

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the
COMMITTEE ON HEALTH

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August 8, 2017
Start: 10:43 a.m.
Recess: 11:00 a.m.

HELD AT: 250 Broadway - Committee Rm.
16th Fl.

B E F O R E: COREY D. JOHNSON
Chairperson

COUNCIL MEMBERS: Rosie Mendez
Mathieu Eugene
Peter A. Koo
James Vacca
James G. Van Bramer
Inez D. Barron
Robert E. Cornegy, Jr.
Rafael L. Espinal, Jr.

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

Ian Poulos
Logic Technology Development

Spike Babaian
License E-cigarette Dealer

2 [sound check, pause] [gavel]

3 CHAIRPERSON JOHNSON: Good morning,
4 everyone. I'm Council Member Corey Johnson, Chair of
5 the New York City Council's Committee on Health. I
6 want to welcome you to today's vote, and a package of
7 bills related to tobacco and E-
8 cigarettes. Tobacco has been around for so long that
9 it's become easy to forget the magnitude of sickness
10 and death that it causes. It kills about one in five
11 people in the United States. It kills thousands of
12 people in New York City every year, and it is
13 incredibly addictive. I can attest to that. To
14 address this ongoing public health crisis, New York
15 City has taken strong steps to reduce access to
16 tobacco for young people and to encourage smokers to
17 quit. Today, we continue in this tradition with this
18 package of legislation. These bills restore New York
19 City's place at the forefront of this movement.
20 Research shows that raising the price of tobacco
21 reduces consumption particularly among young people.

22 Introduction No. 1544, which I introduced
23 would set minimum prices for tobacco products that
24 currently lack them such as cigars, smokeless tobacco
25 and shisha. It would also establish a 10% tax on

2 these products. This tax is authorized by state law,
3 which requires the revenue to go towards public
4 housing. (coughs) These bill would expand on the
5 Council's past legislation setting a minimum price
6 for cigarettes and little cigars. We're also voting
7 today on two bills by Council Member Lander to limit
8 the number of tobacco retailers.

9 Introduction No. 1547 would cap the
10 number of tobacco retails in the city, and not allow
11 new businesses to sell tobacco until the number of
12 these retailers is half of what it is today.

13 Introduction No. 1131 would prohibit the
14 sale of tobacco at pharmacies. San Francisco has
15 taken these steps to reduce the number of tobacco
16 retailer and has great success in reducing tobacco
17 use rates.

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

24 Introduction No. 1532 by Council Member
25 Cabrera would require retail dealers of electronic

2 cigarettes to be licensed easing enforcement of
3 minimum wage requirements for these products. It
4 would also cap the number of E-cigarette retailers
5 and not allow new businesses to sell E-cigarettes
6 until the number is half of what it is today.

7 We're also voting on two bills related to
8 smoke free housing. These bills by Council Members
9 Torres and Vacca would prohibit smoking in common
10 areas of multiple dwellings and require apartment
11 buildings to create smoking policies that are
12 distributed annually to tenants. I thank the sponsor
13 of these bills for their leadership, and I also thank
14 the Mayor and the Department of Health and Mental
15 Hygiene for their support in these efforts. I want
16 to thank David Seitzer, the Committee Counsel,
17 Crystal Pond, the Policy Analyst for the Committee,
18 and my Deputy Chief of Staff Louis Cholden-Brown. I
19 also want to thank all the advocates who are here
20 with us today who have worked very hard on this
21 package of legislation for a very long time. Is
22 there anyone that's here to testify today? Okay, so
23 we're going to call up a few folks and then we're
24 going to go back to the Committee. We have Spike
25 Babaian. Okay, you may go up there, and Ann

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2 Poulos, (sp?) Ian Poulos. You have two minutes each.

3 [background comments, pause] Just press the button

4 and make sure the mic is on and you may begin.

5 Wherever order you'd like.

6 IAN POULOS: Good morning Chair and City
7 Council Members. My name is Ian Poulos here on
8 behalf of Logic Technology Development, one of the
9 largest retailer of electronic cigarette-cigarettes
10 in the United States. At the outset, we'd like to
11 say that we oppose 1532-A as we did in April at the
12 hearing. Minors shouldn't date, minors shouldn't
13 smoke, minors should not be able to obtain tobacco
14 products, and everyone should be informed of the
15 health risks of smoking. Logic doesn't oppose
16 regulation on electronic cigarettes. They oppose the
17 way it's being done. I'd like to highlight three
18 points while I'm here. First, we-all retailers
19 should be known. They should be identified, and they
20 should be appropriately-appropriately licensed, but
21 for stores that already have a tobacco license should
22 not have to obtain a second license to sell
23 electronic cigarettes. What we would like to see is
24 one form in a check the box type of style that would
25 be easier for the city to administrate as well. If

2 you have a tobacco products license, the E-cig
3 license would be considered an extension of that
4 license. Third, we oppose the pharmacy band. The
5 idea that pharmacies today are only doing things to
6 improve health is very different than pharmacies of
7 let's say 50 years ago. Now, pharmacies are more
8 like retailers. They compete to put small businesses
9 in New York out business. They sell candy, energy
10 drinks and all these other things that are bad—that
11 are bad for you, and are not meant to "improve"
12 health, which was the justification for the pharmacy
13 ban in the first place. And third, we oppose the cap
14 on electron cigarette retails especially to decrease
15 by 50% via attrition. These—this cap is going to
16 push sales online. Online sales remain largely
17 unregulated and uncontrolled. It will increase
18 incentives for black market sales, increase
19 incentives for counterfeit electronic cigarettes and
20 it will interfere with—interfere with distribution
21 channels creating artificial pockets throughout New
22 York City. Lastly, it will undermine economic
23 development by decreasing access [bell] to legitimate
24 adult demand. Thank you for your time.

2 SPIKE BABAIAN: First I just want to let
3 everyone know I have the flu. We should
4 decontaminate this microphone when I'm done speaking.
5 So, I apologize as I'm a little bit under the
6 weather. I wanted to actually ask Councilman Johnson
7 if he knew how many E-cigarette licenses there are in
8 New York City right now because you guys want to cut
9 it in half. So, I'm wondering if anybody knows how
10 many there actually are because I-I hold four of
11 them, and there are less than 20 right now. So, what
12 you want to do is you want to cut the number of
13 tobacco retailers in half. I understand that. The
14 new Commissioner of the FDA just went out and told
15 everybody that E-cigarettes are a harm reduction
16 method, and that he is going to promote the use of
17 electronic cigarettes and make them easier to access.
18 He is going to keep access to electronic cigarettes
19 because they are a better alternative than smoking
20 cigarettes. These guys now want to take someone who
21 only has 20 licenses. If we told you that you could
22 only buy the patch and the gum in 20 stores, and you
23 said I want to cut that down to 10 so no one can get
24 the patch and the gum, that would be insane.
25 Everybody would laugh at you. Okay, you would—you

2 would say you want to take the safer option and make
3 it harder to get. That doesn't make any sense. Okay,
4 so while we understand the New York City Vapor
5 Association supports, you know, restricting maybe
6 where people can buy tobacco or maybe, you know,
7 trying to limit children's access and we, of course,
8 encourage limiting the access of youth to any kind of
9 tobacco products. However, limiting-limiting access
10 to adults to get vapor products, which are already
11 widely known to be a less hazardous option is crazy
12 especially when there are already only 20 retailers
13 or so that are registered with the city. So, you
14 have 20 licenses and you want to cut that in half.
15 You have 7-7,000 I think we decided last time,
16 tobacco licenses. You should think about that
17 because that's not really good way to go. [bell]

18 CHAIRPERSON JOHNSON: Thank you for your
19 testimony today. Any Council Members have any
20 questions? Okay, we are going to go to a vote. I
21 would ask the Clerk to please call the roll.

22 CLERK: William Martin, Committee Clerk,
23 roll call vote Committee on Health. All items are
24 coupled. Chair Johnson.

25 CHAIRPERSON JOHNSON: I vote aye on all.

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2 CLERK: Mendez.

3 COUNCIL MEMBER MENDEZ: (coughs) I vote
4 aye on all and I abstain on Number 1547.

5 CLERK: Eugene.

6 COUNCIL MEMBER EUGENE: I vote aye.

7 CLERK: Koo.

8 COUNCIL MEMBER KOO: [off mic] [pause]
9 [on mic] (coughs) Mr. Chairman may I explain my vote?

10 CHAIRPERSON JOHNSON: Of course, Peter.

11 COUNCIL MEMBER KOO: I will be abstaining
12 from Intro 1131-B, which is just related to the
13 pharmacy, a Local Law to amend the Administrative
14 Code of the City of New York in relation to the sale
15 of tobacco-tobacco products in pharmacies. This one
16 I will abstain, and for full disclosure, I am a
17 pharmacy owner. I sell the cigarettes in my pharmacy
18 and I will be abstaining from this vote for this
19 reason. In my district we have a problem with
20 illegal cigarettes. There is an extensive
21 underground network that sells untaxed cigarettes
22 right off the streets. Banning cigarettes from
23 pharmacies will only driver customers to these
24 underground networks because in so many parts of the
25 city pharma-pharmacies are much more plentiful than

2 convenience stores especially in areas like Northeast
3 Queens. In addition, to legislate the pharmacies so
4 they won't sell cigarettes because they betray their
5 poor health philosophy of the store is-is
6 disingenuous because pharmacies also sell products
7 that help you quit smoking like liquid and gum and
8 patches. You won't find that in community stores.
9 All these anti-smoking aids are always on display
10 behind the counter right next to the cigarettes. So,
11 every time a smoker buys a pack from the pharmacy,
12 they are simultaneously presented with an option to
13 quit. With that said, I vote yes on all the other
14 bills except the pharmacy bill. Okay.

15 CHAIRPERSON JOHNSON: Thank you, Council
16 Member.

17 COUNCIL MEMBER KOO: I abstain from the
18 bill.

19 CHAIRPERSON JOHNSON: Thank you very
20 much. I want to—before we continue the roll I want
21 to allow Council Member Lander—we're voting on two of
22 his bills today. I want to give him the opportunity
23 to make a statement to the committee and congratulate
24 him on the passage of these important bills.

2 COUNCIL MEMBER LANDER: Thank you Chair
3 Johnson for the opportunity and for your leadership
4 on this package. I'll be brief since I know
5 everybody here is in the midst of voting and lots of
6 us are trying to be across the street in the subway
7 hearing as well. It's just I'll say Mr. Chair, it's
8 not that often we really get the chance to do
9 something that saves people's lives, and that's what
10 we're doing today. These aren't simple matters, but
11 that's how it comes down. I mean whether we'll
12 achieve the 50,000 lives we want or whether we only
13 achieve 30,000 lives, that's a lot of lives to save,
14 and that's what we're doing here, and so I want to
15 thank you for your leadership. I want to thank
16 Commissioner Bassett, and the Health Department for
17 working with us on these bill. I will flag we made
18 some meaningful amendments to the reduction on the
19 Cap (sic) Bill to make sure that business owners who
20 have invested their life savings in a business don't
21 have that value fully sort of taken from them. If
22 you keep your business, if you follow the rules, if
23 you don't violate the rules, if you don't sell to
24 minors, if you business, you know, free from those
25 violations, you can sell your business to someone

2 else to another and they can get the license. So you
3 won't lose that value. That's one of the meaningful
4 changes we made here. Nonetheless, over time we will
5 see the number of places that people are selling
6 reduced and that's going to help save lives because
7 we know young people start smoking as a result of
8 availability, and in addition we have see from CVS
9 and others and from so many independent pharmacies
10 there is no need for pharmacies to be selling
11 cigarettes and hooking our young people on this
12 killer. So, thank you for your leadership. Thanks
13 to the others who worked to make this a really
14 comprehensive package. Thanks to advocates and staff
15 who helped us make these bill better, and I really
16 appreciate the support of my colleagues.

17 CHAIRPERSON JOHNSON: Thank you, Council
18 Member Lander. We're going to go back to calling the
19 roll.

20 CLERK: Council Member Vacca.

21 COUNCIL MEMBER VACCA: Yes, and I'd like
22 to—if I can explain my vote. My legislation deals
23 with a major aspect of smoking, and that is second
24 hand smoke, and I do not believe that those do not
25 smoke should be subjected to other people's smoke.

2 We know smoking kills and measure that this Council
3 can take to reduce the threat to public health is
4 certainly what I want to do, and my legislation calls
5 for prohibiting smoking in common areas of all
6 multiple buildings. And I thank the members of this
7 committee for their support and the Speaker, and I'm
8 going to vote in favor of all the legislation before
9 us today.

10 CLERK: Barron.

11 COUNCIL MEMBER BARRON: Thank you. I
12 vote aye and ask to be added to the legislation if
13 I'm not already noted as a co-sponsor. Thank you.

14 COUNCIL MEMBER VACCA: Uh-hm. Yes.

15 CLERK: Cornegy.

16 COUNCIL MEMBER CORNEGY: Permission to
17 explain my vote. Yes?

18 CHAIRPERSON JOHNSON: Yes, sir.

19 COUNCIL MEMBER CORNEGY: So, it probably
20 comes as no surprise to-to people that I'll be
21 abstaining on 1131 and 1547. It would have been my
22 pleasure to have heard those two bills in particular
23 in the Small Business Committee because I feel that
24 they'll deeply impact small businesses. Intro 1131
25 and Intro 1547 have the potential to profoundly

2 impact the value of thousands of New York City
3 businesses. While we've heard from proponents on
4 public health benefits of this legislation, it's
5 essential that the Council has the opportunity to
6 evaluate the potential significant economic harm to
7 so many communities. The fact is according to a
8 recent study by the National Association of
9 Convenience Stores, that tobacco products are the
10 largest in-store sales item in convenience stores
11 nationwide. In this way, the moratorium on the
12 issuing of tobacco retail or permits to new store
13 purchases in New York would greatly potentially
14 diminish the value of small businesses that are the
15 backbone of so many of our neighborhoods. Many of
16 our citizens have invested untold hours and sweat in
17 their enterprises and we owe it to them to fully
18 explore the economic consequences of these proposals.
19 It's also not lost on me that these small businesses
20 are the first line of defense against the black
21 market and underage smoking. These small businesses
22 within our community are ones that are legally
23 selling their products and carding under-aged
24 individuals and preventing them from getting their
25 hands on tobacco products. Once we take this away,

2 we are opening up the black market for our young
3 people. So, I vote to abstain on those two bills,
4 and yes on all the others.

5 CLERK: All items on today's Committee on
6 Health have been adopted by a vote of 7 in the
7 affirmative, 0 in the negative and no abstentions
8 with the exceptions of Introduction 1547-A and 1131-
9 B, which have been adopted by the committee of a vote
10 by 5 in the affirmative, 0 in the negative and 2
11 abstentions.

12 CHAIRPERSON JOHNSON: I want to thank
13 everyone for being here today. I want to thank the
14 advocates again, and I want to congratulate Council
15 Member Lander and the other members Council Member
16 Vacca and everyone else who had legislation in this
17 package, and with that, this committee—we're going to
18 keep the—is there anyone else to vote? No, so we're
19 going to close the hearing. [gavel]

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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 August 15, 2017