

**Testimony of Deputy General Counsel Michael Tiger
New York City Department of Consumer and Worker Protection**

**Before the Committee on
Consumer Affairs and Business Licensing**

**Hearing on
Introductions 499, 508, 974, 2318 and 2397**

September 15, 2021

Introduction

Good afternoon Chair Ayala and members of the Committee on Consumer Affairs and Business Licensing. I am Michael Tiger, Deputy General Counsel for the Department of Consumer and Worker Protection, or DCWP. I am joined today by Benjamin Holt, Deputy Commissioner for DCWP's Office of Labor Policy and Standards, and Carlos Ortiz, Director of Legislative Affairs. Thank you for the opportunity to testify on the suite of legislation before the Committee this afternoon.

DCWP's mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. We enforce key consumer protection and workplace laws that serve countless New Yorkers throughout the City, as well as focus on initiatives that support New Yorkers and communities with low incomes in building wealth and improving their financial health.

As you may know, last week, the Mayor appointed Peter Hatch as the new Commissioner to lead DCWP's work. Commissioner Hatch is no stranger to public service on behalf of New Yorkers, having held critical roles throughout the Mayor's tenure in office. Most recently, he served as the City's COVID-19 Public-Private Partnership Czar, securing meals and millions in financial assistance to New Yorkers in need. Chair Ayala, I know that you and Commissioner Hatch have spoken, and he is eager to work with you and your colleagues on our mutual goals to improve the lives of working families in New York City.

Legislation

Turning toward the legislation at hand today, these bills relate to subjects that span a wide range of the agency's work, from consumer protection and licensing, to protecting workers from exploitative business practices. This is all the more vital as our City begins its recovery from the effects of the pandemic, and we work to ensure that that recovery is equitably felt and shared by all New Yorkers.

Introduction 499 – Allowing Corporations and Other Entities to Obtain Licenses to operate Newsstands

Introduction 499 would allow corporations, partnerships, and other business entities to apply for a newsstand license. Currently, the City's Administrative Code only allows an individual, whose principal source of income will be derived from the newsstand, to apply for a license to operate a newsstand.

In New York City, there are more than 320 active licensees operating newsstands, primarily located in Manhattan. When DCWP receives a newsstand license application, we forward the application to the Department of Transportation (DOT), which conducts a site review for the proposed newsstand, and the Public Design Commission (PDC) or the Landmarks' Preservation Commission (LPC) depending on the circumstances of the newsstand's location.

Once DOT and either PDC or LPC approve the site for the newsstand, and the applicant satisfies all other license requirements, such as paying the license fee, DCWP does not have discretion to deny a license application. Following these approvals, JCDecaux, New York City's street furniture franchisee who fabricates, installs, and owns the newsstands in which licensees operate, will construct the newsstand, for which the licensee is required to pay a portion of those costs.

We would like to better understand the intent of Council's bill, but note that it would allow corporate brick-and-mortar stores to obtain a license for a nearby newsstand and then use that newsstand as a sidewalk extension of their stores. Also, if this bill were to be enacted, we would like to discuss with Council whether there should be additional requirements for licensees, now that more sophisticated business entities would be able to obtain licenses. As an example, it may make sense for Council to then require newsstands to obtain insurance, as the City typically requires for entities given the right to operate in the public space. We look forward to working closely with Council on this bill during the legislative process.

Introduction 2318 – Licensing Labor Service Providers

Introduction 2318 contemplates licensing "labor service providers" in New York City. At our oversight hearing this past April, regarding employment agencies and "body shops", we heard powerful testimony from New Yorkers who have had their basic labor protections violated by unscrupulous "labor brokers". As we testified to, workers should never have to suffer through discrimination, harassment or other violations of their rights and protections. DCWP is committed to enforcing the worker protection laws we are charged with, and to collaborating with sister agencies and stakeholders with the authority to enforce other vital worker protections. We support the intent of this legislation to protect vulnerable workers, but would like to work with Council to ensure the legislation has its intended impact.

First, DCWP would like to work with Council to better understand the universe of potential licensees this legislation implicates, where these businesses are located and how they operate in the City. Second, it is our understanding that many of these "labor service providers" may already be considered employers, meaning that they already have existing obligations to provide a variety of notices and postings of rights relating to minimum wage, overtime, health and safety, protections from discrimination and other New York State and federal protections. Therefore, we would like to ensure that there is a clearly defined universe of licensees and that any protections we establish for these workers are not duplicative of state or federal law, and will have long-term

benefits. These concerns, if not addressed in the legislation, would make licensing and enforcement difficult for our agency. Additionally, the Law Department is still reviewing the language of the legislation.

Introduction 2397 – Severance Pay for Hotel Employees

Introduction 2397 would entitle hotel employees to severance pay during major closures of a hotel. DCWP believes that job stability, both with respect to income and scheduling, is key to improving the economic lives of working New Yorkers. Therefore, in furthering those principles, the Administration supports the intent of this legislation.

Introduction 508 and Introduction 974 – Non-compete Requirements and Disclosures in Employment Advertisements

Lastly, Introduction 508 would prohibit employers from requiring low-wage workers to enter into non-compete agreements and would require disclosure of a non-compete requirement at the beginning of the hiring process for all other employees. Introduction 974 would require employment advertisements to disclose if an employee's contract will include a mandatory arbitration or non-disparagement clause.

DCWP supports the goals of these bills. We believe that workers with limited incomes, and workers who have performed vital roles for their employer, should not be restricted in their employment opportunities because of non-compete agreements. Similarly, mandatory arbitration clauses requiring workers to waive their rights to be in court and non-disparagement clauses limiting what workers can say in any dispute with their employer are typically one-sided agreements imposed without consideration or meaningful disclosure to the workers they restrict. These requirements strip workers of legal rights to enforce their rights, silence workers' voices and sequester complaints and violations away from the public eye. We look forward to engaging with Council in the legislative process, and the Law Department will also continue to review the bills' text.

Conclusion

Today's agenda speaks to the many ways DCWP currently works to help New Yorkers, particularly during these difficult times as we recover from the impact of the pandemic. It highlights the importance of having protections for our city's consumers and workers that are commonsense and reflective of today's evolving marketplace, such as recent legislation passed by the Council to modernize the City's Consumer Protection Law (CPL).

As always, we value the Council as our partner in ensuring that consumer and workers' rights continue to remain a priority for the City. And, under the leadership of Commissioner Hatch and Chair Ayala, we hope that our mission to protect and enhance the daily economic lives of New Yorkers helps create a recovery that works for us all in New York City.

Thank you again for the opportunity to testify and I look forward to discussing any questions you may have.