



**NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE**
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Commissioner

Testimony

of

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New York City Department of Health and Mental Hygiene

before the

New York City Council Committee on Health

on

Food Service Establishment Inspections in New York City

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Good morning Chair Schulman and members of the Committee. My name is Corinne Schiff, and I am the Deputy Commissioner for Environmental Health at the New York City Health Department. I am joined today by Kim Kessler, Assistant Commissioner for the Bureau of Chronic Disease Prevention, by Dr. Achala Talati, Director of Tobacco Policy and Programs, and by Vasudha Reddy, Deputy Director of the Bureau of Communicable Diseases. On behalf of Commissioner Martin, thank you for the opportunity to testify today about our programs to promote food safety, address foodborne illness outbreaks, control tobacco, advance nutrition efforts in restaurants, and regulate operation of the City's cooling towers.

The Health Department is charged with protecting and promoting the health of all New Yorkers, including to promote the highest food safety standards in New York City restaurants, respond to foodborne illness outbreaks, reduce tobacco-related disease and death, encourage consumption of healthy foods, and promote compliance with the local law governing cooling towers.

To protect diners, the Department issues permits, conducts outreach and education for restaurant owners, trains restaurant supervisors in food protection, conducts unannounced inspections, and issues inspection grades so New Yorkers and the millions who visit our city can make informed decisions about where to eat out. About 90 percent of restaurants are currently posting an 'A' grade.

The Department investigates complaints of food poisoning and conducts foodborne illness outbreak investigations, often working with public health experts across the country as in the recent nationwide cyclospora outbreak.

The Health Department also implements a wide variety of measures to protect New Yorkers from the harms of smoking, and New York City has long been a leader in tobacco control. The City's landmark Smoke Free Air Act (SFAA) dramatically limited indoor smoking, making New York City a model for jurisdictions around the world, protecting New Yorkers from secondhand smoke and normalizing a smoke-free culture. The SFAA, along with other strategies, has enabled the City to reduce the smoking rate by over 50 percent since 2002, but smoking remains a leading cause of death, and continues to be a public health priority.

The Council and the Department have continuously strengthened the City's tobacco retail and second-hand smoke policies. Those efforts have paid off in expanded life expectancy and a reduction in tobacco-related diseases and deaths. Most recently, Chair Schulman and the City Council codified HealthyNYC, the Department's plan for improving life expectancy and creating a healthier city for all. Preventing tobacco use and reducing smoking among New Yorkers is critical to reaching the chronic disease goals set under HealthyNYC and increasing life expectancy. The Health Department also released a multiagency strategy that addresses the root causes of chronic diseases, which are a leading cause of death in NYC, taking an especially high toll on Black New Yorkers and New Yorkers in communities experiencing disinvestment.

Finally, as discussed at a hearing last month, the Department promotes compliance with the City's nation-leading requirements dictating the operation of cooling towers. We issue detailed regulations to implement the local law protections; conduct outreach, education and training; and inspect cooling tower systems to monitor compliance, issuing summonses subject to civil

penalties when owners fail to comply. We also respond to community clusters of Legionnaires' disease, rapidly testing cooling towers and requiring owners to fully clean and disinfect to cut off the *Legionella* bacteria likely to be causing the cluster.

Turning to the legislation under consideration today, Introduction 908 would require the Department to maintain a database of food protection certificate-holders and check it to confirm there is an FPC-holder present at the restaurant before taking enforcement action.

Having a supervisor trained in food protection on site whenever the restaurant is operating is perhaps our most important food safety requirement, and critical to protecting diners. Every year, the Department trains about 35,000 restaurant supervisors in food protection at our Health Academy, awarding a wallet-sized FPC certification card with the supervisor's photograph to those who complete the course and pass the exam.

Checking that an FPC-holder is at the restaurant by reviewing the supervisor's FPC card is a key part of every food safety inspection. We understand that on occasion, the restaurant's trained supervisor may not have their FPC card with them, leaving them unable to show that they have the required training. When that happens, the inspector attempts to contact the Health Academy for a database check to confirm the person is the FPC-holder. But that process is imperfect, including because the records are deleted after 10 years, so older certifications are unavailable.

The Department supports the intent of the legislation but is concerned that as drafted the bill would require the Department to maintain decades of electronic records, and poses other operational hurdles. We appreciate the discussion we have already had with the sponsor and look forward to discussing potential approaches with Council.

Next, Introduction 1124 would require the FPC-holder to renew their certification every five years. We support the intent to enhance food safety protections and would like to work with the Council on the best ways to meet this objective.

Introduction 189 would require the Department to include a photograph or video showing violations identified at the restaurant inspection. Restaurant inspectors review their observations with the restaurant operator throughout the inspection, including providing information about avoiding or correcting conditions that do not meet food safety requirements. They also document those findings in an inspection report and any summons that may be issued and provide those to the restaurant operator at the end of the inspection. Inspectors are New Yorkers' eyes in the kitchen. Their findings are summarized into the letter grade posted in the restaurant window, and diners who want inspection details can check our inspection website ABCEats. Results are also available on OpenData. The Department is concerned that collecting photographs and video of the inspection will require a longer inspection—especially for a restaurant failing to meet requirements and requiring photographic or video evidence of pest conditions, poor hygiene practices, food not kept at safe temperatures or more—and require significant data resources to maintain millions of photographs and hours of video to transmit to OATH, post on ABCEats, and store to meet record retention requirements. We look forward to discussing the bill with Council.

Introduction 947 would allow current tobacco bars to move and allow tobacco bars that had already closed to reopen, including in a new location.

The City's landmark Smoke Free Air Act passed by City Council in 2001 was enacted to end indoor tobacco smoking, prohibit the opening of new tobacco and cigar bars, and only allow existing bars to continue operating in their then-existing locations under the permits they already held, to enable the eventual attrition of these establishments. The Smoke Free Air Act ended the issuance of new permits for tobacco bars by the Health Department. Allowing tobacco bars to relocate and resume operations after previously closing undermines the premise of the law. This rollback of our longstanding, joint commitment to reducing secondhand smoke exposure would put the decades-long progress the Council and Department have made to reduce tobacco-related health harms at risk. Secondhand smoke exposure is not limited to the premises of the establishment; residential units and businesses nearby will also be affected. This is especially concerning because the decline in smoking in the City has now stalled, and we have seen widespread commentary in the media about a resurgence in the popularity of smoking. We welcome the opportunity to discuss this further.

Next, Introduction 405 would strengthen nutrition standards for children's menus in New York City restaurants. The Department supports steps that shift the food environment to make default choices healthier and appreciates the prior conversations with the sponsor regarding this bill. The Department looks forward to discussing how to further strengthen this bill in support of children's health.

Finally, Introduction 1094 would require owners of cooling towers to report findings of *Legionella* bacteria at low levels to the Department and to take corrective action. The Department already mandates owners report results of *Legionella* bacteria sampling to the Department when those results show higher levels of bacteria, to maintain records of all sampling results for Department review and sets detailed requirements for corrective action starting at the same low level set out in the bill. We look forward to discussing this proposed reporting requirement with you.

Thank you for the opportunity to testify. We are happy to take your questions.