

Testimony on Intro 621

Vending Legislation

Hearing on the City Council's Committee on Consumer Affairs

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I'd like to take this opportunity to thank Chairman Reed and his colleagues on the Consumer Affairs Committee for this chance to testify on Intro 621, a measure that would, we believe, lead to tremendous proliferation of vendors, both legal and illegal, and would in turn further erode the viability of hundreds of neighborhood shopping areas all around New York City.

The Neighborhood Retail Alliance is an umbrella trade group that has represented the interests of small business for over two decades in this city. Our main goal has always been to underscore the importance of entrepreneurs and neighborhood shopping to the overall economic well-being of this city. In the pursuit of this goal the Alliance has successfully fought the proliferation of mega-stores as well as the tendency of city government to forget the importance of small business in its zeal to enhance city revenues through punitive over-regulation.

Prior to outlining some specific objections to Intro 621, let me point out that the last four years have not been good to neighborhood retailers in this city. The increased commercial real estate tax has raised retail rents by thousands of dollars per store. Garbage rates, regulated by the city, have been allowed to double and triple and the cigarette tax, what we have labeled the bodega tax, was legislated from 8 cents a pack to \$1.50, an 1800%

increase that was the largest tax increase in the city's history. The result: an unprecedented \$250 million income transfer from bodegas, green grocers and newsstands, to the city and state treasuries.

In addition to the aforementioned, city regulators have gone on an enforcement rampage. Fines have been doubled and tripled while due process has been reduced to an oxymoron when it comes to institutions such as the Environmental Control Board and the Department of Consumer Affairs. Neighborhood Retailers, long a cash cow in the eyes of city government, have been transformed into a piñata. The result of all these onslaughts: store bankruptcies and foreclosures are at record highs.

Which brings us to Intro 621: There are in fact so many defects in this proposal that the full enumeration of its errors might take us well into the night. The largest defect, however, is conceptual: Why would the City Council even consider the expansion of vending, an activity that, in spite of its many hardworking practitioners, creates an unfair competitive environment for beleaguered neighborhood store owners.

Given this fundamental flaw most of us in the small business community are reluctant to even suggest methods of amendment. I will, however, highlight some of the bill's intrinsic problems while letting some

of my small business colleagues, picking up where they left off at the last hearing, detail them even further.

The largest flaw in Intro 621 is its removal of the current zoning restrictions that limit vendor activity from certain areas. Areas that were free from vendors will now be fair game. In addition, probably in recognition of the results of the removal of the current restrictions, the bill proposes a 30% increase in the number of vendor licenses. With these signals everyone should be aware that, along with the proliferation of legal vendors, will be a similar profusion of additional illegal vendors as well.

With the removal of these prohibitions on vending locations the only restrictions for vending are those related to street space. A 12 foot pedestrian path is supposed to, in principal, restrict vendors to certain areas but practically this has been difficult to enforce in the past and will continue to be so going forward.

In fact, we believe that the passage of Intro 621 would send a signal that the proliferation of vendors is city policy and, as a result, enforcement will be non-existent. Will the police remove vendors from Fifth Avenue in Sunset Park because, given the width of the sidewalks there, no vending could be deemed legal? In reality, even if the will did exist, given the

complexities in this law we might need an addition 30,000 cops just to enforce it.

One last point on enforcement: If we look at the vendor fine scale under this proposal what we see is outrageous. The penalties for vendor violations are dramatically lower than those applied to the legitimate store owners who are paying those higher real estate taxes to help keep municipal government solvent.

In addition because of state law, food vendors are basically unregulated and often are able to compete directly and unfairly with local food stores. On long stretches along Broadway on the Upper West Side vendors selling fruits and vegetables have, owing to the overhead and regulatory differentials, made it impossible for fruit store owners to stay in business. What kind of message does this send?

Given all of these problems, what should the City Council do? Here's our suggestion. The current flawed legislation needs to be held in abeyance and a task force of small businesses, BIDs and vendors should be set up to examine the current law and propose fair and workable changes. Too often, legislation directed at specific groups is formulated without their input. This should change.

The Neighborhood Retail Alliance recognizes the fact that, in many cases, vendors reflect the same values of hard work that are exemplified by neighborhood retailers all over the city. There are, however, significant differences in the level of investment and risk experienced by store owners. Vendors should never be persecuted but legislation that regulates them should never be at the expense of the 186,000 retailers who are the foundation of this city's economy.