

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS

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February 18, 2011

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HELD AT: Council Chambers
City Hall

B E F O R E: DANIEL R. GARODNICK
Chairperson

COUNCIL MEMBERS:
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G. Oliver Koppell
Karen Koslowitz
Michael C. Nelson

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

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Director of City Legislative Affairs
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David Woloch
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Former pedicab driver

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

Meredith Smith
Advocate
Current pedicab driver

David Serk
Advocate
Current pedicab driver

Brendan O'Toole
Advocate
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James Lee
Advocate
Current pedicab driver

CHAIRPERSON GARODNICK: Good

afternoon, everybody. Welcome to the Committee on Consumer Affairs of the New York City Council. My name is Dan Garodnick, I have the privilege of Chairing this Committee. Today's date is Friday, February 18th, and I want to welcome all of you to today's hearing on the state of current pedicab regulations. We have three City agencies who are here today to address the issue: the Department of Consumer Affairs, the Parks Department and the New York City Police Department. We will also hold a hearing on four bills that I have sponsored that would strengthen existing laws governing pedicab operation, and address ongoing challenges with pedicab safety on the streets. I also want to welcome the Department of Transportation for being here--David, I'm sorry, I left you out, I never intend to do that. So, prior to 2009, there was not a single City regulation covering pedicabs--no licenses, no limits, no rules. It was, simply put, the Wild West out there. In response, in 2009, the New York City Council passed broad pedicab safety and consumer reforms that began to regulate this new and emerging

1 industry. The Department of Consumer Affairs will
2 testify today on its February 15, 2011 report to
3 the New York City Council, regarding the
4 effectiveness of those 2009 regulations, in
5 ensuring that there is pedicab safety on the
6 streets. The report details, and I don't mean to
7 preempt DCA here, but there's just a few facts
8 that I will highlight, and then we'll let them do
9 that themselves. They detail that in 2010, the
10 Department of Consumer Affairs issued 163 pedicab
11 business licenses, and registered 850 pedicabs.
12 And as of February 8, 2011, DCA issued 1,528
13 pedicab driver licenses. The report also
14 indicates that 39 pedicab driver licenses were
15 suspended, with 34 suspensions due to suspended
16 New York State motor vehicle licenses. That's a
17 troubling statistic, of course--34 pedicab drivers
18 sufficiently violated New York State traffic laws
19 to cause a suspension of their motor vehicle
20 licenses; and yet, until those licenses, the
21 pedicab driver licenses were suspended, those 34
22 individuals continued to transport passengers
23 primarily on the densely populated streets of
24 midtown Manhattan. Last month, there were reports
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2 that a pedicab driver had managed to rack up 90
3 violations, including violations for running red
4 lights and parking in crosswalks. NYPD
5 enforcement sweeps run last fall that resulted in
6 115 pedicab violations issued within a few hours
7 in a single neighborhood in my district, confirms
8 that violations are not isolated to a single
9 brazen driver. In December last year, my office
10 heard from a tourist who reportedly enjoyed his
11 visit to New York with the startling exception of
12 an eight minute pedicab ride that cost him \$90.
13 Environmentally friendly industries, such as
14 pedicabs, can offer tourists a very green mode of
15 transportation. But no visitor in New York City
16 should ever leave that they, in feeling like they
17 have been scammed, as this tourist did. That
18 perception is not helpful to New York's tourist
19 industry, it is not helpful to our economy, and
20 it's not helpful to pedicab drivers or the
21 industry itself. DCA's report did not provide,
22 however, information on violations that were
23 issued to pedicab drivers and business owners, and
24 I anticipate that representatives from NYPD and
25 the Parks Department will provide these violation

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2 statistics. DCA's report suggests, however, what
3 recent news accounts and information reported to
4 my office reveal: that safety and consumer
5 challenges persist with New York City's pedicabs.
6 There is more that can and should be done to
7 provide for greater safety and consumer
8 protections. I've introduced four bills that we
9 will hear today. Intro 345 would require a
10 pedicab bill of rights, similar to the bills of
11 rights for taxicab, livery and commuter van
12 passengers. This bill outlines a pedicab
13 passenger's rights to a safe ride and working
14 equipment. To reduce repeat offenses, and target
15 those pedicab drivers and businesses who do not
16 abide by traffic laws and equipment requirements,
17 Intro 166 would impose a greater risk of license
18 suspension and/or revocation. Next, when pedicabs
19 occupy but do not pay for metered parking spaces,
20 or when they are parked in crosswalks or standing
21 in no standing zones, it causes a loss of revenue
22 for the City and endangers pedestrians, motorists
23 and bicyclists. Proposed Intro 334-A would
24 require pedicab drivers to obey no parking and no
25 standing zones, and to pay for the use of metered

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2 parking spaces. And finally, the conditions on
3 the streets today make it clear that we need to
4 better address all of these safety concerns before
5 we ever allow more pedicabs to operate out there.
6 Intro 467 would repeal the sunset provision of the
7 2009 laws, which restricted licensing. And it
8 would limit pedicab registration plates to their
9 current or a lower number. I'm very pleased that
10 the Pedicab Owners' Association has endorsed all
11 four of these bills. We look forward to their
12 testimony here today, as well as the testimony of
13 all of those seeking to be heard at this hearing.
14 But first, before we get into that, I want to
15 acknowledge my colleagues who are here today. We
16 have Council Member Karen Koslowitz, the former
17 Chair of this Committee, thank you for being here;
18 Council Member Oliver Koppell from The Bronx;
19 Council Member Leroy Comrie of Queens, also a
20 former Chair. We are very glad to have them and
21 their interest and their participation here today.
22 With that, I think we've done a sufficient amount
23 of introducing of the issues, so that we will turn
24 now to the Administration. And I think we're
25 going to start with the Department of Consumer

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2 Affairs. So, whenever you are ready, please go
3 right ahead.

4 ERIK JOERSS: Is this--Good
5 afternoon, Chairman Garodnick and Committee
6 Members. I am Erik Joerss, the Director of City
7 Legislative Affairs for the Department of Consumer
8 Affairs. And with me is Deputy Commissioner for
9 External Affairs Fran Freedman. Commissioner
10 Mintz asked me to thank you for the opportunity to
11 appear before you at your oversight hearing on NYC
12 pedicab regulations' first year review, and your
13 hearing on Intro Nos. 334-A, 345, 466 and 467.
14 The Department was pleased to have the opportunity
15 to work with its sister agencies and the City
16 Council to help craft Local Law 53, in August of
17 2009, and to implement the market driven licensing
18 plan for the nascent but growing industry. The
19 legally required 59 day window allowed all who
20 wished to compete in the market at that point in
21 time to do so. Let me take you back very briefly
22 to the fall of '09, so we can share with you the
23 massive and all-encompassing effort it was to
24 implement this new legislation. At the outset,
25 DCA instituted a business friendly, broad

1 education licensing and inspection protocol,
2 designed to protect the public's interests, while
3 providing a smooth, efficient and orderly process
4 for the industry to follow. To assist the more
5 than 170 pedicab businesses facing the City's new
6 legal requirements, the Department immediately
7 mounted a multipronged outreach campaign to the
8 industry, including ongoing update bulletins as
9 the Council moved towards passage of the new
10 legislation, distribution of a detailed FAQ
11 explaining each step of the licensing inspection
12 process, making all materials available on DCA's
13 website through 311 and at our licensing center,
14 repeated offers to the two industry associations
15 to hold special sessions to walk prospective
16 applicants through the process, and near daily
17 contact with the industries two business
18 associations regarding the low volume of early
19 applications, which included a meeting with the
20 Commissioner. The task of imposing a licensing
21 and inspection scheme on a previously unregulated
22 industry, and in an incredibly short amount of
23 time, required an enormous amount of work,
24 meticulous planning, and a significant
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2 communications effort among all stakeholders. Our
3 outreach to the industry was meant to supplement
4 an already streamlined licensing process, with
5 most of the key information available online
6 through the business toolbox section of our
7 website. All required forms and requirements were
8 easily accessible and whenever possible
9 downloadable. The City opened its licensing
10 window on September 22, 2009, and continued for 59
11 days through November 20th. To receive a pedicab
12 business license, applicants were required to own
13 at least one registered pedicab which passed
14 inspection, acquire legally compliant insurance
15 and submit a completed application to DCA.
16 Applications for pedicab driver licenses that were
17 submitted beginning on September 22, 2009 and
18 submissions have been ongoing as there was no
19 window or time limitation for such licenses. In
20 the first 60 day registration period, before the
21 window closed, DCA received 181 business license
22 applications, which included 943 individual
23 pedicabs. Of those who applied, 172 business
24 licenses were issued, representing 889 pedicabs.
25 We also issued pedicab driver licenses for 474

1 applicants during '09. From October '09 through
2 December 21st, DCA conducted 1,129 inspections,
3 which include re-inspections, of pedicabs to
4 ensure that they met the rigorous legal
5 requirements to be duly registered. The
6 qualifying inspection was an intensive,
7 comprehensive and vigorous 24 point review that
8 focused on pedicab vehicle safety, and consumer
9 protections, and tested the integrity of the
10 product. These soup-to-nuts inspections included
11 testing primary and secondary braking systems,
12 lights, turn signals--both audible and visual--
13 reflectors, timers, and distance calculating
14 devices, appropriate rates and other signage.
15 Each inspection generally took between 15 to 20
16 minutes depending on whether or not problems were
17 noted and depending on the method that rates for
18 the pedicabs were to be calculated. If a pedicab
19 calculated rates based on distance, our inspectors
20 measured a 330 foot trip; if timing was used, we
21 checked the applicants timer against our own
22 stopwatches. DCA designed the process to be
23 accessible and convenient as possible for
24 businesses, conducting onsite inspections for
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2 businesses with more than ten pedicabs in their
3 own garages. The bulk of inspections, however,
4 took place in Central Park, and we want to thank
5 the Park, thank the Parks Department, for
6 graciously allowing us to use its venue, which was
7 not only convenient for DCA inspectors and for the
8 industry, but was also spacious enough to allow us
9 to perform the important testing required. Almost
10 before DCA could recover from that initial
11 licensing period, it was time to renew existing
12 pedicab business licenses which were set to expire
13 on November 1, 2010. The renewal period began on
14 August 1st. All licensees have an additional 59
15 days after the expiration date of their licenses
16 to renew, so the renewal period lasted through
17 December 31, 2010. Of the 172 businesses,
18 comprising 889 pedicabs, eight licensed businesses
19 with a total of 38 registered pedicabs, failed to
20 renew within the timeframe allowed by law,
21 including one business with 30 pedicabs, one with
22 three and five with one each. The license of one
23 business with one registered pedicab was revoked
24 during this period. Currently, there are 163
25 pedicab businesses with 850 registered cabs.

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2 During the renewal period, we conducted 867
3 inspections, mainly in September and October, to
4 meet the November 1st renewal deadline. During
5 the past 17 months, 22 businesses have applied for
6 the transfer of 107 pedicabs. Pedicab driver
7 licenses expired on April 1, 2010. Of the
8 initial, of the original 474 licensed drivers, 231
9 failed to renew for 2010, 13 others were denied
10 and 39 pedicab driver licenses were suspended; 34
11 because the New York, because the licensees New
12 York State motor vehicle license were suspended,
13 and five for other reasons. Currently as
14 mentioned, there are 1,528 licensed pedicab
15 drivers. To facilitate communication and ensure
16 appropriate enforcement, DCA conducted three
17 trainings in person and by phone with the
18 Department of Parks and Recreation, and the Police
19 Department early in the licensing process in '09.
20 The first intra-agency meeting with Corp Counsel,
21 Department of Parks and Recreation and Police
22 Department was held at DCA's offices on September
23 11, 2009, followed by a conference call with Parks
24 on September 22nd, and then another meeting with
25 Parks at DCA headquarters on September 25th.

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2 These trainings were particularly important
3 because the requirements of the law regarding
4 suspensions and revocation of licenses, can only
5 be triggered by our receipt of violations from
6 these agencies. Most recently, in November 23,
7 2010, the Department trained approximately 30
8 officers from the Police Department and the
9 Department of Parks and Recreation, to recognize
10 common equipment and licensing violations. We
11 also reiterated the importance of identifying the
12 pedicab business that owns the car, the cab, being
13 driven by a licensee, who violates the law on the
14 ticket, so that the Department is able to revoke
15 or suspend a business license if the number or
16 type of violations issued to its drivers suggests
17 that the, that continued licensure, licensure, may
18 pose a public safety risk. While DCA enforcement
19 derives largely from the violations issued by
20 Parks and Police, the agency does a substantial
21 amount of in-house enforcement in tandem with its
22 outreach efforts. In June 2010, the Department
23 subpoenaed 40 pedicab businesses to determine
24 compliance with insurance and driver training
25 requirements and the requirement that pedicab

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2 businesses obtain and maintain copies of their
3 drivers tickets and dispositions. As a result of
4 the investigation, the Department charged 20
5 pedicab businesses with maintaining insurance in
6 the amounts below the minimums provided for in the
7 code. Four businesses were found guilty of
8 violating the insurance requirements and were
9 fined a total of \$36,500. We also entered into
10 settlement agreements with nine businesses,
11 requiring them to obtain compliant insurance
12 policies and pay penalties. Four hearings were
13 adjourned to early March in contemplation of
14 settlements. In an effort to ensure proper
15 insurance compliance prior to the renewal period,
16 DCA invited insurance agents to submit their
17 policies to the Department for preview, to
18 ascertain compliance with the code. After the
19 review process, DCA distributed a list of agents
20 offering compliant insurance policies to pedicab
21 businesses. Because some insurance policies
22 excluded coverage for foreign drivers and drivers
23 under 21 years old, even though such drivers are
24 eligible to be licensed, the Department contacted
25 all 14 insurance agents that cover the business in

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2 New York City and reminded them of the requirement
3 that their policies cover all pedicab drivers, and
4 the minimum dollar amounts required. The
5 Department also sent letters to the two pedicab
6 business associations reminding them of the
7 insurance requirements. In its enforcements
8 efforts, the Department charged four pedicab
9 businesses with violating driver training
10 requirements and the requirement that they
11 maintain copies of their drivers tickets and the
12 dispositions of the tickets. Two businesses
13 entered into settlement agreements that require
14 compliance with the law, and payment of penalties
15 totaling \$11,550. Anecdotally businesses have
16 stated that drivers failed to provide them with
17 copies of tickets. The Departments tribunal
18 revoked a pedicab driver's license after the ECB
19 found him guilty of twelve violations issued by
20 the Department of Parks and Recreation, in a case
21 that was highlighted in the local papers. The
22 Police Department and Department of Parks issue
23 most violations to pedicab drivers and businesses
24 that occur in the street or in a public park.
25 Most of these violations have been tried in

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2 criminal court or traffic court or heard by the
3 ECB. We will defer to those agencies to testify
4 to these efforts. On July 24, 2010, a pedicab
5 owned by Ugder [phonetic] Corporation was involved
6 in a minor accident causing \$1,556.93 in property
7 damage. DCA learned about it when the car owner
8 complained that the pedicab company refused to pay
9 for the damage. The Department charged the
10 pedicab business with violating various provisions
11 of the licensing law, and entered into a
12 settlement providing for restitution to the
13 consumer and penalties totaling \$5,000 and
14 enhanced compliance with driver training
15 requirements. On September 12th of 2010, a
16 pedicab owned by Cycle Cab, Inc., slid on a wet,
17 slid on wet pavement and hit the rear bumper of a
18 car that was stopped at a light. No one was
19 injured in the accident, which was reported by the
20 pedicab business, which also agreed to reimburse
21 the car owner for the damage. Turning now to the
22 bills before us, we have the following comments.
23 On Intro 334-A, this bill would require pedicabs
24 to comply with parking rules for motor vehicles.
25 We actually defer to our sister agencies regarding

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2 this proposal. On Intro 345, this bill describes
3 and required the display of a bill of rights for
4 pedicab passengers. The Department supports the
5 posting of a bill of rights; we would, however,
6 suggest that the language regarding receipts
7 either include all the information the ad code
8 requires--the total charge, business telephone and
9 contact info for DCA, or simply states, "Call in
10 for a detailed receipt." We leave it to the
11 industry to describe for the Council where legible
12 signage could be placed appropriately in pedicabs.
13 Intro 466. This bill expands the range of
14 violations for which mandatory suspension or
15 revocation of pedicab driver's licenses and
16 registration plates would apply. The Department
17 has serious concerns about 466, particularly about
18 the provisions in subdivision E1, explaining,
19 expanding the causes of mandatory suspension and
20 revocation. Currently, the law requires the
21 mandatory suspension and revocation for only the
22 most egregious violations; otherwise, the
23 Commissioner has discretion to suspend or revoke
24 any violations after a hearing, if the driver
25 violates any law applicable to a pedicab. By

1 contrast, 466 mandates the suspension of a pedicab
2 driver license after two violations of Section 20-
3 259, within twelve months, and the revocation of a
4 pedicab driver license after three or more
5 violations of the same section. In this case, the
6 suspension or revocation is automatic and there is
7 no hearing. DCA cannot support 466 as it
8 diminishes the Commissioner's discretion by
9 providing for an automatic suspension and
10 revocation. There are two good reasons for
11 maintaining the exist--the flexibility that exists
12 in the current law. The first is that it allows
13 the Department to negotiate effective settlements.
14 Suppose we learn that a pedicab was found guilty
15 of rolling through a stop sign and making an
16 illegal U-turn in October? Under current law, we
17 could offer a settlement and require instruction
18 in traffic rules so the driver knows what he's
19 supposed to be doing going forward. Under the
20 proposed law, the driver just loses his license
21 for a month and the Department loses its
22 opportunity to correct the problem. The drive may
23 be out on the street a month later doing it again
24 until he gets caught and found guilty. No one is
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2 a winner here. With the flexibility of the
3 current law, everybody wins. The driver keeps the
4 license, DCA gets a settlement, the licensee
5 becomes compliant, and the public has safer
6 streets. The second reason to maintain
7 flexibility is simply justice. Under the proposed
8 change, a pedicab driver found guilty of failure
9 to signal twice and operating in a bicycle lane
10 once in one year, would automatically lose his
11 license for at least three years. These
12 violations would not appear to be worthy of such a
13 punishment, yet there would be no way to exercise
14 judgment in such a case. Subdivision (i) of 466,
15 which provides for suspensions of pedicab
16 registrations for equipment violations, is
17 beneficial but we believe it would be more helpful
18 if this power is discretionary so that the
19 Department and licensees are able to enter into
20 settlement agreements. For example, as 466 is
21 written, two instances of a turn signal that
22 worked visually but not audibly, would trigger the
23 punishment of an automatic month off the road. If
24 the Department had discretion, a settlement
25 agreement could require an inspection before the

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2 pedicab was allowed to be operated again, or it
3 could even require periodic inspections. Under
4 this law, the pedicab with the illegal turn
5 signals could be returned to the street after a
6 month without a correction, and operated until yet
7 another violation is issued. Moving to Intro 467,
8 this will would repeal the sunset provision of the
9 current law and cap the number of pedicabs
10 registered to operate within the City. We support
11 the bill and urge that the window remain closed as
12 per the status quo. DCA is committed to working
13 with the Council to address any outstanding issues
14 regarding this newly regulated industry, and
15 commends the Council for its continuing attention
16 and concern. We would be happy to answer any
17 questions you may have.

18 CHAIRPERSON GARODNICK: Thank you.
19 Before we do that, I think perhaps we should hear
20 from your sister agencies and we'll give them a
21 chance. Since I neglected you before, David, why
22 don't you go next.

23 DAVID WOLOCH: Thank you for the
24 promotion to the Parks Department. [laughter]
25 Good morning, I'm David Woloch, Deputy

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2 Commissioner for External Affairs at the New York
3 City Department of Transportation. And pleased to
4 be here today to testify in support of Proposed
5 Intro 334-A, which would subject pedicabs to
6 parking rules. I want to thank you, Mr. Chairman,
7 for holding today's hearing on pedicab
8 regulations. Pedicabs are an important piece of
9 New York City's sustainable transportation
10 network. DOT supported the Administration and the
11 Council's previous efforts to regulate the pedicab
12 industry, and we welcome additional efforts, such
13 as this bill, to make our streets safer for both
14 New Yorkers and tourists alike. At times, pedicab
15 operators park in hotel loading zones, areas of no
16 standing any time, and even on the sidewalk. This
17 creates a public nuisance, is an abuse of curb
18 regulations, and presents a safety hazard for all
19 street users. Unfortunately, the police currently
20 cannot enforce parking regulations because
21 pedicabs are currently not subject to the laws
22 governing the parking of a motor vehicle. Intro
23 334-A--thank you--would give clarity for pedicab
24 drivers and police by subjecting pedicabs to the
25 same parking rules and regulations as motor

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2 vehicles. This would delineate both rights and
3 responsibilities for pedicab drivers on where to
4 stand, stop and park their pedicabs. Under Intro
5 334-A, pedicabs would be appropriately prohibited
6 from parking in paid commercial parking zones,
7 taxi stands, hotel loading zones, authorized
8 parking zones, and other no parking/standing/
9 stopping zones. Pedicabs like other vehicles
10 would still be able to use designated areas of
11 passenger loading and unloading, and pickup and
12 drop off passengers at the curb. We believe the
13 requirements put forth in Intro 334-A would
14 provide clear guidelines on how pedicabs can use
15 the curb without causing a hardship on their
16 ability to conduct business. Thank you for
17 inviting us to testify and we'll be happy to
18 answer any questions at this time.

19 CHAIRPERSON GARODNICK: Great,
20 thank you. We'll go onto the PD.

21 SUSAN PETITO: Thank you. Good
22 afternoon, Mr. Chairman, Members of the Council.
23 I'm Susan Petito, Assistant Commissioner of
24 Intergovernmental Affairs of the New York City
25 Police Department. I'm joined by Lieutenant

1 Daniel Albano, Managing Attorney of the NYPD Legal
2 Bureau, Criminal Section. We welcome this
3 opportunity to discuss the Police Department's
4 experience in enforcing the laws and rules
5 pertaining to pedicabs. The licensing and
6 regulation of pedicabs in New York City has
7 provided a much needed framework for ensuring the
8 safety of this form of public transport. However,
9 the presence of pedicabs on crowded city streets
10 continues to present challenges in terms of both
11 traffic congestion and adherence to the rules of
12 the road. Our enforcement personnel report
13 continuing incidents of traffic violations and
14 property damage caused by pedicabs, which are
15 often not documented because of the ability of a
16 pedicab to quickly leave the scene of an incident.
17 Documentation of incidents is also difficult
18 because pedicabs are essentially classified as
19 bicycles, with violations enforced through paper
20 summonses returnable either to the Traffic
21 Violations Bureau or to criminal court. Thus, our
22 data regarding enforcement of pedicab violations
23 is based on hand counts of summonses issued. In
24 2010, there were 1,942 summonses issued for
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2 pedicab related violations by our citywide traffic
3 taskforce, which focuses on pedicab enforcement in
4 midtown Manhattan, the location where pedicab
5 presence is most prevalent. Patrol personnel in
6 patrol boroughs Manhattan North and Manhattan
7 South issued 2,359 pedicab related summonses in
8 2010, as well. Documentation of accidents is
9 similarly difficult, since pedicabs are
10 indistinguishable from bicycles unless a review of
11 individual accident reports is conducted. The
12 number of pedicab accidents involving a motor
13 vehicle is therefore not available. However, we
14 have conducted a review of our reports of
15 incidents in which a person is injured, called
16 Aided Reports, capturing the number of bicycle
17 accidents not involving motor vehicles. We have
18 determined that of the 294 aided reports
19 indicating a bicycle involved in 2010, one
20 involved a pedicab. In 2009, there were 261
21 reports indicating a bicycle involved with seven
22 involving pedicab. We know that there may have
23 been additional accidents which occurred which
24 were not reported to police, or otherwise not
25 documented by the preparation of an aided report.

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2 We again thank you for the opportunity to discuss
3 the Police Department's enforcement efforts
4 regarding pedicabs, and we welcome your questions.

5 CHAIRPERSON GARODNICK: Terrific.
6 Well, we thank you all for your testimony, and
7 also for your generally positive positions on the
8 bills that we've introduced here. Let me just
9 first recognize that we've been joined by Council
10 Member Nelson.

11 COUNCIL MEMBER NELSON: [off mic]
12 Hello.

13 CHAIRPERSON GARODNICK: Welcome.
14 And to start with the Department of Consumer
15 Affairs, I just want to make sure that I
16 understand the state of play today with regard to
17 licenses, businesses, drivers, etc. Today there
18 are 163 business licenses, 850 pedicabs that are
19 presently registered, and 1,528 driver's licenses
20 that are current and present. Is that right.

21 ERIK JOERSS: [off mic] Exactly
22 right.

23 CHAIRPERSON GARODNICK: Okay. I
24 downloaded the basic, individual license
25 application from the Department of Consumer

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2 Affairs' website. Is that the application that
3 somebody would submit to DCA for the purpose of
4 getting a pedicab driver's license?

5 ERIK JOERSS: [off mic] Yes.

6 CHAIRPERSON GARODNICK: Are there
7 any other requirements for receiving a pedicab
8 driver's license, other than filling out that form
9 with you guys?

10 ERIK JOERSS: [off mic] - -

11 FRAN FREEDMAN: Fran Freedman,
12 Deputy Commissioner of the New York City
13 Department of Consumer Affairs. Yes, Mr.
14 Chairman, for the pedicab driver's license, you
15 have to submit your driver's license. If it is
16 from out of the City, or out of the state, or from
17 a foreign country--from out of, out of state you
18 have to have an abstract produced by the state,
19 attesting to your driving record. If it's from a
20 foreign country, you have to have a certificate
21 with a seal from your embassy.

22 CHAIRPERSON GARODNICK: Okay, so
23 beyond the presence of a driver's license from, a
24 valid driver's license from anywhere in the world,
25 is there anything else that is required of them?

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2 Is there a fee required?

3 FRAN FREEDMAN: Yes. \$35.

4 CHAIRPERSON GARODNICK: Okay.

5 FRAN FREEDMAN: So, \$35 annual fee.

6 CHAIRPERSON GARODNICK: Okay. And

7 is there a driver's test or a written test that's

8 required for--

9 FRAN FREEDMAN: None.

10 CHAIRPERSON GARODNICK: Should

11 there be?

12 MALE VOICE: [off mic] Yes. Yes.

13 FRAN FREEDMAN: I hadn't

14 contemplated it, so I, I would prefer not to

15 comment.

16 CHAIRPERSON GARODNICK: Okay. Any

17 fingerprinting or other documentation of that

18 nature?

19 FRAN FREEDMAN: This is not one of

20 DCA's fingerprint categories.

21 CHAIRPERSON GARODNICK: Okay. Any

22 other training required to secure the license or

23 is it just the, produce the valid driver's license

24 and pay your \$35?

25 FRAN FREEDMAN: Correct, however

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2 there is a training requirement and responsibility
3 that is placed by the legislation upon the pedicab
4 business. And it's the pedicab business which
5 enters into some kind of relationship to hire that
6 particular driver. And it's, it then becomes the
7 responsibility of that pedicab business to train.

8 CHAIRPERSON GARODNICK: Now that's
9 somewhat distinct from the way the DCA handles
10 horse carriage drivers. Is that right? For
11 example, the DCA is responsible for providing
12 training for horse carriage drivers on issues like
13 traffic laws and rules of the City of New York.
14 Or any rules of the City of New York, pertaining
15 to horse drawn cabs. Is that right? Or--

16 FRAN FREEDMAN: Actually, it is the
17 responsibility of every licensee to know the law.
18 We made, DCA makes that possible by including in
19 that license packet that you saw online, and of
20 course in person, all the laws attendant upon that
21 license. And then all of, all of the laws for
22 which each industry is responsible are available
23 online.

24 CHAIRPERSON GARODNICK: So--

25 FRAN FREEDMAN: But we don't do

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2 training in that, that is not DCA's--

3 CHAIRPERSON GARODNICK: Okay, so
4 you essentially--

5 FRAN FREEDMAN: --in DCA's purview.

6 CHAIRPERSON GARODNICK: For, I just
7 want to make sure I understand which one we're
8 talking about now. For horse drawn carriages, you
9 provide the law, but do not train on the law.

10 FRAN FREEDMAN: Correct. As we do
11 for every category, every industry.

12 CHAIRPERSON GARODNICK: And, and
13 pedicabs same, you provide the law, but do not
14 train on the law.

15 FRAN FREEDMAN: Precisely.

16 CHAIRPERSON GARODNICK: Okay. Does
17 the DCA do any, take any steps to check the
18 licenses which are coming, of course, from other
19 states or other countries, to figure out the
20 driving record or whether they've ever had license
21 suspensions or revocations from where they, they
22 hail?

23 FRAN FREEDMAN: That's why, that's
24 exactly why we require the abstracts, or the
25 certifications from the embassies, so that we can

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2 look at that record.

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CHAIRPERSON GARODNICK: Now does the abstract for certification go to the record, or does it just go to the validity of the license?

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FRAN FREEDMAN: Actually, both.

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CHAIRPERSON GARODNICK: It does.

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So--

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FRAN FREEDMAN: It becomes part of--it's determinative for the, for the license, pedicab driver license, and it becomes part of your record with DCA.

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CHAIRPERSON GARODNICK: So, for example, somebody from Illinois moves to New York City--temporarily, permanently, whatever--they have a valid Illinois license plate--I'm sorry, they have a valid Illinois driver's license. They present that to you. The abstract that you get from the State of Illinois will say, "This driver has had their license suspended three times, revoked once, they were, you know, they became a drive at the--you have all of that detail from the State of Illinois when they come in?"

25

FRAN FREEDMAN: Yes, that's what the abstract is for.

2 CHAIRPERSON GARODNICK: Okay. And
3 the same thing is true of the embassy? So if
4 somebody comes from France, and they, you know,
5 they come with this certification, I forgot what
6 the word was, was it a certification from the,
7 from the embassy?

8 FRAN FREEDMAN: It's, it's a, a
9 certification, a letter with the embassy's
10 embossed seal that certifies that the holder, that
11 the applicant, rather, holds a valid license from
12 that country.

13 CHAIRPERSON GARODNICK: And it also
14 says?

15 FRAN FREEDMAN: I, I'm not sure. I
16 have to be honest, I don't, I'm not sure what else
17 is on that particular document. But we can find
18 out.

19 CHAIRPERSON GARODNICK: So it's
20 possible--Please. And so, sitting here today, we
21 don't know exactly whether, for the foreign issued
22 licenses whether DCA has any, any knowledge of
23 driving record or background.

24 FRAN FREEDMAN: I, I truly don't
25 want to say for sure, but we'll be happy to get

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2 you that information.

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CHAIRPERSON GARODNICK: Okay. Now, they provide it, let's say, let's just stick with the domestic issues for a moment. The State of Illinois provides the abstract to DCA. Does the DCA review and consider what it says before issuing?

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FRAN FREEDMAN: Absolutely.

Absolutely.

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CHAIRPERSON GARODNICK: Okay, tell us how that works, exactly, and what the circumstances would be in which DCA would say, "I'm sorry, you were a lousy driver in Illinois--"

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FRAN FREEDMAN: [laughs]

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CHAIRPERSON GARODNICK: "--you're going to be a lousy driver--"

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FRAN FREEDMAN: We're not going to let be a lousy driver in New York City.

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CHAIRPERSON GARODNICK: Correct. What are the circumstances?

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FRAN FREEDMAN: Right. There's a review. Our Licensing Department, and our Legal, then review it. And such a license, if it were determined, and I'm not, I'm not suggesting that

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2 the, the case you've laid out, one way or another,
3 would be determinative. But under certain
4 circumstances, that license would in fact not be
5 issued. That pedicab drive license would not be
6 issued, given the preponderance of fact.

7 CHAIRPERSON GARODNICK: Has the DCA
8 ever denied an applicant, an application--

9 FRAN FREEDMAN: Oh, yes. Oh, yes.

10 CHAIRPERSON GARODNICK: For a lou--
11 Oh, wait, hear the rest of the question.

12 FRAN FREEDMAN: I'm sorry.

13 [laughs]

14 CHAIRPERSON GARODNICK: For, for a
15 poor driving record in another state or country?

16 FRAN FREEDMAN: For poor driving.
17 We certainly have denied licenses for suspended
18 licenses in New York State. That we have done.
19 I'm not sure what the statistics are. I will tell
20 you, though, that in the first, that very first go
21 round, where we issued the first 474 licenses,
22 none needed to be denied. In other words, every,
23 every applicant ultimately got, because there was
24 no time limit, ultimately got the requisite
25 documentation to us.

2 CHAIRPERSON GARODNICK: Okay. We'd
3 like to know the answer to that question. You can
4 come back to us on it, but as to, and it sounds
5 like the answer is, "No, nobody was denied based
6 on poor driving, because they were not actually
7 turned down in, in connection with their
8 application."

9 FRAN FREEDMAN: Correct.

10 CHAIRPERSON GARODNICK: So we know
11 by virtue of that, that they were not turned down-

12 -

13 FRAN FREEDMAN: Correct.

14 CHAIRPERSON GARODNICK: --based on
15 driving history.

16 FRAN FREEDMAN: Correct.

17 CHAIRPERSON GARODNICK: Okay.

18 FRAN FREEDMAN: But we will, we
19 will look into that.

20 CHAIRPERSON GARODNICK: Okay.

21 Going back to the testimony, from DCA for a
22 moment. It sounded like from October to December
23 of 2009, there were inspections and re-inspections
24 of pedicabs to make sure that they met certain
25 standards, the standards that were set by law. Is

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2 that correct?

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FRAN FREEDMAN: Correct.

4

CHAIRPERSON GARODNICK: Okay. You noted that there were extra evaluations done based on whether rates were done by distance or timing, etc., etc. Can you give us the breakdown of how many of these pedicabs based their fares on distance as opposed to timing or any other measure?

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FRAN FREEDMAN: I'm not sure we've, we have that particular data point. It was simply part of the 24 point inspection. And of course as you know, we don't, we neither ask nor keep records on rates, themselves. I'm not sure we could go back and see how many, how many were applications for timers and how many for the distance.

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CHAIRPERSON GARODNICK: Is there any reason why DCA would not seek to, or want to keep the information on which pedicabs are using which measure for determining fares?

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FRAN FREEDMAN: Because we don't, we don't either regulate or record rates.

25

CHAIRPERSON GARODNICK: I

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2 understand. I'm not actually asking the question
3 about whether you're determining the rates
4 themselves, or what people are actually charging
5 out there, but to know what they are charging.
6 So, it's, I'm sort of asking the threshold
7 question of should DCA--

8

FRAN FREEDMAN: Methodology.

9

CHAIRPERSON GARODNICK: --know what
10 pedicabs are doing out there? In terms of what
11 they're charging. So, as part of a licensing
12 process, shouldn't they have to tell you, "Oh, by
13 the way, I am doing it by distance," or "By the
14 way--"

15

FRAN FREEDMAN: Oh, yes, they told,
16 they absolutely told us.

17

CHAIRPERSON GARODNICK: Okay, and
18 then, and then--

19

FRAN FREEDMAN: And in--

20

CHAIRPERSON GARODNICK: --for you
21 to hold that information as part of your
22 recordkeeping here, for - -

23

FRAN FREEDMAN: [interposing] I'm
24 sure it's in the record, it would just need to be
25 manually, literally pulled out. In other words,

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it's on the inspection form. It's just not

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something we--

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CHAIRPERSON GARODNICK: Aggregate.

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FRAN FREEDMAN: --aggregate and,

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and report on. And I will also tell you that we,

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we did re-inspections later on during the year,

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when a pedicab company reported that they were

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changing the methodology for calculating distances

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on a particular cab. So we would ask them to come

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in so that we could recalibrate, re-inspect

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whatever new methodology they were using.

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CHAIRPERSON GARODNICK: So of the

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inspections that you did on the, at least 850

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pedicabs that are out there.

16

FRAN FREEDMAN: In the--right.

17

CHAIRPERSON GARODNICK: At least,

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right, because you had--

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FRAN FREEDMAN: Yeah.

20

CHAIRPERSON GARODNICK: --889 at

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one time, so--

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FRAN FREEDMAN: Exactly, exactly.

23

CHAIRPERSON GARODNICK: --say of

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the 889 pedicabs--

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FRAN FREEDMAN: Right, right.

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CHAIRPERSON GARODNICK: --how many of them had problems with timing or distance in their evaluation with you guys?

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FRAN FREEDMAN: I have no--I don't have that information.

5

6

CHAIRPERSON GARODNICK: Did 100 percent of them leave DCA with a properly tuned system on timing and--

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FRAN FREEDMAN: Absolutely, they would not have passed the inspection had that not been true.

9

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CHAIRPERSON GARODNICK: You noted in the testimony that DCA trained officers from PD and Parks, to recognize equipment and licensing violations. Is that correct?

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FRAN FREEDMAN: Correct.

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CHAIRPERSON GARODNICK: And it also sounds like there were a number of violations that existed out there, from insurance to equipment to training to holding on to records and things like that. Do you have a breakdown of the 2010

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violations that existed and what the categories were? For example, how many violations were

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issued for failure to keep records, as opposed to

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2 failure to have the proper insurance versus
3 equipment failures or other violations? And if I
4 missed that in the testimony, my apologies.

5 FRAN FREEDMAN: We didn't, we
6 didn't break it out that way, but we could
7 certainly, we could certainly give that to you.
8 So you want to know ... the insurance--

9 CHAIRPERSON GARODNICK: Yeah, we
10 were just, I'd just like to know the breakdown--

11 FRAN FREEDMAN: Yeah, the
12 insurance--

13 CHAIRPERSON GARODNICK: --of the
14 violations that DCA issued on pedicabs in calendar
15 year 2010. It's the only full year we got, so
16 let's just, let's do that. And, you know, it
17 sounds like there are a number of different
18 categories. I don't know if you're, you're
19 prepared to share with us the different
20 categories, the complete list of categories, in
21 which you issue--

22 FRAN FREEDMAN: I think that you've
23 covered them, because that's, that was in our
24 testimony. It's--

25 CHAIRPERSON GARODNICK: Equipment,

1 insurance, training and records?

2 FRAN FREEDMAN: Yeah.

3 CHAIRPERSON GARODNICK: Okay.

4 FRAN FREEDMAN: That's it.

5 CHAIRPERSON GARODNICK: Okay, we
6 ask that you provide us, then, with the, the
7 breakdown. Do you have the total, the total
8 number?
9

10 FRAN FREEDMAN: No.

11 CHAIRPERSON GARODNICK: Okay.

12 We'll ask for that as well, then. Let's just go
13 to Intro 46--We thank you for your support of,
14 well your neutrality on 334-A, your support for
15 345--

16 FRAN FREEDMAN: [laughs]

17 CHAIRPERSON GARODNICK: --and 467.

18 Let's discuss for a moment 466. It's my
19 understanding from your testimony that the
20 Commissioner would like to maintain discretion, to
21 be able to reach certain settlements with pedicab
22 drivers where there are a couple of strikes
23 against them. Explain to us the process of
24 settlement and how that works today. Today there
25 is no limit on the number of tickets that you can

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get. Is that correct? Before your, before your license is suspended or revoked?

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ERIK JOERSS: [off mic] There's a limit on the egregious violations.

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FRAN FREEDMAN: Right, right.

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ERIK JOERSS: There's a, there's a limit on, and I don't have it in front of me, the code to spell out what they are. But for, for certain egregious violations, there is already a limit.

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CHAIRPERSON GARODNICK: And what is that limit? Let's just, let's make it the, the worst violation. Let's make it--

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ERIK JOERSS: I'd say drunk, drunk driving, that one's--

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CHAIRPERSON GARODNICK: Drunk pedicab driving, go for it, yep.

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ERIK JOERSS: I think, I think once and you're done.

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CHAIRPERSON GARODNICK: One.

22

ERIK JOERSS: Yeah.

23

CHAIRPERSON GARODNICK: Okay.

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ERIK JOERSS: I, I could be wrong on this, I'm going off the top of my head.

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2 CHAIRPERSON GARODNICK: And is
3 drunk, is drunk driving the only violation that is
4 serious enough that DCA believes that there should
5 be a non-negotiable strike and you're out
6 framework?

7 ERIK JOERSS: I wouldn't want to
8 say it's the only; I'm sure there's, we can use
9 our imaginations and come up with terrible things
10 that would justify such a--

11 CHAIRPERSON GARODNICK: So, you are
12 open to the idea that there are some violations
13 which are strong enough, which if done repeatedly,
14 should merit a, "You have lost your license." Is
15 that correct?

16 ERIK JOERSS: The issue is that the
17 current, 466 is written, says, "Any and all
18 traffic laws, two violations of any and all
19 traffic laws," trigger a suspension; three or more
20 trigger a revocation.

21 CHAIRPERSON GARODNICK: Okay, so
22 let's just say, in the current framework today,
23 somebody who repeatedly breaks traffic laws, and
24 racks up 30 violations in a year, DCA's power is
25 to do what in that situation, other than

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2 adjudicate the tickets that were issued by Parks
3 and the Police Department?

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5 ERIK JOERSS: And then suspend or
6 revoke the license.

7

8 CHAIRPERSON GARODNICK: So, do you
9 have, so other than discretion, that's a
10 discretionary act.

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12 ERIK JOERSS: Yes.
13 CHAIRPERSON GARODNICK: Fully
14 discretionary act.

15

16 ERIK JOERSS: Depending on the
17 nature of the violations.
18 CHAIRPERSON GARODNICK: Okay. And

19

20 did you all suspend or [break in audio] the
21 licenses within the Commissioner's discretion for
22 bad acts, other than that one that was so widely
23 reported in the paper?

24

25 FRAN FREEDMAN: There was one
26 business whose license was revoked. And I'm sorry
27 that I don't have the details on that, but we can
28 get that for you.

29

30 CHAIRPERSON GARODNICK: Has the DCA
31 engaged in any settlement procedure with any
32 pedicab driver or business, to change their

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2 behavior to date?

3 ERIK JOERSS: [off mic] Routinely.

4 CHAIRPERSON GARODNICK: Explain to
5 us how that works.

6 ERIK JOERSS: We actually have ...

7 FRAN FREEDMAN: [off mic] The 20?

8 ERIK JOERSS: As mentioned in the
9 testimony, when we talked about the 40 businesses
10 that we subpoenaed, and 20 of them had insurance
11 violations, a number of those, and if you bear
12 with me, I can pull the exact number. But a
13 number of those entered into settlements that
14 included paying penalties and, and trainings.15 CHAIRPERSON GARODNICK: And what
16 was the, and what was the hook for DCA in those
17 situations? You are, you are, we are going to
18 exercise our discretion to suspend or revoke
19 unless you do the following.20 ERIK JOERSS: Not being in the
21 room, I can't say exactly, but sure, that sounds
22 like what it would it have been.23 CHAIRPERSON GARODNICK: Does the
24 DCA Commissioner have the power to suspend or
25 revoke completely at his discretion today?

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2 [pause] Let's, I'll give you the example. Let's
3 say somebody has five violations out there.
4 We've, you've testified, you want, the
5 Commissioner wants--

6 ERIK JOERSS: Yeah.

7 CHAIRPERSON GARODNICK: --the
8 flexibility to be able to say, "Okay, well these
9 weren't so bad, things could be worse, I don't
10 know, it's not the worst thing, let's train 'em,
11 let's get 'em back on the road, and let's, let's
12 just moving--keep moving on." What are the
13 circumstances in which there is the discretion to
14 do anything by the DCA Commissioner? Can he
15 revoke or suspend the license in that situation?

16 ERIK JOERSS: Yes, I believe he--I
17 believe he can, yes.

18 CHAIRPERSON GARODNICK: And what
19 about with one violation? Can he revoke with one
20 violation today?

21 ERIK JOERSS: For the particular
22 egregious violations laid out in the existing law,
23 yes.

24 CHAIRPERSON GARODNICK: Put, put
25 aside the egregious ones because you were giving,

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2 in your testimony, you were giving the--

3 ERIK JOERSS: Not too egregious.

4 CHAIRPERSON GARODNICK: --the
5 toughest ones for one to legislate against.

6 ERIK JOERSS: Yeah.

7 CHAIRPERSON GARODNICK: Which were,
8 okay, somebody went through a traffic light, you
9 know, twice, is that bad enough?

10 ERIK JOERSS: Right.

11 CHAIRPERSON GARODNICK: Let's talk
12 about those for a moment, 'cause they were hard
13 when you posed them to me, I want to pose them
14 right back to you. Does he then have the
15 discretion to be able to revoke or suspend a
16 license where he believes, "I'm sorry, this person
17 just simply goes through traffic lights
18 incessantly, that's all they do," does the
19 Commissioner have the discretion to suspend or
20 revoke in that situation?

21 ERIK JOERSS: I believe he does,
22 but I would have to check to be 100 percent sure.

23 CHAIRPERSON GARODNICK: Okay. I
24 think we all need to be clear on that, you may be
25 helped by PD there a little bit, I'll give you a

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moment.

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[pause]

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ERIK JOERSS: For me. Yes, but

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first it goes through a--but it first must

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withstand a judicial review.

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CHAIRPERSON GARODNICK: Whose

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judicial review? DCA's internal?

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SUSAN PETITO: Can I step in?

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ERIK JOERSS: Yeah, please.

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CHAIRPERSON GARODNICK: Please, Ms.

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Petito.

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SUSAN PETITO: I think it might

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just be helpful to say the Commissioner has the

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absolute discretion to suspend or revoke. He

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issues the license, and he can revoke it. There

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are certain historical precedents, however, that

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might govern his action and there's also the

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possibility of a judicial overturning. If

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somebody does an administrative action that the

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respondent wants to appeal, they can bring an

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oftentimes a Article 78 case in civil court and a

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judge would make the determination as to whether

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the Commissioner's decision was arbitrary or

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capricious. And so there's a whole body of law

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2 that has grown up around whether or not an
3 administrative finding, like a suspension or a
4 revocation, shocks the conscience or is excessive.
5 And so I think the Commissioner would be guided by
6 that body of precedent and law when he's making
7 these determinations. But legally, I believe he
8 has the discretion to suspend or revoke based on
9 what you might consider less egregious action.

10 CHAIRPERSON GARODNICK: Let me, let
11 me ask you, then, do you think that the DCA
12 Commissioner and the City would be aided in being
13 able to have the clear standards as to what are
14 the most egregious violations which would
15 automatically result in suspension or revocation
16 so as to eliminate that question about arbitrary
17 or capricious in future judicial proceedings.

18 SUSAN PETITO: I think that putting
19 it in the law, even in that way, you know,
20 intending to be helpful, undercuts the
21 Commissioner's discretion. I don't know that
22 there is a problem that needs to be addressed. In
23 other words I don't know that the Commissioner's
24 determinations up to now are not supported by the
25 courts. And so, I think that anything that limits

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2 the Commissioner's discretion is something that
3 the Commissioner and the representatives from DCA
4 are pointing out might be a problem.

5 CHAIRPERSON GARODNICK: That's
6 fair, although it's unclear to this Council as to
7 what actions have actually been taken by DCA,
8 'cause we don't know exactly the violations and
9 the precise number of suspensions or revocations.
10 We may have one business that was, we have on well
11 reported guy who racked up 90 tickets who was
12 ultimately suspended, or revoked--

13 FRAN FREEDMAN: Revoked, revoked.

14 CHAIRPERSON GARODNICK: But unclear
15 as to whether or not any of those decisions were
16 supported or rejected by a court. So, I would
17 respond to that by saying we don't really know
18 yet, because we don't have enough action taken by
19 DCA to be able to determine whether a court would
20 view any action as arbitrary or capricious. I
21 think that this one is perhaps worthy of some
22 future conversations about how best to keep some
23 discretion with the Commissioner on the subject of
24 the lowest level offenses, but what we could
25 categorize as really the bad ones, you gave the

1 perfect example of somebody who is, you know,
2 driving people around in midtown Manhattan while
3 intoxicated. I'm sure there are others like it.
4 And I think we should be exploring together the
5 roots in which the Commissioner might actually be
6 perfectly willing to have his discretion limited.
7 But we take your point that in, you know, that the
8 law needs to be crafted carefully enough so as to
9 address the examples you gave.
10

11 FRAN FREEDMAN: Thank you.

12 CHAIRPERSON GARODNICK: Let me go
13 to the Police Department just for one moment. Ms.
14 Petito on the summonses which were issued in 2010,
15 you said there were 1,942 issued by Citywide
16 Traffic Taskforce, and 2,359 issued by Manhattan
17 North and South, so we got about 4,2--

18 SUSAN PETITO: About 3,500--

19 CHAIRPERSON GARODNICK: Oh, geez, I
20 get around 4,200, but that's just my quick math.
21 2,300 and 19--somewhere in there, okay, anyway.

22 SUSAN PETITO: Okay.

23 CHAIRPERSON GARODNICK: Let's call
24 it 4,200 or so. Those were for what? 1,942 were
25 for pedicab related violations by Citywide Traffic

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Taskforce. The 2,059 came from Manhattan North and Manhattan South. You describe those as pedicab related summonses. What are we talking about here?

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SUSAN PETITO: We're talking about all summonses, again based on a hand count by those commands, Citywide Traffic Taskforce, patrol borough Manhattan North and patrol borough Manhattan South, of all the violations that we identified as related to the pedicabs. So, it was a mixture of, for example, criminal court summonses for equipment violations under the Administrative Code, as well as operating violations that were moving violations returnable to the Traffic Violations Bureau. So, it was a mixture, that's the total number of pedicab related violations issued in either of those ways, either by criminal court summonses, returnable to criminal court, or moving violations summons returnable to the TVB. So, it's the whole--

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CHAIRPERSON GARODNICK: Okay.

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SUSAN PETITO: --it's what we could identify by our hand count as everything issued by those commands related to the operation of a

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pedicab.

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CHAIRPERSON GARODNICK: Were there other categories other than returnable to criminal court for equipment? Or to TVB for the moving violations? Are there any other categories?

SUSAN PETITO: Well, there's other, but that's generally the population. It's TVB, moving violations of, you know, a vari--different varieties--going through a stop sign, going through a red light, improper turn, things like that--like regular violations of the moving violations, that would be similar to what you would issue a driver of a motor vehicle. And then there were, the criminal court violations would be the violations that are contained in the Administrative Code specific to pedicabs. Like mostly the equipment violations, if they failed to have the proper equipment--Dan, you wanted--seatbelt lights, things like that.

CHAIRPERSON GARODNICK: Okay. And I'm sure I know the answer to this question, but you do not have those numbers broken down further within those categories, do you?

SUSAN PETITO: I can get that for

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2 you.

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CHAIRPERSON GARODNICK: Okay, we would like that. I mean, you know, I don't like the idea of Police Department hand counting anything. I mean that is, we don't want to have you waste your time.

SUSAN PETITO: I'll see, I--

CHAIRPERSON GARODNICK: However--

SUSAN PETITO: I think they're already separated into categories, so I think we can get that.

CHAIRPERSON GARODNICK: This data is, it should be easy, it should be easy, and I hope it's easy, and we ask you for it.

SUSAN PETITO: I have to say it's not easy, that's part of the problem, it's that this is based on paper summonses. It's not as if it's an arrest, which is automatically computerized and so it just can be pulled out of a database. This is literally stick counting in the precinct by someone who knows they have to write that down because it's a pedicab violation.

CHAIRPERSON GARODNICK: Geez, I know I'm the--

1

SUSAN PETITO: So.

2

3

CHAIRPERSON GARODNICK: --not the only person in the room to think to himself, "What year are we in here?" We got to, we got to find a way to help you all be able to do that in a, in a 2011 friendly sort of way. But--

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SUSAN PETITO: Well, part of it is our summonses are governed by what the courts require. In other words the summons is a paper form required by either the criminal court or the DMV, so that's part of the problem here. It's not a paperless system.

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CHAIRPERSON GARODNICK: Let me go back to DCA for a moment, on the subject of the February 15 report to the council. In that report, there was a notation that there were 39 pedicab driver licenses that were suspended. And it said 34 of 'em was because, were because the New York State Motor Vehicle Licenses were suspended, and five were for other reasons. Were all of those pedicab license suspensions, were they all, were they done all at once, or was that over a period of time?

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FRAN FREEDMAN: They were done as

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2 they came in.

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CHAIRPERSON GARODNICK: For
renewal.

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FRAN FREEDMAN: Yeah. That was the
aggregate from the renewal period.

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CHAIRPERSON GARODNICK: And how did
you determine that their, their driver motor
vehicle license had been suspended?

10

11

FRAN FREEDMAN: Our licensing staff
checks.

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CHAIRPERSON GARODNICK: So they
come in and they say to you, "Here I am for my
renewal. You guys review them in your, in the New
York State Motor Vehicle driver's license
database, and if it's been revoked, you don't
renew.

18

FRAN FREEDMAN: Precisely.

19

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21

CHAIRPERSON GARODNICK: Now what
about if they come to you with a driver's license
from France?

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FRAN FREEDMAN: They have to
present the same certificate for the renewal as
they presented the first time round.

25

CHAIRPERSON GARODNICK: Which may

1

2 or may not include their driving history.

3 FRAN FREEDMAN: Precisely.

4 CHAIRPERSON GARODNICK: You're
5 going to get back to us on that.

6 FRAN FREEDMAN: Precisely.

7 CHAIRPERSON GARODNICK: And same
8 thing true for the driver from Illinois.

9 FRAN FREEDMAN: Yes, the same
10 abstract.

11 CHAIRPERSON GARODNICK: Okay.

12 FRAN FREEDMAN: Or rather a new, a
13 new abstract.

14 CHAIRPERSON GARODNICK: Okay. The
15 other five?

16 FRAN FREEDMAN: A variety of things
17 that, it may mean that they failed to complete the
18 requisite documentation, application, never came
19 back. You know, those kinds of things.

20 CHAIRPERSON GARODNICK: Okay, did
21 any of the 39 suspended pedicab driver licenses
22 have out-of-state or out-of-country motor vehicle
23 driver's license?

24 FRAN FREEDMAN: I'd have to check.

25 CHAIRPERSON GARODNICK: Please.

1
2 And I, we're keeping track of our, we, we're
3 getting a little bit of a list here, so I know you
4 all are keeping it, but we--

5 FRAN FREEDMAN: We are.

6 CHAIRPERSON GARODNICK: --it's our
7 job to keep it, too, so we'd like to know the
8 answer to that one, as well. And one of the
9 issues that has been raised is that perhaps New
10 York, the pedicab drivers with New York State
11 licenses are actually served to a disadvantage
12 here, because you all have the ability to very
13 quickly check their license registration using New
14 York State data systems, whereas you cannot check
15 it for the drivers in France or Illinois. And we
16 want to make sure, certainly, that New York State
17 drivers are not serving to any, at a disadvantage
18 here. So we ask that you let us know if any of
19 the 39 suspended were from out-of-state or out-of-
20 country. California recently passed a law
21 requiring pedicab drivers to hold a valid
22 California motor vehicle license. Does the
23 Administration have an opinion on a requirement
24 that a local driver's license be held and operable
25 for pedicabs?

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FRAN FREEDMAN: We have none.

2

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CHAIRPERSON GARODNICK: No position
in favor or against.

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FRAN FREEDMAN: Correct.

6

CHAIRPERSON GARODNICK: Okay. You
noted that one business license was revoked.

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8

FRAN FREEDMAN: Correct.

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CHAIRPERSON GARODNICK: Was that
one of the questions that you needed to get back
to us on why?

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FRAN FREEDMAN: Correct, yes.

13

CHAIRPERSON GARODNICK: Okay, we
would like to know why. There were a number of
[pause] pedicab licenses which just did not get
renewed. People just didn't show up, is that
right?

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FRAN FREEDMAN: Precisely,
precisely.

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CHAIRPERSON GARODNICK: Now in
those situations, were those available to other
businesses to register under their licenses? Or
since they had not come in in that 60 day period,
were they not qualified?

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22

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25

FRAN FREEDMAN: We're talking about

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2 the businesses, correct?

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CHAIRPERSON GARODNICK: Yes.

4

5 renew, that was it.

6

CHAIRPERSON GARODNICK: Okay.

7

8 [pause] Ms. Petito, on the subject of the
9 violations that were issued for two pedicabs, in
10 the two different categories, perhaps you're not
11 able to sit here today and tell us the complete
12 breakdown, but can you give us the top five so
13 that we know what we're talking about here?

14

15 SUSAN PETITO: I have some--again,
16 it's different, because the two, the patrol and
17 the transportation folks separated them
18 differently. But, I would say the top five are,
19 or the top three, let's say, are, of the traffic
20 violations, are passing a red light or a signal,
21 making an improper turn, and then--I don't have a
22 further breakout, just generally operation. So it
23 could be that or other types of moving violations.
24 And then a large number of the equipment
25 violations, out of the--there were a little over
700 equipment violations, but not further broken
out, among the patrol summonses. So, we, we--I

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can certainly get you a better idea of the type.

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CHAIRPERSON GARODNICK: Yeah,
please, that's our last request, so that would be
great.

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SUSAN PETITO: I, but again--

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CHAIRPERSON GARODNICK: DCA
reported two accidents involving pedicabs in the
past 15 months. I noted that you cited, if I
understood you correctly, one accident in 2010 and
seven accidents in 2009.

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SUSAN PETITO: Well the difference
would probably be that the DCA's accidents did not
have any physical injury. We would only be
reporting on if there was an injury, because as I
said, the mechanism for this reporting was through
an aided report, which is only prepared if a
person is injured. And it's an imperfect report,
as it is, as I explained, but, but the accidents
that I believe DCA was reporting on, there was no
physical injury, it was property damage. And that
did not require the preparation of an aided report
by the Police Department, because those are only
prepared if a police officer responds to an
illness or an injury.

1
2 CHAIRPERSON GARODNICK: And of the
3 4,200 overall violations, which were issued all by
4 Manhattan Taskforce or patrol boroughs, patrol
5 areas, just to be absolutely clear, those 4,200
6 approximate violations were all issued in
7 Manhattan? Is that correct?

8 SUSAN PETITO: The ones that I
9 said, absolutely yes.

10 CHAIRPERSON GARODNICK: Now, would
11 they--

12 SUSAN PETITO: Now, I have to say,
13 I have to say that there may be other violations
14 in the outer boroughs or some violation outside of
15 Manhattan, that might've been issued by the
16 Citywide Traffic Taskforce, but generally
17 speaking, almost all of them would, that I've
18 cited today have been in Manhattan.

19 CHAIRPERSON GARODNICK: Almost all
20 or all? I mean--

21 SUSAN PETITO: Well, because--

22 CHAIRPERSON GARODNICK: --you cited
23 1,942--

24 SUSAN PETITO: --because the ci--

25 CHAIRPERSON GARODNICK: --from

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2

Citywide Traffic Taskforce.

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SUSAN PETITO: Right, but the City-

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CHAIRPERSON GARODNICK: So that

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would include all--

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SUSAN PETITO: The whole city, but

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their primary focus for pedicab enforcement is

9

midtown Manhattan.

10

CHAIRPERSON GARODNICK: Okay, so

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it's not all, but almost all.

12

SUSAN PETITO: Almost all.

13

CHAIRPERSON GARODNICK: Okay. My

14

office got a complaint from a pedicab owner

15

indicating that police officers were issuing

16

tickets to pedicab drivers for not riding in bike

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lanes. For not riding in bike lanes. Are tickets

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being issued for that reason?

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SUSAN PETITO: That's a mistake,

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and they shouldn't be in--we would certainly like

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the specific information about those summonses so

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that we could address that as an issue.

23

CHAIRPERSON GARODNICK: Okay, we'll

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be happy to provide that to you. When a police

25

officer issues a violation, does the officer ask

1

2 to see the pedicab driver's motor vehicle license?

3 SUSAN PETITO: I believe he does,
4 or the officer does. Do we know for sure?

5 MALE VOICE: [off mic] Yes.

6 SUSAN PETITO: Yes.

7 CHAIRPERSON GARODNICK: And what do
8 they do with that, at that time?

9 SUSAN PETITO: What do they do with
10 the lic--?

11 CHAIRPERSON GARODNICK: So they say
12 "Show me your driver's license, not your pedicab
13 license, but your motor vehicle license."

14 SUSAN PETITO: Well, I think they
15 generally record the information from the li--the
16 dri--the motor vehicle driver's license as well as
17 the pedicab driver's license. Let me just confer.
18 Is that right? Okay. Yes.

19 CHAIRPERSON GARODNICK: And do they
20 run any, any checks on that? Do they--

21 SUSAN PETITO: Yeah, they'll run a
22 warrant check, they'll do the kind of standard
23 checks that a police officer would do when
24 stopping a motor vehicle operator?

25 CHAIRPERSON GARODNICK: And, and

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what happens if that pedicab driver hands them a driver's license from the State of Illinois?

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SUSAN PETITO: I believe there is a limited ability to check through - - correct?

5

6

Yeah.

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CHAIRPERSON GARODNICK: Limited ability as in limited and yes, they can, or limited as in they are limited, they cannot?

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DANIEL ALBANO: We would be able to check that it's a valid--

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CHAIRPERSON GARODNICK: - - I know who you are, but if you could identify yourself for the--

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DANIEL ALBANO: Oh, I'm sorry, Dan Alvano in the Police Department, Legal Bureau.

16

17

CHAIRPERSON GARODNICK: Thank you, Dan.

18

19

DANIEL ALBANO: We'd be able to check whether the license was valid or not, but we wouldn't be able to get its history, an accident record, something like that, a detailed record would be unavailable. But whether the val--the license was current or not, yes, we'd be able to get that.

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CHAIRPERSON GARODNICK: And how about if the driver handed you a license from France?

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DANIEL ALBANO: No, sir, we'd not be able to get that information.

6

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CHAIRPERSON GARODNICK: Okay. So, in that circumstance, you all have the ability to take additional legal action against those who are licensed in New York or in the United States, but not for somebody who is licensed outside of the United States. Is that correct?

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DANIEL ALBANO: I don't think the, the New York driver would necessarily be at a disadvantage--any more of a disadvantage than anyone from the 50 United States. American people possessing an American driver's license may be at a disadvantage in that sense, as opposed to people from foreign countries. Yes.

CHAIRPERSON GARODNICK: Do you have a sense of how many--and this may be a DCA question--how many of the pedicab licenses are local, as in New York, or domestic, as opposed to international?

FRAN FREEDMAN: We don't have that

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2 information.

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CHAIRPERSON GARODNICK: You don't have it at all, or you don't have it presently?

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FRAN FREEDMAN: [laughs] I certainly don't have it presently. I'm not sure that we would be able to cull that. You know, anything is possible, by hand, as soon as, it would take a long--1,500 drivers would take a long time to cull that information.

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CHAIRPERSON GARODNICK: Okay, well, I think we need to know this, I think we need to know this, because it seems to me that if the Police Department can, you know, routinely would ask somebody for a driver's license, which seems completely appropriate to me, and then run a check of that driver's license to figure out whether or not the person driving is a bad actor, that if there is a bad actor who hails from another nation, that we cannot figure out whether they are, at that moment, there's a warrant for their arrest in Paris, or whether there is something else going on there, but whether, but we can do that for the folks who are more locally licensed. That seems to me to be an issue, isn't it?

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DANIEL ALBANO: Sir, if I could.

3

I--a local driver, a New York State driver, the

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officer on the street, via radio or via his mobile

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digital terminal or RMP, wouldn't be able to get

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that detailed of even a New York State record.

7

CHAIRPERSON GARODNICK: So he would

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only, the only detail he would get is valid or not

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valid?

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DANIEL ALBANO: Over the radio, the

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mobile digital terminal may give him a little more

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information.

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CHAIRPERSON GARODNICK: How about a

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warrant for their arrest?

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DANIEL ALBANO: That would be over,

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you could get that over the radio very easily,

17

too.

18

CHAIRPERSON GARODNICK: And you

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could get it for Illinois?

20

DANIEL ALBANO: If it was a arrest

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warrant that was entered into the National Crime

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Information Center System, yes.

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CHAIRPERSON GARODNICK: Are most

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arrest warrants entered, entered into the National

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Crime Warrant Identification System?

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DANIEL ALBANO: [laughs] Yes, sir.

CHAIRPERSON GARODNICK: Okay. And then how about for a warrant issued for their arrest in Paris?

DANIEL ALBANO: It might be.

CHAIRPERSON GARODNICK: Under what circumstances?

DANIEL ALBANO: I think a local traffic warrant for, out of the City of Paris, or local criminal court in Paris, probably would not be entered into the system.

CHAIRPERSON GARODNICK: Okay. I'm not necessarily talking about local traffic warrants.

DANIEL ALBANO: Something, something very serious potentially could, the American authorities would accept the request from the French authorities for something very serious; murder, you know, something along those lines.

CHAIRPERSON GARODNICK: Okay. There's a, there's of course a huge middle ground between running a red light in Paris and murder. [laughter]

DANIEL ALBANO: No, no, but and

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2 obviously, I understand. The, I think the issue
3 would be, it's, it's up to the French authorities
4 to, to ask the American authorities to enter that
5 on our computer system.

6 CHAIRPERSON GARODNICK: Okay. So,
7 well, it would then depend on what is accessible
8 based on what the international authorities have
9 put on the system.

10 DANIEL ALBANO: Exactly.

11 CHAIRPERSON GARODNICK: Are there
12 any nations or territories out there which do not
13 participate in that system?

14 DANIEL ALBANO: Yes.

15 CHAIRPERSON GARODNICK: Give us a
16 few examples.

17 DANIEL ALBANO: I, I couldn't.

18 CHAIRPERSON GARODNICK: Okay.
19 There're probably many, I would think. Ones with
20 whom the United States does not have a
21 particularly sympathetic trade or diplomatic
22 relationship, for example, or others?

23 DANIEL ALBANO: I don't think it's
24 necessarily dependent upon the United States'
25 relationship with that country, but that country's

1

2 relationship with international organizations.

3

4 CHAIRPERSON GARODNICK: And we certainly know there's a few of those out there.

5

DANIEL ALBANO: Yes, there are.

6

7 CHAIRPERSON GARODNICK: Okay, so, I'm not going to go further on that subject. I'm

8

going to go now to Council Member Mike Nelson.

9

10 COUNCIL MEMBER NELSON: Fermez la bouche, monsieur. [laughter] Parking congestion.

11

Have you received complaints about that, I would

12

imagine?

13

14

15 DAVID WOLOCH: Yeah, we have, I mean, I think fair to say we get lots of

15

16 complaints about lots of different congestion

16

17 related, related issues. But in particular, I

17

18 think, we've gotten complaints about pedicabs in,

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19 in crosswalks, that's been something that's come

19

up.

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21 COUNCIL MEMBER NELSON: Has there

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been a decrease since November of 2009?

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23 DAVID WOLOCH: I think overall

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24 there has been. I mean, I think what was, what

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was put in place generally two years ago has gone,

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has gone a long way. But there, but there are

1
2 still, still some complaints and still, still some
3 issues.

4 COUNCIL MEMBER NELSON: No graph,
5 chart or anything like that to show it, you know,
6 peaking down, or flattening, or--

7 DAVID WOLOCH: No, I don't know if,
8 if the Police Department wants to--

9 SUSAN PETITO: No, we don't, we
10 don't have anything specific because there was no
11 enforcement mechanism before the law went into
12 place. Any violations that we had would've been
13 submerged into regular bicycle data or other types
14 of criminal court summons data, so there was no
15 way to separate it out. Our empirical sense, just
16 from being on the street, is that the law helped
17 tremendously in lessening the number of violations
18 in congested areas because of the sheer drop in
19 the number of pedicabs out on the street. And I
20 think also the enhanced enforcement, the licensing
21 structure, it has certainly helped for more just
22 anecdotal and empirical experience.

23 COUNCIL MEMBER NELSON: Mm-hmm.
24 This could be a lot more frequent, I would imagine
25 a lot of tourists wouldn't have the wherewithal to

1
2 realize which agency or who to go to, perhaps a
3 police officer. But if it's after the fact, it
4 would be, nothing could be done, of course. Do
5 you believe there's, the industry is in need of
6 more regulation? And if so, any ideas?

7 DANIEL ALBANO: The, the issue of,
8 of the parking regulations, that they're not
9 subject to the parking regulation, that was
10 something that I don't think was foreseeable when
11 the, when the initial legislation was passed. And
12 that is a, a problem that continues in midtown
13 Manhattan, especially around the, the areas of
14 large public venues like the museums and the
15 theaters.

16 FRAN FREEDMAN: Council Member, may
17 I respond to your--

18 COUNCIL MEMBER NELSON: Sure.

19 FRAN FREEDMAN: --question--

20 COUNCIL MEMBER NELSON: Original
21 question?

22 FRAN FREEDMAN: Your, you noted
23 that, how would a tourist complain?

24 COUNCIL MEMBER NELSON: Yeah, yeah.

25 FRAN FREEDMAN: And I'd like to

1
2 share with you that the legislation provided for
3 signage in each and every registered pedicab,
4 which gives all the required information the
5 pedicab business name and phone number, the
6 pedicab business's license number, the pedicab
7 driver has his, you know, his own license. And it
8 says very clearly "Call 311 to report any
9 complaints." And so those complaints come
10 directly to DCA, of which we've had actually two
11 regarding rates.

12 COUNCIL MEMBER NELSON: I just
13 thought of something else. I would imagine every
14 hotel, motel, what have you, in New York, probably
15 should have just a list of things for tourists,
16 that they can, not just the pedicab industry, but
17 anything, and they could list something or
18 complain about. This is of course totally off the
19 target. Okay. But then, we can make it--

20 FRAN FREEDMAN: We do.

21 COUNCIL MEMBER NELSON: We do?
22 More friendly--

23 FRAN FREEDMAN: We do, we do.

24 COUNCIL MEMBER NELSON: --for
25 tourists to come here.

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FRAN FREEDMAN: We do. We do. We

3

do, we work--

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COUNCIL MEMBER NELSON: Oh.

5

FRAN FREEDMAN: We actually work

6

with the Concierge Association, and especially

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around electronics stores, which DCA also

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regulates. And so the complaint number is there,

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it's very clear whom to call, concierges know to

10

direct tourists only to licensed electronics

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stores. So, and we, and we reinforce this on at

12

least an annual basis.

13

COUNCIL MEMBER NELSON: I did not

14

know that. Okay. Yeah, given the economy,

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especially we don't want to tick off any potential

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money coming to the City. Oh, that's wonderful,

17

okay, just flashed across my screen earlier, and

18

I'm glad you had that answer for me. Thank you.

19

FRAN FREEDMAN: Happy to do so.

20

COUNCIL MEMBER NELSON: I suppose,

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since I'm acting Chair, there's no further

22

questions, I suppose. We have some panels? Oh,

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there is one more. Okay. For the police, for

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Parks, for those precincts that are in

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neighborhoods heavily populated by pedicabs, such

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as the theater district, do officers receive special training regarding the pedicab law?

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DANIEL ALBANO: Since the inception of the training, we've had, we've held a number of sessions. I'd say about five, five or six sessions, both precinct based and with the traffic taskforce. And DCA has been good enough to accommodate us on, on two or three occasions, with providing training for officers.

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CHAIRPERSON GARODNICK: Just a-- thank you, Council Member Nelson, just so I understand, the extra training as to what you actually do in those areas, since it sounds like, if not all then close to all of the summonses and violations are done in the midtown Manhattan area, what does that consist of when you, when you train officers specifically to be able to see, understand and execute on pedicab violations?

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DANIEL ALBANO: We do a PowerPoint presentation as materials that are handed out to them, and the focus is on the required equipment. The rules of the road, I mean, the officers are familiar with that from the general traffic enforcement duties, but then becomes the reporting

1
2 requirement. How do we, where--what type of
3 summons is issued? How is the, the issuance of
4 the summons reported to the, to the Department of
5 Consumer Affairs? And there's a track record
6 created. So there's some, basically, the
7 equipment, rules of the road, and the, the
8 bureaucratic paperwork end of it.

9 CHAIRPERSON GARODNICK: Sounds like
10 there's a fair amount of that.

11 DANIEL ALBANO: [off mic] Yes,
12 there is.

13 CHAIRPERSON GARODNICK: All right,
14 well, listen, we thank you all very much for your
15 time and your testimony. And it, if I can
16 summarize, it sounds like we have a general, if
17 not complete support on three of the four bills,
18 and one of them we need to have some continued
19 conversations to see--

20 FRAN FREEDMAN: We'll be happy to.

21 CHAIRPERSON GARODNICK: Terrific.
22 Well, we thank you very much for that. And we're
23 going to move on to our next panel, wish you all a
24 very good weekend. We hope you'll stick around to
25 the extent you can to hear the testimony from

1
2 others. Chad Marlow from the New York City
3 Pedicab Owners Association, Tom Ferrugia from the
4 Broadway League, and Peter Mazer is our first
5 panel. And so we'd like to ask them to come on up
6 and join us. And we'll get started as soon as
7 they're ready.

8 MALE VOICE: Gentlemen, if you're
9 coming up, if you have any statements, I'll take
10 'em now. Thank you.

11 [pause, background noise, panel
12 seating]

13 CHAIRPERSON GARODNICK: Gentlemen,
14 welcome. Thank you for being here. And Mr.
15 Marlow when you are set, comfortable, please go
16 right ahead.

17 CHAD MARLOW: Am I on? Okay.
18 Chairman Garodnick and Members of the Consumer
19 Affairs Committee, my name is Chad Marlow and I am
20 President of the Public Advocacy Group; it is my
21 pleasure to once again to represent the New York
22 City Pedicab Owners Association before this
23 Committee. Over the past several years, the
24 process of regulating the pedicab industry, which
25 was initiated by the pedicab industry itself, has

1 brought us into both conflict and accord with the
2 Mayor, the City Council and the Department of
3 Consumer Affairs. We have fought for our
4 burgeoning industry in the press, in the halls of
5 government, and in the New York State trial and
6 appellate courts. At the conclusion of the last
7 round of pedicab regulations, we proudly joined
8 Mayor Michael Bloomberg, Speaker Christine Quinn
9 and then Consumer Affairs Committee Chair Leroy
10 Comrie, in passing a strong and well considered
11 set of regulations to govern our industry. They
12 were, I am pleased to say, nearly identical to the
13 regulations the NYCPOA sought at the outset of the
14 process. Understandably, after years of beating
15 back powerful special interests who sought to use
16 their political and economic clout to destroy our
17 industry rather than regulate it, the NYCPOA has
18 every reason to be gun shy about further attempts
19 to regulate our industry. And yet today, although
20 we are testifying on several new pedicab bills, we
21 have no such intrepidations. Although the bills
22 may not be perfect in our minds, we are
23 nonetheless throwing our full and unconditional
24 support behind them. There is a simple rationale
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2 behind our decision to adopt this approach. We
3 have complete confidence that the sponsor of these
4 bills and the legislator who now bears the
5 greatest responsibility for overseeing our
6 industry, is an honest broker, who has our best
7 interests at heart. That person is the Chair of
8 this Committee, Councilman Dan Garodnick. I have
9 personally known Councilman Garodnick for over a
10 decade, and therefore in that respect, so have the
11 pedicab industry. Mr. Chairman, you are an
12 elected official of truly exceptional character,
13 intellect and honesty. You have shown a steadfast
14 commitment to approaching your role as a
15 legislator in an evenhanded and deliberate manner,
16 with a singular goal of improving our City for all
17 New Yorkers. In the case of the regulation of
18 pedicabs, it is clear that you are working to make
19 our industry better for your constituents, for the
20 thousands of New Yorkers and tourists who
21 patronize our industry every year, and for the
22 hundreds of men and women who comprise the small
23 business owners and working class drivers who earn
24 their livings in the pedicab industry. So this
25 leads the NYCPOA to this moment, and to take what

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2 I think is a fairly unique step by a leading
3 representative of a regulated industry. Although
4 we could take a short term, micro view of the
5 bills before this Committee, and object to
6 whatever small imperfections they may contain, we
7 have chosen not to do so, for at their core, these
8 bills represent a commitment to the very same
9 principles that drive the NYCPOA. Namely,
10 creating and maintaining the highest possible
11 standards for our industry. Reasonable minds
12 might disagree from time to time on how to best
13 pursue that goal, but such minds should work
14 together and respect differences of opinion. To
15 the extent these bills differ from the ideal
16 approach we might take, we are willing to accept
17 those differences of opinion and are willing to
18 submit to the best judgment of their sponsor and
19 this Committee. And so instead, we have chosen to
20 take a long term, macro view of these proceedings,
21 and the ongoing regulation of the pedicab
22 industry. From our perspective, we are truly
23 fortunate to have one of the City's great, up-and-
24 coming elected officials leading the oversight and
25 regulation of our industry, and we look forward to

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2 being your partner in those efforts, Mr. Chairman.
3 Our goals are the same, and therefore we can and
4 should work together to achieve them starting
5 today. Before concluding my testimony, I think
6 it's important to recognize an elephant in the
7 room that need not be addressed as part of the
8 current legislation, but must be addressed in the
9 near future. To the extent this Committee
10 believes new regulations are needed to improve the
11 functioning of our industry, we are willing to set
12 aside our reservations and accept that judgment as
13 it is reflected in the current bills.

14 Unfortunately, neither existing laws nor new ones
15 will produce the desired impact on our industry,
16 when a small but not insignificant number of
17 pedicab drivers have no intention of abiding by
18 them. Specifically, I am speaking about those
19 pedicab drivers who lack a significant connection
20 to the New York Metropolitan area. These pedicab
21 drivers are taking advantage of a loophole in the
22 existing pedicab laws that allow them to use any
23 valid automobile driver's license to obtain a New
24 York City pedicab driver's license. These drivers
25 simply do not care if they break the law and

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2 receive a ticket, because they have no intention
3 of paying the fines. Whether they receive one
4 ticket, a dozen tickets, or in the case of one
5 driver, 90 tickets and four arrest warrants, it is
6 of no consequence. They know full well that the
7 City of New York is not going to track them down
8 in New Mexico or Florida, to get them to pay their
9 fines. And certainly New York City is not going
10 to enlist the help of Interpol to hunt down many
11 of these drivers in the overseas nations of which
12 they principally reside. Unfortunately, Mr.
13 Chairman, I would venture a guess that even if
14 these drivers have their pedicab driver's licenses
15 suspended, pursuant to the new rules in Intro 466,
16 they will continue to wear their driver's IDs and
17 operate pedicabs. They are above the law because
18 they are beyond the reach of it. These drivers
19 come into New York City during the busy pedicab
20 driving seasons, recklessly drive their pedicabs,
21 overcharge their passengers, damage the reputation
22 of our industry, and then stuff their pockets with
23 their ill-gotten gains and return home. This
24 needs to stop, and until it does, regardless of
25 the number of laws in effect, the bad apples will

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2 continue to spoil the bunch. The Taxi and
3 Limousine Commission recognizes the risk of
4 allowing persons with limited or no local
5 connections to drive taxicabs. They know allowing
6 taxi drivers to carry any valid driver's license
7 would invite abuse and therefore the TLC issues
8 hack licenses only to those with driver's licenses
9 from New York, New Jersey, Connecticut or
10 Pennsylvania. This quad-state license requirement
11 must also be applied to the pedicab industry, or
12 no volume of laws will be able to remedy the
13 legitimate concerns we all share. I thank you for
14 the opportunity to testify today, and would be
15 happy to answer any questions the Committee might
16 have.

17 MALE VOICE: Go ahead.

18 THOMAS FERRUGIA: Thank you. Good
19 afternoon. I am Thomas Ferrugia, the Director of
20 Government Relations for the Broadway League,
21 which has been the principal trade association for
22 the commercial Broadway theater industry for over
23 80 years. We now represent more than 750 leading
24 theater owners, producers and Broadway presenters
25 nationwide, with over 400 maintaining offices in

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2 New York City. I want to thank Chairman Garodnick
3 and the other distinguished Members of the
4 Consumer Affairs Committee for this opportunity to
5 comment on the four proposals under consideration
6 today. My remarks will be brief. The League has
7 always supported any legislation designed to
8 relieve traffic congestion in New York City. We
9 continue to applaud the current pedicab licensing
10 requirements, particularly the safety, insurance
11 and reporting features of the law, as a means of
12 making the bicycle taxi industry safe for
13 residents and visitors. With respect to today's
14 proposals, we feel it is imperative that the
15 Council maintain the current limit on the number
16 of pedicabs operating on the streets of New York
17 City. Today, there are 850 licensed bicycle
18 taxis, already beyond the point of saturation for
19 the limited neighborhoods pedicabs regularly
20 travel in search of passengers. Pedicabs, as
21 noted, primarily congregate in Times Square, the
22 area bound east and west by 6th and 8th Avenues,
23 and north and south by West 53rd and West 40th
24 Streets. A neighborhood crowded with cars, street
25 vendors, theater goers, shoppers, restaurant

1 patrons, and of course tourists. As midtown
2 Manhattan is already swarming with slow-moving
3 bicycle taxis, frequently operated by drivers who
4 ignore traffic laws, we suggest allowing
5 additional pedicabs to inundate the streets at
6 this time would be an unsafe decision.

7 Introduction Bill 467 which essentially holds the
8 amount of authorized pedicabs to today's number is
9 currently the best solution to this problem. The
10 League is committed to providing millions of New
11 Yorkers and visitors with the best possible
12 theater going experience, and we believe this
13 experience begins before the show starts and
14 continues even after the patrons leave our venues.
15 We remain concerned about the number of pedicabs
16 regularly parked outside of theaters,
17 significantly blocking building egress, access to
18 streets, taxicabs and other private
19 transportations, while they wait to solicit
20 passengers who have just seen a performance.

21 Accordingly, we wholly support Introductory Bill
22 334-A which would require pedicab operators to
23 observe all motor vehicle parking regulations, as
24 well as Introductory Bill 466, designed to make it
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2 easier for the Department of Consumer Affairs to
3 revoke licenses for those unscrupulous pedicab
4 drivers who ignore the law. We also support any
5 legislation that's intended to provide consumers
6 with sufficient information to make informed
7 decisions on their purchases. We therefore also
8 support Introductory Bill 345 requiring pedicab
9 owners to display a bill of rights, similar to the
10 notice now required of New York City's taxicabs.
11 Finally, for the safety of our citizens, we
12 reiterate our frequent urging that the Council,
13 Mayor and NYPD continue to enforce all laws as
14 they relate to pedicabs. The NYPD must continue
15 to train officers dedicated to supervising bicycle
16 taxis, particularly since violations may be tied
17 to renewals and dangerous operators can be taken
18 off the street. On behalf of the theater
19 community, the League applauds the Council's
20 ongoing and sincere dedication to addressing this
21 problem in a fair, balanced manner. Again, we
22 thank the Committee for this opportunity, and I
23 would be happy to answer any questions. Thank
24 you.

25 PETER MAZER: Good afternoon, Mr.

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2 Chair and Members of the Committee. My name is
3 Peter Mazer and I am General Counsel to the
4 Metropolitan Taxicab Board of Trade, a 58 year old
5 organization dedicated to protecting the New York
6 City Yellow Medallion industry, including the
7 taxicab industry's exclusive right to pick up
8 street hails. Our mandate is also to protect the
9 safety of our drivers, passengers and the public.
10 We have the largest yellow fleet association in
11 the United States, representing over 3,500 yellow
12 medallion taxicabs that are leased to over 14,000
13 drivers at 31 fleet garages throughout the City,
14 approximately 25 percent of the New York City
15 taxicab industry. In 2006, MTBOT testified before
16 this Committee regarding Intro 75, which sought to
17 regulate the pedicab industry by requiring
18 licenses, regular inspections and mandatory public
19 liability insurance. It is no overstatement to
20 say that the industry proliferated at an
21 astonishing rate in New York City over a very
22 short period of time. At the hearings, the
23 Committee heard from a variety of concerned
24 business owners, advocacy organizations and
25 government agencies, all of whom expressed concern

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2 regarding the lack of regulation of the pedicab
3 industry. We are pleased with the attempts by the
4 City Council to treat pedicabs like other public
5 transportation providers, and enact safety and
6 insurance requirements as well as establish
7 consumer protections. Despite these attempts, the
8 issue of continued, unrestricted pedicab
9 proliferation, coupled with the lack of
10 enforcement, brings us back here today. I thank
11 the Chair for not letting this issue simply slip
12 through the cracks. We previously raised serious
13 concerns about the effect this unregulated
14 industry has had on the taxicab's exclusive right
15 to pick up street hails. New York City
16 Administrative Code, Section 19404 provides that
17 no motor vehicle other than the duly licensed
18 taxicab shall be permitted to accept hails from
19 passengers in the street. Even though this could
20 not be any clearer, pedicabs have been allowed to
21 thrive because of an important loophole in the
22 law. They are not considered motor vehicles, even
23 though they profit from picking up street hails
24 and operate in many of the same areas as taxicabs.
25 Taxicab owners pay a premium price for the right

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2 to accept passengers through the street hail
3 system when they purchase a medallion. They also
4 pay thousands of dollars a year in taxes,
5 insurance, and operating costs. They are required
6 to purchase a new car every three to five years.
7 These regulations are in place to keep passengers
8 and drivers safe, and ensure a level of service
9 that has made the New York City Medallion taxicab
10 an icon, recognized throughout the world.

11 Pedicabs are only required to carry \$25,000 for
12 bodily injury and \$50,000 for death, while
13 taxicabs are required to carry \$100,000 and
14 \$300,000 respectively. Pedicabs pay \$110
15 licensing fee, while taxi owners pay nearly \$750
16 in licensing and inspection fees on top of average
17 medallion price loan payments of \$3,500 a month.
18 Pedicabs cost between \$3,000 and \$5,000, and do
19 not have a mandatory replacement requirement,
20 while the average taxicab costs \$24,000, is
21 inspected quarterly, and must be replaced every
22 three to five years. As a result, you can imagine
23 how this causes intense frustration when a yellow
24 taxi driver sees a pedicab acting like a
25 legitimate yellow taxicab and picking up

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2 passengers by street hail, unequivocally stealing
3 that driver's livelihood. Since 2009, significant
4 strides have been made in the area of pedicab
5 regulation, and the MTBOT is grateful for the City
6 Council's persistence. While MTBOT supports these
7 changes, we feel that there needs to be more done
8 to adequately protect the exclusive right of the
9 yellow medallion drivers to pick up street hails.
10 The four bills on the agenda today are important
11 steps toward this goal. Proposed Intro 344-A will
12 go a long way to making it, to better police the
13 swamps of pedicabs in midtown. Pedicabs would,
14 should be subject to the same parking regulations
15 as cars. How is it fair, or safe, for pedicabs to
16 congregate en masse outside theaters or on
17 congested streets, blocking legitimate taxis from
18 safely picking up street hails and impeding
19 traffic. It is a public safety issue, and this
20 proposed legislation will no doubt help ease the
21 congestion and chaos these bikes can cause.
22 Similar to the livery passenger bill of rights
23 that was mandated to be displayed in all livery
24 cars in 2009, Intro 345 adds a much needed layer
25 of consumer protection that will be beneficial for

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2 the general public. Part of what makes the yellow
3 cab service iconic is the fact that both passenger
4 and driver have an awareness of what to expect.

5 It is a highly regulated industry. These
6 expectations are codified in a taxicab rider bill
7 of rights that is displayed in each taxicab, and
8 outlines what a rider is expect--is entitled to, as
9 well as how to, details on how to address

10 grievances. There is a system in place that gives
11 riders confidence in the service. This

12 legislation will help extend its consumer

13 protection to pedicab passengers as a positive

14 step toward creating more accountability. The two

15 other bills on the agenda today, Intro 466 and

16 467, are also important, imposing fines and

17 punishment for reckless behavior, that is in

18 violation of applicable rules and regulations of

19 the Department of Consumer Affairs, is common

20 sense. While the threat of pedicab license

21 revocations is currently on the books, it is

22 discretionary and clearly not working. In

23 December of 2010, the New York Post ran a story

24 about a pedicab driver with 31 known summonses,

25 \$1,500 in ECB fines and tickets issued from the

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2 Parks Department, and four warrants for his
3 arrest, after he had failed to appear for court
4 dates. If this were a yellow taxi, the TLC would
5 have suspended or revoked the taxi cab driver's
6 hack license. What is the use of issuing
7 violations if there are no consequences and
8 revocation is carried out in an arbitrary
9 fashion. MTBOT also supports Intro 467 and the
10 repeal of the Sunset set forth in Local Law 53 of
11 2009. The unchecked proliferation of pedicabs
12 over time has violated the taxi cab's exclusive
13 right to accept street hails, added to congestion
14 in midtown, and is a danger to public safety. The
15 60 day application period for pedicab business
16 licenses was adequate time for all existing
17 pedicab owners to submit their application and go
18 through the inspection process with DCA. It is
19 more than fair that while there was a 60 day
20 application period, owners could register multiple
21 pedicabs during that time, and there was no cap
22 placed on the number of pedicab drivers' licenses
23 that could be issued, even after that 60 days came
24 to a close. MTBOT supports the Council's efforts
25 to create accountability for pedicabs operating in

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2 New York City. It is our feeling that these cabs
3 should, are operating as illegal taxis and should
4 be restricted further given the fact that they add
5 to the problem of congestion and continue to
6 exhibit dangerous behavior despite recent
7 regulations. Thank you for your time and
8 consideration. I am happy to answer any question
9 that you may have. Thank you.

10 CHAIRPERSON GARODNICK: Thank you
11 very much, Mr. Mazer. I guess the first and
12 obvious question for you is whether you'd be
13 comfortable with pedicabs doing street hails in
14 the outer boroughs. No, that's a joke [laughter]
15 I'm just teasing. Let me, though, ask you a
16 serious question, which is local license
17 requirement for pedicabs, it's not on the agenda
18 today, but it's an issue which has been raised,
19 you know, and we discussed with the, the agencies.
20 What would be your feeling on that?

21 PETER MAZER: Well, like the
22 previous speaker said, the New York City Taxi and
23 Limousine Commission limits the holder of a
24 taxicab hack license to a holder of a, of a DMB
25 license in New York, New Jersey, Connecticut or

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2 Pennsylvania. And I believe that would be a good
3 first step to limit at least licensees to those
4 four states, because my understanding is that the
5 TLC is able to adequately check records, the City
6 has access to the abstracts of those states. And
7 as part of the licensing process, you could then
8 also mandate that a certified copy of the abstract
9 be presented as part of the license application
10 and renewal process, that's what's done with the
11 Taxi and Limousine Commission today, when they,
12 when somebody applies for a hack license or a
13 renewable hack license, if they do not have a
14 license from New York State, they have to bring in
15 a certified copy of the abstract from one of those
16 three states, to allow their license to be
17 renewed.

18 CHAIRPERSON GARODNICK: Thank you.
19 Mr. Ferrugia, on behalf of the, the theater
20 industry, obviously one of the areas in which we
21 have the greatest clustering of pedicabs at any
22 moment in time, is right there at, outside of the
23 Broadway theater.

24 THOMAS FERRUGIA: Abs--

25 CHAIRPERSON GARODNICK: Can you

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2 describe the scene when a Broadway show lets out
3 at the end of the, the evening?

4 THOMAS FERRUGIA: Absolutely. I
5 mean, of course it's dependent upon weather,
6 dependent upon the show, certain shows that have
7 a, attract a lot of tourists, name shows that are
8 recognized internationally, attract more visitors
9 from out of the country who tend to be the target
10 of the pedicabs, that's just my observation.
11 It's, it can be pretty much chaos. I've attended
12 shows where height of summer, tourist friendly
13 show, when the doors open there's simply a line of
14 pedicabs right outside the venue, and you are
15 completely cut off from accessing the street. So
16 the crowd has to funnel, essentially, out and then
17 down the corrid--and then up and down the
18 corridor, creating a massive tie-up, so there's
19 tie up from the patrons trying to exit the
20 theater, there's tie-up on the streets of taxis
21 and other cars trying to get up, and also pick up
22 passengers that also have the right to do that.
23 So, there are times, frequently, when it is very,
24 very dangerous, our, our feeling it's dangerous
25 for the, the patrons leaving the theater, because

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of all the, the obstructions that are placed on
the street, immediately outside the front doors.

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CHAIRPERSON GARODNICK: Are the,
are--in your experience, are the drivers actively
soliciting business, or are they sitting
peacefully in the pedicabs?

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THOMAS FERRUGIA: Again, it
depends. I've seen both. I've seen a lot of
drivers, I'm assuming who anticipate that they
will get hails just by the nature of being there,
and I've seen drivers aggressively yelling out to
the patrons, asking them where they're going,
would they like to try to take a cab?

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CHAIRPERSON GARODNICK: What is
your assessment of the NYPD enforcement of any of
those issues?

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THOMAS FERRUGIA: We've found it to
be, we think it could be improved upon. The sense
that we're getting, I was talking to some of the
theater owners just yesterday, and it turn--it's,
a lot of it is being put on the theater operators
to get their personnel out there and ask the, the
pedicab drivers to move, to relocate. We are
feeling that the type of enforcement that we're

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2 looking for, which is patrolling the--and it could
3 be the nature of the fact that there is really,
4 there's really nothing on the books right now that
5 would allow the officers to really take action--
6 but the, the officers being on the street and
7 asking the cabs to move instead of just holding
8 those spots, where it might already say, "No
9 standing or no parking" but they're there anyway.
10 We're not seeing as much of that as, as we, we
11 need. The other issues, as far as blocking
12 crosswalks and things like that, that of course
13 is, is a significant issue for us, because like I
14 said, we have \$1,000 people suddenly flooding the
15 streets, and we need to move them out as quickly
16 as possible, and having their bikes lining the
17 blocks and in the crosswalks is a major, major
18 problem.

19 CHAIRPERSON GARODNICK: Thank you
20 for that. And Mr. Marlow, to you, thank you for
21 your testimony, thank you for your kind words,
22 too, I appreciate them. In terms of the--just
23 give an understanding of the Owners Association,
24 in terms of how many owners have multiple pedicabs
25 in their business. For example, in the

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2 Association, how many of the owners have more than
3 ten pedicabs?

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CHAD MARLOW: I would, I would
5 venture a guess that it's the minority of people
6 in the Association who have more than ten
7 pedicabs. But, by and large the pedicab
8 companies, there are a few that exceed there's--as
9 you know, there's a cap of 30. The number that
10 lie between ten and 30 is a relatively small
11 portion of the overall population.

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CHAIRPERSON GARODNICK: So, the,
13 the, would you say the vast majority of are people
14 who either are sole proprietors have less than
15 ten?

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CHAD MARLOW: Yes.

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CHAIRPERSON GARODNICK: Can you
18 slice that down any further? Are the vast
19 majority of them just sole proprietors?

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CHAD MARLOW: You know, I don't
21 have that information, that would be my, my gut
22 instinct were to say "Yes, that is the case," but
23 DCA has very complete records on that.

24

CHAIRPERSON GARODNICK: Okay. Are
25 all of them, are all of them part of your

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2 association?

3 CHAD MARLOW: No.

4 CHAIRPERSON GARODNICK: Okay. Is
5 there--how does that work, exactly? Who is the
6 Association?

7 CHAD MARLOW: Basically, we, we
8 represent a combination of, I guess what would
9 best be described as fleet owners, as well as
10 private individuals who own their own pedicabs.
11 And in fact, we have numerous members who began as
12 just drivers, then bought one pedicab and then
13 became small business owners. So, our, our
14 Association really represents a kind of broad
15 spectrum of individuals. We even in fact, despite
16 our, despite our name, have represented, have had
17 members who are just drivers.

18 CHAIRPERSON GARODNICK: To your
19 testimony on the subject of the, the elephant, and
20 the, the question about potential future
21 regulations which I did my very best in the
22 anticipation of some of these issues which you
23 raise, and which I assume others will raise as
24 well, to get an understanding of what the state of
25 play is with regard to local licenses versus out

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2 of state, or out of country licenses, and whether
3 New Yorkers are potentially operating to a
4 disadvantage to others. Do you have a sense as to
5 the number of drivers that are out there, that are
6 coming from out of state or out of country?

7 CHAD MARLOW: Well, let me, I'm
8 going to hedge a little bit when I answer that,
9 because, as you can under--appreciate, Mr.
10 Chairman, this is a very delicate subject. It is
11 very important that the Owners Association does
12 not want to appear in any way, shape or form, to
13 have a preference for New Yorkers over non-New
14 Yorkers, and certainly to have any xenophobic
15 attitudes whatsoever. That is not the case.
16 However, it is fairly clear, and again this is
17 simply circumstantial evidence, but we have
18 drivers all over the place, so circumstantial
19 evidence is pretty significant that a large, large
20 number of the, of the abusive drives. The ones
21 who, who are outside the theaters screaming,
22 ringing their bells are here only for the busy
23 seasons, the, and I mean, here, I mean, in the New
24 York City Metropolitan area, be it the holiday
25 season or the summer when it's warm and the demand

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2 is higher. And those are the people who come in,
3 make their money, and leave, and then cast us in
4 an unfortunate situation. It's interesting for me
5 to sit next to the theater industry. We both care
6 very, very much about New York City tourists, so
7 the fact that we're not quite aligned on these
8 issues shows that there's something working quite
9 right, because we both want a great experience for
10 their people. And so, we fell that, you know,
11 weeding out these people who are not respectful,
12 even as you're doing getting rid of parking,
13 perhaps, you know, one thing that was discussed
14 last time amongst the Mayor and the Speaker and
15 everyone was in favor of, except for the then DOT
16 Commissioner, was the idea of, of pedicab stands.
17 So, because it's important to, on the one hand,
18 eliminate the very legitimate concerns of your
19 constituents in the theater industry, about people
20 gathering, you know, harassing the tourists,
21 blocking the street; but at the same time, as I
22 think the Mayor would probably point out above
23 anyone else, we want to make sure that supply
24 connects up with demand, and there's clearly a
25 huge demand for pedicabs in the City. It's

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2 important that the, that the tourists and New
3 Yorkers who want to take them can find them when
4 they want to use them.

5 CHAIRPERSON GARODNICK: Thank you.
6 Do you know of other--I cited in, in my question
7 to Department of Consumer Affairs, California's
8 rules on local license requirements. Do you know
9 of other jurisdictions that, one, have pedicabs;
10 and two, that have had any local licensing
11 requirements like the ones that you testified,
12 that you support for, for New York?

13 CHAD MARLOW: Well, first of all,
14 there are almost, almost every major city in the
15 country now has a development of a pedicab
16 industry. We actually were going to cite to the
17 California legislation as an example, but we
18 thought it better to cite to what New York City's
19 already doing with respect to taxicabs. I think
20 that the, the answer is that there are a variety
21 of different approaches, California's being the
22 strictest, their state only. New York City's
23 perhaps being the loosest. But I think that
24 inevitably, those states that are more like New
25 York will become more like California.

CHAIRPERSON GARODNICK: Okay.

Well, gentlemen, we, we thank you very much for your testimony, and for your support of the bills, and we look forward to speaking with you further about them as we, as we go.

THOMAS FERRUGIA: Thank you.

CHAIRPERSON GARODNICK: Thank you.

Our next panel, is Doug Korman, Ibrahim Donmez and Meredith Smythe, welcome. [pause, background noise] Thank you and welcome. Whenever you're ready, if you'd like to go ahead and get started.

DOUG KORMAN: Good afternoon, Council Members. My name is Doug Korman, and I drove a pedicab for a dozen years in the streets of our City. For many years, pedicabs were viewed both by the public and by those of us in this fledgling industry as a very interesting and appealing alternative way to get around. In a relatively short period of time, that image and perception was drastically changed. This fact provokes the question: How and why did this happen? The answers are myriad. However, I am only afforded the time today to address the most pressing issues as I firmly believe the City

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2 Council and the Department of Consumer Affairs
3 bear a great responsibility for the mess that the
4 pedicab industry is in, and the loss and suffering
5 it has endured. Correcting these governmental,
6 this governmental oversight, lies squarely upon
7 you, if you honestly wish to have a sustainable,
8 non-polluting, short hop transport service that
9 pedicabs so ably provide. For, first of all,
10 Local Law 53 should never have been permitted the
11 issuance, should have permitted the issuance of a
12 pedicab driver's license without the applicant
13 providing a valid driver's license from New York,
14 New Jersey or Connecticut, within the credible
15 range of any pedi--that any pedicab driver would
16 commute for such a job. This single mistake has
17 caused the following. One, a major loophole for
18 foreigners with only a tourist visa or a J1/F1
19 visa to illegally operate a small business in New
20 York City. Two, create a shady business
21 environment whereby foreign agents build a large
22 referral service around this loophole, so that
23 such illegals became knowledgeable of this
24 opportunity to bilk the riding public for a
25 season, and never face any legal consequences for

1
2 the evil deed of consistently overcharging or
3 committing countless driver violations. Three, by
4 allowing such a licensing loophole in the law, and
5 without the DCA making the appropriate rule to
6 fulfill their obligation and protect the consumer,
7 they have provided a license to both harm the
8 public and the struggling small, green business.
9 The countless instances of fraud against customers
10 have significantly and unfairly marred the image
11 of pedicabs as a reasonable and enjoyable
12 conveyance. The lack of commitment, this is
13 number four, the lack of commitment to standards
14 established by the industry, and the lack of
15 driving experience of these here today/gone
16 tomorrow con-artists, has put the riding public in
17 grave danger. They clearly demonstrate that they
18 have no respect for the law or safety practices as
19 they are in large measure the traffic code
20 violators. Now, in all fairness, why should the
21 hardworking, well-intended pedicab business
22 operators, with an appropriate adherence to best
23 practices, suffer a statistical smear by the NYPD
24 and the shunning of the riding public, while they
25 have helplessly stood by in disgust and

1
2 frustration observing the destruction of their
3 means of income. It is shameful that so much
4 effort was put into the legislation legally,
5 legislative legalism of drafting the law, and this
6 potential problem was overlooked. Something must
7 be done about this. furthermore, I think it's
8 ridiculous that the Council consider the idea of
9 creating a law to put a bicycle in the same
10 overinflated parking violation scheme as
11 automobiles, when a pedicab has a far less of a
12 footprint on the roadway. And also, there is no
13 credible way that one can place a automated
14 municipal ticket on a pedicab without fear of it
15 being removed by someone else. Proper government
16 stewardship of such a startup industry should have
17 provided pedicab stands from the very start of
18 regulation, as a sensible means for drivers to
19 solicit rides, take food and toilet breaks, and
20 avoid any conflict with other vehicles or local
21 businesses. This also needs to be fairly
22 addressed before any further punishment of
23 pedicabs is legislated. There are many unfair
24 items in Local 53 that the industry must live
25 with, but none has affected my business like the

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2 ban on electric assisted pedicabs. The unfair
3 inspection progress, process, and scheduling made
4 it impossible for me to re-conform my electric
5 pedicabs to the requirements in the set time, so I
6 was marginalized out of the business, having
7 failed on my only inspection on the very last day
8 of the process. And for this reason, I believe
9 that pedicab businesses such as mine, that were
10 squeezed out of the regulation process in this
11 manner, should have another chance to reenter the
12 business without being treated in a prejudicial
13 manner. I furthermore believe that pedicabs
14 should have a chance to operate in the outer
15 boroughs. I don't think that's a joking matter,
16 there's no incentive for pedicabs to go to the
17 outer boroughs, and that really has, essentially
18 are creating a cap for Manhattan only, and the
19 other boroughs have no way of benefiting on any
20 even small venue of pedicabs that should be
21 permitted in a new bill. So that we have the
22 proliferation of an industry beyond Manhattan.
23 The Council has consistently deferred to the State
24 law as a reason for the ban on electric assist,
25 also, when in fact State law allows the City, a

1
2 City the size of New York, to determine what it
3 will permit on its roadways. This is an old law.
4 But you conveniently ignore it along with the
5 Americans with Disabilities Act and make no
6 required provision in the law for persons with a
7 disability, to have access or assistance in
8 performing this job. This is a humane and
9 prejudice issue. Under the present law, pedicabs
10 are largely operated by young drivers with a
11 handful of older drivers who either needlessly
12 struggle or modify their activity to peak periods
13 during the year, and only a very small fraction of
14 the industry are women drivers. Any law that
15 creates this kind of job opportunity restriction
16 in our present economy is disgraceful. If the
17 issue of the disabled drivers was fought and
18 likely won in court, the foreseeable response of
19 the City Council would be to make it only
20 permissible for the disabled. Any of us can look
21 around our streets and see them buzzing with
22 electric bicycles these days. Why would we forbid
23 cyclists with up to 1,000 pounds of additional
24 weight, to have a little assistance defined by
25 federal law? This stands as a clear witness as to

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2 why so many citizens and small business owners do
3 not believe we can trust the government to do what
4 is right with moral leadership.

5 CHAIRPERSON GARODNICK: Go ahead.

6 IBRAHIM DONMEZ: Hi, my name is
7 Ibrahim Donmez, I've been driving a pedicab since
8 2005. And I'm one of the founding members of
9 United Pedicab Business Alliance. I would like to
10 tell the City Council Members that all the bills
11 introduced by this Committee is not going to do
12 anything to help either the public or the pedicab
13 industry. This Committee should seriously
14 consider changing driver license requirement to
15 either tri-state or quad-state driver licenses.
16 The major problem is the fact that the industry is
17 constantly hijacked with unqualified, untrained,
18 short term visitors who cannot speak English at
19 all. And they are immune to any law because they
20 are gone by the time they have to show up for a
21 hearing in the court. As long as the City does
22 not stand, stop them from driving a pedicab, it
23 does not matter how many laws the City passes, it
24 will not stop the real problem of temporary
25 visitors oversaturating the industry. These

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2 people are not immigrants. The number of active
3 drivers working all year around is around 300.
4 The number of J1 visa holding four month visa
5 college students, who come here in the summer,
6 from countries like Russia or Turkey, is around
7 700. So the number of pedicab drivers go up from
8 like 300 to 1,000 in June, and then it is 300
9 again in October. The number of public complaints
10 increase in large numbers in summer months. J1
11 visa holders are not immigrants, they are only
12 visitors who have no investment at all in the
13 City. These students usually come to the States
14 at the beginning of June and leave by the end of
15 October. If the City really wants to fix the
16 pedicab problem, then the City should stop
17 temporary workers from hijacking the pedicab
18 industry and its image by only allowing tri-state
19 or quad-state driver licenses. Pedicabs are the
20 only commercial vehicles in New York City that do
21 not require a United States driver license. If
22 someone wants to be a yellow cab driver, they have
23 to have a quad-state driver license; if someone
24 wants to be a livery cab driver, they have to have
25 a quad-state driver license. So, I'm basically

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2 recommending the quad-state driver licenses
3 because all these laws that the City Council is
4 trying to pass, these people are totally immune to
5 these laws, they are gone by the time it is time
6 for a hearing. So, Department of Consumer Affairs
7 indicated there are 1,500 driver licenses. Over
8 1,000, I mean, it's like 1,000 of these drivers
9 are not here in the country anymore, like, I would
10 say like only 500 of them are right now in the
11 country. And another thing is the problem of, you
12 know, the overpricing of the pedicab drivers.
13 This is why I believe Section 2260 in the pedicab
14 law, A and B, they should be totally deleted, like
15 omitted from the law, and you know, the City
16 Council should adopt a system similar to the
17 livery cabs, requiring the pedicab drivers to call
18 the fare in advance. This was the code of conduct
19 that gained us a reputation in the years 2003/4
20 and 5. So, I mean, posting a sign totally allows
21 these drivers who are totally dishonest to rip the
22 public off, and it's totally creating a bad
23 reputation for us. And thank you so much.

24 MEREDITH SMITH: Hi, my name is
25 Meredith Smith, I've been a pedicab driver since

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2 spring of 2004, so I'm going on seven years. I'm
3 still currently a full time, year round pedicab
4 driver. I really wasn't expecting to be speaking
5 here, so I'm not fully prepared, I'm winging it,
6 and I'll try not to be too redundant. I am a,
7 we're all pretty much saying a lot of the same
8 things. So I'm encouraged to hear discussion
9 about the quad-state licensing proposal. I think
10 these gentlemen have, everyone is saying why this
11 will go a long way towards fixing some of the
12 obvious problems in our business. In terms of the
13 proposed bills here, I think many of us are in
14 favor of some and have questions on others. I
15 think nobody is arguing 467 about trying to get
16 more pedicabs on the street. And I'm not one of
17 'em. In terms of making the, making it easier for
18 the City to suspend licenses, I was glad to hear
19 the DCA say that they do not endorse that
20 particular part of the proposal. I would say it's
21 going to a very opposite extreme of what we've
22 been talking about here, which is the racking up
23 of infinite tickets without much consequence,
24 bringing it down to where I can now lose my
25 ability to drive by getting only two. And this is

1 particularly frightening that this could happen to
2 me in cases of equipment failure, because
3 equipment failure I am very limited as to whether
4 or not my equipment fails while I am driving; and
5 if it does, I do not call a tow truck to carry my
6 cab away, I must pedal my cab back to where it
7 goes to, in order to get fixed. And this is
8 particularly true in the case of turn signals. It
9 is hard to express to you and describe to you how
10 tricky these mechanisms are, and they do fail
11 frequently, particularly when they get wet. And
12 just last week, I was, after several hours in the
13 rain, my directional signals went from being
14 directional to blinking hazards that would not
15 shut off, even when I turned the switch off, they
16 had to be unplugged from the battery. So that is
17 particularly frightening, that my ability to do my
18 job could be taken away if my blinkers go on the
19 blink, and I must pedal myself back to where I can
20 get this fixed. I can see, I just think there
21 should be some overview, like I think there could
22 be middle ground somewhere between the, you know,
23 the present situation and taking away a person's
24 ability to drive for merely two tickets. The
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2 creating passenger bill of rights, absolutely, I
3 am in favor of that, I think most of us are, for a
4 lot of reasons, and we're addressing some of the
5 same things. One of the biggest problems is of
6 course the price gouging, and this is what I did
7 not read when I read the bill of rights that was
8 proposed, I saw one that said, "The passenger has
9 a right to refuse a tip for, for unsatisfactory
10 service," that seems to me unnecessary when the
11 people are gouging them, as you said, \$60-\$80 for
12 a ten minute ride. As far as I'm concerned, they
13 have a right not to pay that at all, let alone,
14 you know, of course they should not have to tip in
15 such a situation. I think that could easily be
16 replaced with what this gentleman said: The
17 passenger should have the right to know up front
18 what the full fare is going to be. Perhaps it
19 could be reworded to include both. The passenger
20 has a right to know from the beginning the full
21 fare of their ride and refuse a tip for
22 unsatisfactory service. I believe we do, we
23 should have the right to set our own prices, it's
24 human powered transportation. We have peak season
25 and off-peak season. And if a person wants to pay

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2 \$40 for a short ride, and they know that up front,
3 then they are agreeing to it and all is fair. But
4 the problem becomes because they have a sign, well
5 then when the person reaches their destination,
6 they didn't know what they were being charged. So
7 that is important. And just a--the bill of rights
8 should be simple and clear. It seemed to me there
9 was a lot of listing of specific mechanics,
10 working brakes, let's hope they have a right to
11 working brakes. I would shorten that to a right
12 to a cab that has passed all DCA safety
13 inspections, because a list that gets too long is
14 redundant, boring and the customer stops reading
15 it, and doesn't read what's really important. And
16 then finally, the one that really concerns me the
17 most, and is very confusing to me, is making
18 pedicabs subject to parking rules. This to me is
19 very confusing, raises a lot of questions. I
20 don't see it solving many problems, but I do see
21 it creating problems and raising a lot of
22 questions. As Doug had said, you know, because we
23 are a business we are not using a private motor
24 vehicle, because we are working in the City. I
25 work full time, five days, seven or eight hours,

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2 sometimes longer days. Obviously I, it is
3 necessary for me to stop. You know, we are not in
4 a car, we don't have heat and air conditioning, we
5 are working physically and we are exposed to the
6 elements. I don't resent that, that's a part of
7 my job. But I get stopped by the weather, I get
8 stopped by a pedicab breakdown. Pedicab
9 breakdowns actually do happen probably more
10 frequently than you'd think. So if my chain
11 breaks, this, this raises questions, if we are
12 under the same, we're subject to the same parking
13 rules, then we're, I believe, then have the same
14 parking rights. A person in a car, there, has a
15 right for their car to break down, have a
16 malfunction, and not get ticketed or have--but of
17 course a car can raise their hood, and this
18 signals that the car is broken down. If I have a
19 breakdown, I don't have such, anything like that.
20 Another good question, I think Doug also said,
21 "Okay if I buy the parking meter ticket, now what
22 do I do with it?" You know, in a car it gets
23 locked inside the car, it's in the windshield for
24 obvious reasons, people don't leave it on the
25 wiper, you know, so it doesn't blow away or get

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2 stolen. So, you know, if you think people aren't
3 going to steal my parking ticket off my pedicab,
4 believe me they will, probably other pedicabbers,
5 most likely. [laughter] So many question. I'm
6 hearing about Speaker Quinn proposing actually
7 easing the parking laws for the motor vehicles,
8 because we're having a problem of so many people
9 coming through the court system, claiming with
10 their ticket that their receipt and their ticket,
11 the ticket that they received from the officer, of
12 the receipt, they received from the pay-o-meter,
13 that they were ticketed by the officer while they
14 weren't halfway down the block trying to feed the
15 meter, maybe they need to get change. These are
16 all issues. If you're going to throw all these
17 hundreds of pedicabbers into that mix, it's
18 tremendous, the courtrooms will be, will be
19 bombarded with the same problem, with hundreds of
20 pedicabbers making the same claim, being halfway
21 down the block, because of course in certain areas
22 like the theater district, you're going to have
23 congestions at the pay-o-meters. And now we're
24 mixed in with the drivers. I see so many
25 questions and problems. If we have the same

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2 rights, then seems to me this bring, I now am
3 wondering what will happen in the theater district
4 where many of those blocks are metered parking
5 streets. Those are the blocks that I work on.
6 50th Street, for example, between 8th and 7th
7 Avenue, where the Gershwin Theater is, where
8 "Wicked" plays, 7th Avenue between 50 and 51st
9 Street at the Winter Garden Theater where "Mama
10 Mia" plays. Those are, at this moment, the
11 officers who work those, officers who work those
12 blocks, control the pedicab situation and they
13 tell us where we can and cannot park. We cannot
14 park directly under the marquee, but we can park
15 off to the side or down by the corner, as long as
16 it's not the bus stop, but if, now if we go into
17 pedicabs feeding the meter, what happens there
18 now? Now I have a, if I pay the meter I have a
19 right to that space. And I would think if you'd
20 ask the NYPD, who actually are dealing with the
21 concentration of pedicabs, I think that they would
22 agree that this is going to, there's at, at the
23 very least, many, many kinks in this thing that
24 have to be worked out. Questions to be asked,
25 questions about mass group drives. We were

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2 commissioned last year by eHarmony to do 40 bikes
3 to pick up 20 couples that met on eHarmony, and
4 take them from place to place to place, so we're
5 converging in one spot, then taking them to
6 another, waiting 15-20 minutes, then going to
7 another. Are you going to have 40 pedicab drivers
8 now scrambling to get their tickets, or are we
9 going to issue permits for this kind of situation?
10 So this, those tow in particular, this one in
11 particular I think is very flawed, creates a lot
12 of questions and problems. I would agree with
13 the, that there can be other ways to work out, for
14 example, the idea of pedicab stands, designated
15 places where pedicabs are allowed to congregate.
16 And as far, and again, 466, again I would like to
17 see that adjusted, you know. I would, can
18 understand the need for stiffer penalties, but
19 losing my license for, for two minor infractions,
20 goes to the opposite extreme. And I think those
21 are pretty much--

22 CHAIRPERSON GARODNICK: Okay - -

23 MEREDITH SMITH: --wraps up the
24 points I made.

25 CHAIRPERSON GARODNICK: Thank you,

1
2 well your testimony is extremely helpful and, you
3 know, I certainly take your points about blinkers
4 going on the blink and that causing you to lose
5 your livelihood, that is not what this is intended
6 to do. So we will certainly take a hard look and
7 make sure that that is not precisely what we are
8 doing. Thanks to both of you for the, the issue
9 on the up front fare, that's certainly something
10 we should take a look at. And you know, is, is a
11 fair point about, you know, in a system where
12 individual operators have the ability to decide
13 what the means is of the fare, you know, there
14 shouldn't be a lot of surprises for passengers,
15 and I take your point on that. On the subject of
16 parking rules, I wanted to just follow up with a
17 question about, about what you said. Obviously,
18 there are some challenges in figuring out where
19 you stop. And you are human, you're operating, as
20 you say, five days a week, under all elements,
21 under all temperatures and things like that. The
22 question that I have for you is, as a general
23 matter, where do you stop? When you need to stop.

24 MEREDITH SMITH: Well, personally,
25 being probably the smallest pedicab driver in NYC,

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2 I am 4'11", I'm also 40 years old, I'm healthy and
3 strong, but I do have my limits. And I do have to
4 stop regularly. And I try, I try to make it a
5 point to stop, I stop in legal, where I would
6 otherwise have to pay a meter, in legal parking
7 spots, trying, and I don't stop, you know, I'm,
8 because since regulation has come into place,
9 especially, of course, I try to make it a point to
10 obey the laws. Not in a crosswalk.

11 CHAIRPERSON GARODNICK: So you
12 don't stop in a no-standing zone, for example.

13 MEREDITH SMITH: I might st--I
14 admit I have been guilty of that occasionally,
15 while stopping, while I'm working, not to park my
16 bike and go get something to eat.

17 CHAIRPERSON GARODNICK: Right, well
18 you're allowed to, you're allowed to pick up/drop
19 off at a no-standing zone.

20 MEREDITH SMITH: Right.

21 CHAIRPERSON GARODNICK: But I'm
22 talking about parking in that--

23 MEREDITH SMITH: No, parking is if
24 I need to, something to get to eat, right, no, not
25 at, not in some place where I'm worried that I'm

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2 going to come back and either there's an officer
3 there ticketing me, or worse, my bike is gone.

4 CHAIRPERSON GARODNICK: Right, I
5 got it, and you understand the, and the rationale
6 and the motivation for, for that bill, of course,
7 is to address the predominately safety concerns
8 related to, you know, an area in the law where
9 right now it is unclear as to whether or not a
10 police officer could ticket for a parking in a no-
11 standing for a pedicab, just so you know. That's
12 part of the motivation for this. It sounds like
13 the main concern that the two of you guys have
14 articulated is the subject of where you'd put the
15 Muni meter ticket, receipt. And the vulnerability
16 that you would have for having it sitting out
17 there, in fact I'm sure all of you raised that
18 issue. Is that, is that a fair characterization
19 of the big, the biggest concern that you would
20 have about having to pay the meter?

21 MEREDITH SMITH: For me,
22 personally, I don't know that I would call it the
23 biggest concern, I would call it the most glaring
24 question. It's a--

25 CHAIRPERSON GARODNICK: Okay,

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2 that's--

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MEREDITH SMITH: --it's just an obvious fact of there--I have many concerns about the, the, about 334.

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DOUG KORMAN: May I say that my concern is that the pedicab, as I said, has a much smaller footprint, so to put it in a same space or category as a car, okay, so motorcycles are subject to the same thing. But the fact is that there are not pedicab stands, and that has always posed a problem for pedicabs. They could be in corners away from the front of theaters, not in clanking, clanging bells and annoying theater goers, and the theater goes often move down towards the Avenues to find transportation, and they could find a pedicab that way. But to make a pedicab driver pay \$115 plus for a ticket like that, would take sometimes their whole day's pay away. It's unfair.

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CHAIRPERSON GARODNICK: Okay. Well, I, listen, I thank you all for your testimony, it's extremely helpful, and we appreciate your, your being here to share it with us, and we take it extremely seriously. So, thank

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2 you. We're going to call the next panel, which is
3 David Serk, my constituent, Brendan O'Toole, and
4 James Lee. And that actually is our final panel.

5 [background noise] So. [pause, background noise]

6 DAVID SERK: Yeah, I guess I'll
7 start off.

8 CHAIRPERSON GARODNICK: Mr. Serk,
9 go right ahead.

10 DAVID SERK: First of all, I'm a
11 little less angry than I was when I, this morning.
12 [laughter] Because I've sat in front of this,
13 it'll be the third Committee I've sat in front of,
14 and I've made public testimony to the issues that
15 I felt was the root of the pedicab problem, and
16 they were never addressed. I mean, the fact of
17 the matter is--well, I'll read this and then I'll
18 go real quick. I'm not going to read, actually,
19 yeah, I have been appalled with this regulation's
20 been carried out. J1 and F1 students, who
21 according to federal law, cannot own a business or
22 operate one as an independent contractor, that's a
23 federal law. But what's happening is students on
24 an expired visa could simply show up with a
25 pedicab violation ticket, and a foreign license

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2 and being, and be awarded a pedicab business. See
3 what Chad Marlow and everybody's, the elephant in
4 the room here right now is there's, there's got to
5 be at least, out of the pedicab, out of the 895
6 pedicabs, the owners are illegal, I would say
7 probably 700, maybe 650. All you'd have to do is
8 require that you have a American driver's license,
9 quad-state driver's license, that's going to
10 eliminate 500 of your pedicab businesses right
11 there, you're going to have the 325 which I always
12 thought was a perfect number, which I thought was
13 well-researched, and I thought we could
14 accommodate. And it'd be that simple. But for
15 some reason, nobody wants to mention that until
16 now. So finally, you know, we're getting there.
17 Okay. And also, just another thing, we mention
18 like, okay, now the City doesn't properly vet
19 these individuals, and so the insurance companies
20 give them the insurance, they don't care, it's
21 like, "Oh, sure, the City gave you a license, give
22 you insurance," what's going to happen when it
23 happens like in San Diego and this kid killed
24 somebody, jumps back on a plane to Turkey. Do you
25 really think the insurance company's going to

1 honor that agreement? They'll probably say, "Oh,
2 well, the City's fault," I mean, "We, the City
3 should've vetted him," you know. So you're
4 putting your, and I mention this ad infinitum,
5 that you're putting the City up for multi-million
6 dollar claims. Now, to add insult to injury,
7 right, it's the same thing I was talking about
8 against Americans, right? If I'm an American
9 citizen from California, I come here, I want to, I
10 want to, I've, have residency, let's say I want to
11 be a pedicab driver, drive a cab. What happens
12 is, after six months, I'm required by law to get a
13 New York State driver's license. But forget about
14 what the DCA's telling you, they're, they're not
15 doing anything. I can show up with this, with my,
16 as you say, from France, and I don't even have to
17 show up. I can just do it, I can just renew it
18 online. They'll mail it back to me. And I can
19 just have another one. So, you know, no need for
20 residency, no need for that. I'm, I'm in
21 business. It's absurd, I mean it's just, the DCA
22 totally messed this up. Originally the D--it was
23 planned for the American driver's license, and in
24 the last week before, a lawyer from this guy Osman

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2 Zenk, which you'll be hearing his name more and
3 more, he was threatened to hold up legislation,
4 and that's why they pushed in. The original
5 legislation said, "American driver's license."
6 They just threw that in at the last minute 'cause
7 there was a lawsuit threatened, and they didn't
8 want to hold up regulation because of the fact
9 that it was in the press, and there was that
10 accident, so it's like, "Get this thing regulated
11 now." Okay. So the press does have a lot to do
12 with trying to get this thing regulated correctly.
13 Okay, so, in my view, like the bills that you
14 created here will have, will have an effect on the
15 few American drivers, I would say maybe tops 20,
16 right now. And, and as far as being 300 full time
17 drives that are American, I don't--that will, the
18 New York license, see right here, I have my DMV
19 right hooked up there. It's right there. It goes
20 into a databank, there's no databank for any of
21 this stuff, it's nonsense. I get a databank, but
22 nobody else, if you're here from Turkey,
23 Tajikistan, there's databank, no nothing. And so
24 it's, I'm just going back to that, the whole
25 reiterate, through the license thing, let's use

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2 some common sense here. I mean, stop forgetting,
3 you know, nobody wants to talk about it, nobody,
4 everybody wants to be afraid. I mean, I got
5 people, a lot of these guys I got 'em started in
6 the business, I was one of the first guys, I
7 recommended 'em to work. I don't want to get rid
8 of anybody legal. I don't care what country
9 they're from, I just don't want to be, I don't
10 want to see what's happening to our business. And
11 then I'll just leave at the pricing issue. I
12 always stated from the beginning, I knew this was
13 going to be crazy. Nobody's mentioning what's
14 going on. I would say about 80 percent happening
15 right now, of people are using what they call "the
16 formula." The DCA allows this tiny little rate
17 card, you can't even see it. That's just they
18 allow the type to be that big on the side of your
19 pedicab. It says a dollar per block, \$3 per
20 Avenue, \$5 initial fee per person. So, imagine
21 going from 5th Avenue to, to like 6th Avenue,
22 that's \$20, that's \$16, for one block. Imagine,
23 do that five times, that's \$60, and what they do
24 is say, and I've seen this thousands of times, and
25 it's killing this business, it's killing its

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2 reputation, they say, "Oh, no you have to pay, the
3 City told me, the City told me to put this, you
4 have to pay, I have license, you have to pay, you
5 have to pay." This is madness, and this goes on
6 and on and everybody just goes, "Well, we'll try
7 to, we'll put some law where the guy can't park
8 and we'll give him a ticket," yeah, so that's
9 going to help me? That's not going to help the
10 industry, that's not going to help the tourists.
11 I would say, rather than going in this route, what
12 you have here, I would say just shut the whole
13 thing down. Because I live, I live in Central
14 Park, by Central Park, I hate what's happened in
15 Central Park. I know what, those complaints you
16 have, I park my pedicab in a garage on that block
17 where everybody's piled up all over the place. I
18 just hate it. So I just wish you guys'd do the
19 right thing and get it right this time. Okay?
20 Thank you.

21 BRENDAN O'TOOLE: [off mic] Hi, my
22 name's Brendan O'Toole--[on mic] love me tender,
23 wow. Shouldn't give, put a microphone--
24 [background noise] Yeah. First I want to, it's,
25 commend you guys, 'cause I can pedal a bike all

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2 day, with four people, three people, and not get
3 tired, but if I had to sit in the room and battle
4 with this stuff all day, couldn't do it. I'm
5 exhau--[laughter] I'm done now. I'm like, "Oh my
6 god, how do I--" But I, everything I've heard from
7 the guys, I was fascinated by the DCA, 'cause they
8 really exhibited that they don't know much. And
9 what, you know, we tried working with them for
10 years, and the day that they, couple days before,
11 like when, right after the bill you guys voted on,
12 they allowed foreign licenses, I called a bunch of
13 guys and said, "All the guy--we're done, we're
14 through," because the street ambassadors, I take
15 pride in doing this job, 'cause along with
16 everyone that's here, because we're in great
17 shape, we pick up people, we tour, tour guides,
18 and we do, we're proud. And 400 guys are out of
19 work right now. And have been. And I'm, I'm 54
20 years old, David's what 70? And [laughter] and
21 let me say, we, we're fighting this, this, you
22 know, I'm, you can fine me all day long if you
23 want, I've never gotten a ticket that's, that's of
24 course, kiss of death, right? But I, because I'm
25 afr--you know, I know when you go out there,

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2 especially now, they're writing tickets, so you
3 got to be on the ball. You know, and you're still
4 going to, you're going to get a ticket, like
5 Meredith said. But by getting rid of the guys
6 that were street ambassadors, that had a code of
7 conduct, and you got kids here, there's nothing,
8 you know, my son's 22, but if there's not like a,
9 what's the word, incentive to be responsible,
10 which you learn, you don't get that at 22. You
11 come here, you're here for four months, what do
12 they want to do? And there's too many, and I'll
13 tell you why there's too many: 90 percent of the
14 work and, and I'm a street guy, I drove an
15 ambulance, I owned a cab in Boston for 12 years,
16 and I've done this for seven, seven years. 90
17 percent of my work and all work, I don't care what
18 anybody says, is when the cabs and then the black
19 cars, too, are full. If they're not full, I'm
20 dead, I'm dead in the water. So I can come out
21 and say, "Oh, Jesus, look at the cabs, they're
22 empty." So this is the concern, on a busy day,
23 say like, you know, when the marathon's here, this
24 is--you talk about writing violations? On a busy
25 day, these kids will overcharge so much, they're

1 stealing from 60 year old men they've just
2 finished a marathon, and they don't tell the
3 price, the number one rule and the only rule that
4 really matters, is tell the price in advance
5 exactly. If you cannot do that, you should not be
6 driving a, you know, forget about it. That alone,
7 not point because you can't speak English to a
8 ride at the end, and say, "\$85.00." Now, the
9 marathon day, everyone needs, you know, there
10 aren't any cabs, that area up by Tavern on the
11 Green, there's, is a zoo. So, guys like
12 Halloween, marathon day, this is where our
13 industry has been ruined. And prior to that, in
14 the early days, when before the, the explosion of
15 foreign licenses, I, you know, I'm not politically
16 correct. My closest friend is Ibrahim, he's, you
17 know, he's Turkish. The thing is, anything
18 saturated, right, anything saturated, and with
19 young kids, no incentive, these kids were charging
20 \$70, \$100. That spreads like wildfire. So, I'll
21 give, I'm going to give you one more example,
22 'cause I could go on forever, and I'm getting to a
23 good, I didn't do a good example, I mean, diagram,
24 because I'm, I'm a pedicab driver, I'm not a
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2 graphic designer. [laughter] And I'm proud of
3 it, you know, you get older you don't care. I'm a
4 really good pedicab driver, I'm not a good
5 speaker. Nice hair. [laughter] Okay, okay,
6 okay. Here's Lexington, here's the Empire State
7 Building. Okay? Say that's the Empire State
8 Building. Right, it's great, so, you know, it's
9 modern art, right? That's the Empire State
10 Building. In the past there'd be three, four
11 bikes, quietly sitting. Okay? And this is why
12 the guys have left the business, besides there's
13 too many. There's three guys sitting, you wait
14 respectively, just like at a theater, the same
15 metaphor, you wait quietly, you don't ring the
16 bell. People come out, they see you. Now, since
17 you allow all these kids, they can't do anything
18 else, they can't work at McDonald's, right?
19 What's better than picking you up on a bike and
20 charging you \$80? McDonald's is \$6 an hour. So
21 what happens is they all stay, there's 20 of 'em
22 in front, "Like a ride, like a ride, like a ride."
23 Now they don't just stay there, like at Empire
24 State, they get off. And they go right to the
25 door. The old timers go, you know, I'm a fighter,

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2 to a degree, right, what most guys will say, "Hey,
3 buddy, you got to get--" America's a free place.
4 And you're like, "No, it's not, yeah, free, you
5 don't know what the hell you're talking about,
6 dude." "It's free, it's not free to do that,
7 you're taking my money." "No, no, no," so there's
8 20 of 'em that go to the door. So what most
9 people do, they just drive away, "This sucks."
10 And I'm one of 'em. So there's 20 guys there, and
11 they overcharge, and they go right to the door.
12 Now that's the same as the theaters. Prior to
13 that, and this is what I've stressed about the
14 lack, lack of a code of conduct, is that's
15 intangible, that's knowing like I should probably
16 know soon to shut up. Right? But that quality is
17 rampant right now, of guys that, you know, if
18 you're, like I can't stress enough two, and I'll
19 shut up, two things. If you let people with
20 foreign licenses roll out of work, it's not, it's
21 because there is a saturation, 90 percent of this
22 business, besides the park, is when you can't get
23 a cab. Right? So, the question about parking is,
24 we can't stop anywhere. We're, anywhere we're
25 vulnerable, and most of the time there's 400 empty

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2 ones. Right? Except on those busy, busy days.
3 So that, the cap of \$325 to \$500 was fantastic, we
4 made a living. Now, we're paupers 'cause we all--
5 when there's 40 or--400 empty bikes, we look bad.

6 DAVID SERK: Just charge \$100,
7 you'll be all right.

8 BRENDAN O'TOOLE: I can't do it,
9 [laughter] can't do it, can't do it. Because this
10 is the deal. License should be revoked if you, if
11 you don't price up front. If you get two, three
12 chances at that one, because peop--we built this,
13 the public's trust, for four or five years, by
14 doing that. Without that, thank you.

15 CHAIRPERSON GARODNICK: Got it,
16 thank you very much. Go ahead.

17 JAMES LEE: Thank you, also. James
18 Lee, pedicab driver, with Manhattan Racial --
19 2006. I have a few points. Number one, this is
20 everything it's about responsibility. Agree.
21 But, responsibility has to match privilege. And
22 yellow cab, if you want to be yellow cab driver
23 you have to pass background check. You have to
24 have residential status. You have to have a local
25 license. And you have to go three day school, you

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2 have to pass English test. Pedicab, in terms of
3 transportation, we have, we are the same. But we
4 don't have such ... we have, we take the same
5 responsibility like yellow cab, but we don't have
6 such privilege. Like where's the theater guy?
7 When we, when theater time, when we pass 44th
8 Street, 46th Street, 50th Street, we can't pass.
9 Only yellow cab can pass. We will stop by NYPD.
10 We don't have same privilege. In terms of
11 parking, Meredith just mentioned, in front of
12 theater there's a limo, there's a private car was
13 parked there waiting for the people, wife, come
14 out, their passenger come out. There's no-
15 standing zoo--zone. They can park there without
16 NYPD harassment, we cannot. We have, we don't
17 have the same privilege. But in terms of pedicab
18 license, anybody can have a license, as long as
19 you have some kind of driver license. So we're
20 not the same, this is my point. So, we, if we, if
21 let us take responsibility, we have, have same
22 privilege, because we are same, we are
23 transportation.

24 DAVID SERK: Could I just add one
25 more, one quick thing about the theater.

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CHAIRPERSON GARODNICK: Wait, wait.

DAVID SERK: No, I--

CHAIRPERSON GARODNICK: Mr. Serk,
let him, let him finish, please.

DAVID SERK: Oh, I'm sorry.

JAMES LEE: Okay.

DAVID SERK: I didn't realize he
had more to say.

JAMES LEE: So, I, I just, I just
feel like we, we are not, it's now it's like
pedicab, pedicab business, pedicab driver like a
third world country. You know. I mean, just bad
image, because too many - - driver without, they
are not codified. That's, there's no background
check, no nothing. This is my point. Another
thing are concerns about bicycle lane, I think
bicycle lane has to be, pedicab have to have use
bicycle lane, for, in terms of rush hour. In
other words, we lost--I don't know, I don't know
to describe, because we are not stop bicyc--where
pedicab, bicycle still can pass us. Another thing
about, okay, one more, final, about park, that--
334, it was just not good for pedicab. Meredith
mention already, I always park my pedicab when I

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2 go to buy coffee or go to bathroom, we can park
3 between two car, only six inches, you know, six
4 feet. So, we, we can park between them, there's a
5 meter, there's a meter. We just, between them, we
6 can go quick and come out. So we don't need to
7 take this kind of responsibility, you know. So, I
8 think that the worst one is 334. I'm totally
9 against.

10 CHAIRPERSON GARODNICK: Okay, thank
11 you. Actually, I appreciate the comments. I'm
12 going to pose a question, which will give Mr. Serk
13 an opportunity to--

14 DAVID SERK: I'm sorry to
15 interrupt, I just--

16 JAMES LEE: Don't, don't worry.

17 CHAIRPERSON GARODNICK: Just to
18 make a last, last comment to all of you. The
19 question is, you all I think have either alluded
20 to or directly made the point about what is the
21 appropriate number of pedicabs. And one of the
22 bills out there eliminates the sunset of the
23 registration period of time, just sort of keeps it
24 as is. Would you all advocate our taking
25 additional steps to reduce the number of pedicabs,

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2 just say a little more, I just--

3 DAVID SERK: Well, I'm just going
4 to reiterate what I said before. That that's not
5 going to be an issue. Like I said, this, this
6 whole tri-state license thing, we're going to
7 solve 95 percent of your problems, if somebody
8 would just listen to me. [laughter] These
9 people--

10 BRENDAN O'TOOLE: It's not like--

11 DAVID SERK: [laughs]

12 BRENDAN O'TOOLE: It's not his
13 strength.

14 DAVID SERK: All these, what do you
15 think is happening with these guys on expired
16 visas, that own pedicab fleets? What's going to
17 happen when there's a tri-state license? They're
18 going to try to renew their license, and they're
19 going to say, "Well, where's your, your pedicab,"
20 actually they're going to say "Where's your, your
21 driver's license?" They're going to say, "I don't
22 have one." "Well, you can't--" so they're going to
23 be out of business. There's going to, there's
24 going to be like 250 pedicabs left.

25 CHAIRPERSON GARODNICK: Okay, I've

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2 got that. Thank you, and do you guys have
3 anything additional on that?

4 BRENDAN O'TOOLE: Well, this
5 question might not be answered, the elephant in
6 the room concept, which I blew one time with the
7 wrong person, and it was a big mistake. Why,
8 what's the, just to throw it out there, I don't,
9 and I just would like an answer some day. Why is
10 there such a politically, what's the politically
11 incorrectness of having tri-state licenses for
12 pedicabs? What's the, the--whoa, can't say that,
13 'cause I, I'm just fascinated, I've been
14 interviewed by the, on the news many times, and
15 they, I say, "I'm not going to speak to you,
16 because you're not going to repeat, you're not
17 going to say, or you're not going to film what I
18 say," and that's always taken out. And I'm just
19 curious about the political, you know, the
20 incorrectness of it. Because it's destroyed our
21 job. Okay? And one other thing, and I, I beg of
22 you this, this is, I think this is clear: if I, a
23 big--80 percent, or 60 percent of my work every
24 day from Grand Central to Penn Station, I charge
25 \$20. If you go by that, the rate that's on the,

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2 the bikes, and they do it, and this is what they
3 do, they point at the end, so I say, "\$15 to \$20,
4 what do you want to pay?" Right? They'll say,
5 they don't say anything at the end, \$75. That's
6 since the DCA regulation. So what's that do to
7 the business, but anyway.

8 CHAIRPERSON GARODNICK: So, Lee, do
9 you want to have the last word, then.

10 JAMES LEE: Oh, one more, if we,
11 pedicab is not summer job. If pedicabs do, can be
12 summer job, that's it. This doesn't work.

13 CHAIRPERSON GARODNICK: Okay, well,
14 I think we are going to, we're going to end it
15 there. I will say, make the one, one comment
16 which is that I hope you all feel that this
17 hearing has actually delved into some of those
18 issues. I think that there, the issues that you
19 all are raising on the subject of licensing and
20 quad-state and all the rest of it, you know, those
21 are issues that we need to explore here, and
22 you've articulated them very clearly. As well as
23 up front quotes, concerns about the mechanics of
24 some of the, the bills, particularly the parking
25 bill. So, we appreciate your, your being here and

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your patience in waiting to, to testify, and to
all of you who were here today to participate in
the hearing, we say thank you. Of course, to our
Committee counsel and policy analyst, and to my
staff, we say thank you very much for their
preparation for the hearing. And with that, we
are adjourned, thank you. [gavel]

PANEL: Thank you.

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink on a light-colored background.

Date March 14, 2011