



This Week in New York

Covering New York State and City Government

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In the News – State



NYS AG Settles with WeWork to End Use of Overly-Broad Non-Compete Agreements

New York Attorney General Barbara Underwood this week announced a settlement with WeWork Companies, Inc. ending its use of overly broad non-compete agreements for nearly all of its employees nationwide. Headquartered in New York, WeWork provides a network of shared spaces for rent and associated services to clients in the United States and internationally. It is the second-largest private office tenant in New York City.

According to the Attorney General, as of April 2018, WeWork employed nearly 3,300 people in the United States, of which nearly 2,300 were in New York. Prior to the agreement, WeWork used non-compete agreements that prohibited all employees from working for competitors after leaving the company, regardless of job duties, knowledge of confidential information, or compensation. The agreement not only applied to executive and senior staff, but also broadly to all levels of employees.

New York law permits non-compete agreements but they are generally intended to be used in very limited circumstances, such as to protect an employer's trade secrets and confidential information or prevent employees from taking specialized skills they gained on the job to a competitor. A non-compete agreement's restrictions must be no greater than necessary to protect the legitimate interests of the employer.

Under the settlement, over 800 rank-and-file employees in New York will be released from their non-compete agreements. Also, as a result of the investigations by New York and Illinois, WeWork will adopt the same policy nationwide, releasing over 600 additional employees from non-competes. These 1,400 employees include cleaners, mail associates, executive assistants and baristas.

In addition, 1,800 employees – including 1,400 in New York – will now be bound by far less restrictive terms. These include: a non-compete period shortened from one year to six months after employment ends; a smaller geographic restriction; and a more narrowly-defined scope of competition, limiting the ban to the specific business lines in which the employee worked. These 1,800 employees include community leads, community managers, interior designers, architects, senior software engineers, and more.

WeWork must notify all current employees and all former employees who left within the past 12 months of these changes. It must also submit semi-annual reports to the Attorney General on certain changes to or uses of its non-competes for two years – including reporting the application of non-compete agreements to a new job category.

Bills Delivered to the Governor

A1050A (Sponsored by M of A Stirpe / Senator Bonacic) -- Relates to establishing a court-appointed special advocates program to aid the family court.

A3076 (Sponsored by M of A Cymbrowitz / Senator Sanders) -- Relates to the qualifications of members of the gaming commission.

A3958 (Sponsored by M of A Dinowitz / Senator Sepulveda) -- Requires the provision of guides containing best practices for retaining employees who are informal caregivers.

A11123 Rules (Sponsored by M of A Weprin / Senator Golden) -- Relates to determination of adjusted base proportions in certain special assessing units.

S2484 (Sponsored by Senator Golden / M of A Pheffer Amato) -- Prohibits auto lenders from remotely disabling a vehicle without first giving notice of the disabling to the debtor.

S5337 (Sponsored by Senator Hannon / M of A Weprin) -- Relates to body imaging scanning equipment.

S6343A (Sponsored by Senator Alcantara / M of A Hyndman) -- Relates to theft of services from barbershops, salons or beauty salons.

S7112 (Sponsored by Senator Lanza / M of A Rosenthal) -- Authorizes domestic companion animals be permitted to board any public transportation or public transportation service in the event of a state of emergency and evacuation.

S7415C (Sponsored by Senator Marcellino / M of A Titone) -- Prohibits the leasing of companion animals.

S8246 (Sponsored by Senator Larkin / M of A Galef) -- Designates the "Bear Mountain bridge" as the "Purple Heart Veterans Memorial Bridge."

S8987A (Sponsored by Senator Amedore / M of A Gottfried) -- Relates to allowing for the use of medical marihuana as an alternative to opioids for pain management and substance use disorder.

S9089 (Sponsored by Senator Golden / M of A Cusick) -- Relates to correcting the spelling of the Verrazzano-Narrows bridge.

In the News – City



NY's Securities Industry: Profits on Pace to Beat 2017

Average Salary Reaches \$422,500

Securities industry pretax profits totaled \$13.7 billion in the first half of 2018, 11 percent higher than last year, according to a report released this week by New York State Comptroller Thomas DiNapoli. The average salary (including bonuses) in New York City's securities industry increased by 13 percent to \$422,500 in 2017, the highest since 2008 and the third-highest on record after adjusting for inflation.

"Wall Street has profited every year since the end of the recession in 2009, and compensation last year reached its highest point since the financial crisis. The momentum from last year's dramatic rise in profits has carried into 2018 and the industry is on track for another good year absent a setback later in the year," Comptroller DiNapoli said. "The securities industry is a major source of revenue for New York City and New York State, and is an important part of the city's economy."

Industry performance is traditionally measured by the pretax profits of the broker/dealer operations of New York Stock Exchange (NYSE) member firms. There are now about 120 firms, down from more than 200 before the financial crisis.

In 2017, pretax profits rose by 42 percent to \$24.5 billion. This followed a 21 percent increase in 2016. Profits rose in 2016 because of lower costs, while profits grew in 2017 because of higher revenues. Net revenue grew by 4.5 percent in 2017 and increased by 8.6 percent in the first half of 2018. Revenue growth was strongest in wealth management and account supervision, underwriting, trading and other income related to the securities business.

According to the Comptroller, nearly one-quarter (24 percent) of securities industry workers in the City earned more than \$250,000 in 2017. Sixty-two percent of the industry's employees live in the City, while 38 percent commute. One-fifth of the work force commuted from New Jersey, 6 percent from Long Island, and 6 percent from Westchester County.

More than two-thirds of the City's securities industry workers were male and nearly two-thirds were white. More than one-fifth were Asian; 13 percent were Black or Hispanic. One-third were immigrants, the majority from Asia and Europe.

Looking outside of the City, on Long Island, the average salary grew by 10 percent in 2017 to \$389,000. According to the Comptroller, the level was boosted by the presence of hedge-fund firms in Suffolk County, where the average salary was \$599,800, the highest of any county in the nation.



De Blasio Administration 2018 Mayor's Management Report

The de Blasio administration this week released the Mayor's Management Report for Fiscal 2018, an analysis of City agencies' performance from July 1, 2017 to June 30, 2018. The 440-page MMR presents more than 1,700 metrics from 45 City agencies that measure the City's performance in providing services to New Yorkers. To view this year's report, visit: <http://www.nyc.gov/mmr>. Findings include:

BUILDINGS: The number of construction inspections completed increased 20.3% (from 156,508 to 188,221); days to complete first plan review for new buildings decreased 14% from 4.9 to 4.2.

CORRECTIONS: Admissions decreased 58,226 (2017) to 49,455 (2018); average daily population decreased 9,500 (2017) to 8,896 (2018); violent inmate-on-inmate incidents (monthly rate per 1,000 ADP) increased 55.2 (2017) to 55.8 (2018); serious injury to staff as a result of inmate assault on staff (monthly rate per 1,000 ADP) increased from 0.24 to 0.42.

EDUCATION: Four-year high school graduation rate increased from 73.0% to 74.3%; dropout rate decreased from 8.5% to 7.8%; postsecondary enrollment increased from 54.7% to 56.7%; class sizes decreased for Kindergarten, grades 1 – 4, and grade 6.

ECONOMIC DEVELOPMENT: Private investment leveraged on the sale/long-term lease of City-owned property increased 42.8%; private investment leveraged on closed projects increased 9.3%.

FDNY: Structural fires increased from 26,075 (2017) to 27,280 (2018); average response time to structural fires increased 4:13 (2017) to 4:20 (2018); civilian fire fatalities increased from 43 (2017) to 97 (2018); and firefighter injuries increased from 9,643 (2017) to 9,789 (2018).

HEALTH/HOSPITAL: Adults who smoke (%) increased 13.1% (2017) to 13.4% (2018); adults who are obese (%) increased 23.6% (2017) to 25.1% (2018); new HIV diagnoses decreased 14.3%; percentage of adult New Yorkers without health insurance increased: 10.9% (2017) and 11.8 % (2018); number of Uninsured patients served decreased: 414,738 (2017) to 381,805 (2018).

HOMLESS SERVICES: Families with children in shelters per day decreased from 12,818 per day to 12,619; single adults entering the DHS shelter services system increased 19,800 (2017) to 21,177 (2018); average number of adult families in shelters per day increased 2,461 (2017) to 2,475 (2018); average number of families with children in shelters per day decreased 12,818 (2017) to 12,619 (2018); average number of single adults in shelters per day increased 13,626 (2017) to 14,847 (2018).

POLICE: Major felony crime decreased 3.2%; forcible rape increased 17% (1,109 to 1,293); robbery decreased 8%; felonious assault decreased 2.5%; burglary decreased 4.8%; end-to-end average response time to critical crimes in progress decreased by 5 seconds.

SMALL BUSINESS: Annual MWBE recertification rate increased from 61.8% to 79.6%; total M/WBEs certified increased by one-third, from 5,122 to 6,829; M/WBEs awarded City contracts increased 23.4%.

SANITATION: Streets rated acceptably clean (%) decreased from 95.9% (2017) to 95.1% (2018); sidewalks rated acceptably clean (%) decreased from 97.3% (2017) to 97.1% (2018).

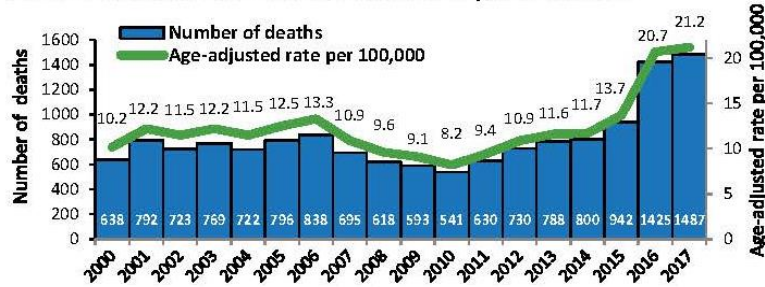
TAXI & FOR HIRE VEHICLES: For-hire vehicles increased from 99,928 to 113,222; number of active medallion taxis remained stable (13, 587); active medallion taxis that are accessible increased 32.6%; Boro Taxis decreased from 6,313 (2017) to 4,505 (2018).

Unintentional Drug Poisoning (Overdose) Deaths in New York City, 2000 to 2017

Rate of Unintentional Deaths Increased for the 7th Straight Year

On average, in 2017, there were nearly four drug overdose deaths each day in NYC, or one overdose death every six hours, according to the September Epi Data Brief published by the New York City Department of Health and Mental Hygiene. There were 1,487 confirmed unintentional drug overdose deaths in 2017, an increase of 62 (1,425) compared to 2016.

Unintentional overdose deaths, New York City, 2000 to 2017



Sources: NYC Office of the Chief Medical Examiner and NYC DOHMH Bureau of Vital Statistics, 2000-2017; 2017 data are provisional and subject to change.

In 2017, rates of overdose death were highest among Bronx residents, compared with other NYC boroughs. The rate increased 9%, from 29.3 per 100,000 residents in 2016 to 31.9 per 100,000 residents in 2017. Bronx residents also had the largest number of overdose deaths, 363 in 2017.

Despite a decline in overdose deaths from 2016 to 2017, Staten Island ranked second in rate of overdose deaths. The rate decreased 16%, from 32.5 per 100,000 in 2016 to 27.3 per 100,000 in 2017. In 2017, 101 Staten Island residents died of a drug overdose.

In 2017, 14 neighborhoods had overdose mortality rates higher than the city average of 21.2 per 100,000. Two neighborhoods in the South Bronx had rates more than double the city average; Highbridge-Morrisania (44.0 per 100,000 and Hunts Point- Mott Haven (46.2 per 100,000). Rates in all three South Bronx neighborhoods increased from 2016 to 2017. Three of the four neighborhoods in Staten Island had rates that exceeded the city average. Rates in Port Richmond increased from 2016 to 2017.

For the first time in 11 years, in 2017, Black New Yorkers had a higher rate of overdose death (25.5 per 100,000) compared with White and Latino New Yorkers (24.9 and 23.9 per 100,000, respectively).

More than eight in ten (82%) overdose deaths involved an opioid. For the first time, fentanyl was the most common substance, involved in 842 (57%) overdose deaths in 2017. Heroin was the second most common substance, involved in 771 (52%) overdose deaths. Cocaine was involved in 49% of overdose deaths in 2017, up from 46% in 2016.

Briefs

Comptroller DiNapoli Urges State to Improve Nursing Home Equipment Inspections

The state Department of Health (DOH) should be doing more to insure that nursing homes are properly inspecting, maintaining and testing their medical equipment, according to an audit released this week by State Comptroller Thomas DiNapoli.

In visits to 36 facilities across New York, auditors found several pieces of poorly maintained equipment, including a transport wheelchair that was covered by rust, mold or mildew, and a suction machine, used to remove airway fluid, covered in a thick layer of dust that appeared to have accumulated over time.

Auditors also found that DOH was only looking at a small number of items in the facilities and could be missing equipment defects. For example, one 120-bed facility auditors visited had approximately 500 pieces of resident care-related medical equipment, of which only four would need to be reviewed.

Citywide Push to Help MWBEs Win Contracts

The City will connect Minority and Women-owned Business Enterprises (M/WBEs) to City agencies with active business opportunities through a new event series called *M/WBE Borough Forums*. The *M/WBE Borough Forums* will kick off on September 26th in Flushing, Queens and will be run by the Department of Small Business Services and the Office of M/WBEs.

At the forums, M/WBEs will be able to connect with City agencies to learn about current and upcoming contracting opportunities. M/WBEs also will have the opportunity to learn how to certify their business with government entities; sign up for mentorship programs and workshops; market their business to City government; and access affordable loans to perform on City contracts.

The *M/WBE Borough Forum* in Queens is being hosted in partnership with the Flushing Business Improvement District (BID). The event will take place on September 26th from 10:00 AM – 2:00 PM at the Sheraton Hotel Ballroom, 135-20 39th Ave Flushing. The *M/WBE Borough Forums* will then move to the Bronx in October, Manhattan in November, Brooklyn in January, and Staten Island in February.

De Blasio Administration & City Council Convened Waterfront Management Advisory Board

Mayor Bill de Blasio and City Council Speaker Corey Johnson announced that the Waterfront Management Advisory Board held its first meeting this week and formally launched the start of the planning process for the next Comprehensive Waterfront Plan, due to be published in 2020.

The board members will advise the administration on matters related to New York City waterfront and waterways, and provide guidance to the Department of City Planning (DCP) on the development of the Comprehensive Waterfront Plan. This plan, published every 10 years, provides a vision for the city's waterfront for the next decade and beyond. DCP anticipates beginning broader public engagement on the plan in early 2019.

- *Eric Johansson*, SUNY Maritime
- *Mychal Johnson*, South Bronx Unite
- *Katina Johnstone*, Staten Island Kayak
- *Edward Kelly*, Maritime Association of NY/NJ Harbor
- *Aaron Koffman*, The Hudson Company
- *Roland Lewis*, Waterfront Alliance
- *Pete Malinowski*, Billion Oyster Project
- *Geeta Mehta*, Columbia University Professor
- *Michael Northrop*, Rockefeller Brothers Fund
- *Kate Orff*, SCAPE Landscape Architects
- *Kelly Vilar*, Staten Island Urban Center
- *Peggy Shepard*, WE ACT for Environmental Justice
- *Mandu Sen*, Regional Plan Association
- *Kellie Terry*, Surdna Foundation
- *Gerald "Jay" Valgora*, Studio V Architects
- *Henry Wan*, NY Dragon Boat Festival
- *Judith Weis*, Rutgers University

Also on the Board are representatives from DCP, the Mayor's Office of Recovery and Resiliency, the Department of Small Business Services, the Department of Environmental Protection, the Department of Parks and Recreation, the Department of Housing Preservation and Development, the NYC Economic Development Corporation, and Councilmembers Debi Rose and Rafael Salamanca.

Emblem Launches New Plan for City Workers

EmblemHealth is offering a new health plan for city employees that eliminate out-of-pocket costs when members use Hospital for Special Surgery and Memorial Sloan Kettering Cancer Center for specialty care, according to published reports. Emblem will begin offering the revamped plan for HMO members on Jan. 1 and roll out to PPO members by July 1. The base HMO Preferred Plan starts at \$0 a month.

Mayor de Blasio Appoints Amy Peterson as Director of the Mayor's Office of Workforce Development

Mayor Bill de Blasio appointed Amy Peterson as the Director of the Mayor's Office of Workforce Development. The office is responsible for equipping New Yorkers with a variety of skills and connecting them to quality jobs across the city. Ms. Peterson will continue to lead the Mayor's Office of Housing Recovery and Build it Back as the office and program enter the final stages of their Sandy recovery efforts.

Prior to her position at the Office of Housing Recovery, Amy Peterson managed workforce development programs at the New York City Human Resources Administration where she oversaw the implementation of the Workforce Investment Act, a federal program designed to help job seekers access employment, education and workforce training. She also oversaw the launch of new City contracts which assessed training and employment opportunities for New Yorkers. From 2007 to 2014, Peterson was President of Nontraditional Employment for Women (NEW), which prepares, trains and places women in careers in the skilled construction, utility and maintenance trades, helping women achieve economic independence and a secure future. Amy Peterson was appointed Director of the Office of Housing Recovery in 2014.

Coming Up

New York State

Wednesday September 26th

Impact of Arts and Cultural Organizations on the State's Economy

Joint Assembly Standing Committee on Tourism, Parks, and Sports Development and Subcommittee on Museums & Cultural Institutions, Assembly Hearing Room, 250 Broadway, Room 1923, 19th Floor, New York, 1 p.m.

To examine the Minority and Women-Owned Business Enterprises program, and consider potential legislative solutions to create a more effective and efficient program to enhance New York's business climate

Joint Senate Standing Committee on Labor and Committee on Economic Development, Stage 14, Finger Lakes Community College, 3325 Marvin Sands Drive, Canandaigua, 2 p.m.

New York City

Wednesday September 26th

Committee on Finance, Committee Room – City Hall, 10 a.m.

Committee on Rules, Privileges and Elections, Council Chambers – City Hall, 10:30 a.m.

Continuation of September 20, 2018 - Recessed Meeting

City Council Stated Meeting, *Council Chambers – City Hall, 1:30 p.m.*

Thursday September 27th

Committee on Environmental Protection, Council Chambers – City Hall, 10 a.m.

Committee on Health, Council Chambers – City Hall, 10 a.m.

Committee on Housing and Buildings, Council Chambers – City Hall, 10 a.m.

Committee on Justice System, Committee Room – 250 Broadway, 16th Floor, 10 a.m.

Committee on Education, Committee Room – 250 Broadway, 14th Floor, 10 a.m.

Committee on Cultural Affairs, Libraries and International Intergroup Relations, City Hall, 1 p.m.

Committee on Consumer Affairs and Business Licensing, 250 Broadway, 14th Floor, 1 p.m.

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To Our Clients: If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop & Del Giorno LLC professional with whom you usually work.

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