



# This Week in New York

**Covering New York State and City Government**  
*A Publication of Pitta Bishop & Del Giorno LLC*  
 November 22, 2019 Edition



## Happy Thanksgiving

**From Pitta Bishop & Del Giorno LLC**

### New York Farm Bureau Survey Finds Lower Thanksgiving Dinner Prices

The 2019 New York Farm Bureau Market Basket Survey found a 15% price decrease for the classic Thanksgiving Day dinner compared to the price of last year's meal. The average total price this year, which includes a 16-pound turkey, is \$48.73. This is down from last year's survey of \$57.54, much of that attributed to a reduction in retail turkey prices.

New York Farm Bureau's volunteer shoppers sampled prices at 31 different supermarkets throughout the state. The shopping list includes 15 common Thanksgiving food items, enough to feed 10 people around the dinner table.

<u>Market Basket Survey Comparison</u>	<u>2019 Average Price</u>	<u>2018 Average Price</u>
Frozen, Self-Basting Turkey 16 lb.	\$20.38	\$29.68
Herb-seasoned cube stuffing 14oz.	\$2.64	\$3.02
Enriched Brown & Serve Rolls 12 oz./12 per pkg.	\$2.96	\$3.26
Gallon of Whole Milk	\$2.90	\$2.54
Frozen Green Peas 16oz. pkg.	\$1.34	\$1.40
Libby's Pumpkin Pie Mix 30oz. can	\$3.20	\$2.48
9 in. frozen pie shell	\$2.75	\$3.37
Whipping Cream 1/2 pint carton	\$2.17	\$2.18
Fresh Carrots per pound	\$1.22	\$.98
One Bunch of Celery	\$2.10	\$1.84
Sweet Potatoes per pound	\$1.21	\$1.12
Package of Fresh Cranberries	\$2.64	\$2.66
Miscellaneous Ingredients	\$3.22	\$3.01
<b>Classic Thanksgiving Total</b>	<b>\$48.73</b>	<b>\$57.54</b>



## *In the News – State*



### **Governor Cuomo Announces Investigation Into Housing Discrimination on Long Island**

***Division of Human Rights, Division of Homes and Community Renewal and  
Department of State to Launch Joint Investigation into Reports of Widespread Housing  
Discrimination on Long Island***

Governor Andrew Cuomo this week directed the Division of Human Rights, the Division of Homes and Community Renewal, and Department of State to launch a joint investigation into reports of widespread discrimination among real estate agents on Long Island.

On November 17, Newsday reported the results of an undercover investigation into housing discrimination on Long Island. The probe's findings include evidence suggesting real estate agents on Long Island engage in discriminatory conduct with “disturbing frequency”—including imposing unequal conditions and steering clients toward certain neighborhoods depending on their perceived race or ethnicity.

Governor Cuomo also announced several additional resources to combat housing discrimination across New York State. These initiatives include: launching a comprehensive social media campaign and housing discrimination hotline to raise awareness; and new Department of State regulations to mandate enhanced real estate professional disclosures and info sharing on Fair Housing to prospective home buyers and renters. The resources include:

**Joint Division of Human Rights, Division of Homes and Community Renewal and Department of State Investigation :** The Division of Human Rights, which enforces New York State anti-discrimination laws, the Division of Homes and Community Renewal, which builds, preserves and protects affordable housing, and the Department of State, which issues licenses to real estate professionals, will investigate the allegations from the Newsday reporting that real estate agents unlawfully steered clients towards certain neighborhoods and engaged in other discriminatory conduct.

**Social Media Awareness Campaign and Hotline:** The Department of State and the Divisions of Human Rights and Homes and Community Renewal will launch a public education campaign designed to educate New Yorkers about their fair housing rights and protections. As part of this campaign, which will include social media messaging, consumer alerts and related initiatives, the Division of Human Rights is launching a new hotline - 844-862-8703 - available where individuals can call with complaints and receive guidance about their fair housing rights.

**Department of State Regulations:** The Department of State, in consultation with the Division of Human Rights, will issue new regulations that will provide for enhanced disclosures by real estate professionals to ensure that prospective home buyers and renters receive increased information about their rights and protections under New York State law.

New York Attorney General Letitia James this week announced that her office is also launching an investigation. The Attorney General has directed the Civil Rights Bureau to investigate the allegations and encouraged Long Island residents to report any instances of housing discrimination. The Civil Rights Bureau can be contacted at 212-416-8250 or [civil.rights@ag.ny.gov](mailto:civil.rights@ag.ny.gov).



## Comptroller DiNapoli: State Needs to Improve Compliance with Jonathan's Law

### *Second Audit by DiNapoli's Office Finds Incidents of Neglect and Abuse in Facilities Not Always Reported to Parents*

The state Office for People With Developmental Disabilities (OPWDD) is not ensuring parents and guardians are properly notified of incidents of abuse and neglect in programs it oversees as required under Jonathan's Law, according to an audit released this week by State Comptroller Thomas DiNapoli.

In July, Comptroller DiNapoli released an audit of the state Office of Mental Health that included similar findings at that agency's facilities.

"Jonathan's Law was created to make sure incidents of abuse and neglect are properly addressed and families are told of what occurred. This law can't work if state agencies aren't fully complying with the law's requirements. This is the second state agency my auditors have found that is failing to meet their obligations," Comptroller DiNapoli explained.

In May 2007, Jonathan's Law, named after 13-year-old Jonathan Carey who died while under state care, was enacted to expand parents', spouses', guardians', and other qualified persons' access to records relating to incidents involving family members residing in facilities operated, licensed or certified by the OPWDD and other state agencies.

Reportable incidents under Jonathan's Law involve abuse (physical, sexual or psychological) or neglect, as well as incidents that may result in or have the potential to result in harm to the health, safety or welfare of a patient.

OPWDD operates 13 Developmental Disabilities State Operations (DDSO) offices in six regions across the state to oversee over 1,100 certified programs. OPWDD also regulates, certifies, sponsors, and oversees approximately 650 community-based service providers subject to Jonathan's Law requirements.

While the state- and community-based programs have established practices for notifying qualified persons within the required 24 hours, 11 percent of the 295 substantiated incidents reviewed by Comptroller DiNapoli's auditors lacked support that the required notification was made and 7 percent lacked support that a report had been issued within the required 10 days.

Auditors also found that programs under OPWDD supervision do not always provide records to parents or guardians when requested or are not providing them within 21 days of the request or the conclusion of the investigation, whichever is later, as required.

In a sample of 63 record requests, 32 percent (20) were either not provided on time or not provided at all. Several delays occurred because facilities waited until verification of the completeness of Justice Center investigations before fulfilling the request, contrary to OPWDD's regulations. In addition, facilities provided inconsistent information – with some offering more detail than others – to parents or guardians in response to record requests.

The Comptroller recommended OPWDD provide updated guidance to programs on their responsibilities related to Jonathan's Law requirements – including clear and consistent implementation procedures – and require them to follow procedures.

OPWDD generally agreed with the audit's recommendations, but characterized its findings and observations as overstated.



## **Chapters of the Laws of 2019**

**Chapter 493 – Sponsored by M of A Rosenthal / Senator Sanders** -- Relates to reporting on the status and outcomes of initiatives created in response to the heroin and opioid epidemic.

**Chapter 504 – Sponsored by M of A Rosenthal / Senator Carlucci** -- Requires informational materials regarding the use of opioid antagonists for first aid or emergency treatment to provide information of the application of good samaritan laws to protect against liability.

**Chapter 505 – Sponsored by M of A Paulin / Senator Comrie** -- Requires an excavator to notify 911 in the event of an electrical short or the escape of gas or hazardous fluids endangering life where damage has resulted to an underground facility.

**Chapter 512 – Sponsored by Senator Kaplan / M of A Schimminger** -- Authorizes state agencies to publish and transmit certain rule making notices by electronic means; provides for the provision of the state register by electronic means; authorizes the legislative administrative regulations review commission to accept data transmitted by electronic means.

**Chapter 513 – Sponsored by Senator Kaplan / M of A Rosenthal** -- Relates to adding a "School Bus Safety" awareness component to the pre-licensing driver's education course.

**Chapter 523 – Sponsored by Senator Montgomery / M of A Joyner** -- Relates to adding a "School Bus Safety" awareness component to the pre-licensing driver's education course.

**Chapter 523 – Sponsored by Senator Mayer / M of A Joyner** -- Relates to the date of adjustment and amount of the spousal maintenance cap; increases the income cap to \$84,000 of the payor's annual income.

**Chapter 525 – Sponsored by Senator Mayer / M of A Benedetto** -- Relates to including bus drivers and monitors as school personnel for policies and procedures concerning school safety plans on school busses.

**Chapter 529 – Sponsored by Senator Gaughran / M of A Dinowitz** -- Relates to the privilege between a personal representative and the attorney to lifetime trustees.

**Chapter 530 – Sponsored by Senator Comrie / M of A Carroll** -- Establishes that certain notices mailed by the compliance unit within the board of elections shall be mailed by first class mail.



## **Bills Vetoed by the Governor**

**Veto 135 – Sponsored by M of A Gottfried / Senator Rivera** -- Provides exemptions from certain requirements for electronic prescriptions for oral prescriptions issued to patients in health care facilities, nursing homes and residential care facilities.

**Veto 136 – Sponsored by M of A Peoples-Stokes / Senator Serrano** -- Identifies the criteria the commissioner of environmental conservation should consider in publishing a list of high local environmental impact zones; provides that high local environmental impact zones are areas most adversely affected by existing environmental hazards.

**Veto 138 – Sponsored by M of A Lavine / Senator Kaplan** -- Relates to a credit for purchase, construction or retrofitting of a principal residence to achieve universal visitability pursuant to guidelines developed by the division of code enforcement and administration within the department of state; caps tax credits awarded at 1 million dollars per year for 5 years.

**Veto 139 – Sponsored by M of A Gottfried / Senator Hoylman** -- Relates to increasing membership on the public health and health planning council and directing the appointment of members representing particular areas of concern.

**Veto 140 – Sponsored by M of A Rozic / Senator Skoufis** -- Relates to a state transportation plan; requires such plan include a minimum twenty-year forecast period at the time of adoption, assessing long-range needs spanning such period, including a forecast of highway pavement and bridge conditions.



**Veto 141 – Sponsored by M of A Cusick / Senator Addabbo** -- Establishes a small business tax credit for the employment of disabled persons.

**Veto 142 – Sponsored by M of A Steck / Senator Skoufis** -- Relates to coverage and billing procedures in the Medicaid program for complex rehabilitation technology for patients with complex medical needs.

**Veto 144 – Sponsored by Senator Hoylman / M of A Englebright** -- Enacts the "bird-friendly building council act" to establish a council to promote the use of bird-friendly building materials and design features in buildings; research the magnitude of problems facing birds colliding with buildings; identify existing and emerging products, technologies and concepts to reduce or eliminate bird mortality from building collisions; and develop public awareness.

**Veto 145 – Sponsored by Senator Savino / M of A Bronson** -- Makes care and services provided by licensed mental health practitioners eligible for coverage under the Medicaid program.

**Veto 146 – Sponsored by Senator Kennedy / M of A Rozic** -- Relates to the rate paid by the state to a city for maintenance and repair of highways.

**Veto 147 – Sponsored by Senator Biaggi / M of A Fernandez** -- Relates to making permanent provisions for charging a fee for admission to the New York Botanical Garden.

**Veto 149 – Sponsored by Senator Savino / M of A Bronson** -- Makes care and services provided by licensed clinical social workers eligible for coverage under the Medicaid program.

## ***In the News – City***

### **NYC to Reform Commercial Waste Collection Industry**

#### ***New legislation caps years-long effort to create commercial waste zones***

Mayor Bill de Blasio this week signed legislation that will overhaul the City's commercial waste program, bringing reform to "an industry known for dangerous, unhealthy and unsustainable conditions."

Intro 1574-A, sponsored by Council Member Antonio Reynoso, will create a commercial waste collection system that will advance the City's Green New Deal and zero waste goals while providing service to New York City businesses.



"Today marks a sea change in how New York City deals with its commercial waste. Intro. No. 1574-A becoming law means that our air will be cleaner, our streets will be safer, and customer service to businesses throughout the city will be improved. The private carting industry has operated without proper safeguards concerning air quality and street safety for far too long and sprawling, inefficient collection routes have resulted in millions of excess truck miles driven every year. This law is a huge step forward in fixing this broken practice." said Council Speaker Corey Johnson.

While the NYC Department of Sanitation (DSNY) collects trash and recycling from residents, more than 90 different private carters service the city's 100,000 commercial businesses. According to proponents, this system has created myriad issues for New Yorkers, including public health hazards, greenhouse gas emissions, poor labor standards, and public safety risks for cyclists, pedestrians, and workers alike. Since 2010, 28 New Yorkers have been killed by private carters.

The Commercial Waste Zones program is aimed at improving safety and working conditions for workers in this industry. The law imposes training requirements for drivers, helpers and other commercial waste employees, and calls for the creation of a Safety Task Force jointly appointed by the Administration and Council to make recommendations on further steps to protect the safety of workers and the public. It also establishes a displaced worker list, promotes local hiring and includes protections for employees of companies undergoing merger or acquisition.

The law divides the city into 20 zones, each served by up to three carters selected through a competitive bidding process. Five carters citywide, will also be selected to collect containerized waste from dumpsters and compactors. Commercial waste zones will reduce truck traffic and mileage associated with commercial waste collection by more than 50 percent, while strengthening service standards and preserving customer choice.

The law also requires that selected haulers provide recycling and organics collection at a discount to incentivize waste diversion; promotes the use of low-emission or zero emission collection trucks; and incentivizes the use of transfer stations that use rail or barge transport or are located near the designated zones.

Following this week's bill signing, the City will begin program implementation, starting with formally defining the geographical boundaries of the zones. Next year, DSNY will release a request for proposals from interested and qualified waste haulers. DSNY expects to begin a multi-year customer transition process in 2021.

The Mayor also signed three additional bills to improve safety and oversight over the trade waste industry:

- **Intro 1573-A** expands the Business Integrity Commission's authority to establish environmental, safety and health standards for trade waste carters;
- **Intro 1083-A** imposes fines on trade waste companies that fail to report employees to BIC including a minimum of \$1,000 and maximum of \$10,000 for each unreported individual; and
- **Intro 1082-A** requires commercial waste collection trucks be equipped with global positioning systems (GPS) that can transmit data on location and speed.

# Briefs

## Attorney General James Sues JUUL Labs

### *Alleges that JUUL Engaged in Deceptive Marketing Practices Targeting Minors; Company Misled Consumers About Nicotine Content; Misrepresented the Safety of JUUL Products*

New York Attorney General Letitia James this week announced a lawsuit against the electronic cigarette company JUUL Labs, Inc. (JUUL) for deceptive and misleading marketing of its e-cigarettes, which contributed to the ongoing youth vaping epidemic in New York State.

The lawsuit, filed in New York County Supreme Court, alleges that JUUL engaged in deceptive business practices when marketing and advertising its products, and illegally sold its products to minors through its website and in third-party retail stores throughout the state. The suit also alleges that JUUL's advertising campaign misled consumers by failing to warn that they contained nicotine, and by misrepresenting its products as a safer alternative to traditional cigarettes.

“There can be no doubt that JUUL's aggressive advertising has significantly contributed to the public health crisis that has left youth in New York and across the country addicted to its products,” said Attorney General James. “By glamorizing vaping, while at the same time downplaying the nicotine found in vaping products, JUUL is putting countless New Yorkers at risk. I am prepared to use every legal tool in our arsenal to protect the health and safety of our youth.”

The lawsuit alleges that JUUL's conduct violates General Business Law §§ 349 and 350, which prohibit deceptive acts and practices and false advertising; Common Law Public Nuisance, which prohibits substantial and unreasonable interference with the public health; and Executive Law § 63(12), which prohibits repeated and persistent fraud and illegality, based on violations of the New York Public Health Law prohibiting underage sales of tobacco products to minors. Additionally, JUUL allegedly violated the Federal Trade Commission Act §5 prohibiting unfair business practices that substantially injure consumers, and the Food, Drug & Cosmetic Act 21 U.S.C. § 387k, prohibiting the introduction into interstate commerce of any modified risk tobacco product without an order from the Secretary of Health & Human Services.

As of November 13, 2019, New York State law was changed, making it illegal to sell nicotine products, including e-cigarettes, to consumers who are under 21-year-old. Previously, the law applied to consumers younger than age 18. Despite this prohibition, the Attorney General asserted, JUUL violated the law by selling its products to New Yorkers under the age of 18.

## NYS Common Retirement Fund Reports Second Quarter Results

The New York State Common Retirement Fund's (Fund) estimated return in the second quarter of the State Fiscal Year (SFY) 2019-20 was 1.16 percent for the three-month period ending Sept. 30, 2019, with an estimated value of \$215.4 billion, according to New York State Comptroller Thomas DiNapoli.



“Continued market volatility supports our conservative approach to long term investing, which recently included lowering our assumed rate of return to 6.8 percent,” Comptroller DiNapoli said.

The Fund's estimated value reflects benefits of \$3.23 billion paid out during the quarter. Its audited value as of March 31, 2019 was \$210.5 billion. The Fund's funded ratio of 96.1 percent is one of the strongest in the nation, behind only Wisconsin, South Dakota and Tennessee.

### **Comptroller DiNapoli: SED Makes Progress on Implementation of Dignity for All Students Act**

The State Education Department (SED) made progress in ensuring school districts across New York are protecting students from harassment and discrimination, according to a report released this week by State Comptroller Thomas DiNapoli.

An audit released by Comptroller DiNapoli in October 2017 found that despite guidance from SED, many schools had not implemented some requirements of the Dignity for All Students Act (DASA). Several schools lacked training and others made significant errors when it came to reporting incidents under DASA.

Comptroller DiNapoli previously recommended that SED take steps to assess weaknesses in implementing DASA and assign adequate resources to promote schools' compliance, work with training partners to enhance DASA training and remind schools that they are required to keep records of incidents

This follow up audit found SED, in collaboration with the New York State Center for School Safety (NYSCFSS), enhanced its training by providing webinars and training sessions that have been tailored to better meet user needs. Training content now includes examples that clearly distinguish reportable from non-reportable incidents, and includes a template that describes the details that need to be documented in incident investigation records.

### **NYC Buildings to Get Grades for Energy Efficiency**

Owners and managers of over 40,000 NYC buildings will be required to post building energy efficiency letter grades under a new grade system required by 2017 Local Law 33, according to published reports.

In May of 2020, building owners or managers must submit their latest annual energy-use data, provided by their utility, to an online tool created by the Environmental Protection Agency (EPA). The tool will calculate greenhouse emissions based upon usage, building type, and number of occupants. The building representatives will then submit their scores to the City. The letter grades will be based on the scores generated by the EPA tool.

Building owners and managers will be required to post signs with the letter grades “in a conspicuous location near each public entrance,” according to the law. Fines will be levied for non-compliance.

The grades will apply to structures 25,000 square feet and larger.

## **Mayor de Blasio Signs Safe Streets Bill Into Law**

*New legislation commits City to build 250 miles of protected bike lanes and 150 miles of dedicated bus lanes over five years, submit new street design master plans regularly*

Mayor Bill de Blasio this week signed new safe streets legislation (Intro. 1557A) into law. The legislation was introduced by Speaker Corey Johnson.

The new law requires DOT to implement a master plan for street design every five years, and contains specific targets for protected bike lanes, accessible pedestrian signals, transit signal priority and stop upgrades for buses, and new pedestrian public space. As part of the first master plan, the City will build 50 miles of protected bus lanes and 30 miles of protected bike lanes annually. In the first two years, one million square feet of pedestrian space will also be constructed. With today's announcement, the City also committed to ramping up the process to be ready to meet master plan commitments, both for DOT and for other city agencies, including DSNY, NYPD, FDNY, DPR, DDC and DEP.

The law will go into effect immediately, with the first master plan due from DOT no later than December 1, 2021.

## **Congresswoman Carolyn Maloney becomes House Oversight Committee's First Chairwoman**

New York Congresswoman Carolyn Maloney became the first chairwoman of the House Oversight Committee Wednesday after an election by her Democratic colleagues. She succeeds Rep. Elijah Cummings, who died October 17<sup>th</sup>.

"I am deeply humbled and grateful to my colleagues for entrusting me with the chairmanship," said Representative Maloney. "I'm honored by this opportunity to do more for the American people and will do my best to follow the honorable example that Chairman Cummings left for us all. There's much work to be done, and I can't wait to get started."

## **2020 NYS Legislative Session**

The 2020 Legislative Session convenes Wednesday, January 8<sup>th</sup> and is scheduled to close on Tuesday, June 2<sup>nd</sup>. A pdf of the calendar is available [here](#).

# Coming Up

## New York State

### Monday November 25<sup>th</sup>

#### **The New York Health Act**

Joint Senate Standing Committee on Health and Assembly Standing Committee Health  
Legislative Chambers, County Office Building, 244 Fair Street, Kingston, 10 a.m.

#### **Affordable Housing Development**

Joint Assembly Standing Committee on Housing and Assembly Standing Committee on Cities  
Assembly Hearing Room, 250 Broadway, Room 1923, 19<sup>th</sup> Floor, New York, 11 a.m.

#### **Economic development programs that leverage State funds to foster viable longterm business development and economic growth**

Joint Assembly Standing Committee on Economic Development, Job Creation, Commerce and Industry  
and Assembly Standing Committee on Small Business  
Center for Tomorrow Building, University at Buffalo, North Campus, Amherst, 11:30 a.m.

## New York City

### Monday November 25<sup>th</sup>

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

*Committee on Environmental Protection*, Council Chambers – City Hall, 1 p.m.

*Committee on Governmental Operations*, Council Chambers – City Hall, 1 p.m.

### Tuesday November 26<sup>th</sup>

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

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

### Wednesday November 27<sup>th</sup>

*Committee on Women and Gender Equity*, Council Chambers – City Hall, 10 a.m.

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