Address: Public Health Santorians

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/23/13

Name: Andrew Rigie (PLEASE PRINT)

Address: _____

I represent: New York City Hospitality Alliance

Address: 65 West 55 Street, #203A, NY 10019

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Robert Bookman (PLEASE PRINT)

Address: 325 Bway, NYC

I represent: NYC Hospitality Alliance

Address: _____

Please complete this card and return to the Sergeant-at-Arms