



**Testimony of Fran Freedman, Deputy Commissioner for External Affairs
New York City Department of Consumer Affairs**

**Before the
New York City Council Committee on Consumer Affairs**

**Oversight Hearing on
Preventing Illegal Gambling in New York City's Gaming Cafes**

and on

Intro Number 1035

April 18, 2013

Good morning Chair Garodnick and members of the Consumer Affairs Committee. I'm Fran Freedman, Deputy Commissioner for External Affairs for the Department of Consumer Affairs. I'm joined today by Assistant Commissioner Susan Petito of the New York City Police Department and Inspector John Denesopolis of the Police Department. Commissioner Mintz asked me to thank you for the opportunity to testify at this oversight hearing, "Preventing Illegal Gambling in New York City's Gaming Cafes " and to comment on Intro 1035, proposed legislation that would require the mandatory license revocation of an amusement arcade or gaming café offering cash prizes or engaged in other unlawful gambling activity.

We applaud the Committee's focus on the emerging, and difficult, problem of illegal gambling in gaming cafés. A relatively new phenomenon, the use of gaming cafés for gambling purposes takes various forms. Some of these premises operate quite openly, advertising the availability of gambling on the premises with prominent signage. Others are more covert, located in basements and upper floors of buildings rather than on street level, outside of public view, making inspections and enforcement a challenge. Indeed, neither the Police Department nor DCA can determine with any certainty how many of these entities may be conducting illegal gambling operations.

The Department currently licenses 58 gaming cafes and 20 amusement arcades. A business must have a gaming café license if it has **three** or more publicly accessible computers or electronic devices in which game software has been installed for the purpose of playing games on the premises. Businesses with **10 or more amusement devices** must obtain an amusement arcade license. For gaming cafes, the Department coordinates a multi-agency approval process: it ensures that businesses have premises approval from the Fire Department, that it complies with Department of Buildings' electrical codes and that the Community Board and the Council Member in whose district the café is located have the opportunity to weigh in with a recommendation on the suitability of the location.

DCA's enforcement of gaming cafes focuses exclusively on compliance with consumer protection laws. If gambling activity is observed in the course of an inspection or if we receive tips from the community or elected officials, we refer such issues to the Police Department for investigation. From 2008 through 2013, DCA conducted a total of 396 consumer protection inspections on both amusement arcades and gaming cafes. For the same period, the Department received no consumer complaints about either industry. Over the last five years, the top violation in both industries was for unlicensed activity, followed by violations for not including license numbers in advertisements, improper display of signs and licenses and failure to give receipts.

As an example of the Administration's cooperative efforts to deal with gambling issues in gaming cafes, last Wednesday DCA joined the Police Department and the Department of Buildings in an enforcement effort in Lower Manhattan involving entities about which DCA had received some tips. DCA issued a total of eight violations: two for unlicensed gaming cafes; one for an unlicensed cigarette dealer at a gaming café, and five for evading consumer protection laws (not having a price list, not posting a refund policy, etc.). DOB issued five violations and the Police Department arrested an owner of a gaming café for selling cigarettes on the premises without a license.

According to my colleagues in the Police Department, the New York Police Department has conducted several investigations of gaming cafes. The arrests that result from these investigations are usually for violations of Penal Law Section 225.05, Promoting Gambling in the 2nd degree, a class A misdemeanor. In addition to making the arrests, police officers may also

seize the computers used to conduct the gambling, which puts the premises out of business, at least temporarily.

A more permanent and, perhaps more effective, solution is contemplated by Intro. 1035, which is intended to automatically revoke the license to operate the amusement arcade or gaming café where the owner permits gambling on the premises. We support the intent of the bill, and hope to work with you to ensure that the language of the bill accomplishes this goal. We suggest that the predicate for revocation be clarified, perhaps by linking it to a criminal conviction for a gambling offense contained in Penal Law Article 225, so that DCA may rely on a criminal conviction in making its license determination, rather than attempting to adjudicate a violation lying well outside our inspection bailiwick.

We look forward to working with the Council on these issues. I, along with my colleagues from the Police Department, will be pleased to answer your questions.

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I represent: Dept. of Consumer Affairs

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Name: INSPECTOR JOHN DENESOPOLIS

Address: 1 POLICE PLAZA

I represent: NYPD

Address: 1 POLICE PLAZA

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Name: Danny Frank

Address: NYAC - 961, 180 Cent. Park So. NYC

I represent: Amusement and Museum Owners

Address: Association of New York, Inc

same

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