

**Testimony of the New York City Department of Consumer Affairs  
Before the  
New York City Council Committee on Consumer Affairs**

**Hearing on  
Introduction 1149: In Relation to the Licensing of Ticket Sellers**

**April 12<sup>th</sup>, 2016**

**Introduction**

Good afternoon Chairperson Espinal, Council Member Garodnick, and members of the New York City Council Committee on Consumer Affairs. I am Alba Pico, Acting Commissioner of the Department of Consumer Affairs (“DCA”) and I am joined by my colleagues, Amit S. Bagga, Deputy Commissioner of External Affairs, Tamala Boyd, Deputy General Counsel, Nancy Schindler, Associate Commissioner of the Legal and Regulatory Compliance Division, Mary Cooley, Director of City Legislative Affairs, and Casey Adams, Deputy Director of City Legislative Affairs.

We greatly appreciate the opportunity to speak with you today about Intro. 1149, which would require DCA to license individuals who sell tickets to tours, modes of transportation, or places of entertainment in New York City’s public spaces. We would like to thank Chairperson Espinal for convening today’s hearing, Council Member Garodnick for his leadership on this important issue, and the members of the committee for coming to hear our testimony.

DCA is the largest municipal consumer protection agency in the country, and it is our mission to empower consumers and businesses alike to ensure a fair and vibrant marketplace. The agency licenses approximately 80,000 businesses across 55 different industries, mediates complaints between consumers and businesses, conducts patrol inspections and legal investigations, educates businesses about laws and rules, and also enforces New York City’s Earned Sick Time Act, commonly known as the “Paid Sick Leave” law. In addition to its licensing, consumer protection, and labor-related work, DCA operates the Office of Financial Empowerment (“OFE”) to connect low-income New Yorkers with valuable financial services and education.

**Ticket Sellers: The Landscape**

We can all agree that New York City’s tourism industry is a vital source of economic development, contributing an estimated \$60 billion annually to our City’s economy.<sup>1</sup> Tourist-oriented businesses, such as sightseeing bus companies, comedy clubs, and ferry operators, among others, rely on the ticket seller model to be able to meet tourist demand for different types

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<sup>1</sup> [http://www.crainsnewyork.com/article/20150104/HOSPITALITY\\_TOURISM/301049986/strong-dollar-could-stifle-tourism-boom](http://www.crainsnewyork.com/article/20150104/HOSPITALITY_TOURISM/301049986/strong-dollar-could-stifle-tourism-boom)

of attractions. With the continual increase in the number of tourists visiting New York City – a record 59.7 million are expected to visit this year – many of these businesses have had the opportunity to grow.<sup>2</sup> This is indeed a welcome development, and DCA is committed to ensuring that these businesses – and the ticket sellers they employ – can continue to thrive.

As these businesses have grown, so too has the number of ticket sellers. While this increase has ensured continued access to in-demand attractions, it has also presented certain challenges. There have been multiple reports of tourists being aggressively harassed or being the victims of deceptive practices, such as overpayment and false advertising.<sup>3</sup> There have also been reports of violence breaking out between rival ticket sellers.<sup>4</sup> Additionally, as any New Yorker walking down lower Broadway can attest, the number and concentration of ticket sellers have both increased, often impeding the flow of pedestrian traffic and causing congestion.

The presence of these types of consumer protection and public safety challenges underscores the need for regulation of ticket sellers. The creation of a regulatory scheme is essential to ensuring that consumers can be confident that they are adequately protected in their transactions with ticket sellers and that they have effective recourse should a transaction become problematic. Because each of these challenges is unique, we seek to work with the Council and all relevant stakeholders to craft a regulatory scheme that is both sufficiently broad and also carefully tailored to ensure that the challenges are appropriately and fairly addressed. The de Blasio administration has no intention of restricting the ability of ticket sellers to earn their livelihoods and we believe that a balanced regulatory approach will expand consumer protections without endangering the industry.

In recent weeks, DCA has conducted significant stakeholder engagement to better understand the ticket seller industry and also solicit feedback on different elements of this bill. As a result of this process, which has included discussions with the New York City Police Department (“NYPD”), the New York City Economic Development Corporation (“EDC”), the Department of Transportation (“DOT”), NYC & Company, sightseeing bus companies, ferry companies, labor groups, business improvement districts, and others, we hope to take today’s hearing as an opportunity to respectfully offer to the Council proposed changes that we believe could strengthen and clarify this bill. On behalf of Mayor de Blasio and his administration, we thank the Council for considering this important bill, and we seek to work closely with you to ensure its passage.

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<sup>2</sup> <http://www.nytimes.com/2016/03/09/nyregion/record-number-of-tourists-visited-new-york-city-in-2015-and-more-are-expected-this-year.html>

<sup>3</sup> <http://www.nytimes.com/2016/02/22/nyregion/ticket-sellers-promise-marquee-names-but-the-comics-rarely-show.html>

<sup>4</sup> <http://www.downtownexpress.com/2015/07/02/cops-crack-down-on-vendors-targeting-tourists/>  
<http://www.nydailynews.com/new-york/nyc-crime/fake-statue-liberty-ticket-seller-attacks-legit-rival-article-1.2523846>

[http://www.silive.com/opinion/index.ssf/2016/03/reining\\_in\\_aggressive\\_ferry\\_ha.html](http://www.silive.com/opinion/index.ssf/2016/03/reining_in_aggressive_ferry_ha.html)

We will now take this opportunity to provide a brief overview of what the legislation does, as well as discuss additions and edits to this legislation that we believe will enable us to establish and implement a balanced regulatory approach.

### **Intro. 1149: An Overview**

Intro. 1149 creates a one-year, renewable ticket seller license for individuals who vend tickets to tours, modes of transportation, or places of entertainment in New York City's public spaces. All individuals engaged in this activity would be required to have a license. The legislation gives DCA the power to revoke, suspend, or decline to renew ticket seller licenses in cases where licensees engage in fraud, misrepresentation, making false statements, or aggressive vending.

This legislation also sets out certain duties, requirements, and restrictions for licensed ticket sellers. Ticket sellers must conspicuously display their licenses and keep detailed records of their ticket sales subject to inspection. The bill also lays out a variety of restrictions in terms of where ticket sellers can vend, some of which we will provide comments on shortly. The bill also empowers the NYPD to move ticket sellers from a location in cases of exigent circumstances. Violations of the bill's licensing requirements or vending restrictions could result in civil or criminal penalties, as well as the assessment of administrative fines.

DCA would like to note that the bill neither establishes a numerical cap on the number of licenses available, nor does it set forth restrictions on the density and concentration of ticket sellers. While we agree that proliferation and concentration of ticket sellers, both of which are issues that have been raised by many stakeholders, are worthy of discussion, in order to ensure that we are collectively pursuing as balanced a regulatory approach as possible, the Administration believes that these issues need to be carefully studied and considered before they are addressed by legislation.

Consideration of these issues, as well as several others, would strengthen and clarify this bill, and I will now ask my colleague Amit Bagga to discuss these with you.

### **Intro. 1149: Additional Opportunities**

Based on our experience enforcing New York City's Consumer Protection and licensing laws, analysis with our sister agencies, and the results of engagement with a variety of stakeholders, we respectfully suggest that the Council consider amending the bill to ensure that it is comprehensive.

First, DCA believes that this legislation would benefit from the inclusion of a comprehensive study of the current ticket seller environment. Such a study would enrich the regulatory process with detailed analysis of certain industry and ticket seller practices, making the law more appropriately responsive to the concerns of all stakeholders. Including the authorization for such a study in this legislation would ensure that the Administration and the Council are equipped

with the knowledge and data necessary to measure the success of the regulatory scheme and make improvements and adjustments as needed.

In addition, DCA feels that Intro. 1149 should more clearly require those individuals that purchase tickets in bulk from businesses and then utilize the ticket seller model to sell tickets in public spaces to also obtain licenses. Based on feedback DCA has received from different businesses that utilize the ticket seller model, it is our understanding that these ticket “re-sellers” or “dealers” purchase tickets, sometimes from multiple venues, at a bulk discount and then distribute them to a network of ticket sellers for final sale to the consumer, allowing the dealers to retain the difference as a profit. DCA believes that individuals operating in this way should be subject to the similar licensing requirements as the ticket sellers they employ or with whom they contract. Ticket re-sellers are a key link in the ticket vending chain and should be accounted for in the regulatory scheme.

It is not, however, only the ticket re-sellers who need to be held accountable for ensuring that consumers are not harmed. Based on reports of deceptive advertising engaged in by ticket sellers, as well as the results of select undercover investigations DCA has conducted, those businesses on whose behalf tickets are sold must also be held to the highest standards of advertising and sales practices. Establishing a rebuttable presumption that the business whose information appears on the face of a ticket is liable for the behavior of the individual selling the ticket would allow the City to hold businesses, and not just individual ticket sellers, accountable for problematic behavior. This will ensure that those businesses – and we are not suggesting that this applies to most businesses – that are encouraging or directing their affiliated ticket sellers to engage in deceptive advertising and sales practices face consequences for doing so.

As we have stated, the Administration is committed to ensuring that Intro. 1149 adopts a balanced approach to regulation that will protect consumers and also allow for our city’s businesses to thrive. In order to achieve this, we propose three changes with respect to locational restrictions that will ensure that businesses utilizing the ticket seller model will not be unduly burdened.

First, we recommend the removal of the proposed prohibition on ticket sellers from vending in pedestrian plazas, which, thanks to the Council’s leadership, are in the process of being largely regulated by DOT. Additionally, we recommend amending the prohibition against selling in “bus stops” generally to clarify that ticket sellers will be able to vend tickets at certain non-MTA bus stops. Being able to sell tickets where consumers are boarding or alighting buses is critical to ensuring that the bus companies can operate efficiently and without significant adverse impact to their businesses. Third, for the purposes of clarity and consistency, we also suggest that ticket sellers could be restricted from vending in a prescribed area around the World Trade Center site; this would be the same area from which general and food vendors are currently prohibited from vending. Allowing for exceptions to this general prohibition would make enforcement on the

ground more difficult by requiring NYPD officers to enforce differing standards for tickets sellers and other vendors.

Additional minor adjustments would make Intro. 1149 easier to administer and enforce. For example, licensed ticket sellers could be required to wear an identifiable garment that features their DCA license number times while selling tickets. This would allow consumers and NYPD officers to easily identify ticket sellers who are duly licensed by DCA. We also recommend amending the proposed prohibition against the use of any “equipment” in connection with the vending of tickets. Many ticket sellers use handheld devices, tablets, or other equipment carried on their person while vending tickets, and we believe that the use of equipment that can be carried on one’s person should be permissible.

With respect to the license fee, the current version of Intro. 1149 establishes a fee of \$125 per license. Based on an analysis conducted by DCA and the Office of Management and Budget (“OMB”), we believe that this fee could be lowered significantly – to \$45 – making the license accessible to a larger universe of prospective licensees.

Lastly, the civil penalties laid out in this legislation could be brought in line with those in the general vendor law, reflecting the deep commitment to equity held by both the Council and the Administration.

### **Conclusion**

The de Blasio Administration and DCA are both deeply committed to ensuring that New York’s consumers, and the millions of tourists who come to visit our great city every year, are informed, educated, and protected, and that any new regulatory schemes considered by us and the Council are both balanced and effective.

We would like to thank Chairman Espinal, Council Member Garodnick, and the members of the Consumer Affairs Committee for highlighting the ticket seller issue, and we look forward to working with the Council to establish a reasonable regulatory framework that protects consumers, businesses, and ticket sellers alike.

Thank you for the opportunity to testify today. My colleagues and I are happy to answer any questions that you might have.