

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PUBLIC SAFETY

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December 10, 2008
Start: 10:00am
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HELD AT: Council Chambers
City Hall

B E F O R E: PETER F. VALLONE, JR.
Chairperson

COUNCIL MEMBERS:
Alan J. Gerson
Eric Martin Dilan
Daniel R. Garodnick
Melinda R. Katz
Anthony Como
Vincent J. Gentile
Joseph P. Addabbo, Jr.

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

Susan Petito
Assistant Commissioner, Intergovernmental Affairs
New York City Police Department

Lt. Daniel Albano
Managing Attorney, Legal Bureau Criminal Section
New York City Police Department

Kevin Hanrahan
Local 580 Ironworkers

Bill Ferraro
"Mr. Y"
President
Brooklyn ABATE

Richard Tur
Founder
NOISEOFF

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2 CHAIRPERSON VALLONE: Good morning,
3 everyone. Welcome to today's hearing of the City
4 Council's Committee on Public Safety. Today we
5 hear Intro 416-A, sponsored by Council Member
6 Gerson, who should be here any moment, and myself,
7 regarding illegal motorcycle pipes and the
8 enforcement of the laws against these pipes.

9 Coming in, Grace? Come on. Thanks. Today's bill
10 is intended to strengthen noise regulations that
11 already exist, and give our police force more
12 tools to use to assist them in performing
13 difficult jobs. I'll thank Gerson when he gets
14 here, I guess. But in 2007 the City logged over
15 350,000 311 calls for noise, making it the number
16 one complaint to 311. A huge factor in those
17 calls were motorcycles outfitted with what's
18 called straight pipes. If you're not a motorcycle
19 enthusiast, you may not know what those are.

20 Straight pipe is a hollow tube that does not have
21 any noise dampening system. It's intentionally
22 designed to alter the muffler's ability to
23 decrease the sound of an engine. Regulations
24 already exist that require noise dampeners, and
25 the noise cannot be more than 80 decibel levels.

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2 A motorcycle outfitted with straight pipes allows
3 noise to come out, which can reach 110 decibels,
4 which is the equivalent of a jet about 1,000 feet
5 above your head. And we all know that they set
6 off car alarms, which are illegal, because these
7 car alarms go off without any touch. We all know
8 the problems caused by loud motorcycle pipes
9 within our communities. Today we take a huge step
10 towards taking the squeal out of the hogs. We
11 give the police the tools they need to finally
12 start taking these illegal pipes off our streets.
13 The intent of this bill is to ensure that
14 motorcycle owners abide by codes that already
15 exist and give the police a tool to enforce the
16 law. This bill would prohibit parking, standing
17 or stopping of motorcycles equipped with straight
18 pipes on the streets of New York City. Now that's
19 a huge difference, because in the past you'd have
20 to actually hear the noise. And once you heard
21 the noise, that meant the motorcycle was in
22 motion. And once the motorcycle is in motion,
23 well the Police Department will testify as to the
24 problems which occur trying to ticket a motorcycle
25 in motion. We no longer have to wait for it to be

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2 in motion. So that's the huge enforcement benefit
3 right there. And the way the police are going to
4 find out whether these pipes are legal or not is
5 by looking for an EPA required stamp on these
6 pipes. This is a bill that already exists in
7 Denver. I believe it's the only city in the
8 nation right now, Denver, that has this bill. Our
9 bill will be tougher, so we will have the toughest
10 anti-illegal motorcycle pipes law in the entire
11 nation, once this bill gets passed.

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[Pause]

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CHAIRPERSON VALLONE: The proposed
bill was first brought to our attention back in
2006, and we had a hearing on it. At that hearing
there was concern by the Police Department over
certain aspects of the bill about enforcement of
the bill. We've been working together with them
with Alan Gerson's staff, with my staff, Oona
Peterson, sitting next to me, and many others for
a while now, Sue Petito, sitting over there, to
craft this bill. Well we have one, which we think
is going to be the toughest and the model for the
entire country. So before Alan Gerson gets here,
I'm going to welcome the Police Department and I'm

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2 not going to introduce my members yet. Some have
3 other hearings going on at the same time next door
4 and across the street, one is in fact chairing one
5 of those hearings and others are on the way. So
6 Ms. Petito, the floor is yours. Thank you, as
7 always, for your help.

8 SUSAN PETITO: Thank you. Good
9 morning, Mr. Chairman. I'm Susan Petito,
10 Assistant Commissioner, Intergovernmental Affairs
11 of the New York City Police Department, and I'm
12 joined by Lieutenant Daniel Albano, Managing
13 Attorney of the NYPD's Legal Bureau Criminal
14 Section. On behalf of Police Commissioner Raymond
15 Kelly, we would like to thank you for the
16 opportunity to discuss the bill before you today,
17 Intro 416-A. As we've discussed at prior
18 hearings, we share the Council's concern regarding
19 unreasonable noise generated by motorcycles whose
20 operators fail to appreciate the public harm and
21 annoyance they cause. In recognition of the
22 problem that some motorcycle operators create, the
23 State Vehicle and Traffic Law, VTL, establishes
24 prohibitions regarding equipment and noise levels
25 specifically for motorcycles. VTL Sections 375

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2 and 381 describe the permissible muffler and
3 exhaust system, specifically referencing
4 prevention of noise, and they prohibit the
5 operation of motorcycles equipped with motorcycle
6 exhaust devices without internal baffles, known as
7 straight pipes. Beyond these equipment
8 specifications, both the VTL and the City's Noise
9 Code set forth permissible sound levels for
10 motorcycles. Notwithstanding these strong and
11 specific laws addressing the problem of
12 unreasonable motorcycle noise, enforcement against
13 motorcycles in operation is difficult, primarily
14 because they are usually gone before an
15 enforcement action may be taken. Motorcycles are
16 also more difficult to stop in a dense urban
17 environment using a standard patrol car, a
18 situation in which the safety of the public must
19 be considered paramount. The problem is further
20 compounded by the technical nature of the
21 violation; an altered muffler can closely resemble
22 a regular muffler, and it is difficult to detect
23 internally altered muffler systems, except of
24 course for the noise. Several bills have been
25 considered by this Committee in an effort to

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2 provide an enforcement alternative which would be
3 able to target parked motorcycles rather than
4 relying on the amount of noise they create while
5 in motion. We applaud Council Member Gerson and
6 his staff for identifying an ingenious approach to
7 this problem, and we're pleased to work with the
8 Council in developing the bill before you today.
9 Intro 416-A utilizes already existing federal
10 regulations requiring motorcycle mufflers to bear
11 a label in a readily visible position attesting to
12 the muffler's compliance with the Environmental
13 Protection Agency's Noise Emission Standards. The
14 bill would prohibit stopping, standing or parking
15 a motorcycle equipped with a straight pipe, which
16 is defined to include a muffler lacking the
17 required EPA label. Violation of this prohibition
18 is a traffic infraction, but is also punishable by
19 a civil penalty, to be adjudicated by the
20 Environmental Control Board of between \$500 and
21 \$1,000, with penalties escalating for repeat
22 offenses. Both the operator and the owner of the
23 motorcycle are liable for the penalty and the
24 notice of violation may be served by attaching it
25 to the motorcycle. We strongly support the

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2 enactment of Intro 416-A, which will provide
3 enforcement personnel with an innovative tool to
4 reduce the disturbing level of noise coming from
5 illegal mufflers. The bill does present
6 enforcement challenges, given that some of these
7 labels are not easily accessible and may literally
8 require crawling under the motorcycle with a
9 flashlight to see. But we welcome the potential
10 offered by the bill and urge its approval by the
11 committee. Thank you for giving us the
12 opportunity to discuss Intro 416-A, and we'll be
13 please to answer any questions that you have.

14 CHAIRPERSON VALLONE: Thank you,
15 Assistant Commissioner. I was just telling Alan
16 Gerson, who showed up, that the word Council
17 Member anyone and ingenious are not normally used
18 in the same sentence, so this is a big day. But
19 in this case, it's true. So Council Member
20 Gerson, who is the force behind this bill, would
21 you like to make a statement?

22 COUNCIL MEMBER GERSON: Well thank
23 you very much. And the truth is, the ingenuity
24 lies in the collaboration and the teamwork and the
25 mutual effort between New York Police Department,

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2 as more than ably represented by the witnesses
3 present. Forgive me if I'm a little out of
4 breath. It's not just the excitement, it's the
5 fact that I ran up the stairs and have to go back
6 to the gym I guess, get back in shape. But Mr.
7 Chair, this would only be possible with your
8 leadership and your commitment and your ingenuity
9 with regard to all things related to the public
10 safety of the City of New York. I've said it
11 before, I'll say it again, our city is fortunate
12 to have you as chair of our Public Safety
13 Committee, and we thank you. As I think I said at
14 a previous hearing, Ms. Petito, when we work
15 together great things happen. And without your
16 legal insight and acumen and commitment to public
17 service, and of course with your brilliant team,
18 represented most ably by Lieutenant Albano, our
19 city is really blessed with the finest of New
20 York's finest. Let me just say this approach is
21 public policy problem solving at its best. This
22 is not about undermining the right of any New
23 Yorkers to use motorcycles legitimately in
24 accordance with the law. We recognize that
25 motorcycles, when used properly, are not only

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2 legitimate, but in many cases they're a desirable
3 mode of transportation; and we certainly respect
4 the right of New York motorcyclists and visitors
5 to New York on motorcycles to continue to use that
6 mode of transportation. But this bill is aimed at
7 the minority of motorcyclists, who over the years
8 have, with impunity, imposed and inflicted New
9 Yorkers with excessive noise that rises to the
10 level of the equivalent of a physical assault when
11 the loud boom and zoom at all hours of the day and
12 night intrudes into the privacy of a person's
13 residence, waking people, startling people,
14 inflicting them often with groups of motorcyclists
15 with unacceptable levels of noise intrusion-- and
16 often thereafter the vibrations created thereby
17 leaving the wake of car alarms set off to continue
18 the noise intrusion. Mr. Chair, my favorite story
19 is on one of the Operation Silent Nights, I
20 believe, police officers pulled over a motorcycle.
21 The motorcyclist removed his helmet and revealed
22 that he was wearing earplugs, because he could not
23 tolerate the noise he was inflicting on others.
24 This allows-- gives the police an extra tool to
25 get at what is truly a serious problem. And I'll

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2 just add it is the noise, but it is more than the
3 noise, because when we allow this type of
4 excessive noise and the related activity, we are
5 usually if not always also allowing operation of a
6 motorcycle in a way which is dangerous for the
7 motorcyclist, dangerous for other vehicles and
8 dangerous for pedestrians. So I won't reiterate
9 the content of the bill, because as always, Ms.
10 Petito did a fabulous job in synopsisizing this and
11 presenting this, and I just thank everyone, and I
12 want to thank the motorcycle community for working
13 with us, because we did reach out, we did work
14 with them. We had many meetings with, I believe
15 it was the New York Motorcycle Association, and
16 he's not here today because I know he's dealing
17 with a family health issue, but Mr. Steven Manheim
18 [phonetic] in particular, but others. And we want
19 to thank them. This is collaboration at its best.
20 And Mr. Chair, I look forward to the swift passage
21 and enactment of this bill. Thank you all, and
22 especially thank you Ms. Petito and Lieutenant
23 Albano and your entire team.

24 CHAIRPERSON VALLONE: Thank you,
25 Council Member. You spoke about the motorcycle

1 industry. And we have worked with them. In fact,
2 the Motorcycle Industry Council did send us a
3 letter for the record, in which they recognize the
4 universal need to address noise pollution issues
5 and don't oppose the goals of our bill. They do
6 ask us to wait until some sort of stationary sound
7 test procedure is developed, which we decided--

8 [off mic]

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10 CHAIRPERSON VALLONE: --Because
11 I've never heard of that. And they also say that
12 all vehicles should be covered by this law, not
13 just motorcycles, so as not to discriminate. And
14 that's something I'll discuss with the Police
15 Department. But we have worked with the
16 Motorcycle Industry. Not everyone is in favor
17 obviously. After this panel there are some
18 motorcycle enthusiasts and union members who are
19 here to oppose this law. As the Council Member
20 said, we do not want to ban motorcycles. It's an
21 energy efficient way to travel. We just need them
22 to follow the laws that already exist and not
23 impose their will and their noise on law abiding
24 citizens, and not ruin their quality of life. So,
25 Ms. Petito, we discussed noise complaints to 311.

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Do you know what percentage of those calls are motorcycle related?

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SUSAN PETITO: We don't have a motorcycle breakout. What we do know is that we can break it out noise from vehicles, which would include passenger cars, trucks, all kinds of motor vehicles, that so far as of the beginning of December in 2008, there were 20,677 noise complaints generated from vehicles coming to 311.

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CHAIRPERSON VALLONE: And what percentage would that be? 20,000 out of what?

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SUSAN PETITO: I think you gave the number, it was about 400,000. I don't have the overall number.

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CHAIRPERSON VALLONE: That was '07. Are your numbers '07 also?

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SUSAN PETITO: I have '07. For calendar '07 it's 21,963.

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CHAIRPERSON VALLONE: And most of the vehicle, I would assume just based on your experience, that most of the vehicle noise complaints would be from motorcycles?

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SUSAN PETITO: I can't say, because certainly a passenger vehicle that has a broken

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2 muffler will also sound loud; it will sound just
3 as loud. And so--

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CHAIRPERSON VALLONE: [Interposing]
5 I didn't say all of them. I said most would be,
6 based on your anecdotal experience, or maybe we
7 can ask the Lieutenant about whether most noise
8 complaints would arise out of-- most noise vehicle
9 complaints would arise out of motorcycles or other
10 types of transportation?

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DANIEL ALBANO: Yes. Just by
12 anecdotal evidence, that would be true. Yes.

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CHAIRPERSON VALLONE: Okay. Now
14 you mention the enforcement problems you have
15 under the existing laws. Can you maybe
16 Lieutenant, since you're out there, can you tell
17 us a little bit more about the problems you have
18 enforcing existing noise laws right now against
19 motorcycles?

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DANIEL ALBANO: First of all would
21 be the issue of stopping the motorcycle. As you
22 mentioned in your own statement, stopping a
23 motorcycle that's in motion would be difficult for
24 us, especially with a standard patrol car. This
25 bill would enable us to take enforcement action

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2 not only when the vehicle is stopped or the
3 motorcycle is stopped, but also when it's
4 stationary and no one's present, if the muffler
5 doesn't fit with federal law now with this City
6 bill.

7 CHAIRPERSON VALLONE: Do you know
8 how many straight pipe citations you give out in
9 general maybe over the last year?

10 SUSAN PETITO: We have data for the
11 VTL violation for which we would issue a TVB
12 summons for traffic infraction. In 2007 there
13 were 290 issued. We certainly have C summonses
14 issued for vehicle noise. There's over 8,000 of
15 those in 2007, but I can't say the type of vehicle
16 they were issued for. And then ECB summonses, we
17 don't break out by vehicle, but we issued 244 in
18 2007 for noise.

19 CHAIRPERSON VALLONE: That's a
20 little bit confusing. So you just gave three
21 different types of summonses. Can you give us an
22 estimate as to how many actual summonses you've
23 given out for motorcycle noise?

24 SUSAN PETITO: I'm sorry. We don't
25 break it out by type of vehicle.

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2 CHAIRPERSON VALLONE: Now I know
3 that you, as the legal department, have some other
4 issues which we're still going to continue to work
5 on and which we should resolve in the next few
6 days so we can vote this out. None of them
7 changes the intent of the bill; it's just
8 regarding where the cases are heard and things
9 like that, and how to better get it before the
10 ECB. So there are a few technical changes we're
11 going to make before this is loaded out.

12 SUSAN PETITO: And we're working
13 with the law department on that.

14 CHAIRPERSON VALLONE: Right. So we
15 won't be voting it out today. Council Member
16 Gerson, before I go on do you have any questions?

17 COUNCIL MEMBER GERSON: Yeah, just
18 one or two. And I just want to, now that I've
19 caught my breath, just also apologize for my late
20 arrival. It was due to an unavoidable, unexpected
21 home situation. Just the technical adjustments
22 that I'm hearing now need to be made before we
23 take a vote, is that something we could expect to
24 from your conversations complete before the end of
25 the calendar year?

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SUSAN PETITO: Oh absolutely.

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COUNCIL MEMBER GERSON: Okay.

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SUSAN PETITO: Yes. Hopefully

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before the end of today.

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COUNCIL MEMBER GERSON: Oh that

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sounds even better. Okay, great.

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SUSAN PETITO: But, yes.

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COUNCIL MEMBER GERSON: Okay,

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fabulous. I'll leave that alone. Just for the

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purposes of completing the record, I'm just going

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to ask one or two questions of which I know the

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answer, but I think it's important that we have

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the record complete. The approach taken in this

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bill roughly, I believe, is it correct, that there

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is at least one other jurisdiction in the United

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States which has taken a similar approach?

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SUSAN PETITO: Yes, absolutely.

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Denver was you know learned by your staff who

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devised this approach for the City. And we've had

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conversations with the folks in Denver who are,

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you know, as I understand it, very pleased with

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the way it works.

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COUNCIL MEMBER GERSON: Okay, and

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you preempted my second question. It was that is-

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2 - is it your understanding that the folks in
3 Denver, you know, did recommend and did endorse
4 this approach as fruitful.

5 SUSAN PETITO: Yes.

6 COUNCIL MEMBER GERSON: And just,
7 you know, I know and we appreciate that the NYPD
8 has over the recent years implemented operations
9 involving checkpoints specifically for motorcycles
10 which have gone at, I believe, at different times
11 by different names. But could one of you just
12 describe what is the personnel requirements for
13 those types of operations? And I believe they
14 usually involve a coordination or collaboration
15 with at least one other agency, DMV or another.
16 Could you just describe that?

17 DANIEL ALBANO: Some of the
18 operations would, and depending on what section of
19 laws that we used, would require a sound meter.
20 That requires an officer who has received some
21 special training or the assistance of the
22 Department of Environmental Protection. It's
23 usually done by a checkpoint, which involves
24 stopping a number of cars as they go through the
25 streets. It delays traffic. It's labor-

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2 intensive, because you need more than one officer,
3 the operator of the device or the sound meter,
4 officers to stop the car, officers to direct
5 traffic. And as I said, it requires some
6 specialized training. This is a lot simpler.
7 It's one officer; an officer on solo foot patrol
8 with a summons book could take enforcement action
9 with a minimum of training. They already know how
10 to write criminal court summons or traffic
11 summonses and Environmental Control Board
12 summonses; that training is part of their academy
13 curriculum, so it's just making them aware of the
14 existence of this law and they'd be able to hit
15 the ground running once this bill is passed.

16 COUNCIL MEMBER GERSON: So at a
17 time of a difficult budget situation, which will
18 impact not only the NYPD but also some of the
19 other departments; you mentioned the Department of
20 Environmental Protection. It certainly makes
21 sense to give your department an alternative tool
22 to use to enforce the intent of current law, which
23 is what we're doing. I take it that sounds
24 correct to you.

25 DANIEL ALBANO: Yes. It's probably

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the most cost-effective and simplest way of
addressing this problem.

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COUNCIL MEMBER GERSON: Well again,
thank you very much and thank you, Mr. Chair.

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CHAIRPERSON VALLONE: Thank you
Council Member. I'd like to recognize Council
Member Erik Dilan, the Chair of our Housing and
Buildings Committee. It's the people in those
housing and buildings that are most effected by
this noise. So thank you for joining us today.
As I said, today we go a long way towards taking
the squeal out of the hogs, the squeal that is as
loud as a jet engine 1,000 feet above your head, a
squeal which destroys the quality of life of our
New York City residents. And today we give the
Police Department the power to finally summons
motorcycles which are standing still, and also to
forfeit those motorcycles on a second offense. So
we are really giving them the tools they need to
enforce noise codes which already exist, which
will go a long way to increasing the quality of
life here in New York City and dampening the
noise. Council Member Dilan, do you have any
questions? No. Ms. Petito, how in general, with

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these types of laws, how would you now go about, if we pass this law in the near future, informing the police on the streets about how to make this-- about the new tools available to them?

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SUSAN PETITO: Well anytime a law changes, I usually send a memo out to the field to whatever commands I think are affected by it; certainly it would be all the patrol oriented commands, the Housing Bureau, Patrol Bureau, certainly the Chief of the Department. But I especially make sure that the Deputy Commissioner of Training has a copy of the memo and has the availability of the Legal Bureau to assist in developing any training materials that are necessary to explain what the change in the law is and how it should be enforced. Depending on the scenario we might issue an operations order or an interim order. We might amend the patrol guide. It always depends on the nature of the change. For this, you know, I can anticipate certainly an order being issued to the general population of the department explaining the new law and directing police officers on how to approach a situation, what kind of-- you know, whether they

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2 should prepare an ECB notice of violation or a
3 parking summons, and how to go about performing
4 the enforcement.

5 CHAIRPERSON VALLONE: Does that
6 order get communicated to each officer or does it
7 go to the precincts and then they inform them on
8 roll call? What normally happens?

9 SUSAN PETITO: That's generally how
10 it happens. An order is issued and then it's read
11 at consecutive roll calls to make sure that
12 everybody hears about it.

13 CHAIRPERSON VALLONE: And the last
14 question--

15 SUSAN PETITO: [Interposing] And
16 Lieutenant Albano has something to add.

17 DANIEL ALBANO: If I could, sir.
18 Every police command, precinct, task force, every
19 command has a training sergeant and that sergeant
20 is tasked with bringing the people in that command
21 up to speed on anything new, new legislation such
22 as this. This legislation would be introduced to
23 a training sergeant symposium, and they would
24 carry back to the individual command to make every
25 officer aware of the existence o the bill. And

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2 that's something that we do routinely, so it would
3 be part and parcel of some other training so it
4 wouldn't require any additional or special
5 training.

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CHAIRPERSON VALLONE: My last
7 question is regarding the concern raised by the
8 Motorcycle Industry about discriminatory
9 enforcement against motorcycles. I just wanted to
10 ask the two of you, have you seen the situation
11 where straight pipes exist on any other sorts of
12 vehicles other than motorcycles?

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DANIEL ALBANO: There's different
14 types of mufflers that are on cars. I believe
15 they're called glass packs, glass pack pipes, that
16 can be rather loud. But we have existing
17 legislation for that. And on a car it's a lot
18 more difficult for the officer to determine if
19 there's a sticker on a muffler on a car as opposed
20 to a motorcycle. I mean the motorcycle just by
21 the nature of it lends itself to this type of
22 enforcement.

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CHAIRPERSON VALLONE: So do you see
24 the need for this legislation to address any other
25 types of vehicles other than motorcycles?

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2 DANIEL ALBANO: We have-- as we
3 stated before, there are some very strong and good
4 laws already that address this issue. We can use
5 those with the regular passenger vehicles and
6 trucks. And they're a lot easier to stop, as we
7 had discussed earlier. A regular car or truck is
8 a lot easier for us to engage than a motorcycle.

9 SUSAN PETITO: And if I could add,
10 the EPA has specific labeling requirements for a
11 motorcycle, which I don't believe exist for other
12 types of motor vehicles. So the EPA is treating
13 motorcycles differently.

14 CHAIRPERSON VALLONE: Okay. We've
15 been joined by Council Member Dan Garodnick. And
16 before I let you go, the reason I ask about you
17 informing officers is because the quicker the
18 better. In my district I've got Shore Boulevard,
19 which is a hangout for people throughout the City
20 and it's one of the nicest places in the world to
21 come hang out. It's between Astoria Park and
22 Shore Boulevard. It doesn't bother anyone because
23 there are no homes around. It's a great place to
24 come hang out. I've probably spent more time
25 there hanging out than I should have in my youth.

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2 Unfortunately it's also a gathering point for
3 many, many motorcyclists throughout the city,
4 which is fine when they're there. It's getting to
5 and from that location and harassing the people
6 who live around Astoria Park which is the problem.
7 And this law is going to allow you to get right
8 down there on Shore Boulevard and hand out some
9 citations, and we look forward to that happening
10 as soon as possible. So there are no more
11 questions from Alan Gerson?

12 COUNCIL MEMBER GERSON: Just one
13 addition, Mr. Chair. I'd be remiss if I did not
14 take a moment to acknowledge the work of our
15 Director of Legislation, Peter Pastor, who really
16 did an incredible amount of research and his
17 persistence helped working very closing with your
18 office and your great team, and the Department,
19 which I acknowledged earlier, really has made this
20 happen. So, thank you.

21 CHAIRPERSON VALLONE: Yes. And I
22 thanked you before you came, but let me do that
23 again. Your-- Peter was as persistent as you were
24 in continually asking for a hearing on this and
25 working with my staff, both my district staff and

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2 my Council Public Safety staff, to make this
3 happen. And so you really do deserve credit for
4 helping to improve the quality of life for our all
5 our citizens. And you guys did a great job and
6 hopefully we'll be voting this out-- if our
7 counsels can work this out today we will hopefully
8 be voting this out at the next Stated meeting and
9 immediately improve the lives of New York City
10 residents. So thank you, Ms. Petito, for your
11 testimony, and we look forward to working with you
12 today to get this done.

13 SUSAN PETITO: Thank you.

14 DANIEL ALBANO: Thank you.

15 CHAIRPERSON VALLONE: As I said, we
16 do have some people who are opposed to this, and
17 this is their chance. We have Kevin Hanrahan of
18 Local 580 Ironworkers and Mr. Y from ABATE of
19 Brooklyn. We've had a Mr. X before, but never a
20 Mr. Y. So come on up and testify guys.

21 [Pause]

22 CHAIRPERSON VALLONE: Good morning.
23 I guess you'll go first since you're on the right.

24 KEVIN HANRAHAN: [Off Mic]

25 CHAIRPERSON VALLONE: I don't

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believe your mic is on.

KEVIN HANRAHAN: Okay. My name is Kevin Hanrahan from Local 580 Ironworkers Motorcycle Club. I'd just like to know what is the decibel reading for the motorcycles, and is it at a standstill or is it just going to be tested another way?

CHAIRPERSON VALLONE: Well right now the legal limit is 80. I'm told that without the straight pipes-- without the mufflers and with the illegal straight pipes, it can go up as high as 120, which again is the sound of a jet 1,000 feet above your head. The point of this bill is to allow the citation to be given without actually measuring the sounds, which had to be done in the past. If they are illegal pipes, which can be told by the lack of this EPA mandated engraving on the pipe, then the citation can be given just on that. They can still be given on the Noise Code, which is if they're audible over 200 feet away or they violate a decibel level, which you need a machine to use, but now the citations can be given based on the fact that the police officer sees that it's an illegal pipe.

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2 KEVIN HANRAHAN: Okay. Is it going
3 to be-- you said it's not going to be just for
4 motorcycles. Because you know the decibel-- if
5 they took a decibel reading of a tractor-trailer,
6 tractor-trailers mostly ride with open straight
7 pipes out of their trucks a lot of them, that
8 probably exceeds our noise level. So I was
9 wondering, are we just going to stop the
10 motorcyclists, or it's going to be all vehicles,
11 racing vehicles, with suped up, you know, exhaust
12 systems, stuff like that?

13 CHAIRPERSON VALLONE: Well two
14 things. Number one, you just heard the testimony
15 that the Police Department feels that the laws on
16 the books are sufficient for vehicles other than
17 motorcycles right now. And for number two, the
18 accepted practice here is for you to actually make
19 a statement and then we ask you questions.

20 KEVIN HANRAHAN: Okay.

21 CHAIRPERSON VALLONE: As opposed to
22 you asking me. So please incorporate the
23 questions into your testimony if you have a
24 statement to say, otherwise we'll just move on,
25 thanks.

1
2 KEVIN HANRAHAN: All right. Go
3 ahead, Bill.

4 BILL FERRARO: Hi, my name is Bill
5 Ferraro, other known as Mr. Y. I'm the President
6 of Brooklyn ABATE, and the Union Ironworkers
7 Motorcycle Club. I'm here today-- oh, good
8 morning Council Members. Thanks for the invite.
9 I'm here to speak on behalf of my club and clubs
10 like us. We're a riding club, an the Local Law
11 416-A 19-7170, prohibition stopping, standing
12 parking of motorcycles equipped with straight
13 pipes, not more than three wheels in contact with
14 the grounds, but excluding tractors. I think
15 we're talking about noise control, and that's
16 basically what this bill is about, noise control,
17 noise complaints, cars that have alarms on them
18 the bikes set off. Four-wheeled cars with loud
19 back pipes, you see them tag teaming on the
20 highway on certain pipes, Toyotas, Hondas, sports
21 cars of that concern. I would hope that you
22 include these in this bill, because if you're
23 going to do for one, I would imagine you'd have to
24 do for all. We're talking about noise and noise
25 levels, and what the Police Department can do.

1

2 You see them on the highway, you see them start
3 the cars up in the streets and you can hear that
4 loud glass pack in the back. Talking about
5 straight pipes-- are subject to seizure or
6 forfeiture without internal baffles. On that note
7 I'd just like to say, if the bike is covered, is
8 the Police Officer or people on this jurisdiction
9 lifting the cover up to see what the bike is in
10 order to issue a summons?

11 CHAIRPERSON VALLONE: I would think
12 not. I would think that they would not have the
13 right to do that. But unfortunately they just
14 testified, I didn't ask that question. But it
15 would not-- as a former prosecutor, I wouldn't see
16 where you would have the right to lift a cover and
17 search underneath without any probably cause or
18 reasonable suspicion.

19 BILL FERRARO: Okay. So the bill
20 doesn't concern that. Where was I here? Oh,
21 forfeiture of the baffle or baffles. We know some
22 bikes are loud, and they really shouldn't be that
23 loud. But loud pipes save lives. In the interest
24 of this Committee, I have one of our riders over
25 here that lost a leg, because they didn't see him

1

2 and they didn't hear him because his muffler was
3 too low. Unfortunately it does coincide with what
4 you're going about. It's always the same excuse,
5 I didn't see him, I didn't hear him. What this
6 law is unsafe for us to ride when the pipes are
7 too low. We now have a Police Department, not
8 that they don't have enough to do. And we also
9 have Consumer Affairs, Environmental Protection,
10 Transportation Department, and these are all
11 people that will be issuing summonses. Am I
12 right?

13

CHAIRPERSON VALLONE: Again I was--

14

I don't know--

15

BILL FERRARO: [Interposing] Well

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in your bill it does mention these organizations.

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CHAIRPERSON VALLONE: It's in the

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bill and I ask the questions.

19

BILL FERRARO: We have City

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agencies that are taxpayers, and we have to pay

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these people. And we're paying for the quality of

22

life in New York City. They have enough to do and

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we can't, as bikers, we cannot close the budget

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gap with confiscation of bikes and seizure. The

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Police Department and the EPA and the rest of

1
2 these protection agencies, are they trained? Do
3 they know what a straight pipe is? Will they take
4 the nightstick and stick it in the straight pipe
5 and see if there's a baffle in it or do they just
6 write a summons and we'll have to work it out
7 later with a \$500 fine? We had a state meeting
8 where we found out \$520,000 that came from the MC
9 Education Fund was to be used to get the word out
10 for motorcycle safety awareness. Nobody can find
11 the money now, and that was one of the-- that's
12 one of the things that we do as motorcyclists,
13 motorcycle awareness. We educate the
14 motorcyclists of what they should do and how to
15 obey the law. Agencies are listed and trained in
16 motorcycle pipes, like street pipes, without
17 checking to see if there are baffles or not-- I
18 don't know if they're going to do that. Remember,
19 you don't redeem-- you can't redeem your bike, for
20 any given time. Your motorcycle will be taken.
21 You have to redeem it within ten days. If you
22 don't redeem it, it goes to a City agency.
23 Someone in the City official's department will be
24 riding a chopper. I don't think so. So far as
25 the Builders are concerned, OCC and the mom and

1
2 pop shops that are out there, I guess they'll be
3 legislated now to put in the right pipe for that
4 bike. Remember, the MDA, the Cancer Society, Toys
5 for Tots, things that we do for the general
6 public, all with motorcycles. We raise a lot of
7 money for these people, and I don't know if you're
8 going to stop a whole crew of people and check
9 their pipes. Because how many-- I forgot the
10 number of complaints that you had, and we didn't
11 know if that was a breakdown between bikes or cars
12 or trucks, but I would urge this Committee, if
13 you're going to pass this bill, please be honest,
14 please be fair. Include everyone that's going to
15 go for a loud noise, not just motorcycles. We're
16 a family riding group and most of us out there
17 obey the law. I thank you for your time.

18 CHAIRPERSON VALLONE: Thank you,
19 Mr. Y. Let me just answer some of the questions
20 that you raised. As we mentioned earlier, neither
21 Alan Gerson nor I want to end motorcycle riding
22 here in New York City. It's an energy efficient
23 way to travel. We just want the current laws
24 enforced. So you know, we're not lowering the
25 current level that exists now or creating any new

1
2 noise code violations. We're just giving an
3 enforcement tool regarding laws that already exist
4 now. The law as it exists now is that motorcycle
5 pipes can be 80 decibels, which is very loud. The
6 illegal pipes allow them to go up to 120 decibels.
7 And that's law right now. This is just an
8 enforcement tool for that law. You argued about
9 training for the Police Officers, and in fact that
10 was the issue, I don't know if you were at the
11 last hearing, probably not, because I'd remember
12 Mr. Y. But we had a hearing on this a few years
13 ago and the police had the same concern that you
14 did, they did not want to be sticking tools inside
15 of pipes looking for baffles. So this law does
16 not require that anymore. The EPA required
17 engravings on the outside of the pipe that they
18 need to look for, so they don't need to any longer
19 go into the pipe with any sort of tool, which was
20 a problem that they had and we had. No one wants
21 our cops potentially being injured or a bike
22 potentially being hurt when there's no problem
23 with the bike. So we've addressed that problem.
24 And they didn't support it originally. They do
25 support it now. Council Member Gerson, do you

1
2 want to be heard on that? We've also been joined
3 by Council Member Melinda Katz. Thank you.

4 COUNCIL MEMBER GERSON: Thank you,
5 Mr. Chair--

6 CHAIRPERSON VALLONE: [Interposing]
7 Oh, and Anthony Como. There he is.

8 COUNCIL MEMBER GERSON: If I may
9 make just a couple of brief comments, which
10 hopefully will alleviate some of the concerns you
11 gentlemen have raised and then just one or two
12 quick questions. But you're absolutely right.
13 Noise, excessive noise is excessive noise, it
14 doesn't matter what the source is. And I just
15 want to assure you that I, and I'm sure I speak
16 for all my colleagues, recognize the need to deal
17 with excessive noise from any source. We're not
18 targeting motorcycles. I've been dealing-- as a
19 matter of fact, Mr. Y, I've become known in parts
20 of my district as Mr. N, because-- and N referring
21 to noise. Because before we had this legislation
22 on motorcycles, you know, we worked very closely
23 to change the noise, to update the Noise Code
24 generally. I have legislation on metal plates,
25 you know, the kind that shake when trucks and

1
2 others go over them. I've had legislation on
3 noise from exhaust systems, building systems. So
4 I assure you, this is not picking on any one
5 sector. Sometimes you have to have specific
6 legislation as part of an overall package
7 targeting specific sources because, as Ms. Petito
8 said, you know, there are special EPA rules
9 regarding pipes on motorcycles, and that's why we
10 needed legislation to incorporate that. But some
11 of your ideas about the other vehicles, we'll pick
12 up on and follow. And you know, we're going to
13 continue to try and make this city reasonably
14 quieter. We know New York is always going to be a
15 noisy place, but you know, reasonably quieter.
16 Secondly, and I just want to also make it clear I
17 recognize the great work of the Ironworkers of our
18 City and our society. I represent the Lower
19 Manhattan district, the district of Ground Zero,
20 and I can never acknowledge too much how the
21 Ironworkers ranked among the heroes of our City
22 when you all, you know, marched towards the Ground
23 Zero site when the fires were still blazing to
24 assist in the recovery operation. You know, I can
25 never acknowledge that too much. But since you're

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here, and I do want to acknowledge that and make it clear we're forever indebted to Ironworkers and your role in the aftermath of that tragedy. Let me just ask you so we understand just following up on what our Chair said, can you safely navigate a motorcycle within the current constraints of the law, in other words within the 80 decibels that the law now currently sets as a cap?

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BILL FERRARO: I would say so, and I thank you for the recognition for the Ironworkers. And not only that, I'd just like to state that when 9/11 did hit and before they said they said the Trade Center, then they changed it Ground Zero on the radio, the only way we got in there was with the bikes; that was the only way we could get in. The only-- the objection that I'm having is the where is the stop, store, or be in the City limits with the bike. The agencies that you have conducting the search for these-- and violations that will occur, is I don't believe that they know what a straight pipe is. If we're looking for an EPA stamp that, I guess, is going to be somewhere along when you register your bike, if you don't have an EPA on your muffler, you

1
2 won't be able to register it or get your
3 registration tag. I don't know how that's going
4 to work out and I do think that we can operate,
5 and we do in this City, operate safely within the
6 boundaries of the law. And I think that the law
7 that we have on the books at this time is
8 sufficient enough. The seizures and the
9 forfeitures of the motorcycle, that might be the
10 only transportation that person has, okay?
11 Whether he has a straight pipe or a loud pipe or a
12 modified pipe, that's how he gets to work, that's
13 how he pays his taxes. That's how we pay our
14 taxes. In the summer, in the summer months,
15 that's really what we're talking about. We do
16 have checkpoints out there, and I'm talking about
17 checkpoints to where they wave you right off the
18 road. So I don't believe where the officer had
19 difficulty pulling over anybody. The siren and
20 the lights are sufficient enough to pull anybody
21 over. We do have sports bikes out there that--
22 they're not Harleys. They're, you know, they're
23 not Tanks. And they do make it sometimes a little
24 bit difficult for the rest of us because whatever
25 they do we get blamed for anyway, because we're on

1
2 two wheels. The three-wheel bikers on trikes,
3 yeah, we can operate safely. But the noise level
4 of a pipe actually directs a driver that's in
5 space that somebody is alongside him. We have a
6 casualty-- we have many casualties like that; I
7 didn't see him, I didn't hear him. I can usually
8 hear the bike, but I didn't hear him. And he's
9 laying on the floor with his helmet off, God knows
10 what else is going on with his body at that
11 particular moment. Yes there is-- it's a two-
12 edged sword. And there's over a-- I think there's
13 over 100,000 or 150,000 motorcycles in the state
14 of New York that's registered. Now these people
15 that make bikes and sell them with that in mind
16 will-- I mean that's going to just throw the
17 industry into another direction altogether so far
18 as the mom and pop shops. The guy who builds a
19 bike out in Jersey or OCC or somebody else, it
20 inflicts a tremendous gambit of business. I see
21 my friend Mr. Gentile is here. How are you?
22 We'll have another fundraiser for you. Don't
23 worry. I'm glad he's here.

24 COUNCIL MEMBER GENTILE: Aren't you
25 glad you came?

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2 COUNCIL MEMBER GERSON: Look, as
3 with any piece of legislation, there's going to be
4 policies or regulations or both put in place to
5 effectuate the intent. It will be on the letter
6 of the law. And some of the issues that you
7 raised are legitimate concerns, and I'm going to
8 encourage, and I'm sure our Chair will as well,
9 the NYPD to work with the motorcycle community to
10 work out the appropriate policies and regulations
11 so that they're effective, but not unfairly
12 onerous by any means. So we will follow up with
13 that regard. And again, just to clarify, I think
14 I'm asking you the same question a little
15 differently, but I want to keep the record clear
16 with regard to the safety issue. My understanding
17 from what you've just said and from what I've
18 heard from others in the motorcycle community is
19 that the current level of 80 decibels, you know,
20 does allow for the safe operation, so we don't
21 have to go changing or increasing the levels. Is
22 that correct?

23 BILL FERRARO: That's correct. At
24 that decibel there, the car alongside them will
25 know that they're there. Okay? And to be honest

1
2 with you, it gives the motorcyclists to go where
3 he's got to go in a safe manner.

4 COUNCIL MEMBER GERSON: Well, Mr.
5 Chair, thank you very much. Mr. Y and, I'm sorry
6 sir?

7 KEVIN HANRAHAN: Kevin Hanrahan.

8 COUNCIL MEMBER GERSON: Mr.
9 Hanrahan, thank you both very much, and we'll be
10 in touch.

11 CHAIRPERSON VALLONE: Thank you.
12 We've been joined by Council Member Vincent
13 Gentile.

14 COUNCIL MEMBER GERSON: We sure
15 have.

16 CHAIRPERSON VALLONE: Who is
17 planning his fundraisers as we sit here. Thank
18 you both for testifying here today. We have one
19 last person testifying in favor of that bill,
20 that's Richard Tur, T-U-R, from NOISEOFF. Mr.
21 Tur, please take the stand.

22 [Pause]

23 CHAIRPERSON VALLONE: Thank you for
24 coming down today. I look forward to your
25 testimony. Turn the mic on. Hit the button.

1
2 RICHARD TUR: How's that? Can you
3 hear me? Great. Thank you. Good morning Members
4 of the Council. My name is Richard Tur. I am the
5 Founder of NOISEOFF, a coalition working to reduce
6 urban noise pollution. Our grassroots effort
7 started for years ago and has now grown to 750
8 members from across the country. I started the
9 group in Astoria, Queens, because my own family
10 can't sleep at night from the vehicular noise
11 along Astoria Boulevard South. For residents who
12 live near busy thoroughfares and intersections,
13 vehicular noise is a serious quality of life issue
14 impacting their health. Why is it that some
15 motorcycles are so loud and others--

16 CHAIRPERSON VALLONE: [Interposing]
17 Richard, before you move on, the reason Astoria
18 Boulevard South relates to what I said before is
19 because that's how the motorcycles get to and from
20 Astoria Park.

21 RICHARD TUR: Exactly. On many
22 message boards on the Astorians.com message board,
23 there's a lot of discussions about that issue.
24 And residents who live all along Astoria Boulevard
25 are dealing with that noise. The quiet

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2 motorcycles are equipped with original equipment
3 exhaust systems and the loud ones are equipped
4 with an illegal exhaust system. The common
5 reasons vehicle owners do this modification is
6 that they claim that they're improving their
7 safety and they usually spout slogans such as Loud
8 Pipes Save Lives. In reality there has never been
9 a credible study done by anyone that proves or
10 even supports this erroneous theory. To the
11 contrary, the noise decreases the ability for
12 riders and others to hear pedestrians and other
13 vehicles; that includes emergency vehicles such as
14 police cars, ambulances and fire trucks. For
15 years, motorcyclists' rights groups and industry
16 trade journals tried to diffuse and obfuscate the
17 issue by placing subjective values on motorcycle
18 noise and shift responsibility of the problem to
19 the general population. These groups avoid
20 discussion or even the mention of the serious
21 health effects of loud motorcycles. Our group has
22 been the object of scorn from some riders, but
23 other responsible motorcyclists have joined our
24 group. They are tired of scoffers who are
25 oblivious to the damage that they're doing to the

1
2 image of the motorcycling community by installing
3 illegal exhaust systems. Noise pollution is not
4 merely an annoyance, it is a health hazard.
5 People continuously exposed to noise experience
6 elevated stress levels, mood swings, hypertension,
7 depression, lost sleep and productivity. In
8 children it results in slow learning. These
9 findings are supported by World Health
10 Organization and the other... Modified motorcycles
11 can reach noise levels in excess of 100 decibels,
12 a level that easily triggers an involuntary stress
13 response commonly known as fight or flight. This
14 results in the secretion of adrenaline with
15 ensuing spikes in cardio-respiratory rates, muscle
16 tension and elevated blood pressure. For people
17 trying to relax or sleep or engage in their daily
18 activities, the never-ending cycle of arousal
19 constitutes a health issue. It is this fact alone
20 that lead congress to create the Noise Control Act
21 and lead the EPA to create a simple enforcement
22 tool specifically for local level law enforcement
23 called the Label Match Up. The Label Match Up
24 came about because the EPA realized that the
25 intricacies of accurate field-testing are beyond

1
2 the scope of most law enforcement agencies. The
3 regulations require manufacturers starting in 1983
4 to test and label each motorcycle and its
5 corresponding exhaust system under laboratory
6 conditions. The Label Match Up plan provides a
7 valuable enforcement tool by removing all doubt
8 for law enforcement as to what is an acceptable
9 motorcycle muffler. Quite simply, any motorcycle
10 not displaying the required EPA muffler labeling
11 as originally equipped is subject to penalties.
12 The framework of the Label Match Up has been in
13 place since 1983. The popularity of motorcycles
14 that use loud exhaust systems is at an all time
15 high because there is inadequate law enforcement.
16 The motorcycle after market industry seized upon
17 this trend by offering ever louder exhaust
18 systems, arrogantly advertising the roar and
19 thunder of their products. The handouts that I'm
20 providing to you contains examples of
21 advertisements that are sent to dealers that make
22 these claims about the volume level of the
23 motorcycles. Our members have spoken on the issue
24 of illegal exhaust systems across the country. As
25 you noted in Denver, Colorado, they helped pass

1
2 Motorcycle Label Match Up, that allows the police
3 to stop and cite operators if their motorcycle
4 does not have the required EPA stamp on the
5 exhaust system and the chassis. I strongly
6 recommend this proposed legislation. I think it's
7 great legislation. It's probably the strongest
8 legislation I've seen thus far, and it is a
9 necessary step to reduce urban noise pollution.
10 It empowers the NYPD and other City agencies to do
11 a better job and protect the rights and health of
12 New Yorkers. Just one loud motorcycle roaring
13 across the City late at night can disturb
14 thousands of people. The materials that I'm
15 including in the handout was created by a veteran
16 motorcycle mechanic who got sick and tired of his
17 customers demanding loud exhaust systems. He
18 contacted me and we worked on this report
19 together. So we have the support of a lot of
20 riders, people who work in the industry, who want
21 to see this kind of legislation passed. Inside,
22 as I said, you'll find detailed photographs of
23 different after-market exhaust systems and
24 marketing details sent to dealers. And you can
25 see more examples and photographs at the website

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noiseoff.org. Thank you.

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CHAIRPERSON VALLONE: Mr. Tur,

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thank you for this comprehensive report that you

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just cited. It really does have a lot of

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informative information in here regarding straight

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pipes, regarding illegal advertisements for these

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illegal pipes. I particularly like the last

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flier, which is for a Sunday bike run, which says

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right on the flier, let's end the summer with the

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loudest pipes in the area. Very interesting

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material, which we will absolutely take a look at

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as we put the final touches on our bill. Do you

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have any recommendations for changes in the bill?

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RICHARD TUR: I think the

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legislation is perfect the way it is. Delighted

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with it.

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COUNCIL MEMBER GERSON: Nothing to

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say following that testimony but--

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CHAIRPERSON VALLONE: [Interposing]

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Perfect and ingenious in the same day, Alan. You

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just retire today. That's it. You're done.

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COUNCIL MEMBER GERSON: I'm going

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to quit while-- something terrible is waiting this

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afternoon to make up for this. No, no. But this

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2 was a collaboration working with, as I said, all
3 the communities and individuals I mentioned
4 earlier. I just want to thank you, Mr. Tur. This
5 really, this is extraordinarily helpful and
6 thorough. And I could not have, certainly I could
7 not have said it better and could not have
8 presented it better. So thank you.

9 RICHARD TUR: Thank you so much.
10 Thank you, bye-bye.

11 CHAIRPERSON VALLONE: Thank you,
12 Mr. Tur. We've been joined by Council Member Joe
13 Addabbo and we are done with testimony. There is
14 one Council Member on the way, which we may hold
15 this hearing open for a few minutes once I check
16 to see how far away he is. But other than that,
17 this hearing is adjourned and I thank everyone for
18 their testimony. I look forward to voting on this
19 hopefully, if our staffs can work together, on
20 December 18th. Is that the next date for the
21 Stated?

22 OONA PETERSON: Yes.

23 CHAIRPERSON VALLONE: December
24 18th, Stated. Thank you all.

25 [Pause]

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CHAIRPERSON VALLONE: I'm just told

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no one else will be making it, so this hearing is

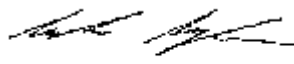
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adjourned.

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C E R T I F I C A T E

I, Erika Swyler 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_____

Date December 29, 2008