

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH

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April 27, 2017
Start: 10:17 a.m.
Recess: 3:46 p.m.

HELD AT: Council Chambers - City Hall

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.

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

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NYC Department of Health and Mental
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Robin Vitale
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Kevin O'Flaherty
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Enterprise Evaluation and Population
Health Analytics
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Representative
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Thomas Briant
Executive Director
National Association of Tobacco Outlets

Lawrence West
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Representative
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Adam Cheney
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Michael Seilback
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Patrick Kwan
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A P P E A R A N C E S (CONTINUED)

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Registered Nurse

Annette Spellen
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Ramon Murphy
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The Bodega Association of the United
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Jay Peltz
General Counsel and Vice President
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National Supermarket Association

Issam Hassan
The Newsroom

Josephine Beckman
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Community Board 10 Brooklyn

Ilana Knopf
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Regina Lee
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A P P E A R A N C E S (CONTINUED)

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

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Zaid Nagi
Business Owner and Board Member of
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Gregory Conley
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Eileen Miller
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Phyllis Goldstein
Resident of North Shore Towers and
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Stan Goldstein
Representing Self

Ian Poulos
Representative
Logic Technology Development LLC

Alex Clark
Executive Director
The Consumer Advocates for
Smoke-free Alternatives Association

Philip Roseman
Owner
The Five Ten Vape Shoppe

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

Lou Ruggeri
Representative
New York City Vapor Alliance

Igor Gromadskiy
Nextgen Vapeshop

Stewart Bowers
Vape Store Owner

[sound check]

CHAIRPERSON JOHNSON: Good morning

everyone. I'm Council Member Corey Johnson, Chair of the City Council's Committee on Health. I wanna welcome you to today's hearing on a package of bills related to smoking and tobacco.

The dangers of smoking are widely known; it causes cancer, increases the risk of heart disease and stroke and contributes to a wide array of other health problems. Despite these risks, the addictive nature of nicotine makes it incredibly difficult for a person to stop smoking once they have started. As a result, smoking is responsible for about 1 in 5 deaths annually or about 443,000 deaths per year in the United States, making it the leading cause of preventable death.

The best way to reduce smoking rate is by preventing young people from starting in the first place. Smoking rates among youth in New York City have declined precipitously over the last 15 years, but still remain too high.

Tobacco products that are not smoked, such as chewing tobacco, carry their own serious health risks. Youth use of tobacco products other

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2 than cigarettes has been rising in recent years,
3 perhaps because these products are less expensive
4 than cigarettes.

5 Progress in reducing smoking rates among
6 adults has slowed in recent years, making it clear
7 that we need to do more; New York City must be a
8 leader in tobacco controls.

9 Research shows that raising the price of
10 tobacco reduces consumption, particularly among young
11 people; that is why I introduced Introduction 1544
12 which would set minimum prices for tobacco products
13 that currently lack them, such as cigars, smokeless
14 tobacco and shisha, that contains tobacco; it would
15 establish a 10% tax on these products. This tax is
16 authorized by State Law which requires the revenue to
17 go towards public housing.

18 These bills would expand the Council's
19 past legislation setting a minimum price for
20 cigarettes and little cigars by granting the
21 Department of Health and Mental Hygiene authority to
22 raise these minimum prices in order to continue to
23 drive down rates of tobacco usage.

24 We are also hearing a bill by Council
25 Member Lander, Introduction 1547, which would cap the

1
2 number of tobacco retailers in the City at the
3 current number and not allow new businesses to sell
4 tobacco until the number of these retailers is half
5 of what it is today. There are currently almost
6 9,000 cigarette retailers in New York City, an
7 average of one every five blocks citywide. We don't
8 need this many tobacco retailers today, and as
9 tobacco use, is reduced will need even fewer in the
10 future.

11 Council Member Lander has another bill
12 being heard today, Introduction 1131, which would
13 prohibit the sale of tobacco at pharmacies, as CVS
14 has already done voluntarily. San Francisco has
15 taken these steps to reduce the number of tobacco
16 retailers and has seen great success in reducing
17 tobacco use rates.

18 Another bill that would affect retail
19 tobacco is Introduction 1471, which I introduced; it
20 would raise the retail cigarette dealer license fee.
21 A higher license fee would encourage stores to stop
22 selling cigarettes and help pay for enforcement
23 efforts against untaxed cigarettes and other illegal
24 activity.

1
2 Introduction 1532, by Council Member
3 Fernando Cabrera, would require retail dealers of
4 electronic cigarettes to be licensed, easing
5 enforcement of minimum age requirements for these
6 products.

7 We are also hearing a package of
8 amendments to the Smoke-Free Air Act relating to
9 smoke-free housing. These bills, by Council Members
10 Torres, Richards and Vacca, would prohibit smoking in
11 common areas of multiple dwellings and in affordable
12 housing projects that receive City funding in the
13 future, as well as requiring apartment buildings to
14 create smoking policies that are distributed annually
15 to tenants. Indoor smoking can be a nuisance for
16 neighboring tenants and these bills are to protect
17 tenants who do not want to worry about secondhand smoke
18 in their apartment. They would be building on new
19 federal policy that prohibits smoking in public
20 housing, including NYCHA buildings.

21 Council Member Cabrera introduced another
22 bill being heard today, Introduction 484 [sic], which
23 prohibits smoking in a car with a child under the age
24 of eight present in that car. Secondhand smoke is
25 not safe at any level, particularly for young

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2 children; eight states have enacted laws to protect
3 children in private vehicles from secondhand smoke.

4 And finally, we will be hearing an
5 updated version of Council Member Gentile's bill
6 relating to hookah establishments, Introduction 139.
7 This bill would prohibit new hookah bars from opening
8 while allowing existing businesses to continue to
9 operate under a strict new set of guidelines,
10 including fire code and ventilation requirements, a
11 new permitting system and a zero-tolerance policy for
12 serving tobacco products.

13 I wanna thank the sponsors of all of
14 these bills that we're hearing today for their
15 commitment to tackling these important health issues,
16 to the Department of Health and Mental Hygiene, Dr.
17 Mary Bassett, our Commissioner, who has been a great
18 partner with the Council on these pieces of
19 legislation, and I look forward to hearing from them
20 as well as advocates and others at today's hearing.

21 Before I finish up and turn it over to my
22 colleagues for statements on their legislation today,
23 I wanna just end with this; I think it's important to
24 be honest and I said this at the press conference
25 that the Mayor had last week about these bills. You

1 know I still struggle with my own nicotine use and I
2 think sitting up here and pretending like that's not
3 the case would be hypocritical; it's important for me
4 to be honest about that; it's not something that I'm
5 proud of; it's something that I struggle with; I have
6 struggled with it for a long time and I am someone
7 who has been clean and sober for nearly eight years
8 from alcohol and drugs, but quitting smoking has been
9 far harder than quitting and complete abstention from
10 alcohol and drugs, and I think that shows the power
11 of nicotine and for me, I think it's really important
12 to bring that personal story to this in knowing
13 personally what a difficult journey and struggle it
14 is to quite tobacco and nicotine use and how
15 challenging it is. New York City has been a leader
16 on this front; when we outlawed smoking in bars and
17 restaurants people said that it was gonna be really
18 horrible and I think if anyone talked about bringing
19 it back today there would be a revolt in New York
20 City to allow that. So we have to continue to be on
21 the cutting edge; hopefully these bills are gonna
22 help me personally moving forward and I look forward
23 to hearing from my colleagues and to working with the
24 Administration to see these bills moving forward.
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2 So I wanna turn it over to my colleagues
3 that have statements and I would like to start with
4 Council Member Fernando Cabrera.

5 COUNCIL MEMBER CABRERA: Thank you so
6 much for your leadership and I wanna thank also the
7 committee members for the opportunity to share with
8 you today. Thank you for this opportunity to hear
9 testimony on two bills that I believe will safeguard
10 the health of New Yorkers, especially children and
11 youth.

12 Intro 1140 and Intro 1532 are part of a
13 larger effort to completely eradicate smoking and
14 ease the burden of disease that results from this
15 practice.

16 Intro 1140 will prevent smoking in a car
17 when a child is present and will characterize [sic]
18 smoking in a vehicle with children under the age of
19 eight as a primary offense.

20 Intro 1532 will require licensing of
21 e-cigarette retail dealers and cap the number of
22 licenses issued. Currently 15 states and the
23 District of Columbia require a license to sell
24 e-cigarettes, which contain nicotine, an addictive
25 substance. The World Health Organization and the

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2 American Heart Association have recommended stricter
3 laws and regulations for e-cigarettes and the CDC and
4 the Surgeon General have found local licensing
5 programs to be highly effective in preventing
6 e-cigarette use by youth, who are more likely to
7 choose these than tobacco products.

8 I want to thank Theo **[inaudible]** and the
9 advocates who have come today to give testimony and
10 have supported this effort from the beginning. I
11 also wanna thank David Seitzer, Senior Legislative
12 Counsel and the staff for the work on this
13 legislation. Thank you so much.

14 CHAIRPERSON JOHNSON: Thank you, Council
15 Member Cabrera. We're gonna now go to Council Member
16 Gentile.

17 COUNCIL MEMBER GENTILE: Thank you, Chair
18 Johnson.

19 Good morning. My name is Council Member
20 Vincent Gentile; I'm the Council Member representing
21 the 43rd District in Brooklyn.

22 Since the passage of the groundbreaking
23 Smoke-Free Air Act in 2002, there has been an
24 enormous increase in the advent of hookah
25 establishments arising in neighborhoods all across

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2 New York City, with flavors like Pirate's Cave, White
3 Gummy Bear and Bluebonnet, hookah smoking has grown
4 in popularity; patrons of all ages, even young
5 teenagers, have flocked to hookah lounges for the
6 thrill of smoking what they perceived was a safe
7 smoke, but let me clear the air -- hookah smoke, even
8 non-tobacco shisha, is not a safe smoke. The common
9 misconception that because hookah is filtered through
10 water it must be safe is simply not true. Hookah
11 smokers inhale high levels of nicotine in the case of
12 if it's laced with tobacco, but otherwise, in any
13 case, carbon monoxide, tar and other hazardous
14 substances, including carcinogens associated with the
15 combustion of the charcoal in the hookah pipe. These
16 toxins can have detrimental health impacts, with
17 premature death in those with cardiovascular and lung
18 disease, heart attacks, decreased lung functions, and
19 possibly cancer. Moreover, these chemicals are
20 inhaled much deeper and for longer periods of time
21 compared to cigarette smoking. While a cigarette
22 smoke is several minutes in short puffs, a hookah
23 session can last 45 minutes and can draw a much
24 deeper inhaling of the lungs. So it is of no
25 surprise that according to the Center for Disease

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2 Control and Prevention, one hookah smoking session --
3 as you can see on the chart over there -- one hookah
4 smoking session is equivalent to 80-100 cigarettes.

5 Over the years, anecdotal and scientific
6 evidence suggests that the number of hookah lounges
7 has risen not just in my area of the city, but
8 citywide. Most troublesome is the fact that the
9 growth in popularity of hookah smoking has risen
10 through the years, with as many as 17% of 12th
11 graders reporting to have smoked hookah in the past
12 year.

13 In New York City, part of the reason for
14 all this is because hookah smoking is completely
15 unregulated. The **[inaudible]** Smoke-Free Air Act has
16 served the city well but it did not include hookah
17 smoke when it was passed in 2002, which means all the
18 bars and lounges serving hookah indoors operate
19 completely outside of the Smoke-Free Air Act. Seven
20 years ago I introduced a bill in the City Council
21 that looked to regulate the industry in light of the
22 health concerns and as a result of parents
23 complaining to me that their young 15- and 16-year-
24 old children were permitted to smoke in hookah
25 lounges. Since that time, the evidence has only

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2 mounted about the health dangers that even non-
3 tobacco shisha presents. An so when I reintroduced
4 this bill this session, the Speaker and Chair Johnson
5 were prepared to give it a hearing and the testimony
6 at that hearing last year propelled this new version.
7 Last year the Administration, along with many
8 advocates and stakeholders, testified in support of
9 the legislation, but the testimony compelled us to
10 make it even better. We sat back down, reviewed the
11 testimony, brainstormed collectively, and created the
12 most effective solution to combating the elephant in
13 the room -- the hookah-smoking surge amongst young
14 people in New York City, and that has resulted in
15 Intro 139-B.

16 This bill will add non-tobacco hookah
17 smoking to the Smoke-Free Air Act, a classification
18 that has long been overdue. This bill will for the
19 first time require the existing hookah establishments
20 to register with the Department of Health and Mental
21 Hygiene for a permit and will prohibit those ill-
22 intentioned proprietors from lacing shisha with
23 tobacco to make it even more addictive and more
24 dangerous than it already is. If caught doing so,
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2 these establishments will have their permits to
3 operate pulled by the Department of Health.

4 Intro 139-B will set a minimum age
5 requirement for entering into hookah lounges to 21, a
6 provision that was not in the previous version. This
7 age minimum is consistent with the age minimums of 21
8 years old to consumer alcohol and smoke cigarettes.

9 Intro 139-B will also mandate for the
10 first time that hookah equipment and paraphernalia be
11 clean and sterile. Too many communicable diseases
12 can be so easily spread with the sharing of a
13 mouthpiece or other paraphernalia.

14 Intro 139-B will also require that all
15 hookah lounges meet general Fire Code provisions to
16 ensure the fire safety of patrons. Fireproof drapes,
17 portable fire extinguishers and furnace ventilation
18 requirements for the heating of the charcoal are
19 proactive steps to eliminate potential future
20 tragedies.

21 Intro 139-B will also for the first time
22 require standardized ventilation systems to enhance
23 the air quality in hookah lounges. Caring for
24 employees, nonsmoking patrons and even upstairs
25 neighbors is a necessity because the effects of

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2 secondhand hookah smoke is just as dangerous as the
3 effects of secondhand cigarette smoke. The health of
4 employees was brought up at last year's hearing and
5 we worked together to close the loophole by requiring
6 protections against secondhand hookah smoke in the
7 lounge and working areas. This bill does allow
8 owners a three-year compliance period for what might
9 be a costly provision based on the footprint of a
10 particular establishment.

11 Finally, as an acknowledgement to owners,
12 who as small business entrepreneurs have invested
13 significantly into their business, Intro 139-B will
14 grandfather in hookah lounges that generate 50% or
15 more of their profit from the sale of shisha. The
16 concept is simple -- since business investment has
17 come long before government regulation in this area,
18 owners whose main source of revenue has come from the
19 sale of hookah can continue to serve nontobacco
20 shisha and we will not impose on them economic
21 hardship and shutdown. But let me be clear, the
22 evidence behind the health hazards of hookah smoking
23 is undeniable; as I said, it's been the elephant in
24 the room for far too long. Insisting that the status
25 quo of unregulated hookah smoking continues is simply

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2 willful avoidance of the issue with possibly
3 catastrophic results. Conversely, completely banning
4 the practice would be unfair to a small business
5 owner with a big investment and it would stymie the
6 individual liberty for those consumers who are
7 adults. With this bill we can protect the youth and
8 their health and prevent their introduction to the
9 concept of smoking while allowing adults to make a
10 conscious decision to smoke and allow small business
11 owners to remain in business under new and long
12 sought for strict regulations.

13 After all the years of patience and
14 persistence we have arrived at this moment with the
15 mission of creating a health and safety-oriented
16 regulatory system sensitive to all concerns, and I
17 believe Intro 139 has done just that.

18 I would like to thank the Speaker for her
19 support in these efforts; I wanna thank,
20 particularly, Chair Johnson for his leadership and
21 perseverance on this overlooked health issue; to my
22 colleagues in the Council, 28 of whom are sponsors on
23 this bill in addition to myself; to the Department of
24 Health for their partnership and input; to my
25 Legislative Director, Jonathan Shabshaikhes; and to

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2 Mr. Seitzer here for their good work in putting this
3 bill together, and there were many, many versions of
4 this bill; and to almost two dozen stakeholders who
5 have submitted letters of support or stood with us at
6 the news conference, including the New York Academy
7 of Medicine, the Americans for Nonsmokers' Rights
8 Foundation, the Arab American Association, the Muslim
9 American Association, the Moroccan American Council
10 to Empower Women, the American Council of Minority
11 Women, and thank you also to the countless
12 professors, doctors and specialists for your unique
13 insight into this issue, and also to the constituents
14 of mine who brought this issue to my attention seven
15 years ago.

16 Thank you, Mr. Chairman; as we said today
17 at the news conference, our message is that hookah
18 smoke is no joke.

19 CHAIRPERSON JOHNSON: Thank you, Council
20 Member Gentile. We're gonna go to Council Member
21 Lander.

22 COUNCIL MEMBER LANDER: Thank you very
23 much, Chair Johnson, thanks for your leadership on
24 this issue and for your honest opening statement,
25 which I think sets a very good tone for the hearing,

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2 and I also wanna say thank you to Dr. Bassett for
3 your leadership and helping me understand and see how
4 important this issue is. It's not every day here at
5 the City Council that we get to do something that
6 just demonstrably saves people's lives, but that's
7 what we're doing today in a very big way. If we
8 achieve our goal of reducing the number of New
9 Yorkers who smoke by 160,000 by 2020; we will save
10 something like 50,000 lives, and that is quite
11 extraordinary and I'm humbled to have the opportunity
12 to be a part of it and I'm grateful to all my
13 colleagues.

14 As the Chair mentioned, Intro 1131-A
15 would prohibit pharmacies, health institutions --
16 pharmacies -- from selling cigarettes and tobacco
17 products. Now this is just plain commonsense that if
18 you're marketing yourself as a health institution you
19 shouldn't be hooking our kids on things that will
20 kill them; it's pretty straightforward, and it's not
21 only us who thought that that's plain commonsense; in
22 1970 the American Pharmaceutical Association declared
23 cigarette displays to be in conflict with the public
24 health roll of pharmacies and recommended that
25 pharmacies stop selling tobacco. Until 2014, none of

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2 the major chains did -- now I wanna note that the
3 vast majority of independently owned pharmacies in
4 New York City, the vast majority, do not sell
5 cigarettes or tobacco products. And as the Chair
6 mentioned, and I wanna give them a big shout-out, in
7 2014 CVS stopped voluntarily -- taking the 1970
8 recommendation of the American Pharmaceutical
9 Association -- and it had great results, they
10 recently published a study that showed in the places
11 where they have a significant footprint that change
12 had a real impact -- a 1% decrease in the number of
13 the sale of cigarettes, and that's five fewer packs
14 per smoker, 95 million fewer packs overall, and one
15 encouraging thing also; a 4% increase in the sale of
16 nicotine patches in the same time and place as that.
17 So a real demonstrable impact; still leaving it
18 everywhere else, every other pharmacy and everywhere
19 else, and CVS is also still doing fine, so we are
20 highly confident that this bill will work; that it
21 will help people quit; that it will save lives and
22 reduce by about 550 the number of places in the city
23 where you can buy cigarettes and tobacco products.

24 And that goes along with my other bill in
25 this package, Intro 1547, which will gradually reduce

1 the number of retail dealer licenses for retailers of
2 tobacco products by 50% in each community district as
3 those licenses are given up, either as in the case of
4 pharmacies, because hopefully the other bill will
5 eliminate them, or as a store closes or through
6 enforcement loses their licenses, so that we would
7 ultimately wind up with half the number of places,
8 about 9,000 -- and you can see the map up here --
9 where retailers sell cigarettes. It is quite clear
10 that proximity and access lead especially young
11 people to smoke for the first time; there's one study
12 that suggests that young people are twice as likely
13 to start smoking when they have ready and available
14 access to retailers that sell cigarettes and tobacco
15 products, and we all just know this, especially in a
16 place like a New York City -- as the parent of two
17 teenagers -- we love that they meet with their
18 friends and hang out on the street corners, you know
19 near their bodegas and stores and pharmacies, but the
20 fact that that makes them more likely to wind up
21 starting smoking and get on a path to dying is
22 something we ought to do something about, so I'm
23 honored to be part of the package; I'm grateful for
24 everyone else's participation. Thank you.
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2 CHAIRPERSON JOHNSON: Thank you very
3 much. We're gonna go to Council Member Donovan
4 Richards.

5 COUNCIL MEMBER RICHARDS: Thank you
6 Chairman and thank you for your leadership on this
7 package of bills.

8 My name is Council Member Donovan
9 Richards and I am the prime sponsor of Intro 977.
10 This bill would ban smoking in multiple dwellings
11 that are part of City-financed housing. We are
12 looking at expanding on HUD's federal policy to ban
13 smoking in public housing to ensure that any New
14 Yorker who lives in a building financed by the City
15 can breathe clean, healthy air to prevent chronic
16 respiratory diseases and heart disease. However, the
17 goal of this rule is by no means to make people
18 homeless or to target low-income New Yorkers;
19 enforcement measures have to be incremental, leaving
20 enough time for every resident to comply with the
21 ban; tracking potential violations will help us
22 design such a procedure. We will also be able to
23 ensure that the ban is not used as a pretext to evict
24 vulnerable New Yorkers.

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2 From other cities' experiences, we can
3 see that the last resort is hardly ever used, as an
4 overwhelming majority of offenders finally comply
5 with policy after one or two warnings. The
6 possibility of an eviction is more a threat than
7 anything that really actually happens in other
8 cities.

9 I believe that this city has a
10 responsibility to ensure that a mother and her
11 newborn child can breathe clean air in the comfort of
12 their own home. I believe that our grade school
13 scholars should be able to do their homework at night
14 without the distraction of breathing in their
15 neighbor's secondhand smoke, and obviously I have a
16 little bit of experience in this matter. I believe
17 that we ought to protect our seniors who are aging
18 and have more vulnerable respiratory systems, rather
19 than permit someone to negatively affect the health
20 of their neighbors. The truth is, when one of our
21 neighbors chooses to smoke, everyone else in the
22 vicinity is susceptible to their fumes. Smoke-free
23 buildings are a luxury in New York City and I believe
24 that this luxury should be afforded to all New
25 Yorkers and not just simply some people who can shop

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2 around on the open market. And there are several
3 examples of buildings, such as Related -- I have
4 buildings going up in my district that are actually
5 smoke-free at the moment and all in the affordable
6 housing context.

7 The Mayor has set out to achieve an
8 ambitious goal of creating 200,000 units of quality
9 affordable housing and as much as I am an advocate
10 that these buildings be green, safe and affordable,
11 urge the Administration to demand that these tenants
12 and landlords are ensuring that residents can
13 actually breathe the cleanest and most fresh air
14 possible in their buildings, and this is one way of
15 doing it.

16 So I wanna thank you Chairman for your
17 leadership here and once again, clean air should not
18 be a luxury for some, but it should be a luxury for
19 all.

20 CHAIRPERSON JOHNSON: Thank you very
21 much. Now we're gonna go, lastly, to Council Member
22 Vacca.

23 COUNCIL MEMBER VACCA: Thank you, Mr.
24 Chair; members of this committee.
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2 My bill seeks to address secondhand
3 smoke. We do have the authority right now, in
4 buildings that are ten units or more, to enforce
5 regulations and legislation that prohibits smoking in
6 common areas, such as hallways and elevators and
7 staircase, but in buildings with less than ten units,
8 we do not have that legislative authority and that's
9 what my bill does.

10 I think that doing all we can to make
11 smoking more difficult is very important. Someone
12 stopped me the other day and said, "Boy, we're
13 reading about what the City Council is doing about
14 smoking; you're making it so difficult for me to
15 smoke." And I said, "Yes, yes we are. We value your
16 life," and that's what I told this person, "and we
17 value the life of other people that you're
18 affecting." And I want you to know that I remember
19 very well when Mayor Bloomberg and this Council
20 stopped the smoking in the bars and restaurants and
21 boy, some people thought it was the end of the world,
22 but you know what; for a lot of people it wasn't the
23 end of the world, it was a new life and it was an
24 extension on their lives, and we did the right thing.

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2 So I'm very conscious of this and it's a
3 major health issue and I think that my bill extends
4 that right that tenants have who live in housing not
5 to be influenced by others, and does it make it more
6 difficult for people to smoke? Yes, and it should
7 get more and more difficult. Thank you.

8 CHAIRPERSON JOHNSON: Thank you, Council
9 Member Vacca. Before I swear in the witnesses and
10 allow them to give testimony, I want to acknowledge
11 my Deputy Chief of Staff for Legislation, Louis
12 Cholden-Brown; the Committee Counsel, David Seitzer;
13 and the Committee Policy Analyst, Crystal Pond. And
14 with that, I'm gonna turn it over to folks from the
15 Administration, Commissioner Bassett and the Sheriff
16 and Amit from DCA. So before you begin, if you could
17 please raise your right hand. Do you affirm to tell
18 the truth, the whole truth and nothing but the truth
19 in your testimony before this committee and to
20 respond honestly to council member questions?

21 COMMISSIONER BASSETT: I so affirm.

22 CHAIRPERSON JOHNSON: Thank you very
23 much. You may begin.

24 COMMISSIONER BASSETT: Good morning,
25 Chairman Johnson and members of the Committee. I am

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2 Dr. Mary Bassett, Commissioner of the New York City
3 Department of Health and Mental Hygiene and I am
4 joined today by Amit Bagga, Deputy Commissioner for
5 External Affairs at the Department of Consumer
6 Affairs, and Sheriff Joe Fucito from the Department
7 of Finance.

8 The mission of the Department is to
9 improve the health of all New Yorkers and to reduce
10 health inequities. As Health Commissioner, I am the
11 City's doctor -- a role I take seriously. Among the
12 most important advice for a long, healthy life that I
13 can give my patients -- the residents of this great
14 city -- is to stop smoking and using tobacco
15 products. I am pleased to be here today to talk
16 about this important issue. Thank you for the
17 opportunity to testify on the suite of tobacco-
18 related bills currently before the Council for
19 consideration.

20 On April 19, I joined Mayor de Blasio,
21 Deputy Mayor Palacio, Chairman Johnson, Council
22 Members Lander and Cabrera to announce a whole series
23 of proposals that will help us reduce the number of
24 smokers by 160,000 over the next three years. The
25 five bills, all of which I'm pleased will be

1
2 discussed today, continue New York City's commitment
3 to tobacco control by raising the minimum prices for
4 all tobacco products, including cigarettes, and
5 imposing a new 10% local tax on other tobacco
6 products; reducing through attrition the number of
7 tobacco retailers citywide; creating a retail license
8 for e-cigarettes, and capping the number of
9 e-cigarette retailers; requiring all residential
10 buildings to create a smoking policy and disclose it
11 to both current and prospective tenants; and banning
12 the sale of tobacco products at pharmacies.

13 These bills will build on the work we
14 have done with the Council in recent years. Since
15 2002, New York City's adult smoking rate has dropped
16 by 33%, from 21.5% in 2002 to 14.3% in 2015, and the
17 youth smoking rate has dropped by 67% from 2001 to
18 2015, from 17.6% to 5.8%. These reductions will have
19 prevented 136,000 deaths in New York City by 2060.
20 But we can't rest on our accomplishments. More than
21 900,000 adult and 15,000 young New Yorkers smoke, and
22 an estimated 12,000 New Yorkers die from tobacco-
23 related illnesses each year. I would like to
24 acknowledge all of today's bill sponsors -- Chairman
25 Johnson, Council Members Lander, Cabrera, Torres,

1
2 Vacca, Gentile, and Richards -- and thank them for
3 addressing tobacco and e-cigarette use.

4 The first bill that I will discuss is
5 Intro 1544. This bill focuses on increasing the
6 price of both cigarettes and other tobacco products,
7 including cigars, smokeless tobacco and shisha. The
8 City has had a tax on cigarettes since 2002 and a
9 minimum price on cigarettes and little cigars since
10 2013, but it has never addressed the price of many
11 other tobacco products. All tobacco products are
12 inherently dangerous and contain nicotine, which is
13 addictive. Health impacts from tobacco use include
14 cancers, heart disease and lung disease.

15 The City's historical focus on reducing
16 cigarette smoking has been justified by the heavy
17 toll that cigarettes have had on the health of New
18 Yorkers, and we've made remarkable progress
19 decreasing smoking rates. However, consumption
20 patterns and the market for tobacco products are
21 changing. A greater proportion of our City's youth
22 is using other tobacco products, such as cigars,
23 including little cigars and cigarillos, and smokeless
24 tobacco. In 2015, 5.8% of youth were smoking
25 cigarettes while 5.7% were smoking cigars and 3.3%

1
2 were using smokeless tobacco. In addition, between
3 2008 and 2014, the percentage of middle school
4 students in New York City who had ever smoked hookah
5 increased from 2.9% to 8.5%. In 2014, 16.1% of high
6 school students reported that they had ever smoked
7 hookah.

8 Raising the price of tobacco products
9 through taxes and minimum prices is the single most
10 effective way to decrease consumption and encourage
11 tobacco users to quit. Studies have shown that
12 raising the price of tobacco decreases youth
13 initiation, encourages tobacco users to quit and
14 reduces consumption among those who do not quit.
15 Since youth are particularly sensitive to price
16 increases, measures that raise the price of tobacco
17 products are an effective strategy for reducing the
18 use among this vulnerable population. Intro 1544
19 would increase the minimum price for cigarettes from
20 \$10.50 to \$13.00 per pack. It is projected to lead
21 to a 6.4% decline in adult cigarette smoking, or
22 28,000 fewer adult smokers. Among youth we project
23 that there would be a 10% decline in cigarette
24 smoking, which would lead to 1,000 fewer youth
25 smokers. With a minimum price of \$13.00 a pack, New

1
2 York City would once again claim the distinction of
3 having the most expensive cigarettes in the nation.

4 Intro 1544 also sets a minimum price for various
5 tobacco product categories, including smokeless
6 tobacco, loose tobacco and shisha, and would be the
7 first minimum price of its kind in the country for
8 these products. In addition, the bill would increase
9 the existing minimum price for little cigars from
10 \$10.50 to \$13.00 a pack.

11 Finally, a State Public Housing Law from
12 1939 authorizes the City to impose a tax on other
13 tobacco products. Any revenue generated from the tax
14 is required by law to support public housing. The
15 tax would be set at 10% of the minimum price for each
16 non-cigarette tobacco product category and is
17 estimated to produce revenue of \$1 million annually.
18 We project the price increases will reduce cigar
19 prevalence among youth by 10.5%, or 1,700 fewer cigar
20 users. The smokeless tobacco prevalence among youth
21 is projected to decrease by at least 23%, or 1,800
22 fewer users.

23 We must use every tool available to us to
24 raise the price of these deadly products, especially
25 since the State has not raised the cigarette tax

1
2 since 2010 and has not allowed New York City to raise
3 its local tax on cigarettes since 2002. We strongly
4 support this bill and thank Chairman Johnson for
5 introducing this needed price of legislation.

6 Now I will turn to Intro 1547. This bill
7 updates the City's license for selling tobacco
8 products in several important ways that, taken
9 together, restrict access to tobacco. First, it
10 acknowledges that to respond to changes in tobacco
11 use, we need a license that applies to all tobacco
12 products -- not just to cigarettes. Tobacco products
13 other than cigarettes have become increasingly
14 popular among youth in recent years. To properly
15 regulate these products, a license update to include
16 all tobacco products is necessary.

17 Second, the bill establishes a process
18 for reducing the number of licenses to sell these
19 products over time. The City has a high level of
20 tobacco retail density, which you can see on the map
21 that we have up behind me, with approximately now
22 8,200 licensed cigarette retailers. Studies show
23 that easy access to tobacco retailers makes it harder
24 for smokers to quit. In addition, youth who visit
25 retail stores that sell tobacco every week are twice

1 as likely to try smoking as other youth. The bill
2 will cap the number of tobacco retailer licenses in
3 each community district at 50% of the current number
4 of licenses. No new licenses would be issued for
5 that community district until the number of licenses
6 falls below the 50% level. Based on estimates by the
7 Health Department and the Department of Consumer
8 Affairs, in ten years the bill may reduce the number
9 of tobacco retailers by up to 40%. And the map that
10 I brought today illustrates what would happen in one
11 neighborhood -- East Harlem -- over time, and you can
12 see that this will lead to a dramatic difference in
13 tobacco retail density. Current tobacco retailers
14 are allowed to keep their license indefinitely unless
15 those licenses are revoked for selling cigarettes to
16 minors or committing other violations. And the
17 person who buys ownership of a business with a
18 current tobacco license will be able to apply for
19 that license if the business has been in good
20 standing with the law for three consecutive years.
21 For these reasons, we strong support the passage of
22 this bill and thank Council Member Lander for
23 sponsoring this critical legislation.
24

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2 We also enthusiastically support
3 Intro 1131-A, Council Member Lander's bill that
4 prohibit pharmacies from selling cigarettes and once
5 the cigarette license is updated, prevent them from
6 selling any other tobacco products. Selling
7 cigarettes and other forms of tobacco alongside
8 health products runs counter to a pharmacist's
9 mission, and the vast majority of independent
10 pharmacies do not offer tobacco products. CVS
11 stopped selling tobacco in 2014; we join the Council
12 Members in commending them for making that choice.
13 More than 80 jurisdictions have banned pharmacies
14 from selling tobacco products and e-cigarettes,
15 including San Francisco and Boston, and I'm excited
16 for New York City to join that list. It's important
17 to note that the number of chain pharmacies in San
18 Francisco has tripled since their pharmacy ban took
19 effect in 2008, demonstrating that stores can thrive
20 without tobacco sales.

21 Together, these two bills will greatly
22 reduce the number of tobacco retailers over time,
23 reducing tobacco use and improving health outcomes.

24 Next I want to discuss Intro 1532, which
25 creates a separate license for selling electronic

1 cigarettes. Despite being on the market for fewer
2 than ten years, e-cigarettes were used by 15.9% of
3 New York City high school students in 2015, and
4 e-cigarette use is now more than twice as common
5 among youth as cigarette use. The increasing
6 popularity of e-cigarettes shows the importance of
7 this bill. Current e-cigarette retailers -- except
8 for pharmacies -- will have the opportunity to apply
9 for the new license during an open enrollment period.
10 After the open enrollment period expires, no new
11 licenses will be issued. Pharmacies will be
12 prohibited from selling these products. Fourteen
13 states and the District of Columbia have passed laws
14 requiring e-cigarette retailers and vape shops to
15 obtain either a license or a permit to do business,
16 and it is time New York City does the same. By
17 blocking any future growth of the e-cigarette
18 retailers, New York City will have the most
19 protective policy in the country.

21 Although e-cigarettes do not contain
22 tobacco, these products typically contain nicotine,
23 which is addictive, as well as potentially harmful
24 chemicals that should be studied further to determine
25 their cumulative health effects over time. Moreover,

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2 there is emerging evidence that youth who use
3 e-cigarettes are more likely to try cigarettes. For
4 example, one study showed that youth non-smokers who
5 used e-cigarettes were more than four times as likely
6 to report having smoked one year later than non-
7 smokers who did not use e-cigarettes. There is
8 insufficient evidence that e-cigarettes are an
9 effective way to quit smoking, and in fact, Big
10 Tobacco is heavily invested in e-cigarettes. Many
11 e-cigarette companies use the same marketing
12 strategies that were once used to sell cigarettes as
13 glamorous products, not cessation devices, while also
14 appealing to youth with flavors like Sour Dream and
15 Bazooka. I brought some of these products along
16 today -- this is Sour Dream e-cigarette and this is
17 Sour Patch, the candy. As you can see from the
18 packaging, there's a clear effort to associate
19 e-cigarettes with other use-oriented products and
20 this candy, these addictive products. For these
21 reasons, we thank Council Member Cabrera for this
22 piece of legislation and we urge the Council to
23 approve this bill.

24 The next bill I would like to address is
25 Intro 1585. This bill will empower individuals to

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2 make informed decisions about where to live, and it
3 may encourage more buildings to adopt smoke-free
4 policies. There is no safe level of exposure to
5 secondhand smoke, and there is increasing evidence of
6 risks from even low levels of smoking exposure. Air
7 monitoring studies confirm that smoke commonly
8 travels through the building from a smoker's
9 apartment into other apartments. Adult non-smokers
10 exposed to secondhand smoke have higher risks of
11 stroke, heart disease and lung cancer. Children
12 exposed to secondhand smoke have higher risks of
13 asthma attacks, respiratory illnesses, middle ear
14 disease and Sudden Infant Death Syndrome.

15 Secondhand smoke infiltration in City
16 residences is a common basis for complaints to 311,
17 and more than one-third of adults report smelling
18 cigarette smoke in their home that comes from other
19 residences. Smelling secondhand smoke at home is
20 more likely to afflict low-income New Yorkers than
21 high-income New Yorkers, and those with children in
22 the home than those without.

23 This bill requires all multi-unit
24 residences in the City to choose a policy on smoking
25 and to disclose that policy to the building's tenants

1 on an annual basis. In addition, prospective tenants
2 must receive a copy of the policy on smoking before
3 signing a lease or agreeing to buy an apartment.

4 This bill would inform tenants of rental, cooperative
5 and condominium units where smoking is permitted and
6 where it is prohibited in a particular building.

7 Since the U.S. Department of Housing and Urban
8 Development (HUD) recently issues a rule that will
9 require public housing authorities nationwide,
10 including NYCHA, to adopt smoke-free policies by mid-
11 2018, we believe the time is right to empower all New
12 Yorkers with the information that will enable them to
13 find smoke-free housing. Thank you Council Member
14 Torres for sponsoring this important piece of
15 legislation.
16

17 Finally, I will briefly address the other
18 bills on the agenda today. Intro 1471, sponsored by
19 Chairman Johnson, would increase the cigarette retail
20 license fee to \$340, equal to the cost of the
21 proposed e-cigarette retail license fee. We support
22 increasing the license fee. Intro 484, sponsored by
23 Council Member Vacca, would extend the smoking ban in
24 the Smoke-Free Air Act to common areas of multiple-
25 dwelling buildings with three or more units. We

1 support the extension of the Smoke-Free Air Act to
2 include these buildings. Intro 139-A, sponsored by
3 Council Member Gentile, would cover non-tobacco
4 shisha smoking under the Smoke-Free Air Act and allow
5 certain hookah establishments to continue to operate.
6 This bill was originally heard last year. We
7 appreciate the Council tackling the important issue
8 of hookah use, and this proposal represents important
9 progress in regulating these establishments. We also
10 appreciate the Fire Code language which has been
11 added to address the concerns raised by the
12 Administration.
13

14 The next two bills -- Intros 977 and 1140
15 -- are more complicated. Intro 977, sponsored by
16 Council Member Richards, would ban smoking in all
17 housing owned and operated by NYCHA as well as
18 housing financed by the City. As mentioned above,
19 HUD announced that it will ban smoking in all public
20 housing, including NYCHA, but this bill would go
21 further; we don't believe that it's fair for New York
22 City to ban smoking only in subsidized housing for
23 low-income New Yorkers, and we think that there may
24 be legal issues in doing so. We support the concept
25 of smoke-free housing and would welcome more

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2 discussion about how to overcome legal and policy
3 concerns. Similarly, we have questions about
4 Intro 1140, which is sponsored by Council Member
5 Cabrera, and would ban smoking and vaping in vehicles
6 carrying children under the age of eight. While we
7 certainly don't want anyone to smoke or vape near
8 children, it's not clear how this bill would be
9 enforced or if the age limit is appropriate to ensure
10 public health benefits. We look forward to talking
11 with the Council further about this bill.

12 Policies that reduce the availability of
13 tobacco and reduce New Yorkers' exposure to
14 secondhand smoke will have positive health impact,
15 and I thank the Council for introducing these
16 important pieces of legislation. The package of
17 bills that I discussed today will put New York City
18 at the forefront of tobacco control nationally, and
19 I'm very excited to work with the Council on this
20 critical public health issue.

21 I Thank you for the opportunity to
22 testify, and we will be happy to answer questions,
23 after hearing from my fellow commissioner here.

24 CHAIRPERSON JOHNSON: So before DCA goes,
25 I want to acknowledge the Council Members that are

1 here today. The folks that are here are: Council
2 Member Mendez, who is a member of this Committee;
3 Council Member Eugene, a member of this Committee;
4 Council Members Koo, Vacca, Van Bramer, Cornegy, and
5 Espinal, all members of this Committee, and then all
6 the folks that we heard from who aren't members of
7 the Committee, but whose bills are being heard today.
8 With that, I turn it back over to the Administration.
9

10 DEPUTY COMMISSIONER BAGGA: Thank you so
11 much, Chairman Johnson, and thank you, Dr. Bassett,
12 for your leadership.

13 Good morning, Chairman Johnson and
14 members of the Committee, as well as bill sponsors.
15 My name is Amit S. Bagga and I am the Deputy
16 Commissioner for External Affairs at the New York
17 City Department of Consumer Affairs (DCA). I am
18 joined today by several of my colleagues from our
19 agency, who will be happy to help me answer any
20 questions you might have after we've delivered
21 testimony. We are pleased to be here today to
22 support this package of legislation, which would
23 prohibit pharmacies from selling tobacco products,
24 expand the scope of the existing cigarette retail
25 dealer license, create a new licensing category for

1
2 the sale of electronic cigarettes, increase and
3 establish price floors for cigarettes and other
4 tobacco products, and establish a system by which the
5 number of tobacco retail dealer licenses can be
6 reduced over time.

7 I should note that in Council Member
8 Johnson's district there are approximately 480
9 current licensees, so that's 480 separate places
10 where you can buy cigarettes; in Council Member
11 Lander's district there are 250, and in Council
12 Member Espinal's district -- Council Member Espinal
13 being the chair of our committee -- there are
14 approximately 220.

15 As our colleagues from the Health
16 Department have shared, the Administration believes
17 that too many New Yorkers are still smokers, and for
18 the sake of their health, as well as the public
19 health of the entire City, it is critical that we
20 take action to reduce tobacco use. We thank the
21 Council for prioritizing this issue and look forward
22 to working closely together on finalizing this
23 legislative package, one that is strongly supported
24 by both the Mayor as well as the First Lady.
25

1
2 I will begin my testimony today by
3 offering a brief overview of DCA's mission and
4 licensing work. DCA's mission is to protect and
5 enhance the daily economic lives of New Yorkers to
6 create thriving communities. DCA enforces a variety
7 of license laws across 80,000 businesses in 57
8 different categories of industries, as well as the
9 City's Consumer Protection Law and certain State
10 general business laws, as well as local workplace
11 laws.

12 There are currently more than 8,000
13 licensed cigarette retail dealers across the five
14 boroughs. DCA licenses businesses that sell
15 cigarettes directly to the public, and every location
16 of any given business must obtain its own license;
17 meaning, for example, that every different type of
18 Duane Reade or Rite Aid has its own license. The
19 application process includes a basic license
20 application, documentation relevant to that
21 particular business's legal structure, and copies of
22 the business's registration with the New York State
23 Department of Taxation and Finance. DCA also often
24 reviews applications to determine their overall
25 veracity. In many instances, cigarette retail

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2 dealers who have received violations on multiple
3 occasions, who are also aware that recidivist
4 penalties are higher and could leader to license
5 revocation, sell the ownership of their business as a
6 way of avoiding enforcement. Through our existing
7 process, we often attempt to identify whether or not
8 this has been the case when a new applicant is
9 applying for a license at a physical location where a
10 different business previously held a license.

11 Licenses are renewed every two years on a
12 staggered basis; licenses with even-numbered license
13 numbers expiring on December 31 of even years and
14 licenses with odd-numbered license numbers expire on
15 December 31 of odd years. Staggering renewals in
16 this way allows our licensing staff the ability to
17 better manage the high volume of renewal
18 applications.

19 We note that Intro 1471 -- Council Member
20 Johnson's bill -- would increase the cost of the new
21 tobacco retail license fee from \$110 to \$340, which,
22 of course, we support. We should like to note that
23 our internal analysis has yielded that the likely
24 cost of administering this license will be between
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2 \$400 and \$500. We will gladly share our final
3 analysis with the Council when it is complete.

4 Additionally, we seek to work with the
5 Council and our sister agencies to standardize
6 certain license requirements laid out in Intro 1547.
7 certain new requirements posed by this bill, which
8 DCA strongly supports, would ensure that the practice
9 of sometimes selling a business for the sake of
10 avoiding license revocation when one has received
11 multiple violations would become more difficult.
12 This critical update to the existing law only
13 currently applies to a certain subset of businesses
14 in the bill; for the sake of consistency and ease of
15 compliance, as well as enforcement, we would
16 recommend it apply to a larger universe of
17 businesses. I will now provide a brief overview of
18 our enforcement efforts.

19 Given the City's commitment to reducing
20 tobacco use and ensuring compliance with the law, DCA
21 is proud to partner with the Departments of Health
22 and Finance to enforce our tobacco laws. We, DCA,
23 inspect for unlicensed activity, the sale of
24 cigarettes and liquid nicotine to anyone under the
25 age of 21, the sale of cigarettes to anyone under the

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2 age of 18, the possession or sale of flavored
3 tobacco, and for the provision of unlawful discounts.
4 We also inspect businesses to ensure that they are
5 not selling tobacco products below the legal price
6 floor, and that cigarettes and cigars are being sold
7 in a manner that complies with the minimum package
8 requirements. Cigarettes are required to be sold in
9 a pack of no fewer than 20 and cigars in a pack of no
10 fewer than four. There are two primary reasons why
11 these requirements exist. First, the sale of
12 individual cigarettes or cigars is likely an untaxed
13 sale, which is unlawful and allows businesses to sell
14 cigarettes for less than the legally-mandated minimum
15 amount. Second, research has shown that the sale of
16 cigarettes in packs with small amounts is more likely
17 to result in continued smoking.

18 Beyond our inspections in the field, DCA
19 attorneys review new and renewal license applications
20 and pursue suspensions and revocations where and as
21 appropriate.

22 We would like to note that the New York
23 City Department of Finance plays a robust role in
24 enforcing several tobacco-related laws; in
25 particular, those that govern the sale of untaxed or

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2 out-of-state cigarettes. I will now speak briefly
3 about the impact that this particular package of
4 bills would have on DCA in terms of licensing,
5 enforcement and legal review.

6 In terms of licensing, the agency would
7 now have to track and implement licensing caps on a
8 community district basis, which is neither an
9 existing function nor current capability.

10 Additionally, the new electronic cigarette license
11 category will result in what we believe is a large
12 volume of work, as electronic cigarettes are often
13 sold in the same stores as cigarettes, indicating
14 that there could be thousands of potential new
15 licenses. DCA's legal division would see its work
16 increase as well, as the volume of arm's length
17 transaction assessment would grow, as would the
18 potential number of violations that might result in a
19 revocation or suspension.

20 In terms of patrol enforcement, our
21 inspectors would be enforcing new minimum price
22 floors and licensing requirements for a new licensing
23 category. Inspection times might increase, and our
24 inspectors will have to check for compliance with
25 several additional requirements, such as price floors

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for other tobacco products and requirements related to the sale of electronic cigarettes. DCA's inspectors will require handhelds in order to enforce the new package of bills, as enforcement history would need to be known in the field in real time to enable inspectors to issue correct violations.

In closing, we want to reiterate our strong support for this package of legislation before you today and our commitment to implementing these important policies effectively and also as quickly as possible. Thank you again for your commitment to this important public health initiative; my colleagues and I will be happy to answer any questions you might have. Thank you.

CHAIRPERSON JOHNSON: Thank you very much. Does the Department of Finance have testimony? You're here to answer questions?

SHERIFF JOE FUCITO: Just to answer questions.

CHAIRPERSON JOHNSON: Thank you very much, Sheriff.

Okay, I'm not gonna ask any questions of the panel; there are a lot of colleagues that have questions. After this panel we're gonna have

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2 Assembly Member David Weprin, a former member of this
3 body, come up and testify, and there are a lot of
4 folks that wanna be heard today, so this is gonna be
5 quite a long hearing. So I am going to immediately
6 turn it over to my colleagues who have questions; let
7 them ask questions of the Administration; ask them to
8 be as concise as possible so that we can continue to
9 move along and get to all the folks that have come
10 here today. I am gonna go first to Council Member
11 Richards, followed by Council Member Vacca.

12 COUNCIL MEMBER RICHARDS: Thank you,
13 Mr. Chairman, and thank you Commissioner for your
14 commitment to ensuring that, you know our health, and
15 especially in EJ communities is really taken under
16 consideration; I really appreciate the work that
17 you've been doing.

18 A few questions, so I wanted to just get
19 your feeling; I obviously heard your concerns about
20 the bills on smoke-free housing for low-income New
21 Yorkers and I just wanted to correct you sort of,
22 because a lot of low-income New Yorkers really don't
23 have a choice in terms of what buildings they can
24 actually live in, because obviously don't have the
25 resources to sort of pick and choose where they live.

1
2 I did want to ask -- there obviously are other
3 jurisdictions who have gone smoke-free; I know I
4 visited Schenectady just to get sort of a sense from
5 their housing commissioner up there on how they
6 operate smoke-free housing up there. So can you just
7 speak to your studies and what do you think of other
8 jurisdictions and have you seen a correlation between
9 evictions and discrimination when it comes to smoke-
10 free housing for those places?

11 COMMISSIONER BASSETT: Thank you, Council
12 Member Richards for that question and for your
13 enduring support for tobacco controls; also greatly
14 appreciated by the Department.

15 In this case, we feel that the bill
16 introduced that would require disclosure of the smoke
17 policy in all residential buildings in New York City,
18 whether it's a building that you rent or a building
19 in which you're buying a co-op or a condominium, will
20 go a long way towards increasing awareness of the
21 smoking policy of any given building.

22 The demand that you're describing so far
23 has been what drives smoke-free housing; tenants do
24 have the ability to decide that their building should
25 be smoke-free, and this has happened also with

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2 technical support from the Department in buildings
3 that cater to low-income New Yorkers, including,
4 actually, public housing where you know HUD has
5 decided that in 2018 our public housing must go
6 smoke-free. But I feel strongly that the data show
7 that every single human being, if exposed to
8 secondhand smoke, faces health risks and that the
9 requirement of smoke-free housing aimed only at low-
10 income New Yorkers raises fairness questions, and,
11 additionally, raises legal questions. So we are open
12 to continuing to discuss this with you; I certainly
13 support the reduction of exposure of all New Yorkers
14 to secondhand smoke in their homes... [interpose]

15 COUNCIL MEMBER RICHARDS: So can you just
16 speak to HUD's -- and I know they didn't promulgate
17 the rules yet, but I know before the Obama
18 Administration left, that was something that...
19 [crosstalk]

20 COMMISSIONER BASSETT: Past that...

21 COUNCIL MEMBER RICHARDS: you know, the...
22 the...

23 COMMISSIONER BASSETT: that's right; that
24 was sort of a late decision made by HUD during the
25 Obama Administration, but to date there appears no

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2 indication that the current administration will
3 change that ruling, and it is of course an unfunded
4 mandate, one that all believe will continue to stay
5 on the books with enforcement required by mid-2018
6 and I've already met with the NYCHA Chief Executive,
7 Shola Olatoye and we are discussing how to work
8 together to ensure that NYCHA meets this goal.

9 COUNCIL MEMBER RICHARDS: And can you
10 speak to -- how many 311 complaints do you get on
11 average per year, complaints on smoking in whether
12 it's public housing or...

13 COMMISSIONER BASSETT: Right; that's a
14 good question, and I know that we get a fair number
15 of them and... [crosstalk]

16 COUNCIL MEMBER RICHARDS: What's a fair
17 number?

18 COMMISSIONER BASSETT: but I don't know
19 what the actual number is; I can either get that
20 number to you; it's a knowable number... [crosstalk]

21 COUNCIL MEMBER RICHARDS: Would you say
22 it's in the thousands or hundreds?

23 COMMISSIONER BASSETT: I would guess that
24 it's thousands, but I would be just guessing, Council
25 Member, which you might imagine I am reluctant to do.

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So let me just promise to give you that number; it is a great concern to people that when they smell smoke in their housing -- smelling smoke doesn't necessarily mean that you've had the biological effects of secondhand smoke; we don't find nicotine in the urine of every person who smells smoke, but we know that children who live in buildings that are not smoke-free have a high likelihood of having had exposure to secondhand smoke. The number..

[crosstalk]

COUNCIL MEMBER RICHARDS: **[inaudible]**, 'cause I wanna **[inaudible]**...

COMMISSIONER BASSETT: but I have the number for you, Council Member, so let me give it to you now... [crosstalk]

COUNCIL MEMBER RICHARDS: Yeah. Okay.

COMMISSIONER BASSETT: we get several hundred per month of... [interpose]

COUNCIL MEMBER RICHARDS: Several hundred; what is several hundred?

COMMISSIONER BASSETT: Well that's the best I can do for you right now... [interpose]

COUNCIL MEMBER RICHARDS: [laugh]

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2 COMMISSIONER BASSETT: so let me promise
3 to get that number to you... [crosstalk]

4 COUNCIL MEMBER RICHARDS: Is it 800; 900?

5 COMMISSIONER BASSETT: I don't know the
6 answer to that question... [crosstalk]

7 COUNCIL MEMBER RICHARDS: Okay.

8 COMMISSIONER BASSETT: but it is a common
9 complaint and therefore I think that New Yorkers are
10 aware, increasingly, that secondhand smoke is
11 dangerous; this is now an established fact, and
12 endorsed by every public health authority that you
13 can think of and supported by the research...

14 [interpose]

15 COUNCIL MEMBER RICHARDS: And how many...

16 COMMISSIONER BASSETT: and I think that
17 there will be increasing demand on the part of people
18 who are seeking housing to get in a building which is
19 smoke-free; with the disclosure bill people will at
20 last have that information for every single residence
21 in New York City so that they can vote with their
22 feet, so to speak.

23 COUNCIL MEMBER RICHARDS: So I hear you
24 on that, but Amit [sic], I have a building in the
25 Rockaways where it's 101 units and 50,000 people

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2 applied, so we're in a housing crisis right now where
3 I don't think individuals who are moving into housing
4 have a choice, in one sense, on whether a building is
5 smoke-free or not; whether... [interpose]

6 COMMISSIONER BASSETT: Well...

7 COUNCIL MEMBER RICHARDS: they need
8 housing, so I think that's just a bad... [interpose]

9 COMMISSIONER BASSETT: Well the other
10 thing that I would add to that is that on... thinking
11 as a landlord, there are real advantages to being
12 smoke-free that landlords, I believe, are
13 increasingly recognizing. As you note, in the luxury
14 market they see it as a draw for their building, but
15 in terms of the maintenance of a building, the costs
16 of sort of cleaning up an apartment that has been
17 occupied by a heavy smoker are much higher than they
18 are... there are fire risks related to having smokers.
19 So I believe that we may see a convergence between
20 both landlords and tenants; all of us agreeing that
21 smoke-free housing is healthier. Certainly, as your
22 health commissioner, I would say that that conclusion
23 would be strongly supported by the data.

24 COUNCIL MEMBER RICHARDS: Okay, I know my
25 colleagues have a lot of other questions. I look

1 forward to continuing this conversation, but I just
2 wanna go back to what you said -- in luxury housing
3 individuals recognize that it is an amenity to live a
4 smoke-free housing building and low-income New
5 Yorkers deserve the same sort of leverage, and just
6 going back to your statements, they don't have a
7 choice of choosing between a luxury building and a
8 low-income building.. [interpose]

10 COMMISSIONER BASSETT: I look forward to
11 continuing the conversation. I appreciate the intent
12 of your bill.

13 COUNCIL MEMBER RICHARDS: Okay. Great.
14 Thank you.

15 CHAIRPERSON JOHNSON: We're gonna put
16 folks on a -- this is not because of Council Member
17 Richards.. [crosstalk]

18 COUNCIL MEMBER RICHARDS: It is. It is.

19 CHAIRPERSON JOHNSON: No, it's not; just
20 because of the size of the crowd here today; we're
21 gonna put members on a five-minute clock, but we'll
22 have a second round and everyone will be allowed to
23 ask their questions, but I wanna make sure that we
24 move along because there are a lot of people here to
25 testify today and I wanna make sure that everyone

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2 gets here... folks took time off of work, so I wanna
3 make sure everyone is able to do that. Up next is
4 Council Member Vacca, followed by Council Member Koo
5 and if the Sergeant could put a five-minute clock and
6 start it immediately when Council Member Vacca starts
7 talking. Thank you.

8 COUNCIL MEMBER VACCA: I don't take that
9 personally, Mr. Chair... [crosstalk]

10 CHAIRPERSON JOHNSON: Never.

11 COUNCIL MEMBER VACCA: I'll take it how
12 it was meant, but that's okay. I appreciate your
13 bringing order, and, of course, that's your
14 prerogative.

15 Let me ask you something, Commissioner;
16 is hookah very dangerous or is it just as dangerous
17 as cigarettes, in your opinion?

18 COMMISSIONER BASSETT: I concur with all
19 the health information that Council Member Gentile
20 has given in his opening statement.

21 COUNCIL MEMBER VACCA: Shouldn't we be
22 regulating it more than we do? I'm on Councilman
23 Gentile's bill and I support it, but the reality is
24 that we've not been as forthcoming or as aggressive
25 when it comes to this danger as we have been to

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2 cigarettes and electronic cigarettes. Is there a gap
3 here, because the use of it seems to be exploding,
4 yet you are still allowed to smoke hookah in public
5 places, in restaurants? Why are we not doing
6 anything about that? Why are we exempting that if
7 it's so dangerous and we have precedent where we've
8 been aggressive in the cigarette and e-cigarette
9 area?

10 COMMISSIONER BASSETT: So in addition to
11 the health issues that Council Member Gentile has
12 outlined, and I should just reiterate that there is
13 no safety in non-tobacco containing shisha; that
14 shisha smoking carries health risks, even if it
15 doesn't contain tobacco and does not thereby contain
16 nicotine; it carries health risks due to the content
17 of the product as well as to the combustion of the
18 product on a coal bed and the misconception that
19 somehow filtering smoke through water makes it
20 healthier and safer is widespread and completely
21 unfounded. This is not a habit that is risk-free, it
22 carries real health risks and that should be very
23 clear to all of us... [interpose]

24 COUNCIL MEMBER VACCA: So...

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2 COMMISSIONER BASSETT: So what the bill
3 accomplishes is a real step forward in our ability to
4 limit the exposure to hookah... [crosstalk]

5 COUNCIL MEMBER VACCA: Well I...

6 COMMISSIONER BASSETT: and I consider it...
7 [crosstalk]

8 COUNCIL MEMBER VACCA: Commission, I
9 realize... I... excuse me, but I realize it's a step
10 forward and I support it, but my question is; why are
11 we not doing here what we've done with other
12 substances that we have determined are equally
13 dangerous to the public?

14 COMMISSIONER BASSETT: Let me just go
15 over what this bill will accomplish. For the first
16 time we will have permits that the Health Department
17 will issue for hookah; these permits will be
18 available only to people who have a majority share of
19 their business dependent on hookah; 21-year-olds will
20 not be allowed to enter locations where hookah
21 smoking is underway; the presence of tobacco in
22 hookah is a violation of the current Smoke-Free Air
23 Act, and if it is identified in hookah, would lead to
24 an immediate revocation. We believe that much of the
25 hookah that is being smoked in hookah bars is tobacco

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2 containing and therefore part of the reason that
3 people smoke it is to get the effect of nicotine that
4 will be... [crosstalk]

5 COUNCIL MEMBER VACCA: Commissioner...

6 COMMISSIONER BASSETT: something that
7 leads to an immediate revocation... [crosstalk]

8 COUNCIL MEMBER VACCA: I... I... I
9 understand...

10 COMMISSIONER BASSETT: so we expect that
11 this will lead to a great deal more control of hookah
12 smoking. I agree with the Council Member that this
13 is a habit that carries health risks; I'm not gonna
14 argue with you about that; I think that this is a
15 step forward... [crosstalk]

16 COUNCIL MEMBER VACCA: Commissioner, I
17 don't mean... I... I appreciate that and that's why I'm
18 on the bill. I only have five minutes, so with all
19 due respect to you, and you're a professional who I
20 respect greatly, but I want an answer to the
21 question. Why are we not taking a position that has
22 hookah in the same classification with the same
23 regulations as we do cigarettes and e-cigarettes? We
24 now say it's just as dangerous, if not more; it is
25 become more widespread, yet we don't take the same

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2 regulatory position and there is no legislation
3 that's being offered that gives that protection to
4 our people in this city. Why?

5 COMMISSIONER BASSETT: I think you heard
6 Council Member Gentile explain that he is sensitive
7 to the fact that there is a tradition of hookah
8 smoking and a small business interest in maintaining
9 their business that is dependent on this product.

10 COUNCIL MEMBER VACCA: There is a
11 tradition of smoking cigarettes of many types, there
12 is a concern by the small business community about
13 this legislation that deals with cigarettes and
14 electronic cigarettes; those same concerns exist for
15 the hookah industry; the same concerns exist for the
16 cigarette industry, yet one concern is being
17 recognized and other concerns are not being
18 recognized. I don't think any of the concerns should
19 be recognized because I'm not for smoking at all, but
20 I do not understand; I want an explanation; why are
21 we not doing, across the board, what, for health
22 purposes, has to be done in this city? Why?

23 COMMISSIONER BASSETT: Well Council
24 Member, I'm sure you're aware that public health
25 operates at the interface of health knowledge and the

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2 policy environment. I consider this bill an
3 important step forward and I understand the case that
4 you're making, but I am happy to say that this is
5 much better than our current situation. Council
6 Member Gentile has been working on this issue for
7 seven years and I am really a fan of [bell] never
8 making the perfect the enemy of the good.

9 COUNCIL MEMBER VACCA: I appreciate your
10 testimony, but I think that we have an outstanding
11 issue that you've not answered and I think that you
12 must have heard my argument before and you will be
13 hearing my argument again, if not from anyone else,
14 but from me.

15 COMMISSIONER BASSETT: I appreciate that;
16 please keep your argument going.

17 COUNCIL MEMBER VACCA: Well you're in a
18 position to effectuate administrative policy and the
19 Administration is in a position to recommend
20 legislation and what we do here at the Council I feel
21 has to be universal in nature when it comes to a
22 public health crisis... [crosstalk]

23 CHAIRPERSON JOHNSON: You're keeping the
24 argument going.

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2 COUNCIL MEMBER VACCA: this is a public
3 health crisis, and my five minutes are up, but that's
4 my point. Thank you.

5 CHAIRPERSON JOHNSON: Thank you, Council
6 Member Vacca. We're gonna go to Council Member Koo.

7 COUNCIL MEMBER KOO: Thank you Chair
8 Johnson for your leadership and thank you, all the
9 Commissioners and Police Chief [sic] here for
10 testifying.

11 Let me say this first; New York City is
12 not an island in the Atlantic Ocean, you know, we can
13 increase the price all we want, but people can buy
14 cigarettes easily on any street corner. [applause,
15 background comments] Yeah.

16 CHAIRPERSON JOHNSON: Uh...

17 COUNCIL MEMBER KOO: No... no clapping,
18 right.

19 CHAIRPERSON JOHNSON: Please.

20 COUNCIL MEMBER KOO: Sometimes I feel
21 like some of us are living in a bubble; we lost
22 reality. You know in my district grandmothers always
23 complain to me -- my grandson buys cigarettes every
24 day from where, not from pharmacy, not from license
25 places, they can buy off the street and even at cafes

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2 and at beauty salons, barber shops. If you have a
3 big difference in pricing -- we are connected to New
4 Jersey, to Yonkers, to Great Neck, Long Island; you
5 can buy it... just some people will buy it over there
6 and sell it off the street. So no matter how much
7 you charge, I mean buying cigarettes from official
8 places, of course, the volume will come down, but
9 that market will go up. So my question to each one
10 of you is... like, to the Commissioner, I know we all
11 have good intentions, but why don't we do something
12 on alcohol; alcohol has more problems than
13 cigarettes, people die in DWI driving... I mean, how
14 many people die and alcohol, drinking causes liver
15 cancer, cirrhosis, loss of memory, infertility, all
16 these and worse affects, but the City is not putting
17 a cap on bars or on places selling beer and wine; you
18 can buy at any bodega, any supermarket; why target
19 pharmacies? I'm in the spirit of free enterprise, so
20 if you get a license, you should be able to sell the
21 stuff. Pharmacy is just one department in a big
22 store. Pharmacies, they are community stores, like
23 7-Eleven, they sell everything, so cigarettes is one
24 item. So my question is; why **[inaudible]** limit the

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2 caps on the bars, restaurants, alcohol license, all
3 those things to be fair to other business people?

4 And then my second question; I want to
5 ask the police how much enforcement you have done
6 criminalizing cigarettes sale on the street? I would
7 say this market is huge in terms of billions of
8 dollars, in terms of billions of dollars. You know
9 why? In Flushing you can make a telephone call and
10 you can buy a carton or two cartons of cigarettes
11 anywhere; you just tell the guy, hey, I'll meet you.
12 Where? This street corner; they will ride their
13 bicycle and they'll be there in five minutes.

14 [laugh] What bothers me most is; we are not
15 enforcement. People complain to me; I complain to
16 you **[inaudible]** seven years ago... [crosstalk]

17 CHAIRPERSON JOHNSON: Peter, do you have
18 that guy's num... [crosstalk]

19 COMMISSIONER BASSETT: So we have one..

20 CHAIRPERSON JOHNSON: do you have that
21 guy's number to give to the sheriff?

22 [laughter]

23 COUNCIL MEMBER KOO: Yeah. So the third
24 question is -- I ask DCA, the Commissioner there or
25 the...

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2 COMMISSIONER BASSETT: I think your
3 question, Council Member Koo... [crosstalk]

4 COUNCIL MEMBER KOO: Well I wanna ask
5 three questions first.

6 COMMISSIONER BASSETT: is largely about...

7 COUNCIL MEMBER KOO: How you enforce
8 **[inaudible]** cigarettes on the street? You always go
9 to the licensed stores and you always bring a kid, a
10 tall African American kid, 17 years old maybe, he can
11 go to the store and trap [sic] people selling
12 cigarettes, right? And then a lot of stores, because
13 the cashier is new and is an immigrant, you know but
14 this guy, wow, so big; he must be 18; he's supposed
15 to ask for his ID, and a guy, the inspector follow
16 him -- oh, you sold cigarettes to the teenager and
17 they fine him \$1,000. Have you done anything to off
18 street [sic] marketing, I mean cigarettes? I mean,
19 you didn't do anything. So this is **[inaudible]**
20 targeting enforcement; we should target those black
21 markets. If you have more enforcement, the price
22 disparity is not so huge; **[inaudible]** won't die.

23 [clapping]

24 CHAIRPERSON JOHNSON: No clapping.

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2 COUNCIL MEMBER KOO: Yeah. Yeah. Well I
3 want your answer... **[inaudible]** your answer
4 **[inaudible]**... [crosstalk]

5 COMMISSIONER BASSETT: Well unfortunately
6 the five minutes, Council Member, has exhausted..
7 [crosstalk]

8 COUNCIL MEMBER RICHARDS: Not yours
9 though.

10 [laughter]

11 COUNCIL MEMBER KOO: I used my five
12 minutes to ask you and then you answer the question.

13 COMMISSIONER BASSETT: You did, you... you..
14 So I think your main question is about how to handle
15 the impact of a price increase on spurring black
16 market sales, but I'm pleased to hear that you're
17 concerned about the health impact of alcohol, but I
18 would remind you that tobacco use remains the leading
19 preventable cause of death, causing more death than
20 alcohol-related death, so it's very important that we
21 are here talking about tobacco. But I have the right
22 person to talk with you about enforcement, so let me
23 turn it over...

24 SHERIFF JOE FUCITO: Good afternoon,
25 Council Members. So first, let me give you a little

1 information so you can get an understanding of what
2 our enforcement role is. My name is Joe Fucito; I'm
3 the Sheriff for the City of New York. The Sheriff's
4 Office is an old law enforcement agency; it's one of
5 the oldest agencies in the City of New York, and our
6 enforcement model is that we enforce orders of the
7 court, we're conservators of the peace, and we act as
8 the Department of Finance enforcement arm, so the
9 Sheriff is part of the Department of Finance. So
10 think of us like the Marine Corps; the Marine Corps
11 is part of the Navy; we're a part of the Department
12 of Finance, so we're a subset and our goal, as far as
13 tax enforcement, is to look at it as a broader
14 picture. Our enforcement model, the models you've
15 been explaining to me are more in line with the
16 Police Department in the sense that these are
17 nuisance crimes in the street, and just like anything
18 else; if you are peddling DVDs or other types of
19 items in the street, that's more of a question that
20 should be directed towards the Police Department.
21 Our enforcement model is based on stopping the entire
22 trafficking network. What our goal is, is not to
23 stop the person on the street; by the time it gets to
24 the person in the street's hands to sell, it's too
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2 late and the tax laws -- if we spent resources trying
3 to stop that one individual sale, it wouldn't be
4 significant. Our goal is to stop networks of
5 cigarette traffickers, and that's what our structure
6 and organization is designed to do. We examine who
7 is trafficking in cigarettes, we make low-level
8 arrests, and just like narcotic sales, we determine
9 where they purchased the product from and we work our
10 way up the chain. Most of our investigations start
11 out of state; a Virginia cigarette doesn't end up in
12 Brooklyn, it has to start in Virginia, so we look at
13 who is buying product in Virginia, who is selling the
14 product in Virginia, and then we work on the
15 trafficking network from Virginia to New York. The
16 Law Department is very aggressive in tackling
17 businesses in Virginia that are enabling cigarette
18 sales that are ultimately being sold in New York, so
19 we first tackle the problem in Virginia. We worked a
20 large-scale case last year where they were
21 trafficking 7-10,000 cartons a week, so we feel
22 that's a significant way of cutting down on cigarette
23 trafficking; getting it at the source. So a major
24 part of what we do is to look at it as a network.
25 Last year we did 1,500 inspections, we seized 20,000

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2 cartons of cigarettes between regulatory inspections
3 and search warrants; we seized 41,000 packages of
4 flavored tobacco, 3,200 packs of illegal narcotics of
5 various types, and eight firearms. What that
6 material tells us is we're dealing with a criminal
7 network and that's what we want to tackle, the
8 criminal network, and the way we do that is we
9 investigate, we inspect a store; if we find
10 contraband material, we work with the store owner,
11 give them the opportunity to become an informant;
12 give us the information about the trafficking
13 network, and then we work backwards to tackle the
14 larger network. I have a small amount of resources;
15 the entire Sheriff's Office has 160 sworn officers; I
16 have 20 people in my Bureau of Criminal
17 Investigation, so I have to make all of my resources
18 count, and we do by tackling the large-scale cases.
19 I know that's not going to resolve all the questions
20 that you brought up, and you brought up many, many
21 important issues, but we don't have a policeman on
22 every street corner; we don't have a deputy sheriff
23 on every street corner, but where I do have them, I
24 make them count.

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2 COMMISSIONER BASSETT: And if I may add;
3 with... Council Member... [crosstalk]

4 COUNCIL MEMBER KOO: So... so what... May I
5 ask one question? What... What is the penalty of being
6 caught selling unlicensed cigarettes?

7 SHERIFF JOE FUCITO: Well that's part of
8 the complication of enforcement. The street level
9 that you just described, it's not necessarily
10 criminal to possess cigarettes, unlike regular
11 narcotics; if you're carrying narcotics, it's a
12 crime. You could carry a certain amount of
13 cigarettes on you and it's deemed to be used for
14 personal consumption, so we can't tackle that until
15 you actually make a sale or an offer and an officer
16 has to actually be there to see the sale or offer
17 before it becomes a criminal act, so that is why it's
18 much more complicated to tackle the street sales
19 because it's not a crime inherently to possess
20 untaxed cigarettes, except over a certain amount.

21 COMMISSIONER BASSETT: And if I could
22 just point out though, Council Member, that with the
23 retail reduction which will cap the number of tobacco
24 licenses, maintaining your license in good standing
25 will become more important than ever, because if you

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2 violate the license by selling untaxed cigarettes,
3 the kind of cigarettes that the Sheriff will seize if
4 he identifies them, you will be fined and the initial
5 fine is typically about \$1,000 -- I can turn to
6 Consumer Affairs to explain the whole process, but it
7 puts you on a pathway to license revocation and may
8 make it impossible for you to sell your business with
9 a license in good standing.. [interpose]

10 CHAIRPERSON JOHNSON: We are gonna come
11 back..

12 COMMISSIONER BASSETT: and once you lose
13 your license with a cap, you won't be able to get it
14 back.

15 CHAIRPERSON JOHNSON: We are gonna come
16 back for a second round; it's a good strategy to ask
17 all your questions in five minutes, so then it goes
18 longer and then you get to rebuttal, but we're gonna
19 give you a second round.

20 COUNCIL MEMBER KOO: I also want to talk
21 to the Sheriff afterwards; I want.. [crosstalk]

22 SHERIFF JOE FUCITO: Of course.

23 COUNCIL MEMBER KOO: to give him some
24 locations I want some enforcement because in..
25 [crosstalk]

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CHAIRPERSON JOHNSON: Give him that nu...

COUNCIL MEMBER KOO: seven years, hasn't
changed.

CHAIRPERSON JOHNSON: Peter, give him
that number.

COUNCIL MEMBER KOO: Yeah.

CHAIRPERSON JOHNSON: Okay, we're gonna
go to Council Member Lander.

COUNCIL MEMBER LANDER: Thank you,
Mr. Chair, and it's always challenging to follow
Council Member Koo, and I... obviously, we all respect
his business experience and he's passionate about it.
I will point out again that American Pharmacists
Association is onboard; you know, it started in 1970,
but as recently as 2010, urging pharmacies to stop
selling tobacco and actually pushing state pharmacy
boards to stop issuing licenses or renewing licenses
of pharmacies that sell cigarette and tobacco
products.

At the press conference you had some
statistics on what percentage of independent
pharmacies were -- you know, this is what we're
overwhelmingly talking about in New York City are
chain... [crosstalk]

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2 COMMISSIONER BASSETT: The chain
3 pharmacies, that's right. It's something like 95% of
4 independent pharmacies do not sell cigarettes, so
5 overwhelmingly cigarette sales in pharmacies are in
6 chain pharmacies.

7 COUNCIL MEMBER LANDER: So the pharmacy
8 bill we're talking about here would not mostly, you
9 know, only a tiny amount impact independent small
10 businesses; we are talking... [crosstalk]

11 COMMISSIONER BASSETT: That is correct.

12 COUNCIL MEMBER LANDER: about Rite Aid
13 and Duane Reade and the large national retailers.
14 And also, just to be clear, if they want to keep
15 selling cigarettes, they could stop having their
16 pharmacy department, right?

17 COMMISSIONER BASSETT: Right; I hadn't
18 thought of that, Council Member.

19 COUNCIL MEMBER LANDER: So... and I know
20 we're gonna hear from some stores who say, we sell so
21 many products and it seems to me what we're saying
22 is, amongst your big product mix you just have to
23 make a choice; you can sell health products you can
24 sell cigarettes, the choice is up to you, but you
25 can't do both in the same store.

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2 COMMISSIONER BASSETT: Correct.

3 COUNCIL MEMBER LANDER: Alright, thank
4 you. And then on... the other thing I think we're
5 gonna hear from some opponents later is -- I've got
6 some testimony here from 7-Eleven and a few other of
7 the kinds of small businesses that would be affected
8 by 1547, and I think most of the testimony there
9 reflects the mistaken assumption that you can't under
10 any circumstances pass that license on if you sell
11 your business and therefore you'll have a hard time
12 selling it. But you said in your testimony -- I'm
13 just gonna ask you to repeat it -- so long as you're
14 in good standing you would have the opportunity to
15 have your license be transferred... [crosstalk]

16 COMMISSIONER BASSETT: The way it will
17 work, and I should turn it to my colleague from
18 Consumer Affairs, is if... you have to have a license
19 that's been in good standing for three consecutive
20 years, and then the new owner can apply, the cap
21 would not be a barrier to them getting a new license
22 in that business, but you must maintain the license
23 in good standing for three consecutive years in order
24 to be able to offer a new owner the opportunity to
25 apply for a new tobacco license.

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2 DEPUTY COMMISSIONER BAGGA: I will simply
3 say that Dr. Bassett is correct.

4 COUNCIL MEMBER LANDER: And look, I
5 think... I would almost be comfortable arguing the
6 opposite side that we shouldn't do this, I mean to
7 the extent that we're talking about value in
8 businesses that exists because of poisoning people
9 and like leading a third of your customers to their
10 deaths, that it wouldn't be the end of the world if
11 we said you know what; you can keep your license
12 until you stop using your business, but when you sell
13 it, we're actually going to attrit those licenses out
14 and more quickly reduce because people are dying as a
15 result, but even though I might support that, that is
16 not what we're doing here, so individual small
17 business owners, so long as they maintain their good
18 standing and don't break the law, can keep their
19 license and under those circumstances still sell
20 their business with that license and pass it along.

21 COMMISSIONER BASSETT: That's correct,
22 although I should add that our understanding -- and
23 we're not business people, obviously our priority is
24 health -- is that very few customers who enter corner
25 stores are in fact buying cigarettes and a study that

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2 we did of corner stores in 2012, only 10% of the
3 customer traffic was for buying cigarettes and buying
4 only cigarettes, and only half of them bought another
5 product. From my completely unscientific survey of
6 corner stores in my neighborhood -- I live in Upper
7 Manhattan -- the profit margin for the sale of
8 cigarettes is not very large, so these products are
9 not generating a lot of revenue; the estimate that we
10 have is somewhere around \$400-500 a year on average.

11 COUNCIL MEMBER LANDER: Interesting;
12 that's good... oh go ahead.

13 DEPUTY COMMISSIONER BAGGA: Council
14 Member, if I may just... I wanna have our General
15 Counsel, Tamala Boyd provide a clarification on the
16 good standing piece, if I might... [crosstalk]

17 COUNCIL MEMBER LANDER: Good.

18 TAMALA BOYD: It's only that there are...
19 [interpose]

20 COUNCIL MEMBER LANDER: Introduce
21 yourself for the record.

22 TAMALA BOYD: Oh sorry. I'm Tamala Boyd,
23 General Counsel, DCA. We just wanna clarify that
24 it's just a little bit more than... I guess we wanna
25 clarify what good standing means.

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2 COUNCIL MEMBER LANDER: Please.

3 TAMALA BOYD: It requires a former
4 business to have been in business for five years and
5 it's also... it's kind of meant to address an
6 operational [bell] shift in ownership; not a complete
7 change in business relationship. So we just wanted
8 to clarify that.

9 COUNCIL MEMBER LANDER: Okay.

10 COMMISSIONER BASSETT: Is that what's
11 meant by the "arm's length" conversation?

12 TAMALA BOYD: The arm's length is a
13 little bit different; this conversation is only for
14 the cap; the arm's length is outside... it has nothing
15 to do with the cap.

16 COMMISSIONER BASSETT: So in order to
17 offer to a new owner your license, you have to have
18 been in business for five years and have maintained
19 your license in good standing for three years and not
20 be selling to completely convert your business into
21 some other business.

22 DEPUTY COMMISSIONER BAGGA: That's
23 exactly **[inaudible]**... [crosstalk]

24 COUNCIL MEMBER LANDER: Absolutely. So
25 to me those sound very reasonable; I think we'll hear

1
2 from 7-Eleven that there are franchisers that have
3 35-40% of their sales in tobacco products, but all I
4 can say is, if a very, very high percentage of the
5 value of your small business is premised on poisoning
6 your customers to death; you know, something isn't
7 working quite right. So I appreciate that you can't...
8 [interpose]

9 COMMISSIONER BASSETT: Nobody loses their
10 tobacco license unless they are not able to maintain
11 it in good standing. So this only applies to people
12 who are seeking a new license.

13 COUNCIL MEMBER LANDER: And I should just
14 say; I wish we could go straight at the tobacco
15 companies, right, we love our mom and pop businesses
16 and our small retailers; the folks that are killing
17 us are the tobacco companies, but there's other steps
18 we can take. So thank you very much for the time.

19 CHAIRPERSON JOHNSON: Council Member
20 Gentile.

21 COUNCIL MEMBER GENTILE: Thank you,
22 Mr. Chair and thank you all for what is a long day
23 and also a lot of testimony and a lot of questions
24 coming from everybody.
25

1
2 I just wanted to do a little bit of
3 history, Commissioner Bassett, which might eliminate
4 some of the concerns that Councilman Vacca has
5 expressed. It is my understanding that when the
6 Smoke-Free Air Act first passed in 2002 some of the
7 same considerations that are presented to us today
8 were presented to them back in that day and indeed
9 the industry at that time was the cigar/tobacco bars,
10 right, and under the Smoke-Free Air Act of 2002 those
11 cigar, I guess they're called tobacco bars, were
12 grandfathered in under the Smoke-Free Air Act of
13 2002. Am I correct?

14 COMMISSIONER BASSETT: That is correct,
15 eight tobacco bars; the number of hookah bars that
16 we're talking about, as your opening statement
17 suggests, are far larger in number, but we don't know
18 how many will be eligible under the many caveats that
19 your bill **[inaudible]**... [crosstalk]

20 COUNCIL MEMBER GENTILE: Right. And I
21 think it's a function of the fact that the regulation
22 that we're proposing has come way after the explosion
23 of the industry, of the whole phenomena of hookah
24 smoking indoors.

1
2 COMMISSIONER BASSETT: Yes, that's
3 correct, there's been a real explosion I mean with
4 the number of hookah establishments going manyfold,
5 three, four, fivefold, now standing between 250 and
6 300 locations around the City. As you noted, among
7 youth the unregulated products have really escalated
8 in use, so that includes e-cigarettes, which have
9 doubled and tripled, with nearly 16% of high school
10 students saying that they've used e-cigarettes in the
11 last 30 days, and hookah has as well, particularly
12 among Latino and African American youth.

13 COUNCIL MEMBER GENTILE: Now you also..
14 your testimony, and working with your agency, you had
15 proposed a permitting process for that purpose of
16 having that better regulation on hookah bars, right?

17 COMMISSIONER BASSETT: That's correct,
18 the Department would issue these permits; the
19 Department of Consumer Affairs issues tobacco
20 licenses -- you also **[inaudible]** licenses -- and we
21 would do the hookah.

22 COUNCIL MEMBER GENTILE: Right. And so
23 that when you found 13 out of 13 hookah bars having
24 tobacco in their shisha, how did you enforce it;
25 there was no permit on smoking at that point?

1
2 COMMISSIONER BASSETT: But under the
3 Smoke-Free Air Act, you're not allowed to have...

4 COUNCIL MEMBER GENTILE: So... So...

5 COMMISSIONER BASSETT: tobacco, so we
6 went to... you know it ended up going [inaudible] and
7 we pursued... [crosstalk]

8 COUNCIL MEMBER GENTILE: Violating...

9 COMMISSIONER BASSETT: that as a
10 violation of the Smoke-Free Air Act.

11 COUNCIL MEMBER GENTILE: Now under this
12 permitting system, you could just pull... you could...
13 [interpose]

14 COMMISSIONER BASSETT: That's correct.

15 COUNCIL MEMBER GENTILE: revoke the
16 permit...

17 COMMISSIONER BASSETT: Yeah.

18 COUNCIL MEMBER GENTILE: right? Okay.
19 And you also, as a matter of concern with the health
20 aspects here, requested that an age minimum of 21,
21 consistent with alcohol and cigarettes, be imposed on
22 the hookah -- those that had been grandfathered in...?
23 [crosstalk]

24 COMMISSIONER BASSETT: That's correct.
25 That's correct.

1
2 COUNCIL MEMBER GENTILE: Right. So in
3 effect, what we're saying here is that we are looking
4 to protect the young people and not putting them in a
5 position to learn, to be exposed to smoking by having
6 an age minimum..

7 COMMISSIONER BASSETT: Additionally, you
8 know hookah smoking can't become part of the family
9 restaurant business, which frankly, at the moment it
10 is... [crosstalk]

11 COUNCIL MEMBER GENTILE: Right.

12 COMMISSIONER BASSETT: so as I indicated,
13 I live in Upper Manhattan where at the moment hookah
14 is in sort of a large number of restaurants that are
15 frequented by families, so..

16 COUNCIL MEMBER GENTILE: Right.

17 COMMISSIONER BASSETT: it will no longer
18 be possible.

19 COMMISSIONER BASSETT: Right. And it
20 would only be those who have 50% or more of their
21 business.

22 COMMISSIONER BASSETT: Exactly.

23 COUNCIL MEMBER GENTILE: And just as the
24 grandfathering in of cigar bars at 21 or older, then
25 those who decide to do that, to go into a hookah bar

1
2 and smoke shisha, that's a decision that they make as
3 an adult and the burden's on them, but under this
4 scenario we still have protected those youngsters,
5 14-, 15-, 16-year-olds not going into those [sic].

6 COMMISSIONER BASSETT: I would agree with
7 your initial statements, Council Member and those
8 made by Council Member Vacca that shisha smoking,
9 hookah smoking is not safe for anyone.

10 COUNCIL MEMBER GENTILE: Right. Right.
11 Okay. Very good. I think I just wanted to clarify
12 that issue.

13 What plans do you have or do you have
14 plans yet on how to educate the hookah bar owners
15 about the legislation and [bell] basically consumers
16 also about what changes will take place?

17 COMMISSIONER BASSETT: Well this whole
18 suite of legislation will require a large amount of
19 education; we always do that with any regulatory
20 changes and we work with our colleagues in Consumer
21 Affairs to ensure that people have ample time to
22 prepare. So for example, the disclosure bill has a
23 whole year; the others are I believe a hundred..

24 [crosstalk]

1
2 COUNCIL MEMBER GENTILE: This one is six
3 months.

4 COMMISSIONER BASSETT: is 180 days or six
5 months.

6 COUNCIL MEMBER GENTILE: Yeah, 180 days.
7 Right. Right.

8 COMMISSIONER BASSETT: So in that... once
9 the Council passes this legislation, which I am
10 anticipating with great excitement for the health of
11 all New Yorkers, that period would be used to ensure
12 that people were educated about the new rules.

13 COUNCIL MEMBER GENTILE: Great. Okay.
14 Thank you, Commissioner, I appreciate it. Thank you.

15 CHAIRPERSON JOHNSON: Thank you Council
16 Member. We're gonna go to Council Member Espinal,
17 followed by Council Member Cabrera, and then
18 finishing with Council Member Barron, unless there
19 are other folks that have questions -- Council Member
20 Torres we're adding as well. So Espinal, Cabrera,
21 Barron; Torres.

22 COUNCIL MEMBER ESPINAL: Thank you
23 Chairman Johnson. I just have a few questions in
24 regards to raising the base price. When was the last
25

1
2 time the City took action to raise the base price of
3 cigarettes?

4 COMMISSIONER BASSETT: There was a tax,
5 the only tax that the City has been able to levy on
6 cigarettes in 2002 of \$1.50 per pack; it was matched
7 at that time by the State with \$1.50 per pack price,
8 and in 2013 a price was set at \$10.50. This
9 legislation would raise the minimum price to \$13.00
10 per pack.

11 COUNCIL MEMBER ESPINAL: So do you
12 believe that that increase actually had a significant
13 impact in the amount of people who are actually
14 smoking in the city?

15 COMMISSIONER BASSETT: I not only believe
16 that, Council Member; that's what the data show; our
17 smoking rates have declined enormously; they stood at
18 over 1 in 5 New Yorkers in 2002 and progressive price
19 increases, along with other actions in tobacco
20 control have contributed to a 30% decline; the impact
21 on youth smoking was even greater, with two-thirds of
22 youth no longer reporting that they smoke; that's
23 gone down to under **[inaudible]**... [crosstalk]

24

25

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2 COUNCIL MEMBER ESPINAL: So do we have
3 the demographics in which neighborhoods actually
4 benefited from the price increase?

5 COMMISSIONER BASSETT: This is a very
6 important question, whether we've seen a decline in
7 tobacco use sort of for all New Yorkers and the
8 answer to that question is yes, smoking rates have
9 declined among everyone.

10 COUNCIL MEMBER ESPINAL: Well no, my
11 concern is, you know, again, is the low-income folks
12 in our city who have an addiction to the nicotine and
13 you know I feel that raising the price a dollar or
14 two won't deter them from smoking cigarettes because
15 of that addiction, and in one way or another we're
16 taking advantage of that fact, you know. If we were
17 serious about getting people off smoking, wouldn't we
18 raise the minimum price to \$20.00 a pack of
19 cigarettes?

20 COMMISSIONER BASSETT: You're right that
21 it's hard to quit smoking and I think we've already
22 had some conversation about that today and that's why
23 part of the Department's strategy in tobacco control
24 has always included support for cessation; anyone can
25 call the New York State Quitline, NY Quits, 1-800... or

1
2 is it 1-866... somebody help me here... [background
3 comment] 1-866-NY-QUITS and find out whether you're
4 eligible for free nicotine replacement therapy;
5 periodically the City has a targeted strategy that is
6 for New Yorkers and makes free products available in
7 addition to what's available through the State. We
8 run numbers of activities, working with physicians,
9 making sure that they understand that insurance plans
10 will cover cessation products. So I want to be very
11 clear, that while it is difficult to quit, every
12 smoker can quit with appropriate support and if you
13 use cessation products, you double your chances for a
14 successful quit. That said, raising the price has
15 been the single most important intervention that we
16 can take in tobacco control, and for people who are
17 low-income, with low disposable income, I think you
18 should consider how much that individual will save if
19 they no longer use their money to buy cigarettes.

20 COUNCIL MEMBER ESPINAL: I agree with you
21 that they will save a lot of money if they don't buy
22 cigarettes, but I think the reality is that a lot of
23 them are not gonna stop buying cigarettes.

24

25

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2 COMMISSIONER BASSETT: I don't know why
3 you say that; the data shows that people have
4 continued to quit... [crosstalk]

5 COUNCIL MEMBER ESPINAL: I know a lot of
6 people who... I know a lot of people who smoke
7 cigarettes in low-income communities and they end up...
8 if they're not buying the cigarettes legally at a
9 store; they are actually probably buying loosies or
10 they're going to other states to buy their
11 cigarettes. So that's why I feel that if they come
12 to a point where they can't find a store selling a
13 loosie or they can't find a store selling cigarettes
14 anywhere else at a lower price than the legal price;
15 that we're only going to push them to dig into their
16 pockets further to pay the extra \$2.00 for the pack
17 of cigarettes.

18 COMMISSIONER BASSETT: Well I would just
19 encourage **[inaudible]** friends who smoke that they can
20 quit, that they can get support in quitting and is
21 the best single thing... [crosstalk]

22 COUNCIL MEMBER ESPINAL: Yeah, I mean I
23 think they...

24 COMMISSIONER BASSETT: that they can do
25 for their health.

1
2 COUNCIL MEMBER ESPINAL: I think they
3 know that, but you know, I think that, you know, the
4 City's not doing enough for... to do more outreach and
5 more education and providing you know that gap where
6 I feel like New Yorkers who are wealthier would
7 probably pay the extra \$2.00 or would probably have
8 more access to this education and we as a city should
9 be doing more to education our lower-income folks
10 instead of raising the prices on these cigarettes,
11 'cause they have an addiction and that's the reality
12 and that's what pushes them to buy these cigarettes.

13 COMMISSIONER BASSETT: The facts show,
14 Council Member, that raising the price creates an
15 incentive not to smoke and it has been an important
16 part of our efforts to reduce tobacco use and not
17 only do we believe that; we've shown that. There are
18 now fewer smokers... [crosstalk]

19 COUNCIL MEMBER ESPINAL: How are these
20 studies... How do you [bell]... What are the studies that
21 are done to show and prove that less New Yorkers are
22 smoking?

23 COMMISSIONER BASSETT: We have every year
24 a survey that's called the Community Health Survey,
25 it's available online, it's a public access database

1 in which we publish -- our most recent data are from
2 2015; we'll have our 2016 data out probably in the
3 middle of this year -- and you can go online and
4 look; every year we have seen a decline, until about
5 2010; at that time, as the Council may be aware,
6 there were severe budget constraints, the tobacco
7 control budget was reduced; when I became
8 Commissioner, the smoking rate had come up from about
9 13.9% to 16.1%. The first thing that we did was
10 greatly increase our efforts to educate the public
11 again; some of it was uncomfortable, hard-hitting ads
12 that remind people the truth, that tobacco us will
13 kill you, maim you and also place your family at
14 risk; in addition to losing someone they love, you
15 expose them to health risks, and we saw the smoking
16 rates go down, along with a suite of bills that were
17 introduced at the very end of the Bloomberg
18 Administration. So every year we can give you an
19 estimate on the proportion of New Yorkers who smoke;
20 that percent now stands at 14.3% and that represents
21 a 33% decline from the estimate that we had in 2002,
22 and we can look at it by neighborhood, we can look at
23 it by age, we can look at it by race, and I would be
24 delighted to sit down with you and show you that we
25

1
2 have benefited the health of every New Yorker with
3 our tobacco control efforts... [crosstalk]

4 COUNCIL MEMBER ESPINAL: Yeah, I think... I
5 think that will be helpful; I just wanna say I think
6 this... I believe this is a noble effort, but we just
7 have to be careful with how we decide to move
8 forward, because I wouldn't want my constituents or
9 lower-income New Yorkers in the city who are already
10 facing 10,000 other issues with affordability in this
11 city and we have to make sure that we don't continue
12 to injure them and not be able to **[inaudible]**...

13 [crosstalk]

14 COMMISSIONER BASSETT: I agree, but I
15 would argue to you that tobacco use is an injury and
16 that the data show that people who are facing higher
17 prices will either stop smoking altogether or reduce
18 their tobacco use, and that is a health benefit. I
19 hope you as an elected representative will feel proud
20 that we can deliver this health benefit to our
21 residents.

22 CHAIRPERSON JOHNSON: Thank you very
23 much. Council Member Cabrera.

24 COUNCIL MEMBER CABRERA: Thank you so
25 much, Mr. Chair.

1
2 Commissioner, I wanna thank you for your
3 courage; for doing the right thing. Sometimes when
4 we make decisions in government, it's just the
5 reality it's not gonna please everybody. Sometimes I
6 feel that people are driven by the bottom line, and
7 for me, someone who represents the third poorest
8 Council District, this is an imperative of what we're
9 doing here; we need to have research-driven policies.
10 Every organization that I see nationwide, health
11 organizations, from the American Heart Association,
12 Lung Association, all of them, they're saying the
13 same thing; there is a concert of voices coming
14 together telling us that we must act and we must act
15 quickly. So thank you; it's gonna help my people in
16 my district. Having had two grandfathers who died
17 because of smoking cigarettes, I don't wanna see more
18 grandfathers, moms and dads and then we're not even
19 talking about secondhand smoking.

20 So I wanted to thank you also for your
21 support on Bill 1532; really looking forward to
22 seeing this bill become a reality.

23 I wanted to ask you, on Intro 1140 --
24 appreciate your comments -- would it be helpful, and
25 you make a good point; how do we go about enforcement

1
2 when it comes to, you know an 8-year-old, somebody's
3 driving with an 8-year-old versus a 9-year-old; how
4 do you tell the difference; how would, you know,
5 someone identify -- would you be open to the idea of
6 raising the age in this bill to those under the age
7 of 18, so all the way to 17-year-olds -- 18-year-olds
8 have IDs -- and that way will be enforceable, and to
9 also looking at what the other 15 states, plus the
10 District of Columbia are already doing?

11 COMMISSIONER BASSETT: Thank you, Council
12 Member. I appreciate the fact that all of us are
13 seeking to limit the space where people can smoke and
14 that the protection of people who have no choice but
15 to be exposed -- children -- should be first and
16 foremost in our minds. I think that there are two
17 separate issues; the idea of how to enforce vaping
18 and smoking bans inside a car was something that our
19 Police Department wasn't sure that they would know
20 how to enforce, and the idea of the age cutoff at
21 eight is something that we could discuss, so we would
22 very much like to have a further discussion with you
23 about this bill.

24 COUNCIL MEMBER CABRERA: Appreciate the
25 offering to have an offline discussion about this. I

1
2 wanna take the remaining two minutes just to commend
3 my colleague Gentile for having the sticky
4 perseverance and tenacity to continue with this
5 hookah bill. I mean, I was just walking through one
6 of our parks, Council Member, just this last Easter;
7 after I went to church service, walked through one of
8 the parks, 20 kids were walking by -- one young
9 person was smoking in the park, several spots this
10 scenario was taking place; one of them was smoking..
11 she was smoking a hookah and 20 kids stopped by; one
12 of them says, "Hey, can I have a hit?" and it was
13 like, 19 **[inaudible]** behind it; I was like, what is
14 going on around here? We need to pass this
15 legislation; you have my full support and I know
16 Council Member Vacca is not here and I'll commend
17 him, that if he wants to have the legislation, we
18 have the power to introduce legislation here and I'll
19 be second in line to support him. Thank you so much
20 and with that, I'll be the first one to finish short.

21 CHAIRPERSON JOHNSON: Thank you, Council
22 Member; I really appreciate it. Before I go to
23 Council Member Barron, Torres and Wills, I wanna just
24 ask the Sheriff -- your current staff is 160?

25

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2 SHERIFF JOE FUCITO: That's the entire
3 Sheriff's Office, 160 sworn officers.

4 CHAIRPERSON JOHNSON: Hundred and sixty
5 sworn officers; how many of those folks are working
6 on tobacco-related enforcement issues?

7 SHERIFF JOE FUCITO: Our Bureau of
8 Criminal Investigation has 20 officers. Now it's not
9 that all 20 are working on tobacco at the same time;
10 on the average we have anywhere from 10-15, but it
11 fluctuates with the type of investigations that we're
12 running. We also pull in more officers if it's a
13 large-scale operation, so we can draw upon 160
14 officers if we're working something large-scale; if
15 we're gonna tackle a borough. More recently we had a
16 project in Staten Island and we dedicated more
17 officers to the project because it was something that
18 we wanted to look at as far as cutting down on the
19 trafficking in Staten Island.

20 CHAIRPERSON JOHNSON: Twenty-one folks
21 working on this and other stuff, on the criminal
22 investigation you mean...? [crosstalk]

23 SHERIFF JOE FUCITO: Correct. Correct.

24 CHAIRPERSON JOHNSON: That seems like far
25 too small, for a city as large as ours, a city with

1
2 this many retailers. How many more officers would
3 you like?

4 SHERIFF JOE FUCITO: We had this
5 discussion and we've put in some proposals with OMB;
6 we're not complete with our discussions, but we are
7 asking for more resources.

8 CHAIRPERSON JOHNSON: How much more?

9 SHERIFF JOE FUCITO: I couldn't tell you
10 right now because I have to see the impact of some of
11 the legislation -- how it's going to roll into effect
12 and what the effect on the network is going to be.
13 Our main goal is to tackle the network, that's what
14 we wanna tackle; I don't wanna give a firm number
15 that we need 100 officers; we may need 10; we wanna
16 tackle the network.

17 CHAIRPERSON JOHNSON: How many retailers
18 are -- we said it earlier -- are selling cigarettes
19 in New York City; 9,000? What's the number?

20 DEPUTY COMMISSIONER BAGGA: It's
21 approximately 8,200.

22 COMMISSIONER BASSETT: It's gone down...
23 [crosstalk]

24 CHAIRPERSON JOHNSON: Eighty-two hundred...
25

1
2 COMMISSIONER BASSETT: since our initial
3 estimate -- 8,200 is the current estimate...

4 [crosstalk]

5 CHAIRPERSON JOHNSON: Eighty-two hundred.
6 Eighty-two hundred retailers; 21 officers that are
7 potentially going and checking those retailers?

8 SHERIFF JOE FUCITO: Yes.

9 CHAIRPERSON JOHNSON: You need a lot more
10 officers.

11 SHERIFF JOE FUCITO: Well we certainly
12 need more officers, but we wanna make sure that we
13 put the officers on the right type of cases. We put
14 those 21 officers on the entire Borough of Staten
15 Island; the last three months we've been doing
16 investigations and regulatory inspections; we hit
17 every location in Staten Island with those 21
18 officers; we've made nine felony arrests; 53
19 misdemeanor arrests... [interpose]

20 CHAIRPERSON JOHNSON: 'Kay; it would be
21 helpful, Sheriff, to know how many you need.

22 SHERIFF JOE FUCITO: I couldn't give you
23 that estimate at this time, **[inaudible]**... [crosstalk]

24 CHAIRPERSON JOHNSON: Okay; is it... is it
25 like five; is it 25?

1
2 SHERIFF JOE FUCITO: Hold on one second.
3 We're still working with OMB on the number. I don't
4 wanna commit to you that we need 100 officers; I
5 don't wanna commit to you that we need four officers.

6 CHAIRPERSON JOHNSON: Okay, well a big
7 part of this discussion today that I think Council
8 Member Koo was getting at; that we heard from Council
9 Member Espinal, and I think is a legitimate question
10 to be asking about the black market, and when you
11 raise the price do you see an influx in cartons of
12 cigarettes that are being sold on the black market
13 and so, I know that Dan Goldberg from Politico New
14 York did an article this morning about the black
15 market itself -- I'm not gonna read the whole things,
16 but he said in his piece that... it says that when the
17 price of cigarettes increased in 2002, the smoking
18 rate in the city dropped -- as you said, Commissioner
19 Bassett -- from 21.5% to 18.4% in two years. Nearly
20 half of smokers reported that they had reduced the
21 number of cigarettes they smoked, thought about
22 quitting or tried to quit in response to the tax
23 increase -- so that goes to what you were saying --
24 and while the portion of cigarettes purchased outside
25 of New York City doubled, it only reduced the effect

1 of price by one-third, the study said. Then in 2005
2 the smoking rate tipped back up but declined
3 following the 2006 media blitz highlighting the
4 dangers of smoking, as you said. Between 2001 and
5 2008, tobacco-control spending increased tenfold,
6 according to the IBO. State taxes increased in 2008
7 and 2010, federal tax increased in 2009, and the
8 smoking rate in New York City continued to trend
9 lower. Then the recession led to a 47% cut in
10 funding to tobacco-control campaigns and,
11 predictably, the smoking rate began to rise again,
12 peaking at 16.1% in Mayor Bloomberg's final year. So
13 that goes to what you said, but the issue here in all
14 of this is an influx of cigarettes into the black
15 market, that is the issue; we have to worry about
16 that.

18 COMMISSIONER BASSETT: We... we...

19 [interpose]

20 CHAIRPERSON JOHNSON: That is why I need
21 to know how many officers you need; it's an
22 incomplete discussion, and I understand you're not
23 gonna tell me today; I understand you're talking to
24 OMB, but for us to be able to have a full
25 conversation about increased enforcement related to

1
2 the measures that we're seeking to pass today to
3 improve the public health of New Yorkers and to crack
4 down on bad actors and to go after networks in places
5 like Virginia, that you talked about, but also go
6 after individual retailers who are selling cigarettes
7 at a much lower price than the minimum price, which
8 is happening all over the city, and they're doing it
9 through black market cigarettes that they bought,
10 that they then sell at a lower price -- you need more
11 officers; I need to know the number. You're not
12 gonna tell me now, but I need to know.

13 SHERIFF JOE FUCITO: I appreciate your
14 passion on this, I do. The reason why I'm not
15 committing to a certain number of new officers; we
16 don't wanna use a shotgun effect; we don't wanna just
17 go out there and throw officers and say let's grab
18 everybody on the street who has an untaxed pack of
19 cigarettes; that's not the enforcement model we use;
20 that doesn't seem to be the enforcement model that
21 the people want. What we are trying to develop is a
22 strategy, a long-term strategy to cut off the
23 trafficking network; it doesn't just require deputy
24 sheriffs; it requires auditors, it requires other
25 types of skill sets needed to cut that type of

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2 potentially 10 more, 15 more, 20 more; 60 more, but
3 to not give some type of range that you need, it's
4 not fully helpful in the context of the conversation
5 we're having today. So I would have hoped that the
6 conversations between the Department of Finance, the
7 Sheriff's Office and the Office of Management and
8 Budget would've included a conversation on the range
9 of new needs associated with putting these bills
10 forward and having them **[inaudible]**, because anything
11 we pass here in the Council comes down to
12 enforcement.

13 COMMISSIONER BASSETT: If I could just
14 add, Council Member, a reminder that the cap on
15 retail licenses will increase the incentive
16 [background comment] for self-enforcing behavior,
17 because the cost of a violation will be higher; it
18 can put you on the path to losing your license
19 forever; not just having to pay a fine. So I expect
20 in this whole suite of bills that we will have higher
21 incentives for compliance among retail outlets,
22 because they don't wanna risk losing their license.

23 CHAIRPERSON JOHNSON: Great. I wanna let
24 everyone know that we have been joined by the young
25 people at The Raymond York School, P.S. 65 in Queens;

1 that is in Council Member Ulrich's district.

2 [clapping] Welcome. Thank you for being here.

3 Don't smoke. [laughter]

4 Okay, we're gonna go back and I'm gonna
5 call Council Member Barron, followed by Council
6 Member Torres.
7

8 COUNCIL MEMBER BARRON: Thank you,
9 Mr. Chair and thank you to the panel for coming. And
10 before I bring my comments about this topic, I just
11 have to continually remind all of us that this nation
12 historically has used the term "black," the adjective
13 "black" for things that are negative and things that
14 are bad, and I've heard the term "black market" used
15 here by several people, and what I would ask is that
16 we become more conscious of the negativity that's
17 generated when we use those phrases and that we
18 refrain from that and perhaps use the term
19 "unregulated market" or "underground market," because
20 I find it offensive to have that adjective "black"
21 placed in the terms of looking at something that's
22 not legal or not done appropriately, so... [interpose]

23 CHAIRPERSON JOHNSON: I apologize,
24 Council Member Barron... [crosstalk]

25 COUNCIL MEMBER BARRON: Thank you...

1
2 CHAIRPERSON JOHNSON: that was not my
3 intention...

4 COUNCIL MEMBER BARRON: I didn't think
5 that it was; it's just something... [crosstalk]

6 CHAIRPERSON JOHNSON: it's not my nature
7 [sic]...

8 COUNCIL MEMBER BARRON: that we do; we
9 get comfortable with it... [crosstalk]

10 CHAIRPERSON JOHNSON: I agree with you.
11 I apologize. I want to apologize on the record..

12 COUNCIL MEMBER BARRON: so I didn't take
13 any personal offense from you [sic]... thank you; I
14 appreciate that.

15 So now to talk about the topic at hand.
16 I think when I first started smoking I was 16, I had
17 just gotten into college and everybody else smoking,
18 so cigarettes were I think 35 cents a pack -- so I'm
19 telling you my age -- 35 cents a pack, so everybody
20 else did it; it was cool, so I started smoking, and
21 we know that nicotine is addictive, and as the price
22 went up and up I decided I would smoke less and less,
23 and then there was one point in my life that I just
24 decided that I would stop and so I did stop smoking,
25 cold turkey, so to speak. But it's difficult and

1
2 it's troubling to hear your testimony and to know
3 that there's nicotine in these hookahs and that young
4 people are being addicted for being attracted --
5 unknowingly and unwittingly -- and so I understand
6 that there is a great connection between raising the
7 price and limiting the number of people who get
8 exposed to tobacco in the first place, especially
9 when the research tells us that minds are not fully
10 matured until about mid 20s, so young people get very
11 easily influenced, so if we can keep them from
12 getting attracted to that or involved with that until
13 they're at an age to know listen, you're playing with
14 death here, then perhaps that will help to reduce
15 that. So I'm in favor of that, but I did have a
16 couple of questions. I wanted to know; are there
17 some types of these products and experiences that are
18 more attractive because they're cheaper? As we
19 compare tobacco and e-cigs and the hookah and other
20 tobacco products, are there some that are more
21 readily accessible because they're cheaper?

22 COMMISSIONER BASSETT: I would say that
23 the other tobacco products that include cigarillos
24 and small cigars; roll your own; ones that haven't
25 been subject to tax or to minimum prices and are

1
2 cheaper, have appeal to youth, in part because of
3 their costs. So this application of minimum pricing
4 to other tobacco products, not just small cigars and
5 cigarettes -- something that New York City will be
6 the first jurisdiction in the nation to use -- will
7 be elevating the price of those products and thereby
8 -- because youth are so price-sensitive, as you
9 yourself have just described; making it less likely
10 that they'll use these products.

11 COUNCIL MEMBER BARRON: And in terms...

12 COMMISSIONER BASSETT: All of them are
13 equally dangerous.

14 COUNCIL MEMBER BARRON: Say again.

15 COMMISSIONER BASSETT: Yes, all equally
16 dangerous... [crosstalk]

17 COUNCIL MEMBER BARRON: Okay.

18 COMMISSIONER BASSETT: so it's not as
19 though there's a variability in risk and exposure to
20 tobacco products.

21 COUNCIL MEMBER BARRON: That same
22 question then applies to different ethnic groups; are
23 there some products that are more attractive to
24 particular groups of people than others; have you...
25 [crosstalk]

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2 COMMISSIONER BASSETT: Gee, I think that
3 we can say that among youth, the other types of
4 tobacco products -- partly because the price has not
5 gone up because they remain untaxed -- have become
6 more widely used and they are widely marketed. I
7 think that one of the things that we haven't talked
8 at all about today -- because in this country our
9 hands are tied in terms of being able to do anything
10 about the marketing practices of the tobacco
11 companies -- is that these products are
12 differentially marketed to poor, low-income [bell]
13 African American and Latino communities; that we can
14 only counter with counter-marketing. We can't keep
15 the tobacco industry from exercising its so-called
16 free speech. But I would say that the main trend
17 that we've seen over time has been a shift by youth
18 of all races, including large increases among Black
19 and Latino youth in the use of other tobacco
20 products; not cigarettes.

21 COUNCIL MEMBER BARRON: Thank you.
22 Mr. Chair, if you could just indulge me. My last
23 point is regarding Bill 1140. I noticed in your
24 testimony that you had some questions about how that
25 would be implemented in terms of not allowing people

1 to smoke in the car if a child's **[inaudible]**...

2 [crosstalk]

3 COMMISSIONER BASSETT: In the car. Yeah.

4 COUNCIL MEMBER BARRON: A colleague in
5 the Assembly, when I was there, wanted to introduce a
6 similar bill and my objection was; to criminalize
7 smoking in your car, as dangerous and as bad as that
8 is and the secondhand smoke that your child would
9 get, is another opportunity for police to have
10 interaction with people in their own cars, in their
11 own private vehicles -- oh, I thought the child was 5
12 years old and it's a child who's 15 -- whatever the
13 excuse is, and I think it would be another part of
14 the broken windows policy that this administration
15 has allowed the Police Department to use and I see it
16 as a problem and I'm not in favor of that, because I
17 don't think that we can expand these opportunities
18 for police to interact with people and put them in a
19 situation where now they're subject to having their
20 car searched and having their child taken from them
21 'cause they're being arrested and the child needs to
22 go into the system if they can't get someone. So I
23 see a lot of problems with 1140. Thank you,
24 Mr. Chair.
25

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2 COUNCIL MEMBER GENTILE: Thank you,
3 Council Member Barron. Next up is Council Member
4 Torres.

5 COUNCIL MEMBER TORRES: Thank you,
6 Mr. Chairman. Commissioner, I know the decades-long
7 trajectory of smoking rates has shown a dramatic
8 decline; what has been the smoking trend in recent
9 years, in the past three or five years?

10 COMMISSIONER BASSETT: In about 2010, the
11 smoking rate stood at about 13... actually, it was
12 13.9%; then, as you've heard, there was a reduction
13 in the tobacco-control budget, and the smoking rate
14 went up, reaching 16.1% as the estimate, when I
15 became Commissioner, the estimate for 2013. So the
16 smoking rate now stands at 14.3%, which is about --
17 it's statistically indistinguishable from the 2010
18 estimate. So... [crosstalk]

19 COUNCIL MEMBER TORRES: So we have seen.

20 COMMISSIONER BASSETT: in aggregate, it's
21 gone down from where we started in 2002, but we've
22 had a bit of a blip in the past and that's why I'm so
23 pleased to be testifying... [crosstalk]

24 COUNCIL MEMBER TORRES: Right.
25

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2 COMMISSIONER BASSETT: before you today
3 on a whole suite of tobacco-control efforts that will
4 put us on the path to... [crosstalk]

5 COUNCIL MEMBER TORRES: That... that's
6 great.

7 COMMISSIONER BASSETT: lower smoking
8 rates.

9 COUNCIL MEMBER TORRES: And smoking
10 obviously has been in decline over a long period of
11 time, but I suspect it's also become more racially
12 disparate, smoking.

13 COMMISSIONER BASSETT: No, that's not
14 true.

15 COUNCIL MEMBER TORRES: Okay.

16 COMMISSIONER BASSETT: It's interesting,
17 because I always ask that question; the biggest
18 difference, although it has racial overtones, is by
19 education level and income. So the biggest
20 disparities in tobacco use rates are by people who
21 have less than high school education compared to
22 people who have **[inaudible]** more. But though... as
23 you... as you said... [crosstalk]

24 COUNCIL MEMBER TORRES: But those
25 variables tend to correlate very closely with race.

1
2 COMMISSIONER BASSETT: But when we look
3 at the smoking rates for blacks and whites in this
4 city, they are about the same.

5 COUNCIL MEMBER TORRES: Right, but I'm
6 not... I'm not clear how you could have socioeconomic
7 disparities without racial disparities in smoking
8 rates. Are you telling me that the share of people
9 of color who are smoking has declined over time?

10 COMMISSIONER BASSETT: Well youth smoking
11 rates among blacks has always been lower than among
12 whites.

13 COUNCIL MEMBER TORRES: And what about
14 Latinos?

15 COMMISSIONER BASSETT: I believe that
16 it's the same; partly, I would argue, related to
17 price. [background comment]

18 COUNCIL MEMBER TORRES: Okay.

19 COMMISSIONER BASSETT: Related to price.
20 But the data per da... [crosstalk]

21 COUNCIL MEMBER TORRES: I have a
22 question...

23 COMMISSIONER BASSETT: Well, this is a
24 longer conversation than probably your two-and-a-
25 half, three minutes **[inaudible]**... [crosstalk]

1
2 COUNCIL MEMBER TORRES: Yeah. Fair
3 enough. Fair enough. Public housing; the Obama
4 Administration, for which I'm increasingly nostalgic,
5 came out with a rule prohibiting smoking in public
6 housing; I imagine the rates of smoking are probably
7 disproportionately higher in public housing than
8 elsewhere in the city; given those mandates and give
9 the disproportionate rates of smoking, what outreach
10 is the City doing specifically tailored toward the
11 residents of public housing?

12 COMMISSIONER BASSETT: Well I've had
13 conversations with Shola Olatoye about how we can
14 prepare for this; its implementation date, as you
15 probably know, is mid-2018.

16 COUNCIL MEMBER TORRES: Yeah. But
17 beyond... [interpose]

18 COMMISSIONER BASSETT: The intention is
19 to do outreach; one of the things that I'm pleased
20 with in this package of bills is the use of the 1939
21 Public Housing Law... [crosstalk]

22 COUNCIL MEMBER TORRES: Are we investing
23 more res... beyond the package of bills are...
24 [crosstalk]

25 COMMISSIONER BASSETT: uh when...

1
2 COUNCIL MEMBER TORRES: we investing more
3 resources in outreach and other means of [inaudible]...
4 [crosstalk]

5 COMMISSIONER BASSETT: and education;
6 we're going to have to.

7 COUNCIL MEMBER TORRES: Do we have an
8 estimate of how much more we're going to invest...?
9 [crosstalk]

10 COMMISSIONER BASSETT: I don't have an
11 estimate for you.

12 COUNCIL MEMBER TORRES: Okay. Anything
13 specifically tailored toward public housing beyond
14 your conversation with the Chairperson?

15 COMMISSIONER BASSETT: Well now we're
16 working on a plan advising NYCHA on how to get the
17 information out, working on our intention to make
18 cessation services available to residents. Many
19 residents in public housing have public health
20 insurance which covers tobacco cessation products, so
21 we wanna make sure that people are aware that their
22 insurance will cover these products so that it won't
23 carry out-of-pocket expenses for them.

24 COUNCIL MEMBER TORRES: And what's the
25 dollar amount of the City's tobacco-control budget?

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COMMITTEE ON HEALTH

COMMISSIONER BASSETT: Gosh, I really should know that and I don't, right, as you ask me this question, but it's millions of dollars.

COUNCIL MEMBER TORRES: Okay. And has it increased since 2014...? [crosstalk]

COMMISSIONER BASSETT: It has been increasing and it now stands higher than it was when I came in.

COUNCIL MEMBER TORRES: Okay, but you don't have exact numbers specifically [sic]?

COMMISSIONER BASSETT: I don't have the exact number... [crosstalk]

COUNCIL MEMBER TORRES: Okay.

COMMISSIONER BASSETT: and I would be happy to provide you with them.

COUNCIL MEMBER TORRES: Okay, that's the extent of my questioning. Thank you.

COUNCIL MEMBER GENTILE: Thank you, Council Member Torres. And our last set of questions will be from Council Member Wills.

COUNCIL MEMBER WILLS: Good afternoon Commissioners. I just have a couple of quick questions; they're not gonna be long or drawn out. The legal retailers who sell cigarettes and they

1
2 follow the procedure to card underage buyers, that
3 deters and controls underage smoking to a degree,
4 doesn't it?

5 COMMISSIONER BASSETT: It's a violation
6 of your cigarette license, as it's now called, to
7 sell to minors as well as selling flavored tobacco
8 products other than cigarettes, other than menthol
9 cigarettes, and additionally, to sell untaxed
10 cigarettes. Do you wanna add to that?

11 DEPUTY COMMISSIONER BAGGA: Dr. Bassett
12 is correct; those are all violations; DCA conducts
13 inspections to ensure that cigarettes are not being
14 sold to those under the age of 18, which is required
15 by state law, as well as those who are under the age
16 of 21, that they are not being sold cigarettes as
17 well, which is required by local law.

18 COUNCIL MEMBER WILLS: Both of you spoke,
19 but neither one of you answered the question.
20 Dr. Bassett, you've handled yourself incredibly
21 today; it's like a Senate confirmation hearing or
22 something, but I really need an answer to the
23 question... [crosstalk]

24

25

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2 COMMISSIONER BASSETT: But I... well then I
3 mi... I have every intention of answering every
4 question asked of me... [crosstalk]

5 COUNCIL MEMBER WILLS: Okay. So my
6 question was...

7 COMMISSIONER BASSETT: but I must not
8 have understood your question.

9 COUNCIL MEMBER WILLS: So my question
10 was; legal retailers who actually go through the
11 correct process in carding underage smokers, do you
12 agree that that deters and controls underage smoking?

13 COMMISSIONER BASSETT: Absolutely.

14 COUNCIL MEMBER WILLS: Okay. Uhm...

15 COMMISSIONER BASSETT: If the legal
16 retailer who had sold me my first pack of cigarettes
17 had done that, I would not have obtained that pack of
18 cigarettes; neither would've Council Member Barron,
19 because they weren't meant to be sold to anybody
20 under 18.

21 COUNCIL MEMBER WILLS: So also we can
22 agree with the contention that these enforcements and
23 this new legislation that we are entertaining today
24 would actually add to the underground market, right,
25 Council Member Barron, the underground market to

1
2 which these cigarettes will now be sold, which then
3 dovetails into the counterfeit market also. So my
4 question is -- because we had to deal with synthetic
5 marijuana -- when we go into doing something like
6 this, if we don't have the enforcement measures that
7 the Chair was speaking of to counterbalance it; how
8 do we then control the underground market from
9 exploding past what it's already doing, number one,
10 and number two; how do we deal with, if we're not
11 already ready for it; how do we deal with the
12 counterfeit market which can... I mean tobacco's
13 already a horrible product, but how do you deal with
14 the counterfeit market which then would introduce
15 things that are worse than tobacco to our people to
16 smoke?

17 COMMISSIONER BASSETT: Well the Sheriff,
18 who I want to public acknowledge, was really critical
19 to our key K2 efforts and.. [interpose]

20 COUNCIL MEMBER WILLS: Right.

21 COMMISSIONER BASSETT: our Emergency
22 Department visits for K2 have declined by nearly 90%,
23 thanks to the legislation passed by this chamber and
24 the actions of numbers of City agencies.. [interpose]

25 COUNCIL MEMBER WILLS: But see, you know...

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2 COMMISSIONER BASSETT: But... So let me
3 just... [crosstalk]

4 COUNCIL MEMBER WILLS: Yeah, sure.

5 COMMISSIONER BASSETT: say that we've
6 heard from the Sheriff about all of the enforcement
7 actions that they're taking to eliminate the supply
8 chain to the City of untaxed cigarettes coming from
9 other jurisdictions that do not tax their cigarettes.
10 In New York City you have to have a tax stamp from
11 New York State on your cigarettes in order to sell
12 those products legally and we have a whole set of
13 activities that the Sheriff can tell you about, but I
14 guess -- I don't know who's the Chair at the moment
15 -- but we already heard about some of them, so
16 perhaps, in the interest of time, you should
17 summarize quickly.

18 SHERIFF JOE FUCITO: Okay. Councilman,
19 when you mention counterfeit, are you talking
20 counterfeit product or counterfeit stamped product,
21 because there is a diff... [crosstalk]

22 COUNCIL MEMBER WILLS: No, I'm speaking
23 about counterfeit product.

24 SHERIFF JOE FUCITO: Okay.
25

1
2 COUNCIL MEMBER WILLIS: Because if you
3 already... if you're doing a counterfeit stamp; if
4 you're selling illegally, you're gonna do whatever
5 you need to do... [crosstalk]

6 SHERIFF JOE FUCITO: Count... 'Kay,
7 counter... counterfeit product has its own way of
8 diminishing itself...

9 COUNCIL MEMBER WILLIS: Right.

10 SHERIFF JOE FUCITO: if somebody is a
11 smoker, a true smoker and you sell them a pack of
12 Newports that is counterfeit, it doesn't taste the
13 same, it doesn't produce the same effects, and what
14 that does; it drives the person away. So usually
15 when there's... what we see what counterfeit markets;
16 it's almost like a sucker's transaction... [crosstalk]

17 COUNCIL MEMBER WILLIS: Well...

18 SHERIFF JOE FUCITO: it gets a person
19 once, so we don't... [crosstalk]

20 COUNCIL MEMBER WILLIS: Well that

21 **[inaudible]**...

22 SHERIFF JOE FUCITO: see a large line of
23 counterfeit products... [crosstalk]

24 COUNCIL MEMBER WILLIS: I... I understand
25 where you're going; believe me, that can... [bell]

1 that's only true to a point, right, because just like
2 in any other illicit drug market, when synthetics are
3 introduced or some... that only works until the point
4 where they get it right; right, or until... [crosstalk]

5 SHERIFF JOE FUCITO: Uh there's...

6 COUNCIL MEMBER WILLS: something else is
7 more addictive. Yes, because people use heroin that
8 didn't want to use cocaine... [crosstalk]

9 SHERIFF JOE FUCITO: **[inaudible]**...

10 COUNCIL MEMBER WILLS: and then crack
11 came in and that was a whole different product that
12 people didn't like but the addictive property was
13 much larger. So if you have a synthetic cigarette or
14 if you bring in something that is not the exact thing
15 that they're retailing now; if it begins to come into
16 the underground market, then that is a problem; that
17 introduces something that could be, possibly be more
18 deadly to our communities. So what I'm asking is..
19 [interpose]

20 SHERIFF JOE FUCITO: Any counterfeit
21 product, of course, carries risk; our material, our
22 seizures have shown a very low volume of counterfeit
23 product. We seized 20,000 cartons of cigarettes and
24 I think we only had maybe 400 packs of counterfeit
25

1
2 product, so the counterfeit product is low because of
3 the reasons that I explained. If you're a business
4 and you wanna keep getting your customers to come
5 back, if you sell them a counterfeit product, they're
6 not going to buy from you anymore because it doesn't
7 produce the same effect. So counterfeit product,
8 that issue is not as great as counterfeit stamped
9 product... [interpose]

10 COUNCIL MEMBER WILLS: Right.

11 SHERIFF JOE FUCITO: that is the greater
12 concern for us and we.. last year we seized 40,000
13 counterfeit stamps, so counterfeit stamps is a
14 significant problem 'cause it's a tax problem; that
15 is something that we see a high volume of.

16 COUNCIL MEMBER WILLS: I appreciate it,
17 but I do want to put on the record that I believe
18 that any measures that are not fully vetted would
19 present itself; it would allow the, not counterfeit
20 stamp, but the counterfeit market to present itself
21 in a way that we haven't seen before. I would ask
22 the Chair, because there are so many questions to
23 this, that we did an additional hearing and we did it
24 with Small Business and possibly Public Safety,
25 because even though this is a public health issue, it

1
2 still dovetails into other issues and other
3 committees should have the ability to fully weigh in
4 on this issue, so I would just publicly state that.
5 Thank you.

6 CHAIRPERSON JOHNSON: Thank you very
7 much. Well I'm glad it was an easy morning for you
8 all [background comment] being here; it's a
9 complicated issue and I'm glad we're having this
10 hearing today; I appreciate you all being here.
11 Thank you very much for your testimony and I look
12 forward to working together as we move forward on
13 this package of bills. Thank you very much.

14 Okay, we're gonna call up... [crosstalk]

15 COMMISSIONER BASSETT: Thank you.

16 CHAIRPERSON JOHNSON: Assemblyman David
17 Weprin, who's been very patient, and I appreciate it.
18 He is not just an Assembly Member -- so if folks who
19 wanna talk, if they could go outside in the back,
20 we're gonna keep going 'cause we have a lot to do,
21 folks could expeditiously make their way out the back
22 of the chamber. [background comments] Okay. If
23 folks could move out, that would be great. So we're...
24 we are joined by Assemblyman David Weprin, who is not
25 just an Assemblyman who represents the 24th Assembly

1
2 District in the great Borough of Queens, but he is
3 also a former member of this body; he was in the
4 Council from 2001-2009; he chaired the Finance
5 Committee of the Council and then he went to the
6 State Assembly; we are really grateful that he's here
7 today, and I wanna turn it over to him for testimony.
8 Thank you, Assemblyman Weprin for being here.

9 [background comment] If you hit the button... there
10 you go.

11 ASSEMBLYMAN WEPRIN: We have the same
12 problem in Albany.

13 Thank you, Chairman Johnson; thank you,
14 my former colleagues and some current colleagues,
15 former... Councilman Gentile, who I served with in the
16 Council and Council Member Barron, who I served with
17 in the Assembly and now serve with her husband, who I
18 served with in the Council and Assembly as well, and
19 of course, Councilman Cabrera, the sponsor of the
20 bill that I'm mostly gonna be testifying about.

21 I'd also like to state at the outset that
22 I support the entire package of bills, 'cause I think
23 it's -- as was shown by the Commissioner and all the
24 medical evidence -- smoking is dangerous and is
25 detrimental to people's health and I think this

1
2 entire package will go a long way in reducing people
3 from smoking and endangering their lives. But I'm
4 primarily here to testify on behalf of Council Member
5 Fernando Cabrera's bill, 'cause I have a similar bill
6 in Albany; I'm talking about the bill about not
7 smoking in cars with children under eight; my bill in
8 Albany would apply to children under the age of 14.
9 New Yorkers have known of the dangers, as we heard,
10 of secondhand smoke for some time now and the tobacco
11 industry has started to take notice. The harmful
12 effects of secondhand smoke have been well-
13 documented. The American Lung Association states
14 that secondhand smoke causes approximately 7,330
15 deaths from lung cancer and 33,950 deaths from heart
16 disease each year. Children are even more
17 susceptible to the harmful effects of secondhand
18 smoke. When children inhale the over 7,000 chemicals
19 in cigarettes and tobacco products, they are more
20 likely to develop dear infections, asthma,
21 bronchitis, pneumonia, and other ailments. On top of
22 all that, children who inhale secondhand smoke are at
23 an increased risk of developing far more serious
24 ailments in the future, including cancer and heart
25 disease.

1
2 New York was among the first states to
3 take action to limit the dangers of secondhand smoke,
4 and New York City has very often led the way in that
5 effort as well. We were among the first to ban
6 smoking in restaurants and bars and among the first
7 to ban smoking in public parks as a state. You're
8 not allowed to smoke in stadiums, airplanes, trains,
9 or buses, so while we protect ourselves, we
10 continually expose our children to secondhand smoke
11 in cars. We have a responsibility to protect our
12 children from this threat to their health. The bill
13 Council Member Cabrera has -- and I've introduced a
14 similar bill in Albany, or have had it for a number
15 of years -- are not new concepts. My bill has been
16 in the Assembly for 20 years, since 1997; it's passed
17 the Assembly but it has not passed in the Senate yet.

18 While New York is known for making
19 legislative precedence, just last year Virginia
20 became the eighth state to make it illegal to smoke
21 in cars with children under eight. There are certain
22 counties within New York State, such as Rockland
23 County, that have already banned smoking in all cars
24 with passengers under the age of 18. I am here to
25 shed light on the importance of this legislation and

1 ask that you support our bills so that they are
2 implemented citywide and statewide. While the spirit
3 of the legislation is preventative, it should also be
4 used as a tool to empower children to speak up about
5 the dangers they may be facing. Oftentimes young
6 children in particular have a harder time speaking
7 out about what is going on around them, while parents
8 are generally more responsible, younger children are
9 often in carpools that are being driven by teenagers
10 who may not be as responsible and will think nothing
11 of having a cigarette in the presence of children.
12 Other times children may be in situations where they
13 are around non-family members, whether they are
14 family friends, who, sadly, might also light up in
15 front of children. By participating in hearings such
16 as these, I hope to empower the children to not be
17 shy and to speak out when someone around them decides
18 to light up, just as when my children often reminded
19 me, when they learned about the use of seat belts in
20 school, to put my seat belt on right away -- not that
21 I wasn't, but they certainly reminded me.

23 I call on the parents, grandparents,
24 teachers, and concerned citizens of New York to help
25 us raise awareness of the dangers of smoking in cars

1
2 with children present to please stop smoking while
3 your children are present or in areas where they will
4 be in the future. So great are the risk factors
5 involved with children inhaling secondhand smoke that
6 nearly all vehicles produced today -- and I'm sure
7 most of you know that if you have a recent car or a
8 car within the last, you know, eight years or so --
9 they're not produced with cigarette lighters anymore,
10 you may recall. Luckily, the national decline in
11 smoking overall has forced carmakers to eliminate the
12 need to produce cigarette lighters in cars. I appeal
13 to every New Yorker to please consider the well-being
14 and the health of the child traveling with them and
15 to refrain smoking in their presence; just as safe as
16 we are in making sure their seat belts are on and
17 their car seats tight, we must also protect them from
18 smoke and environmental factors that could cause
19 irreversible damage to their developing body.

20 If you'd like to quit, there are many
21 resources available in New York to help and support
22 you; for more information you can call 1-866-NY-QUITS
23 or visit nysmokefree.com. Again, I commend
24 Councilman Cabrera on his legislation and I hope you
25 pass it in the Council and we re-pass it again in the

1 Assembly and hopefully eventually in the Senate..

2 [crosstalk]

3 CHAIRPERSON JOHNSON: Thank...

4 ASSEMBLYMAN WEPRIN: I'd be happy to
5 answer questions.

6 CHAIRPERSON JOHNSON: Thank you very
7 much, Assemblyman Weprin; I wanna go to Council
8 Member Cabrera, followed by Council Member Barron.

9 COUNCIL MEMBER CABRERA: Assemblyman
10 Weprin, thank you, thank you so much for your
11 eloquent, detailed, reasonable argument for this bill
12 and for the State bill and I assure you that you have
13 my 110% support at the State level; whatever we could
14 help with, please let us know; if we need to do a
15 resolution here calling upon the State to make sure
16 that we could have all New Yorkers all across the
17 State and not just New York City residents to benefit
18 really from intent of this bill.

19 I need to ask you a question that really
20 comes down to the concern that the Commissioner
21 mentioned; I'm sure you heard her; she was concerned
22 about the implementation of it and enforcement of it.
23 So for example, in your bill, a 14-year-old, how will
24 the police be able to determine if you have a 14-

1
2 year-old versus a 15-year-old; what are the check and
3 balances that you have in place?

4 ASSEMBLYMAN WEPRIN: Well you know look,
5 it's not a criminal penalty, it's just a fine,
6 similar to a traffic ticket, and I know Council
7 Member Barron's objection; she's probably gonna ask
8 me next, 'cause she stated it in her testimony to the
9 Commissioner, but I don't look at this as any more of
10 a problem of stopping somebody and saying to them
11 you're not wearing your seat belt, you were texting
12 while driving, and we all know that those are laws
13 that are recognized throughout the country, and the
14 fact that someone might be stopped you know, because
15 of racial profiling should not prohibit us from
16 enacting law such as seat belt laws, such as texting
17 while driving and such as smoking with children in
18 the car. So I would think it would be a deterrent
19 just knowing you know that it's a law in effect. I
20 was here in the City Council when a former colleague,
21 Phil Reed, the late Phil Reed introduced a bill for
22 movie theaters, not to use your cell phone, and it's
23 basically there's a warning at the theater on the
24 screen and people generally comply with it; I don't
25 think it's an enforcement problem, I mean people

1
2 aren't really enforcing it in the movie, other than
3 to remind people at the beginning in the theater not
4 to use their cell phone; then people get accustomed
5 not to using them, and I would hope that the same
6 would happen; we would be changing behavior, where
7 people would be sensitive not to smoke in the car
8 with children, just as people don't smoke in office
9 buildings and they always smoke outside, they changed
10 their behavior.

11 COUNCIL MEMBER CABRERA: Very good. I'm
12 just curious as to the age 14; are you open to the...
13 are you in support of... 'cause my bill is age of 8 and
14 now we're looking... the advocates are literally
15 calling to the age of 17, under 18; are you open to
16 that idea, **[inaudible]**... [crosstalk]

17 ASSEMBLYMAN WEPRIN: Yeah, there are a
18 num... I think we should do something. There are a
19 number of jurisdictions that adopted 18, 14; 16 -- 8
20 was the most recent adoption. I think the protection
21 is really more... I'm more concerned about the younger
22 children because they can't speak up; at what age
23 does that happen; it is 8; is it 10; is it 14? But I
24 would think that protection should be more on
25 children who can't necessarily speak up. If there's

1
2 an adult in the car and someone is smoking; they can
3 say to the person smoking, please stop smoking; it's
4 bothering me or I would prefer you not do that. So I
5 think it's an arbitrary age, but there are some
6 jurisdictions that have adopted 14, but I'd certainly
7 like to see something in that area.

8 COUNCIL MEMBER CABRERA: Assemblyman,
9 thank you so much; I know you were waiting here for a
10 while; it just shows where your heart is at and thank
11 you for your leadership; really appreciate the
12 support... [crosstalk]

13 ASSEMBLYMAN WEPRIN: Well it was like
14 déjà vu; I enjoyed coming back to this wonderful
15 chamber; I had eight beautiful years here, years I
16 enjoyed very much in this chamber; some very fond
17 memories. I'm not used to being on this side of the
18 table, but I certainly enjoy coming back and thank
19 you for your kind courtesy.

20 COUNCIL MEMBER CABRERA: Thank you.

21 CHAIRPERSON JOHNSON: Council Member
22 Barron.

23 COUNCIL MEMBER BARRON: Thank you
24 Mr. Chair. To my former colleague and still
25 colleague in government, good to see you again, and

1
2 yes, my concern is that this proposal will increase
3 the opportunity for police officers to interact with
4 Black and Latinos on a basis that exceeds what
5 history and data show happens that does not happen in
6 other communities, and every time there is an
7 interaction between a police officer and a person of
8 color there is a heightened possibility of a physical
9 encounter and even leading to death; it's documented
10 fact. So now we know that New York City used racial
11 profiling to stop, question and frisk and we know
12 that they did not use it in accord with how the
13 legislation for that policy was implemented and that
14 it was unconstitutional in the way in which they did
15 it. I believe, with the history that's documented of
16 police interactions here in New York City, that this
17 will be another opportunity for the Police Department
18 to implement their theory of broken windows -- oh,
19 well if he's smoking in the car, he may also have
20 marijuana in the car or some other substance in the
21 car. So now a police officer stops you -- oh, hold
22 is the child? My child is 16. Oh, he looks like
23 he's 14; show me some ID, and on and on. What do you
24 have in the car? Can I search your car? Usually
25 they don't even ask if they can search the car, they

1
2 just begin that process and see what's happening. So
3 for me, it's very serious and I see it in my
4 community all the time. So I see this as another way
5 of police doing whatever they need to do to get their
6 numbers up, to show that they're being effective in
7 arresting the people who are potentially going to
8 create some other higher level of crime, because the
9 Police Commissioner has said yes, he's continuing his
10 policy of broken windows; notwithstanding the fact
11 that it's not implemented equitably across all
12 communities. So that is the reason why I'm opposed
13 to this; I certainly understand and appreciate all
14 the negative impact of secondhand smoke, especially
15 in a closed environment, but when I take it beyond
16 that, I can see some black man winding up dead
17 because a police officer stopped him for smoking in
18 the car, and that's why I'm opposed to this bill.

19 ASSEMBLYMAN WEPRIN: Council Member, I
20 share your concern in racial profiling; I've been a
21 co-sponsor of every bill in Albany against racial
22 profiling as well as here, but let me just ask you a
23 question, if I may. By that same theory, you should
24 advocate for repealing seat belt laws and texting
25

1
2 while driving, 'cause the same thing would apply for
3 stopping people as well; would you advocate that?

4 COUNCIL MEMBER BARRON: No. And I don't
5 think that that's an appropriate question for what
6 I'm laying out as I see happening. I'm saying that
7 the law is not implemented equitably across the
8 system, across the communities, and that's why I'm
9 opposed to it.

10 ASSEMBLYMAN WEPRIN: Okay, I hear you and
11 I think we should fight the racial profiling, but I
12 don't think that should be a reason not to enact
13 safety laws in cars.

14 COUNCIL MEMBER BARRON: I think that we
15 can do as we talked about earlier; educate people.
16 The Commissioner talked about the fact that people
17 who smoke; at the outset it's a reflection of lower
18 education and lower-income. So now, of course we can
19 talk about the lower-income and we know there are
20 many factors that contribute to that, that income
21 gap, but we can certainly address the issue of
22 education. And you know appeal to a parent's sense
23 of -- listen; do you really know what you're doing to
24 your child? The commercials that are on TV that talk
25 about secondhand smoke and the impact that it has on

1
2 children I think are very impactful, so I think we
3 need to follow down that path more than allowing
4 another opportunity for NYPD to interact with Black
5 and Latinos in particular. Thank you... [crosstalk]

6 ASSEMBLYMAN WEPRIN: 'Kay, I hear you,
7 Council Member; I respect you very much... [crosstalk]

8 COUNCIL MEMBER BARRON: And I respect you
9 as well.

10 ASSEMBLYMAN WEPRIN: I have a lot of
11 respect for you; I just respectfully disagree on this
12 particular issue.

13 COUNCIL MEMBER BARRON: Thank you. Thank
14 you, Mr. Chair.

15 CHAIRPERSON JOHNSON: Thank you, Assembly
16 Member; good to see you.

17 ASSEMBLYMAN WEPRIN: Good to see you.
18 Thank you.

19 CHAIRPERSON JOHNSON: Okay, we're gonna
20 get into the panels; we're gonna hold folks to three
21 minutes, three minutes, you're not going past three
22 minutes or I'm going to cut you off and it's not
23 because I don't like you or I don't like what you're
24 saying, it's just because we have a lot of people to
25 testify today.

1
2 So the first panel -- Robin Vitale from
3 the American Heart Association; Kevin O'Flaherty from
4 the Campaign for Tobacco-Free Kids; Michael Davoli,
5 the American Cancer Society Cancer Action Network;
6 Michael Weitzman and Jennifer Polinski from CVS. Dr.
7 Weitzman. Michael Weitzman, M.D. Okay, we're gonna...

8 MICHAEL WEITZMAN, M.D.: My name is
9 Michael Weitzman and it's a great honor for me to
10 testify before you today. I want to.. [interpose]

11 CHAIRPERSON JOHNSON: If you could talk a
12 little closely to it and project.

13 MICHAEL WEITZMAN, M.D.: And project. I
14 really congratulate our City Council and Department
15 of Health and Mental for their continued efforts to
16 protect the public from a profound public health
17 threat. I believe that the upcoming bill,
18 specifically that dealing with hookahs being
19 discussed today, is the needed next step.. [crosstalk]

20 COUNCIL MEMBER GENTILE: Doctor, just put
21 the mic a little closer.. [crosstalk]

22 MICHAEL WEITZMAN, M.D.: is the needed
23 next step in the regulation of hookah use in New York
24 City and I support it wholeheartedly. I'm a
25 pediatrician by training, who is a professor of

1
2 pediatrics, environmental medicine and global public
3 health at New York University. I have more than 40
4 years of caring for and training thousands of others
5 to care for children, adolescents, and young adults.
6 I have been conducting research that entire time and
7 consulting to a large number of city, county, state,
8 and federal agencies, including the CDC, the
9 Environmental Protection Agency, and most recently,
10 the Federal Food and Drug Administration on the
11 effect of environmental contaminants such as tobacco
12 smoke on health; for the past five years my work has
13 largely focused on water pipes and hookahs. These
14 studies have clearly indicated many of the things
15 that have been stated here about adverse health
16 effects are the consequence of our work, but these
17 studies clearly indicate markedly dangerous levels of
18 multiple chemicals in the air of hookah bars that
19 cause cancer, hearth disease and countless other
20 problems; they also have shown, these studies have,
21 and these data here are from studies that we did in
22 East Village hookah bars, and I'd be glad to go over
23 that with you, if I have enough time. Basically,
24 they show you the levels above regulatory standards
25 that we found in ten hookah bars; for the ones that

1 don't have regulatory standards, that's the
2 relationship between what we found in regulatory
3 standards is because there aren't regulatory
4 standards from federal agencies for those. The slide
5 beneath it is results of what are called inflammatory
6 markers, so inflammatory markers in the blood are a
7 sign of systemic inflammation; inflammation is highly
8 related to the development of diabetes,
9 cardiovascular disease -- and there's growing data --
10 even depression. So this is data about hookah bar
11 workers, these are individuals that we tested before
12 and after shifts who didn't themselves use hookahs,
13 and you can see the mark changes in inflammation that
14 they've gotten from an eight-hour work shift. [bell]

15
16 CHAIRPERSON JOHNSON: Doctor, we're
17 gonna...

18 MICHAEL WEITZMAN, M.D.: Cut me off?

19 CHAIRPERSON JOHNSON: Yes, because I'm
20 sure Council Member Gentile's gonna have questions
21 for you...

22 MICHAEL WEITZMAN, M.D.: Sure.

23 CHAIRPERSON JOHNSON: so you'll be able
24 to talk a little bit more about what you were gonna
25 testify on, so we're gonna go to the next person who

1
2 wants to testify. So you're gonna have the
3 opportunity to answer questions. So whoever wants to
4 be next.

5 ROBIN VITALE: Thank you, Chair. My name
6 is Robin Vitale from the American Heart Association.
7 Thank you very much for this opportunity to testify.
8 You'll see on my submitted testimony there is a list
9 of bills that I'm able to speak on today and I'm
10 gonna do my best to synopsis as quickly as possible.
11 I'm going to skip over a good chunk of the
12 information behind the health impact of smoking,
13 because I think that's been well-stated on our
14 previous panel. But we know smoking kills and that
15 is why the American Heart Association is strongly in
16 support of any and all efforts that help to reduce
17 access to tobacco, limit exposure to secondhand smoke
18 and generally promote awareness about the dangers of
19 tobacco use. Meanwhile, our city has often led the
20 way in pioneering health policies; there is always
21 work to be done, and as long as we continue to lose
22 12,000 New Yorkers to tobacco-related illness every
23 year, we have a responsibility to pursue more
24 solutions around this health risk.

1
2 Speaking specifically around some of the
3 proposals related to smoke-free housing, the American
4 Heart Association did support the HUD proposal and
5 we're looking forward to a successful implementation
6 of those standards. We are strongly in support of
7 the opportunity to provide transparency and
8 disclosure with those multi-unit housing units, and
9 we certainly wanna make sure that any and all
10 opportunities to protect the elderly, children and
11 people with chronic illnesses in these housing units
12 are protected.

13 We know that while we're certainly very
14 passionate about advocating for comprehensive smoke-
15 free policies, the American Heart Association wants
16 to assure that smokers are not denied access to
17 public housing, as they can abide by policies which
18 allow for outdoor smoking areas. And, as Council
19 Member Torres mentioned, a well-funded cessation
20 program can complement the strategy to support any
21 tenant population in the effort to reduce smoking
22 rates in the building.

23 Related to tobacco-free pharmacies, this
24 is another area that the American Heart Association
25 is strongly in support of; we are strong advocates to

1
2 banned tobacco sales in all healthcare institutions,
3 which obviously also includes pharmacies. And this
4 is just another step in our longstanding efforts to
5 denormalize tobacco products in our community.

6 Speaking to the retail license effort;
7 evidence shows that it's more difficult for smokers
8 to quit and particularly in low-income areas when
9 they reside in close proximity to tobacco retailers
10 and children exposed to tobacco retailers can double
11 the risk of tobacco use initiation. Communities will
12 adopt these licensing laws as one way to ensure
13 compliance of tobacco laws and to combat the public
14 health problems associated with tobacco use. This
15 same argument holds true for the need to monitor
16 compliance of laws involving electronic cigarettes.
17 And the fees connected to the license registration
18 are a necessary tool to fund needed oversight and
19 management of these programs. It is appropriate to
20 assess these fees periodically and to ensure that the
21 costs involved are commensurate with the current
22 operation needs.

23 Lastly, regarding price -- I realize I'm
24 almost out of time -- we know tobacco use in any form
25 including e-cigarettes is bad and we certainly

1
2 appreciate that the price sensitivity is the number
3 one tool [bell] to address this concern, so we
4 support any and all efforts to increase the price
5 floor as well as increase the tax on other tobacco
6 products as well. Thank you, Chair.

7 CHAIRPERSON JOHNSON: Thank you, Robin.
8 Kevin.

9 KEVIN O'FLAHERTY: Thank you, Chairman.
10 I'm so excited to actually have some water up here by
11 the time I get here, it's great.

12 Thanks so much for the opportunity to
13 testify today in support of these great new proposals
14 to reduce tobacco use in the City, especially among
15 kids. As you know, you've done great work over the
16 last 10, 20 years to cut youth smoking by more than
17 half and reduce adult smoking by a third, but that
18 still leaves over 900,000 smokers in the City,
19 including 15,000 kids and I think we all agree we
20 need to do more.

21 I'm gonna spend most of my time
22 specifically talking about Intro 1544-A, your bill,
23 Chairman Johnson, that sets a price floor on all
24 tobacco products, expands the original price floor,
25 increases it, and applies a tax on OTP [sic] as well

1
2 as taking the minimum pack sizes from the 2013
3 legislation and expands it to all tobacco products.

4 Decades of research show conclusively
5 that price increases dramatically reduce tobacco use.
6 As the Commissioner mentioned earlier, there is no
7 more single effective tool in our toolbox that helps
8 drive down youth smoking rates and adult smoking
9 rates across the board. So doing anything we can to
10 increase those prices, keep them high and prevent
11 kids from having access to cheap products and
12 encouraging adults to use price as a reason to quit
13 helps reduce tobacco use and we think is a worthwhile
14 goal.

15 I did wanna comment a little bit on some
16 of the comments that Council Member Koo and Espinal
17 and you, Chair Johnson mentioned about the illegal
18 sales. You know there is no question that the sale
19 of untaxed cigarettes is an issue here in New York
20 City, but the numbers don't lie; New York City's
21 price enforcement policies have helped to drive
22 smoking among youth and adults to historic lows, and
23 the data just doesn't come from pack sales, it comes
24 from surveys that have been tested for years,
25 multilayered, that show that people really do quit as

1
2 a result of these increases. We should do all that
3 we can to combat the illegal sales through increased
4 enforcement and we should support the Sheriff's
5 Department in any way we can to do that. If we do
6 that, not only are we gonna get more people to quit,
7 but we're gonna get more legitimate businesses
8 that'll get the sale of those products and the City
9 gets the revenue. But as long as more adults are
10 quitting and fewer kids are starting, then this is
11 worth doing and it's important to remember that. All
12 the evidence tells us that this is exactly what has
13 happened and what will happen when you pass these
14 bills.

15 One last thing; many economic studies
16 have found that particular groups are more sensitive
17 to price than others; youth are more price-sensitive
18 than adults and price increases work more effectively
19 to reduce smoking among males, Blacks, Hispanics and
20 lower-income smokers. When some of the opposition
21 comes up here today and says, you all, this is an
22 aggressive tax, it's gonna hurt low-income smokers
23 and low-income communities, I would urge you to look
24 at them with a healthy dose of skepticism and perhaps
25 dismay, because it is the tobacco industry, with

1 tobacco retailers that aggressively target these
2 communities by putting more stores in their
3 neighborhoods, lower-priced products in their
4 neighborhoods, more flavored [bell] products in their
5 neighborhoods. These price floors will help these
6 populations quit at higher rates than the rest of the
7 population and I think that's really critically
8 important to consider as you move forward with this
9 legislation.
10

11 CHAIRPERSON JOHNSON: Thank you, Kevin.

12 Jennifer.

13 JENNIFER POLINSKI: Mr. Chairman;
14 Committee Members, my name is Dr. Jennifer Polinski;
15 I'm a pharmacoepidemiologist and health clinical
16 researcher in the Medical Affairs Department at CVS
17 Health and I'm here today to speak about CVS'
18 experience with removing tobacco products and
19 subsequent reductions in cigarette purchases
20 nationwide.

21 So on September 3, 2014, CVS removed
22 tobacco products from its more than 7,800 retail
23 stores nationwide. We conducted two evaluations to
24 assess whether restricting access to tobacco would
25 reduce cigarette purchasing. Using household

1 cigarette purchasing data from IRI Nielsen, we
2 compared households that purchase cigarettes
3 exclusively at CVS Pharmacy to households that
4 purchase cigarettes at other locations and/or CVS
5 Pharmacy. Households that had purchased cigarettes
6 exclusively at CVS Pharmacy before we removed them
7 were 38% more likely to stop purchasing cigarettes
8 for at least six months in any location. And those
9 consumers that bought more than three packs a month
10 at CVS were more than twice as likely to stop buying
11 them after we removed them from our stores, likely
12 reflecting the greater disruption in their tobacco
13 use and purchasing behaviors.

14
15 Our second evaluation used eight months
16 of state-level purchasing data from IRI and in the
17 eight months after CVS stopped selling tobacco, we
18 found smokers in these states with CVS pharmacies
19 stopped or reduced their cigarette purchases across
20 all retailers by five packs per smoker, as compared
21 to smokers in states with no CVS stores.

22 The result of the two evaluations at the
23 household level and at the population level
24 demonstrates that restricting access to tobacco is an
25 effective approach to reduce cigarette purchasing and

1
2 presumably consumption of cigarettes. The
3 significance of these results is striking for public
4 health. In the 13 states where CVC Pharmacy
5 locations have more than 15% of the market share,
6 consumers purchased the equivalent of 95 million
7 fewer packs of cigarettes over the eight months
8 subsequent to tobacco removal. This represents a 1%
9 reduction in sales in these states and presumably
10 consumption.

11 Finally, as an advocate for living
12 tobacco free, CVS Health is proud to partner with the
13 nation's leading tobacco control and youth
14 organizations to support comprehensive education,
15 tobacco cessation and healthy behavior programming.
16 This commitment reflects our company's purpose [bell]
17 as the largest pharmacy innovation company to help
18 people on their path to better health. Thank you.

19 CHAIRPERSON JOHNSON: Thank you very
20 much, Dr. Polinski. Before I turn it over to Council
21 Member Gentile, who I know had some questions, I
22 wanted to just ask you: how much money do you
23 estimate that CVS has not received since you
24 discontinued selling cigarettes?

1
2 JENNIFER POLINSKI: That's a good
3 question. I know that at the time those numbers were
4 made public; there were a couple numbers in the
5 public sphere; I do not know them offhand. As I
6 said, I'm a researcher and pharmacoepidemiologist;
7 I'm sure we can get those to you.

8 CHAIRPERSON JOHNSON: But it's a
9 significant amount of money; it's in the tens of
10 millions of dollars that I would assume CVS was
11 getting annually through tobacco-related sales that
12 they are no longer getting because CVS had decided
13 they believe that in the best interest of their
14 customers and in the welfare of the public that the
15 appropriate decision was to discontinue the sale of
16 tobacco; is that right?

17 JENNIFER POLINSKI: It's accurate that
18 CVS does believe that in its mission to helping
19 people on their path to better health that selling
20 cigarettes was not in accordance with that mission.
21 I don't know the numbers about sales and we can get
22 those for you.

23 CHAIRPERSON JOHNSON: Thank you very
24 much. Council Member Gentile. I want to applaud CVS
25 for doing this. Councilman Gentile.

1
2 COUNCIL MEMBER GENTILE: Thank you.
3 Thank you, Mr. Chair.

4 Dr. Weitzman, I'm curious; you said this
5 chart here represents the testing you did on
6 employees at the hookah establishments; is that
7 correct?

8 MICHAEL WEITZMAN, M.D.: That's correct.

9 COUNCIL MEMBER GENTILE: Okay. And it
10 shows elevated blood inflammatory markers..

11 MICHAEL WEITZMAN, M.D.: Correct.

12 COUNCIL MEMBER GENTILE: and other types
13 of concentrations; correct?

14 MICHAEL WEITZMAN, M.D.: Correct.

15 COUNCIL MEMBER GENTILE: So the aspect of
16 the Bill, 139-B, that would require ventilation
17 systems within the area, not only in the back where
18 they have the charcoal burning, but also out front
19 where you have employees and you have patrons who are
20 not smoking; do you see that as a means by which
21 these numbers will at least get better if not
22 disappear?

23 MICHAEL WEITZMAN, M.D.: Well I'm a
24 scientist, so I require hard data; I would imagine
25 that it would result exactly in what you're saying,

1
2 but it depends upon the size of the ventilation
3 ducts, where they're placed, what role the hookah bar
4 worker plays, because not everybody goes in the back
5 and lights the charcoal, but surely it can't possibly
6 hurt individuals in the hookah establishment, and I'm
7 glad that you mentioned that there are large numbers
8 of people who go to hookah bars who don't participate
9 in smoking that themselves are exposed to virtually
10 the same amount of tobacco products as the person
11 who's smoking.

12 COUNCIL MEMBER GENTILE: Was any study
13 like this done on patrons of hookah bars?

14 MICHAEL WEITZMAN, M.D.: Right and we are
15 in the midst of analyzing that data. There is one
16 such study from Toronto, but did not look at
17 inflammatory markers; looked at acute changes in
18 cardiopulmonary function, as we did as well, and we
19 found alterations -- those are acute. Again, people
20 have asked about deleterious effects of hookahs; what
21 we ultimately wanna know is long-term effects, right;
22 you wanna know about cancer and heart disease...

23 [crosstalk]

24 COUNCIL MEMBER GENTILE: Right.

25

1
2 MICHAEL WEITZMAN, M.D.: rather than what
3 happens transiently.

4 COUNCIL MEMBER GENTILE: In the vein, let
5 me just read to you a chart that lists the emissions
6 that come from non-tobacco shisha, and maybe you can
7 translate this into some kind of layman's language
8 when I read it to you. The emissions coming from
9 non-tobacco shisha of: polycyclic aromatic
10 hydrocarbons, carbon monoxide, benzene, particular
11 matter, nitrous oxide, and volatile aldehydes.

12 MICHAEL WEITZMAN, M.D.: Alright..

13 COUNCIL MEMBER GENTILE: If you can sort
14 of put that in layman's terms... [crosstalk]

15 MICHAEL WEITZMAN, M.D.: So..

16 COUNCIL MEMBER GENTILE: of what those
17 emissions..

18 MICHAEL WEITZMAN, M.D.: four of those
19 that you just mentioned are well-established
20 carcinogens, things that cause... [interpose]

21 COUNCIL MEMBER GENTILE: Carcinogens?

22 MICHAEL WEITZMAN, M.D.: that cause
23 cancer. So so far we have found that typical tobacco
24 has about 6,000 different chemicals in it and 60 have
25 been identified as being carcinogenic and there are

1
2 17 cancers that they cause. We tend to focus on lung
3 cancer; there are numerous other cancers that are
4 caused as well and with time we will find other
5 things as well. Remember, when you talk about non-
6 tobacco, vegetative matter that's being combusted,
7 the only thing that's different is the absence of
8 nicotine, and nicotine is not carcinogenic. It is
9 true that if you have underlying cardiac disease you
10 can increase the risk for a stroke or a heart attack
11 from nicotine, but when we're talking largely about
12 young people, and we are largely talking about young
13 people, there are multiple population-based studies
14 that show that it's between the age of 16 and 24 that
15 you're most likely to go to a hookah bar; they're not
16 likely to have underlying heart disease themselves.

17 So benzene, the poly aromatic
18 hydrocarbons and the aldehydes are all cancer-causing
19 agents. The particulate matter that you mentioned --
20 and you'll see that we have particulate matter 2.5 --
21 so that's very small particulate matter, right? If
22 you inhale something with large particulate matter,
23 it's gonna get stuck in your throat or your nose;
24 you're gonna cough; it's much less likely to cause
25 long-term effects. It does increase your risk for

1
2 upper respiratory cancers, but they're far less
3 likely to occur than lung cancer. Really small
4 particles get stuck in very small, what are called
5 bronchioles, so those are things that will stay for
6 years, so you actually have physical contact and that
7 particulate matter includes the poly aromatic,
8 hydrocarbons, the aldehyde, and the benzene. So the
9 particulate matter that's small is profoundly
10 important.

11 The carbon monoxide levels that we find
12 here would affect somebody who has underlying cardiac
13 disease. When you see somebody who's committed
14 suicide by sitting in a car in a closed garage,
15 they're dying of carbon monoxide poisoning, but it's
16 substantially higher. These levels can cause a
17 headache, might make you wanna stop or go outside,
18 but I don't see these are particularly dangerous.

19 And then the nitrous oxide clearly does
20 damage to arteries themselves.

21 COUNCIL MEMBER GENTILE: I see. Okay.
22 That kinda lays it out pretty well.

23 So you also testified last year in the
24 hearing, and I thank you for coming back again this
25 year, and one of the things you mentioned or

1 supported was increasing the age to 21; am I
2 correct...? [crosstalk]

3 MICHAEL WEITZMAN, M.D.: Sure...

4 [crosstalk]

5 COUNCIL MEMBER GENTILE: Yeah.

6 MICHAEL WEITZMAN, M.D.: 98% of smokers
7 in the United States have started before the age of
8 18...

9 COUNCIL MEMBER GENTILE: Right.

10 MICHAEL WEITZMAN, M.D.: and we know that
11 earlier secondhand smoke exposure increases the
12 likelihood that you're gonna become a smoker, because
13 it -- through a biochemical mechanism; I'm not... I'm
14 not talking just about socialization -- because
15 secondhand smoke exposure increases the density of
16 nicotine receptors in your brain and your likelihood
17 of becoming addicted to nicotine or cocaine or heroin
18 -- somebody mentioned Staten Island earlier -- I
19 would bet you; there aren't data, but I would bet you
20 that exposure to tobacco is part of the opioid
21 epidemic, because you'd need far less exposure to an
22 opioid if you've been either prenatally or during
23 childhood exposed to secondhand smoke.
24

1
2 COUNCIL MEMBER GENTILE: Right. Well
3 thank you for your work in this area and thank you to
4 the entire panel for the work that you do in regard
5 to tobacco and other areas to keep people safe.

6 Thank you, Chair... [crosstalk]

7 MICHAEL WEITZMAN, M.D.: Thank you for
8 thanking us, but the real thanks I think goes to City
9 Council.

10 CHAIRPERSON JOHNSON: Thank you very
11 much, Doctor. I wanna turn it over to Council Member
12 Cabrera for a statement.

13 COUNCIL MEMBER CABRERA: Thank you so
14 much. I just wanna thank CVS for -- really, you went
15 to heart of the matter; you put people above profits,
16 and at the end of the day that's what it's all about
17 and I believe that's the mission and should be the
18 mission of every pharmacy out there. So thank you
19 for your leadership in the business world and thank
20 you for, finally, [sic] true research and science.

21 I had a question for the Doctor regarding
22 the markers... [crosstalk]

23 MICHAEL WEITZMAN, M.D.: Yes, sir.

24 COUNCIL MEMBER CABRERA: the inflammatory
25 markers: is there a significant difference regarding

1
2 age; was there... did you study the variables regarding
3 the age?

4 MICHAEL WEITZMAN, M.D.: So that's a
5 great question. We were able to get ten hookah bar
6 workers; it was very difficult to recruit them
7 because of concern that they'd lose their jobs. We
8 have a grant application into the National Institute
9 of Health to do a much larger study on this, because
10 if you remember, the way we began to get clear air
11 acts -- almost 40 years ago -- was by demonstrating
12 that airline workers who were not smokers on planes,
13 transatlantic planes, rather, were developing lung
14 and laryngeal cancer. So damage to people who are
15 not using a product in a workplace is one of the ways
16 that you go about developing public health laws.

17 COUNCIL MEMBER CABRERA: Alright. And
18 one last question to all the panelists. Do you have
19 a position regarding Intro 1140 in preventing smoking
20 where we have children, whatever age -- you can
21 address whatever age -- 14, 18, you know, 8 years old
22 -- do you have a position regarding smoking in a car,
23 should we make that illegal?

24

25

1
2 ROBIN VITALE: The American Heart
3 Association is very interested in the policy, but we
4 don't have a position at this time.

5 COUNCIL MEMBER CABRERA: Okay.

6 MICHAEL WEITZMAN, M.D.: The Academy of
7 Pediatrics I don't believe has a position, but is
8 very interested. It's clearly in the child's best
9 interest, other than witnessing a potentially
10 terrible social interaction.

11 COUNCIL MEMBER CABRERA: Okay. Thank
12 you.

13 KEVIN O'FLAHERTY: I don't know that the
14 Campaign for Tobacco-Free Kids has a formal position
15 on it either, although I think to get there, we would
16 encourage legislation to have a higher age, something
17 closer to the age where a child can actually make a
18 decision to take a different form of transportation,
19 whether that's 18 (which is, you know, sort of the
20 age of maturity), whether that's 16 (which is the age
21 you could get a driver's license in the State), I'm
22 not sure, but 8 seems more arbitrary and very young;
23 why would we not wanna protect a 9- or an 11-year-
24 old's lungs in the same way we'd protect an 8-year-

25

1
2 old. So I think we'd encourage the Council to look
3 at moving that up in either case.

4 COUNCIL MEMBER CABRERA: That's very
5 good; that's very helpful.

6 JENNIFER POLINSKI: And I'm here to
7 share our experience with removing tobacco products
8 from the store, but do not advocate either way for
9 that legislation.

10 COUNCIL MEMBER CABRERA: Okay. Thank
11 you.

12 CHAIRPERSON JOHNSON: Thank you very
13 much. For those of you that prepared very good,
14 detailed testimony and weren't able to read it all,
15 it is submitted into the record, it is being looked
16 at, and we appreciate you being here today, so thank
17 you very much. [background comment]

18 Okay, the next panel -- Mittin Chadha,
19 Adam Cheney, Saurin Desai, Lawrence West, Robert
20 Bookman, and Thomas Briant. Who am I missing? Adam
21 Cheney is there, Mittin is there, Robert Bookman is
22 there. Thomas Briant? Lawrence West? So Saurin
23 Desai; is he here, or is she here? Okay. Great.
24 You may begin in whatever order you'd like; just make
25

1
2 sure that the red light is on on the mic and you
3 speak directly into the microphone. Go ahead, sir.

4 ROBERT BOOKMAN: I'm just gonna jump in,
5 since I'm so, you know...

6 CHAIRPERSON JOHNSON: Go ahead.

7 ROBERT BOOKMAN: so used to it.

8 My name is Robert Bookman; I proudly
9 represent hundreds of the immigrant operators of our
10 city's iconic sidewalk newsstands.

11 There are a number of inconvenient truths
12 that were substantially left out so far today or
13 barely touched on and I wanna go through those.

14 1. Tobacco is a legal product. Small
15 business owners are driven to sell legal products to
16 adults who wanna purchase them. We are not poisoning
17 anyone and we are offended by that comment by one of
18 your colleagues, who chose not to stay.

19 2. A statistic left out by all the
20 government people who testified is that there is
21 overwhelming compliance by the 8,200 licensed
22 retailers in the City of New York when they are
23 inspected by the government agencies. Undercover
24 inspections for sale to minors -- 92% compliance,
25 which is virtually full compliance. So if young

1
2 people are getting tobacco in the City of New York,
3 they're not getting them from the licensed owners out
4 here who are selling tobacco, they're getting them
5 from the illegal market, which leads to number three.

6 3. Raising prices raises the illegal
7 markets, especially for young people. There was no
8 illegal market 20 years ago; government has created
9 this illegal market by artificially raising the
10 prices of tobacco; that's a fact.

11 A further fact is; Cornell University
12 just released a study today -- which I got on an
13 email; I haven't got to read it completely yet, but
14 their conclusion was that raising New York City
15 cigarette prices will ignite illegal street sales.
16 That's Cornell University, independent entity here.

17 4. Reducing the number of law-abiding
18 sellers will have the opposite effect that you're
19 trying to achieve today; it will also limit the
20 number of new stores that can open, because in this
21 inconvenience and sidewalk newsstands, 'cause if they
22 can't get the tobacco license, they can't open the
23 business; let's be honest about it.

24

25

1
2 5. The best way to reduce smoking, proven
3 over and over again, is through education and through
4 peer pressure.

5 Mr. Chairman, how many times have I said
6 to you please stop smoking?

7 CHAIRPERSON JOHNSON: Many times.

8 ROBERT BOOKMAN: It's that, as what my
9 grandparents would say, the noodging of the peers
10 and.. [interpose]

11 CHAIRPERSON JOHNSON: You are definitely
12 a noodge.

13 ROBERT BOOKMAN: Yeah, and the education,
14 that's the most effective program; that's how people
15 stop smoking, and listen, I've had cancer deaths in
16 my family; I'm not pro smoking; I've been a lifetime
17 virulent, anti-smoker; I made my wife quit smoking;
18 otherwise we wouldn't get married; she thanks me to
19 this day that 35 years later she's still not smoking,
20 but that's what's effective, and if you listen
21 carefully to what Commissioner Bassett said, that is
22 where... when you guys spend more money on education,
23 the amount of smoking goes down; when you spend less
24 money on education, the amount of smoking goes up,
25 and sixth, and not last is;

1
2 6. The bill that will limit the number of
3 licenses is likely illegal and will wind up in court.
4 Let's understand; everybody has a State license to
5 see tobacco; there are only five counties in the
6 State of New York where you need an additional
7 license and that's here in New York City. The State
8 may allow you to require additional requirements, but
9 if I have a State license and I go to the City to get
10 that additional license, the City can't say sorry,
11 we're not gonna give you that license and therefore
12 negate the license that the State, which is a higher
13 level of government, already gave you... [crosstalk]

14 CHAIRPERSON JOHNSON: Thank you.

15 ROBERT BOOKMAN: so that's really a non-
16 starter. Thank you.

17 CHAIRPERSON JOHNSON: Thank you, Robert.

18 THOMAS BRIANT: Mr. Chairman; members of
19 the Committee, my name is Thomas Briant and I'm the
20 Executive Director of the National Association of
21 Tobacco Outlets, a national trade association of
22 50,000 retail stores that sell tobacco products, with
23 member stores here in New York City.

24 With the goal of these ordinances to
25 protect the public health, one important solution

1
2 that is not included in the ordinances is the focus
3 on changing societal attitudes, that it is not
4 permissible for adults to legally obtain tobacco
5 products and then improperly provide those tobacco
6 products to underage persons; these are what are
7 called social sources -- older siblings, adult-age
8 friends, parents, and even strangers are the kind of
9 social sources where youth rely on to obtain tobacco
10 products.

11 Why is social sources so important? The
12 FDA, in 2016 issued the results of a major study and
13 it found that 86% of underage youth obtained
14 cigarettes from social sources; 79% of those youth
15 obtained cigars and cigarillos from social sources.
16 This means that retailers are not the primary or even
17 the secondary source of tobacco products for underage
18 youth and the proposed ordinances will not augment
19 the protection of the public health because it is not
20 addressing the youth access through social sources.

21 In addition, the higher minimum prices
22 will not protect the public health. Introduction
23 No. 1544 would set high minimum prices on all tobacco
24 products. New York City residents who buy tobacco
25 products will perceive this action as being very

1
2 unfair and they'll be motivated to seek out other
3 sources of tobacco products, especially from sources
4 that don't comply with the law. Enacting extremely
5 high minimum prices threatens the health of the
6 overall community. The health of a city is not
7 measured just by the physical well-being of each of
8 its citizens but also the degree of adherence to the
9 law and the ordinances that are on the books.

10 Raising the minimum prices will exacerbate the
11 disobedience of the law by your very residents
12 because they will not submit to paying the mandated
13 prices on these tobacco products from stores within
14 the City limits. This fosters an environment for
15 illicit and illegal market operations where they're
16 allowed to thrive.

17 Also, the higher minimum prices will
18 force more stores to close. In 2013, when the
19 minimum prices were first enacted, there were 9,800
20 licensed retailers to sell tobacco; that number is
21 now 8,200; there's been a reduction of 1,600 license
22 retailers throughout the City. But with tobacco
23 products accounting for up to 36% of in-store sales
24 for your average convenience store, these higher
25 prices and also the density limit will cause more of

1
2 those family-owned stores to close and they'll be
3 involuntarily shut down, they'll lose their
4 investment and the employees will lose their job.

5 For all of these reasons, we ask you not
6 to support these ordinances. Thank you.

7 CHAIRPERSON JOHNSON: Thank you very
8 much.

9 [background comments]

10 CHAIRPERSON JOHNSON: You're such a
11 noodge. [laughter] Go ahead.

12 LAWRENCE WEST: Good morning Council; how
13 you doin'? My name is Lawrence West and I represent
14 my owner, Mr. Norinja [sp?] Saning [sp?], who is a
15 fairly responsible owner that follows all local and
16 state laws. We have a store located at 60-31
17 Metropolitan in Queens, Middle Village, Queens; I
18 think he's a fairly responsible owner because he's a
19 new owner, he just received the establishment two
20 years ago, and due to his track record, is on a
21 positive track; with the new sales tax increase, I
22 believe that the sales will be redirected to the
23 underground market.

24 I also live in an urban neighborhood
25 where if you walk down the street you also see people

1
2 selling cigarette packs for \$5.00 less than what we
3 sell at our store and basically is gonna be \$7.00
4 compared to what the State minimum wanna raise to
5 \$13.00.

6 Also, my owner purchased his business and
7 it had a certain value, and I also heard, since the
8 other people were talking over here sayin' that the
9 value of his store won't go down, but in a sense, if
10 he tried to resell his store or 7-Eleven tried to get
11 it back from him, it's going to have a depreciated
12 value from the renewal of the tobacco license.

13 Also, as a person looking to purchase his
14 own 7-Eleven, I don't see a benefit for me having a
15 business in New York State with all these new
16 regulations and laws coming up and I don't see... it's
17 not a good idea, nor is it **[inaudible]** in New York
18 City at the moment.

19 Also, the timing of this announcement of
20 the sales tax increase, in my opinion, wasn't ample
21 time to have a bigger support or fact-finding to
22 produce for as many responsible retailers that are
23 out there; I had to adjust my whole schedule so I
24 could come and make it at the last moment.

1
2 Here at 7-Eleven, we also have training
3 in place, whether it's computer-based or a system set
4 up by 7-Eleven, the Corporation, which sent in groups
5 of individuals underage-looking or underage trying to
6 purchase cigarettes; we have a green card and a red
7 card process that if we don't follow the laws or we
8 don't ask for ID; we get a red card, and then after
9 that red card we get chastised from the City or we
10 get a violation from the City that we have to appear.
11 But due to my store -- like I said, two years -- our
12 track record is like 97% in passing; everybody that
13 works in my store gets properly trained and
14 occasionally they come in with people that have --
15 I'm 40 years old; I don't look 40; they come in with
16 people who have a beard, tall, 6' tall, and some
17 certain guys that don't speak property English in my
18 store may assume that this person's above the age and
19 I think that's also like entrapment for my work
20 **[inaudible]** they're just tryin' to make a honest
21 livin' and my owner, who's tryin' to make a decent
22 livin' with his establishment. [bell]

23 CHAIRPERSON JOHNSON: Thank you, sir.

24 LAWRENCE WEST: Thank you.

25 CHAIRPERSON JOHNSON: Go ahead.

1
2 MITTIN CHADHA: Chairman Johnson, members
3 of the Committee, thank you for allowing me to
4 testify today. In the essence of time, a lot of
5 these points have already been mentioned, so I'm
6 gonna try to abbreviate it.

7 If this passes, it would significantly..
8 oh sorry. The limit.. we're trying to limit tobacco
9 licenses; if this law passes, it would significantly
10 financially harm the value of my store; I'm a
11 responsible convenience store owner; my store's
12 employees are trained and provide friendly service
13 and convenience to our customers. In addition,
14 7-Eleven goes above and beyond training, with very
15 strict compliance checks on a regular basis. My
16 store is a mystery shop [sic] to ensure that the
17 staff is properly checking ID on all adult purchases.

18 Under this proposed bill, when I go to
19 sell my business I will likely not be able to sell it
20 at its rightful valuation; that's because my store
21 will be in a district with license caps and a new
22 tobacco permit likely will not be granted to the new
23 potential owner. Tobacco sales are approximately 18%
24 of my business, so if I cannot sell it with that
25

1
2 license being available to the next owner, it
3 devalues my business substantially.

4 As a 7-Eleven owner for over 15 years,
5 we've been trying to transition people to healthier
6 food and alternatives -- salads, humus, alkaline
7 water -- we're not trying to hurt our customers, we
8 want to have a healthy lifestyle and we're also
9 working on that image and pushing those products.
10 That's it.

11 CHAIRPERSON JOHNSON: Thank you, sir.

12 ADAM CHENEY: Chairman Johnson and the
13 rest of the Committee; thank you for your time and I
14 appreciate being able to be here and be part of the
15 process.

16 My name is Adam Cheney and I'm a local
17 7-Eleven owner right her on Fulton Street, around the
18 corner [background comment] and... thank you... [laugh]
19 and I'll only take up a moment of your time.

20 We heard numbers of 35, 36 and up to 40%
21 of sales, and for myself personally, it's nowhere
22 near that number; it's a lot lower. It's not about
23 specifically selling tobacco; it's the same reason
24 why we sell something like the *New York Post*. When
25 somebody comes to our store and they wanna get a cup

1
2 of coffee, they wanna be able to get the other items
3 that they want and that's what allows us to have the
4 minute edge that we do, compared to somebody like
5 Amazon or some unbelievably huge company -- we are
6 small business owners. I am responsible; I do
7 respect the law, we are compliant, and we're here
8 because this all matters in terms of satisfying the
9 guests; that's really all it's about. And in terms
10 of having restrictions of five-year ownership, a
11 three-year compliance cigarette or tobacco license,
12 that does still impact. Any regulations or any
13 standards that are added -- I put my life savings
14 into my store; it will impact it, whether or not caps
15 are put or a license is renewed and that will give
16 thought to somebody when I choose to retire, if I'm
17 able to retire, to whether or not they're able to
18 purchase that store. It does matter; I work six days
19 a week; I bring my kids with me to work on Sunday,
20 and I am happy to have my business and I appreciate
21 it, but at the same time, I am a small business owner
22 and we need to be protected the same way as everybody
23 else. And that's it, thank you.

24 CHAIRPERSON JOHNSON: Thank you all for
25 your testimony, I appreciate your patience. For

1
2 those of you that submitted written testimony, it's
3 part of the record and I'm sure there will be
4 conversations between the folks here at the Council
5 -- I hope there are conversations between the folks
6 here at the Council and those of you that are
7 interested in this legislation as it moves forward.
8 Thank you very much for being here today.

9 [background comment] Oh, oh sorry, I apologize.
10 Council Member Cabrera has a question.

11 COUNCIL MEMBER CABRERA: I'm sorry, Mr.
12 Chair. I just wanted a clarification; you mentioned
13 retail stores, 9,000 to 8,200; what year was that?

14 THOMAS BRIANT: In 2013, we conducted an
15 Economic Impact Study when the first price increases
16 were proposed; there were 9,804 licensed retail
17 stores in New York City that sold tobacco products,
18 and then from prior testimony today, they referenced
19 the 8,200 figure, so it was about a 1,600 store
20 difference.

21 COUNCIL MEMBER CABRERA: Was there a
22 study done in following up with those stores as to
23 why they closed down?

24 THOMAS BRIANT: No, that study was done
25 prior to the adoption of the ordinance to indicate

1
2 what the economic impact could be. We estimated from
3 that study there would be 2,000 stores that would
4 close or no longer be licensed and then in reality,
5 there are 1,600 that were no longer licensed.

6 COUNCIL MEMBER CABRERA: And I appreciate
7 the numbers, but there could be a correlation, but it
8 does not mean causation, and so though it could've
9 happened around the same time, like the recession,
10 where a lot of businesses were shutting down, and so
11 just because it happened during the same time doesn't
12 mean that one necessarily caused the other, so that's
13 why I was asking was there any particular research
14 that would indicate causation and so just a thought.
15 Thank you so much.

16 THOMAS BRIANT: You're welcome. Thank
17 you.

18 CHAIRPERSON JOHNSON: Thank you all very
19 much. Okay, next panel -- Elizabeth Carde from the
20 American Cancer Society; Annette Spellen from ACS;
21 Michael Seilback from the American Lung Association;
22 Patrick Kwan from NYC Smoke-Free; Marla Tepper from
23 Public Health Solutions; Deidre Sully from NYC Smoke-
24 Free; and Lisa Spitzner from NYC Smoke-Free. That's
25 seven people; there are six chairs; we can pull an

1 additional chair over to the side as well.

2 [background comments] [pause] Go ahead.

3
4 MICHAEL SEILBACK: Good afternoon. My
5 name is Michael Seilback; I'm the Vice President of
6 Public Policy [background comments] and
7 Communications for the American Lung Association of
8 the Northeast.

9 I'm here today on behalf of the Lung
10 Association to voice our strong support for the
11 package of bills that were announced last week. We
12 know that the City's policies of strong smoke-free
13 air laws, a tobacco-control and cessation program, a
14 high tobacco tax, hard-hitting media campaigns, and
15 innovative tobacco-control policies are what have
16 helped significantly reduce smoking in this city.

17 It's important to recognize some of the
18 things that were said in the last panel;
19 specifically, that education and peer pressure are
20 the best way to reduce smoking; that's factually
21 inaccurate. We know that the biggest way to reduce
22 smoking is to increase the price. We know that
23 having a strong tobacco-control program reduces
24 smoking rates. Peer pressure, while it may work on
25 some people, it is not a public health solution.

1
2 Additionally, there was testimony from
3 the National Association of Tobacco Outlets; they
4 talked about social sources. We agree; social
5 sources are a major reason why young people smoke;
6 that's why this body in 2013 passed a law that raised
7 the sales age to 21 years old. By increasing that
8 sales age we drastically reduced the amount of social
9 sources that youth get their tobacco products from.
10 It's very rare that 16- and 17-year-olds are hanging
11 out with 21-year-olds to get their tobacco products.
12 So we agree on that purpose and we wanna make sure
13 that people understand social sources are real, but
14 let's not argue that we need to do something other
15 than what we're talking about today, which we know
16 will reduce smoking rates.

17 You heard some arguments; I like to
18 consider them the "sky is falling" argument; that we
19 are just going to see businesses close across the
20 city. The fact is; every time that we've sat and had
21 conversations about tobacco control laws, folks have
22 come in and said that everything is going to close;
23 we're gonna regret the day that we talked about these
24 bills. The fact is; that the facts do not bear that
25 out; that business still is doing well. And someone

1
2 in this last panel talked about you don't measure the
3 health of the city by the health of its people. I
4 would disagree and so would the Lung Association. We
5 know that the bills that we're talking about today
6 are gonna save lives and they are gonna build upon a
7 history of saving lives by this city, which have been
8 replicated not only across the state, but around the
9 world. Thank you.

10 CHAIRPERSON JOHNSON: Thank you very
11 much.

12 PATRICK KWAN: Hi, my name is Patrick
13 Kwan; I'm the Director of NYC Smoke-Free at Public
14 Health Solutions. I wanna thank Council Member
15 Johnson, as well as the Health Committee for this
16 invitation and opportunity to speak today.

17 NYC Smoke-Free has been working for over
18 20 years to help establish and expand smoke-free
19 protections in the City of New York; we are very
20 appreciative that this year, which is the 15th
21 anniversary of the NYC Smoke-Free Air Act, that we
22 are here today talking about many tobacco issues, and
23 one of the pride and joy that I have every day at NYC
24 Smoke-Free is that we work in over 60 schools and we
25 host many students who are high school interns of

1
2 ours who are shocked, absolutely shocked that you
3 know we used to smoke in the restaurants, that we
4 smoked in the subways and things like that, so it's a
5 great privilege to talk about tobacco-control efforts
6 today.

7 First I will talk about the ending
8 pharmacies as tobacco outlets, which is Intro 1131.
9 While many New York City neighborhood pharmacies put
10 the health of our communities first and do not sell
11 cigarettes and other tobacco products, more than 600
12 pharmacies, half of which are Duane Reade and Rite
13 Aid stores, which are both owned by Walgreens, still
14 continue to peddle deadly and addictive tobacco
15 products in our neighborhoods.

16 We have to understand and recognize that
17 pharmacies are crucial, frontline providers of health
18 care and medications and they should not be an outlet
19 for the tobacco industry, which is best known for
20 targeting kids as a customer base for their deadly
21 product.

22 Intro 1131 will stop the irresponsible
23 pharmacies from contributing to New York City's
24 tobacco epidemic and get them out of the deadly
25 tobacco business.

1
2 On 1547, which is about stopping the
3 proliferation of tobacco outlets in NYC
4 neighborhoods, New Yorkers are seeing more and more
5 tobacco in our neighborhoods. And in some of our
6 most vulnerable communities we have where tobacco is
7 both persistent and pervasive; we have chronic
8 disparities of higher tobacco use and secondhand
9 smoke exposure rates that are coupled with widespread
10 availability of dangerous tobacco products. And
11 alarmingly, many of the neighborhoods are also food
12 deserts that lack and avoid of healthy foods and are
13 yet also tobacco swamps, abundant with deadly and
14 addictive tobacco products.

15 In far too many New York City
16 neighborhoods it's easier for a child to find
17 cigarettes than a book or a swing set as we have more
18 than 8,500 tobacco outlets in our neighborhoods. In
19 response to the gentleman from the Newsstand
20 Association, I picked up my very first pack of
21 cigarettes from a newsstand around the corner from my
22 junior high school on the Upper East Side at Wagner
23 Junior High School.

24 And we also have to note that more than 1
25 in every 3 New York City high school student, they

1
2 obtain their cigarettes from a neighborhood tobacco
3 outlet; that's 1 out of every 3 of the students who
4 obtain their cigarettes from neighborhood outlets,
5 based on surveys.

6 We know that candies and cigarettes don't
7 belong together, [bell] yet at neighborhood outlets
8 teens and kids are bombarded with bountiful arrays
9 and colorful sales displays of tobacco products.

10 Thank you.

11 UNKNOWN FEMALE: Good afternoon to the
12 Chairperson and the members of this Committee.
13 First; I'm nervous. I'm a registered professional
14 nurse and I've seen people die from lung cancer. I'm
15 listening to a lot of conversations this morning,
16 pros and cons about the bills, but just strictly from
17 taking care of loving people who've been diagnosed
18 with lung cancer, I'm here today to just say let's
19 get together and do what it is that we can do to save
20 lives, and that means supporting the pharmacy ban,
21 Bill No. 1131; also, 1544 and 1547. We really need
22 to begin to figure out ways that we can come together
23 and work to save the lives of those people that are
24 our family members, our friends, our colleagues, and
25 my co-workers. We all know that all the empirical

1
2 data says that smoking leads to cancer, so I don't
3 know what their bickering is about; let's just kind
4 of stop it; let's just stop it and do those things
5 that we know within our hearts that we need to do; to
6 not have cigarettes available at the store right
7 around the corner from the junior high school. I
8 live in Harlem, oh my goodness, I don't have to tell
9 you stories; you probably know them yourselves about
10 how and where to -- we just need to be able to come
11 together and figure out how do we stop the sale of
12 cigarettes; let's take them out of the drug stores,
13 the pharmacies. If you're gonna sell them, let's
14 kinda limit the number of places that you can. Let's
15 do something about the e-cigarettes, and I didn't
16 even know about the proliferation of the hookah
17 places until I came here today; I thought a hookah
18 meant something bad -- I mean you know what I mean,
19 but anyway... [laughter] Alright, so thank you for
20 listening to me; I appreciate the ability to be here.

21 [pause]

22 COUNCIL MEMBER GENTILE: Thank you.

23 ANNETTE SPELLEN: Good afternoon. I'd
24 like to thank Chairman Johnson and the members of the
25 Health Committee for allowing me to testify today.

1
2 My name is Annette Spellan; I am a retired NYPD
3 Detective, a former smoker of 28 years and a five-
4 year lung cancer survivor. I am here to support the
5 pharmacy ban and the minimum price **[inaudible]** tax,
6 but I strongly support amending Local Law
7 1547(a) (2017) of the Administrative Code as it
8 relates to expanding the retail dealer license to
9 include retailers of tobacco products and setting a
10 cap on retail dealer licenses.

11 I have recently noticed that our
12 neighborhoods, especially my neighborhood of
13 Bushwick, are being saturated with tobacco products
14 and smoke shops. What is truly frightening to me is
15 the increase in smoke products that are being
16 displayed in some of our grocery stores and our deli
17 shops. These stores are frequented by our children,
18 are blocks away from our schools and I feel that the
19 displays of pipes and other colorful smoke items are
20 enticing our children.

21 I started smoking at the age of 13
22 because I felt it was cool and the smoke displays and
23 advertisements lured me to the product. I listened
24 to the previous speakers talk about minors, that they
25 get their cigarettes from social sources; yeah, well

1
2 a lot of them do, but guess what; they usually steal,
3 they aren't given to them by a true adult and an
4 adult who really cares about them; they steal those
5 cigarettes or they get them from social sources that
6 they hang out with. I also hear them talk about
7 their concern about their businesses going down.
8 Well we really don't want your business to go down,
9 but you need to find another product to sell and the
10 bottom line is; how many of them are willing to
11 subsidize the medical cost for those who have cancer
12 from the product that they sell? All I ask is that
13 you support these bills and let's find a way to get
14 rid of this problem.

15 COUNCIL MEMBER GENTILE: Well thank you
16 for being here; thank you for your... and
17 congratulations on your successful struggle too.

18 ANNETTE SPELLEN: Thank you.

19 COUNCIL MEMBER GENTILE: Absolutely.
20 Miss Sully.

21 DEIDRE SULLY: Good afternoon. Thank you
22 to Chairperson Johnson and other members of the
23 Health Committee, Council Member Gentile and Council
24 Member Cabrera for the invitation and the opportunity
25 to speak today. My name is Deidre Sully and I'm the

1 Deputy Director of NYC Smoke-Free, a program of
2 Public Health Solutions. NYC Smoke-Free works to
3 protect the health of New Yorkers through tobacco-
4 control policy, advocacy and education. We partner
5 with community members, legislators and health
6 advocates to support local effort to end the
7 devastating tobacco epidemic throughout New York
8 City. I'm here today in regards to Intro 139-B and
9 regulation of non-tobacco smoking products in our
10 bars, restaurants and lounges in New York City.

12 It is our position that Intro 139-B would
13 create an oversight and regulatory framework for
14 hookah establishments to promote and ensure
15 compliance of the New York City Smoke-Free Air Act,
16 which keeps tobacco products away from kids and
17 protects New Yorkers, particularly in this case the
18 workers who are employed at hookah establishments,
19 and it protects them from the harmful exposure of
20 secondhand smoke.

21 A 2014 investigation conducted by New
22 York University students found that over a dozen of
23 the City's most popular hookah-serving establishments
24 claiming to only use non-tobacco shisha were in fact
25 in violation of the Smoke-Free Air Act when

1
2 laboratory tests conducted on those shisha samples
3 showed to contain nicotine and tobacco. Two very
4 clear things were happening from this revelation:
5 1. these places were illegally serving tobacco to
6 youth under the age of 21, and 2. exposing everyone
7 in the establishment to secondhand smoke. Being
8 exposed to the use of hookah renormalizes smoking in
9 a general way and it may discourage those who are
10 trying to quit using cigarettes.

11 For more than a decade, New York City has
12 achieved great successes in tobacco control,
13 including a decline in teen use of cigarettes. Any
14 hopes of continuing that success may be in jeopardy
15 because the use and services of a non-tobacco smoking
16 product such as hookah have become a growing trend
17 spreading among bars, restaurants and lounges across
18 the five boroughs.

19 There is a common misconception that
20 smoking hookah tobacco is safer and less addictive
21 than cigarette smoking; in reality, it can be just as
22 dangerous as smoking cigarettes; perhaps even more so
23 due to longer periods of inhalation and exposure.
24 Hookah smoke, whether tobacco-based or non-tobacco-
25 based, contains many of the same harmful toxins as

1
2 cigarette smoke and has been associated with lung
3 cancer and respiratory illnesses. We must protect
4 New Yorkers from the adverse health affects of
5 secondhand smoke exposure resulting from the
6 increased use of a trendy and under-regulated product
7 that creates misconceptions of safety. Simply put,
8 it is another product [bell] that only encourages
9 young people to start smoking other seemingly newer
10 forms of tobacco. Thank you.

11 CHAIRPERSON JOHNSON: Thank you very
12 much... [crosstalk]

13 COUNCIL MEMBER GENTILE: Right... Right on,
14 right on.

15 MICHAEL DAVOLI: Good afternoon. My name
16 is Michael Davoli; I'm the Director of Government
17 Relations for the American Cancer Society Cancer
18 Action Network (ACS CAN). I apologize to the Chair
19 and to the Committee; I never was good at musical
20 chairs and I lost an earlier round today, so I'm
21 kinda crashing on this panel.

22 So I'm pleased to speak to you all today
23 to talk about the various pieces of legislation in
24 front of us. My oral testimony's gonna focus
25 primarily on Intro 1138, which ACS CAN strongly

1 supports; that is the establishment of the retail cap
2 on tobacco licenses. My written testimony goes into
3 more depth on the various other issues.
4

5 While smoking rates are at a historic
6 low, on average, nearly 5,400 New Yorkers will be
7 diagnosed with tobacco-related cancer and more than
8 3,200 New Yorkers will die from tobacco-related
9 cancer every single year. So while we can be
10 concerned about the interest of small businesses,
11 which is a vital concern, we have to fundamentally
12 remember why we're here first and foremost, and that
13 is to save lives.

14 Last week ACS CAN released a report --
15 which I provided for you all today -- that looks at
16 in-depth the number of licensed tobacco retail
17 outlets in New York City, and while our numbers vary
18 a little bit from the Department of Health numbers,
19 they've got the more up-to-date data, so my data's a
20 few months older. But the bottom line is that New
21 York City is oversaturated with licensed tobacco
22 retail outlets. Our estimates are there are 8,992
23 license tobacco retail outlets in New York City.

24 To put those number in perspective,
25 that's 3 times more than the top 10 corporate chain

1
2 retail stores combined, which is 2,984; 3.5 times
3 more than the number of pizzerias in New York City
4 (there are only about 2,500 pizzerias); 3 times more
5 than the number of schools in New York City (there
6 are only about 2,700 schools), and my favorite
7 number; 29 times more than the number of Starbucks in
8 New York City. So as you can see, the retailers are
9 everywhere in our city.

10 The scary part is that more than two-
11 thirds of those retailers are within 1,000 feet of a
12 school and more than 93% of those retailers are
13 within a 1,000 feet of another retailer. There is
14 simply too much tobacco in New York City.

15 By establishing a cap, we can begin to
16 reduce that density and reduce the exposure that our
17 young people are having on tobacco every single day
18 and help people quit, 'cause the bottom line is; if
19 you are trying to quit and everywhere you go tobacco
20 is in your face and every child, when they walk into
21 a corner store (which is where most children spend
22 their money) [bell] they are exposed to tobacco; we
23 are simply not going to be able to dive down smoking
24 rates even further. Thank you very much.

25 CHAIRPERSON JOHNSON: Thank you.

1
2 LISA SPITZNER: Good afternoon. Thank
3 you to Council Member Johnson and the members of the
4 Health Committee for the invitation and the
5 opportunity to speak today. My name is Lisa
6 Spitzner; I'm the Manhattan Community Engagement
7 Coordinator at NYC Smoke-Free, where we strongly
8 believe that every New Yorker and visitor, for that
9 matter, deserves the right to breathe clean, smoke-
10 free air not only where they're working and playing,
11 but most importantly, where they're living in their
12 very own home.

13 Since 2009, NYC Smoke-Free has helped
14 over 12,000 apartments to go smoke-free, which has
15 impacted over 32,000 residents. I should note that
16 more than 6,500 of those have converted just in the
17 last two years.

18 The three bills today related to smoke-
19 free housing -- Intros 1585, 484 and 977 -- will make
20 it much easier for New Yorkers to identify housing
21 with smoke-free protections, breathe air free from
22 harmful tobacco pollution and find opportunities for
23 smoke-free affordable housing.

24 In regards to 1585, the disclosure of
25 smoking policy, it really should not be a mystery

1
2 whether smoking is permitted or prohibited in an
3 apartment building. New Yorkers should have the
4 right to know their buildings' policy when they're
5 about to sign on that dotted line, purchase a new
6 house or renew a new lease. At NYC Smoke-Free, we
7 often hear from many New York City residents who are
8 surprised to learn that their building is lacking
9 these smoke-free protections and often this occurs
10 when it's too late and they're already being exposed
11 to secondhand smoke. Families should not have to
12 find their way out of subjected secondhand smoke and
13 struggle to come up with the expenses to move to a
14 smoke-free building. We think that this commonsense
15 policy can really go a far way in providing crucial
16 information that can afford New York City residents
17 more informed decisions to find a healthy environment
18 for them and their families to live in.

19 In regards to 484, extending common area
20 smoke-free protections for all apartment buildings,
21 we know that in New York City the Smoke-Free Air Act
22 of 2002 prohibits smoking in lobbies, stairways,
23 hallways, elevators, and laundry rooms, and other
24 common areas in residential buildings with 10 or more
25 units. Whether a building has 10 units or 400 units,

1
2 secondhand smoke exposure is secondhand smoke
3 exposure and these protections should be awarded to
4 those who live in buildings with 10 units or less.

5 Again, at NYC Smoke-Free, we often hear from a lot of
6 New York City residents who live in apartment
7 buildings with 10 units or less who are being exposed
8 and inundated to secondhand smoke, not only from just
9 their common areas, but then that smoke is seeping
10 into their own living environment.

11 Lastly, the 977, extending smoke-free
12 affordable housing. We know that luxury condos and
13 co-ops and rentals are increasingly going smoke-free,
14 but this positive trend has yet to be and slow to
15 reach for most New Yorkers, especially families who
16 depend the most on it in affordable housing.

17 While New Yorkers with options are
18 choosing smoke-free housing, the great majority of
19 New Yorkers who are rent-burdened or struggle [bell]
20 in the City's competitive housing market have few
21 options but to stay where they are and endure
22 dangerous secondhand smoke.

23 CHAIRPERSON JOHNSON: Thank you all very
24 much. Council Member Cabrera I believe had some
25 questions.

1
2 COUNCIL MEMBER CABRERA: Thank you so
3 much. To the gentleman on the right -- I'm very bad
4 with names, so -- thank you for sharing what you said
5 about the illusion that people quit because, you know
6 your friend tells you to quit; if it was that easy,
7 we would've solved this problem a long time ago. The
8 fact is; people quit when the cost becomes higher
9 than its reward, and that goes with any addiction.
10 Let's be real; we're dealing with a drug, this is a
11 drug. Nobody has said it that plainly, but really,
12 this is what we're dealing with here; it's a drug and
13 it's a powerful drug and it's very, very addictive,
14 so thank you for sharing that.

15 The question I was gonna ask -- you
16 mentioned as an officer your experience was that a
17 lot of times young people were getting cigarettes
18 from social sources, but they were stealing them; is
19 there any data on that; is there research on that
20 that you know of?

21 ANNETTE SPELLEN: Not to my knowledge; I...
22 [crosstalk]

23 COUNCIL MEMBER CABRERA: Or does anybody
24 happen to know if there's...

25

1
2 ANNETTE SPELLEN: Not to my knowledge;
3 what I know... [crosstalk]

4 COUNCIL MEMBER CABRERA: Okay.

5 ANNETTE SPELLEN: is from when I was a
6 kid; I stole my cigarettes, and I listen to the
7 children -- I mentor and I listen to some of the
8 children talking; they talk about how they steal
9 cigarettes from their parents and older sisters and
10 brothers.

11 COUNCIL MEMBER CABRERA: Let me -- and a
12 totally different topic here -- as you know, I have a
13 bill, 1140, that would prohibit people from smoking
14 while having children in the car; as a former NYPD --
15 I'm sure you heard Council Member Barron's concern
16 that that will be a pretext to stop minority members
17 of our community; would that be a concern of yours?

18 ANNETTE SPELLEN: To stop **[inaudible]**...
19 [crosstalk]

20 COUNCIL MEMBER CABRERA: To stop... that
21 they will use it as a pretext as an excuse to stop a
22 minority member because they saw them smoking in the
23 car and as an excuse to go ahead and let's check your
24 car; let's see if you have any drugs?

25 ANNETTE SPELLEN: I don't believe that.

1
2 COUNCIL MEMBER CABRERA: Okay. Any
3 particular reason why you don't believe that or?

4 ANNETTE SPELLEN: I'd have to have more
5 information on that, I mean... [crosstalk]

6 COUNCIL MEMBER CABRERA: Okay.

7 ANNETTE SPELLEN: secondhand smoke in
8 your car -- why would the police take your car,
9 unless it was a law, and I don't see a law like that
10 being passed. You need to work on finding ways to
11 stop people from smoking, especially when they have
12 children in the car, 'cause secondhand smoke is just
13 as bad as a regular cigarette or a hookah pipe, so I
14 don't... I'd have to have more information you know, to
15 say for the minority community, why would you make it
16 just for the minority community; what about the
17 entire community?

18 COUNCIL MEMBER CABRERA: Right. Okay,
19 thank you so much, Mr. Chair.

20 CHAIRPERSON JOHNSON: Thank you all very
21 much. We're gonna go to the next panel, thank you.
22 Okay, so the next panel is gonna be -- [clearing
23 throat] excuse me -- Ramon Murphy, Nelson Eusebio,
24 Jay Peltz, and Sam Schlamone [sic].
25

1
2 Okay. And then after that panel, the one
3 after that is Josephine Beckman, Phil Konigsberg,
4 Stan Harmon, Regina Lee, Smitha Varghese, Ilana
5 Knopf. Okay. So they're on deck.

6 Anyone else for this panel? We called
7 four folks. Ramon Murphy?

8 RAMON MURPHY: Yes.

9 CHAIRPERSON JOHNSON: Nelson?

10 NELSON EUSEBIO: Yeah.

11 CHAIRPERSON JOHNSON: Jay? Yes. And
12 Sam? [background comment] Did you sign up to
13 testify? What's your name, sir? Issam. So you're
14 probably on another panel, but if you wanna come up
15 for this panel you can. Okay, go ahead. Go ahead,
16 sir.

17 RAMON MURPHY: Yes. Thank you, Council
18 Member. We represent 13,000 bodegas. We're here
19 because we understand that bill, they've got good
20 intention and we have good intentions too to working
21 with the City, with the Council Member to reduce
22 smoking, but we believe that's not the way we can do
23 that, because illegal activity in the city, illegal
24 market is strong. Ten years ago we don't have that
25 illegal activity. Mayor Bloomberg come and raise

1
2 100% tax on cigarettes and that's opened to the road
3 to the illegal cigarettes coming in the street.
4 Today we see -- you bring a pack of cigarettes \$13.00
5 and that shows to us right now we're gonna have a
6 bigger highway to the black market. We need to work
7 with the City, we need to work with the Council
8 Members to just educate our community and working
9 with the small business how we can just bring less
10 the smoking. Taking my license because I made a
11 mistake or because you send someone look like 21
12 years old and is not; you know what's gonna happen?
13 **[inaudible]** Joe gonna come **[inaudible]** way to sell
14 cigarettes for \$6.00 and the other guy gonna come and
15 sell cigarettes; then, when somebody comes to my
16 store, they don't even ask me for the cigarette; you
17 know why? Because I'm gonna sell the cigarettes for
18 \$13.00. Don't make no sense when somebody in the
19 street just sell cigarettes for \$6.00. My concern is
20 that teenagers -- in a bodega, when you go in to buy
21 cigarettes, at least I ask you for ID. If I see
22 you're a minor, I don't sell the cigarettes. But
23 when you go to the corner to the guy selling illegal
24 cigarettes, they don't ask for nothing. It's easy to
25 get a loosie, it's easy to get a cigarette.

1
2 What can I say; I'm not gonna be against
3 it if you wanna raise \$13.00 a pack, but the way I
4 see it, the only thing that's gonna happen is you're
5 gonna have 80% in the illegal market in the street.
6 Right now we have 60% that activity.

7 I used to sell 25 cartons a week. When
8 Bloomberg came with that law, they reduced 10. Who's
9 selling the rest? Illegal market. Right now, with
10 that bill, **[inaudible]** sell cigarettes **[inaudible]**
11 straight to the black market. Thank you.

12 CHAIRPERSON JOHNSON: Thank you,
13 Mr. Murphy.

14 JAY PELTZ: Thank you for the opportunity
15 to [bell] testify on behalf of the Food Industry
16 Alliance of New York regarding Intros 1547 and 1532.
17 FIA is a nonprofit trade association that promotes
18 the interests statewide of New York's grocery, drug
19 and convenience stores.

20 FIA opposes Intro 1547, which, among
21 other things, would cap and ultimately cut the number
22 of retail dealer licenses in the city. The bill will
23 adversely impact store values. If a prospective
24 store buyer believes that it won't be able to sell
25 cigarettes and tobacco products at a location, such

1
2 as a convenience store or a bodega, that is heavily
3 dependent on sales of these products, as well as the
4 non-tobacco items that are part of the same
5 transaction, then either the business will be sold at
6 a significantly reduced price or there will be no
7 buyer at all. Either way, small business owners who
8 have endured long hours and severe competition could
9 have their equity in the business, and therefore
10 their savings (including their retirement savings),
11 wiped out and default on personally guaranteed debt,
12 which would result in the forfeiture of personal
13 assets to lenders and suppliers. If convenience
14 stores or bodegas shut due to a lack of buyers, job
15 losses will result.

16 These outcomes will occur even though
17 users of cigarettes and tobacco products are fully
18 informed purchasers of legal products. These
19 products are heavily regulated and taxed, including a
20 prohibition on sales to minors, a price floor for
21 cigarettes and a ban on promotions and coupons.

22 In addition, New York already has a
23 significant and growing illegal trade in tobacco
24 products. According to a January 217 study by the
25 Tax Foundation, 55.4% of cigarettes consumed in New

1
2 York are from smuggled sources. In 2015, the Obama
3 Administration released a report titled "The Global
4 Illicit Trade in Tobacco: A Threat to National
5 Security." The report stated that cigarette
6 smuggling provides funding for everything from
7 terrorism and human trafficking to weapons.

8 Accordingly, eliminating thousands of
9 responsible, heavily regulate, taxpaying locations
10 that ID minors will have the unintended consequence
11 of increase illicit sales as well as an increase in
12 legal purchases by City residents outside the City,
13 including cross-border brick and mortar stores, the
14 internet and Indian reservations.

15 In addition, FIA opposes Intro 1532,
16 which would make it unlawful for any establishment to
17 engage in business as an e-cigarette retail dealer
18 without first having obtained a separate license for
19 each place of business where e-cigarettes are sold at
20 retail in the city.

21 A local law was adopted in Suffolk last
22 year that requires sellers of e-cigarettes to
23 register with the county. However, businesses
24 registered to sell tobacco products under a state
25 license are exempt from the separate registration

1
2 requirement. The separate requirement was deemed
3 unnecessary since sellers of e-cigarettes who are
4 also licensed sellers of tobacco products can easily
5 be identified through that database. This will allow
6 the county to enforce laws regarding the sale of
7 e-cigarettes at those establishments.

8 This rationale is even stronger in the
9 city, which has its own license requirement, separate
10 from the state, to sell cigarettes and tobacco
11 products. There is no need to impose another license
12 requirement and another fee on businesses that are
13 already licensed and paying a fee to sell cigarettes
14 and tobacco products. These establishments are
15 already regulated and inspected by the City.

16 Accordingly, the existing retail dealer license
17 provisions in the Admin Code can simply be amended to
18 authorize retail dealers to sell e-cigarettes as well
19 as traditional cigarettes and tobacco products.

20 In addition, the provisions of the
21 legislation [bell] barring pharmacies from obtaining
22 a license to sell e-cigarettes and severely
23 restricting the number of these cigarette licenses to
24 be issued are counterproductive. The restrictions...
25 [crosstalk]

1
2 CHAIRPERSON JOHNSON: Thank you. Thank
3 you, sir. We got it; I have your comments; I
4 appreciate it; we're keeping everyone at three
5 minutes; there are another 40 people that are here to
6 testify, so we have to move along. But thank you; I
7 appreciate your testimony.

8 JAY PELTZ: Thank you.

9 CHAIRPERSON JOHNSON: Thank you. Go
10 ahead, sir.

11 NELSON EUSEBIO: Good morning, Chair.
12 Good afternoon, Chair, actually and members of New
13 York City Council Committee on Health. My name is
14 Nelson Eusebio; I am the Director of Government
15 Relations for the National Supermarket Association
16 (NSA). The NSA is a trade association that
17 represents the interest of independent supermarket
18 owners in New York and other urban areas throughout
19 the east coast, Mid-Atlantic region and Florida. In
20 the five boroughs alone, we represent 400 stores and
21 employ over 15,000 people.

22 I'm here today to testify in opposition
23 to Intro 1547, a local law to amend the
24 Administrative Code of the City of New York in
25 relation to expanding the retail dealer license to

1
2 include retailers of tobacco products and setting
3 caps on a retail dealer license. We would like to
4 focus mainly on the latter part of this bill, setting
5 caps on a retail dealer license.

6 In a position of a cap; in this case, a
7 moratorium, a new license will impede the growth of
8 the supermarket industry. It would not only
9 negatively impact sales in stores that cannot secure
10 a license; it would also halt growth in the industry
11 and create an unlevel playing field. Small
12 businesses like ours who employ and serve mainly
13 high-need, low-income communities devoid of healthy
14 food options are struggling and laws that put a stop
15 to any license that yield any income and sales will
16 negatively impact the growth of an already struggling
17 industry.

18 It is true that not all members carry
19 tobacco products; for those who do, it is important
20 that part of our business **[inaudible]** customers
21 **[inaudible]** account for about 25% of store
22 transactions. While we're glad to see the bill
23 allows a transfer of license during the sale for
24 stores in good standing and with previous a license
25 in a place for at least five to three years, we feel

1
2 that this does not go far enough in securing the
3 value of our investment. If a current retailer
4 cannot assure a prospective store buyer that they
5 will continue to be able to sell tobacco products,
6 then the business value of their store is severely
7 diminished. There are many factors that could lead a
8 store to sell in less than three or five years of
9 operation. Running a small business in New York City
10 can be very unpredictable; no one should be punished
11 for having made an investment recently or
12 reorganizing at a good time to sell that happens to
13 be before the three- or five-year period. We feel
14 that three- or five-year provision should be removed
15 completely, leaving no timeframe for the store in
16 good standing to be able to transfer their license.
17 Thank you.

18 CHAIRPERSON JOHNSON: Thank you very
19 much.

20 ISSAM HASSAN: Good afternoon, Chair,
21 Council Member Gentile; thank you guys for your
22 support of the bodega strike; I was there and I heard
23 some very encouraging words, and I'm shocked at what
24 I'm hearing today.

25

1
2 Contrary to the Council Members' claims,
3 I am not a drug dealer; never have I engaged or my
4 family in illicit trade or illegal activity; we
5 taxpaying citizens. My family has been here since
6 1960, where my grandfather came here and worked as a
7 farmer in California and he made that trek to New
8 York and opened up his first store, and that store
9 helped me go to college and for two years, while I
10 was at NYU, I had to drop out in order to help my
11 grandfather and my family run that business. So we
12 are working on razor-thin margins; unfortunately, we
13 are not the pharmaceutical industry or the pharmacy.
14 CVS made over \$180 billion last year, so you're
15 commending them, but we did not make \$180 billion
16 last year -- Rite Aid made \$31 billion; Walgreens
17 made \$118 billion. So what I'm asking everybody here
18 is to think about the small businesses; we are the
19 people that are working on penny margins. Every
20 single store out here is selling *New York Post*;
21 they're making 2 cents just to survive; cigarettes,
22 the same thing. So what we do is, we are actually
23 the largest unpaid civil service -- we actually
24 collect taxes on your behalf and we pay the taxes in
25 full for cigarettes and for all other purposes as

1 well. So what I'm afraid is gonna happen is you're
2 gonna drive -- I don't wanna use the word "black
3 market"; I'll use the word "underground market" --
4 you're driving people to the underground market. I
5 spoke to the Sheriff outside and the Sheriff and the
6 DCA Director said, both, that they do not go into
7 stores that do not have Consumer Affairs license, so
8 you're basically not going into the stores, the
9 Chinese restaurants, the delis; the bodegas that
10 don't have Consumer Affairs license and you're not
11 going in there and they're the ones that are selling
12 the cigarettes. Forget about the guy on the street,
13 there are stores right now without the Consumer
14 Affairs license, that never had a Consumer Affairs
15 license, that are selling illegal cigarettes, but
16 you're basically gonna punish the stores that have
17 signed up, paid the fine and did all the required
18 transaction in order to have a legal Consumer Affairs
19 license and you're basically gonna restrict their
20 access to business.

21
22 Basically I'm very grateful for
23 everything that this country has brought to my
24 family; my grandfather had an opportunity; probably
25 down the line I might wanna open up my own store, you

1
2 know I have a daughter right now and I'm getting a
3 bigger family; we can't all survive on one store, we
4 wanna fill up the retail spaces and we wanna help the
5 New York City economy, so help us help the City.

6 Thank you.

7 CHAIRPERSON JOHNSON: Council Member
8 Cabrera.

9 COUNCIL MEMBER CABRERA: Look, I
10 appreciate your concern. You mentioned your
11 grandfather; I lost both of my grandfathers because
12 of cigarettes, both of them; not just one..

13 [crosstalk]

14 ISSAM HASSAN: Not because of us.

15 COUNCIL MEMBER CABRERA: Let me finish..

16 [crosstalk]

17 ISSAM HASSAN: We're not big tobacco.

18 COUNCIL MEMBER CABRERA: Let me finish.
19 Let me finish; it's my turn. Is it a drug? Yes it
20 is; it's a regulated drug. I will hope that as a
21 business owner you would understand what you're
22 selling; it would be an even greater concern for me
23 if I'm here and you don't understand that you're
24 selling a regulated drug; that's our business here.
25 Our business here is to make sure that the public

1 health goes ahead of everything else. Our first
2 concern is safety and the public health of our
3 people. My god, this is the Committee on Health;
4 this is our primary objective as elected officials.
5 So I get your concerns, but at least in my district,
6 I'm not gonna allow businesses or anybody to come in
7 -- and you talk about minority businesses, minority
8 communities -- everybody's talking about the health
9 disparities; we see, you know, all of -- you know,
10 the numbers are staggering and number one on top of
11 that is cigarettes, so we have to do something. And
12 I understand the enforcement piece and we will make
13 sure, we will work very hard with the Administration
14 and we will be the first ones to say that we have to
15 deal with the underground, it is a legitimate -- I
16 hear you and I heard Mr. Murphy and Nelson and the
17 gentleman representing all the other businesses --
18 it's a legitimate issue and we have to address that,
19 but one does not negate the other and that's the big
20 issue. The research -- we're going by research --
21 unless you come here and give us research
22 substantiating that there is a better way, we have to
23 follow empirical research because otherwise we're
24 moving blindly or we're moving by profits. I look at
25

1
2 -- sometimes when it's being sold in my neighborhood,
3 I can't find healthy stuff. Bring us healthy stuff,
4 I mean people in our neighborhoods are saying please,
5 bring healthy stuff; you'll make a lot of money, just
6 bring us the healthy stuff, things that we really,
7 really want that we see in other neighborhoods that
8 they get and they're prospering, the city's
9 prospering for a reason. And so with that...

10 ISSAM HASSAN: May I respond please?

11 COUNCIL MEMBER CABRERA: Sure. Sure.

12 Please. Please.

13 ISSAM HASSAN: I think the elephant in
14 the room right now is that you're making... everybody
15 that's spoken so far has made the assumption that the
16 proliferation of legal tobacco retail outlets is in
17 correlation with the increased use; that's what
18 everybody's been saying, and the idea is to cut that
19 in half. What I would argue and what I have seen --
20 and I'm pretty young, so I'm kinda hip with it, right
21 -- people... this is 2017; not one person has talked
22 about the internet. Any time somebody comes into a
23 store; me or somebody will check an ID and they have
24 to have some method of payment. Most kids that buy
25 stuff online, they go to the Rite Aid -- those same

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2 pharmacies -- and they buy a pre-paid credit card or
3 a debit card; whatever, and they buy everything
4 online and I spoke to the DCA; I spoke to the
5 Sheriff, right outside, and they said they are doing
6 absolutely nothing with regards to that. So if we
7 wanna really talk about stemming the flow of
8 cigarette and basically getting it out of the hands
9 of the young, I'm all for that, but let us help you,
10 work with us; we're the retailers; we can act as the
11 gatekeepers. Somebody said before that 93%, or
12 something like that, passed undercover operations;
13 that's an amazing number; you can't get that kind of
14 rate with anything else in government. So we're here
15 to work with you guys; tell us what we can do; tell
16 us... look, if you wanna raise the minimum age, so be
17 it; whatever the case might be, but we're gonna
18 follow whatever you guys suggest, but don't hurt us.
19 Walk through New York City, walk through Manhattan,
20 walk through Brooklyn; walk through Bay Ridge,
21 Counselor, and you're gonna see, stores are empty,
22 they're going out of business, stores for rent,
23 stores that have been closed for two years in my own
24 neighborhood; we wanna do something about that, we
25 wanna, you know, help the economy and the way we help

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2 the economy is by helping the small businesses. And
3 that's all I have to say, so thank you.

4 COUNCIL MEMBER CABRERA: We are older,
5 but we're hip too...

6 ISSAM HASSAN: Yeah.

7 COUNCIL MEMBER CABRERA: and... [laugh] So
8 let me just say that you started really with the
9 wrong assumption; you started with the assumption
10 that the numbers are going higher; what we're finding
11 is that the use is going lower because of the
12 policies that we have put forth and we know tools...
13 [crosstalk]

14 ISSAM HASSAN: According to surveys.

15 COUNCIL MEMBER CABRERA: the tools in the
16 box that we have been using have been effective and
17 we're using the tools again. And with that, I give
18 it back to...

19 CHAIRPERSON JOHNSON: Well I just wanna
20 agree with everything Council Member Cabrera said and
21 I hear the concern, I understand the tension here
22 today between small businesses and retailers who
23 currently make money and profit off of legal products
24 which are... [crosstalk]

25 ISSAM HASSAN: Survive. [laugh]

CHAIRPERSON JOHNSON: that's fine..

[crosstalk]

ISSAM HASSAN: Yeah.

CHAIRPERSON JOHNSON: survive off of legal products; that doesn't mean that a legislative body which is looking out for the public health of New Yorkers isn't gonna take action on further regulating the product, the way the product is sold, the way the product is displayed; the access to the product, we do that all the time, we do that on every type of thing, and that goes to the heart of the matter. There was an article this morning (which I referenced earlier) and it's a 2016 study that was published that supports Dr. Bassett's conclusion, noting that "increasing the minimum price of a pack is more effective than a tax because the policy targets people who are less likely to purchase more expensive premium brands. Nothing has proven more effective at reducing the smoking rate than increasing the price of the pack. This holds true across all races and ethnicities according to a study published in *Social Science and Medicine* and it does not seem to outweigh the growth in unregulated sales." So the science and the study shows the way

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2 to decrease tobacco consumption, the way to decrease
3 people from starting smoking in the first place; the
4 way to increase the number that are gonna quit is
5 increasing the price. That is one bill in this
6 suite; I believe in this entire bill. I hear your
7 concerns; I think there are much bigger things the
8 City could be doing to support small businesses,
9 whether it be through property tax reductions that
10 get passed down, 'cause right now those fall on small
11 businesses -- there's a whole host of measures -- not
12 coming in and nickel and diming and fining small
13 businesses for things that don't make any sense and
14 actually letting people take corrective measures and
15 actions -- so there's a host of things. To me, the
16 host of things to keep these small businesses
17 thriving is not not taking action on tobacco-related
18 issues, there are other I think broader, more
19 important things that we can do; this is about
20 protecting the public health of New Yorkers. I
21 understand the tension -- my district -- The Village,
22 Chelsea, Hell's Kitchen -- you walk up 8th Avenue,
23 9th Avenue, 10th Avenue, Hudson Street, Bleecker
24 Street; empty small business after small business,
25 shuttered storefronts that are being unrented; most

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2 of them mom and pop stores that went out of business;
3 they didn't go out of business because we were
4 passing further regulations. When you talk to them,
5 they went out of business because rents were too damn
6 high and that is what was happening. So the City
7 needs to take action on these types of things. I
8 appreciate the panel being here today and I look
9 forward to hearing your feedback as this package of
10 bills moves forward. Thank you very much.

11 ISSAM HASSAN: Thank you.

12 CHAIRPERSON JOHNSON: Okay. So we're
13 gonna go to the next panel -- Josephine Beckman, Phil
14 Konigsberg, Stan Harmon, Regina Lee, Smitha Varghese,
15 and Ilana Knopf.

16 After that panel is going to be the group
17 of students from Pace University -- Chelsea, Rowan,
18 Margaret, Erin [sp?...] and Chelsea's on here twice.
19 Okay, so you all are next. [background comments] If
20 folks could go outside if they wanna talk; we're
21 gonna keep goin'; there a lot of folks here to
22 testify. Go ahead.

23 JOSEPHINE BECKMAN: Thank you, Chair
24 Corey. My name is Josephine Beckman and I am the
25 District Manager of Community Board 10 in Brooklyn,

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2 which encompasses the communities of Bay Ridge, Dyker
3 Heights and Fort Hamilton and I am here today to
4 support Intro 139-B, which would regulate the hookah
5 industry by adding hookah to the Smoke-Free Air Act.

6 I wanna first start by actually
7 commending our local City Council Member Vincent
8 Gentile for his tenacity and his determination to see
9 this piece of legislation to where it is today and
10 his work on this effort. So thank you, Councilman.

11 Community District 10 is home to many
12 hookah establishments that really market to young
13 people. Many on Community Board 10 feel that this
14 new hookah fad over the years really turned back
15 strikes made in our anti-smoking initiative; this is
16 primarily because young people are not aware of the
17 health risks associated with hookah; the data was not
18 available years ago when **[inaudible]** first came to
19 our district and we heard from parents and people who
20 live in the community about different aspects of why
21 hookah smoking they felt at that time was bad, but we
22 didn't have the data. The data was not available and
23 health evidence now shows that it is not the case;
24 that what young people were saying hookah was fine
25 and legal because it's a fruity, water-filled smoke

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2 item, that it didn't have adverse health effects; we
3 know that is different. So we congratulate the
4 Council for this piece of legislation which will go a
5 long way to save lives.

6 Additionally, our Board heard from
7 residents in adjacent buildings who were affected by
8 the secondhand smoke produced by hookah lounges. Our
9 pre-war buildings just create the funnel for
10 secondhand smoke and the Community Board received
11 calls and petitions from residents living in these
12 buildings affected by the secondhand smoke and were
13 happy to see the ventilation component added to this
14 piece of legislation.

15 I urge members today to support this
16 important piece of legislation, all of its aspects;
17 we are happy where the legislation has come to. We
18 stand with the message to the public that hookah
19 smoke is not safe smoke. So thank you very much.

20 CHAIRPERSON JOHNSON: Thank you for being
21 very patient and for being here; I know that as a
22 district manager you are extraordinarily busy and so
23 you taking time to come in from South Brooklyn, stay
24 here all morning and testify in support of it is
25

1
2 really meaningful to us and I really appreciate you
3 being here today.

4 JOSEPHINE BECKMAN: And thank you for
5 your work. Thank you.

6 CHAIRPERSON JOHNSON: Thank you.
7 [background comment] If you could speak into the
8 microphone.

9 ILANA KNOPF: Thank you. Is that coming
10 through? Thank you. Yeah. Thank you for the
11 opportunity, for the invitation to be here today.
12 I'm gonna comment on the sale regulations in my oral
13 testimony and my name is Ilana Knopf and I am the
14 Director of the Public Health and Tobacco Policy
15 Center; we are at Northeastern University School of
16 Law; we do receive funding from the New York
17 Department of Health Tobacco Control Program to
18 provide education and legal technical assistance to
19 develop and implement evidence-based policies that
20 reduce tobacco-related morbidity and deaths.

21 So I was happy to hear in the last
22 session several referrals to the tobacco-control
23 policy toolkit, since one of the points I wanted to
24 reiterate was that in tobacco control, by necessity
25 we really do know what works and that the proposals

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2 before you today are overwhelmingly evidence-based
3 and narrow and well-crafted to address the factors
4 that we know influence tobacco consumption, because
5 we do know what we can do to prevent tobacco
6 initiation; we know the factors that drive continued
7 use; and we know the environment that promotes
8 cessation attempts, and likewise, the factors that
9 interfere with those attempts, and again, these are
10 narrowly tailored and appropriate proposals that you
11 have before you; those really address the retail
12 density, and the price, we've heard a lot about that
13 today, so I'll leave you to the written comments and
14 others, but those sales regulations address those.

15 I also wanted to address concerns we've
16 heard today over the proposed regulations driving the
17 illicit tobacco market and while there is indeed an
18 underground tobacco market in New York City, there
19 are separate efforts ongoing to aggressively combat
20 that illicit trade and we can work in conjunction
21 with impactful public health policies and reduce
22 consumer demand for tobacco products while also
23 curbing that illicit trade. So there shouldn't be,
24 you know, one for the other and shouldn't shy away
25 from having fear of unintended consequences; so long

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2 as there is a mechanism in place and it is being
3 aggressively addressed, there's really not
4 justification to not move forward on evidence-based,
5 well-drafted policies. So thank you for your time.

6 CHAIRPERSON JOHNSON: Thank you very
7 much.

8 REGINA LEE: Good afternoon Mr. Chairman
9 and members of the Committee. My name is Regina Lee
10 and I am the Chief Development Officer at the Charles
11 B. Wang Community Health Center. We are a federally-
12 qualified health center that provides primary care
13 and support services and we've been serving the Asian
14 American community and other disadvantaged
15 communities for more than 45 years. I'm speaking
16 today on behalf of the Health Center as well as the
17 Asian American Tobacco Free Community Partnership.

18 Our Partnership was formed several years
19 ago to reduce the burden of tobacco use and exposure
20 to secondhand smoke in New York City's Asian American
21 community. In addition to the Charles B. Wang
22 Community Health Center, the Partnership includes
23 Asian Americans for Equality, Korean Community
24 Services, the Chinese American Medical Society (which
25 includes over 900 physician members), as well as the

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2 Department of Population Health and NYU Langone
3 Medical Center.

4 Our Partnership strongly supports state
5 and laws to make tobacco products less affordable and
6 less accessible. These laws have been proven
7 effective in reducing smoking, preventing young
8 people from starting to smoke and encouraging smokers
9 to quit. However, there is disparity in terms of
10 which communities benefit from these laws.

11 The disparate impact is seen in the high
12 rates of smoking in the Asian American community. In
13 2015, the smoking rate among Asian American men was
14 25.4%, compared to 14.3% for New York City as a
15 whole. Asian American men are the only group in New
16 York City that saw an increase in smoking rate --
17 from 19.6% in 2002 to 25.4% in 2015.

18 There are many complex reasons for the
19 high smoking rates among Asian American men --
20 Council Member Koo mentioned a little bit earlier
21 about the availability, the wide availability of both
22 taxed as well as untaxed cigarettes in the Asian
23 American community.

24 In a recent unpublished survey that the
25 Partnership conducted with 250 Chinese American

1 residents in Manhattan's Chinatown and in Brooklyn's
2 Sunset Park, we found that the average price paid for
3 a pack of cigarettes in the community was \$7.62.
4 About 46% of smokers in the survey pay in fact
5 between \$1.00 and \$5.00 for a pack of cigarettes.
6 Clearly, a lot more needs to be done to stem the
7 proliferation of both tax as well as untaxed
8 cigarettes.
9

10 Another reason for the high smoking
11 prevalence among Asian American men is the lack of
12 access to language-appropriate smoking cessation
13 services. Early this morning Commissioner Bassett
14 mentioned the New York State Quitline as a valuable
15 resource to help people stop smoking; however, the
16 Quitline is available only in Spanish and English.
17 So when monolingual Asian Americans call the
18 Quitline, [bell] they complain of being put on hold
19 for 20 minutes and longer to connect to a translator
20 and frequently they do not receive returned phone
21 calls when they leave their name and contact
22 information... [interpose]

23 CHAIRPERSON JOHNSON: Thank... thank you.

24 REGINA LEE: the Quitline is also not
25 widely publicized in the Asian American community.

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2 CHAIRPERSON JOHNSON: So this is actually
3 -- I mean all the testimony is very helpful, but this
4 very specific thing about the language access issue
5 is extraordinarily helpful as well as the rates among
6 Asian American men not decreasing and the City
7 needing to focus tobacco cessation efforts in that
8 community in particular and you referencing both what
9 Commissioner Bassett and Council Member Koo said this
10 morning is helpful. So we're gonna take your
11 testimony; I'm sure we'll follow up with you to get
12 some more data, but I need to keep moving on because
13 we have another 35 people to testify today. Phil.

14 REGINA LEE: Thank you very much.

15 PHIL KONIGSBERG: Thank you very much for
16 allowing us to speak. My name is Phil Konigsberg, a
17 tobacco control and smoke-free advocate for 29 years.
18 I support and urge this Committee to approve all 10
19 intros on the table, but I want to specifically speak
20 on those not particularly mentioned in Mayor de
21 Blasio's press conference.

22 Working with fellow advocates and
23 assisting New York City Smoke-Free, the Queens
24 Tobacco Control Coalition was successful in having 13
25 or 14 Queens community boards pass a Smoke-Free

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2 Multiple Housing Resolution and in conjunction with
3 12 of the 14 pass a Smoking Policy Disclosure
4 Resolution which would be reflected by a passage of
5 Intros 977 and 5940. A smoke-free multiple housing
6 policy should apply for all types of apartments, both
7 market rate and subsidized. Although Intro 977 would
8 not affect market rate multiple housing as it is
9 written, if this Committee agrees with me that no
10 matter where we reside, we should be able to live in
11 our home without having to be exposed to secondhand
12 smoke then this Committee should expand the scope of
13 Intro 977 to include all types of multiple housing
14 buildings. HUD's national mandate that all public
15 housing be smoke-free by 2018 means that all NYCHA
16 apartments will be smoke-free, which is a tremendous
17 win for public health. The New York City Smoke-Free
18 Air Act protects all New Yorkers with clean indoor
19 air protection where we work, eat, drink, and shop,
20 so why don't we have the same health protections
21 where we all live? New Yorkers want to live in a
22 smoke-free home but currently many are forced to
23 breathe in someone else's tobacco smoke. Intro 5940
24 will be an added incentive for landlords to
25 voluntarily adopt a smoke-free policy for their

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2 building but should have wording to the effect that
3 the disclosure policy document does not waive any
4 form of protection the resident has should they
5 encounter any exposure from secondhand smoke after
6 they move in.

7 New York City is an international city,
8 by passing Intro 1140, New York City would join other
9 international venues that already protect young and
10 vulnerable lungs from tobacco smoke while in a
11 vehicle. The United Kingdom, France, several
12 Canadian provinces, and Australia's various
13 territories would join stateside venues where smoking
14 is prohibited when a child is a passenger in
15 Arkansas, California, Louisiana, Maine, Utah, and the
16 Commonwealth of Puerto Rico.

17 CHAIRPERSON JOHNSON: Thank you, Phil.
18 We will take your testimony; I appreciate you being
19 here. Go ahead.

20 SMITHA VARGHESE: Good afternoon. My
21 name is Smith Varghese; I'm a policy associate with
22 New York Public Interest Research Group (NYPIRG) and
23 a student at Queens College. Here with me today is
24 Megan Ahearn, NYPIRG's Program Director.

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2 Virtually all New Yorkers have had an
3 experience with cancer. According to the U.S. CDC,
4 cancer is the second leading cause of death in
5 America. Nearly one-quarter of all cancer deaths
6 result from lung cancer, it's a cancer that's deadly
7 and that afflicts men and women alike, and it is a
8 cancer for which we know how to dramatically reduce
9 its impact by reducing the use of tobacco products.

10 We appreciate the opportunity to testify
11 on a number of bills proposed today. Thank you to
12 the Council Members who sponsor the package.

13 Regarding Bill No. 1547: From 2013-2014,
14 more than 2,600 tobacco retailers were penalized for
15 violating the Tobacco Product Regulation Act. By
16 capping the number of tobacco retail licenses at 50%
17 of the current number, this legislation will
18 improvement enforcement of existing laws by narrowing
19 the number of retailers that need to be monitored.

20 What's more, reducing tobacco retail
21 licenses stands to reduce tobacco product marketing.
22 For the past three years, NYPIRG has worked with
23 students to administer a community mapping survey of
24 tobacco advertisements.

1
2 In the last two reports -- in 2015 and
3 2016 -- surveyors were ask to identify tobacco
4 product displays -- visible displays of items for
5 sale, such as cigarettes, cigars, chewing tobacco,
6 e-cigarettes, and more. Surveyors observed 170 total
7 tobacco product displays, representing about one-
8 third of all marketing observed for those reports.

9 Tiffany Brown, a former Queens College
10 NYPIRG Project Coordinator and survey participant,
11 stated, "While surveying, I was really surprised at
12 the amount of non-traditional tobacco products I saw.
13 Many of the walls were covered with e-cigarette
14 brands and flavors, as well as multiple brands of
15 rolling tobacco and loose paper."

16 Licensing requirements act as a powerful
17 tool to ensure compliance with tobacco control
18 policies and protect the public health in the
19 process. NYPIRG supports this bill.

20 Regarding Bill 1544: Increasing tobacco
21 prices serves as one of the most effective ways to
22 reduce smoking, especially among kids -- big tobacco
23 knows this.

24 Pertaining to the notion of increasing
25 tobacco prices, I could easily quote the Surgeon

1
2 General or professors working in a tobacco control
3 program at Harvard University, but instead I'd like
4 to go to the source and quote big tobacco themselves.

5 Back in 1993, Philip Morris went on
6 record saying -- by the way, they're one of the
7 biggest tobacco manufacturers in the world -- Philip
8 Morris went on record saying, "A high cigarette
9 price... has the most dramatic impact on the share of
10 the quitting population... price, not tar level, is the
11 main driving force for quitting." NYPIRG supports
12 this bill.

13 Bill No. 1532... okay, I'm out of time.

14 [bell] Thank you for your time.

15 CHAIRPERSON JOHNSON: Thank you for that
16 Philip Morris quote; very helpful.

17 SMITHA VARGHESE: Thank you.

18 CHAIRPERSON JOHNSON: Go ahead.

19 [background comment] And if you could speak into the
20 microphone, that would be helpful.

21 STAN HARMON: Thank you for this
22 opportunity to present some views.

23 My name is Stan Harmon; I'm an unpaid
24 member of the board of an organization known as
25 Action on Smoking and Health, commonly known as ASH;

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2 it's a nonprofit organization focused on ending death
3 and disease caused by cigarettes and other tobacco
4 products.

5 Tobacco (as we all know) as well as non-
6 tobacco shisha is certainly dangerous and we can't
7 ignore it. Focusing on all of the bills -- they're
8 all very worthwhile. In case I messed up the name of
9 the organization, of course it's Action on Smoking
10 and Health; for some reason I mumbled it.

11 As far as increasing the price of
12 cigarettes, it's been shown that a 10% increase in
13 packs will reduce consumption by adults by about 4%;
14 by kids by 75.

15 Pharmacies have no place in the sale of
16 tobacco. They should not sell a product that kills
17 half the people that use it, I mean that's as clear
18 as day. They're in the business of promoting health
19 not causing terminal illness.

20 Action against secondhand smoke in homes
21 and apartments is certainly most valuable. 42,000
22 people a year in the United States die from
23 secondhand smoke -- more than guns, more than car
24 accidents, people don't realize that, aside from the
25 almost half a million people that die directly from

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2 smoking. So any reduction in secondhand smoke is
3 particularly important. New York City should lead
4 this. As far as pharmacies, it's already illegal in
5 San Francisco and Boston; why not New York?

6 Money can always be replaced but one's
7 health cannot, particularly illnesses which are
8 terminal. So I mean money comes and goes, but when
9 life goes, it's no more, so we have to look at it
10 that way. Cigarettes cost society about \$20 a pack,
11 so acting on this is really very important. I've
12 wanted to do this since I was 6 years old [bell] and
13 I'm doing it.

14 CHAIRPERSON JOHNSON: You did great.

15 STAN HARMON: Thank you. My heart is in
16 it.

17 CHAIRPERSON JOHNSON: Healthy heart.
18 Council Member Gentile; followed by Council Member
19 Cabrera.

20 COUNCIL MEMBER GENTILE: Yes, I wanna
21 thank ASH and the local Council Board for
22 understanding the significance of the hookah
23 legislation that we're considering today. I also
24 wanna particularly thank Phil and your group because
25 you worked so hard in Queens and the Community Boards

1
2 to educate about tobacco, but now you've extended
3 that reach to support 139-B and I appreciate that.

4 PHIL KONIGSBERG: Yes and last year, a
5 year ago February, we were there at the initial
6 public hearing for this and we were very clear that
7 this was very important to get through. I noticed
8 some changes that were made, but it really
9 establishes a framework for existing hookah lounges
10 that are there now and it prohibits the establishment
11 of any new ones, and we know why that needs to be
12 done.

13 COUNCIL MEMBER GENTILE: 'Kay. And I
14 must say; those changes came from the testimony that
15 some of you gave last year, including you, Phil.

16 PHIL KONIGSBERG: Joanne and I; I think
17 we were on the same panel last year... [crosstalk]

18 COUNCIL MEMBER GENTILE: Right. Okay.
19 Thank you.

20 CHAIRPERSON JOHNSON: Council Member
21 Cabrera.

22 COUNCIL MEMBER CABRERA: Matter of fact
23 Phil, I wanna thank you for being the catalyst of
24 Intro 1140. When I asked what else can we do, you
25 put forth the idea that we should, because of the

1
2 reasons that were just mentioned -- 42,000 -- was it
3 42, 44,000 people are dying, secondhand smoking...

4 [crosstalk]

5 PHIL KONIGSBERG: **[inaudible]** year.

6 COUNCIL MEMBER CABRERA: and imagine -- I
7 mean I just got this picture in my head that I can't
8 get off of, you know, you're a little kid, you don't
9 wanna get your parents upset, but you know it's not
10 good for you, and the car is filled with smoke and
11 you're breathing that, you're going to school, you're
12 coming from the Bronx; let's say you're gonna go...
13 might have to go to a school someplace, a 45-minute
14 drive there; 45-minute drive going back; do that
15 every day; you're talkin' about 40 hours a week, you
16 know. Can you give us some of the reasons why this
17 makes sense and why we need to do it now?

18 PHIL KONIGSBERG: Well children should
19 not be basically kept captive and that's what they
20 are in a car; they're really a captive audience and I
21 know I was outspoken on a lot of things; some people
22 jump on me when I say it -- it's almost equivalent to
23 child abuse because people... you know parents aren't
24 really thinking about their children when they smoke
25 in a closed vehicle, I mean there's violence and

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2 other things that are considered -- child abuse --
3 but this isn't violence, but it is filling their
4 lungs and one of the other members that is gonna
5 speak later, Eileen, she has a visual demonstration
6 to show exactly what we feel about having the smoking
7 in the car and I think we did a nice job at your
8 press conference last year where we had a baby in a
9 car and someone smoking a Honey Rose cigarette, not...
10 it was an herbal cigarette, and I think when people
11 see it, it really strikes them hard. You mentioned
12 before about advocates trying... you know, considering
13 raising... I'm one who believes that, although the
14 **[inaudible]** age for it now is 8 and Assemblyman
15 Weprin mentioned that other areas have higher, so I'm
16 asking that the Committee consider raising it,
17 because internationally and even in the states that I
18 mentioned before in the U.S., they have -- their ages
19 are I think as high as 18, but somewhere around 14.
20 You really can't keep a child in a car with closed
21 windows, they're breathing, their lungs are very --
22 you know, they're not matured yet; you've gotta do
23 something about it and I thank you and the members of
24 the Council for pushing this forward. Maybe if this
25 gets passed in the City -- unfortunately there's not

1
2 been support in the State, in Albany -- maybe the
3 State will say the City's doing it; it's about time
4 we did it.

5 COUNCIL MEMBER CABRERA: Absolutely. And
6 we'll definitely take that into consideration to push
7 it into 17; I think it... just based on the testimonies
8 I heard today and also the Assembly Member, it will
9 make sense to modify and submit it. Thank you so
10 much.

11 COUNCIL MEMBER GENTILE: Thank you all
12 very, very much. Thank you for your testimony, and
13 thank you for waiting all this time. Thank you.

14 Alright, we're privileged to have as our
15 next panel the students of the Pace University
16 Environmental Policy Clinic -- Chelsea Matoof, Rowan
17 Lanning, Margaret Doyle, and Erin Masso [sp?].
18 They're all students at Pace University's
19 Environmental Policy Clinic, and with their
20 professor, right? Professor; why don't you introduce
21 yourself?

22 JOHN CRONIN: My name is John Cronin; I'm
23 Senior Fellow for Environmental Affairs at Pace
24 University and these... [crosstalk]

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2 COUNCIL MEMBER GENTILE: Great,
3 **[inaudible]**...

4 JOHN CRONIN: these are my stu... these are
5 my students. Some of them had to go to other
6 classes, but we still have **[inaudible]**... [crosstalk]

7 COUNCIL MEMBER GENTILE: **[inaudible]**
8 testifying then; right?

9 JOHN CRONIN: Yes.

10 COUNCIL MEMBER GENTILE: Okay. Great.
11 Why don't we start...

12 CHELSEA MATOOF: Hello Chairman Johnson
13 and members of the City Council. Thank you for
14 allowing us the opportunity to appear before you
15 today. My name is Chelsea MATOOF and I am a member,
16 as you said, of the Pace University Environmental
17 Policy Clinic. On behalf of my fellow clinicians,
18 Erin Masso, Rowan Lanning, Madeline Gray, Margaret
19 Doyle, Juan Trinidad, and Anthony Rosario, present
20 here today, I offer our enthusiastic support for the
21 package of City Council bills aimed at further
22 curbing tobacco usage and smoking. In addition, we
23 encourage you to adopt a measure that will outlaw the
24 purchase and possession of tobacco by underage youth.

25

1
2 Our Environmental Policy Clinic has spent
3 this semester studying various state programs aimed
4 at prohibiting possession and purchase of tobacco
5 products by those underage. New York is currently
6 one of four states in the nation that allows the
7 possession and the usage of tobacco products by those
8 below the allowable age for sale; indeed, even the
9 leading tobacco-producing states, including North
10 Carolina, Kentucky, Virginia, and Tennessee, have
11 instituted a ban for underage possession.

12 In other words, while it is illegal for a
13 store owner to sell tobacco products to a child, any
14 15-year-old can stand on a street corner and smoke a
15 cigarette with impunity. It would be illegal for
16 that same child to possess liquor or drive a car.
17 Yet smoking at a young age is the start of most
18 lifelong tobacco addictions, leading to a range of
19 fatal and debilitating diseases, including cancer,
20 heart disease and lung disease.

21 Just this week, we submitted a proposal
22 to New York State Assembly Member Linda Rosenthal and
23 Senator Diane Savino urging them to add a purchase
24 and possession prohibition to their Tobacco-21 bill,
25 which raises the state smoking age to 21. We now

1
2 urge the City Council to adopt the same measure
3 citywide.

4 The current memo for the Tobacco-21 bill
5 states, "The key to reducing the number of smokers in
6 New York is to stop them before they start." We
7 agree wholeheartedly. As youth who are part of the
8 targeted age for tobacco laws, it is our position
9 that New York City and New York State should
10 institute every measure possible to prevent underage
11 youth from being introduced to tobacco products. The
12 traditional approach of preventing sales alone is not
13 enough. The law should not allow the purchase,
14 attempted purchase, possession, and attempted
15 possession of tobacco products by children,
16 adolescents, teens, and young adults.

17 Some statistical research purports to
18 cast doubt on the efficacy of tobacco possession laws
19 in reducing the number of smokers. However, this
20 research [bell] misses the point.

21 COUNCIL MEMBER GENTILE: You can finish.

22 CHELSEA MATOOF: Okay. Outdated and
23 decades old, it was conducted before states and
24 cities instituted aggressive public educational
25 campaigns. It is a confusing message to underage

1 youth that the law bans sale to those underage while
2 enabling any child to possess and use tobacco
3 products. Nearly 90% of adult smokers indicate they
4 first started smoking before the legal age of sale.
5 In fact, most smokers began in their teen years, and
6 approximately 80% of adult smokers became addicted by
7 the time they were 18. Meanwhile, most who do not
8 take up smoking usually never will. It is
9 incongruous... [crosstalk]

11 COUNCIL MEMBER GENTILE: Okay, we're
12 gonna... can you wrap up?

13 CHELSEA MATOOF: that there is a
14 continuing national debate about outlawing tobacco
15 products generally, when immediately..

16 COUNCIL MEMBER GENTILE: Okay. Great,
17 thank you.

18 CHELSEA MATOOF: go ahead.

19 MADELINE GRAY: Hi there, my name is
20 Madeline Gray; I'm speaking on Rowan's behalf.

21 5.6 million of those under 18 today will
22 die from tobacco-related diseases; roughly one-third
23 of those who will eventually die from smoking. In
24 addition, research indicates that a majority of
25 underage youth are introduced to tobacco products by

1 friends and acquaintances, rather than through
2 illegal sale. In addition, evidence also shows that
3 smoking can be a first step toward other substance
4 abuse. New York City law should take every
5 precaution to halt that first step and thereby reduce
6 the risk that kids will progress to other substances.
7

8 We examined the law in other states with
9 a primary focus on South Carolina and Washington
10 State. The legislative findings of the Washington
11 law capture well the spirit in which this provision
12 should be incorporated into New York City's municipal
13 law:

14 The legislature finds that the protection
15 of adolescents' health requires a strong set of
16 comprehensive health and law enforcement
17 interventions. We know that youth are deterred from
18 using alcohol in public because of existing laws
19 making possession illegal. However, while the
20 purchase of tobacco by youth is clearly prohibited,
21 the possession of tobacco is not. It is the
22 legislature's intent that youth hear consistent
23 messages from public entities, including law
24 enforcement, about public opposition to their illegal
25 use of tobacco products.

1
2 The approaches of the two states are of
3 special interest because they did not criminalize the
4 possession. While the fines are modest, the penalty
5 provisions put in the hands of court the authority to
6 require tobacco education and/or community service.

7 And Erin will talk about the summary of
8 the provisions of South Carolina and Washington
9 State. Thank you.

10 ERIN MASSO: Hi, my name is Erin Masso;
11 I'm also a fellow clinician for the Environmental
12 Policy class.

13 So South Carolina's language... [interpose]

14 COUNCIL MEMBER GENTILE: Would you speak
15 into the mic, please?

16 ERIN MASSO: The language South Carolina
17 uses regarding the penalties of possession are as
18 follows:

19 A minor under the age of 18 years must
20 not purchase, attempt to purchase, possess, or
21 attempt to possess a tobacco product or an alternative
22 nicotine product, or present or offer proof of age
23 that is false or fraudulent for the purpose of
24 purchasing or possessing these products.

1
2 A minor who knowingly violates a
3 provision will be subject to a civil fine of \$25.00.
4 In lieu of this fine, the court may require a minor
5 successfully complete a tobacco prevention program,
6 or to perform not more than five hours of community
7 service.

8 If a minor fails to pay the civil fine,
9 successfully complete a smoking cessation or tobacco
10 prevention program, or perform the required hours of
11 community service as ordered by the court, the court
12 may restrict the minor's driving privileges to
13 driving only to and from work, school and church, or
14 as the court considers appropriate for a period of 90
15 days.

16 If the minor does not have a driver's
17 license or permit, the court may delay the issuance
18 of the minor's driver's license or permit for a
19 period of 90 days beginning from the date the minor
20 applies for a driver's license or permit.

21 Washington State's language also states:

22 A person under the age of 18 who
23 purchases or attempts to purchase, possess, or
24 obtains or attempts to obtain cigarettes or tobacco
25 products commits a class 3 civil infraction, and this

1
2 is subject to a fine or up to four hours of community
3 restitution, or both. The court may also require
4 participation in a smoking cessation program.

5 Such an amendment prohibiting tobacco
6 possession and purchase will communicate New York
7 City's intent to close any gap that allows youth
8 legal access to tobacco, and communicate as well that
9 society at-large should embrace the same values. It
10 will establish a consistent set of policies for this
11 and future generations. It will ensure a better and
12 healthier life for teens in particular, as well as
13 significantly decrease the risks associated with the
14 inhalation of secondhand smoke by non-smoking youth.

15 We respectfully request that you add to
16 your list of anti-tobacco legislation an additional
17 measure to prohibit possession, attempted possession,
18 purchase and attempted purchase of tobacco products
19 by those under the minimum legal age. In this way,
20 New York City will close a significant loophole in
21 its campaign to keep tobacco products out of the
22 hands of the city's youth. [bell]

23 Thank you for your attention to our
24 proposal. My colleagues and I are happy to address
25 questions that you may have.

1
2 JOHN CRONIN: I'll add to that, if you
3 don't mind. Our arm at the Policy Clinic teaches
4 students policymaking and advocacy skills; they have
5 a bill that's been introduced in both houses of the
6 State Legislature this session to ban elephants in
7 entertainment; they have an executive order in front
8 of the Governor right now for restoration of oyster
9 in New York Harbor to create state policies to
10 support that. And this semester, when they looked
11 through eight different issues, ranging from dam
12 removal to requiring composting, the issue that rose
13 to the top was the issue we're testifying about today
14 -- purchase and possession of tobacco products by
15 youth. And as I looked at the research that our
16 students found, something jumped out at me that was
17 pretty remarkable -- it's old research, it questions
18 the need for this by saying there wasn't necessarily
19 substantial evidence that it reduced smoking. This
20 is very odd; the laws that were instituted to
21 prohibit minors from using alcohol were not
22 instituted to reduce alcohol use; there isn't an age
23 for driving a car to reduce the mortality in cars;
24 it's because they're not prepared to drive cars and
25 they're not prepared to drink. Youths are not

1 prepared to smoke tobacco, they're not prepared to
2 use tobacco products or even make the decision, but I
3 can tell you this from my own experience at Pace
4 University, I was the co-chair of our smoking
5 committee; we're one of many universities and
6 colleges that still allow smoking on our campus; the
7 single largest argument against our having a no-
8 smoking campus that was raised by teachers and
9 students was very simply that it is not against the
10 law for them to have tobacco; it's not against the
11 law for them to use tobacco; why should we tell them
12 whether or not they can smoke it? And as we looked
13 at other colleges and universities, and other
14 institutions, the single biggest argument that is
15 used against smoke-free environment is that you're
16 telling people they can't use something that's legal
17 for them to own. And at colleges and universities
18 we're talking about a bulk of -- here at Pace
19 University, right across the street, the bulk of the
20 population is under the legal age New York City
21 allows, but what's essentially a technicality is that
22 they're allowed to own it, they're allowed to possess
23 it, they're allowed to trade it; they're allowed to

1
2 buy it; the stores are not allowed to sell it to
3 them.

4 COUNCIL MEMBER GENTILE: Right. Is there
5 any way we can quantify the extent of the problem;
6 where those who cannot buy it are actually possessing
7 it and using it?

8 JOHN CRONIN: Almost all the evidence
9 suggests that most people who are addicted to tobacco
10 products as adults started at a young age, younger
11 than legal age, and almost all the evidence suggests
12 that there's three ways they get it -- from a friend,
13 an acquaintance or from an illegal seller -- as
14 opposed to somebody in a store selling it to them,
15 who has a permit selling it to them, or a license
16 selling it to them illegally. So one of the things
17 to note, and I was listening to testimony today; it
18 was very interesting, is that because underage youth
19 are allowed to possess tobacco products, smoke it and
20 trade it if they want to, they are a primary customer
21 for the illegal trade in tobacco products and you
22 can't question them about it because they're allowed
23 to own it and they're part of that trail that leads
24 back to illegal sale.

1
2 COUNCIL MEMBER GENTILE: Now you say
3 we're one of how many states that...

4 CHELSEA MATOOF: One of four.

5 COUNCIL MEMBER GENTILE: One of four
6 states that still allow... [crosstalk]

7 CHELSEA MATOOF: Yes. The other ones are
8 Massachusetts, Nevada, New Jersey, and New York.
9 Wait... oh that's four, yes.

10 COUNCIL MEMBER GENTILE: Right. And
11 there is currently a proposal in the State
12 Legislature, you said?

13 CHELSEA MATOOF: We put an amendment on
14 the Tobacco-21 bill with Rosenthal and Savino.

15 JOHN CRONIN: Yeah, we've... the clinic
16 students wrote to them last week and formally asked
17 Assembly Member Rosenthal and Senator Savino to add
18 this as an amendment to their Tobacco-21 bill. As
19 you know, the State is following the City's lead in
20 trying to raise the age of tobacco purchase to 21,
21 but again, even so, it does not outlaw the purchase
22 and it does not outlaw the possession.

23 COUNCIL MEMBER GENTILE: Well very
24 interesting and I'm sorry, Professor, the rest of
25 your students couldn't stay, but it's clear you're

1
2 cultivating new advocates and new leaders of the
3 future and it's interesting. So let's continue to
4 cooperate and collaborate together on future --
5 'cause this is an issue that I think we have not
6 dealt with as a City Council **[inaudible]**... [crosstalk]

7 JOHN CRONIN: Well if we can be a
8 resource, we're happy to do so.

9 COUNCIL MEMBER GENTILE: Thank you.

10 JOHN CRONIN: Thank you.

11 COUNCIL MEMBER GENTILE: Thank you for
12 staying; thank you for coming.

13 JOHN CRONIN: Thank you.

14 [collective thank yous]

15 COUNCIL MEMBER GENTILE: Okay, our next
16 panel will be Abdul Mubarez, Zaid Nagi, Spike
17 Babaian, Cheryl Richter, and Gregory Conley.
18 [background comments] Okay. We've got the clock
19 ready? [background comment] Okay, you may begin.
20 Yes, you can begin. [background comment]

21 CHERYL RICHTER: My name is Cheryl...

22 [interpose]

23 COUNCIL MEMBER GENTILE: No; let... let...
24 let... Yeah, go ahead...

25 CHERYL RICHTER: Hi.

1
2 COUNCIL MEMBER GENTILE: let's go down
3 the row. Go ahead, yeah.

4 CHERYL RICHTER: My name is Cheryl
5 Richter; I am the Executive Director of the New York
6 State Vapor Association; I am also a business owner
7 of a vape business; most of my clients, my best
8 clients are here in New York City, and we're here to...
9 actually, if possible, if I could yield my time to my
10 associate who is a Technical Science Director.

11 COUNCIL MEMBER GENTILE: Sure, just...

12 CHERYL RICHTER: Thank you.

13 COUNCIL MEMBER GENTILE: identify
14 yourself for the record and then speak in to the mic.

15 SPIKE BABAIAN: My name is Spike Babaian;
16 I am Technical Analysis Director for New York State
17 Vapor Association. I had requested to come in and
18 present scientific data to the Council and to
19 yourself and the Chairman, who are both chairmen from
20 my own business, but there was a lot of information
21 to provide and so I was hoping I would have more than
22 three minutes; thank you for giving me your time...

23 [crosstalk]

24

25

1
2 COUNCIL MEMBER GENTILE: Well you can
3 submit it to us, to the Sergeant at Arms; we will
4 take it in.

5 SPIKE BABAIAN: We did and we also
6 requested private meetings, but we were unable to get
7 a response, so we're hoping that we can give you some
8 scientific information.

9 Regarding Bill 1532, there are a lot of
10 e-cigarette retailers in the country, but there are
11 not so many in New York; the rent is high. So maybe
12 100; 120, that's our estimate based on the numbers
13 that we have; there are, as we heard earlier today,
14 8,200 tobacco retailers. So I would like to think
15 that most of the Council Members would understand
16 that e-cigarettes are not tobacco, do not contain
17 tobacco, are not combustible, do not make smoke, do
18 not create the levels of benzene and volatile organic
19 compounds and polycyclic aromatic hydrocarbons, and
20 all of the other toxins that cigarette smoke does
21 produce and that hookah, which when it's tobacco
22 smoke, does produce.

23 So we're taking a product that doesn't
24 make smoke, that doesn't encourage smoking; that
25 actually is shown as a smoking cessation product to

1
2 take people away from tobacco, away from combustibles
3 and to be a substitute and a good alternative to
4 cigarettes and we're saying that you can only have
5 120 e-cigarette retail shops, but it's okay to have
6 -- well you're saying half, we're saying we're gonna
7 50% -- the licensing says we're gonna 50% for tobacco
8 licenses and e-cigarette licenses on Bill 1532...

9 [interpose]

10 COUNCIL MEMBER GENTILE: Right.

11 SPIKE BABAIAN: So if we're cutting it
12 in-half; we're saying instead of 120 we can only have
13 60, but we can still have 4,000 tobacco licenses. So
14 you're now taking a product that will allow people to
15 stop smoking and have an alternative that's safer and
16 healthier, which I'm not allowed to say in my store,
17 but I can say here, and we're saying, let's make sure
18 people can't get access to this product.

19 I had a whole thing written; [bell] it's
20 already provided, you have it, so I would like to use
21 my own time to tell a very brief story about a 70-
22 year-old woman who came into my store yesterday.

23 COUNCIL MEMBER GENTILE: Okay, just
24 briefly. Go ahead.

1
2 SPIKE BABAIAN: Yes. She came into my
3 store and said, "I live on 72nd Street and I'm losing
4 my home. I own my apartment on 72nd Street and I
5 don't know what I'm gonna do; I'm gonna have to move
6 out because they told me I have to stop smoking. Can
7 you please help me; can you give me one of these
8 things? Can you teach me how to use this so that I
9 don't smoke cigarettes?" And I said to her, "You
10 know, a lot of the laws in New York that restrict
11 cigarette smoking also restrict e-cigarette use and
12 so you can't use your e-cigarette in your home if you
13 can't smoke in your home, that's the City ordinance..."

14 COUNCIL MEMBER GENTILE: Right.

15 SPIKE BABAIAN: and she said, "Well
16 nobody will know; it doesn't make any smoke." And
17 that's pretty evident to all of us that you don't
18 really know the difference. We also... there are
19 dozens and dozens of studies that are provided in the
20 packet that I gave to you that show that it doesn't
21 make smoke; it doesn't release the compounds that are
22 released by cigarettes.

23 My biggest concern here is that you're
24 making it harder for people to quit smoking. This
25 bill is intended to prevent youth uptake, to prevent

1
2 combustible tobacco use; to make New York healthier,
3 and instead we have 1532 that's making it harder for
4 people to quit, making it harder for people to get
5 alternative products, and making people continue to
6 smoke; that's not okay.

7 COUNCIL MEMBER GENTILE: Okay. Thank
8 you. Thank you very much.

9 ABDUL MUBAREZ: Good afternoon. Is it
10 on? Good afternoon. My name is Abdul Mubarez; I'm
11 the head of Yemeni American Merchant Association,
12 which we represent around 4,000 convenience stores in
13 New York City. I wanna thank the Council Members for
14 allowing me to testify in front of them, to explain
15 to them what the effects of Intro 1547 and Intro 1544
16 to our members of the organization that own small
17 businesses in the five boroughs of New York City, and
18 in underserved neighborhoods, most of them.

19 So I strongly oppose the two bills that
20 are considered today. As a business owner and
21 merchant myself and close friend of many other people
22 that have this kind of business, from firsthand I
23 experience how negatively these bills would affect
24 our community and our merchants in New York City and
25 New York City as a whole.

1
2 In today's environment where the profit
3 of margin in our businesses is already being reduced
4 daily by online retailers we are fighting to survive.
5 One of our main generators of profit that has not
6 been affected by online retailers and can be bought
7 locally in our local stores. By increasing prices
8 and taxes, you are essentially killing the business
9 as a whole. These businesses, mostly located in low-
10 income neighborhoods, are also selling hundreds of
11 other products for the communities.

12 If we are unable to maintain our business
13 because of these increases of taxes and price on tax
14 as proposed by this bill, our communities will lose
15 access to all of these essential products.

16 If you limit the amount of licenses
17 distributed, you would eliminate the incentive to
18 open business in these low-income neighborhoods. The
19 market for sale or transfer of these businesses is
20 gonna be harsh; will be completely destroyed.

21 The Yemeni American Merchants in New York
22 City are a major staple in New York City, as clearly
23 noted by recent events and demonstrations. We are a
24 big community that provides major contributions to
25 the communities. This bill will create serious harm

1
2 to our businesses, communities and families. This
3 would not only move the advantage completely to big-
4 name retailers but will also open the door wider for
5 black market sales of cigarettes.

6 The assumption that this bill is that by
7 raising the price of cigarettes you are directly
8 impacting the cigarette smoker's pocket which will in
9 turn encourage them to quit smoking. The only pocket
10 that will be affected by this bill would be the local
11 [bell] business owner whose pockets are already
12 affected enough.

13 This bill actually provides further
14 incentive for tobacco users to find alternative use..
15 [interpose]

16 CHAIRPERSON JOHNSON: Thank you, sir.

17 ABDUL MUBAREZ: Thanks.

18 CHAIRPERSON JOHNSON: Thank you.

19 ZAID NAGI: Good afternoon. My name is
20 Zaid Nagi; I am a businessman and a board member of
21 the Yemeni American Merchants Association (YAMA).
22 YAMA was formed after the Bodega Strike and rally we
23 organized on February 2, 2017 in response to the
24 Muslim Ban. The YAMA serves as a nonprofit
25

1
2 organization providing education and advocacy
3 services for Yemeni American merchants.

4 First, I would like to thank you for
5 giving me the opportunity to speak on behalf of
6 approximately the 4,000 Yemeni American merchants.
7 We would like to go on record in opposition of the
8 recent tobacco regulation that has been introduced in
9 City Council (Intro Nos. 1131, 1462, 1544-A, and
10 1540).

11 We recognize the noble goals behind these
12 proposed regulations; however, I and most Yemeni
13 American merchants believe, drawing on our long
14 experience, that these bills, if passed, will lead to
15 business closures, devalued businesses, loss of jobs,
16 increased prices of other goods, and most
17 importantly, it will lead to more crime.

18 Without a cigarette license, which will
19 become a reality for many businesses if Intro 1547
20 (license cap) is passed, it is almost impossible for
21 bodegas to survive, especially when the sales of
22 cigarettes contribute an important percentage of
23 income and it will be equally difficult to start new
24 bodegas and similar types of businesses.

1
2 Needless to say, that if businesses are
3 closing, and no new businesses are opening, not only
4 jobs will be lost, but also new jobs will not be
5 created.

6 Additionally, when businesses are closed,
7 this will lead to increased prices of other goods; as
8 well due to a semi-monopoly that will exist in most
9 neighborhoods because of licenses being kept by only
10 a few as this proposed regulation calls for.

11 Yemeni American Merchants, who are in the
12 front lines, have zero doubts that these proposed
13 regulations, if passed, will expand the illegal trade
14 of tobacco and other related products which in turn
15 will crate competition in the streets between
16 criminals who will seize this golden opportunity
17 which these regulations are handing to them.

18 And of course, when that happens, and it
19 is bound to happen as a direct result of enforcing
20 Intro 1547 and Intro 1544-A, our police will be
21 preoccupied by working to limit these illegal
22 activities. This will also lead to wasting resources
23 as they work toward diffusing the growing conflicts
24 as a result of the in-fighting between the illegal
25 traders.

1
2 In short, we do not want other Eric
3 Garner moments.

4 Once again, we appreciate the noble
5 intentions of these bills, but not only the Yemeni
6 American community will be hit, a variety of small
7 businesses will be affected.

8 Also, I wanna add [bell]... I'm asking for
9 a minute to add this and this is... [crosstalk]

10 CHAIRPERSON JOHNSON: Go ahead.

11 ZAID NAGI: these words are coming from
12 someone who lost his dad in 2009 to lung cancer, who
13 for four months took him from hospital to hospital;
14 also, it comes from a nonsmoker, it comes from
15 someone who tells his kids every day not to smoke,
16 but also in the mix, and even before I come here to
17 testify, there was the religious element of it; my
18 religion prohibits me from coming and testifying here
19 to promote anything that harms individuals; however,
20 and going back to our religion text: exchanging a
21 wrong -- this is an Islamic text -- exchanging a
22 wrong, leading to more wrong, leading the wrong and
23 change [sic] is better. We talked a lot about people
24 who lost their lives, and, of course, people do lose
25 their life, but we never talked about the effect of

1
2 disrupting people's lives by closing their
3 businesses, which most of these bills will lead; we
4 never talked about how many... the indirect effects,
5 the crimes that will be in the street... [interpose]

6 CHAIRPERSON JOHNSON: I hear you, sir.
7 Thank you.

8 ZAID NAGI: Okay.

9 CHAIRPERSON JOHNSON: Thank you for your
10 testimony.

11 GREGORY CONLEY: Councilman Johnson and
12 Councilman Gentile, good afternoon. My name is
13 Gregory Conley; I am the President of a nonprofit
14 health advocacy group called The American Vaping
15 Association which advocates for the rights of adults
16 to access these lower-risk smoke-free products and
17 the rights of small business owners to help smokers
18 get off of smoking and create jobs.

19 I am here today to urge you to oppose
20 Intro 1532, as its enactment would actually set back
21 recent gains that have been made in lowering New York
22 City's adult smoking rate. Let's be clear; no one
23 here today opposes simple retail licensing. Simple
24 retail licensing is something that we have supported,
25 when written appropriately, at the state level in

1 multiple states, as well as cities, but this is not
2 just simple licensing, this bill would prohibit the
3 issuance of new retail e-cigarette licenses; it is,
4 in effect, a ban by attrition and even worse, there
5 are many districts in New York City, particularly
6 minority and poor districts, that do not have a
7 functioning vape shop, a shop that can actually talk
8 a smoker through the process; not just have it on a
9 shelf and you pick it up and it's on you to learn it;
10 an actual shop with expertise to teach smokers who
11 need this knowledge to know how to quit.

12
13 Before we move forward with something
14 like this, shouldn't we actually be examining the
15 evidence? We talked at length today about smoking,
16 but nothing about the work that's been done by the
17 Royal College of Physicians, by Public Health
18 England, by the University of Victoria in Canada.
19 Royal College of Physicians, which reported the
20 dangers of smoking three years before the U.S.
21 Surgeon General did, came out with this lengthy
22 report by researchers with no conflicts of interest
23 saying vaping is at least 95% less hazardous than
24 smoking. Councilman Johnson, as a smoker, I hope you
25 will take the point made by a doctor earlier today --

1
2 nicotine, disconnected from smoke, is not a
3 carcinogen. Anything we can do to take America's 44
4 million smokers and truthfully inform them that
5 smoke-free products can save their lives is a
6 positive step forward. And so I agree with what
7 Councilman Cabrera said earlier -- smoking is a
8 problem and we have to do something, but you're
9 taking the most used smoking cessation product in
10 America, according to the CDC, and making it harder
11 for adults to access. And Councilman Johnson, you
12 said, "it's important; we wanna be on the cutting
13 edge of this issue," but when you act without full
14 evidence, being on the cutting edge can actually lead
15 to more disease and death. So I would urge you to
16 please reconsider [bell] 1532. Thank you.

17 CHAIRPERSON JOHNSON: Thank you for you
18 very much; I appreciate your testimony here today. I
19 appreciate the good advice.

20 GREGORY CONLEY: Please consider vaping.

21 CHAIRPERSON JOHNSON: Thank you very
22 much. Okay, take care. Okay, up next is Stan
23 Goldstein, Eileen Miller and Phyllis Goldstein. Are
24 those three folks here? [background comments] Okay.
25 [background comments] Come on up. It's okay; he'll

1
2 take it for you. [background comments] There's
3 still many more.

4 Okay, after this panel is Lou Ruggeri,
5 Alex Clark, Issam Nassan [sic], Philip Roseman,
6 Anowarul Haque, and Ian Poulos; that's the next
7 panel. We have props. [background comments] 'Kay;
8 is Stan Goldstein here? Oh yeah. So if you wanna
9 come up, sir, we're gonna start. Go ahead, begin.

10 EILEEN MILLER: Thank you so much. I
11 just want to show you this car; it's the children in
12 the car -- the mother, the father and the baby -- as
13 the smoke circulates, it goes round and round. This
14 is a baby; this is the little lungs that the smoke
15 goes in when the parents are smoking in the car.

16 My name is Eileen Miller; I'm a Nurse
17 Practitioner. I am speaking on behalf of all the
18 children and babies who have no say in what adults
19 do.

20 When I was younger I had a sister who
21 died of a brain tumor at age 7. I had a brother who
22 devastated our entire family by dying at 2 years old
23 from new sudden onset asthma. Many years we struggle
24 with this horrendous loss and never understood why
25 this happened. As an adult I did my own extensive

1
2 research on secondhand smoke in the home. When I
3 advanced with the knowledge of the hazards of
4 secondhand smoke, I was shocked to learn the number
5 of carcinogens in cigarette smoke.

6 On reflection, I quickly realized that my
7 compassionate loving parents, who smoked non-filtered
8 cigarettes their entire life, had no idea of the
9 hazards of the children living in their home. My
10 mother died of lung cancer; my father also died of
11 cancer. How can we allow children, small babies who
12 have small lungs, to breathe air containing chemicals
13 such as arsenic, formaldehyde, benzene, ammonia;
14 vinyl chloride, just to name a few. The air inside a
15 car with cigarette smoke becomes quickly concentrated
16 and the levels of the chemicals are continually re-
17 circulated. Poisons in the tobacco smoke can damage
18 the cell's DNA -- DNA; that is the instruction manual
19 that controls normal cell growth. When DNA is
20 damaged the cell can begin growing out of control and
21 create cancerous tumors. E-cigarettes cause
22 constriction of the lung and the vapor contains
23 nitrosamines that are also carcinogenic. As adults
24 and parents, it is our responsibility to protect our
25 children at any cost. With our modern fast-paced

1 life, children already have many hurdles to cross.

2 Please don't let the exposure to these deadly
3 chemicals be one of them. Studies have shown
4 secondhand smoke is directly related to sudden infant
5 death syndrome, asthma and other childhood ailments.

6 Please pass this bill for the children
7 who have no say in what the adults are doing.

8 CHAIRPERSON JOHNSON: Thank you, Miss
9 Miller.

10 EILEEN MILLER: One other bill is 1131,
11 neighborhood pharmacies serve as a resource for
12 health car... [interpose]

13 CHAIRPERSON JOHNSON: Sorry; you only
14 have three minutes for all your testimony..
15 [crosstalk]

16 EILEEN MILLER: Oh, I'm done then.

17 CHAIRPERSON JOHNSON: but you support
18 that bill as well?

19 EILEEN MILLER: Yes.

20 CHAIRPERSON JOHNSON: You do? Great;
21 thank you for being here.

22 EILEEN MILLER: Thank you.

23 CHAIRPERSON JOHNSON: Miss Goldstein.

24 [background comment]
25

1
2 PHYLLIS GOLDSTEIN: Okay. Thank you.

3 Good afternoon Council Member Johnson and
4 members of the Committee on Health. My name is
5 Phyllis Goldstein and I live in North Shore Towers
6 and Country Club in Floral Park, Queens... [interpose]

7 CHAIRPERSON JOHNSON: Council Member
8 Grodenchik's district.

9 PHYLLIS GOLDSTEIN: You bet. Thank you
10 for allowing me these few minutes to speak. I
11 heartily endorse and support the resolutions that
12 will curb smoking in New York City. We should be on
13 the forefront of healthy living.

14 I particularly applaud the bill that
15 requires rental apartment buildings, as well as co-
16 ops and condo buildings, to create a smoking policy
17 for the building. I also support the bill banning
18 smoking in the common areas of all multiple
19 dwellings.

20 I am a Director on the Board of North
21 Shore Towers and Country Club, a complex of three 33
22 floors containing 1,844 units on a 110 acres.

23 As of January 1, 2017, our community has
24 been smoke-free in all interior areas including
25 apartments, balconies and terraces.

1
2 We amended our proprietary lease by
3 voting and getting the requisite 66 2/3% shares
4 necessary to make this ban happen. Actually, 72%
5 voted in the affirmative. People said it couldn't be
6 done; we did it. We are thought to be the largest
7 private co-op in the country to go smoke-free. We
8 took this path because we had a problem with
9 secondhand smoke traveling and impacting units in our
10 buildings. Smoke travels through the vents, seeps
11 under doors and walls and cannot be isolated or
12 contained in the smokers' units.

13 We put together a group of 50 residents
14 -- two building captains in each of the three
15 buildings, and the remaining volunteers were floor
16 captains in their respective buildings. These people
17 were committed and focused to get the vote out.

18 On August 1, 2016, we had a presentation
19 to our residents by the Queens team -- Joel Bhuiyan,
20 Nancy Copperman, Phil Konigsberg, and Eileen Miller -
21 - about the harmful effects of secondhand smoke. We
22 also had a resident engineer describe the
23 impossibility of sealing a smoker's apartment. The
24 stage was set for an all-out push to eliminate smoke
25 in the interiors of our complex. At the end of the

1
2 voting period, September 30, the community spoke.
3 Our commitment to and execution of [bell] amending
4 the proprietary lease was the March cover story in
5 *Habitat* magazine. We receive calls from other
6 communities to ask how to do it.

7 When people understand that secondhand
8 smoke is destructive to people and property, the only
9 answer is to eliminate it. It is the only positive
10 approach.

11 North Shore Towers and Country Club is
12 proud to be on the forefront of this issue. [bell]
13 Thank you so much.

14 CHAIRPERSON JOHNSON: Thank you, Miss
15 Goldstein for being here. Congratulations.

16 PHYLLIS GOLDSTEIN: Thank you.

17 CHAIRPERSON JOHNSON: Go ahead, sir.

18 STAN GOLDSTEIN: Thank you for the
19 opportunity to speak. My name is Stan Goldstein; I
20 live in Flushing, New York. I want to speak in favor
21 of Intro 799, the smoke-free apartment building law
22 and also support Intro 5930, known as the smoke-free
23 policy declaration.

24 I live in a private house and I don't
25 have the same restrictions or problems that people in

1
2 apartment houses do, but I notice, or I'm aware that
3 public housing is coming more and more under the
4 smoke-free laws and I think that people in private
5 apartments should have the same health advantages as
6 these people of there.

7 My other concern, which has been raised
8 by others here, is that many people are buying
9 cigarettes from non-dealers, from unauthorized
10 purchasers, and I think that much more must be done
11 to stop that. There are several problems here; not
12 only the increased availability of cigarettes to
13 minors, but also the in-roads that organized crime
14 has with this type of opportunity.

15 Thank you for the opportunity to speak..
16 [crosstalk]

17 CHAIRPERSON JOHNSON: Thank you very much
18 for being here. Thank you all for being patient; for
19 spending the day here at the Council. I really
20 appreciate you all taking the trek in from Queens to
21 be down at City Hall today. Thank you very much.
22 Okay.

23 So next up is -- let's see if they're
24 here -- Ian Poulos. [background comment] Yes,
25 great. Anowarul Haque. No. Philip Roseman. Yes,

1
2 sir. Thank you. Issam Hassan. He already spoke.
3 Alex Clark. Lou Ruggeri. [background comment]
4 Great; that's four. Igor Gromadskiy. Yeah. And
5 Michael Bowens. Michael Bowens here? No. Okay. I
6 apologize if I pronounce your name wrong. Fessle
7 Alonzo. Mr. or Mrs. Alonzo. No. Jamal Shaith
8 [sp?]. No. Omar Farraj. No. Drew. No. Andrew
9 Rahiman. No. Stewart Bowers. Come on up, sir.
10 Sergeant, if you could pull one additional chair
11 over. Is there anyone that's here today that wanted
12 to testify but didn't have the opportunity to? Okay,
13 this is our final panel. Just make sure the red
14 light is on and you speaking directly in; that would
15 be great. Thank you very much.

16 IAN POULOS: Good afternoon Chair and
17 members of the Committee, thank you for affording
18 this opportunity for us to comment today. My name is
19 Ian Poulos from Gotham Government Relations on behalf
20 of Logic Technology Development, one of the largest
21 retailers of electronic cigarettes in the United
22 States. We're here to comment on 1131-A, 1532, 1547,
23 and if we have a moment, 1462, which isn't on the
24 agency, but we'd like to get on record about that
25 bill as well.

1
2 Logic opposes these four bills for the
3 following reasons:

4 1131-A and 1547 prohibit sales in
5 pharmacies and they establish, as many others have
6 said, a retail cap on the number of retail dealers.
7 Should the cap be instituted, no new licenses will be
8 issued and the number of licenses will decrease by
9 attrition and under the proposed law, stricter caps
10 may be instituted by the Department of Health if
11 further restrictions are recommended.

12 Now, like the Mayor and many others,
13 Logic believes that minors should not vape, minors
14 should not smoke and minors should not be able to
15 obtain tobacco products. Everyone should be informed
16 about the health risks of smoking. These principles
17 are at the core of Logic's business, but Logic
18 fundamentally disagrees with the proposed
19 restrictions.

20 If the goal is to reduce youth smoking;
21 let's focus on what's existing on the books and crack
22 down on people who sell to underage youth; why not
23 increase those penalties; that's what really what
24 we're after here?

1
2 1131-A and 1547 will affect adults and
3 businesses, especially small businesses -- it's been
4 said over and over again today. And let's face it;
5 adults are adults and they have the right to choose
6 and purchase legal products. Additionally, so long
7 as tobacco products are legal and licensed,
8 businesses should be able to sell them.

9 According to the proposal, "Pharmacists
10 are dedicated to improving health so they should not
11 sell cigarettes." By that same reasoning,
12 pharmacists and pharmacies shouldn't sell many other
13 things as well -- maybe they shouldn't sell candy,
14 maybe they shouldn't sell energy drinks, maybe they
15 shouldn't sell soda. Pharmacies sell all those
16 things and none of them improve one's health. So is
17 that the rule; are we gonna ban these things as well?
18 Just a question.

19 So what are a few of the negative
20 consequences? You have unregulated sales, right,
21 with the increase in the black market; we're gonna
22 push sales online where things already are
23 unregulated; counterfeit electronic cigarettes;
24 you're gonna affect distribution channels because
25

1
2 you're gonna create pockets where there is no product
3 in some spaces and not others.

4 I'll move on to 1532, 'cause I'm running
5 short on time, which creates a licensing scheme on
6 electronic cigarettes.

7 Logic agrees that retailers should be
8 known, they should be identified and they should be
9 appropriately licensed, but what we'd like to do is
10 see something more along the lines of checking a box
11 on a form. If you hold a license already on tobacco
12 products, it should be one license and you check a
13 box whether you sell tobacco or you sale vapor or you
14 sell both and the kind of products that you sell.

15 One last thought -- 1462 is a display
16 ban; Logic believes that it's neither appropriate nor
17 necessary; these bans freeze and damage competition
18 by creating barriers to entry, making brand-switching
19 more difficult but not the actual brand recognition,
20 so people just remember the one they saw but it makes
21 it harder for new businesses to come in. [bell]

22 Thank you for your time; we appreciate
23 the opportunity to speak.

24 CHAIRPERSON JOHNSON: Thank you for your
25 patience, thank you for your testimony. Yes, sir.

1
2 ALEX CLARK: Chairman Johnson, and I
3 apologize for the typo on my written testimony..
4 [laugh]

5 CHAIRPERSON JOHNSON: It's okay. I go by
6 Jones as well.

7 ALEX CLARK: Okay, great. My name is
8 Alex Clark; I'm the Executive Director of The
9 Consumer Advocates for Smoke-free Alternatives
10 Association (CASAA), we are a nonprofit grassroots
11 organization and our mission is to promote accurate
12 information and protect access to smoke-free tobacco
13 and nicotine products, and we are here on behalf of
14 our more than 2,400 members in the City of New York
15 and we would like to express opposition to Intro
16 1532, 1544, 1547, and 1131. The bulk of my testimony
17 I will focus on 1532.

18 I did wanna, as a personal note, extend
19 some gratitude and appreciation for your honesty at
20 the beginning of this hearing -- sometime yesterday
21 -- and admitting your own struggles with tobacco; as
22 myself; someone who has a history with substance
23 misuse recovery, I also appreciate you publicly
24 sharing that, and that really is the core of our
25 opposition to 1532, by enacting a cap on e-cigarette

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2 retailers. Unfortunately, the independent vapor shop
3 gets caught up in that cap, and as my friends from
4 the New York State Vapor Association very clearly
5 stated, you would be effectively reducing consumer
6 access to these retail shops, and while it's
7 important for consumers to visit a retail shop and
8 receive expert instruction and guidance about the
9 products -- these very complicated products that
10 they're hopefully transitioning to after smoking for
11 years and decades -- it is perhaps more important
12 that consumers, smokers are finding peer to peer
13 support within these shops. Now as Spike had
14 mentioned, in the shop, the guy behind the counter
15 can't stand there and talk to you about the health
16 benefits of switching to these products or even
17 promote these products as a cessation device, but it
18 is not uncommon to be in a shop with another customer
19 who has experienced the same thing that that new
20 customer is going through; to be able to share that
21 story of how I quit smoking, the struggles that I
22 have had is perhaps more important and has a bigger
23 impact than any of the messaging that we see out in
24 the public, any of the anti-smoking campaigns. To
25 take that away disadvantages smokers and generally

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2 disadvantages the greater public health of New York
3 City. So again, I would urge you to review our
4 written testimony for some of our comments about the
5 other bills. Thank you again for your time. Thank
6 you for being here all day long. Thank you.

7 CHAIRPERSON JOHNSON: Thank you, Mr.
8 Clark. Go ahead, sir.

9 PHILIP ROSEMAN: My name is Philip
10 Roseman; I am a vape shop owner in Forest Hills,
11 Queens. We opened our store up about four years ago
12 now; we were one of the first vape shops to open and
13 certainly the first one in that area.

14 I oppose 1532 and I'm kind of curious
15 about it because I actually have an e-cigarette
16 retail license. I have a picture of it and it's
17 signed by Mary Bassett and if anybody wants to see
18 it, I can certainly make sure that you see it. But
19 I'm already licensed to sell electronic cigarettes;
20 I'm not quite sure what this whole thing is all
21 about, other than limiting the number of licenses,
22 which as Alex has said, and everyone else has said,
23 is certainly going to be difficult not only for the
24 consumers who are looking for these products, who are
25 trying to get away from cigarettes and using these as

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2 alternatives, but for someone like me who has been
3 growing my business slowly but surely over all these
4 years, I'm getting to a point where I would like to
5 open another location, possibly in a place where it's
6 really needed and there are certainly some areas in
7 the city that are just prevalent with smoking that
8 could benefit from an alternative to traditional
9 cigarettes.

10 Having a cap on this and having a 30-day
11 period means that either I do it right now and just
12 borrow all the money in the world that I need in
13 order to do such a thing or I say forget it and I
14 don't open another location and I continue to grow
15 myself as an entrepreneur.

16 I'd also like to mention that it's been
17 -- I know it was brought up that cigarette smoking
18 and youths going into stores and being able to buy
19 them; when it comes to electronic cigarettes, from
20 the very beginning we've always been a very self-
21 regulated industry, but I can tell you, right now you
22 can't walk into a vape shop, a real vape shop and get
23 an electronic cigarette without ID showing you are of
24 age, and that is 100% across the board in New York,
25 100%.

1
2 I'd also like to say -- I know the Mayor
3 suggests that 12,000 New York residents die each year
4 from tobacco-smoking illnesses; I wonder if anyone
5 can guess how many have died globally from using
6 vapor products from illness caused by the products in
7 the last 14 years, and that number is zero. I just
8 wanna make sure that everyone's aware of that. Thank
9 you for your time.

10 CHAIRPERSON JOHNSON: Thank you,
11 Mr. Roseman.

12 LOU RUGGERI: Good afternoon Council
13 Member. Thank you everyone for taking the time to be
14 here today, I know it's been a long session.

15 I wanna state my support on behalf of the
16 New York City Vapor Alliance for Intro 1532. We all
17 agree that children's well-being is our top priority
18 and in the last few years we've seen a drastic
19 increase in the number of youth having access to
20 electronic cigarettes. And we think that
21 distinctions between tobacco retailers and electronic
22 cigarette retailers are key to limiting access by
23 youth, but we would take it even a step further; we
24 would recommend that in addition to having separate
25 licensing that the licenses are mutually exclusive;

1 that a tobacco retailer cannot carry electronic
2 cigarettes in their store. By doing so and including
3 language that would require all electronic cigarette
4 retailers to not carry snacks and drinks and the
5 kinds of items that bring children to their stores
6 and not allowing anyone to the store who is under 21.
7 Currently, the way that the language exists, anyone
8 can come into the store, but only 21 and up can
9 purchase. We would seek to see that language be
10 changed so that only 21+, legal purchasing age adults
11 can enter a vape shop and only vapor products could
12 be sold. Someone who would seek to sell tobacco
13 would have to make a decision on whether to sell
14 tobacco products or whether to sell vapor products.

16 I think this would greatly reduce the
17 access of youth to these products and also reduce the
18 amount that youth are even interested in them. If we
19 can get them out of the store; if we can get these
20 vapor products -- which we all recognize as appealing
21 to youth -- out of their sight; then we've taken a
22 big step forward in reducing youth access and the use
23 of these products by children. I think we missed
24 that opportunity with tobacco regulation and from the
25 testimony I've heard, one of the biggest concerns is

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2 that children are looking at tobacco products because
3 they're in there for a snack or a soda and although
4 that's a lost cause now -- I don't think we could
5 regulate that out -- I think it's important now to
6 make a distinction between a shop that specializes in
7 retailing electronic cigarettes and a shop that's
8 there for conveniences and snacks.

9 I know some of the other panel members
10 mentioned that they are involved in the electronic
11 cigarette retail industry, and I have a feeling that
12 they probably share the same sentiment; I don't think
13 the majority of their business is coming from snacks
14 and grocery items and I don't even think most people
15 that operate an electronic cigarette retail operation
16 have any interest in carrying tobacco products.

17 I wanna finish by thanking you for your
18 time and that's about it. Thanks for letting me
19 speak today.

20 CHAIRPERSON JOHNSON: Thank you very
21 much.

22 [bell]

23 LOU RUGGERI: Pleasure.

24 IGOR GROMADSKIY: ...share your microphone.

25 [background comment] Good afternoon, City Council

1
2 Members and thank you very much for having me today
3 and having me able to speak. My name is Igor
4 Gromadskiy; I am with the Nextgen Vapeshop, which is
5 a vape shop in south Brooklyn opened about three
6 years ago, with a direct mission to actually teach
7 consumers, because electronic cigarettes had started
8 to come out and they were already getting some
9 traction, but there was no knowledge, it was really
10 lacking in that specific deal. So what we did is,
11 you know we are here educate and make sure that
12 consumers know exactly what the difference is between
13 smoking, what vaping is and smokeless tobacco and
14 what other tobacco kind of products there are.

15 One of the things that was actually
16 mentioned was that vape shops need to educate and
17 that there needed to be more education, especially in
18 low-income neighborhoods, and that was one of the
19 reasons why there were more smokers at that point, so
20 why not introduce vape shops, which will educate the
21 consumers and allow them to have an alternative,
22 something that wasn't around -- if you take a look,
23 about 15 years ago there was no e-cigarettes, so you
24 had a choice of whether you're gonna smoke
25 cigarettes, cigars or maybe even chew on some

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2 smokeless tobacco, or hookah, 'cause that's been
3 around for thousands of years.

4 So the underground market obviously won't
5 care if we actually let Bill 1532 pass; the
6 underground market will be created because of the
7 limiting of licenses; they won't really care about
8 the laws and rules and regulations because they don't
9 work within that sphere, they work outside of that,
10 and we wanna make sure that we limit that, and
11 raising the price I believe on tobacco products won't
12 necessarily, I guess stop the person from smoking,
13 because one of the things like was mentioned earlier
14 was that people smoke because they're uneducated, so
15 what better way to actually help the consumers is by
16 educating them and maybe spending those resources on
17 specialty stores, which I believe that I have. And
18 nobody under the age of 21 even enters the store -- I
19 already took initiative of that, as was mentioned
20 earlier -- it's not necessary; there's a lot of adult
21 smokers who need help and that's what we're here for,
22 we're here to help consumers and smokers to switch to
23 an alternative and we're not here to educate kids or
24 even, for that matter, sell to them anything of that
25 nature.

1
2 The foundation of vaping as an industry
3 was to help smokers switch, to have an alternative,
4 something that wasn't, again, it wasn't around
5 earlier, and I believe with that goal is why we're
6 here, you know we're here not to stop businesses from
7 growing and from expanding, and then maybe you know
8 educating; we're here to make sure that the smokers
9 get the right tools, techniques and everything else
10 that's needed for them to make a better educated
11 decision in their future. And we don't target kids,
12 never were, never will; I think that the kids [bell]
13 get their information elsewhere. Thank you very
14 much.

15 CHAIRPERSON JOHNSON: Thank you very
16 much. Yes, sir.

17 STEWART BOWERS: Hi, my name is Stewart
18 Bowers. You'll have to excuse me; I'm not the most
19 eloquent speaker goin'... [interpose]

20 CHAIRPERSON JOHNSON: Take your time;
21 it's totally fine... [crosstalk]

22 STEWART BOWERS: Okay. I run a vape NY
23 store in Brooklyn, it's a dedicated vape store; I
24 sell no tobacco or smokable products in the store. I
25 understand that the Council is looking to curb

1
2 smoking, yet they want to limit the amount of vape
3 stores in the city. I'm pretty much on the front
4 lines at stopping youth from getting our products
5 when they come into the store; it's my job to make
6 sure that I do not sell to underage; if I do so, I
7 can be fined for that, yet I still get New York
8 City's innocent youth coming into the store with fake
9 IDs to buy these products.

10 After I ask them to leave the store, my
11 first thought is -- well where are the parents that
12 are involved with this; why are their kids walking
13 around with fake ID; it's a parent's job to -- if you
14 don't want your child to smoke; don't smoke. If you
15 don't want your kid to drink; then you teach them not
16 to drink; that's not my job, my job is to stop your
17 kid from receiving our product if he's underage.

18 I take offense when the Mayor stated that
19 the e-cigs are not a fine alternative to smoking, and
20 if you think that, you're wrong. I have hundreds of
21 customers who have children that are happy that their
22 parents don't smoke, customers who have decided to
23 get their nicotine by using an alternative smoking.
24 You'll hear a mantra coming from most of the vapers
25 that it's the smoke that kills you; it's not the

1
2 nicotine that kills you. You'll also hear that it's
3 the dose that makes the poison; everybody's whippin'
4 out big names here that's in the cigarettes and that
5 is in e-cigarettes; there's a big difference between
6 100% and 5%. So it leans into a harm reduction more
7 than anything else.

8 I'm gettin' to the point here where I
9 doubt that any of the Council Members -- maybe 10% --
10 have met with anybody in a vape store or have spoken
11 to any vapers -- the Mayor hasn't done that; the New
12 York City Health Commissioner; the New York State
13 Health Commissioner has not sat down with any vapers
14 to discuss these products, but yet they wanna
15 regulate us. Limiting the access to these products
16 without proof of harm makes absolutely no sense.
17 Nicotine is nicotine, whether it's sold in CVS or
18 it's used in an e-cig, but magically, somehow the
19 nicotine that's approved by the FDA is okay; it could
20 be sold in flavors in gums and lozenges and be given
21 away from New York City because of their smoke-free
22 program. I'm not here to market to children, I'm not
23 an ad executive, but I know you market to your
24 audience. The 45 million smokers in the U.S. are our
25 base customers; that's who we're looking for, I'm not

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2 looking for your children. If it got to the point
3 where there was only one vape store in all of New
4 York City; [bell] some knucklehead kid would walk in
5 there with fake ID trying to get the product; I don't
6 see how this bill is in any way going to stop that;
7 it doesn't fix the problem.

8 CHAIRPERSON JOHNSON: Thank you very much
9 for your testimony. I appreciate you as a small
10 business owner and all of you as well from Forest
11 Hills who took a day off to be here and to testify
12 and to give us your feedback. For the particular
13 bills that you have concern over, you should reach
14 out to the prime sponsor of that piece of legislation
15 and talk to them about potential edits or
16 modifications to those bills. The main sponsor is
17 the controlling sponsor, so they're the ones that
18 have the opportunity to make changes to those bills.
19 Yes, go ahead.

20 STEWART BOWERS: I was just wondering --
21 I know that they don't want smoking in cars with
22 underage; I'm wondering why the e-cigs got thrown
23 into that; was it because of..

24 CHAIRPERSON JOHNSON: It's not my bill.

25 STEWART BOWERS: So I'd have to..

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CHAIRPERSON JOHNSON: So you should reach out to Council Member Cabrera, whose bill it is... [crosstalk]

STEWART BOWERS: Okay, I just wanna find out if it's from proof of harm or if they got thrown under the bus... [crosstalk]

CHAIRPERSON JOHNSON: Yeah, you should reach out to Council Member Cabrera's office and speak to either him or his legislative director...

STEWART BOWERS: Thank you.

CHAIRPERSON JOHNSON: Great. Thank you for your testimony; I appreciate it.

After five hours and 35 minutes... [background comment] oh, five hours and 45 minutes, this hearing is adjourned.

[gavel]

C E R T I F I C A T E

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



Date June 2, 2017