

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS
AND BUSINESS LICENSING

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September 10, 2020
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HELD AT: Remote Hearing (VIRTUAL ROOM 3)

B E F O R E: Andrew Cohen
Chairperson

COUNCIL MEMBERS: Andrew Cohen
Justin L. Brannan
Margaret S. Chin
Peter A. Koo
Karen Koslowitz
Brad S. Lander
Kalman Yeger
Mark Levine

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

Lorelei Salas
Commissioner
Department of Consumer and Worker
Protection

Ben Holt
Deputy Commissioner
Office of Labor and Policy Standards

Steven Ettannani
Executive Director
External Affairs
DCWP

Sherry Lee Wong

Bob Timberwall

Marissa Santino

Troy Flannigan

Richard Bourne

Tatiana Bejar

2 SERGEANT SADOWSKY: And at this time will
3 Sergeant Jones please start her opening statement.
4 Thank you.

5 SERGEANT AT ARMS: Good afternoon and
6 welcome to today's remote New York City Council
7 hearing of the Committee on Consumer Affairs. At
8 this time will all panelists please turn on their
9 video. To minimize disruption please place
10 electronic devices on vibrate or silent mode. If you
11 wish to submit testimonies you may do so at
12 testimony@council.nyc.gov, and again that's
13 testimony@council.nyc.gov. And thank you for your
14 cooperation, and we are ready to begin.

15 CHAIRPERSON COHEN: Is that my cue? All
16 right [gavel]. Ah, good afternoon. My name is
17 Andrew Cohen and I am the chair of the Committee on
18 Consumer Affairs and Business Licensing. Thank you
19 for joining our virtual hearing today. I am joined
20 by my colleagues. I think we have Council Member
21 Yeger, Koslowitz, and Lander here so far. I know
22 Council Member Levine is here. Ah, today we will be
23 hearing testimony on Intro number 2032, sponsored by
24 myself by request of the mayor, and Intro 2049,
25 sponsored by Council Member Levine. When the

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2 BUSINESS LICENSING

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3 Department of Consumer Affairs was first codified as
4 an agency in 1969 its focus was mainly ensuring that
5 consumers were protected from shoddy business
6 practices and exploitation. Over the years, however,
7 the department's purpose has widened. For example,
8 in 2015 Local Law 104 was enacted, which established
9 the Office of Labor and Policy Standards, or OLPS.
10 OLPS is housed within the department and the council
11 recently passed legislation officially changing the
12 department's name to the Department of Consumer and
13 Worker Protections, DCWP, in recognition of the dual
14 roles. DCWP is responsible for enforcing the city's
15 various worker protection laws, including paid sick
16 leave, ah, paid safe and sick leave, fair work week,
17 and the freelancer Freelance Isn't Free Act. These
18 laws offer New York City workers some of the
19 strongest protections available. Paid safe and sick
20 laws were also more comprehensive than current state
21 laws. However, on September 30 of this year New York
22 State's new sick leave law will go into effect.
23 While the aim of the law is similar to New York
24 City's law, some of the provisions exceed the
25 protections afforded in the local law. Therefore,
the purpose of Intro 2032 is to bring the city's law

3 into line with the new changes at the state level.

4 If enacted, 2032 would require employees, ah,

5 employers, of five or more employees, one or more

6 domestic worker, or four or more employees with a net

7 income of more than 1 million dollars to provide 40

8 hours of paid sick leave. Did I read that last part

9 right? Or four or more employees and with, not the

10 employees don't have a net income of more than 4

11 million but the employer does, to provide 40 hours of

12 paid safe and sick leave to their workers. Under the

13 existing New York City law such [inaudible] are

14 generally only provided to workplaces with five or

15 more employees. Furthermore, Intro 2032 would

16 require employers with four or, or fewer employees

17 and an income of less than 1 million to provide 40

18 hours of unpaid leave. However, it would also

19 require New York City employers with 100 or more

20 employees to provide those workers with 56 hours of

21 paid safe and sick leave, up from 40 hours. Other

22 provisions of the bill include providing employees

23 with written notice of their leave entitlements,

24 updates to the definitions of domestic worker and

25 safe leave, and authority for corporation counsel to

bring a civil action against an employer who have

3 engaged in a pattern and practice of violation.

4 Finally, the bill also eliminates the 120-day waiting
5 period and instead allows employees to use their safe
6 and sick leave as soon as it is agreed. In

7 conjunction with Intro 2032 today we are also hearing
8 testimony on Intro 2049, sponsored by Council Member
9 Levine. This bill seeks to establish specific

10 protections for hotel workers. The COVID-19 pandemic
11 has hit all industry and workers hard, but some have
12 been so devastated that it is difficult to imagine
13 how they will recover even after the global emergency
14 is over. The city's hotel industry is [inaudible].

15 In normal times New York City is a mecca for
16 tourists. Over the last 10 years the number of
17 visitors to the city has increased exponentially, and
18 last year there were a record 67 million visitors.

19 However, with COVID-19 restrictions forcing people to
20 stay home the city's tourism industry has diminished
21 substantially and the hotel industry is bearing much

22 of the brunt. Prior to the pandemic New York City
23 has 703 hotels operating approximately 138,000 rooms,
24 in an industry that employed an estimated 300,000
25 workers. At the peak of the pandemic, though, during
late March and April nine in 10 hotels furloughed

3 their workers and nationally 7.5 million industry
4 jobs were lost. Although things have improved
5 slightly, by August over half the industry's hotel
6 workers had still not been reinstated. With the
7 city's hotel occupancy rates still way below normal
8 trends, for example, in the last week of August they
9 were down a whopping 72%. The outlook for the city's
10 hotel industry and workers is bleak. Typically,
11 hoteliers need an occupancy rate of about 50% if they
12 have any likelihood of breaking even. Hence, even if
13 hoteliers are able to stay afloat there are serious
14 concerns that they will be forced into bankruptcy or
15 sell off. While this may provide relief for the
16 individual hotelier this puts the hotel worker in a
17 precarious state with little to no guarantees
18 regarding the security of their job, let alone their
19 wages, benefits, with their wages, benefits, and
20 working conditions. Intro 2049 attempts to provide
21 some assurance by granting hotel workers basic rights
22 should their employer sell their hotel. For
23 instance, under Intro 2049 once new ownership
24 commences the new hotel must provide employment to
25 existing hotel workers for at least 90 days.
Furthermore, the conditions of this employment must

3 be at least the same as the conditions provided by
4 the previous hotel owner. If the new ownership
5 determines that they do not need all the existing
6 hotel workers then they must select existing workers
7 for employment pursuant to the terms of their
8 collective bargaining agreement or by seniority and
9 experience. At the end of the 90-day period the new
10 employer is required to perform a written evaluation
11 of the worker, and if the worker receives a
12 satisfactory result the new employer must offer them
13 continued employment under the conditions set by the
14 previous employer. If enacted, Intro 2049 will also
15 provide additional protections for consumers by
16 requiring hoteliers to provide their customers with
17 at least 24 hours' notice if there are disruptions to
18 service. This includes services such as Wi-Fi, in-
19 room appliances, on-site amenities, and construction
20 noise. If the hoteliers do not provide this notice
21 they can be required to refund the consumer's charges
22 or they may face fines of up to \$500 for the first
23 offense and up to \$5000 for subsequent offenses
24 within a two-year period. We know that the hotel
25 industry will face ongoing pressures as it recovers
from the impact of COVID-19 pandemic. But Intro 2049

2 ensures that hotel workers are not forced to pay the
3 price for this recovery. I'd like to now hand, ah,
4 the Zoom over to Council Member Levine to make
5 further statements on this important bill.

6 COUNCIL MEMBER LEVINE: Thank you so
7 much, Chair Cohen, for your leadership on behalf of
8 consumers and workers and for pushing this
9 legislation forward for a hearing today. And I do
10 want to say a few words on Intro 2049. Ah, and I'm
11 gonna start by acknowledging that there just are few
12 sectors in New York City that have endured a more
13 crushing blow during this pandemic than the
14 hospitality industry. With tourism almost completely
15 drying up, hotel occupancy is now lower than it's
16 ever been in modern history, worse even in the
17 aftermath of 9/11 or the 2008 financial crisis. This
18 has directly impacted tens of thousands of New
19 Yorkers who rely on this industry for their
20 livelihoods. Hotel housekeepers, bartenders,
21 concierges, banquet services, and so many others who
22 have worked in this industry for in some cases
23 decades, but have now been out of work since March.
24 Now the hospitality industry of this city will
25 eventually come back. It won't be quick. It won't

3 be easy. But tourists will return, drawn to all the
4 things that make us a world-class destination. We
5 need to take action now to ensure that that rebound
6 happens in a way that is fair for workers and fair
7 for guests, because doing so will ultimately only
8 strengthen the industry and our city. These are the
9 goals of Intro 2049. First, the bill puts in place
10 protections for workers in the event of a change in
11 hotel ownership, prohibiting hotels from firing
12 workers without cause for their first 90 days back on
13 the job and ensuring that any hotel workers that are
14 denied their rights under the law would be able to
15 pursue action against their employer and collect back
16 pay. These rules are common sense. Hotel workers
17 have served as the face of our city to millions of
18 visitors year after year. It's only fair that we
19 have their backs during this difficult time by
20 ensuring them a path back to their jobs. In putting
21 such protections in place New York would be following
22 the lead of many other cities around the nation that
23 have already adopted similar measures - Washington,
24 D.C., Los Angeles, San Francisco, Seattle, Newark,
25 and others. Secondly, Intro 2049 would provide
additional rights to hotel guests. When travelers

3 book hotel rooms here they need to have the
4 confidence that they will receive the hotel
5 experience they were promised when they made their
6 reservations. So our legislation would require
7 hotels to notify customers in advance about
8 disruptions that could impact their stay, including
9 loud construction, vermin infestations, closed
10 amendments and services, closed accessibility
11 features, and strikes. When any of these disruptions
12 occur hotels would also be required to offer guests
13 the chance to cancel without penalty. When this
14 pandemic finally recedes we want visitors to be able
15 to [inaudible] hotels that are responsibly and fairly
16 managed and operated. Travelers deserve to know that
17 New York City's hotels will either provide them with
18 what they were promised or will offer them
19 cancellation and a refund if that is not possible.
20 Offering such a guarantee will remove uncertainty for
21 tourists and will send a strong message to visitors
22 from around the world that New York City is a
23 dependable, worthwhile destination. Here again New
24 York would be catching up with other cities around
25 the country that have already enacted similar
protections for guests, including Albany, Newark,

2 Secaucus, and North Bergen. I am thrilled that no
3 fewer than 23 of our colleagues have signed on as
4 cosponsors of Intro 2049 and I look forward to an
5 informative discussion today on this critical topic.
6 Thank you again, Mr. Chair.

7 CHAIRPERSON COHEN: Ah, thank you, ah,
8 Mark. Ah, I want to acknowledge we've been joined by
9 Council Member Chin, ah, and with that I'm gonna turn
10 the Zoom over to the committee counsel for some
11 procedural items and, ah, administer the oath of the
12 first panel. Thank you.

13 COMMITTEE COUNSEL: Thank you, Chair. I
14 am [inaudible], senior counsel to the Consumer
15 Affairs Committee of the New York City Council.
16 Before we begin testimony I want to remind everyone
17 that you'll be on mute until you are called on to
18 testify, when you will be unmuted by the host. I'll
19 be calling on panelists to testify. Please listen
20 for your name to be called. I'll be periodically
21 announcing who the next panelist will be. The first
22 panelist to give testimony will be the commissioner
23 of the Department of Consumer and Worker Protection,
24 Lorelei Salas. I will call on you shortly when it's
25 time to begin your testimony. During the hearing if

2 council members would like to ask a question of the
3 administration or a specific panelist, please use the
4 Zoom raise hand function and I'll call on you in
5 order. Please note that for ease of this virtual
6 hearing we will not be allowing a second round of
7 questions for each panelist outside of the committee
8 chairs. All hearing participants should submit
9 written testimony to testimony@council.nyc.gov. We
10 will now call on Commissioner Salas to testify. For
11 questions we'll be joined by Deputy Commissioner Ben
12 Holt from the Office of Labor and Policy Standards at
13 DCWP and Steven Ettannani, executive director for
14 external affairs, DCWP. Before we begin I'll
15 administer the oath. I will call on each of you
16 individually for a response. Please raise your right
17 hands. Do you affirm to tell the truth, the whole
18 truth [inaudible] before this committee and to
19 respond honestly to council member questions?

20 Commissioner Salas?

21 COMMISSIONER SALAS: I do.

22 COMMITTEE COUNSEL: Thank you. Deputy
23 Commissioner Holt?

24 DEPUTY COMMISSIONER HOLT: I do.

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2 COMMITTEE COUNSEL: Thank you. Steven
3 Ettannani?

4 EXECUTIVE DIRECTOR ETTANNANI: I do.

5 COMMITTEE COUNSEL: You. Thank you,
6 Commissioner. You may begin your testimony when
7 you're ready.

8 COMMISSIONER SALAS: Thank you. Good
9 afternoon, Chair Cohen and members of this committee.
10 I am Lorelei Salas, commissioner for the Department
11 of Consumer and Worker Protection, and to all the
12 attendees, the participants today, I hope you're all
13 staying safe and health. Um, I am joined, as you
14 mentioned, ah, by Ben Holt and Steve Ettannani, my
15 colleagues at the department. Um, and I'd like to
16 thank the committee for the opportunity to testify
17 today on Introductions 2032 and 2049, relating to the
18 city state safe and sick leave law and the hotel
19 industry. Before I discuss the bills before the
20 committee today I'd be remiss not to mention that
21 this is the department's first hearing before the
22 council since the passage of Intro 1609. Intro 1609,
23 now Local Law 80 of 2020, officially changed the
24 department's name from the Department of Consumer
25 Affairs to the Department of Consumer and Worker

3 Protection. Our new name more accurately reflects
4 the scope of our work to both enhance the daily
5 economic lives of New Yorkers and serve as a central
6 resource for workers. Local Law 80 also clarified
7 several department authorities, including our ability
8 to seek and secure restitution for New Yorkers across
9 our laws and rules. Especially in these uncertain
10 times how we present and execute the department
11 services matters. Thank you again for passing this
12 very important piece of legislation. New York City
13 State safe and sick leave law remains a fundamental
14 part of the department's worker protection mandate.
15 Since February, for example, DCWP has secured more
16 than \$350,000 in restitution via paid safe and sick
17 leave law for approximately 900 workers. The
18 protections afforded by this law empower workers to
19 take care of themselves and their loved ones without
20 the risk of losing their jobs, especially important
21 during COVID-19. The law gives New York City workers
22 the right to immediately ask for and receive the time
23 off that earned by allowing employees to stay home
24 when they are sick. This law serves to not only
25 protect covered employees but also employers,
coworkers, consumers, and other members of the public

3 from being exposed to this novel virus. New York
4 City's paid safe and sick leave law works and over
5 the years the City Council has strengthened the law
6 so as to broaden its commitment to working New
7 Yorkers. In 2014 the law was expanded to increase
8 the scope of covered employees entitled to paid sick
9 leave. In 2018 the law expanded coverage to include
10 paid leave to obtain services for or to protect one's
11 self against acts of domestic violence, unwanted
12 sexual contact, stalking, and human trafficking.
13 Introduction 2032 before the committee today will
14 represent another important step in the evolution of
15 this law. On April 3 Governor Cuomo signed a
16 statewide permanent paid sick leave law enacted as
17 part of the executive budget. The new law
18 establishes several baseline requirements for
19 employers to provide paid or unpaid leave to their
20 employees. While the state law provides that New
21 York City can enact and enforce local paid sick leave
22 laws, it also mandates minimum baseline requirements
23 for such city laws. Accordingly, Intro 2032 updates
24 the city's law to align with the new state labor law.
25 These updates include, but are not limited, to
increasing the amount of paid leave to 56 hours from

2 40 hours provided to employees at businesses with 100
3 or more employees, making paid leave of 40 hours
4 available to employers of smaller, employees of
5 smaller employers that have a net income of 1 million
6 dollars or more, and eliminating, ah, the 120-day
7 waiting period before new employees can start using
8 their accrued leave. In addition to promoting
9 consistency with state law, Intro 2032 clarifies
10 DCWP's authority and notably modernizes standards and
11 protections. For example, Intro 2032 allows domestic
12 workers to accrue their safe and sick time at the
13 same rate as other employees in the city. As a
14 former paid care worker myself, this is personal. We
15 believe it is long overdue that this dedicated
16 constituency, one that is continually called upon to
17 serve in times of great need, receive the same
18 benefits afforded to other workers. We strongly urge
19 the passage of Intro 2032 before the September 30
20 effective date of the state law. The second piece of
21 legislation before the committee today, Intro 2049,
22 seeks to remedy consumer and worker protection
23 concerns in the hotel industry. The legislation both
24 provides remedies for displaced hotel service workers
25 and provides hotel guests with enumerated consumer

2 protections. DCWP's Office of Labor and Policy
3 Standards promotes approaches that create fair work
4 places. As a matter of principle, an employer should
5 consider every option to retain, promote, and empower
6 employees. While there are circumstances that may
7 necessitate personnel changes at a business, best
8 practices such as reasonable notice, transparency,
9 and consistency are paramount to worker protection.
10 [inaudible] of workers should always be an option of
11 last resort and a change of ownership alone should
12 not warrant immediate or unsubstantiated job loss.
13 DCWP supports the intent of the hotel service worker
14 retention provisions of this bill. Likewise, DCWP
15 supports the intent of enhancing consumer protections
16 for guests affected by hotel service disruptions. No
17 person or entity should willingly or knowingly
18 misrepresent the sales of services to consumers. Our
19 department's foundational statute, the New York City
20 Consumer Protection Law, enshrines the sentiment by
21 prohibiting deceptive or unconscionable trade
22 practices. As currently drafted, Intro 2049 would
23 require additional departmental resources to handle
24 the intake and mediation of consumer complaints.
25 According to a 2016 New York State comptroller report

2 New York City is the third-largest hotel market in
3 the nation with nearly 700 hotels citywide and
4 thousands of rooms. As such, the [inaudible] of the
5 enforcement mandate could pose a strain on existing
6 department resources. In addition, we anticipate
7 that there will be discussions at a staff level
8 concerning any legal issues that may be implicated by
9 this bill. Once again, thank you Chair and members
10 of the committee for the opportunity to testify
11 today, and I am happy to answer any questions you may
12 have.

13 CHAIRPERSON COHEN: It's good to see you,
14 Commissioner. I hope you, ah, [inaudible].

15 COMMISSIONER SALAS: Thank you, great to
16 see you, too.

17 CHAIRPERSON COHEN: I'm actually gonna
18 turn it over to [inaudible] Levine [inaudible] round
19 of questions. I think we've been joined by Council
20 Member Yeger also. But, Mark, I'm gonna give it to
21 you first, all right?

22 COUNCIL MEMBER LEVINE: There we go.
23 Thank you, Mr. Chair, and Commissioner, it's great to
24 see you. And I, I do want to ask you some follow-up
25 questions related to the administration's position on

3 Intro 2049. I appreciate that you have expressed
4 support for the intent of the provisions of the
5 legislation. I just want to understand a little bit
6 more areas where you might have concerns. It sounds
7 like principally it is, it's practical and a question
8 of resources and, um, and, and, ah, certain to
9 mediate consumer disputes, ah, particularly related
10 to, um, provision of, of promised services. Ah,
11 could you explain more about the resources that you
12 think, ah, would be needed to fairly implement this
13 and why you're concerned that they would be, ah,
14 overly burdensome?

15 COMMISSIONER SALAS: Yes, thank you for
16 the question, and I hope you're doing well, ah,
17 Council Member Levine.

18 COUNCIL MEMBER LEVINE: Yes, thank you.

19 COMMISSIONER SALAS: Um, to, um, yes, I
20 mean, really it's just a matter of, of resources for
21 us. Um, we have, you know, obviously we're
22 experiencing a financial crisis still in the city
23 that's affecting everyone, including our city
24 services, right? Um, so we understand, um, that, ah,
25 you know, additional resources may always be
possible. It isn't work that we currently do. We

3 typically get complaints from, ah, workers, um,
4 employees of hotels and consumers of hotels, but in
5 order to mediate complaints from consumers, um,
6 usually it has been cases in which there's clear
7 overcharge, um, of, um, of a consumer and those are
8 not the types of cases that this bill envisions. So
9 it would be definitely additional work, um, that may
10 just put a strain on, on our resources and may also
11 increase the lag time in terms of complaint response
12 for consumers.

13 EXECUTIVE DIRECTOR ETTANNANI: Just to
14 piggyback on what the commissioner, ah, mentioned, I
15 would say that in terms of consumer complaints
16 regarding service disruption, consumers don't come to
17 DCWP for that, for that kind of issue. It's not
18 something that consumers think of, um, in our agency
19 as, as a resource, um, and just the nature of the
20 complaints that we would receive, um, and as this
21 bill contemplates, mediation would be the way that we
22 would kind of, um, engage enforcement in this sense.
23 That means fact finding, talking with the consumer,
24 and then having a process of, ah, discussing the
25 issue with, with the, with the, ah, hotel in this
case.

2 COUNCIL MEMBER LEVINE: Well, look,
3 mediating in such situations is squarely within the
4 mission of the agency and the philosophy here is that
5 the resources that you put in, um, ultimately give
6 the consumer more confidence and, and therefore
7 really strengthen the sector and strengthen the
8 economy because, ah, for, for, for business to work
9 people have to have a level of trust. So, ah,
10 philosophically I can't imagine there's an objection
11 to, um, you investing some resources to ensure that
12 consumers get, ah, the kind of confidence they need
13 when they rent a hotel room. Ah, have, have you, ah,
14 priced out the kind of financial impact you believe
15 this would, ah, impose on the agency?

16 COMMISSIONER SALAS: Um, no. First, to
17 address your point we, we certainly, um, support the
18 intent of the legislation, right? It's very much in
19 line with our mission to make sure the consumers
20 don't fall prey to deceptive practices and also that
21 the goal of providing workers with some, some
22 transition time, some stability and predictability in
23 terms of their employment is also notable that we
24 support. Um, so we have not priced out what it would
25 cost to, to support, ah, a program of mediation for

2 this new type of complaints, ah, and I understand
3 that the law department is still, you know, looking
4 at the language of the legislation, so until we have
5 a more clear idea of what that looks like then we'll
6 be able to price it out.

7 COUNCIL MEMBER LEVINE: And regarding the
8 worker protections, do you have similar concerns
9 about the cost of mediating those disputes?

10 COMMISSIONER SALAS: It, my understanding
11 as, as drafted the language of the legislation
12 provides for a private right of action for the
13 workers affected by any violations...

14 COUNCIL MEMBER LEVINE: That's right, it
15 does.

16 COMMISSIONER SALAS: ...of the law and in
17 that case it wouldn't really, um, impact our
18 operations.

19 COUNCIL MEMBER LEVINE: That, that's good
20 to hear. And, and, ah, finally, ah, you raise in
21 your statements, ah, and you alluded to now, ah,
22 possible legal problems. Are you aware of any, or
23 are you simply being cautious at this point?

24 COMMISSIONER SALAS: I, you know, my, my,
25 our colleagues at the law department are currently

2 reviewing the language so I, I don't have any, any
3 details to add to that. But I believe that they'll
4 be having further discussions with the council.

5 COUNCIL MEMBER LEVINE: OK, ah, I'll wrap
6 up and I'll say, look, I, I truly appreciate your
7 support of the intent of the key provisions of this
8 bill and, ah, will reiterate my feeling that, ah, the
9 fact that you have to have some resources in place to
10 put this into practice, ah, simply means that, ah, it
11 would be the agency doing its mission for an
12 important public purpose. Ah, so we, we look forward
13 to having an ongoing dialogue with you. Um, but,
14 again, thank you for your broad expressions of
15 support of the intent of this legislation. And I'll
16 pass it back to you, Mr. Chair. Thank you.

17 CHAIRPERSON COHEN: Ah, thank you,
18 Council Member Levine. Commissioner, I just, um, am
19 wondering. Ah, I know the, you know, the agency
20 recently, um, brought an action against a, against a,
21 a supermarket in my district. Is, is, is the regimen
22 here that the, the way this is kind of laid out, is
23 it substantially different, ah, than the protections
24 we offer for supermarket employees?

2 COMMISSIONER SALAS: So, yes, thank you
3 for bringing that up and also for all your advocacy
4 on behalf of those workers. Ah, for those who don't
5 know about this case, it's a case of, of a Key Food
6 Supermarket in the Bronx that fired 21 workers
7 overnight, ah, on a change of ownership, um, which
8 is, ah, a similar, um, issue that this particular
9 legislation we're discussing today is trying to
10 solve. Um, in the Grocery Worker Retention Act, um,
11 again, workers are given a 90-day transition period
12 when there is a new owner that comes into the
13 business. Um, and that allows for both, um, an
14 opportunity for the business to evaluate their needs
15 going forward and evaluate the skills and experience
16 of the current employees and the employees also have
17 a chance to be, you know, to show that they know how
18 to do their work and, ah, and if they're not retained
19 at least have three months to look for some other
20 employment. So we're, um, we're suing that
21 particular business because, um, they are in
22 violation of the law in place and so, um, Intro 2049
23 has, ah, similar goals to provide some
24 predictability, um, ah, and protections against the
25 volatility that workers are facing in this industry,

2 ah, and that is why we generally support the intent
3 of this legislation.

4 CHAIRPERSON COHEN: Ah, but, it, it works
5 similarly in terms of dispute resolution or it's
6 different?

7 COMMISSIONER SALAS: Um, well, so for
8 the, ah, Grocery Worker Retention Act my agency
9 actually has enforcement authority, um, and we are,
10 um, able to take complaints from the workers with
11 respect to this retention period, um, and, and so in
12 this case we, we were able to start an investigation
13 and then, um, ah, seek to impose fines to the
14 employer if they do not come to their senses and
15 start complying with the law.

16 CHAIRPERSON COHEN: But just for one
17 second, I just want to acknowledge we've been joined
18 by Council Members Brannan and Koo. Um, but, again,
19 doesn't this place like less of a burden on your
20 agency creating the private cause of action?

21 COMMISSIONER SALAS: Um, oh, absolutely.
22 If, ah, workers are able to pursue their rights in
23 court, um, um, yes, with respect to that dispute, the
24 dispute of, you know, I was not given my three-month
25 transition period or retention period, yes, workers

3 can pursue their rights in court, ah, privately. Ah,
4 with respect to their, the consumer complaint,
5 though, um, the language as drafted indicates that we
6 would be mediating those, ah, complaints.

7 CHAIRPERSON COHEN: OK. Can you, I'm,
8 I'm a little concerned about that portion of the
9 legislation, too. I was wondering could you, I don't
10 know, um, in terms of complaints, ah, does your
11 agency have a track record of taking a lot of
12 complaints from consumers in the hotel industry?

13 COMMISSIONER SALAS: So, um, as I
14 mentioned just briefly, um, we do get complaints from
15 workers employed at hotels for, um, in cases that
16 involve, for instance, the Paid Safe and Sick Leave
17 Law, right, that is the kind of, ah, ah, typical
18 case, I guess, ah, for, for a worker that comes for
19 work to our agency. Um, we've had about 45, ah, of
20 those types of complaints, ah, from hotel workers,
21 ah, recently. And, ah, for consumers, um, it's been,
22 um, while we do get calls from every type of
23 complaint from consumers, um, the majority of those
24 complaints are not complaints that my office, ah, has
25 jurisdiction over. Um, you know, if there is a clear
violation of our consumer protection law we will

3 definitely, you know, take those on. But that's a
4 very small segment of the kinds of complaints we
5 receive right now, um, hotel consumers. Most of
6 those are referred out to the attorney general's
7 office, as Steve mentioned, um, because we don't,
8 because they have broader authority right now, right?
9 Um, so I believe we've handle a handful of consumer
10 complaints regarding hotels, maybe less, less than a
11 thousand.

12 EXECUTIVE DIRECTOR ETTANNANI: So I
13 think, you know, just to punctuate what the
14 commissioner is saying, as it relates specifically to
15 this bill and service disruptions we do not receive,
16 ah, many, if at all, any complaints, ah, from hotel
17 guests. So, um, when we're talking about a resource
18 concern and, and our mediation, while we agree with
19 Council Member Levine that that does fall within the
20 broader, um, mission of the agency and is reflective
21 of why we're supportive of the intent of the bill,
22 um, there is a distinct and very real, ah, reality
23 that, um, extending our, our authority to discretely,
24 um, handle this consumer protection will lead to an
25 increase of consumer complaints and intake and
mediation for our agency. There are tens of

3 thousands of rooms, hotel rooms, in New York City.

4 The scope of the legislation and how they define

5 service disruptions from anything, um, to include,

6 ah, if a room advertises a mini frig in there and it

7 not being there to larger, ah, you know, arguably

8 larger disruptions, including construction or even,

9 um, ah, picketing by workers, um, it would lead to an

10 influx of, of, ah, complaints coming into our agency.

11 CHAIRPERSON COHEN: Can I, I'm not 100%

12 sure this is a fair question, but in, in the current,

13 in the way the law is now, I go to a hotel, um, you

14 know their website has this beautiful pool, the pool

15 is closed. What is my recourse at the moment?

16 COMMISSIONER SALAS: When you get there

17 and there is no pool?

18 CHAIRPERSON COHEN: Yes.

19 COMMISSIONER SALAS: Um, we would have to

20 look at what kinds of disclosures, ah, you relied on,

21 right? I mean, I think just saying to us you saw a

22 pool on the website, if there's no clear, ah,

23 statement from the hotel that you have access to the

24 swimming pool, and I don't even know that you would

25 have, ah, a remedy there. Um, but I, I'm not, um,

you know, it's something that we would have to

3 evaluate and see. Um, so, like I said, typically
4 the, the kinds of cases that our mediators are, are
5 usually taking on are cases in which there's a clear
6 overcharge or, um, um, something where like you enter
7 into some kind of, ah, service agreement, um, and
8 there's a clear, um, basically you didn't get exactly
9 what you paid for but it's very explicit, you know,
10 what the terms are, right? The terms have to be very
11 explicit. So I, you know, in that situation I think
12 it would depend, um, how explicit the terms were.
13 And I, I think, like what we're saying right now is
14 that many of these cases, ah, our current practice
15 today is to work with the attorney general's office
16 and to have those, ah, referred out to them.

16 CHAIRPERSON COHEN: Is that, I think, I,
17 I realize I'm asking a slightly difficult question
18 only 'cause it's not sort of central to what you're
19 doing presently. But if, in other words, if I am a
20 consumer and, again, whether it's a pool, the
21 advertising, if, if the advertising was from my
22 perspective deceptive, you know, that I thought I was
23 staying at the Ritz and when I got there it was not
24 the Ritz, um, you would, in all likelihood you would,
25 ah, refer me to the attorney general in that case.

2 COMMISSIONER SALAS: I mean, I, I think
3 it depends. This, we definitely, you know, our law
4 does cover deceptive advertising, right? Um, but I
5 guess I was just going to, to the issue of, um,
6 whether, you know, what, what it is that you actually
7 thought you were buying and what representations were
8 made to you as the consumer, right? Um, so, um, I
9 don't know honestly, to, to be honest I'm not sure if
10 under the law it would be recognized. Just seeing a
11 pool on a website is not a representation but, um,
12 so, yeah, it depends.

13 CHAIRPERSON COHEN: So we could both
14 agree that like if you're, ah, ah, a business
15 traveler and you get to the hotel and there's no Wi-
16 Fi, I mean, that could really bee, that, that's not
17 incidental to your experience, even though people
18 think of a hotel room they think of four walls. But
19 if I'm there 'cause I have to work and I, you know,
20 and particularly in, in the age of COVID if I don't
21 have Wi-Fi, you know, it's a big deal.

22 COMMISSIONER SALAS: Um-hmm, yeah, I
23 mean, so, frankly, I mean I think that there could be
24 a lot of consumer complaint types that we would be
25 like if we had the resources to like able to

3 investigate and take on. Ah, I think also at times
4 we made the decisions about, um, just because of
5 resources and operations as to what types of
6 complaints we'll be able to dig in on and what not,
7 right? Um, and if we have an enforcement agency
8 that, you know, has a focus on the hotel industry,
9 for instance, we wouldn't necessarily also try to
10 duplicate resources or efforts, um, in that. So, so
11 it depends.

12 EXECUTIVE DIRECTOR ETTANNANI: Yeah, and
13 I think like, you know, and, Mr. Chairman, I
14 appreciate the, the questions. I think the
15 hypotheticals are kind of a dangerous realm for us.
16 I think really when we pursue, as the commissioner
17 said, when we pursue cases, ah, particularly if, if
18 they fall under our current consumer protection law
19 it's a very broad law, um, it's really on case-by-
20 case basis, um, what information is furnished to us
21 and then of course there is a matter of discretion in
22 terms of the commissioner and the, and the agency by
23 and large in terms of like pattern and practice. Do
24 we have, ah, a series, for example, of, of, ah,
25 complaints that fall into a certain, um, you know,
pattern and that may also be a consideration of, of

2 how we, um, allocate resources. But it's hard to say
3 broadly without the specifics, um, of the case what,
4 what would and would not fall under our current
5 [inaudible].

6 CHAIRPERSON COHEN: You would, and just
7 for my own understanding, sort, sort of dividing it
8 into silos of an individual complaint, I got there
9 and the hotel normally has a good reputation and does
10 provide what they advertise they provide, but if it's
11 a one-off kind of complaint there might be another
12 remedy other than going to the agency, whereas if
13 there is a hotel in Times Square that's, that its
14 business practice is primarily involved ripping off
15 tourists in a systematic way you might take that up
16 more readily.

17 EXECUTIVE DIRECTOR ETTANNANI: I don't
18 think we get those complaints right now is what we're
19 saying. Like we're, I don't even want to suggest or
20 assume that a complaint, ah, relating to service
21 disruption is before the agency. So that premise is
22 important to note.

23 CHAIRPERSON COHEN: OK, I appreciate
24 that. Um, I'm gonna ask, [inaudible] I, I don't know
25

2 if I know who has their hand up, if colleagues have
3 questions.

4 COMMITTEE COUNSEL: Yes.

5 CHAIRPERSON COHEN: Then I'll turn it
6 back to you.

7 COMMITTEE COUNSEL: I'll now, I'll now
8 call on council members in the order that they have
9 used the Zoom raise hand function. If you'd will
10 like to ask a question and you have not yet used the
11 Zoom raise hand function please raise it now. The
12 Sergeant at Arms, um, sorry, ah, you should begin
13 once I've called you and the sergeant announce that
14 you may begin. I, I believe, um, Council Member
15 Lander had a question. I'm not sure if he still has
16 one. Maybe not it. It looks like we don't have any
17 questions from council members.

18 CHAIRPERSON COHEN: So I think I' just
19 kind of follow up, then I have one more.

20 COMMITTEE COUNSEL: OK.

21 CHAIRPERSON COHEN: Again, maybe just to
22 make sure that I clearly understand, um, the, the
23 portion of this, ah, of 2049 related to, ah, consumer
24 complaints, is it that you don't, you don't think
25 it's an issue, like it's, it's a, it's a remedy

2 without a problem, like a, a piece of legislation
3 solving, trying to solve a problem that's not
4 existing, or you just don't know if it's existing?

5 COMMISSIONER SALAS: No, we're not, by no
6 means we're not saying that this issue does not exist
7 right? Ah, I think what we're saying is that, ah,
8 we, it's not the kind of complaint that has usually
9 come to us, ah, um, but even when complaints have
10 come to us we, ah, focus our resources on the types
11 of cases that are very clear-cut for us, like
12 overcharging consumers. Um, so, but we don't want to
13 say that it's not an issue, um, and, ah, we believe
14 that a, a lot of these types of cases when we've
15 gotten them in the past we refer them to the AG's
16 office.

17 CHAIRPERSON COHEN: OK, I understand,
18 right. Ah, so, but, I just want to be clear, we have
19 no more questions for, for the admin?

20 COMMITTEE COUNSEL: I don't see any
21 questions.

22 CHAIRPERSON COHEN: OK, Commissioner,
23 it's good to see you. I appreciate, ah, your
24 testimony this afternoon.

2 COMMISSIONER SALAS: Thank you so much,
3 thank you.

4 COMMITTEE COUNSEL: I'd now like to begin
5 the public testimony portion of the hearing. I'd
6 like to remind everyone like our typical council
7 hearings we'll be calling individuals one by one to
8 testify. Council members who have questions for a
9 particular panelist should use the raise hand
10 function in Zoom [inaudible] call on you after the
11 panelist has completed their testimony. For
12 panelists, once your name is called a member of our
13 staff will unmute you and the Sergeant at Arms will
14 give you to go-ahead to begin. Please wait for the
15 sergeant to announce that you may begin. I would now
16 like to welcome Sherry Lee Wong from A Better
17 Balance, followed by Bob Timberwall and Marissa
18 Santino. Sherry?

19 SHERRY LEE WONG: Um, yeah, do I need to
20 wait for the Sergeant at Arms?

21 SERGEANT AT ARMS: You may begin.

22 SHERRY LEE WONG: Thank you. Um, thank
23 you, my name is Sherry Lee Wong and I'm copresident
24 and cofounder of A Better Balance, which is a legal
25 nonprofit that helps working men and women take care

3 of themselves and their families without compromising
4 their economic security. Um, in 2013 we helped draft
5 and negotiate the paid sick days bill that became law
6 in April of 2014, giving millions of New Yorkers the
7 right to paid sick time, um, and more recently we
8 worked with the governor's office to secure statewide
9 paid sick time for all workers in the State of New
10 York. The law we helped pass at the state level, um,
11 is, um, in April, ah, is, um, a little strong in some
12 respects, um, than the paid sick time legislation
13 that we have here in the city that has been amended
14 several times and is a very strong law. Um, but the
15 purpose of the legislation currently proposed here is
16 to ensure that the city law is consistent with the
17 state law, because the state law provides that the
18 city law can only be enforced by the city if it meets
19 or exceeds the requirements in this law. So, um, we
20 at A Better Balance want to take this occasion to
21 applaud the Department of Consumer Affairs for their
22 commitment to robust enforcement of the city's paid
23 sick time law, um, and it's imperative that the
24 Department of Consumer Affairs be able to continue to
25 enforce the city's law. Um, to ensure that happens
the city council must pass Intro 2032 2020 to bring

3 the city law into line with the new state sick time
4 law. And I want to make the point that the need to
5 confirm to state law is not the only reason to pass
6 these amendments. Ah, some of the changes, um, here,
7 ah, which would require in the original proposed paid
8 sick time law, but needed to be negotiated out due to
9 the hostility at the time of then-mayor and then City
10 Council president, and in the course of the last six
11 years and particularly in the last six months this
12 paid sick time has become even more important to all
13 of us here in the city. We've learned that many of
14 these proposed changes are necessary to make the law
15 even more effective in protecting the city's health.
16 The immediate use of paid sick time is an example of
17 that, um, instead of a 120-day waiting period as is
18 the expansion of coverage for domestic workers. So
19 we're delighted with the amendments to the New York
20 City paid sick time law which are before you. Um,
21 they're well drafted and they bring the city into
22 compliance with state law. We had a, ah, we had two
23 suggestions for technical amendments. Um, one
24 around, um, the domestic worker improvements. Um the
25 definition now in the proposed would exclude domestic
workers who are, um, working for agencies from the

2 definition of domestic workers, but the way that's
3 worded, um, there's some ambiguity as to whether
4 those workers are covered at all. So, um, we had
5 [inaudible] suggestive language, um, to clarify that
6 they are covered and to also clarify that in those
7 situations it's a joint employment situation and both
8 the agency and the placement are responsible. Um,
9 that language is in my written testimony. And we'd
10 also like to strike the provision at 20-924.13 that
11 indicates that only the corporation counsel can bring
12 a legal action under the New York City sick time law.
13 Um, we expect that workers will be able to bring
14 private civil actions under the state paid sick time
15 law and so we don't want to, um, have anything in
16 this law that would prevent them from doing so. So
17 we'd like to see the, um, the three in there struck.
18 So, um, that's all I have. Um, thank you for the
19 opportunity to submit testimony and, um, for your
20 consideration of these excellent amendments and, um,
21 for all the work the city council has done to support
22 paid sick time in the City of New York.

23 COMMITTEE COUNSEL: Thank you, Sherry. I
24 don't see any Council Member questions. We'll move
25 on to the next witness. We have Bob Timberwall,

2 followed by Marissa Santino, followed by Troy
3 Flannigan. You may begin your testimony when ready.

4 BOB TIMBERWALL: All right, thank you.
5 Can everyone hear me? OK.

6 COMMITTEE COUNSEL: We can hear you,
7 thank you.

8 BOB TIMBERWALL: Ah, ah, good afternoon.
9 Thank you so much, Chair Cohen and members of the
10 committee. Um, I'm here to speak to Intro 2049. Ah,
11 my name is Bob Timberwall and I'm here on behalf of
12 the Hotel Trades Council. The union has 40,000
13 members working the hotels across our city. These
14 hard-working women and men are the backbone of the
15 city's hospitality industry, which is a key driver of
16 New York City's economy. During these uncertain
17 times spurred by an unprecedented pandemic, it's more
18 important than ever that hotel workers' jobs are
19 protected in the event of [inaudible] of a hotel.
20 Many hotels are bound to close during the, um, COVID-
21 19 crisis and many of them are gonna reopen most
22 likely under new ownership and management. So this
23 bill is critical in preserving and protecting good
24 middle-class hotel jobs by preventing workers from
25 being unreasonably fired. The bill goes further and

2 also grants workers strong recourse from wrongful
3 terminations. Without this bill we fear that many
4 hard-working New Yorkers will lose good jobs and will
5 have little to no recourse from unjust termination.
6 Additionally, we support the provisions of the bill
7 that also protect consumers from service disruptions
8 during their stay in the city. We believe that this
9 bill grants reasonable protections for visitors to
10 New York that ensure their stay in our city is a
11 pleasant one. We think it's incumbent on hotels to
12 inform guests of any service disruptions and that
13 those guests have the right to avoid those
14 disruptions. This bill achieves that and it also
15 [inaudible] so thank you...

16 COMMITTEE COUNSEL: Sorry, Bob, you're
17 cutting off. Can you hear us?

18 BOB TIMBERWALL: I, I can. Um, I don't
19 know how much of that you missed or, or didn't. Um,
20 I'll...

21 COMMITTEE COUNSEL: Maybe go back
22 [inaudible]...

23 BOB TIMBERWALL: [inaudible]

24 COMMITTEE COUNSEL: ...the sentences?
25

2 BOB TIMBERWALL: OK, sure. Um, so saying
3 we, we also support, ah, support the provisions of
4 the bill that protect consumers from service
5 disruptions and we think, ah, it's incumbent on
6 hotels to inform guests of service disruptions and
7 that those guests have the right to avoid those
8 disruptions. This bill achieves that and it helps
9 promote the city's hotel accommodations as reliable
10 options for future travel.

11 COMMITTEE COUNSEL: Thank you.

12 CHAIRPERSON COHEN: I, I have a question,
13 actually.

14 BOB TIMBERWALL: Thank you.

15 CHAIRPERSON COHEN: It's, it's good to
16 see you, and thank you for your testimony. Um, I, I
17 am, ah, interested in is there like a, a data-driven
18 basis for your support on the consumer protections.
19 Do your members, like, is there any way to know if
20 your members have or, in, in terms of consumers not
21 getting the, the, you know, the benefit of their
22 bargain, what they had hoped to Get? I, I understand
23 that your, your members obviously can see what's
24 going on the ground, but is there any way that that's
25

3 sort of codified or there's, there's some data that
4 would suggest that this is a significant problem?

5 BOB TIMBERWALL: Ah, I, I don't have data
6 for you on that right now. I would just say that we,
7 we don't believe there's recourse right now, um, ah,
8 and that this bill would provide that recourse for,
9 for people who did experience those disruptions in a
10 way that they don't have access to today and, and we
11 support that provision.

12 CHAIRPERSON COHEN: Do you believe it's a
13 significant problem, though, I guess is what I'm
14 trying to find out? Is it widespread?

15 BOB TIMBERWALL: We do and it's, and
16 especially in the context of, of hotels beginning to
17 reopen in the course of the, ah, after the pandemic,
18 ah, we think it's extremely important that it be on
19 the books.

20 CHAIRPERSON COHEN: So is it, is it that
21 you're concerned about sort of in a post-COVID world
22 a hotel might not offer the same amenities that it
23 obviously, you know, like being able to use the hotel
24 gym and all that. Like is, is it COVID-related or
25 was pre-COVID do you think that the industry had a

3 significant problem in sort of overselling and under-
4 delivering in terms of amenities?

5 BOB TIMBERWALL: Certainly more so after,
6 after COVID. Um, I think our main, our main interest
7 in that provision has to do with, um, you know, we
8 want to make sure that accommodations in New York are
9 viewed as, as, as reliable and dependable for people
10 who are interested in treating New York City as a
11 destination that they choose to, to book travel to
12 and stay in.

13 CHAIRPERSON COHEN: Obviously you have a,
14 you know, a meaningful investment in the health of
15 the health of the industry and so, I mean, that's
16 really, I guess, what your, your point of view is
17 that you think that having these consumer, ah,
18 protections will support the industry' reputation and
19 allow it to recover.

20 BOB TIMBERWALL: That's right and, and,
21 you know, hotels are a unique type of service in
22 that, you know, you've got thousands, you've got
23 millions of people who come every year to New York
24 City's hotels who, who really come and use, ah, this
25 [inaudible] in an off year, so certainly in the

2 context of COVID we want [inaudible] taking that leap
3 of faith and booking that travel [inaudible].

4 CHAIRPERSON COHEN: OK, I, I appreciate
5 your testimony. So I don't know if anybody else has,
6 oh, there are hands up.

7 COMMITTEE COUNSEL: Yes we do. Yes, we
8 have, um, Council Member Levine who has a question,
9 followed by Council Member Chin. Council Member
10 Levine.

11 COUNCIL MEMBER LEVINE: Ah, thank you
12 very much, and thank you, Mr. Chair, ah, and Bob,
13 thank you for your testimony. Ah, the threat of
14 hotel ownership changing and new management
15 attempting to treat existing workers unfairly is not
16 just hypothetical, it's just happened in New York
17 City, even in more prosperous times. Ah, there was a
18 very notorious case late in 2019, a hotel owner by
19 the name of Sam Chang, Sam Chang, who acquired,
20 acquired the Club Quarters downtown, ah, engaged in
21 some pretty bad anti-worker actions. Can you say
22 anything more about either that case or others like
23 it that, that gave you cause for concern about what
24 happens when ownership changes?

2 BOB TIMBERWALL: Yeah, a hundred percent.
3 Um, looking, even in the best of times, ah, this
4 occurring, you know, this is a serious threat to our
5 members where hotels are sold from one owner to
6 another or management [inaudible].

7 COUNCIL MEMBER LEVINE: Seems like we may
8 have lost you.

9 COMMITTEE COUNSEL: Bob, it might help to
10 turn off your video. Bob, are you still there?

11 COUNCIL MEMBER LEVINE: It looks like we
12 lost him. Let's see if he comes back. He might be
13 logging in.

14 COMMITTEE COUNSEL: All right. In that
15 case, um, Council Member Chin, was your question for
16 Bob, for the witness? OK, then we'll move to the
17 next, um, the next witness and we'll go back to Bob
18 if he comes back. The next witness is Marissa
19 Santino, followed by Troy Flannigan, followed by
20 Richard Bourne. Marissa, you may begin your
21 testimony when you're ready.

22 MARISSA SANTINO: Good afternoon, and
23 thank you. My name is Marissa Santino and I am the
24 New York codirector for the National Domestic Workers
25 Alliance. I also act as the coordinator for the New

2 York Domestic Workers Coalition. So I'd like to
3 thank the committee chair, um, Council Member Cohen,
4 and bill sponsors, um, and Council Member Kallos for
5 introducing, ah, bill Intro 2032, um, in its intent
6 [inaudible] New York City Paid Safe and Sick Leave.
7 So our coalition and members are especially
8 interested in having this bill brought to a vote so
9 that the over 250,000 domestic workers in the city,
10 and in particular the 60,000 domestic workers that
11 work in private homes have full access to the
12 [inaudible] and intent of paid, ah, safe and sick
13 leave. Um, National Domestic Workers Alliance is the
14 leading voice for [inaudible] over 2.5 million
15 domestic workers in the United States and I just
16 wanted to, um, comment that, ah, to comment that in
17 2010 New York State, ah, passed its very first bill,
18 ah, bill of domestic worker rights, the first of its
19 kind in the country. Um, in this year, 2020, my
20 [inaudible] anniversary, um, it's a bittersweet
21 anniversary know that we've come so far since the
22 initial signing of this historic law, yet the
23 pandemic has shed a bright spotlight on how much
24 further we have to go. Currently, um, the two days,
25 of paid safe and sick leave which domestic workers

3 are allotted in the city for domestic workers is
4 fully inadequate. Um, we know that it was a very
5 progressive decision to include domestic workers in
6 the Paid Safe and Sick Leave Law, um, in New York
7 City at the time, so we commend the City Council for
8 having made it possible for domestic workers to have
9 access, um, to paid safe and sick leave.

10 Unfortunately the effects of having two days with the
11 city and three days with the state create a confusing
12 system of paid sick leave that results in domestic
13 workers not actually being able to access and use
14 these days as intended. It was confusing, it's
15 confusing for domestic workers, employers, and at
16 times evening the enforcing entities to both educate
17 and adjudicate, um, these much-needed provisions of
18 the labor law. Of the need to wait for a full year
19 to use those sick days meant that domestic workers
20 were getting fired time and time again for taking the
21 much-needed days, um, only to have to start over from
22 zero the next time around. And domestic workers find
23 themselves having to choose, um, which, ah, enforcing
24 entity or agency to which pursue their claims, and
25 most often paid sick leave was left on the table in
order to pursue perhaps a higher claim with the

3 Department of Labor for wage theft. Um, when
4 originally passed, ah, ah, the bill of rights, it was
5 sort of ahead of its time in offering the three days
6 off, ah, because no one had days off at that time,
7 um, and so it kind of liked opened the door for, ah,
8 New York City to be able to model and create its
9 really progressive and, um, overlong wait, um, ah,
10 positive effects for, um, workers across the city.
11 And so what we are, ah, want to just really stress is
12 that domestic workers need, ah, do need and deserve
13 to have, ah, paid sick days, um, on par with everyone
14 else in the city. Um, they are essential workers,
15 ah, when the governor passed the, ah, paid sick days
16 law domestic workers once again excluded from having,
17 um, the full rights and benefits of paid, ah, sick
18 days, um, even though they are deemed essential
19 workers because they are classified as childcare
20 workers and as caregivers in the city. Um, we know
21 that the pandemic, the effects of the pandemic was
22 swift and severe on the domestic worker industry and
23 having access, full access to, um, the Paid Safe and
24 Sick Leave Law, um, with, ah, immediate access to
25 being able to take sick days not only benefits
domestic workers but it also benefits those that rely

3 so much on the care worth of domestic workers across
4 the city. Um, they are the, the work that is, we are
5 in like a care crisis in this moment. It became
6 [inaudible] obvious when, um, no one was able to send
7 their children to school, um, and, ah, ah, people who
8 needed care relied upon the life-giving care that
9 domestic workers provide. Um, but it also means that
10 they also need to be provided with the same
11 essential, um, basic, um, labor protections such as
12 paid safe and sick leave, um, especially at the full
13 benefits of five days. Um, what I just wanted to,
14 um, state is that we do have some recommendations
15 around, ah, um, definitions in the language itself,
16 which is in my written testimony, um, and we wanted
17 to make sure, um, domestic workers are able to access
18 the paid safe and sick leave before the state
19 actually goes into effect, ah, ah, on September 30 as
20 well. Ah, domestic workers were in a Trifecta of, a
21 hurricane in this regards. They are mostly women of
22 color. That means, um, we are dealing with, um, ah,
23 the care crisis, ah, the economic fallout. We're
24 dealing with the health crisis of COVID-19, and we
25 were dealing with, um, um, racism of, of violent acts
against people of color in this country, um, at the

3 time and so having these, um, benefits to subacute
4 bacterial endocarditis able to shore up domestic work
5 is actually really crucial to not only industry but
6 to the economic at large. Um, and you can read some
7 more details about the effects of, ah, the pandemic,
8 um, in my testimony, um, and if you have any
9 questions, ah, please feel free to ask. Thank you
10 very much and we, ah, really commend the City
11 Council, um, and the committee for bringing this
12 issue forward today.

13 COMMITTEE COUNSEL: Thank you, Marissa.
14 Um, if there are questions for you we'll hold those
15 for now. We're gonna go back to Bob, um, and unmute
16 him, and Council Member Chin, you may have been
17 finishing your answer for Council Member Levine but
18 I'm not sure if he is still here, um, but Council
19 Member Chin had a question for you.

20 BOB TIMBERWALL: Sure, and I apologize.
21 I've been moved to a, a better internet part of my,
22 my house here.

23 COMMITTEE COUNSEL: Thank you. Council
24 Member...

25 COUNCIL MEMBER CHIN: Thank you. Yeah.

2 COMMITTEE COUNSEL: Sorry, he got cut
3 off. Council Member Levine, did you have any follow-
4 up question before you finished?

5 BOB TIMBERWALL: Yeah, I think you were
6 asking about, about, um, ah, have we had, have we
7 seen cases and are we particularly concerned about
8 cases where there is a change in ownership and
9 people's jobs are in jeopardy as a result of that.
10 Is that right, Council Member?

11 COUNCIL MEMBER LEVINE: Yes, exactly.

12 BOB TIMBERWALL: Yeah, so, ah, so yes,
13 absolutely. We've, even in the best of time it's a
14 threat and a constant threat to our, our members and
15 we, we know, ah, how, how fickle real estate can, can
16 be, especially, um, where we have a lot of hotels in
17 Manhattan and, and we've seen situations where,
18 there's been a change in ownership that's been a
19 direct threat to our members. Um, and, and
20 especially now, and that's in the best of times, and
21 especially now, um, like I said earlier, you know,
22 we're expecting a lot of these hotels unfortunately
23 to close, ah, and even the ones that don't exactly
24 close permanently go through a, a change in
25 management, a change in ownership and, and in those

2 situations we think, ah, the people who have staffed
3 those hotels have a chance, deserve a chance to keep
4 their jobs and we want to make sure that they have
5 that through this legislation. So, so, yes,
6 absolutely, it's been a concern pre-COVID and it's
7 even more of a concern now.

8 CHAIRPERSON COHEN: I appreciate that,
9 and I want to pass it on to Council Member Chin.
10 I'll just make the point that you said if we had this
11 problem in better times we're facing now what could
12 be an unprecedented wave of change in ownership and
13 management and so the time is now to put in
14 protections so that workers aren't the ones that get
15 hurt with, when and if that happens. Um, thank you
16 for testifying.

17 BOB TIMBERWALL: Thank you.

18 COUNCIL MEMBER LEVINE: And I'll pass it
19 on to Council Member Chin. Thank you.

20 COMMITTEE COUNSEL: Go ahead, Council
21 Member.

22 COUNCIL MEMBER CHIN: Yeah, thank you,
23 OK. Thank you, Chair Cohen and, ah, thank you, it's
24 good to see you, Bob. Um, I agree with Council
25 Member Levine. You know, this is so important to

3 make sure that good-paying, quality jobs, ah, in the
4 hotel industry for our workers are protected. Um,
5 one issue I have in terms of the bill, um, is the
6 service, is for the consumer part, the service
7 interruption. Um, some of it is kind of broad and
8 especially the part about construction. I mean, I
9 could, you know, see service interruption if there's
10 construction going on inside the hotel. But, like
11 for my district in lower Manhattan there's constant
12 construction going on, on the streets and neighboring
13 building and I sort of make sure that, um, that it
14 doesn't, you know, affect, um, the revenues for the
15 hotel because I know that we have gotten contacted,
16 um, you know, by the hotel management to see how we
17 can help, ah, with overnight, ah, constructions and
18 things like that. So I just want to make sure that
19 we, ah, you know, minimize the negative impact, um,
20 on the hotel itself, ah, because we also want to make
21 sure that they don't lessen their revenue and I want
22 to make sure that workers need their job, um, so I
23 think that we might have to take a look at in terms
24 of, you know, service interruption and make sure that
25 it, it doesn't, you know, negatively impact in terms
of the revenues for hotel, so.

2 BOB TIMBERWALL: So, so to that, thank,
3 thank you for that. I'd just say that our, it
4 certainly doesn't serve us as the representative for
5 the hotel workers to promote a policy that would, ah,
6 potentially put even more, um, undue strain on, on
7 our employers and prevent them from, from coming back
8 to at least the levels of success they were seeing
9 before the pandemic hit. So, so we wouldn't seek to
10 do that, and we do support that legislation because
11 we believe it'll, you know, the hotels will operate
12 as better businesses and, and ultimately we'll, um,
13 we'll attract more business and hopefully more
14 international business from people who are otherwise
15 perhaps a little, ah, reluctant to travel post COVID.
16 So, so that's our, our position is where, we are in
17 support of that part of the law as well.

18 COUNCIL MEMBER CHIN: Yeah, I just want
19 to make sure that going forward we can, you know,
20 have more clarification so that is, it's very, you
21 know, concise. As I said, it's not just in my
22 district, in other district, especially Manhattan,
23 there's constant, you know, construction noise and
24 things going on. So I, I just wanted to raise that
25 concern. Thank you.

2 BOB TIMBERWALL: Thank you.

3 COMMITTEE COUNSEL: Thank you, Council
4 Member Chin. As I see no more raised hands, we'll
5 move on to the next witness. I have Troy Flannigan,
6 followed by Richard Bourne, um, and followed by
7 Tatiana Bejar. Troy, you may begin your testimony
8 when you're ready.

9 TROY FLANNIGAN: Good afternoon, thank
10 you, ah, Chairman and committee members. We
11 appreciate the opportunity to, to speak today. I
12 wanted to speak about Intro 2049 and, ah, certainly
13 thank you for your time. Um, I actually want to echo
14 several of the statements that [inaudible] made, ah,
15 in, in discussing the need for, um, legislation in
16 this area. Ah, the time, we're in unprecedented
17 economic times in, in the hospitality industry. Um,
18 four out of 10 hotel workers are still off the job
19 across the country. Ah, while we're seeing slightly
20 encouraging national unemployment figures, it's not
21 really getting any better within the lodging space
22 and now that the summer travel season is over we
23 expect it to get even worse. Um, just, ah, an
24 additional data point, just in the last couple hours
25 the occupancy data for the week of August 30 were

3 released and comparing the week of August 30 this
4 year versus last year for New York City, in 2019 the
5 occupancy rate for New York City was 87.4%. Last
6 week it was 38.2%. So I say all that, ah, to, to
7 focus my comments that anything that, that we can do
8 collectively and the City Council should, could do,
9 ah, to, to help workers and the economy should be
10 focused solely on that at this moment in time. Um, I
11 think part of this bill does address the welfare of
12 workers and the change in ownership. Um, but I think
13 the provisions, the subsection related to, ah,
14 service disruptions are, are less related and have,
15 ah, they're overly broad, as has been stated, and
16 have, ah, a great potential, if not narrowed or
17 clarified to actually discourage and dissuade travel
18 to New York City. And that's, and that's how we're
19 gonna get of this. Um, [inaudible] allay, um, and,
20 and many of the hotel, large hotel brands and
21 independent properties have created, ah, new programs
22 to reinforce the levels of cleanliness and safety
23 that are being put into hotels because no one's going
24 to travel and no one is going to go back to work in a
25 hotel unless they feel clean and safe to do so. And
so that is the number one priority and I think that

2 we should focus this conversation on ways that we can
3 protect workers and get hotels back up and running to
4 safely welcome guests, ah, and workers. Um, I, I
5 think that there are, ah, there's a lot of room for
6 improvement and perhaps a separate conversation with
7 regard to, ah, the service disruption provisions of
8 the bill and so I would, ah, look forward to, ah,
9 continuing our conversation with, with the sponsor,
10 ah, and, and cosponsors about how we could perhaps,
11 ah, narrow that or even decouple these two
12 conversations, because I, I think they, ah, go into
13 kind of different directions. One is, ah, ah,
14 clearly much more urgent than the other. So with
15 that I'll, ah, be happy to answer any questions.

16 COMMITTEE COUNSEL: I don't see any
17 questions. Chair, do you have any questions? With
18 that we'll move on to Richard Bourne. Richard, we
19 can't hear you. I don't think you have audio.

20 CHAIRPERSON COHEN: I was muted, but I
21 was here. I just wanted to , ah, that I did hear the
22 testimony and I understood the point. I just wanted
23 to acknowledge that. Thank you.

24 RICHARD BOURNE: Can you hear me now?

2 COMMITTEE COUNSEL: Yes, we can hear you
3 now.

4 RICHARD BOURNE: OK, thank you. Um, hi,
5 my name is Richard Bourne. I am a principle in Media
6 Hotels. We own and operate hotels in the City of New
7 York. Um, and I'm not sure that many of my
8 statements are going to be very popular, listening to
9 everybody, but I just feel a need to voice some
10 concerns. Um, we are experiencing unprecedented
11 times, a disaster for both labor and ownership. Tens
12 of thousands of hotel workers have been furloughed,
13 and one-third of hotels in New York City are in
14 default of their loans. Two-thirds are probably
15 under water. Many, many of these hotels will
16 disappear. Probably somewhere between 150 and 200
17 hotels are, will remain closed forever, with the loss
18 of tens of thousands of jobs, permanent losses.
19 These two bills will result in the exacerbation of
20 this trend. It will result in more hotels
21 permanently closing and it will result in more jobs
22 permanently lost. In addition, it will prevent the
23 rebuilding or inhibit the rebuilding of the industry,
24 the replacement of hotels and the replacement of jobs
25 over the course of time as the city and the industry

3 recovers. Um, the two parts of 2049, um, both create
4 problems of their own. Um, in particular the worker
5 retention lays the obligation of future owners of
6 rehiring under existing conditions a, a staff. This
7 is something that banks around the world universally,
8 ah, try to run from. If hotels are not financeable,
9 if hotels cannot be developed, if hotels cannot be
10 maintained, if banks shun from the industry, there
11 will be no industry and there will be less hotels and
12 there will be less hotel jobs. The consumer
13 protection portion of it, in the time of COVID, makes
14 no sense. The idea that any picket can result in
15 the, the requirement of a hotel to send notices out
16 to all its potential customers is, sets up a system
17 where fraud can be rampant. Anybody can picket.
18 Anybody can organize a picket and anybody can hold a
19 hotel hostage with the threat of a picket. The idea
20 that, that, you know, hotels were, are a service
21 business. Hotels operate successfully because they
22 keep their customers happy. Those that don't end up
23 not being successful. It's like any other business.
24 It's like a restaurant. It's like a retail store.
25 It's like a dry cleaners. If you treat your
customers badly you won't have customers. Hotels are

2 most, are among the most reviewed service business.

3 Every customer goes online, every customer checks

4 Trip Advisor to check the quality of the hotels and

5 the reviews by guests. We are, we are a self-

6 regulated industry and it happens to work, because I

7 think most people have good experiences. At a time

8 where a third of the hotels are going under and

9 another third rapidly going after them this is not a

10 time to put another nail in the coffin of the

11 industry. That will create a disaster both for

12 ownership and a disaster for labor and will cost the

13 city tens of thousands of jobs and will cost the city

14 millions, if not billions, in tax dollars. Thank

15 you.

16 COMMITTEE COUNSEL: Thank you, Richard.

17 Yes?

18 CHAIRPERSON COHEN: I, I just, um, I

19 don't know if, ah, if you object to the aim of the

20 worker protection portion of the bill or just the

21 drafting. Could you clarify that for me?

22 RICHARD BOURNE: Well, you know, the,

23 clearly I don't object to the aim. I think the

24 important thing is to understand what is a losing

25 game, what is a zero sum game, what is, what is a

3 positive game. There is nothing in the legislation
4 that's gonna create more jobs. So the legislation
5 gives an avenue for existing workers to maintain a
6 position for a period of time while they're reviewed.
7 What it does is it shackles the banks, because the
8 banks don't want to be in a position where they
9 legislatively have to become employers. They don't
10 need, they don't want to be in it, you know,
11 liability is the one thing they care about. A bank
12 will make a long and their last resort is to take
13 back the real estate and take back an operating
14 business, and the one thing a bank doesn't want to
15 hear is they don't want to hear these are your
16 employees, you must retain them all, and you must pay
17 them full salary, and you must sit down, you know,
18 and, and, and bargain with their bargaining agents.
19 It, it, it will be a chilling effect. You know, I'm
20 not sure when the, I have very little political
21 experience, when the council proposes a bill like,
22 like this with these two aspects, do they sit down
23 with industry groups? Do they hire consultant
24 companies to say what is the ramification of this
25 bill? This is, you know, these are bills that affect
tens of thousands of people, hundreds of millions of

2 dollars of, of, of commerce, and tens of millions of
3 dollars of New York City tax dollars, of occupancy
4 taxes, sales taxes, real estate taxes. Has that,
5 does anyone study this or [inaudible] good idea?

6 CHAIRPERSON COHEN: If you, but if you
7 support the aim of the bill, um, and, and understand
8 that the goal, you know, I'm not the sponsor of the
9 bill, the prime sponsor, but the goal of the
10 legislation is also, is to prevent a race to the
11 bottom in terms of employees in the industry and, and
12 promote some stability for, for the employees. Ah,
13 ah, do you think that there's a work-around to the
14 problem of financing that you suggested?

15 RICHARD BOURNE: Well, I, I think the
16 work-around is, you know, in any particular hotel, if
17 we can deal with a industry you can deal with, with a
18 hotel. Ah, at some point in time that hotel is
19 either a viable operation or not a viable operation.
20 If it's a viable operation, it's going to retain the
21 majority of its labor force. If it doesn't retain
22 the majority of the labor force it may be
23 substituting portions of the labor force. If the
24 hotel is not viable then it's gonna go away. The
25 biggest threat to the labor force in New York City is

3 hotels going away. If a hotel, you know, if a hotel,
4 you know, is simply not solvent, if it's simply not a
5 concern that can be ongoing, then the only result
6 will be another piece of real estate, because that's
7 what the hotel, underlies the hotel. There is no
8 piece of real estate that employs more people than a,
9 than a hotel. Ten times as many per square foot as
10 an apartment house or office building. So the, the
11 number one goal for anybody interested in jobs and
12 employment in the City of New York, it's making these
13 hotels viable. And these, and these two bills simply
14 cost hotels money. And if they cost hotels money,
15 either in terms of valuation, from the lending
16 community, or in terms of the pain in the neck in
17 having to send notifications to all your guests all
18 the time every time your toilets get stuffed, it just
19 makes it less viable. If it's lets viable there are
20 less hotels and there are less jobs. That's the
21 bottom line for these two bills. Are there work-
22 arounds to make them better? Of course there are.
23 But, but just as they're written right now these two
24 bills will, will result in less New York City
25 hospitality employment and less employment total.
That's a fact. No work-around that.

2 CHAIRPERSON COHEN: OK. Does anybody
3 else have any questions?

4 COMMITTEE COUNSEL: I don't see any other
5 raised hands.

6 CHAIRPERSON COHEN: OK, thank you. Thank
7 you for your testimony.

8 RICHARD BOURNE: Thank you for hearing me
9 out.

10 COMMITTEE COUNSEL: Thank you. The next
11 and last witness is Tatiana Bejar. Tatiana, you may
12 begin your testimony when you're ready.

13 TATIANA BEJAR: Thank you, and good
14 afternoon. Thank you to the Committee on Consumer
15 Affairs and Business Licensing for the opportunity to
16 testify today on behalf of our membership, who are,
17 ah, domestic employers. My name is Tatiana Bejar and
18 I am a New York City labor organizer at Hand and
19 Hand, a domestic employer's network. Hand in Hand is
20 a national network of employers of nannies, house
21 cleaners, and home attendants, our families and
22 allies. We support domestic employers to improve
23 their employment practices through education,
24 advocacy, and organizing. We believe that dignified
25 and respectful working conditions benefit both

3 workers and employers alike. [inaudible] people who
4 hire domestic workers in New York State. Hundreds of
5 thousands are in New York City. And although the
6 domestic workers' bill of rights that passing New
7 York State 2010 was a great step forward to advance
8 working conditions, still thousands of domestic
9 workers continue working in the shadows and are
10 exposed to different types of labor abuses and
11 discrimination. Domestic workers have been some of
12 the hardest hit workers by the pandemic. They are
13 also essential workers who have continued caring for
14 our families and loved ones, like seniors, people
15 with disabilities, and children. Domestic workers
16 are currently only entitled to three paid sick days
17 under the law and this is definitely inadequate in
18 the midst of this pandemic. Hand in Hand strongly
19 supports the update of the New York City's paid safe
20 and sick leave law to extend 40 hours of paid sick
21 time to our city's domestic workers. Domestic
22 employers understand their lives are interdependent
23 with the people that work in the homes and want to do
24 the right thing to create fair and healthy
25 workplaces. Hand in Hand plays a central role in
providing guidance with fair employment practices

3 through written resources and webinars to domestic
4 employers. One of our core recommendations is to
5 provide at least one week of basic leave. Many
6 employers follow these recommendations because they
7 realize that covering three days provided by the law
8 isn't nearly enough to create a fair and healthy work
9 environment in their homes. However, every day
10 people become domestic employers and it is impossible
11 for us to reach every employer in the city. The
12 government must take action to set a standard for
13 workplaces that exist in people's homes. This
14 includes a stronger paid sick leave law that requires
15 domestic employers to provide the same sick leave
16 protections as every other employer in the city. We
17 strongly urge New York City Council to update the
18 current basic leave law and applaud the council for
19 taking leadership in this issue and thank the
20 Committee on Consumer Affairs and Business Licensing
21 for hear our testimony as to why this bill should
22 pass and become effective immediately. Thank you.

23 COMMITTEE COUNSEL: Thank you, Tatiana.
24 Chair, do you have any questions?

25 CHAIRPERSON COHEN: I do not.

2 COMMITTEE COUNSEL: Great. Um, at this
3 time if your name has not been called and you wish to
4 testify please raise your hand using the Zoom raise
5 hand function. As I do not see any raised hands I'll
6 pass it on to the chair to give closing remarks and
7 to gavel out. Thank you.

8 CHAIRPERSON COHEN: I just want to make
9 sure I acknowledged all the members, there are no
10 other members to.

11 COMMITTEE COUNSEL: I don't see any other
12 members. Let me double check. Nope, everyone's been
13 acknowledged.

14 CHAIRPERSON COHEN: All right, this
15 concludes this hearing of the Committee on Consumer
16 Affairs. I want to thank the staff. Ah, there was a
17 lot of, ah, as always there was a lot of work to try
18 to prepare for today's hearing and I feel in some
19 ways the work multiples, even though we're doing it
20 virtually. Um, and the participation I think is,
21 even though the participation was, ah, not
22 overwhelming today, ah, but I think we've made the
23 City Council somehow more accountable, even though
24 it's, ah, virtual. So, ah, I want to thank all the
25 staff and everybody who, ah, makes this hearing

3 possible. Um, and, ah, this concludes the hearing.

4 Thank you very much. [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date September 13, 2020