

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH

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December 04, 2013
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HELD AT: 250 Broadway - Committee Rm,
14th Fl.

B E F O R E:
MARIA DEL CARMEN ARROYO
Chairperson

COUNCIL MEMBERS:
INEZ E. DICKENS
MATHIEU EUGENE
JULISSA FERRERAS
ROSIE MENDEZ
JOEL RIVERA
DEBORAH L. ROSE
PETER F. VALLONE, JR.
JAMES G. VAN BRAMER
ALBERT VANN

[gavel]

CHAIRPERSON ARROYO: Good morning. Thank you all for being here My name is Maria Del Carmen Arroyo. I chair the Committee on Health in the council and today the committee is conducting a hearing on a bill to include electronic cigarettes in the New York City Smoke-Free Air act sponsored by Council Member Gennaro, Council Speaker Christine Quinn, and myself. This legislation would prohibit the use of e-cigarettes wherever smoking is prohibited in the city. Electronic cigarettes are electronic devices that deliver nicotine, flavor, and other chemical, chemicals typically through vaporization. Some argue that electronic cigarettes are a safer alternative to smoking cigarettes while others argue that they contain nicotine and other potentially harmful substances may serve as a gateway to smoking and are often targeted towards our youth. What we do know is that studies to smoking, to, to, studies on these devices are few and regulations regarding these devices is nonexistent. The use of electronic cigarettes in the US commonly referred to as vaping and I'm sure that we will hear from the industry on

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2 their feelings about this has grown to a, at a
3 rapid pace with sales for the year 2013 projected
4 to be at 1.7 billion dollars. As the popularity of
5 these devices grow so does the likelihood that
6 their prevalence in areas where smoking is
7 prohibited will increase and we may see some of
8 that here today. Many brands of electronic
9 cigarettes are designed to look very much like
10 cigarettes and are used just like them. And the use
11 of these devices where smoking is currently
12 prohibited makes enforcement of the city's smoke
13 free act extremely difficult. And those charged
14 with enforcing it may not be clear on whether the
15 user's breaking the law or not. This can lead to
16 confusion, confrontations, and conflicts in our
17 establishments that I would not like to see happen.
18 We can't allow electronic cigarettes to undermine
19 the Smoke-Free Air act which has been the boom to
20 businesses and] a huge public health benefit to our
21 city. We expect many witnesses to testify on this
22 legislation in favor or against. I look forward to
23 hearing all sides on this issue. And while I, I
24 understand that many are passionate about the topic
25 we will be respectful and appropriate and have a

1 dignified conversation. And as chair of this
2 committee I am pretty comfortable hearing opposing
3 sides as long as we do not get disrespectful. I
4 expect that we will conduct ourselves accordingly.
5 And before I turn over to Dr. Farley I want to
6 thank the committee staff for their work in
7 preparing for this hearing and I'm going to cheat
8 because I don't have all their names. Dan
9 Hafitz[phonetic] council to the Committee on Health
10 who might have to leave us on a moment's notice
11 because his wife is about to give birth to their
12 first baby and she's a week overdue. Kelly Taylor
13 to my left who is flying as the wingman on this
14 committee hearing because Dan's unexpected
15 departure may happen and we hope that that happens
16 soon and wish her well.

17 [laughter]

18 CHAIRPERSON ARROYO: Because I hear
19 she's miserable.

20 [laughter]

21 CHAIRPERSON ARROYO: Crystal
22 Pon[phonetic] who's always in the background
23 somewhere policy analyst for the committee. And
24 Crilliam Francisco [phonetic] also in the
25

1 background usually fiscal analyst to the committee.
2
3 I want to acknowledge the committee members that
4 are here. Council Member Vallone who's trying to
5 lobby me for a job after he leaves the council,
6 Council Member Gentile, Council Member Van Bramer,
7 and Council Member Debbie Rose stepped in and
8 stepped into the other committee next door but I
9 expect that she'll be back and she's here oh hi,
10 with the nicest sweater I've seen this year. And we
11 are going to hear from the prime sponsor of the
12 bill. He's stuck in traffic as soon as he gets here
13 we'll interrupt the proceedings to give him the
14 opportunity to say a few words. Dr. Farley thank
15 you for being here and we look forward to your
16 testimony.

17 COMMISSIONER FARLEY: Thank you very
18 much. Good morning Chairperson Arroyo and members
19 of the New York City Committee, Council Committee
20 on Health. I'm Doctor Thomas Farley Commissioner of
21 the New York City Department of Health and Mental
22 Hygiene. Thank you for the opportunity to comment
23 on this pre-considered introduction, a bill that
24 would amend the Smoke-Free Air act by prohibiting
25 electronic cigarette use in places where smoking

1 conventional cigarettes is prohibited. This
2 legislation will help address electronic cigarette
3 use which is growing rapidly among both youth and
4 adults and poses a threat that we have, to the
5 progress we have made in reducing smoking in New
6 York City. Since 2002 the Bloomberg Administration
7 and the City Council have worked hard to reduce
8 smoking and protect all New Yorkers from the
9 harmful effects of tobacco. Perhaps the single most
10 effective policy change that has been made has been
11 passing the Smoke-Free Air act which has not only
12 protected nonsmokers from second hand smoke but
13 also radically changed the social acceptability of
14 smoking. We've also made cigarette taxes the
15 highest in the nation, produced public awareness
16 campaigns warning about the risks of smoking and
17 offered direct assistance to tens of thousands of
18 New Yorkers to help them quit. With your help last
19 month we became the first major city in the United
20 States to increase the age of sale for cigarettes
21 to 21 in one of the first jurisdictions in the
22 country to prohibit discounts on tobacco products.
23 To address the growing trade in illegal cigarettes
24 we have also increased our ability to enforce
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2 against tax evasion which will help ensure high
3 cigarette prices and level the playing field for
4 honest retailers. As a result of these efforts the
5 smoking rate of adult New Yorkers has fallen more
6 than a quarter and the smoking rate among teenagers
7 has been cut in half. We have estimated that this
8 decline of smoking is preventing thousands of
9 unnecessary deaths in New York City contributing to
10 our significant gains in life expectancy. However
11 our adult smoking rate has leveled off in the last
12 two years and the youth smoking rate has remained
13 stagnant for several years and smoking is still the
14 number one cause for preventable death in New York
15 City. For these reasons we are constantly seeking
16 new ways to discourage youth from starting to smoke
17 and assist adult smokers in quitting. Even more
18 important we feel we must protect the gains we have
19 worked so hard to achieve and prevent smoking rates
20 from rising again. Electronic cigarettes commonly
21 called e-cigarettes are nicotine delivery devices
22 that emit vapor and are designed to look like
23 conventional cigarettes. Among United States high
24 school students electronic cigarettes use more than
25 doubled between 2011 and 2012 a 4.7 percent to 10

1 percent. In 2012 more than 1.78 million middle and
2 high school students nationwide tried electronic
3 cigarettes. Sales of these products have doubled in
4 just two years from nearly 300 million in 2011 to
5 600 million in 2012 and are expected to reach 2
6 billion in 2013. All of this country's big
7 cigarette companies are now producing and heavily
8 marketing on e-cigarettes. The key point for the
9 hearing today is that e-cigarettes are so new that
10 we know very little about them. We cannot answer
11 many of the important questions that health experts
12 have about their short term, long term, and
13 indirect effects. Electronic cigarettes are not
14 regulated by any federal agency because there are
15 not government reporting requirements for e-
16 cigarettes there is no way of knowing the levels of
17 nicotine or amounts or kinds of other chemicals
18 they deliver to the lungs of users. The Food and
19 Drug Administration or FDA has found that some
20 electronic cigarettes contain toxins and
21 carcinogens and has expressed concern about their
22 safety. Some studies suggest that electronic
23 cigarettes release admissions containing volatile
24 organic compounds and fine particulate matter which
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2 are associated in large enough concentrated with
3 respiratory problems. Electronic cigarettes have
4 not been subjected to any long term scientific
5 studies and their impact on health over time is
6 unknown. What we do know with certainty is that
7 most of these devices contain nicotine a highly
8 addictive substance. And many electronic cigarettes
9 look virtually identical to and mimic the action of
10 smoking a conventional cigarette. I'm sure you'll
11 hear later today from e-cigarette advocates that e-
12 cigarettes by delivering nicotine to addicted
13 smokers help those smokers quit. Based on this
14 argument they believe health experts should condone
15 or actually promote e-cigarette use. And initially
16 the FDA tried to regulate e-cigarettes as drug
17 delivery devices but remarkably it was the
18 electronic cigarette industry itself that sued the
19 FDA over this arguing in court that electronic
20 cigarettes were not drug delivery devices but
21 instead were tobacco products and should be
22 regulated as tobacco products and in 2010 the
23 federal court agreed with them. In the associated
24 press article on this legislation last week a
25 representative of Tobacco Vaper Electronic

1 Cigarette Association reiterated this position
2 saying that e-cigarettes should be regulated as
3 tobacco products. By the industry's own logic then
4 each cigarette use should be discouraged by health
5 experts and prohibited in places where use in
6 conventional cigarettes is prohibited. In addition
7 there are reasons to question the claim that e-
8 cigarettes help smokers of conventional cigarettes
9 quit. The use of electronic cigarettes particularly
10 in places where smoking is prohibited may actually
11 have the opposite effect helping smokers avoid
12 quitting by acting as a bridge. That is helping
13 them maintain nicotine levels in their blood until
14 they have an opportunity to smoke a conventional
15 cigarette again. Several e-cigarette companies are
16 now running advertisements including as on
17 television with attractive models and celebrities
18 glamorizing the act of smoking in a way that we
19 have not seen since conventional cigarettes were
20 banned from television in the early 1970s. I view
21 this marketing as highly irresponsible and
22 dangerous because it may entice children to
23 experiment with smoking. Allowing the use of
24 electronic cigarettes in places where smoking's
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1 prohibited could accentuate this problem making the
2 act of smoking conventional cigarettes socially
3 acceptable again and undermining the enormous
4 progress tobacco control over the past few decades.
5 The impact of a social acceptability of smoking
6 should not be underestimated. Children and young
7 adults are heavily influenced by whether they feel
8 a behavior is viewed positively by their peers. If
9 smoking becomes socially appealing or even
10 glamorous again we can be virtually certain that
11 smoking rates in teenagers will rise. Another
12 concern is that young people who experiment with
13 electronic cigarettes may become addicted to
14 nicotine and then switch over to smoking
15 conventional cigarettes. Finally allowing the use
16 of e-cigarettes indoors may make it difficult to
17 enforce the Smoke-Free Air act against conventional
18 cigarettes because e-cigarettes and conventional
19 cigarettes look so much alike. Just to give you an
20 idea I got one here somewhere. So this is an e-
21 cigarette and if you can see it's indistinguishable
22 certainly from the distance you're at from a
23 conventional cigarette. New Yorkers have come to
24 enjoy and greatly benefit from smoke free
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2 restaurants and bars. We do not want to return to a
3 day in which smoking conventional cigarettes in
4 these places is allowed simply because restaurant
5 and bar staff can't easily distinguish them from e-
6 cigarettes. Various jurisdictions from around the
7 country have prohibited the use of electronic
8 cigarettes in areas where smoking's prohibited
9 including New Jersey, Utah, North Dakota, Boston,
10 and various counties in New York, California, and
11 Kentucky. Last week Chicago announced that it is
12 perusing similar legislation. Because of these
13 concerns prohibiting the use of electronic
14 cigarettes in areas where smoking is restricted is
15 a prudent step. While more research is needed on
16 the health effects of electronic cigarettes waiting
17 to act could jeopardize the progress that we have
18 made over the past 12 years. Thank you for the
19 opportunity to testify and I'm happy to answer any
20 of your questions.

21 CHAIRPERSON ARROYO: Thank you
22 Commissioner. I have one question and then I'll
23 turn it over to my colleagues. What studies are
24 underway? Do you know of any that are currently
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2 being conducted to get us solid information so we
3 can make a determination about whether or not?

4 COMMISSIONER FARLEY: You know I don't
5 know what studies are underway. I'm sure there are
6 studies of the health effects on individual users.
7 The question about the long term effects though is
8 going to take some number of years to, to learn.
9 Because it's not a, if you give an e-cigarette to
10 one person and what that one person does is less
11 important than understanding if these are used
12 broadly across the population. Do they help reduce
13 or increase smoking rates? If they act as a bridge
14 where it helps conventional cigarette users not
15 quit then, they, that indirect effect could be very
16 negative. We're not going to know that for some
17 number of years.

18 CHAIRPERSON ARROYO: Are you encouraging
19 any studies to be conducted?

20 COMMISSIONER FARLEY: You know the, the
21 New York City Health Department isn't a research
22 institution.

23 CHAIRPERSON ARROYO: I recognize that.
24 That's why I used the word encourage.

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2 COMMISSIONER FARLEY: Yeah, I absolutely
3 think that more research needs to be done on
4 exactly what chemicals come out of these, what
5 effect those have on the lung, what happens to quit
6 rates who people who are using these, what the long
7 term effect is across the population, what happens
8 to children when they start using these, and seeing
9 how many of them then switch over to conventional
10 cigarettes. All those studies need to be done. I'm
11 sure that there are many institutions around the
12 country that are either doing research or seriously
13 considering this but it takes a while to get that
14 sort of information and these are such new products
15 that we're not going to have it anytime soon.

16 CHAIRPERSON ARROYO: Council Member
17 Vallone.

18 COUNCIL MEMBER VALLONE: Thank you Madam
19 Chair. Thank you Commissioner for your testimony. I
20 am one of those who are undecided on this bill and
21 I'm really looking forward to hearing as much
22 testimony as I can on both sides because there are
23 clearly responsible people, well intentioned
24 people, on both sides of this issue based on the
25 research I've done already. In fact I put it out on

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2 my Facebook page a couple days ago to get opinions
3 and the page just blew up with people on both sides
4 of the issue, a very civil debate. Everybody's
5 citing in a study to say their side is right which
6 I think proves your point that so little is known
7 at this point. If there were studies on each side
8 of this issue. One of the studies obviously you
9 mentioned is the FDA, or, or one of the things you
10 mentioned with the FDA, FDA's warning about, about
11 e-cigarettes and, and you said, and then the
12 argument that the other side makes, and it's a good
13 argument, is that they only tested some cigarettes.
14 And they say well if you regulate how the
15 cigarettes are made then you could get around the,
16 the potential toxins in, in the vapor. When I read
17 the study it did, it did seem to me like they
18 studied the two largest brands. Can you, you're the
19 health expert you've looked at the FDA warning what
20 is your opinion on that?

21 COMMISSIONER FARLEY: I'm not sure
22 exactly which studies you're talking about. I would
23 say this. Right now there's this no regulation
24 about what could be put in something like this. And
25 so, and, and what the companies are doing is

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2 changing what's in there. So even if we tested
3 today what all the different e-cigarettes have in
4 them and what sort of vapors or particles they put
5 out that might change tomorrow. It really is the
6 wild west right now with these. Now we are hopeful
7 that the FDA will do some sort of regulation on
8 this soon but they've been saying for a while that
9 they're going to do that. And it's unclear if their
10 regulation will put any limits on what sort of
11 chemicals can be in there or, or whether they'll be
12 even reporting of what's put in there. So we do
13 know that the e-cigarettes do put out some
14 chemicals. We do know that it put out some fine
15 particles but the amounts that they deliver to
16 users and the effects on health are just unknown.

17 COUNCIL MEMBER VALLONE: You make an
18 interesting point which I also learned about just
19 recently. Is it, I'm told again on line, that
20 people are using or are able to use and are using
21 these cigarettes to, for purposes they weren't
22 intended for, to fill up with illegal substances.
23 Is that possible?

24 COMMISSIONER FARLEY: It is possible
25 certainly. It, it's, you take the chemicals in

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2 there you could add other drugs and use them to
3 deliver them to your lungs. I don't know how
4 widespread that is but there's no reason it
5 couldn't be done.

6 COUNCIL MEMBER VALLONE: Okay. Most of
7 my questions are going to be for the other side to
8 have them respond to your arguments because you
9 obviously anticipated most of the arguments and,
10 and spoke about them in your testimony. I'm trying
11 to go through some of the paperwork that I was
12 handed by the other side to ask you but... Do you
13 believe there's any type of regulation less or
14 below what you're proposing that might also be
15 effective?

16 COMMISSIONER FARLEY: Yeah the, the,
17 this is a particular piece of legislation is around
18 a Smoke-Free Air act which is that I think probably
19 the single most important thing that we have done
20 to reduce smoking rates in New York City. If we
21 can't enforce the Smoke-Free Air act because people
22 can't easily distinguish an e-cigarette from a
23 regular cigarette then that's a problem wherever
24 the Smoke-Free Air act is in place. So I, I think
25 that that's, that's something that the committee

1 should look at very seriously that... Imagine if you
2 you know were in a bar and half of the people there
3 were smoking something that looked like that it
4 would be awful had to tell how many of them are
5 smoking a conventional cigarette how many are
6 smoking an e-cigarette. And I don't think we want
7 to go back to a situation where bars are, are
8 filled with smoke.
9

10 COUNCIL MEMBER VALLONE: Well the
11 argument obviously is it's not smoke it's vapor.
12 How would you address that?

13 [applause]

14 CHAIRPERSON ARROYO: Okay quiet. No, no,
15 no, no, no.

16 [gavel]

17 UNKNOWN MALE: Quiet please!

18 [gavel]

19 CHAIRPERSON ARROYO: Okay so we're going
20 to do something else. Instead of make noise just...
21 We can show support in different ways. Let's do it
22 quietly okay? Thank you.

23 COMMISSIONER FARLEY: No, I, and a
24 couple responses to that. One is that the whereas
25 these don't put out smoke in the quantities that

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2 you see from a conventional cigarette. They do put
3 out fine particles, they put out chemicals, and I
4 certainly can't guarantee that that is safe. But
5 the, the other thing is that this enforceability of
6 the Smoke-Free Air act is really really important.
7 If people can't distinguish then that opens the
8 door for smoking conventional cigarettes again in
9 all sorts of settings. And, and as you know there's
10 no city enforcement 99 percent of the time of the
11 Smoke-Free Air act. It ends up being self-enforcing
12 by other people in a bar or restaurant or the wait
13 staff. And if they can't distinguish this then
14 that, that could really fall apart.

15 COUNCIL MEMBER VALLONE: That, that is a
16 valid point also. It was my father that put in the
17 first smoke free act and back then it had a smoking
18 section in restaurants and people said how
19 outrageous that was and it would end the restaurant
20 industry as we know it but you've been doing great
21 work when it comes to stopping our kids from
22 smoking and obviously makes some points that are
23 well worth considering and I can't wait to hear
24 the, the other side also. Let me, let me say this
25 though. The way not to win this argument is to keep

1 blowing up our twitter pages with tweets okay?
2
3 Whoever tweets us the most is probably going to
4 lose because it's very annoying.

5 [laughter]

6 COUNCIL MEMBER VALLONE: But I do
7 welcome the input from all sides and I look forward
8 to hearing the rest of the testimony. Commissioner
9 thanks for your great work.

10 COMMISSIONER FARLEY: Thank you.

11 CHAIRPERSON ARROYO: Thank you Council
12 Member. Now we're going to hear from the bill's
13 prime sponsor Council Member Gennaro.

14 COUNCIL MEMBER GENNARO: Thank you Madam
15 Chair. Thank you Commissioner for being here. I, I
16 give my apologies for being late. There was some
17 place that I had to be and that was locked in place
18 many months ago and I couldn't get out of it. So
19 sorry that I was late. Sorry that I missed your
20 good testimony Commissioner. Yes, no, no, no I
21 didn't, well anyway. That was, and, and I'm going
22 to dispense with my opening statement. I, I, I, I
23 feel like I lost the right to make a long opening
24 statement because I got here late but I will just
25 mention a couple of quick things. You know, other

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2 than to thank you for your work Commissioner and
3 what we did on 21 and all the, and all the steps
4 we've taken over the last few years. The, the
5 statement from the Tobacco Vaper Electronic
6 Cigarette Association which is not just a national
7 trade organization for the industry but is
8 international. When they were asked about my bill
9 you know Mr. Thomas Kiklas[phonetic] who is the
10 cofounder and CFO of that organization indicated
11 that "It's been our position meaning to get Tobacco
12 Vaper Electronic Cigarette Association, it has been
13 our position that e-cigarettes should be regulated
14 as a tobacco product." So this is from the industry
15 itself and you know notwithstanding all the
16 attention that this hearing is getting. I don't
17 know why this is such big news and add about in
18 between 17 and 20 million people in this country
19 live in either states or you know local governments
20 where e-cigarettes are regulated in the same way as
21 tobacco products. You, you might have listed that
22 in your, in your statement. And, and, and I, I wish
23 to add my voice to what you mentioned about
24 undermining enforcement and you know kind of like
25 re-normalizing the, the act of smoking. And you

1 know for all the attention that this bill is
2 getting no one has called me. Not, like nobody has
3 called me about it. And I do bills all the time and
4 people that have a big problem, they, they tend to
5 call me about it. Of course they have the
6 opportunity here to come in a formal setting you
7 know to make their voices heard and I'm, and I'm
8 you know happy to hear that but I don't think these
9 are very big news. We already have almost 20
10 million people in this country you know living you
11 know within jurisdictions where you know there is
12 parody you know between the regulation given to
13 tobacco products and to e-cigarettes and the
14 statement from the industry itself, it, it has been
15 our position that e-cigarettes should be regulated
16 as a tobacco product period. And so I thank you for
17 your, you know for your, for your presence here
18 today, you know for your great advocacy. And all
19 the good things that the Bloomberg Administration
20 has done in concert with us you know to bring the
21 smoking rates down and to do what we can to
22 decrease the amount of people who smoke cigarettes,
23 decrease the amount of people who have a tobacco
24 addiction, decrease the amount of people who have a

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2 nicotine addiction. I think this is, you know I
3 think this is certainly a very prudent step and I
4 think the city is kind of like behind the times a
5 little bit and I think it's time that we caught up
6 and that will be my statement Madam Chair and I
7 have no further questions for the Commissioner
8 because we have spoken a lot on this issue and I,
9 and I thank you. I thank you Commissioner and I
10 thank you Madam Chair.

11 COMMISSIONER FARLEY: Thank you Council
12 Member.

13 CHAIRPERSON ARROYO: Thank you. Council
14 Member Gentile.

15 COUNCIL MEMBER GENTILE: Thank you Madam
16 Chair and Commissioner thank you for your
17 testimony. I'm, I'm just wondering if we're here
18 today based on, on your testimony trying to fit a
19 square peg into a round hole. Based on the
20 definition that we have for the Smoke-Free Air act.
21 And the fact that the Smoke-Free Air act addressed
22 the issue of secondhand smoke. And as you said in
23 your testimony who has been pointed out in, in, in
24 the presentation is there is no traditional
25 secondhand smoke with, with e-cigarettes. So are

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2 you suggesting that we redefine the, the, the
3 Smoke-Free Air act because the, the basic
4 definition was to protect secondhand smoke.

5 COMMISSIONER FARLEY: No, it's the, the
6 way that the bill is written as you noticed that
7 electronic cigarettes are listed separately. And
8 the reason for us supporting this is as I put in my
9 testimony that while we don't really know what's,
10 what's in the vapor there... You know some studies
11 indicating there's some chemicals, some studies
12 indicating particles in there, the primary concern
13 of the Health Department is the enforceability of
14 the Smoke-Free Air act against conventional
15 cigarette smoking because we know that that is, it
16 has been enormously important not just from
17 protecting people against second hand smoke but
18 also reducing smoking rates overall by making it
19 less socially acceptable. If allowing e-cigarette
20 use indoors undermines that then we've lost this
21 incredibly important tool. I should just point out
22 right now that there's no law right now that says a
23 teacher couldn't use these cigarettes in front of
24 his or her classroom in school. And that makes
25 this, should make you wonder a little bit about

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2 what the effects could be if this got to be very
3 very popular on young children picking up either e-
4 cigarette use or conventional cigarette use.

5 COUNCIL MEMBER GENTILE: So it really
6 has nothing to do with keeping the air smoke free?

7 COMMISSIONER FARLEY: I, I didn't say
8 that. I, I would say we don't know what is in these
9 because they change all the time because there's no
10 reporting what's in there. And so the, I cannot
11 guarantee that what comes out of these things is
12 safe. I don't think that's the primary reason but I
13 cannot guarantee that it's safe.

14 COUNCIL MEMBER GENTILE: Well let me
15 just, this is something that came from the material
16 we were given today. I'm not exactly who, who
17 submitted it but it indicates here that a, a Doctor
18 Michael Spiegel a public health professor at Boston
19 University and an activist antismoker links and
20 he's quoted here to a New Zealand study that quote
21 reveals again by actual measurement that the toxic
22 emission score which is a score based on levels of
23 59 priority toxicants was zero for electronic
24 cigarettes. And he further sites a study which
25 concludes that the exhaled vapor from electronic

1
2 cigarette smokers contain mainly propylene, glycol,
3 glycerin, and small amounts of nicotine. It does
4 not appear to be any major concern regarding any
5 dangerous exposure to passive vaping. That comes
6 from the health professor at Boston University like
7 your reaction.

8 COMMISSIONER FARLEY: Right and as I
9 said it is not the primary reason why we are
10 supportive of this bill is not the exposure to the
11 peoples' secondhand. But again I cannot guarantee
12 it's safe. The primary reason is that the, the
13 potential loss of enforceability of the Smoke-Free
14 Air act against conventional smoking.

15 COUNCIL MEMBER GENTILE: Well wouldn't
16 that be just as easy as touching the tip of an
17 electronic cigarette to see if it, if it's cool?

18 [laughter]

19 COUNCIL MEMBER GENTILE: If it's cool
20 that means that's an electronic cigarette.

21 COMMISSIONER FARLEY: If, if, if you
22 were... [interpose]

23 COUNCIL MEMBER GENTILE: If the end's
24 hot you get burnt.

25 [laughter]

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2 COMMISSIONER FARLEY: Right. If you're
3 right next to one person that's true. On the other
4 hand if, right now 15 percent of people are smoking
5 conventional cigarettes. If these become so popular
6 to where 15 percent or 30 percent of people are
7 using these and you're in a crowded bar and half
8 the people there are pulling on one of these things
9 it's going to be awful difficult for the, the bar
10 staff to recognize who's smoking a conventional
11 cigarette and who's smoking an e-cigarette. And
12 then the bars could be that way. There's nothing
13 that would prevent that that from happening.

14 COUNCIL MEMBER GENTILE: Okay. I imagine
15 it's not impossible but you're saying it's
16 difficult?

17 CHAIRPERSON ARROYO: Council Member if
18 you... [interpose]

19 COMMISSIONER FARLEY: Correct.

20 COUNCIL MEMBER GENTILE: I'll just, let
21 me just... [interpose]

22 CHAIRPERSON ARROYO: No, no I want to do
23 a follow up on... [interpose]

24 COUNCIL MEMBER GENTILE: Oh.

25

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2 CHAIRPERSON ARROYO: ...on your last
3 question. What's the consequence to the
4 establishment if they are enforcing the smoking,
5 the free... [interpose]

6 COMMISSIONER FARLEY: So... [interpose]

7 CHAIRPERSON ARROYO: ...Smoke-Free Air
8 act?

9 COMMISSIONER FARLEY: ...when we inspect
10 restaurants and other clubs [interpose]

11 CHAIRPERSON ARROYO: Sorry Councilman.

12 COMMISSIONER FARLEY: When we inspect
13 restaurants and other clubs we check to see if they
14 have a sign that says smoking is not permitted. We
15 also see if there's evidence that smoking is being
16 permitted despite that. And so they can be cited
17 with a violation if smoking is permitted. So there
18 is some risk if, if a restaurant doesn't enforce or
19 can't enforce against smoking of conventional
20 cigarettes that they would be you know cited with a
21 fine.

22 COUNCIL MEMBER GENTILE: What if, if the
23 regulation might otherwise be making electronic
24 cigarettes look different than conventional
25 cigarettes so that your concern about enforcement

1
2 would be much easier and, and frankly removed if,
3 and I saw some the audience holding up some
4 electronic cigarettes that don't look like
5 conventional cigarettes. So what if the, what if
6 the regulation were to make or to require
7 electronic cigarettes to look significantly
8 different than conventional cigarettes.

9 COMMISSIONER FARLEY: You know the
10 council could try to do that if, if the council
11 wants to. I, my guess is that you would find it
12 difficult to figure out how to create a definition
13 that excludes this but doesn't exclude some of the
14 other ones that look, having different shapes and
15 sizes.

16 COUNCIL MEMBER GENTILE: Well that's
17 something I think we need to consider as a, as a,
18 as a measure short of complete banning. But I, you
19 and I have had this discussion many times before
20 when we talk about indoor smoke and, and second,
21 secondhand smoke being dangerous and, and the, a
22 Smoke-Free Air act. We totally in this city
23 overlook the secondhand smoke and the smoke that's
24 going on in hookah bars across this city. And, and
25 that smoke as we have discussed before many times

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2 can be, has been shown to be as dangerous if not
3 more dangerous than cigarette smoke given the fact
4 that there is nicotine very often mixed in with the
5 herbal shisha.

6 COMMISSIONER FARLEY: Right.

7 COUNCIL MEMBER GENTILE: As well as the
8 tarb at the bottom of the hookah pipe. And that,
9 that is a real danger to not only those smoking but
10 those in that bar who are inhaling that secondhand
11 smoke. I'm just, I, I'm, I'm just a little bit
12 amazed that we're rushing to this one and yet we
13 haven't really seriously dealt with and you know I
14 have a bill concerning that, but we really
15 seriously have not dealt with the, the, the
16 secondhand smoke which is a clear violation of the
17 Smoke-Free Air act if we were to bring the hookah
18 bars under the Smoke-Free Air act.

19 COMMISSIONER FARLEY: Right. The, I, I
20 view we are also very much concerned about hookah
21 smoking which we, was once a, a small loophole of
22 the Smoke-Free Air act which it looks like it's
23 getting bigger now. And we are happy to work with
24 the councilman addressing that. To me these are two
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2 separate issues. One of, addressing one is not a
3 substitute for addressing the other.

4 COUNCIL MEMBER GENTILE: Oh it's, but
5 it, but the administration drives this a lot of
6 times and, and, and you know there is a bill in the
7 council but has the administration taken any steps,
8 or any initiative on the hookah smoke?

9 COMMISSIONER FARLEY: Let me say if, if
10 the council came up with a bill and, and announced
11 hearings on this we would be happy to work with the
12 council in coming up with something that, that
13 would address that citation.

14 COUNCIL MEMBER GENTILE: I guess it'll
15 be the next administration then. [laughter] I thank
16 you Commissioner.

17 CHAIRPERSON ARROYO: Or not.

18 [laughter]

19 COUNCIL MEMBER GENTILE: Or not.

20 CHAIRPERSON ARROYO: Just or not. Thank
21 you Council Member. We've been joined by Council
22 Member Eugene member of the committee. Council
23 Member Rose.

24 COUNCIL MEMBER ROSE: Thank you.
25 Commissioner E-cigs have, e-cigarettes have been

1
2 touted as a smoking cessation device. What is your,
3 are you saying that there, it's not value in terms
4 of smoking cessation with e-cigarettes?

5 COMMISSIONER FARLEY: No, individual
6 users would make that claim but you know there is a
7 way for manufacturers to develop, market, and be
8 able to make a claim about something as a cessation
9 device. We have nicotine patches and gums, we have
10 medications which are cessation devices. The e-
11 cigarette industry has chosen not to do that. They
12 do not market this as cessation devices. They do
13 not make claims that they are cessation devices
14 because they would prefer to have them be regulated
15 as tobacco products. And so they, they have not
16 done the study to determine whether they are
17 effective for cessation of not. And so you'll hear
18 a lot of claims from individuals who say this is a
19 cessation device but the industry does not make
20 that claim and so we don't treat it as such.

21 COUNCIL MEMBER ROSE: So other cessation
22 devices include nicotine as well as the e-
23 cigarette. Are you opposed to the use of nicotine
24 in the e-cigarette? Is that one of the values that
25 you are opposed to?

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2 COMMISSIONER FARLEY: The, well the
3 other devices that, or the other products that are
4 put out there to assist people in cessation have
5 undergone very rigorous testing to demonstrate not
6 only their effectiveness but also their safety. The
7 FDA sets a very high bar for something to be put
8 out there as a medication to assist with cessation.
9 And, and so they've demonstrated there that the
10 nicotine as delivered in those products is safe.
11 How the nicotine is delivered in here and what sort
12 of other things go along with that has not been
13 studied and demonstrated to be safe. And so we're
14 concerned about the entire package. Nicotine is in
15 there but there are other things in there as well.
16 And again we don't know everything that's in there.
17 So it, it, again it's, it is an inappropriate claim
18 for anybody to call these cessation devices because
19 if they wanted to market such thing they could have
20 done that rigorous testing and if it were safe and
21 effective then they could make that claim.

22 COUNCIL MEMBER ROSE: Is there
23 documentation that says that these e-cigarettes do
24 have smoking cessation value?

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2 COMMISSIONER FARLEY: There was one
3 study which I'm sure you're aware of in which e-
4 cigarettes were compared to patches. And that they,
5 the two groups ended up being about the same as far
6 as the likelihood of quitting over six months. But
7 the patches are something which are a proven, safe,
8 and effective cessation device where as e-
9 cigarettes we don't know about their safety and we
10 don't know about their long term effectiveness. So
11 that, that is the best study that I'm aware of. And
12 other studies beyond that I don't think are, are
13 nearly as strong. So you know the question about
14 whether they assist people in quitting they can't
15 make that claim so that there is proof to that.

16 COUNCIL MEMBER ROSE: So this
17 legislation will now mandate that e-cigarette users
18 have to go outside and smoke with regular
19 cigarette, people who are smoking cigarettes right?

20 COMMISSIONER FARLEY: Correct. If people
21 want to use this they can continue to use these
22 products but they couldn't do it indoors wherever
23 the Smoke-Free Air act applies.

24 COUNCIL MEMBER ROSE: And so is there
25 any fear that by doing so, by throwing them back

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2 into this group that now has to go outside or a
3 dedicated to smoke that it will then influence them
4 to return to smoking cigarettes as opposed to e-
5 cigarettes.

6 COMMISSIONER FARLEY: I mean to say we
7 encourage conventional cigarette smokers to quit.
8 That's the best thing for their health. The
9 question is as they, as this product is used now it
10 doesn't help people quit or does it help people not
11 quit. And we think that there's a very legitimate
12 reason to be concerned that it helps people not
13 quit. If they use this when they're indoors, when
14 they're at work to maintain their nicotine levels
15 then that may just tide them over until they can go
16 outside again and smoke a conventional cigarette.
17 What effect it has on peoples' quit rates over the
18 long term is simply unknown and so there's, there's
19 reason to be concerned about that.

20 COUNCIL MEMBER ROSE: When you passed
21 the other no smoking clean air bill were E-cigs,
22 not a cigarettes not a, an entity?

23 COMMISSIONER FARLEY: The, the Smoke-
24 Free Air act has had a few changes to it but the
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2 major bill was passed in 2002 or 2003 they weren't,
3 e-cigarettes weren't even invented at that time.

4 COUNCIL MEMBER ROSE: Okay thank you.

5 COMMISSIONER FARLEY: Thank you.

6 CHAIRPERSON ARROYO: Commissioner do you
7 have any reports of business owners expressing
8 concern or frustration regarding enforcement of the
9 Smoke-Free Air act and the use of electronic
10 cigarettes in restaurants and bars or areas where
11 it's not prohibited?

12 COMMISSIONER FARLEY: We, we've gotten
13 questions. What should we do? You know someone
14 brought one of these out at a restaurant and we
15 didn't know if this applied or not. And so
16 certainly clarity is important.

17 CHAIRPERSON ARROYO: And the advice is
18 given to establishments now?

19 COMMISSIONER FARLEY: Right now it, we
20 say what the law says that there's nothing that
21 prohibits them from being used.

22 CHAIRPERSON ARROYO: Council Member
23 Gennaro you have some follow up questions?

24 COUNCIL MEMBER GENNARO: Yes thank you.
25 Based on some of the back and forth since I, since

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I last spoke. With regard to the second hand smoke issue let's have an office with you know 20 cubicles and 10 people smoking e-cigarettes is it fair to say that the people who aren't smoking e-cigarettes are going to be breathing nicotine? Is that, is that fair to say?

COMMISSIONER FARLEY: No, the honest answer is I don't know. We don't know what kind of nicotine levels come out on a side stream there.

COUNCIL MEMBER GENNARO: Right.

COMMISSIONER FARLEY: We don't know how much nicotine is in these products. We don't know what happens if you have 20 people there versus one. We just don't know.

COUNCIL MEMBER GENNARO: Okay. And with regard to this being marketed as a, a smoking cessation device that would involve a whole process with the FDA. Is that, is that, is that correct?

COMMISSIONER FARLEY: Correct. The FDA sets a very high bar where you have to do very high quality studies to look at the effectiveness of any drug that's being marketed.

COUNCIL MEMBER GENNARO: Right.

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2 COMMISSIONER FARLEY: To demonstrate
3 both its effectiveness for what it claims and its
4 safety. And, and so you know the, the industry has
5 chosen not to do that.

6 COUNCIL MEMBER GENNARO: Right.

7 COMMISSIONER FARLEY: And so they cannot
8 make that claim and they should not make that
9 claim.

10 COUNCIL MEMBER GENNARO: Thank you
11 Commissioner.

12 COMMISSIONER FARLEY: Okay thank you
13 Council Member.

14 CHAIRPERSON ARROYO: We've been joined
15 by Council Member Rodriguez from Manhattan. Thank
16 you for joining us. So we adopt this bill, mayor
17 signs into law hopefully before December 31st I
18 would imagine. Implementation what would be
19 required of businesses and is there any additional
20 cost to the establishments regarding signage
21 etcetera.

22 COMMISSIONER FARLEY: Right. If, if this
23 bill is signed into law it would go into effect in
24 120 days. The, the main enforcement around the
25 department is to check to see that businesses have

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2 signs that say that smoking is permitted. Under
3 this bill they would have to have a sign that
4 would, either have a second sign that says no
5 electronic cigarette use is permitted or a single
6 sign that says no smoking or electronic cigarette
7 use is permitted. And so they'd have to change that
8 sign and the department would give ample time for
9 restaurants and other clubs to do that. We set up
10 to a year. And so we think that the cost of this
11 would be minimal.

12 CHAIRPERSON ARROYO: And the so
13 implementation is 120 days for them to have signs
14 up in order to... [interpose]

15 COMMISSIONER FARLEY: When the law says
16 they would but we wouldn't be citing them for
17 violation for not having a signup right of that, as
18 of that day because we understand it takes a while
19 for the word to get out and people pick up their
20 signs. It's, it's never the department's wish to
21 fine restaurants. It's our wish to educate them so
22 that they just come in compliance with the law.

23 CHAIRPERSON ARROYO: And before you go I
24 wanted to get something on your radar that I
25 learned yesterday in a meeting with several

1 restaurant owners in my district. That letter
2 grading system, the letters are being falsified
3 after the inspections. It just grew another head.

4 COMMISSIONER FARLEY: We, we hear
5 periodically reports about that. We can check and
6 do check restaurants and some of them they get away
7 with a, a fraudulent card here but if they have a
8 fraudulent card or no card and we find it and we do
9 find some we cite them with a violation and that's
10 a fine that's pretty steep. So they may get away
11 with it for a time but I wouldn't recommend that
12 they do that over the long term.

13 CHAIRPERSON ARROYO: So we'll have
14 follow-up conversation about... [interpose]

15 [crosstalk]

16 COMMISSIONER FARLEY: Yeah be happy to
17 thank you..

18 [interpose, crosstalk]

19 CHAIRPERSON ARROYO: ...make the system a
20 little bit more safer and consistent because the
21 businesses are complaining that the other players
22 in, in the industry are not playing fair. Council
23 Member.

24 COMMISSIONER FARLEY: Okay thank you.
25

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2 COUNCIL MEMBER GENNARO: Just quickly
3 Madam Chair. Based on the fact that there is so,
4 there's so much lack of knowledge on the effect...
5 [interpose]

6 COMMISSIONER FARLEY: Right.

7 COUNCIL MEMBER GENNARO: ...or, or the
8 danger of the e-cigarettes couldn't your department
9 do that, some type of testing to get some kind of
10 basic information that you could present to us. For
11 example you got the New England or the New Zealand
12 study that I just quoted to you... [interpose]

13 COMMISSIONER FARLEY: Right.

14 COUNCIL MEMBER GENNARO: ...before.

15 COMMISSIONER FARLEY: You know I think
16 there are a whole range of studies that need to be
17 done. There are studies about what this delivers to
18 the lungs of users. There's about what the, it
19 delivers to people nearby. There's a question of
20 what it does to quit rates among users individually
21 given these there's a question of what happens when
22 it's across an entire population. The department
23 does not have the resources to do all that
24 research. There are people I'm sure around the
25 country and around the world who are doing this

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2 because this is an issue all over the world right
3 now. These, these things are really exploding
4 around the world. We will have more information in
5 the future. I think the question for the committee
6 today is do you want to wait until we have more
7 information five years from now and we may find out
8 that the health consequences are quite bad or do
9 you want to act now, five years from now this
10 industry will be a multibillion dollar industry and
11 it will probably more difficult for the committee
12 to act.

13 COUNCIL MEMBER GENNARO: So it's your
14 testimony though that, that the, the department has
15 no ability to do any type of testing?

16 COMMISSIONER FARLEY: We... [interpose]

17 COUNCIL MEMBER GENNARO: That, that
18 would be helpful in this regard?

19 COMMISSIONER FARLEY: It would be very
20 difficult for us to do that. That's, that's not,
21 you know we, we don't in general do toxicology
22 testing and testing of you know what something like
23 that puts out. I would rather have it be done by a
24 laboratory that has the expertise to do that. And,
25 and there's a cost to doing that and I think if we

1
2 were to try to divert some of our budget for that
3 whatever we're cutting to do that also would not be
4 very popular.

5 COUNCIL MEMBER GENNARO: So you are
6 aware of the studies that are out there..
7 [interpose]

8 COMMISSIONER FARLEY: Yes.

9 COUNCIL MEMBER GENNARO: ...and you've
10 looked at those or, or... [interpose]

11 COMMISSIONER FARLEY: We have looked at
12 the studies that are out there. We still feel that
13 as I said the most important questions are still
14 unanswered.

15 CHAIRPERSON ARROYO: Commissioner is
16 this bill precedent setting as it relates to
17 prohibiting the use of electronic cigarettes in
18 public places.

19 COMMISSIONER FARLEY: No there's many
20 other jurisdictions and several states, many other
21 cities and counties that have taken action like
22 this. As I mentioned city of Chicago is considering
23 this virtually the same legislation right now. So
24 because these are so new this is happening all over
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1
2 the place. But in many ways we're, we're behind in
3 other places on this.

4 CHAIRPERSON ARROYO: Are you aware of
5 any problems with the implementation of the
6 regulation?

7 COMMISSIONER FARLEY: I'm not aware of
8 any problems that places that have implemented and
9 I believe it may be some very nearby places done I
10 believe New Jersey nearby counties have implemented
11 this. I should also say that the, the MTA on its
12 own has interpreted its own policy, smoke free
13 policy is already applying to this. So they are
14 already enforcing this on subways and the transit
15 system.

16 CHAIRPERSON ARROYO: Okay thank you
17 Commissioner for your testimony. We look forward to
18 continuing the work of this committee as it relates
19 to how we can improve the health of our city's
20 residents. If I don't see you again have a
21 wonderful holiday.

22 COMMISSIONER FARLEY: Thank you very
23 much.

24 CHAIRPERSON ARROYO: Okay we're going to
25 go into the public portion of the testimony that

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2 we're going to hear where I, as much as I hate to
3 use a clock on those testifying we're going to do
4 so. We have 60 people signed up and they continue
5 to come in. We want to make sure that we hear from
6 everyone So we're going to put a three minute clock
7 on. I'm going to ask that you please if you have
8 written testimony summarize it, give us the meat
9 and potatoes of it and when you speak from the
10 heart is probably the best testimony that I've ever
11 heard here in the council. So please do so
12 respectfully. And we're going to start. We're going
13 to alternate panels in opposition and in favor and
14 we'll continue that approach throughout the
15 hearing. We expect to be here all day and I will be
16 here to hear testimony from everyone who has signed
17 up to testify. So if we adhere the clock and we
18 keep some kind of order well we should be out of
19 here for dinner. Okay. Gilbert Ross, Dr. Ross, A,
20 ACSH and you're going to tell us what that is when
21 you speak. Spike Babaian, Vape New York National
22 Vapers Club, and Gregory Conley and you don't
23 indicate who you represent so Conley are you here?
24 Okay. And the, batting up, Dan, the next panel. Did
25 they call him? Dan. Okay.

[pause, background comments]

CHAIRPERSON ARROYO: Okay so you can choose the order that you go in. I think you've done this before. We're going to, the clock is on that side. So not to make you nervous or anything. Just be mindful of it so that we can keep on time. If the light is on at the base of the mic it's working. Pull it close to you otherwise the sound may not come through for those who are in the audience. And you may begin when you're ready.

GILBERT ROSS: Thank you very much Madam Chair and other members of the council, staff, and, and the guests. I represent the American Council on Science and Health. We're a nonprofit consumer education advocacy organization 35 years in the nonprofit field of public health. We've been in the forefront of antismoking activity, antismoking education since our founding in 1978. In the last few years we've been vigorous proponents of harm reduction techniques for helping addicted smokers quit as you all probably know. The approved methods to help smokers quit work very poorly 10 to 15 percent tops. So e-cigarettes seem to be a potential public health miracle if we can get the

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2 over regulation out of the way. The discussion so
3 far seems to have three general topic hitters e-
4 cigarettes do they work, are they going to help
5 smokers quit, what about the toxicants in the
6 vapor? This is specifically as far as the, this law
7 is concerned, the proposed bill. And three the
8 problem with enforcement differentiating e-
9 cigarettes from regular cigarettes. Well we're not
10 here of course to discuss where e-cigarettes
11 actually help smokers quit. As every, Dr. Farley
12 had said that those data are being collected now
13 and we'll find out. But millions of smokers around
14 the world have voted with their feet. And the
15 market has doubled every year as you mentioned.
16 These smokers must know something about how
17 effective they are I think. The toxicants in the
18 vapor Dr. Farley said numerous times we don't know
19 what's in the vapor. We don't know what's in these
20 things. We sure do know what's in the vapor and
21 nothing harmful is in the vapor. Studies done by
22 Dr. Igor Burstein and Drexel published in a journal
23 clearly demonstrated that there were no significant
24 health threats from vapor toxicants. Dr.
25 Gronowitz[phonetic] and others including Dr. Neal

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2 Benowitz who was on the FDA panel on cigarettes on
3 smoking and tobacco was a coauthor of that study
4 found that the toxicant levels in the vapor were 50
5 to 500 times less than an E, than a regular
6 cigarette smoke. So there's no reason for this law.
7 It'll, it'll force vapers that is e-cigarette users
8 out into the cold with smokers. To tell the
9 difference between a cigarette and an e-cigarette
10 is quite simple. I'm sure Dr. Farley could figure
11 this out quite simply as restaurateurs will as
12 well. The law is unnecessary, it's hyper regulatory
13 and it really will accomplish nothing except to
14 make more former smokers return to actual toxic
15 cigarettes. Thank you very much.

16 SPIKE BABAIAN: Most of you know who I
17 am already. My name is Spike Babaian. I am a
18 founder of National Vapers Club and I also co-own
19 Vape New York a cigarette store and I'm also the
20 coauthor on one of the studies that I just handed
21 out to you. The other one is actually Dr. Gronowitz
22 study which Dr. Ross just mentioned. Those two
23 studies are studies on indoor air quality when e-
24 cigarettes are being used. You also received a copy
25 of them back in May during the flavor ban when I

1 handed them out and said you don't worry we'll be
2 back here in a couple months for the indoor ban and
3 here we are. I'm coauthor on that paper. The paper
4 discusses the difference between tobacco smoke and
5 e-cigarette vapor and it tells you the levels of
6 toxins for the VOCs that Dr. Farley mentioned PAHs,
7 nicotine, nitrosamines, and all of the big major
8 toxicants in cigarette smoke. And they showed that
9 the levels... In fact I would like to read it to you
10 but since I gave all the copies to you I'm not sure
11 I actually have one. Okay and the conclusion of the
12 study was for all byproducts measured electronic
13 cigarettes produce very small exposures relative to
14 tobacco cigarettes. The study indicates no apparent
15 risk to human health from e-cigarette emissions
16 based on the compounds analyzed. You will also find
17 the same conclusion in Dr. Gronowitz' study which
18 found the same levels and same numbers of all of
19 those constituents. For people to say that there
20 are no studies especially while I sit here after
21 I've been doing these studies since 2009 and
22 raising funding to this study and trying to find
23 indoor air quality experts to complete this study
24 since I'm not a scientist so I couldn't do this
25

1 study. Kind of makes me a little bit upset
2 especially since the whole Health Committee had a
3 copy of the studies that were already completed in
4 May. There are studies. There are not just the two
5 that I handed out. You saw the box drop when I
6 walked up because there are about a half a dozen
7 more but I couldn't print them all because it would
8 have killed too many trees. So briefly since I
9 don't have an awful lot of time left I just wanted
10 to very quietly ask we could have all the people
11 who are vapers put your hand up in the air please
12 or your e-cigarette up in the air? How many of you
13 never... Put your hands for a minute. How many of you
14 never smoked a cigarette before you started vaping?
15 Okay. How many of you don't smoke cigarettes now
16 and continue to vape? Okay. So all of these people
17 used to smoke and all of these people except maybe
18 one don't smoke anymore. We can say there are no
19 studies but I mean if you do that, if you count
20 that as a survey, that's a little miniature study.

22 CHAIRPERSON ARROYO: Okay so Spike talk
23 to us.

24 SPIKE BABAIAN: Briefly what your bill
25 is trying to do is to de-normalize smoking. These

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2 people quit smoking. What you're trying to do and
3 what this bill does is de-normalize quitting. Okay?
4 Bare that in mind when you put this legislation
5 through. You're trying to de-normalize quitting. We
6 don't ban water because it looks like vodka we
7 educate people and tell them it's not.

8 GREGORY CONLEY: Good morning. My name
9 is Gregory Conley. For approximately three years I
10 served as the Volunteer Legislative Director for
11 the Consumer Advocates for Smoke-Free Alternatives
12 Association a nonprofit organization that is the
13 leading US advocate for consumers of vaper products
14 which are commonly referred to as electronic
15 cigarettes and other low risk alternatives to
16 smoking. In my position at CASAA I helped expose
17 the fact that the tobacco ordinances heard before
18 this committee in May would have enacted a de facto
19 ban on the sale of flavor e-cigarettes and folded
20 e-cigarettes into New York City's existing tobacco
21 laws. At that hearing Dr. Thomas Farley of the
22 Department of Health told the committee that it was
23 not the intention of the Bloomberg administration
24 to regulate e-cigarettes. None the less four months
25 after the hearing we were sent copies of new

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2 versions of the ordinances that originated with a
3 source in the Bloomberg administration. After
4 leaking the proposals to the Gothamist media
5 coverage and numerous New York newspapers, local TV
6 news, Fox news, and Morning Joe followed. In the
7 end the council and the Health Committee wisely did
8 not take up the bulk of Bloomberg's proposal with
9 regard to e-cigarettes and that was a benefit to
10 public health and I applaud the committee for that
11 decision. Having seen the council largely abandon
12 plans to treat e-cigarettes like other tobacco
13 products it came as a surprise to receive a notice
14 on the afternoon of the day before Thanksgiving
15 that this hearing would be taking place. I was
16 especially surprised when I learned despite the
17 fact that the council and the members here have
18 known about the e-cigarette issue since April or
19 May that the sponsors waited until a holiday
20 weekend to announce the introduction of an
21 ordinance that they hoped to pass in just three
22 weeks. This comes after the tobacco related bills
23 such as the raising the age to 21 sat for more than
24 six months before there was a committee hearing.
25 Having said that I would first urge the committee

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2 to wait to vote on this ordinance until 2014 at the
3 earliest which would afford the council time to
4 seriously consider the science on the matter and to
5 most importantly to hear from constituents. However
6 regardless of when this ordinance is brought for a
7 vote my recommendation and strong urging is no! All
8 existing evidence shows that e-cigarettes likely
9 present about 1/100th the risk of smoking, pose no
10 harm to bystanders, and have helped millions of
11 smokers quit worldwide and are not creating
12 nicotine dependence in nonsmoking youth, and are
13 not creating enforcement problems for businesses. I
14 was shocked to see Dr. Farley essentially admit
15 that they're not here to tell you that e-cigarette
16 vapor definitely poses a threat to public health
17 and that's why we should ban them. They're using
18 this absurd reasoning that e-cigarette vapor could
19 confuse people and lead to cigarette smoking. And I
20 would say you could be in the darkest dingiest bar
21 in New York City with the smelliest consumers of
22 any bar here and if somebody lit up a cigarette in
23 a roomful of people using e-cigarettes you would
24 know.

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2 CHAIRPERSON ARROYO: Thank you. So for
3 the, for the remaining public that's lining up to
4 testify you can see that your statement can be,
5 your sentiment can be conveyed in three minutes
6 appropriately so thank you for setting the, the
7 tone for that. Don't, no, we have some questions.
8 Councilmember Vallone.

9 COUNCIL MEMBER VALLONE: Thank you. As I
10 said there are well meaning very smart people on
11 both sides of this issue so I want to ask you some
12 of the same questions that I asked them. I'm
13 watching puffs of vapor go up in this room and it
14 is confusing number one. And number two I smell it.
15 It doesn't bother me. It smells good. But it might
16 bother me if I were in a restaurant and I smelled
17 that. How do you deal with that?

18 SPIKE BABAIAN: I think the person next
19 to me that's wearing perfume that's horrendously
20 overpowering bothers me too but we don't ban people
21 from smelling.

22 COUNCIL MEMBER VALLONE: We don't but we
23 also don't, don't let the perfect be the enemy of
24 the good when it comes to legislation. We deal with
25 what we can. If there were a way to deal with

1
2 smelly people with perfume I, we would probably do
3 that.

4 [laughter]

5 GREGORY CONLEY: I would,

6 COUNCIL MEMBER VALLONE: Because I agree
7 with you on that.

8 GREGORY CONLEY: I would also add that
9 restaurants remain free today to ban e-cigarette
10 use and many restaurants and private businesses
11 don't, I mean do ban e-cigarette use and that's
12 fine with us because that's the private business,
13 business deciding but because one customer may not
14 like it that they will ban it. And that's fine
15 because it's a private business. It isn't the
16 government stepping in and saying despite the fact,
17 as Dr. Farley admitted that we have no evidence par
18 that we need to ban it and fine people in find
19 businesses who dare to allow somebody to use a
20 smoke free product.

21 COUNCIL MEMBER VALLONE: That's, that
22 would have been--fair good argument. Dr. Farley
23 didn't say there weren't studies saying on both
24 sides of this issue. I think he there weren't
25 conclusions because there are studies that come out

1
2 on both sides of this issue. How do you deal with
3 the FDA warnings?

4 SPIKE BABAIAN: The FDA's study was not
5 actually a study. It was never published. It was
6 never peer reviewed and it was never replicated. It
7 was actually a preliminary review. It was done in
8 2009 and what they found was that the levels of
9 toxicants that they found were not toxic. However
10 that's not what the press release said. And all of
11 you received a copy of that in May with a sheet
12 that said this is what they found, this is the
13 levels of toxicants they found, this is what they
14 said about it even though the toxic risk level was
15 below toxicity. It was not even readable.

16 GREGORY CONLEY: That press conference
17 was orchestrated by the acting Deputy Commissioner
18 at that time Josh Sharfstein and his goal
19 apparently was to scare people off of e-cigarettes.
20 The fact is that the levels of toxicants found were
21 lower than those found in nicotine patches but they
22 didn't, they didn't want to discuss that. Plus of
23 course they were using a primitive e-cigarette. The
24 levels of toxicants were low then and they're much
25 lower now anyway.

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[crosstalk]

GREGORY CONLEY: So the, we're not disputing the fact that there were toxicants in the smoke. We're just saying it's at level that was not harmful which is what they say about fluoride and they're 100 percent wrong about that too.

GILBERT ROSS: There's no smoke by the way. That's vapor and there's tognito[phonetic] when you cross Broadway. You're getting a load of toxicants as well.

GREGORY CONLEY: And just to be clear the FDA tested the liquid that went into the e-cigarette and they found when they put out the press release they said that they found tobacco specific nitrosamines aka carcinogens. What the press release failed to leave out is that their test and every other test on e-cigarette liquid has found trace levels of carcinogens. And what these fine people that will speak today won't note is that the nicotine patch, gum, and lozenge, and inhaler all expose users to trace levels of carcinogens that are around 1,000 times less when they're consumed.

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2 COUNCIL MEMBER VALLONE: We're not
3 concerned about the users. They can do what they
4 want. I'm concerned about the vapor that other
5 people are inhaling.

6 GREGORY CONLEY: And those nitrosamines
7 have never been found in the vapor just to be
8 clear.

9 COUNCIL MEMBER VALLONE: That's, that's
10 what we're concerned about. You can, you feel free
11 to put your cigarette-- you shouldn't actually. I'm
12 as antismoking as you can possibly be which is why
13 one of the reasons that I'm, I'm taking this
14 seriously is because I have people work for me who
15 have quit using these things. So I don't need
16 studies to tell me that. Last question then because
17 I do want to get to a lot of people. The
18 commissioner said that you can change what's in
19 this on a daily basis. I don't know what's in that
20 puff of smoke. He may have bought it legally and
21 put whatever he wanted in that puff of smoke. How
22 do you deal with that argument?

23 SPIKE BABAIAN: It's not smoke, but if
24 it were a vapor and the vapor were to have
25 something in it that was an illegal substance

1 almost everybody in this room even if you never
2 smoked an illegal substance would know what that
3 smells like. And you just said I can smell the e-
4 cigarettes they smell pretty, like apples, fruit.
5

6 COUNCIL MEMBER VALLONE: Yeah but we
7 couldn't do anything about it.

8 SPIKE BABAIAN: Well you could because
9 illegal substance and I've seen people searched by
10 the police and made to blow out a puff and then
11 arrested for using illegal substances in an e-
12 cigarette. None of the consumers... You can't say
13 that because you can... If I took an apple and I
14 carved a hole in it you know you can make like a
15 pipe out of that to smoke marijuana in but we don't
16 ban apples just because you can do that.

17 COUNCIL MEMBER VALLONE: Again you're
18 going to the absurd example. It doesn't mean we
19 shouldn't do what we actually can do.

20 CHAIRPERSON ARROYO: Council Member.

21 COUNCIL MEMBER VALLONE: But I, again
22 I'm just, I want you guys to deal with the
23 arguments that they made so that we can take, get
24 all the information and I thank you guys for coming
25 out today.

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2 GILBERT ROSS: My roommate in medical
3 school used to empty his Marlboros and put
4 marijuana in them but we haven't banned Marlboros
5 yet although that might be something to talk about.

6 CHAIRPERSON ARROYO: Okay.

7 GILBERT ROSS: We do regulate...

8 [interpose]

9 CHAIRPERSON ARROYO: Council Member
10 Gentile.

11 COUNCIL MEMBER GENTILE: Thank you and
12 thank you for your testimony. I'm just wondering
13 the, the, the people flocking to e-cigarettes from
14 traditional cigarettes could, could it be just as
15 much an issue of convenience of going to e-
16 cigarettes rather than the, the march to, to, to
17 not smoking, the fact that you can smoke an e-
18 cigarette inside, that it has nicotine? So this
19 flock over to e-cigarettes couldn't it just simply
20 be an issue of convenience.

21 GREGORY CONLEY: Sure maybe. But the
22 fact is that the fewer cigarette smoke the better
23 public health will be. Whatever the reasons are for
24 smokers switching to e-cigarettes we don't frankly
25 care. More e-cigarettes, fewer cigarettes. And by

1
2 the way that's been demonstrated over the last year
3 or so. While e-cigarette sales have boomed sales of
4 tobacco cigarettes have hit historic declines.

5 SPIKE BABAIAN: If that were the case
6 wouldn't it be a benefit to let people use them
7 inside because if they had to go outside and the
8 only reason they were using it was because they
9 could use it inside wouldn't they just smoke
10 cigarettes when they went outside?

11 COUNCIL MEMBER GENTILE: Let me ask you.
12 You also had people raise their hands here at the,
13 during your testimony, do you consider those people
14 nonsmokers or on their way to be nonsmokers.

15 SPIKE BABAIAN: A nonsmoker doesn't
16 inhale smoke and none of those people inhale smoke.

17 COUNCIL MEMBER GENTILE: But they
18 aren't... [interpose]

19 SPIKE BABAIAN: You guys keep calling it
20 smoking but it's not, it's vaping.

21 COUNCIL MEMBER GENTILE: Okay it's
22 vaping but there is nicotine involved here.

23 SPIKE BABAIAN: But you inhale nicotine
24 when you use a nicotine inhaler and we don't call
25 them smokers. And we don't tell people who chew

1
2 nicotine gum they're smokers. They're nicotine..
3 There's a difference between nicotine user and a
4 smoker. And what, what this clean indoor air act
5 does is to benefit the public by reducing second
6 hand smoke.

7 COUNCIL MEMBER GENTILE: Right.

8 SPIKE BABAIAN: Okay? So to tell someone
9 who uses a nicotine inhaler which is essentially
10 what this is that they need to stand outside in the
11 smoking area and inhale secondhand smoke to use a
12 smoke free product is insane.

13 COUNCIL MEMBER GENTILE: So, so, so
14 you're saying, you're not saying that it, that the
15 nicotine in these e-cigarettes aren't, is, is not
16 harmful, it may be harmful but it's harmful to the
17 person using it potentially but it's not a harm to
18 anybody else by a secondhand smoke.

19 GILBERT ROSS: The handout that I gave
20 out has a book in it, that little monogram for the
21 nicotine and health and, and it discusses all of
22 the physiological effects of nicotine. Nicotine at
23 the exposure levels you get from cigarettes or e-
24 cigarettes is not harmful to your health. It's
25 addictive. And of course it's a myol[phonetic]

1
2 stimulant. I wouldn't want anybody to start using
3 nicotine that wasn't on it already. But nicotine is
4 not a toxicant really. A lot of people think it is
5 including some physicians but it's not.

6 SPIKE BABAIAN: The study that I handed
7 out that I am a, was a coauthor on show that the
8 levels of nicotine produced in the e-cigarette
9 vapor was so low that it could not have a
10 physiological effect on the people around the user.

11 COUNCIL MEMBER GENTILE: Right but for
12 the user itself you're saying it's addictive but
13 not necessarily dangerous?

14 SPIKE BABAIAN: So is coffee.

15 GREGORY CONLEY: And I'll add that
16 researchers at Virginia Common Wealth University
17 about two years ago published a study assessing the
18 abuse liability of e-cigarettes i.e. non users
19 picking it up and becoming dependent on nicotine
20 and they found that because e-cigarettes only
21 contain nicotine and don't contain a host of other
22 chemicals that may contribute to dependent
23 cigarettes and also that e-cigarettes deliver
24 nicotine at a lesser rate than conventional
25

1
2 cigarettes that the abuse liability was far far
3 lower than for conventional cigarettes.

4 COUNCIL MEMBER GENTILE: Conventional
5 cigarette. Well then how, how do you respond to the
6 issue of the industry itself saying that they
7 should be regulated and seen as tobacco product?

8 GREGORY CONLEY: I'm so glad you asked
9 that.

10 SPIKE BABAIAN: Yeah.

11 GREGORY CONLEY: Because Dr. Farley said
12 that because TVECA which is a small industry trade
13 group supports regulation of, of e-cigarettes as
14 tobacco products that that means that they were
15 somehow endorsing treating e-cigarettes like
16 smoking. And that's not true. I know for a fact
17 TVECA does not support banning e-cigarette use
18 where smoking is banned. And by saying we support
19 regulating e-cigarettes like tobacco products well
20 smokeless tobacco, dissolvable tobacco, oral forms
21 of tobacco, those are tobacco products but no one
22 in this room has proposed banning the use of
23 smokeless tobacco in restaurants and bars.

24 SPIKE BABAIAN: I believe it was twisted
25 a little bit by a statement that was read from

1
2 TVECA was made in reference to not allowing e-
3 cigarette use to underage people, was nothing to do
4 with indoor use.

5 GREGORY CONLEY: Also to, to quote one
6 person in one organization as an industry's, that
7 the industry says this so the industry says that.
8 One of the beauties of the e-cigarette industry is
9 that it's so widespread there's hundreds of e-
10 cigarette makers and marketers. Until big tobacco
11 takes over there's no spokesperson for the e-
12 cigarette industry who could be said to be
13 authoritative.

14 GILBERT ROSS: And god willing big
15 tobacco and thanks to a whole lot of people in this
16 room who, who use advanced products big tobacco
17 won't be taking over this market any time soon.

18 COUNCIL MEMBER GENTILE: Thank you.

19 CHAIRPERSON ARROYO: Thank you Council
20 Member. We've been joined by Council Member Rosie
21 Mendez from the committee. Council Member Gennaro.

22 COUNCIL MEMBER GENNARO: Yes hi. Just
23 getting back to the, to the point about the Tobacco
24 Vapor Electronic Cigarette Association. Looked at
25 their website they are internationally appear to be

1
2 to be the largest organized entity that speaks on
3 behalf of the industry and the, the, the quote that
4 you attribute to Mr. Kicklack, Kiklas as saying
5 that it was only the people under 18. I mean this
6 was, you know this was said in response to my bill.
7 You know when the associated press talked then
8 about that bill he said I quote it was reported in
9 Associated Press, in the Wall Street Journal it has
10 been our, meaning the Tobacco Vapor Electronic
11 Cigarette Association, it has been our position
12 that e-cigarettes should be regulated as a tobacco
13 product. My question is have you reached out to
14 this association to tell them to stop saying that?

15 GREGORY CONLEY: No because Thomas
16 Kiklas has repeatedly said that they support FDA
17 regulating e-cigarettes like a tobacco product.
18 They support adding e-cigarettes to youth access
19 laws for tobacco products but Kiklas as well as
20 myself have been interview repeatedly for different
21 news stories. I've been misquoted before. I've had
22 quotes attributed to me that were... [interpose,
23 crosstalk]

24 COUNCIL MEMBER GENNARO: So you're
25 saying that e-cigarettes, so you're saying that the

1
2 Associated Press and the Wall Street Journal
3 misquoted Mr. Kiklas and now he... [interpose]

4 SPIKE BABAIAN: Yes.

5 COUNCIL MEMBER GENNARO: ...and that, and
6 that, and that, and that he did not say it's been
7 our position that e-cigarettes should be regulated
8 as a tobacco product. You're saying he didn't say
9 that?

10 GREGORY CONLEY: Mr. Kiklas may have
11 said that they support being regulated like a
12 tobacco product but again Mr. Kiklas does not
13 support banning e-cigarettes wherever smoking is
14 banned nor... [interpose]

15 COUNCIL MEMBER GENNARO: That's what he
16 said when, when, when they asked him about my bill.
17 This is what he said. He said that it's been our
18 position that e-cigarettes should be used, should
19 be regulated as a tobacco product and you can dance
20 all your offerings from, from the other end of that
21 table but like that's what he said. That's on the
22 record. That's what the AP has and that's what the
23 Wall Street Journal has.

24 [crosstalk]

25

1
2 SPIKE BABAIAN: Chewing tobacco is also
3 a tobacco...

4 [crosstalk]

5 COUNCIL MEMBER GENNARO: And so, so you
6 should take it up with Thomas, with Thomas Kiklas
7 who purports to represent a broad spectrum and, and
8 international consortium of very big players in
9 this whole international marketplace and you know
10 indicate to him that perhaps you should stop saying
11 that and you have a different viewpoint.

12 SPIKE BABAIAN: He, he was talking about
13 smoke free tobacco products and he probably should
14 have said smoke free tobacco products. He did not
15 say cigarettes.

16 [crosstalk]

17 COUNCIL MEMBER GENNARO: He was
18 interviewed about my bill and that's what he said
19 in response to my bill no matter what you say it's,
20 you know, it's just not going to change that fact.

21 SPIKE BABAIAN: Okay he did not say
22 cigarettes. He said tobacco products.

23 CHAIRPERSON ARROYO: Okay given that
24 the... Wait, time out. We're not going to go back and
25 forth. The individual quoted is not present to

1
2 dispute or support Council Member Gennaro's
3 position. So let... [crosstalk] Council Member
4 please?

5 COUNCIL MEMBER GENNARO: Yep.

6 GREGORY CONLEY: I'm just going to say
7 that I'm going to do, make every effort to call Mr.
8 Kiklas and I will ask somebody who else is coming
9 up to speak to make his position clear because I
10 can assure that TVECA which by the way only
11 represents about one or two percent of the US
12 market I can guarantee that TVECA does not support
13 adding e-cigarettes to the New York... [crosstalk]

14 COUNCIL MEMBER GENNARO: When you go on
15 their website they say that e-cigarettes are
16 tobacco. That's what they say. Go to their website
17 right now, look up their website right now and see
18 what that association says about this product that
19 says we are tobacco.

20 GREGORY CONLEY: With all due respect
21 sir smokeless tobacco is also tobacco so where is
22 your bill to ban smokeless tobacco wherever smoking
23 is banned.

24 CHAIRPERSON ARROYO: Don't give us any
25 ideas.

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[laughter]

COUNCIL MEMBER GENNARO: First of all
you know I do not...

CHAIRPERSON ARROYO: Wait, wait, wait.

COUNCIL MEMBER GENNARO: I'm not here to
answer questions.

CHAIRPERSON ARROYO: Wait. Council
Member.

COUNCIL MEMBER GENNARO: I'm here to ask
questions.

CHAIRPERSON ARROYO: Council Member
please let's... I've, I'm asking that we have this
conversation respectfully on both, both sides. So...

COUNCIL MEMBER GENNARO: But it's
important that the truth not be distorted.

CHAIRPERSON ARROYO: I, I appreciate
that. So...

COUNCIL MEMBER GENNARO: And anyone else
that comes up here that, that, that purports to
speak for Thomas Kiklas I'm looking at the
Associated Press and at the Wall Street Journal
anyone else that comes up here that says that I
just spoke to Thomas Kiklas I'm going to disregard
that testimony.

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CHAIRPERSON ARROYO: I, I... [interpose]

COUNCIL MEMBER GENNARO: Because that's...

[interpose]

CHAIRPERSON ARROYO: ...and I will too.

COUNCIL MEMBER GENNARO: ...how it was reported.

CHAIRPERSON ARROYO: Absent of him coming here and making a statement everything is hearsay.

COUNCIL MEMBER GENNARO: Fine.

CHAIRPERSON ARROYO: Okay thank you. Anymore questions Council Member Gennaro?

COUNCIL MEMBER GENNARO: No, no I'm fine. Thank you.

CHAIRPERSON ARROYO: Okay thank you for your testimony. We... [interpose]

GREGORY CONLEY: Thank you.

CHAIRPERSON ARROYO: ...value your opinion and welcome the conversation. Thank you for taking the time. Our next panel Neil Schluger World Lung Foundation. If I didn't say that right I apologize. Lucy Popova University of California, San Francisco, Michael Davoli American Cancer Society, and Robin Vitale, American Heart Association. Okay

1
2 and on deck Michael Shannon, David Graham, David
3 Schwartz, and I think is Gaddis, G-A-D-D-I-S, I
4 can't make out your first name so be ready for the
5 next panel. Okay I think you've done this before so
6 let's proceed. Thank you for being here and flip a
7 coin, ladies first, whatever makes you happy.

8 Madam Chair, committee members my name
9 is Lucy Popova and I'm a Postdoctoral Fellow at the
10 University of California, San Francisco where I
11 have been doing research on e-cigarettes. E-
12 cigarettes are a new product on the market but the
13 science is emergent and there is science to back up
14 two points that I'm going to make today. First we
15 have evidence that as e-cigarettes are used on a
16 population they're not effective smoke and
17 cessation devices and second e-cigarettes'
18 emissions are not harmless water vapor. In our
19 study was a nationally representative sample of
20 1800 US smokers that were published in the American
21 Journal of Public Health. We found that smokers who
22 used e-cigarettes were less likely to be successful
23 quitters than those who haven't tried e-cigarettes.
24 And two of the studies tracked smokers over time
25 and found similar results. How can the findings

1 from these studies be reconciled with individuals'
2 stories and anecdotes you're going to hear today
3 saying that e-cigarettes help people quit? Well for
4 every person in here you have one or more people
5 out there for whom e-cigarettes inhibited from
6 quitting. But the main reason why e-cigarettes
7 should be prohibited from using in the places where
8 smoking is not allowed is that e-cigarettes'
9 emissions are not harmless water vapors. And there
10 are studies out there and more coming. Lots of
11 universities around the country, University of
12 California, San Francisco's one of them. Recently
13 FDA funded a whole 14 tobacco control research
14 centers around the country where they're doing
15 research and those studies show that e-cigarettes
16 emissions contain harmful chemicals such as
17 formaldehyde, acetaldehyde, acetone, and others.
18 And it's true that they're less than regular
19 cigarettes but compared to nicotine inhalers it's
20 higher in e-cigarettes. Second e-cigarettes'
21 emissions contain fine and ultrafine particles also
22 called nanoparticles and the problem with those
23 particles is that they can penetrate in the deepest
24 reaches of the lung and then from there go into
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2 bloodstream and affect central nervous system and
3 potentially can cause increase risk of disease and
4 death. And finally e-cigarette exhaust including
5 secondhand vapor that's contain nicotine. And
6 studies shows that secondhand vapors have level of
7 blood nicotine about the same as secondhand
8 smokers. So clearly innocent bystanders including
9 people with medical conditions, pregnant women and
10 nicotine affect, affect fetuses at a greater rate,
11 children, and health worker, I mean people in the
12 occupational places who can't escape will be
13 exposed to all those harmful chemicals. And so I
14 encourage you to uptake this. It's a sensible piece
15 of legislation that item over a hundred
16 municipalities have taken and three states and it's
17 a reasonable thing to do.

18 [pause]

19 DOCTOR SCHLUGER: Madam Chair and
20 members of the committee. My name's Dr. Neil
21 Schluger. I'm the Chief Scientific Officer of World
22 Lung Foundation which is based here in New York
23 City. We're engaged in tobacco control and other
24 lung health activities around the world. I'm here
25 to testify that electronic cigarettes should be

1 included in the protections afforded by the New
2 York City Smoke-Free Air act. One of the biggest
3 public health benefits of the Smoke-Free Air act is
4 that, is that it has de-normalized smoking in
5 public. And that has contributed enormously to an
6 overall reduction in smoking especially among youth
7 and has helped to cause a longer lifespan for the
8 average New Yorker. In fact there, a recent data
9 that indicate that residents of New York City have
10 the lowest lung cancer death rate of all the people
11 who live in New York State and that's a great
12 benefit for the Smoke-Free Air act and e-cigarette
13 companies I think are taking actions that threaten
14 to reverse this trend. Not unlike the strategies
15 that are used to market traditional cigarettes
16 these companies glamorize smoking behavior and
17 threaten to undermine the tremendous public health
18 gains that have been made especially among young
19 people in New York. Essentially e-cigarette
20 companies are selling nicotine addiction as has
21 been pointed out previously. If these companies
22 wanted to, to develop smoking cessation devices
23 they could have done that. They could have
24 developed a, a, a plan of research and development

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2 and gone to the FDA and said we have smoking
3 cessation devices. They have not chose to done, to
4 do that. They are selling nicotine addiction and
5 nicotine itself can have powerful negative effects
6 on the cardiovascular system including high blood
7 pressure, abnormal heart rythms, in women nicotine
8 reduces circulating estrogen levels, has been
9 linked to early menopause, prenatal exposure has
10 been linked to obesity, diabetes, high cholesterol,
11 and high blood pressure in children. There's a
12 great deal as you've heard that we still don't know
13 about e-cigarettes and their potential harm.
14 Scientific testing indicates that they vary greatly
15 in the amount of nicotine they produce. There are
16 no standards for manufacturing and there are no
17 restrictions on other chemicals that might be
18 included in the devices. In addition we can't
19 exclude the risk of adverse health effects
20 generated by secondhand exposure to e-cigarettes as
21 you've just heard. There's been relatively little
22 research on this issue I think the facts we know
23 would certainly give me pause. The assumption that
24 something is safe is not an assumption I would like
25 to make. Seventy years ago doctors advertised

1
2 cigarettes as being healthful products. That was in
3 the absence of any evidence. Most worrying is the
4 marketing of these things to children, the increase
5 of uptake, increased uptake among middle school and
6 high school students. While the vaping industry
7 claims it's not marketing to children I think we're
8 familiar, all of us, with recent CDC data that
9 indicates that a large number of children have
10 already tried e-cigarette products and that's
11 extremely dangerous as well. So our strong
12 recommendation to the New York City Council is to
13 continued its leadership in this area in public
14 health by including e-cigarettes in this
15 legislation.

16 MICHAEL DAVOLI: Chairman Arroyo,
17 members of the health committee, and a, colleagues
18 here today. My name is Michael Davoli. I am the
19 Legislative Campaign Director for the American
20 Cancer Society Cancer Action Network. I would just
21 like to first of all thank all of you for giving us
22 a chance to speak to you today and thank all of the
23 council in New York City in general for its work in
24 the past decade when it comes to tobacco
25 production. As you know this past March we

1
2 celebrated the ten year anniversary of the Smoke-
3 Free Air act. Every single year in New York State
4 over 9,000 people lose their lives to smoking
5 related illness. We simply cannot go back and the
6 smoke free air laws are one of the, or the, one of
7 the most effective tools we have in preventing
8 tobacco use and preventing smoking use in this
9 state. We have made dramatic progress in a decade
10 and we simply cannot go back. The cancer society is
11 supporting this legislation for a few very specific
12 reason. One, the simple fact that there, it just is
13 not the research out there to know whether or not
14 these products are safe. One of the studies that
15 has been mentioned in here today, the CDC study, in
16 that study one of the things that they found in
17 some of these chemicals was the same chemical
18 makeup that you find in antifreeze. So I just want
19 to mention that and I actually have the reference
20 in my testimony to show you exactly where that came
21 from. There simply is not enough research one way
22 or the other to say whether or not these products
23 are safe. Secondly; marketing, these products are
24 being marketed to our children. Bubblegum flavors,
25 candy flavors, all you have to do is go online or

1 walk in any store and you'll see them mark, clearly
2 marketed with all of the flavors that the tobacco
3 industry used for 50 years to hook our kids.
4 There's no question about that and if we do not get
5 on top of this now it is, those numbers are going
6 to continue. This legislation, I just want
7 emphasize one important point, this legislation
8 will not ban the use of electronic cigarettes. I
9 feel like we're getting a, a message that's coming
10 across here that you will simply not be allowed to
11 use them anymore. All it does is say that these
12 products must be regulated in the same way that
13 tobacco use is regulated in New York City. If you
14 can't smoke a cigarette somewhere you can't use an
15 electronic cigarette. It's a very straightforward
16 approach. The tobacco industry has been marketing
17 towards our kids for years. They're trying to hook
18 more, another generation here. We've heard about
19 small cigarette, small tobacco, or small e-
20 cigarette companies. I just want, just conclude by
21 showing you a couple, a couple numbers. According
22 Wells Fargo Securities by 2023 Altria Group will
23 have over 5.2 billion dollars in e-cigarette sales.
24 Lorillard 5.8 billion, and Reynolds American 5.2
25

1 billion dollars in e-cigarettes sales in the next
2 decade. This is not about small manufactures, this
3 is about a big tobacco finding another way of
4 hooking our kids.
5

6 CHAIRPERSON ARROYO: Don't ruin it
7 Michael. We're on a role.

8 DOCTOR DAVOLI: That's it. Thank you
9 very much.

10 CHAIRPERSON ARROYO: Thank you. Robin.

11 ROBIN VITALE: Thank you Chair and thank
12 you to all the members of the council committee.
13 The American Heart Association has been honored to
14 stand with you for the past ten years as our city
15 government has really been a champion in promoting
16 public health especially as it relates to
17 prevention of heart disease and stroke which is of
18 course my passion particularly. Based upon your
19 legacy as a champion for public health it's
20 appropriate in our opinion that the council should
21 turn your attention to this burgeoning trend of
22 electronic cigarette use and the possible impact
23 that it could have on the enforcement of the
24 existing law as well as encouraging continued
25 tobacco addiction in our city. We talk about the

1
2 idea that these products will often mimic the
3 traditional cigarette. Just sitting here in this
4 room and seeing the puffs of vapor being emitted
5 into the air has caused myself moments of confusion
6 and concern and I can't imagine what that must be
7 like on a busy Friday or Saturday evening in some
8 of our restaurants or bars. I think that alone
9 really helps to crystalize where this concern lies.
10 In addition there have been numerous misleading
11 comments made about the presumed safety of e-
12 cigarettes. These devices are often marketed as
13 safe alternatives to smoking with little impact on
14 the user. These claims have not been substantiating
15 by any public health authority in our nation. The
16 American Heart Association supports the regulation
17 of these products by the FDA and looks forward to
18 the growth of scientific knowledge that can
19 achieved by such oversight. It's important to
20 reference a lot of the other tobacco products that
21 have been referenced by the opposition are being
22 regulated by the FDA and therefore have standards
23 that must be met as a result of that regulation.
24 Regardless as we currently know very little about
25 the long term effects of using e-cigarettes we

1 believe it is entirely necessary for the council to
2 alter the city's law to restrict the use of these
3 products indoors. Most recently the results of the
4 National Youth Tobacco Survey yielded some very
5 alarming news. Researchers from the CDC found that
6 the percentage of high school students who had used
7 e-cigarettes doubled in just one year. From 4.7
8 percent in 2011 to 10 percent in 2012 the most data
9 that's available. This troubling reality should
10 heighten our concern as the CDC also confirms in
11 its research that 90 percent of our nation's
12 smokers begin during their teenage years.
13 Additionally the Youth Tobacco Survey also showed
14 that one in five middle school students have used
15 e-cigarettes without ever using a tobacco product.
16 The data speaks to the potential for e-cigarettes
17 to serve as a gateway mechanism for future nicotine
18 addiction. Lastly the results don't indicate that
19 e-cigs are steering kids away from tobacco use as
20 more than 76 percent of middle and high school
21 students who used e-cigarettes in the past 30 days
22 have also smoked an actual cigarette during that
23 time. It's important to note that just recently,
24 yesterday Doctor Friedman was here in the city and
25

1
2 participated in the Population Health Summit and he
3 was asked specifically about electronic cigarettes
4 and he cited that he feels they are most dangerous
5 when they incite young people to start using them,
6 when it makes it more difficult for adults to quit
7 their nicotine addiction entirely, and when smokers
8 use both products, as well as how they have the
9 potential to glamorize smoking in general. Thank
10 you.

11 CHAIRPERSON ARROYO: Council member
12 Vallone.

13 COUNCIL MEMBER VALLONE: Thank you. So
14 this is two doctors? You, Mr., when you introduced
15 yourself are you Dr. Popova in the middle?

16 DOCTOR POPOVA: Yes.

17 COUNCIL MEMBER VALLONE: Okay. And the
18 Cancer Association, American Cancer Association and
19 Lung?

20 ROBIN VITALE: Heart. Heart Association.

21 COUNCIL MEMBER VALLONE: Heart, heart.
22 Okay. Very compelling, as, as compelling as the
23 testimony that came before you and you know I have
24 read all the studies, not all of them but some
25 that, that have found the formaldehyde and the, and

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2 the nicotine in the vapor and the ones that say
3 it's safe. I think it comes down to do we regulate
4 a product before all the facts are in and you have
5 to weigh the dangers of big government over
6 regulation against the mistakes made in the past
7 when it comes to asbestos and lead paint and
8 fluoride. So I wanted to know what you thought
9 about a ban that would not go as far as a cigarette
10 ban? I think many people don't want flavored vapor,
11 harmless or not in a restaurant but I don't think
12 anybody cares at a beach or a park or places like
13 that. Is there anything, is there any sort of ban
14 less than being, is being proposed that you would
15 support or have an opinion on? Anyone.

16 DOCTOR SCHLUGER: I'd say councilman
17 that one of the great effects of the Smoke-Free
18 Indoor Air act in New York has been the de-
19 normalization and that's another way that people
20 are being protected, they're being protected by not
21 inhaling secondhand smoke but they're also being
22 protected because cigarette smoking, is, is, come
23 to be seen as socially unacceptable behavior in New
24 York. And that has benefitted the people of New
25 York City greatly as I mentioned and other speakers

1
2 have mentioned people in New York are living
3 longer, they're less likely to die of lung cancer
4 than people in other parts of New York state and,
5 and so if all of a sudden it looks like people are
6 in the park and on the beach and in the movie
7 theater and in the bowling alley smoking whatever
8 they're smoking I think there's a, a grave danger
9 of reversing that trend.

10 COUNCIL MEMBER VALLONE: Okay thank you.

11 CHAIRPERSON ARROYO: Thank you for your
12 testimony. We value your participation in this
13 conversation and your leadership and, and work that
14 you do. Thank you very much for being here and
15 you're a long way from home. Thank you for, for
16 taking the time to be here. The next panel Michael
17 Shannon I think that's Blu E-cigarettes. And if I
18 mispronounce your name you'll correct it for the
19 record for me please and I apologize. David Graham.
20 Another David Schwartz, David? And Gaddis whose
21 first name I cannot make out. I apologize. What is
22 it?

23 JESSEE GADDIS: Jesse.

24 CHAIRPERSON ARROYO: Jesse. Okay
25 welcome. On deck in favor Kevin O'Flaherty Michael

1
2 Seilback, Seilbeck[phonetic], Sheila Feinberg,
3 Karen Blumenfeld, Bloomsfield[phonetic], and Cara
4 Murphey.

5 [background comments]

6 CHAIRPERSON ARROYO: Okay gentleman.
7 Begin when you're ready.

8 MICHAEL SHANNON: Thank you. I am
9 Michael Shannon and I'm testifying on behalf of Blu
10 eCigs a leading e-cigarette company in the, in the
11 country. This proposal is part of a larger debate
12 that often confuses important distinctions between
13 combustible cigarettes and electronic cigarettes.
14 E-cigarettes contain no tobacco, produce a water
15 vapor, have no combustion, and therefore no ash, no
16 tobacco smoke, and no unpleasant smell noxious
17 fumes for bystanders. Recently Mitch Zeller head of
18 the FDA Center for Tobacco Products called e-
19 cigarettes very interesting. He added; you can look
20 at them in the abstract from a harm perspective and
21 say if it's not tobacco, if it's not combusting
22 then does it, that, then does it make sense to look
23 at it as something that might be potentially less
24 harmful. Making less harmful products available to
25 smokers as soon as possible should be a top

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2 priority. For too many years tobacco policy has
3 been monitored in a all or nothing philosophy.
4 Under this approach smokers are presented with just
5 one alternative, quit. This attitude has hindered
6 the implementation of a public health strategy
7 designed to reduce tobacco related disease. E-
8 cigarettes are likely much less harmful than
9 combustible cigarettes and regulatory action should
10 treat e-cigarettes as separate and distinct from
11 traditional combustible cigarettes. Proposals that
12 equate the two products however will discourage
13 smokers of combustible cigarettes to switch to an
14 alternative product. One source of confusion
15 between traditional and electronic cigarettes
16 involves the constituents in vapor. The
17 accumulating evidence indicated electronic
18 cigarettes may be safer because virtually none of
19 the potentially harmful chemicals harmful in
20 cigarette smoke are present in the vapor of
21 electronic cigarettes. This year Lorillard
22 conducted its own study looking into the
23 constituents of vapor. The analysis found that the
24 harmful or potentially harmful constituents HPHCs
25 found in the vapor were at or below detectable

1
2 levels. As compared to combustible cigarettes the
3 reduction in these HPHC classes were at or near 100
4 percent. With the testing equipment's detection
5 limits often being the only limiting factor for
6 reaching 100 percent. Further there was no
7 difference between the ambient air compared to the
8 vapor from electronic cigarettes. Lorillard plans
9 to publish this study in 2014. FDA has announced it
10 tends to assert authority. Lorillard stands ready
11 to work with FDA to develop sensible regulations,
12 sensible regulations that encourage smokers to
13 switch to e-cigarettes. Sensible regulations that
14 distinguish e-cigarettes from traditional tobacco
15 products and more importantly sensible regulations
16 that recognize e-cigarette, e-cigarettes are likely
17 the most significant tobacco harm reduction product
18 ever. My [crosstalk] last, last can I do mine if I
19 close? Sorry for running over.

20 CHAIRPERSON ARROYO: Quickly.

21 MICHAEL SHANNON: By extending this, as
22 it's been said before you are given no motivation
23 for cigarette smokers to switch. Why would a
24 cigarette smoker switch to an e-cigarette if
25 they're going to go outside and smoke a regular

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2 cigarette. Why would they switch if they're going
3 to be saddled with that same social stigma. I thank
4 you for your, for your time and attention to this
5 and I asked that you, you reject this proposal.
6 Thank you.

7 CHAIRPERSON ARROYO: Thank you.

8 DAVID GRAHAM: Chair, members of the
9 committee. My name is David Graham and I'm Senior
10 Vice President for International Regulatory Affairs
11 at NJOY electronic cigarettes, NJOY is America's
12 number one electronic cigarette company that's
13 independent of the tobacco industry and our mission
14 is to obsolete the combustible cigarette. And we're
15 science based. We're committed to act in the public
16 health interest. And personally I have worked for
17 over 20 years in the aid of smoking cessation
18 tobacco control policy and included within that
19 work on four smoke free policies and I'm a global,
20 national, and local levels. So thank you for the
21 opportunity to talk to you today. It's no doubt
22 that the scientific base for restrictions on
23 secondhand smoke from combustible tobacco
24 cigarettes is unequivocal. In 1986 the Sargent
25 General's report concluded that secondhand smoke

1 causes lung cancer. And later in 2006 the then
2 Sargent General Doctor Carmona released a follow-up
3 report and he said then the debate is over. The
4 science is clear. Secondhand smoke is not a mere
5 annoyance but a serious health hazard that causes
6 premature death and disease in children and
7 nonsmoking adults. That was the basis of science
8 under which policy such as the New York Smoke-Free
9 Air act was passed. And it was a leader in the
10 world in establishing such science. Now Doctor
11 Carmona couldn't be present at this hearing today
12 but as chair of our scientific advisory board he
13 asked me to submit a statement which I've done to
14 you today. And I quote one part from it. In quote;
15 "I'm extremely concerned that our well-intentioned
16 but scientifically unsupported effort like the
17 county proposal could constitute a giant step
18 backwards in the effort to defeat tobacco smoking."
19 end quote. The fact of the matter is that the basis
20 for the proposal to restrict the use of electronic
21 cigarettes in public places has no comparable basis
22 of fact to the basis of fact on which smoke free
23 law was established in the first place. Now the
24 other elements of the proposal include suggestions
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1
2 that there could behavioral effects on smokers'
3 behaviors. Consider the number of may, mights,
4 coulds in the proposal and in the testimony from
5 the commissioner today. We had no facts. We had no
6 evidence. We only had maybes. So let me give you a
7 few alternative maybes. Maybe, potentially e-
8 cigarettes promote smokers' attempts to quit by
9 making an alternative, more convenient to use. They
10 potentially discourage smokers from smoking amongst
11 children and youth and ultimately reduce the number
12 of people smoking. Enforcement's potentially easier
13 because smokers have convenient alternatives. The
14 confusion element for cigarettes as real cigarettes
15 is implausible. There's no smell and simple
16 demonstration of a clean and cold tip by a user
17 confirms a noncombustible product. So overall
18 simply put the case has not been made that such a
19 bill is in the public health interest. It is the
20 potential to be quite the opposite. Restricting use
21 of e-cigarettes could have the unintended effect of
22 reinforcing combustion cigarette smoking in New
23 York. We encourage the committee to ensure the
24 policy is informed by and does not precede the
25 relevant evidence. Thank you...

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2 CHAIRPERSON ARROYO: Thank you. Before
3 the next speaker goes we've been joined by Council
4 Member Dickens from the Health Committee as well.
5 Thank you. Go ahead.

6 JESSE GADDIS: Alright Chair. Thank you
7 council for listening to me today. My name is Jesse
8 Gaddis and I am the founder and creator of Bedford
9 Slims, an electronic cigarette company found here
10 in Brooklyn. I started Bedford Slims with a sole
11 motivation of providing an accessible smoking
12 alternative to my community in Brooklyn. As with
13 all products with good intentions my product has
14 made its way all over the world and has helped
15 thousands of people quit smoking and move on with
16 their lives. But I'm not here really to talk about
17 my company or anything from a company perspective.
18 What I'm here to talk about today is the thousands
19 of New Yorkers who rely on these things every day
20 to get through their day, from riding the subway to
21 their offices, to going to the park with their
22 children. This is what this is about for me. You
23 know, let's see where's my notes here? Secondhand
24 smoke can travel up to 20 feet whereas vapor, it's
25 barely even there. It dissipates in the air. My

1 thought today is more so on the facts that you know
2 lighting up a cigarette versus the regular e-
3 cigarette is just completely different in every way
4 and I think it's kind of absurd ruling to say
5 cigarettes is comparable, or combustible cigarettes
6 rather are comparable to e-cigarettes. In May I
7 started a study with the Gibbs Mansion. For all of
8 you who are not familiar with the Gibbs Mansion
9 it's a not-for-profit that helps people who are
10 living with cancers, aids, severe mental health
11 illnesses, and on top of that they're homeless so
12 they're housed in this housing development near
13 Pratt campus. And what they do essentially is they
14 live in this house and, and you know they learn to
15 normalize and live with all these problems. The
16 biggest problem being here is that they all smoke
17 cigarettes. So in May I sponsored a study with
18 Helen Redman[phonetic] and Nurse Silca[phonetic] to
19 see what the effects would be if they were to quit
20 smoking, some of these residents, whoever wanted to
21 take part in the study. And what we found in the
22 study was essentially that not only was there lung
23 improvement, lungs were improving and, and the
24 breathing getting better but overall what we were
25

1
2 finding is even the nurses aids were starting to
3 feel better because there wasn't that secondhand
4 smoke around anymore. What they were finding was
5 that lung improvement was going from patient to
6 nurse to anyone who's actually exposed to Gibbs
7 Mansion. That said I would just like to play off
8 on, on the simple fact that earlier in the day we
9 were talking about the... [interpose]

10 CHAIRPERSON ARROYO: Jesse we forgot to
11 set the clock but we are paying attention.

12 JESSIE GADDIS: Oh so how much time do I
13 have left?

14 CHAIRPERSON ARROYO: None. You're done.

15 JESSIE GADDIS: Oh no! Okay. Well
16 anyways just to back up anything more this doesn't,
17 I think that de-normalizing smoking has been
18 helpful in many ways but the facts are this isn't
19 smoking. This is vapor and what you're doing
20 basically is de-normalizing quitting. It's what was
21 said earlier. Alienating people and putting out
22 this ban just adds more stress to the people who
23 have found a way out of smoking. That's all I have
24 to say. Thank you.

25 CHAIRPERSON ARROYO: Thank you.

1
2 DAVID SCHWARTZ: Morning members of the
3 council. My name is David Schwartz and I represent,
4 I'm council to Logic which is an independent e-
5 cigarette company and they have no tobacco
6 affiliation once so ever. And Logic supports the
7 Smoke-Free Air act as it regulates tobacco usage,
8 completely support it. In fact that's the goal of
9 the company is to get people off tobacco. And so
10 that's why we ask the question; how can a device
11 that's been deemed by scientific studies to control
12 tobacco usage be controlled the same way as
13 tobacco. The long term effects of electronic
14 cigarettes and ingredients are not fully known at
15 the moment so passage of this bill would be
16 completely premature. So these amendments would
17 interfere with smokers' attempts to quit. The long
18 term effects of electronic cigarettes devises
19 further study and the FDA has yet to regulate it so
20 I'm not sure how we could classify electronic
21 cigarettes the same way we classify regular
22 cigarettes at the moment. You can't treat
23 electronic cigarettes the same way as you treat
24 tobacco. They are two inherently different
25 products. And Logic is not suggesting that there

1 shouldn't be any regulation concerning e-cigarettes
2 but certainly it should be free from the type of
3 regulation that cigarettes are regulated by. You
4 should create regulations that are commensurate
5 with the harm. Just because some people now find
6 electronic cigarettes offensive I'm not sure why,
7 it's, it's water vapor. We're trying to regulate
8 water vapor. You know you walk into a restaurant,
9 maybe you don't like the smell of someone's perfume
10 or the smell of cologne, maybe you don't like the
11 smell of broccoli so maybe we should regulate that.
12 You do? You don't? I, I don't either Chairman
13 Arroyo. So maybe we should regulate broccoli. You
14 know that's, this is where government interferes
15 with private industry and, and, and the rights of
16 electronic smokers. Electronic cigarettes
17 encourages growth. I've, I've been in front of this
18 council before talking about small business issues.
19 And look at, look at some of the small businesses,
20 well we have large businesses and we also have
21 small businesses that are involved in electronic
22 cigarettes. And certainly the retailers are small
23 businesses living the American dream and again
24 being interfered with or potentially being
25

1
2 interfered with by legislation which will devastate
3 those businesses in the sales of electronic
4 cigarettes where the mission would be to get people
5 to stop smoking. So it's really, the, the bill is
6 really counterintuitive. The vapor from electronic
7 cigarettes has no smell that affects other patrons
8 or employees in any establishment. In a study
9 conducted by Professor Burstyn of Drexel University
10 School of Public Health just finished, he concluded
11 that claims regarding chemicals found in e-
12 cigarettes vapor were detected only in trivial
13 levels that, that pose no health risk and are far
14 below current workplace standards for involuntary
15 exposure. I thank you very much.

16 CHAIRPERSON ARROYO: Thank you. Thank
17 you for your testimony and we'll see you again at
18 some other point on some other issue. It's always a
19 pleasure to, to see you guys here.

20 DAVID SCHWARTZ: [off mic] Thank you.

21 CHAIRPERSON ARROYO: No questions? One?
22 Okay.

23 COUNCIL MEMBER VALLONE: Just quickly.
24 That was an actual toke you took when exhaled the
25 vapor that we couldn't see.

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2 DAVID SCHWARTZ: [off mic] That was a
3 drag yeah.

4 COUNCIL MEMBER VALLONE: And that's much
5 less vapor than I saw in the back. So I'm still
6 trying to learn. Why is that? Do different
7 cigarettes give out different vapors.

8 DAVID SCHWARTZ: [off mic] Yes
9 absolutely. These are more of the...

10 DAVID SCHWARTZ: I'm sorry these are
11 more of the Cigalikes so they're designed more to
12 kind of have the feel and handle of one, of like an
13 actual cigarette. However, a lot of them, a lot of
14 these devices that you might see around the plumes
15 of smoke are modular devices or bigger battery
16 devices thus will give you a bigger plume of smoke.
17 I don't want to say that there's a huge difference
18 in, in terms of delivery but you can see that
19 there's a bigger cloud of smoke with a bigger
20 battery obviously.

21 UNKNOWN FEMALE: Vapor!

22 COUNCIL MEMBER VALLONE: See I'm not the
23 only one that said smoke.

24 JESSE GADDIS: May I...

25 COUNCIL MEMBER VALLONE: Yes.

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JESSE GADDIS: May I answer it as well?

So what he's talking about are these are the more of the disposable, the closed systems type of devices. What you're seeing back there are more of the open systems. They have much larger batteries in which you, you add the flavor yourself.

COUNCIL MEMBER VALLONE: But they look...

[interpose]

JESSE GADDIS: These... [interpose]

COUNCIL MEMBER VALLONE: ...less like

cigarettes I would guess.

JESSE GADDIS: Right but this has, for

example ours is blue and you can see why when I do this. It has a blue light clearly it can't be confused with a cigarette and that's the point of this and one last point. We talked about de-normalizing smoking. This is the, one of the greatest inventions to de-normalize smoking. You can see it with these people here that, that, they, they do not consider themselves smokers. They're very proud that they have been able to move over to e-cigarettes to either reduce the amount of smoking that they're doing or completely replace it, and in

1
2 some instances completely stopping both smoking
3 cigarettes and vaping.

4 COUNCIL MEMBER VALLONE: Okay last, last
5 question. You said it's not scented. It clearly is.
6 They sell it in scents. I smelled it. I've smelled
7 it before. So I assume there's different kinds of
8 smoke you're talking about but I don't think it
9 helps your case to say the smoke doesn't smell.

10 DAVID SCHWARTZ: Well certainly most...
11 [interpose, crosstalk] Yeah. Most of the brands
12 that Logic sells are not scented. I, you know I
13 can't smell what he's smoking right now. And part
14 of my testimony Councilman Vallone was that maybe
15 there should be reasonable regulation. Maybe we
16 should all sit down and work out reasonable
17 regulation. But the point is, should it be
18 regulated to the level of cigarettes.

19 COUNCIL MEMBER VALLONE: I agree with
20 you completely.

21 DAVID SCHWARTZ: And, and maybe your
22 point on flavors is, is valid.

23 COUNCIL MEMBER VALLONE: Maybe flavors,
24 maybe sizes, maybe you know not looking like a
25 regular cigarette, maybe locations. Yeah I'm, I'm

1
2 trying to come up with something here. But that was
3 my, I wrote down reasonable regulations when you
4 said it.

5 DAVID SCHWARTZ: If I could just add one
6 more thing. You know I think the rush to a vote on
7 the 19th is really premature. Why don't we all sit
8 down and work this out. That, that's my point.
9 There's just such, it seems to be such a rush to
10 get this vote, to do this hearing, and when the
11 effects are just not known at this point. Let's all
12 sit down and work out something reasonable.

13 COUNCIL MEMBER VALLONE: Well, I mean we
14 have a political reality here of the end of a term
15 coming up and you've got some good people like
16 Chairman Gennaro who's, who's been leading the way
17 on, on many health regulations and the mayor who's
18 been you know stellar when it comes to smoking you
19 know leaving office and you know it's just
20 something we're up against and I don't think you're
21 going to... You know you've been involved in this a
22 long time so you, so you understand that. And, and
23 every time I said I smelt the smoke I do want to
24 point out I know a lot of vapers and they purposely
25 don't smoke in restaurants because they're civil

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2 and they understand people don't want to smell
3 vanilla or rose or whatever the heck it is in a
4 restaurant either. So I just want to say I'm not
5 inundated with these things at restaurants I'm just
6 pointing that out as a possibility. Because most of
7 the people who vape that I know are very
8 respectful.

9 CHAIRPERSON ARROYO: Council Member
10 Rose.

11 COUNCIL MEMBER ROSE: Yes, e-cigarettes
12 are marketed as a nicotine delivery system. Is the
13 nicotine level that's being delivered, is it
14 addictive?

15 DAVID GRAHAM: Madam nicotine itself is
16 addictive. The, anyone that uses e-cigarettes is
17 already addicted to nicotine and therefore they may
18 transfer their usage from one product to the other.
19 We don't see evidence of people becoming primarily
20 addicted to these cigarettes at this stage.

21 COUNCIL MEMBER ROSE: The fear that I
22 heard from the commissioner was that young people
23 might begin to use these because it looks socially
24 acceptable. He felt that they looked like regular
25 cigarettes. So if a, a young person was a, a

1
2 nonsmoker and picked up an e-cigarette would they
3 become addicted nicotine to smoking.

4 DAVID GRAHAM: There's no evidence to
5 demonstrate that. If there were then action may
6 have to be taken but in the absence of evidence
7 there's no basis of action.

8 COUNCIL MEMBER ROSE: And I totally
9 agree with Council Member Gentile that again one of
10 the concerns of the commissioner that the e-
11 cigarettes look like regular cigarettes,
12 combustible cigarettes. Would the industry be
13 averse to changing what they look like to ensure
14 that they did not look like cigarettes therefore
15 removing the desire of young people to emulate
16 cigarette smokers.

17 MICHAEL SHANNON: I can't speak for the,
18 the industry but I, I'll speak on behalf of Blu
19 eCigs and as I said we have almost about 48, 49
20 percent of the retail market share in the country.
21 This clearly does not look like a cigarette, a
22 combustible cigarette. It was intentionally
23 designed so it would not be, look like a cigarette.
24 So they didn't want to... [crosstalk, interpose]

1
2 COUNCIL MEMBER ROSE: Doesn't it look
3 like one of those little cigarillo sort of things
4 like a morer[phonetic] or something. I, I, I'm,...
5 [interpose]

6 MICHAEL SHANNON: That's, that's the
7 whole point of the... [interpose]

8 COUNCIL MEMBER ROSE: ...I'm visually
9 challenged so I, I can't see what that looks like
10 from here.

11 MICHAEL SHANNON: Well that's, that's
12 purposely a blue tip. Not a red tip.

13 COUNCIL MEMBER ROSE: Excuse me.

14 MICHAEL SHANNON: That's purposely a
15 blue tip not a red... [interpose]

16 COUNCIL MEMBER ROSE: Okay.

17 MICHAEL SHANNON: ...tip to signal that
18 this is not a cigarette.

19 COUNCIL MEMBER ROSE: Okay. So I, I
20 guess no you couldn't speak on behalf of the
21 industry if one of the points is that they look
22 like cigarettes, that all of them be made to
23 conform to something that does not look like a
24 cigarette and be marketed as such, as a non-
25 cigarette.

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2 DAVID GRAHAM: I speak on behalf of NJOY
3 and NJOY deliberately designs its product to look
4 and feel like a cigarette. We do that because we
5 know that in order to obsolete the cigarette many
6 smokers will find it easier to make a transition
7 from their current product to an alternative when
8 its comes closer to their preference. So by denying
9 the opportunity for a product to appeal to the
10 appeal of smokers essentially you may not meet
11 their needs and they'll continue to smoke. My
12 colleague on the right is owned by a tobacco
13 company. Having a, a, a product that doesn't look
14 like a cigarette is a business decision that they
15 have made. We have no conflict inside NJOY in that
16 our primary mission is to obsolete the tobacco
17 cigarette. We believe by offering a product that
18 truly and directly competes with it and looks like
19 it offers the smoker the real potential to switch
20 to that.

21 DAVID SCHWARTZ: On, on behalf of Logic
22 I, I can't comment on, on that exact question of
23 design but certainly Logic is happy to sit down
24 with anyone to discuss any types of concerns and
25

1 regulations. What we are afraid of is legislation
2 being passed based on speculation and guesswork.

3 COUNCIL MEMBER ROSE: Thank you again.

4 CHAIRPERSON ARROYO: Thank you for, for
5 your time and for your input. We value it
6 tremendously. The next panel; Kevin O'Flaherty,
7 Michael Seilback and Sheila Feinberg. Batting up...

8 [background comments]

9 CHAIRPERSON ARROYO: Two more? Oh sorry.
10 Okay. Karen Blumenfeld and Cara Murphy and now
11 batting up Andrew Rigie, Robert, Rob Bookman, and
12 Thomas Briant.

13 [background comments]

14 CHAIRPERSON ARROYO: And that's the next
15 panel yes.

16 [background comments]

17 MICHAEL SEILBACK: Good morning.

18 CHAIRPERSON ARROYO: It looks kind of
19 crowded. You guys want to kind of spread out a
20 little bit. [laughter] You okay? Thank you. Okay.

21 MICHAEL SEILBACK: Good morning. My name
22 is Michael Seilback and I'm the Vice President for
23 public Policy and Communications for the American
24 Lung Association of the Northeast. Thank you
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1
2 Chairwoman Arroyo and members of the committee for
3 this important hearing. The American Lung
4 Association is very concerned that we don't know
5 what's in e-cigarettes or what the health
6 consequences of them might be. The Lung Association
7 is troubled that they may be starting kids on the
8 path of a lifetime nicotine addiction. And in
9 addition to the local laws discussed here we're
10 calling on the Obama administration to take action.
11 E-cigarettes are often available in flavors that
12 may appeal to children and teens including cotton
13 candy, bubblegum, chocolate, strawberry, and mint.
14 Additionally the e-cigarette industry is using big
15 tobacco's playbook when it comes to marketing their
16 products. We see adds making their products appear
17 sexy and cool. We see adds telling smokers to
18 revolt against being pushed outside and urging them
19 to use e-cigarettes indoors. We see celebrity
20 endorsers, implied health claims, discounting, and
21 couponing. Recent data as you heard from the CDC
22 shows you that usage has doubled in the last year.
23 And of those youths 76 percent of those kids are
24 also using tobacco as well. As you've heard the FDA
25 did an initial study and found toxic levels of

1 cancer causing chemicals. We've seen initial
2 studies that show there's formaldehyde, benzene,
3 and carcinogens in secondhand e-cigarette
4 emissions. You've heard a lot from vocal advocates
5 of e-cigarette use today but let's be clear in a
6 few things. One, the FDA has not approved e-
7 cigarettes as a safe or effective method to help
8 smokers quit. There are seven therapies approved by
9 the USFDA in combination with counseling that are
10 the most effective ways to help smokers quit. Until
11 and unless the FDA approves this specific e-
12 cigarette for use as a tobacco cessation aid the
13 Lung Association does not support any direct or
14 implied claims that e-cigarettes help smokers quit.
15 Two, this legislation will not prohibit New Yorkers
16 from using this product. It will simply replicate
17 our existing smoke free law and ask them use the
18 product in places where traditional smoking is
19 permitted. Three, none of the health claims direct
20 or implied that you'd have heard today have been
21 verified by the FDA, the CDC or any other federal
22 health agency. You've heard today about the users
23 using advanced technologies but we know that more
24 and more we're seeing all kinds of these products
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1
2 whether they're e-cigarettes, e-hookahs, e-cigars,
3 or blue, red, or any other color they're increasing
4 in use and we don't know what's in them. We've
5 heard some arguments of the health of these
6 products that it's just water vapor, that it
7 dissipates in the air. Blu is owned by Lorillard.
8 They were out there saying that we should look at
9 their Lorillard studies. Well the Lung Association
10 has gone toe to toe for decades against big tobacco
11 in that industry. I hope that this council will
12 once again choose to protect public health and
13 listen to those that understand that these products
14 have not been proven safe, they're, you're well
15 within your right to regulate them and to permit
16 their use where traditional smoking is permitted.
17 Thanks.

18 SHEILA FEINBERG: Good afternoon and
19 thank you Chairwoman Arroyo and members of the
20 health committee for the opportunity to speak
21 today. My name is Shelia Feinberg and I'm the
22 Executive Director of the New York City Coalition
23 for a Smoke-Free City. We are grateful to have you
24 all on the city council to have a health
25 commissioner and a mayor who have demonstrated

1
2 unprecedented commitment to public health, to
3 improving public health. Earlier this year the
4 coalition celebrated the ten year anniversary of
5 the Smoke-Free Air act and we couldn't of been more
6 proud. New York City was considered a public health
7 pioneer when we made our bars and restaurants smoke
8 free and again so when we expanded the Smoke-Free
9 Air act to include hospital entryways, parks,
10 beaches, and pedestrian plazas. However with the
11 emergence of e-cigarettes our success may be
12 compromised. In fact youth use of e-cigarettes
13 doubled last year and we are concerned that this
14 unregulated product, and I just want to stress that
15 again, unregulated product, will serve as nicotine
16 starter kit for a new generation of smokers. Adding
17 e-cigarettes to the Smoke-Free Air act is both
18 welcomed and necessary. The driving force for the
19 original legislation was strong science and
20 research showing that secondhand smoke from
21 combustible cigarettes is harmful. Research suggest
22 vapor emitted from e-cigarettes is not free of
23 carcinogens. Beyond the uncertainty about the
24 safety of exposure to the vapor restaurant patrons
25 and workers should not have to worry about

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2 determining whether a person is using an e-
3 cigarette or a traditional cigarette when they're
4 serving customers. E-cigarettes are designed to
5 mimic the look and feel of real cigarettes and
6 allowing e-cigarettes in real air, in areas where
7 smoking is prohibited we're not only complicate
8 enforcement of the Smoke-Free Air act but it would
9 also mean that smoking would be seen in places
10 where it hasn't been allowed for years. And simply
11 put when we, when a kid uses a public library,
12 because let's remember what the Smoke-Free Air act
13 also includes which is libraries, public
14 institutions. When a kid goes to use a library they
15 shouldn't get a, they should get a lesson in
16 reading, not on how to smoke and we're concerned
17 about that possibility. New York City is not alone
18 in the pursuit of limiting the use of e-cigarettes
19 to where smoking's permitted; New Jersey, Utah,
20 South Dakota, and a number of other locals have
21 done so. In closing despite the great progress
22 tobacco use still causes hundreds of thousands of
23 preventable deaths in United States. We think here
24 in New York City we can continue to be a champion
25 for public health. We think that we can continue,

1
2 the council can continue to be a leader and a
3 pioneer in public health and to continue to reduce
4 the ongoing negative effects of smoking.

5 [pause]

6 CARA MURPHEY: Hi. My name is Cara
7 Murphy. I'm from Global Advisors on Smoke-Free
8 Policy. And I just wanted to say coming in here it
9 was interesting. Being from New Jersey where e-
10 cigarettes are already included in the Smoke-Free
11 Air act seeing e-cigarettes really was a shocker.
12 And if we want to keep cigarettes from being normal
13 for children we need to include this as well.
14 Concerns are growing on this unregulated, unknown
15 danger. They target to children as much as anyone
16 can say they don't. With flavors, radio and tv
17 adds, and celebrity as endorsements on social media
18 we need to make sure that this doesn't fall to our
19 children. This is not a tobacco cessation device.
20 It's been said that many people here have quit
21 using tobacco cigarettes because of e-cigarettes.
22 However no study has shown its actual use in
23 helping people quit. If they want to make it a
24 tobacco cessation device spend the money, get the
25 FDA support. However no support is being taken and

1
2 none, no action either. The goal is to get people
3 off tobacco. It shouldn't be to get them on e-
4 cigarettes.

5 KAREN BLUMENFELD: Good afternoon. It is
6 12:20. My name is Karen Blumenfeld. I'm Executive
7 Director of Global Advisors on Smoke-Free Policy. We
8 are a nonprofit based in New Jersey, in existence
9 since 1974, and our mission is to provide smoke free
10 air for nonsmokers. Actually to also help people to
11 quit smoking. But to quit smoking using federally
12 approved FDA smoking cessation products. As I sit
13 here today as Cara just mentioned. It's interesting
14 that the word polite was mentioned. That in
15 restaurants I've seen people be polite. I heard that
16 testimony from the previous panelist. But even though
17 that panelist mentioned that people are polite in
18 restaurants it's disturbing that those in this room
19 don't deserve the same politeness back that we here
20 are exposed to e-cigarette vapors even though others
21 in restaurants may or may not be. For that reason
22 alone the Smoke-Free Air act was passed in New York
23 City. Why? Because people being polite didn't work
24 when it came to tobacco products and smoking. Some
25 people decided that they wanted to smoke regardless

1 of whether or not it was going to harm an innocent
2 bystander. I don't think that we need to repeat
3 history again. There is enough data that shows that
4 there are health concerns with regards to the vapor,
5 with the liquid, when it combusts, etcetera. And we
6 provided our white paper that has numerous studies to
7 this effect. There is no reason to wait on this
8 measure. What I've heard today from the e-cigarette
9 industry and supporters is old tobacco industry
10 rederick. I've been doing tobacco free work for over
11 25 years. So I was around in New Jersey and New York
12 when all these laws were debated. And what did I
13 hear? The same thing. Let's wait, let's wait and see
14 about more data. Let's wait for more time so that we
15 can discuss this more fully through the council. In
16 the 1940s and 50s doctors who were paid by the
17 tobacco industry told people it was good to smoke.
18 Today we heard from ACSH. What ACSH didn't disclose
19 is that in 2012 they received 25 thousand dollars
20 from Altria. They didn't disclose that. We heard from
21 an e-cigarette user about a Drexel study, a Drexel
22 study that was paid by CASAA, C-A-S-A-A which is an
23 e-cigarette industry front group. So I think we have
24 enough information to move forward to ban e-cigarette
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use in public places and work places. It doesn't matter what form, what shape, what smell, what size. We have enough information that will definitely demonstrate that perhaps in the near future or in the long term that this will be hazardous. And as I sit here today my throat and my nose passages are burning. I've been in this room many of time and it's never happened.

[background comments]

CHAIRPERSON ARROYO: [shushes audience]

KAREN BLUMENFELD: And that's the type...

[interpose]

CHAIRPERSON ARROYO: Okay okay.

KAREN BLUMENFELD: That's the type...

[interpose]

CHAIRPERSON ARROYO: Come on.

KAREN BLUMENFELD: And that is the type of response that people who go to restaurants and in work places have to deal with.

[background comments]

KAREN BLUMENFELD: Remember some of these products actually blow up. And for a workplace something that blows up could create a fire and

1
2 that's also a concern. And I thank you very much for
3 your time.

4 CHAIRPERSON ARROYO: Okay. Go ahead.

5 KEVIN O'FLAHERTY: Madam Chair before you
6 start the clock I just wanted to take a moment to
7 mention you had asked some questions earlier about,
8 from other cities who have done this. We have a
9 letter from the Boston Public Health Commission that
10 we've submitted into evidence today to talk about how
11 they did this two years ago, what the experience was
12 like for them and what their enforcement situation
13 was like. We've got copies of it that are over there.
14 But I just wanted to make you aware of that so that
15 you all take a look at it. Thank you. So good
16 afternoon my name is Kevin O'Flaherty I work for the
17 Campaign for Tobacco-Free Kids. The one thing that's
18 missing from this table right now in this big room is
19 the Aflac duck because if it walks like a duck, and
20 it talks like a duck, and it sounds like a duck, and
21 it looks like a duck it's a duck. Councilman Vallone
22 the reason you're so, so confused of vapor or smoke
23 is, is because they make it that way. They want it to
24 be that way and, and we'll talk about that in just a
25 little bit. I, I have to before I go to any kind of

1 prepared remarks talk a little bit about some of the
2 things that has been said here. The, the, first off
3 the gentleman who looked here, who were here just
4 testifying a few minutes ago looked, looked and
5 sounded like big tobacco more than anything I've seen
6 in a long time and, and just like they testified
7 before congress we don't know that our product is
8 addictive. You know one of the gentleman said there's
9 no evidence of addiction or leading to smoking. 76
10 percent of the kids who are using e-cigarettes are
11 using tobacco are, are using combustible cigarettes.
12 We don't know which started first but there's
13 certainly evidence because one in four of those kids
14 were never smokers when they tried e-cigarettes. So
15 for him to say that is, is, is, is hard for me to
16 believe in front of this, this body. They keep
17 comparing themselves to cigarettes. Come on let's
18 find a better comparison like Russian Roulette. You
19 have a one in six chance of dying if you play Russian
20 Roulette. It's one in three with, with, if you smoke
21 cigarettes. Cigarettes are the most dangerous legal
22 product out there. To say that you're safer than
23 cigarettes is like saying you're safer than being in
24 a car accident because you got like a one in 20
25

1 chance of surviving that. So let's be realistic here
2 and let's not try to make it seem like because these
3 things are safer than cigarettes that that means they
4 are safe. Clearly there is no evidence to prove that
5 they are safe at this point. And Mr. Shannon and Mr.
6 Schwartz think that you shouldn't regulate these like
7 it's traditional tobacco products, 46 attorneys
8 general including the attorney general of New York
9 believe they are wrong, that these should be
10 regulated like tobacco products across the board.
11 And, and, and we stand with them on that. So one of
12 the other testifiers today talked about how you know
13 if it, if it's a, just because vodka looks like water
14 we, we don't ban water we educate them to tell them
15 it's not. Well I think it's important to talk about
16 how the industry is educating consumers. They're,
17 they're basically, you know they're, they're saying
18 considering all I, this is compared to a 1970's add.
19 Considering all I'd heard I'd either decided to quit
20 or smoke True. I smoke True. Now it's; why quit,
21 smoke to Blu. And if you have any doubt at all about
22 what they're really going for here this is what
23 they're going for. This is an e-cigarette add for
24 Blu. Dear smoking ban and they're flipping you off
25

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2 and they're flipping off public health and every
3 opportunity that we have to try to de-normalize
4 smoking and reduce smoking among youth and adults. So
5 don't allow them to fool yourself, to fool you, that,
6 that, this is about quitting. Because as was pointed
7 out earlier people can still quit. This is not an
8 individual health decision we're asking you to make
9 today or that this bill is asking you to make.
10 Individual health decisions are between doctors and
11 patients. We are talking about public health, people
12 who are exposed to products and if we re-normalize
13 this product it will undo all the progress you've
14 made over the last ten years. Thank you.

15 CHAIRPERSON ARROYO: Thank you. Council
16 Member Gennaro.

17 COUNCIL MEMBER GENNARO: Thank you. Thank
18 you Madam Chair and I, I, I want to thank this panel
19 for being here today and, and thank you for working
20 for the, working with the council and working with
21 the, with the Bloomberg administration you know to
22 get us, you know to get us here today. I, I, I, I, I
23 want to pose a question to Ms. Blumenfeld with regard
24 to New Jersey because it's arguable that, I mean it,
25 it, it's, I, I said it's probably the case that New

1 Jersey was the first state to, to, to, to regulate
2 the e-cigarettes in the same way as tobacco and I'd
3 like you to speak to the experience that you know
4 Jersey has had, what led them to do that, and you
5 know what the experience has been in terms of health
6 effects, business effects, or just you know how's it
7 going sort of like three years in or whatever it's
8 been.
9

10 KAREN BLUMENFELD: Okay thank you. In one
11 word; seamless. The transition from banning e-
12 cigarettes happened in 2010, 2,010. And since that
13 time the Department of Health has issued information
14 to the health officers. There's been information
15 disseminated to the public. Business owners received
16 information as well. There was a lot of news also on
17 it. So there is good information in New Jersey on
18 this and I think rarely, I think once in, since 2010
19 have I seen someone use an e-cigarette or electronic
20 smoking device inside. So the transition from going
21 smoke free to smoke free including electronic smoking
22 devices was virtually seamless. There was no problem
23 once so ever. And in fact business owners liked it
24 because they didn't have to then mediate between
25 patrons who wanted no e-cigarette use and patrons

1
2 that may have wanted e-cigarette use. It alleviates
3 that burden from the business owner so that everyone
4 is on the same playing field with regards to that.

5 COUNCIL MEMBER GENNARO: Alright and,
6 thank you. Thank you Ms. Blumenfeld and, and Mr.
7 O'Flaherty about your position about you know safer
8 doesn't equal safe. That was a point that really
9 hasn't been made so far. And I, and I was glad that
10 you made it. And you've been doing this a long time
11 and, and, and so... Jersey did it several years ago and
12 one of the things that you know I thought was
13 important to, to do and, and to do soon because the,
14 you know the, the more these devices become prevalent
15 it will be just as... We will basically within a couple
16 of years have the same fight we had back in 2002.
17 And, and, and, and, and that's what I was sort of
18 trying to avoid. I, I don't think there was a lot
19 hubbub when New Jersey did this and you know we're
20 doing it here and now I have like a lot of hubbub. If
21 we wait five years there'll be a, a huge hubbub and
22 you know all kinds of consequences to you know trying
23 to restore like the de-normalization of, of smoking,
24 vaping, whatever. What, what, what's your, what's
25 your insight into, into that?

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2 KEVIN O'FLAHERTY: Well I think you're
3 exactly right. Three years ago when New Jersey did it
4 there was no opposition really. It just sort of
5 happened. And Boston did it two years ago to very
6 little fanfare. And, but as a lot of folks have
7 referenced you know the use of this product is
8 doubling every year. And with all fairness to
9 Councilman Gentile we think hookah is a problem too.

10 COUNCIL MEMBER GENTILE: I do too. I do
11 too.

12 KEVIN O'FLAHERTY: It's not rising, it's
13 not rising as fast. It's not doubling as fast. It's
14 not increasing. You know the, the, it's not growing
15 by leaps and bounds and it, it also you know in terms
16 of the duck analogy it's substantially different and
17 looks substantially different. Very dangerous, we're
18 concerned about it but, but this really if you, every
19 year you wait on this it will become a harder, harder
20 fight. And again we're not talking about an
21 individual health decision, whether this can help you
22 quit. E-cigarettes can help you quit perhaps. If they
23 can help you quit now they'll continue to be able to
24 help you quit after you pass this law. You, and, and
25 it'll just mean that the e-cigarette companies will

1
2 have to stop marketing themselves as cigarette
3 lookalikes and they'll have to market themselves as
4 something else. But if they're effective they can
5 still use them. They can still be effective in that
6 way. It just won't undermine all the great work that
7 you've done over the last ten years.

8 COUNCIL MEMBER GENNARO: Thank you. One of
9 the points you made was regarding many of the state
10 officials. I, I think you said there was many
11 attorneys general that had a you know a, you know
12 some kind of consensus opinion. Could you give me a
13 little information on that?

14 KEVIN O'FLAHERTY: Yes Councilman. A
15 couple of months ago 46 attorneys general, attorneys
16 general from the United States wrote a letter to the
17 FDA basically saying, talking about what a huge
18 problem these are, are becoming in their states and
19 that they urge the FDA to regulate these things fully
20 as tobacco products. And, and New York State's
21 attorney general was one of the signers to that
22 letter.

23 COUNCIL MEMBER GENNARO: Thank you. And,
24 and you know and I, I'm not going to revisit the
25 whole thing about Mr. Kiklas because I think we, you

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2 know and we did that already. And I just want to
3 thank you all for your great work that you've done
4 and I, I, I think you present a you know very logical
5 perspective. And I guess one last question is with
6 regard to the 17 to 20 million Americans that are,
7 are living in jurisdictions where there is parody
8 with regard to the regulation of these devices versus
9 tobacco what's the score card? Anyone wish to talk
10 about that? Karen?

11 KAREN BLUMENFELD: Yes I can talk about
12 that. We track all the jurisdictions whether they're
13 local in the United States and internationally. And
14 with regard to that from North Dakota to Malta e-
15 cigarette use is banned. And in particular I think
16 what needs to be looked at here is actually what's
17 happening in Europe right now. Internationally the
18 jurisdictions... [interpose]

19 COUNCIL MEMBER GENNARO: When you say
20 banned you mean they are... [interpose]

21 KAREN BLUMENFELD: Ban the... [interpose]

22 COUNCIL MEMBER GENNARO: ...the, the same...
23 [interpose]

24 KAREN BLUMENFELD: Ban the, ban the sale,
25 importation, or use of e-cigarettes. So there, there

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2 are countries that have done even more than just ban
3 use in public places because they are so concerned
4 about the integrity, and the ethicasy[phonetic], and
5 that the health hazards of electronic smoking
6 devices.

7 COUNCIL MEMBER GENNARO: Has that happened
8 in this country? You said...

9 KAREN BLUMENFELD: That has not happened
10 in this country.

11 COUNCIL MEMBER GENNARO: Right.

12 KAREN BLUMENFELD: But internationally
13 that has happened from Argentina, Singapore, Brazil,
14 Israel, Panama, Jordan, Turkey, Hong Kong, and Canada
15 have done either or all ban the sale, importation, or
16 use of electronic smoking devices. That's how
17 important this is. That's why we cannot wait.

18 COUNCIL MEMBER GENNARO: Oh so they can't
19 use them at all so they can't be sold, they can't be
20 imported, it's an illegal product.

21 KAREN BLUMENFELD: Mm-hmm. Correct.

22 COUNCIL MEMBER GENNARO: Oh. Okay then.
23 Thank you. I, I was not aware of that.

24 CHAIRPERSON ARROYO: Council Member
25 Vallone.

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COMMITTEE ON HEALTH

COUNCIL MEMBER VALLONE: Thank you. Many of those countries have also banned fluoride and I'd love to get my chair on boards...

[laughter]

UNIDENTIFIED MALE: Yeah.

COUNCIL MEMBER VALLONE: Not this chair, the other one.

UNIDENTIFIED MALE: I'm pro-fluoride and...

COUNCIL MEMBER VALLONE: And get that toxic substance from our water supply.

CHAIRPERSON ARROYO: Council Member if... [interpose]

COUNCIL MEMBER VALLONE: But...

CHAIRPERSON ARROYO: ...if you will excuse me. I'm going to take... [interpose]

COUNCIL MEMBER VALLONE: Yes.

CHAIRPERSON ARROYO: ...a break for a second if you... [interpose]

COUNCIL MEMBER VALLONE: ...I, I have the next panel.

CHAIRPERSON ARROYO: ...can handle the next panel.

COUNCIL MEMBER VALLONE: Thank you.

CHAIRPERSON ARROYO: Thank you.

1
2 COUNCIL MEMBER VALLONE: One quick, a
3 quick question here. I can't discount the, the people
4 I know personally and the people here who've used
5 this to quit. But I assume what you're saying is that
6 more people, especially teenagers are starting
7 smoking or using this as a bridge so it, more,
8 starting smoking or continuing smoking than the
9 people who are using this to quit? Anyone who want to
10 deal with that.

11 KEVIN O'FLAHERTY: Well the, there's,
12 it's, it's, it's, it's complicated as all these
13 decisions really are as all important decisions are.
14 But, but what the evidence has shown is that there
15 are more people out there that e-cigarettes actually
16 inhibit their quitting attempts than, than people who
17 where the evidence shows that e-cigarettes actually
18 helped their, their quitting attempts. But, but when
19 you're thinking about this and I referenced this
20 briefly you know in terms of individual health versus
21 public health. You know you've, when you're making a
22 decision like this, much like the FDA has to make
23 when they decide how to allow new, new products to
24 come to market and whether they qualify for what's
25 called a modified risk product they have to decide

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2 one what's, what's good for the individual user, so
3 does this actually help a person quit and to what
4 extent etcetera. They decide that first. But then
5 they have to ask themselves based on how the product
6 is marketed does it discourage other adults who might
7 quit from quitting. Does it encourage kids who never
8 would have picked up a cigarette to pick up this
9 product and perhaps start. And, and all of, and, and
10 then does it undermine the effectiveness of the smoke
11 free law as, as a matter here. So all of those things
12 need to come into play when you are making this
13 decision not just whether it helps one person quit or
14 not.

15 COUNCIL MEMBER VALLONE: You said one out
16 of four high school kids who are using e-cigarettes
17 did not smoke before?

18 KEVIN O'FLAHERTY: In the CDC data it
19 showed that out of, and you know the use among use
20 had, among youth had doubled over the last year from
21 2011 to 2012. Those are the last years that the
22 data's available and it doubled. And of those 76
23 percent who had used e-cigarettes in the last 30 days
24 had also used combustible cigarettes in the last 30
25 days. Using in the last 30 days for kids is the

1 definition of whether you're a current user of that
2 product. And out of all those e-cigarette users 24
3 percent of them had never tried regular cigarettes
4 and they tried e-cigarettes. So there's got to be a
5 bleed over. We, I can't tell you how many of that 76
6 percent started with e-cigs and start, or started
7 with cigarettes. They didn't ask that detail. I would
8 imagine in coming years they will. But just given the
9 high number of kids who, who started e-cigarettes
10 without ever trying a, a, a traditional cigarette
11 there, there's, there's definitely a bleedover there.

12
13 COUNCIL MEMBER VALLONE: Okay.

14 KAREN BLUMENFELD: I could just add one
15 thing... [interpose]

16 COUNCIL MEMBER VALLONE: Just very, just
17 very quickly because I want to get some... [interpose]

18 KAREN BLUMENFELD: Absolutely. There are
19 recent studies coming out also about dual use.
20 Meaning that people who do use electronic smoking
21 devices that may or may think it will help them quit
22 are also continuing to use regular cigarettes. So
23 there's a concern of the amount of nicotine. And you
24 know we are for helping people to quit smoking it's
25 just that when people do use products to quit smoking

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2 those products shouldn't be imposed on those who
3 don't want to be exposed to it.

4 COUNCIL MEMBER VALLONE: Thank you.

5 KAREN BLUMENFELD: Thank you very much.

6 KEVIN O'FLAHERTY: And Councilman Vallone
7 I'm, I'm asking you to indulge me just very briefly
8 here and I,... [interpose]

9 COUNCIL MEMBER VALLONE: Very briefly.

10 KEVIN O'FLAHERTY: ...I know it's important.
11 One of the, the opponents said you know if people are
12 using less cigarettes that's good for public health.
13 That's not necessarily true. If you're a two pack a
14 day smoker and you cut down to one pack a day because
15 you're using e-cigarettes half the time you have not
16 cut your health risks anywhere near in half. Nicotine
17 you keep the heart risks period. You lose some of the
18 cancer risks but what determines whether you live or
19 die isn't how many cigarettes you smoke, it's how
20 many years you have a smoker at all. So reducing your
21 use doesn't really save us money. It doesn't reduce
22 the horrible dreadful impacts of tobacco use and I
23 think it's important that the council recognizes
24 that.

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COMMITTEE ON HEALTH

COUNCIL MEMBER VALLONE: I think if you live next to that person you'd probably disagree. But... [interpose]

KEVIN O'FLAHERTY: Fair enough.

COUNCIL MEMBER VALLONE: They're both two sides to that but I understand what you're saying.

KEVIN O'FLAHERTY: Well secondhand smoke... [interpose]

COUNCIL MEMBER VALLONE: Yeah.

KEVIN O'FLAHERTY: ...you're... [interpose]

COUNCIL MEMBER VALLONE: Yeah.

KEVIN O'FLAHERTY: ...you're right. Those risks will go down.

COUNCIL MEMBER VALLONE: So we are going to hear from two high school kids in the panel after the next one. And I want to thank you guys for coming in. Our chair is back but since I have these I might as well just call up the next panel. Andrew Rigie from the New York Hospitality Alliance and rock group WAM apparently.

[laughter]

COUNCIL MEMBER VALLONE: Robert Bookman also from the New York Hospitality Alliance and Thomas Briant from NATO. Okay. And the panel after

1
2 this will be those high school students I spoke about
3 John LaSorsa [pneonic] and Charles Mazzeo. Got ya.
4 I'm Italian so I don't know.

5 [pause]

6 ANDREW RIGIE: We set? All set? Thank you
7 Madam Chair, council members. My name is Andrew
8 Rigie. I am the Executive Director of the New York
9 City Hospitality Alliance. We are a trade association
10 that represents New York City's restaurants and night
11 life establishments that would be impacted by this
12 proposed ban on electronic cigarettes. Part of our
13 job is to be on the pulse of industry. And this past
14 summer I started receiving some calls from some our
15 restaurant night life operator members asking about
16 how to deal with the situation if a customer or a,
17 actual employee begins using an electronic cigarette.
18 And I actually wrote a blog on it, spoke with several
19 dozen business owners from kind of large bar, night
20 club type of establishments, to quick service, to
21 fine dining restaurants. And it was pretty
22 interesting to get an understanding from them how
23 they are trying to manage you know the growing
24 popularity of electronic cigarettes. So after a lot
25 of this discussion we got into some of the different

1
2 ways that they were addressing this. The majority of
3 people that we spoke with didn't even notice anyone
4 smoking electronic cigarette in the restaurant or if
5 it was it was very isolated and they weren't seeing
6 it that frequently. For those restaurants where it
7 may have been or more bars nightclubs where it's a
8 little bit more prevalent there were different ways
9 that they were monitoring. One, they were basing
10 their considerations on how to regulate this within
11 their establishment on several considerations. One of
12 them is when people are smoking electronic cigarettes
13 it reduces the amount of people going outside on the
14 front of the street that are smoking traditional
15 cigarettes which happens to reduce the noise
16 complaints that those establishments sometimes
17 receive from neighbors which is obviously an
18 important issue. Then other restaurants have flat out
19 ban them completely. And then others have found
20 different unique ways in an isolated case. Maybe
21 someone is smoking one by the bar or perhaps an
22 employee in an office is using them. So at this point
23 they really are managing based on the situation.
24 Because while there is a growing popularity at least
25 from those business owners we've spoken with it is

1 not a proliferation. So furthermore we do understand
2 especially based on the discussion here today the FDA
3 is looking into the regulation of the electronic
4 cigarettes as well the scientific community is
5 conducting more research so we do feel that it's
6 premature for the council to pass this consider ban
7 but we do support your ongoing efforts to monitor the
8 science of secondhand vaper effects. Thank you.

10 ROBERT BOOKMAN: Hi. Rob Bookman, Counsel
11 to the Hospitality Alliance in the New York City
12 Newsstand Operators Association. Dr. Farley's stated
13 when it came to the science we just don't know. And,
14 but he, and he also said the primary concern of the
15 Health Department is enforcement. So let's talk about
16 the businesses we represent. We're not here for big
17 tobacco. We, we have nothing to do with the, with the
18 other side either. We're, we're, we're in the
19 hospitality industry. We have no enforcement issues
20 what's so ever. There is no, there, there is no
21 problems that have been reported to us. For the most
22 part these are being used as Andrew said in bars and
23 clubs. It is very easy for us to tell the difference
24 between people smoking illegal cigarettes and people
25 vaping. As a matter of fact a common thing when, when

1
2 a bartender or server goes over just to make sure if
3 it's one of those that, that looks alike is, is the
4 people go like this to their face showing they're,
5 they're, they're vaping. Many have blue tips. It is
6 not a problem. To base a law therefore when your own
7 Health Commissioner says as far as the science for
8 secondhand exposure we just don't know. To base it on
9 that he thinks it's a problem for enforcement when
10 the Health Department I don't know the last time they
11 issued a summons to anybody smoking in, indoors.
12 Their policy is not to as you recall. We are the
13 enforcers of the Smoke-Free air act and we do a great
14 job according to the Health Department in enforcing
15 it and we have no problem once so ever in allowing
16 people to vape in our establishments and telling the
17 difference between smoking and vaping. Councilman
18 Gennaro who I rarely disagree with said what's the
19 big deal? What's all the hubbub. Well Councilman
20 when, it is a big deal when local government wants to
21 limit the use of a legal product without any
22 scientific evidence that it is unsafe, in this case
23 unsafe to others. That is a big problem. The issue
24 here is, is not, and you're hearing much too much
25 testimony on whether e-cigarettes are unhealthy for

1 the, you the user. The issue for this bill is is it
2 dangerous for other people in the room, me. And your
3 own Health Commissioner has said he has no evidence
4 to that effect. That was the basis for ten years ago
5 throwing all the hundreds of thousands of smokers out
6 onto the streets at night which is by the way when we
7 started to get complaints, and you started to from
8 your constituents about late night noise on the
9 street outside bars. We're finally seeing a product
10 that is keeping some of those smokers inside where
11 your constituents want them, where we want them,
12 where maybe that it's helping them quit, maybe it's
13 not but from our perspective it's hospitable. It's
14 putting less people on the street. Bars and clubs got
15 no children there. We're all adults. There's no
16 reason to ban the use of this lawful product for
17 lawful adults where lawful adults congregate you know
18 especially late at night. This passing this would
19 lower the bar so dramatically for what government,
20 the basis for what government could use to ban a
21 lawful product that I, that I fear that the ultimate
22 lawsuits, I'll just finish up, that these companies
23 will bring if you rush this through and pass it. And
24 in my opinion they will win. We'll really make it
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2 more difficult for the next council and the next
3 administration to come up with reasonable regulations
4 about maybe like we did with toy guns. Make them
5 orange or make them a color that you know, that
6 doesn't look real, that there are many reasonable
7 regulations that we can all work with and come up
8 with together. But if you just pass this and pass
9 this real quickly they're going to go to court.
10 They're going to win on the... [interpose]

11 CHAIRPERSON ARROYO: Rob.

12 ROBERT BOOKMAN: ...lack of science. And it
13 may make it extremely difficult for you... [interpose]

14 CHAIRPERSON ARROYO: Rob.

15 ROBERT BOOKMAN: ...then come back and
16 regulate.

17 CHAIRPERSON ARROYO: Thank you.

18 THOMAS BRIANT: Madam Chair and members of
19 the committee. My name is Thomas Briant. I am the
20 Executive... [interpose]

21 [background]

22 THOMAS BRIANT: My name is Thomas Briant.
23 I'm the Executive Director of the National
24 Association of Tobacco Outlets, a national retail
25 tobacco trade association with 28 thousand member

1 stores. The underlying basis for the adoption of the
2 New York Smoke-Free Air act in 1995 and the
3 subsequent amendment of that law in 2002 to include
4 workplaces was to protect against secondhand smoke.
5 And scientific studies on secondhand smoke were, were
6 relied upon by the council at those times to support
7 passage of the smoking restricts. However as we've
8 heard today electronic cigarettes do not emit
9 secondhand smoke. This means that, that the
10 underlying scientific basis supporting the initial
11 adoption and then the amendment of the Smoke-Free air
12 act, namely the concerns of secondhand smoke is not
13 present with electronic cigarettes. So if this
14 committee follows the precedent set by the New York
15 City Council in 1995, and again in 2002 in relying on
16 scientific studies then e-cigarettes should not be
17 included in the Smoke-Free Air act at this time.
18 Because a scientific body of scientific research has
19 not yet been compiled to support restrictions on the
20 use of e-cigarettes. And it'll be important to wait
21 for this reason. The US Food and Drug Administration
22 has now undertaken a comprehensive, two step
23 regulatory framework to regulate e-cigarettes. The
24 first step is the FDA's new regulations that are
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2 being proposed and are currently under review by the
3 White House Office of Management and Budget. Once
4 approved by the OMB the FDA will issue the proposed
5 rules for public comment and then final adoption.
6 These proposed rules are a serious first step in
7 regulating electronic cigarettes nationwide. The
8 second step; the FDA just announced a new partnership
9 with the National Institutes of Health to generate
10 scientific research on tobacco products by creating
11 14 tobacco centers for regulatory science. They're
12 going to fund it this first year with 53 million
13 dollars of user fees that the FDA has collected and
14 then fund it with a potential of up to 273 more
15 million dollars to research over the next five years.
16 As Mitch Zeller the Director of the FDA Center for
17 Tobacco Products recently explained; scientific
18 evidence is necessary to support regulatory actions
19 on tobacco products. And these research centers are
20 being created to compile that body of evidence. With
21 the FDA now proceeding on this two-step regulatory
22 process involving e-cigarettes the consideration of
23 the proposed amendment to include electronic
24 cigarettes in the Smoke-Free Air act is premature.
25 Sound public policy should be based on scientific

1 data and factual information and not on
2 unsubstantiated claims. For this reason I urge the
3 Committee on Health to seriously consider following
4 the process utilized by the council in the past and
5 wait until the necessary scientific research and
6 factual evidence is compiled before proceeding. Thank
7 you.
8

9 COUNCIL MEMBER VALLONE: Thank you. You
10 Sir unfortunately do sound like big tobacco and the
11 way they sounded in 95 when my father passed the
12 original law and every time we've expanded it since.
13 We don't know enough yet. The, the Health
14 Commissioner admitted that. He said we don't know
15 enough. It's, he, he can't guarantee one way or the
16 other. And, but he did say as the hospitality lines
17 pointed out that the reason he's doing this or wants
18 to do this in supporting Chair Gennaro's bill is
19 because it hurts enforcement efforts of the, of the
20 antismoke, of the smoking ban we have in place which
21 is a very legitimate concern. But that's why I was
22 very interested to hear that, you know about the
23 enforcement efforts. The fact that an owner of,
24 doorman of one of his clubs contacted me on Facebook
25 and said he was very opposed to the original smoking

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2 bill because he had, people have to come in and out
3 of the restaurant, or, or the bar and stand outside
4 and come in and it was a problem at the door. He said
5 but now it works. He'd rather, it's much better for
6 his place to be smoke-free and he supports it even
7 though he didn't originally. But he said to enforce
8 people to go outside to smoke e-cigarettes he said
9 would be crazy for his business because you don't get
10 the same benefit inside. The place doesn't smell like
11 smoke... [interpose]

12 ROB BOOKMAN: Right.

13 COUNCIL MEMBER VALLONE: ...and, and to have
14 that much door traffic coming in and out he thought
15 it would be, it, it, it would be harmful. I'm not
16 sure if you were aware of that argument from your own
17 people but it's an interesting one.

18 ROB BOOKMAN: We are aware of it. And like
19 I said we finally found the product that is keeping
20 people inside that's not harming anybody. It tends to
21 be from our anecdotal evidence smokers. But when
22 they're going out at night now they're bringing their
23 e-cigarettes with them. Maybe they're trying to stop.
24 Maybe they're not. Maybe they're just using it the
25 nights they go out. But from our perspective that,

1
2 that's a positive. There are less people coming and
3 going. It reduces security concerns every time,
4 especially in the winter. Somebody goes out they got
5 to, we have to search them again because of coats.
6 You know they, they bring their coat outside. They
7 got to be re-searched before they come in. The Smoke-
8 Free Air act did increase our costs of operation.
9 This is helping a little bit moving it in the right
10 direction. And so there's less people going in and
11 out. I think it's a great thing that if every smoker
12 who goes out at night brings an e, an e-cigarette
13 with them and stays indoors all night it's good for
14 our business you know than, and, and it's good for
15 your constituents because there's not people out on
16 the street 2:00 in the morning, 3:00 in the morning
17 talking to each other, you know talking on their
18 cellphones. I, I, I think it's a win/win. So I think
19 the enforcement argument given that we, the bars and
20 clubs of the city are the enforcement agents and the
21 Health Department has publically said we do a great
22 job at enforcing it. As the enforcement agents we're
23 telling you that argument is a red herring. We, we
24 can enforce against the Smoke-Free Air act and allow

1
2 people to use e-cigarettes at the same time. We're
3 doing it. We have no problem.

4 COUNCIL MEMBER VALLONE: I, I need to
5 leave but I keep learning so much from each panel
6 it's... [interpose]

7 CHAIRPERSON ARROYO: We have about 15 more
8 panels.

9 [laughter]

10 COUNCIL MEMBER VALLONE: That's, that's
11 not going to happen for me at least. My, my
12 condolences to you as chair when a public safety
13 hearing does that I have to stay and - to stay. But I
14 have been here a long time. I'm going to try to stay
15 a little bit longer but thank you for your testimony.
16 I look forward to the, our youngsters who are coming
17 up next.

18 CHAIRPERSON ARROYO: Council Member
19 Gennaro.

20 COUNCIL MEMBER GENNARO: Oh thank you.
21 Thank you. And, and, and leave it to Rob Bookman to
22 come up with very reasonable, rational considerations
23 and I've you know really enjoyed working with you
24 over the years on many issues and normally we're on
25 the same side and I can see that this has an impact

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2 on, on your industry by everything that you just said
3 but you know we you know have to take a larger view
4 than, than you know just the hospitality industry.
5 And you know while the commissioner did make the
6 argument in his testimony regarding the confusion he
7 did make you know many other points in his, in his
8 testimony. And, and, and, and, and I tend to agree
9 with him and, and I sympathize with, with what your
10 industry is going to face and the calls that the next
11 council members are going to get from people standing
12 outside of establishments. That's just, that's just,
13 that's just reality. And, and I know what's going to
14 happen. I'm not, I'm not, I'm not happy about it but
15 I, I, I, I, and I'm just, for me if I can get this
16 done I'm just not you know willing to wait for big
17 tobacco to completely take over the e-cigarette
18 industry and then you're going to get nothing out of
19 Washington because Washington is bought and paid for.
20 Then you know people are addicted to, to, to tobacco
21 but you know Washington is addicted to tobacco money.
22 It's just, it's just, it's just reality. And, and
23 with regard for the comments that we've heard you
24 know regarding kids and you know their exposure they
25 have some sense that that that that, you know this

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may be a safer way to smoke and get like a little bit of a nicotine rush and so I, I, and, and all the jurors and then you mentioned about the lawsuits. It's just like we haven't seen those manifest in the many many of states and jurisdictions. Like I said there, there are 17 to 20 million people in this country that are living in jurisdictions where you know this parody between these two kinds of devices. So I, I, I, I, I, I give you guys A for effort. I agree with you on like what you're going to face. I just don't agree with you today on this but I still love you.

ROBERT BOOKMAN: Ditto. I just wanted to say this may be the last time I am testifying in front of Councilman Gennaro and Councilman Vallone

CHAIRPERSON ARROYO: And Vallone.

ROBERT BOOKMAN: ...and...

CHAIRPERSON ARROYO: Not me.

ROBERT BOOKMAN: ...not you.

CHAIRPERSON ARROYO: I'll be back.

ROBERT BOOKMAN: ...And it has been really a privilege over the years to work with both of you when we've agreed and disagreed. You are two tremendous public servants and I know people we

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represent and I'm sure this institution are going to miss you greatly.

COUNCIL MEMBER VALLONE: Thank you.

CHAIRPERSON ARROYO: Okay, no, no buttering up the members.

[laughter]

ROBERT BOOKMAN: So, so you agree with me now? No.

[laughter]

CHAIRPERSON ARROYO: Thank you so much for your time. John and Charles come on up. The next panel we're going to hear from Jeff Stier, Audrey Silk, Daniel Corpus, Ashley Soyshting. What is that?

[background comments]

CHAIRPERSON ARROYO: Shoyshting. Be prepared. Welcome thank you for being here. I don't know if you've done this before although you somehow look... [interpose]

[background comments]

CHAIRPERSON ARROYO: Yeah that's what I thought. That's what I thought. You look familiar. Okay so you know how it's done. Okay so the third person on the panel like didn't call so...

[background comments]

CHAIRPERSON ARROYO: I'm sorry. No, no, no, no. The panel after them. I'm sorry. Okay. Just be ready for when they're done. That was, that was the point. Thank you. Alright.

CHARLES MAZZEO: Well, hello my name is Charles Mazzeo as explained. I'm from Reality Check we're anti-tobacco and all that but here I'm today to, here today to speak about the in your indoor air act. So I remember the whole raise hands game and how incredibly biased that was. So everyone under the age of 20 please raise your hand. Oh, okay. I did. So clearly it doesn't matter who quit over that age because we're here to talk about the youth okay. So another thing raise your hand if you quit because of e-cigarettes. Yeah you all just lied to me because your still using e-cigarettes which is smoking yeah okay vaper great. Oh okay it's nicotine. You're addicted. You didn't quit. The word quit means you stopped. You're still doing it. So another thing I'd like to talk about was the whole point of the indoor air act. You're all saying oh it's going to make people start smoking again if we can't use our e-cigarettes inside. Clearly you're not a very loyal

1 customer if it's going to make you stop using it just
2 because you have to take a few steps outside because
3 I mean it's not a big deal. Overall it's not health,
4 okay so like sitting here today I've gotten so much
5 smoke blown in my face in like five minutes and it
6 smelled pretty gross. I'm not going to lie. So if
7 that doesn't sound like a clean air that I'm sitting
8 here breathing in. My mother and father have smoked
9 for a very long time and they switched to e-
10 cigarettes for a little bit. It didn't work and it
11 increased their addiction so now they smoke nearly
12 double the amount of cigarettes that they used to
13 smoke. So good job e-cigarettes. Really they serve no
14 purpose indoors. Like you're complaining about how,
15 or maybe if some of you want to quit smoking. Okay.
16 The facts that you all need to sit here and continue
17 to smoke throughout this entire thing even in the
18 faces of the people who you are trying to ask a
19 question like not to pass a law is pretty rude. Okay?
20 So I think you can wait. Everyone who's a real smoker
21 which you're claiming has more nicotine and is more
22 addictive is waiting to go outside and smoke real
23 cigarettes and you can't wait when it has less?
24 Clearly the e-cigarettes aren't doing their job. So I
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2 mean there's always that. And so if a child starts
3 smoking that, that's what I'm here really to talk on
4 the behalf of. If a child starts with the e-cigarette
5 which it absolutely happens. None of you can tell me
6 it hasn't. I go to high school. You don't. So I, I
7 see it.

8 [laughter]

9 CHARLES MAZZEO: It happens all the time
10 and I also know lots of high schoolers who do smoke
11 and they smoke both. I see this. I walk out of
12 school. I see people in a group, some of them smoking
13 real cigarettes, some of them smoking e-cigarettes.
14 Same stuff, same poison, different name. Are they
15 smoking? Are they vaping? I don't care you're, you're
16 getting poison. It doesn't, it's not good for you.
17 You don't smoke an e-cigarette and get healthier from
18 it. Okay? You're addicted. That's all it is. It's bad
19 for you as cigarette. I, I completely agree with the
20 whole they sound like tobacco companies claim because
21 I have seen it tons of times. I have spoken to big
22 tobacco CEOs okay? They sound exactly the same. There
23 is no difference. They are selling you poison. Okay,
24 we're not even telling you to stop selling them.

25

1 We're just telling you not to do it inside. It's not
2 hard and that is all I have to say.

3 [applause]

4 CHAIRPERSON ARROYO: Thank. [laughter]
5 thank you.

6 [applause]

7 CHAIRPERSON ARROYO: Okay now now. We're
8 going to be consistent. Thank you. Okay.

9 [laughter]

10 JOHN: Hi everybody I'm John, I'm John
11 LaSorsa [phonetic] I'm from Reality Check as well.
12 And I want to say it again because some, a woman said
13 it before. My nose and throat burns from the e-
14 cigarette. Anyone laughing this time?

15 CHAIRPERSON ARROYO: Okay.

16 JOHN: Because I'm a kid.

17 CHAIRPERSON ARROYO: Talk to us. Talk to
18 us.

19 JOHN: I'm a kid and it's. I have an
20 extreme headache right now because I've been sitting
21 behind them smoking e-cigarettes the whole time. And
22 it's, I'm sorry how we're talking about being nice in
23 a restaurant and smoking it and it smells but can you
24 be nice in here. I'm trying to listen to everybody
25

1 talk and give their opinion. I had a thing I was
2 going to say but now I'm just going to, I want to say
3 that throughout the testimonies there really haven't
4 been many talks about the use in schools. Charles
5 just brought it up. I think in schools we've really,
6 really seen it. I see kids in classes just smoking it
7 and it's ridiculous. Teachers can't yell at them.
8 Well teachers can yell at them but they won't really
9 listen. If they're in the hallway there are tons of
10 them smoking them and you can't yell at every kid
11 because we have over 1000 kids in our school. I think
12 that it glamorizes it too because we have incoming
13 freshman who are 13, 14 and they're looking at these
14 kids, look how cool these kids are. They're smoking a
15 cigarette in school and not getting in trouble. So
16 they go out, ask their friend to buy them and they
17 have one. And then they smoke it and then it can
18 trail all the way down to middle school because if a
19 kid has an older brother who's a freshman and just
20 started smoking an e-cigarette why can't I smoke an
21 e-cigarette? My brother's smoking it. It looks cool.
22 I can do it inside. I can't get yelled at and it's
23 good for me. That's what we're telling them in the
24 commercials right? It's good for them. It's not. If
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1
2 you smoke an e-cigarette I can guarantee you're
3 probably going to want to smoke a real cigarette at
4 our age at least. You guys might not want to but at
5 our age you're smoking a cigarette and you go wait
6 that guy's smoking a cigarette, I smoke an e-
7 cigarette they look exactly alike why can't I do it?
8 And then you do it. Also I want to bring up the
9 flavors that they're doing. Why do adults want a
10 chocolate flavored thing? You can't have a cigarette
11 flavored if you're trying to get away from
12 cigarettes? Also I want to bring up someone before
13 said my cigarette looks and feels like a cigarette.
14 Why do you want to have a cigarette in your hand if
15 you're trying to kick cigarettes? I'm not done. I'll
16 keep talking.

17 [laughter]

18 JOHN: When will we start to protect our
19 youth? We're trying to protect them so they can smoke
20 inside. Why don't we protect us? I'm done. I'm done.

21 CHAIRPERSON ARROYO: Thank, you don't have
22 to use the whole three minutes by the way.

23 [laughter]

24 JOHN: I wanted to?

25 [laughter]

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2 CHAIRPERSON ARROYO: Council Member
3 Vallone.

4 [laughter]

5 JOHN: Like I wanted to.

6 COUNCIL MEMBER VALLONE: Yeah. First of
7 all you guys are awesome.

8 CHARLES MAZZEO: You're awesome too.

9 JOHN: We like you too.

10 COUNCIL MEMBER VALLONE: And I, I do...
11 Right. I'm a little older than you and I like
12 chocolate so adults do do chocolate. Bubblegum I
13 would draw the line there.

14 JOHN: Unless you grew out some pigtailed.
15 I mean...

16 [laughter]

17 COUNCIL MEMBER VALLONE: But you said
18 something interesting. What school do you go to where
19 they allow e-cigarettes.

20 CHARLES MAZZEO: We both go to Tottenville
21 High School.

22 UNIDENTIFIED FEMALE: It's not that they
23 allow it.

24 CHARLES MAZZEO: Well they don't exactly
25 allow it. In any public school you can allow things

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2 all you want and unless there's a solid law against
3 it. Like there's no kid who would dare to smoke
4 inside. Like as bad as a kid in high school would be
5 they won't even do that. But if they do e-cigarettes
6 or something as not a cigarette even though it has
7 cigarette in your, the name, it's not the e-helps-
8 you-quit-cigarettes, it's the e-cigarette okay? You,
9 if, it's viewed as, as bad as that then hopefully it
10 will stop in the schools at least like depleting how
11 much of it is going on outside.

12 COUNCIL MEMBER VALLONE: Oh but you've
13 said you've seen it in the hallways at school.

14 CHARLES MAZZEO: Oh yeah. It's, I have
15 nothing against our school. I love my school.
16 Tottenville High School.

17 JOHN: In Staten Island.

18 CHARLES MAZZEO: In Staten Island.

19 COUNCIL MEMBER VALLONE: That's, that's a
20 public high school.

21 CHARLES MAZZEO: Yup. Mm-hmm.

22 COUNCIL MEMBER VALLONE: Because the DOE,
23 they don't have to wait for us to act. They can ban
24 these things the way they've banned cell phones in
25

1
2 which I don't agree with and, and from schools
3 without waiting on us.

4 [crosstalk]

5 JOHN: Kids still use cell phones though.

6 COUNCIL MEMBER VALLONE: But yeah.

7 CHARLES MAZZEO: We still use cell phones
8 in school. I use my cell phone.

9 COUNCIL MEMBER VALLONE: But well I let my
10 little daughters go without a cell phone but I know
11 they can't, I don't want them used in class but to
12 and from school is a different story. We'll have a
13 hearing on that. But, [laughter] we had a few. But
14 you are saying that they are allowing e-cigarettes in
15 the hallways of public school?

16 CHARLES MAZZEO: They're not allowing it
17 but they can't necessarily stop it. We have a school
18 of over what? 5,000?

19 COUNCIL MEMBER VALLONE: Oh, I don't agree
20 with that. They could stop it. If I were in charge
21 I'd be stopping it. [interpose]

22 CHARLES MAZZEO: There's a difference
23 between a school rule and a law. I can use my phone
24 outside of school and I can use it in school because
25

1
2 it's a rule. If it was a law that I couldn't use my
3 cell I can guarantee you I'm not using my cell phone.

4 COUNCIL MEMBER VALLONE: That is a good
5 point. What is Reality Check by the way.

6 CHARLES MAZZEO: It's a youth-led group
7 red, youth-led group. One second I have it right
8 here. A youth-led group that educates the community
9 and other youth about tobacco marketing.

10 COUNCIL MEMBER VALLONE: That's great as
11 I'm term limited out it, I'm heartened to know that
12 there are people like you ready to, ready to take our
13 places. So thanks for coming in today.

14 CHARLES MAZZEO: Thank you.

15 JOHN: Thank you for speaking with us.

16 CHAIRPERSON ARROYO: I'd like to note that
17 Council Member Williams is hanging in the shadows in
18 the back. Thank you for being here. No longer a
19 secret and he's not smoking. John, Charles thank you
20 so much. I recognize both of you from previous
21 hearings. Thank you for your continued advocacy
22 regardless of what side of the issue you're on it's
23 important to have your voice heard here. So thank you
24 so much for taking the time and don't stop.

25 JOHN: Thank you.

1
2 CHARLES MAZZEO: Thank you very much for
3 listening.

4 CHAIRPERSON ARROYO: Our next panel we
5 have Jeff. Jeff?

6 JEFF STIER: Stier.

7 CHAIRPERSON ARROYO: It's okay you'll do
8 it on the record. I just want to... Audrey, Audrey?
9 Daniel? And Ashley. And you'll state your name for
10 the record when you begin your testimony. On deck we
11 have, we will have Michael Hernandez, Patrick
12 Norberto, Phil Kunningberg[phonetic]
13 Konigberg[phonetic], Konigsberg, and Dan, Daniel
14 Johnson, you're up next. When the light is on the mic
15 is working. Pull it close to you. You've done this
16 before so. Okay. You know how to do this right?

17 JEFF STIER: Yep.

18 CHAIRPERSON ARROYO: Thank you for being
19 here. Begin when you're ready.

20 JEFF STIER: I'm Jeff Stier. I'm a Senior
21 Fellow at the National Center for Public Policy
22 Research and I'm going to do my best to cover in, in
23 under three minutes. I appreciate all your patience.
24 I'm disappointed and correct me if I'm wrong please
25

1
2 that the sponsor of the, primary sponsor of the bill
3 and, and Dr. Farley are not here. Is that correct?

4 CHAIRPERSON ARROYO: Dr. Farley is not here
5 but Department of Health Staff is taking copious
6 notes. And that's, that's the practice.

7 JEFF STIER: No I understand that. I think
8 it's unfortunate that... [interpose]

9 CHAIRPERSON ARROYO: I don't like it
10 either but it is.

11 JEFF STIER: Yeah, that, that this is
12 something that they see as so urgent that this had
13 to, this hearing had to be announced so quickly and
14 that they're trying to pass the bill this year. We
15 keep hearing that, well we don't really know all the
16 facts so this is the prudent thing to do. I would
17 caution members, especially those of you that are
18 leaving the council. I would caution you that this is
19 not the prudent thing to do. The prudent thing here
20 to do is to help cigarette smokers quit. You've heard
21 all the data. You've heard all the conversations. But
22 rushing to judgment here could have very dangerous
23 unintended consequences that you need to be aware of.
24 It will stop people from quitting smoking. E-
25 cigarettes are not a gateway to smoking. The data

1
2 does not show that. E-cigarettes are a gateway to
3 quitting smoking. And by passing this legislation
4 especially so quickly without having evaluated the
5 science could actually undermine the very public
6 health goals that I think we all share. Thank you.

7 CHAIRPERSON ARROYO: Thank you. Go ahead.

8 AUDREY SILK: Thank you because I'm going
9 to go four minutes. I'm warning.

10 CHAIRPERSON ARROYO: No you're not.

11 AUDREY SILK: You know it's, Commissioner
12 Farley got to speak for 20 minutes one extra minute's
13 not... [interpose]

14 CHAIRPERSON ARROYO: Let's not debate how
15 we're handling this because you're going to, don't
16 take me there.

17 AUDREY SILK: My name is Audrey Silk and
18 I'm the founder of New York City Citizens Lobbying
19 Against Smoker Harassment. I quote from the New York
20 City Human Rights Law, Administrative Court of the
21 City of New York Title 8 Policy. In the City of New
22 York with it's great cosmopolitan population there is
23 no greater danger to the health, moral, safety, and
24 welfare of this city and its inhabitants than the
25 existence of groups prejudice against one another and

1
2 antagonistic to each other because of their actual or
3 perceived differences. Smoker, nonsmoker. The council
4 hereby finds and declares that prejudice,
5 intolerance, bigotry, and discrimination and disorder
6 occasion thereby threaten the rights and proper
7 privileges of its inhabitants and menace the
8 institutions in foundation of a free democratic
9 state. Excerpts from the notice of this hearing that
10 one of the achieve, greatest achievements of the
11 smoking ban was to end smoking. Smoking, curb
12 smoking, nicotine sends wrong message, allowing
13 smokers, allowing? Doctor Farley's predecessor Thomas
14 Frieden on his fax sheet, the Department of Health.
15 It's online today. Question, this is America. Don't
16 citizens have a right to smoke even if it hurts them?
17 Answer, yes. Smokers are free to continue to smoke.
18 Behavior that while acceptable if it affects the
19 individual only. So which is it? But for the
20 gratuitous addition at the very end of your notice on
21 e-cig exposure it's clear by going after harmless
22 vapor your entire aim is and may I say has been that
23 smokers are not free to continue to smoke and it's
24 not acceptable. That your intolerance of it, and if
25 you're not on the approved protected list this will

1 not be a free democratic state. The children, the
2 children, the children. Adults have rights too.
3 Hiding behind for the children you seek to conscript
4 me against my will into the war on smoking army to
5 carry your message. If smoking a cigarette sends a
6 message, your words, then we are talking about my
7 freedom of speech. Can I stand on a street corner and
8 give a speech about my belief that it's normal to
9 smoke. I think you'd say yes. Then according to you
10 how is my smoking a lit cigarette or somebody using
11 an e-cig any different from speech that when
12 expressed another way you would call protected. When
13 it comes to the issue of smoking you are everything
14 you despise. You are bullies who have zero tolerance
15 for with your intolerance of a legal lifestyle that
16 doesn't fit yours. You are the stop and friskers of
17 the health police. As a New York City police officer
18 for 20 years I had more authority than either one of
19 you. I could have walked into this chamber and for
20 reasons that I decided arrested you, cuffed you,
21 taken you to processing. The DA's office may have
22 sailed[phonetic] later let them go and I might be
23 disciplined by my supervisor but I had the authority
24 to do that. But I didn't. But that is what you are
25

1
2 now hypocritically doing. Your version of stop and
3 frisk whereby you've authored to you as your
4 authority to violate someone's civil liberties
5 because you have deemed a legal behavior wrong.
6 Seeing as you would choose the NYPD of violating many
7 who have been stopped and frisked because the cop
8 felt it best and had the authority to do it.

9 CHAIRPERSON ARROYO: Audrey wrap up.

10 AUDREY SILK: I find that very unfair.

11 CHAIRPERSON ARROYO: It's been consistent
12 so let's not do that. Okay next.

13 ASHLEY: Okay hi. My name is Ashley Sucdig
14 [phonetic] and I'd like to quickly address the
15 concern about the flavors appealing to children. Are
16 adults not allowed to like candy? I mean it, part,
17 that is part of the appeal for e-cigarettes to switch
18 from cigarettes to e-cigarettes is that they have an
19 appealing taste. And that's something that, I mean
20 it, it's part of the cessation with it. But either
21 way what about flavored alcohols. Is that, does that
22 mean that they're also appealing to children? It,
23 it's just it doesn't, that's a spurious argument
24 that... I don't understand why that's even being taken
25 into consideration with this bill. Also I'd, I'd like

1 to address the CDC which has reported that the usage
2 rose in the last month from 1.5 percent to 2.8
3 percent for electronic cigarette use, usage. Not sure
4 where the higher percentage that we heard earlier
5 came from but that is from the CDC website report.
6 The CDC also happened to report that the past usage
7 tobacco consumption fell from 15.8 percent to 14
8 percent. So if e-cigarette usage allegedly increases
9 tobacco cigarette I'm, I'm not sure why that wasn't
10 reflected in recent data. But again just going to F,
11 the FDA study I'd like to focus on the ingredient
12 that they allegedly found that's in antifreeze which
13 is diethylene glycol. They did find that but the, the
14 details of the study revealed that only 18 cartridges
15 from two companies were tested and out of the 18 only
16 one tested positive for about one percent diethylene
17 glycol. So it's, and no other independent lab study
18 has been able to replicate these findings which is
19 pretty important for any scientific data to be taken
20 seriously. And given this information it's reasonable
21 to suspect that the single sample was contaminated in
22 another way. But it's certainly under no
23 circumstances could it be considered a standard
24 ingredient in electronic cigarettes. And also in
25

1
2 regards to somebody who pointed out that Drexel
3 University School of Public Health being fund, like
4 the research map being funded by CASSA, that's true
5 which is a e-cigarette proponent or anti-tobacco
6 company I'm not really sure. But that doesn't nullify
7 their findings. I understand that it may, means that
8 we need to be more careful of the details of it but
9 they still use a laboratory set, setting with normal
10 scientific data, scientific equipment. So unless you
11 can prove that they manipulated the data similar to
12 the FDA has manipulated their data then you'd have a
13 reasonable argument to not take those arguments
14 seriously. But it's, I mean they, they still have
15 been able to show that for example the contamination
16 by metals is to be, has been shown to be at trivial
17 levels that suppose no health risks. And the
18 alarmists claim that such contaminations are based on
19 unrealistic assumptions about the molecular form of
20 these elements. That's something that that, anyway
21 that's pretty much. I just, if, this bill needs to be
22 based on fact. And just every time somebody comes up
23 to talk about these studies it's just, they're
24 blatantly manipulating the data and that's pretty

1
2 easy to do. I've learned that as a psychology student
3 but that's just not...

4 CHAIRPERSON ARROYO: Thank you Ashley.

5 ASHLEY: Yeah.

6 CHAIRPERSON ARROYO: Daniel?

7 DANIEL CORPUS: Hi, first of all these are
8 some of my electronic cigarettes. These do not look
9 like tobacco analog cigarettes. Just to be sure. I'll
10 bring it a little personal here. Four or five years
11 ago until I discovered electronic cigarettes I smoked
12 three packs a day for 40 years. That's a lot. I
13 discovered electronic cigarettes. I didn't want to
14 quit smoking. I enjoyed smoking. Smoking was my best
15 friend. It just happened. You'll hear that story from
16 other people as well who are in the audience who are
17 long time smokers. Do I care what kids smoke? Yes.
18 But if they use an electronic cigarette and they're
19 not smoking it's much better for them through the
20 decades. That is proven. There's no way that you can
21 ingest particulate matter 100 times more volatile
22 when it's burning within an electronic cigarette and
23 tell me they're the same, they're equivalent. I have
24 tried with many of my friends some successfully, some
25 not, to introduce them to electronic cigarettes. This

1
2 past week someone I've been speaking to for months
3 encountered some of the same speeches that were made
4 here today. Some of the obfuscations durgivasations
5 [phonetic] There are facts. We have facts they say oh
6 there's a study that was published four years ago
7 that is, had dangerous nitrosamines and my friend
8 said oh yeah I just read an article on three
9 electronic cigarettes at home. I'm not going to touch
10 them because they're too dangerous. That's what this
11 is going. Little kids will try cigarettes. They'll
12 try skateboarding without helmets. They'll run into
13 traffic. They'll do all of those things. Will they
14 continue on smoking? No. For fact of the matter is
15 smoking rates are going down. You're saying by
16 introducing electronic cigarettes that they will
17 become much more addicted. If they're addicted, if
18 they are prone to addiction they will become addicted
19 no matter what. But if they use electronic cigarettes
20 it will be much healthier for them. In addition
21 addiction in terms of nicotine is not so much a bad
22 thing. It's not that dangerous compared to having a
23 Starbucks every day with four, four, five hundred
24 calories in it and three times the level of caffeine
25 that you have in a cup of tea. So I thank you. It's

1 just leave us adults alone. We will work it out. We
2 care for the kids. We don't want them to smoke for 40
3 years, three packs a day like I did. We are not the
4 tobacco industry. We are not the, the purveyors.
5 We're not the advocacy groups. We are the users.

6 CHAIRPERSON ARROYO: Daniel.

7 DANIEL CORPUS: We care. Several groups
8 who...

9 CHAIRPERSON ARROYO: Daniel.

10 DANIEL CORPUS: Yes.

11 CHAIRPERSON ARROYO: I like the suspenders
12 but you know we're going to be consistent. Thank you...
13 [interpose]

14 DANIEL CORPUS: Thank you.

15 CHAIRPERSON ARROYO: ...very much for being
16 here, for sharing your thoughts with us today. Thank
17 you.

18 DANIEL CORPUS: Any questions?

19 [laughter]

20 CHAIRPERSON ARROYO: Thank you. Thank you.
21 Michael, Patrick, Phil, Daniel. And up next Kareem
22 Montes, Kona[phonetic], I think that's
23 Kona[phonetic]. Orshansky, Peter Denholtz, and James
24 Sudder[phonetic], Sudderer[phonetic],
25

1
2 Sutura[phonetic] sorry. Okay, okay begin when you're
3 ready. When the light is on the mic is on.

4 PHIL KONIGSBERG: Thank you. My name is
5 Phil Konigsberg.

6 CHAIRPERSON ARROYO: Just a second. I'm
7 sorry. I called four people. There's a Michael.
8 Where's Michael? Patrick? Phil? Daniel Johnson? Okay
9 she's not here so let's keep it for the end. I'm
10 sorry go ahead.

11 PHIL KONIGSBERG: Hi my name is Phil
12 Konigsberg. I'm a quarter of a century tobacco and
13 control and smoke-free advocate. And I appreciate the
14 opportunity here for having a public hearing on this.
15 I'd like to say first that I think we're here because
16 the FDA for whatever reason has been dragging their
17 feet on e-cigarettes, electronic cigarettes and there
18 is no regulation. There's a lot of questions in my
19 mind whether it's safe or not. I think based on the
20 tobacco industry now and that's just going to
21 increase. We have to, we have to take action to
22 protect ourselves and not wait as, as it's been
23 proposed. Wait to see if it's really harmful or not.
24 There's two sides of the issue both within the
25 tobacco control group that was strongly for

1
2 electronic cigarettes basically as a tobacco harm
3 reduction. And then there's also a lot including
4 myself that we don't know what we're dealing with
5 here. Just like the tobacco industry said. Secondhand
6 smoke we, we don't know really if it's bad or not so
7 let's wait. No, we can't do that. We learned already
8 from that. So we, we need to take action now and I do
9 hope the city council moves forward on this as
10 quickly as possible. Someone mentioned before that
11 these e-cigarettes explode and there was big laughter
12 in the back I presume from the people who use e-
13 cigarettes. But just the other day Fox 5 New York
14 here ran a news feature about just that, that these
15 e-cigarettes exploded, caused a fire, and the way he
16 described it, the fire, it protruded way out from the
17 cigarette into the apartment and these people that
18 they showed on the air were able luckily to
19 extinguish the fire. They smothered it. And can you
20 imagine, although I'm sure there's any product you're
21 going to have issues but if this is something that
22 has made the news I, I think it's something that it's
23 going to effect a lot more people as the e-cigarettes
24 expands quite a bit. I just want to say in closing
25 that there's nothing wrong with de-moralizing, de-

1
2 normalizing excuse me tobacco and nothing wrong with
3 de-normalizing smoking and the effect of e-
4 cigarettes. It is the perception it's the same. And I
5 just wanted to, just mention one thing is I just
6 forgot her name that just was up here. I, I want to
7 congratulate her for a strong fight for 25 years at
8 the city council here even though we've been on
9 opposing sides. And... [interpose]

10 CHAIRPERSON ARROYO: Thank you.

11 PHIL KONIGSBERG: ...you know who I'm
12 talking about. I just went blank with your name.

13 CHAIRPERSON ARROYO: It's okay. We, we
14 know who you're... [interpose]

15 PHIL KONIGSBERG: Thank you.

16 CHAIRPERSON ARROYO: Thank you.

17 PATRICK NORBERTO: Madam... [clears throat].
18 Excuse me. Madam Chair, esteemed member of this
19 committee, and all you awesome New Yorkers here. I'm
20 grateful for the opportunity to address this
21 committee on what is obviously an emotionally
22 volatile issue. My name is Patrick Norberto and I am
23 the Summer Youth Employment Program Director of the
24 YM & YWHA of Washington Heights and Inwood and also
25 the coordinator for the Y's smoke-free NYC efforts.

1 For nearly 100 years the Y's mission has been to
2 advocate for and work toward improving the quality of
3 life of those who live in Northern Manhattan. To that
4 end every program which the Y runs from caring for
5 our youngest children to providing summer jobs for
6 youth to helping our mature adults spend their golden
7 years actively and productively engaged offers a
8 significant health and wellness component that aims
9 to boost the quality of their lives. The Y has long
10 been a committed and active partner in the campaign
11 for a smoke-free NYC. Our Lawrence A and May L Wean
12 House was the first HUD funded, low income, senior
13 housing facility in the city to become 100 percent
14 smoke free. Our staff and teens successfully lobbied
15 a number of local retailers to remove or
16 substantially rearrange their tobacco product
17 displays so that our children would not be bombarded
18 with the deceitful message that smoking is acceptable
19 or worse cool. It concerns us that these products
20 that these products are currently unregulated and
21 being sold without full knowledge of their impact on
22 the health of the smoker and those who are subjected
23 to the secondhand smoke. More to the point is that to
24 permit the use of e-cigarettes in places currently
25

1
2 off limits to regular cigarettes would negate much of
3 the hard won results of the Y and our partners across
4 the city. It is critical to the continued success of
5 our efforts to make NYC smoke-free that the council
6 act to equate e-cigarettes with cigarettes and other
7 tobacco products. Let's keep e-cigarettes with the
8 regular cigarettes out of the workplaces and public
9 spaces. Let's continue to keep the health and
10 wellbeing of our children and seniors a top priority.
11 And in the interest of full disclosure six weeks ago
12 I buried my dad who was 65 year smoker who died as a
13 direct result of his lifelong smoking. Thank you.

14 MICHAEL HERNANDEZ: Thank you Chair Arroyo
15 and members of the Council Committee on Health for
16 this opportunity to speak to you on this very
17 critical public health matter. My name is Michael
18 Hernandez and I am the chair elect, president elect
19 excuse me for the Public Health Association of New
20 York City or PHANYC. PHANYC was founded in 1936 and
21 essentially we are an organization which is bound to
22 help protect and help educate New Yorkers on health.
23 One of our aspects of PHANYC is that we do a very
24 robust outreach for programs and policy awareness.
25 And it's, that being the case we have spent many many

1
2 hours and many many years researching evidence based
3 material and have presented to the council in the
4 past. We cover a great deal of, of public health
5 issues which impact the metropolitan area. So as you
6 are keenly aware tobacco control has been a priority,
7 priority for us and it also serves as an opportunity
8 to help educate all New Yorkers and safeguard them
9 from the burdens of tobacco. And many of these
10 burdens are obviously preventable diseases such as
11 heart disease, cancer, stroke, and lung disease. So
12 while the city has been proactively working to
13 restrict and regulate tobacco use the tobacco
14 industry has been concurrently seeking avenues to
15 attract new smokers while keeping current smokers and
16 their, in their fold. Electronic cigarettes now
17 threaten to serve the tobacco industry's purpose.
18 Electronic cigarettes are battery powered devices
19 that provide users with vapor filled nicotine and
20 other addictives. Now two things which I just want to
21 draw to the attention of the council and also to the
22 members here. There has much discussion about the
23 difference between smoke and vapor and the
24 recognition of what is an e-cigarette versus a
25 combustible cigarette. The reality of the matter is

1
2 this. They may not look the same always but yet they
3 still provide an avenue for someone to get nicotine.
4 And as the gentleman from NJOY said nicotine is
5 addictive. As another gentleman with the great
6 suspenders mentioned only those individuals who are
7 prone to an addictive nature are going to succumb and
8 become addicted to nicotine. So why are we then
9 allowing an opportunity to introduce a, a product
10 that has nicotine in it to someone that may not
11 necessarily ever smoke. So that being said the use of
12 child friendly flavors should draw as an immediate
13 red flag to the industry as hoping to attract new
14 smokers while simultaneously maintain those who are
15 otherwise would be motivated to quit. So therefore we
16 strongly support that the council do accept and
17 recognize that e-cigarettes should be banned under
18 the Smoke-Free act.

19 CHAIRPERSON ARROYO: Thank you. And
20 Patrick our condolences on the death of your dad.
21 Thank you for being here. Kareem, Kona[phonetic],

22 ILONA ORSHANSKY: Ilona.

23 CHAIRPERSON ARROYO: Ilona I'm sorry
24 that's an I got it. Okay Peter and James. James?
25 Kareem? That's you. Ilona? Peter? Not peter? James?

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JAMES: Yes.

CHAIRPERSON ARROYO: Okay. Peter? Okay so then we have Jean Lou Kallet, Jean? No? Okay. Jennay? Fowder[phonetic]? Jennay?

JENNAY: Fowler?

CHAIRPERSON ARROYO: Fowler. Okay. Is that your handwriting? That's you? No, I asked her to come up. No go ahead. Join them at the panel. And then coming up Julian Caplan, Helain Brouch[phonetic] Brouch[phonetic], Barook[phonetic], Barook[phonetic]?, James Caulson. Tracktenberg is the last name I think. So, okay we'll do it again when we come... Okay guys. Begin when you're ready. I don't know if you've done this before. I think you have. Choose who goes first amongst yourselves. Identify yourself for the record and speak into the mic.

ILONA ORSHANSKY: My name is Ilona Orshansky I own Vapor Lounge New York in Williamsburg and I'm here to share with you my story. I was a 12 year smoker and this product definitely helped me. I no longer smoke cigarettes. I haven't smoked a cigarette in 10 months. I moved from San Francisco to provide this product to people in New York because I saw a need here. And I would just like to say that

1
2 this bill would take a huge step back for New York
3 City and all of work that we have done to become a
4 smoke-free environment. Taking away something that
5 saves lives repeatedly because of the way it looks is
6 simply a form of racism and judging something by the
7 way it looks at first sight. And I think if we're
8 going to be voting because of the way something looks
9 that's silly and it should be disregarded. And I also
10 feel that as an accomplishment of me no longer
11 smoking conventional cigarettes it would be unfair to
12 make me go outside where all of the cigarette smokers
13 are smoking and be exposed to the secondhand smoke
14 that we know now is not healthy. And it wouldn't
15 personally drive me to smoking cigarettes again but
16 it would be very uncomfortable for me to have to be
17 put in that position. So I would really like for you
18 to take the opportunity to look at the research and
19 see what this would cause in the relationship to New
20 York becoming and staying a smoke-free environment.
21 Thank you for your time.

22 CHAIRPERSON ARROYO: Thank you.

23 KAREEM MONTES: Okay sorry. My name's
24 Kareem Montes. I feel foolish because there's so many
25 professionals who came up before and experts. I'm

1 just like a graphic designer and photographer but
2 I've gotten involved with the vaping culture through
3 Ilona and currently for a couple of her companies.
4 And I find it to be a product that is, I would say
5 it's, it's a healthier alternative. Like I don't
6 advocate it as something to quit, some people help,
7 you know it helps them quit. I think a lot of talk
8 about the nicotine but you actually nicotine out of
9 the equation. You can actually start at a level of
10 nicotine and dial it down which I think is beneficial
11 to some people. I stopped smoking by accident. You
12 know like I, I was a smoker for about 12 years. I
13 started vaping a few months ago just as a
14 convenience. You know sometimes I'm on a set I don't
15 have to like leave and I saw someone there vaping and
16 I went and I bought like a Blu cigarette or something
17 and I liked the way I smelled afterwards, you know I
18 didn't have that breath. And everyone I know who's
19 doing it was telling me all these health
20 improvements; improved taste, improved sense of
21 smell, of course not having to leave their
22 apartments. Because even when I was a smoker I didn't
23 smoke inside my own apartment. I would like, when I
24 walk my dog smoke outside or go on the fire escape
25

1 and smoke. Because at the end of the day the
2 accumulation of smoke in any small space even if you
3 do it sparingly over a number of years adds up. You
4 know no one who smokes thinks that it's harmless or
5 that it's not offensive. So I think vaping is a great
6 way to be respectful to yourself, respectful to
7 others. Even if my neighbor smokes sometimes you
8 could go through one apartment to the other. So I
9 definitely think it's an improvement of quality of
10 life not just for the person vaping but for the
11 people in their immediate environment and external
12 environment. I also am kind of confused at the rush
13 to do these bans on a element of, under reasons of
14 not, lack of evidence, lack of studies. I didn't come
15 here to plan to speak but within 10 minutes on my
16 cell phone I found a number of studies from Drexel
17 University, University of Ohio, The Onasis Cardiac
18 Association, and a couple other places that did small
19 studies that you know showed it definitely had a
20 less, massively less impact on people who are
21 smoking, and they use healthy subjects from age 20 to
22 24. And I also read the CDC information about
23 underage smokers and of the people who did double and
24 using electronic cigarettes about nine out of ten of
25

1 those kids were actually smoking analog cigarettes
2 prior to that. So it wasn't like they just picked up
3 an e-cigarette and started smoking. They're already
4 smokers who actually switched off of tobacco
5 cigarettes to e-cigarettes. I'm not advocating that
6 but at the end of the day our population is 75percent
7 above the age of 18. Most smokers, 80 percent of
8 smokers are above the age of 18. I think we have to
9 be mindful that while we want to take care of kids,
10 when you have $\frac{3}{4}$ of a population who this effects you
11 can't just minimalize their effects or their
12 liberties to help out the smaller percentage.

14 CHAIRPERSON ARROYO: Thank you. Who's
15 next?

16 UNIDENTIFIED MALE: Hi Committee Chair
17 Arroyo and the rest of the panel. Unfortunately I
18 didn't get to thank Councilman Vallone or Councilman
19 Rose who's district I'm in for being here and
20 unfortunately they can't hear me speak. My story is
21 simple and I'll be to the point in less than three
22 minutes. 28 and a half year smoker of Marlboro Red's.
23 I'm currently an 11 month ex-smoker as a result of
24 the use of the e-cigarettes. The indoor ban is
25 preposterous and so far as secondhand smoke as they

1
2 claim it is. It's a secondhand vapor. It's far less
3 dangerous than that of cigarettes as the studies have
4 shown. As my friend Kareem has said. There's been a
5 lot of professionals up here and doctors claiming
6 such. We need to save our children. I wish the ban
7 for cigarettes and tobacco products was raised to 21
8 as we saw the council do a few weeks ago. When I was
9 15 and 16 and started smoking. I'm currently 46 and
10 we were a little behind the times then. Now being in
11 a health conscious society the ban, unnecessary ban,
12 proposal to ban the indoor e-cigarette use is going
13 to be a detriment to people like myself who have many
14 decades unfortunately under their belt as smokers and
15 contribute the use of e-cigarettes to stopping. Two
16 points I'd like to make on a health issue. Your sense
17 of smell will return in several weeks. Your sense of
18 taste so far as food you're tasting, water, whatever
19 you drink, coffee comes back in several weeks. The
20 nauseating and horrible sounding cough that all
21 smokers have and they try very hard to conceal it by
22 going to the bathroom will cease. It does go away. E-
23 cigarettes are without a doubt in my own opinion one
24 of the greatest technological advances that this
25 country has seen in helping people get off

1
2 cigarettes. One thing that perturbed me and I'll
3 finish up by saying this. Someone had mentioned
4 earlier, I believe it was a doctor, female doctor,
5 had mentioned the presence of formaldehyde in
6 secondhand vapor. That's not true.

7 JENNAY FOWLER: My name is Jennay. And I
8 heard you say... [interpose]

9 CHAIRPERSON ARROYO: Your full name on the
10 record.

11 JENNAY FOWLER: Jennay Fowler. I
12 apologize. I heard you say that you like to hear
13 heartfelt stories and I heard the opposition to what
14 we're trying to do here. I heard them speak on how
15 they're anecdotal. And I want to share my story
16 because I don't believe that it's an anecdote. For
17 nine years I smoked and I hated smoking. I was an
18 asthmatic child. My mother smoked. My grandmother
19 smoked. It was never a good thing in my family. It
20 was never glamorized. It was a horrible addiction and
21 I hid it from my own mother. If she would have known
22 she would have been very upset. She's a nurse and
23 through all of that I, I hid it for nine years. I
24 smoked unfiltered lucky strikes and I was desperate
25 to stop. I had to go outside. I was shunned. There

1 were boys that wouldn't date me. My teeth were
2 yellow. Because of the fact that I smoked I was not
3 active. I was almost 200 pounds and I was, I knew I
4 was killing myself, I knew I was I slowly suicidal
5 with every cigarette that I took every day and I
6 wanted to stop but I couldn't stop. And maybe that's
7 a personal weakness but that's a personal weakness
8 that I share with millions of people that are
9 addicted that need some kind of way out of this. I
10 would have never discovered the way out of it had
11 people not been allowed to do it in public. I, I
12 lived in the west and out there, there are some bans
13 granted but there are some places that's very
14 acceptable. I went to a coffee shop and I saw a group
15 of people that were using electronic cigarettes. And
16 I was like well they work for them maybe they'll work
17 for me. And I tried it before and I didn't think it
18 would work. And I only tried tobacco flavors and they
19 just, they didn't do it for me. And so I asked them
20 what they were using. I asked them how they did it
21 and they, they recommended some different flavorings
22 because I don't really like the taste of cigarettes.
23 They're, they're on fire. I don't know if you've ever
24 had a cigarette but it's awful. Like, it's, it's
25

1
2 probably, like go suck on an exhaust pipe. It's
3 terrible. But, so I found strawberry shortcake and
4 granted like kids like strawberry shortcake yeah
5 totally but so do adults. And that was the thing. I
6 stopped, I stopped wanting the cigarette and I
7 started going to that, that flavor. And because other
8 people were doing it that's what really gave me the
9 idea I could do it. And in all of that I didn't see
10 anyone get harmed. And I'm not a doctor and I don't
11 know if this will harm someone but I think that
12 banning it based on the idea that it could harm or
13 that it looks like something is one of the least
14 mature and un-American things we could possibly do.
15 So I'm appealing to your senses and I'm appealing to
16 your ability to help us. Because right now you are in
17 a position that could help us. You could stop those
18 people that are smoking on their kids on the way to
19 school. You can stop those kids from showing up in
20 school and smelling like smoke. I lost 50 pounds. I
21 can walk fast. I love my life. Please don't take it
22 away from me. Thank you.

23 CHAIRPERSON ARROYO: Thank you. Thank you
24 all for your testimony.

25

1
2 UNIDENTIFIED MALE: Chairperson Arroyo
3 just one more thing. If I could say six words;
4 ammonia, formaldehyde, carbon monoxide, three of the
5 4,000 chemicals in tobacco analog cigarettes.
6 Distilled water, artificial flavoring, vegetable
7 glycerin, three and potentially nicotine if you
8 choose so, four ingredients as opposed to 4,000. That
9 says it all. Thank you.

10 CHAIRPERSON ARROYO: Thank you.

11 UNIDENTIFIED MALE: Thank you.

12 CHAIRPERSON ARROYO: Thank you for your
13 testimony. The next panel; Julian Kaplan.
14 Koplun[phonetic]? Julian, [laughter]. Welcome Julian.
15 We've been joined by Council Member Julissa Ferreras
16 with her little bundle. That's Julian Kaplan. Helene
17 Barook[phonetic], James Coulson, and the last name is
18 Trektember[phonetic] Timberburg[phonetic], Trom? I
19 think, I want to say, I think it's a J, the first
20 name. Jorny[phonetic] if that's it. Jory[phonetic]?
21 Jory[phonetic]? Is that a, is there, Jory[phonetic]?
22 Is there a Jorrey[phonetic] here? No? Okay. Well okay
23 and then Johnson? Daniel Johnson? Nope, okay so we
24 have Helene[phonetic]. Turn on the mic I can't hear
25 you.

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COMMITTEE ON HEALTH

MEREDITH KUHN: My name is Meredith Kuhn. Helene had to leave so I'm going to read the testimony on her behalf for the public record.

CHAIRPERSON ARROYO: I see. So we need one of these forms filled out for you as well. When you are done... [interpose]

MEREDITH KUHN: Sure.

CHAIRPERSON ARROYO: ...give it to... James? That's you. Okay so no Julian? Okay. So give, give me a second. I just want to add a few more to the panel. Ivette Book, Bookner[phonetic], Buckner[phonetic]? Rachel Seika, and Brian Hoberman[phonetic]. Brian Hoberman[phonetic]? Ivette? Okay, okay so I think we, can I get one more? No that's it. Okay, alright, okay and I call Jean, Peter, Russel Wishtart[phonetic], hart? And Peter Denholtz[phonetic] you're up next. Please begin when you're ready.

MEREDITH KUHN: Sure. So again I'm reading this on behalf of Helene Barook[phonetic].

CHAIRPERSON ARROYO: Please pull the mic closer. It's hard to hear you.

MEREDITH KUHN: I'm here today to share with you a personal anecdote about my own experience of witnessing someone using an e-cigarette and the

1 level of confusion I fear they could have caused for
2 business owners if they remain unregulated. I was out
3 with friends over the holiday weekend when I noticed
4 someone near me inside the restaurant had started
5 smoking an e-cigarette. As someone who is passionate
6 about breathing clean air I politely asked if they
7 could refrain from using the device near me. The
8 response I received was an attempt to explain that
9 they were just breathing out vapor. Much to their
10 surprise I reminded them that these devices were
11 unregulated by the FDA and therefore we could not be
12 100 percent sure what they were releasing into the
13 air. Furthermore early studies have indicated that
14 possible carcinogens and other toxic chemicals are
15 found in their e-cigarettes. While the conversation I
16 had this past week was civil enough the potential is
17 great for confrontations to not end as well. It's not
18 fair for us to burden business owners with the
19 responsibility of deciphering if a patron is using an
20 e-cigarette or a regular cigarette. And lastly the
21 best proven method for someone to curb their
22 addiction is to seek approved cessation services
23 which New York City often provides via the Department
24 of Health and Mental Hygiene. By adding e-cigarettes
25

1
2 to our city's Smoke-Free Air act we are able to
3 address all three concerns.

4 RACHEL SEIKA: My name is Rachel Seika.
5 I'd like to thank you for this opportunity to share
6 my thoughts about the possible regulation of
7 electronic cigarettes in New York City. As a recent
8 graduate of the Sara Lawrence College with a master's
9 degree in health advocacy and a Brooklyn resident the
10 use of e-cigarettes in our city is of serious concern
11 for me. And in my opinion is a detriment to our
12 public health efforts. It is very important to
13 emphasize that there is no independent peer reviewed
14 research that confirms the claims of the e-cigarette
15 industry. While they may believe there is a health
16 benefit the greatest way to reduce your risk for
17 disease is to completely quit your addiction through
18 scientifically approved cessation therapies. As these
19 devices are not currently regulated by the Food and
20 Drug Administration they are able to be manufactured,
21 used, and marketed however the industry deems fit. It
22 is shocking as a public health professional to see
23 celebrity endorsers featured in advertisements, on
24 television, and glossy magazine covers. It seems to
25 me that the e-cigarette industry has simply reversed

1 time and utilized the same marketing game plan that
2 tobacco used 50 years ago. These advertisements
3 coupled with the fruit and candy flavoring that is
4 available to use in many e-cigarette devices seems to
5 be directly targeting our young people. The recent
6 data analysis achieved by the CDC from the national
7 use tobacco survey submits these concerns. Of the
8 middle and high school students who reported having
9 used an electronic cigarette 76 percent of those
10 students also smoked a traditional cigarette in the
11 same timeline. E-cigarettes are clearly not helping
12 these young people to quit rather they are sustaining
13 nicotine addiction and possible introducing a new
14 generation to tobacco youth. E-cigarettes are
15 manufactured to often resemble traditional
16 cigarettes. From the lighted tip to the vapor that is
17 emitted the similarity can easily cause confusion for
18 any bar or restaurant owner who is rightfully trying
19 to enforce the existing Smoke-Free Air act. The
20 proposal being considered today would simply create a
21 level playing field among legal addictive products
22 whether they possess tobacco or just nicotine. Many
23 of these businesses should already be accustomed to
24 our tobacco control policies as Altria the owner of
25

1 Philip Morris, Lorillard and Reynolds American are
2 all investing heavily in e-cigarette manufacturing.
3 By adding e-cigarettes to the list of products
4 restricted by the New York City Smoke-Free Air act we
5 can once again prioritize our health over the
6 businesses of the tobacco industry. I look forward to
7 your support of this proposed regulation.
8

9 JAMES COULSON: Hi my name is James
10 Coulson. I came here today because I believe e-
11 cigarettes are an amazing tool. If you want to wean
12 yourself off some of the negative effects of tobacco
13 I think it's very useful. And if you're really
14 interested in taking society from smokers to
15 something that is much better I think definitely
16 should not be, a law should not be enacted that cuts
17 it out like a scalpel. It needs to be much more
18 refined than that. I think, I think there's a way for
19 things to get along without you know rushing to
20 judgment. And I believe in a lot of the people here
21 today in the community that I think are good people
22 and they're trying to do better with their lives. And
23 I think that's what government should be about. And I
24 don't want to cause headaches or problem for other
25 people but I definitely don't think it's come

1
2 anywhere near to a huge issue and I think it for now
3 should definitely be left alone. That's all I have
4 for now. Thank you.

5 CHAIRPERSON ARROYO: Thank you we put you
6 in a panel in favor of the legislation. But you're in
7 favor of the e-cigarette. For the record. Thank you.
8 Brian Altham. Again Jean Louis Callot, Russell
9 Wishart[phonetic], tart, tarp, Peter
10 Denholtz[phonetic] and I have two sheets for him.
11 Peter? Is there a Peter? Okay so he's not here. Okay
12 so we have to... So we have Brian Russell and Jean?, no
13 Jean Louis Glu[phonetic]? No, I need two more yeah.
14 Jason Formot[phonetic] Formant[phonetic] mont... Is
15 that Jason? Yes, okay. And we have Steven Rodriguez?
16 Steven Rodriguez, Jay Rosenberg, Jay? Bradley
17 Rinehart? Come on up. And coming up panel; he's
18 worried about his wife he's not paying attention.
19 Sorry. Thank you Dan. Okay coming up Anna
20 Garpone[phonetic]. Anna is here. William Friedman.
21 William? Aaron Fisher, and Maureen, Mary Ann Blank,
22 Blankensop? Good? Okay we have a full panel on deck.
23 Thank you. Okay begin when you're ready.

24 BRIAN ALTHAM: Good morning everyone. I am
25 a freshman at Pace University right across the

1 street. So it's very good to come here. It's a good
2 location. I'm Brian Altham. I would like to present
3 my case against the banning of e-cigarettes in public
4 places. Section one of this proposed bill concludes
5 with; the council therefore finds that prohibiting
6 the use of electronic cigarettes in public places
7 will facilitate, oh I'm sorry, it will protect the
8 health of the citizens of New York facilitate
9 enforcement of the Smoke-Free Air act and protect the
10 youth from observant behavior that encourage them to
11 smoke. Out of these three points I feel as if the
12 first two were very well covered by everyone else who
13 presented. Everyone presented very good arguments. So
14 I'd like to focus on youth observing the behaviors
15 and encouraging them to smoke. The first thing I'd
16 like to touch upon is the candy flavors and fruit
17 flavors that everyone has talked about. I would like
18 to say as an adult that I enjoy the taste of Peachie-
19 O's the candy and that is why I'm currently vaping.
20 Most of us vapers we don't like the taste of tobacco.
21 That is one of the reasons why we quit, it's
22 disgusting and it's horrible to sit near people who
23 are smoking. The smell is nauseating and I feel as
24 if, if I could only get tobacco flavors it would just
25

1
2 be a very unpleasant experience. It's good to have
3 options and it's a good way to quit. I'd also like to
4 address what has been brought up about using e-
5 cigarettes in public high schools. I understand that
6 Connecticut state laws are different but the high
7 school that I went to kids were heavily punished for
8 using e-cigarettes and of course that is at the
9 discretion of school officials. I think it's a little
10 silly to enact an entire citywide ban on a problem in
11 schools that could be solved by school administrators
12 and other people in the education system. Let's see
13 here. Finally I feel as though that if we're
14 protecting children from using e-cigarettes there are
15 a lot of great parents in New York City. I've met a
16 lot of great parents, parent of my friends, parents
17 of people I've met in different places, and my own
18 parents are great parents and they're very concerned
19 about my health and very concerned about their
20 children's health and parents will sit down with
21 their children and explain to them that e-cigarettes
22 are not the perfect thing. Nicotine is still
23 addictive. So I feel as if this bill is, is very
24 powerful, very heavy handed bill and unnecessary
25 because that can be solved by simply school

1 administrators changing how they run their schools
2 and parents having one on one heartfelt conversations
3 with their kids. Thank you.

4
5 RUSSELL WISHTART: Madam Chair. It does
6 not appear that Councilman Gennaro is here but I have
7 an important note for him. TVECA founders Ray Story
8 and Tom Kiklas have emailed a statement to
9 legislative council Ms. Taylor making clear that
10 TVECA does not support banning e-cigarette use where
11 smoking is banned. Furthermore they will be glad to
12 forward you the contact information for the AP
13 reporter so you can confirm that they did not say
14 that they support your bill. Madam Chair please do
15 pass along that message. I think there's a lot of
16 confusion here today on a lot of different things.
17 The kids argument keeps coming up. Protecting
18 children from e-cigarettes. New York state has
19 already made it illegal for anyone under the age of
20 18 to buy e-cigarettes. New York, the New York City
21 Council has recently passed legislation or it's soon
22 to pass prohibiting e-cigarettes for anyone 18, 19,
23 or 21 in, I'm sorry Brian you won't be able to buy e-
24 cigarettes soon in New York anymore. These are the
25 people you can thank for that. So this is not about

1 children. I don't know why we keep talking about it.
2 There's been too much legislation on that already.
3 It's not about exhaled vapor being dangerous or safe.
4 That's from the mouth of Health Commissioner Thomas
5 Farley. It's about potential confusion in enforcing
6 the existing smoking laws. We heard from the
7 businesses who told you explicitly they are not
8 having any problems. Generally what happens in an
9 establishment is they either allow e-cigarette usage,
10 they decide not to allow e-cigarette usage or the
11 most often thing that they do is say sure as long as
12 nobody minds go right ahead. This is simple common
13 sense that I implore the Health Committee to employ.
14 The majority of vapers as you probably already know
15 are extremely active single issue voters. What we
16 want to do today is make friends with you. We would
17 like to aggressively support any candidate who votes
18 for our rights. The last thing that I'm a little bit
19 confused about that I gave to all the members of the
20 press who were here earlier is I just can't figure
21 out the difference in, of what was said to us in, in
22 May of this year 'till now. It's, I find it
23 disturbing to be quite honest with you. There's a
24 document that details that which you can view at
25

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2 bit(dot)ly9(forward slash)NYCECIG. Again it's the
3 Bitly Links shortner bit(dash)ly(forward
4 slash)nycecig. Thanks for your time.

5 JASON FORMOT: Chairman Arroyo. My name is
6 Jason Formot[phonetic]. I'm here to oppose the
7 legislation on the public usage of e-cigarettes. I am
8 for one who have been a smoker for 16 years and just
9 recently now stopped four months ago by using these
10 devices. Not to mention though too I've had family
11 members of my own pass away recently because of
12 regular cigarette usage and everybody else sitting
13 here saying you know there's, four, 4,000 different
14 type of chemicals and carcinogens in regular
15 cigarettes that are, that people are dying from it
16 every single day, over half a million Americans they
17 say either from emphysema for heart disease or which
18 have you. But there's not one bit of evidence that
19 shows that e-cigarettes are actually harmful. It says
20 hey this is what's in it. That's what's in it. People
21 have come in here and said that oh well there's these
22 chemicals. Well who's making the liquid for these
23 people to sit there and, and put a bad taste in
24 everybody's mouth if I may. A side to that though too
25 even for the fact if, if it did pass imagine all the

1 jobs that have been created through this industry at
2 the same time. It's not so much per say saying that
3 if you go into an establishment, a bar for instance
4 and promote the, not to promote the use of it but to
5 know that you can use it. And you're bringing
6 business and money into that establishment at the
7 same time by having that freedom. And then now all of
8 a sudden restricting that and then taking it away
9 from the people when they should have the god given
10 right to make that decision for themselves whether or
11 not that they're 18, 19, 20 years old. Don't get me
12 wrong. I support the fact that being 21 to buy
13 cigarettes one thing granted. But if you're going to
14 sit there and cut it all out you're cutting the very
15 fabric of free will. And that's who we are as
16 Americans and people should have that right
17 regardless of the fact. And when I go into an
18 establishment I sit there and ask; do you guys allow
19 vaporizers or vapers or any type of e-cigarette or
20 device at that fact. And they say either yes or no.
21 that's the only thing that stops people like myself
22 and others that actually use these devices from using
23 it into a public facility. At least I am respectful
24 and I ask and I just want you to know it's not great
25

1
2 with what you people do in trying to overregulate it.
3 That's all. Thank you.

4 BRADLEY RINEHART: Good afternoon
5 everyone. Happy holidays. Thank you for being here
6 and taking the time to listen to the points of view
7 of the constituents. I'd like to open with a quote
8 from a great American Author.

9 CHAIRPERSON ARROYO: Say your name for the
10 record please.

11 BRADLEY RINEHART: Bradly Rinehart. Here's
12 the quote. Giving up smoking is the easiest thing in
13 the world. I know because I've done it thousands of
14 times. It's by Mark Twain who was alive from the year
15 1835 until 1910. I'm a third generation New Yorker
16 born and raised, proud to be one. And I'm a member of
17 the New York State Bar. I'm attorney and a serial
18 high technology entrepreneur. My adventures have
19 created jobs that include both smokers and nonsmokers
20 very very smart people. And I'd really like to thank
21 the council for doing what you do. You know as civil
22 servants you know my hat's off to you. It's been an
23 extraordinary 12 years in the Bloomberg
24 Administration. You know my father you know he's a
25 doctor a ENT and sits on Mayor Bloomberg's September

1
2 11th Health and Advisory panel which helped survivors
3 and NYC rescue workers from 9/11 with respiratory and
4 breathing problems. He's on the panel. And he
5 couldn't be here today unfortunately. He's currently
6 Chief Medical Officer of the New York Department of
7 Corrections as well. And has been in law enforcement
8 as Chief Surgeon of the NYPD over the past 30 years.
9 And I, I, I, I was sitting here today you know
10 there's option A here you're giving us to you know
11 take a wonderful piece of legislation which is a
12 Smoke-Free Air act and add e-cigarettes to it. And
13 then there's option B which is to not do that. I'm
14 not here to advocate either of those positions. What
15 I'm so proud of with the Bloomberg administration is,
16 is what I've seen. When I, when I went to law school
17 and I moved back to New York you know my, my father
18 had, was a first responder at, at, at 9/11 and set up
19 all the triage centers for ENT for all the rescue
20 workers, cops, and firefighters to clean out their
21 respiratory tract and their nose and their eyes as
22 they were going into ground zero. And he won the New
23 York Post first annual lifetime achievement liberty
24 medal presented by Mayor Bloomberg in 2002 for that.
25 I was very proud of that so when I gone into all the

1
2 law schools I chose to go to New York Law School
3 which is in the neighborhood here because of its
4 proximity to ground zero. And when I moved I moved
5 right into this 365 South End Avenue right in,
6 Battery Park right across the street from ground zero
7 on purpose and I lived in a, in a building so that
8 every morning when I woke up to go to class I'd walk
9 over ground zero. I wouldn't forget. And this is a
10 year later. I'm almost done. But you know now that 12
11 years later the building is built you know New York
12 City's a beacon for the rest of the world no matter
13 what jurisdictions have legislated this in the past.
14 The legislation here you know this is a precedent.
15 It's New York City and what you guys do is so
16 important and you know Mayor Bloomberg was a
17 technology entrepreneur and we're building a campus
18 in Cornell... [interpose]

19 CHAIRPERSON ARROYO: Please wrap up.

20 BRADLEY RINEHART: Basically the e-
21 cigarette is a revolutionary device in my opinion
22 like the personal computer. You know 130 years ago
23 the light bulb was patented. That's it. Six billion
24 years before that there was darkness or candlelight
25 for innovation. We've made so much progress in the

1
2 past 100 years. You know Mark Twain that's, you have
3 to use a candle or light a combustible cigarette.

4 CHAIRPERSON ARROYO: Wrap up.

5 BRADLEY RINEHART: This is the future. You
6 know strongly oppose the legislation I guess.

7 CHAIRPERSON ARROYO: Thank you.

8 BRADLEY RINEHART: Thank you guys. I
9 appreciate.

10 CHAIRPERSON ARROYO: Thank you. Thank you
11 all for your testimony.

12 RUSSELL WISHTART: I apologize to the, to
13 Madam Chair I, I'm being told I forgot to state my
14 name for the record. My name is Russell
15 Wishtart[phonetic]. I live in Manhattan and I oppose
16 this legislation. Thank you.

17 CHAIRPERSON ARROYO: Oh my goodness. I
18 thought I heard you say it. Okay. Thank you for your
19 testimony. Our next panel Mary Ann Blankensop. Mary
20 Ann? Bradley? Oh, I mixed them up okay. Yeah... Ann,
21 Anna? Anna? Ah sorry. William and Aaron. Aaron?
22 That's you okay. And the next panel Hemsay[phonetic]
23 Sema[phonetic], Suman[phonetic], Randy
24 Crensedo[phonetic], Cren, Crendico[phonetic],
25 Crendico[phonetic], Crennacle okay. Is he? Okay.

1
2 Cyrus Sulliman[phonetic]? Okay Cyrus. Hamsa[phonetic]
3 are you here? Randy is not here. Okay I'm sorry. Give
4 me one second. Henrey[phonetic]? Betsy[phonetic]
5 Longs? Betsey[phonetic] or Betrey[phonetic] Betty
6 Longs? Jared no last name, Andrew Martin. Okay you're
7 on the next panel so just stand by. Christopher
8 Micovitz, bitz? Okay John Urban. John? Okay you guys
9 are up on the next panel. Okay so we have... These guys
10 are not answering. Okay William. Okay not I just want
11 to make sure I have the right... [laughter] Getting a
12 little confused here but thank you for your patience.
13 State your name for the record. And you may begin
14 when you're ready.

15 ANNA GRAPONE: Hi, good afternoon
16 everybody. My name is Anna Grapone[phonetic]. I live
17 in Queens New York too big of a loan had to leave.
18 Okay.

19 CHAIRPERSON ARROYO: I'm sorry give me...
20 Start the clock again. I'm sorry.

21 ANNA GRAPONE: My name Anna
22 Grapone[phonetic]. I live in Queens. The story of
23 Queens and unfortunately Vallone had to leave but I
24 smoked for 30 years. I grew up in a household full of
25 smokers my parents, my relatives, I picked up the

1 habit when I was a teenager and by the time I stopped
2 smoking conventional cigarettes I was up to about a
3 pack and a half a day. Earlier in 2012 I was
4 diagnosed with Hodgkin's Lymphoma which is a cancer
5 of the lymph nodes. So naturally you get that kind of
6 news you got to make changes in your life. So I
7 totally abandoned conventional cigarettes and then I
8 started going for the electronic smoking devices such
9 as the vaporizer. And I had spoken to my oncologist
10 telling him that I went from electronic cigarette,
11 from regular cigarettes to electric cigarettes and he
12 said that the electronic smoking devices were fine
13 and he's an oncologist. So I went through six months
14 of chemotherapy and I also went for my routine pet
15 scans and cat scans. I started my chemotherapy around
16 the beginning of August. And then around the
17 beginning of April I was, I went, I completed all
18 the, all the ABVD treatments that I had to deal with.
19 And then I continued going for pet, routine pet scans
20 every three months. So right now as we speak my last
21 pet scan and cat scan were in early September and so
22 far I'm in remission. And I'm glad to be in remission
23 and then in the meantime I totally abandoned
24 cigarettes right before I, right around the time I
25

1
2 was diagnosed and I've been vaping religiously since
3 then. Now also I do, I do, I am in favor of the clean
4 indoor act but then you have people like me who like
5 to go out and socialize and do so in restaurants and
6 bars. I honestly do not want to be out on the street
7 vaping my vaporizer and breathing in secondhand smoke
8 from the smokers that are out there puffing away. I
9 mean I feel that their secondhand smoke is putting my
10 health at risk. Okay. And as for the nicotine and
11 everybody's like gung-ho about nicotine you, there
12 are different levels of nicotine in the e-juices that
13 you buy. So not only did I reform from smoking I am
14 also bringing down my levels of nicotine. I could
15 even go down to a point, like to a zero nicotine
16 level. Right now I'm at a 16. I went from 24 to 18 to
17 16 and I could easily, at my own pace bring myself
18 down to a, a zero. That's all I have to say but I'm,
19 I'm opposed to the e-cigarette ban. Thank you.

20 WILLIAM FRIEDMAN: Good afternoon. My name
21 is William Friedman and I'm a New York City
22 carpenter, I'm a union carpenter and I work all out,
23 all over the city in many different buildings. Fear,
24 uncertainty, and confusion are not reasons to make a
25 law. The Smoke-Free Indoor Air act did not pass

1 because of fear, uncertainty, and confusion. It
2 passed because it met a burden of proof. If you ask
3 yourself if this bill meets the same burden of proof
4 I think you'll find it doesn't. Therefore I see no
5 choice but for you to reject this bill. It does not
6 meet the same burden of proof that was established
7 when the law was created. The, the experts have all
8 admitted that they do not have any evidence to show
9 that secondhand vapor is harmful in any way. The
10 motivation for this seems to be based around the
11 difficulties that it's going to create and policing
12 the existing law. Well my job is difficult too but we
13 don't make laws to make it easier. You just figure
14 out how to deal with it and you deal with it. So I'm
15 sorry if the job has become a little bit more
16 difficult to do but that's just the price of
17 progress. You know aside from that stuff I want to
18 share a little personal information. And that is in
19 April of this year I lost my mother to lung cancer
20 and COPD. I've been using an electronic cigarette
21 since January of 2009 and I recognized very quickly
22 the health benefits that I was feeling. And I tried
23 numerous times, numerous times I tried to get my
24 mother to convert to an electronic cigarette. I was
25

1 never able to do that. The reason for that was
2 because of the rederick that she hears in opposition
3 to electronic cigarettes. This bill is being added
4 into a public health law. There is no foundation in
5 health. If it's added into the public health law it's
6 going to say to the public that it's not healthy. And
7 this is what they're going to believe. If we want a
8 law that's going to prohibit the use of electronic
9 cigarettes to de-normalize smoking then we should be
10 sitting here talking about a bill to prohibit
11 electronic cigarettes to de-normalize smoking not a
12 bill to prohibit electronic cigarettes under the
13 guise of public health that's demeaning to the entire
14 public health system. That's all I have to say. Thank
15 you.
16

17 AARON FISHER: My name is Aaron Fisher. I
18 am a teacher and I want to share a story. So when I
19 was 13 years old I started smoking for the same
20 reason that every teenager starts smoking primarily
21 because they were told not to. And that's why every
22 teenager picks up a cigarette. It's the same reason
23 every teenager has ever picked up a cigarette. I
24 smoked for about 20 years. During those 20 years I
25 must have quit dozens of times. I lost my grandmother

1 to smoking related illness. My father has COPD. About
2 eight months ago I picked up a vaporizer because I
3 could take it inside. I could use it inside of
4 establishments. I'd be able to use it pretty much
5 anywhere. And you know what it didn't taste like a
6 cigarette and I wouldn't stink. I had no interest or
7 no consideration and no intention of quitting smoking
8 cigarettes but after about a month I realized I
9 hadn't had a cigarette in four days and I said to
10 myself well maybe I don't need to have a cigarette.
11 Then a week went by and I continued to use a
12 vaporizer. And I was at a party, a friends' going
13 away party and we were outside and everyone was
14 having a cigarette so I said hey can I have one of
15 those. And I tried it and it was the most disgusting
16 thing I had ever put to my face and I threw it away.
17 It was terrible. And that was a little more than six
18 months ago now. And that's where I'm at and that's
19 cigarettes for me. The fact that we have children in
20 schools with e-cigarettes offends me and I find it
21 disgusting. I agree that e-cigarettes should be
22 banned in and around school and childcare facilities.
23 I think that the administrators of that school that
24 we heard about earlier should not have jobs because
25

1
2 my taxes pay for them to work and it disgusts me. As
3 far as addressing the concerns of inside of a
4 business smoke stinks. These might smell for a few
5 seconds but a cigarette will cut straight through it.
6 The additives in cigarettes increase the addictivity.
7 The EU studies that currently exist state that of the
8 600 additives 100 of them directly affect when burned
9 the addictivity of nicotine. And many articles point
10 out that you will not find anyone with enthusiasm for
11 their gum or their patch the way that people feel
12 about their vaporizers. And as far as that exploding
13 battery goes for anyone who cares and doesn't already
14 know. Yeah it happened but that's what happens when
15 you plug a battery without a regulator into a charger
16 that's five times more powerful than the battery can
17 use.

18 Good afternoon. My name is Mary Ann
19 Blankensop. I am a mother and a lifelong city
20 resident. I was a heavy smoker for 47 years. After I
21 first vaped an electronic cigarette I quit smoking.
22 Although so-called vapers like me are using this
23 technique of nicotine delivery with positive dramatic
24 results there exists a fear of vaping because it
25 nearly resembles cigarette smoking. I'm here to extol

1
2 the benefits of vaping and to express my desire to
3 have an informed conversation so we can move forward
4 with reasonable legislation. That can only happen if
5 legislators accept that vaping is a new innovative
6 activity with a very real potential to eliminate
7 cigarette smoking. Vaping was invented in 2003 by a
8 Chinese pharmacist who was motivated by his father's
9 death from lung cancer. We are in the 21st century
10 and should embrace modern technology as it relates to
11 e-cigarettes. It's troubling to me that New York, a
12 world leader is not responding to this technology
13 with enthusiasm but instead is seeking to penalize
14 vapers based on unsubstantiated fears. The
15 conversation should be about adopting a new mindset
16 and vocabulary much like London Heathrow Airport did
17 just last week when they opened a vaping zone in one
18 of their departure areas. Vapers now have a choice to
19 replace government endorsed ineffective methods of
20 nicotine delivery patches, gum, inhalers, nasal
21 spray, lozenges, drugs with devastating side effects.
22 I tried them all without success. It was an
23 electronic cigarette that enables me to quit smoking.
24 Unless and until vaping is viewed as a different
25 activity from smoking people will continue to die

1 from inhaling the thousands of carcinogens in
2 cigarettes. Vaping should be recognized and regulated
3 as a helpful aid for those who are addicted to
4 nicotine. Despite vapers testimony before the city
5 council on May 2nd of this year some legislators
6 still want to treat vaping as smoking. But evidence
7 to date shows no harm to users or bystanders from
8 vapor in e-cigarettes. Fear based premature
9 legislation that forces millions of vapers into
10 smoking areas to inhale secondhand smoke is harmful,
11 unfair, and unethical. Smoking kills and that is
12 precisely why we vapers stop smoking. If you pass
13 this legislation you will be responsible for forcing
14 me and many other nonsmokers who vape to breathe
15 deadly secondhand smoke. I therefore urge you to vote
16 no on the e-cigarette usage ban because it is
17 misguided and deceitful to claim that e-cigarette
18 usage is smoking. After 47 years of smoking I know
19 what smoking is and vaping is not smoking. Thank you
20 for the opportunity to get this off my uncongested
21 chest.
22

23 CHAIRPERSON ARROYO: Thank you for your
24 testimony all of you. Okay Cyrus, come on up, Andrew
25 Martin, Christopher, I had a full panel I thought,

1 Christopher? He's here? Okay, and John Urban. John?
2 Is coming. Okay. On deck Antoinette Lanzo[phonetic],
3 Shequana[phonetic], Shequana[phonetic] Blake, Blake
4 are you here? Okay, Benjamin Clark, Benjamin, Gabriel
5 Sanchez, Roman, Roman Ticnova[phonetic], no, okay.
6 Phillip Resenem[phonetic]. That's you? Okay you guys
7 are up next. State your name for the record. Begin
8 when you're ready.

10 ANDREW MARTIN: Hello, I'd like to thank
11 the council for recognizing me. Madam Chair, esteemed
12 members of the council my name is Andrew Martin. I am
13 18 years old. I am an ex-smoker and I use portable
14 nicotine vaporizers to control my nicotine cravings.
15 At age 16 despite prohibition might I add I bought my
16 first pack of cigarettes on the upper east side. I
17 paid the prohibitive local taxes and that pack cost
18 me 13 dollars. I chose to continue to smoke for some
19 time and now two years later I've chosen to quit.
20 Like countless others I found this to be a daunting
21 task but thanks to e-cigarettes I'm successfully
22 remaining smoke-free. I'd like to, I haven't had a
23 puff of this in about two days. So I've been waiting
24 for a while. What I just inhaled was vapor containing
25 water, propylene glycol, glycerol, nicotine, and food

1
2 glade, food grade flavorings. Every one of those
3 ingredients may be found in typical nicotine gum.
4 What's more all those ingredients are found in
5 tobacco smoke from typical cigarettes alongside
6 dozens of known carcinogens, allergens, and irritants
7 as well as drugs other than nicotine which act
8 synergistically to produce addiction. I'm going to
9 skip this whole regulation thing because I'm on a
10 time crunch. Unlike cigarettes e-cigs produce no side
11 stream emissions. They produce only mainstream smoke
12 and when the mainstream smoke is inhaled minimal
13 secondhand vapor is produced upon exhalation. Very
14 importantly to me though they have been instrumental
15 for me to stay smoke-free. E-cigarettes are orders of
16 magnitude safer than tobacco no matter what kind of
17 fear, uncertainty and doubt these radicals are going
18 to try to convince the council of. They are not twice
19 as dangerous as Russian roulette. They are not, there
20 is no way that one pack a day is no better than two
21 packs a day of cigarettes. These people would try to
22 convince you to ban penicillin, insulin, indoor
23 plumbing, and sunlight if they thought there was
24 grant money in it.

25 [laughter]

1
2 ANDREW MARTIN: E-cigarettes do not harm
3 the people surrounding the user. I beg of this body
4 with great urgency to refrain from enacting another
5 pointless, costly, ineffective overreach of the city
6 government's innumerable powers. I, I'd like to take
7 this time to just mention a few of the other
8 chemicals found in cigarettes which are not found in,
9 in vaporizers ever. These include cotinine,
10 anabutine, anabasine, harmine, harmaline,
11 tetrahydroharmine. These are very powerful drugs.
12 They also include nitronic nicotine,
13 nitrosonornicotine and other, tobacco specific
14 nitrosamines none of which are found in e-cigarettes.
15 They also include polycyclic aromatic hydrocarbons
16 other potent carcinogens. There are dozens of known
17 carcinogens in tobacco smoke. There are zero and I
18 yield back the balance my time thank you.

19 CHRISTOPHER MICOVITZ: Good afternoon
20 Madam Chair and the committee. My name is Christopher
21 Micovitz. I live in New York. I own, co-own and
22 operate an electronic cigarette manufacturing,
23 actually we manufacture parts and accessories for the
24 electronic cigarette industry in New York and
25 distribute them globally. This industry that we came

1
2 into, I was a carpenter with a 25 year smoking
3 addiction. I spent probably ten years of that
4 addiction trying to quit and I finally gave up trying
5 to quit. I had heard in the 80s about this mystery
6 device called the smokeless cigarette or you know it
7 didn't come much to light until for me until 2009
8 personal vaporizer and e-cig. I bought it and it, it
9 worked. It worked better than anything else I tried
10 but it broke so I fixed it. It worked better after I
11 fixed it. I noticed that when people got into this
12 industry in the very beginning the devices were very
13 weak and you know the, the liquids that were in them
14 weren't very good. So everyone started taking them
15 apart and rebuilding them. Essentially what happened
16 is this industry was built by victims. That, the
17 technology that we use in electronic cigarettes was
18 all designed by victims of tobacco. We forgot about
19 that. These weren't designed just to make millions of
20 dollars off of. These weren't designed by the tobacco
21 company. These weren't designed by a pharmaceutical
22 company. These were designed by the victims of big
23 pharmaceutical companies that had failed medications
24 that didn't work for us. They, this was built by the
25 failure and by, this was built by the... Whoo!

1 [laughter]. Sorry. We're the victims. And I started
2 my company because I was a victim and I'm building
3 this company as a victim. And all of my customers are
4 victims and this law is doing nothing but calling it
5 bad and putting it back to where the tobacco
6 companies would love it to be. They want it to be
7 called tobacco because then they're going to still
8 make their money back. It wasn't until this past year
9 that a tobacco company actually purchased an e-cig
10 company. It wasn't until the, the companies and then
11 like myself and then small mom and pop shops that
12 started in 2009 and on started taking money away from
13 the tobacco companies when they got involved. They
14 wanted nothing to do with this. None of them. So I
15 ask you please to think about this bill. It is taking
16 it away from the people that created this industry
17 and just putting it back in the hands of the people
18 that created the problem in the beginning. Thank you.

19
20 CYRUS SULLIMAN: Hello my name is Cyrus
21 Sulliman[phonetic]. And I'm not as prepared as
22 everyone else is. I notice that everyone has some
23 sort of thing written down or typed out. Someone just
24 convinced me to come here a few days ago. And as you
25 can tell I don't have a button up shirt like the rest

1
2 of them. I'm actually wearing my pajamas under this
3 leather jacket and I usually wake up at 12 but I woke
4 up at seven today because this is something that's
5 very important to me. I've been smoking for ten
6 years, oh, was smoking for ten years. I started when
7 I was 15 and I kept on trying to quit and it was
8 something kind of oddly. My mother actually didn't
9 tell me to stop doing because she felt that whatever
10 I needed to do to get over my problems. I am an
11 artist. Whatever I need to do to get over my problems
12 I should do so she made me an ashtray and etcetera
13 and etcetera. But my friends felt differently. And I
14 actually really didn't care until someone bought me
15 an electronic cigarette for my birthday last year.
16 And I decided to try it out because hey why not it
17 was cheaper, it tasted better, I didn't smell bad.
18 And I kept on using it and eventually I liked it
19 better than regular cigarettes. And I wanted to go
20 back because honestly I felt like I looked pretty
21 cool and all of my peers and art community thought I
22 looked really dumb not smoking a cigarette. And when
23 I tried to smoke a cigarette I vomited so there's
24 that. I think that might be almost all I have to say
25 other than I can run three miles now without getting

1
2 tired. I work out five days a week as opposed to once
3 every three months. I have gained 40 pounds in
4 muscle. I used to be a hundred pounds and now I'm 140
5 pounds. It's actually caused me to eat healthier as
6 well because now I feel good and there was one other
7 thing I wanted to mention. Oh yeah I wish that those
8 NJOY guys and the Blu guys and the Logic guys were
9 still here because I felt like I was in a room full
10 of celebrities so if anyone knows them can you pass
11 the word along that I'm a little star struck because
12 I see your adds all over New York City and it's kind
13 of cool. Alright I think that's it.

14 JOHN URBAN: Hi my name is John Urban.
15 I'll try to keep it brief. I'm not going to give you
16 my sob story about how long I smoked or try to state
17 a bunch of facts. What I would like to point out
18 though is that we've been discussing this indoor ban
19 and I'd just like to know how exactly the council
20 expects this to be enforced. I'm from Suffolk County
21 and there's a law that's been in place for a few
22 years already and every day when I go out I see
23 people using these in public places. It is not being
24 enforced because although you've seen some people in
25 this room blowing out vapor there are many of us that

1
2 have not been exhaling any vapor. If I hold this up
3 to my lips and take a, take a puff for a few seconds,
4 hold it in, when I exhale nothing comes out. So if I
5 were to be in a public restaurant and someone sees me
6 with this up to my lips am I going to get fines for
7 that because I'm not necessarily using it. I may be
8 chewing on it as if it was a pen or just nervous
9 habit. That's really all I have to say. I would
10 really like to know how this would be enforced. Thank
11 you.

12 CHAIRPERSON ARROYO: Thank you for your
13 testimony.

14 JOHN URBAN: If I might briefly. I, I
15 really just trying to speed through this but I have
16 plenty to say and I employ you to ask any questions
17 you may have.

18 [background comments]

19 CHAIRPERSON ARROYO: Okay thank you. Thank
20 you. Antoinette? Shakona? Gabriel and Phillip. This
21 is a panel. Okay and coming up next we have Laysel
22 Gardner, Nicholas Cruze[phonetic], Nicholas,
23 Liase[phonetic], Lazel[phonetic], Leezel[phonetic],
24 Lazel[phonetic], Leesel[phonetic] Gardner, Joe Landy,
25 Joe Landy, Evan Doich[phonetic], Linayel[phonetic]

1
2 Jacobson, Lenaya? No? Yes you're here? No? Okay. Why
3 don't you join this panel? Come, come on up join this
4 panel. I'm going to go through some names that I did
5 not get a response from. Again Lenaya. Oh that's you
6 okay so she belongs here. Ramone, Roman
7 Ticonbo[phonetic] No? Benderman[phonetic] Clark?
8 Okay. And then after this panel we have
9 Elaine[phonetic] Spinner. Elaine? So you're up next.
10 If I have not called your name and you want to
11 testify that means we didn't get one of those slips
12 of paper. So if you are here and want to testify make
13 sure you see the sergeant at the desk here so we
14 don't miss you. Okay begin when you're ready.

15 [pause]

16 GABRIEL SANCHEZ: Good afternoon Madam
17 Chairperson and City Council members. My name is
18 Gabriel Sanchez and I oppose the proposed indoor ban.
19 The e-cigarette industry has saved my life. E-cigs
20 assisted myself and those around me. Last month I was
21 gainfully employed part time in the e-cig business at
22 a time when I was one of 400 thousand furloughed
23 employees due to the government shut down. Since my
24 time working I have witnessed numerous customers
25 adopt the vaping experience. The expressions on

1
2 consumers' faces when they find that there is an
3 alternative to smoking is priceless and it makes my
4 job worthwhile. The product is customizable to
5 include zero milligrams of nicotine so that
6 nonsmokers who have never smoked before such as my
7 girlfriend can taste and enjoy the vaping experience
8 as well. Due to the nature of a small e-cigarette
9 business that sells essentially a product and a
10 service customers currently sample the product at a
11 store. Banning indoor use threatens this current
12 business model. It jeopardizes small businesses and
13 impedes a growing business sector. As a tax payer and
14 as someone who works for the taxpayer it is
15 outrageous and unacceptable to observe legitimate
16 small businesses going under due to policy changes
17 which ultimately takes away tax dollar revenue that
18 benefits our great country. On a personal level on
19 January 1st, 2011 my older brother who is now 40
20 years old quit smoking. The year before his doctor
21 told him that his lungs were in bad shape and
22 instructed him to quit smoking. My brother took up
23 vaping. When he did his yearly physical the next year
24 the doctor was stunned at his lung recovery. It turns
25 out that the vapor acted similar to steam in a sauna.

1
2 It cleaned his lungs of the tar, formaldehyde, urea,
3 and fiberglass found in traditional cigarettes. The
4 doctor told him simply keep doing what you're doing.
5 That's all I have thank you for listening.

6 ANTOINETTE LONZA: Good afternoon. My name
7 is Antoinette Lonza. I wanted to thank you for
8 staying and hearing everybody speak. I appreciate
9 that. I've lived in New York City for 15 years. I was
10 also a smoker for over 15 years. I've watched New
11 York City change. I was here when the original indoor
12 smoking ban happened. I didn't quit then. I finally
13 made the switch to e-cigs in 2009 and I vape only
14 fruit flavors which I enjoy and I'm 33 years old.
15 [laughter] I've watched New York City become more
16 environmently[phonetic], environmentally friendly.
17 Taxis are moving toward electric cars. City bikes
18 have been added and lots of other great things. Now I
19 ask you to imagine for a moment New York City without
20 cigarette butts, without fowl wafts of smoke. Imagine
21 a city clear of all of this replaced by non-
22 combustibile vapor similar to cars being replaced by
23 the city bikes and taxis being made to be electric.
24 This industry is capable of achieving that.
25 Statistically speaking that could happen in the next

1
2 decade. Why now is this innovative revolutionary
3 technology not being embraced by the City of New
4 York? Banning out of fear and not facts is that
5 really in the public's best interest? Any study can
6 be quoted to benefit either side. I encourage all the
7 council members to read the complete studies that
8 have been submitted. Did the CDC say e-cig use has
9 increased in children? Yes they did. But what of
10 percentage of children who statistically start
11 smoking or smoke real cigarettes already. Not to
12 mention your new age regulation that's being, that's
13 been passed, or being passed. Those laws are in place
14 to keep the children away from things. Parenting,
15 mentoring, regulation to keep things out of
16 children's hands. New York City should consider
17 adopting a smoke-free, vapor-friendly environment for
18 adult smokers instead of demonizing the idea.
19 Education instead of demonization and regulation. For
20 the record I'd also like to mention that the top two
21 companies in the USA with over 50 percent of the
22 market share NJOY and Logic have no affiliation with
23 big tobacco. Neither das CASSA an organization
24 mentioned earlier to say to be backed by big tobacco.
25 They don't even like to take money from non-big

1 tobacco vendors. They are a consumer organization run
2 by strictly consumers and users of the product. I'd
3 also love to know who is funding the spokespeople in
4 favor of this ban. Big pharmaceutical perhaps?
5 Chantix alone recently sited to have led to over 500
6 suicides. It's a multibillion dollar industry for
7 Pfizer and that's not even including the patch, the
8 gums, and the lozengers[phonetic] which also come in
9 fruit flavors. Surprising that they would be in favor
10 of this ban isn't it? Working and taking up their
11 market share with a product that's actually working
12 and taking up their market share. I'll close with an
13 Aflac duck. If it looks like a new innovation and
14 acts like a life changing technology then that can
15 change the world why not treat it like that. The
16 cellphone was confusing first too for first time
17 users. iPhone and the, was to backberry[phonetic]
18 users. Society will adapt. There are ways to regulate
19 this product without lumping it into a category that
20 has been around for hundreds of years. Just like you
21 would not regulate emissions... [interpose]

22
23 CHAIRPERSON ARROYO: Antoinette.

24 ANTOINETTE LONZA: ...of electric cars the
25 same way you would a gasoline engine. They look

1
2 exactly the same but one has the opportunity to save
3 the world.

4 CHAIRPERSON ARROYO: Thank you.

5 ANTOINETTE LONZA: Thank you.

6 CHAIRPERSON ARROYO: Thank you.

7 SHEQUANA BLAKE: Thank you. My name's
8 Shequana Blake and I took my glasses off one because
9 when I can't see people I'm a little less nervous and
10 two I just want you to get a good look if you can at
11 my face. As you can see there's some scars there and
12 that's actually from 17 years of smoking and being
13 allergic to them, severely allergic to them and not
14 knowing and just simply thinking oh God my face is
15 falling off. So I'm here to oppose this legislation
16 simple, simply for the fact that I don't want to be
17 pushed outside around smoke again. It took me 17
18 years of suffering and two years of fighting and
19 trying really hard to stay away from cigarettes to
20 get where I am and I just don't want to have that
21 victory taken away from me. And I'm sure vape, other
22 vapers like me, and ex-smokers like me don't want to
23 feel that way. That's all. Thank you.

24 PHILLIP ROSEMAN: My name is Phillip
25 Roseman. I'm the co-owner of Vape New York. I stand

1
2 in my store every day and I hear the stories of
3 hundreds of New Yorkers who were unsuccessful in
4 getting away from cigarettes. Most of them after
5 multiple attempts. I've talked to office workers who
6 work in the skyscrapers who tell me their
7 productivity's gotten much better now that they don't
8 have to wait for elevators to get downstairs and
9 outside, have their cigarette, and head back up to
10 their offices. I've talked to police, fire, MTA
11 workers, sanitation workers all of which need to
12 share vehicles and don't want their vehicles to smell
13 like smoke. I've also talked to new mothers who were
14 smokers and after they had their babies didn't want
15 to go back to smoking cigarettes and were looking for
16 another option. Yes we do sell flavor liquids in our
17 store not unlike Stoli vanilla and Stoli melon but
18 only to people who are over the age of 18. Our
19 industry has been self-regulating from the very
20 beginning and we'll continue to be so. And the
21 devices that we sell will never be confused with a
22 cigarette. They all look absolutely ridiculous is
23 what it comes down to. I ask to reject this proposal
24 on behalf of my customers who couldn't be here today
25 and myself.

1
2 LENAYA JACOBSON: My name is Lenaya
3 Jacobson. I'm in opposition to the bill. Just going
4 to jump right in. First talking about how the e-
5 cigarettes are an avenue to nicotine also are the
6 patches, the gum, the nicotine inhaler. I mean why is
7 it okay to blow a nicotine inhaler in the are but it,
8 it's not okay to use an e-cigarette? And why is it
9 okay to you know be addicted to the patches of the
10 gum for years and years and years. I mean how long
11 has Obama been chewing that Nicorette gum. It's been
12 like six years. He's still chewing it. Talking about
13 them exploding you know cell phones and other lithium
14 battery products have been known to explode
15 occasionally. And speaking of science cell phones
16 might cause brain cancer. I mean we just don't know
17 yet. People haven't been using them long enough. So
18 shouldn't we ban cell phones too? I mean all the
19 scientific evidence so far says they probably don't
20 cause brain cancer but so far all the evidence says
21 e-cigarettes don't cause problems eight. So shouldn't
22 we ban both just to make sure. And speaking of the
23 science there's been a lot of talk about the tobacco
24 specific nitrosamines and the formaldehyde you know
25 saying well we don't know what's in things. We don't

1 know if it's harmful. Well actually we do know what's
2 in them. And we do know that it's not harmful. We
3 know what's in them and we know that it's not harmful
4 in the trace amounts that you know a secondhand vapor
5 is going to be breathing in. About kids using them.
6 Well the thing is it's illegal for kids to use them.
7 I mean this high school kid was in here talking about
8 how kids are vaping in the school and you know they
9 don't obey a rule about vaping in the school but they
10 would obey a law about vaping it. Well they're not
11 supposed to be vaping to begin with. It's illegal for
12 them to use those products. So if they're not obeying
13 a, a law, why would they obey a law about using it in
14 school when they're not obeying the law about using
15 it at all? And one last thing and I would like to
16 quote Doctor Michael Spiegel on this. He is actually
17 an anti-tobacco advocase[phonetic], advocate who
18 supports e-cigarettes. And he says the purpose of
19 smoking bans is to protect non-smokers not to prevent
20 people from seeing smokers. The purpose of smoking
21 bans and their only justification is to protect non-
22 smokers from exposure to the significant hazards
23 associated with tobacco smoke inhalation. Is the
24 purpose of these laws were to prevent youth from ever
25

1
2 having to see a smoker then there would be no reason
3 not to simply ban smoking in public. If the city
4 council is concerned that youth might not understand
5 what vapors are doing and may not understand that
6 electronic cigarettes are not necessarily safe and
7 should not be used by youth or a non-smokers then the
8 council should implement a public education campaign
9 to achieve this end. This could be a great
10 opportunity to teach kids how addictive smoking is by
11 pointing out that many smokers can only quit if they
12 use a product that simulates the exact behaviors of
13 smoking. However to respond to this issue by enacting
14 a law that is completely unsupported by scientific
15 evidence is not only unjustified but it undermines
16 the very practice of public health. We in public
17 health pride ourselves in only intervening in
18 personal freedoms when there is scientific
19 justification that such intervention is necessary to
20 respond to a substantial public health problem.

21 CHAIRPERSON ARROYO: Thank you.

22 LENAYA JACOBSON: Thank you.

23 CHAIRPERSON ARROYO: Thank you for your
24 testimony all of you and you don't need to be nervous
25 when you come here. This is the peoples' house. There

1
2 are no enemies here. We may not always agree but this
3 is a safe place to be.

4 [background comments]

5 CHAIRPERSON ARROYO: Yeah. I have some
6 tricks I can show you after the hearing. I won't do
7 it on public, in public. Ileana, Elaine[phonetic],
8 Elaine, Elaine. This is our last speaker. If there is
9 anyone here who wishes to testify who I have not
10 called. Anyone? Okay. You. Do you want to? So you
11 need to fill out a slip and give it to the sergeant
12 quickly. Okay go ahead. Turn on the mic.

13 ILLENE SPINNER: My name is Ileana
14 Spinner. I'm a lawyer and I'm used to talking in
15 court and I never need a microphone. I don't
16 represent anybody. I had, I am in favor of the ban. I
17 had written a little essay for the American Cancer
18 Society. They send me an email every day telling me
19 what they're doing and they asked us to write a
20 little paragraph or essay about how smoking has
21 affected our lives especially teenage smoking. And I
22 don't smoke but I wrote them about my father. And I'm
23 never nervous talking in court but now I'm talking
24 about something personal. My father was already
25 smoking two packs a day for 43 years when I met him

1 and I met him when I was born. Possibly he was smoke,
2 yes, he was smoking 43, no 30 years because he
3 started to smoke when he was 11. He smoked two packs
4 of Winston a day. He came from immigrant parents and
5 kids smoked when they were little boys. You saw
6 newsies or whatever little boys smoked. And he smoked
7 two packs of cigarettes for years and my sister and I
8 used to try to get him to stop. We drew the red
9 circles around the middle of the cigarettes because
10 we hoped that he would only smoke half. That's what
11 they told us to do on T.V. And we, we begged him. We
12 cajoled [phonetic] him. He just couldn't stop because
13 he was addicted. And he used to send us to buy him
14 cigarettes because kids could buy cigarettes when I
15 was a kid. So I used to go to the drug store, the
16 candy store and say two packs of Winston please. I
17 couldn't even reach the counter and we had a
18 cigarette machine in our lobby that my father sent us
19 downstairs to buy the cigarettes. My father was a
20 great guy and he went with me to get my ears pierced
21 and bought shoes with me. And he knew that I passed
22 the bar exam because I went to see him in the
23 hospital and I told him but the day that I got
24 admitted he had been dead five days already. Excuse
25

1
2 me. Because he died of lung cancer and I just don't
3 want to see that happen to anyone. And teenagers
4 should not smoke. They should not have products like
5 cigarettes in their hands and think it's cool because
6 it's really really not cool and it affects your
7 children and your family and it so changed my life.
8 The day my father died is the worst day of my life
9 and I don't want it to happen to anyone else. Thank
10 you.

11 CHAIRPERSON ARROYO: Okay Brian right? So,
12 we're going to ask you to, after you've testified to
13 clarify your, your address on the slip okay? Thank
14 you. Okay and state your name for the record because
15 I can't make out your last name.

16 BRIAN ALLICOD: So my name's Brian
17 Allicod[phonetic]. I'm a lifelong New Yorker. I'm 24
18 years old born and raised in Staten Island and right
19 now I live on the lower east side. I am transgender
20 so I already constrict my breathing by wearing a
21 chest binder so when I started transitioning I gave
22 up smoking conventional cigarettes and started
23 vaping. The same things that are in conventional
24 cigarettes are the same things that caused my dad to
25 get Non-Hodgkin's Lymphoma from being a first

1
2 responder during 9/11. 2007 my dad passed away from
3 Non-Hodgkin's Lymphoma as a result of 9/11. I was 18
4 when my dad passed away. I was 16 when I started
5 smoking. And two years ago when I started
6 transitioning I gave up smoking to try and help
7 myself breathe a little better while still having to
8 deal with smoking and dealing with anxiety,
9 depression, society going against me. All the things
10 that teenagers do when they start smoking because the
11 world sucks and it sucks around us so we start
12 smoking. Our parents tell us not to do it. We do it
13 anyway. Vaping has been a way for me to still be able
14 to enjoy smoke. I like the idea of a, looking at the
15 smoke. I enjoy the idea of, of the taste of a vapor
16 opposed to a cigarette. I'm 24 years old now. If I
17 want to smoke something that tastes like strawberry
18 shortcake I should be able to. I'm an adult. I like
19 it. I'm not a, I'm opposed to kids smoking. I
20 shouldn't have been smoking. I did it because I was,
21 thought I was cool when I shouldn't have been doing
22 it. But now as an adult I should not be told what I
23 can and can't do. So I'm against the proposed
24 legislation and I thank you for this last minute
25 chance.

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COMMITTEE ON HEALTH

CHAIRPERSON ARROYO: Thank you. Thank you for your testimony. With that if there's no one else here that wants to testify I will adjourn the hearing. Thank you all for hanging out all these hours and for your patience to give us your words.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date _____ December 22, 2013_____