



Testimony of the New York City Pedicab Owners' Association

COMMITTEE ON CONSUMER AFFAIRS
JUNE 29, 2009

Presented by Chad A. Marlow, Esq.
President, The Public Advocacy Group LLC



(Page Intentionally Left Blank)

Chairman Comrie and members of the Consumer Affairs Committee, my name is Chad Marlow and I am the president of The Public Advocacy Group. It is my pleasure to once again be testifying before this committee on behalf of the New York City Pedicab Owners' Association.

Approximately four years ago, the NYCPOA approached the City Council and asked it to pass formal regulations to govern New York's pedicab industry. The NYCPOA was interested in working with the Council to ensure that our industry was comprised of only the safest pedicabs, best drivers and most reputable owners. In short, we wanted to create a standardized, high-quality pedicab experience that could be enjoyed by our rapidly-growing base of customers. It has certainly been a long journey between then and now, but if the bill presently before this committee becomes law, the NYCPOA will have achieved our common goal of insuring that only those pedicabs owners who are committed to the highest standards of quality and safety are allowed to participate in our industry and those who put profits ahead of safety will disappear from our streets forever. It is for that reason that the New York City Pedicab Owners' Association is pleased to offer our enthusiastic support for this bill's amendments to Local Law 19-2007, which I will also refer to as the "pedicab law."

I would be remiss if I did not begin my testimony by thanking three elected officials whose commitment to pedicab safety and a spirit of cooperation in working with the NYCPOA has brought this bill before us today.

First, I would like to thank City Council Speaker Christine Quinn as well as the dedicated members of her legislative staff. The Speaker has truly risen to the occasion in introducing this legislation. The NYCPOA has never been a big fan of placing a cap on the number of pedicabs in New York City; but at the same time, we have been strong proponents of only allowing the safest, most responsible pedicabs to operate here, which, in practical terms, is something of a cap. When the NYCPOA met with the Speaker's office early this month, they proposed a new type of cap that was based solely on safety restrictions and time limitations. We could not have been more pleased. It was an elegant solution that would allow everyone in the pedicab industry

– be they current owners, drivers, mechanics or none-of-the-above – to own and operate pedicabs if they fully complied with the strict safety requirements set forth in the original pedicab law. In short, the new cap is all about safety. The NYCPOA is grateful the Speaker sought our immediate input on this bill and, in so doing, laid the foundation for a genuine working partnership with our association and the pedicab industry. We hope it is a partnership that continues to grow and strengthen for a very long time.

Second, I want to thank Mayor Michael Bloomberg and the members of his staff, both in New York and Albany, who have worked with the NYCPOA on this issue. The Mayor has been a strong and consistent supporter of New York’s pedicab industry, which he recently referred to as “An integral part of the City’s streetscape for tourists and locals alike.” Another member of Mayor Bloomberg’s team, at NYC & Company, echoed the mayor’s comments a few days ago, noting that “pedicabs in New York City have become an iconic part of the City’s vibrant and diverse streetscape.” We wholeheartedly agree. We would like to thank the Mayor for standing up for the pedicab industry both when doing so has been easy and when it has been hard. We especially want to thank him for his role in working with the City Council to craft the legislation before this committee today.

Finally, I want to thank Councilman Alan Gerson. It was Councilman Gerson who first pursued the idea of safely and equitably regulating New York’s pedicab industry. When this bill becomes law, as I hope it soon will, much credit should go to the founding father of pedicab regulation, Councilman Gerson, and I wanted to recognize his contribution here today. He very much deserves it.

While no piece of legislation is ever perfect, this bill comes fairly close. That being said, there are two minor changes we would like to see implemented to improve it. The first corrects a drafting error that produces an internal conflict within the original pedicab law, and the second would make the streets even safer for pedicabs and those we share the roads with.

The first change, which corrects the drafting error, is found in the last sentence of §20-251(a). That section, after discussing the timing of applying for pedicab registration plates, reads “During such sixty day period, persons submitting applications for registration plates shall **also** submit applications for pedicab business licenses pursuant to section 20-252.” The use of the

word “also” creates two problems here. First, it would enable someone to register for pedicab registration plates without demonstrating that their pedicabs are insured, as required by law. Second, because it allows someone to apply for pedicab registration plates first and a pedicab business license second, it creates a conflict with §20-250 of Local Law 19-2007, which requires an applicant for a pedicab business license to list on his business license application the pedicabs for which he will **later** be seeking registration. In order to avoid this conflict, the word “also” should be replaced with the phrase “either initially or concurrently” so the last sentence of §20-251(a) reads “During such sixty day period, persons submitting applications for registration plates shall **either initially or concurrently** submit applications for pedicab business licenses pursuant to section 20-252.” This small change would prevent conflicting language from appearing in the pedicab law without making any real substantive change to it.

The second change deals with a portion of Local Law 19-2007 that is otherwise not addressed in the present bill. I am specifically referring to the portion of §20-259(b)(3) that prohibits pedicabs from operating in bicycle lanes. In my experience, which may or may not be confirmed by other witnesses here today, no one – not pedicab operators, cyclists, pedestrians, automobile drivers, truck drivers, or taxi and limousine drivers – object to allowing pedicabs to ride in bicycle lanes where such lanes are available. While it is perfectly safe to operate a pedicab on the roads of our city, it is unquestionably even safer to operate a pedicab in a dedicated bicycle lane when doing so is possible. The only concern I have heard raised about eliminating the bicycle lane restriction is that some bicycle lanes may not be wide enough to accommodate a pedicab. While this may be true, banning pedicabs from *all* bicycle lanes is throwing the baby out with the bathwater. Instead, the NYCPOA proposes changing the language in §20-259(b)(3) to read that pedicab drivers shall not “operate a pedicab . . . in any bicycle lane **that is not wide enough to accommodate the full width of the pedicab.**” This additional language acknowledges the broad consensus that pedicabs should be allowed to operate in bicycle lanes and places the onus on pedicab drivers not to drive in narrow bicycle lanes or risk getting fined. This is a common sense compromise that advances safety and should be made a part of the final version of this legislation.

I would like to conclude with two final points.

The first point is more of a warning. It is an unfortunate reality that the pedicab industry over the years has attracted some less-than-admirable characters who view legal restrictions more as speed bumps than brick walls. In the past, they have refused to voluntarily meet the safety standards of Local Law 19-2007, as every member of the NYCPOA has. More troubling, during the Department of Consumer Affairs' earlier attempt to effectuate the pedicab law, many of these individuals and businesses provided DCA with false and counterfeit documentation in order to circumvent provisions of the pedicab law. The City Council can only enact laws; it cannot enforce them. With respect to applications for pedicab business licenses and registration plates, that is up to DCA. As such, DCA should be extremely vigilant in examining the authenticity of documents they are provided by pedicab business license and registration plate applicants as well as the statements they make on the applications themselves. Two areas deserve specific mention. First, DCA should make significant efforts to confirm that the proof of insurance provided by applicants is genuine. Unfortunately, documents purporting to confirm one holds insurance are easily fabricated, but fortunately, those fabrications are easily identified through basic follow up efforts with purported insurers. Second, the law limits the number of pedicabs in which any one person or business can hold a beneficial interest to 30. This limit extends to the owner's close family members as well. It is without question that some applicants will seek to hide their ownership of more than 30 pedicabs by using stand-in applicants who do not actually own the pedicabs they are registering or by using shell-corporations they control at a distance. If DCA does not aggressively clamp down on those who seek to circumvent the pedicab law, it will be seen by some as a weakness in the administration of the law to be capitalized upon. I would highly encourage this committee, at some point in the next several months, to exercise its oversight of DCA to ensure they are using all the tools at their disposal to effectively enforce the pedicab law.

Finally, I want to raise a question that neither the pedicab law in its present form nor the bill before this committee answers; namely, if this bill is passed into law, when will the safety requirements in Local Law 19-2007 become effective and enforceable by the New York City Police Department? Will elements like the law's seatbelt, insurance, driver's license and hydraulic brake requirements go into effect immediately? Will they go into effect 40 days after the law is enacted, when DCA starts accepting applications? Will they go into effect 100 days after the law is passed, when the window for applications for licenses and plates will close? Or

will it be at some even later time? It is the strong opinion of the NYCPOA that all the provisions of Local Law 19-2007 that are not wholly dependent on the issuance of licenses and registration plates by DCA should go into effect the day this bill is passed into law. In order for that to happen, this bill needs to be revised to explicitly insert that requirement into the law. It is certainly true that DCA will not be able to enforce many of the law's safety provisions until it issues registration plates and conducts its inspections. But it is equally true that the NYPD has the ability, even today, to issue tickets to pedicabs that lack seatbelts, operating headlights, visible rate cards or proof of insurance. There is no reason to delay the enforcement of these and other provisions of the law that protect the health and well-being of New York's consumers. Summer is one of the busiest seasons for pedicabs, and we cannot risk the well-being of pedicab drivers and passengers by allowing the current lawless, "wild-west" pedicab environment to continue for the duration of this summer.

I would like thank the committee again for its time today and its continuing dedication to improving the safety of pedicabs: the most entertaining and environmentally friendly way for locals and tourists to get around New York City without having to work up a sweat themselves.

I would be my pleasure to answer any questions the committee might have at this time.