

The Real Estate Board of New York to The Committee on Transportation on Intro 2281- 2021, Intro 2280-2021, Intro 2277-2021, and Intro 1811-2019

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the Committee for the opportunity to testify on the proposed legislation regarding freight and delivery.

Freight and delivery services are crucial to continued life in New York City. Of the 365 million tons of cargo that enters, exits, and transits through NYC annually, 89% is carried by a truck.¹ The freight industry brings in the materials we use to build and maintain our city as well as supply our stores, including clothes, household goods, hospital supplies, food and beverages, and countless other items essential to everyday life.

Our reliance on freight and delivery is so great that in 2019 44.9% of New Yorkers received a delivery at home multiple times a week. That trend is only expected to grow.² Online shopping shows year-on-year increases, and total volume of goods moved by freight and delivery is expected to jump by 68%, up to 540 million tons, by 2045.³

These figures raise valid questions about the impact delivery vehicles have on traffic congestion, which is a detriment to public health, safety, the environment, and overall quality of life.

Fortunately, we have a high-level understanding of the impact of freight and delivery on mobility in the city. In 2017, Council passed Local Law 189, which required the study of traffic congestion resulting from truck deliveries in Manhattan below 59th Street and in Downtown Brooklyn.

The Department of Transportation (DOT) found that trucks account for "a meaningful but relatively small percentage of the traffic stream" between 8% and 12%.⁴ The remaining 88-92% of traffic is comprised of private vehicles, taxis, for-hire vehicles, and buses. While trucks no doubt contribute to traffic, the DOT's own report asserted that congestion from other vehicular traffic had a more adverse impact on trucking,

¹ <https://www1.nyc.gov/html/dot/downloads/pdf/truck-deliveries-ll189.pdf>

² <https://www1.nyc.gov/html/dot/downloads/pdf/mobility-report-singlepage-2019.pdf>

³ <https://www1.nyc.gov/html/dot/downloads/pdf/truck-deliveries-ll189.pdf>

⁴ <https://www1.nyc.gov/html/dot/downloads/pdf/truck-deliveries-ll189.pdf>

with congestion in studied areas impeding the speed of truck mobility by as much as 50% during the day. The cost of congestion amounts to \$4.9 billion annually on the trucking industry.⁵

While not the primary cause of congestion, improving the operations of delivery trucks can certainly make improvements to mitigate traffic and all the risks that come with it. The DOT found that peak commercial vehicle activity is four times greater than off-peak hours. As a takeaway to its study, DOT recommended that freight and delivery try to coordinate more off-peak hour deliveries, which would come as a result of a conversation between businesses, the freight industry, BIDs, and other essential stakeholders.

To effectively reduce congestion and increase the health and safety of our streets, we need more thorough analyses like the DOT's 2019 "Improving the Efficiency of Truck Deliveries in NYC." Moreover, we need a holistic understanding of the transit universe, including the full range of vehicle usage given the number of privately-owned vehicles in NYC has steadily increased in the past two decades, with 8% growth in car ownership during the de Blasio administration's first term alone.⁶

There are 1.923 million privately-owned vehicles in the city, and, on average, 4.4 million moving around the five boroughs daily. If we are to make meaningful improvements to traffic congestion, we need a comprehensive and data-driven approach that address more than just 8-12% of vehicles. To find innovative and successful solutions, the City needs to account for the changing circumstances in car ownership and the rising demand for delivery. Furthermore, in 2023 NYC will be implementing congestion pricing in the central business district, an effort REBNY actively supported and played a key role in coordinating advocacy. The City should factor in the projected change in traffic patterns and congestion as part of any additional freight and delivery regulations.

It is important to underscore that the real estate industry is eager to meaningfully contribute towards alleviating delivery truck traffic. It is concerning that many of the mandates in this legislative package significantly impact property owners, managers, and building service workers, however, the City's logistical challenges, the rise of e-commerce trends, and the operations of the freight and delivery industry are not within its control and may not lead to our shared goal. REBNY stands ready to help Council explore effective measures. What follows is more specific comments to the Introductions being heard today.

BILL: Int 2281-2021

SUBJECT: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to creating an office of sustainable delivery systems and requiring large generator of truck traffic buildings to produce and implement a delivery and servicing plan

SPONSORS: Council Member Rivera

⁵ <https://truckingresearch.org/wp-content/uploads/2018/10/ATRI-Cost-of-Congestion-to-the-Trucking-Industry-2018-Update-10-2018.pdf>

⁶ <https://dmv.ny.gov/about-dmv/statistical-summaries>

Intro 2281-2021 would create a new Office of Sustainable Delivery System within the NYC Department of Buildings (DOB) and require that any “large generator of truck traffic building” produce and submit a delivery and servicing plan to that office. The plans would be required to outline traffic mitigation interventions and outline sustainability-focused strategies that would “reduce the total number of delivery and service trips to the site, including through delivery consolidation, off-peak deliveries and reservation systems, and providing access to loading docks and package storage facilities.”

REBNY supports congestion reduction, but there is no supporting evidence that this legislation will achieve that end. To define a “large generator of truck traffic building” as one that is greater than 500,000 square feet alone is not an appropriate measure. Activities in buildings vary dramatically based on use type as do their delivery needs and volume. Square footage does not necessarily have a direct correlation to scale of a building’s delivery services or its efficiency of those deliveries. Indeed, many large buildings already operate incredibly efficient delivery operations with loading docks to trained staff. However, the proposed requirements will create an increase in administrative burden on property managers, greater difficulty for tenants to receive goods and deliveries, and will negatively impact building service workers.

This legislation fundamentally misunderstands the role of property owners and managers. The delivery and servicing plan that buildings would be required to create and submit to DOB for approval asks for a “document describing how freight and servicing vehicle movements to and from a site are managed.” This request goes beyond the scope of knowledge of building owners and managers, and it would be an extremely difficult prospect to track and implement how trucks and deliveries get to and from a site. Buildings can make recommendations to freight and delivery, but the routes trucks ultimately pursue to access a location is the responsibility of the vendor, not the property. To more effectively decrease congestion on our streets, this program should be directed to the industry operating the vehicles, not the building that ultimately receives deliveries.

While many of the suggested mitigation measures, such as joint tenant procurement, retiming deliveries to occur on off-peak hours, and consolidated supply drops, sound effective on paper, they are not practicable because they do not consider the variabilities in tenant needs nor the increased demands, they would have on building staff and building service workers.

First, building owners and managers must be responsive to their tenants and employees, and cannot mandate several the recommendations, such as shared procurement, and even retiming delivery or restricting delivery hours could have negative impact on tenants’ businesses. Moreover, loading dock access and elevator freight use is a highly negotiated lease clause between building owners and tenants, which owners cannot unilaterally modify nor have any legal ability to have tenants consolidate and coordinate deliveries. Let them pass a law requiring tenants to do that. REBNY understands the Council is trying to offer flexible solutions, but even the options listed are too prescriptive to accommodate the diversity of scale and needs of different tenant business operations.

Further, requiring a minimum of 50% of deliveries to be rescheduled for off-peak hours will require a significant coordination on the part of the building owner or manager and is potentially disruptive to tenants’ normal business operations. Current practice for most buildings already requires *large* deliveries to occur on off-peak hours. While this does vary in certain scenarios, such as properties under construction that may necessitate continuous deliveries to support on-site activities, by and large, buildings already make their best efforts to limit delivery while buildings are occupied. In addition, large

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building owners already actively manage trucks coming in and out throughout the day and ensure efficient operations to accommodate base building and tenant deliveries.

Adjusting such a volume of delivery to off-peak hours would also have significant implications for building service workers. Out of responsibility to their tenants, building owners and managers would not allow unattended delivery at scale. Consequently, it will be necessary to adjust the terms of employment for many unionized building service workers to ensure that these off-peak deliveries are secure. The bill proposes creating consolidation centers for secure drop-off, but for practical restrictions on available space as well as liability and security, buildings would need these spaces to be staffed, which is an additional cost burden on the building as well as a significant disruption for the building service workers.

REBNY appreciates that the legislation includes a requirement for a review of the proposed processes and a report outlining recommended changes. We strongly support data-driven policy. Unfortunately, in the case of Intro 2811, the City Council is mandating solutions prior to doing due diligence and study. We need further collection of data and information prior to adopting policy that will have significant administrative and labor impact that may not meet our shared goals

Other municipalities that have adopted similar freight and serving measures did so after extensive research and stakeholder engagement. In London for example, Transport for London (TFL) and the Greater London Authority (GLA) took a comprehensive approach to traffic congestion that included not just regulation of freight and delivery but also the accompanying infrastructure development to accommodate changes in delivery routes, further investment in public transportation expansion, as well as regulating the emissions levels of all vehicles operating in central London. These changes were informed by data collected over the course of a multi-year study that included industry and public input.⁷ The GLA and TFL mapped congestion and revealed that congestion hotspots matched freight routes. The same cannot be said of NYC's congestion patterns based on the current level of DOT analysis.

Moreover, London implemented its plan with a targeted goal based on its analysis and as a result of significant dialogue to understand the challenges facing the freight industry. This Council has done little to no outreach with stakeholders before introducing and holding a hearing on Intro 2281. Nor has it set a tangible goal toward which to work. That work must be done prior to this legislation moving forward.

While we appreciate the Council's focus on sustainability, rather than pursuing regulation on vehicles like London did by requiring ultra-low emission vehicles or penalties for those that go above that cap in its central business district, this proposal again is misdirected at real estate industry. To reduce congestion and cut emissions more effectively, the City needs to directly regulate transit, rather than attempting to increase mobility by imposing a half-measure on the built environment. Transportation accounts for the second largest share of emissions, and 83% of those emissions come from privately-owned vehicles.⁸ We

⁷ <http://content.tfl.gov.uk/freight-servicing-action-plan.pdf>

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<https://www1.nyc.gov/site/sustainability/codes/transportation.page#:~:text=New%20York%20City%20is%20the,still%20come%20from%20private%20vehicles.>

need to hold that appropriate industry responsible for its sustainability record, not again putting the responsibility on real estate alone.

BILL: Int 2280-2021

SUBJECT: A Local Law to amend the administrative code of the city of New York, in relation to requiring secure package storage in certain buildings.

SPONSORS: Council Member Reynoso

Intro 2280-2021 would require that any new Class A multiple dwelling building or such existing property undergoing significant alteration designate a room or locker to be used for temporary, secure storage of packages.

Identifying opportunity to ensure that residential package deliveries are secure and efficient is a laudable goal. Allowing for deliveries to be dropped in a single location would cut down on delivery times and may prevent trucks from idling or blocking street traffic. However, under this legislation implementing such a program is much more difficult and complex than it would first appear.

As a matter of practice, newly constructed residential buildings already include package rooms. These rooms are created in balance with other statutory requirements for the ground floor, inclusive of newer standards for mail rooms accessible to tenants, lobby frontage requirements, and other ground floor provisions. These spaces are purposely integrated into building operations. It is unclear how the proposal would change that dynamic and raises questions of utility and purpose. If the Council was to move in a more prescriptive direction in this requirement, the potential for conflict with the statutory requirements is certain and would require consultation with the Department of Buildings and the NYC Department of City Planning regarding floor area implications, quality housing requirements, and streetscape requirements.

This bill will certainly impact existing buildings in an adverse fashion as the requirement of the package room will either come at the loss of another space or will be impossible to implement. In the former, even perceived nice-to-haves such as a playroom are required amenity spaces under quality housing standards with the NYC Department of Housing Preservation and Development (HPD), or through restrictive declaration for community use. Is a building to lose ground floor retail space that assists in subsidizing common charges or affordable units to accommodate this retroactive requirement? A blanket policy will not solve for these individualized stipulations.

In the latter, the same required space allotments for mail rooms, lobbies, retail frontage, location of loading berths, entrances and egresses approved by FDNY and other streetscape requirements cannot be unilaterally disregarded to shoehorn a new space. Furthermore, some buildings simply do not have the floor plate to accommodate a package room. A significant portion of Class A multiple dwellings are walk-up buildings and do not have a package room today because there is no available space; passing this bill would put an unachievable burden on tens of thousands of buildings constrained by physical limitation.

Without the certainty that comes from specific parameters, such as those in the City Zoning Text, it is unlikely that owners will be able to effectively provide package rooms that properly account for a

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building's size, residents' needs, and changes in e-commerce. Those that may manage to accommodate the space in renovations will do so at significant cost and potential impact on residents with no evidence to suggest it would reduce delivery-related congestion.

At minimum, Council should include a provision that would exempt existing buildings that have extenuating site constraints. However, REBNY strongly believes this legislation to be redundant to existing practice. If the intention of this legislation is indeed to reduce the volume of multiple attempted deliveries, REBNY is ready to work with Council on exploring functional alternatives. For example, the City Council should explore the idea of local collection sites at businesses that could intake packages and hold them securely for residents, if the delivery was not initially successful. Such a program would not only help reduce congestion but also support local business.

BILL: Int 2277-2021

SUBJECT: A Local Law to amend the administrative code of the city of New York, in relation to commercial loading zones.

SPONSORS: Council Member Powers

Intro 2277-2021 would require all commercial loading zones to be controlled by a muni-meter, extend the number of hours that commercial vehicles can park in loading zones from 3 to 8 hours, and set parking rates for commercial vehicles using commercial loading zones. In addition, the bill prohibits placard parking in commercial loading zones in the area south of and including 60th street in Manhattan and enables the DOT to authorize cargo bicycles to park in commercial loading zones. The bill would also require construction permit applicants to either maintain access to existing commercial loading zones or create a temporary loading zone where construction staging must occupy or otherwise inhibit the use of an existing commercial loading zone.

REBNY broadly supports this legislation and thanks the Council for its efforts to maintain consistent delivery patterns even during construction. In its implementation, however, REBNY would like to stress the importance of maintaining access to the existing loading zone while construction is not occurring. Limiting the distance necessary to complete the delivery will create fewer disruptions and help mitigate the impact on traffic congestion as well as better maintain public safety.

BILL: Int 1811-2019

SUBJECT: A Local Law to amend the administrative code of the city of New York, in relation to the creation of a theatre district safety zone.

SPONSORS: Council Members Powers and Johnson

Intro 1811-2019 would create a pedestrian safety zone in the Theatre District in Manhattan. In the zone, the Department of Transportation would be required to establish additional pedestrian flow zones to accommodate demand and would have the authority to add new designated activity zones or adjust existing zones. The bill would require that persons engaged in designated activities be deemed to be engaged in such activities for the entirety of their interactions with the public for the purpose of offering

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goods, services, or entertainment. The bill would also require the creation of an interagency working group to ensure communication and coordination on issues related to designated activities conducted in the Theatre District safety zone.

REBNY supports protection of pedestrians and ensuring public can flow unimpeded by obstruction. We appreciate the aim of the legislation and look forward to working with the Council and relevant agencies to ensure successful regulations of the zone. If successful in achieving that end, the Theatre District safety zone could be a useful model to emulate and adapt in other parts of the city as a vehicle for a clear, protected pedestrian path.

Thank you for the consideration of these points.

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