

CONSUMER PROTECTION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Consumer Protection 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 Wednesday, December 14, 2005.

MEMBERS PRESENT:

Legislator Cameron Alden • Chairman

Legislator Jay Schneiderman • Vice•Chair

Legislator Lynne Nowick

Legislator William Lindsay

Legislator Jon Cooper

ALSO PRESENT:

Ian Barry • Assistant Counsel to the Legislature

Warren Greene • Aide to Legislator Alden

Charles Gardner • Director of Consumer Affairs

Alexandra Sullivan • Chief Deputy Clerk of the Legislature

Joe Muncey • Budget Review Office

Kevin Rooney • Oil Heat Institute

George Bryant

Paul Cannella

Al Caliano

Cynthia Terk

Charles Gandolfo

Peter Giordano

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(* THE MEETING WAS CALLED TO ORDER AT 1:11 P.M. *)

CHAIRMAN ALDEN:

Good afternoon and welcome to the Consumer Protection Committee Meeting. This is the last one of the year. Please stand for the Pledge led by Legislator Cooper.

SALUTATION

CHAIRMAN ALDEN:

I also traditionally ask for a moment of silence for those that have given their lives for this country most recently, in the past and those that continue to serve to keep us free.

MOMENT OF SILENCE

CHAIRMAN ALDEN:

Thank you. Okay. We don't have any presentations, but we have a few cards, so we go right to the public portion. You have three minutes to speak, and we'll start with Steven Zanone. We'll do the Public Hearing first then. **IR 2140, adopting a Local Law to limit price increases at gas stations in Suffolk County to no more than once in any calender day (CARACAPPA).** That was recessed from 11/30/05. The publication is in the correct order?

MS. JULIUS:

Yes, Mr. Chairman, they are.

CHAIRMAN ALDEN:

Okay. I don't really have any cards on that one. Is anybody here to speak on 2140? Motion to recess, seconded by Legislator Cooper. All those in favor? Opposed? 2140 is **recessed**.

IR 2365, a Local Law to license livery vehicles (CARPENTER). I have a couple of cards. Now, do these people who filled these want to speak at the public hearing or did you want to do the public portion? All right. So I'll ask the Clerk's Office, has the proper publication and notice been given?

MS. JULIUS:

Yes, Mr. Chairman, they are in proper order.

CHAIRMAN ALDEN:

Okay. And you have the affidavits?

MS. JULIUS:

Yes, I do.

CHAIRMAN ALDEN:

Good. All right. So 2365, this is the public hearing on that, and we'll call up first Steven Zanone.

MR. ZANONE:

Good afternoon. My name is Steve Zanone, and I represent •• well, I'm part of the NSLA. I'd like to, if I can, waive my three minutes to Peter Giordano, who is the President of the Nassau•Suffolk Limousine Association.

CHAIRMAN ALDEN:

Actually, you probably don't have to if he's •• did he fill out one of these cards?

MR. ZANONE:

Yes, he did.

CHAIRMAN ALDEN:

You wouldn't even have to. On a public hearing, you get more time. The public portion is only three minutes, the public hearing is five minutes. You think he needs more than that?

MR. ZANONE:

Yes, he does.

CHAIRMAN ALDEN:

He's going to need more than five minutes? How many minutes are you going to need? A lot? You didn't have anything else to say then?

MR. ZANONE:

Not at this time, sir.

CHAIRMAN ALDEN:

Okay. Thank you. And we have to actually go by the order. I'll just get to your card later. John T•e•r•c•k.

MR. TERK:

T•e•r•k. I'm a member of the Nassau•Suffolk Limousine Association too, and I would like to yield my time to Peter, because he's our president and he'd like to, you know, fill you in on what's happening. Five minutes is probably not enough for any one person to really kind of give you an idea of what's happening.

LEG. CARPENTER:

You are going to lose us.

MR. TERK:

We all came here because we're interested in getting ••

CHAIRMAN ALDEN:

We have the attention span of a flea. All right. Thank you. Charles

Gandolfo.

MR. GANDOLFO:

Good afternoon. Charlie Gandolfo, I represent Dynasty Limousines, west Islip, New York. In reference, we're really not trying to get a license. What we're looking to do is to be registered in Suffolk County. You do have a consumer problem. Maybe you're not getting the complaints, but believe it or not, right now you can actually put an ad in the paper, car for hire, someone can call you, and you can charge them, you know, to a resident. And what that means is they're not properly insured.

You need •• for higher insurance, you need livery plates on the vehicles. I went to Mac Arthur Airport last week for two different days, and there are vehicles picking up passengers with regular plates, passenger plates, which means if those people get into an accident, it could be a major problem, because there's no •• nothing watching them. What the consumers don't realize is there's no insurance.

The other thing is, which our president will speak about, Nassau County came out of with a TLC, Taxi and Limousine Commission in Nassau County. To make it brief, for us to do business in Nassau County right now, it's illegal. We go into Nassau County, it's a Class A Misdemeanor if we get pulled over and get summonsed. So we really need some quick action. If we can possibly just register the companies, register the vehicles, make sure they're properly insured. I feel that's something that we can probably get done in Suffolk County. There should be somebody who knows what's going on with these vehicles. That's all I have to say. Thank you.

LEG. CARPENTER:

Mr. Chairman, if I could.

CHAIRMAN ALDEN:

Legislator Carpenter.

LEG. CARPENTER:

I thank Mr. Gandolfo for coming down and really bringing this to my attention about a year and a half ago. That's probably as long as we've been working on it and trying to work with Nassau County to come up with some kind of reciprocity so that our business owners here in Suffolk County are not needlessly being targeted or inhibited from doing business. Right now the way it is, if I hire a limo •• and friends and I did this, we were •• there were three couples going on vacation, two of us in Suffolk, one in Nassau. They picked us up in Suffolk, we stopped in Nassau County to pick up the third couple, and that technically would have been illegal by today's standards for Nassau County.

They're seizing vehicles. They have identified this as one of their fastest growing revenue streams. They hope to bring in \$2 million by doing this. And if they have a license or registration •• and that's another point I have to raise with Counsel. I think we may have a Scribenor's error there, because my intent was registering, not licensing, because I know that state legislation may come into play. This was merely to create a mechanism so that our business owners here in Suffolk County would have a piece of paper that they could show in Nassau County, because if you can show that you've registered, you know, with another municipality, your licenses are \$5 per vehicle instead of \$300 per vehicle. So if you've got a limo company that's got, you know, ten vehicles, you know, do the math, and that's per year.

And again, the risk of having your vehicle seized. And yet, Nassau County vehicles can drive here, go the Hamptons, go to the wineries, go to Mac Arthur Airport, do their business here, and it's not costing them a penny. And in this era of supposed regionalization trying to approach things in a

regional fashion, you know, this whole thing smacks of, you know, being parochial. And what I'm trying to do here, and we've been working very, very closely with the County Exec's Office, both Kevin Law, Jeff Szabo, the Police Department, we have had meetings in Nassau County. They tried to say it was a public safety issue. It's not a public safety issue for us at all as the Police Department corroborated, Charlie Gardner from Consumer Affairs participated in many, many meetings. Again, not a public safety issue. If we have four complaints a year, you know, that's too many. So again, Charlie, thank you for coming down. And if Counsel can look at that Scribenor's error change from licensing to registering.

CHAIRMAN ALDEN:

I think he's admitting that he mistyped it. Legislator Lindsay.

LEG. LINDSAY:

I have a question for this gentleman. The Town of Islip does not license anybody going into Mac Arthur Airport?

MR. GANDOLFO:

Only taxi cabs.

LEG. LINDSAY:

Only taxi cabs, but not limos?

MR. GANDOLFO:

Not limos.

LEG. LINDSAY:

That's interesting. They really should be licensed. I concur totally with Legislator Carpenter on this. I know she has taken the lead on this and has made a valiant effort along with our Consumer Affairs to try to work out some kind of agreement with Nassau County. They can say anything they want. What I view this as is trying to profiteer off of Suffolk County companies. And it's a shame the press isn't here today. We're not going to let that happen. If we have to create a border war over this, we will, because ••

MR. GANDOLFO:

You also have the problem with New York City on that other end.

LEG. LINDSAY:

New York City •• and I understand where Nassau is going in terms of New York City and Westchester, that they've had a licensing requirement. And if they want to react to their licensing to, you know, put their companies on an even footing with them, I don't want to get in the middle of that battle. But I don't want them abusing Suffolk County companies, and that's exactly what's happening here. And it's about money, it isn't about anything else.

They could create •• you know, I think we would probably be in agreement with the Nassau•Suffolk license, if they want to do the background checks and the fingerprints and everything supposedly for security reasons, as long as they charge us the same fees as they do to Nassau based companies. But that isn't the case. At \$300 a car, they're going to make a hell of a lot of

money and they're going to put a lot of our companies in Suffolk County out of business.

MR. GANDOLFO:

It was originally 750, they made it down to 300.

LEG. LINDSAY:

Geez, that was very generous of them, you know. But I just want to make it crystal clear that we're going to do what we have to do to prevent this from happening.

MR. GANDOLFO:

I appreciate it.

CHAIRMAN ALDEN:

Thank you. Peter Giordano.

MR. GIORDANO:

Hi. I'm Pete Giordano, President of the NLSA. Pretty much elaborated on half my time here, so I'll keep it short and sweet. I also sit on the Advisory Board for the Nassau County TLC Commission. On that advisory board, there's four towns and a couple Incorporated Villages, and there's four taxicab people who are actual commissioners with voting power. Our association has no voting power. So every time I go there, it's just my word on expertise in the industry.

What you said was true about basically sitting down and trying to say, you know, Suffolk•Nassau, we don't want no border wars. So what we want to

try to do is basically work together and get a registration fee, that's all the County wants. Yes, you're 100% right what you said about the revenue, because it's a statement from Roger _Bogstead_ that the county projects to collecting \$2 million through the year in seizures. So it is more of a money maker than it a consumer affairs situation for the safety of the public.

But we as operators, legitimate operators, is an association that's been in business since the '70s. We have over 158 companies. I would say out of 158 companies, I would say 70% are Suffolk County operators in our association. A lot of Mom of Pop operators who right now are fearing to come into the county, which was elaborated on. So I would say that if we can get this registration fee, and which our board is willing to help the consumer affairs with it, I mean, I understand the situation of more manpower, to have somebody sit on the board to discuss, you know, our issues and try to get something going, where Nassau County said there would be a reciprocity in a heart beat, they were telling me as a matter of fact, they spoke with me this morning. And that's the direction we were hoping to go on. So pretty much everybody is on the same page here.

CHAIRMAN ALDEN:

Legislator Cooper has some questions.

LEG. COOPER:

Could you just clarify for me the Nassau Law right now? It imposes fines on companies that violate the law, or it allows for seizure and sale of the vehicles?

MR. GIORDANO:

I don't know about sales of the vehicle. It just •• right now, the way they're working is they're doing these sting operations with straight play cars. They're really not going after anyone who has a livery plate. They will give them a fine, they will not take the car if it has regular FH 1 insurance,

legitimate insurance. The driver has to be legitimately licensed, which that is another situation, that the driver has to be licensed. They've seized so far, I believe, about 15 cars. One of the vehicles they seized, the driver they pulled over had a suspended license three different times, child support problems, wanted in the five boroughs. And the company that was putting him behind the wheel, which •• now that is a safety for the public, which would be a benefit for the counties. So they can have the right at that point to seize it or just ticket it. The reason why they went to seizure laws is because last year they were giving tickets and no one was paying them. They weren't showing up. So now they have the right to, you know, seize the registration.

LEG. COOPER:

So they seize the vehicle until the fine is paid and then they release the vehicle?

MR. GIORDANO:

Yes. It's not up for sale. They release it back on payment.

LEG. COOPER:

And that law has been on the books for how long?

MR. GIORDANO:

As of December 1st.

LEG. COOPER:

Oh, I see.

MR. GIORDANO:

It went up to •• it was passed in October, and it was implemented December 1st.

LEG. COOPER:

Thank you.

CHAIRMAN ALDEN:

Legislator Carpenter, then Lindsay.

LEG. CARPENTER:

Go ahead, Bill.

LEG. LINDSAY:

Just a quick question. If they do seize the vehicle, what is the fine to get back the vehicle?

MR. GIORDANO:

I believe it's \$1500, plus, you know, it has to be a certified check, you have to go through the whole system of a hearing. So you can lose your vehicle for a couple of days, which losses revenue.

CHAIRMAN ALDEN:

Thank you very much.

MR. GIORDANO:

Thank you.

CHAIRMAN ALDEN:

Cynthia Terk.

MS. TERK:

I was going to yield to Pete. It was pretty much said.

CHAIRMAN ALDEN:

Al Caliano.

MR. CALIANO:

Yes, hello. Pretty much Ms. Carpenter and Mr. Lindsay really elaborated on a lot of your issues here. So I just want to say thank you for your time today.

LEG. CARPENTER:

Thank you.

CHAIRMAN ALDEN:

Thank you.

CHAIRMAN ALDEN:

Paul Cannella.

MR. CANNELLA:

I'm just going to waive my minutes.

CHAIRMAN ALDEN:

George Bryant.

MR. BRYANT:

I just wanted to add one thing. I'm not trying to beat a dead horse, but if they do seize the vehicle for whatever reason, the customer or the consumer from Suffolk County is put out on the curb and left there. There's no provision for •• say if you were taking your mother to the airport and picking up your aunt in Nassau and a Suffolk County company got stuck in Nassau, they would take your mother and aunt and put them out on the sidewalk. There's no provision for them.

CHAIRMAN ALDEN:

In my case, I'd be in big trouble, because both my mother and my aunt are dead. I wouldn't want to see either one of them sitting on the sidewalk.

MR. CANNELLA:

That's an example. I'm just saying that a Suffolk County consumer who is in a legitimate limousine is put out on the sidewalk. Jon Cooper, Legislator Cooper.

LEG. COOPER:

That just raised a question. How exactly are they enforcing this? I mean, are cops seizing the vehicles at the point of pick up? I mean, they're not stopping cars with Suffolk plates that are driving through Nassau County.

AUDIENCE MEMBER:

Yes.

CHAIRMAN ALDEN:

You can't do that. We'll get to that in a minute. If you have a card, we'll get to you later.

MR. CANNELLA:

It's done, I believe, through the Nassau County Police Force. But what they're doing is they're looking •• there's •• Nassau has a registration on the windshield, so it's very easy for them to see if there's a sticker. It's similar to the registration sticker on the opposite side. So if you're a Suffolk car that doesn't have that, it's a visible •• you know, like, they can see your inspection sticker from a mile away.

LEG. COOPER:

But they'd have to actually catch you picking up the passenger, because if not, you're just driving.

MR. CANNELLA:

You can stop and let someone use the bathroom. It's not a question of, you

know ••

LEG. COOPER:

But how do they know whether they picked up the passenger in Suffolk County and you're driving to Manhattan, which is fine?

MR. CANNELLA:

It doesn't really matter. Anyone that's stopping in Nassau and they're doing something in Nassau County ••

LEG. LINDSAY:

As soon as you cross the border.

CHAIRMAN ALDEN:

Similar to like when you used to drive to Florida, and you go through all those little counties down there. It didn't matter, they just look at your plate registration, and you were guilty.

MR. CANNELLA:

Can I just let Pete answer this, because he would actually, since he's been on the advisory board, would know the better answer than me.

CHAIRMAN ALDEN:

Actually, we can finish the hearing, then we can call Pete back up and we'll get an answer.

LEG. COOPER:

So you're saying they would force my mother out of the car on the way to the airport with her luggage and just dump her there. And they have done that?

MR. CANNELLA:

Yes.

LEG. COOPER:

In Nassau County?

MR. CANNELLA:

New York City has done it too.

LEG. COOPER:

They've done that to Suffolk County residents in Nassau County?

LEG. LINDSAY:

Let me clarify something.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. COOPER:

I can't believe that.

LEG. LINDSAY:

So you're based in Suffolk County?

MR. CANNELLA:

Smithtown, that's correct.

LEG. LINDSAY:

But I mean any one of you. And you probably have a license in New York City because you do regular runs to Kennedy and Laguardia.

MR. CANNELLA:

Okay.

LEG. LINDSAY:

So because you're passing through Nassau County on the way to the City, they can pull you over ••

MR. CANNELLA:

Not if you're passing through. If you're driving through, no. But if you do make any stops in Nassau, it's considered a stop.

LEG. LINDSAY:

I see. Okay.

CHAIRMAN ALDEN:

Thank you.

MR. CANNELLA:

And again, Pete will be able to clarify that more.

CHAIRMAN ALDEN:

We'll get him up after, you know, we'll probably close the hearing, then get him up.

MR. CANNELLA:

Okay. Thank you.

CHAIRMAN ALDEN:

Next one is Mike Faranol.

MR. FARANOL:

Yes. I want to pass my minutes to Pete also.

CHAIRMAN ALDEN:

Okay. The last one I have a card for Craig Mehlshaw.

MR. MEHLSHAW:

Hi. I'm Craig Mehlshaw, owner of the Top of the World Limousine, and I am

a Suffolk-run business. And I just •• Pete is going to come up here, but I just want to actually add a couple of things, because I actually learned of this through the news, okay? That's how informed limousine operators are, okay? So I have very important customers that we, you know, transport. And this was actually, you know, learned through the news.

I went on Nassau County's website, you know. There is absolutely no information about this. You could look as much as you want. If you just started a business, you would never even know that this even existed until something happened. So I appreciate everybody •• you know, everything that you guys are going to be doing for us, but right now, it's a major problem. I have customers right now that, you know, we're telling this to, and it's just unbelievable that we can literally be driving through the county, picking up in Suffolk, driving through the County, and if we were to get pulled over at a light, it's going happen. I mean how can you conduct the business like that?

I mean, I got cars going into Nassau County, you know, going into the City for the next seven days in a row. I mean, every day, you know, my wife and I are, like, you know, what happens if this happens to us, you know, what are we going to do. But you know, what do we do, just stop our business? This is how we feed our family. So, you know, as soon as we can do something, it would be a tremendous help for us.

CHAIRMAN ALDEN:

Legislator Cooper, you have a question?

LEG. COOPER:

Well, comment. When you say that you were concerned if you were stopped at a light, you could be •• the vehicle could be seized, were you serious about that?

MR. MEHLSHAW:

Yes, sir, that's what I'm told.

LEG. COOPER:

Or is it stopping, not just to pick up a passenger for a bathroom break, but you're also saying if you stop at a red light?

MR. MEHLSHAW:

That's what I told. You know, I mean, if you don't have that sticker, they're looking for the sticker. If a limousine is going through that county without the sticker, that is what I'm told. I don't know. You could look for the law, you are not going to find it, because I have looked for about two weeks. And there is nothing. I mean, I even printed out •• I even have actually in my jacket a copy that I printed out of the homepage of the Nassau County Consumer Affairs, and they don't mention anything on there about a taxi •limousine commission. You can search all you want. I create websites, and there is nothing on that website that's even discussing this. So I don't know how they're expecting •• you know, it's okay, they want to get the fines and they want to, you know, make the \$2 million, but why aren't they explaining what the laws are? Why aren't they saying that I need to bring a driver down and register him? I don't even •• I don't know what the law is.

I don't think anybody does, because they keep on changing it. They had something set up, they changed. They had the 750 set up, then they changed it to the 300. So, you know, it's like going in circles here. We're trying to run a business. We're trying to make money running legitimate businesses. I pay, you know, proper insurance. All my drivers get screened through my insurance company like you are supposed to. We don't allow anybody, even if you have an accident, we don't even allow a driver to drive •• my insurance company decides who drives for me, not me. So, you know, if their driving record is not good, they don't drive for me.

So, you know, I mean, it's a very unusual way. If any of you run a business or own a business, it's a very unusual atmosphere right now to be running a limousine business and try to actually make money. So that's all I •• you know.

LEG. COOPER:

Through the Chair, I have question, perhaps of the sponsor. So just so my clarification, this bill doesn't eliminate the licensing requirements, but it would allow a Suffolk livery company to be licensed by Suffolk County and that would ••

LEG. CARPENTER:

No. We're not looking ••

LEG. COOPER:

Or to be registered by Suffolk County.

LEG. CARPENTER:

Right. Exactly. Registered, that's the difference.

LEG. COOPER:

And therefore, the fee that Nassau County would impose would be reduced from \$300 to five dollars per vehicle?

LEG. CARPENTER:

Exactly.

LEG. COOPER:

Okay.

LEG. CARPENTER:

And they •• you know, they kept saying that as long as they have a license •
• and in our meetings, and Charlie was there, both Charlie Gandolfo and
Charlie Gardner. But we don't have that mechanism here, because we have
ten towns, and they are not licensing limousines. None of the town are doing
that.

LEG. COOPER:

But Nassau County will accept registration?

LEG. CARPENTER:

Right.

LEG. COOPER:

With the current law, they will accept registration?

LEG. CARPENTER:

And we had said to them, well, if we can create a mechanism and we show you that they are registered here in our county, that would enable them to get the five dollar per vehicle license in Nassau county, not the \$300 vehicle.

LEG. LINDSAY:

And they agreed to that?

LEG. CARPENTER:

Yes.

MR. MEHLSHAW:

Just to add to that, I mean •• and they agreed and it's going to be in writing somewhere that, let's say that we're driving through that county, and, you know, a cop is on a •• you know, he was told that or •• I don't know •• I don't even know who's pulling, you know, you over, but •• and we're going to have some kind of proof •• because I don't even think that the people that are enforcing the law right now, they probably don't even know, because I have friends that are Nassau County Police, and honestly, they don't even know what I'm talking about.

And I don't know if anybody has gotten the privilege of getting a ticket in Nassau County, but I had actually had to take somebody to the Nassau County hospital about six months ago, and I parked in a parking lot, and it turns out that I got a parking ticket. I went to pay my parking ticket •• I went to actually fight the parking ticket in court, and the judge kicked me out of court, telling me that this was the tenth time in one day that he's seen the same ticket written. And I even had a parking receipt. So this county •• you know, one person does one thing on one side, the other one •• you know, they don't communicate.

CHAIRMAN ALDEN:

That county, not this County.

MR. MEHLSHAW:

Right.

CHAIRMAN ALDEN:

We're good.

MR. MEHLSHAW:

Right.

CHAIRMAN ALDEN:

Thank you.

MR. MEHLSHAW:

Like I said, you guys are giving us the time right now to talk and, you know, hopefully, you know, take care of the situation.

CHAIRMAN ALDEN:

Thank you.

MR. MEHLSHAW:

Thank you very much.

CHAIRMAN ALDEN:

Okay. Now Lynne, is this one you wanted to speak on? You want to do it in the public portion or when we debate the bill?

MS. BIZZARRO:

When you debate the bill.

CHAIRMAN ALDEN:

Good. Okay. So before I bring Pete back up, you want to make a motion to close?

LEG. CARPENTER:

Yes, I would like to make a motion to close the hearing.

LEG. LINDSAY:

Second.

CHAIRMAN ALDEN:

Seconded by Legislator Nowick. All those in favor? Opposed? 2365 is **closed**. Okay.

LEG. CARPENTER:

Mr. Chairman, if I could?

CHAIRMAN ALDEN:

Bring up Pete?

LEG. CARPENTER:

No. I know that I'm not a member of the committee, and I appreciate the courtesy because of the bill, and I do have to leave, I have an appointment that I must keep. But I know there are some questions about whether or not we need state authority, and I believe to license we do, but again, we're talking about registering, and I would hope that even if there are any concerns about any of this, that we can at least get this bill out to the floor. The County Executive's people, as I said have been really working very hard on this in trying to come up with some solution for us.

LEG. LINDSAY:

Can we take this out of order?

CHAIRMAN ALDEN:

Absolutely. Okay. Let's do that, and then after we vote, then Pete might not want to come, or maybe he still wants to come up.

LEG. LINDSAY:

I would like to hear from both Charlie and the Legal Department to ••

CHAIRMAN ALDEN:

Okay. So we have a motion to take 2365 out of order, seconded by myself. All those in favor? Opposed? **2365** is before us, **(adopting a Local Law to license livery vehicles (CARPENTER))**. I'll make a motion to approve, seconded by Legislator Cooper. Now we're going to debate the bill. Charlie, could you come up for a minute? After we hear this, we might not need testimony from Mr. Giordano. If we're going to pass it, then we'll just cut right to the bottom line.

DIRECTOR GARDNER:

Yes. There are some important points that Mr. Giordano would still like to address. If the Clerk can make copies, is about the 12 •• when they started it last week or so, 12 unregistered that were seized. They actually have sting operations using both Police and Consumer Affairs. They just call people up and have them come to the mall or taxi stands or whatever. And so this is real, they did start it. We're not talking about a potential, it has started.

CHAIRMAN ALDEN:

One of the big questions for you is if this is registration, rather than a •• what else would be the terminology?

DIRECTOR GARDNER:

License.

CHAIRMAN ALDEN:

A license, do you have any problems with it being a registration?

DIRECTOR GARDNER:

No.

CHAIRMAN ALDEN:

Thank you.

DIRECTOR GARDNER:

No, we don't. And also, the way it is written, it's for the companies, so that •
• I mean, our office doesn't know how many companies there are, but it's, you know, even if it's a couple hundred, we can handle it.

CHAIRMAN ALDEN:

And manpower, I don't think you're going to be tight, because I think Ben is going to volunteer to get this off the ground and get it going, right, Ben? Jump in there?

MR. ZWIRN:

I'm ready.

CHAIRMAN ALDEN:

Good. So we're all set on that. That's what my intention would be. But, Lynne, you wanted to address this?

LEG. LINDSAY:

Before Charlie leaves.

CHAIRMAN ALDEN:

Sure, Legislator Lindsay.

LEG. LINDSAY:

Charlie, so as a registration fee, I mean, we would charge a nominal amount to give them a Suffolk County registration, and would we, I mean, ask for insurance, something like that, just basic?

DIRECTOR GARDNER:

The resolution does speak about insurance. I mean, there are a few things that I'm sure the County Attorney and Legislative Counsel can iron out. The way it's written now, it's just documentation of insurance. We have to just •• for purposes of the statute, what kind of insurance, etcetera. But in •• the concept is fine. And again, it would be registering the companies. The reason that is important is because in Nassau County, you are talking about all of the drivers and fingerprints and background checks, which would obviously overwhelm us. This just registers the companies, and then each vehicle would have to keep a copy of the registration in the vehicle, but just a copy of it.

LEG. LINDSAY:

And it's really •• I have to add this across the horseshoe. What Legislator Carpenter is thinking about is we would register them in Suffolk County, Nassau has said that they would recognize that.

LEG. CARPENTER:

Right.

LEG. LINDSAY:

And for the \$5 fee then they •• if they chose to go ahead and do background checks and fingerprinting and all that, nobody objects to that. It's just that we don't want our companies paying \$300 a car.

LEG. CARPENTER:

Right. And also too running the risk of driving through and having their vehicle seized. And the way the intention was that it be if a company chooses to come and register in Suffolk County. And mainly it's just giving them the ability to get that Nassau County license, not that we're looking to create, you know, a TLC here, it just isn't necessary.

LEG. COOPER:

But our requirements for registration would be comparable to Nassau's requirements for necessarily.

LEG. CARPENTER:

Not necessarily.

LEG. COOPER:

What would the differences be?

LEG. CARPENTER:

Well, we're not going to do fingerprints and background checks and all of that other •• you know.

DIRECTOR GARDNER:

See, what Nassau County conveniently overlooks is the fact that •• you know, they are touting this great program that they started, but they had a huge advantage over us, and Legislator Carpenter was at the meetings, in that all of their •• yes, they do background checks, they do fingerprints and all this, but they have had for years, that mechanism has been in place at the town and village level, and the County simply absorbed all those records. Part of our discussions with Nassau was ••

LEG. CARPENTER:

We don't have that.

DIRECTOR GARDNER:

Not only do we not want to really set up a TLC Commission just because we have a quote, unquote border war, but now you're •• we would •• since the same situation does not exist in Suffolk, somebody would have to start fingerprinting and doing all the background checks on all of these drives. It then becomes a huge operation.

LEG. COOPER:

So the main prerequisite for registration would be that the vehicles are insured, I guess.

LEG. CARPENTER:

Right. You know, the company would come with their certificate of incorporation, or, you know, a license to do business or what have you, show

they are a legitimate company here in Suffolk County, would register as a company and prove •• you know, show their documentation ••

DIRECTOR GARDNER:

Provide copies of their drivers license.

LEG. CARPENTER:

Right.

DIRECTOR GARDNER:

Just copies of their licenses.

LEG. CARPENTER:

Just show it all, then they would get our little whatever we create and that •• they can go marching over to Nassau with is it and say, here, we are duly registered in another municipality, we want to apply for a license to do business in Nassau County.

CHAIRMAN ALDEN:

Legislator Nowick.

LEG. CARPENTER:

Simple, simple, simple.

LEG. NOWICK:

Has anybody every disputed this Nassau County legislation? It sounds to me like if someone drives here from Florida that doesn't have a New York State inspection, Nassau County can seize their vehicle. I mean, doesn't the law follow the car?

CHAIRMAN ALDEN:

No.

LEG. NOWICK:

It doesn't?

CHAIRMAN ALDEN:

It doesn't in Suffolk either, so that's pretty consistent. And all those Florida and Georgia counties can attest to that too. Okay. So anybody have any more questions of Charlie? Okay. I'm going to call the vote, then we'll call up Mr. Giordano.

LEG. LINDSAY:

How about with hear from Counsel.

CHAIRMAN ALDEN:

I'm sorry. Lynne. You want to go first?

MR. ZWIRN:

If I might.

CHAIRMAN ALDEN:

He is a Nassau County guy, by the way.

MR. ZWIRN:

I left Nassau County and the whole thing has gone to hell. They are desperate • • they are desperate, you know, for revenues from any source they can get it, and Suffolk County is convenient. I just want to say that the County Executive has worked with the sponsor on this and the Deputy County Executive, Jeff Szabo, has been on the phone talking to Nassau County officials trying to get a waiver for Suffolk County drivers for months, as Legislator Carpenter has stated. And it has been a very slow •• slow go.

The County Executive's only concern was that he is afraid of what Legislator

Carpenter has suggested, setting up a taxi and limousine commission in Suffolk County. It's not something that he embraces, because he's not looking for another bureaucracy in Suffolk County government. This might be one way to handle that without having to do that. But it's certainly a problem they are aware, and they're trying very hard to try to get this thing resolved. Hopefully they could have done it without having to go this route as well, but it may not be possible.

CHAIRMAN ALDEN:

Ben, having said that, if we end up with an impasse between the attorneys and there has to be a word change to make sure that we really understand that it's not a taxi and limousine commission that we're setting up, would it be a problem to get a CN?

MR. ZWIRN:

I can go back to the County Executive and ask to get a CN if we could, if we had to.

CHAIRMAN ALDEN:

Just as an insurance so that they're aware of it that we might need it. If we can't just change a word as a Scribenor's error, we might need that to make it clear.

MR. ZWIRN:

Absolutely. And they are certainly aware, acutely aware of the problem.

CHAIRMAN ALDEN:

Thanks. Lynne. Thank you.

MS. BIZZARRO:

Yes. Although this •• Legislator Carpenter, be aware, I'm not opining on the policy issue at all, because I think this is a laudable goal, the problem is you have General Municipal Law Section 181, and that only empowers the cities, towns, villages, Nassau County and Westchester County to regulate the registration and licensing of taxicabs and limousines. And that is the statute as it is. So in light of that statute, I see a preemption problem, and I just wanted to alert the committee to that.

CHAIRMAN ALDEN:

Okay.

LEG. CARPENTER:

Whatever.

LEG. LINDSAY:

Can I just ask?

CHAIRMAN ALDEN:

Sure.

LEG. LINDSAY:

Would that apply •• we're not talking about licenses now, we're talking about a registration, registering ••

CHAIRMAN ALDEN:

Actually, we're talking about more like a business registration.

LEG. LINDSAY:

Registering a company, not a vehicle.

CHAIRMAN ALDEN:

Right. That's what I'm thinking.

LEG. CARPENTER:

Right. We're registering the company, exactly.

CHAIRMAN ALDEN:

Almost like a DBA or something that you go out to the Clerk's Office, not that we're looking to license the vehicle again. So, you know, I think there's two ways to look at it.

MS. BIZZARRO:

You might be right, and that might be an answer, right. I'll read you •• the statute states, the registration and licensing of taxicabs.

LEG. CARPENTER:

We're not doing that.

CHAIRMAN ALDEN:

And limousines.

LEG. LINDSAY:

We're not doing that either. We want to register the company.

LEG. CARPENTER:

We're doing company.

MS. BIZZARRO:

You are talking about the company. That may ••

CHAIRMAN ALDEN:

Lynne, any other concern?

MS. BIZZARRO:

That's ••

CHAIRMAN ALDEN:

Because that we can actually •• we could put that the on the record when we, you know, do the bill on Tuesday, and •• if we can reconcile the rest of it. So I'll entertain •• I'll make a motion to approve, seconded by Legislator Cooper. All those in favor? Opposed? Okay. 2365 is **APPROVED (VOTE:5 •0•0•0)**.

And now, Mr. Giordano, I think you wanted to make additional comments for the record.

MR. GIORDANO:

Yes. I just want to elaborate on basically how they do the seizure law. It's •

• it was a little far fetched about them just coming out and taking somebody out of a car. What they did was they hired an ex•Chief of the Taxi and Limousine Commission for the City of New York. So he brought the mentality of the City into the county, the mentality of a cash cow. And what they've done is the Commissioner himself, Roger _Bogstead_ and this Chief Joe _Cherchio_ , they would do sting operations. What they will do is they will go around the Yellow Pages

And line up a car and do a sting operation.

As you said •• there was a question asked about legislation, were we there to try to get this not to go or tweak it. What happens was we had a meeting with the County Executive because they came to our meeting and over casted a strong visual, like, you're going to do this, we're going to do this, we're going to do this. And we didn't like the way he spoke. So someone knew someone, and we had a meeting with the County Executive. On the way to the meeting one of the people on my board, his car was pulled over. And in that car was Joe _Cherchio_ and Roger _Bogstead_ to say, you think you have somebody you know over us, but we have somebody better than that.

So it was basically dictatorship because the taxicab people who started this commission, Mr. _Blessinger_ , I don't know if anyone has heard that name running around, but what they do is sting operations. So that's how they're doing, right now, the seizure law. They're seizing the car with them in it. They're doing seizure that way. Nassau County PD, they call the PD as they do the seizure. Nassau County PD passes your car right now, they have no acknowledgement of what's going on. So as for them coming into the county right now •• that's going to change. They will change that.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

It is a fact like the other gentleman stated that if they do seize your vehicle, they put the passengers just on the curb.

MR. GANDOLFO:

Absolutely.

LEG. LINDSAY:

Why don't we rent one of these limousines and drop a dime ••

CHAIRMAN ALDEN:

And then we get put on the curb?

LEG. LINDSAY:

Yeah.

MR. GANDOLFO:

The City of New York •• ten years ago, the City of New York actually did it to

a funeral.

LEG. LINDSAY:

We have a bunch of people out there ready to pick us up.

MR. GANDOLFO:

They actually seized the car on a funeral, and they took the out of the funeral.

CHAIRMAN ALDEN:

That's compassionate.

MR. GANDOLFO:

They put the people out of the car. The hearse is always exempt. The black cars •• the livery industry on the funerals is not in this equation. They said forget it, they don't want to be bothered. That's how they're doing the seizure.

CHAIRMAN ALDEN:

Was there anything else you wanted to add?

MR. GANDOLFO:

No.

CHAIRMAN ALDEN:

Thanks.

MR. GANDOLFO:

Just that they have their own enforcement in Consumer Affairs that's handling it.

CHAIRMAN ALDEN:

Thank you.

MR. GANDOLFO:

Thank you.

CHAIRMAN ALDEN:

Charlie, I guess they have a lot more bodies over there than we have right here, right?

DIRECTOR GARDNER:

Well, they initially started using current staff, and they were working overtime •• you know, we checked with the employees in the department •• for months. They now have five employees, I think a Sergeant, a couple of inspectors and a clerk, but they're anticipating hiring five more. So already they're up to ten employees on top of the commission. Its like •• talk about, you know, spiraling ••

CHAIRMAN ALDEN:

They can eat into that \$2 million fast too.

DIRECTOR GARDNER:

Yes. Its a lot •• and remember, they have all of those people, and if they are truly doing enforcement, an enforcement just geographically, think about the differences between Suffolk and Nassau. They're going to ten people already. They don't have the geography, nor remember, do they have the background checks and fingerprints and all that •• that was already in place for them.

CHAIRMAN ALDEN:

Right.

DIRECTOR GARDNER:

And that's how big it is. That's the point I'm making. This thing could be this

big where we'd rather •• if we have to go this route, and as Ben said, there's been a lot of talks and negotiations back and forth trying to get, you know, can't you people just kind of, like, recognize us or pull us in with your guys, let our guys do the same as your guys.

CHAIRMAN ALDEN:

Right. Just as an informational point, if we passed it out of this committee, it will be live before the full Legislature on Tuesday. You're welcome to come down and fill out a card, same type of card that you filled today, and testify before the •• you know, the full legislative body. Or if you want to come down and just have, you know, one guy, and Mr. Giordano seems to be the guy that most of you ceded your time to, have him come down, fill out the card.

But this committee, we'll all be there, and we will relay your concerns and we'll try to explain to any other Legislator that, you know, isn't fully familiar with this exactly what's happening. It looks like we're going to have some cooperation between the County Executive's Office and the Legislature as far as trying to make this happen. If it's a little dispute over a word to make it clear, it looks like we probably could get a CN, and Ben is going to be checking that out. So having said that, thank you for coming down. You're welcome to stay for the rest of the committee.

MR. GANDOLFO:

Where is the meeting on Tuesday?

CHAIRMAN ALDEN:

Right here, and its 9:30 in the morning. The public portion is usually the first thing. It might not be exactly the first thing, because sometimes we give out proclamation, you know, in recognition to some people, and we have a prayer and a Salute to the Flag. But one of the first things, though, is the public portion.

MR. GANDOLFO:

Thank you.

CHAIRMAN ALDEN:

All right. We'll go right back to the agenda. Tabled Resolution **1835, a Local Law to amend Resolution No. 396•2005 (COUNTY EXEC).**

Could I get just a brief explanation on that? You want to talk on this too, right?

MS. BIZZARRO:

Right. Thank you. I have spoken on this bill before. Last I was here, we had some discussion, I was going to •• I was asked to speak with Charlie Gardner to see if he was on board with the, you know, bill as I wrote it. Charlie and I, since that time, we worked on some revisions to it. We both agree on the revisions that have since been made on it. We basically tweaked the definition of installer to his satisfaction and myself, and we also took the penalty provision and we allowed for a fine and/or a suspension or revocation of a license that's obtained under our Suffolk County Code.

CHAIRMAN ALDEN:

Just as a point of interest, this is for the smoke alarm ••

MS. BIZZARRO:

The carbon monoxide detector bill, right. And it's really just a notice requirement that the installer of any of these home heating units would be required to let the homeowner know that this type of detector is required. So its really to go after these individuals that don't notify the homeowners.

CHAIRMAN ALDEN:

We'll let the record reflect that Charlie Gardner nodded his head in the affirmative to those comments, that he was consulted on it, and he finds it acceptable as far as enforcing it.

DIRECTOR GARDNER:

Yes.

LEG. LINDSAY:

Do we need a modified resolution, or is this resolution okay the way it is?

MS. BIZZARRO:

It was timely filed. We modified it and timely filed it.

CHAIRMAN ALDEN:

We have a motion to approve by Legislator Cooper, seconded by myself. All those in favor? Opposed? 1835 is **APPROVED (VOTE:5•0•0•0)**.

MS. BIZZARRO:

Thank you very much.

CHAIRMAN ALDEN:

2140, adopting a Local Law to limit price increases at gas service stations in Suffolk County to no more than once in any calender day (CARACAPPA).

MS. JULIUS:

It has to be tabled.

CHAIRMAN ALDEN:

That's still in the public hearing mode.

LEG. NOWICK:

Motion to table.

CHAIRMAN ALDEN:

I don't think we have to, because it just remains tabled. **TABLED. 2157, a Local Law to strengthen the penalties for the sale and delivery of "Bootleg" gasoline (LINDSAY).** Legislator Lindsay.

LEG. LINDSAY:

I would like to approve that. If I might, some of the timeliness of this resolution as •• originally when this resolution was put in, it was when gasoline was at its high point. And the reason for it is as the cost of gasoline gets •• got higher, it made it more lucrative to bootleg gasoline into the area. And besides the revenue loss to the state and the County, there's an environmental issue here as well, because the product usually comes from Jersey where there is no restriction on MTBEs. So really that was the two reasons behind it. I still would like to move the bill, because I think the penalties are probably too low.

CHAIRMAN ALDEN:

We have a motion to approve by Legislator Lindsay, seconded by Legislator Cooper. As some of you remember too from the •• I think it was about two years ago, we were starting to go work on bootleg gas, and we found out there's a Tri•State committee or commission to try to limit that, but New York State really doesn't do anything on it. So we're getting hurt in the local level. So we have a motion to approve, a second. All those in favor? Opposed?

MS. BIZZARRO:

If I could just make a comment on the bill.

CHAIRMAN ALDEN:

Sure.

MS. BIZZARRO:

I apologize that I didn't mention it earlier. And I had communicated •• and I apologize for the delay in communicating to Legislator Lindsay on this. I see a preemption problem on this as well under Article 12A of the State Tax Law, which basically has just taken over the full tax boat so to speak. They enforce the •• they impose the penalties and interest on the taxes that are either paid or not paid in a sufficient amount, and they also take care often enforcing that. In fact, the Attorney General is given that ability to take matters to the Supreme Court. And I see that, you know, this bill either would add additional enforcement or concurrent enforcement that it really can't do.

CHAIRMAN ALDEN:

And as a County Attorney, wouldn't it be interesting for you though if New York State sued us for trying to enact something that they think is unconstitutional, and we could go right back at them and say then enforce the law as it stands, that might be an interesting court case, you know?

MS. BIZZARRO:

Could be.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

If I might. There are certainly some past history with the scenario you just described. I mean, when we passed the sober house legislation we were told that we were preempted, and we did get sued. And the net result of that is that the state came in and increased their enforcement in this area and closed down some sober houses that, you know, the bill was directed to try and clean up. So even with the preemption, I would still like to move it.

CHAIRMAN ALDEN:

It might be a round about where we get some good results. So we have a motion and a second. All in favor? Opposed? That's passed.

APPROVED (VOTE:5•0•0•0).

2206, a Local Law to prevent unwarranted price increases by wholesale motor fuel distributors and service station operators (COOPER).

Does this have to be ••

LEG. COOPER:

I'd like to make a motion to approve this.

CHAIRMAN ALDEN:

Does this one have to go for a ••

LEG. COOPER:

The public hearing was closed already. That was at the last Legislative session.

MS. JULIUS:

It was closed, yeah.

CHAIRMAN ALDEN:

Okay. Now, Lynne, did you want to speak on this one too?

MS. BIZZARRO:

No. Unless someone has a question.

CHAIRMAN ALDEN:

Okay. So we have a motion to approve.

LEG. COOPER:

I just wanted to read into the record this resolution •• for the record, I had earlier introduced another version of this resolution that I withdrew because I determined that it was really unfair to the small local businesses, the local service station operators. And it was that withdrawn bill that was reintroduced by Legislator Caracappa, 2140. But subsequently to that, I worked closely with the Long Island Gasoline Retailers Association, and we came up with a solution that would address the problem and also be fair to the smaller operators. LIGRA could not send a representative today, because they have a meeting at the same time as this committee meeting, but they sent a statement in support.

If I can, I just want to read one paragraph from that letter. This again, is from LIGRA. "We feel that this resolution will serve the purpose for which it was intended without hurting the gasoline retailers that we represent. As written, this resolution would prevent unethical wholesalers and retailers of gasoline from unfairly raising their price more than once in a calendar day and at the same time, will allow legitimate retailers to pass along their increased costs to the public as often as these increases are passed along to them by the wholesaler or distributor. We believe that allowing retailers to increase their prices more than once in a calendar day provided that these increases have been passed along to them is necessary to the survival of

their business. This resolution will hinder illegitimate retailers from cheating the public while allowing legitimate retailers to remain viable. If anyone has any questions, I can explain the bill." I think that was pretty much self-explanatory.

CHAIRMAN ALDEN:

I actually have a couple of questions just on the process that went on here. Have you reached out to Legislator Caracappa and tried to make one bill out of the two bills?

LEG. COOPER:

Yes •• well, it's really •• my bill goes a little bit further than the first one. My first bill, which is now Legislator Caracappa's bill, simply said that local service station owners could not raise their prices more than once a day. We did learn, however, from previous testimony and meetings I had with LIGRA that sometimes their costs from the wholesalers, the distributors, are increased to them more than once a day. And if they didn't have a mechanism to be able to raise their prices if their costs increased, their only alternative would be to stop selling gasoline. And in New Jersey, that's exactly what happened. New Jersey enacted a law that was similar to my original bill, which is identical to 2140. And service stations in New Jersey come noon, one o'clock, just shut down, because if not, they would have been selling gasoline below their cost.

So my bill prevents both the wholesaler and the local retailer from raising their prices more than once a day unless they can document that their own costs were increased. So it basically prevents price gouging, which was the original intent of the legislation. And I did invite Legislator Caracappa to cosponsor my bill, but I didn't hear back from him.

CHAIRMAN ALDEN:

Okay. He didn't decline, he just ••

LEG. COOPER:

No. We reached out, and we didn't hear back one way or the other.

CHAIRMAN ALDEN:

Okay. I like the compromise position a lot better than, you know, some position that would hurt the individual retailer, and I'm going to offer a further compromise. Would you mind if we discharged it without recommendation, give the ability to cosponsor if he wants to to the Presiding Officer, and between now and Tuesday maybe we can •• you know, one of us or you can reach out to him and see if you can get a definitive answer one way or the other ••

LEG. COOPER:

Sure. That's fine.

CHAIRMAN ALDEN:

You know, I will support it in that regard, and I will support it on the floor, if that's okay with you.

LEG. COOPER:

That's acceptable.

CHAIRMAN ALDEN:

Would you make the motion to discharge without recommendation and I'll second that?

LEG. COOPER:

So moved.

CHAIRMAN ALDEN:

Come on up for a minute. We're still in the debating the bill section.

MR. ROONEY:

Having just read the language shown to me by Mr. Gardner, it's all well and good to have something in writing from LIGRA, which is the Long Island Gasoline Retailers, but the bill reads wholesale motor fuels. Now you're talking about diesel fuel, and that's a totally different •• totally different animal than gasoline. Diesel fuel is not distributed generally speaking at service stations. It is distributed by distillate fuel marketers, many of whom are members of my industry, not the gasoline industry. So I have •• I would like •• I would like to request that the committee table this so that we

actually have a chance to take a look at it.

CHAIRMAN ALDEN:

I'm going to let Legislator Cooper respond to that request.

LEG. COOPER:

Actually, I would like Legislative Counsel to respond if possible.

MR. BARRY:

I mean, to the extent that this Local Law amends part of the code that's already there, it just merely follows the definition that is already in the code of motor fuel. The practical effects of it, I can't really speak to, but, I mean, whatever you sell to operate a vehicle ••

MR. ROONEY:

Is it my understanding, Mr. Cooper, that if a distributor, a secondary distributor who is retailing to the general public or to an end user, can substantiate that the price that they're charging, even if that retail price may have changed more than once during that 24 hour period is substantiated by an increase in the wholesale prices that they have received, and they can substantiate that in writing that that is acceptable?

LEG. COOPER:

Exactly.

MR. ROONEY:

I don't have a problem. Thank you, sir.

CHAIRMAN ALDEN:

Okay.

LEG. COOPER:

Kevin, Ian wants to just add to that response.

MR. BARRY:

The language just reads no person shall deliver or distribute, it doesn't say who that type of person is. Whoever distributes motor fuel, which includes diesel fuel, would fall under it. Whether you call them something different than a distributor is ••

MR. ROONEY:

No, they're a distributor. Under State Tax and Finance Law, they're considered a distributor of diesel motor fuel.

MR. BARRY:

So then I think they fall within the language.

LEG. COOPER:

And if you can just put on the record the exemption, the documentation that they need •• the written documentation that they need to provide to justify the increase •• is that addressed there?

MR. BARRY:

In the language, yes.

LEG. COOPER:

If you can just read that into the record.

MR. BARRY:

Yes. It says that no person shall distribute motor fuel if the price had been increased unless the person can provide documentation in a form acceptable to the Director of the Office of Consumer evincing that the price per gallon of motor fuel was increased to said person during the course of the calendar day in question, thereby requiring said person •• that's the distributor •• to increase the price per gallon of motor fuel in order for the person to pay for the increased cost provided it does not exceed the increased amount that was charged to the distributor.

MR. ROONEY:

Okay. I mean, just by way of example, on August 30th, the day after Hurricane Katrina, we keep track of the prices and get price change notifications, we received five, five price change notifications in one day for all types of distillate products from a variety of wholesalers around Long Island. So, I mean, it can get pretty wild out there in a 24 hour period.

LEG. COOPER:

That's exactly the problem that we're trying to address. We wanted to prevent price gouging, but we didn't want to be unfair to any of the local distributors.

MR. ROONEY:

Absolutely. And we do too. Thank you, sir.

CHAIRMAN ALDEN:

So your original •• not your original, but last comment is you're fine with it?

MR. ROONEY:

I'm fine.

CHAIRMAN ALDEN:

Okay. So we have a motion to discharge, seconded by myself. All those in favor? Opposed? Okay. **DISCHARGED WITHOUT RECOMMENDATION (VOTE:5•0•0•0)**. That will be before the full legislative body, and then we will offer •• or you will offer the Presiding Officer the ability to get on there.

LEG. COOPER:

I will contact him in the interim.

CHAIRMAN ALDEN:

Good. Thanks, Jon. Bill?

LEG. LINDSAY:

A different item that isn't on the agenda, but I didn't want to discuss is •• and I mentioned it to the Chairman of the committee as well as to some other people, out of this committee •• actually it didn't come out of this committee, but I think the jurisdiction to enforce it somehow relates to this, is the reduction in the home heating fuel that went into effect December 1st. There seems to be a problem either in the interpretation or we forgot, but I got a call from a constituent that heats her home with kerosene. And it's delivered by a fuel oil company, but the fuel oil company says that that is not part of the bill. So they're continuing to charge the 2 1/2% instead of the 1 1/2%. And, you know •• I know we have talked to Consumer Affairs about it, Charlie, maybe you want to come forward, and they have one opinion, I talked to Counsel, that's another opinion, and we have an opinion from the state as well. So I would just like to air it out so we can get on the same page.

DIRECTOR GARDNER:

We got a clarification from State Sales Tax just the other day, yes, kerosene is included in the reduction.

LEG. LINDSAY:

It is included?

DIRECTOR GARDNER:

It is included.

LEG. LINDSAY:

Okay.

DIRECTOR GARDNER:

And just so we're clear also, our office doesn't enforce that. I mean, any •• you know, that's the New York State Department of Taxation and Finance answers all questions and has the jurisdiction.

LEG. LINDSAY:

Who sent out the notice that the tax went down?

DIRECTOR GARDNER:

Oil Heat Institute sent out, our office sent out, yes.

LEG. LINDSAY:

Okay. So can we send out a clarification either by one or both of you that the reduction •• if you are not reducing the tax on kerosene you're wrong?

DIRECTOR GARDNER:

We could send it out or answer individual inquiries. See, the problem that we have is kerosene is sold •• you know, people buy kerosene at more places than just having them delivered by metered trucks, and that's why, you know, it's another example of why when things •• issues related to sales tax come up, we don't answer the question. We go to the people who enforce it, which is Sales Tax. So now we're talking about what about the people who have a heater and go buy a two gallon or three gallon can of kerosene, and now is the guy in the hardware store going to be charging the tax, who's going to let them all know. So we just, call Sales Tax. And we have the number •• we have the 1•800 number. Our County audit •• the Taxation and Finance people in Audit and Control, they refer people to New York State Sales Tax also.

LEG. LINDSAY:

My point is I think because of this misunderstanding that we have to take ••

someone has to take some positive step to correct this oversight as far as the application of tax reduction.

CHAIRMAN ALDEN:

One thing we can do, and I will do it if the committee wants to join in that, I will send out a press release that recent reduction does include ••

DIRECTOR GARDNER:

Kerosene use for home heating purposes.

CHAIRMAN ALDEN:

Right.

DIRECTOR GARDNER:

Remember, people buy kerosene •• there are gasoline stations that have kerosene pumps, and people mix kerosene in with their diesel fuel. That's how you winterize diesel fuel, add up to 20% kerosene. So that's not involved.

CHAIRMAN ALDEN:

Right.

DIRECTOR GARDNER:

That's why ••

MR. ROONEY:

That's not tax exempt.

DIRECTOR GARDNER:

That's not tax exempt. And the answer from State Sales Tax on the kerosene in a store, for instance, that you are buying it •• if it's used for residential heating purposes, the tax •• they will be exempt from the tax, but the purchaser must provide the seller with a form, TP 1,2,3 or something like that stating that is what's going to be used.

MR. ROONEY:

Mr. Lindsay, my organization alone sent out 300 notices to every heating oil distributor on Long Island, to all of the major, as well as virtually all of the local newspapers, and asked them to publish it. The problem you have is, you know, like, a garden supply place will sell five gallon cans of kerosene. I would simply say to your constituent ••

LEG. LINDSAY:

In your notice though it did indicate that kerosene was part of ••

MR. ROONEY:

No. It says applies to all fuels used for heating purposes.

LEG. LINDSAY:

But that's where the misunderstanding comes in, because again, this is a fuel oil delivery company telling the constituent, yes, it is on fuel oil, no, it doesn't cover kerosene.

DIRECTOR GARDNER:

If it is a fuel oil delivery company, we certainly have jurisdiction over them and can tell them exactly what the real story is.

MR. ROONEY:

I did get one call actually from a company in the Chairman's district that somehow or another was unaware of this, but, you know, by all means, have your constituent or have the company call me, and I will make sure that they fully understand what the law says.

CHAIRMAN ALDEN:

Thank you.

LEG. LINDSAY:

I think it would be a good idea to put out something by the committee.

CHAIRMAN ALDEN:

I will have Warren whip something up. Thank you. We just have one more tabled Sense Resolution, **Sense 070, Sense of the Legislature resolution requesting a cap on sales tax on gasoline (BINDER).**

Motion to table by Legislator Nowick, seconded by Legislator Cooper. All those in favor? Opposed? Sense 070 is **TABLED (VOTE:5•0•0•0).**

We don't really have anything else on the agenda. Did anyone else want to address the Consumer Protection Committee? Seeing no one, we stand adjourned. Thank you.

(* THE MEETING WAS ADJOURNED AT 2:16 P.M. *)

_ _ **DENOTES BEING SPELLED PHONETICALLY**

