



Legislation Text

File #: Res 0710-2011, **Version:** A

Proposed Res. No. 710-A

Resolution calling on the New York State Legislature to pass and the Governor to sign A.2736/S.1379, which would prohibit possession of a condom from being used as evidence of prostitution and certain other offenses.

By Council Members Lappin, Brewer, Chin, Dromm, Ferreras, Koslowitz, Lander, Mendez, Williams, Mark-Viverito, Levin, James, Rose, Van Bramer, Rodriguez, Barron, Palma, Garodnick and Halloran

Whereas, New York City is the epicenter of the HIV/AIDS epidemic, with more than 107,000 New Yorkers living with HIV and thousands more not knowing of their infection; and

Whereas, New York City's AIDS case rate is the highest in the country with more cases than San Francisco, Los Angeles, Miami and Washington, D.C. combined; and

Whereas, One way to lower the risk of HIV/AIDS or sexually-transmitted disease transmission is through safe sex practices such as condom use; 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 and promote safer sex practices; and

Whereas, Most recently, in Fiscal Year 2010, the New York City Department of Health and Mental Hygiene distributed more than 36 million male condoms; and

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

Whereas, Condom distribution is a recognized public health intervention which protects individuals from HIV/AIDS and other sexually-transmitted diseases; and

Whereas, Despite the noted public health benefit of condom use, the admissibility of condoms as evidence of prostitution discourages the use of condoms and undermines public health efforts to encourage safe

sex; and

Whereas, A 2012 report by Make the Road New York found that, in Jackson Heights, Queens, where immigrants account for 60 percent of the neighborhood's population, police officers frequently use condoms as evidence of sex work, particularly within the transgender community; and

Whereas, A.2736/S.1379, introduced by Assembly Member Barbara Clark and Senator Velmanette Montgomery, would prohibit possession of a condom from being received in evidence in any trial, hearing or proceeding as evidence of prostitution, patronizing a prostitute, promoting prostitution, permitting prostitution, maintaining a premises for prostitution, lewdness or assignation, or maintaining a bawdy house; and

Whereas, This legislation would amend the New York State Civil Practice Law, Criminal Procedure Law and Executive Law to reflect this change; and

Whereas, In a 2010 memorandum of support, the New York Civil Liberties Union stated that existing law also puts the population at greater risk of acquiring sexually-transmitted infections and diseases; and

Whereas, Additionally, this policy detrimentally affects vulnerable sex workers and individuals who have been profiled by police as being sex workers, as they have become increasingly terrified of carrying any form of contraception or sexually-transmitted infection prevention tool because they fear the legal ramifications of doing so; and

Whereas, Current law also puts any person who carries condoms at risk of criminal suspicion and endangers the public health of all New Yorkers; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.2736/S.1379, which would prohibit possession of a condom from being used as evidence of prostitution and certain other offenses.

JM/DMB
LS # 2001
6/14/13