

**Testimony of Steven Ettannani  
New York City Department of Consumer Affairs**

**Before the  
New York City Council Committee on Civil Service and Labor  
jointly with  
Committee on Transportation**

**Hearing on  
Introductions 946-A-2018**

**December 16, 2019**

**Introduction**

Good morning Chair Miller, Chair Rodriguez and members of the Committees. My name is Steven Ettannani and I am the Executive Director for External Affairs at the New York City Department of Consumer and Worker Protection (DCWP). I would like to thank the Committees for the opportunity to testify today on behalf of DCWP Commissioner Lorelei Salas regarding Introduction 946A, related to prohibiting on-call scheduling for utility safety workers and providing these workers advance notice of work schedules.

DCWP's mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. As part of this mission, DCWP houses the Office of Labor Policy and Standards (OLPS), New York City's central resource for workers. DCWP's OLPS protects and promotes labor standards and policies that create fair workplaces to ensure all workers can realize their rights and enforces key workplace laws and rules like the Paid Safe and Sick Leave, Fair Workweek, and Freelance Isn't Free laws.

In 2016, Mayor de Blasio announced a plan to bring a Fair Workweek to the fast food and retail industries in this city. Extensive research by advocates and experts established that unpredictable, unreliable, and inflexible schedules in the fast food and retail industries lead to a host of negative impacts for both workers and businesses in those industries.<sup>1</sup> Unpredictable schedules make it hard to budget, go to school part time, and arrange for child and elder care. The Community Service Society, for example, found that 40% of low income restaurant workers experienced significant fluctuation in their hours week to week, leading to serious hardships like falling behind on rent or mortgage payment, being unable to afford subway or bus fare, skipping meals because of a lack of money to buy food, and struggling to pay for prescription medication or utility bills.<sup>2</sup>

The passage of the Fair Workweek Laws the following year made New York City the largest city in the country to end abusive scheduling practices in the fast food and retail industries and make

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<sup>1</sup> See, e.g., Tacking Unstable and Unpredictable Work Schedules, Center for Law and Social Policy (2014); Amy Traub, Retail's Choice, Demos (2014); The Schedules That Work Act: Giving Workers the Tools They Need to Succeed, National Women's Law Center (2015).

<sup>2</sup> Harold Stolper, Community Service Society, Unpredictable: How Unpredictable Schedules Keep Low-Income New Yorkers from Getting Ahead (2016).

predictable schedules a right, not a privilege, for the first time. Since the Fair Workweek Laws' effective date, DCWP has opened more than 100 investigations into alleged noncompliance and has resolved several through settlement agreements with the employers. DCWP's enforcement activities focus on ensuring that workers are made whole for violations and that employers have a proactive plan for coming into compliance, part of a larger effort to promote a culture of compliance among businesses that both protects workers and minimizes regulatory burdens.

DCWP has been encouraged by the stories we have heard about the positive impact it has had on on workers' lives. We have heard from workers who are now receiving premium pay for schedule changes and working "clopenings," a term for shifts that begin on different days and are less than eleven hours apart. At least one employer stopped scheduling workers for clopenings altogether. One employee described the advance notice of schedules required by Fair Workweek as "life-changing," because it allows the worker to keep commitments outside of work. In at least two cases, DCWP reached positive resolutions of investigations with employers that provide for agency employees to train the business' managers and employees on rights and compliance. We are glad to see the positive impact that Fair Workweek is having on New Yorkers in the fast food and retail sectors and we look forward to being able to share even more stories of success with you in the future.

### **Introduction 946-A**

I will now turn to one of the bills before the Committees today. Introduction 946A would ban the practice of on-call scheduling for utility safety workers, prohibit employers from canceling or adding work shifts on short notice, and require employers to provide advance notice of work schedules. The statutory scheme of Introduction 946A appears quite similar to that adopted in the retail industry context. DCWP would be responsible for enforcing the provisions of this bill.

DCWP appreciates and shares the Council's desire to explore the practice and impact of unpredictable scheduling in industries other than fast food and retail. At today's hearing, we look forward to learning more about the size, composition, and organization of the utility locating industry in New York City and the prevailing scheduling and on-call practices that may be used by employers in this industry. The Fair Workweek Laws were built on a deep, extensive, and research-backed understanding of both the fast food and retail industries and associated scheduling practices. Consequently, the Fair Workweek proposal was a targeted legislative response that was tailored to the needs and experiences of each industry's respective workers. The different needs and experiences resulted in different legislative solutions and statutory schemes tailored to the specific industry. At this time, DCWP does not have a comparable level of understanding of the utility locating industry, its workers, its labor organization, and its scheduling practices to assess the problem of unpredictable schedules in the utility locating industry and whether the legislative solution adopted in the retail industry context would alleviate, or most effectively alleviate, the problem in a seemingly unrelated industry.

DCWP looks forward to hearing from utility locating industry workers, labor representatives, advocates, and employers. The Law Department is currently reviewing Introduction 946A and considering how it might interact with existing laws and regulations that affect utility locators.

We, at DCWP, are interested in learning more about the experiences of workers and companies, particularly those workers who perform utility locates in-house for public utilities or at smaller firms that respond to requests by private homeowners or small businesses. This type of input will help DCWP, and the Council, form a more complete picture of the industry as we move through the legislative process.

**Conclusion**

DCWP commends the Council for continuing to explore the negative impacts that unpredictable scheduling practices can have on New Yorkers. Thank you for the opportunity to testify and I will now be happy to answer your questions.