

A. UNREGULATED WORK IN THE GROCERY AND SUPERMARKET INDUSTRY IN NEW YORK CITY

The food retail industry is one of the cornerstones of New York City's economy, employing more than 60,000 workers. Unionized supermarkets once dominated the industry, but are losing ground to a slew of non-union competitors – including gourmet grocers, health food stores, green grocers, big box stores, and drug stores that increasingly sell food items. The result has been a slow but steady deterioration in wages and benefits over time. Today, grocery stores and non-union supermarkets create some of the most unregulated jobs found in our study. Cashiers, stocking clerks, food preparers, baggers, produce cleaners and delivery drivers routinely put in 60 hours a week or more, at minimum or sub-minimum wages, with few if any benefits – even in the stores with the most expensive luxury foods.

HOW THE INDUSTRY WORKS

The grocery and supermarket industry is divided into three main segments:

1. **Green grocers, bodegas & delis** sell fresh produce, dry and prepared foods, and household items. They are small stores and often family-run.
2. **Gourmet grocers** are the fastest-growing industry segment and are defined by luxury products (including health food and organic food) and a high-income consumer base. Stores are mid-sized and often owned by chains, although some have independent owners.
3. **Supermarkets** are larger, carry a wider range of products, and are often owned by chains. Historically, this segment has had higher union density and job quality, though both have been declining because of non-union competition.

Wages and working conditions vary by industry segment and by the degree of unionization. The most unregulated stores are green grocers, bodegas and delis – margins are razor thin, wages are low, and workplace violations are chronic. Gourmet grocery stores have high prices and

bigger profit margins, but labor costs are nevertheless kept quite low and workplace violations are common. Supermarkets, by contrast, have more formalized employment relationships, but there is a significant split between union and non-union stores in wages and benefits. To the extent that workplace violations occur, they are concentrated in non-union stores.

Overall, the industry has become highly competitive, and profit margins are close to 1% for most segments, exacerbated by rising rents. Unionized supermarkets have maintained higher density than in other cities, but are under such intense competitive pressure that annual earnings in the city's food retail industry declined by 9% during the 1990s, while earnings for the private sector as a whole grew by 35%.

THE WORKERS & MOBILITY

Immigrants make up about two-thirds of the workforce, and increasingly hail from Latin America and especially Mexico. Many find jobs through friends and family already working in a store that is hiring. But some employers advertise in ethnic newspapers, and green grocers frequently hire workers through storefront employment agencies. Bodegas rely heavily on family members, who put in very long shifts.

In our interviews, non-union grocery jobs were widely considered the least desirable of employment options. While the jobs are easy to get, requiring little English or previous training, they are exploitative and dead-end (“There's only one type of job,” as a bodega owner put it). Turnover is high across all segments, although workers may stay in the industry for several years because there are few alternatives. Workers aspire to construction and restaurant jobs, where conditions are just as hard but pay is marginally better. The one concrete opportunity for mobility is to land a unionized supermarket job, with better wages and benefits and annual raises; but demand for the jobs exceeds supply.

JOB QUALITY & WORKPLACE VIOLATIONS

As summarized in Table A, workplace violations are common in non-union stores. The “going rate” for many grocery jobs is \$250-\$300 per week, for 60 or more hours of work, easily dropping hourly wages below the minimum. This wage standard is so widely accepted that employers are convinced they cannot pay the minimum wage and still stay in business. Some occupations earn even less (food preparers), and baggers and delivery workers are often paid only in tips. Workers are generally paid in cash, with poor record keeping. Overtime is almost never paid (the same flat weekly rate applies, no matter what the hours), and breaks are erratic and sometimes not given at all. A recent suit against a Brooklyn supermarket is illustrative. Nine baggers charged that they were being paid only in tips, earning as little as \$100 a week for 50-66 hours of work (Confessore 2006).

Subcontracting also plays a role in driving down workplace standards in this industry. Medium-sized stores often contract out janitorial and delivery jobs, and workers in these jobs tend to experience the worst violations.

- *Delivery workers* (mainly African immigrant men) are often hired via informal subcontractors who routinely violate employment and labor laws. Workers are not given meal breaks and face arduous working condi-

tions, especially in the winter. They are paid about \$75 per week and depend on tips, which are unstable and vary widely. In the words of one deliveryman: “If you are working in an area like Park Avenue, then you don’t get tips. Sometimes you just see the doorman, but even if you see the people, they still don’t give you anything. It’s rich people, they don’t give it.”

- *Janitors* (mainly Latino immigrant men), are often hired via informal janitorial contractors to clean smaller, “working-class” supermarkets overnight, between 8 p.m. and 8 a.m. The pay is \$55 per night; employers do not keep track of hours, although the workers generally put in 60-70 hours per week at different sites. Contractors may pay only a portion of wages due to the workers, and sometimes do not pay at all.

Finally, workers report discrimination based on complex hierarchies of ethnicity, as well as retaliation for organizing or complaining about working conditions. Still, in response to an increasing number of wage and hour claims being filed against green grocers, the New York State Attorney General led an initiative to establish a “Greengrocer Code of Conduct” in 2002. In signing the code of conduct, employers agreed to pay the minimum wage and follow overtime regulations, in exchange for having prior violations dropped (see Section VI for more details).

TABLE A.
CHARACTERISTICS OF UNREGULATED WORK IN THE GROCERY & SUPERMARKET INDUSTRY
IN NEW YORK CITY

| INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON | |
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| Industry segments | Violations are found in: 1. Green grocery stores, bodegas and delis (violations are prevalent). 2. Gourmet grocers/health food stores (violations are frequent). 3. Non-union supermarkets (common violations in some occupations). |
| Ownership and size | Most green groceries, bodegas and delis are independent, immigrant-owned stores with a half dozen employees or less. Gourmet grocery stores are usually part of local chains, and can have 20 or more employees. Non-union supermarkets are typically part of medium and even large chains, with a few publicly traded. |
| Union density | No union density in green groceries and gourmet stores. Union density in supermarkets has historically been strong but is declining. |
| THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON | |
| Occupations | Occupations most impacted include cashiers, stock clerks, deli counter workers, food preparers, delivery workers, janitors, baggers, produce washers/watchers, and flower-arrangers. |
| Typical wages | Green grocery, bodega, and deli workers: \$250-300 per week is typical. Produce washers and food preparers earn between \$4 and \$5 per hour. Gourmet grocery workers: Floor workers typically earn between \$6 and \$7 per hour, but can earn up to \$9. Non-union supermarket workers: Weekly wages average around \$350 a week; baggers earn from \$150-\$200 (paid in tips only). Subcontracted delivery workers earn weekly wages of \$75 plus variable tips up to \$100, and subcontracted janitors earn \$55 for a night shift of 12 hours. |
| Typical hours | Hours average 55-75 hours per week in green grocery stores; 40-60 hours per week in gourmet grocery stores; and 40-60 hours per week in non-union supermarkets. |
| Payment method | Workers are largely paid in cash at green grocery stores, with the exception of occasional cashiers and family members of the owners. Gourmet grocers and supermarkets generally pay on the books, though at least a few workers are always paid in cash. |
| Benefits | Health benefits and vacation and sick days are rare in non-union stores. |
| THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS | |
| Demographics | Workforce is almost exclusively immigrant, from Mexico, Central America, Korea, Africa, the Caribbean, and South Asia. Delivery workers are mostly African immigrants. With the exception of cashier jobs, most occupations are male dominated. Ages range from the teens through the 40s. |
| Immigration status | Green grocery and delivery workers are often undocumented. Some undocumented workers in gourmet grocery stores and supermarkets. |
| INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS | |
| Storefront employment agencies are frequently used, especially for off-the-books jobs, charging the workers \$100-\$300 per placement, or \$10 for a day job. | |
| INDUSTRY-SPECIFIC LAWS AND REGULATIONS | |
| Workers are generally covered by all employment rights and regulations. In addition, the New York State 2007 minimum wage for tipped employees such as delivery drivers is \$5.40 or \$6.05 an hour (depending on the weekly tip average), but if a worker's combined wages and tips do not at least equal the regular state minimum of \$7.15 per hour, the employer must make up the difference. In 2002, the New York Attorney General established a "Greengrocer Code of Conduct," in which signatory grocers agreed to comply with employment and labor laws, and be monitored for compliance. | |

COMMON WORKPLACE VIOLATIONS

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| Minimum wage and overtime | <p>Minimum wage: Violations are pervasive in green grocery stores, bodegas and delis. Workers commonly put in 60-72 hours per week, often resulting in hourly wages below the minimum. For example, a worker paid \$300 per week for 60 hours will earn \$5 per hour (without considering time-and-a-half-pay for overtime hours). The worst jobs can be paid as little as \$2.50 an hour. Similar violations are found in gourmet stores, but are somewhat less pervasive. Violations in non-union supermarkets are concentrated in the most vulnerable occupations (baggers, delivery workers).</p> <p>Overtime: Green grocery stores rarely pay overtime. Gourmet grocery stores may selectively pay overtime (e.g. after six months, or for more skilled workers). Non-union supermarkets often violate overtime laws for baggers and delivery workers.</p> |
| Non-payment of wages | Non-payment is rare in most occupations, with the exception of subcontracted workers (janitors and delivery workers). |
| Meal breaks | Meal breaks are erratic, and green grocery workers in particular can work up to 14-hour days without a meal break. Delivery workers typically do not get meal breaks and have to eat on the job. |
| Employer taxes | When employers pay in cash, they very rarely pay required taxes. |
| OSHA | Chemical and pesticide exposure is a serious issue for workers handling sprayed produce, with few safeguards or training by employers. Stockers do not receive mandated training on lifting and moving. |
| Workers' Compensation | Smaller employers do not carry workers' compensation, and across segments, workers rarely receive it when injured on the job. |
| Discrimination | Workers report hiring, firing and promotion based on immigration status, ethnicity and relationship to owner, as well as harassment based on immigration status. |
| Retaliation & the right to organize | Workers report being threatened, intimidated and fired for bringing complaints or attempting to organize. |

Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from late 2003-early 2005.

Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Bodie (2003), Bodie (2004), Confessore (2006), Diamond (2004), Greenhouse (2002), Greenhouse (2004d), Greenhouse (2007b), Howell (2003), Janoff (2000), New York Jobs with Justice and Queens College Labor Resource Center (2005), New York State Department of Labor (2007b), New York State Department of Labor (2007c), Office of the New York State Attorney General (2005b), Romano (2006), US Department of Labor (2006f), US Department of Labor (2006g), US Department of Labor (2006h).