

**CONSUMER PROTECTION and GOVERNMENT OPERATIONS
of the
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Consumer Protection and Government
Operation

Committee of the Suffolk County Legislature was held in the Rose Y.
Caracappa Legislative Auditorium of the William H. Rogers Legislature
Building, Veterans Memorial Highway, Smithtown, New York, on

**November
21, 2002.**

MEMBERS PRESENT:

Legislator Cameron Alden - Chairman
Legislator Lynne Nowick - Vice-Chair
Legislator William Lindsay
Legislator Allan Binder

MEMBERS NOT PRESENT:

Legislator Martin Haley - Excused Absence

ALSO PRESENT:

Paul Sabatino - Counsel to the Legislature
Ed Hogan - Aide to Legislator Nowick
Warren Green - Aide to Legislator Alden
Meghan O'Reilly - Aide to Presiding Officer Tonna
Charles Gardner - Director of Consumer Affairs

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

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(* THE MEETING WAS CALLED TO ORDER AT 11:40 P.M. *)

CHAIRMAN ALDEN:

Good morning. I think we'll start the Consumer Protection Committee,
and we'll started with the Pledge as led by Legislator Allan Binder.

SALUTATION

CHAIRMAN ALDEN:

Thank you. Okay. I don't have any cards, so I think I'll just ask

Charlie to come on up. We have a couple of resolution we can go right to. Charlie, just so you're there.

TABLED RESOLUTIONS

1696-2002. Adopting Local Law No. -2002, a Local Law to toughen fines for item pricing violations within Suffolk County. (ALDEN)

CHAIRMAN ALDEN:

I'm going to start with tabled resolution 1696. That's mine, I'm rewriting it, so I'm going to make a motion to table it, second by Legislator Binder. All those in favor? Opposed? TABLED (VOTE: 4-0-0-1) (Not Present; Leg. Haley)

1949-2002. Adopting Local Law No. -2001, A Local Law to impose uniform occupational licensing fees and licensing terms. (LINDSAY)

CHAIRMAN ALDEN:

Legislator Lindsay did a lot of work on this a local law to impose uniform occupational licensing fees and licensing terms.

LEG. LINDSAY:

That's ready to be moved.

CHAIRMAN ALDEN:

Motion to approve by Legislator Lindsay, second by Legislator Nowick. All in favor? Opposed? That's APPROVED. (VOTE: 4-0-0-1) (Not Present; Leg. Haley)

1952-2002. Adopting Local Law No. -2002, A Local Law to require retail food establishments to disclose salt, sugar, fat and carbohydrate contents to purchasers of food products. (POSTAL)

CHAIRMAN ALDEN:

The last communication I had from Legislator Postal was she was still working on that, so I'm going to make a motion to table, second by Legislator Nowick. All those in favor? Opposed? That's TABLED. (VOTE: 4-0-0-1) (Not Present; Leg. Haley)

2057-2002. Adopting Local Law No. -2002, A Local Law updating regulations for precious metal exchanges and dealers in secondhand articles. (CARPENTER)

CHAIRMAN ALDEN:

The last communication she asked me to table this. She's still working on some changes. I'll make a motion to table, seconded by

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Legislator Lindsay. All those in favor? Opposed?
Tabled. (VOTE:4-0-0-1) (Not Present; Leg. Haley)

2077-2002. Adopting Local Law No. -2002, A Local Law to strengthen enforcement of gas station and motor fuel distribution laws in Suffolk County. (NOWICK)

CHAIRMAN ALDEN:

Motion to approve by Legislator Nowick, seconded by Legislator Binder.

LEG. BINDER:

I'd like to discuss the legislation before we --

CHAIRMAN ALDEN:

We're going for an explanation.

LEG. NOWICK:

You just want to know what it's about?

LEG. BINDER:

Just give a general -- your view and why --

LEG. NOWICK:

Generally speaking, it's about gas stations -- this is about gas stations that are misrepresenting the octane that they're selling. And what this allows us to do is increase the fines to \$750, second offense I think it goes up to a thousand. Also it allows consumer -- Department of Consumer Affairs then to be able to track -- keep track. I think what we have to do -- what is it, Charlie, that you're going to have them register every year?

DIRECTOR GARDNER:

There are two parts; one is for the gasoline stations and one for the distributors. The distributors -- Suffolk County is still the only county in the state that has this very important piece of legislation, in that this requires those who wholesale, distribute, transfer or in any way move at wholesale level motor fuels, they need to be registered with our office. The flaw is that when it went into existence -- oh, we're probably talking 15, 17 years ago -- there was a very high one time fee, \$500, in a registration process, but that was it, no renewals. So in actuality what has happened is now over the years, by the statute, there is no requirement for renewal. We honestly don't know if some of these companies in business have long since expires, etcetera, because there has not been -- there is not any renewal process. This would just -- it would simply change the terms of that legislation to make it -- to configure it exactly the same way as the electricians, the carpenters, home improvement people,

everybody else. In other words, there would be a registration process and a two year renewal.

The two year renewal allows the us to verify A) that the company is still in existence, that -- if it's a corporation, it's the same officers, if it's a business name, still at the same place, they still have the same number of trucks or not. And instead of one time \$500 fee, it would be a \$200 per year fee which is exactly the same as all of the other businesses that we license, it would be the exact same

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fee. So it just essentially would conform the legislation requiring the registration of the wholesale motor fuel distributors to all of the other occupations that we license.

LEG. NOWICK:

This also allows you to pull the license if they're doing this repeatedly.

DIRECTOR GARDNER:

Right. Now for the retail gasoline stations, nothing new here. This also is conforming legislation that would make the penalty structure the same as it is now for all the other businesses that we -- that we license. Right now it's \$500, period, maximum fine whether it's the first offense or the tenth offense. This would make it \$750 for the first offense, \$1500 for the second offense, but most importantly, it would allow the office to revoke the registration of repeat violators, whether it's for octane offenses or any other kind of offenses under the Suffolk County Consumer Code. Right now, we can impose penalties up to \$500, but we cannot do anything about the registration of that business or that ability of that business to continue to operate within Suffolk County.

We have a home improvement contractor who has repeat violations, it's not -- it's not just a question of levying penalties against that home improvement contractor or getting restitution for consumers. If that contractor continues to violate the County Code, we revoke his license. He can't do business any more. So this just -- it brings -- it levels the playing field as far as gasoline are in relation to all the other occupations. Nothing new as far as -- they're not being required to do anything more than anybody else that is currently regulated.

LEG. BINDER:

Just a question. Have we heard from LIGRA on this?

DIRECTOR GARDNER:

Yes. And the committee received a letter of support, and I have also been in personal contact with Cathy {Plain}, the Executive Director, and they do support it. They actually came back and met with a couple of the Legislators; Lindsay and Nowick and asked for some additional language which has been put, correct?

LEG. LINDSAY:

I believe so.

DIRECTOR GARDNER:

Essentially what the additional language, under the revocation process it would be only for acts in violation of the Consumer Code relating the sale of gasoline. So in other words, they were concerned that somebody might be able to interpret it a little bit too broadly, and if they violate it, like any code, anywhere --

LEG. BINDER:

Right. Well, they also do -- they sell consumer items and the do other things.

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DIRECTOR GARDNER:

It could be incomes tax type of deals, something like that, you know? We didn't have a problem, at least I didn't have a problem with that, and I don't think the Legislator did, because that was really the intent anyway. It has to do with if you are overcharging at the pump in some way, shape or form and continue to do that, we can now revoke your registration.

LEG. BINDER:

I think it's important for the record that we often here from groups that we're regulating when they come out and they scream, don't do this, please don't. But we never here about when groups come in and the support regulating their own industry. And I think is it -- it says a lot of LIGRA and that group that they're working with the Legislators here to tighten up controls on something that people do everyday. We have to buy gasoline, and we have to -- we have to run our vehicles, and it involves commerce. And so I just -- it's nice to be able to put on the record that a group is out there working to make their own industry better.

LEG. NOWICK:

And they also feel that this -- the honestly gas stations here want this.

DIRECTOR GARDNER:

Yes.

LEG. LINDSAY:

The way it was structured before, the fine structure, they actually -- if they put regular gas in the high test tank and got caught, they still made money, because the fine -- they made more money off of cheating than what we would fine them. So it added some --

DIRECTOR GARDNER:

We couldn't revoke the registration.

LEG. LINDSAY:

Right.

DIRECTOR GARDNER:

They could just continue to do that and pay the fine, pay the fine, pay the fine.

LEG. LINDSAY:

Right. And still made money after paying the fine. But their concern was again, you know, they'd be getting caught for selling blunt wrappers or something and we take away their gasoline license.

LEG. BINDER:

I thought it was Ephedra.

CHAIRMAN ALDEN:

Any other questions? All right. All in favor? Opposed? All right. That's APPROVED. (VOTE: 4-0-0-1) (Not Present; Leg. Haley)

All right. We're also Government operations, so I have a question.

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Paul, is there such a thing as a Legislator emeritus or {emirates}?
How do you pronounce that? Is that available to us?

MR. SABATINO:

Emeritus?

CHAIRMAN ALDEN:

I have a nomination, I'd like to nominate you for that position.

MR. SABATINO:

No. It's got to be somebody distinguished with honorable service for a long period of time.

CHAIRMAN ALDEN:

So you're saying that rules you out?

MR. SABATINO:
I'm disqualified.

CHAIRMAN ALDEN:
How about Mr. Green over here? All right. Anybody else have anything to bring before the committee?

DIRECTOR GARDNER:
I have a comment about item pricing. I know you're reworking and working on levels of penalties and all that. Just for informational purposes, within the past week there was a settlement in State of Massachusetts concerning Home Depot. I thought you might be interested in what the Supreme Court ruled. Home Depot had -- they had a series of a history of complaints of failing to item price. And this is not like our law, which is mostly food products and health and beauty aides. Basically their law requires all items sold at retail be item priced. Home Depot had continued to not item price. A single consumer could not get the Attorneys General's Office to start any kind of action against them. He went to Small Claims Court, got a judgment of \$25 in Small Claims Court. Home Depot agreed to comply with the law, they didn't. The Attorney General brought an action in court last year, Home Depot paid a fine of approximately \$13,000 and agreed to comply, they still didn't comply. The consumer brought a class action suit, it was settled last week in Supreme Court in the State of Massachusetts, Home Depot was fined \$3.8 million.

CHAIRMAN ALDEN:
We could balance our budget. We could nail these guys. And they do that scanning, they make mistakes all the time on scanning. I think that's even more important than the item pricing, because that's where, in my estimation, you're committing a crime, taking too much money away from a customer as far as from the published price. And that's something that -- my bill's going to deal with that too.

DIRECTOR GARDNER:
The failure to item price is -- you are not giving what we feel is an essential piece of information to the consumers. It does not, however, mean that the consumer is overpriced. You still might be paying the correct price. Scanning though, if there's an overcharge at the scanner, whether or not the -- many of the violations that we

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write for scanning overcharges, the item is item priced. But guess what? They still scan --

CHAIRMAN ALDEN:
So my bill is actually going to deal with that too.

DIRECTOR GARDNER:

I just thought the amount on that penalty would be --

CHAIRMAN ALDEN:

No, we like to hear that stuff. Thank you. All right. Anybody else? Paul, I have two other applications, maybe -- how about Terry or maybe Mr. Hogan? How about Meghan?

MR. SABATINO:

They actually all have official titles; Dr. Spin is Dr. Spin. You don't go much beyond that. Doctor is more than important that emeritus.

CHAIRMAN ALDEN:

How about Terry then.

MR. PEARSALL:

Sounds like a disease.

CHAIRMAN ALDEN:

Anybody else have anything they want to bring up? Seeing no one, we stand adjourned. Thank you very much.

(*THE MEETING WAS ADJOURNED AT 11:47 A.M.*)

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