

**Testimony of New York City Department of Consumer Affairs  
Before the  
New York City Council Committees on Consumer Affairs and Transportation  
  
Hearing on  
Introductions 529-A, 713-A & 950 Regarding Sightseeing Buses**

September 26, 2016

Good morning Chairman Espinal, Chairman Rodriguez, and members of the Committees on Consumer Affairs and Transportation. I am Mary Cooley, Assistant Commissioner for Legislative Affairs, and I am joined by my colleagues Alba Pico, First Deputy Commissioner, Tamala Boyd, General Counsel, Amit Bagga, Deputy Commissioner for External Affairs, and Casey Adams, Deputy Director for City Legislative Affairs. Thank you for inviting DCA to testify about Introductions 529-A (“Intro. 529-A”), 713-A (“Intro. 713-A”) and 950 (“Intro. 950”), which would both introduce new regulations and alter existing regulations with respect to the sightseeing bus industry in New York City.

DCA’s new mission, which we just unveiled a few weeks ago, is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. DCA’s work has expanded to include an increased focus on equitable enforcement coupled with business education, and—with paid sick leave, commuter benefits, and the City’s new Office of Labor Policy and Standards—ways to protect workers in New York City. The agency licenses approximately 81,000 businesses across 55 different industries, mediates complaints between consumers and businesses, conducts patrol inspections and legal investigations, and educates businesses about laws and rules. In addition to its licensing and consumer protection, DCA operates the Office of Financial Empowerment, the first local government initiative in the nation aimed expressly at educating, empowering and protecting those with low incomes.

We appreciate the opportunity to be here today with our partners from the New York City Department of Transportation (“DOT”) to discuss the proposed changes to the regulation of the sightseeing bus industry. As our colleagues have testified, the sightseeing bus industry plays a vital role in supporting our city’s booming tourist economy and we share a collective goal in ensuring that industry can thrive. We believe that some of the proposals being discussed today will help bring sensible regulation to this industry.

Intro. 529-A

First, we will discuss Intro. 529-A, a bill related to safety standards for sightseeing bus drivers. Given that these large buses with many passengers are challenging to maneuver through New York City streets, DCA supports the Council’s proposal to ensure that sightseeing bus companies employ safe and qualified drivers.

DCA commends the Council for taking the step to, for the first time ever, introduce standards that sightseeing buses must comply with in the process of hiring drivers into our Administrative

Code. Specifically, Intro. 529-A would mandate that sightseeing bus drivers possess a valid commercial driver's license, a provision that would require drivers to comply with a host of attendant federal<sup>1</sup> and state<sup>2</sup> regulations meant to ensure drivers meet a high standard for safety. Some companies in the industry might already require that their drivers hold these types of licenses, but, as safety is paramount, it is critical that the standard become an explicit requirement for sightseeing bus drivers. As our preliminary research into certain standards proposed in the bill indicates that there might be some discrepancies between these standards and existing state and federal standards, we would very much appreciate the opportunity to work with the Council, the Law Department, and all relevant agencies to develop standards that are consistent with federal and state standards and that the Council and the administration feel are sufficient to ensure the safety of sightseeing bus passengers.

Because this provision better enables DCA to meet its regulatory obligations, we also support the requirement that licensees promptly notify the agency about any traffic incidents involving their buses. So as to further ensure that the agency is equipped to fulfill these obligations, we respectfully suggest the companies also be required to provide information about the drivers involved in the incident so that we can crosscheck this information with the roster of employees the company has provided. Additionally, even though it would not be required by the bill, it would be very easy for bus companies to comply by registering for the License Event Notification Service, commonly known as LENS,<sup>3</sup> administered by the New York State Department of Motor Vehicles, in order to receive notification as soon as one of their drivers is involved in an incident while operating a sightseeing bus or their own private motor vehicle. This will enable sightseeing companies to better monitor the conduct of all their drivers to ensure the safety of their customers.

In order to ensure that DCA can properly enforce the provisions of the bill and conduct any necessary investigations, we would like to respectfully recommend three other minor additions. First, sightseeing bus companies should certify that all employees on their roster of drivers meet the employment criteria and comply with Federal Motor Carrier Safety Administration regulations for commercial driver's licenses. Second, DCA would like to require that sightseeing bus companies maintain records sufficient to demonstrate compliance with the safety requirements for drivers and that they be required to produce such documents upon DCA's request. Third, DCA would prefer to be notified of any crash or traffic infraction immediately, rather than within five days, in order to request documents from the company to verify compliance with the provisions of their license.

We will now turn to Introductions 713-A and 950, related to the number and operation of buses in our streets.

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<sup>1</sup> <https://www.fmcsa.dot.gov/regulations/title49/b/5/3>

<sup>2</sup> <https://dmv.ny.gov/brochure/cdl10sec01.pdf>

<sup>3</sup> <https://dmv.ny.gov/dmv-records/license-event-notification-service-lens-accounts>

## Intros. 713-A and 950

Both Intro. 713-A and Intro. 950 seek to bring a much-needed balance to the way sightseeing buses interact with other users of New York City streets and sidewalks. In light of some operational issues that would be caused if Intros 713-A and 950 were enacted together, DCA would like to further discuss a licensing system that would address concerns about safety and congestion without hindering the growth of small companies.

Before we discuss the data on sightseeing companies and buses, we should note that our historic information on sightseeing bus license plates is not comprehensive because, for many years, our database was designed to override any prior bus roster information. We have since made changes to our system to begin capturing the overwritten plate information, and we have gathered as much data from our archives as possible for the hearing today. We think that the data we have assembled, which include historical snapshots of the industry over the past decades, will provide some insight into how the sightseeing bus industry has evolved over the years.

DCA currently licenses eight sightseeing bus companies, which operate a total of 237 buses. The number of licensed companies and the number of buses has fluctuated over time- from 19 companies and 125 buses in 1991; to 33 companies and 349 buses in 1997; to 11 companies and 167 buses in 2008. From the data we have available between 1991 and 2016, the average number of licensed companies is 21 and the average number of buses is 243.

Intro. 713-A, which would require that sightseeing bus companies seek authorization for on-street stops from DOT before applying for their DCA license, would result in an organic ceiling on the number of buses operating in particular locations. As we all know, and as our colleagues from DOT have testified, there are many instances in which licensed sightseeing bus companies stop at certain locations where they are not authorized to stop. Based on complaints and anecdotal information we have received from residents of different communities, community boards, and elected officials, this has created a variety of issues with respect to congestion as well as vehicular and pedestrian safety.

One key reason for the challenges described today is that sightseeing companies are licensed to operate by DCA, and therefore may begin offering tours, before DOT has had a chance to determine the appropriateness of their operation and assign them on-street stops. Intro. 713-A will join and streamline what are currently independent review processes and ensure that only companies whose operations and stop locations are approved by DOT will be eligible to receive a DCA license.

DCA would like to note that permanently limiting the number of plates, as proposed in Intro. 950, could have the consequence of granting a particular company or handful of companies an unfair advantage over new entrants into the market. New and smaller companies would not have the flexibility to grow and the dominant positions of larger companies could be locked in. Indeed, if the number of buses were fixed permanently today, the largest company, Gray Line, would be able to operate 93 buses, while the smallest company, Experience the Ride, would only be able to operate four buses. While DCA certainly supports of the crafting of thoughtful policy to manage the number of buses in our streets, we would like to further discuss the mechanics of

imposing a limit on the number of buses in a way that is fair for small and large operators, particularly since ensuring a thriving marketplace is central to our agency's mission. Further consultation with the Law Department regarding the process for distributing plates fairly and legally under such a cap would also be necessary.

Thank you for the opportunity to testify today. We look forward to continuing to work with the Council on the proposed legislation and are happy to answer any questions.