

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH

----- X

February 25, 2016
Start: 10:22 a.m.
Recess: 1:26 p.m.

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

B E F O R E: Corey D. Johnson
Chairperson

COUNCIL MEMBERS:

Rosie Mendez
Mathieu Eugene
Peter A. Koo
James Vacca
James G. Van Bramer
Inez D. Barron
Robert E. Cornegy, Jr.
Rafael L. Espinal, Jr.
Antonio Reynoso
Vincent Gentile
Ydanis Rodriguez

A P P E A R A N C E S (CONTINUED)

Kevin Schroth
Senior Legal Counsel at Tobacco Control of
Department of Health and Mental Hygiene

Thomas Merrill
General Counsel at Tobacco Control at Department
of Health and Mental Hygiene

Daniel Kass
Deputy Commissioner for Environmental Health

Ahmad Jaber
President and Founder of Arab-American
Association of New York

Ramsey Joudeh
NYU Lutheran

Habib Joudeh
Brooklyn Hospital Advisory Community Board

Loren Vanderlinden
Toronto Public Health

Roberta Ferrence
Senior Scientific Advisor for Ontario Tobacco
Research Unit at University of Toronto

Robert Arena
Brooklyn Baseball Association

Kevin O'Flaherty
Campaign for Tobacco Free Kids

A P P E A R A N C E S (CONTINUED)

Patrick Kwan
NYC Smoke-Free at Public Health Solutions

Robin Vitale
American Heart Association

Mohamad Bashir
Hookah bar owner

Ariel Ferreira
Small business consultant

Walter Drobenko
Attorney representing American Hookah
Association

Michael Weitzman
NYU

Michael Seilback
American Lung Association

Deidre Sully
NYC Smoke-Free

Karen Blumenfeld
Global Advisors on Smoke-Free Policy

Phil Konigsberg
Queens Tobacco Control Coalition

Josephine Beckmann
Community Board 10 Brooklyn

A P P E A R A N C E S (CONTINUED)

Aisha Morgan [sp?]
Muslim-American Society

Adem Carroll
American Legacy Foundation, Nafis Salaam

1
2 CHAIRPERSON JOHNSON: Good morning. I'm
3 Council Member Corey Johnson, Chair of the City
4 Council's Committee on Health. Thank you for joining
5 us today as we hear four pieces of hookah related
6 legislation, three by Council Member Rodriguez and
7 one by Council Member Gentile. We're also hearing a
8 bill that I introduced that would prohibit the use of
9 smokeless tobacco at baseball stadiums and other
10 similar venues. Smoking hookah is often portrayed as
11 a fun, social activity for a group, because hookah
12 smoke is inhaled through water some may perceive it
13 as less harmful than cigarette smoking, but according
14 to the Centers for Disease Control, hookah smoke is
15 at least as harmful as cigarette smoke, and the way
16 that hookah pipes are often smoked over extended
17 periods of time actually leads to larger intake of
18 toxic substances than smoking cigarettes. The result
19 is that hookah-related health risks mirror those of
20 cigarettes, addiction, lung disease, stroke, cancer,
21 and heart disease. Secondhand hookah smoke is a risk
22 for hookah bar employees as well. Despite these
23 risks, hookah smoking is on the rise among young
24 people, and a loophole in our city's Smoke-free Air
25 Act allows hookah bars to operate if they don't serve

1 tobacco containing shisha. Inspections by the
2 Department of Health and Mental Hygiene have shown
3 that this law is routinely flouted by some hookah bar
4 owners. Unfortunately, determining whether shisha
5 contains tobacco is not simple, so enforcement is a
6 continuing challenge. The bills we're hearing today
7 take different approaches to regulated hookah
8 smoking, from raising the age for shisha purchases to
9 21 to banning new hookah bars from opening. I look
10 forward to hearing from the Department, advocates and
11 others on how we can enact sensible, strict
12 regulations in this area to protect public health.
13 We're also hearing my bill relating to smokeless
14 tobacco and sports. Smokeless tobacco such as
15 chewing tobacco and snuff is not safe, but when
16 athletes who are role models to children are
17 regularly shown on TV with a wad of chewing tobacco
18 in their cheek, it sends a harmful message that
19 smokeless tobacco is a cool thing to do. The cities
20 of Boston, San Francisco and Los Angeles have all
21 banned smokeless tobacco at ball parks, and I believe
22 that we should do the same thing here in New York
23 City. I also want to add that the New York City
24 Mets, the New York Mets and the New York Yankees both
25

1 support this piece of legislation. So, I'm hopeful
2 that we could get this done rather quickly. I want
3 to before I give the opportunity to my colleagues to
4 speak on their respective piece of legislation, I
5 want to thank you all for being patient, getting a
6 little--with getting started a little late today and
7 also see that we have an overflow room. We're going
8 to try to get to witnesses as quickly as we can, but
9 because we have so many people here, you know, it may
10 be difficult, but we're going to the best that we
11 can. We're going to have the Administration go after
12 my colleagues have the opportunity to speak, and
13 we're going to try to keep people on a strict three
14 minute clock so that everyone that came here today is
15 able to testify before they have to leave. So, with
16 that I want to turn it over to my colleague Council
17 Member Gentile to speak on his piece of legislation.

18 COUNCIL MEMBER GENTILE: Thank you. Good
19 morning everyone. Thank you all for coming, and
20 those in the overflow room, thank you also for
21 attending today. I want to thank first of all
22 Council Member Corey Johnson, the Chair of the Health
23 Committee, and his staff and Committee Counsel David
24 Sieser [sp?], in particular, in getting Intro 139A
25

1
2 drafted and ready for today's hearing. When
3 reviewing the history of the Smoke-free Air Act in
4 New York City you see a methodic and effective
5 progression of the law. When the City Council passed
6 the act in 2002, smoking became prohibited in nearly
7 all workplaces and indoor recreational venues. The
8 new law expanded rules on smoking to cover all
9 restaurants and most bars regardless of seating and
10 size. It was a major step towards a healthier city
11 where New Yorkers could travel to their favorite
12 restaurants and go on their daily errands without the
13 fear of risking their health with secondhand smoke.
14 Then in 2013, the City Council passed a law that
15 extended the Smoke-free Air Act to include e-
16 cigarettes, and yet, with all of this progress,
17 indoor smoking continues to plague our city and
18 threaten the health of so many New Yorkers. And now,
19 ladies and gentleman, it's time to address the
20 elephant in the room, indoor smoking of non-tobacco
21 herbal shisha. And so what we are faced with today
22 is a long overdue look at an unregulated loophole in
23 the Smoke-free Air Act, the smoke from non-tobacco
24 shisha. Current law does not include non-tobacco
25 shisha as part of the indoor ban, even though there

1 is every reason that it should. Today's hearing will
2 bring to light, or should I hope to say actually
3 douse the lighting of the dangers posed by this
4 shisha. Experts, as we will hear through testimony
5 today have proven that non-tobacco shisha is at least
6 as dangerous as cigarettes. It has been found to
7 cause just as much damage to cardiac function and
8 lung tissue. Just this past November the City of
9 Toronto with a population equal to that of Chicago
10 banned the smoking of all forms of hookah by a City
11 Council vote of 34 to three recognizing the dangers
12 posed by herbal shisha smoke. The City of Toronto's
13 Health Report concluded that non-tobacco water pipe
14 smoking is a public health concern, because like in
15 New York City, hookah bars often illegally allow
16 tobacco to be smoked in the water pipes indoors, and
17 that even with non-tobacco smoking it impacts the air
18 quality and health concerns for second hand smoke.
19 Also found was that hookah smoke anywhere encourages
20 smoking by youth, and it's no different in New York
21 City. In 2014, investigation as DOH will tell you,
22 13 of 13 inspected hookah bars in the city were
23 illegally serving tobacco-based shisha and just like
24 Toronto. This is a commonly occurring violation in
25

1 hookah bars throughout New York City. Intro 139A
2 seeks to clear the air in all of these concerns once
3 and for all. This bill will add non-tobacco hookah
4 smoking to the Smoke-free Air Act so that it will be
5 treated as the unhealthy practice it is. Smoking of
6 non-tobacco shisha will be treated as smoking in any
7 establishment except for a certain few qualified
8 hookah businesses grandfathered in under this bill.
9 Accordingly, the bill will not eradicate current
10 small businesses and the investments they have made
11 in their business. Current hookah bar establishments
12 defined as businesses that collect over 50 percent of
13 their profits from the sale of hookah could be
14 grandfathered in and remain in business similar to
15 how cigar bars were grandfathered in upon passage of
16 the Smoke-free Air Act in 2002. Intro 139A creates a
17 first ever registration system and hookah bars that
18 qualify would adhere to strict requirements to obtain
19 and maintain registration such as having no past due
20 violations to the Smoke-free Air Act on record and
21 not committing specific types of violations after
22 this bill is enacted, which if committed would result
23 in immediate revocation of their registration. Now
24 worded [sic] to on usage. Extremely alarming is the
25

1 rapid increase of hookah smoking among youth in New
2 York City in recent years, especially among high
3 school and middle school students, and you can see
4 that on the graph that's up on the Power Point.
5 Flavored herbal shisha with names like Double Apple,
6 Blue Mist, and Pirate's Cave lure youth into believe
7 the misconception that hookah is a safe alternative
8 to cigarettes. Across the country you'll hear how
9 hookah use by youth in college students is
10 increasing. Between 2011 and 14, statistically
11 significant increases were observed among these
12 students for current use of both e-cigarettes and
13 hookahs. As we will hear today in testimony is a
14 common misconception that because hookah is smoked
15 through water it's less harmful than other forms of
16 smoking. We will hear how the smoke comprises fumes
17 emanating from both the burning charcoal and the
18 burning shisha and contains carcinogenic hydrocarbons
19 as well as other bad stuff as we can see in the chart
20 that's up on the screen and the effect it can have on
21 one's health. For example, according to a study at
22 San Diego State University, high levels of benzene, a
23 chemical in crude oil and gasoline are present even
24 in non-tobacco hookah smokers and secondhand smoke
25

1
2 after they attend social events where these water
3 pipes are used. Benzene exposure is a known risk
4 factor for leukemia and is produced from the burning
5 of the charcoal in the pipe. Results from a 2012
6 similar study by the National Institute of Health
7 were as the findings said, and I quote, "Unambiguous.
8 While only the smoke from the tobacco preparation
9 contained a dependence causing drug nicotine, smoke
10 from both tobacco and non-tobacco preparations
11 contain nearly equal amounts of toxicants known to
12 contribute to the risk of tobacco-caused cancer,
13 cardiovascular disease and lung disease.
14 Accordingly, while using the non-tobacco product
15 presents no risk of nicotine exposure, there is no
16 reason to believe that inhaling smoke from non-
17 tobacco preparation presents any less disease risk
18 than smoke from a tobacco preparation." And that's
19 from the National Institute of Health. Finally,
20 you'll also hear how hookah requires smokers to
21 inhale more deeply than cigarettes whereby total
22 volume of smoke inhale could be the equivalent of up
23 to 100 cigarettes. So, even without nicotine that's
24 the equivalent of 100 times more of the bad stuff
25 inhaled with hookah than with the same bad stuff you

1
2 get from one cigarette. So I am pleased to have the
3 support of many of my esteemed colleagues who have
4 co-sponsored this bill, 15 of us in all as of
5 yesterday, including Chair Corey Johnson, as well as
6 the support of many cultural and health advocacy
7 organizations, some of whom we will hear from today.
8 In short, as the info graphic on the screen now says,
9 it's time to clear the smoke about hookah smoking and
10 deal with the health risks it presents to an
11 unsuspecting public, especially to our youngsters.
12 Thank you again, Mr. Chairman, and I look forward to
13 the testimony and to all of us breathing easier very,
14 very soon.

15 CHAIRPERSON JOHNSON: Thank you, Council
16 Member Gentile. Now, Council Member Rodriguez.

17 COUNCIL MEMBER RODRIGUEZ: Thank You.
18 Thank you, Chairman Johnson and my colleague Gentile
19 and the representatives from the whole Department for
20 being here today and for your leadership. My family
21 is composed by 12 brothers and sisters. So, imagine
22 four brothers and sisters would make [sic] lot of
23 niece and nephew, and niece and nephew have son and
24 daughter already living here unassisted [sic]. So my
25 family represents what any traditional family in New

1
2 York City is. I'm a [sic] niece and nephew, I'm all
3 family members that all of us have. There's someone
4 that hasn't [sic] used hookah, and I don't think that
5 my sister or any of those knew that when a teenager
6 got into the hookah, if he or she used the hookah for
7 40 minutes that's equal to 120 cigarettes. Forty
8 minutes use of hookah is equal to 120 cigarettes.
9 That's not right. We can say in New York City working
10 together with the leadership of everyone from the
11 Health Department, the Administration, even business
12 owner, we make a lot of progress, and we refuse to
13 use a cigarette in our city. Therefore, less New
14 Yorkers been dying because of cancer, and we have
15 seen how much they suffer, those brothers and sisters
16 in our city that they have died from Cancer because
17 of smoking. So, this is why we are talking today.
18 We're talking about when a teenager's under 21, when
19 the adult person go to a place, any particular place,
20 a cultural institution, a restaurant, a bar, and they
21 get into the hookah it's about the negative impact. I
22 respect and value any contribution or any particular
23 culture that we bring to our city. This is not about
24 private life. This is about the secondary effect of
25 hookahs. This is about putting the message in our

1 city that 40 minutes of hookah is equal to 120
2 cigarette. This is the conversation that we should
3 have, because any business owner who care for
4 themselves, who care for the family, I don't think
5 that is good for the reputation to have a product in
6 their business that is not a hookah bar, that is not
7 that they're making most of their profit form hookah,
8 that is not promoted as it is. If anyone wants to
9 use hookah, I'm down with that, by consuming in your
10 own time. Go to a place that focus on hookahs, but
11 from thereon, the spread of hookahs through our many
12 establishment where people they don't know what they
13 are consuming. It's our responsibility to educate our
14 city that they know what is going on in our city in
15 their establishment. The heavy use of hookah and the
16 way it is marketed and distributed over the past few
17 years has ballooned as serious concern in
18 neighborhood in my district as well as other across
19 the city. Walking down the street in Washington
20 Heights or Inwood I see teenagers hanging out in the
21 stoop with hookah pipes going full blast, in
22 restaurants as early as brunch in some places. I can
23 say in most places, hookah smoke fills the air with
24 no separate section to relieve those not interested
25

1
2 in inhaling toxin with their eggs. This issue sticks
3 out even further when I see young children sitting in
4 this restaurant with no option other than to breathe
5 in harmful fumes, and in our delis and bodegas,
6 hookah pipe and hookah's pipe has become one of the
7 top products with pipes prominently displayed in
8 store windows and on the counter, urging our young
9 kids to buy them. Make no mistake, hookah is
10 specifically marketed toward our young people with
11 fruit flavored shisha, the companies that profit off
12 these harmful products are following the same
13 playbook as cigarette companies, getting our kids
14 hooked early so that they become long term smokers.
15 We cannot allow this to continue. With legislation
16 we hear today, I hope we can reverse this trend and
17 limit the harmful use of hookah, particularly among
18 our youth. Intro 617, 1075 and 1076 aim to do just
19 that. Intro 617 is designed to confine the sale of
20 hookah specifically to hookah-based establishments
21 that remain a vibrant part of the diverse culture in
22 New York City. This bill would stop the sale of
23 hookah in stores, in establishment that make less
24 than 50 percent of their sales from hookah products.
25 It would confine the sale of hookah to hookah bars or

1 hookah shops limiting other bars and restaurants from
2 selling these products, often alongside food and
3 drink and even more harmful alongside children or
4 individuals with respiration issues. Intros 1075
5 would section off space in a restaurant from the main
6 floor to allow adults interested in smoking hookah to
7 do so away from casual diners who want to avoid the
8 fumes. It will also require restaurants to post
9 signage warning of this harmful health effect of
10 smoking hookah. This bill is meant to seriously
11 limit smoking in restaurants, a concern raised by
12 many members of our city where their hookah smoke is
13 often served with a side bacon at brunch. Intro 1075
14 is probably the most important bill we can pass on
15 this issue. This bill would raise the age at which
16 hookah can be purchased from 18 to 21. I was proud
17 to be a leader in the effort to raise the tobacco
18 purchase age to 21 in 2013. It moves in at this time
19 as accepted [sic] by some, but one the numerous
20 municipalities in the state across the country has
21 followed. Today's about working to close loopholes
22 left open to hookah. Arguably more dangers than
23 tobacco, than tobacco products to the health of our
24 city's young people. This is a common sense move in
25

1 line with the effort this city has taken ones that
2 made us international leader on public. I'm alarmed
3 when I see a 14 and 15 years old smoking hookah on
4 the corner in many establishment. We've all seen the
5 ad on TV discussing how smoking hookah for one hour
6 is equal to smoking up to 120 cigarettes. The
7 numbers are staggering. When you think about what
8 it's doing to the lungs of our city's kids, and we
9 must take action now. I look forward to hearing from
10 our Commissioner to our representatives of the Health
11 Department as well as from many of the advocates here
12 today. I also want to stress that this is not about
13 hurting our small business. I support the small
14 business in many way. When they came to my district
15 asking for sidewalk support, I support them. We've
16 been flexible to many small business when it comes to
17 the music and dancing in their establishment. We are
18 committed to work with those in small business, but
19 this is time for the small business to understand
20 that they also have to be in our side, which means to
21 be in the side of our children. Thank you.

23 CHAIRPERSON JOHNSON: Thank you, Chair
24 Rodriguez. Council Member Vacca, do you want to say
25 something?

1
2 COUNCIL MEMBER VACCA: Very briefly. I'm
3 co-sponsoring the bills today, and I really want to
4 say that I'm very supportive of the research that
5 Councilman Gentile and Council Member Rodriguez have
6 done. I think that their research points to a need.
7 The need is to do something, and the need is for this
8 council to act. I don't understand why to date this
9 has not received greater attention. I do feel that
10 this Council acted very quickly when it came to
11 cigarette smoke. When it came to electronic
12 cigarettes, we acted. It was one of the last things
13 we did in the old council so to speak, 2013 when we
14 were--when the session ended it was one of the last
15 things we did. I have an aversion to smoke, because
16 I have an insistence on living healthy. Sorry.
17 That's where I'm coming from. And the smoke
18 permeates. I have to tell you quickly, I--my car was
19 in an accident. I'm having my car repaired. I have
20 the right to go rent a car. I rented the car and
21 within two minutes that I'm in the rental car the
22 smell of smoke. Whoever used it last smoked. I have
23 the right to be free from that toxin, and people have
24 the right to be free from toxins. They have the
25 right to be healthy, and I'm glad that this council

1
2 is taking this up, and I will join the sponsors and
3 the Chair in any way I can to press the
4 Administration to work with the Administration and
5 the Speaker to make these bills which I think are all
6 well thought out a reality. Thank you.

7 CHAIRPERSON JOHNSON: Thank you, Council
8 Member Vacca. We're now going to hear from the
9 Department of Health and Mental Hygiene. We're going
10 to be joined by Kevin Schroth, the Senior Legal
11 Counsel for Tobacco Control at the Department of
12 Health and Mental Hygiene, the General Counsel Tom
13 Merrill and also Dan Kass, the Deputy Commissioner.
14 If you all would join us? If you all could raise
15 your right hand? Do you affirm to tell the truth,
16 the whole truth and nothing but the truth in your
17 testimony before this committee and to respond
18 honestly to Council Member questions? Thank you very
19 much. You may begin in whatever order you'd like,
20 just make sure the mic is on.

21 KEVIN SCHROTH: Good morning Chairman
22 Johnson and members of the Committee. I'm Kevin
23 Schroth, Senior Legal Counsel for Tobacco Control at
24 the Department of Health and Mental Hygiene. I'm
25 joined by Tom Merrill, General Counsel, and Dan Kass,

1 Deputy Commissioner for Environmental Health. Thank
2 you for the opportunity today to testify on a sweep
3 of tobacco and hookah-related legislation. New York
4 City has long been on the forefront nationally and
5 indeed internationally in protecting people from
6 tobacco-related illness and death. Since 2002 we
7 have worked to dramatically reduce tobacco use by
8 banning tobacco from bars, restaurants and later
9 parks and beaches, limiting the places where people
10 can purchase and use tobacco products including e-
11 cigarettes, restricting cigarette sales to people 21
12 or over, creating disincentives to purchase these
13 products by making them expensive through taxation,
14 minimum pricing and discount restrictions, helping
15 smokers quit by giving away hundreds of thousands of
16 nicotine patches, educating people about the dangers
17 of smoking through world renowned media campaigns and
18 evaluating the effectiveness of these interventions.
19 The Council has been a tremendous partner in this
20 work and the results have been very gratifying.
21 Since 2002, New York City's adult smoking rate has
22 dropped 35 percent to a record low of 13.9 percent in
23 2014, and the youth smoking rate has dropped 53
24 percent between 2002 and 2013 to 8.2 percent. These
25

1
2 reductions will have prevented 136,000 deaths in New
3 York City by 2060, but we can't rest on these
4 accomplishments. About 900,000 adults and 21,000
5 youth still smoke, and an estimated 12,000 New
6 Yorkers dies from tobacco-related illnesses annually.
7 These illnesses and the deaths are preventable and
8 it's a priority of this Administration and the
9 Department to protect New Yorkers from the dangers
10 associated with tobacco use. I commend the Council
11 for making it a priority as well, which is evident by
12 the five bills to be discussed today. I want to
13 acknowledge today's bill's sponsors, Chairman
14 Johnson, Council Member Rodriguez and Council Member
15 Gentile who has been a longtime champion of reducing
16 hookah use in this city, and to thank them for taking
17 on these issues. We're committed to working with
18 Council on these issues and other approaches to
19 reduce tobacco use in New York City. I will comment
20 first on Intro 1068 which would prohibit the use of
21 smokeless tobacco product at ticketed sports arenas
22 and recreational areas. Using smokeless tobacco is
23 associated with serious negative health outcomes such
24 as cancers, diseases of the mouth, increased risk for
25 early delivery and still birth when used during

1 pregnancy, and increased risk of cardiovascular
2 disease. Every year, roughly 415,000 kids nationwide
3 ages 12 to 17 try smokeless tobacco for the first
4 time. It is very troubling that in just six years
5 from 2007 to 2013 youth smokeless in New York City
6 doubled from 2.2 percent from 4.4 percent. Using
7 smokeless tobacco is associated with and reinforces
8 the use of other tobacco product like cigarettes, and
9 youth who use smokeless tobacco may be more likely to
10 pick up smoking. Smokeless tobacco products are
11 heavily advertised and promoted and are addictive
12 because they too contain nicotine. Unfortunately,
13 our young people repeatedly see professional
14 athletes, especially baseball players, using
15 smokeless tobacco, making this practice appear
16 socially acceptable. Sports fans may think
17 smokeless tobacco is harmless or can even enhance
18 athletic performance. While professional athletes
19 may seem super human to young fans, when it comes to
20 tobacco they're just like the rest of us. Long time
21 smokeless tobacco user and baseball Hall of Famer
22 Tony Gwen [sp?] recently died of cancer in his
23 salivary glands, and former All-star baseball player
24 Curt Schilling has battled oral cancer. The
25

1 Department supports Intro 1068 as a common sense
2 measure that would reduce exposure especially for
3 young people to users of smokeless tobacco. Similar
4 prohibitions have successfully passed in San
5 Francisco, Boston and Los Angeles. The Department is
6 hopeful that the City's athletes and teams will
7 embrace this proposal as a way to protect the health
8 of our impressionable youth. Next, I'll turn to the
9 four bills addressing hookah smoking. Despite
10 declines in cigarette smoking, smoking using a hookah
11 or a water pipe is increasing in popularity among
12 youth in our city. The product smoked in a hookah is
13 often called shisha and it comes in tobacco and non-
14 tobacco varieties. Both tobacco and non-tobacco
15 shisha burned during hookah smoking emit harmful
16 particulate matter and potentially harmful toxicants.
17 The use of a charcoal to ignite shisha adds to the
18 emissions. Many hookah smokers underestimate the
19 risks associated with the practice. Smokers of non-
20 tobacco shisha are exposed to many of the same
21 harmful substances as those who smoke tobacco
22 containing shisha such as polycyclic aromatic
23 hydrocarbons, carbon monoxide, fine particulate
24 matter, tar, and volatile aldehydes. Exposure to
25

1 these substances has been associated with cancer,
2 cardiovascular disease, heart attacks, decreased lung
3 function, increased respiratory symptoms, and among
4 those with cardiovascular and lung disease, premature
5 death. These toxic emissions not only affect hookah
6 smokers, but also expose others to risks associated
7 with secondhand hookah smoke. The number of
8 establishments offering hookah smoking has increased
9 dramatically in recent years, particularly near
10 College campuses. By one estimate, the number of
11 hookah bars in the City more than doubled between
12 April 2012 and August of 2015. Hookah catering
13 businesses which bring hookahs to bars, nightclubs or
14 restaurants on particular nights are also increasing.
15 As these establishments have proliferated, the rate
16 of hookah smoking has sharply increased. Use among
17 middle school and high schools students in New York
18 City increased from 8.9 percent in 2008 to 13 percent
19 in 2014. Hookah use among Hispanics in middle and
20 high school more than doubled, and use among black
21 youth more than tripled from 2008 to 2014. For adult
22 New Yorkers, hookah smoking is more than three times
23 more likely among those between the ages of 18 and 20
24 than those 21 years and older. The increase in
25

1
2 younger New Yorkers' hookah smoking is particularly
3 troubling because it may contributed to cigarette
4 smoking and long term tobacco addiction. Currently,
5 the Smoke-Free Air Act prohibits smoking of tobacco
6 containing shisha in bars, restaurant and other
7 places, but does not address non-tobacco shisha.

8 Intro 139A would prohibit all non-tobacco smoking in
9 places covered by the SFAA unless they register with
10 the Department to operate as a non-tobacco bar or
11 non-tobacco smoking establishment. The bill would
12 reduce hookah use as well as exposure to harmful
13 secondhand hookah smoke for workers and other
14 patrons. The prohibition would also help the
15 Department to enforce the SFAA with respect to
16 tobacco-containing shisha, because only tobacco-
17 containing shisha is currently prohibited when the
18 Department observes shisha smoking at a restaurant or
19 a bar, inspectors must take shisha samples and send
20 them to a lab for analysis to determine whether
21 shisha contains tobacco or not. This process is time
22 consuming and expensive. A recent investigation by
23 the Department of 13 hookah bars revealed that all 13
24 were illegally serving tobacco-containing shisha.

25 Based on our experience enforcing the SFAA, the

1
2 Department has suggestions for further strengthening
3 this bill, including incorporating the warning signs
4 required in Intro 1075 and increasing the legal sales
5 age from 18 to 21 in Intro 1076. Those steps would
6 help to educate the public on the dangers of hookah
7 smoking and to reduce youth exposure and use. We
8 also suggest that rather than requiring the non-
9 tobacco shisha bars to register with the Department,
10 the bill instead should create a new category of
11 permit that would enable the city to collect on
12 penalties and could be revoked if the establishment
13 does not live up to its terms. It would enable food
14 service establishments to continue operating even if
15 they could not continue offering hookah. We look
16 forward to working with the Council on this issue.
17 Finally, the Department supports the intent of Intro
18 617 to restrict the availability of tobacco and non-
19 tobacco shisha. We would welcome a discussion with
20 the Council on making all tobacco products not just
21 shisha more difficult to buy in New York City. Thank
22 you for the opportunity to testify. We are happy to
23 answer questions.

24 CHAIRPERSON JOHNSON: Thank you very much
25 for your testimony, for being here today. Very, very

1 helpful. I want to before I turn it over to my
2 colleagues who I'm sure have some questions, I wanted
3 to ask about my bill related to smokeless tobacco.
4 I've been--we've been talking to the Department about
5 how to best implement this, and my hope is that given
6 that as you mentioned in your testimony that Boston,
7 San Francisco and Los Angeles have already done this
8 and that our two major league baseball teams here in
9 New York are on board that we can get this done as
10 quickly as possible. Do you have any concerns
11 related to enforcement on putting a bill like this
12 forward and being able to enact it? Because the
13 baseball season starts pretty quick, pretty soon, and
14 it's my goal to try to turn this around as quickly as
15 possible and try to get it signed and implemented
16 before the start of this year's baseball season.

18 THOMAS MERRILL: Thomas Merrill, General
19 Counsel. No, we don't, especially given that the
20 Yankees and the Mets are on board. We've worked with
21 them actually quite well on just generally on the
22 Smoke-free Air Act enforcement at the stadiums.
23 They're very good about it. I think that they would
24 be--they know this. They support it. I think that
25 we would work with them, alert them to the law. They

1
2 know it's going into place in other cities. Major
3 League Baseball knows it's going to go into effect in
4 other cities, and we would again, work out with the
5 teams and let them know when their players come to
6 town they've got to--this is one of the cities where
7 they can't use chew.

8 CHAIRPERSON JOHNSON: Thank you. And can
9 you talk a little bit about--I appreciate what you
10 testified on, Mr. Schroth, related to smokeless
11 tobacco. Could you speak a little bit to what the
12 Department has done in the past related to smokeless
13 tobacco in New York City? Have there been any
14 concerted efforts or campaigns?

15 KEVIN SCHROTH: First of all, I'd just
16 like to say that the Department is certainly
17 concerned. I'm not sure where that noise is coming
18 from.

19 [off mic]

20 KEVIN SCHROTH: The Department is
21 certainly concerned with the dangers of smokeless
22 tobacco use, and smokeless tobacco use like all
23 tobacco use is certainly a significant hazard. The
24 fact that it has increased over the past several
25 years is certainly a significant hazard. The

1
2 Department media campaigns generally try to address
3 smoking and tobacco use generally and has not really
4 isolated smokeless tobacco as a problem, and part of
5 that is because it's an emerging problem, just
6 because smokeless tobacco has increased significantly
7 over the past several years, but it--I think it's
8 worth noting that this is a form of tobacco that has
9 been overlooked in some regard, and it's important
10 that it should not be overlooked and that it should
11 be addressed, and this is a significant way of
12 addressing it not only because use of smokeless
13 tobacco use has increased in New York City, but
14 because if you look at the rate of usage of smokeless
15 tobacco among athletes, it's significantly higher
16 than among non-athletes. It's also significantly
17 higher among male athletes than female athletes, but
18 interestingly it's even higher among female athletes
19 than--well, female athletes use smokeless tobacco at
20 higher rates than female non-athletes. So, this is
21 something that deserves this attention.

22 CHAIRPERSON JOHNSON: So, I'm someone who
23 has struggled not with smokeless tobacco, but I've
24 struggled with nicotine use myself, and it's
25 something that I am ashamed of, that I have a lot of

1 shame related to my own struggles with nicotine use,
2 and as someone who is a former athlete and was
3 involved in athletics my entire life, I played
4 baseball and football and basketball, and I played
5 lacrosse, I was a wrestler; I couldn't imagine us
6 being okay as a city or a society as a whole with a
7 baseball player standing in left field smoking a
8 cigarette while the game was going on on national
9 television with millions of people watching, but it
10 seems to be just because of culturally what has
11 existed for a long time, it's okay for professional
12 athletes to stand in left field or in the infield or
13 in the dugout and chew wads of smokeless tobacco and
14 it being okay. So, I'm glad that we're taking this
15 step. I think that--I think that athletes are role
16 models for young people, and us being able to
17 eliminate this with our major league sports teams on
18 board is a major step, and I think it's my hope, and
19 we're going to hear from some advocates today that
20 given that New York is the biggest market, largest
21 city in the United States, two iconic major league
22 baseball teams that if we get this done in New York
23 City we have the possibility of this being instituted
24 my hope is by Major League Baseball in contract
25

1 negotiations for the entire league so that we don't
2 have to go city, by city, by city, but if New York
3 can do it, Major League Baseball in their
4 negotiations with the Players' Association will
5 actually put this in the contract and get this done.
6 And so I think this is really important that we're
7 doing this, that we're looking at this, and I
8 appreciate being able to partner with you all and get
9 it done as quickly as possible. I want to acknowledge
10 that we've been joined by Council Member Barron,
11 Council Member Espinal, Council Member Koo, and
12 Council Member Cornegy, and earlier we heard from
13 Council Members Rodriguez, Gentile and Vacca. I want
14 to go to Council Member Gentile for some questions.

15
16 COUNCIL MEMBER GENTILE: Thank you, Mr.
17 Chairman, and it sounds very exciting your bill and
18 the possibilities there and it really would be a
19 major step forward. Thank you all from Department of
20 Health and Mental Hygiene for coming and giving your
21 testimony today, and I know you have some other
22 members in the audience, so thank you all for joining
23 us here today. I'm just curious, Mr. Schroth, the
24 Intro 139A creates what is a first ever, I guess, it
25 says registration in the legislation. You would

1
2 rather see it say permit and create a permit, but in
3 either case I'm just curious how the institution or
4 the creation of a first ever registering or
5 permitting with the Department of Health would be
6 helpful to you as a way of enforcement and a way of
7 keeping track of what's happening there?

8 TOM MERRILL: Is that on? So, both are
9 good in the sense that whether it's through
10 registration or whether it's through obtaining a
11 permit, it defines the universal places where non-
12 tobacco shisha could be smoked, and that's good. It
13 sets the--it defines the universe, and we'll know
14 where those places are that can have non-shisha, and
15 we'll know any other place where there's hookah being
16 smoked. They're not supposed to be doing it, so
17 that's good. Why we like the permit is that the
18 permit gives us something to enforce again. So, one,
19 it would be a different permit. Most of these places
20 have food service establishment permits too. We
21 could go after that, but what we like instead you
22 create a permit, you operate in this universe, you
23 have the permit to be a hookah place, and as long as
24 you comply with the law and not sell tobacco you can
25 continue to operate, but if you violate that and

1 don't live up to the terms, we can take that permit
2 away. You still have your food service establishment
3 permits so you can still sell food and drink and
4 operate, you just lose the right to sell non-tobacco
5 shisha because you weren't complying with that
6 permit, and also having a permit makes us collecting
7 fines doable because if you assess the fine, you
8 then--you regulate the business, and at the time when
9 they need to renew that permit they have to pay their
10 fines.
11

12 DANIEL KASS: I'm Dan Kass--

13 COUNCIL MEMBER GENTILE: [interposing]

14 Yes.

15 DANIEL KASS: Deputy Commissioner. I
16 just want to add one more thing. Requiring an
17 establishment that seeks to be included as a hookah
18 establishment, a non-tobacco hookah establishment,
19 requiring them to seek the permit enables us to
20 actually evaluate prior to the issuance of the
21 permit, whether they meet the requirements of the
22 law, including one of the provisions being the
23 majority hookah establishment, that they derive the
24 majority of their revenue from that. So, a permit,
25 you know, a permit is a--is issued by the city once

1
2 basic requirements for that permit are met, and
3 that's what we like about it.

4 COUNCIL MEMBER GENTILE: Okay, so that--so
5 you're advocating for an amendment in that regard.
6 What, I'm curious, what is the level of oversight or
7 control you have now without any system of permitting
8 or registration?

9 TOM MERRILL: As I mentioned, most of
10 these places are food service establishments, so they
11 have permits that we regulated under Article 81 of
12 the Health Code, and we will go in, and that's in the
13 what we call Operation Caterpillar, which is the 13
14 places we went to. And by the way, we should correct
15 something. It was the 14th place we went to that
16 also was serving tobacco in 2015. But what we were
17 going against is there food service establishment
18 permit.

19 COUNCIL MEMBER GENTILE: I see. How about
20 those that are primarily hookah bars and lounges?

21 DANIEL KASS: All of those are in fact
22 food service establishments, and so we inspect them
23 routinely through our food service program and we
24 evaluate them on a variety of things as part of a
25 routine inspection including whether they're abiding

1
2 by the Smoke-free Air Act, but as we mentioned in
3 testimony and as you certainly mentioned in your
4 opening remarks, evaluating whether they're actually
5 complying with the non-tobacco requirements under the
6 Smoke-free Air Act is quite onerous and difficult,
7 and that requires really separate kind of effort and
8 routine inspection for food service establishment.

9 COUNCIL MEMBER GENTILE: I also noticed
10 that you were advocating not only for the signage to
11 be added to Intro 1039, the same signage that would
12 be in Intro 1075, but you also indicate that
13 increasing the legal sales age from 18 to 21--oh,
14 that's 1076. Would you--give the fact that you put--
15 in your statement you indicated that those 18 to 20
16 years old are three times more likely to be smoking
17 hookah than those 21 and older. Would you also
18 advocate then for an amendment to the hookah, 1039A
19 that would require a minimum age to enter a hookah
20 bar?

21 KEVIN SCHROTH: That's an interesting
22 proposal. We would certainly be willing to consider
23 that, but we haven't considered that before today's
24 hearing.

1
2 COUNCIL MEMBER GENTILE: Okay, okay.
3 Great, great. Alright, well again, thank you so
4 much. I really appreciate your effort, and thank you
5 for all your help in advising this on these bills.
6 Thank you.

7 CHAIRPERSON JOHNSON: Thank you, Council
8 Member Gentile. Before we got to the stack I just
9 want to just go back and talk a little bit about the
10 Smoke-free Air Act and ask why wasn't all forms of
11 shisha contained in that bill originally? Did it
12 have to do on the DOHMH side? Did it have to do with
13 the Council side? Would you all have been supportive
14 of including all forms of shisha in the Smoke-free
15 Air Act? Tobacco and non-tobacco shisha? Do you
16 know?

17 KEVIN SCHROTH: I don't want to speculate
18 too much, but I can say that what we do know is by
19 looking at the trends and the rapid increase in
20 hookah smoking over the past five years, it is an
21 issue that has become more common recently and it may
22 not have been on the radar screen of the Council or
23 the Health Department 13 or 14 years go. I'd also
24 note that one of the points I made in my testimony
25 was that the number of hookah bars has basically

1
2 doubled by our estimate over a period of about three
3 years. So, there probably weren't that many places 13
4 or 14 years ago, but again, that's something that
5 precedes me.

6 CHAIRPERSON JOHNSON: Okay. Thank you very
7 much. We're going to go to Council Member Vacca,
8 then Council Member Rodriguez.

9 COUNCIL MEMBER VACCA: What happens to a
10 bar that uses hookah without having a restaurant
11 component?

12 TOM MERRILL: Well, a bar, under the
13 state alcohol control law, a bar has to serve food.
14 So, a bar has to, even if it's serving minimal food,
15 has to have a food service establishment permit. So,
16 if it's a bar serving liquor, it has to--and if it's
17 preparing coffee, that's food service too. It's
18 going to be a food service establishment. If it's
19 not, if there's a place that's just selling hookah
20 and doesn't sell food and doesn't sell bar and
21 doesn't qualify as a food service establishment, even
22 if they serve water, so if there's a place that's not
23 going to do any of that, which I haven't found, they
24 would not be a food service establishment, but they
25 would still be violating the Smoke-free Air Act.

1
2 Enforcement becomes harder because we don't have a
3 permit to go against, but they could still be fined
4 for violating the Smoke-free Air Act.

5 COUNCIL MEMBER VACCA: So, under this
6 legislation, if it's a bar restaurant, 50 percent of
7 the activity would have to involve eating and
8 drinking rather than smoking, is that what we're
9 talking about?

10 DANIEL KASS: No, I believe under the
11 Intro bill, the grandfathered hookah establishments
12 would be required to derive more than 50 percent of
13 their revenue from hookah activity specifically.

14 COUNCIL MEMBER VACCA: They would have to
15 be deriving 50 percent of their revenue?

16 DANIEL KASS: Yeah, that's the way--

17 COUNCIL MEMBER VACCA: [interposing] From
18 hookah?

19 KEVIN SCHROTH: Yes.

20 DANIEL KASS: That's the way the law's
21 written

22 COUNCIL MEMBER VACCA: How about if the
23 bar restaurant does not sell hookah, but people come
24 in and smoke it? It's a lounge.

1
2 DANIEL KASS: Under this legislation it
3 would not be allowed.

4 COUNCIL MEMBER VACCA: Would not be
5 allowed. So tell me something, why don't we outlaw
6 this totally? Aren't we beating around the bush a
7 little bit with this regulation, that regulation? I'd
8 rather--no offense, I'd rather put the hay where the
9 horse can get it. You know what I mean? Either you
10 do it or you--

11 CHAIRPERSON JOHNSON: [interposing] Come
12 on, no horses.

13 COUNCIL MEMBER VACCA: I don't want to go
14 back to the horses.

15 [Laughter]

16 COUNCIL MEMBER VACCA: I knew exactly
17 what I was saying. No offense to the horses and no
18 offense to the hay. I want to be politically correct
19 with the hay also.

20 CHAIRPERSON JOHNSON: We all have PTSD
21 from the horses, including the Department of Health.

22 COUNCIL MEMBER VACCA: Why don't we
23 outlaw it? Why are we going around the Mulberry
24 bush? I'm all for the legislation, but why? Why
25 don't we outlaw it? It's dangerous. You said it's

1 full of carcinogens and all these things. So, what
2 are we doing here without--why don't we outlaw it.

3 TOM MERRILL: We all support the goal,
4 and I think everyone here supports the goal,
5 recognizes this is a problem that we need to address.
6 I think as we--listening to the testimony, the
7 introductory testimony by the Council Members, I
8 think they outline some policy concerns that, you
9 know, letting the small businesses that have built up
10 and built the business models so long as they
11 continue to abide and comply with the law, continue
12 to exist. That's a policy decision that we respect,
13 and this is an important step towards--to put
14 towards--
15 towards--

16 COUNCIL MEMBER VACCA: [interposing] But
17 I think the Administration here has an opportunity
18 and of course we on the Council want to work with
19 you, but we have an opportunity to take the lead and
20 say that this is dangerous and should be outlawed. I
21 have to tell you something, before I came to the
22 Council, the City Council outlawed smoking in the
23 bars, and I can remember full well Mayor Bloomberg
24 marching in the Throggs Neck Saint Patrick's Day
25 Parade that year, and boy was he clobbered.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

KEVIN SCHROTH: Yes, he was.

COUNCIL MEMBER VACCA: Wow. But from a public policy and public health perspective, he did the right thing, and in time people understood that it was the right thing for their families and for their neighbors. So, sometimes you have to bite the bullet and you take a little bit on the chin, but you do what's right, and I don't understand why we're not going the full yard here. Why are we not doing that?

TOM MERRILL: You know, I have--we're here to talk about the bills that have been introduced.

COUNCIL MEMBER VACCA: Yes.

TOM MERRILL: And to the extent that they're an important step in the goal of, again, eliminating the universe and making clear that tobacco cannot be smoked at any of these places, and grandfathering places where even non-tobacco shisha can be smoked, we support that. You know, you want look at another bill, we can look at, but those are the bills we're here to talk about.

COUNCIL MEMBER VACCA: Would you be receptive to another bill, or--

1
2 TOM MERRILL: [interposing] We'd have to
3 look at it and talk about it, and I think--

4 COUNCIL MEMBER VACCA: [interposing] You
5 have to look at it, because--

6 TOM MERRILL: [interposing] But I think--

7 COUNCIL MEMBER VACCA: [interposing] you
8 know, sometimes bills are put forth by the
9 Administration, not by Council Members, also, I want
10 you to know. There's nothing that stops you from
11 doing it. So, if you believe in what you believe in
12 and it's a matter of belief, then you pursue it, but
13 I certainly think that we in this Council, and again,
14 I cannot speak highly enough of the work put in by
15 the sponsors here, by Council Member Gentile and
16 Rodriguez and Johnson, cannot speak more highly of
17 their work, but I just think we have an opportunity.
18 I think we're all on the same wavelength, but we're
19 not just--we're not just doing what really is--I
20 heard a lot about the electronic cigarettes. Oh,
21 they're not bad. Oh, one night, one day we had a
22 hearing in the Council, they all came puffing away at
23 us. Were you there for that? You know, really. But
24 we knew differently, and all the evidence points to a
25 different reality, and I think it does here too. So,

1
2 I bring that, and I would also lastly like to be
3 signed on as a co-sponsor to Councilman Johnson's
4 bill, which I'm not at this point, but I would want
5 to be signed on. Thank you.

6 CHAIRPERSON JOHNSON: Thank you, Council
7 Member Vacca. Council Member Rodriguez?

8 COUNCIL MEMBER RODRIGUEZ: Thank you,
9 Chair. How much--can you describe how much do you
10 believe our New Yorkers are aware of the negative
11 impact of the use of hookah?

12 KEVIN SCHROTH: Studies show that there's
13 a broad misconception and lack of understanding
14 regarding the use of hookah smoke, and the lack of
15 understanding, and I think most of this has been
16 outlined by other folks who have testified so far
17 today, that lack of understanding starts with first
18 an understanding of whether the products contains
19 tobacco or not. A number--a lot of people believe
20 that they're not being served tobacco. They believe
21 that they're--sometimes that's true and sometimes
22 it's not. They believe that there is not nicotine in
23 the product. That believe that it is not harmful,
24 perhaps because it's filtered by water, and all of
25 those beliefs are not true, and there's a strong and

1
2 increasingly strong body of evidence showing that
3 tobacco containing shisha is extremely hazardous and
4 non-tobacco shisha is also extremely hazardous. So,
5 I think the misconceptions of this product are a
6 significant issue, and another issue that is worth
7 noting is that shisha smoking in hookah bars is one
8 thing, but shisha smoking also takes place in bars
9 that don't specialize in hookah, and that's become an
10 increasing trend and a troubling trend, partly
11 because some people that go there have no intention
12 of smoking or even being exposed to the smoke and
13 only find that it's there by sitting down and looking
14 at the table next to them where they may see a hookah
15 pipe. So, it's an issue.

16 COUNCIL MEMBER RODRIGUEZ: Will the
17 Department or has the Department started any
18 conversation as trying to identify some source of
19 funding that you'll be able to get from the state
20 level and the federal level in the anti-smoking
21 campaign that I see continuing being, you know, going
22 through which is very important? Have the Department
23 think or the Administration think, put any thought
24 any conversation about putting some similar
25 investments educating New Yorkers on hookah smoke?

1
2 KEVIN SCHROTH: First of all, I'll just
3 say that the Administration is very proud of its
4 medic campaign against tobacco use. It's been a high
5 priority of the Administration and it's been very
6 successful in New York, and it's also helped
7 influence tobacco control around the country and even
8 around the world. I think that the idea of improving
9 education regarding hookah use and the misperceptions
10 regarding hookah use is an important idea, and that's
11 certainly something that the Department takes
12 seriously and can consider.

13 COUNCIL MEMBER RODRIGUEZ: And I have
14 seen and I know that the Administration is very
15 committed and not--and for us, it is important that
16 we have you as a team coming on board supporting
17 these bills, but when I mention about funding from
18 the state, because I have seen some of those
19 advertisers and their source of funding I think you
20 being able to get money, funding not only from the
21 city level but also at the federal level and some
22 other initiative. My--what I believe is since all
23 the research has been speaking loud and clear on how
24 the time using hookahs is equal to the smokeless
25 cigarettes. I believe it is critical and very

1
2 important also that you include that educational
3 piece in the anti-smoking campaign, because for me
4 this is not about telling a person what to do and not
5 what to do with their private life. For me, this is
6 about empowering our city so that they should make
7 the right decision of what they do and what they
8 consume. So, in that direction, do you think that
9 warnings about the risk of hookah smoking can help
10 educate consumers?

11 KEVIN SCHROTH: I do, and it's my
12 understanding that one of the provisions in one of
13 the bills that you introduced would require the
14 posting of a warning sign in establishments where
15 hookah smoking is permitted under construct
16 consistent with 139A introduced by Council Member
17 Gentile, and we think that warning signs of that
18 nature can be an effective way of helping to correct
19 some of these misconceptions.

20 COUNCIL MEMBER RODRIGUEZ: When we were
21 able to remove cigarettes from restaurants, we got a
22 lot of business owners say what you doing will put us
23 out of business, right? It was hundreds of people
24 arguing that, that unless business owners were not
25 able to make the additional revenue from selling

1 cigarettes, that they would not be able to survive.

2 Well, we have seen that it didn't happen. People
3 continuing going to those establishments. The small
4 business, they've been doing well. What do you think
5 will happen for to come [sic] for those businesses if
6 hookah will not be allowed to be consumed in those
7 establishments?
8

9 DANIEL KASS: Well, to be--to put a point
10 on it, tobacco smoking is already disallowed in
11 hookah establishments. I think the next sum of these
12 bills if enacted would be over time to at minimum
13 freeze the number of establishments that could offer
14 hookah. Now, some businesses may claim that oh, we
15 have hookah nights it, you know, brings in revenue.
16 But I think one of the lessons of the Smoke-free Air
17 Act is that in all of the kind of doom-saying of the
18 industry around what would happen they neglected to
19 account for the fact that the majority of people
20 don't smoke and the majority of people don't smoke
21 hookah, and there--one of the net impacts may well be
22 to invite a different kind of clientele into
23 restaurants. For restaurants that choose not to
24 offer hookah, and there have been some that have been
25 part of enforcement operations that have decided

1
2 after, you know, after acknowledging our evidence
3 that they were in fact serving tobacco, they stopped
4 doing it, and to our knowledge those businesses
5 they'll change their model, they'll offer different
6 kinds of service, they'll offer different kinds of
7 food, but ultimately the--exposing people to
8 incredibly hazardous chemicals, high levels of
9 particulate that, you know, rival fires, exposures to
10 individuals that have been documented in recent
11 studies, that's just no excuse for maintaining a
12 hazardous operation.

13 COUNCIL MEMBER RODRIGUEZ: And minors
14 using hookah from the--how can you describe the
15 resisting of those body, the organs of those minors,
16 13 or 14 years old using hookah compared to someone
17 who is an adult only 25? How--what is the
18 comparison? How can you describe how not only on
19 relation to the addictions, but also when it comes to
20 the resisting [sic] of those bodies, how much can a
21 teenager being--or a child being 12 or 13 years old
22 using hookah being affected compared to someone that
23 is above 21?

24 KEVIN SCHROTH: Initially, I'll just say
25 that I am not aware of specific studies that have

1 looked at the evidence of hookah use among very young
2 teenagers or children, but I will say that during the
3 process of researching and our--developing our
4 understanding of the tobacco 21 legislation and based
5 on a report issued last year by the Institute of
6 Medicine is a very powerful body of evidence that
7 shows that the age of initiation of tobacco use has a
8 very strong bearing on a number of factors related to
9 long-term usage. When children start using tobacco
10 at a young age, they are more likely to be more
11 heavily addicted and to smoke for a longer period of
12 time in terms of years. So they're not just smoking
13 more tobacco in terms of, if we're talking in
14 cigarette vocabulary, cigarettes per day. They're
15 also continuing to smoke for a greater period of time
16 in terms of years, and they have more trouble
17 quitting, and it stands to reason that that research
18 may be similar in the hookah world, but I haven't
19 seen those studies.

21 COUNCIL MEMBER RODRIGUEZ: One thing that
22 you know that I can tell you that I have seen that I
23 have witnessed, and that's for me my concern again,
24 hookah bar or cigarette, if one wants to use they go
25 to those establishments, but when I have seen family

1 eating in a table and they're 13 or they're 14 years
2 old also having a hookah, for me that should be alarm
3 for all of us, because we should especially with
4 everything that you have described on the effect of
5 using hookah especially someone at that age of
6 providing them a hookah. That is for me something
7 that, you know, and we addressing with by increasing
8 to 21. But what is the secondary effect on the
9 hookah? Like, you know, when you go to an
10 establishment and you decide not to use hookah, it's
11 like can we say the same secondary effect as someone-
12 -as a cigarette has, the air that we also use when in
13 those establishments that they also serve hookah?

15 DANIEL KASS: Yes, regardless of whether
16 it's tobacco based or non-tobacco based hookah, we
17 know that the products of the combustion of both the
18 material, the shisha itself as well as, you know, the
19 substrate, the charcoal that's generally used to
20 maintain the combustion, that it emits massive
21 amounts of particulates, carbon monoxide, bolivar
22 [sic] organic compounds, a variety of chemical mixes
23 that are entirely consistent with every other kind of
24 smoke that's out there. The one thing it's missing
25 is nicotine if it's not tobacco based. The levels

1
2 can be extraordinarily high, and there was a recent
3 study by Terry Gordon and colleagues at NYU that
4 measured astoundingly high levels of particulates in
5 hookah establishments. The effects are dramatic.
6 They're both immediate for anyone who is exposed
7 secondhand who may be asthmatic or has respiratory
8 symptoms. They can exacerbate asthma. They can lead
9 to further obstruction for people with, you know,
10 lung disease. They measured at NYU and other studies
11 they measured immediate immune responses of the body
12 to that kind of exposure. For people who are exposed
13 over long periods of time there are huge chronic
14 risks attached to that kind of exposure, very
15 significant elevations in the risk of lifetime
16 cancers, cardiovascular problems and a whole host of
17 other illnesses. The older one is and exposed to it,
18 the more risky any one exacerbation or any one
19 exposure can be for, you know, a trigger in
20 cardiovascular events, and it's one of the reasons
21 why we're so cautious about regulating, you know,
22 ambient air quality in this city. We care a lot
23 about the just the soup of air pollution that we mix,
24 in part because we know that levels, you know, of
25 pollution in the ambient air, one or two orders of

1
2 magnitude lower than what you would find in a shisha
3 establishment are associated with thousands of deaths
4 and hospitalizations every year among New Yorkers.

5 COUNCIL MEMBER RODRIGUEZ: My last
6 question is about data that you have been able to
7 collect from hospitals on people being--going to the
8 hospital because of use of hookah. Has the
9 Department of Health collected any data from the
10 hospital? I know that I was in a local hospital a
11 few months ago and I met someone who told me that a
12 relative was there that they were told that probably
13 they were still looking at the possibility that he
14 has some health issue related to some bacteria that
15 they got after they used a hookah. Is--and you've
16 been describing all the organ that can be impact with
17 that. I assume that with that concern you should be
18 able to collect some data from the hospital. Have
19 the Department of Health looking at this and see--or
20 there's any data on how many New Yorkers has been
21 going to the hospital because any bacteria that they
22 got from hookah? I know in many places especially in
23 Latin America they have been data [sic] people and
24 they have died possibly because of some bacteria
25 connected to these hookah. How--and this is--and

1 here we are looking to address this as a major issue.
2 Therefore, what is the data that we have when it
3 comes to people been taken or going to the hospital
4 because of hookah?
5

6 DANIEL KASS: Not aware of any data that
7 we do have. We can look to see what there would be.
8 It's a very difficult thing to detect and
9 hospitalization data which is kind of a crude set of
10 data that has limited information about why people
11 are there and what they were doing associated with
12 the visit. You know, the outcomes associated with
13 hookah apart from a bacterial infection which I'm not
14 aware of, but we can look, are also caused by many
15 other things, and so it would be difficult to
16 determine, you know, if someone shows up with a heart
17 attack whether it was hookah related or if someone
18 has an asthma attack whether it's hookah related. I'm
19 not sure that there's going to be data, but we can
20 look.

21 COUNCIL MEMBER RODRIGUEZ: Great. But I
22 think that that question then also if we have the
23 power to do it, we should be asked [sic], because
24 when we go to the hospital the question asked, "Do
25 you smoke? Do you drink?" I think the question also

1
2 do you use hookah should also be included, because if
3 not then we cannot have any idea if people are--the
4 doctor or the hospital they are not able then to give
5 those information.

6 CHAIRPERSON JOHNSON: Thank you. So,
7 we're going to go to Council Member Reynoso. I want
8 to let you know, Council Member, that we're expecting
9 in the next few minutes, a call from the Toronto
10 Department of Health, and they're calling in to
11 testify on a recent hookah ban. So, if they call in,
12 we may come back to you, but I just want to go to you
13 first. Council Member Reynoso?

14 COUNCIL MEMBER REYNOSO: Sounds good.
15 Thank you. First, I want to just acknowledge the
16 fair and balanced conversation that we're having when
17 we have this image up on the screen. It really
18 doesn't make it feel like we're having objective
19 conversation, and while I think that there's many
20 merits to this conversation, I think it takes away
21 from it when we have an image continually displayed
22 on top that, you know, that pokes fun and obviously
23 against the hookah smoking in general. So, if we
24 would present it a certain way, I think people would
25 be more receptive it, especially those who use

1 hookah, in thinking that we are trying our best to
2 get as much information out. The second thing I want
3 to say is that I don't think hookah smokers in any
4 way, shape or form are disillusioned with the health
5 risks with smoking. If we wanted to make this a
6 health advisory conversation, I think that a lot of
7 people would be open to it. Is it that we need to
8 market and give the information to the users of how
9 dangerous hookah smoking can be? But what I do think
10 we're doing is--there is no cigarette smoking bars,
11 for example when we shut down cigarette smoking in
12 bars, but hookah bars is an actual business. The
13 bar, the hookah is a part of the business.
14 Cigarettes, there was a non-smoking section, a
15 smoking section or it was just happening in bars.
16 Almost the entire business model is around these
17 hookah bars that are in many portions of our
18 community. I think so long as we clearly display
19 that the establishment that you're walking into has
20 hookah in it or has hookah smoke in it that that in
21 itself should be a deterrent for anyone that doesn't
22 want the particulate matter or doesn't want to smoke
23 not enter into that establishment. I dared this
24 Council to speak to the risk alcohol has to people
25

1
2 and the dangers of alcoholism and how we're not
3 having a conversation about shutting down bars
4 because of the alcohol portion of it.

5 [applause]

6 COUNCIL MEMBER REYNOSO: So, and those
7 health risks are much clearer, much more evident and
8 much more obvious, but we are having a conversation
9 about hookah smoke. So, I just want to say that. I
10 think we can do what we want in accomplishing
11 educating the public on the risks of hookah smoke
12 without necessarily endangering the business model of
13 many of these establishments, so long as they're
14 clearly displaying that hookah smoke or hookah, the
15 hookah product is in the establishment. If you don't
16 want to smoke it, you shouldn't enter those
17 establishments. I think it should be very clear. But
18 outside of that I think we're putting many businesses
19 in neighborhoods like mine in danger of closing that
20 are making money and that are doing very well, and I
21 just don't want to endanger their progress. There's
22 other things that are happening in the City of New
23 York that are much more egregious and morally
24 unconscionable that we allow to happen in this city,
25 but so long as it is clearly displayed, people have a

1 choice on whether or not they enter those
2 establishments. So, I just want to be very careful
3 that we separate the conversation about the health
4 risk and the conversation about the business model
5 that we're talking about as well. Also, 50 percent
6 is what you're asking for so long as the business is
7 going to be considered hookah, if 50 percent of the
8 money they make is off of hookah. Hookah generally
9 costs between 20 to 30 dollars in a hookah
10 establishment while the alcohol is a lot more
11 expensive and it's coming out more frequently. While
12 a group of four people might enjoy a hookah for an
13 hour or for let's say 30 minutes, they might drink
14 more than that in that amount of time in a hookah
15 establishment. I don't think it makes any sense that
16 they're selling that 50 percent of their sales are
17 coming from hookah. I think it'll be closer to like
18 20 to 30 percent, and we should start thinking about
19 that portion as well. I would challenge that we have
20 a conversation with business owners to talk about
21 their sales and what portion of it comes from hookah
22 before we make a determination of 50/50 and just
23 making that the rule. I really think this
24 conversation has been one-sided so far when it comes
25

1
2 to the business portion of these conversations. The
3 health risk, absolutely clear. Smoking is dangerous.
4 Tobacco is dangerous. We should acknowledge that.
5 We should figure out way to make sure that people are
6 educated on that subject and let them know what the
7 dangers are. The business model is a totally
8 different conversation, and what we're having here is
9 a health advisory conversation and attacking the
10 business model of it. So, I just want to make sure
11 that we have a fair and balanced conversation and we
12 call it what it is, and so long as we don't separate
13 those two, I won't be supportive of this measure in
14 using--scaring people through the health risk and
15 attaching that to the business model. And if you
16 want, then we should have a conversation about
17 shutting down every bar in the City of New York,
18 because alcoholism has done a lot more damage to this
19 city than hookah smoking has. Thank you.

20 [applause]

21 SERGEANT AT ARMS: Keep it down, please.
22 No round of applause.

23 CHAIRPERSON JOHNSON: So, do you want to
24 respond at all?

25

1
2 TOM MERRILL: I'll only respond to the
3 extent that from what we've seen, to the extent that
4 these places are serving tobacco and from what we've
5 seen, many of these places are in fact serving
6 tobacco, the business model is already illegal.

7 COUNCIL MEMBER REYNOSO: Right, so long
8 as they comply with the law. So I hear what you're
9 saying, but many of these--there's regulations right
10 now where the Health Department does walk into the
11 business and make sure that there is no nicotine in
12 there. There is no tobacco in these products, and so
13 long as they break the law, they do get fined and
14 they get their products confiscated if they're
15 serving tobacco, right? So, there is a legal way to
16 comply with the law and continue to have a hookah
17 bar. So, again, I agree. There's also illegal ways
18 to operate other things. So long as they're illegal
19 we shut them down, but if they're complying with the
20 law regarding tobacco smoke and nicotine, tobacco and
21 nicotine, then we should allow them to continue to do
22 their work so long as it is clearly displayed that
23 they will be having hookah in their establishment and
24 that if you don't want to be around the smoke and
25 you don't want to be around the hookah, you shouldn't

1
2 enter. So long as that is clearly displayed, I don't
3 see any harm.

4 CHAIRPERSON JOHNSON: Thank you.

5 COUNCIL MEMBER REYNOSO: Thank you for
6 your time.

7 CHAIRPERSON JOHNSON: We're going to hear
8 now from the Toronto Department of Health.

9 COUNCIL MEMBER REYNOSO: Right, yeah, and
10 then I just want to say--

11 CHAIRPERSON JOHNSON: [interposing] Excuse
12 me?

13 COUNCIL MEMBER REYNOSO: Chair, I just
14 want to end it, because I have to go get going to a
15 meeting. I just want to say as a health conversation
16 I absolutely understand it. Once we enter into the
17 business model of it, I think that we should have a
18 conversation about that separately, and this is--we
19 should ask-- Council Member Cornegy should be Co-
20 Chairing this as the SBS [sic]. Thank you.

21 CHAIRPERSON JOHNSON: Thank you, Council
22 Member Reynoso. Okay, we're going to go to the next
23 panel. Thank you very much for testifying. Habib
24 Joudeh, Ramsey--I apologize if I mispronounce your
25 name, I'm sorry. Ramsey Joudeh and Doctor Ahmad

1
2 Jaber. And we're going to put people on a two minute
3 clock actually. Okay, if you could just make sure
4 the mic is on, the red light, and introduce yourself
5 for the record. You may begin in whatever order
6 you'd like. If you could please keep your testimony
7 within two minutes. We have a lot of people that are
8 here to testify today. Thank you.

9 AHMAD JABER: Good morning. I'm Doctor
10 Ahmad Jaber, the President and Founder of Arab-
11 American Association of New York, the largest
12 community service organization in Bay-Ridge serving
13 the Arab community. I am OBGYN in profession as well
14 as an Imam for Islamic Culture. So, I have that hat,
15 medical as well as religious. Two things I want to
16 emphasize. Hookah smoking is not a cultural issue.
17 It's not an Arabic or Middle East. It has been
18 initiated in probably in India as well as China, and
19 then it traveled into Persia to the Arab Middle East
20 with Turkish or Theman [sic] Empire. We heard about
21 the hazards of hookah and shisha that's understood.
22 So I'm not going to comment about it. However, the
23 social fabric of our community is being effected
24 directly by hookah smoking for two reasons. One is
25 that a lot of kids are entering into the smoking

1 habit as the bars with the hazards, and the family
2 supporters, men who works, they go and leave their
3 families and spend the time in the hookah bars. So
4 that disturbs the family fabric as well. Now,
5 associated with the hookah is other activities. One,
6 drugs. Two, heroin or marijuana or other, you know,
7 activities, and that combination will lead to further
8 hazardous socially [sic] as well as medically. Now,
9 with this you stated, a lot of times you go into
10 restaurants who sells one single hookah. They are
11 not part of the hookah, but individually they just
12 serve it, and that affects people who come and eat
13 regularly or just any ordinary people. With that too
14 you might go into a privately owned grocery store or
15 office or something, and then the man who owns it is
16 smoking the hookah. That's also affect as well as
17 the people who comes as customers. So, we have to
18 look into that flourishing of the hookah places. It
19 affects the community as well as--like example, my
20 association was next to a bar, and every time in the
21 morning I go there and the smell of the hookah,
22 tobacco and non-tobacco, is permeating through the
23 walls into the neighborhood houses as well as
24 businesses. So, it's not welcome in the community. I
25

1
2 agree with that we need more education for the
3 committee about the hazards of the hookah and shisha.
4 We need support from the City Council as well as the
5 Department of Health as well as the state to educate
6 our people in that, and our association is in the
7 full year of educating our population about that.
8 Also, I want to emphasize that enforcing that
9 existence of--the existing law intro [sic] already
10 needs to be enforced. There's no enforcement for the
11 existing law for the clean act as well as clean
12 environment or permit to give the people a right.
13 One more note that we are not against well-
14 established already places to sell hookah or that are
15 hookah bar. We are--we want to prevent the
16 proliferation of hookah places. Those who are
17 existing, fine. They abiding by the law, fine, but
18 the new ones have to test or be regulated [sic].
19 Thank you.

20 CHAIRPERSON JOHNSON: Thank you.

21 RAMSEY JOUDEH: Good morning everybody.

22 Doctor Ramsey Joudeh. I'm a Hospitalist at NYU
23 Lutheran, also in private practice as a Primary Care
24 Physician. Briefly, the data is obviously there. I
25 mean, the studies at NYU, the studies at--and all the

1
2 other institutions have shown that the tobacco and
3 smokeless and--correction. The non-tobacco and the
4 tobacco products are all the same, cancer, COPD,
5 emphysema. I think, you know, I had something else I
6 wanted to mention, but the other Councilman Doctor
7 [sic] Reynoso made a very clear point, and I think
8 it's important because a few of you guys clapped for
9 it, and it's very disheartening. The point is, we're
10 not discussing the business model. We're discussing
11 regulating kids going to hookah bars. I have a
12 seven-month-old son, and if I ever seen--if I ever
13 would think of him going into hookah bar or drinking
14 alcohol or smoking cigarettes or doing drugs, I'm
15 sure as most of you would be very, very upset. So
16 I'm not talking as a physician, I'm talking as a
17 father now, and I think that's what the point is
18 here. I think we're trying to regulate the kids that
19 go to the hookah bars, the adolescents that do these
20 types of tasks and recreational activities that
21 Doctor Jaber mentioned include marijuana, heroin,
22 selling, dealing, gambling, right? Why don't they--
23 they should be in after school activities. They
24 should be in at home with their families. What you
25 do in your private home is different in, you know, in

1
2 a public area. When you're subjected as the Council
3 Member Rodriguez mentioned, when you take your kid or
4 your child or your family out to a restaurant, you
5 don't want to be subjected to an area where you're
6 smelling toxins and carbon monoxide. Carbon monoxide
7 is a known NTD [sic] that creates COPD. It's a--it
8 kills people. It's an odorless gas that kills
9 people. So, it's very--it's very important that we
10 understand that we're not debating the issue of, you
11 know, completely removing as I guess Council Member
12 Vacca said, you know, eliminating it completely, but
13 it's more about regulating who goes to those areas.
14 Twenty-one should be the limit as mentioned in the
15 bill. Fifty percent is a good number, right?
16 Because if you're deriving your profits form 50
17 percent, then you know, your establishment requires a
18 hookah presence. If it doesn't, then you're
19 affecting everybody else. A twenty percent activity
20 of hookah in a facility should not allow you to
21 affect 80 percent of other people. Thank you.

22 CHAIRPERSON JOHNSON: Thank you, Doctor.
23 And just for the record, Antonio Reynoso is my friend
24 and a good Council Member, but not a doctor.

25

1
2 HABIB JOUDEH: Ladies and gentleman, good
3 morning. My name is Habib Joudeh. I sit on the
4 Advisory Community Board at the Brooklyn Hospital. I
5 am the Vice Chair of Doctor Jaber and I run a chain
6 of pharmacies. I would like to thank you, Councilman
7 Rodriguez, for saying that New York welcomes every
8 culture, but I assure you this is not a cultural
9 issue. As Doctor Jaber said, it's not a cultural
10 issue, so don't feel bashful to attack it and go
11 straight for it and bring it as a health hazard
12 issue. I will go into points because my colleagues
13 here said a lot. I would like to see the age limit
14 being really raised to 21. I would like to see the
15 proper signage on these places. We are not here to
16 shut down anybody's business. We are here to thrive
17 with them and make them thrive also and go ahead in
18 the city and make, but we don't want to see our kids
19 going when they are 13, 14, 15 into these places.
20 And then, this leads to smoking. I was raised in the
21 Middle East until I was 18. If I ever sat on one of
22 these places, they used to call them cafes, my father
23 would kill me, not only me, everybody else. So, it
24 has nothing to do with culture. I used to see these
25 places beyond 65 or 70 people, 70 years of age.

1
2 They're sitting there playing cards and smoking
3 shisha. So, it is--again, I will emphasize it's not
4 cultural, and we appreciate your help, and I think we
5 should adopt a little bit more rules and regulations
6 to regulate these places and the signage, the age,
7 the age limit, and also the places, the locations.
8 When you are in a location that you have three-story
9 house and you have two family living on top, it's a
10 disaster. I think these places and the licensing
11 should be looked into. Thank you very much.

12 CHAIRPERSON JOHNSON: Thank you very much
13 for your testimony, for being patient, and for being
14 here today. We really, really appreciate it. Do you
15 have a question?

16 COUNCIL MEMBER GENTILE: Just quickly.
17 Thank you very much. Thank you for being here. I'm
18 curious as an organization or individually, have you
19 spoken to parents who have that concern about their
20 youngsters going into hookah bars?

21 HABIB JOUDEH: We have a daily encounter
22 with families that they come to us, either into the
23 pharmacy to me or to Doctor Jaber into the
24 association asking us to stop these things and try to
25 reach to you as enforcers and regulators to stop

1
2 these kids from going in there. You know, the
3 situation with kids when they are teenagers. They
4 are rebellious. They're not--they're different. You
5 know, they're born here and they are raised here.
6 They know that it's free and it's a freedom [sic],
7 and the education of these places is not really
8 clear. They have to limit the access to these kids,
9 and they have to be clear that this is smoking,
10 whether it's tobacco or non-tobacco. It's smoking.
11 The charcoal used and the gases and the fumes are
12 coming out from that, that charcoal. It's toxic. So,
13 we've been approached on the daily basis more than
14 three or four times.

15 COUNCIL MEMBER GENTILE: And so you, as
16 you've said, support the age minimum added to the
17 hookah legislation, the 139 as it is in 1075, and the
18 signage that's also in 1075 added to 139?

19 HABIB JOUDEH: Definitely, and it should
20 show a little bit more about smoking. I think my
21 opinion, I represent all of us, the sign that should
22 go along with the cigarettes. There should be, you
23 know, and together with the same sign showing the
24 cigarettes and the hookah, because mostly as the
25 statistics said, 13 out of 13 were serving tobacco.

1
2 And we're--13 of 13, or 14. Fourteen off of 13,
3 that's great. So, that's the situation, but if
4 anybody who wants to run a hookah place and go--
5 abides by the law, why not? Because we are not here
6 to cut anybody's throat. We are here to thrive with
7 them, and we want them to thrive too.

8 COUNCIL MEMBER GENTILE: Well, with the
9 minimum age, you would make a decision as a 21-year-
10 old or 21-plus as an adult to make that decision.

11 HABIB JOUDEH: True.

12 CHAIRPERSON JOHNSON: Thank you all very
13 much for your testimony.

14 HABIB JOUDEH: Thank you.

15 CHAIRPERSON JOHNSON: Okay, we're going to
16 go to the--is this all set up correctly to be able to
17 do this? We're going to go to I don't know who is on
18 the line. If you could announce yourself from the
19 Department of Health in the City of Toronto.

20 LOREN VANDERLINDEN: Hi, it's Lauren
21 Vanderlinden. I'm a manager in our Healthy Public
22 Policy Directorate at Toronto Public Health.

23 CHAIRPERSON JOHNSON: Great. If you
24 could speak to the legislation or speak to Toronto's
25 recent experience with the hookah ban?

1
2 LOREN VANDERLINDEN: Sure, and thanks for
3 the opportunity to speak. So, as you mentioned
4 earlier, as of November 2015, our City Council voted
5 to adopt a bylaw, which is the equivalent of an
6 ordinance prohibiting hookah use at all licensed
7 establishments, which includes restaurants and bars.
8 That comes into effect on April 1st of this year.
9 It's an issue that as you heard from your Health
10 Department hasn't been on our radar for very long. It
11 was about 2010 when it first came to us an issue. We
12 began to grow concerned about hookah smoking in
13 indoor public places for four main reasons. The fact
14 that the health evidence is showing that whether it's
15 non-tobacco or tobacco water pipe shisha it is
16 harmful and contains toxicants that are thought to
17 cause dependence, heart disease, lung diseases and
18 cancer. There's also quite a few studies looking air
19 quality in establishments including some in Toronto
20 hookah cafes, and you'll hear about that from my
21 colleague, Doctor Roberta Ferrence. And regardless
22 of the type of shisha, again, the users and
23 bystanders are being exposed to unacceptably high and
24 in some cases hazardous levels of carbon monoxide
25 fine particles and other cancer-causing chemicals.

1
2 And thirdly, although in our Province the use of
3 tobacco in hookah indoors had been prohibited for a
4 number of years. We had evidence from those air
5 quality studies that some Toronto hookah businesses
6 were illegally allowing tobacco to be smoked. And
7 the final reason, probably the most compelling one is
8 that we know that hookah smoking of any product
9 contributed to social acceptability of smoking in
10 public places and that normalizing has a negative
11 influence on youth and young adults in terms of
12 smoking initiation, and we knew that in 2013 about 10
13 percent of high school students in our Province
14 reported smoking hookah, and similarly another more
15 recent study showed that about 40 percent of Ontario
16 students believed that hookah use is less harmful
17 than smoking cigarettes. So, we're aware that some
18 of the businesses in Toronto allowed entry to minors
19 and we started to see a trend of this being
20 increasingly popular among students on campuses of
21 our post-secondary institutions including through,
22 you know, campus events and through social media.
23 So, in light of these concerns, we were asked to
24 report back on how to address the harms from hookah
25 smoking, and one, we got clear direction that

1 prohibition was to be considered as one route. So,
2 we consulted stakeholders on a number policy options.
3 We interviewed an array of stakeholders such as the
4 businesses themselves, patrons, health organizations,
5 universities, colleges, and community groups that
6 represent the cultural areas for which this is a more
7 traditional practice. Our consultation had indicated
8 that with the exception of the business owners as you
9 would predict, the majority of the stakeholders
10 supported prohibition, and overall there was
11 acknowledgment that we needed to take action to
12 address the harm, and secondly there also was quite
13 alarmingly low levels of public awareness about the
14 health risks of hookah use. So we identified
15 prohibition as the most health protective option to
16 address the risks here, and we coupled that with an
17 expense of public education strategy that's ongoing
18 to help raise awareness about health risks. And this
19 was actually the approach taken in a number of
20 jurisdictions across Canada already. Although we
21 certainly have the largest number of hookah
22 establishments compared to other cities in Canada.
23 Our bylaw was supported overwhelmingly by both our
24 Board of Health in Toronto City Council as you heard.
25

1
2 They shared our concerns about the health risks of
3 smoking any substance and about its growing
4 popularity among youth in Toronto. We also heard
5 from youth groups themselves who appeared before the
6 City Committee and they showed their support for
7 hookah legislation, and some of these young people
8 were from the cultural backgrounds where hookah use
9 is more common and allegedly traditional. So they
10 affirmed that they supported these restrictions on a
11 practice that they deemed unhealthy. So, overall,
12 hookah use does carry health risks that we in Toronto
13 felt needed to be addressed through legislation. We
14 hope that our experience is helpful to you as you
15 consider taking action in New York.

16 CHAIRPERSON JOHNSON: Thank you very
17 much. I wanted to just ask, how many hookah
18 establishments existed in the City of Toronto before
19 the ordinance went into effect or as it was being
20 contemplated?

21 LOREN VANDERLINDEN: It's around 70. It
22 is a bit of a moving target, but that was our best
23 estimate of the numbers.

24 CHAIRPERSON JOHNSON: And I apologize if I
25 missed this in your testimony, but for the existing

1
2 establishments, did it say you can no longer use
3 hookah anymore?

4 LOREN VANDERLINDEN: Yes. So, any
5 business--

6 CHAIRPERSON JOHNSON: [interposing]
7 Complete ban?

8 LOREN VANDERLINDEN: Correct. Correct.

9 CHAIRPERSON JOHNSON: Okay.

10 LOREN VANDERLINDEN: So, if they are
11 required to have a license to operate whether they're
12 offering food or refreshments, then the clause in the
13 licensing bylaws is that they are not allowed to
14 permit use of a hookah.

15 CHAIRPERSON JOHNSON: And when did it--
16 when did this go into effect?

17 LOREN VANDERLINDEN: It's actually not
18 'til April 1st.

19 CHAIRPERSON JOHNSON: So we don't know yet
20 the impact that it's going to have potentially on
21 businesses.

22 LOREN VANDERLINDEN: No, we don't. We
23 have--we predict--we have an range of types of
24 businesses, some where it was offered as a side
25 offering, you know, where the restaurant was a main

1
2 business, and we have started to see some of those
3 types of businesses already, you know, take away
4 their hookah offering. They found it was too much
5 trouble, and it distracted, and they found it
6 impacted their clientele. The other category, the
7 ones where it's more dedicated, so they are as we
8 speak having to look at other options for their
9 businesses.

10 CHAIRPERSON JOHNSON: Thank you very much.
11 Council Member Gentile?

12 COUNCIL MEMBER GENTILE: Yes, thank you,
13 and thank you Doctor Vanderlinden for your testimony,
14 and I believe Doctor Ferrence is also there too?

15 ROBERTO FERRENCE: Hi, yes. It's Roberta
16 Ferrence. I'm the Senior Scientific Advisor for the
17 Ontario Tobacco Research Unit at the University of
18 Toronto and the School of Public Health, and I've
19 been involved in research on tobacco for over 30
20 years, and secondhand smoke for 20 years, and I did
21 get involved in looking at hookah in 2009 when there
22 was a challenge to the Vancouver bylaw and it went
23 through the courts for many years. They only had two
24 venues at that time, but they did make a decision
25 about a year ago, and they had a number of arguments

1
2 addressing many different issues, but the bylaw held
3 basically. I want go--I'll try to avoid things that
4 other people have said. There's--in 2009 there was
5 very little information on the, excuse me, what was
6 in hookah smoke. Now, there is a lot of information.
7 Most of the smoke comes from the burning charcoal,
8 but there's still a significant amount from the
9 tobacco or herbal product, but everybody knows you
10 don't barbeque indoors, and that's basically what's
11 going on. But even without the charcoal it would be--
12 -it would still be hazardous, but as it is now it's
13 much more hazardous than a smoky bar, which is banned
14 in most communities and certainly in Canada and a lot
15 of the US as well. And except for the nicotine,
16 there's no difference in the toxicity of tobacco and
17 herbal hookah smoke. What's interesting is that the
18 current epidemic of hookah smoking, and we call it an
19 epidemic, is not traditional hookah which has been
20 used for a few hundred years. It started in Syria in
21 the 1990's and it's a new sort of flavored hookah
22 with all kinds of fruit and other types of flavors
23 that was clearly aimed at young people and kids, and
24 not just people under 18, people under 30 basically.
25 And the health effects are quite extensive. They

1
2 include everything that you get with cigarette
3 smoking, as well because there's much higher levels,
4 three-fold levels of carbon monoxide. You get
5 additional effects from that, but you also get
6 infectious diseases and even with replaceable mouth
7 pieces. You can suck up bacteria and viruses from the
8 hoses, and many of these places are not terribly
9 clean. We also found in Toronto as they did in New
10 York that all of say 12 cafes we studied were
11 serving--we found air nicotine, which we measured.
12 So they were all serving at least some hookah, some
13 tobacco hookah, and half of them were served--the
14 level was higher than you'd find in a smoky bar. We
15 also found that the levels of toxins in many of these
16 cafes could surpass occupational health and safety
17 workplace regulation, which was a bit scary. We
18 found, you know, a--the safe level of particulates in
19 the air is about 25 parts per cubic meter, micrograms
20 per cubic meter, and anything over 91 is considered
21 hazardous, and a really bad day in Beijing where they
22 tell you stay indoors is about 500. Well, ours
23 averaged at least 1,500, and there was one venue that
24 was over 1,700. So, and this is not just probably in

1
2 the café. It's going throughout the whole building.
3 So, that's a big problem. So--

4 COUNCIL MEMBER GENTILE: [interposing]
5 Advisor Ferrence, we're a little short on time. Can
6 I just ask a question, and--

7 ROBERTA FERRENCE: [interposing] Can I
8 just make--

9 COUNCIL MEMBER GENTILE: Yeah, finish.

10 ROBERTA FERRENCE: two more points? The
11 exemption of herbal hookah is a technicality. It's
12 not a real thing. We now know it's just as bad.
13 It's a huge issue, a occupational health and safety
14 issue for staff and for families living upstairs or
15 in the back, and I think the New York City should
16 consult their lawyers and find out about liability
17 now that we know the health effects and we know the
18 exposure dangers, because there is a potential for
19 being sued by continuing to allow places to use
20 indoor hookah, because it's a occupational health and
21 safety. And my final point is that at least eight
22 countries in the Middle East and surrounding
23 countries have banned indoor use completely. So,
24 it's a little bit strange that we're having so much
25 difficulty, and you have to remember 10 years ago

1
2 there were almost no hookah bars. So, in many ways
3 these were opportunistic openings of business hoping
4 to get--make some money in a few years before they
5 banned it, because I think people knew eventually it
6 would be banned. So, these are not longstanding
7 family businesses that go back 20, 30 years, most of
8 them. So, that's all I have to say today and I'm
9 happy to answer questions.

10 COUNCIL MEMBER GENTILE: Great. Just I
11 just want to clarify just to underscore, you're
12 saying that both types of--but for the nicotine, the
13 non-tobacco hookah is just as toxic as the--

14 ROBERTA FERRENCE: [interposing] Exactly,
15 yes.

16 COUNCIL MEMBER GENTILE: Because it
17 contains the carbon monoxide and the benzene and PAH
18 and all the other toxicants that you would otherwise
19 find in tobacco, right?

20 ROBERTA FERRENCE: And the particulates
21 and heavy metals, and yeah, it's--actually, there's a
22 lot more smoke than you find with cigarettes.

23 COUNCIL MEMBER GENTILE: Right, okay.

24 ROBERTA FERRENCE: So, it is worse, and
25 it's very inconsistent that we ban indoor smoking of

1
2 cigarettes and not hookah. It really doesn't make a
3 whole lot of sense.

4 COUNCIL MEMBER GENTILE: It doesn't make
5 sense, right. And Doctor Vanderlinden, I'm curious,
6 when you did your stakeholders, how did you reach out
7 to them? Was it by survey or did they participate in
8 some way? How did you reach out to the stakeholders?

9 LOREN VANDERLINDEN: We did a variety of
10 methods. We had survey. We had a firm to intercept
11 surveys of patrons, and then we did key [sic]
12 informant interviews with the business owners
13 themselves. We invited them through letter to be
14 part of it, and then we reached out to health
15 organizations and conducted one on one interviews
16 with them.

17 COUNCIL MEMBER GENTILE: And among them
18 there were university college students and cultural
19 groups, and each of them all supported the
20 restrictions that you spoke about that Toronto
21 passed.

22 LOREN VANDERLINDEN: Yeah. I mean, they
23 were aware, and in the case of the cultural groups,
24 they were aware that this was an issue in their
25 community, that smoking takes place not just in

1
2 commercial businesses but also in the home, and you
3 know, that it can be say mothers at home, in some
4 social groups, mothers at home with their kids all
5 day who are smoking hookah continuously. So, they
6 were aware that that's an issue and welcomed the
7 prohibition.

8 COUNCIL MEMBER GENTILE: Great. Thank
9 you.

10 CHAIRPERSON JOHNSON: Thank you very much
11 for joining us today. We really appreciate it.

12 LOREN VANDERLINDEN: Oh, you're welcome.

13 ROBERTA FERRENCE: Thanks for inviting
14 us.

15 CHAIRPERSON JOHNSON: Take care.

16 LOREN VANDERLINDEN: Bye.

17 ROBERTA FERRENCE: Bye-bye.

18 CHAIRPERSON JOHNSON: So, I want to
19 apologize to Council Member Gentile and other folks
20 that are here that are testifying on hookah. It's
21 not easy to organize one of these hearings, and so
22 that's why we put on multiple bills like the
23 smokeless tobacco bill on the agenda as well. So, we
24 are--we have one panel on smokeless tobacco. We're
25 going to do a quick detour back over to smokeless

1 tobacco, and then we're going to come back--
2 [background noise] then we're going to go back over
3 to the hookah advocates and business owners and other
4 folks that are here to testify on that today. So our
5 next panel is Robert Arena from the Brooklyn Baseball
6 Association, Kevin O'Flaherty from the Campaign for
7 Tobacco-Free Kids, Patrick Kwan from New York City
8 Smoke-Free, and Robin Vitale from the American Heart
9 Association. So, I want to thank you all for being
10 really patient today given what's on the agenda, and
11 if it is at all possible--if it's at all possible to
12 try to keep your remarks within two minutes. So, you
13 may begin in whatever order you'd like. Just make
14 sure the red light is on on the mic, and introduce
15 yourself for the record.

17 KEVIN O'FLAHERTY: That's better. Good
18 morning. My name's Kevin O'Flaherty. I'm leading
19 the effort to knock tobacco out of the park for the
20 Campaign for Tobacco-Free Kids. Thank you for the
21 opportunity to testify today. I'm going to focus
22 most of my comments in support of Intro 1068 and may
23 touch upon the other bills if you'll allow me a few
24 minutes, a few extra seconds at the end. You know,
25 for too long we've witnessed the impact of our

1 nation--on our nation's youth from the use of
2 smokeless tobacco by Major League Baseball players.
3 The evidence shows the ball players aren't just
4 indulging in a harmless habit when they use smokeless
5 tobacco. They're damaging their health with an
6 addictive product that causes cancer and other
7 serious diseases, and while we care about that, what
8 we're really here today about is the fact that they
9 also serve as role models to youth throughout New
10 York and the rest of the country, and they're
11 endangering the wellbeing of millions of kids who
12 look up to them and copy their every move. Since
13 1998, smokeless tobacco companies have tripled the
14 amount of money they spend on advertising, but on top
15 of that they still get hundreds of millions of
16 dollars of additional free advertising when ball
17 players use these products in the ball park and on
18 TV. Every time a kid sees a big league player using
19 smokeless tobacco, baseball is promoting it for free.
20 Two recent studies from the CDC and UCSF School of
21 Dentistry make clear what seems obvious to many of
22 us, kids see athletes as role models, and that
23 translates into more kids using smokeless tobacco.
24 Those studies are in the packets that have been
25

1 distributed to you this morning. Over the last 15
2 years we've made dramatic progress reducing smoking
3 rates among our kids, cutting cigarette use among
4 high school boys by half, but during the same period,
5 smokeless rate use has been the same, essentially the
6 same, and baseball shares some of the blame for that.
7 If we're going to change that course and save those
8 kids, today is the next step down that path. I can
9 promise you that if New York passes this measure,
10 we're all going to see healthier young kids who no
11 longer associate tobacco use of any kind with their
12 heroes. Right now, and this is really important,
13 we're on the verge of reaching a tipping point where
14 the league and the Player's Association will agree to
15 do something that would have seemed impossible a few
16 short years ago. That is, to eliminate the use of
17 tobacco in all games throughout the league. As you
18 mentioned, Chairman, Boston, Los Angeles and San
19 Francisco have already done this. New York City with
20 its two-storied franchises and tens of millions of
21 fans across the country, you're poised to make that
22 happen if you take this decisive step today. We
23 believe that we can achieve that goal league-wide by
24 the start of the next season with your help.
25

1
2 Chairman Johnson, if you'll give me just a minute to
3 talk about the hookah bills, I kind of had to touch
4 on baseball. We agree that the growth of hookah
5 usage in New York City is a disturbing trend that
6 needs to be addressed. However, we're concerned that
7 any proposal that continues to allow the use of
8 hookah inside work places could actually undermine
9 the Smoke-free Air Act and further establish hookah
10 use in the City. It's important to remember that
11 this is a loophole that these businesses have driven
12 a freight train through. We think you should close
13 it, not codify it. As a result, we offer our support
14 for Intro 1076 which would increase the raise of
15 minimum sale age of non-tobacco shisha and related
16 paraphernalia to 21. It makes sense to treat these
17 products in the same way we treat tobacco to make
18 sure that our kids do not get hooked on hookah. And
19 in regards to the other three bills, we take no
20 position at this time. I, again, urge you to pass
21 Intros 1068 and 1076 to protect kids from smokeless
22 tobacco and hookah, and I would be glad to answer any
23 questions. Thank you again.

24 CHAIRPERSON JOHNSON: Thank you.
25

1
2 ROBERT ARENA: Is it on? Yeah. Good
3 afternoon, everybody. Before I begin, I would like
4 to personally thank Chairman Johnson and the other
5 members of the Committee for the opportunity to
6 testify before you today to show my support for Intro
7 1068, a bill that would eliminate the use of
8 smokeless tobacco at all ticketed sporting events in
9 New York City. My name is Robert Arena, and I
10 current--and I consider it a huge honor to speak to
11 all of you today about this amazing effort that will
12 do great things for baseball players, parents and
13 even people who only watch the sport. I currently
14 play for the Brooklyn Baseball Association, and I
15 also play for my high school team, the Lafayette
16 Patriots. As a lifelong Yankee fan, I've gotten to
17 see greats such as Derek Jeter, and I know I've
18 learned a lot from our future Hall of Famer. I have
19 also been lucky enough to see many other great
20 players such as Brandon Phillips, Mike Trout [sp?]
21 and many more. I've tried to mimic each one of them
22 plenty of times. From some, it was what they did off
23 the field or how they played defense. From others, it
24 was how they hit or ran the bases. One thing I
25 unfortunately avoided copying from baseball players

1 is the use of dip or chewing tobacco. I have heard
2 of some kids using this stuff, and even they will
3 admit it's because they see players doing it, so it
4 has to be cool or at least okay, but that's not true.
5 I know I'm not that unusual when it comes to this.
6 Millions of players, especially younger ones mimic
7 their heroes on the field. I remember seeing Raul
8 Ibanez play when I was watching Yankee games. I was
9 much younger back then, but I was able to tell he was
10 chewing on something when he was up to bat. To me,
11 it looked kind of cool, so I asked my dad if I could
12 have some for my next game. When he said no, I
13 obviously asked why since back then no wasn't a good
14 enough answer for an 11-year-old me. So he told me
15 it was tobacco and it was very bad for you. Ever
16 since, I have always and will always oppose tobacco
17 or anything else like it. I hope--no, I need all
18 baseball players to remember they are role models to
19 kids who play this amazing sport. I hope they get the
20 help they need to quit, because none of us want our
21 heroes to go through cancer or some other horrible
22 illnesses, but even if they don't quit we need the
23 players who still use tobacco to stop using it when
24 kids are watching. That is why it's so important to
25

1
2 me and everyone else who shares the same passion
3 about this great game, that New York pass this law
4 that you are considering today. New York is the
5 biggest and best city in this country and we need to
6 protect our kids and be a part of this movement to
7 get tobacco out of the game, and that is why I needed
8 to pass this law. I am proud to be a part of this
9 great effort. I will share this message with my
10 teammates, coaches and friends. I will ask them to
11 spread the work to their brothers and sisters, sons
12 and daughters, their family, their friends, and even
13 on their social media. I, Robert Arena, give you all
14 my word that I will do whatever it takes to tobacco
15 out of the park. Thank you.

16 CHAIRPERSON JOHNSON: Mr. Arena, how old
17 are you?

18 ROBERT ARENA: I am 14 years old.

19 [laughter]

20 CHAIRPERSON JOHNSON: Fourteen years old?
21 And you live in Brooklyn, right?

22 ROBERT ARENA: Yes.

23 CHAIRPERSON JOHNSON: You don't live on
24 the West Side of Manhattan? You don't live in
25 Greenwich Village, Chelsea, or Hell's Kitchen.

1
2 You're not planning on moving there before I run for
3 re-election in 2017?

4 [laughter]

5 CHAIRPERSON JOHNSON: You're an amazing
6 young man. I'm not going to hold it against you that
7 you're a Yankees fan. Thank you for being here
8 today.

9 ROBERT ARENA: Thank you for having me.

10 CHAIRPERSON JOHNSON: Okay, thank you.

11 ROBIN VITALE: Alright, thank you. I
12 don't know how to follow Robert. That was fantastic.
13 Good job. My name is Robin Vitale. I serve as the
14 new Director of Government Relations for the American
15 Heart Association here in New York City, and very,
16 very quickly, we're here in strong support of Intro
17 1068 and the efforts to remove tobacco from the
18 city's baseball. We want to make sure that the
19 disparity that exists between especially gender, and
20 if you look at the usage of young men versus young
21 women and even more so be talking about young male
22 athletes of smokeless tobacco there's a tremendous
23 distinction between use rates there, and I think that
24 really speaks to the need behind this legislation and
25 why making sure that we are removing the influence of

1 baseball and that the influence of baseball players
2 using smokeless tobacco on our young people is so
3 necessary for the city to move forward on this. You
4 know, I think another key aspect to just make sure
5 we're emphasizing is that Minor League Baseball has
6 actually made this a rule since 1993. So, it's well
7 past due time that we move forward on this with all
8 of our Major League Baseball teams as well, and I
9 really applaud New York City for joining the ranks
10 of, you know, San Francisco, Los Angeles, and yes,
11 even Boston, making sure that we're keeping with the
12 momentum and making sure that we are kicking tobacco
13 out of our baseball stadiums altogether. As I have a
14 few seconds left just to quickly reference that
15 additional proposals that are being heard in front of
16 the committee today, we do share the interest of
17 working with the Council Members around the hookah-
18 related policies. I think this as well as several
19 other tobacco-related proposals should be considered.
20 So, things like as the Health Department alluded to,
21 increasing the price of tobacco, making sure it's
22 more difficult to purchase tobacco, and making sure
23 that we are really strategically focusing our energy
24 on sound policies that can help to reduce the rate of
25

1
2 smoking and other concerns for cardiovascular health.
3 We greatly appreciate your energy on that. Thank
4 you.

5 CHAIRPERSON JOHNSON: Thank you, Robin.
6 Mr. Kwan?

7 PATRICK KWAN: Hi, good morning. My name
8 is Patrick Kwan. I'm the Director of NYC Smoke-Free
9 at Public Health Solutions. I am a constituent of
10 Chairman Johnson in Hell's Kitchen. Thank you for
11 your resignation [sic]. NYC Smoke-Free is a program
12 of Public Health Solutions, and we're one of the
13 nation's largest public health institutes as well as
14 one of New York's leading nonprofit organizations.
15 We were founded as the NYC Coalition for a Smoke-Free
16 City, and we've been working for over 20 years to
17 help stop the tobacco epidemic here in New York City.
18 Intro 1068 would help protect generations of New
19 Yorkers and youth from deadly and addictive smokeless
20 tobacco products, as well as make it clear that
21 recreational sports should not be promoting
22 recreational use of harmful tobacco product. We know
23 from the Centers for Disease Control that while high
24 school athletes who play on sports teams smoke
25 tobacco--smokeless tobacco products at lower rates

1
2 than non-athletes. They actually do smokeless
3 tobacco products nearly at double the rates of non-
4 athletes. We also know that the data basically
5 suggests that high school athletes while they do a
6 better job of avoiding cigarettes, they are actually
7 taking up smokeless tobacco products such as chewing
8 tobacco more than other youth, and what it really
9 basically tells us that is in addition to, you know,
10 perhaps the misconceptions of the harmlessness of
11 tobacco and not knowing the facts of this, they are
12 basically emulating the, you know, older athletes,
13 coaches, and perhaps even, you know, their favorite
14 sports stars at Yankee Stadium and at Citi Field and
15 other arenas here in New York City. We also know
16 that professional athletes who chew tobacco know that
17 they are a role model for kids. They also know that
18 smokeless tobacco products are harmful, deadly and
19 addictive. The issue is not just that smokeless
20 tobacco products are terrible for professional
21 athletes and everyone who uses them, but also that
22 allowing the continued use of smokeless tobacco at
23 arenas sets a terrible example for kids by
24 normalizing chewing tobacco and also leading
25 generations of youth to take up tobacco addiction.

1
2 It basically will threaten some of the successes that
3 we've had over the last decade in stopping tobacco
4 epidemic here in New York City. Thank you.

5 CHAIRPERSON JOHNSON: Thank you very
6 much, Patrick, and thank you for being a constituent.
7 I appreciate you being here today. Any questions?
8 Okay, thank you all very, very much. I look forward
9 to working together to get this done as quickly as
10 possible. Okay, we're going to go to another panel.
11 Ariel Ferreira from 40 restaurant, bars and
12 nightclub, Mohamad Bashir and Walter Drobenko. So,
13 after these owners, business owners come up our next
14 panel is going to be Doctor Michael Weitzman, Michael
15 Seilback, American Lung Association, Deidre Sully,
16 and Karen Blumenfeld. Okay, so gentleman, just make
17 sure the red light is on on the mic. Just introduce
18 yourself for the record. There you go. Thank you
19 very much.

20 MOHAMAD BASHIR: Yeah. Hi, my name is
21 Mohamad Bashir. I'm a business--well, I have two
22 business, hookah bars in Manhattan. I have some
23 [sic] children, which is two of them in college.
24 I've been with the hookah bars lot since 2000 [sic].
25 I've been smoking hookah since 42 years ago. I

1 understand that health-wise [sic] cancer and that
2 kind of stuff [sic], which is very important. My
3 sister have cancer. Three in family have cancer,
4 which none of them smoke hookah. Most of them
5 ladies--breast cancer. So, we've been dealing with
6 since 2003 with the City. On the issue, the law
7 about the cigarettes, we didn't know about the hookah
8 include that, and then when the City comes an effort
9 2003 we fight it and we spoke with City Councils. I
10 know I have some proof here. Like, I got a letter,
11 and we spoke to Mr. Governor Pataki and we tried to
12 work with the City, but the City ignored us
13 completely. Like, okay, [inaudible] include the
14 Health Departments. It happened again in 2005, and
15 then we work with the Health Department and we said
16 zero tobacco which okay. Since 2005 and now the City
17 itself, City Councils, the City itself, the Health
18 Department give us permit. Like, we--when we applied
19 for the permit we say there's hookah bars, and they
20 said it's okay. They got the money and they come
21 inspected us, which we always got A, but nobody tell
22 us like hookah, no hookah, you cannot serve hookah.
23 I understand smoking is dangerous, but at the same
24 time, it does affect our business. But shutting down
25

1
2 the business is going to affect me personally. My
3 age, what kind of business I got to do with five
4 children? We will--we want to work with city. I had
5 a issue with the City last year on the court, and
6 they didn't understand what the difference between
7 shisha and hookah. By the way, shisha it's a hookah.
8 It's just Arabic word for hookah. So, zero tobacco.
9 They didn't even know--they said tobacco out [sic].
10 It's zero tobacco. It's like Coke and Diet Coke. I
11 explained that in the courts too. We want to work.
12 The City never tried to work with us. The City
13 Council never tried to get us to talk to them what
14 the problem. The Health Department never to work
15 with us even with that issue. It's become like law
16 after law after law, and we're protected [sic] from
17 the law. I do agree with--first thing [sic], is like
18 about 15 years old, 14 years old, when I never served
19 in 20 years of life, I never served--I'm not going to
20 serve it. I have five children from age 23 to 10. I
21 would never serve that, and then we have NYPD, we
22 have the liquor authority check out us. We never get
23 this like age eliminated [sic]. So, we want to work
24 with the City with age. I agree with 21. I agree
25 with about zero tobacco, which is okay with me, but

1
2 the five percent-- I how can five percent bring 50
3 percent to my income with that capacity. This mean I
4 have 70 percent capacity--five or six hookah. Which
5 one I got to serve? If I got 10 people which all come
6 in the weekend, so which one I got to serve? This
7 guy or that guy? I'm going to--but serving [sic] the
8 law, I mean, discrimination. Maybe I choose the guy
9 said because he's Egyptian or this guy because
10 American. Five percent is going to hurt our
11 business, which is already with the economy, I'm down
12 37 percent my business from last year. So, we're
13 down 30 percent. I have back taxes, 92,000 [sic] I
14 have to pay the IRS. How I can support five
15 children? Two of them in college. My daughter's got
16 to go to college next year, which [inaudible] last 20
17 years. Why? I mean, I feel like a harassing [sic],
18 it's just harassing us. Get a law [sic]. Get with
19 us. I spoke with the court with Mrs.--the Deputy
20 Commissioner with the Court. I explained, can we sit
21 with us, talk about the hookah. We can educate you
22 about hookah. We might--you know, about health, but
23 nobody know about hookah. I came from the hookah. I
24 came from Egypt. My father, my grandfather hookah
25 bar. A lot of people in my family, like I say,

1
2 cancer. Women have more breast cancer than smoking.
3 So, we want to work with the law, with the Health,
4 but we don't want to shut down. So, you know--

5 CHAIRPERSON JOHNSON: [interposing] Mr.
6 Bashir.

7 MOHAMAD BASHIR: Thank you.

8 CHAIRPERSON JOHNSON: No, thank you.
9 Where are your businesses located?

10 MOHAMAD BASHIR: I have one in Avenue A
11 and Seventh Street and one on 51st between Second and
12 Thirds, and I used to have in Stanway [sic] Street
13 2003, like hookah bars, which is all the time with
14 seven of us, and I have letter here from Mr. Bill
15 Vallone [sic] and the City that back then--it's only
16 seven of us in New York State, not New York City.
17 Cannot get a permit at that time. They said if
18 you're 10 percent income come from the tobacco and
19 you have a liquor license, you can't get the permit
20 [inaudible] store and good [sic] Karma [sic] and
21 First Avenue had until today. You have some of--
22 Karma, they have a license to serve tobacco and
23 hookah. So, we say we cannot sell at that time no
24 liquors. We can't. It's our culture. We wanted to
25 drink. It's a social thing. Like, we want to get

1
2 together smoke hookah. You know what? Either you
3 smoke hookah or not. Now, literally, I see people
4 buying hookah and they smoke in house. I have five
5 children. I cannot smoke in the house. So we create
6 more--you might cut down some problem, but to create
7 in the house people that smoke hookah, cultural, they
8 will smoke anywhere, in the house, in the car, in the
9 park when they went to a barbeque. So, we want to
10 work with the City, and we should have more meeting
11 with the City Council, with the Health Department.
12 How we can survive and cooperate with them?

13 CHAIRPERSON JOHNSON: Thank you very
14 much.

15 MOHAMAD BASHIR: Thank you, sir.

16 CHAIRPERSON JOHNSON: I appreciate you
17 being here and testifying and being patient, and
18 hopefully we can work together to figure this out
19 for, you know, so that it can work in a real way.

20 MOHAMAD BASHIR: Thank you.

21 ARIEL FERREIRA: Hello, my name is Ariel
22 Ferreira. I'm a small business consultant and
23 advocate based out of Northern Manhattan. I'm here
24 submitting this testimony and testifying on behalf of
25 40 business owners of either restaurants, bar or

1
2 nightclubs located in Northern Manhattan, many of
3 which are here and as well as in the overflow room
4 which couldn't enter this hearing. First of all, we
5 would like to the Committee Members for holding this
6 hearing and allowing us to voice our concerns in
7 regards to the following three bills, Intro 0139,
8 Intro 1075 and Intro 0617. The passing of these
9 bills will negatively affect the restaurants, bars
10 and nightclubs that currently provide hookah to their
11 patrons. As piggybacking on the Council Member
12 Reynoso, in regards to the business model, the
13 ability to provide hookah goes hand in hand with job
14 creation and business survival with many restaurants,
15 bars and nightclubs throughout the City of New York.
16 Please take note of the following two facts. The
17 establishments who provide hookah employ an average
18 of four to five people designated to serve hookah.
19 As I mentioned before, I'm representing 40
20 businesses. If these legislations take effect, we're
21 looking at job loss for 200 people just within these
22 40 establishments. Hookah sales also represent 20 to
23 30 percent of business revenues, which could
24 translate to approximately 10,000 to 20,000 dollars
25 in monthly sales for these restaurants, bars and

1
2 nightclubs. This has helped many of these
3 restaurants, bars and nightclubs stay in business
4 when combatting the rising and uncontrollable
5 commercial rents. Just to mention one example of
6 business I represent here today, when faced with
7 renewing their lease last year had a 10,000 dollar
8 increase in their monthly rent. Revenues from the
9 hookah sales prevented them from laying people off
10 and/or shutting down. One of the things that I would
11 talk about is some of the misperceptions of the
12 studies that have been discussed. Many of the
13 studies identify health risk factors based on the use
14 of tobacco, shisha and tobacco charcoal or the use of
15 non-tobacco, non-nicotine shisha and traditional
16 charcoal. The one real common problem amongst all of
17 these studies is that they talk about and identify
18 that the issue or the majority of the issue comes
19 directly from the traditional charcoal, which is the
20 creator of the carbon monoxide and the other toxins
21 that are created based on combustion. These studies
22 are not showing the true availability of other
23 products in the market that are safe. Currently, on
24 the market there are products such as natural coals
25 made of compressed coconut shells or recently

1 introduced e-bowls and e-charcoals which are electric
2 devices that can be mounted on any hookah, which
3 generates heat and vapor, avoiding the carbon
4 monoxide and creation of other toxics. According to
5 an article published in InsideScience.org, the
6 University of Cincinnati conducted a study on the use
7 of traditional charcoal versus the use of e-charcoal
8 and various shisha. Amberley Clutterbuck [sp?], the
9 leading scientist of the study, based on her results
10 suggest that hookah smoking may be safer than
11 traditional hookah tobacco when smoked with e-
12 charcoal depending on the shisha, because in her
13 experiment produced smoke with a high concentration
14 of tobacco was present only when used with charcoal,
15 traditional charcoal. This shows that there's
16 existing solutions to eliminate some of the concerns
17 of health risks related to the use of hookah in
18 restaurants. As far as Intro 1075 which restricts
19 use of non-tobacco shisha to a section of no greater
20 than five percent would create various problems for
21 businesses because it contradicts the other two
22 aforementioned bills. This will create opportunities
23 for inspectors to fine restaurants, bars and
24 nightclubs based on the other two Intros, 01--
25

1
2 CHAIRPERSON JOHNSON: [interposing] If
3 you--

4 ARIEL FERREIRA: 0139 and Intro 0617.

5 CHAIRPERSON JOHNSON: If you could wrap
6 your testimony up?

7 ARIEL FERREIRA: One last thing. The
8 second thing is that this five percent of the seating
9 capacity seems to be too small. For example, if you
10 have 20 seats within your restaurant, that would only
11 designate one seat for hookah smoking. So, it
12 generally creates it as very small. We are asking
13 the Committee to work together with small business
14 community and investigate and research other
15 alternative hookah products that are safer and be
16 inclusive of the small business community when
17 creating these decisions.

18 CHAIRPERSON JOHNSON: Thank you, and I
19 would just--before your testimony, sir, I would just
20 say that I think that after this hearing it's
21 important that you follow up with the bill's
22 sponsors, Council Member Rodriguez and Gentile, and
23 talk about the specific language in the bills before
24 us today. You may go, sir.

1
2 WALTER DROBENKO: Thank you. My name is
3 Walter Drobenko. I'm an attorney and I represent the
4 American Hookah Association, which is a compilation
5 of about 30 or 40 businesses in Queens, Astoria as
6 well as Manhattan. I just want to address some of
7 the additional comments that were made that seem to
8 be erroneous. First of all, in the background
9 information that was handed out there's indication or
10 information saying that hookah smoking is just as bad
11 as tobacco smoking. We all know that's not true.
12 That's a false statement, because we know nicotine is
13 a drug and nicotine is an addictive drug, and that's
14 why nicotine is dangerous. So there is a tremendous
15 sphere of differences between the two. I can see
16 that there is issues about the smoke and the
17 charcoal, however, that information is incorrect in
18 the background information. Also, there's
19 misinformation that the mouth pieces of the hookahs
20 get transported or passed around. That's not correct
21 how the industry works. The industry has their own
22 mouth pieces that they give out to each customer. I
23 support Antonio Reynoso's approach that it has to be
24 in touch with the businesses, and they have to get
25 more information and understand the hookah industry.

1
2 There was a lot of conversation about kids smoking
3 under 18. That's a parenting issue if you let your
4 child who's under 18 or 13 or 14, that was discussed,
5 if you let them go to a hookah bar that's a parenting
6 issue. That's not a business issue. The current law
7 is somebody has to be 18 or above to go in and smoke
8 hookah and non-tobacco shisha, and that's the way it
9 should stay. Because at the age of 18, an 18-year-
10 old can enroll in the Army, can be given a gun and
11 can be ordered to kill someone.

12 CHAIRPERSON JOHNSON: We have a small
13 business owner that said he supports raising it to
14 21.

15 WALTER DROBENKO: I understand that.
16 That's not rational, and also what's not rational is
17 the 50 percent limit that you're trying to set,
18 because when you had the Smoke-free Air Act
19 introduced in the beginning relating to tobacco bars,
20 it was a 10 percent ceiling. So, I think what has to
21 happen is that the Council has to meet with the
22 businessmen and let's talk about the proper language,
23 the proper percentages and whether it is necessary to
24 raise the age or not, because at the age of 18 you're
25 an adult. You have a free choice to walk into that

1 establishment or not to walk into that establishment.
2 You have a choice of whether to smoke shisha and you
3 know the ramifications of it, or you have a choice
4 not to smoke it. They're adults. They have the
5 right to make their own free decision. Thank you very
6 much.

7
8 CHAIRPERSON JOHNSON: Thank you very
9 much.

10 COUNCIL MEMBER GENTILE: Can I just ask
11 the business man at the end?

12 MOHAMAD BASHIR: Yes.

13 COUNCIL MEMBER GENTILE: Does your
14 business, is it more than half hookah?

15 MOHAMAD BASHIR: I really cannot say. I
16 have no idea exactly, because like some of the hookah
17 bars, whatever the computer [sic]. Like, the Man
18 Manhattan [sic], which is me, we have a computer
19 system, but there's a lot of business doesn't have.
20 It's only cash money.

21 COUNCIL MEMBER GENTILE: Okay, no I'm
22 asking about yours.

23 MOHAMAD BASHIR: Yeah, I cannot figure
24 out that. It's just--

1
2 COUNCIL MEMBER GENTILE: [interposing]
3 Okay.

4 MOHAMAD BASHIR: I was talking about the
5 capacity is five percent. It's really--shut down.
6 We're going to shut down.

7 COUNCIL MEMBER GENTILE: But if--under
8 one of the bills, if you--your business is more than
9 50 percent hookah, more than half hookah, if you
10 register with the Department of Health, you can stay
11 open.

12 MOHAMAD BAHSIR: Yeah, but that's why I
13 said you have to work it out. Like, people comes for
14 the hookah. They know it's a hookah bar, so they come
15 actually for the hookah, but three or four of them
16 just one hookah, you know, which is me. Like, they
17 come once every two weeks or three weeks, which is
18 less than [sic] of tobacco, but they order one hookah
19 and then they order drink and food. So, they come
20 because of hookah bar. [inaudible] hookah, they
21 don't come anymore.

22 COUNCIL MEMBER REYNOSO: Can I have one
23 question very quickly? Also, just the logic behind
24 limiting the hookah--the opportunities to smoke
25 hookah to five percent of the bar, but you have to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

make 50 percent of your sales on the five percent of the bar?

COUNCIL MEMBER GENTILE: I raised [sic] yeah.

COUNCIL MEMBER REYNOSO: Yeah, it's two different bills, but combined are contradictory is what I'm saying.

CHAIRPERSON JOHNSON: Well, we're having the hearing today.

COUNCIL MEMBER REYNOSO: Okay, okay.

CHAIRPERSON JOHNSON: That needs some-- this is not a final bill. There's going to be negotiation I think between the sponsors of the bills with each other I would hope as well as with advocates, business leaders, the Department of Health and Mental Hygiene. So this is a hearing on the issue, but I think for this to make sense we need to tweak this and ensure there's not conflict between the bills.

COUNCIL MEMBER REYNOSO: I appreciate your looking into that, Chair. I really do appreciate that.

1
2 MOHAMAD BASHIR: I agree with Mr.
3 Johnson, we should meet. Like I spoke with the
4 Health Department before.

5 CHAIRPERSON JOHNSON: You can meet with
6 the sponsor of the bills.

7 MOHAMAD BASHIR: Yeah.

8 CHAIRPERSON JOHNSON: They control the
9 legislation. I'm happy to have the hearing, and I'm
10 going to work with the sponsors of the bills, but
11 ultimately you have to talk to Council Member Gentile
12 and Council Member Rodriguez. It's their legislation
13 and they ultimately will control how and if it gets
14 amended. Thank you guys very much.

15 MOHAMAD BASHIR: Thank you.

16 WALTER DROBENKO: Thank you.

17 CHAIRPERSON JOHNSON: Okay, we're going
18 to have Doctor Michael Weitzman from NYU, Michael
19 Seilback from the American Lung Association, Deidre
20 Sully, and Karen Blumenfeld. Doctor Weitzman, you
21 may begin.

22 MICHAEL WEITZMAN: So, I'd like to begin
23 by saying that it's an honor and a privilege to be
24 here with you today, and I'd like to congratulate the
25 City Council for moving towards forming prudent

1 public policy for what I say is one of the most
2 pernicious and ubiquitous epidemics to confront the
3 City and the United States as well. Multiple federal
4 agencies say that hookahs have the potential to
5 eradicate the past 60 years of anti-tobacco
6 regulation and diminutions in the amount of smoking.
7 When you, Mr. Johnson, asked why have we been so slow
8 in dealing with non-tobacco issues, it's that it took
9 100 years of combatting the tobacco industry before
10 the Commissioner of the FDA coined the phrase that
11 cigarettes were a nicotine delivery system, and so
12 much of public policy has been focused on tobacco
13 whereas the truth is that there's no difference other
14 than nicotine, and nicotine is terrible there's no
15 question about it, but there are 7,000 other
16 chemicals that are combusted in non-tobacco smoked
17 vegetation, and at least 700 of those have been found
18 to cause cancer. So, it is an epidemic. We just
19 published a paper, and I'm proud to say that when the
20 Health Department makes reference to work that we've
21 done that I'm a member of that team. We've just
22 published a paper that shows that there are about 140
23 hookah bars in New York City, and that's very
24 conservative. So, if we talk about four employees
25

1 per hookah bar, and I think that that's an
2 underestimate, we're talking about 700-800
3 individuals. We've published the paper showing
4 profoundly deleterious effects on those people, not
5 to mention the quality of the air. This is a
6 secondhand and third-hand smoke issue. When Mr.
7 Vacca talks about he's having the right to be in a
8 car that doesn't smell from tobacco, that's called
9 third-hand tobacco. And so the leading cause of low
10 birth weight in the United States, the leading
11 preventable cause of Sudden Infant Death Syndrome,
12 which is the major cause of death in the second half
13 of the first year of life, the leading preventable
14 cause of ear infections, the leading preventable
15 cause of asthma is prenatal or secondhand smoke
16 exposure. So, I grew up right by Lafayette High
17 School in Brooklyn, and I was a baseball player, and
18 I think that the young man who spoke is great, but I
19 saw a beautiful young woman here who was
20 substantially younger whose affected by her parents
21 smoking in a hookah bar whether she goes to the bar
22 or not. I know that my time is almost up. There are
23 lots of homes that are above hookah bars, so we're
24 investigating the air quality in those homes. The
25

1
2 air quality in the hookah bars that we investigated--
3 first of all, every single one of them had nicotine,
4 so every single one of them was in violation of
5 current regulations, despite the fact that they
6 declared that they didn't use tobacco, but the
7 quality of the air, and this has been alluded to, far
8 exceeds in terms of pollutants and cancer-causing
9 agents and things that cause--that's the young woman
10 I was speaking about--cardiovascular disease, far
11 exceeds every federal regulation. But I'd like to
12 end by pointing out that aside from the fact that
13 secondhand smoke and third-hand smoke is the third
14 leading preventable cause of death in the United
15 States. In the developing world, living in homes
16 that have poor ventilation where you use charcoal or
17 wood to cook is one of the great public health
18 problems. The hookah bars that we investigated have
19 air quality that was far worse than those huts in the
20 developing world. So, I congratulate you and I
21 support the bills.

22 CHAIRPERSON JOHNSON: Thank you, Doctor
23 Weitzman. I think we're going to have some questions
24 for you. Whoever's next?

25 DEIDRE SULLY: Good morning. Thank you.

1
2 CHAIRPERSON JOHNSON: If you could just
3 pull the mic down. There you go.

4 DEIDRE SULLY: Can you hear me? Good
5 morning. Thank you, Council Member Johnson and
6 members of the Health Committee for the invitation
7 and opportunity for us to speak here today. My name
8 is Deidre Sully, and I'm the Deputy Director of NYC
9 Smoke-Free, a program of Public Health Solutions. My
10 colleague mentioned before that we work to protect
11 the health of New Yorkers through tobacco control
12 education, policy and advocacy. I'm here to speak
13 today in regards to Intro 139A. We, our position is
14 that it would create an oversight and regulatory
15 framework for hookah establishments and ensure
16 compliance of the Smoke-free Air Act which keeps
17 tobacco products away from kids, protects New
18 Yorkers, particularly in this case the workers who
19 are employed at hookah serving establishments. Being
20 exposed to hookah renormalizes smoking in general and
21 may discourage those trying to quit. We've heard a
22 lot of things earlier today, but for us, you know,
23 New York City has really achieved great successes
24 over the past decade and part of that is from
25 comprehensive approach to tobacco control. You know,

1 case in point, the Smoke-free Air Act, but when it
2 comes to hookah and non-tobacco smoking products it's
3 become a growing trend which is spreading among bars,
4 restaurants and lounges across the five boroughs.
5 There's a common misconception that smoking hookah is
6 safer and less dangerous and less addictive than
7 smoking cigarettes, but that can be further from the
8 truth as we've heard today that they can be just as
9 dangerous just from the way that people do smoke
10 hookah or when they're smoking water pipes. The
11 recent investigation conducted where we found that
12 over 100 percent of the locations surveyed were
13 actually where they claimed to serve non-tobacco,
14 they were actually serving tobacco shisha, which
15 means that they were illegally serving youth who were
16 under the age of 21, and also exposing everyone in
17 those establishments to secondhand smoke. We have to
18 protect New Yorkers from the adverse effects of
19 secondhand smoke exposure resulting from the
20 increased use of a trendy and under regulated product
21 that creates misconceptions of safety.

22
23 COUNCIL MEMBER GENTILE: Thank you.

24 MICHAEL SEILBACK: Good afternoon. My
25 name is Michael Seilback and I'm the Vice President

1
2 of Public Policy and Communications for the American
3 Lung Association of the Northeast. We want to start
4 off by saying that we think making baseball stadiums
5 completely tobacco free we're sending a strong
6 message to our youth that all tobacco is dangerous.
7 For these reasons we urge you to quickly pass Intro
8 1068. With regard to the suite of hookah bills being
9 considered, first and foremost, the American Lung
10 Association opposes all smoking in bars, restaurants
11 and workplaces. As our policy brief states,
12 "Exemptions for hookah bars should be closed in
13 existing laws when possible and not included in new
14 smoke-free workplace laws." Most of the hookah bills
15 being considered today would actually be creating a
16 new loophole in our existing smoke-free law. We do
17 not think this is sound policy for New York City
18 which has been a global leader on tobacco control.
19 We commend the efforts of the committee for
20 considering this legislation and many other pieces of
21 hookah legislation, but we believe that the elephant
22 will still be in the room if we pass some of these
23 bills. As the American Lung Association and our
24 public health partners continue to move forward to
25 protect workers and patrons from the harmful effects

1
2 of secondhand smoke, it's vital that we address the
3 health risks hookah use poses to youth and young
4 adults and completely close the loopholes. We do
5 support efforts to raise the age to tobacco for 21,
6 because we believe it'll restrict youth usage of
7 these products, and lastly, I'd like to echo that we
8 also urge the Council to consider other tobacco
9 products--sorry, other tobacco policies which will
10 prevent kids from starting to smoke and help smokers
11 quit. For example, taxing other tobacco products at
12 the same level as the City's tax on cigarettes,
13 reduce the amount of tobacco retailers that sell
14 tobacco products, including retailers near our
15 schools and places that deliver healthcare like
16 pharmacies, and ensure that the City's Department of
17 Health and Mental Hygiene sees its tobacco control
18 program funding restored so that it can continue
19 doing its important work and that they could reach
20 the disparate populations which haven't seen tobacco
21 use rates drop as much as the greater population has.
22 Thank you for your time and consideration.

23 CHAIRPERSON JOHNSON: Thank you, Michael.
24 Karen Blumenfeld?

25

1
2 KAREN BLUMENFELD: Good afternoon. My
3 name's Karen Blumenfeld. I'm Executive Director over
4 at Global Advisors on Smoke-Free Policy. We're a
5 nonprofit. Our mission is to promote tobacco-free
6 and nicotine-free living. We focus on emerging
7 trends and issues in tobacco control like hookah and
8 e-cigarettes and serve as a resource provider to
9 policy makers and the public at large. First, I'd
10 like to commend the Chairman and his fellow sponsors
11 on 1068. It sets an excellent example for young
12 people to follow and perhaps the ball players and the
13 public to quite smokeless tobacco as well. I also
14 applaud the Mets and the Yankees who are supporting
15 this initiative, and thinking positively, I'm looking
16 forward to perhaps a celebration on World No Tobacco
17 Day which is May 31st, and the Mets have a home game.
18 So, keep that in mind perhaps. Next, I'd like to
19 address the hookah bills starting with 139, which is
20 sponsored by Councilman Gentile and his colleagues.
21 This bill is very important for many reasons. It's
22 already been noted that it will institute a tracking
23 program for non-tobacco hookah bars and
24 establishments that the City's Health Department can
25 provide merchant education and ensure compliance. It

1
2 also will ban the opening of new non-tobacco hookah
3 bars and smoking establishments, which is key because
4 that will limit the accessibility of the product to
5 young adults who are using hookah at an alarming rate
6 already. We heard many statistics. A coupe more to
7 throw out there. A survey of 100,000 US college
8 students found that 30 percent smoked hookah, of
9 which half did not even smoke cigarettes, and for the
10 first time in history the CDC has said that hookah
11 tobacco use was higher than cigarette use amongst
12 high school students. Regulating existing non-
13 tobacco hookah bars also provides an education and
14 opportunity to educate the public on the
15 misperceptions and false sense of security when
16 smoking hookah. As was noted, in contrary to popular
17 belief, the water does not remove the toxins. The
18 flavorings actually reduce the sensation of harshness
19 when smoking, and we've heard previously about the
20 very high levels of carbon monoxide and benzene with
21 benzene being a known risk factor for leukemia.
22 Something that was touched upon that I want to just
23 put a little more emphasis on is that hookah smokers
24 are most likely unaware of the fact that partaking
25 can greatly increase their risk of contracting

1
2 communicable diseases. Hookah smoking as was noted
3 is usually a communal experience where multiple
4 people share one single water pipe, and even if
5 disposable mouth pieces and hoses are attached to the
6 apparatus, there currently is no requirement under
7 the City to sanitize or sterilize them between
8 sessions, and unfortunately the World Health
9 Organization estimates that 20 percent of TB cases in
10 the Middle East are due to shared hookah. So, not
11 sanitizing the apparatus between sessions in my mind
12 is the equivalent of being served clean utensils at a
13 restaurant but given a dirty dish. So, it's clearly
14 a public health concern that's not acceptable, and
15 perhaps in the enabling language of the 139 wherein
16 the City Health Department can promulgate rules and
17 regulations to develop a system that verifies sales
18 that could be made broader to include other issues as
19 well.

20 CHAIRPERSON JOHNSON: If you could--are
21 you done? No? Okay, if you could wrap up. Thank
22 you.

23 KAREN BLUMENFELD: Two seconds. Okay. I
24 want to commend the sponsor of 617 which would limit
25 the accessibility of retail sales of hookah products

1 to only hookah bars, retail stores and tobacco bars.
2 I heard testimony previously about giving the product
3 to a minor, so that may want to be amended to include
4 not only the sale of but the giving or furnishing of.
5 So that would perhaps close out that loophole. Also,
6 raising the age to 21 is a great idea since it's
7 already for other types of tobacco product that are
8 sold in New York City. And then last but not least
9 there's 1075. The issue with that for us is about
10 that it would allow for smoking five percent of a
11 restaurant, and clearly there's no separate sections
12 of the air. So, that creates a problem. There was
13 mention in there about signage posting, the warning
14 about entering. We do think signs are a good idea,
15 however, as long as it holds a business accountable
16 and that the sign doesn't waive a customer and
17 employee's right to future legal action if they
18 become sick or whatever other reasons they want. So,
19 thank you very much for allowing me a little extra
20 moments of time, and we do appreciate your efforts on
21 this.
22

23 CHAIRPERSON JOHNSON: Thank you, Karen.
24 Council Member Gentile?
25

1
2 COUNCIL MEMBER GENTILE: Thank you so
3 much and thank you all for waiting and coming in and
4 testifying. I appreciate it. Thank you so much.
5 Doctor Weitzman, I just want to begin with you. You
6 are a pediatrician, correct?

7 MICHAEL WEITZMAN: I am a pediatrician
8 who for 40 years has done research about tobacco.

9 COUNCIL MEMBER GENTILE: Just make sure
10 the mic is on.

11 MICHAEL WEITZMAN: I believe it's on.

12 COUNCIL MEMBER GENTILE: It's on, just
13 closer to you.

14 MICHAEL WEITZMAN: So I am a pediatrician
15 and public health researcher.

16 COUNCIL MEMBER GENTILE: I see. Okay.
17 So we've had a lot of talk about youngsters. What's
18 the level of your concern about the age of people, of
19 children going in to partake in smoke of hookah?

20 MICHAEL WEITZMAN: Well, we know that the
21 majority of smoking begins between the ages of 12 and
22 16 years. It's very hard to get somebody to start
23 smoking after the age of 20, and we know that
24 nicotine is the most addicting of all chemical, more
25 than cocaine or heroin. We also have great concerns

1 about underage drinking, right? In many of these
2 establishments there's not only the presence of
3 alcohol, but the requirement that somebody's whose
4 going to use the hookah purchase alcohol. So, it
5 encourages underage drinking. So, I have enormous
6 concerns. I also have enormous concerns as I tried to
7 mention before about bringing this home on your
8 clothing. We've all had the experience of being in a
9 hotel room and you can smell on your own clothing the
10 tobacco that was left before, and we probably have to
11 stop using the term tobacco. Tobacco merely is 17
12 plants that contains nicotine, but there's no
13 question that this is a youth problem. It's also a
14 youth problem not just in the uptake of smoking, but
15 as I've mentioned by the exposure to tobacco
16 products. There's also the issue that smoking is
17 very much a social activity, and that was mentioned
18 by Karen before. So, that if you see this as a
19 glamorous way of spending an evening, you're likely-
20 -any of you are welcome to go onto the web, and if
21 you're a vintage comparable to mine, you'll see
22 exactly the same sort of seduction of youth that was
23 used with cigarettes 30, 40 years ago before we
24 restricted that. So, that's a long answer to your
25

1
2 question about my concern about this is a youth
3 problem.

4 COUNCIL MEMBER GENTILE: So, I would
5 assume as a pediatrician and as a researcher you as
6 well as I would ask the rest of the panel all
7 support, and I think Mrs. Blumenfeld, you already
8 said it, you all support an age minimum imposed on
9 entering into a hookah bar?

10 MICHAEL WEITZMAN: Absolutely. May I
11 just go back to some other things? So, restricting
12 it to five percent, we've actually studied in the
13 Middle East homes where hookah is smoked and other
14 homes where cigarettes are smoked and homes where
15 nothing is smoked. In the rooms and hookah halls
16 where hookah is not smoked, the level of pollutants
17 is higher than in the rooms where cigarettes were
18 smoked in other homes. Did that make sense in what I
19 just said?

20 COUNCIL MEMBER GENTILE: No.

21 MICHAEL WEITZMAN: Okay, so the air is
22 continuous. So, if I smoke over here, within a short
23 period of time, somebody's who's pregnant sitting
24 over there is going to be exposed to the smoke.

25 COUNCIL MEMBER GENTILE: I see.

1
2 MICHAEL WEITZMAN: It's higher in rooms
3 where you don't smoke a hookah next to a room where
4 hookah's smoked than in a room where you actually
5 smoke cigarettes. Signage by the way and education
6 is profoundly important, but it needs to involve
7 pictures. It needs to build upon the truth campaign
8 from legacy. Scaring people, especially young
9 people, is not a way to get them to change their
10 behavior.

11 COUNCIL MEMBER GENTILE: So, let me ask
12 you what you just said about the migrating smoke.

13 MICHAEL WEITZMAN: Right.

14 COUNCIL MEMBER GENTILE: I presume then
15 the--one of the provisions was to have a five percent
16 area would be a concern to you?

17 MICHAEL WEITZMAN: That's problematic to
18 me, right.

19 COUNCIL MEMBER GENTILE: Let me ask you
20 then also to talk about the medical, the health
21 hazards of the chemicals that are burned in the
22 hookah smoking, particularly non-tobacco shisha, and
23 how--well, let's talk about that.

24 MICHAEL WEITZMAN: Well, again, like I
25 said, there are 7,000 chemicals, and 700 of them have

1
2 been shown to cause cancer, but there's also
3 emphysema. There's also exacerbations of asthma.
4 We've shown in the hookah bar workers, and again, I
5 need to point out to you that virtually all of our
6 smoke-free policies brew out of studies showing that
7 people who didn't smoke who worked in establishments
8 where people did smoke were harmed by that. So, you
9 have all these chemicals that have deleterious
10 effects. We've also shown, and I don't know if the
11 Health Department--I think they did not mention
12 inflammation. So, inflammation means that your
13 immune system is turned on. So, that's an alarm
14 system that something very wrong is happening, but
15 the immune system being turned on also has negative
16 effects as well. So, now people believe that
17 diabetes and heart disease in part is a consequence
18 of inflammation. There's no question. Even with a
19 small sample of hookah bar workers we were able to
20 show inflammation in virtually all of them.

21 COUNCIL MEMBER GENTILE: So, I read this
22 earlier this morning. I just want to read it again
23 and get your take on it. It's from the NIH Study,
24 National Institute of Health, and there it said,
25 "Results were unambiguous. While only the smoke from

1
2 the tobacco preparation contained a dependence
3 causing drug nicotine, smoke from both preparations
4 of tobacco and non-tobacco contain nearly equal
5 amounts of toxicants known to contribute to the risk
6 of tobacco caused cancer, cardiovascular disease and
7 lung disease. Accordingly, while using the non-
8 tobacco product presents no risk of nicotine
9 exposure, there is no reason to believe that inhaling
10 smoke from the non-tobacco preparation presents any
11 less disease risk than smoke from a tobacco
12 preparation."

13 MICHAEL WEITZMAN: Mr. Gentile, it's so
14 alarming how consistent the findings are from around
15 the world. Research means that you search and you
16 search again, and every place that look at this they
17 come up with similar sorts of findings. This is
18 really dangerous. Five packs of cigarettes? Five
19 packs of cigarettes? You're talking about a
20 generation that we're putting at profound risk.

21 COUNCIL MEMBER GENTILE: And when you say
22 five packs of cigarettes, you're talking about a
23 session?

24 MICHAEL WEITZMAN: That's one--that's one
25 session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER GENTILE: One session.

MICHAEL WEITZMAN: Right. And if you look at the explosion--it costs money to go to a hookah bar. So, for the first time it's middle class and upper class kids who are up taking this, and we've published on this, at higher rates than more economically disadvantaged kids. It's also the first time in the history of the United States. This is the first time that young women are smoking hookahs at higher rates than young men.

CHAIRPERSON JOHNSON: I have a question. So, why shouldn't we not just do an outright ban? Should we do an outright ban on hookah?

MICHAEL WEITZMAN: I think that that would be great.

[laughter]

MICHAEL WEITZMAN: I think it would be great.

CHAIRPERSON JOHNSON: Because--

MICHAEL WEITZMAN: [interposing] I'm profoundly supportive of what you're doing, but let's do it.

CHAIRPERSON JOHNSON: But just--and that is solely based on--you're talking about the science?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MICHAEL WEITZMAN: Sure.

CHAIRPERSON JOHNSON: That's what you're basing your position on.

MICHAEL WEITZMAN: The science and the concern about the health of the public. Science in the name of the health of the public.

CHAIRPERSON JOHNSON: Be research has showed as Council Member Gentile just pointed out and as you mentioned, Doctor Weitzman, that the health effects, both from direct consumption, from indirect exposure, from third-hand smoke as well, first, second, and third-hand smoke of hookah smoke regardless of it's tobacco or non-tobacco, the health effects are so deleterious both on individuals that are touched by it, by people who are pregnant, that they're that profound that we should not be encouraging this in any way whatsoever.

MICHAEL WEITZMAN: I wish that I was as accurate in my portrayal as you just were. Yes, I agree with everything that you just said.

CHAIRPERSON JOHNSON: Because I know that some of the--Mr. O'Flaherty who testified and Mr. Seilback and Ms. Blumenfeld and Deidre they all spoke about some of the concerns about not wanting us to

1
2 codify a potential loophole in the Smoke-free Air Act
3 that would allow this to continue to exist in some
4 way where exposure will continue where we said in
5 2003, I believe, we're not allowing smoking at any
6 type of establishment because we know what the
7 serious health effects are on other individuals. So,
8 that was the law at the time. I believe there were
9 some exceptions for cigar places, hookah places, but
10 the position that we're hearing today is that because
11 of the such profound serious and severe health
12 consequences of both direct and indirect exposure
13 that from a medical perspective, from a scientific
14 perspective, it's your position that we should do an
15 outright ban.

16 MICHAEL WEITZMAN: I would support that,
17 yes, sir.

18 CHAIRPERSON JOHNSON: I just want to hear
19 what your opinion is.

20 MICHAEL SEILBACK: Can I just--

21 CHAIRPERSON JOHNSON: [interposing]
22 Though, that's not what's in the bill before us
23 today, but I want to hear what people think on this.

24 MICHAEL SEILBACK: I just wanted to jump
25 in if you would--

1
2 CHAIRPERSON JOHNSON: Yes, Mr. Seilback.

3 MICHAEL SEILBACK: Sure, thanks. It's
4 important to know when the Smoke-free Air Act was
5 originally passed it was groundbreaking. It was, you
6 know, kind of led the way, but we've had a long time
7 since then. So, now in the south when states are
8 passing comprehensive smoke-free laws, they're
9 actually including banning hookah. You know, so this
10 isn't something that is, you know, New York City is
11 doing something you heard from Toronto, but forget
12 cities like ours. I mean, we're talking about places
13 that have fought comprehensive smoke-free laws for
14 over a decade, are now passing laws that include
15 banning use of things like this. So, I just want you
16 to understand that that is what comprehensive smoke-
17 free laws look like today.

18 COUNCIL MEMBER GENTILE: Just for the
19 record, though, the Lung Association did support the
20 Smoke-free Air Act in 2002, am I correct?

21 MICHAEL SEILBACK: Absolutely. And I
22 mean, you guys are doing a great job and continue to
23 do a great job, but when we're talking--if we're
24 going to move forward, we really should think about
25 how are we going to best protect the citizens of New

1
2 York, and this is, you know, from my perspective this
3 is a Health Committee and we're talking about health,
4 and so that's what we're hoping drives the decision
5 making.

6 CHAIRPERSON JOHNSON: Council Member
7 Reynoso?

8 COUNCIL MEMBER REYNOSO: So, just wanted
9 to ask a couple questions. While--and I supported
10 the Smoke-free Air Act and I think it was a great
11 thing to do by the way. I clearly understand the
12 health risks that are involved with hookah, and I
13 don't want anyone to think that we don't, and I think
14 the general public of hookah smokers know the harms
15 of it. I think you are saying that people think
16 they're safer because it's water. I just want to be
17 very clear with hookah smokers, it absolutely isn't
18 safe. It is a--it contains the carcinogen. It is
19 dangerous and just as dangerous and in some cases
20 even more dangerous. I support 100 percent educating
21 the general public on the dangers of hookah smoking,
22 absolutely do, but unlike cigarette smoking, where I
23 could have at one time walked into a bar to get a
24 beer, and a person could have just been smoking a
25 cigarette right next to me without me being--without

1 knowing I would just walk into that bar. That is
2 something I don't want to do, right? I don't want to
3 sit next to someone without knowing that there was
4 going to be someone smoking. A hookah bar is a whole
5 different--it's a actual bar for smoking, right? So,
6 the individual that goes into a hookah would be--
7 would either be unintelligent to think that when they
8 walk in there's no smoke, right? It's a hoo--it's a
9 smoke bar. It's a hookah bar. So, I just want to
10 make sure that--my thing is the business end of it
11 that I really want to get to. No one would ever sit
12 here and refute anything you're saying health-wise,
13 but the business end of it I think people are making
14 a conscious decision that they're harming themselves.
15 I would be--I think we have a sensible piece of
16 legislation in what Gentile's trying to propose that
17 we could work towards to get to a place where we're
18 holding people accountable. I also want to add, I
19 would like have Gentile add the cleanliness portion
20 of it, that you clean it afterwards, and that we
21 start regulating an industry that at this point is
22 not regulated. I think we have an opportunity to
23 make it right, but what--cigarette smoking was
24 happening in bars. People walked in that didn't want
25

1
2 to smoke cigarettes, right? They went to do
3 something else. In hookah bars, the intention is to
4 smoke hookah.

5 MICHAEL WEITZMAN: May I respond to that?

6 CHAIRPERSON JOHNSON: Yes.

7 MICHAEL WEITZMAN: Just two points. So,
8 first of all there are lots of people that go into
9 hookah bars not to smoke. They go with friends and
10 they don't smoke, and the other thing is that there
11 are countless studies showing that not just the
12 public, but that the medical profession is clueless.
13 We just published two months ago a study about the
14 nursing students and the medical students at one of
15 the great medical centers in the United States.
16 They're not only largely clueless, they're not being
17 instructed, and they go to the East Village with
18 regularity to use hookahs. They don't know. So,
19 this is--

20 COUNCIL MEMBER REYNOSO: [interposing]

21 So, we--an education campaign is absolutely
22 necessary.

23 MICHAEL WEITZMAN: Absolutely necessary.

24 COUNCIL MEMBER REYNOSO: And I want to
25 support an education campaign regarding hookah. I

1
2 will be supportive of that, but again I'm trying to
3 let you know that--and there's other establishments
4 in the City of New York that some people won't want
5 to go into for certain reasons that are very clearly
6 outlined, "This establishment does this. If you
7 don't want to see this or you don't want to do this,
8 don't walk into it." And I think that that's why I
9 think we can get to a place where we continue to
10 support these small businesses but also make sure
11 that people that don't want to suffer the
12 repercussions of, like, secondhand smoke or smoke,
13 don't walk into.

14 MICHAEL WEITZMAN: I have serious
15 concerns about the hookah bar workers themselves. I
16 understand that they're not getting--

17 COUNCIL MEMBER REYNOSO: [interposing]
18 They should sign a waiver that says you are fully
19 aware of the health risk that you're taking on if
20 you're at a hookah bar. I just--I'm trying to let
21 you know that so long as people are educated and
22 understand the risk that they're taking upon
23 themselves that they should absolutely be willing to
24 move forward with this. So, I agree with you. I'm
25 just saying that workers should sign waivers that

1
2 say, "Do you understand the risk of working at a
3 hookah bar?" And a document that shows it and have
4 the workers sign it.

5 MICHAEL SEILBACK: Councilman, when the
6 Smoke-free Air Act was passed it was protect smoke--
7 to protect workers, workers in these establishments,
8 and sometimes, you know, in an ideal world of course
9 every worker in these establishments would be able to
10 find another job that they're not being exposed to
11 secondhand smoke, but sometimes that's just not
12 possible. This is the job that they are able to get.

13 COUNCIL MEMBER REYNOSO: How many hookah
14 bars? You said 140 or you studied 140?

15 MICHAEL WEITZMAN: Well, that's what we
16 were able to find by Yelp, but again, you look up a
17 hookah bar or a lounge, you can't get to the
18 restaurants that use it as well. It's got to be a
19 much larger than we were able to get at.

20 CHAIRPERSON JOHNSON: We are not
21 typically ones here at the Council to directly debate
22 with each other during hearings on the floor of the
23 Council, and Antonio Reynoso is a great Council
24 Member. No, his district is lucky to have him and
25

1
2 he's a friend of mine, and we agree most of the time
3 on nearly everything.

4 COUNCIL MEMBER REYNOSO: Almost

5 CHAIRPERSON JOHNSON: And he has stood--
6 almost everything, and he has stood for workers'
7 rights in the past and he has been a strong supporter
8 of unions and the labor movement, and I would say
9 that we don't typically ask people in other
10 professions who are exposed or could be exposed to
11 serious health risks in their environment to walk in
12 and sign a waiver and say, "I may be exposed to a
13 potential risk, and I know that." We say we're going
14 to make sure that this workplace is as safe as
15 possible for you because you deserve that as a
16 worker. We want to protect you as a worker, and we
17 want to ensure that you are taken care of and not
18 exploited or disadvantaged in any way. I can tell you
19 that yesterday I got a report that there were three
20 housekeepers in my district at a particular location
21 who had to be taken to the hospital because they were
22 exposed to fumes in an establishment, and they got
23 very seriously sick from it and had to be rushed to
24 the hospital. Should those housekeepers had to have
25 sign a waiver before they went to work?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER REYNOSO: [interposing]

That's--

CHAIRPERSON JOHNSON: [interposing] And

I--

COUNCIL MEMBER REYNOSO: [interposing]

You're definitely taking something that I said in
complete--

CHAIRPERSON JOHNSON: [interposing] I'm

just saying--

COUNCIL MEMBER REYNOSO: completely

modifying it.

CHAIRPERSON JOHNSON: workers should be--

COUNCIL MEMBER REYNOSO: [interposing]

You're right that we very rarely argue on the floor.

CHAIRPERSON JOHNSON: We're not arguing.

COUNCIL MEMBER REYNOSO: But we don't

misrepresent our statements either. Like, I want to
be very clear.

CHAIRPERSON JOHNSON: Workers should be

protected.

COUNCIL MEMBER REYNOSO: I agree 100

percent.

CHAIRPERSON JOHNSON: Protected.

1
2 COUNCIL MEMBER REYNOSO: A hundred percent
3 agreed. I don't disagree with that, but you're
4 misrepresenting. The fumes from like hotel workers
5 that are doing something where we obviously know that
6 those effects are supposed to--not supposed to be
7 there. At this moment, it is legal that this
8 happens. So, one is illegal. Those fumes shouldn't
9 have been there, so those three workers wouldn't have
10 been affected. So, we should definitely hold the
11 people accountable that are hurting those, but at
12 this moment, unless we make it illegal, they're not
13 illegally putting these people at risk. They are
14 legally doing it, and we should have a conversation
15 about that, absolutely, but don't--

16 CHAIRPERSON JOHNSON: [interposing] But I
17 think the question is should it be legal. That's the
18 question.

19 COUNCIL MEMBER REYNOSO: Right, right,
20 and there--

21 CHAIRPERSON JOHNSON: [interposing] That's
22 the debate here.

23 COUNCIL MEMBER REYNOSO: I agree. Well, I
24 don't know that that's the debate. We're debating
25 two bills. None of the bills say we should outright

1
2 make hookah illegal. If we were having that debate,
3 then we could absolutely have that debate, but these
4 bills don't address any of those.

5 CHAIRPERSON JOHNSON: No, but it's part
6 of the conversation.

7 COUNCIL MEMBER REYNOSO: Part of the
8 conversation.

9 CHAIRPERSON JOHNSON: Yeah.

10 COUNCIL MEMBER REYNOSO: Just don't want
11 to be misrepresented especially when we're talking
12 about people that are being--

13 CHAIRPERSON JOHNSON: [interposing] I'm
14 not--I wasn't trying to misrep--I apologize. I
15 wasn't trying to misrepresent you. The point I was
16 trying to make is that I think that there are plenty
17 of people in New York City that we have to ensure
18 that they get--that they're protected, and some
19 things are currently allowed by law, which maybe
20 shouldn't' be allowed by law, and I think that's part
21 of the discussion that we have to have, because I
22 know that our shared aims and goals are to protect
23 workers to ensure that they're protected in every way
24 possible. So, I apologize if I was--

1
2 COUNCIL MEMBER REYNOSO: [interposing]
3 Agreed.

4 CHAIRPERSON JOHNSON: misrepresenting
5 you. I wasn't trying to do that.

6 COUNCIL MEMBER REYNOSO: Agreed.

7 COUNCIL MEMBER GENTILE: I just--thank
8 you, Mr. Chairman. I just want to follow up on a
9 comment that was made saying that people go into the
10 hookah bars, particularly the hookah bars knowing
11 what they're getting into when they go in. I want to
12 get your comment about that, and particularly Ms.
13 Blumenfeld, you had mentioned that in your written
14 testimony that the flavorings actually reduce
15 sensation of the harshness when smoking. So, could
16 it be that people are going in under the impression
17 that this is not harmful, it's safe, it's okay?

18 KAREN BLUMENFELD: Yes, and in fact,
19 there's a whole big issue of course now with flavored
20 tobacco products or non-tobacco smoked products and
21 how they attract youth and young people, and that
22 Doctor Weitzman mentioned about the social nature of
23 the hookah smoking. So, I do think that that is, you
24 know, of particular concern, and I think that since
25 there is so much discussion on this topic, that the

1 first panel which included the Legal Department, I
2 think that they made a really good point about permit
3 versus registration because a permit would allow for
4 enforcement, and so that might be something that
5 would be helpful down the road so that everybody's on
6 the same page with what needs to be done and what can
7 be done to enforce this. And Doctor Weitzman also
8 noted about the issue with secondhand smoke perhaps
9 migrating to apartment units or to neighboring
10 businesses. So, if there's going to be a
11 registration or a permit process that ensure that if
12 one is to get a permit or a registration that one
13 would be required to ensure that the secondhand smoke
14 does not enter into these other places, because
15 they're not asking for that. In the perfect world,
16 yes, it would make sense of obviously to ban hookah
17 smoking and we could see in Canada that five
18 Provinces and a whole bunch of states have done it
19 elsewhere. New York City when it did it's smoke-free
20 air law it did grandfather in like a limited number
21 of cigar bars based on a pre-dating of a
22 grandfathering, and I'm not exactly sure how many
23 there are, but there really only are a handful. Yes,
24 thank you. There really only are a handful of these,
25

1
2 and so that might be a way to approach this
3 particular topic as well. We did hear the comment
4 from Toronto about trying to narrow that gap with
5 regards to businesses trying to open up to get into
6 the deadline, versus those businesses that have been
7 in practice for, you know, decades perhaps. So, I do
8 appreciate the time to respond to your question.
9 Thank you.

10 COUNCIL MEMBER GENTILE: But when the
11 manufacturers of these products use names like Orange
12 Passion, Blueberry Blues or something like that, that
13 leads to--or it's misleading and leads to the
14 misconception that this is great. It's not tobacco,
15 or at least they don't think it's tobacco. It's not
16 tobacco, and it's Orange Passion, what could be bad
17 about that?

18 KAREN BLUMENFELD: Right, and that's--and
19 I believe that the city has a flavored tobacco
20 products law. So, it does cover flavored tobacco
21 products, I believe except in tobacco bars. So, that
22 might be something that the Council wants to look at,
23 you know, in the near future with regards to the
24 flavored non-tobacco shisha.

1
2 MICHAEL WEITZMAN: By the way, the
3 flavoring and the water makes it so much less harsh
4 that the amount that you get into your lungs when you
5 suck in through the hookah is 56 times what you can
6 do with a cigarette, each time you take a hit.

7 COUNCIL MEMBER GENTILE: And that's due
8 to the water and the flavoring?

9 MICHAEL WEITZMAN: That's what the
10 current thinking is, yes.

11 COUNCIL MEMBER GENTILE: Well, thank you.
12 I think we've learned a lot. Ms. Sully, did you want
13 to make comment?

14 DEIDRE SULLY: Just to follow up really
15 quick. Really for us it's about--thank you--when
16 used under the age of 21 can legally enter non-
17 tobacco smoking establishments that do provide hookah
18 products and services. It reinforces the idea of
19 safe smoking, and this helps to--this directly
20 contributes to all efforts made to de-normalize
21 tobacco use among teens, young adults and people who
22 are trying to quit. Thank you.

23 CHAIRPERSON JOHNSON: Thank you all very
24 much for your testimony. Okay, up next, Michael
25 Davoli from the American Cancer Action Network, Phil

1
2 Konigsberg from the Queens Tobacco Control Coalition,
3 and Josephine Beckmann from Community Board 10 in
4 Brooklyn. Great. Okay, you--who are we missing?
5 Phil--who did? Mr. Davoli had to leave, okay. You
6 may begin in whatever order you'd like.

7 JOSEPHINE BECKMANN: Thank you, Council
8 Member. My name is Josephine Beckmann and I'm the
9 District Manager of Community Board 10 in Brooklyn,
10 and I'm here to offer my appreciation on behalf of
11 the members of Community Board, especially our local
12 City Council Member Vincent Gentile for this
13 important legislation that's being reviewed here
14 today. I'm confident that the legislation discussed
15 here today will expand the health gains achieved by
16 protections that are included in the Smoke-free Air
17 Act. By way of background, members of Community
18 Board 10 first began working on concerns raised by
19 parents, merchants and residents following what
20 became a sudden increase in hookah lounges opening
21 within Community District 10 in 2010. Community
22 complaints covered three areas of concern including
23 health impacts from secondhand smoke, and these were
24 from residents who lived above hookah lounges with
25 small children, adolescent usage, improper

1 ventilation both by these tenants as well as
2 neighboring businesses and inadequate labeling of
3 shisha. CB10's Health Committee held several
4 meetings and their recommendations were supported by
5 the full board. Hookah smoking continues to be
6 popular fad in Bay-Ridge with over 25 hookah
7 establishments. Especially there are several night
8 spots that cater to adolescents. With great strides
9 that have been made in curtailing adolescent
10 cigarette use we at CB10 are deeply concerned about
11 young people beginning their lifetime of smoking at
12 these now unregulated hookah lounges. While we
13 support the registration and permitting components
14 discussed today, we remain very concerned about the
15 proliferation of these establishments without any
16 type of licensing in the district. We ask that you
17 consider including consistent age restrictions so
18 that the same laws prohibiting underage purchases of
19 cigarettes, e-cigarettes will apply to young people
20 seeking to smoking hookah in lounges or other
21 establishments, and this was first brought to our
22 attention at a CB10 hearing by the mother of a 14-
23 year-old who was on his way home from a baseball game
24 and the kids decided to duck into a hookah lounge and
25

1 ended up in the hospital. So we are deeply concerned
2 and appreciate your efforts on these bills. Thank
3 you.
4

5 CHAIRPERSON JOHNSON: Thank you, Ms.
6 Beckmann. Mr. Konigsberg?

7 PHIL KONIGSBERG: Okay, hi. Thank you.
8 My name is Phil Konigsberg and I'm with the Queens
9 Tobacco Control Coalition, a public health fellowship
10 funding by the CDC. I'm here this morning to speak
11 in support of Intros 139A, 67, 1076, and mostly 1068.
12 I have reservations about Intro 1075 as it reminds me
13 of the former Clean Indoor Air Act which permitted
14 smoking in bar areas of restaurants until the smoke-
15 free-- New York City Smoke-free Air Act finally
16 eliminated that provision. I've been doing this for
17 28 years now. With respect to Intro 10--139A it's
18 crucial that it be amended that the use of non-
19 tobacco shisha applied to users age 21 and above,
20 which coincides with the existing Tobacco 21 Bill
21 passed in 2013. Now, for 1068. It's time for the
22 City Council to stand up for health in the ballpark,
23 something that the Major League Players Association
24 refuses to do. Smokeless tobacco was banned from all
25 professional minor leagues, yet because of the

1
2 underlying Major League Players Association
3 Collective Bargaining Agreement continues to be an
4 acceptable part of our national pastime. One would
5 think that the 2014 senseless death of Hall of Famer
6 Tony Quinn [sp?] at the age of 54 due to cancer
7 attributed to chewing tobacco and former pitcher Kurt
8 Schilling [sp?] admitting his addition to smokeless
9 tobacco after being diagnosed with oral cancer he
10 attributes to chewing tobacco would finally purge
11 smokeless tobacco from baseball. Apparently not.
12 So, as was mentioned before, the cities of Los
13 Angeles, San Francisco and Boston have done that.
14 Its' time to not tobacco out of baseball for good in
15 New York. Needless to say, the tobacco industry does
16 not want Intro 1075 to be enacted and once again will
17 show their ironclad fist in a velvet glove--oh, boy--
18 some ways at this hearing.

19 CHAIRPERSON JOHNSON: You may continue.

20 PHIL KONIGSBERG: Thank you.

21 Incidentally, one of the carton [sic]-- and Chair
22 Johnson I believe you're a Met fan in what you were
23 saying before with the Yankees.

24 CHAIRPERSON JOHNSON: Sorry, Red Socks.
25

1
2 PHIL KONIGSBERG: Oh, well okay. I
3 misinterpreted your--

4 CHAIRPERSON JOHNSON: [interposing] But
5 the Mets before the Yankees, definitely.

6 PHIL KONIGSBERG: Well, okay. Well, then
7 here's for all the Met fans that are on the dais here
8 and in the audience. One of the current Major League
9 ball players who use smokeless tobacco is the Los
10 Angeles Dodgers' Chase Udley [sp?], whose illegal
11 slide broke the leg of New York Mets shortstop Ruben
12 Tjada [sp?] in last year's National League Playoffs.
13 Chase Udley will most likely serve a two-game
14 suspension at the start of the 2016 baseball season.
15 However, passing Intro 1075 will inflict a more
16 significant penalty on him by prohibiting him from
17 dipping while playing at Citi Field or Yankee Stadium
18 when the Dodgers play in New York this year. If I
19 get one more--since I mentioned Citi Field, I would
20 like to ask this committee to find out why the Mets
21 continue to maintain three designated smoking areas
22 at Citi Field as indicated on their website when the
23 ballpark is situated on New York City park land.
24 Since the New York City Smoke-free Air Act prohibits
25 smoking in all New York City parks with the exception

1
2 of parking lots and on sidewalks on the perimeter of
3 a park, I maintain the Mets are in violation of the
4 Smoke-free Air Act, and this practice should be
5 stopped before opening day. By the way, the Yankee
6 Stadium is 100 percent smoke-free venue as it should.
7 Thank you for extending the time.

8 CHAIRPERSON JOHNSON: Thank you very
9 much. Okay, up next--again, I apologize if I don't
10 pronounce your name correctly. I don't apologize if
11 you have bad handwriting. Aisha Morge [sp?],
12 Shamorgan [sp?], okay. Makmud Maktar [sp?]? Is Mr.
13 Maktar here? No? And P. Adem Carroll from the Nafis
14 Salaam Muslims against Smoking. Okay, and was there
15 anyone else that signed up to testify today who we
16 haven't gotten to yet? Everyone who wants to testify
17 has signed up? Is there anyone still on the 16th
18 floor? No? Going once, going twice, great.

19 Gentleman, thank you for being so patient. I really
20 appreciate it. Just make sure that the red light on
21 the mic is on and introduce yourself for the record.

22 AISHA MORGAN: Good afternoon everybody.
23 My name is Aisha Morgan [sp?]. I'm representing the
24 Muslim-American Society of New York. We oppose the
25 use of hookah in establishments within New York. We

1 find that the hookah is a severe health risk posed to
2 those who directly inhale shisha smoke and to those
3 who inhale it secondhand or third-hand in this case.
4 It has been found that the use of hookah results in
5 the intake of more toxic chemicals and harmful
6 substances including tar and carbon monoxide. That's
7 more than regular smoking cigarettes. In fact, the
8 same cancer causing chemicals found in cigarettes are
9 found in abundance in hookah. There is no reason why
10 hookah should not be included in New York City's
11 Smoke-Free Act. We formally grant our support to
12 Intro 139 by Council Member Vincent Gentile and
13 others of the Council. We would add hookah to the
14 SFAA. In addition, we are aware that an
15 investigation by DOHMH was brought to light. Many
16 hookah bars illegally mixing tobacco with shisha that
17 is smoked on their premises. Enforcement against
18 this is currently difficult due to extensive efforts
19 needed to prove that the compounds being smoked
20 include tobacco. The bill would also curtail the
21 expansion of this illegal activity. Since hookah
22 bars would have to be licensed then they would need
23 to comply much more with government inspections and
24 be less likely to add tobacco. Furthermore, we do
25

1 not see any act of discrimination against the Arab or
2 Middle Eastern culture. It is only a matter of
3 severe health issues posed by hookah smoking
4 inhalation to both Middle Eastern and others from
5 other backgrounds. It is for overall health
6 concerns, and I stress this. It's only about health.
7 It's not a matter of freedom. It's not a matter of
8 business. It's only about the health. Our culture,
9 our Islamic values prevents anything against the
10 health of any human. It is for all the health
11 concerns caused by hookah including that of added
12 tobacco that we emphatically urge you to support
13 Intro 139. Hookah is dangerous to people of all
14 backgrounds and need to be regulated like all other
15 forms of smoking. Thank you.

17 CHAIRPERSON JOHNSON: Thank you very
18 much, sir. Mr. Carroll?

19 ADEM CARROLL: Okay, yeah. I used to
20 direct a program called Nafis Salaam which was funded
21 by American Legacy Foundation to research smoking
22 rates and practices in the Muslim community which is
23 highly diverse, and as a Muslim-American I can attest
24 to the fact that Muslim-American Society and also
25 Ahmad Jaber and his colleagues are really at the top

1
2 of the Arab and Muslim communities in terms of
3 standing and knowledge. The community also has
4 Pakistanis, Bangladeshis. As you know, it's
5 extremely a growing and vibrant community. The
6 question of hookah use it's true is not--it's a
7 manufactured heritage. Yes, in the past you could go
8 to Aqaba, the Gulf of Aqaba. You could go to Cairo.
9 You could go to, you know, a small place in Istanbul.
10 You could find people smoking, but it was usually
11 older men. It was not a trendy thing. It was quite
12 small and limited, and there's a tradition of a man
13 in the Middle East not smoking in front of his
14 father. At various times it was actually illegal and
15 declared, you know, Harem by the religious
16 authorities. Now, of course, there's a new business
17 model, speaking of business models. It's being
18 marketed to young people, and it's amazing how fast
19 it has grown. When I came back from the Middle East,
20 Peace Corps abroad and various travels I noticed the
21 hookah places beginning always near colleges, and
22 then of course, the huge boom and the huge growth in
23 places like Steinway Street. I live near there in
24 Queens. At the time that I was doing my project
25 there were 33 hookah bars or cafes that had opened

1
2 mostly on one block. Imagine the secondhand smoke.
3 At one point I lived--well, I lived a couple blocks
4 from there. The guy beneath me in the floor below
5 started smoking hookah at home. I couldn't breathe.
6 So, I no longer go to a lot of restaurants that have
7 added hookah, and I just wanted to end maybe with
8 saying that a moratorium on new hookah places would
9 be highly advisable, and perhaps it could be linked
10 to advances in uses these e-charcoal technologies,
11 something to, you know, to help the business owners.
12 Yes, we feel for them, but as with gambling, as with
13 pornography and so forth, the state and society has
14 the right to regulate. So, thank you.

15 CHAIRPERSON JOHNSON: Thank you, Mr.
16 Carroll. So, Council Member Gentile, did you want to
17 say something?

18 COUNCIL MEMBER GENTILE: Yes, just
19 quickly. So, I would presume then, Mr. Carroll and
20 Mr. Morshem [sic], you both would approve of adding
21 to 139, the provision that's in 1075 that there would
22 be an age minimum for entry to any hookah bar that
23 still exists?

24 AISHA MORGAN: Absolutely.
25

1
2 ADEM CARROLL: Yes, yes. I just wanted
3 to add that, you know, Islamic leaders will without a
4 doubt either say that this smoking is forbidden or
5 that it's makru [sic] which means highly disliked.
6 Not that that covers everyone who smokes, but I just
7 wanted to add that that in fact though there are many
8 Muslim-Americans who do smoke, it's a very
9 controversial activity.

10 AISHA MORGAN: Also, adding to this very
11 quickly about the argument of if we're going to close
12 hookah bars, then we have to close regular bars. You
13 know, I personally, I would encourage changing the
14 term from "Don't drink and drive" to "Don't drink."
15 So, you know, anything against the health and the
16 human body we highly disqualify and we forbid. Thank
17 you.

18 CHAIRPERSON JOHNSON: Thank you both very
19 much for being here today. I want to thank everyone
20 for coming to this hearing. I want to thank Council
21 Member Gentile for his really incredible work and
22 advocacy on this. He's been one of the driving
23 forces, and Council Member Rodriguez for his bills as
24 well, and with that, this hearing is now adjourned.

25 [gavel]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMITTEE ON HEALTH

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 March 9, 2016