

TESTIMONY

BY

FIRST DEPUTY COMMISSIONER

JACKIE MALLON

NEW YORK CITY

DEPARTMENT OF SMALL BUSINESS SERVICES

BEFORE

THE COMMITTEE ON SMALL BUSINESS

OF THE

NEW YORK CITY COUNCIL

WEDNESDAY, JANUARY 30, 2019

Good afternoon **Chair Gjonaj** and members of the Committee on Small Business. My name is Jackie Mallon, and I am the First Deputy Commissioner at the New York City Department of Small Businesses Services ("SBS"). At SBS, we aim to unlock economic potential and create economic security for all New Yorkers by connecting them to quality jobs, building stronger businesses, and fostering thriving neighborhoods across the five boroughs. I am joined by my colleague, Steven Picker, the Executive Director of our food service industry partnership. Today, I am pleased to testify on our support of the New York City restaurant industry.

There are a little over 20,000 restaurants in New York City, employing over 270,000 New Yorkers. Restaurants are present in almost every neighborhood and are essential to our city's identity. To assist restaurant owners, SBS offers many resources that help them start, operate, and grow. Our services to support restaurants include our client manager and compliance advisory services, which help restaurant owners navigate the regulatory process and ensure they are in compliance with regulations necessary to maintain public health and safety. We also help restaurant owners access capital, hire new employees, and fund employee training through our NYC Business Solutions Centers. On an average annual basis, SBS helps open roughly 500 restaurants, fill nearly 3,000 open positions at restaurants, and connect about 100 restaurants to around \$4 million in financing.

SBS also works directly with the restaurant industry through our Industry Partnership, known as the **NYC Food & Beverage Industry Partnership**, which is made up of over thirty NYC restaurant industry leaders, key professional associations, and community-based organizations that focus on skills training. The partnership allows

us to work directly with the industry on priority issues impacting both employers and workers to support the growth of the industry. Key priorities include helping restaurants navigate the regulatory environment, addressing the demand for skilled workers, and providing support to adapt to the rising costs of doing business in the city.

While protecting public health and safety is essential, we know that governmental regulations are sometimes not totally clear or straightforward for business owners. This is particularly true for restaurant operators who typically interact with multiple regulatory agencies. One of the first efforts to address the regulatory concerns of businesses, was the **Small Business First** initiative, launched in 2015. The Mayor's multi-agency effort, including DOHMH, FDNY, DCA, DOB and DSNY, helps businesses understand and comply with City regulations; reduces the regulatory burden on businesses; and ensures equal access to City support for all business owners. We developed SB1's thirty commitments based on feedback from hundreds of business owners. Some examples of the ways we've helped businesses save time and money include:

1. Creating an online portal where businesses can see all their interactions with the City;
2. Launching a first-of-its kind compliance consultation program
3. Streamlining regulatory agency processes

The **NYC Business Portal** has had more than **17,000 accounts** created with a monthly average of more than **100,000 unique visitors** since launching. To provide direct support to businesses, SBS cross-trained new staff, called **Compliance Advisors**, in the regulatory requirements of various agencies. Armed with this information, these Compliance Advisors were able to complete more than **2,600 on-site consultations** for

restaurants, helping these business owners to avoid common violations before their inspections. SBS has also worked with agencies and Council to streamline time consuming and costly processes for businesses. This past year, we worked with Council to establish Local Law 195, which consolidates processes for fire suppression systems, fire alarm systems, and fire protection plans solely under the purview of the FDNY. Prior to the implementation of this local law, the approval process for these systems required restaurants to engage with both DOB and FDNY. These process changes will reduce the cost and administrative burden on businesses, saving them both time and money without compromising public health and safety. SBS looks forward to continuing our work with agencies and Council to make it easier for businesses to comply with rules and regulations.

Restaurants are also currently undergoing an unprecedented labor shortage. Members of our Industry Partnership cited the recruitment of skilled employees as one of the most important challenges for their industry. To address this need we launched **StageNYC**, a three-month program connecting out-of-school, out-of-work youth with rewarding careers in the New York City restaurant industry. The program was designed to help meet the restaurant sector's growing demand for qualified culinary employees while creating new career pathways for New Yorkers. Participants receive paid, on-the-job training with an industry partner. This hands-on experience allows participants to gain all the tools needed for success in the growing restaurant industry. We are now refining the program based on lessons learned from the initial pilot and plan to launch another cohort early this summer. In addition, through SBS's Customized Training Program, we

provide funds to restaurants and other businesses to offset the cost of training for their current staff so that they can advance to higher paying positions.

SBS also helps businesses adapt to changing local trends, such as shifting neighborhood demographics. For example, where changing markets may prompt landlords to speculate or harass existing commercial tenants, SBS provides free legal services through our **Commercial Lease Assistance Program**. Businesses, including restaurants, can work one-on-one with attorneys to review lease renewal terms, negotiate with their landlord, and even prepare court papers and motions when litigation cannot be avoided.

Restaurants have raised concerns with adapting to new mandates that have increased costs. In recent years, New York City has been on the forefront of providing essential basic protections to workers. Since the start of this administration, the City has given workers of private employers the right to paid sick leave and required private employers to provide employees with sexual harassment prevention training and information. Most recently, Mayor de Blasio announced paid personal time, making New York City the first city in the nation to offer personal time off for workers. This comes along with mandates from the State, including paid family leave and an increased minimum wage of \$15 for businesses with 11 or more employees. While SBS fully supports the expansion of these critical worker protections, we have also heard from restaurant owners who are struggling to adapt. To assist, SBS offers business education resources to help businesses to assess their costs, reduce unnecessary expenses, and increase their revenue. This allows businesses to prepare for different forms of business interruption and unexpected expenses.

SBS also helps longstanding companies adjust to changing market conditions with **Love Your Local**. Through this program, businesses receive expert business advice and, if eligible, grants of up to **\$90,000** for adaptation. These programs allow us to test and analyze business interventions with the hope of scaling effective solutions.

As you can see, SBS is an advocate for restaurants and we are committed to ensuring their success in New York City. We are unique among our peer agencies as our role is to serve as a resource to all business owners and workers – no matter where they come from or what barriers they face. We look forward to learning more about the issues restaurants are facing and work to address them. Thank you and I am happy to answer any questions.

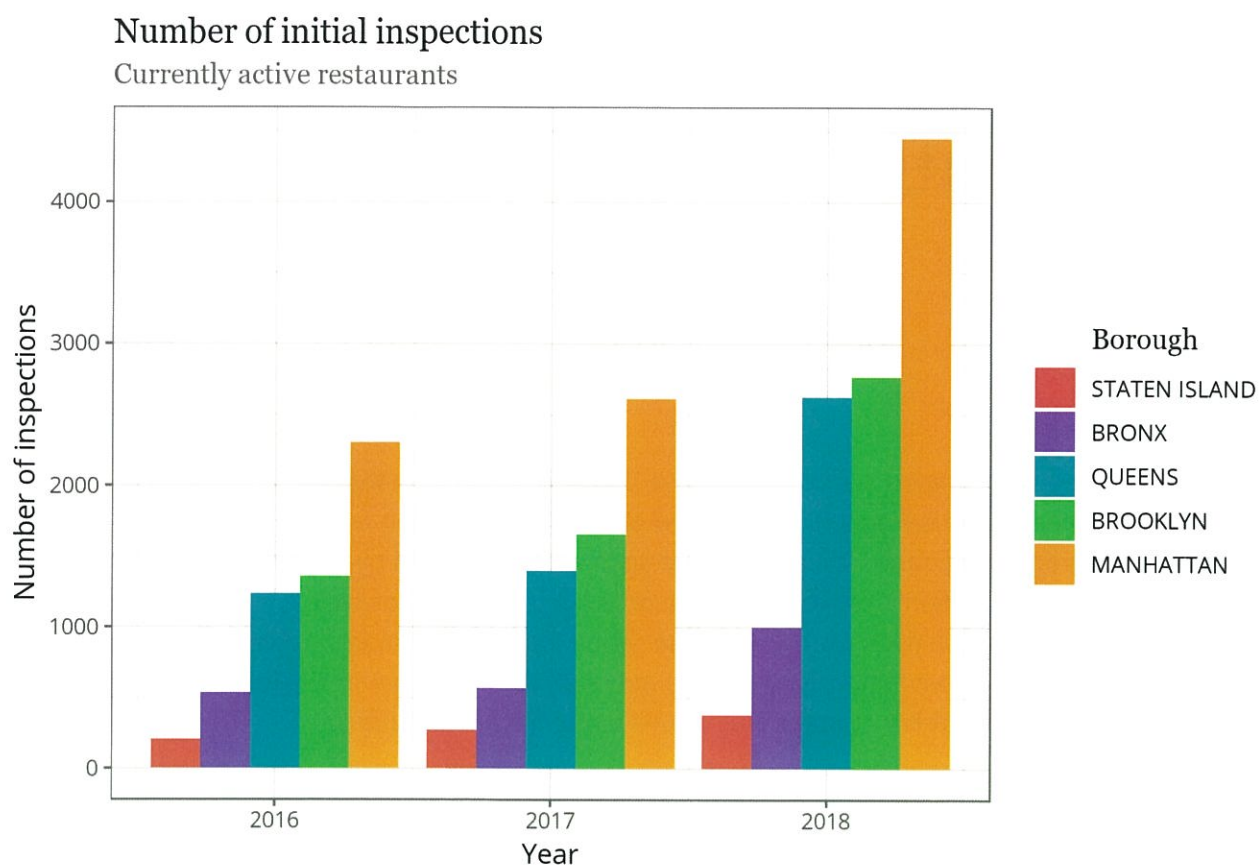


Figure 2.1: The number of initial inspections performed by DOHMH in each borough by year. Initial inspections are required to obtain a food establishment permit from DOHMH. This plot includes only restaurants that are in active status as of the date of this report.

Table 2.1 shows the 6 most common violation types issued by DOHMH. These violations comprise more than half of all violations issued. The fact that such a small number of violations comprise such a large proportion of the total could indicate that these violation descriptions are either too broad to give useful information about the actual state of a restaurant, very difficult for restaurant owners to remedy, or not adequately communicated to restaurant owner.

Table 2.1: The 6 most common violations issued by DOHMH, comprising more than 50% of violations.

Violation description	Number of violations issued	Percent of all violations
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.	54006	14.009702
Facility not vermin proof. Harborage or conditions conducive to attracting vermin to the premises and/or allowing vermin to exist.	41596	10.790423

Violation description	Number of violations issued	Percent of all violations
Evidence of mice or live mice present in facility's food and/or non-food areas.	28122	7.295131
Food contact surface not properly washed, rinsed and sanitized after each use and following any activity when contamination may have occurred.	26010	6.747257
Food not protected from potential source of contamination during storage, preparation, transportation, display or service.	25395	6.587720
Cold food item held above 41°F (smoked fish and reduced oxygen packaged foods above 38 °F) except during necessary preparation.	22637	5.872267

Oversight - Restaurant industry in New York City
Wednesday, January 30, 2019 at 1:00 P.M.
14th Floor Committee Room
250 Broadway, New York, NY

My name is Andrew Rigie and I am the executive director of the New York City Hospitality Alliance ("The Alliance"). The Alliance is a not-for-profit association representing thousands of restaurants throughout the five boroughs. Thank you for the invitation to testify at today's restaurant oversight hearing.

Contrary to what some in government think, the restaurant industry is not thriving. As a matter of fact, it is going through a challenging and transformational time. The large number of empty storefronts in your neighborhoods is a testament to this fact. The onslaught of expensive and complicated government mandates is relentless. Recent labor mandates alone for restaurants in New York City include doubling the tip wage in a mere three years. We've had six consecutive, annual minimum wage increases; a \$300 increase to the minimum weekly rate for salaried employees; paid sick leave; higher taxes and insurance; healthcare expenses, and compliance costs. These increases also place upward pressure on all wages because more experienced employees request raises in order to earn more than their entry level colleagues.

Between 2010 – 2015 annual employment growth averaged 6.5% at full service restaurants in New York City. But in the last 3 years, since these cost increases, we are seeing a massive slowdown. It appears we'll end 2018 with less than 1% growth. The worst since the great recession. This decline is directly tied to these pressures and rising costs. Between 2012 – 2015 growth in Full Liquor and Beer & Wine Licenses was nearly 23%; and today, annual growth has plummeted to the low single digits. In a recent survey conducted by our organization, 75% of restaurant respondents said they will reduce employee hours in 2019 and almost 50% indicated that they will eliminate jobs as a result of mandates. Employment at limited service restaurants also paints a similar and concerning picture.

While we have achieved meaningful regulatory reforms over the years, there is still excessive red tape and fines. For example, fines levied by the Health Department are still tens of millions of dollars higher than they were in the early aughts. This is after years of outrage about excessive regulations and over-enforcement by members of the City Council.

While we appreciate today's Restaurant Oversight hearing, the industry is frankly exhausted from years of talking and we demand action. We hope today's hearing will be a catalyst for it. The following is a list of regulatory reforms and policy ideas that would provide restaurants' relief and spur economic activity and job growth.

1. Allow restaurants the option of adding a clearly disclosed surcharge to prices, which is allowed everywhere else around the country, and even the rest of New York State.
2. Eliminate the unjust and inequitable commercial rent tax levied on thousands of businesses south of 96th Street in Manhattan.

3. Most commercial tenants such as restaurants pay a portion of their landlord's property tax, which poses significant financial burdens. The City should give tax credits to businesses to offset this expense.
4. The Department of Finance should explicitly allow the amount of a restaurant's FICA Tip Tax Credit to be an allowable subtraction from that business's taxable income.
5. Restaurants are labor intensive and employ people of all backgrounds, experience, and skills, some of whom may not find work elsewhere. The city should give tax credits and incentives to restaurants related to employing New Yorkers.
6. Eliminate the unfair and unique liquor excise tax imposed by the City on all license holders. Advocate at a State level to reduce the liquor license fee in the NYC so that the fee costs the same for all establishments, regardless of where in the State they operate. The fee should not be double when operating in NYC.
7. City agencies that regulate restaurants should be required to review all of the violations they issue. They should then identify violations that don't pose an imminent hazard to the public and provide warnings and cure periods for those violations before issuing a fine. The Council passed such a law 6+ years ago, but it was largely ignored by the Bloomberg Administration.
8. Require all proposed laws and regulations with a fine be analyzed to determine if a warning or cure period should be provided.
9. The Health Department's 'Letter Grade' inspection system should provide due process to restaurants by having a judge's ruling determine the frequency of inspection, instead of an inspector's accusations, which is how the system currently works.
10. Scaffolding (sidewalk sheds) play an essential role in protecting people from falling debris from building construction. But scaffolding left up unnecessarily for extended periods of time has a devastating financial impact on restaurants and bars. Pass a law requiring scaffolding to come down promptly.
11. Require DEP to provide a 30-day notice to restaurants for non-emergency water shutdowns that will impact their business. Too often, businesses get less than 48-hour notice, which poses serious burdens on restaurants that have reservations and parties scheduled.

In addition to these 11 proposed reforms, we have many more that we'd be happy to discuss with you. Thank you for your consideration and we urge the City Council to act on these proposed restaurant reforms swiftly.

Respectfully submitted,

Andrew Rigie
Executive Director
arigie@thenycalliance.org



In support of restaurants and all small businesses – who are in desperate need of lease renewal protections, and cannot afford mandated PTO

Good afternoon. My name is Kathleen Reilly and I am the NYC Government Relations Coordinator 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 and most impacted constituencies regulated by the City, as nearly every agency regulates some aspect of the restaurant industry.

Restaurants are crucial to the economic and cultural fabric of New York City – they employ hundreds of thousands of New Yorkers, they are a backbone of the tourism trade, and the many small, immigrant-owned, minority and women owned restaurants contribute to the vibrancy of our city. To ensure the continued viability of the restaurant and hospitality industry, New York City must prioritize regulations that enable these hardworking New Yorkers to continue pursuing their livelihoods.

I am here today to voice the industry's support for lease renewal protections, which are currently proposed in the Small Business Jobs Survival Act, and to express concern over the unintended consequences of the Mayor's proposal to mandate paid time off for private businesses.

First, I will address the need for lease renewal protections. New York City is facing a problem that is twofold: beloved neighborhood staples are forced to close either because their leases are not renewed by the landlord, through no fault of the tenant or any extenuating circumstance, or the lease can be renewed, but at an impossible increase in rent. We applaud Councilman Rodriguez and the numerous co-sponsors for introducing Int. 737-2018, more commonly known as the Small Business Jobs Survival Act, to address this problem.

The Small Business Jobs Survival Act (SBJSA) would provide commercial tenants with new protections, including recourse to arbitration, in the face of the often-challenging lease renewal process. This legislation would provide a fair and level playing field for landlords and tenants alike, and would encourage reasonable lease terms and rent determinations. The SBJSA provides a detailed list of the criteria to be considered for setting the rent, in stark contrast to the current situation, in which landlords can ask for any amount of rent, without any authority to reign them in.

The SBJSA also prohibits landlords from refusing to renew a lease without cause. It details the scenarios that constitute cause, requires landlords to explain and prove the cause to the tenant,

and allows the tenant to challenge the "cause" if it is dubious. At the end of the day, this legislation would provide leverage to the currently leverage-less. It is a badly needed protection for small businesses, and could literally be the difference between an untimely shuttering of doors, or ten more years as a neighborhood staple.

Secondly, I would like to address a looming concern for the food service industry, which is the Mayor's proposal to mandate paid time off for private businesses. In his State of the City Address, Mayor de Blasio requested legislation that would require private businesses with more than 5 employees to offer 10 days of paid time off per year. Unfortunately, the restaurant industry is in no position to shoulder yet another mandated increase in worker compensation.

As it stands, businesses are struggling to accommodate the recent minimum wage hike, and the majority of businesses report some combination of cutting worker hours, cutting jobs, and raising menu prices. The restaurant industry notoriously operates on razor-thin margins, and these businesses do not have thousands of extra dollars in the budget to pay workers on days off.

This point of fact – that thousands of dollars in additional costs could literally shut down small businesses – is something that the Council has acknowledged in the past, as recently as earlier this month, when they passed the Awnings Act. We urge this Committee to take the same consideration when weighing the impact of mandated paid time off.

At the end of the day, a paid time off mandate is likely to hurt the very workers it would hope to help, as restaurant owners would be forced to cut even more hours and jobs to try to stay in business. Many workers currently in the restaurant space have chosen this profession for the flexibility it provides, so it would be deeply ironic for these same folks to lose their jobs in the name of government-mandated worker flexibility.

In conclusion, the New York State Restaurant Association supports the Small Business Jobs Survival Act as an important piece of legislation that will guarantee a much fairer lease renewal process, and we caution the Committee against the negative effects of a paid time off mandate. Above all else, we hope to continue to work in conjunction with this Committee to accomplish common-sense regulations that benefit the entire business community, owners, workers, and the City of New York.

Respectfully Submitted,

Kathleen Reilly

NYC Government Relations Coordinator

New York State Restaurant Association

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NYC COUNCIL SMALL BUSINESS COMMITTEE

OVERSIGHT HEARING ON RESTAURANTS

Wednesday, January 30, 2019

TESTIMONY of Dean Marino

Thank you for the opportunity to testify about the hardships I face as a small business owner in the restaurant industry.

Over the years, increased costs of rent, supplies, and maintenance have been a burden on small business owners, but these are the costs we expect to incur over time as the price of doing business.

Unfortunately, while we hear a lot of comments from elected officials about wanting to help small businesses grow and create jobs, the single largest increase in our budgets has been a flurry of new regulations, rules and laws that seek to micromanage our day-to-day operations, and end up increasing our costs, imposing new fines and creating new administrative hurdles. Often under the guise of well-intentioned public policy, overregulation by government with little or no understanding of the actual effects of these new rules is threatening to put us all out of business and is already hindering our ability to maintain current jobs and provide new opportunities for New Yorkers seeking to make a living.

As you know, Dunkin' is the largest storefront operator in New York City, with over 630 locations providing over 12,500 jobs. But these are not corporate-owned stores, rather they are a network of small business owners who have chosen to franchise with Dunkin' Brands. As franchisees, we are no different than the thousands of other small business owners across the city. We are responsible for the day-to-day operation of our business, hiring and retaining workers, and managing our own finances.

Over the years, NYS and NYC have increased the minimum wage, and imposed paid sick leave laws, scheduling rules, menu labeling changes, increased delivery fines, and new organics recovery requirements – all of which raise the cost of doing business for small business owners like us with no tax relief from government.

“FAIR” WORK WEEK / Scheduling Laws

The New York City Council passed a set of laws called the “Fair” Work Week package to provide advance notice of scheduling to employees and create protections against lost hours. These laws have actually led to less hours and less opportunity for many employees to pick up additional hours when seeking to fill a shift left open by employees who call out for any reason.

This adversely affects both the employees and small business owners throughout New York City. In fact, the “Fair” workweek laws have the following impact:

- Makes it harder for small business owners to provide our employees with flexible scheduling and additional shifts when requested due to the imposition of penalties, which the Council calls “Premium” pay. Since employees do not provide at least 2-weeks’ notice before calling out, employers are forced to either pay a penalty to allow another employee to fill the open shift or leave the shift unfilled, which puts additional pressure on those employees working a shift understaffed;
- Harms employees who value flexibility and part-time work by preventing them from picking up additional hours when a store is busy, or again, when an employee calls out;
- Makes it harder for franchisees like me to provide growth opportunities by forcing us to undergo a tedious process of offering new shifts to current employees before hiring new employees to fill a vacancy when an employee quits and needs to be replaced quickly;
- Reduces the quality of customer service our industry relies upon by reducing the number of employees on shift when someone calls out without providing 2-weeks advanced notice as is required by employers during the scheduling process;
- Stifles business growth and prevents further investment by small business owners who fear making new investments and incurring more debt under ever-changing and increasingly burdensome government regulations;
- Creates a cottage industry for plaintiffs’ attorneys by opening up small business owners to costly litigation under the guise of protecting employees; and,
- Overall, ***harms the very workers the legislation allegedly intends to help.***

ORGANICS RECOVERY “Pilot” Expansion

The NYC Council passed a law in 2013 to create a commercial organics recovery program for stadiums, arenas, hotels, food service establishments with more than 7,000 square feet of space, or chains of 2 or more locations with a combined area of over 8,000 square feet.

The Sanitation Commissioner is obligated to determine whether there is sufficient capacity within a one hundred mile radius of the city to process the organic waste being generated. In addition, the Commissioner will determine whether the cost of processing organic waste is competitive with the cost of disposing of organic waste by landfill or incineration. As organic waste processing capacity increases within the region, **the Commissioner is able to phase-in the requirement of an increasing number of commercial enterprises to source separate their organic waste.**

While this latter clause allows for the expansion of this program, the NYC Department of Sanitation has not conducted or provided the results of a study on sufficient capacity. The Department also chose to impose commercial organics recovery on all food service establishments that are part of a chain with 100+ locations within New York City. This

expansion does not take into account the amount of organic material generated by each location, the costs incurred by each small business owner to process the material or the lack of space to store organic material back of house.

The NYC Council and the Department of Sanitation should revisit this law to ensure it is an efficient program that has the intended effect of improving the environment and reducing food waste.

MENU LABELING

Over the years, we have seen a significant uptick in new menu labeling laws that require small business owners to alter their menus and menu boards every time a new idea is presented in this arena. The addition of calories, salt shaker symbols and now, potentially, a sugar menu warning label requires the complete overhaul of menu boards – a major and unforeseen cost to small business owners. Additionally, government-imposed labeling is making the menu boards increasingly difficult to read for consumers, while not providing the unique information that consumers with health needs require.

Dunkin' Brands was a leading advocate for a single, federal menu labeling mandate that provides uniformity and clarity to our guests across the country. Federal menu labeling laws provide a thorough set of guidelines that make calories available directly on the menu, and all other ingredients traditionally found in a nutrition facts panel available upon request. Requiring additional warning labels is only confusing to consumers, it could prevent them from using the information already provided to make the proper decisions about their dietary practices.

HUMAN RIGHTS LAW EXPANSION

The NYC Council has introduced legislation seeking to expand the Human Rights Law and hold franchisors liable for the actions of franchisees, even though there is no Joint Employer relationship between the two entities.

New York City has approximately 9,100 local franchise businesses, which are independently owned and operated businesses employing roughly 110,000 people in a range of jobs – from those just entering the workforce to managers and technical professionals. Unlike corporate entities where 100% of monies paid by consumers flow to the corporate entity, local franchise business owners reinvest a majority of their profits locally, through expansion, job creation, training and community involvement. Franchising – and franchise ownership – has always been a path toward increased job creation and economic growth among people from all walks of life and socioeconomic backgrounds.

This economic growth is threatened by a common misconception of the franchise business model. This misconception is that the owner of the franchise brand – the “franchisors” – own and operate the stores and make employment decisions at the local level. However, all 9,100 franchise establishments across the city are locally-owned small businesses, simply operating under a national brand name.

As small business owners, we respect our employees and support protecting them against discrimination of any kind. However, trying to create a new joint employer relationship with a new law will simply lead to higher costs, more litigation and fewer jobs available in the future. It will do nothing to provide our employees with the protections they deserve.

CONCLUSION

While we understand the role government seeks to play in regulating businesses, we can no longer withstand the constant barrage of new rules and regulations that increase costs through an overburdensome fine system which only serves to generate revenue for the city while hurting the creation of jobs.

At a recent press conference on creating a new law that provides all employees with paid personal leave, Mayor de Blasio said, “I’ve spent 5 years talking to small business owners. **Small businesses are hurting in this city. There is no question about it.**” The Mayor is correct that small business owners are hurting. Now, it’s time to provide us with some relief by revisiting the actions of the past and amending them to reduce this overdue burden of increased costs, fines and potential for litigation. By helping small business owners succeed, you create jobs for those most in need.

Myself along with the Dunkin’ franchise community welcome the opportunity to discuss these issues further.

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NYC COUNCIL SMALL BUSINESS COMMITTEE

OVERSIGHT HEARING ON RESTAURANTS

Wednesday, January 30, 2019

TESTIMONY of HOWARD NOVICK

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Unfortunately, while we hear a lot of comments from elected officials about wanting to help small businesses grow and create jobs, the single largest increase in our budgets has been a flurry of new regulations, rules and laws that seek to micromanage our day-to-day operations, and end up increasing our costs, imposing new fines and creating new administrative hurdles. Often under the guise of well-intentioned public policy, overregulation by government with little or no understanding of the actual effects of these new rules is threatening to put us all out of business and is already hindering our ability to maintain current jobs and provide new opportunities for New Yorkers seeking to make a living.

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Over the years, NYS and NYC have increased the minimum wage, and imposed paid sick leave laws, scheduling rules, menu labeling changes, increased delivery fines, and new organics recovery requirements – all of which raise the cost of doing business for small business owners like us with no tax relief from government.

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This adversely affects both the employees and small business owners throughout New York City. In fact, the "Fair" workweek laws have the following impact:

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While this latter clause allows for the expansion of this program, the NYC Department of Sanitation has not conducted or provided the results of a study on sufficient capacity. The Department also chose to impose commercial organics recovery on all food service establishments that are part of a chain with 100+ locations within New York City. This

expansion does not take into account the amount of organic material generated by each location, the costs incurred by each small business owner to process the material or the lack of space to store organic material back of house.

The NYC Council and the Department of Sanitation should revisit this law to ensure it is an efficient program that has the intended effect of improving the environment and reducing food waste.

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Over the years, we have seen a significant uptick in new menu labeling laws that require small business owners to alter their menus and menu boards every time a new idea is presented in this arena. The addition of calories, salt shaker symbols and now, potentially, a sugar menu warning label requires the complete overhaul of menu boards – a major and unforeseen cost to small business owners. Additionally, government-imposed labeling is making the menu boards increasingly difficult to read for consumers, while not providing the unique information that consumers with health needs require.

Dunkin' Brands was a leading advocate for a single, federal menu labeling mandate that provides uniformity and clarity to our guests across the country. Federal menu labeling laws provide a thorough set of guidelines that make calories available directly on the menu, and all other ingredients traditionally found in a nutrition facts panel available upon request. Requiring additional warning labels is only confusing to consumers, it could prevent them from using the information already provided to make the proper decisions about their dietary practices.

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This economic growth is threatened by a common misconception of the franchise business model. This misconception is that the owner of the franchise brand – the “franchisors” – own and operate the stores and make employment decisions at the local level. However, all 9,100 franchise establishments across the city are locally-owned small businesses, simply operating under a national brand name.

As small business owners, we respect our employees and support protecting them against discrimination of any kind. However, trying to create a new joint employer relationship with a new law will simply lead to higher costs, more litigation and fewer jobs available in the future. It will do nothing to provide our employees with the protections they deserve.

CONCLUSION

While we understand the role government seeks to play in regulating businesses, we can no longer withstand the constant barrage of new rules and regulations that increase costs through an overburdensome fine system which only serves to generate revenue for the city while hurting the creation of jobs.

At a recent press conference on creating a new law that provides all employees with paid personal leave, Mayor de Blasio said, “I’ve spent 5 years talking to small business owners. **Small businesses are hurting in this city. There is no question about it.**” The Mayor is correct that small business owners are hurting. Now, it’s time to provide us with some relief by revisiting the actions of the past and amending them to reduce this overdue burden of increased costs, fines and potential for litigation. By helping small business owners succeed, you create jobs for those most in need.

My fellow franchisees and I welcome the opportunity to discuss these issues further.

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NYC COUNCIL SMALL BUSINESS COMMITTEE

OVERSIGHT HEARING ON RESTAURANTS

Wednesday, January 30, 2019

TESTIMONY of RICHARD GREENSTEIN

Thank you for the opportunity to testify about the hardships I face as a small business owner in the restaurant industry.

Over the years, increased costs of rent, supplies, and maintenance have been a burden on small business owners, but these are the costs we expect to incur over time as the price of doing business.

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Over the years, NYS and NYC have increased the minimum wage, and imposed paid sick leave laws, scheduling rules, menu labeling changes, increased delivery fines, and new organics recovery requirements – all of which raise the cost of doing business for small business owners like us with no tax relief from government.

"FAIR" WORK WEEK / Scheduling Laws

The New York City Council passed a set of laws called the "Fair" Work Week package to provide advance notice of scheduling to employees and create protections against lost hours. These laws have actually lead to less hours and less opportunity for many employees to pick up additional hours when seeking to fill a shift left open by employees who call out for any reason.

This adversely affects both the employees and small business owners throughout New York City. In fact, the "Fair" workweek laws have the following impact:

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- Harms employees who value flexibility and part-time work by preventing them from picking up additional hours when a store is busy, or again, when an employee calls out;
- Makes it harder for franchisees like me to provide growth opportunities by forcing us to undergo a tedious process of offering new shifts to current employees before hiring new employees to fill a vacancy when an employee quits and needs to be replaced quickly;
- Reduces the quality of customer service our industry relies upon by reducing the number of employees on shift when someone calls out without providing 2-weeks advanced notice as is required by employers during the scheduling process;
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expansion does not take into account the amount of organic material generated by each location, the costs incurred by each small business owner to process the material or the lack of space to store organic material back of house.

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NYC COUNCIL SMALL BUSINESS COMMITTEE

OVERSIGHT HEARING ON RESTAURANTS

Wednesday, January 30, 2019

TESTIMONY of Alex Smigelski

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NYC COUNCIL SMALL BUSINESS COMMITTEE

OVERSIGHT HEARING ON RESTAURANTS

Wednesday, January 30, 2019

TESTIMONY of Jim Quent on Behalf of Dunkin' Brands

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NYC COUNCIL SMALL BUSINESS COMMITTEE

OVERSIGHT HEARING ON RESTAURANTS

Wednesday, January 30, 2019

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NYC COUNCIL SMALL BUSINESS COMMITTEE

OVERSIGHT HEARING ON RESTAURANTS

Wednesday, January 30, 2019

TESTIMONY of Suhel Ahmed

Thank you for the opportunity to testify about the hardships I face as a small business owner in the restaurant industry.

Over the years, increased costs of rent, supplies, and maintenance have been a burden on small business owners, but these are the costs we expect to incur over time as the price of doing business.

Unfortunately, while we hear a lot of comments from elected officials about wanting to help small businesses grow and create jobs, the single largest increase in our budgets has been a flurry of new regulations, rules and laws that seek to micromanage our day-to-day operations, and end up increasing our costs, imposing new fines and creating new administrative hurdles. Often under the guise of well-intentioned public policy, overregulation by government with little or no understanding of the actual effects of these new rules is threatening to put us all out of business and is already hindering our ability to maintain current jobs and provide new opportunities for New Yorkers seeking to make a living.

As you know, Dunkin' is the largest storefront operator in New York City, with over 630 locations providing over 12,500 jobs. But these are not corporate-owned stores, rather they are a network of small business owners who have chosen to franchise with Dunkin' Brands. As franchisees, we are no different than the thousands of other small business owners across the city. We are responsible for the day-to-day operation of our business, hiring and retaining workers, and managing our own finances.

Over the years, NYS and NYC have increased the minimum wage, and imposed paid sick leave laws, scheduling rules, menu labeling changes, increased delivery fines, and new organics recovery requirements – all of which raise the cost of doing business for small business owners like us with no tax relief from government.

“FAIR” WORK WEEK / Scheduling Laws

The New York City Council passed a set of laws called the “Fair” Work Week package to provide advance notice of scheduling to employees and create protections against lost hours. These laws have actually led to less hours and less opportunity for many employees to pick up additional hours when seeking to fill a shift left open by employees who call out for any reason.

This adversely affects both the employees and small business owners throughout New York City. In fact, the “Fair” workweek laws have the following impact:

- Makes it harder for small business owners to provide our employees with flexible scheduling and additional shifts when requested due to the imposition of penalties, which the Council calls “Premium” pay. Since employees do not provide at least 2-weeks’ notice before calling out, employers are forced to either pay a penalty to allow another employee to fill the open shift or leave the shift unfilled, which puts additional pressure on those employees working a shift understaffed;
- Harms employees who value flexibility and part-time work by preventing them from picking up additional hours when a store is busy, or again, when an employee calls out;
- Makes it harder for franchisees like me to provide growth opportunities by forcing us to undergo a tedious process of offering new shifts to current employees before hiring new employees to fill a vacancy when an employee quits and needs to be replaced quickly;
- Reduces the quality of customer service our industry relies upon by reducing the number of employees on shift when someone calls out without providing 2-weeks advanced notice as is required by employers during the scheduling process;
- Stifles business growth and prevents further investment by small business owners who fear making new investments and incurring more debt under ever-changing and increasingly burdensome government regulations;
- Creates a cottage industry for plaintiffs’ attorneys by opening up small business owners to costly litigation under the guise of protecting employees; and,
- Overall, ***harms the very workers the legislation allegedly intends to help.***

ORGANICS RECOVERY “Pilot” Expansion

The NYC Council passed a law in 2013 to create a commercial organics recovery program for stadiums, arenas, hotels, food service establishments with more than 7,000 square feet of space, or chains of 2 or more locations with a combined area of over 8,000 square feet.

The Sanitation Commissioner is obligated to determine whether there is sufficient capacity within a one hundred mile radius of the city to process the organic waste being generated. In addition, the Commissioner will determine whether the cost of processing organic waste is competitive with the cost of disposing of organic waste by landfill or incineration. As organic waste processing capacity increases within the region, **the Commissioner is able to phase-in the requirement of an increasing number of commercial enterprises to source separate their organic waste.**

While this latter clause allows for the expansion of this program, the NYC Department of Sanitation has not conducted or provided the results of a study on sufficient capacity. The Department also chose to impose commercial organics recovery on all food service establishments that are part of a chain with 100+ locations within New York City. This

expansion does not take into account the amount of organic material generated by each location, the costs incurred by each small business owner to process the material or the lack of space to store organic material back of house.

The NYC Council and the Department of Sanitation should revisit this law to ensure it is an efficient program that has the intended effect of improving the environment and reducing food waste.

MENU LABELING

Over the years, we have seen a significant uptick in new menu labeling laws that require small business owners to alter their menus and menu boards every time a new idea is presented in this arena. The addition of calories, salt shaker symbols and now, potentially, a sugar menu warning label requires the complete overhaul of menu boards – a major and unforeseen cost to small business owners. Additionally, government-imposed labeling is making the menu boards increasingly difficult to read for consumers, while not providing the unique information that consumers with health needs require.

Dunkin' Brands was a leading advocate for a single, federal menu labeling mandate that provides uniformity and clarity to our guests across the country. Federal menu labeling laws provide a thorough set of guidelines that make calories available directly on the menu, and all other ingredients traditionally found in a nutrition facts panel available upon request. Requiring additional warning labels is only confusing to consumers, it could prevent them from using the information already provided to make the proper decisions about their dietary practices.

HUMAN RIGHTS LAW EXPANSION

The NYC Council has introduced legislation seeking to expand the Human Rights Law and hold franchisors liable for the actions of franchisees, even though there is no Joint Employer relationship between the two entities.

New York City has approximately 9,100 local franchise businesses, which are independently owned and operated businesses employing roughly 110,000 people in a range of jobs – from those just entering the workforce to managers and technical professionals. Unlike corporate entities where 100% of monies paid by consumers flow to the corporate entity, local franchise business owners reinvest a majority of their profits locally, through expansion, job creation, training and community involvement. Franchising – and franchise ownership – has always been a path toward increased job creation and economic growth among people from all walks of life and socioeconomic backgrounds.

This economic growth is threatened by a common misconception of the franchise business model. This misconception is that the owner of the franchise brand – the “franchisors” – own and operate the stores and make employment decisions at the local level. However, all 9,100 franchise establishments across the city are locally-owned small businesses, simply operating under a national brand name.

As small business owners, we respect our employees and support protecting them against discrimination of any kind. However, trying to create a new joint employer relationship with a new law will simply lead to higher costs, more litigation and fewer jobs available in the future. It will do nothing to provide our employees with the protections they deserve.

CONCLUSION

While we understand the role government seeks to play in regulating businesses, we can no longer withstand the constant barrage of new rules and regulations that increase costs through an overburdensome fine system which only serves to generate revenue for the city while hurting the creation of jobs.

At a recent press conference on creating a new law that provides all employees with paid personal leave, Mayor de Blasio said, “I’ve spent 5 years talking to small business owners. **Small businesses are hurting in this city. There is no question about it.**” The Mayor is correct that small business owners are hurting. Now, it’s time to provide us with some relief by revisiting the actions of the past and amending them to reduce this overdue burden of increased costs, fines and potential for litigation. By helping small business owners succeed, you create jobs for those most in need.

My fellow franchisees and I welcome the opportunity to discuss these issues further.

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TESTIMONY of ___Lee Novick_____

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NAME:	Lee Novick
TITLE:	Franchisee
BUSINESS ADDRESS:	240 West 40 th Street, New York, NY 10018
EMAIL:	Lnovick@westsidedonut.com
PHONE:	516-603-7234

**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: Jim QUENT

Address: 15 ELK STREET Ar Arny ny

I represent: DUNKIN BRANDS

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: Pete Filippovich

Address: 232 W 48 St

I represent: Allied Mgt

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: Peter Fahey

Address: 22 W 46 St

I represent: Shub.

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. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: JAMES MALLIOS

Address: 424 E 57th St APT 2A 10022

I represent: ~~AMALI~~ AMALI & RELATED RESTAURANTS

Address: 115 E 60th St 10022

**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: 01-30-2019

(PLEASE PRINT)

Name: FRANK MC CHANEY

Address: 68 TIBBETTS ROAD YONKERS 10705

I represent: BOURBON STREET AND Mc GEES PUB

Address: 346 W 46th STREET 240 WEST 55th STREET

**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: 1/30/19

(PLEASE PRINT)

Name: Jackie Mallon

Address: First Deputy Commissioner

I represent: SBS

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: 1/30/19

(PLEASE PRINT)

Name: Steven Picker

Address: Executive Director, Food + Beverage Industry Partnership

I represent: SBS

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. _____ Res. No. N/A

☐ in favor ☐ in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Kathleen Reilly

Address: _____

I represent: New York State Restaurant Association

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. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: ANDREW R16/E

Address: 65 W 55TH ST, #203A

I represent: NYC HOSPITALITY ALLIANCE

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. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Rob Bookman

Address: 325 Broadway, NYC

I represent: N.Y.C. Hospitality Alliance

Address: "

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