

Testimony

of

Corinne Schiff, JD
Deputy Commissioner, Environmental Health

New York City Department of Health and Mental Hygiene

before the

New York City Council Committee on Health

on

Intros 1571, 1103, 1263 and 1456

May 3, 2017
New York City Council Chambers
New York, NY

Good morning Chairman Johnson and members of the Health Committee. I am Corinne Schiff, Deputy Commissioner for Environmental Health at the New York City Department of Health and Mental Hygiene. I am joined by my colleague Kim Kessler, Assistant Commissioner for Chronic Disease Prevention and Tobacco Control. On behalf of Commissioner Bassett, thank you for the opportunity to testify today on four bills related to food safety inspections.

Ten years ago, a video of rats swarming a Manhattan fast food restaurant went viral. The video undermined public confidence in restaurant safety and prompted the Health Department to undertake a comprehensive review of our inspectional system. We concluded that too many restaurants had poor food handling practices, that restaurants had little incentive to improve and that the public was unaware of how restaurants performed. Restaurants that maintained high standards received no public benefit and appeared to diners to be no different from those demonstrating poor restaurant hygiene on their inspections.

After an eighteen month planning process, we created a letter grading system that combines transparency with powerful incentives for restaurants to improve their food safety practices, and risk-based oversight that promotes public health. The letter grade cards have become part of our street culture. Restaurant grading is hugely popular among New Yorkers and visitors alike, and the grades allow consumers to make informed decisions based on easy-to-understand information.

The incentive-based system that forms the foundation of letter grading is less well known than the grades themselves, but is just as important. The system is designed to motivate restaurants to meet the highest standards by rewarding those that earn an "A" grade on their initial, unannounced inspection with no fines and no new inspection for a year. Getting an A on an unannounced inspection is key because it is the inspection most likely to reflect ongoing food hygiene practices. Our data show that an initial "A" is the single best predictor that a future inspection will also yield an "A".

Restaurants that do not earn an "A" on that initial inspection receive a second chance at a re-inspection conducted about a month later. Many restaurants improve by the re-inspection, and if they do, and earn an "A", again there are no fines.

These incentives incorporate a risk-based inspection schedule tailored to each restaurant, based on its immediate inspection history. Poorer performing restaurants are inspected more frequently than better performing ones. As a restaurant improves, it demonstrates less need for Department oversight, and is inspected less often. A risk-based inspection schedule is the regulatory standard, and is what the U.S. Food and Drug Administration (FDA) and New York State Department of Health recommend.

We have seen dramatic improvement in sanitary conditions in restaurants since launching letter grading and incentive-based inspections in 2010. Before 2010, a majority of restaurants

scored in what is now the “B” or “C” range on their initial inspection. Today, 62 percent of restaurants post an “A” on initial inspection.

The improvement was rapid: in just one year after we launched the program, 81 percent of restaurants were posting “A’s”; at three years, 86 percent of restaurants had “A’s”, and after five years, 93 percent of restaurants were posting “A’s” in their windows.

What does this mean in terms of food safety? Overall sanitary violations are down 41 percent since fiscal year 2012. And when we look at key food safety violations:

- The percent of restaurants cited for holding cold food at the wrong temperature, which can allow dangerous pathogens to multiply quickly in food and make a lot of people sick is down 38 percent, from 29 percent of restaurants cited in 2010 (pre-grading) to 18 percent today.
- Violations for signs of mice and roaches each decreased 44 percent in that same time period.
- Similarly, we’ve seen a decrease in the percent of restaurants cited for not having proper hand washing facilities, overall this violation is down 67 percent. From nine percent in 2010 to only 3 percent today.
- And finally, before 2010, 12 percent of restaurants received violations for not having a supervisor on site trained in food protection. Having a trained supervisor is not just a Health Code requirement but it is the single best predictor of good sanitary practices. The percentage of restaurants failing to meet this requirement is now down to only 7 percent, a 42 percent decrease.

Coinciding with letter grading and incentive-based inspections, we have seen a 32 percent drop in the rate of *Salmonella* cases in New York City since 2010, after years when the rate remained flat. During this same period, combined *Salmonella* rates in Connecticut, New Jersey, and areas of New York State outside of New York City declined by only 7 percent.

Restaurants have also seen tremendous benefits from letter grading and incentive-based inspections. Fewer restaurants are being closed because they have improved their practices. In fiscal year 2010, we temporarily closed 1,051 restaurants because of serious health violations. In fiscal year 2016, that number dropped to 566.

And fines are down:

- Fines paid by restaurants have declined dramatically in the last few years, from \$52 million in fiscal year 2012 to \$22 million in fiscal year 2016, a 58 percent decrease. Fines are now at a level below what they were before grading began and at the lowest point in the past 10 years.
- In fact, 85 percent of restaurants earn “A” grades at the time of their inspections, and with

that “A” grade, they pay no fines at all.

- Restaurants not yet earning “As” have benefited from fine reduction, too. Working with the Council, in 2014 the Department capped fines for the majority of violations at \$200, the lowest level allowed under the New York City Health Code.
- And, together with the Council, we created a fine waiver program, eliminating fines for restaurants that end up with an A-range score after contesting an initial inspection ticket at a hearing.

These changes have brought fine relief to restaurants without lowering standards and compromising safety.

Owning a restaurant in New York is incredibly challenging, which is why we are gratified that more operators are performing well on inspections and avoiding fines. The food service industry is a vital part of New York City’s economy, and it has thrived since grading and incentive-based inspections began. In 2010, New York City restaurants saw taxable sales of \$11.4 billion. In 2016, that number rose to \$18.5 billion – an increase of more than 60 percent. And not all of the increase was due to an improving overall economy. In 2010, New York City restaurants and bars made up 10.4 percent of taxable sales across all industries; in 2016, this increased to 12.6 percent, demonstrating strong growth in the restaurant sector.

With 93 percent of restaurants posting an “A”, the Department is focused on helping the remaining small number of restaurants reach that top mark. Thanks to 2013 City Council legislation, we created a consultative inspection program that offers one-on-one, violation-free, educational inspections for restaurant owners. We established an ombuds office that provides restaurant owners with a point of contact in the Department so they can easily ask questions about inspection results, make complaints and sometimes even pass along a compliment. And, we established a formal mechanism by which the restaurant industry, along with food safety and nutrition experts, could advise the Health Department by constituting a Food Service Establishment Advisory Board.

To advance language access, we recently published the study guide for our Food Protection Course online for free in *thirty-six* languages other than English. We developed and are piloting an “Inspection History Report,” an individualized review of a particular restaurant’s pattern of violations. The report enables a restaurateur to focus on areas for improvement, and it provides detailed guidance on how to comply with the food safety rule in need of attention. With input from the Advisory Board, we are testing different methods of delivering this report to restaurant owners.

This spring we are offering a series of free “Practicing A-Grade Food Safety” courses for restaurant owners and managers. The course will be held in each borough—the first is tomorrow in Queens—and has been organized in partnership with the Borough Presidents. More than 300 people representing 163 restaurants have so far enrolled in tomorrow’s class.

We believe that there is always room to improve any program, and restaurant inspections are no exception. But fundamental to the improvement in food safety practices since 2010 is the incentive-based inspection schedule for restaurants and transparency for the public through letter grading.

Intro. 1571

I will turn now to the bills under consideration today. Intro. 1571 would severely undermine the incentive-based system that has led to these historic improvements in food safety practices. Moreover, the legislation would restrict the Health Department's discretion to use its scientific judgment and analysis to determine when it is appropriate to conduct food safety inspections.

The bill would also undermine the Advisory Board, created just four years ago by the Council, by mandating in the Administrative Code significant changes to the Department's food safety program. The Department recommends that the changes to the inspection schedule proposed by the bill be reviewed by the Advisory Board so the Council and the Department can benefit from the Board members' multiple perspectives.

The proposed changes to the inspection schedule are not supported by the data showing that the current emphasis on the initial inspection leads to better sanitary practices by restaurants. Seventy-seven percent of restaurants that earn an "A" grade at their initial inspection go on to earn an "A" at their next initial inspection. But only 53 percent of restaurants that reduce their score below 14 points at the Office of Administrative Trials and Hearings (OATH) get an "A" on their next inspection.

The Health Department determines the level of oversight appropriate for each restaurant based on the outcome of that restaurant's inspections, rather than the outcome of an administrative hearing—as the bill would require—because our data show that the inspection result is a far better predictor of food safety practices than the result of hearings.

Moreover, tying an inspection schedule to the adjudication schedule—as the bill would require—would create safety risks for diners. OATH, not the Health Department, controls the timing of the hearings on restaurant tickets, juggling hearing calendars for multiple agencies. Hearings after an initial inspection are scheduled weeks later and owners are granted an automatic delay upon request. Under this bill, the Health Department would have to postpone a restaurant's re-inspection until a hearing is held, even if the initial inspection revealed very serious Health Code violations.

The Department respects the role of OATH and the need for due process, which is why adjudications were built into our system from the beginning. The current system provides for due

process while allowing the Department to follow up quickly on violations that pose a potential health and safety risk to New Yorkers.

Intro. 1571 would also require the Health Department to make changes to the inspectional scoring system that were recommended for review by the Advisory Board and rejected by the Department. The Advisory Board had asked the Department to consider whether eight current violations should be removed from the scoring system so they would not be part of the letter grade and that the requirements for one violation be relaxed. Based on an analysis of our data and our review of the FDA Model Food Code, the New York State Sanitary Code and the scientific literature, the Department agreed with some of those suggestions, modified others and rejected still others. We provided our response to the Advisory Board at its quarterly meeting this past March, and the Board will have an opportunity to respond to our analysis. This conversation between the Department and the Advisory Board is ongoing, and as intended, provides an opportunity for the Board to help guide the Department in refining the inspection system – bypassing this process in this bill would undermine the 2013 law that created the Advisory Board. Based on our review of the science, we believe that requiring the Department to make the changes we have rejected would create risks for the dining public.

For example, the bill would require the Department to remove from grading the requirement to provide hand-washing signs in customer bathrooms. Since it is good hygiene practice for everyone to wash hands after using the bathroom, and restaurant employees may use customer bathrooms, we rejected this recommendation. Similarly, we rejected a recommendation that the requirement to maintain proper lighting in a food prep area be removed from the graded inspection because we think it is hard to prep food safely if you cannot see the food you are prepping. In both of these cases, the requirements in question are part of the New York State Sanitary Code and the FDA Model Food Code and the vast majority of the city's restaurants fully comply.

Intro. 1103, Intro 1263 and Intro 1456

Let me turn briefly to the other bills under consideration today. Intro. 1263, introduced by Council Member Dromm, would require the Health Department to post to its website results of the Department's inspections of public and private school cafeterias. The Health Department supports more transparency for parents and students about cafeteria inspections, which generally result in fewer violations than restaurants. We are working with the Department of Education (DOE) to make inspection results available on the DOE's School Food webpage, where we think parents are most likely to look for them.

Intro. 1456, introduced by Council Member Koslowitz, would require the Health Department to assign letter grades to mobile food carts and trucks. This is an idea the Department has contemplated in the past, and we agree that there should be more transparency about our mobile food vending inspections. We recommend that any local law changes to mobile

vending be discussed as part of the larger conversation that the Council and Administration are having about overall reform of the mobile vending industry.

Finally, Intro 1103, introduced by Council Member Barron, would require restaurants to hang an informational poster about the risks of excessive sugar and other carbohydrate intake for diabetic and pre-diabetic individuals. We appreciate the intent of this bill to address this disease on a population level by providing information to consumers, and we agree that restaurants are an important place for approaches to address public health, including through health warnings. For people living with diabetes and pre-diabetes, diet is a key component of the individualized care plan. However, because there is no one-size-fits-all dietary recommendation for all people with diabetes and pre-diabetes, crafting a poster that provides sufficiently tailored information on a complex topic could present challenges. We also note that experts recommend that nutrition labels be simple and easy to understand, requiring no specific or sophisticated nutritional knowledge; however, the proposed signage may not provide actionable information to consumers as it does not link health messaging to specific menu items. We look forward to discussing this bill further.

Thank you for the opportunity to testify. I would be happy to take questions.

Top Violations (% of Cited)

Viol. Type	Code	Summary	Sept. 2015 % of Viol.	Sept. 2016 % of Viol.	Dec. 2016 % of Viol.	March 2017 % of Viol.
General	10F	Improper non-food surface	13.4	13.2	13.3	13.3
General	08A	Facility not vermin proof	10.6	10.6	10.7	10.7
Critical*	02G	Improper cold holding	9.0	7.3	7.0	7.0
Critical	06D	Improper food contact surface	7.3	7.6	8.0	8.2
Critical	04L	Evidence of mice	6.5	5.9	6.1	6.2
Critical	06C	Inadequate food protection	6.4	8.4	8.4	8.3
Critical*	02B	Improper hot holding	5.6	5.5	5.6	5.6
General	10B	Plumbing not properly installed/ maint.	5.3	6.3	6.3	6.2
Critical	04N	Flies in facility	4.0	4.7	4.7	4.6
Critical*	04H	Food is contaminated/cross-contam.	2.5	2.1	2.1	2.1
Critical	04A	FPC holder not held by supervisor	2.5	2.5	2.6	2.5

*Public Health Hazard.

Source. NYC DOHMH, FACTS II, run 9/25/2015, 9/6/7/2016, 12/13/2016, and 3/6/2017.

Pre-adjudicated general & critical violations on initial inspection in 12 month period.



Bureau of Food Safety and Community Sanitation
SELF-INSPECTION WORKSHEET FOR FOOD SERVICE ESTABLISHMENTS

PART ONE – SCORED VIOLATIONS

CRITICAL VIOLATIONS	CONDITIONS					SCORE
	I	II	III	IV	V	
FOOD TEMPERATURE						
2A* Food not cooked to required minimum temperature: • Poultry, meat stuffing, stuffed meats ≥ 165°F for 15 seconds • Ground meat and food containing ground meat ≥ 158°F for 15 seconds • Pork, any food containing pork ≥ 155°F for 15 seconds • Rare roast beef, rare beefsteak except per individual customer request ≥ required temperature and time • All other foods except shell eggs per individual customer request ≥ 145°F for 15 seconds	-	-	-	10	28	
2B* Hot food item not held at or above 140°F.	7	8	9	10	28	
2C Hot food item that has been cooked and refrigerated is being held for service without first being reheated to 165°F or above within 2 hours.	5	6	7	8	-	
2D Precooked potentially hazardous food from commercial food processing establishment that is supposed to be heated, but is not heated to 140°F within 2 hours.	5	6	7	8	-	
2E Whole frozen poultry or poultry breasts, other than a single portion, is being cooked frozen or partially thawed.	5	6	-	-	-	
2F Meat, fish or molluscan shellfish served raw or undercooked without prior notification to customer.	-	-	-	8	-	
2G* Cold food item held above 41°F (smoked fish and reduced oxygen packaged foods above 38°F) except during necessary preparation.	7	8	9	10	28	
2H* Food not cooled by an approved method whereby the internal product temperature is reduced from 140° F to 70° F or less within 2 hours, and from 70°F to 41°F or less within 4 additional hours.	7	8	9	10	28	
2I Food prepared from ingredients at ambient temperature not cooled to 41°F or below within 4 hours.	5	6	7	8	-	
2J* Reduced oxygen packaged (ROP) foods not cooled by an approved method whereby the internal food temperature is reduced to 38°F within two hours of cooking and if necessary further cooled to a temperature of 34°F within six hours of reaching 38°F.	7	8	9	10	28	
FOOD SOURCE						
3A* Food from unapproved or unknown source or home canned. Reduced oxygen packaged (ROP) fish not frozen before processing; or ROP foods prepared on premises transported to another site.	-	-	-	10	28	
3B* Shellfish not from approved source, improperly tagged/labeled; tags not retained for 90 days.	-	-	-	10	28	
3C* Eggs found dirty/cracked; liquid, frozen or powdered eggs not pasteurized.	7	8	9	10	28	
3D* Canned food product observed swollen, leaking or rusted, and not segregated from other consumable food items.	7	8	9	10	28	
3E* Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system observed.	-	-	-	10	28	
3F* Unpasteurized milk or milk product present.	-	-	-	10	28	
3G Raw food not properly washed prior to serving.	5	6	7	8	-	
FOOD PROTECTION						
4A Food Protection Certificate not held by supervisor of food operations.	-	-	-	-	10	
4B* Food worker prepares food or handles utensil when ill with a disease transmissible by food, or has exposed infected cut or burn on hand.	-	-	-	10	28	
4C* Food worker does not use proper utensil to eliminate bare hand contact with food that will not receive adequate additional heat treatment.	7	8	9	10	28	
4D* Food worker does not wash hands thoroughly after using the toilet, coughing, sneezing, smoking, eating, preparing raw foods or otherwise contaminating hands.	-	-	-	10	28	
4E* Toxic chemical improperly labeled, stored or used such that food contamination may occur.	7	8	9	10	28	
4F* Food, food preparation area, food storage area, area used by employees or patrons contaminated by sewage or liquid waste.	-	-	-	10	28	
4G* Unprotected potentially hazardous food re-served.	-	-	-	10	28	
4H* Raw, cooked or prepared food is adulterated, contaminated, cross-contaminated or not discarded in accordance with HACCP plan.	7	8	9	10	28	
4I Unprotected food re-served.	5	6	7	8	-	

* Public Health Hazards (PHH) must be corrected immediately

+ Pre-permit Serious (PPS) Violations that must be corrected before permit is issued

4J	Appropriately scaled metal stem-type thermometer or thermocouple not provided or used to evaluate temperatures of potentially hazardous foods during cooking, cooling, reheating and holding.	-	-	-	8	-				
4K	Evidence of rats or live rats present in facility's food and/or non-food areas.	5	6	7	8	28				
4L	Evidence of mice or live mice present in facility's food and/or non-food areas.	5	6	7	8	28				
4M	Live roaches present in facility's food and/or non-food areas.	5	6	7	8	28				
4N	Filth flies or food/refuse/sewage-associated (FRSA) flies present in facility's food and/or non-food areas. Filth flies include house flies, little house flies, blow flies, bottle flies and flesh flies. Food/refuse/sewage-associated flies include fruit flies, drain flies and Phorid flies.	5	6	7	8	28				
4O	Live animals other than fish in tank or service animal present in facility's food and/or nonfood areas.	5	6	7	8	-				
FACILITY DESIGN										
5A*	Sewage disposal system improper or unapproved.	-	-	-	10	28				
5B*	Harmful, noxious gas or vapor detected. CO ≥ 13 ppm.	-	-	-	10	28				
5C+	Food contact surface improperly constructed or located. Unacceptable material used.	7	8	9	10	28				
5D+	Hand-washing facility not provided in or near food preparation area and toilet room. Hot and cold running water at adequate pressure to enable cleanliness of employees not provided at facility. Soap and an acceptable hand-drying device not provided.	-	-	-	10	28				
5E+	Toilet facility not provided for employees or for patrons when required.	-	-	-	10	28				
5F+	Insufficient or no refrigerated or hot holding equipment to keep potentially hazardous foods at required temperatures.	-	-	-	10	28				
5G+	Properly enclosed service/maintenance area not provided. (Mobile Food Commissary)	-	-	-	10	28				
5H+	No facilities available to wash, rinse and sanitize utensils and/or equipment.	-	-	-	10	28				
5I+	Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.	-	-	-	10	28				
PERSONAL HYGIENE & OTHER FOOD PROTECTION										
6A	Personal cleanliness inadequate. Outer garment soiled with possible contaminant. Effective hair restraint not worn in an area where food is prepared.	5	6	7	8	-				
6B	Tobacco use, eating, or drinking from open container in food preparation, food storage or dishwashing area observed.	5	6	7	8	-				
6C	Food not protected from potential source of contamination during storage, preparation, transportation, display or service.	5	6	7	8	-				
6D	Food contact surface not properly washed, rinsed or sanitized after each use and following any activity when contamination may have occurred.	5	6	7	8	-				
6E	Sanitized equipment or utensil, including in-use food-dispensing utensil, improperly used or stored.	5	6	7	8	-				
6F	Wiping cloths soiled or not stored in sanitizing solution.	5	6	7		-				
6G*	HACCP plan not approved or approved HACCP plan not maintained on premises.	-	-	-	10	28				
6H	Records and logs not maintained to demonstrate that HACCP plan has been properly implemented.	-	-	-	-	28				
6I	Food not labeled in accordance with HACCP plan.	-	-	-	10	28				
OTHER CRITICALS										
7A	Duties of an officer of the Department interfered with or obstructed.	-	-	-	-	28				
CRITICAL VIOLATIONS TOTAL										
GENERAL VIOLATIONS						CONDITIONS		SCORE		
						I	II		III	IV
VERMIN / GARBAGE										
8A	Facility not vermin proof. Harborage or conditions conducive to attracting vermin to the premises and/or allowing vermin to exist.	-	-	4	5	-				
8B	Covered garbage receptacle not provided or inadequate, except that garbage receptacle may be uncovered during active use. Garbage storage area not properly constructed or maintained; grinder or compactor dirty.	2	3	4	5	-				
8C	Pesticide use not in accordance with label or applicable laws. Prohibited chemical used/stored. Open bait station used.	2	3	4	5	28				
FOOD SOURCE										
9A	Canned food product observed dented and not segregated from other consumable food items.	2	3	4	5	-				
9B	Thawing procedures improper.	2	3	4	5	-				
9C	Food contact surface not properly maintained.	2	3	4	5	-				

* Public Health Hazards (PHH) must be corrected immediately

+ Pre-permit Serious (PPS) Violations that must be corrected before permit is issued

FACILITY MAINTENANCE						
10A	Toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.	2	3	4	5	-
10B	Plumbing not properly installed or maintained; anti-siphonage or backflow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly.	2	3	4	5	28
10C	Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage rooms.	2	3	4	5	-
10D	Mechanical or natural ventilation system not provided, improperly installed, in disrepair and/or fails to prevent excessive build-up of grease, heat, steam condensation vapors, odors, smoke and fumes.	2	3	4	5	-
10E	Accurate thermometer not provided in refrigerated or hot holding equipment.	2	3	4	5	-
10F	Non-food contact surface improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit.	2	3	4	5	-
10G	Food service operation occurring in room used as living or sleeping quarters.	2	3	4	5	-
10H	Proper sanitization not provided for utensil ware washing operation.	2	3	4	5	-
10I	Single service item reused, improperly stored, dispensed; not used when required.	2	3	4	5	-
10J	"Wash hands" sign not posted at hand-wash facility.	2				
OTHER GENERALS						
99B	Other general.	2	3	4	5	28
GENERAL VIOLATIONS TOTAL:						
CRITICAL AND GENERAL COMBINED TOTAL:						
PART TWO - UNSCORED VIOLATIONS						

		CONDITION OBSERVED	
		YES	NO
DISTRIBUTION OF TOBACCO PRODUCTS THROUGH VENDING MACHINES			
15A	Tobacco vending machine present where prohibited.		
15B	Tobacco vending machine placed less than 25 feet from entrance to premises.		
15C	Tobacco vending machine not visible to the operator, employee or agent.		
15D	Durable sign with license number, expiration date, address and phone number not posted.		
TOBACCO PRODUCT REGULATION ACT			
15E	Out-of-package sale of tobacco products observed.		
15F	Employee under the age of 18 selling tobacco products without direct supervision of an adult retail dealer or dealer.		
15G	Sale to minor observed.		
15H	Sign prohibiting sale of tobacco products to minors not conspicuously posted.		
SMOKE-FREE AIR ACT			
15I	"No Smoking" and/or "Smoking Permitted" sign not conspicuously posted. Health warning not present on "Smoking Permitted."		
15J	Ashtray present in smoke-free area.		
15K	Operator failed to make good faith effort to inform smokers of the Smoke-Free Air Act prohibition of smoking.		
15L	Smoke free workplace smoking policy inadequate, not posted, not provided to employees.		
15M	Use of tobacco product on school premises (at or below the 12th grade level) observed.		
15N	Smoking permitted and/or allowed in smoking prohibited area under the operator's control.		
SALE OF HERBAL CIGARETTES			
15O	Sale of herbal cigarettes to minors observed.		
TOBACCO HEALTH WARNING AND SMOKING CESSATION SIGN			
15P	No tobacco health warning and smoking cessation sign(s) are posted.		
15Q	Tobacco health warning and smoking cessation sign(s) are obstructed and/or not prominently displayed.		
15R	No large tobacco health warning and smoking cessation sign is posted where tobacco products are displayed; small sign(s) are not posted at each register or place of payment.		

		CONDITION YES	OBSERVED NO
RESTRICTION ON THE SALE OF CERTAIN FLAVORED TOBACCO			
15S	A flavored tobacco product sold or offered for sale in an establishment other than a tobacco bar.		
15T	Original label for tobacco product sold or offered for sale not maintained on site.		
ARTIFICIAL TRANS FAT			
16A	A food containing artificial trans fat, with 0.5 grams or more of trans fat per serving, is being stored, distributed, held for service, used in preparation of a menu item, or served.		
16B	The original nutritional fact labels and/or ingredient label for a cooking oil, shortening or margarine or food item sold in bulk, or acceptable manufacturer's documentation not maintained on site.		
CALORIE MENU LABELING			
16C	Caloric content not posted on menus, menu boards or food tags, in a food service establishment that is 1 of 15 or more outlets operating the same type of business nationally under common ownership or control, or as a franchise or doing business under the same name, for each menu item that is served in portions, the size and content of which are standardized.		
16E	Caloric content range (minimum to maximum) not posted on menus and or menu boards for each flavor, variety and size of each menu item that is offered for sale in different flavors, varieties and sizes.		
16F	Specific caloric content or range thereof not posted on menus, menu boards or food tags for each menu item offered as a combination meal with multiple options that are listed as single items.		
ADMINISTRATION AND DOCUMENTATION			
18A	Current valid permit, registration or other authorization to operate establishment not available.		
18B	Document issued by the Board of Health, Commissioner or Department unlawfully reproduced or altered.		
18C	Notice of the Department of Board of Health mutilated, obstructed, or removed.		
18D	Failure to comply with an Order of the Board of Health, Commissioner, or Department.		
18E	Failure to report occurrences of suspected food borne illness to the Department.		
18F	Permit not conspicuously displayed.		
18G	Manufacture of frozen dessert not authorized on Food Service Establishment permit.		
18H	Failure of event sponsor to exclude vendor without a current valid permit or registration.		
SIGNAGE			
20A	Food allergy information poster not conspicuously posted where food is being prepared or processed by food workers.		
20B	Food allergy information poster not posted in language understood by all food workers.		
20C	Food allergy poster does not contain text provided or approved by Department.		
20D	"Choking first aid" poster not posted. "Alcohol and pregnancy" warning sign not posted. Resuscitation equipment: exhaled air resuscitation masks (adult & pediatric), latex gloves, sign not posted. Inspection report sign not posted.		
20E	Letter Grade or Grade Pending card not conspicuously posted and visible to passersby.		
20F	Current letter grade card not posted.		
NUISANCE AND OTHER MISCELLANEOUS			
22A	Nuisance created or allowed to exist. Facility not free from unsafe, hazardous, offensive or annoying conditions.		
22B	Toilet facility used by women does not have at least one covered garbage receptacle.		
22C	Bulb not shielded or shatterproof, in areas where there is extreme heat, temperature changes, or where accidental contact may occur.		
22E	ROP Processing equipment not approved by DOHMH.		

* Public Health Hazards (PHH) must be corrected immediately

+ Pre-permit Serious (PPS) Violations that must be corrected before permit is issued



Bureau of Food Safety and Community Sanitation Contact Information

Phone: (212) 676-1600
 Fax: (212) 676-1666
 web: www.nyc.gov/health

Michael R. Bloomberg
 Mayor

Thomas Farley, M.D., M.P.H.
 Commissioner of Health and Mental Hygiene

Daniel Kass, M.S.P.H.
 Deputy Commissioner, Division of Environmental Health

Robert Edman
 Assistant Commissioner

Elliott S. Marcus
 Associate Commissioner

Michelle Robinson
 Deputy Executive Director, Program Planning and Policy

Committee on Health, New York City Council
Wednesday, May 3, 2017 at 10:00A.M.
Council Chambers, City Hall, New York, NY

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

Int. No. 1571: in relation to reforming the city's restaurant inspection program

Int. No. 1456: In relation to requiring mobile food vendors to post letter grades received for sanitary inspections.

Int. No. 1103: In relation to requiring signage about the risks of sugars and other carbohydrates for people with diabetes and prediabetes.

My name is Andrew Rigie and I am the Executive Director of the New York City Hospitality Alliance ("The Alliance"), a not-for-profit trade association representing thousands of eating and drinking establishments throughout the five boroughs that are regulated by the New York City Department of Health.

The Alliance supports Int. 1571 that will reform the Letter Grade inspection system. This legislation will provide due process to restaurants by ensuring a judge's ruling takes precedent over the inspector accusations from the initial inspection. This reform will also provide consistency to the Letter Grade system because it will apply the same due process standard to the initial inspection that is used by the Department of Health during their re-inspection process.

If this consistent standard had been applied in 2014, approximately 2000 more sanitary restaurants that contested their inspector's allegations that year would have been awarded an A Letter Grade, and not been subject to re-inspections during that cycle. Thus, allowing the Department of Health to focus greater resources on re-inspecting restaurants that pose a greater risk to public health. This risk was highlighted in a **New York Times** article titled, "**The Restaurant Grade System is Broken.**" The article's author, Daniel E. Ho, collaborated with researchers at New York University, Stanford and Yale law schools to analyze hundreds of thousands of restaurant inspections from around the country. Mr. Ho wrote this about our city's inspection system:

"But a second, and perhaps more disconcerting, flaw of the inspection system goes beyond whether the grades themselves offer useful information. Grading appears to shift inspection resources away from the worst offenders."

Also troubling is that those 2000 restaurants that should have been awarded an A letter grade on their initial inspection according to an independent administrative law judge, but were not, is an artificially low number. That is because when the adjudication of an initial inspection can't result in a letter grade under the current system, restaurants are incentivized by the City to waive their right to a tribunal hearing, accept the Offer of Settlement that assigns lower fines, which in turn feeds the approximately \$30 million in annual fines levied by the Health Department.

The Alliance also supports codifying the Health Department's Food Service Establishment Advisory Board's recommendations to modify the number of points associated with the stated violations. We believe it fosters a healthier business environment when the penalties (**over→**)

associated with violations better reflect their severity, and when enforcement is focused on education first. This regulatory approach has proven effective at other city agencies like the Department of Consumer Affairs. And, because The Alliance supports the Department of Health's ability to conduct compliance inspections of restaurants when they have reasonable belief that an increased risk to public health exists, reforming the system also serves the public interest.

The Alliance supports Int. 1456 that will require mobile vendors to post Letter Grades resulting from sanitary inspections. Although, The Alliance believes the Letter Grade system is misleading to the public and not an appropriate regulatory scheme, we believe it is fair that all businesses selling food in New York City are held to the same standard and disclosure requirement.

The Alliance understands the sponsors of Int. 1103 seek to address a very important health issue. We however believe this legislation is misdirected and have questions about the influence that posting such a sign will have on the consumer behavior it attempts to influence. Local government does not need to mandate restaurants post another sign that is applicable to only a subset of the population who are likely under doctor supervision for their condition. We oppose Int. 1103 and encourage the City to seek other more meaningful ways to directly support people with diabetes and pre-diabetes.

We thank the City Council for its interest in working with the business community on sensible regulatory reform and appreciate your consideration of our comments. Please contact me with any questions.

Respectfully submitted,

Andrew Rigie
Executive Director
NYC Hospitality Alliance
arigie@theNYCalliance.org



Testimony of Street Vendor Project

New York City Council Health Committee

Re: Intro 1456 (Letter Grading for Mobile Food Vendors)

May 3, 2017

My name is Matthew Shapiro and I am a staff attorney at the Street Vendor Project at the Urban Justice Center. The Street Vendor Project is a membership-based organization with more than 2,000 members who sell food and merchandise from trucks, carts, and tables across the City. We organize vendors to make their voices heard and provide legal representation and small business advice.

I am here in regards to Intro No. 1456 which would require mobile food vendors to post letter grades received from food safety inspections. We support this bill, and we support the idea of giving letter grades to mobile food vendors. Vendors serve delicious and safe food that needs to be recognized as such by the city. However, there needs to be more detail provided in the legislation in order to ensure parity between mobile food vendors and other food service establishments.

The current wording in the bill does little more than define an "Inspection Results Placard" and require it to be posted on the vendor's vehicle or cart. This will allow the Health Department to create its own rules for vendor letter grades. We already know examples of food vendors being treated differently than restaurants by the Department of Health. For example, vendors can technically have their permit revoked after one violation of the Health Code. Restaurants, on the other hand, can only have their permit revoked for "serious and repeated violations." We acknowledge that some Health Code provisions apply exclusively to vendors and not restaurants; we will be happy to work with the Health Department to make sure that the grading system fairly accounts for these differences. What we don't want are food vendors being graded more severely than restaurants for the same violations. This would harm vendors and mislead the public, who expect an "A" to mean the same, whether on a cart or in a restaurant window.

Since food vendors and restaurants are already following nearly all the same Health Code regulations as restaurants, there should be no reason to treat them differently in the grading process. This legislation should ensure that. Additionally, any grading system for food vendors should only be premised only on violations that directly impact food safety. A vendor should not

get a lower grade because they are a foot too close to the crosswalk, for example. A potential \$500 fine is enough of a penalty.

Mobile food vendors are proud of the food that they serve and they should be graded accordingly. Although food vending is already transparent (vendors cook their food right in front of you,) this legislation will help to legitimize food vendors as small business owners who deserve the same praise as other food service establishments.

Thank you for the opportunity to testify today.



NYU

**COLLEGE OF GLOBAL
PUBLIC HEALTH**

Jennifer L. Pomeranz, JD, MPH
Assistant Professor
Interim Chair, Department of Public
Health Policy and Management

College of Global Public Health
715 Broadway, 10th Floor
New York, NY 10003
Email: jlp284@nyu.edu

May 3, 2017

Honorable Corey Johnson
Chair, Health Committee
New York City Council
City Hall
New York, NY 10007

Regarding: Int. No. 1571-2017

Dear Chairman Johnson,

As members of the Food Service Establishment Advisory Board and citizens of New York City, we submit this comment in opposition to Int. No. 1571-2017. The City Council should reject this amendment to the New York City administrative code for the following five reasons: (1) it directly contravenes the City Council's purpose for establishing the Food Service Establishment Advisory Board; (2) it undermines the very purpose of the Department of Health and Mental Hygiene; (3) it is of deep concern from a public health and food safety perspective; (4) it adds administrative and financial burdens to the food service inspection process for restaurants; and (5) the notice of the amendment is procedurally defective.

(1) The City Council established the Food Service Advisory Board to review, evaluate, and understand the food service inspection program. By law, the Advisory Board is comprised of an appropriate mix of public health, food safety, restaurant, and food industry representatives. The Board is charged with advising the DOHMH and making recommendations with a balanced viewpoint to ensure efficacy of the food safety inspection program from a health, safety and restaurant perspective. The Board has never been presented with or reviewed any type of recommendation like § 2, 17-1506.

Int. No. 1571 would bypass the Advisory Board and undermine the Advisory Board's leally established role in the food safety inspection process. Announcement of No. 1571 was made with only one week to respond and we have not been able to meet as a Board to discuss this matter. Through informal email conversations, we can report that the Board as a whole does not support this proposal. We respectfully request that the Council follow the protocol it established for the Board to review the evidence on Int. No. 1571 and other proposals to make appropriate recommendations to the DOHMH.

(2) Int. No. 1571 also undermines the most knowledgeable experts on food safety issues in the city at the DOHMH. Monitoring, preventing, and responding to food safety and hygiene issues are core public health functions of health departments nationwide. According to the Centers for Disease Control and Prevention (CDC), the vast majority of local health departments engage in food service establishment inspection, food safety education, and disease surveillance.

Pursuant to New York law, our NYC DOHMH has the clear authority to engage in these activities and make evidence-based decisions related to food safety issues. The DOHMH has the expertise to perform this role and is on the front line of food safety work. Respectfully, it is not the role of City Council to make these determinations, especially since Int. No. 1571 is not evidence-based. It is bad policy for the City Council to bypass the DOHMH to enact a law that seeks to remove food safety and public health protections for New Yorkers while undermining the food safety authority in the city. At most, the City Council should suggest that the DOHMH use its rulemaking powers to enact evidence-based regulations to amend the program. However, given that the Council has not identified any problem that Int. No. 1571 seeks to remedy, this does not seem to be warranted in this instance.

(3) Int. No. 1571 raises true food safety concerns. The CDC has identified the most frequently reported factors contributing to foodborne illness and these are directly related to food safety concerns with retail and food service establishments. In response, the Food and Drug Administration (FDA) created a manual on conducting risk-based inspections. Int. No. 1571 directly contravenes the FDA's guidelines and exposes New Yorkers to unnecessary food safety concerns. By requiring the DOHMH to wait an entire year for reinspection and tying reinspection to the hearing schedule of an administrative tribunal, Int. No. 1571 is not evidence-based and is a concern for health and safety. The FDA guidelines support a public health department's ability to conduct reinspections based on its observations over food safety issues- not arbitrary time periods created by officials without food safety expertise.

Moreover, our understanding is that New York City's food inspection program is working as intended and that New Yorkers support the current food safety inspection process. Regardless, all New Yorkers want to eat at restaurants that are clean and safe.

(4) From a restaurant owners perspective, instead of inspecting based on a risk-based schedule, this bill slows down the inspection and improvement process by delaying the second inspection. Additionally, more restaurants will likely go to the tribunal for a hearing. This could create a back-log of cases and increase the time and resources necessary for restaurants to comply, which is unnecessary and burdensome.

(5) There is a procedural defect with the announcement for Int. No. 1571. Public disclosure about the bill captures the bill summary which is misleading because it does not match the law. At a minimum, this should mean that interested parties should be properly informed about the actual intent of the bill and provided a realistic opportunity to provide feedback to the City Council.

In summary, Int. No. 1571 is not an evidence-based policy. It contravenes FDA guidance and exposes New Yorkers to food-borne illness. Int. No. 1571 undermines the DOHMH and the Food Service Advisory Board, and is bad policy.

Thank you for your consideration.

Sincerely,

Jennifer L. Pomeranz
Food Service Establishment Advisory Board Member
Assistant Professor, Interim Chair, Department Public Health Policy and Management
College of Global Public Health, New York University

Alan Rosen
Food Service Establishment Advisory Board Member
Owner
Junior's Cheesecake

Elizabeth Meltz
Food Service Establishment Advisory Board Member
Environmental Health
Batali Bastianich Hospitality Group

cc: David Seitzer, Counsel to the Health Committee (by email: DSeitzer@council.nyc.gov)
cc: Magda Desdunes, Ombudsperson/Industry Relationship Coordinator, Bureau of Food Safety
& Community Sanitation (by email: mcadet1@health.nyc.gov)



TESTIMONY OF
JULIA MCCARTHY
POLICY ANALYST
LAURIE M. TISCH CENTER FOR FOOD, EDUCATION, & POLICY

BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON HEALTH

MAY 3, 2017

Re: **Legislation Requiring Signage about the Risks of Sugars and Other Carbohydrates for People with Diabetes and Prediabetes**

Good morning, Chairman Johnson and members of the Committee. I am Julia McCarthy, a policy analyst at the Laurie M. Tisch Center for Food, Education & Policy housed in the Program in Nutrition at Teachers College, Columbia University.

The Tisch Food Center researches the connections between a just, sustainable food system and healthy eating. We translate that research into recommendations and resources for educators, policy makers, and community advocates. We are currently working on a report that will detail New York City's publicly funded nutrition education programs and policies, such as the one before the Council today. We thank you for the opportunity to testify on the diabetes and prediabetes warning bill.

Approximately one in nine New Yorkers has diabetes.¹ Over half our City's population—more than 3.6 million—is overweight or obese, and so at risk for developing diabetes.² The complications from living with these conditions are numerous. For example, individuals are more likely to suffer kidney failure, blindness, and heart disease.

¹ N.Y.C. Dept. Health & Mental Hygiene, EpiQuery, *Diabetes Ever, 2015 (Age-Adjusted)*, <https://a816-healthpsi.nyc.gov/epiquery/sasresults.jsp> [accessed May 1, 2017].

² N.Y.C. Dept. Health & Mental Hygiene, EpiQuery, *Overweight and Obesity, 2015 (Age-Adjusted)*, <https://a816-healthpsi.nyc.gov/epiquery/sasresults.jsp> [accessed May 1, 2017].

Socioeconomic factors such as poverty and lack of access to health care mean that rates of diabetes are disproportionately high in high-poverty neighborhoods and communities of color.³ New York City needs policies that reduce the rates of chronic disease for all New Yorkers *and* reduce health disparities between the lowest and highest poverty neighborhoods.

To identify, prevent, and treat diabetes, New Yorkers need access to information, health services, and spaces that support healthy lifestyle choices. While we agree with the intent of the signage bill before the Council, research shows that posters alone have limited effectiveness in changing behaviors.⁴ Approaches that combine environmental interventions, nutrition education, and social marketing are the most effective. That means for New Yorkers to make healthy food choices, food needs to be accessible, affordable, and familiar. With this in mind, the Tisch Food Center advocates for comprehensive policies: policies that make it easy for New Yorkers to purchase healthful foods and that support community based nutrition education.

New York City's Department of Health and Mental Hygiene is currently doing great work to help individuals prevent and manage diabetes. The report that we are working on that I mentioned earlier highlights several examples. One notable program is the Harlem Health Advocacy Partnership. This program trains Harlem residents as community health workers to help public housing residents manage chronic disease, access health care, and advocate for their communities.

Another example is the National Diabetes Prevention Program (NDPP). NDPP also relies on community health workers, in this case to help pre-diabetic individuals lose weight and prevent diabetes. NDPP is an evidence-based program running out community organizations across the City. It is funded through Prevention and Public Health Fund dollars, which Congress is currently threatening to cut.

I mention the Prevention and Public Health Fund because in such vulnerable times, the Council needs to be thinking about how the City will continue to support chronic disease prevention. The vast majority of the City's prevention money comes from federal sources, without which, the Department of Health could not currently afford to provide the National Diabetes Prevention Program. Our report discusses the scope of the City's diet related disease prevention work and explains how reliant the City's public health prevention work is on federal dollars. I would be happy to brief the Council on our findings when we publish this summer.

In closing, we are excited that the Council continues to propose legislation to prevent diet-related diseases. We urge the Health Committee to consider comprehensive new policies that provide people with the education, access, and resources needed to make healthy food choices. And, we urge the Council to think seriously about how to protect the important prevention work already happening in New York City.

³ N.Y.C. Dept. Health & Mental Hygiene, Epi Data Brief, *Trends in Blood Sugar Control among Adults with Diabetes in New York City, 2006-2012* (Jan. 2015), <https://www1.nyc.gov/assets/doh/downloads/pdf/epi/databrief53.pdf> [accessed May 1, 2017].

⁴ Centers for Disease Control and Prevention, *Community-Based Restaurant Interventions to Promote Healthy Eating: A Systematic Review* (May 21, 2015), https://www.cdc.gov/pcd/issues/2015/14_0455.htm#table2_down [accessed May 1, 2017].



**Testimony of Melissa Olson
Director of Nutrition
Community Healthcare Network
Hearing before the New York City Council Committee on Health
RE: Int. 1103- A local law to amend the administrative code of the city of New York, in
relation to requiring signage about the risks of sugars and other carbohydrates for people
with diabetes and prediabetes.
New York City Council Chambers
Wednesday, May 3, 2017**

Thank you Chairperson Johnson and members of the Committee for the opportunity to speak this morning, and particular thanks to Councilmember Barron for introducing this important legislation. My name is Melissa Olson and I am the Director of Nutrition at Community Healthcare Network. CHN is a network of 11 Federally Qualified Health Centers, plus two mobile medical vans and two school-based health centers. We provide affordable primary care, dental, behavioral health and social services for 85,000 New Yorkers annually in four boroughs.

On behalf of CHN, we fully support the New York City Council in passing Intro. 1103 – a bill which will educate individuals about diabetes, specifically that sugary sodas and candy are not the only types of food that contribute to negative diabetic outcomes. Diabetes in New York City has become a crisis, and while we are encouraged by the strides the city is making to address this, we feel there is much more to be done. Over 700,000 New Yorkers have diabetes, and almost one-third of them are unaware. Last year, out of the 20,000 patients with chronic conditions that CHN providers saw, nearly 5,000 had diabetes.

At CHN, we have 12 registered dietitian nutritionists who are all trained in diabetes education using health literate methods. It is far too common for patients who have diabetes or pre-diabetes to come to us with misinformation. The idea that patients need to cut sugar has been effectively communicated, however, most patients do not consider that our body makes sugar from carbohydrates too. It is vital that people who have diabetes and pre-diabetes know to limit the portion of carbs that they eat.

To give you a few examples:

- A patient recently came to us and couldn't understand why his sugar levels weren't dropping since he had cut his soda habit, and we found out that he was eating large amounts of pasta and rice for most of his meals.
- Another patient switched to brown rice at the Chinese restaurant thinking she could still eat a large portion of it, but even brown rice and whole wheat pasta need to be consumed in small amounts for diabetes control or prevention.
- Last, a female patient I saw thought that if she switched to the bran muffin at Dunkin Donuts instead of the white bagels, she was eating healthier for her diabetes. The truth is that even a large bran muffin breaks down into a lot of sugar, so that doesn't help control your blood sugar either.

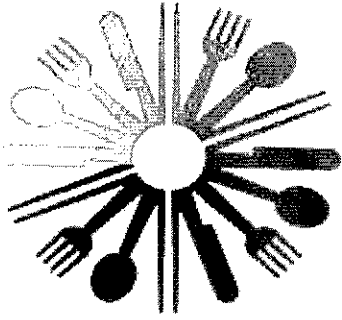
When it comes to nutrition, there are three primary barriers that result in negative health outcomes, the first being healthy diet knowledge, and then also having access to healthy food and the cost of healthy food. With our patients, we have found that they respond best when it is easy for them to make healthy choices. We highly recommend that any posters include images of healthy choices and appropriate portions of various types of food. It is critical that patients know they don't have to eliminate items from their diet, rather, they need to manage the portion sizes.

I am also aware that restaurants don't always offer healthy options or substitutions for customers who are trying to control their carb intake. But, perhaps the pressure of a sign like this bill proposes would motivate restaurants to have more options for those with diabetes or pre-diabetes. This is as simple as offering modifications on the menu, like "ask for less rice or noodles and more salad."

Additionally, the more places a campaign poster like this is seen, the better! The same poster should be available in doctor's offices and health clinics to demonstrate that the medical society is in agreement with the city – and we have joined together to combat diabetes.

New York City has been a pioneer in so many public health efforts, and it's time for us to take the lead in addressing an illness that is running rampant throughout this country. A healthy diet is the least expensive treatment for chronic conditions out there, but patients are simply unaware of how to manage their diet to treat their diabetes. We urge the Council to recognize how critical it is to work in partnership with existing community organizations when developing health and nutrition plans such as this.

In closing, I strongly encourage the New York City Council to support Intro. 1103.



NEW YORK
STATE
RESTAURANT
ASSOCIATION

In opposition of 1103 – Requiring restaurants to display posters warning against sugars and carbohydrates for diabetics and pre-diabetics

Good morning. My name is Kevin Dugan and I am the Regional Director for the New York State Restaurant Association, a trade group that represents food and beverage establishments both in New York City and throughout New York State. The Association is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for more than 80 years. Our members represent one of the largest constituencies regulated by the City as nearly every agency regulates restaurants in one aspect or another.

Restaurants employ hundreds of thousands of New Yorkers and are a backbone of the tourism trade here in New York City. To ensure the continued viability of the restaurant and hospitality industry, New York City must have sensible and reasonable regulations that protect consumers and the restaurants that serve them.

We are writing to provide you with the hospitality industry's concerns about, and objections to, Intro 1103, the requirement for restaurants to post signage warning against the dangers of excessive consumption of sugar and carbohydrates for diabetic and pre-diabetic individuals. While the Association understands the concerns and aims of this legislation, we are concerned with the penalties associated with the violation of this regulation and that this may set a precedent that would fill store fronts with signage warning against the dangers of all types of foods.

The goal of every small business in this City is survival. With the cost of labor and rent on the rise it is getting more difficult for restaurants to navigate the difficult business climate here in New York. Attracting customers is paramount and the Association fears that by having signage up that warns customers about the dangers of consuming items that are sold in these particular restaurants that folks will be turned off and look elsewhere. This is a real concern to the industry.

Restaurant owners and operators are obviously not medical professionals and should not be the ones who bear the responsibility to impart medical advice to their customer base. If these postings are geared to those who have been identified as diabetic or pre-diabetic, they will have already been fully briefed of the dangers by their doctors. We should be continually urging those

who have these conditions to consult with certified dieticians, nutritionists, and doctors, and not rely on posters where the information has the chance to be misinterpreted with no health professional there to correct these misguided assumptions.

These posters are geared towards warning people who are already aware of what they need to know and the only thing a poster would do is dissuade those who have not been diagnosed from patronizing these restaurants. Any signage would have the effect of warning people off certain types of food rather than merely educating the intended audience. Again, we applaud the intent behind this legislation and understand the importance of this information to those who have been diagnosed with these ailments however this is not the way to disseminate it.

There is also a danger regarding lack of context for this information and merely highlighting the dangers of sugar. Sugar is clearly not the only danger and with sodium labeling already in place here in the City we are running the risk of too much signage. This is a slippery slope to continue to slide down and we with every new sign comes additional regulations.

The restaurant industry in New York is one of the most highly regulated industries in the entire city. New rules and regulations are coming down daily and almost all of them have fines attached. Every dollar is vitally important to a restaurant's survival and additional regulations like this make it more likely that restaurants, who are trying to do everything right, will still face crippling penalties.

In conclusion, the New York State Restaurant Association opposes Int. 1103 and urges the council to look for other ways to educate the public on these issues. We look forward to working with the Council on further legislation that helps protect the restaurant and hospitality industry in the City of New York.

Respectfully Submitted,

Kevin Dugan

Regional Director

New York State Restaurant Association

1001 Avenue of the Americas, 3rd Floor

New York, New York 10018

212-398-9160

Testimony of Robert Sunshine, Executive Director
NATO, Theatre Association of New York State, Inc.
INT 1103-2016

robert.sunshine@filmexpos.com

May 3, 2017

- **Good morning, Mr. Chairman, and Members of the Committee.**
- **My name is Robert Sunshine, and I am the Executive Director of the National Association of Theatre Owners of New York State.**
- **We are a not-for-profit trade association representing 37 movie theatres and 1,800 employees across the 5 boroughs.**
- **In fact, many of the members of the Health Committee are familiar with these theatres because they are in your districts.**
- **We are here today because movie theatres are classified as food service establishments, and we are opposed to INT 1103-2016.**
- **Several of our theatres have seating areas, making them subject to the posting requirements of this bill, while some would not.**
- **This would create different posting requirements between theatres operated by the same business entity in the same City.**
- **To be clear, we are not against public health awareness, nor are we against public health education.**
- **Both are vitally important, and we share the sponsors concerns about important public health issues like diabetes.**
- **However, we firmly believe that these concerns can be addressed in a much better fashion.**
- **When it comes to posting yet another sign or warning label, it reminds me about the first rule of real estate:**
- **Location, Location, Location.**
- **Yet another posting requirement, coming after the Board of Health's sodium-warning label, may cause confusion for our consumers.**

Testimony of Robert Sunshine, Executive Director
NATO, Theatre Association of New York State, Inc.

INT 1103-2016

robert.sunshine@filmexpos.com

May 3, 2017

- Additionally, the clutter of another special label for sugars and carbohydrates will be difficult in the small menu area for our theatres.
- This is precisely the reason why the United States Congress enacted the menu labeling provisions of the Affordable Care Act.
- These provisions authorized the FDA to issue regulations, which will become effective on May 7, 2018.
- These regulations will require food service establishments to post the following nationwide standard on menus:
- “2000 Calories a day is used for general nutrition advice, but calorie needs vary. Additional nutrition information available upon request.”
- In addition to this sign, food service establishments will be required to have the following information available for every menu item: “total calories, calories from fat, total fat, saturated fat, trans fat, cholesterol, sodium, total carbohydrates, fiber, sugars and protein.”
- Presumably, this information can be printed out, laminated, and offered to patrons when asked, as well as made available on the Internet.
- So, instead of a separate sign for sugars and carbohydrates now, and then maybe another ingredient later, ought we not to consider a more comprehensive approach?
- Instead of potentially creating confusion, and crowding counter space, shouldn't we look to try to get the most impact on public health with the least impact on businesses?
- Additionally, why not take one step further and show that the New York City Council leads the way on public health initiatives.

Testimony of Robert Sunshine, Executive Director
NATO, Theatre Association of New York State, Inc.

INT 1103-2016

robert.sunshine@filmexpos.com

May 3, 2017

- The simple insertion of the words “and allergens” to “additional nutrition information available upon request” will effectively cover the entire field of potential public health menu labeling.
- This will provide clarity for the food service industry, and make it easier for businesses, both large and small, to comply.
- This is especially true with the limited and very small counter space available to NYC movie theatres.
- There are eight major allergens, which include: nuts, tree nuts, fish, shellfish, soy, wheat, eggs, and dairy.
- While some Council legislation now seeks to label individual allergens or specific ingredients, doing both in one fell swoop will again demonstrate that New York is at the forefront of public health initiatives, while at the same time being fair to businesses.
- Moreover, since New York already requires an allergen poster in the kitchen for employees, bringing a similar sign to the point of purchase will improve public health through awareness.
- In short, we are respectfully asking the sponsors and members of the Health Committee to both think bigger to promote public health, and at the same time to simplify things with just one sign.
- Doing so will help customers and the food service industry.
- Covering the entire field through posting the FDA's requirements and allergen information on just one sign will meet the laudable goals of the sponsors, and prevent confusion caused by the clutter of many signs for every ingredient or allergen.
- We hope to collaborate with the sponsors and committee members on improving public health, helping businesses, and putting New York City at the forefront of menu labeling efforts.
- THANK YOU.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1456 Res. No. _____

in favor in opposition

Date: 5/3/17

(PLEASE PRINT)

Name: Matthew Shapiro

Address: 40 Rector St. 9FL NY NY 10006

I represent: Street Vendor Project

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Kim Kessler

Address: Asst. Commissioner, Chronic Disease

I represent: DOHMH - Prevention

Address: Tobacco Control

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1103 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Julia McCarthy

Address: _____

I represent: Laurie M. Tisch Center for Food, Education,

Address: & Policy

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1456 Res. No. _____

in favor in opposition

Date: May 3, 17

(PLEASE PRINT)

Name: DAN PISARK

Address: _____

I represent: 34TH STREET PARTNERSHIP

Address: 5 BRYANT PARK; suite 2400

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 5/3/17

(PLEASE PRINT)

Name: Terence Tubridy

Address: _____

I represent: In Good Company Hospitality Group

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1156 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Kevin Degen

Address: 1005 6th Ave, 3rd Floor, NY, NY

I represent: NY's Restaurant Association

Address: 59 New Kinner Rd, Albany, NY

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1571 Res. No. _____

in favor in opposition

Date: 5/3/17

(PLEASE PRINT)

Name: ANDREW RIGIE

Address: 65 W 55 ST #203A

I represent: NYC HOSPITALITY ALLIANCE

Address: →

Please complete THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1571 Res. No. _____

in favor in opposition

Date: 5/3/17

(PLEASE PRINT)

Name: Jennifer Pomerantz

Address: New York University

I represent: myself^{NYU}, Alan Rosen (Quora) Elizabeth Metz (8846)

Address: _____

THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 11308 Res. No. _____

in favor in opposition

Date: 5/3/17

(PLEASE PRINT)

Name: Matt Grelle

Address: _____

I represent: NATO, Theatre Association of NY, Inc.

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1103 Res. No. _____

in favor in opposition

Date: 5/3/17

(PLEASE PRINT)

Name: Robert Sunshine

Address: _____

I represent: NATO, Theatre Association of NYS, Inc

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1571 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Robert Bookman

Address: 325 Broadway

I represent: Pres of NY Bookmen

Address: same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Tam Merrill

Address: 120 General Counsel

I represent: DOHMH

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

Date: _____

(PLEASE PRINT)

Name: Corinne Schiff

Address: Deputy Commissioner,

I represent: Environmental Health

Address: DohMH

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1103 Res. No. _____
 in favor in opposition

Date: 5/3/17

(PLEASE PRINT)

Name: Melissa Olson - 406 Prospect Ave. #3 ^{Brooklyn,} NY 11215

Address: ~~60 Madison Ave. 5th Floor NY, NY 10010~~

I represent: Community Healthcare Network

Address: 60 Madison Ave. 5th Floor NY, NY 10010

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1571 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Kevin Dugan

Address: 1001 6th Ave 3rd Floor NY, NY

I represent: NY Restaurant Association

Address: 59 New Karan Rd Albany, NY

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