Testimony of Assistant Commissioner Carlos A. Ortiz New York City Department of Consumer and Worker Protection

Before the Committee on Consumer and Worker Protection

Introduction 865

September 25, 2024

Introduction

Good morning, Chair Menin, and members of the Committee. My name is Carlos Ortiz, and I am the Assistant Commissioner for External Affairs at the Department of Consumer and Worker Protection (DCWP). I am joined today by our Director of Legislative Affairs, Hali Radecker. Thank you for the opportunity to testify on Introduction 865, relating to reporting of worker fatalities in New York City.

DCWP provides fundamental consumer and worker protections, and financial empowerment programming to New Yorkers. We strive to ensure that consumers who have been deceived or exploited have recourse, that workers have a passionate defender of their rights, and that all New Yorkers have the support they need to improve their financial health. Since the start of the Adams' Administration, DCWP has helped deliver ~\$785 million dollars into the pockets of New Yorkers, through debt relief, restitution, and financial empowerment programming.

Workers' Rights Enforcement and Education

DCWP is steadfast in its commitment to ensure fair workplaces for all New Yorkers through our dedicated enforcement efforts and proactive outreach. Since 2021, DCWP has secured more than \$43 million in monetary relief to nearly 36,000 workers across the city. And, we have conducted nearly 1,000 events to educate New Yorkers specifically on their rights in the workplace and what actions to take if those rights are violated. Workers' rights will always be an essential priority for the Department.

Introduction 865

Moving to today's bill, Introduction 865 would require DCWP to establish and maintain an online, public database that compiles information related to workplace fatalities that occur in New York City. It would require the Office of Chief Medical Examiner to facilitate maintenance of this database by delivering reports of any work-related fatal injury to DCWP.

Ensuring that workers are safe, and that employers follow the essential health and safety standards for workplaces is a vital issue for New Yorkers. Workers must have safe working conditions, and the injury of one worker, or loss of life, on the job site is one too many. Under federal law, employers are obligated to report work-related employee fatalities to the Occupational Safety and Health Administration (OSHA), which investigates all work-related fatalities in all covered workplaces. OSHA maintains a database that publishes worker-specific

and worksite-specific data that covers New York State and New York City in its reporting. Under New York state law, the state Department of Labor has created a registry inclusive of New York City for work-related fatalities in the construction industry and maintains a public database of aggregate data. And finally, our colleagues at Health's Bureau of Vital Statistics, who are responsible for the registration, analysis, and reporting of all vital events in NYC, including deaths, have published data on workplace fatalities as a part of its annual Summary of Vital Statistics.

Given these existing public health reporting mandates, the ongoing work of other agencies, and that public health surveillance is not in the scope of work of DCWP, we oppose this legislation as drafted. Finally, I would like to note that the Law Department is also continuing to review this legislation.

Conclusion

Of course, we welcome continued collaboration and partnership with all stakeholders, workers' advocates, and the Council to strengthen workplace protections for New York City's workers. Thank you again for the opportunity to testify before you today. I look forward to our discussion and answering any questions you may have.

NEW YORK CITY CENTRAL LABOR COUNCIL, AFL-CIO

President VINCENT ALVAREZ Secretary-Treasurer JANELLA T. HINDS

Testimony from Brendan Griffith, Chief of Staff, Mobilizing Director New York City Central Labor Council, AFL-CIO to the New York City Council Committee on Consumer and Worker Protection September 25th, 2024

Good morning, my name is Brendan Griffith, and I am the Chief of Staff and Mobilizing Director at the New York City Central Labor Council, AFL-CIO (NYC CLC).

Thank you Chair Menin and the other members of the Committee on Consumer and Worker Protection, for the opportunity to testify today. I am here to speak in support of Intro 865.

As an organization representing more than one million workers in New York City, the Central Labor Council is committed to honoring and remembering fallen workers who have lost their lives on the job.

Even this week we mourn the loss of Richard Errico, a 54-year-old veteran of the Department of Sanitation who was killed in the line of duty in Queens. Richard gave his life in service to our city, keeping it safe, clean, and healthy and he deserves our collective gratitude.

For many years the CLC has collaborated with the New York Committee for Occupational Safety and Health (NYCOSH) on an annual Workers Memorial Day Commemoration which takes place on April 28th. We also coordinate with the Speaker's office to make sure that workers we know have died on the job during the previous month are recognized at a Stated meeting.

Through that process, what has become clear is the difficulty in finding information about a workplace fatality. Unfortunately, there is no one agency responsible for tracking that information. Our sources include media reports, reports from affiliate unions and Labor partners and social media. Although we are able to collect some data from government agencies, those reports are often incomplete (not inclusive of all worker fatalities) and dramatically delayed compared to what this bill will accomplish. Despite our efforts we are certain there are many fatalities we have missed.

Tracking and reporting workplace fatalities is a vital step towards honoring the sacrifices of New York City workers. These fallen workers were family, co-workers, and friends, and they played a vital role in our broader New York City community. When a worker is killed on the job, it is their loved ones who endure the tragic loss and unimaginable grief. Those losses should be recognized.

Workplaces must be safe and secure. The choice to come to work each day should not be a life-or-death decision – but for too many, it is. Without comprehensive and timely data, we cannot effectively track, report, or prevent workplace fatalities.

This legislation represents a proactive approach to preventing workplace injuries and deaths, helping to ensure safe and healthy work environments. By gaining a clear understanding of where, how, and how many workplace fatalities occur, advocates can develop effective solutions to solving these critical and urgent issues.

No one should lose their life at work. Given that many do, it is our responsibility to do everything in our power to prevent such tragedies. Tracking workplace fatalities is a critical step towards raising awareness of unsafe practices, requiring transparency in all industries, and creating safer workplaces.

At the end of the day, Intro 865 is very simple. It ensures that we honor the lives of the fallen and recognition of their service while paving the way for improved safety and protection of our city's workers.

For the sake of our city's workers, their families, and for the safety of workers for generations to come, I urge the Council to pass this essential piece of legislation.

I appreciate the opportunity to address this committee today. Thank you.

Brendan Griffith

Chief of Staff and Mobilizing Director

New York City Central Labor Council, AFL-CIO

UNIFORMED SANITATIONMEN'S ASSOCIATION

Local 831

AFFILIATED WITH

INTERNATIONAL BROTHERHOOD OF TEAMSTERS



HARRY NESPOLI

Testimony of Harry Nespoli President, Uniformed Sanitationmen's Association, IBT Local 831 before the NYC Council Committee on Consumer and Worker Protection regarding Int. No. 865

September 25, 2024

Good morning Chair Menin and members of the Council's Committee on Consumer and Worker Protection. My name is Harry Nespoli, and I am the President of the Uniformed Sanitationmen's Association, IBT Local 831, and Chair of the Municipal Labor Committee. I submit this testimony in support of Introduction 865 on behalf of the nearly seven-thousand members of Local 831.

Every day, sanitation workers wake up and go to work across the City, keeping our streets clean in often dangerous conditions. This past weekend, Sanitationman Richard Errico, a nineteen-year veteran of the DSNY, suffered a terrible accident and died in the line of duty. He leaves behind a family who loved him. In his time on the job, he served northeast Queens and the City of New York with dedication.

Our members deal with countless perils, including reckless drivers, hazardous waste, dangerous machinery. The job of a sanitation worker causes significant wear and tear on a body, and exposes workers to harmful toxins, including the bacteria which causes leptospirosis. Last year, Local 831 testified before the Council's Committee on Sanitation and Solid Waste Management on worker safety and worker protection and discussed these risks.

Through my decades as president of my union, the most difficult part of my job has been telling a member's family that their loved one will not come home. Michael Hanly, a 22-year veteran lost his life when he was sprayed by highly concentrated hydrofluoric acid on the job. Eva Barrientos, a mother of three, lost her life when her truck's garbage-lifting levers swept down on her as she was clearing a jammed trash bag. Steven Frosch passed away following an accident after being crushed in a sanitation garage. Alfred G. Timmons, Vincent Gugliemino, Allen Gormely, Stephen Dixon, and Richard Timmins died of heart attacks while on duty. Frank Consalvo, Keith Bridges, Rodney Page, Michael Occhino, and Frank Justich died as a result of traffic collisions. At least nine DSNY employees lost their lives due to COVID-19.

This bill you are considering would provide valuable information to help inform legislators and other policy makers and guarantee that those in power know what we already know; working in this City is dangerous and those who do so for the good of New Yorkers are heroes. Most importantly, it would help honor those who have given their lives for the City.

In conclusion, I urge the City Council to pass Int. No. 865. As with any other piece of legislation, I invite the Council to reach out to Local 831 with any questions on this bill. Thank you for your time and your good work.



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MASON TENDERS' DISTRICT COUNCIL OF GREATER NEW YORK POLITICAL ACTION COMMITTEE

Testimony of Michael J. McGuire

Mason Tenders' District Council Political Action Committee

Re: Intro 0865-2024 (De La Rosa)

Topic: In relation to records of the chief medical examiner that relate to work-related fatal injuries in the workplace, and to amend the administrative code relation to reporting on workplace fatalities

September 25, 2024

Good morning Chair Menin and distinguished committee members. My name is Mike McGuire, Director of the Mason Tenders' District Council PAC. I am testifying on behalf of the 17,000-member Mason Tenders' District Council of Greater New York (MTDC) which encompasses Laborers' Locals 66, 78, 79, 108 and 1261. Laborers build New York from the ground up and are involved in all facets of the construction industry. My testimony today comes from a place of knowledge, as I was the original author of the statewide construction industry fatality registry law (Consolidated Laws of New York, Chapter 31, § 44)—which I was lucky enough to work with Councilmember De La Rosa on when she was an Assemblywoman—on which this bill is based.

"Labor of human beings is not a commodity nor an article of commerce and shall never be so considered or construed." So states Article 1 of the Constitution of The State of New York. This evidences the clear intent of our state to show respect for the workforce. In support of this clause of the Constitution, hundreds of laws have been passed over decades to protect the health and lives of our state's workers. However, without complete, accurate and timely data, we have no way of gauging the efficacy of those laws. Further, and once again for lack of data, we have no way of knowing who among the workforce is most vulnerable.

In working on this issue, I found the *Deadly Skylines* report produced by the New York Committee for Occupational Safety and Health (NYCOSH) to be invaluable. This annual report details workplace fatalities in the construction industry in New York State, revealing some startling statistics. For instance, over roughly the last two decades, one construction worker was killed at work every five days in New York State. To be sure, that number shrinks and grows depending on how much construction activity occurs. In bust times, when there are fewer construction jobs, the number lessens. In boom times, particularly when underhanded contractors provide little or no health and safety training, the number grows. Suffice to say that each year, somewhere between 50 and 75 construction workers are killed on their jobsites in New York State. Generally, federal OSHA only investigates about 40% of those fatalities, leaving a large majority uninvestigated. Approximately 85% of the victims are Latino or immigrants. And, in some years, we've found up to 93% were on non-union work sites. The only good statistic is there are no female victims. Of course, the bad side of that is the fact that the nonunion industry steadfastly refuses to hire *any* women. The problem with all these statistics painstakingly compiled by NYCOSH is that they likely woefully undercount the actual number of deaths and do not supply or reflect demographic realities.

I say this because NYCOSH arrives at that number by calling the coroners, medical examiners or other officials charged with registering deaths in each of New York's 62-counties and *asking* them if they've had any construction worksite fatalities in the past year. They then cobble that information together with a paltry number of newspaper reports, and that combined information provides the death totals. Undoubtedly, these numbers do not reflect the actual number of deaths.





Coroners may not actually report accidents as construction, or even *workplace* fatalities. Cause of death: blunt force trauma to the head. Manner of death: fall from 2nd story. That does not tell us if the decedent fell from the deck of a building under construction or fell from a 2nd story hayloft. It doesn't even tell us if the fatality was at a worksite. This kind of report could mean someone fell out a 2nd story window waving goodbye to grandma.

Another issue leading to inaccuracies is the fact that different municipalities count workplace fatalities in different ways. For instance, for years, the New York City Department of Buildings only counted a workplace fatality if a member of the public was also endangered. That is to say, if a construction worker fell off a fifty-story building to the sidewalk, where he or she may have potentially hit a pedestrian, that was recorded as a workplace fatality. However, if a construction worker fell to his or her death down a fifty-story elevator shaft in the center of the building, endangering only other construction workers, that wasn't considered a workplace fatality. Any number of these recording abnormalities may exist throughout the 62 counties.

This measure advances the intent of Section 44. It provides the same demographic information of the victims: age, gender, ethnicity, nationality, trade, union status, etc. that is needed to craft better workplace health and safety legislation, as well as supplying information on the employers. The employer information is extremely important. For instance, right now in New York City, a certain contractor that has killed 6 workers over the last seven years is working on publicly-subsidized projects. One contractor.

A city version of this law is necessary for several reasons. First and foremost, Section 44 only covers construction fatalities, and while construction remains the most dangerous major industry in the country, it's certainly not the only dangerous industry in our city. The federal Bureau of Labor Statistics put out a press release for the year 2022 (the latest year for which numbers are available) that reveal 23 construction workers were killed at work in the five boroughs during that year, yet- there were actually an additional 60 workers killed at various other jobs in New York City, leaving more than 62% of workplace fatalities out of the system. It further resolves the problem of non-compliance. Coroners outside the city are most definitely underreporting the number of fatalities in their counties. Although, to be fair, while this is more likely due to ignorance of the law than any malintent, it still leaves us with flawed fatality numbers. And finally, we don't know the vagaries of each county's processes, and so, much like we used to have with the Department of Buildings, we have no way of knowing whether those counties even classify *any* deaths as worker fatalities. With all the data under Intro 865 being compiled and submitted by one agency, the Office of the City Medical Examiner, we are sure to have accurate and timely information that will undoubtedly save the lives of workers in the future.

The Mason Tenders' District Council of Greater New York and Long Island strongly supports Intro 865-2024. We hope you will join us in supporting this important worker safety legislation and pass the workplace fatality registry bill as soon as possible.

Thank you.

Respectfully submitted,

Michael J. McGuire Director, MTDCPAC September 25, 2024



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Testimony in Support of Int. No. 865 NYC Council Committee on Consumer and Worker Protection Manny Pastreich, President, SEIU Local 32BJ September 25, 2024

Local 32BJ is pleased to submit this testimony in support of the Worker Fatality Bill, Int. No. 865, which would require the Department of Consumer and Worker Protection (DCWP) to establish and maintain an online public database of worker fatalities. Establishing a centralized repository of information on worker deaths, including mortality rates by industry and occupation, will facilitate efforts to strengthen health and safety practices to better protect vulnerable workers.

32BJ is the largest property services union in the country, representing around 85,000 property service workers in the New York City metro area and 175,000 up and down the East Coast. Our members are the cleaners, door-people, security guards and other building service workers who keep our homes, workplaces, airports, schools, and transportation hubs clean and safe. 32BJ and its members fight to make life better for all working families in our state and strive for communities where all people are treated with fundamental dignity and respect.

32BJ has long prioritized the health and safety of our members and unorganized building service workers, many of whom work in dangerous settings and are vulnerable to injury and even death. Among our membership, security officers and airport workers face especially high risks.

Security guards employed by contractors are the first line of response to a wide range of social and economic crises, confronting the symptoms of substance addiction, housing insecurity, and mental illness that increasingly play out in public spaces. Contracted security has become the primary defense against property-related crimes, including retail loss prevention, securing office spaces and warehouses, and deterring theft in the city's residential communities and business districts. Security officers are especially vulnerable because they often work alone, and because the sector is plagued by high turnover rates fueled by low wages and benefits. 32BJ and its members have made significant progress towards raising wages, benefits and training standards, but further investments are needed to stabilize the sector. Increased data will help illustrate the need for higher standards and what is at stake by a failure to make the needed reforms.

Our members who work at John F. Kennedy and La Guardia airports face safety and security risks ranging from unruly passengers to weapon interception to machinery-related injuries. These conditions have only worsened in the wake of the pandemic. In a recent investigation into aviation-related injuries, the Wall Street Journal found that one airline saw ground handling-related injuries increase by as much as 64% compared to 2019. It Airport workers are also among those



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most at risk for heat-related illness, iv which is an increasing concern as New York summers get hotter and longer. Recent work-related fatalities include a worker crushed by an overturned forklift at Boston Logan Airport, a worker who was crushed between a tug and an airport jet bridge in Austin, Texas, in and a worker who was ingested into a plane's engine in Montgomery, Alabama.

Thankfully, no 32BJ airports members have suffered a workplace fatality in recent years, but our members' experiences have made us acutely aware of the risks and critical need to establish better health and safety protections, shore up wages and benefits to retain experienced workers, and provide the training workers need to protect themselves and the airports.

Weak reporting requirements and incomplete data, however, hinder efforts to identify hazardous conditions and practices and effectively tailor interventions. The U.S. Government Accountability Office, for example, has noted that efforts to address the incidence of airport ramp accidents "have been hindered by a lack of data on the nature, extent, and cost of ramp accidents and the absence of industrywide ground handling standards." One obstacle to more comprehensive data collection was employers' unwillingness "for competitive reasons to publicly disclose the data."

By creating a central database of worker fatality data that is not dependent on employer reporting, Int. No. 865 will support efforts by the city, workers, and their unions to address these issues and better safeguard workers' lives. This measure will be enormously valuable not only to 32BJ and its members, but to countless other vulnerable workers and labor organizations.

See also: Katz, Benjamin. "More Workers Are Getting Hurt on the Tarmac. 'It Was Really Frightening." Wall Street Journal. 8/15/2023. Retrieved from

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TESTIMONY OF:

Lowell Barton, Vice President, and Organizing Director Laborers' Local 1010, LIUNA, for

New York City Council Committee on Consumer and Worker Protection September 25th, 2024

Laborers' Local 1010 is the premier Paving and Road Building Union of New York City. Our members work together to build streets, bridges, and highways throughout the five boroughs of NYC. Local 1010, an affiliate of the NYS Laborers', representing 40,000 men and women across the state, is a proud affiliate of the Laborers' International Union of North America (LIUNA). It is of the utmost importance for the Laborers' Union that accountability and transparency of NYC agencies, be utilized for the benefit and safety of the public, our members, and NYC contractors.

I am providing this testimony today to state Laborers' Local 1010's support of Intro 865, introduced by Council Member Carmen De La Rosa, a local law to amend the administrative code of the city of New York, as it relates to workplace fatalities data and collection.

The tracking and reporting of workplace fatalities has become increasingly harder to verify, and in turn has taken away the sacrifice these workers haven unfortunately given. Unfortunately, it has become abundantly clear that finding the data on these workplace fatalities is very difficult and differs from agency to agency, as there is no one central agency to track these workplace fatalities. Relying on media reports, word of mouth, and social media posts is a disservice to the men and women who have given their life in the line of duty.

Having workplace fatalities statistics in one centralized place will help advocates identify trends and allow employers/labor unions/advocates/policy makers to target specific industries or practices that need improvement. The data will not only help employ a more proactive approach but also will lead to improved safety standards, as well as resource allocation, focusing on high-risk areas to implement preventive measures.

The centralized listing of workplace fatalities will also lead to raising awareness amongst employers, employees, and the public about the importance of fostering a culture of vigilance and care amongst each other.

There is also a disproportionate impact on Latinos and immigrants as 85% of workplace fatalities are made up from those two groups. Gathering and analyzing data on fatalities among Latino workers can inform targeted interventions, training programs, and safety regulations that are culturally and linguistically appropriate. With such a high number of fatalities being immigrant workers, once these fatalities do occur, people on construction sites then tend to leave, with no one to take the burden for the unfortunate fatalities that have occurred.

With all the data under Intro 865 being compiled into one centralized location, we can take a preventive and more proactive approach with information that is more accessible, timely, and accurate. Thank you.

Appearance Card
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I intend to appear and speak on Int. No Res. No in favor in opposition
Date: 09/25/2024
(PLEASE PRINT)
Name: Enrique VAIDEZ
Address: Brooklyn, NY 11220
1 represent: Wolkers Justice Project
Address: 4112 444 Ave, Brookly Ny 11232
Please complete this card and return to the Sergeant-at-Arms

Appearance Card
I intend to appear and speak on Int. No. Res. No.
in favor in opposition
Date:
Name: Beendon Griffith
Address: 350 W 3157 St 10001
I represent: Nel Clytich Labor (ovaci)
Address: Shw
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:
Date: 09/25/2024 (PLEASE PRINT) Name:
I represent:
In favor in opposition Date: 09/25/2029 (PLEASE PRINT) Name: Address: