



Legislation Text

---

**File #:** Res 0264-2014, **Version:** \*

---

Res. No. 264

Resolution in support of A.2736/S.1379, which would amend state law by prohibiting using possession of a condom as evidence in prostitution and prostitution related trials, hearings or proceedings.

By Council Members Williams, Menchaca, Chin, Dromm, Johnson, Levine, Rose, Rodriguez, Palma, Reynoso, Cornegy, Kallos, Lander, Torres, Rosenthal, Constantinides, Koslowitz, Van Bramer, Ferreras-Copeland, Mendez and Espinal.

Whereas, New York City is arguably the epicenter of the HIV/AIDS epidemic, and according to the New York City Department of Health and Mental Hygiene (“DOHMH”), in 2012, there were 114,926 New Yorkers living with HIV/AIDS and thousands more are unaware of their status; and

Whereas, According to DOHMH, of those who are newly infected by HIV in New York City, 77 percent are black and Hispanic men; and

Whereas, According to the to the Centers for Disease Control and Prevention (“CDC”), latex condoms, when used consistently and correctly, are a highly effective method of preventing the sexual transmission of HIV and reducing the risk of other sexually-transmitted diseases; and

Whereas, Since 1971, New York City has distributed free condoms to the public in order to combat the transmission of sexually-transmitted infections and diseases as well as to promote safer sex practices; and

Whereas, DOHMH distributes more than 38 million condoms per year at approximately 3,500 locations throughout New York City including, but not limited to: bars, nightclubs, restaurants, hospitals, clinics and community based organizations; and

Whereas, A 2006 study conducted by experienced HIV care providers found that each case of HIV prevented could save \$303,100 in lifetime medical costs; and

Whereas, Condom distribution is a recognized public health intervention which protects individuals

from HIV/AIDS and other sexually-transmitted diseases and the CDC has cited barriers to condom access as one of the contributing factors to continuing HIV infections; and

Whereas, Nevertheless, under existing law, the possession of condoms may be introduced as evidence of prostitution and prostitution related offenses; and

Whereas, Despite the noted public health benefit of condom use, according to research conducted by DOHMH and the PROS Network, a coalition of public health organizations and service providers, the admissibility of condoms as evidence of prostitution leads to frequent confiscation of condoms by New York City Police (NYPD) officers, which discourages certain groups from possessing and thereby using condoms, all of which deeply undermines public health efforts to encourage safe sex; and

Whereas, On May 12, 2014, NYPD Commissioner Bratton announced a policy change, which would limit the NYPD's practice of confiscating condoms in three prostitution-related offenses: prostitution, prostitution in a school zone, and loitering for the purposes of prostitution; and

Whereas, However, condoms will still be invoiced as evidence for arrests made for promoting prostitution and sex trafficking cases; and

Whereas, The policy of using possession of a condom as evidence in more serious prostitution-related offenses detrimentally affects vulnerable sex workers and individuals who have been profiled by police as being sex workers, as they will remain reluctant of carrying any form of contraception or sexually-transmitted infection prevention tool because they will still fear the legal ramifications of doing so; and

Whereas, Current state law, notwithstanding NYPD's updated policy, puts any person who carries, possesses, or has condoms on a premises at risk of being suspected of criminal activity and endangers the public health of all New Yorkers; and

Whereas, Although the NYPD's recent policy change should be praised, New York State needs to further restrict the possession of a condom from being used in evidence in all prostitution related offenses; and

Whereas, A.2736, introduced by Assembly Member Barbara Clark and pending in the New York State

Assembly, and S.1379 introduced by Senator Velmanette Montgomery and pending in the New York State Senate, seek to take the NYPD's new policy a step further by prohibiting possession of a condom from being received in evidence in any trial, hearing or proceeding as evidence of prostitution-related offenses; and

Whereas, Over 70 public health, anti-trafficking, reproductive justice, women's, LGBT, sex workers', civil and human rights advocates and organizations have expressed support for passage of legislation that would prohibit the citation of condoms as evidence of intent to engage in prostitution-related offenses; and

Whereas, The passage of A.2736/S.1379 would ensure that all New Yorkers are not deterred from continuing to use condoms to protect against the threat of sexually transmitted diseases; now, therefore, be it

Resolved, That the Council of the City of New York supports A.2736/S.1379, which would amend state law by prohibiting using possession of a condom as evidence in prostitution and prostitution related trials, hearings or proceedings.

SA  
5/22/14  
LS# 4846 &1800