

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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June 8, 2021  
Start: 1:10 p.m.  
Recess: 4:07 p.m.

HELD AT: Remote Hearing, Virtual Room 2

B E F O R E: Diana Ayala  
Chairperson

COUNCIL MEMBERS: Diana Ayala  
Justin L. Brannan  
Margaret S. Chin  
Eric Dinowitz  
Ben Kallos  
Peter A. Koo  
Karen Koslowitz  
Brad S. Lander  
Carlos Menchaca  
Keith Powers  
Carlina Rivera  
Kalman Yeger

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

Sandra Abeles  
Acting Commissioner  
Department of Consumer and Worker  
Protection

Steven Ettannani  
Executive Director of External Affairs  
Department for Consumer and Worker  
Protection

Vincent Maniscalco  
Assistant Commissioner of Highway  
Inspection and Quality Assurance  
Department of Transportation

Angelo Cucuzza

Gustavo Ajche

Ligia Guallpa

State Senator Jessica Ramos

Teodora Flores

Saru Jayaraman

Candis Tolliver

Russell Jackson

Jessica Wong

Andrew Rigie

Kathleen Reilly

Mikey Knab

Maria Figueroa

James Parrott

Sarah Rothman

Pepe Jhonson

Cesar Marino

Gustavo Mancilla

Roberto Corrales

Juan Carlos Huerta

Oscar Gonzales

Pedro Castillo

Juan Reynoso

Isabel Navarro

James Parrott

Sarah Brafman

Brian Chen

Andrew Stettner

Gonzalo Mercado

Irene Lew

Lisa Orman

Austin Horse

Richard Robbins

@

2 SERGEANT AT ARMS: Computer started.

3 SERGEANT AT ARMS: Cloud is started.

4 SERGEANT AT ARMS: Sergeant Lugo, do your  
5 opening, please.

6 SERGEANT AT ARMS LUGO: Good afternoon,  
7 everyone. Welcome to today's remote New York City  
8 Council hearing on the Committee on Consumer Affairs  
9 and Business Licensing. At this time would all  
10 panelists please turn on your video. To minimize  
11 disruption, please place electronic devices to  
12 vibrate or silent. If you wish to submit testimony  
13 you may do so at [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Again,  
14 that's [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Thank you for your  
15 cooperation. Chair Ayala, we are ready to begin.

16 CHAIRPERSON AYALA: Thank you, thank you.  
17 Ah, good afternoon, and thank you all for joining us.  
18 My name is Diana Ayala and I am the chair of the  
19 Committee on Consumer Affairs and Business Licensing.  
20 We are also joined, ah, today by my colleagues on the  
21 committee, Council Members Brannan, Chin, Koo,  
22 Koslowitz, Powers, Menchaca, Lander, and Rivera. I'm  
23 not sure if I missed anyone, but if I did I will come  
24 around to you. Um, today we'll be hearing a number  
25 of bills related third-party delivery platforms, such

2 as Grub Hub, Door Dash, and Uber Eats and how they  
3 treat their contracted delivery workers. The five  
4 bills include 2288 in relation to platforms providing  
5 insulated bags for delivery workers, and Intro 2289,  
6 allowing delivery workers to set distance and route  
7 limitations for themselves, both of which are  
8 sponsored by Council Member Brannan. We will also  
9 hear Intro 2294, from Council Member Lander, that  
10 would establish minimum payments for delivery. Intro  
11 2296, from Council Member Menchaca, that would  
12 establish standards of payments for delivery workers,  
13 and Intro 2298, from Council Member Rivera, that  
14 would ensure that these delivery workers have access  
15 to toilet facilities. Throughout the pandemic food  
16 delivery workers have been on the front line. When  
17 lockdown orders and indoor dining restrictions were  
18 put in place it was the delivery workers that helped  
19 keep restaurants open and New Yorker fed.  
20 Politicians and the public recognize them as  
21 essential workers and heaped much-deserved praise on  
22 them. However, beyond the rhetoric, these delivery  
23 workers have little substantive support. Most of our  
24 city's delivery workers are immigrants and many are  
25 undocumented. This means that many missed out on

3 stimulus checks and other forms of government  
4 assistance during the peak of the pandemic. They  
5 struggled to get PPE and during the curfew some of  
6 them found themselves target of police enforcement  
7 despite being recognized as essential workers. The  
8 package of bills that we are hearing today aims to  
9 rectify some of the concerns raised by delivery  
10 workers. As independent contractors they are not  
11 protected by the city's best worker protection laws.  
12 Similarly, some of these conditions set by third-  
13 party delivery platforms force these workers to rush  
14 around the city delivering orders in unrealistic time  
15 frames just to maintain the customer ratings, but for  
16 very minimal pay. I look forward to hearing from the  
17 platforms and the delivery workers themselves on how  
18 these bills will improve their working conditions.  
19 We will also hear two additional bills today, Intro  
20 2163, from Council Member Reynoso, would allow  
21 restaurants to add a surcharge to their bills,  
22 provided they pay their tip workers at \$15 minimum  
23 wage. The City Council had already enacted  
24 legislation that would allow restaurants to add a  
25 surcharge of no more than 10% while restaurants are  
prohibited from operating at, ah, maximum capacity

3 and for 90 days after. The purpose of this law was  
4 to help restaurants in their economic recovery  
5 spurred by the health emergency. Intro 2163 would  
6 repeal this law, replacing it with a new surcharge  
7 provision, linking it to tip worker wages. Like  
8 restaurants, tip worker, ah, tipped workers in the  
9 hospitality industry have also been negatively  
10 impacted by the economic downturn. According to some  
11 reports, the restaurant industry lost 43% of its jobs  
12 in 2020 and even those who were able to stay working  
13 reported a severe downturn in tips. Unlike back-of-  
14 house staff who receive a standard minimum wage,  
15 workers in the front of the house, like servers and  
16 hosts, rely on tips to supplement their wages. This  
17 means that there are times when they earn well below  
18 the standard \$15 an hour. Furthermore, research has  
19 shown that there are tipping disparities along racial  
20 and gender lines, meaning that on average black women  
21 earn \$7.75 less than their white male counterparts.  
22 By linking restaurant surcharges to a base salary to  
23 tipped workers, we hope to mitigate some of these  
24 inequities. The final bill we will hear feedback on  
25 today is Intro 2311, from Council Member Powers.  
Under this bill, restaurants would have access to



2 customer data collected by third-party platforms.

3 This data is one of the most important tools

4 restaurants can use to develop marketing strategies

5 and customer relations. However, under the current

6 contracts third-party delivery platforms do not allow

7 the restaurants to retain this data, depriving them

8 of key information to develop and grow their

9 businesses. The hospitality industry was hit hard by

10 COVID-19 pandemic. And as the industry begins to

11 recover, this committee will ensure that delivery

12 works, restaurant staff, and restaurant owners have

13 the protections they need to succeed. As you can, we

14 have quite an agenda to get through today. And I

15 thank you in advance for your patience, as we ensure

16 that every stakeholder gets their opportunity to

17 speak. I am going to invite the various bill

18 sponsors to make a short opening statement on their

19 bills, but before I do that I want to thank committee

20 staff, legislative counsel Stephanie Jones, policy

21 analyst Noah Mitzler, and Leah Scripia for putting

22 this hearing together. I will now turn it over, I'm

23 sorry, to which council member, I think it's Council

24 Member Brannan.

25

2 COUNCIL MEMBER BRANNAN: Thank you,  
3 Chair, um, and thanks to the legislative staff, and  
4 obviously thank you to my colleagues, ah,  
5 Councilwoman Rivera and Councilman Menchaca, who  
6 we've been closely on this issue, along with  
7 obviously the leadership of the Workers Justice  
8 Project. Ah, so this is a big day for us, ah, here  
9 in the council. Today we're hearing two pieces of my  
10 legislation that, that I've introduced, ah, which  
11 seek to provide just basic protection and benefits to  
12 delivery workers. Ah, both these pieces of  
13 legislation recognize two important and unfortunate  
14 realities, ah, to the nature of third-party delivery  
15 work. One, that their out-of-pocket costs required  
16 to begin this work are substantial and they act as a  
17 barrier to entry for many workers. And, two, ah,  
18 that many workers are penalized for failing to have  
19 adequate equipment and/or for attempting to exercise  
20 basic control over their work day. So Intro, ah,  
21 2289 aims to provide workers with a very crucial  
22 protection - the ability to set the distance that  
23 wish to travel while delivering and the ability to  
24 refuse to cross a bridge or a tunnel without being  
25 penalized for refusing an order. Ah, Intro 2289 is a

3 result of the stories that we've heard from the  
4 deliveries [inaudible] while delivering for certain  
5 apps are sent all over the city on their bicycles,  
6 sometimes traveling multiple miles between single  
7 orders and sometimes being sent over a bridge or a  
8 tunnel into another borough without warning. We've  
9 even heard from delivery workers who, ah, one, one  
10 delivery worker who was delivering in Manhattan. He  
11 was sent to an address in New Jersey on his bike.  
12 For many of these apps, when a worker decides to  
13 reject an order based on its distance, they receive a  
14 lower rating from the app's internal algorithm and it  
15 has a negative effect on their ability to receive  
16 future orders. So it bears repeating that these  
17 workers are independent contractors. They should not  
18 be required to go wherever these apps assign them for  
19 fear of negative repercussions, especially if it  
20 jeopardizes their safety. Second, lastly for me, ah,  
21 Intro 2288, it's very straightforward and simple. It  
22 would require third-party apps to provide workers  
23 with insulated bags for food delivery at no cost to  
24 the worker. This legislation aims to minimize the  
25 cost that a worker incurs on the job. Ah, these  
workers already supply their own bicycles, their own

2 helmets, their own safety equipment, and there's no  
3 reason that they should also need to provide bags to  
4 keep food warm during delivery. Ah, we've heard  
5 stories of delivery workers who, ah, lacking delivery  
6 bags and, and what-not receive low ratings when the  
7 food arrived cold to their customer. Again, a were  
8 should not be penalized because they can't afford to  
9 purchase an item that is a necessity for the job.  
10 Ah, this cost should really rest with apps. So,  
11 again, I want to thank my colleagues and especially  
12 the incredible workers who have organized to get us  
13 here today, especially the Workers Justice Project,  
14 and thank my colleagues, ah, Council Members Rivera,  
15 Menchaca, ah, their legislative staff for their hard  
16 work on this package. And, of course, ah, to, ah,  
17 Chairwoman Ayala for all your leadership and getting  
18 this done today. This is a big day for us and for  
19 the workers. So I appreciate it, and thanks for  
20 letting me, ah, talk on these bills.

21 CHAIRPERSON AYALA: Thank you, Council  
22 Member Brannan. We've also been joined by Council  
23 Member Reynoso. Um, we [inaudible] Council Member  
24 Lander, prime sponsor of Intro 2294, to deliver a  
25 opening statement. Council Member Lander?

2 COUNCIL MEMBER LANDER: Thank you so very  
3 much, ah, Chair Ayala. It's really an honor to be  
4 one of the sponsors today, along with Council Members  
5 Rivera, Menchaca, Brannan, and I'm excited also about  
6 the tipped, ah, worker, ah, that Council Reynoso is  
7 carrying and I also strongly support it. I want to  
8 thank you for having this hearing. I want to  
9 especially thank the workers for their organizing and  
10 their courage and they're making their voices heard  
11 out in the streets, and today in this hearing I  
12 really look forward to hearing from them. Delivery  
13 workers have been feeding us throughout the pandemic,  
14 but too often the app companies have been starving  
15 them. Many delivery workers, ah, they perform hard,  
16 dangerous essential work. Imagine riding 10 or 12  
17 hours in the heat today, and yet they earn far less  
18 than the minimum wage, sometimes just even \$4 or \$5  
19 an hour. Ah, Door Dash, Seamless, Red, Instacart  
20 have exploited the independent contractor who  
21 [inaudible] to shortchange workers. This is supposed  
22 to be a city where every worker earns at least \$15 an  
23 hour and we do not have to allow them to continue  
24 shortchanging workers. For Uber and Lyft drivers, by  
25 requiring that the Taxi and Limousine Commission set

2 a per-trip minimum we've guaranteed that the drivers  
3 can earn a living wage of at least \$17.50 an hour.  
4 Ah, my legislation, Intro 2294 will do similarly for  
5 delivery workers that will require the Department of  
6 Consumer and Worker Protection to establish a per-  
7 trip payment for food delivery workers in order to  
8 guarantee them living wage pay. Now, we may hear  
9 from Uber or Door Dash that they can't afford it, but  
10 Uber's revenue from delivery service soared 215% to  
11 the first quarter of 2021 and they even increased  
12 their take rate, what they take that restaurants or  
13 delivery workers don't get, from 11% to 14%. That's  
14 hundreds of millions of dollars that went to Uber  
15 that could have gone to delivery workers. And Door  
16 Dash's revenues jumped threefold. Their CEO received  
17 a stock package worth 400 million dollars in  
18 December. They can afford to pay their delivery  
19 workers a living wage. Intro 2294 will make sure we  
20 get it done. I support all the other bills in this  
21 package and I'm honored to be a cosponsor.

22 CHAIRPERSON AYALA: Thank you, Council  
23 Member Lander. We've also been joined by Council  
24 Member Kallos. Um, we will now turn it over to

2 Council Member Menchaca, prime sponsor of Intro 2296,  
3 to deliver an opening statement.

4 COUNCIL MEMBER MENCHACA: Ah, thank you.

5 I, I want to just first start by saying thank you to  
6 Chair Ayala and Speaker Corey Johnson. Without them  
7 and the committee staff and central staff there's no  
8 way that we would have gotten to this point. And I  
9 just want to say thank you in a moment where so much  
10 of what we are trying to do we are doing with our  
11 immigrant New Yorkers. Ah, there's no way we can do  
12 it without you. And so both you, Speaker Corey  
13 Johnson, and Chair Ayala deserve so much credit for  
14 today's hearing. Now, what I want to lift in this  
15 conversation is the sheer fact that so many New  
16 Yorkers have gotten rich on the backs of our  
17 immigrant workers for many years. COVID accelerated  
18 the conversation that we're having today, where the  
19 apps have taken advantage, and you're hearing from  
20 the sponsors about how the different ways we have  
21 benefitted as New Yorkers without justice, and so  
22 these bills that you're hearing today are about that.  
23 My bill is really focused on regulating the apps.  
24 The apps have charged workers, essential workers, the  
25 delivery says, ah, for paying, paying their salary,

2 ah, using non-banking options. Ah, this is something  
3 that was brought to my attention over a year ago in  
4 Sunset Park and we submitted an LS request and here  
5 is the bill. The bill also ensure that workers get  
6 paid on time. We know from workers that you're gonna  
7 hear from today who have not been paid in months, ah,  
8 and at this point I think there are a lot of, ah,  
9 tactics that apps will use so they never pay workers  
10 their salary. That's gonna end. And I'm just really  
11 proud to be here with this committee. The workers  
12 are gonna tell their story. Let's listen to that,  
13 ah, and let's move these bills fast, and so I'm, I'm  
14 asking all my council member colleagues, especially  
15 those that have been on the front, ah, Justin Brannan  
16 and Carlina Rivera, Brad Lander, ah, Council Member  
17 Ayala, Chair Ayala, and so many more that have, ah,  
18 joined this, this effort. Let's make this happen and  
19 glad to be here today. Thank you.

20 CHAIRPERSON AYALA: Thank you, Council  
21 Member, ah, Menchaca. We will now turn it over to  
22 Council Member Rivera, who is the prime sponsor of  
23 Intro 2298, to deliver an opening statement.

24 COUNCIL MEMBER RIVERA: Hi, can you hear  
25 me OK? OK, sorry, trying something new. Thank you,



3 Madam Chair and thank you to the committee for  
4 holding this important hearing. For the past year  
5 and a half while we battled the COVID-19 pandemic and  
6 fought for a just recovery, delivery workers have  
7 [inaudible] their lives and livelihoods at risk,  
8 reporting to work every day to keep New Yorkers fed  
9 and restaurants afloat. They have been and continue  
10 to be just as essential to our city's survival as our  
11 healthcare heroes, yet they have not been awarded  
12 even a design of the honor and respect that they  
13 deserve. My colleagues and I introduced this package  
14 of legislation, drafted in partnership with the  
15 Workers Justice Project and Los Deliveristas Unidos  
16 to begin to address the dangers of abuses and  
17 inequities facing deliveristas. On average, a  
18 delivery worker works 12 hours a day, seven days a  
19 week, earning a grand total of \$300. That is less  
20 than \$4 an hour. When they need to take a break or  
21 use the restroom they are denied basic courtesy and  
22 treated with hostility by some of the very same  
23 restaurants kept open by their labor. They are no  
24 safer out in our streets, where they face robberies  
25 and violent assaults at the hands of individuals who  
target them for their valuable e-bikes. Without

2 protected bike lanes and safe street infrastructure  
3 the deliveristas continue, community has lost several  
4 workers to traffic fatalities. Today is a historic  
5 date because after a year of organizing you'll hear  
6 directly from the workers fighting for dignity in  
7 their workplace, the streets of New York. My bill,  
8 Intro 2298, would require all restaurants to provide  
9 something seemingly very basic - access to bathrooms  
10 for delivery workers who are picking up a delivery,  
11 except in restaurants where accessing the bathroom  
12 would create a serious health and safety risk.  
13 Deliveristas have single-handedly kept restaurants  
14 across the five boroughs in business and yet are  
15 often faced to go an entire 12-hour work day without  
16 any access to a bathroom. Just outside of my own  
17 district we learned of a restaurant charging delivery  
18 workers an astonishing \$5 to use their bathroom. The  
19 rights and protections we seek to codify and defended  
20 in this package are just the minimum of delivery  
21 workers deserve. And it is far past time that we as  
22 a council stepped in to help deliver justice where it  
23 is long overdue. Thank you again, Madam Chair, and  
24 the committee. Thank you to Speaker Johnson and my  
25 colleagues for their advocacy and their

2 collaboration. I'd especially like to thank the  
3 Workers Justice Project and Los Deliveristas Unidos  
4 for their partnership and for entrusting us with this  
5 fight. Following today's hearing, I look forward to  
6 getting these bills passed. And finally, this fight  
7 did not start in the council and nor does it end  
8 here. I call on our city agencies to step up and do  
9 their part to ensure these workers are regarded with  
10 dignity and respect and provide a safe, supportive  
11 environment to work. Thank you very much.

12 CHAIRPERSON AYALA: Thank you, Council  
13 Member Rivera. I'll turn it over to Council Member  
14 Powers, prime sponsor of Intro 2311, to deliver an  
15 opening statement.

16 COUNCIL MEMBER POWERS: Thank you and  
17 good afternoon. Thank you, Chair Ayala. I'm gonna  
18 keep my comments a little shorter since I know you  
19 have a lot on the agenda today. Ah, but thanks for  
20 giving me time to speak on Intro 2311, which requires  
21 third-party food delivery services, which are  
22 entities of providing restaurants with online order  
23 and delivery services, to share certain information  
24 with restaurants with, with, about customer data.  
25 Um, we're living in an era where more and more people

3 are turning to technology and the cloud is as an  
4 entity intermediary to traditional brick and mortar  
5 services. There is a trillion app for everything  
6 these days and I know I take advantage of them as  
7 well. Um, but we do want to make sure that we  
8 [inaudible] strike the right balance and equity  
9 between those that hold the information and those  
10 that supply the goods and services, and that's  
11 ultimately the intention of my bill. The goal is to  
12 allow for more information sharing and transparency  
13 between the platforms that retain and, and hold that  
14 data, and the restaurants rely on them, but should be  
15 able to use that data when it comes to marketing and  
16 understanding their business. Um, we have heard from  
17 folks about their concerns in terms of protecting  
18 privacy data and, ah, eager to hear suggestions from  
19 stakeholders on how to best address those concerns  
20 and reach a bill that helps do all the above. Um,  
21 and I just have to say, this has been such a hard  
22 year for our restaurants and our local businesses and  
23 this is a really good opportunity for us again to  
24 look at them and think about ways to keep them  
25 surviving here in the city, but also give them a  
better opportunity to compete and to be able to stay

2 in our communities for a very long time. And so  
3 that's the goal of my bill here today. And I want to  
4 thank, ah, Chair Ayala for having this hearing and  
5 the speaker as well for putting the bill on the  
6 agenda, and I want to thank all the colleagues so far  
7 who have signed onto the bill. I want to encourage  
8 everyone to take a look at it and sign on and, ah, we  
9 look forward to hearing comments. So thank, thank  
10 you, Chair, and I look forward to hearing testimony.

11 CHAIRPERSON AYALA: Thank you, and before  
12 I turn it over to our moderator, Stephanie Jones, I  
13 just wanted to take a moment to remember Francisco  
14 Rialba Depineo who, ah, was murdered in my district  
15 in April. Um, Francisco was a delivery, ah, worker,  
16 um, who after his, um, his day of work, was sitting  
17 in a park bench when he was, um, murdered, from what  
18 we presume was, um, someone trying to steal his bike,  
19 um, to steal his livelihood. And I want to thank and  
20 acknowledge the work of Los Deliveristas Unidos and  
21 Workers Justice Project for, um, not only, you know,  
22 shedding light on, on, on Francisco's story, but  
23 also, ah, offering their support to the family and to  
24 the entire community. Um, with that I'll now turn it

3 over to moderator Stephanie Jones for some procedural  
4 items.

5 COMMITTEE COUNSEL: Thank you, Chair. I  
6 am Stephanie Jones, counsel to the Committee on  
7 Consumer Affairs and Business Licensing. And I will  
8 be moderating this hearing. Before we begin, I'd  
9 like to remind everyone that you will be on mute  
10 until you are called on to testify, at which point  
11 you will be unmuted by the host. During the hearing  
12 I will be calling on panelists to testify. Please  
13 listen for your name to be called as I will  
14 periodically be announcing who the next panelist will  
15 be. At this hearing we'll first be inviting  
16 testimony from the Department of Consumer and Worker  
17 Protection, followed by testimony from members of the  
18 public. During the hearing if council members would  
19 like to a question of the administration or a  
20 specific panelist please use the Zoom hand raise  
21 function and I will call on you in order. We will be  
22 limiting council member questions to five minutes,  
23 which includes the time it takes to answer your  
24 question. For all panelists, when called on to  
25 testify please state your name and the organization  
you represent, if any. We will now call

2 representatives of the administration to testify. We  
3 will be hearing testimony from Sandra Abeles, acting  
4 commissioner of the Department of Consumer and Worker  
5 Protection. We will also be joined for question by  
6 Steven Ettannani, Vincent Maniscalco, assistant  
7 commissioner of highway inspection and quality  
8 assurance of the Department of Transportation, and  
9 Miranda Alquist, assistant director of legislative  
10 affairs of the Department of Transportation. At this  
11 time I will administer the affirmation.

12 Administration panelists, please raise your right  
13 hands and I will call on each of you individually to  
14 respond. Do you affirm to tell the truth, the whole  
15 truth, and nothing but the truth before this  
16 committee and to respond honestly to council member  
17 questions? Commissioner Abeles.

18 ACTING COMMISSIONER ABELES: I do.

19 COMMITTEE COUNSEL: Thank you. Executive  
20 Director Ettannani.

21 EXECUTIVE DIRECTOR ETTANNANI: I do.

22 COMMITTEE COUNSEL: Thank you. Assistant  
23 Commissioner Maniscalco?

24 ASSISTANT COMMISSIONER MANISCALCO: I do.

2 COMMITTEE COUNSEL: Thank you. Finally,  
3 Assistant Director Alquist.

4 ASSISTANT DIRECTOR ALQUIST: I do.

5 COMMITTEE COUNSEL: Thank you. At this  
6 time I'd like to invite Commissioner Abeles to  
7 present her testimony.

8 ACTING COMMISSIONER ABELES: Good  
9 afternoon, Chair Ayala and members of the Committee  
10 on Consumer Affairs and Business Licensing. I'm  
11 Sandra Abeles, acting commissioner of the Department  
12 of Consumer and Worker Protection. And I'm joined  
13 today by Steven Ettannani, our agency's executive  
14 director of external affairs. We're also joined by  
15 our colleagues from the Department of Transportation,  
16 Vincent Maniscalco, assistant commissioner of highway  
17 inspections and quality assurance, and Miranda  
18 Alquist, assistant director of legislative affairs.  
19 Chair Ayala, it's a pleasure to see you again and I  
20 look forward to working with you and members of the  
21 committee on the significant issues impacting New  
22 York's delivery workers. I've been with the agency  
23 since 2014 and prior to stepping into my current role  
24 I served as the first deputy. Before joining DCWP I  
25 worked at the New York State Department of Labor,



3 enforcing labor standards and ensuring the health and  
4 safety of public employees, and at the attorney  
5 general's office in the civil rights bureau,  
6 protecting our immigrant communities from fraud.

7 This is why I joined DCWP, because I consider our

8 mission of protecting consumers and workers an

9 essential part of ensuring equity and justice in our

10 city. The agency licenses about 59,000 businesses

11 and individuals in approximately 50 different

12 categories. We enforce consumer protection, business

13 licensing, and workplace laws that serve New Yorkers

14 throughout the city and offer programming that

15 increases access in our city to free financial

16 services for New Yorkers. DCWP's Office of Labor

17 Policing and Standards, or OLPS, enforces our city's

18 workplace protections, including New York City's paid

19 safe and sick leave and Fair Work Week laws, and it

20 administers the Freelance Isn't Free Act to protect

21 freelancers' right to get paid, and conducts vital

22 education and outreach to workers and businesses on

23 their rights and responsibilities. Throughout the

24 pandemic DCWP received thousands of complaints and

25 inquiries about workers' rights in New York City. We

have investigated and brought successful enforcement

3 actions against employers that violated the rights of  
4 essential workers, even up to the point of illegal  
5 firings. We've also adapted throughout the pandemic  
6 to focus our available tools and resources on the  
7 most pressing concerns for workers, including  
8 providing referrals on critical economic supports,  
9 developing new resources to help workers navigate  
10 reopening, and prioritizing the swift resolution of  
11 complaints to ensure workers can access their sick  
12 leave and receive any compensation to which they're  
13 entitled. Another major step our city is taking to  
14 protect our city's workers is the passage and  
15 implementation of groundbreaking Just Cause  
16 protections for tens of thousands of essential  
17 workers in our fast food industry. For too long  
18 workers in this industry have faced arbitrary  
19 firings, at times dismissed for no reason at all.  
20 Just Cause as a new frontier in workers' rights will  
21 bring greater stability and equity to our city's fast  
22 food workers by ensuring there are disciplinary  
23 processes in place before a worker is terminated.  
24 Turning towards the legislation at hand today I'd  
25 like to take a moment to recognize the incredible  
efforts and sacrifices made by delivery workers

3 during one of the most difficult times in this city's  
4 history. Delivery workers helped carry the city  
5 through an unprecedented, ongoing public health  
6 crisis. When many of us were isolated in our homes  
7 or caring for loved ones, delivery workers were among  
8 the essential workers who kept going to work every  
9 day, ensuring that New Yorkers could have access to  
10 meals and other goods without having to leave home.  
11 And while many industries shrank, the number of  
12 workers doing deliveries through third-party apps has  
13 increased. To that end, DCWP support protections for  
14 these workers. We've worked closely with the  
15 partners that the council has engaged with and are  
16 always encouraged to see that workers' rights are at  
17 the forefront of conversations in the city. We look  
18 forward to working with the council on these  
19 important bills to ensure they'll provide meaningful  
20 protections to app-based delivery workers while also  
21 making sure they are enforceable once passed. Intro  
22 2288, which requires a third-party food delivery  
23 service to provide insulated food delivery bags for  
24 each of its bicycle operators at the company's  
25 expense. It would be under the purview of DOT. The  
administration supports the intent of this

3 legislation to reduce financial burdens on workers  
4 and to ensure food is properly stored. Delivery  
5 cyclists are under significant pressure when  
6 traveling far and fast throughout the city to deliver  
7 our food. Improving their working conditions also  
8 enhances safety on the city streets, helping keep the  
9 cyclists and all New Yorkers safe. Introduction 2298  
10 would require food service establishments that  
11 utilize delivery workers to provide those workers  
12 with access to the toilet facilities, provided that  
13 in doing so there's no risk to health and safety  
14 standards. The administration supports the intent of  
15 this legislation, which is consistent with existing  
16 employee rights to bathroom access under the federal  
17 Occupational and Safety and Health Act and extends  
18 similar protections to app-based delivery workers.  
19 There may be challenges in enforcement when  
20 determining whether a violation has occurred based on  
21 information offered by the worker or the business.  
22 Therefore, it will be a priority to develop clear and  
23 understandable standards for workers and businesses  
24 and for the agency to be able to assess violations.  
25 Ultimately, our city's delivery workers deserve a  
right to bathroom access. Introduction 2289 would

3 allow a third-party delivery worker to specificity to  
4 their food delivery service the maximum distance the  
5 worker will travel and the restrictions on traveling  
6 over bridges or through tunnels. This bill directly  
7 addresses a significant safety concern of workers and  
8 we support its intent. Introduction 2294 would  
9 require DCWP to commission a study of working  
10 conditions for third-party delivery workers, as well  
11 as determining minimum per-trip payments for these  
12 workers to be established by law. While DCWP does  
13 not have information on the inner workers of the  
14 industry or the staff required to develop minimum pay  
15 rates, we do look forward to discussing how this  
16 would work with the council and other stakeholders to  
17 ensure it translates into real benefits for delivery  
18 workers. Introduction 2296 would require DCWP to  
19 establish standards for payment for third-party  
20 delivery workers and establish a program to provide  
21 real-time assistance to delivery workers in disputes  
22 with third-party service platforms. DCWP supports  
23 the intent of this legislation to ensure delivery  
24 workers are properly paid and looks forward to  
25 working with the council on this bill. These bills  
establish a new administrative framework with a

3 significant investment for this group of workers.

4 While DCWP currently lacks the expertise to

5 effectively regulate this industry, we know it

6 operates through a highly sophisticated and

7 constantly changing technology. Additionally, the

8 industry itself continues to adapt very quickly to

9 the market demand for delivery services in the midst

10 of the pandemic, which could mean there are also

11 people who are evading regulations if enforcement is

12 not carefully constructed. To address these concerns

13 the agency will need to work closely with the council

14 and stakeholders representing our city's delivery

15 workers, restaurants, and other industry experts.

16 Similar to other laws the city has implemented,

17 stakeholders can assist the agency in understanding

18 how this industry operates and help develop standards

19 of protection for delivery workers, and these

20 stakeholders could work with the agency to develop

21 recommendations on an ongoing basis to ensure that we

22 as a city are taking necessary steps in the short

23 term to protect workers while we analyze these

24 technology platforms and also set the most

25 appropriate standards for the industry. The

structure for Intro 2294 provides an example of what

3 this approach could look like, ensuring DCWP can  
4 gather the needed expertise to set up enforceable  
5 standards that are responsive to working conditions  
6 in this fast-changing industry and allowing the city  
7 to protect and enhance the rights of these delivery  
8 workers for years to come. Introduction 2163 would  
9 permit restaurants to impose a surcharge of up to 15%  
10 in addition to the stated price of individual items,  
11 provided that a restaurant appropriately discloses  
12 the surcharge to its consumers and provides their  
13 tipped workers with an hourly cash wage that is not  
14 less than the minimum wage set by the state for New  
15 York City. The administration supports the intent of  
16 this bill and we look forward to further discussing  
17 with the council. DCWP has long advocated for an end  
18 to the state's two-tiered wage system to cure the  
19 serious equity gaps in current wage in our law.  
20 Action must be taken by the state to eliminate the  
21 two-tiered wage system for tipped workers, which is  
22 why we've called on the governor many times to  
23 eliminate this system for restaurant workers.  
24 Lastly, Introduction 2311 would third-party delivery  
25 apps to share customer information with the  
restaurants with whom those customers are placing

3 orders. Unfortunately, this legislation was only  
4 recently added to today's agenda and the  
5 administration is still reviewing its language and  
6 impact. One final concern with impingement any new  
7 enforcement contemplated in these bills is our  
8 current work implementing Just Cause protections and  
9 other new offices. We'll certainly need additional  
10 resources to ensure we implement any new mandates  
11 effectively, though it's too soon to tell exactly  
12 what resources would be required. Ultimately, we  
13 welcome the council's efforts to improve the lives of  
14 vulnerable workers in our city. At the present time  
15 when many employers are experiencing a labor shortage  
16 we hope that these efforts and our continued  
17 partnership can demonstrate that we must increase  
18 wages and improve benefits so that these workers can  
19 continue to be a part of the economic recovery in New  
20 York City. The administration has continuously  
21 advocated alongside thousands of workers for a \$15  
22 minimum wage and groundbreaking legislation, such as  
23 Just Cause protections, which brings stability to the  
24 lives of so many essential workers. This also  
25 includes our agency's priorities to bring the  
Consumer Protection Law into the 21st century. Intro



2 1622, with commonsense penalties to protect consumers  
3 for predatory corporations and tools to protect  
4 consumers conducting transactions over the internet  
5 and in languages other than English. As always, we  
6 value the council as our partner in ensuring that  
7 workers' rights are a priority for this city, with  
8 sound and resource protections for our workers.  
9 Effective enforcement, whether on behalf of consumers  
10 or workers, depends on a well-calibrated regulatory  
11 structure that deters the most harmful activity so  
12 that breaking the law in our city is not just the  
13 cost of doing business. Thank you for the  
14 opportunity to testify, and I look forward to any  
15 questions you may have.

16 COMMITTEE COUNSEL: Thank you,  
17 Commissioner. I will now turn it over to questions  
18 from Chair Ayala, followed by questions from other  
19 council members. Chair?

20 CHAIRPERSON AYALA: Thank you. Um,  
21 considering that we're, we're hearing so many bills  
22 and that we have so many of the bill sponsors, ah, on  
23 at this moment, I would love to give those members an  
24 opportunity to ask questions first. I think that I  
25 see Council Member Menchaca.

2 COMMITTEE COUNSEL: Council Member  
3 Menchaca.

4 COUNCIL MEMBER MENCHACA: Can you hear  
5 me? Am I coming in?

6 COMMITTEE COUNSEL: Yes, we can hear you.

7 COUNCIL MEMBER MENCHACA: Wonderful,  
8 thank you. So, ah, thank you, thank you, Chair, for  
9 this opportunity and I guess, ah, ah, to, to the  
10 commissioner, I want to, I want to focus on my bill  
11 that really requires a prompt, a, a timeline for  
12 payment and a removal of any [inaudible] connected to  
13 salary. And can you talk a little bit about other  
14 instances where you have seen this kind of  
15 enforcement from the city that we can look at and  
16 bring into this conversation, 'cause I think this,  
17 you, you support the intention of the bill and, and I  
18 think you were looking more at how, how are we, how  
19 do we enforce this. Do you, does your, has your team  
20 thought about other models that we can bring into  
21 this conversation?

22 ACTING COMMISSIONER ABELES: Thank you so  
23 much, ah, Council Member Menchaca. I think that, you  
24 know, overall we do have the sense that this is a,  
25 ah, a new industry for our agency to look into. I

3 think that we understand that many delivery workers  
4 may work for multiple services at the same time and  
5 it might be difficult for them or confusing to track,  
6 ah, their payments and make sure that they're being  
7 paid correctly. As we learn more about how these  
8 different platforms operate we'll better understand  
9 how the fees and payments are actually charged and  
10 calculated. And then we can figure out how best to,  
11 to mediate that. I think maybe the closest analogy  
12 would be the Freelance Isn't Free Act, but, again,  
13 that's really early for us to tell, um, what's the  
14 best way, ah, to implement such a thing.

15 COUNCIL MEMBER MENCHACA: OK. Ah, 'cause  
16 I, I know we're gonna have some ideas as well and,  
17 and I think part, part of this is the, the fact that  
18 there are many, many different apps, but that  
19 shouldn't preclude the city from creating a  
20 regulation that says here's what you have to follow  
21 and then allowing for a legal recourse from the  
22 advocates working with each of these workers to be  
23 able to say the city, or not the city but sue the,  
24 um, with the support of the city the, the apps. And  
25 so I think, I think this is, this is kind of what  
we're, we're thinking about as well. Maybe the next

2 question I have for you is the banking options. So  
3 much of what we've been trying to do with [inaudible]  
4 NYC is to link our immigrant communities to bank  
5 accounts, um, but also to really understand that  
6 sometimes bank accounts are not gonna be an option  
7 for immigrants and to create other ways for banking  
8 to be, to be created and so maybe, um, ah, you can  
9 talk a little bit about that and what you might be  
10 thinking working with your other commissioner  
11 colleagues.

12 ACTING COMMISSIONER ABELES: Sure. Ah, I  
13 think that when it comes to the unbanked and  
14 certainly we've seen a lot of this from, um, the work  
15 we've done in our Office of Financial Empowerment,  
16 is, is seeing just what you mentioned, where for some  
17 people, um, they haven't been able to find the right  
18 banking products, um, that are suitable for their  
19 situation. We do offer free financial counseling  
20 throughout the city and we've continued to do that  
21 throughout the pandemic, um, also offering some  
22 remote options for folks while it was unsafe to do so  
23 in person. And so we would really be looking with  
24 them to see what would be the best options that we  
25 could offer people, um, in terms of banking products

2 that don't charge exorbitant fees and that are  
3 transparent in terms of their offerings, so that we  
4 can help match people up, educate them, work with  
5 them on their particular situations. So I think we  
6 would work with our Office of Financial Empowerment  
7 in that regard.

8 COUNCIL MEMBER MENCHACA: And then,  
9 lastly, ah, I think one, one, one question that I  
10 want to drill down on are other models in which the  
11 city has polled a third-party, ah, system, I want to  
12 be general about it, that basically says you have to  
13 pay your workers on time. Is there anything that  
14 exists right now in the city in terms of  
15 relationship, ah, including potentially itself, and  
16 what kind of regulations that we can really set for,  
17 for these apps that are really kind of growing in, in  
18 scope as well. Ah, I think we're all anticipating  
19 the world of this third-party is why we're trying to  
20 fix it here but this is a longer labor movement, um,  
21 work that we have to do, but specifically looking  
22 toward a, um, a salary timeline [inaudible].

23 ACTING COMMISSIONER ABELES: Well, that's  
24 a great question. I'm not entirely sure of another  
25 model that's so similar here in the city. Um, and

2 again, as I mentioned, these third-party apps, we  
3 know these are global companies. They're, they have  
4 presences in cities throughout the, throughout the  
5 world. Um, they have different platforms that they  
6 use and different models for how they set their pay  
7 rates, um, for their delivery workers. And so we'd  
8 want to work really closely with the stakeholders,  
9 especially the ones you've gathered here today...

10 SERGEANT AT ARMS: Time expired.

11 ACTING COMMISSIONER ABELES: ...to gain.

12 OK.

13 COUNCIL MEMBER MENCHACA: Yeah, yeah,  
14 just finish that and then I'm out [inaudible]. Thank  
15 you, Chair.

16 ACTING COMMISSIONER ABELES: Ah, bear  
17 with me, this is my first one. Ah, to, to gain a  
18 better grasp of the work and then develop the clear  
19 standards, um, with the, with the advocates on, on  
20 what we should do for this particular bill.

21 COUNCIL MEMBER MENCHACA: Wonderful.

22 And, again, this is your first one, so welcome and  
23 looking forward to working with you.

24 ACTING COMMISSIONER ABELES: Thank you.

2 COMMITTEE COUNSEL: Thank you, Council  
3 Member. I see that Council Member Lander also has  
4 his hand raised. If any other council members would  
5 like to ask a question and you have not yet raised  
6 your hand, please do so using the Zoom raise hand  
7 function. Council Member Lander?

8 SERGEANT AT ARMS: Starting time.

9 CHAIRPERSON AYALA: Council Member  
10 Lander, give me on second, I'm sorry. I did want to  
11 recognize that we were also joined by Council Member  
12 Yeger, [inaudible]. Thank you. You may proceed.

13 COUNCIL MEMBER LANDER: Thank you so  
14 much, and Chair, thank you for, ah, letting us ask  
15 our, ask our questions first. Um, we appreciate that  
16 a lot. Ah, Commissioner, welcome. It's wonderful to  
17 have you. Congratulations on your new position. I  
18 know you've, ah, working in this field and in this  
19 agency and, and protecting workers' rights a long  
20 time. But it's great to have you as our, as our  
21 commissioner at DCWP. So thank you, um, and thanks  
22 for your mentions of, ah, Just Cause and the  
23 Freelance Isn't Free Act, and the work that you guys  
24 are doing to diligently enforce existing, ah, worker  
25 protections and we appreciate the point that if we're

3 going to expand, um, we need to have you have the  
4 resources to be able to, to deliver on them. That's  
5 literally true. Um, so I'm gonna ask a little about  
6 2294. I appreciate your praise of the approach of  
7 having a study and digging and really understanding,  
8 ah, the, so I am glad that you like that approach.  
9 But I guess I wasn't clear, in your testimony whether  
10 that means you support the bill, um, so can you say a  
11 little more about if you like the approach, if you  
12 agree that time is needed to develop, ah, an approach  
13 on minimum pay, um, you know, what is there we need  
14 to work on to make sure we can, we can pass this  
15 legislation and move forward?

16 ACTING COMMISSIONER ABELES: Absolutely,  
17 and yes, we do appreciate the concept of having a  
18 study to develop the appropriate standards, because,  
19 as I mentioned, this is a very quickly evolving  
20 industry and we know that the platforms operate  
21 differently in how they set, ah, their payment rates.  
22 So the one, I think, concern that we have is just the  
23 timeline, ah, to make sure that it, um, is adequate  
24 and it, and it does a comprehensive review of what's  
25 required for, to set minimum pay rates. Um, and as  
you mentioned, um, the resources for the kind of



2 procurement, ah, we would need for experts to conduct  
3 this study and determine also how the access, um, can  
4 be, ah, delivered in terms of the data from the  
5 third-party apps as we know this is like, primarily  
6 like data, um, driven industry.

7 COUNCIL MEMBER LANDER: Great. I, those  
8 are all really helpful. I think timeline, resources  
9 are things we can negotiate, and we're definitely  
10 gonna have to work on the data. In the case of the  
11 TLC, the [inaudible], ah, for-hire vehicle app, we  
12 had the data being provided to the TLC, ah, pursuant  
13 to a law that we already had so, um, that is  
14 something that I think we can work on, ah, together  
15 as well as resources and timeline. Um, I just, ah,  
16 have you had chance to, you know, to look at bit at  
17 the, ah, that study that Mike Reich and James Parrott  
18 did, ah, you know, ah, coming out of the legislation  
19 that, that council passed for minimum trip rates and  
20 minimum pay therefore for-hire drivers?

21 ACTING COMMISSIONER ABELES: Yeah, we  
22 certainly looked at that as a potential model.  
23 Again, we're still in the very early stages of  
24 thinking through, ah, how it would work in this  
25 particular circumstance. Um, the other piece that we

2 would welcome a partnership with you on is also  
3 identifying the correct experts that we would want to  
4 tap for this kind of, ah, expertise, because we know  
5 that, again, this industry is very particular and,  
6 and we would love to, ah, work with you on  
7 identifying who the proper experts would be, ah, to  
8 figure out the best way forward.

9 COUNCIL MEMBER LANDER: That sounds  
10 great. We're gonna hear from some of them today, the  
11 workers themselves. Ah, I hope some of the app  
12 companies will testify because even though they may  
13 resist some of the legislation, they are critical,  
14 ah, partners here. If we're gonna make this work, we  
15 have to make this work, ah, with them and then  
16 obviously they'll be other experts that we can tap,  
17 ah, tap into. OK. Um, but yeah, just generally you  
18 agree that, you know, in a city with a \$15 minimum  
19 wage we want to make sure all workers are earning at  
20 least that, you know, after other expenses per hour  
21 so they can feed their families and pay the rent.

22 ACTING COMMISSIONER ABELES: Yeah, we  
23 absolutely think that all workers deserve a certain  
24 basic level of support and we know how expensive it  
25 is to live in the city, um, and so we want to do

2 everything that we can, ah, to work with the council  
3 and figure out how best to, to implement the intent  
4 of each of these bills.

5 COUNCIL MEMBER LANDER: Thank you very  
6 much. We look forward to working with you after this  
7 hearing and look forward to pass this bill and then  
8 move forward to guarantee that living wage for  
9 delivery workers who so, who so, you know, been there  
10 for us and we really have to be there for them.  
11 Thank you very much, and thank you, Chair.

12 ACTING COMMISSIONER ABELES: Thank you.

13 COMMITTEE COUNSEL: Thank you, Council  
14 Member. Ah, seeing no other council member hands  
15 raised I will turn it back to Chair Ayala for any  
16 questions. Chair?

17 CHAIRPERSON AYALA: Ah, Commissioner  
18 Abeles, do we have any, any information on the cost,  
19 the, the average rate per trip, ah, payment is at  
20 this time, and is that rate comparable amongst  
21 [inaudible]?

22 ACTING COMMISSIONER ABELES: We actually  
23 do not have industry data at this time. Ah, but  
24 that's one of the things that we would seek to learn

3 through, for example, the study that Council Member  
4 Lander is suggesting.

5 CHAIRPERSON AYALA: Can you explain, ah,  
6 can you explain for us the way that DCWP has engaged  
7 with delivery workers to educate the, ah, [inaudible]  
8 rights and provide them with financial [inaudible]?

9 ACTING COMMISSIONER ABELES: Sure. Um,  
10 so because we know how essential delivery workers  
11 have been throughout the pandemic, DCWP has worked to  
12 provide ongoing education to workers and also field  
13 inquiries about worker rights throughout this  
14 pandemic. One issue that, um, we know has come up is  
15 certainly, as you mentioned, access to financial  
16 counseling, um, and so, like I said, we've worked  
17 with our providers to make sure that even throughout  
18 the pandemic there have been some remote options for  
19 folks so that they can make appointments and go over  
20 their budget and go over their, their debt and figure  
21 out what their goals are and get that kind of support  
22 and help. Particularly with deliveries we would want  
23 to learn a little bit better about what kind of  
24 targeted outreach would be necessary to help them,  
25 the languages that they will require, and other  
questions that they may have, so that we can target

2 and tailor our outreach specifically to them, um, if  
3 these bills move forward.

4 CHAIRPERSON AYALA: So has DCWP engaged  
5 with, with the groups?

6 ACTING COMMISSIONER ABELES: We've had  
7 ongoing relationships with the partners that you've  
8 mentioned here for sure. I think that the one thing  
9 we haven't honed in on is really the needs of this  
10 particular subset of workers. Um, our focus has been  
11 on continuing the paid safe and sick leave, which has  
12 been, you know, so critical during the pandemic, and  
13 then, like I mentioned earlier, um, setting up the  
14 infrastructure for the Just Cause implementation that  
15 will be happening in the next couple of months.

16 CHAIRPERSON AYALA: OK.

17 EXECUTIVE DIRECTOR ETTANNANI: And the  
18 thing that's so important, to just reaffirm the  
19 message that this is new work for DCWP, and on top of  
20 that such a dynamic industry and we want to make  
21 sure, as, ah, as Acting Commissioner Abeles  
22 mentioned, that we have all the information on of the  
23 ground so that we can effectively concentrate and  
24 work with council on long-term policies that are  
25 gonna be [inaudible] very impactful for this

2 industry. Um, and that means convening stakeholders,  
3 ah, the, the apps, the workers themselves, the folks  
4 that I'm sure will be testifying in, in forecoming  
5 panels and, and, you know, that's something that,  
6 that we're gonna be, ah, leaning on, ah, to help, ah,  
7 inform, you know, work in this case.

8 CHAIRPERSON AYALA: Has any efforts at  
9 convening the groups, though, happened before today's  
10 hearing? Is, ah, this industry [inaudible] I mean,  
11 we saw an opportunity and I would say the last year  
12 or so has been pretty eye-opening [inaudible] the  
13 disparities in pay and we [inaudible] the injustices  
14 and how [inaudible] so, you know, this would be  
15 whether or not prior to today's hearing there has  
16 been any attempt to engage with, ah, the different  
17 groups, um, and what, if anything, has come out of  
18 the conversations, ah, because obviously [inaudible],  
19 you know, pay equity is [inaudible] safety concerns  
20 and so many other layers to this, and, and I, you  
21 know, so would love to kind of get some insight in  
22 terms of what the thought process is, you know, at  
23 DCWP in relationship to this industry and, you know,  
24 um, [inaudible] happening.

2                   ACTING COMMISSIONER ABELES: Yeah. As I  
3 mentioned, like we work closely with the Workers  
4 Justice Project, New Immigrant Community Empowerment,  
5 and, and other worker groups, ah, to make sure that  
6 we are preparing information about the laws that we  
7 enforce and making sure that they know about their  
8 rights and responsibilities and how to access  
9 additional economic resources that are available to  
10 them. And we would do the same thing here. You  
11 know, whenever we, ah, roll out, ah, some new  
12 protections we'll work closely with our partners to  
13 make sure that we're getting to the most frequently  
14 asked questions, that we're translating them into all  
15 the appropriate languages, um, and that we're making  
16 it as plain language as possible, so that it's really  
17 accessible to the worker community that we're trying  
18 to target. And that's the approach that I think we  
19 would look at here.

20                   CHAIRPERSON AYALA: And then..

21                   EXECUTIVE DIRECTOR ETTANNANI: We're,  
22 we're still, I'm sorry, Chair. I, I just wanted to  
23 say we're so happy that the council has introduced  
24 these bills. I think these bills are gonna allow us  
25 to, you know, the, the hearing process of, you know,

3 closer to the beginning of the legislative process  
4 than, than the end, and I think that this is gonna  
5 allow our agency to kind of coalesce around some of  
6 these ideas and principles that are being raised by  
7 the sponsors of these bill, so that we can engage  
8 with a safe [inaudible] explicitly around some of  
9 these concepts going forward.

10 CHAIRPERSON AYALA: Oh, and again, I  
11 think that we focus a lot of our, you know,  
12 [inaudible] on worker protection and [inaudible]  
13 however there has to be a conversation about, you  
14 know, the safety, right, ah, in, in performing these  
15 jobs. You know, as you heard [inaudible] minutes  
16 ago, you know, I, I, I had an unfortunate incident  
17 where I had a delivery worker murdered in my  
18 district, um, because someone was trying to steal his  
19 bicycle. A couple of days after that, you know,  
20 there were a number of, you know, delivery workers  
21 trying to cross over the Willis Avenue bridge who  
22 were [inaudible] was an attempt, um, by, um, some  
23 pedestrians, ah, to, to rob them of their, their,  
24 their money and, and really, you know, expressing how  
25 this was a common occurrence. So, ah, really how are  
we engaging, ah, with the groups and with the workers



2 in a way that allows the [inaudible] understand what  
3 their rights are, um, how they're communicating and  
4 reporting these incidents to the, you know, to the  
5 NYPD, um, and whether or not, you know, there are  
6 other ways that we could be helpful in ensuring that  
7 they're doing their jobs as safely as possible.

8 ACTING COMMISSIONER ABELES: And we're  
9 certainly open to working with our sister agencies  
10 and the PD and DOT on any safety issues that come  
11 and, and like you said, to make sure that workers  
12 really know where they go to get these resources, how  
13 they go and file reports, how they can, um, let us  
14 know like where the trouble areas are so that we can  
15 work together to make sure that those are, those  
16 concerns are being addressed.

17 CHAIRPERSON AYALA: And just to clarify,  
18 because I'm not sure [inaudible] existing worker  
19 protection laws that delivery workers are covered by?

20 ACTING COMMISSIONER ABELES: No, that's  
21 something that we're looking into. Our current  
22 workplace protection laws really tend to skew towards  
23 the traditional employment model, like, like I  
24 mentioned, other than Freelance Isn't Free, um,  
25 which, you know, we worked very closely with Council

2 Member Lander on. Um, most of the work that we have  
3 done, you know, tends to apply to a traditional  
4 employment model, so with the independent contractors  
5 we would have to look at, you know, what kinds of  
6 protections, um, make the most sense and how do you  
7 implement that in this kind of industry.

8 CHAIRPERSON AYALA: Um, can you explain  
9 how [inaudible] in relation to [inaudible] can you  
10 explain how the [inaudible] about the [inaudible]  
11 family workers?

12 ACTING COMMISSIONER ABELES: I'm so  
13 sorry, I only caught the first part. I know you're  
14 talking about the restaurant surcharge bill, but I  
15 didn't hear the exact question.

16 CHAIRPERSON AYALA: Can you explain how  
17 that and cash wages work for restaurant workers?

18 ACTING COMMISSIONER ABELES: Oh, sure.  
19 So the legislation, um, that requires tipped workers,  
20 ah, as defined by New York State code be provided at  
21 least the minimum wage, not including their tips. So  
22 we think that currently the back of the house workers  
23 should already be receiving the minimum wage. Tip  
24 sharing, which could benefit the back of the house  
25 workers, is currently prohibited by the state, and so

2 we've called upon the state to address that  
3 inequality. Um, we think that, you know, because  
4 we've advocated for so long for an end to that two-  
5 tier wage system, um, you know, we're looking forward  
6 to working with the council on this particular bill.  
7 Currently the Law Department is also reviewing, um,  
8 and we want to circle back, ah, once they've done  
9 their analysis, ah, to make sure that this bill has  
10 the intended impact, which is that if you charge the  
11 surcharge then you are also making sure that you are  
12 paying people properly and at least the minimum wage.

13 CHAIRPERSON AYALA: Absolutely. Do you  
14 have [inaudible] this bill will create any, ah, type  
15 of pay, ah, discrepancy between front and back, ah,  
16 of the house staff?

17 ACTING COMMISSIONER ABELES: You know,  
18 it's possible. I think that, again, we would, um,  
19 call upon the state to really take action here so  
20 that, um, all the, all the workers are paid  
21 appropriately and at least get the minimum wage. Um,  
22 again, I think that, you know, we'll work with the  
23 Law Department and with the council, um, to see what  
24 the impact of the bill might be.

2 CHAIRPERSON AYALA: Thank you. Um, and  
3 then has [inaudible] has DCWP received any, ah,  
4 customer inquiries into the current COVID-19 recovery  
5 surcharges permitted under Local Law 100?

6 ACTING COMMISSIONER ABELES: Sure. So  
7 since the COVID surcharge was implemented in October  
8 2020 to support struggling restaurant owners, and we  
9 do know that restaurants were particularly hard hit  
10 by the pandemic, um, DCWP has been responding to  
11 complaints related to restaurant surcharges, although  
12 it doesn't always, the complaints don't always  
13 specifically reference the COVID, ah, surcharge. It  
14 could be that restaurant labeled it differently, um,  
15 but we have issued only two violations where the  
16 restaurant actually specifically referenced the COVID  
17 surcharge. But we've done, ah, dozens of inspections  
18 to check on that.

19 CHAIRPERSON AYALA: Ah, OK. Ah,  
20 [inaudible] I am [inaudible] my colleagues and I see  
21 that Council Member Reynoso has raised his hand. So  
22 I will allow, ah, council member questions.

23 SERGEANT AT ARMS: Starting time.

24 COUNCIL MEMBER REYNOSO: Thank you,  
25 Chair. Um, just wanted the, ah, it seems like there

2 is a, an agreement between all of us that we should  
3 be doing something, ah, to help the back of the house  
4 workers that don't receive any tips. It seems like  
5 it's something we agree with. Ah, but you're saying  
6 that we should leave it to the state to take care of  
7 it, or that it might be a state issue. Um, but  
8 should we, should we find that we can do something,  
9 that your Law Department agrees that what we're  
10 asking for is legal and can be done and we are not  
11 preempted by the state, then it is my understanding  
12 that you would be supportive? Because it achieves  
13 the goals that we've all set forth for you?

14 ACTING COMMISSIONER ABELES: I, I  
15 certainly and the agency, the administration,  
16 certainly supports the intent of this bill. I think  
17 what we wanted to make sure is that in our analysis  
18 that it does have its intended impact and I think my  
19 references to the state are really, um, to, to note  
20 just their role in setting, um, the minimum wage  
21 throughout the state and also to enforce, ah, that  
22 the minimum wage is being paid to workers. And so  
23 for us we certainly look forward to working with the  
24 council and the Law Department, um, on other  
25 approaches to the get to the same ending place, which

2 I think we all certainly agree on that workers should  
3 be getting at least the minimum wage.

4 COUNCIL MEMBER REYNOSO: Yeah, but, um,  
5 what other approaches is there to guaranteeing that  
6 tipped workers get a minimum wage? 'Cause what we  
7 did, ah, and I just wanted to let the council like  
8 just be aware, what we did was we allowed for  
9 restaurants, um, one second, we allowed for  
10 restaurants to get an increase in how much money they  
11 bring in, how much revenue they bring in, um, and  
12 after getting that done, um, there was no increase,  
13 no opportunity to get into the tipped workers and to  
14 the people in the back of the house. We solely  
15 assisted the restaurants, um, and, and that's, that's  
16 an issue. Um, one, I don't the surcharge we put out  
17 actually was used by restaurants and I don't  
18 necessarily think that restaurants [inaudible] was  
19 helpful in any way. Um, you know, the outdoor dining  
20 bill was more of a way to help restaurants than  
21 these, than these surcharges. I don't think these  
22 surcharges are actually helpful to restaurants per  
23 se. Um, but if we're gonna look out for the  
24 restaurants, which I think we should be doing and  
25 allowing for the surcharge to exist if they think

3 it's of value, but why not also take care of the  
4 workers that were working during COVID? Um, and  
5 we're like, frontline workers, having to put on masks  
6 and put their lives in danger and receive the same  
7 pay that they were receiving prior to, ah, prior to  
8 COVID. Ah, there was a higher risk with no reward,  
9 um, while we're looking out for the interest of the  
10 business, which I think is important and I don't want  
11 to take that away from them. We should also be  
12 looking out for the workers. So I just want to know  
13 again if we're able to achieve the goals that we're  
14 setting forth, um, which is to help these tipped  
15 workers and it is legal, what the intent of the bill  
16 is actually legal, then what I'm understanding is  
17 that the city would have no objections.

18 ACTING COMMISSIONER ABELES: Well, I  
19 think that part of what you're raising is that, um,  
20 workers also have to complain oftentimes that they're  
21 not getting paid properly. With respect to how  
22 broadly the COVID surcharge was used, that's also,  
23 that's an interesting question. I actually don't  
24 know how broadly it was used and, and perhaps the  
25 council has more data on that. Um, but, yes, if, if  
after the Law Department's review we certainly

3 support the intent of this because we do want to see  
4 people get paid properly. You know, at the moment,  
5 it's really incumbent upon workers to make sure that,  
6 you know, and if they do reach out to our office, I  
7 want you to know that we will, you know, work with  
8 them and make sure that they have the information  
9 that they need, ah, to be able to, even, even if we  
10 can't anything about it at the moment we will refer  
11 them out to the right place, um, so that they do get  
12 support and help, because we do agree with you that,  
13 you know, these workers have been working throughout  
14 the pandemic, um, and that they should be paying at  
15 least the minimum wage, um, and, and it's, it's a  
16 balance of supporting both the restaurants and also  
17 their workers.

18 COUNCIL MEMBER REYNOSO: And, and the  
19 last thing I would say is that we have something  
20 called the itemized, itemized pricing that exists for  
21 restaurants, um, that, I mean, for supermarkets. Um,  
22 it's not a bill that we have on the docket. There is  
23 a bill that existed in a time when, ah, when we had  
24 no scanners, right. There was no scanners so we had  
25 to put a price on every single item. Now that we  
have scanners it doesn't make any sense. If we want



2 to help businesses and supermarkets and bodegas this  
3 is the, um, most often and commonly used fine by DCA  
4 for restaurants, ah, for bodegas and supermarkets  
5 which have, that, that has no more value because  
6 everything we do or we've done moving forward is  
7 technology based, it's just scanned. A scan will  
8 also scan the correct item and always make sure the  
9 price is correct, um, and I just...

10 SERGEANT AT ARMS: Time expired.

11 COUNCIL MEMBER REYNOSO: ...[inaudible] we  
12 should think about, and I hope DCA can be supportive  
13 on getting rid of, um, the number one fine being  
14 given to restaurants and bodegas in a time when we  
15 need to be looking out for businesses, not hurting  
16 them. But, um, thank you so much for listening your  
17 first time. I really appreciate being here, um, and  
18 I appreciate you answering all of our questions.  
19 Thank you so much.

20 ACTING COMMISSIONER ABELES: Absolutely,  
21 and we're open to working with the council on, on  
22 making, ah, updates like that. So thank you for  
23 that.

24 COUNCIL MEMBER REYNOSO: Thank you.  
25 Thank you, Chair.

2 CHAIRPERSON AYALA: Thank you, ah,  
3 Council Member Reynoso. Um, Mr. Ettannani, did you  
4 have a question? Did you have something that you  
5 wanted to add? No? Steven, no questions? OK. All  
6 right. Thank you. Um, I just have two, two final  
7 questions. So regarding Intro 2289, um, obviously  
8 there's been some concerns. Could, could the ability  
9 to opt out of the [inaudible] delivery in certain New  
10 York City, ah, neighborhoods? Is that a concern?

11 ACTING COMMISSIONER ABELES: You know, I  
12 think that Intro 2289, it could definitely be a key  
13 safety protection for delivery workers. As you  
14 mentioned, there are definitely safety concerns that  
15 delivery workers have when they have to travel so  
16 far, um, and under time pressure to really maximize  
17 the efficiency of their deliveries. We're not  
18 entirely sure how the platforms dictate, you know,  
19 the trips that delivery workers take or how they set  
20 those routes, or under what conditions. So I think,  
21 you know, we would need to learn more about how, ah,  
22 what the parameters are, um, that the different  
23 platforms allow you to set and then see, you know,  
24 what the potential, ah, ramifications of that would

2 be. So I think it's too soon probably to answer your  
3 question.

4 CHAIRPERSON AYALA: I, I would imagine  
5 that the same is, is true of the next question, but I  
6 have to ask anyway. Um, does, does the bill also  
7 prohibit [inaudible] number of trips [inaudible]  
8 deliveries [inaudible] with the parameters the  
9 workers have set? Does DCWP foresee any issues  
10 pertaining whether or not the number of trips offered  
11 is less than what it should be?

12 ACTING COMMISSIONER ABELES: Well, I  
13 think, again, we would want to learn more about how  
14 the apps operate, because, for example, if you were  
15 to set certain parameters but they're too  
16 restrictive, then that in and of itself could limit  
17 the number of trips that you might take, and so  
18 learning how the apps operate and how much, ah,  
19 leeway a driver has to set those parameters would be  
20 really important for us, um, before we recommend, um,  
21 which ways would, would really fulfill the intent of  
22 the bill. I hope that helps answer your question.

23 CHAIRPERSON AYALA: Yeah, ah, thank you.  
24 I am not sure if we have any council members with  
25 questions. Um, I don't see any.

2 ACTING COMMISSIONER ABELES: And, Chair,  
3 I just want to add, you know, thank you so much again  
4 for having us participate in this hearing. It's,  
5 these issues are really important and we value, ah,  
6 this opportunity to bring to the forefront the, the  
7 hard work and the sacrifices that the delivery  
8 workers have made and we look forward to working with  
9 you on figuring out some of the details, um, and how  
10 we can support, ah, the intent of all these bills.

11 CHAIRPERSON AYALA: And we appreciate you  
12 willing to want to be a partner in this.

13 ACTING COMMISSIONER ABELES: Absolutely.

14 CHAIRPERSON AYALA: I actually have no  
15 further questions. Assuming that there are no other,  
16 ah, council members with questions I will turn it  
17 over to [inaudible].

18 COMMITTEE COUNSEL: Thank you, Chair.  
19 Um, we will now turn public testimony. I'd like to  
20 remind everyone that unlike our typical council  
21 hearings we'll be calling individuals one by one to  
22 testify. Each panelist will be given two minutes to  
23 speak. Please begin once the sergeant has started  
24 the timer. Council members who have questions for a  
25 particular panelist should use the raise hand

2 function in Zoom and I will call on you after the  
3 panelist has completed their testimony. For  
4 panelists, once your name is called a member of our  
5 staff will unmute you and the Sergeant at Arms will  
6 give you the go-ahead to begin upon setting the  
7 timer. Please wait for the sergeant to announce that  
8 you may begin before delivering your testimony. I  
9 would like to now welcome Angelo Cucuzza to testify,  
10 followed by Gustavo Ajche, then Ligia Guallpa.  
11 Angelo?

12 SERGEANT AT ARMS: You may begin.

13 ANGELO CUCUZZA: [inaudible] council  
14 members. My name is Angelo Cucuzza and I am the  
15 organizing director of the Transport Workers Union of  
16 America, speaking on behalf of our 150,000 members  
17 across the country. I'm here today to testify in  
18 full support of Los Deliveristas Unidos and all New  
19 York City app-based worker food delivery workers.  
20 Our union leadership stands alongside these workers  
21 and their demands for dignity and respect while  
22 providing an essential service to both their  
23 customers and the restaurants who feed our city.  
24 These food delivery workers have worked tirelessly  
25 with many of you to see introduction of a series of

3 bills targeting the services they provide, and TWU is  
4 providing testimony today to ensure that these bills  
5 or any other food bills that come forward for food  
6 delivery workers see their way to the full council  
7 for, for a vote as soon as possible. Of particular  
8 interest to our labor organization is Bill 2298,  
9 which seeks to require food establishments to provide  
10 toilet facility access to delivery workers. It is  
11 almost absurd that in 2021 there would be a need for  
12 such a mandate and there's absolutely no reason why  
13 this bill should not be passed unanimously by the  
14 council. It is ridiculous that in an almost post  
15 pandemic world we actually have members on community  
16 boards, like Community Board 7 of the Upper West Side  
17 of Manhattan refusing to support such a bill for fear  
18 of upsetting restaurant owners who take for granted  
19 the services food delivery workers provide to them  
20 and their so-called customers. When you have  
21 community boards out there who think that food  
22 delivery workers should not be using a toilet the  
23 apps have won. TWU members, whether a New York City  
24 bike share mechanic, an airline baggage handler like  
25 myself, or a subway train operator are not unlike  
food delivery workers. We are all essential and as a

2 result we expect restaurant and bar owners to truly  
3 value the services being provided by app-based food  
4 delivery workers. They risked their lives working  
5 throughout the pandemic to feed New Yorkers and they  
6 continue to do so as businesses bounce back. The  
7 least restaurant owners and staff can do is allow  
8 them to use the bathroom when needed before picking  
9 up food they will deliver on their behalf. As a  
10 lifelong Brooklyn resident, I am...

11 SERGEANT AT ARMS: Time has expired.

12 ANGELO CUCUZZA: ...[inaudible] waste  
13 another day in passage of these six bills. Thank  
14 you.

15 COMMITTEE COUNSEL: Thank you, Angelo.  
16 Before we continue, I see State Senator Jessica Ramos  
17 has joined us. Um, Senator Ramos, would you like to  
18 testify, please?

19 STATE SENATOR RAMOS: Hi, good afternoon.  
20 Yes, I'd be honored. Thank you so much for having  
21 me. Ah, good afternoon to everyone, committee Chair  
22 Diana Ayala and members of the Consumer Affairs and  
23 Business Licensing Committee. I'm New York State  
24 Senator Jessica Ramos and I represent the 13th  
25 District in Queens, where the largest concentration

3 of food and hospitality workers in New York resides.

4 Many of my neighbors work as deliveristas, which

5 proved to be an essential service throughout the

6 pandemic and I'm thankful we're having this important

7 conversation today that will surely lead to

8 improvements in their work lives. Since I have been

9 in office I have introduced and passed legislation to

10 legalize the main tool of their trade, e-bikes, in

11 the state legislature, and most recently have

12 championed legislation to bring cargo bikes to our

13 streets as a means to reduce truck traffic and

14 therefore carbon emissions in our air with the added

15 benefit of addressing occupational injuries and

16 illnesses that arise from long-term, literal back-

17 breaking work in the delivery industry. Deliveristas

18 are my neighbors and the backbone of my community.

19 Their safety and their autonomy is my number one

20 concern. Over the past two weeks Door Dash, Uber,

21 Seamless, Grub Hub, and other delivery apps have

22 schemed to introduce legislation behind the backs of

23 these workers. They want to amend our state labor

24 laws to thwart their rights on the job under the

25 guise of collective bargaining. One of the most

egregious parts of the so-called Right to Bargain



3 bill is that it undercuts delivery workers' local  
4 organizing efforts, and I am here in support of  
5 deliveristas' right to organize on the city level and  
6 their fight to set limits on their travel, to a  
7 living minimum wage, to transparency in salaries and  
8 tips, access to bathroom, to provisions of equipment,  
9 like insulated food bags, and certainly the means to  
10 recover stolen wages. Most workers have managers to  
11 supervise them.

12 SERGEANT AT ARMS: Time has expired.

13 STATE SENATOR RAMOS: But deliveristas  
14 are disciplined by an algorithm. Currently if a  
15 worker denies making a specific trip they run the  
16 risk of being deactivated by the app for an  
17 undetermined amount of time. There are no clear  
18 guidelines on this and there's no formal process to  
19 change it. So Intro 2289 by Council Member Brannan  
20 will allow these workers to put their protection and  
21 safety above the bottom line of these apps. I also  
22 call on the City Council to pass Council Member  
23 Lander's Intro 2294 so deliveristas can make a living  
24 wage. Just like in 2018, when the city set a minimum  
25 wage for app-based drivers the city's initiative to  
set the minimum wage for deliveristas allows for a

3 true accounting of our city's unaffordability. Right  
4 now there's no rhyme or reason set for how much  
5 workers will be paid per trip, and there are no  
6 guidelines from the government that specifics  
7 deliveristas pay. I also support Intro 2288 by  
8 Council Member Brannan to provide equipment to  
9 deliveristas to perform their job, and Intro 2296 by  
10 Council Member Menchaca to eliminate fees and hurdles  
11 for workers to receive their tips. It really is a  
12 moral failing on the part of the delivery industry  
13 that we actually need to legislate, how, how to allow  
14 deliveristas to use restrooms in the restaurants they  
15 are picking up food from. It's an utter  
16 embarrassment that we need to legislate basic human  
17 dignity, but that's what Council Member Rivera is  
18 doing in Intro 2298. None of your efforts here in  
19 the City Council would be possible if app companies  
20 get their way with that so-called right to bargain  
21 bill they want to introduce to the state legislature.  
22 Drafts we've seen destroy the right for cities to  
23 improve their labor stands, preventing bodies, such  
24 as your own, from passing any legislation that  
25 relates to app-based companies regarding, and I  
quote, "all matters." It is my hope that if and when

2 this dangerous piece of legislation is officially  
3 introduced you will continue to stand shoulder to  
4 shoulder with me and my neighbors, the deliveristas,  
5 to stop them. I applaud the City Council Committee  
6 on Consumer Affairs, Chair Ayala, and Council Members  
7 Rivera, Lander, Menchaca, and Brannan for working  
8 directly with the deliveristas to sponsor these  
9 bills, and I preemptively thank all the council  
10 members who will vote in their favor. Thank you.  
11 Thank you all for caring about my neighbors.

12 COMMITTEE COUNSEL: Thank you, Senator.  
13 I see Council Member Lander has his hand raised.  
14 Council Member?

15 COUNCIL MEMBER LANDER: Senator, I just  
16 want to make sure that we thank you for being such a  
17 champion of your neighbors and all our neighbors and  
18 those workers up there. You know, as you noted, if  
19 that legislation that has not yet been introduced  
20 would pass many of the pieces of legislation we're  
21 hearing today would be preempted. I know for certain  
22 that my bill to set a minimum pay standard would be,  
23 and your courage and voice and just tireless fighting  
24 on behalf of workers in general, ah, and today on  
25 behalf of delivery workers really, ah, stands out.

2 And then that you would come to our hearing, you  
3 know, and pay us the honor of, ah, talking with us  
4 about the laws we're considering, ah, we really  
5 appreciate it. So thank you for being a champion up  
6 there.

7 STATE SENATOR RAMOS: Oh, thank you,  
8 Council Member Lander. Look, we have to stick  
9 together for those of us who truly believe in worker  
10 power and their ability to organize for themselves, I  
11 want the City Council to be able to protect them in  
12 these ways. It's important that the City Council has  
13 the power to do this. Our cost of living is just so  
14 high here in New York that their pay really should  
15 not be determined by their employers, especially when  
16 they have no real union to represent them. So, thank  
17 you all for your efforts.

18 COMMITTEE COUNSEL: Thank you, Senator,  
19 for joining us. Next we will call on Gustavo Ajche,  
20 followed by Ligia Gualpa, and then Teodora Flores.  
21 Gustavo?

22 SERGEANT AT ARMS: You may begin.

23 GUSTAVO AJCHE: [speaking in Spanish]...

24 SERGEANT AT ARMS: Time expired.

25 GUSTAVO AJCHE: ...[speaking in Spanish].

2 UNIDENTIFIED: I'm gonna be briefly  
3 translating. Ah, my name is Gustavo Ajche and a  
4 [inaudible] worker member of the Workers Justice  
5 Project and leader of [inaudible]. Today  
6 [inaudible].

7 GUSTAVO AJCHE: [speaking in Spanish]

8 UNIDENTIFIED: [inaudible], ah, kept the  
9 city running. We have been applaud as essential  
10 workers. But that's not enough for us. [inaudible]  
11 we need to [inaudible] the first package of  
12 legislation that will make our work more dignified  
13 and more respected. We hope, we hope to get your  
14 support since this package of policies will guarantee  
15 some protections for us. The workers who are  
16 delivering your food, your medicine, your groceries,  
17 you're essential. These apps have become more  
18 popular every day. There is a lot more to do to make  
19 our labor more dignified. We deserve protections  
20 because we are the essentials who are on the front  
21 lines of this pandemic. But still delivering your  
22 food, your essentials, despite a change [inaudible]  
23 weather condition. It is time for the city to  
24 recognize us as essential with action, not with  
25 words. The passage of the legislation is the first

2 step to guarantee the respect that we deserve and  
3 also ensure that there is more transparency in the  
4 payment of our tips. Certainly I have seen this  
5 irregularity of these apps. It is frustrating to see  
6 how these apps are, are disappearing our tips, and  
7 for the restaurants, and for the restaurant systems  
8 to show us something different than the apps. It is  
9 hard to see that the customer's gratuity doesn't get  
10 to, into our account. Many of my coworkers don't  
11 have the courage to report this irregularity because  
12 of the fear they have when it comes to confronting  
13 this company. But here we are on behalf of them  
14 making visible our reality with these apps. The, the  
15 summer is, the summer season is, is very hard for  
16 food delivery workers, who struggle and we barely  
17 make enough to cover our daily expenses. I have  
18 actually made little as \$30 a day working from 7:00  
19 a.m. ...

20 SERGEANT AT ARMS: Time has expired.

21 UNIDENTIFIED: ...to 8:00 p.m. These apps  
22 manipulate the algorithm to their benefit, without  
23 any consideration of concerns about our reality in  
24 working conditions. At the end of the day we are  
25 disposable labor. When they, when they no longer

2 need us they deactivate us without reason, without  
3 any kind of explanation. For this reason we are  
4 organizing as the Delivery Workers United, and won't  
5 be silent in this. Today you have the opportunity  
6 to, um, listen to, to us, the essential workers, with  
7 actions, not with words. We look forward in passing  
8 this legislation that will continue to provide  
9 protections to the essential workers of New York  
10 City.

11 UNIDENTIFIED: Thank you.

12 COMMITTEE COUNSEL: Thank you for your  
13 testimony. Next we have Ligia Guallpa, ah, Teodora  
14 Flores, and then Saru Jayaraman. Ligia?

15 SERGEANT AT ARMS: Your time will begin.

16 LIGIA GUALLPA: Um, yeah, here I am,  
17 sorry. Technology and translation [laughs]. Um, so  
18 my name is Ligia Guallpa. I am the executive  
19 director of the Workers Justice Project, a workers'  
20 rights organization that represents New York City  
21 food delivery workers, house cleaners, day laborers,  
22 and essential workers, who are placed, who are  
23 playing an irreplaceable role in our city's recovery.  
24 Since last year Workers Justice Project has been  
25 responding to the most basic human needs of app-based

3 food delivery workers, who were left to survive  
4 without economic relief, without unemployment  
5 insurance, without health insurance, without  
6 [inaudible], without workers' comp, and most  
7 importantly, without essential workers' rights  
8 protection. We have been witnessing how New York  
9 City's most essential workers are dehumanized and  
10 treated as disposable labor. As delivery workers  
11 we're invisiblized by this pandemic. WJP has been  
12 lifting up their dignity by helping them band  
13 together as Los Deliveristas Unidos, or the Delivery  
14 Workers United. For more than a year, New York, New  
15 Yorkers, including yourselves, have been relying on  
16 apps like Door Dash, Grub Hub, Uber Eats, and others  
17 to transport your food, your medicine, your  
18 groceries, and other essentials. But what these apps  
19 have failed to tell you is that their delivery  
20 drivers are not paid a living wage. I'm, I'm told  
21 not to ask for a restroom when they pick up your  
22 food, and I'm working in constant fear of being  
23 deactivated or terminated for demanding better  
24 working conditions. These tech companies are making  
25 billions in pandemic profits by stealing the tips of  
delivery workers and charging high percentage fees



3 from your local restaurants and for consumers like  
4 yourselves. The truth is that delivery workers are  
5 barely, are barely able to feed their own families,  
6 pay their rent, by mostly relying on tips as a form  
7 of wage. As delivery apps keep expanding their  
8 market to deliver groceries, medicine, and other  
9 essentials workers are becoming victims of ruthless  
10 exploitation that puts our lives at risk with no  
11 guarantee of payment in case of death or serious  
12 injury, or no protection against unsafe working  
13 conditions. When a delivery worker gets injured or  
14 dies while on duty with their...

15 SERGEANT AT ARMS: Time has expired.

16 LIGIA GUALLPA: Um, most of these workers  
17 have to pay for all their medical costs. I'm just  
18 gonna end like this. There has been 11 workers,  
19 invisible heroes, who were killed this past year  
20 while delivering the food for New York food, for New  
21 Yorkers. And I, it is important to not, it is  
22 important to mention their names, and I'm gonna  
23 briefly just mention because their names cannot be  
24 invisiblized. Juan Cruz, Victoria Filaro Guzman,  
25 Estamiga, Michael Baturta Larino, Estelle, Ernesto

3 Icedora Guzman, Martin Morel, Francisco Hilgaba,  
4 Reynaldo Rodriguez, Luz Alvarado. These are just  
5 some of the voices that were invisibilized by the  
6 apps, who continuously exploit and put at risk the  
7 livelihood of New Yorkers who live and work in our  
8 city as essential workers. Now would you listen to  
9 them? Would you honor and protect them by passing  
10 this six landmark proposals that will set an example  
11 for the rest of the country? We look forward to  
12 working with you. Thank you.

13 COMMITTEE COUNSEL: Thank you, Ligia.

14 Next we have Teodora Flores, Saru Jayaraman, and then  
15 Candis Tolliver. Teodora?

16 SERGEANT AT ARMS: Your time will begin.

17 TEODORA FLORES: Hello. My name is  
18 Carlton Anders and I currently work at Chick-fil-A.  
19 And I have been in the fast food industry for the  
20 past two years. I'm here today to offer my support  
21 and solidarity to the, to the delivery staff workers  
22 and the fight for dignity before the City Council.  
23 Fast food workers like myself share many of the same  
24 struggle with delivery workers and we are united in  
25 our fights for worker rights. At my store I see how  
stressed our delivery workers are when it comes to

3 pick up orders and I see how hard their job is. Like  
4 them, I am also a front-line worker during the  
5 pandemic, like my job as a fast food worker is very  
6 taxing and physical. For instance, my feet and my  
7 back often hurt after a long week. And just like  
8 delivery drivers here today, fast food workers have  
9 been fighting throughout the pandemic in the hope  
10 that we can change our lives and our jobs for the  
11 better. Over the last year fast food workers has  
12 organized at restaurants throughout the city and  
13 testified before this very council and it paid off.  
14 This past December the council voted to past  
15 groundbreaking Just Cause legislation that provides  
16 me and my coworkers with protections on the job that  
17 we did not have before. Now all of a sudden we no  
18 longer have to fear being fired without a reason.  
19 Now we have rights. Fast food and delivery are two  
20 sides of the same coin. Together we have braved the  
21 worst days of the pandemic, setting aside our own  
22 safety to feed all types of New Yorkers. I am  
23 grateful to the council for the solitary you have  
24 shown to the, for fast food workers of New York City.  
25 Today here delivery drivers near the same solitary.  
Because when you get down to it their demand is

2 ultimately the same as ours, safety and justice for  
3 the essential workers who kept this city going  
4 through the worst pandemic we ever seen. Thank you,  
5 and God bless.

6 COMMITTEE COUNSEL: Thank you, Carlos.

7 Next up we have Saru Jararam, ah, Candis Tolliver,  
8 and then Russell Jackson. Saru?

9 SERGEANT AT ARMS: Your time will begin.

10 SARU JAYARAMAN: Hi, everybody, and thank  
11 you so much, ah, Chair Ayala, Council Member, ah,  
12 Reynoso, the champion of our bill, Council Member  
13 Lander, who's the champion of all workers all the  
14 time, and all of you who are, ah, fighting so hard  
15 for so many different workers. I want to definitely  
16 first start by saying with stand in solidarity with  
17 the deliveristas and their struggles today. Kudos to  
18 them, for their courage. I'm here to speak today on  
19 Intro 2163 about tipped workers. Ah, first who say  
20 who tipped workers are, because I think quite often  
21 the Restaurant Association confuses us. Ah, over  
22 two-thirds of the tipped workers in New York are  
23 women. Over 75% are immigrants. They are  
24 overwhelming people of color, mostly women of color,  
25 working in very casual restaurants, IHops, Denny's,

2 mom and pop diners across New York City. They mostly  
3 do not work in fine dining. And even prior to the  
4 pandemic the sub minimum wage, which is a direct  
5 legacy of slavery, a way for the industry to hire  
6 black people at emancipation and not pay them  
7 anything has been a source of incredible poverty and  
8 sexual harassment for a mostly female workforce that  
9 has to tolerate inappropriate customer behavior to  
10 get tips to make up their base wage. To clarify and  
11 answer the question that was asked earlier, I don't  
12 think it was clearly answered, tipped workers get a  
13 sub minimum wage of \$10 in New York and tips are  
14 supposed to bring them to the full minimum wage, but  
15 often don't. In fact, Obama administration reported  
16 an 84% violation with regard to tips bringing people  
17 to the full minimum wage. Now, during the pandemic  
18 the situation got so much worse. Workers reported  
19 that tips went down 50% to 75%, and health risks,  
20 hostility, and harassment went way up with hundreds  
21 of New York women reporting that they were asked  
22 repeatedly by male customers to take off their mask  
23 so men could judge their looks and their tips on that  
24 basis, a life-threatening situation, and frankly  
25 disgusting. Well intentioned, the surcharge bill

3 that the city passed to support struggling  
4 restaurants has hurt these workers. We surveyed  
5 several hundred earlier this year. 33% of New York  
6 City workers report that their...

7 SERGEANT AT ARMS: Time has expired.

8 SARU JAYARAMAN: ...restaurant employers  
9 using the surcharge and 60% of those workers say  
10 their types have been cut in half by the surcharge.  
11 This bill would solve that problem by requiring  
12 employers, providing them more than enough to cover  
13 the wage increase and requiring employers to pay  
14 these workers a full minimum wage, like every other  
15 worker, in every other industry. And by the way,  
16 that is what workers are calling for before they come  
17 back to work. We surveyed 3000 workers. 53% say  
18 they're leaving the restaurant industry. 78% say the  
19 only thing that will make them come back is a full  
20 livable wage with tips on top. And so it has to be  
21 understood this bill is not just important to protect  
22 workers who got hurt by a surcharge bill that the  
23 council passed, it's also essential to allow the New  
24 York City restaurant industry to reopen. The  
25 speaker's lawyers have said that it's legal. The  
city, City Hall lawyers have said that it's legal.

3 In fact, the mayor ran a similar program already that  
4 was declared legal. There is no legality issue here.  
5 There is an inertia issue here and the inertia has  
6 led to workers who you all care about, I know, being  
7 hurt by a well-intentioned bill that has cut their  
8 tips in half. Every day that goes by their tips get  
9 cut by the surcharge and we need you, please, to  
10 rectify it through Intro 2163. Biden has made ending  
11 the sub minimum wage a top priority. New York City  
12 can lead. New York City Council can lead by first  
13 saying if you're gonna have the privilege of adding a  
14 surcharge you must have the requirement to protect  
15 workers, paying them a full livable wage with tips on  
16 top.

17 COMMITTEE COUNSEL: Thank you. I see  
18 Council Member Lander has his hand raised. Council  
19 Member Lander?

20 COUNCIL MEMBER LANDER: Thank you. Just  
21 a very quick question. Saru, thanks for, for being  
22 here. Are there other cities, ah, that have taken  
23 some actions, you know, obviously we want the state  
24 to move forward, ah, to one fair wage, but, you know,  
25 and we'll all keep pushing for that together. But in  
the interim I like this idea of us taking a step here

3 and I praise Council Member Reynoso for his bill.

4 Are there other cities that have similarly taken some  
5 kind of action in the absence of state action to push  
6 forward?

7 SARU JAYARAMAN: Absolutely, absolutely.

8 Well, first of all, cities that are able to go to one  
9 fair wage, some have done it. Flagstaff, Arizona

10 moved to one fair wage. Ah, but in, during the

11 pandemic multiple cities created programs to provide

12 restaurant owners with privileges or benefits if they

13 moved to full minimum wage with tips on top. Chicago

14 provided a big program called High Road Kitchens,

15 where they provided cash grants to restaurants, like

16 some form of revenue if they transitioned to a full

17 minimum wage. Detroit did the same exact thing. Ah,

18 Boston, we worked with Mayor Walsh, who's now become

19 Secretary of Labor, to institute a similar program.

20 He used stimulus funding to provide cash grants to

21 restaurants if they commit to moving to one fair

22 wage. As you all know, New York City worked with us

23 to do the same thing and this would be an extension

24 of that program, which is to say restaurants are

25 right now voluntarily moving to one fair wage because

they have to, to get workers to come back to work.



2 There's a massive shortage. We're not calling it a  
3 worker shortage. It's a wage shortage. It's workers  
4 saying we won't go back without full minimum wages.  
5 So New York City realized that and has been rewarding  
6 restaurants for moving in this direction. This  
7 surcharge bill would be an extension of that. Let's  
8 reward restaurants that are willing to move already  
9 voluntarily in this direction by allowing them to  
10 have some additional revenue through the surcharge.  
11 And let's ensure that the surcharge that already  
12 exists, a COVID surcharge, has protections built into  
13 it, because right now employers can use that  
14 surcharge for anything. As Council Member Reynoso  
15 said, there is a lot of concern. You rightfully  
16 wanted to help restaurants. You've got to ensure  
17 workers are protected and help workers as well.

18 COUNCIL MEMBER LANDER: Thank you.

19 COMMITTEE COUNSEL: Thank you, Saru.

20 Next we have Candis Tolliver, followed by Russell  
21 Jackson, and then Jessica Wong. Candis?

22 SERGEANT AT ARMS: Your time will begin.

23 CANDIS TOLLIVER: Hi, good afternoon.

24 Um, good afternoon, Chair Ayala and members of the  
25 committee. My name is Candis Tolliver and I'm the

2 vice president of SEIU Local 32BJ. 32BJ is the  
3 largest building service union in the country with  
4 over 85,000 of our members living in New York City  
5 metro area. 32BJ supports Intro 2288, 2289, 2294,  
6 2296, and Intro 2298. These bills provide needed and  
7 overdue reforms that will improve the working  
8 condition of one of our most important yet vulnerable  
9 workforces. These bills would ensure that, one, the  
10 cost of insulated food delivery bags are not passed  
11 on to the workers; ah, two, give workers control over  
12 the maximum distance they will travel in a work  
13 time;, ah, three, establish a method for determining  
14 minimum pay; and four, provide bathroom access,  
15 sorry, and number five, prevent fees from being  
16 charged to the workers for receiving their pay. Food  
17 delivery workers have played a crucial role in the  
18 pandemic. Um, while many of us were sheltering in  
19 place, New Yorkers were venturing out into the  
20 restaurants and into our apartment buildings, putting  
21 their lives at risk to keep us fed. Food delivery  
22 workers also played a crucial role in keeping  
23 restaurants open, thus saving many small businesses  
24 and restaurant jobs. These are basic human rights  
25 that all workers deserve. Despite these important

2 roles, food delivery workers find themselves without  
3 many of the protections that most workers take for  
4 granted, such as being, being protected by a  
5 [inaudible] on compensation and even having access to  
6 a bathroom. Food delivery workers are a workforce  
7 composed of multiple people of color and immigrants.  
8 Thus, it is not surprising that just like other  
9 similar, similarly situated workers, farm workers and  
10 domestic workers, sorry, I was getting while I was  
11 talking, um, farm workers and domestic workers, they  
12 have been treated as less than...

13 SERGEANT AT ARMS: Time has expired.

14 CANDIS TOLLIVER: ...[inaudible]. Were  
15 you talking to me? I'm sorry, I heard a voice.

16 CHAIRPERSON AYALA: No, you can finish.

17 CANDIS TOLLIVER: Keep going, OK.

18 However, today the council has an opportunity to  
19 recognize these workers, ah, that these workers are  
20 essential workers, and are deserving of protection of  
21 the law. 32BJ looks forward to working with the  
22 workers, advocates, stakeholders, and the council on  
23 finalizing these important policies. I particular  
24 want to emphasize how important it is for the city to  
25 give itself the power to collect and analyze data as

2 it seeks to formulate protections for delivery and  
3 other gig workers. Lastly, I want to thank Los  
4 Deliveristas Unidos and the Workers Justice Project  
5 for their efforts to improve working conditions for  
6 food delivery workers. Thank you.

7 COMMITTEE COUNSEL: Thank you, Candis.

8 Next up we have Russell Jackson, followed by Jessica  
9 Wong, and then Andrew Rigie. Russell?

10 SERGEANT AT ARMS: Your time will begin.

11 RUSSELL JACKSON: Hi, yes, um, my name is  
12 Russell Jackson. I am the chef owner of, ah,  
13 Reverence in Harlem. Um, New York needs restaurants.  
14 And restaurants need customers. Without the staff,  
15 all the customers in the world won't matter. Ah, 50%  
16 of workers say that they're leaving the industry  
17 because they view jobs as exploitive and a two-tiered  
18 wage system perpetuates that. Ah, lots of restaurant  
19 owners, they want to do the right thing, like we do,  
20 and pay good wages. The low-road employers are  
21 short-sighted, don't have a full understanding of the  
22 long-term aspect of what they're, what they're doing  
23 to the industry. They continue to leverage, ah, the  
24 poverty-level wages to drive down, ah, the  
25 understanding and true cost of food and hospitality

3 in the minds of the consumers, putting high-road  
4 employers at a competitive disadvantage. This  
5 surcharge and support of this surcharge sends several  
6 signals. To the workers it sends, it sends  
7 information that the employers are committed to fair  
8 wage practices and that these are good jobs. To the  
9 consumers, it allows them to understand that there  
10 are charges are going to higher wages, an investment  
11 in improved working conditions for all of their  
12 staff. To Albany and, and where they have failed to  
13 support the restaurant workers, the city needs to  
14 lead the way, and I've been fighting for this well  
15 over since 2009 and my time in San Francisco, and now  
16 I'm here in New York. It's imperative that the city  
17 takes the initiative to be the first in on this. We  
18 can lead the way in the right way and make sure that  
19 the rest of the country is following us. Thank you.

20 COMMITTEE COUNSEL: Thank you, Russell.

21 Next we have Jessica Wong, followed by Andrew Rigie,  
22 and then Kathleen Reilly. Jessica?

23 SERGEANT AT ARMS: Your time will begin.

24 JESSICA WONG: Hello, good afternoon  
25 everyone. Um, my name is Jessica Wong and I'm a  
service industry professional. Um, I work with, ah,

2 Best of New York [inaudible], a bar and lounge. Um,  
3 today I'm speaking in support of Intro 2163,  
4 sponsored by Council Member Reynoso, which would  
5 allow restaurants to permanently add a surcharge if  
6 they pay their workers a full minimum wage with tips  
7 on top. The federal government and New York State  
8 have offered up billions in restaurant relief to  
9 restaurant owners, but restaurants cannot recover  
10 without fair relief for the workforce. We rely on  
11 the restaurant industry to help New York State's  
12 economy and the rest of our industry depends on its  
13 workers. New York City can take the first step  
14 towards raising the wages for tip workers to the full  
15 minimum wage with tips on top as an urgent matter to  
16 let New York, ah, New York's restaurant industry  
17 fully reopen and recover. While well intentioned,  
18 the temporary COVID surcharge policy allowing  
19 restaurants to add a surcharge of up to 10%, confused  
20 consumers, who believe that the surcharge was going  
21 to workers, when in fact it was going to employers.  
22 If they were planning to tip 20%, the 10% surcharge  
23 resulted in them tipping an additional 10%. Intro  
24 2163 would fix it, allowing New York City restaurant  
25 owners to permanently add a surcharge of up to 15% as

3 long as they pay their tipped employees a full  
4 minimum wage with tips on top, instead of the sub  
5 minimum wage. Paying workers a full minimum wage  
6 would guarantee a stable base wage regardless of  
7 customer reactions to the surcharge. It would also  
8 award restaurants willing to pay the full minimum  
9 wage allowing them to bring in increased revenue  
10 during the pandemic. The sub minimum wage was always  
11 unjust, but the pandemic made our bad situation  
12 worse. Tips went down and health risks and  
13 harassment went up. Restaurants aren't facing a  
14 worker shortage.

15 SERGEANT AT ARMS: Your time has expired.

16 JESSICA WONG: Thank you so much.

17 COMMITTEE COUNSEL: Thank you, Jessica.

18 Next we have Andrew Rigie, followed by Kathleen  
19 Reilly, and then Mikey Knab. Andrew?

20 SERGEANT AT ARMS: Your time will begin  
21 now.

22 ANDREW RIGIE: Good afternoon. My name  
23 is Andrew Rigie. I am the executive director of the  
24 New York City Hospitality Alliance. We are a not-  
25 for-profit trade association that represents  
restaurants and nightlife venues in the five

2 boroughs. Today I'm gonna testify on 2311, 2298, and  
3 2163. On 2311 we strongly support this bill, that  
4 would require third-party delivery companies provide  
5 customer data to restaurants. Ah, this would allow  
6 restaurants to basically even the playing field,  
7 being able to reach out their customers to market to  
8 them and really own that delivery, ah, customer, who  
9 is their customer. Currently, by withholding the  
10 data the third-party delivery companies have enormous  
11 leverage over restaurants, because restaurants can't  
12 leave the platform because then essentially they  
13 leave their customers, and then the third-party  
14 platform will use that customer data to market to  
15 competitor restaurants. So we strongly support this.  
16 This is an urgent bill. We would just ask that it be  
17 slightly amended to also require third-party  
18 reservation companies to provide customer data to  
19 those restaurants, ah, because it's a similar dynamic  
20 there, and we want to commend Council Member Powers  
21 on that bill. Ah, the second bill is related to  
22 restaurants being required to provide toilet facility  
23 access. Ah, obviously our delivery workers have been  
24 essential heroes throughout the pandemic and it is a  
25 common courtesy to provide access to their restroom.



2 We surveyed a couple hundred restaurants. The vast  
3 majority of them already did provide access, but we  
4 do understand, by speaking with delivery workers and  
5 their representatives that that is not always the  
6 case. So while we wish the city had a robust public  
7 restroom, ah, network, that is not the case and we  
8 support this legislation. We would just ask for two  
9 updates to be made. One, we'd like to ensure that  
10 any...

11 SERGEANT AT ARMS: Your time has expired.

12 ANDREW RIGIE: ...[inaudible] would  
13 provide a cure period or a warning before a fine is  
14 levied. And the second is we want to ensure that  
15 restaurants, within reason, have the ability to set  
16 up a, ah, policy to allow third-party delivery  
17 workers to use their restrooms. And then finally, if  
18 I may, real quickly, on the last bill, Chair, may I?  
19 Yes? Thank you so much. Um, and then on this COVID  
20 surcharge I, I don't have time, obviously, to go over  
21 many of the comments, ah, that were made earlier. I  
22 commend, Chef, um, Russell on, ah, his comments. He  
23 obviously should run his business how he sees fit,  
24 and being an advocate out there, ah, is something  
25 that's really important. However, the 15% surcharge

3 does not work for the vast majority of restaurants  
4 from an operational or a financial perspective.

5 Restaurants that want to do surcharges usually fall  
6 into two camps. One, a single-digit surcharge, the

7 money goes to gross receipts in the bus. They

8 continue to take the tip credit and that surcharge is  
9 used to offset different expenses, which includes

10 wages. The second camp tends to be someone that

11 wants to do an 18% to, say, 25% surcharge in which

12 case the customer usually would not leave a tip. And

13 they would pay a straight hourly wage. In some cases

14 maybe customers would continue to tip. In that case,

15 the tips wouldn't be enough to cover the, ah, tip

16 wage compared to the full minimum wage, so the

17 restaurants would not be taking the tip credit from a

18 practical standpoint. But 15% does not do enough.

19 Losing the tip credit equals a 50% increase in labor

20 cost for tipped workers, plus there are additional

21 expenses associated with not taking the tip credit,

22 which will make it even more devastating for

23 restaurants that are shuttering and really teetering

24 on the edge of survival, particular when the law does

25 require all tipped employees to receive at least \$15

an hour. But in most cases they are earning much,

3 much more. And, in fact, throughout the state and  
4 just here in New York, the reason the tip credit is  
5 in place in many regions is because a worker-led  
6 movement to keep the tip credit in effect. But at  
7 15% it doesn't do much, because if a restaurant does  
8 a 15% surcharge and doesn't take the tip credit it's  
9 not enough to really offset their expenses and for a  
10 consumer, if they see a 15% surcharge they will  
11 probably end up tipping less. And at the outcome you  
12 could see tipped workers even making less money as a  
13 result. So we'd say drop this bill or amend it to  
14 allow restaurants to do a smaller surcharge where  
15 they would still be required to pay \$15 an hour  
16 minimum wage, but the, the workers can earn more. Or  
17 do a larger surcharge than 15%, say 18% to 25%, in  
18 which case restaurants would not take the tip credit.  
19 I think that's a much better balance, ah, it's  
20 workable, because as is, I've spoken with so many  
21 restaurants and at 15% it's just not going to be  
22 something that they are going to use. So I'll leave  
23 it at that. I'm happy to answer any questions, and  
24 speak further about these bills. But, again, we  
25 strongly support third-party delivery services  
providing customer data to restaurants. We support,

2 ah, requiring restaurants to provide toilet facility  
3 access to food delivery workers, presuming those two  
4 amendments are made, and we strongly appose, ah,  
5 repealing the COVID surcharge and implementing a new  
6 15% surcharge unless it's modified to provide more  
7 flexibility, so different types of restaurants can  
8 implement the surcharge in a way that works for their  
9 business. I want to thank you, Chair, thank you  
10 members, for your consideration. I'm happy to answer  
11 any questions.

12 COMMITTEE COUNSEL: Thank you, Andrew.  
13 Next up we have Kathleen Reilly, followed by Mikey  
14 Knab and then Maria Figueroa. Kathleen?

15 SERGEANT AT ARMS: Your time will begin  
16 now.

17 KATHLEEN REILLY: Thank you, good  
18 afternoon, everyone. My name is Kathleen Reilly with  
19 the New York State Restaurant Association and we'd  
20 like to use our time today to discuss, um, the Intro  
21 regarding data sharing. Ah, other comments we'll in  
22 writing after the fact that there's a lot on the  
23 table today. Um, the pandemic has exacerbated so  
24 many dynamics in our industry, but in particular  
25 restaurants' relationships with food delivery

3 platforms have grown all the more important over the  
4 last 16 months. When our city's eateries were closed  
5 for on-premise dining and limited to outdoor dining  
6 and strictly capacity restricted for indoor dining,  
7 restaurants relied up take-out and delivery orders to  
8 keep any amount of cash flow coming in. Take-out and  
9 delivery sales could not make up for the losses  
10 sustained from pandemic limitations, though. In a  
11 survey we conducted in partnership with the National  
12 Restaurant Association earlier this year we found  
13 that increased take-out and delivery orders made up  
14 for under 30% of lost on-premise business for most  
15 restaurant operators. Yet restaurants were still  
16 forced to rely on take-out and delivery in order for  
17 their businesses to survive until the reopening, and  
18 in many cases that placed restaurant operators in a  
19 difficult, can't live with it, can't live without it  
20 position towards the food delivery platforms.

21 Thankfully, the City Council took the responsible  
22 step last spring to set some boundaries on the fee  
23 structures these delivery platforms were charging  
24 restaurants, correctly noting that restaurant  
25 operators were effectively hamstrung between pandemic  
restrictions coupled with exploitative fees from the

3 these platforms. With feet caps in place, one facet  
4 of the relationship was put in check. However, in  
5 regards to customer data for the third-party food  
6 delivery orders there's still an exploitative dynamic  
7 in play. We are so appreciative to Council Member  
8 Powers and the cosponsors for bringing Intro 2311  
9 forward today and recognizing that this dynamic needs  
10 to change. As things currently stand, the food  
11 delivery platforms control the customer data for  
12 orders that they facilitate, which makes them simple  
13 enough, but what it means is that restaurants are  
14 kept at arms' length from their customers, even  
15 repeat customers, even regulars, because the  
16 platforms do not share critical information like  
17 phone number, order history, email address with the  
18 restaurant operators and allow them to maintain it.  
19 Restaurants work hard to cultivate lasting  
20 relationships with their customers and their  
21 community. They need to be able to reach out  
22 directly to their customers, whether to give an  
23 update on an order, or offer a promotion. It's  
24 restaurants and their quality food and beverage that  
25 keep customers coming back to delivery platforms, but  
then it's only the platforms are able to form

2 relationships with diners and that's not right. The  
3 New York State Restaurant Association supports the  
4 solution offered in Intro 2311, which would give  
5 restaurant operators access to the customer data, ah,  
6 their own customers, and stop the gatekeeping by  
7 third-party platforms. It's a reform that our  
8 members have been asking for and we believe it's an  
9 important step in leveling the playing field for  
10 restaurant...

11 SERGEANT AT ARMS: Time has expired.

12 KATHLEEN REILLY: ...[inaudible]. Thank  
13 you. The restaurants operating in a market heavily  
14 influenced by these delivery platforms. Um, I also  
15 think that what Andrew pointed around, ah,  
16 reservation-making platforms is a great point and I  
17 think that they do play a similar kind of role in  
18 keep, ah, consumer data from the restaurants  
19 themselves. Thank you for your time this afternoon,  
20 and we will follow up in writing.

21 COMMITTEE COUNSEL: Thank you, Kathleen.

22 Next up we have Mikey Knab, followed by Maria  
23 Figueroa, and then James Parrott. Mikey?

24 SERGEANT AT ARMS: Your time will begin  
25 now.

2 MIKEY KNAB: Hello, can you hear me?

3 COMMITTEE COUNSEL: Yes, we can hear you.

4 MIKEY KNAB: Thank you, sorry. Hi, my  
5 name is Mikey Knab. I'm the codirector of Raise High  
6 Road Restaurants, which is a national network of over  
7 1000 restaurant owners across the country, including  
8 over 100 in New York who have made commitments to  
9 high road employment practices, like increasing wages  
10 and improving working conditions. Chef Russell, who  
11 spoke earlier, is one of our members, ah, and my  
12 members had asked me to come and speak on behalf of  
13 the robust industry in New York City of, of  
14 restaurants and hospitality professionals that make  
15 New York dynamic and unique in the sense that it  
16 contributes so much to the economy. If restaurant  
17 workers leave the industry and/or the city at the  
18 rates that they saying they're considering do it,  
19 they will never recover and the restaurant landscape  
20 and the future of New York will be bleak. The  
21 restaurants that fund the National Restaurant  
22 Association are mostly massive, multinational,  
23 publicly traded corporations that we would consider  
24 low road employers that have been fighting to  
25 suppress wages and subjugate our workforce for



3 decades, almost over 100 years. If that continues to  
4 happen, workers will never come back. Ah, they'll  
5 see the job exploitative, as Russell mentioned. We  
6 need to send a signal to the entire workforce that  
7 New York is a magical place for a restaurant, that  
8 these are good jobs, that we do treat them with  
9 dignity and respect. And this surcharge allows  
10 restaurants to opt in, it's not required. If  
11 restaurants don't want to charge a 15% surcharge and  
12 pay one fair wage they don't need to. But if they  
13 can figure out how to run their business they want  
14 to, as Andrew Rigie, [inaudible] Russell should do,  
15 then they can opt into it. Ah, we, we believe that  
16 this would send a signal to the workforce that we're  
17 trying our best as an industry to make these jobs  
18 professional and treat them with dignity, and also  
19 send a message to Albany that you can't just save  
20 restaurant owners. You need to save restaurant  
21 workers or else the owners have no way to prepare and  
22 distribute the food and offer great service and  
23 hospitality to our guests. So I strongly urge you to  
24 support this, this measure, and I, and I thank you  
25 for your time.

2 COMMITTEE COUNSEL: Thank you, Mikey.

3 Next we have Maria Figueroa, followed by James  
4 Parrott, and then Sarah Rothman. Maria?

5 SERGEANT AT ARMS: Your time will begin  
6 now.

7 MARIA FIGUEROA: Good afternoon. Ah, my  
8 name is Maria Figueroa. I'm director of labor and  
9 policy research at the Worker Institute of Cornell  
10 Universe. Thank you for the opportunity to deliver  
11 this testimony, which draws on field research we  
12 conducted in partnership with Workers Justice  
13 Project. We surveyed more than 500 workers, ah, app-  
14 based, ah, food delivery workers from all five  
15 boroughs and all demographic groups, that this  
16 diverse workforce comprises. Our findings revealed a  
17 range of present issues, including low earnings, lack  
18 of transparency in payment and evaluation assistance,  
19 lack of access to bathrooms, um, and, and very  
20 serious, ah, safety hazards such as exposure to  
21 violent crime related to the e-bike, ah, theft, um,  
22 and risk of accidents on the road which workers face  
23 without any type of compensation for healthcare  
24 expenses and lost work time. Our survey data  
25 revealed that the base, um, the base pay of app-based

2 delivery workers is between \$6.57, about \$7 hour, and  
3 about \$8 per hour. These excludes tips and operating  
4 expenses, such as, ah, sale and internet, ah,  
5 service, vehicle maintenance, and other expenses. In  
6 order for workers to achieve this low level of pay,  
7 which is well below minimum, ah, legal minimum wages  
8 in the city, they have to work long hours and for  
9 multiple apps, since each individual app does not  
10 generate enough work. About two-thirds of survey  
11 respondents reported that they have regularly worked  
12 at least six days per week, and 85% said that this  
13 was their main and only job. Ah, additionally, about  
14 40% of all survey respondents, um, reported  
15 experiencing issues related to payments from...

16 SERGEANT AT ARMS: Your time has expired.

17 MARIA FIGUEROA: ...apps, including  
18 nonpayment and underpayment of tips, receiving lower  
19 pay than indicated on the apps, late payment or no  
20 payment of earnings from an entire work week. Um, we  
21 strongly support 2294 and 2296 to increase the base  
22 pay that workers receive and regulate the, the  
23 payment system, and we call for new regulation that  
24 would require the apps to share their data with a  
25 city agency, such as DCWP, which would be given an

2 authority similar to the TLC's in collecting data  
3 from their ride share, ah, platforms. Thank you.

4 CHAIRPERSON AYALA: Yeah, could I  
5 interject a second? [speaking in Spanish] OK, so we  
6 only have translation services available to 4:00, so  
7 we're asking members, um, that are here to fiscal  
8 year, um, who need the service to please raise their  
9 hand so that we can call on them first. I see quite  
10 a few, Stephanie.

11 COMMITTEE COUNSEL: Yeah, I see, yep, I  
12 see about three. Um, OK, so why don't we start with  
13 Pepe Jhonson. I see your hand is raised.

14 CHAIRPERSON AYALA: Pepe, [speaking in  
15 Spanish].

16 SERGEANT AT ARMS: Your time will begin.

17 INTERPRETER: [speaking in Spanish]

18 PEPE JHONSON: [speaking in Spanish]

19 INTERPRETER: [speaking in Spanish]

20 PEPE JHONSON: [speaking in Spanish]

21 INTERPRETER: [speaking in Spanish]

22 PEPE JHONSON: [speaking in Spanish]

23 buenos tardes.

24 INTERPRETER: Good afternoon. [speaking  
25 in Spanish]

2 PEPE JHONSON: [speaking in Spanish]

3 INTERPRETER: [speaking in Spanish]

4 PEPE JHONSON: [speaking in Spanish]

5 INTERPRETER: I'm sorry, it's very hard

6 to hear her. Her volume is very low.

7 PEPE JHONSON: [speaking in Spanish]

8 INTERPRETER: [speaking in Spanish]

9 PEPE JHONSON: [inaudible]

10 CHAIRPERSON AYALA: We'll come back to

11 Pepe in, in a moment.

12 INTERPRETER: [speaking in Spanish]

13 COMMITTEE COUNSEL: OK, so let's move on

14 to Cesar Marino.

15 INTERPRETER: Cesar Marino, [speaking in

16 Spanish]

17 CESAR MARINO: [speaking in Spanish]

18 INTERPRETER: [speaking in Spanish]

19 Hello, my name is Cesar Marino. I'm a food

20 distributor. I worked for Rely as of two months ago.

21 I suffered an assault while was doing a delivery.

22 [speaking in Spanish]

23 CESAR MARINO: [speaking in Spanish]

24 INTERPRETER: [speaking in Spanish] So

25 the application, I have no hours during the day. I

2 need hours during the night and then because there's  
3 these long distances, they send me to do these  
4 deliveries to very far places, very dangerous places,  
5 and then the company does not let me know where it is  
6 located until I receive the food, and then if I don't  
7 deliver at that point they deny me, if I deny  
8 delivering to these risky places where I risk my  
9 life, the company then punishes me by blocking my  
10 hours or not giving me any work. [speaking in  
11 Spanish]

12 CESAR MARINO: [speaking in Spanish]

13 INTERPRETER: I try to go into the  
14 application and it doesn't let me. I try to go into  
15 one or two, or two hours, and I tried but the  
16 application does not let me in. [speaking in  
17 Spanish]

18 CESAR MARINO: [speaking in Spanish]

19 INTERPRETER: [speaking in Spanish] So  
20 the application like threatens us. It threatens to  
21 block our account and it never gives us any chance to  
22 call anyone to debate the issue. There's no number  
23 to communicate or anything. Basically, all its  
24 workers are invisible. [speaking in Spanish]

25 CESAR MARINO: [speaking in Spanish]

2 INTERPRETER: Council, people I ask us, I  
3 ask you all to please pass, approve this law because  
4 it would help us all. Thank you.

5 COMMITTEE COUNSEL: Thank you. Next  
6 we'll call on Gustavo Mancilla.

7 INTERPRETER: Gustavo Mancilla?

8 SERGEANT AT ARMS: Your time will begin.

9 GUSTAVO MANCILLA: [speaking in Spanish]

10 INTERPRETER: Good afternoon. My name is  
11 Gustavo Mancilla. I work as a food distributor and I  
12 work for the food distribution apps. [speaking in  
13 Spanish]

14 GUSTAVO MANCILLA: [speaking in Spanish]

15 INTERPRETER: I live in Manhattan. I  
16 work throughout all the whole city making deliveries.  
17 [speaking in Spanish]

18 GUSTAVO MANCILLA: [speaking in Spanish]

19 INTERPRETER: [speaking in Spanish] I'm  
20 one of many who suffer the abuse given out by these  
21 companies. They're not transparent with the amount  
22 of tips that we earn. [speaking in Spanish]

23 GUSTAVO MANCILLA: [speaking in Spanish]

24 INTERPRETER: For example, about a week  
25 ago I was delivering food to a client from one of

2 these restaurants, and after the delivery the client  
3 asked me if I had received the tips. [speaking in  
4 Spanish]

5 GUSTAVO MANCILLA: [speaking in Spanish]

6 INTERPRETER: I immediately reviewed the  
7 application and zero is what appeared. [speaking in  
8 Spanish]

9 GUSTAVO MANCILLA: [speaking in Spanish]

10 INTERPRETER: The client then showed me  
11 his receipt, which showed he gave a \$9.60 tip,  
12 although my app was showing zero. [speaking in  
13 Spanish]

14 GUSTAVO MANCILLA: [speaking in Spanish]

15 INTERPRETER: When I made a claim about  
16 this thievery of tips the app gave the blame to the  
17 restaurant. [speaking in Spanish]

18 GUSTAVO MANCILLA: [speaking in Spanish]

19 INTERPRETER: Constantly the applications  
20 like Rely sends us messages threatening us to say not  
21 to ask the clients or the customers any information.  
22 [speaking in Spanish]

23 GUSTAVO MANCILLA: [speaking in Spanish]

24 INTERPRETER: And if we do it they will  
25 block our account. [speaking in Spanish]



2 GUSTAVO MANCILLA: [speaking in Spanish]

3 SERGEANT AT ARMS: Time has expired.

4 INTERPRETER: Another way that they rob  
5 our tips is when you round off. [speaking in  
6 Spanish]

7 COMMITTEE COUNSEL: Thank you. Next  
8 we'll call Roberto Corrales please.

9 SERGEANT AT ARMS: Your time will begin  
10 now.

11 INTERPRETER: Roberto Corrales [speaking  
12 in Spanish]

13 ROBERTO CORRALES: [speaking in Spanish]

14 INTERPRETER: My name is Roberto  
15 Corrales. [speaking in Spanish]

16 ROBERTO CORRALES: [speaking in Spanish]

17 INTERPRETER: We need you not to abandon  
18 us when we have an accident. [speaking in Spanish]

19 ROBERTO CORRALES: [speaking in Spanish]

20 INTERPRETER: Because they don't want to  
21 be responsible when they rob our bikes from work.  
22 [speaking in Spanish]

23 ROBERTO CORRALES: [speaking in Spanish]

24

25

2 INTERPRETER: They kill us on the  
3 streets, as well as rob us of our tips. [speaking in  
4 Spanish]

5 ROBERTO CORRALES: [speaking in Spanish]

6 INTERPRETER: We want the apps to be  
7 transparent, as well as the restaurants. [speaking  
8 in Spanish]

9 ROBERTO CORRALES: [speaking in Spanish]

10 INTERPRETER: Because they also have to  
11 do with the thieving, the robbing of tips. [speaking  
12 in Spanish]

13 ROBERTO CORRALES: [speaking in Spanish]

14 INTERPRETER: We also want this law to  
15 pass so we can get paid minimum wage, because this is  
16 a real job.

17 ROBERTO CORRALES: [speaking in Spanish]

18 INTERPRETER: And on the other hand  
19 there's also the discrimination, because then we show  
20 up and sometimes they don't even want to let us into  
21 the restaurants. [speaking in Spanish]

22 ROBERTO CORRALES: [speaking in Spanish]

23 INTERPRETER: And we're outside dealing  
24 with all kind of temperatures, hot and cold  
25 temperatures. We are part of this system.

2 ROBERTO CORRALES: [speaking in Spanish]

3 INTERPRETER: And as far the apps, we  
4 need not to be sent further than two to three miles  
5 away from the destination, especially when the  
6 climate is to take into account.

7 ROBERTO CORRALES: [speaking in Spanish]

8 INTERPRETER: And managing the distances,  
9 like driving around, it's not very easy and I've seen  
10 many accidents occurred. I, too, was involved in an  
11 accident. [speaking in Spanish]

12 ROBERTO CORRALES: [speaking in Spanish]

13 INTERPRETER: Thank you very much. Thank  
14 you all, thank you.

15 COMMITTEE COUNSEL: Thank you, next we'll  
16 call on Juan Carlos Huerta, followed by Oscar  
17 Gonzales.

18 INTERPRETER: [speaking in Spanish]

19 SERGEANT AT ARMS: Your time will begin.

20 JUAN CARLOS HUERTA: [speaking in  
21 Spanish]

22 INTERPRETER: Give me one second, please.

23 JUAN CARLOS HUERTA: [speaking in  
24 Spanish]

2 INTERPRETER: Do I have to put on my  
3 camera? [speaking in Spanish]

4 JUAN CARLOS HUERTA: OK, um. Hi, how  
5 are? My name is, um, Juan Carlos. I work as a chef  
6 at a top restaurant, as well as a consultant for  
7 restaurants and [inaudible] Estates. Due to COVID  
8 I'm now a food delivery worker. I work as a Door  
9 Dasher at Door Dash. I also worked for Rely  
10 originally when I seen the advertisements for this  
11 companies. I thought this line of work will be  
12 excellent for my financial and well-being. For the  
13 time being, however, [inaudible] holds and this  
14 companies began to, ah, [inaudible]. And I had no  
15 idea how to use the app. And there was, and there  
16 wasn't a service to show, to show me how. So I was  
17 unable to work initially for all, for at all times.  
18 For example, my first day of working for Door Dash  
19 was very difficult since I didn't know how to use the  
20 app. I had no idea that it was accepting an order  
21 from my hand to grouping, and 40 degrees weather,  
22 near-freezing temperature, snow on the ground, and it  
23 was raining. After my initial delivery I went home  
24 with my clothes soaked, took a hot shower in hopes of  
25 warming up my body and face. It feel like needles

2 because of the, of the wind. That was in February  
3 2021, it was the [inaudible] the snowiest February in  
4 the history of New York. I was physically able to  
5 perform anymore, ah, deliveries that day, and only  
6 made \$16.00, and I got a little sick. In order to be  
7 a top dasher you have to have near, ah, perfect  
8 rating from customers and [inaudible], ah, most of  
9 the orders regardless of the distance. If you're not  
10 a top dasher you cannot simply log in, in or out  
11 anytime to work. You are required to serve your  
12 hours and advance...

13 SERGEANT AT ARMS: Your time has expired.

14 JUAN CARLOS HUERTA: ...[inaudible].

15 COMMITTEE COUNSEL: Thank you for your  
16 testimony. Next we will be calling on Oscar  
17 Gonzales, followed by Pedro Castillo.

18 INTERPRETER: [speaking in Spanish]

19 OSCAR GONZALES: [speaking in Spanish]

20 SERGEANT AT ARMS: Your time will begin.

21 OSCAR GONZALES: [speaking in Spanish]

22 INTERPRETER: OK. No need for  
23 translation.

24 OSCAR GONZALES: OK, so my name is Oscar  
25 Gonzales. I worked for Uber Eats, um, Door Dash, and

2 Grub Hub. So I have three topics. The first one is  
3 deactivations. They deactivate you without any  
4 warning and without you being able to explain  
5 yourselves against the accusation that was why you  
6 got deactivated. And when you call regarding that  
7 deactivation all you get is poor sport and they never  
8 solve your problems and just give you lame answers  
9 and go over the same thing over and over until you  
10 get tired of it and stop dealing with them. And when  
11 you appeal, if you do, they always deny it. So how  
12 is that? Um, [inaudible] not fair. The second topic  
13 is help. Ah, sometimes when you call you have to  
14 wait 10-plus minutes to get support, ah, to answer  
15 the call. Meanwhile, the customers are waiting for  
16 the food, which makes them mad, obviously, and less  
17 likely to order again through that app, which makes  
18 us less money because they're ordering somewhere else  
19 or directly through the restaurant delivery services  
20 they have. Um, when you need help with anything  
21 associated with your access, for example you need to  
22 update your [inaudible], your name, or your picture,  
23 you can't except with Grub Hub. They let you change  
24 your picture. Ah, and they tell you that don't know  
25 how to solve, um, your concern or what is the process

2 to solve it. And if they don't know, who knows? And  
3 the third topic and last one is promotions. They  
4 offer you X amount of money if you complete a certain  
5 amount of deliveries or complete them in a certain  
6 amount of time. Just to...

7 SERGEANT AT ARMS: Your time has expired.

8 OSCAR GONZALES: ...[inaudible] that you  
9 didn't complete all the deliveries or didn't do it in  
10 time. And when you call to solve it they just  
11 transfer it to another department that deals with  
12 that, from which you never ever get any type of  
13 answers, either good or bad. It doesn't matter if  
14 you provide any proof of that. That's it for me.  
15 Thank you.

16 COMMITTEE COUNSEL: Thank you. We'd like  
17 to announce also that you may submit your written  
18 testimony at the email address  
19 testimony@council.nyc.gov.

20 INTERPRETER: [speaking in Spanish]

21 COMMITTEE COUNSEL: Thank you. Now we'll  
22 continue with Pedro Castillo, followed by Juan  
23 Reynoso.

24 INTERPRETER: Pedro Castillo, [speaking  
25 in Spanish].

2 SERGEANT AT ARMS: Your time will begin.

3 PEDRO CASTILLO: [speaking in Spanish]

4 INTERPRETER: Good afternoon. [speaking  
5 in Spanish]

6 PEDRO CASTILLO: [speaking in Spanish]

7 INTERPRETER: Hi, my name is Pedro  
8 Castillo. I have two kids. I live in Queens. I  
9 work with Rely and another app. [speaking in  
10 Spanish]

11 PEDRO CASTILLO: [speaking in Spanish]

12 INTERPRETER: Doing delivery work using  
13 these apps, I feel like I'm putting myself at risk,  
14 in too much risk for my family. [speaking in  
15 Spanish]

16 PEDRO CASTILLO: [speaking in Spanish]

17 INTERPRETER: These applications ignore  
18 any situation that could happen to us, and they  
19 pressure us constantly. [speaking in Spanish]

20 PEDRO CASTILLO: [speaking in Spanish]

21 INTERPRETER: They have us deliver at  
22 distances that are very far and they do not see the  
23 risks. [speaking in Spanish]

24 PEDRO CASTILLO: [speaking in Spanish]

25



2 INTERPRETER: About three weeks ago I had  
3 an accident. I was hit by a car. It was really big.  
4 It opened up my head, broke my clavicle, and my bike  
5 was destroyed. [speaking in Spanish]

6 PEDRO CASTILLO: [speaking in Spanish]

7 INTERPRETER: Thank God I'm alive.  
8 [speaking in Spanish]

9 PEDRO CASTILLO: [speaking in Spanish]

10 SERGEANT AT ARMS: Time has expired.

11 INTERPRETER: [speaking in Spanish] I  
12 don't know how much time I can continue with my  
13 recuperation. I am very worried. I don't have  
14 anything to pay my rent, feed my family. I'm  
15 paralyzed. I have no way to earn a living.

16 PEDRO CASTILLO: [speaking in Spanish]

17 INTERPRETER: These applications should  
18 be more conscious of their workers and help, with  
19 helping us.

20 PEDRO CASTILLO: [speaking in Spanish]

21 INTERPRETER: We need these companies to  
22 pay a minimum wage and to give us some kind of  
23 protection. These laws need to pass so that we can  
24 feel we can trust working with them.

25 PEDRO CASTILLO: [speaking in Spanish]

2 INTERPRETER: And them become responsible  
3 for us so that we can work with dignity and respect.  
4 Thank you very much.

5 COMMITTEE COUNSEL: Thank you. We'd like  
6 to call next Juan Reynoso, followed by Isabel  
7 Navarro.

8 INTERPRETER: [speaking in Spanish]

9 SERGEANT AT ARMS: Your time will begin.

10 JUAN REYNOSO: [speaking in Spanish]

11 INTERPRETER: Good afternoon. My name is  
12 Juan Reynoso. I come from Guatemala and I live in  
13 the Bronx. [speaking in Spanish]

14 JUAN REYNOSO: [speaking in Spanish]

15 INTERPRETER: I've been working for two  
16 years with the application Door Dash and Grub Hub.  
17 [speaking in Spanish]

18 JUAN REYNOSO: [speaking in Spanish]

19 INTERPRETER: I've worked 10 to 12 hours  
20 each day and I earn about \$100 to \$120 a day, which  
21 is very little. It's not enough for living to pay  
22 any bills. [speaking in Spanish]

23 JUAN REYNOSO: [speaking in Spanish]

24 INTERPRETER: We are asking the companies  
25 to give us a dignifying wage. And what do I mean by

2 that is for them to pay us per hour. [speaking in  
3 Spanish]

4 JUAN REYNOSO: [speaking in Spanish]

5 INTERPRETER: Like for in the present  
6 time with Door Dash and Grub Hub, if I don't deliver  
7 within one or two hours then I don't even get a  
8 dollar of payment. [speaking in Spanish]

9 JUAN REYNOSO: [speaking in Spanish]

10 INTERPRETER: I have a specific situation  
11 in my case. In one month I lost two bikes. Each  
12 bike being \$1500, that's \$3000. [speaking in  
13 Spanish]

14 JUAN REYNOSO: [speaking in Spanish]

15 INTERPRETER: And then by the end of the  
16 month I find myself asking myself what do I do? Do I  
17 use my money to buy another bike? Do I pay rent? Do  
18 I feed my family? I have two daughters. I find  
19 myself in a predicament. [speaking in Spanish]

20 JUAN REYNOSO: [speaking in Spanish]

21 INTERPRETER: And then furthermore the  
22 delivery companies, us as delivery people, the  
23 companies indicate that we're independent  
24 contractors. So then that leaves us having to get  
25

2 our own equipment, our own raincoat, repairs, get our  
3 own food. [speaking in Spanish]

4 JUAN REYNOSO: [speaking in Spanish]

5 INTERPRETER: Trying to support ourselves  
6 with this kind of money, about \$100 a day, it's not  
7 possible. How are we supposed to give our families a  
8 better life? [speaking in Spanish]

9 JUAN REYNOSO: [speaking in Spanish]

10 INTERPRETER: We need the help for the  
11 authorities to support us, to talk to these companies  
12 to reach some sort of agreement so we can get a fair  
13 wage. [speaking in Spanish]

14 JUAN REYNOSO: [speaking in Spanish]

15 INTERPRETER: That's all. Thank you very  
16 much.

17 COMMITTEE COUNSEL: Thank you. Next  
18 we'll call on Isabel Navarro and then Pepe Jhonson.

19 INTERPRETER: [speaking in Spanish]

20 ISABEL NAVARRO: [speaking in Spanish]

21 INTERPRETER: Good afternoon, my name is  
22 Isabel Navarro. [speaking in Spanish]

23 ISABEL NAVARRO: [speaking in Spanish]

24 INTERPRETER: So I live in the Bronx. I  
25 have two kids. I work as a delivery person now for

2 six months. For me to get \$500 I have to work over  
3 45 hours. [speaking in Spanish]

4 ISABEL NAVARRO: [speaking in Spanish]

5 INTERPRETER: We need the companies to  
6 pay at least the minimum amount per hour, because  
7 that way we could cover all, any other costs that are  
8 involved with this job. [speaking in Spanish]

9 ISABEL NAVARRO: [speaking in Spanish]

10 INTERPRETER: With \$3 per order, it's  
11 very difficult for us even to cover the costs that  
12 are needed just to bring about the job. [speaking in  
13 Spanish]

14 ISABEL NAVARRO: [speaking in Spanish]

15 INTERPRETER: Furthermore, the company  
16 sometimes give us addresses that are very different  
17 from the actual addresses where the deliveries are  
18 supposed to go. [speaking in Spanish]

19 ISABEL NAVARRO: [speaking in Spanish]

20 INTERPRETER: In fact, the more orders  
21 they give us, the harder it is to cover all the costs  
22 needed just to be a delivery person. [speaking in  
23 Spanish]

24 ISABEL NAVARRO: [speaking in Spanish]

2 INTERPRETER: And the company should also  
3 give us all the necessary tools to bring about the  
4 job. For instance, like those thermal bags or the  
5 bags to keep the food warm or whatever. I've had  
6 occasions where they've broke on me on my way to  
7 bringing food to the client, customer. [speaking in  
8 Spanish]

9 ISABEL NAVARRO: [speaking in Spanish]

10 INTERPRETER: Basically, what we're  
11 earning here is \$10 an hour, and the risks involved  
12 to do this job are very high, and, and furthermore, I  
13 am a woman doing it. [speaking in Spanish]

14 ISABEL NAVARRO: [speaking in Spanish]

15 INTERPRETER: And I ask you all, who  
16 could live in the City of New York on \$10 an hour?  
17 [speaking in Spanish]

18 ISABEL NAVARRO: [speaking in Spanish]

19 INTERPRETER: And then on top of that we  
20 have to buy our own tools, bags, our own equipment,  
21 transportation, even medical insurance. And I my  
22 case I also had an accident doing this job.  
23 [speaking in Spanish]

24 ISABEL NAVARRO: [speaking in Spanish]

2 INTERPRETER: We need these bills to be  
3 paid so that the companies can pay us a dignified  
4 wage so we can continue living and earning a living.  
5 Thank you.

6 COMMITTEE COUNSEL: Thank you. We'd like  
7 to call on Pepe Jhonson next, please.

8 INTERPRETER: [speaking in Spanish]

9 SERGEANT AT ARMS: Your time will begin.

10 PEPE JHONSON: Hello. [speaking in  
11 Spanish]

12 INTERPRETER: [speaking in Spanish]

13 PEPE JHONSON: [speaking in Spanish]

14 INTERPRETER: My name is Pepe Jhonson.  
15 I'm from West Africa and I work using these apps,  
16 Uber Eats, Door Dash, Grub Hub, for about two years  
17 now. [speaking in Spanish]

18 PEPE JHONSON: [speaking in Spanish]

19 INTERPRETER: The problem I have with the  
20 job, like many other women, me being as a woman and  
21 I'm sure other women have the same problem, is access  
22 to a bathroom.

23 PEPE JHONSON: [speaking in Spanish]

24 INTERPRETER: Using the bathroom is a  
25 human necessity and the companies need to take this

2 into account when they're sending you to all these  
3 places that are further than five, six kilometers  
4 away from our home. [speaking in Spanish]

5 PEPE JHONSON: [speaking in Spanish]

6 INTERPRETER: So even if you're just  
7 going about three kilometers away and then you find  
8 yourself having to use a bathroom, the only bathroom  
9 you can really use is the restaurants and the  
10 restaurants deny us. [speaking in Spanish]

11 PEPE JHONSON: [speaking in Spanish]

12 INTERPRETER: And the other reason we  
13 need it so urgently is because we can't also control  
14 the situation with the climate. [speaking in  
15 Spanish]

16 PEPE JHONSON: [speaking in Spanish]

17 INTERPRETER: And then during the summer  
18 we have to hydrate constantly, right? And we're  
19 using our bikes and we're going around so we're going  
20 to need to use the bathrooms at some point.

21 PEPE JHONSON: [speaking in Spanish]

22 INTERPRETER: And that's why I'm asking  
23 for the government and the companies to try to  
24 understand and to speak for us because the



2 restaurants should at least give us the option of  
3 using the bathrooms.

4 PEPE JHONSON: [speaking in Spanish]

5 INTERPRETER: And the last thing that I'm  
6 asking for also is for, especially for me that has to  
7 do with safety, safety in the streets, safety for us  
8 when we are traveling around. We need this.

9 PEPE JHONSON: [speaking in Spanish]

10 INTERPRETER: And I think the clients  
11 must understand that the company does not let to help  
12 us in finding out where we have, where we have to go  
13 and the high risk of going into some of these  
14 buildings.

15 PEPE JHONSON: [speaking in Spanish]

16 INTERPRETER: If the company is not  
17 responsible to know what's happening to us, nor  
18 should they punish us by blocking us any, blocking us  
19 from our account or the app when we decide not to up  
20 into some high-risk building.

21 PEPE JHONSON: [speaking in Spanish]

22 INTERPRETER: In fact, we have, we have  
23 colleagues, coworkers that have died and the company  
24 was not even aware or did anything about it to help  
25 us. Thank you.

2 COMMITTEE COUNSEL: Thank you for your  
3 testimony.

4 INTERPRETER: [speaking in Spanish]

5 COMMITTEE COUNSEL: Next we'll be calling  
6 on James Parrott, followed by Sarah Brafman, and then  
7 Brian Chen. James?

8 JAMES PARROTT: Hello. Thank you for the  
9 opportunity to testify. I support Intro 2294, to  
10 establish a minimum per trips payment to third-party  
11 food service, ah, workers. This measure builds on  
12 the highly successfully minimum pay standard for-hire  
13 drivers established in December 2018 by the city's  
14 Taxi and Limousine Commission, following passage of  
15 authorizing legislation passed by the council in  
16 August of 2018. I coauthored a study for the TLC,  
17 analyzing the need for the New York City driver pay  
18 standard and also coauthored a July 2020 study for  
19 the city of Seattle, analyzing the need for a similar  
20 minimum driver pay standard, that was enacted in  
21 August of 2020. In both cities the driver pay  
22 standards were designed to compensate drivers for all  
23 their working time and to account fully for drivers'  
24 vehicle and other expenses during all of their  
25 working time. In an evaluation of the first year of

2 the NYC app-dispatched driver pay standard our  
3 research found a high rate of compliance and that  
4 driver pay had increased by about 9%, or \$1.33 per  
5 trip. Total driver pay increased by \$340 million  
6 dollars for the 11 months of 2019 that the pay  
7 standard was in effect. Passenger wait times  
8 declined and some of the pay increase was absorbed  
9 through lower effective commission rates taken by the  
10 companies, while passenger fares rose and trip  
11 volumes leveled and declined some in the latter part  
12 of 2019. These trends were also evident in Chicago,  
13 where a minimum pay standard was not implemented.  
14 Intro 2294 appropriately calls for a study of third-  
15 party food delivery worker per trip pay and the  
16 methods by which that pays [inaudible] hours of work  
17 and an analysis of delivery worker expenses, as well  
18 as other pertinent factors and issues. The TLC's  
19 ability to effectively regulate driver pay and ensure  
20 a high rate of compliance...

21 SERGEANT AT ARMS: Time has expired.

22 JAMES PARROTT: ...depends in part on the  
23 authority the TLC has exercised to require the app  
24 companies to provide data on all trips, payments to  
25 drivers, hours worked, and miles driven. It will be

2 important for the Department of Consumer and Worker  
3 Protection to have the authority to similarly compel  
4 data sharing by third-party delivery services. This  
5 is particularly crucial given the experience of  
6 delivery workers regarding tip theft and significant  
7 data transparency problems. Delivery workers are  
8 among the heroes of the pandemic. At great personal  
9 health risk, they responded to the explosion and  
10 demand for food service, ah, delivery over the past  
11 year, providing a tremendous service to remote  
12 working and homebound New Yorkers and the struggling  
13 restaurant owners. Yet they were forced to endure  
14 tip theft and extensive payment problems from the  
15 delivery companies. They had to deal on their own  
16 with the indignity of finding a place to use the  
17 bathroom and confronting a wave of bicycle thefts  
18 that jeopardize their livelihoods. As contractors  
19 they have no employee rights, no paid sick days, and  
20 virtually no access to a worker safety net. Irony or  
21 not, the jobs that increased the most during the  
22 pandemic were those most devoid of basic worker  
23 rights and protections. Thank you.

24

25

2 COMMITTEE COUNSEL: Thank you. I see  
3 Council Member Lander has his hand raised. Council  
4 Member?

5 COUNCIL MEMBER LANDER: Thanks very much,  
6 ah, James. Thank you for the work you did to make it  
7 possible for us to do the study, you know, to do the  
8 study and then establish the driver minimum pay for  
9 Uber and Lyft. I appreciate your point, and the  
10 commissioner made a similar one, about the need to  
11 compel data from, ah, the delivery apps in order to  
12 be able really do this study. Um, do you think that  
13 that needs to be included in our legislation? Do we  
14 need to amend the legislation or have companion  
15 legislation to require the companies to provide that  
16 data so that we can do what's necessary to figure out  
17 the minimum pay approach?

18 JAMES PARROTT: I, I do think that is,  
19 that as in the case of the TLC that company access to  
20 do business in New York City should be conditioned on  
21 their, ah, providing data sharing to appropriate city  
22 agencies. So I think you're gonna have to legislate  
23 that in order to require the companies to do that.

24 COUNCIL MEMBER LANDER: Super. Thank you  
25 very much.

2 COMMITTEE COUNSEL: Thank you. Next with  
3 have Sarah Brafman and then Brian Chen, and finally  
4 Andrew Stettner. Sarah?

5 SERGEANT AT ARMS: Your time will begin.

6 SARAH BRAFMAN: Thank you, Chair Ayala,  
7 Council Member Reynoso, and members of the committee  
8 for the opportunity to testify today. I will speak  
9 on Intro 2163, a critical piece of legislation for  
10 New York City restaurant workers. I am senior policy  
11 counsel at A Better Balance, a national legal  
12 nonprofit headquartered in New York City. Our  
13 mission is to advance justice for workers so they can  
14 care for themselves and their loved ones without  
15 compromising their economic security. Here in New  
16 York City we're proud to have helped lead advocacy  
17 efforts to support working families, including New  
18 York City paid safe and sick time, to work week laws,  
19 and protections for pregnant and caregiving workers.  
20 The sub minimum wage for tipped workers is in effect  
21 legislated gender inequality for predominantly  
22 female, disproportionately women of color, workforce  
23 perpetuating the gender pay gap. Two-thirds of  
24 tipped workers are women, disproportionately women of  
25 color, and of particular importance to us, nearly 40%

2 of them are mothers. In fall 2020, as you've heard,  
3 ah, restaurants were permitted to charge customers a  
4 10% surcharge. Many customers thought the surcharge  
5 was a tip that would benefit workers, not owners, and  
6 so reduced their tips as a result, ah, sometimes in  
7 half. Intro 2163 doesn't completely resolve this  
8 problem, but at least would remedy the particular  
9 problem set by the 10% surcharge. Allowing  
10 restaurant owners to implement a surcharge of up to  
11 15% so long as they pay their tipped employees a full  
12 minimum wage with tips on top will persuade more  
13 restaurant owners to share the benefits of the  
14 surcharge with their workers rather than have the  
15 surcharge cause further harm. And I just want to say  
16 something about the preemption question, and it's  
17 important to emphasize that this bill does not run  
18 afoul of any limitations on this council's ability to  
19 regulate minimum, the sub minimum wage. No state law  
20 expressly prohibits such a restaurant surcharge. In  
21 fact, state law appears entirely silent on the issue  
22 of business surcharges. And while New York State's  
23 minimum wage law has been interrupted as preempting  
24 local minimum wage increases, it is not the case that

2 it would preempt voluntary incentives, like this one,  
3 that encourage employers to...

4 SERGEANT AT ARMS: Time has expired.

5 SARAH BRAFMAN: ...to pay workers a wage  
6 higher than the minimum set by the state. So I'll  
7 just end by saying Intro 2163 is a pivotal policy to  
8 ensure the quality and economic security for New York  
9 City's restaurant workers. There's more in our  
10 written testimony about all of these issues and  
11 especially the preemption issue, which is a non-  
12 issue. Thank you very much, and I, you know, we look  
13 forward to working with the, with the council to  
14 enact 2163. Thank you for your time.

15 COMMITTEE COUNSEL: Thank you. Next  
16 we'll be calling on Brian Chen, followed by Andrew  
17 Stettner, and then Gonzalo Mercado.

18 SERGEANT AT ARMS: Your time will begin.

19 BRIAN CHEN: Good afternoon, and thank  
20 you to the committee for the opportunity to testify  
21 today. My name is Brian Chen and I am attorney at  
22 the National Employment Law Project, a national  
23 nonprofit policy organization that advocates for good  
24 jobs and good policies for workers. NELP strongly  
25 supports the deliveristas and there are five bills



2 being considered today by the council, and I'm  
3 submitting a longer written statement, but for time  
4 I'm going to highlight just two things for the  
5 committee today. Ah, the first, um, these, these  
6 bills are basic, basic protections for an underpaid  
7 workforce that is majority immigrant, majority person  
8 of color, and that has virtually zero workplace  
9 rights under the law as it is now. As some have  
10 noted, because these workers are called independent  
11 contractors by their employers, they have no  
12 practical access to a guaranteed minimum wage,  
13 overtime pay, workers' compensation, paid sick leave,  
14 and basic health and safety standards under New York  
15 State law. And without those state protections  
16 delivery workers are often on the precipice of  
17 devastation. So these bills being considered today  
18 are long overdue and will help establish a baseline  
19 of stability and decent work for workers who are  
20 among the most underpaid, marginalized, and  
21 exploited. The second point is that greater worker  
22 protections and regulation will bring stability to  
23 the food delivery industry over the long run. As it  
24 is now, app-based food delivery is really like the  
25 Wild West. It is dramatically under-regulated and

2 therefore very easy for, ah, big corporations to  
3 exploit workers, diners, and restaurants. If we want  
4 to sustain this business model we need to start with  
5 making, making, ah, sure that the delivery workers  
6 have basic protections against low pay and difficult  
7 conditions. And in cities that have legislated gig  
8 worker protections before, the sky has not fallen.  
9 Seattle has passed premium pay and paid sick leave  
10 for app-based workers. The industry adapted and  
11 moved on. Philadelphia passed paid sick leave. The  
12 industry adapted and moved on. And here in New York  
13 minimum pay for Uber and Lyft drivers resulted in a  
14 9%...

15 SERGEANT AT ARMS: Time has expired.

16 BRIAN CHEN: ...increase in driver pay.

17 The reality is that these commonsense protections  
18 will bring greater stability to an industry that New  
19 York City has come to depend on. These bills are  
20 good for food delivery workers, for customers, and  
21 for restaurants. We strongly support this package of  
22 bills and urge the City Council to pass them into  
23 law. Thank you.

24

25

2 COMMITTEE COUNSEL: Thank you, Brian.

3 Ah, let's see. Next we have Andrew Stettner,  
4 followed by Gonzalo Mercado and Irene Lew. Andrew?

5 SERGEANT AT ARMS: Your time will begin.

6 ANDREW STETTNER: Good afternoon. Thanks  
7 for the opportunity to testify in support of Intro  
8 2163. My name is Andrew Stettner. I'm a senior  
9 fellow at the Century Foundation. We're an  
10 independent think tank based here in New York. Over  
11 the past year we played a leading role to understand the  
12 impact of COVID-19 on the economy. I commend the  
13 council for this [inaudible] action to rectify a deep  
14 injustice in the state's wage structure. Under  
15 current law, tipped workers currently can be paid as  
16 little as \$10 per hour, which is only \$13,000 per  
17 year for someone who averages 25 hours per week.  
18 While the city does not have direct authority to  
19 raise this wage, it should do everything in its power  
20 to incentivize wage increases. This disparity is  
21 even worse for women and people of color who  
22 experience the highest rates of sexual harassment  
23 compared to any other industry. Providing a minimum  
24 wage would help to alleviate the pressure facing  
25 women workers. This proposal properly amends the

3 surcharge originally put in place during the pandemic  
4 to support restaurants. The original 10% surcharge  
5 benefitted employers with more revenue, yet did not  
6 require businesses to pass along the revenue to  
7 service workers. This proposed legislation would  
8 facilitate the recovery of the economy. With in-  
9 person dining reopening, city restaurateurs are  
10 bemoaning a labor shortage. Focus groups of  
11 immigrant workers connected by the Century Foundation  
12 found that many had left the restaurant sector for  
13 other work during the pandemic due to the fear of  
14 infection or a decline in earnings. These employers  
15 who are complaining about a worker shortage are  
16 really suffering from a wage shortage. With a full  
17 minimum wage workers will be able to better provide  
18 for themselves and employers can, who can attract new  
19 workers and preserve their talent with both being  
20 able to benefit from this bill. In conclusion, we  
21 all know that restaurants are at the heart of New  
22 York City's consumer economy. Nothing is more  
23 important to the city's recovery than supporting this  
24 sector and the workers at the heart of it. Intro  
25 2163 is a bold and powerful step in the right  
direction.

2 COMMITTEE COUNSEL: Thank you. Before we  
3 continue, I'd like to acknowledge, ah, Council Member  
4 Rosenthal has joined us. Next we have, ah, Gonzalo  
5 Mercado, followed by Irene Lew, and then Lisa Orman.  
6 Gonzalo?

7 GONZALO MERCADO: Thank you, thank you  
8 very much. Ah, Gonzalo Mercado, director of  
9 Transnational Initiatives for the National Day  
10 Laborer and Organization Network, NDLO, ah, I'm very  
11 happy to provide testimony today. NDLO's mission is  
12 to provide, improve the lives of day laborers,  
13 migrant, and low-wage workers. We build leadership  
14 and power among those facing injustice so they can  
15 challenge inequality and expand labor, civil, and  
16 political rights for all. Today we stand in support  
17 of New York City food delivery workers, who despite  
18 the essential labor provided to keep New Yorkers fed  
19 and restaurants running during the worst public  
20 health emergency of our generation, while enduring  
21 inhumane treatment, wage theft, lack of bathroom  
22 access, exclusion from government aid, and even death  
23 due to traffic accidents and violent robberies of  
24 their electric bikes. This is a pattern that affects  
25 app-based food delivery workers, not only in New York

2 City, but nationwide and around the world, while  
3 corporations see their profits grow on the back of  
4 essential and excluded workers. Deliveristas have  
5 been providing this essential work long time, ah, a  
6 long time before the pandemic, and as New York City  
7 is reopening this set of bills and protections are a  
8 starting point to recognize the dignity and value  
9 that food delivery workers deserve from all New  
10 Yorkers. Ah, in the interest of time I'm not going  
11 to list all of the bills, but I want to make sure  
12 that, ah, it's noted that we support all of them. By  
13 passing this legislative package, New York City can  
14 set a model for how localities across the country and  
15 around the world can protect the deliveristas from  
16 the exploitation of these apps and make sure that no  
17 matter how a worker is classified, every worker has  
18 dignity and respect. We applaud the work of the  
19 Workers Justice Project and Deliveristas Unidos. Ah,  
20 WJP is a member of NDLO, 60 member organizations  
21 nationwide, and we remain committed to support their  
22 efforts to bring recognition and basic dignity to New  
23 York City's food delivery workers. Thank you very  
24 much.

2 COMMITTEE COUNSEL: Thank you. Next we'd  
3 like to call Irene Lew, followed by Lisa Orman and  
4 then Austin Horse. Irene?

5 SERGEANT AT ARMS: Your time will begin.

6 IRENE LEW: Hi, good afternoon. Thank  
7 you for the opportunity to testify today. My name is  
8 Irene Lew and I'm a policy analyst at the Community  
9 Service Society of New York, a nonprofit that works  
10 to lift up low-income New Yorkers. While CSS is  
11 supportive of the entire package of bills before the  
12 committee today, I'll focus on two of them, Intro  
13 2294 to establish a minimum pay standard for third-  
14 party delivery workers, and Intro 2163, to allow  
15 restaurants to raise their recovery surcharge to  
16 require employers to pay their workers a full minimum  
17 wage of \$15 an hour. First, I would like to  
18 highlight our support for Intro 2294. Throughout the  
19 pandemic app-based delivery workers have braved the  
20 risk of exposure to COVID-19 to keep New Yorkers fed.  
21 Yet, as we've heard today from so many, these  
22 workers, many of them low income and workers of color  
23 continue to struggle with feeding their own families  
24 and making the rent. Based on the Unheard Third,  
25 CSS's annual survey of low-income New Yorkers, we

3 find that the [inaudible] app-based gig workers  
4 experienced food and housing insecurity as well as  
5 difficulties with accessing affordable health care at  
6 much higher rates than regular employees. Compared  
7 to regular employees, app-based gig workers were more  
8 likely to go hungry, to fall behind on their rent, or  
9 delay necessary medical care. App-based gig workers  
10 were also more likely to worry about their finances  
11 and their ability to make ends meet. Establish a  
12 minimum payment for each trip would be a small but  
13 critical first step to improving economic security of  
14 third-party delivery workers, who are classified as  
15 independent contractors and are denied a \$15 minimum  
16 wage and other essential rights granted to employees.  
17 We would also like to express our support for Intro  
18 2163, specifically the provision of the bill  
19 mandating restaurant employers to pay their workers a  
20 full \$15 minimum wage without using tips to make up  
21 the difference between a lower tipped rate of \$10 an  
22 hour and the full wage. Similar to the widespread  
23 hardship that we saw among app-based gig workers and  
24 our Unheard Third survey data, our previous research  
25 has also shown that workers relying on tips suffer  
higher levels of poverty and hardship than workers



2 covered by the full minimum wage. Guaranteeing  
3 restaurant workers the full minimum wage would help  
4 ensure predictable income and improve financial  
5 stability for this workforce. Low wages, long hours,  
6 and adequate safety standards can become the norm for  
7 the city's delivery and restaurant workers. For too  
8 long the city has enabled delivery platforms, app-  
9 based companies to circumvent labor laws...

10 SERGEANT AT ARMS: Time has expired.

11 IRENE LEW: ...by allowing the companies  
12 to choose [inaudible] with little to now oversight  
13 how to compensate their workers, how they should be  
14 protect. Ah, we strongly urge the council to pass  
15 the entire package of bills. Thank you.

16 COMMITTEE COUNSEL: Thank you, Irene.

17 Next we'd like to call Lisa Orman, followed by Austin  
18 Horse, and then Richard Robbins. Lisa?

19 SERGEANT AT ARMS: Your time will begin.

20 LISA ORMAN: Hi, my name is Lisa Orman.

21 I am the chief of strategy at Open Plans and the  
22 director of Streetopia Upper West Side. On the Upper  
23 West Side we've been for decades for safer bike  
24 infrastructure. For many this is about getting their  
25 kids to school safely or being able to bike to work

3 safely. For others, like delivery workers, the  
4 streets are literally their working conditions. They  
5 risk their lives day in and day out in order to feed  
6 people in the city, which became even more necessary  
7 and visible over the past year. Ken Coglin, a board  
8 member of Streets PAC and a board member of Manhattan  
9 Community Board 7, recently proposed a resolution on  
10 the Upper West Side at CB7 simply asking restaurants  
11 to allow delivery workers to use their bathrooms.

12 Listening during these meetings has been both  
13 saddening and maddening, but it's also exposed so  
14 many people to the idea that working conditions for  
15 delivery workers are not fair, just, or humane. I am  
16 proud that the City Council is discussing these vital  
17 bills. Both deliveristas and all delivery workers  
18 deserve a fair wage, transparency with their tips,  
19 safe and fair working conditions, including bike  
20 infrastructure, and a place to use the bathroom.

21 Tonight we'll be back at CB7 fighting a bid to ban e-  
22 bikes from protected bike lanes. Make no mistake,  
23 this resolution is targeted directly at deliveristas.  
24 We need to support our essential workers, not target  
25 them again and again. We strongly support the  
passage of these bills. We hope that future bills

2 will address the apps' incentive structures, which  
3 force delivery workers to choose between getting paid  
4 and following all of the traffic laws. Instead of  
5 blaming workers for biking the wrong way or going too  
6 fast, let's figure out why they feel the need to  
7 deliver meals so quickly and change that. Thank you  
8 very much.

9 COMMITTEE COUNSEL: Thank you for your  
10 testimony. Next we have Austin Horse, followed by  
11 Richard Robbins. Austin?

12 SERGEANT AT ARMS: Your time will begin.

13 AUSTIN HORSE: Thank you so much. Um, I  
14 actually come to speak really to some history with,  
15 with food delivery in New York City. I was, ah, have  
16 been a food delivery person. I started doing that in  
17 2006 actually, before these apps came along, and at  
18 that time we actually had great relationships. We  
19 would often work for just a restaurant or a group of  
20 restaurants and it was, it was a much better  
21 environment. I would routinely make \$20 to \$25 an  
22 hour doing that. Um, it was very reliable. It was  
23 actually, once app companies started to compete with  
24 us that I was laid off from restaurants because they  
25 switched from, ah, having the in-house delivery model

2 to this third-party independent contractor model, ah,  
3 because it was cheaper for the restaurants. So as  
4 far as regulation going to, um, ah, either to, to  
5 affect these restaurants and force them to, ah, allow  
6 bathroom access and maybe even charge them a little  
7 bit more for, for their delivery people, this is a  
8 good thing, because they made this switch, ah, almost  
9 10 years ago, when they went off of, um, when they  
10 went to the apps. And then for the third-party apps,  
11 with the independent contractors, they operate with,  
12 um, an independent contractor model that shields them  
13 from, from Workers' Comp. So any other delivery  
14 business utilizing bikers [inaudible] \$30 to \$40, ah,  
15 30 to 40 cents on the dollar for every payroll, for,  
16 ah, for payroll, which is a huge burden, and so  
17 they're already existing outside of this. Thank you.

18 COMMITTEE COUNSEL: Thank you, Austin.

19 Finally, we have Richard Robbins. Richard?

20 SERGEANT AT ARMS: Your time will begin.

21 RICHARD ROBBINS: I thank you very much.

22 My name is Richard Robbins. I live on the Upper West  
23 Side and I am testifying my personal [inaudible] and  
24 not as a CB7 board member. As someone who cares  
25 about transportation safety in New York City I've

3 been to countless transportation meetings. Without  
4 fail, at these meetings people call for greater  
5 enforcement of bikes and e-bikes. While I ride a  
6 bike for transportation, I wanted to better  
7 understand delivery riders' experience and signed up  
8 for Door Dash. Last month I tried working, followed  
9 every traffic law, stopping at every red light. In  
10 one hour I got no orders, making no money. Then this  
11 past Sunday in 90-degree heat, Door Dash sent me an  
12 alert to note how busy we were, so I tried again. In  
13 90 minutes while following every law I made three  
14 deliveries and earned \$22.50, exactly minimum wage,  
15 only because they were really busy. Incidentally, my  
16 last delivery was picking up dinner that my wife  
17 ordered at [inaudible] for \$47, three hours of work.  
18 In doing this I saw a number of troubling issues.  
19 New York City already has laws that businesses must  
20 provide delivery cyclists with unique three-digit ID  
21 tags, reflective apparel, the business name, and the  
22 bicyclist's three-digit ID number, and a helmet. But  
23 the third-party delivery services evade these laws,  
24 as well as minimum wage law, liability laws, OSHA  
25 bathroom requirements, and requirements to provide  
equipment by making delivery cyclists independent

2 contractors. In fact, Door Dash did not even inform  
3 me of the New York City laws when I signed up for  
4 their service. We need to fix this. Further, Door  
5 Dash didn't, ah, the Door Dash system didn't provide  
6 apartment numbers and the messaging systems customers  
7 didn't work. They told me to leave food outside and  
8 take a picture. After the first customer yelled at  
9 me, for the second delivery I rang every one of the  
10 15 buzzers in the building to alert the person that  
11 [inaudible] was downstairs. I couldn't believe I was  
12 doing it, and now I see why delivery riders make  
13 [inaudible]. Upton Sinclair wrote, "It is difficult  
14 for a man to understand something the salary-  
15 dependent is not understanding it." If we want to  
16 make our streets safe for all the pedestrians who are  
17 terrified of bikes, not to mention for our delivery  
18 cyclists, we need to address the economic issue.  
19 Without a fair wage we can't expect delivery workers  
20 to follow laws. We also need to make the third-party  
21 delivery, ah, companies accountable, ideally by  
22 making...

23 SERGEANT AT ARMS: Your time has expired.

24

25

2 RICHARD ROBBINS: ...[inaudible] employees  
3 and not independent contractors. Thank you very  
4 much.

5 COMMITTEE COUNSEL: Thank you. If we had  
6 inadvertently missed anyone who has registered to  
7 testify today and has yet to be called, please use  
8 the Zoom raise hand function and you will be called  
9 on in that your hand was raised. Seeing no hands  
10 raised, I will now turn it over to Chair Ayala to  
11 offer closing remarks. Chair?

12 CHAIRPERSON AYALA: Thank you. Um, I  
13 just really want to thank all of you for coming  
14 today, for staying, um, for exercising patience. I  
15 know it's been a long hearing, but it's an important  
16 hearing, um, and I think that we've all learned a lot  
17 today about what it takes to be a deliverista in New  
18 York City and all of the ways that we can make this  
19 better. Um, it has been my pleasure to, ah, chair  
20 this hearing today and I look forward to, ah, passing  
21 this, ah, this set of, ah, bills, um, relatively  
22 soon. So thank you all, and with that this hearing  
23 is adjourned.

24

25

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 July 8, 2021