

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC HEALTH AND
HUMAN SERVICES

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, March 17, 2015
10:25 a.m.

PRESENT:

COUNCILWOMAN MARIAN B. TASCO, CHAIR
COUNCILWOMAN CINDY BASS
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN ED NEILSON
COUNCILMAN DENNIS O'BRIEN
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ

BILL 150090 - An ordinance amending Chapter
10-600 of The Philadelphia Code, entitled
"Regulation of Individual Conduct and
Activity," to modify certain exceptions from
Subsection 10-602(3), entitled "Smoking
Prohibited"...

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1
2 COUNCILWOMAN TASCO: Good
3 morning. This hearing is called to
4 order. This is a public hearing of the
5 City Council Committee on Public Health
6 and Human Services. The purpose of this
7 public hearing is to hear testimony on
8 Bill No. 150090.

9 I recognize the presence of a
10 quorum of the Committee members and they
11 are Councilwoman Sanchez, Councilman
12 Greenlee, Councilman Henon, and
13 Councilwoman Bass.

14 COUNCILMAN NEILSON: Neilson.

15 COUNCILWOMAN TASCO: I call him
16 Henon all the time. I'm sorry.

17 COUNCILMAN NEILSON: Just don't
18 call me late for lunch, I'm all right.

19 COUNCILWOMAN TASCO: Okay. We
20 will let the Clerk read the title of the
21 bill.

22 THE CLERK: Bill No. 150090, an
23 ordinance amending Chapter 10-600 of The
24 Philadelphia Code, entitled "Regulation
25 of Individual Conduct and Activity," to

1 3/17/15 - PUBLIC HEALTH - BILL 150090
2 modify certain exceptions from Subsection
3 10-602(3), entitled "Smoking Prohibited,"
4 and from Section 10-614, entitled
5 "Electronic Smoking Devices," all under
6 certain terms and conditions.

7 COUNCILWOMAN TASCO: Thank you
8 very much.

9 Does anyone have any comments
10 to make before we proceed with the
11 testimony?

12 (No response.)

13 COUNCILWOMAN TASCO: Thank you.
14 We will now ask the Health Commissioner
15 and Dr. Mallya to come forward.

16 (Witnesses approached witness
17 table.)

18 COUNCILWOMAN TASCO: Good
19 morning. Please state your name for the
20 record and proceed with your testimony.

21 DR. BUEHLER: Good morning. My
22 name is Dr. James Buehler. I'm the
23 Health Commissioner for the City of
24 Philadelphia, and I'm joined by my
25 colleague, Dr. Giridhar Mallya, who

1 3/17/15 - PUBLIC HEALTH - BILL 150090
2 directs our Get Healthy Philly program.

3 Chairwoman Tasco and members of
4 the Public Health and Human Services
5 Committee, thank you very much for giving
6 me the opportunity to testify this
7 morning on Bill No. 150090.

8 Philadelphia's Clean Indoor
9 Worker Protection Law of 2007 prohibited
10 smoking in the vast majority of bars,
11 restaurants, and workplaces. It was a
12 landmark achievement in public health.
13 It protected workers and patrons from the
14 toxic effects of secondhand smoke, which
15 can increase their risk for and cause
16 cancer, heart attacks, emphysema, and
17 strokes in non-smokers. The law also
18 changed people's expectations for what
19 role smoking should play in our lives and
20 our community. Lastly, the law gave
21 smokers an additional incentive to quit.
22 This is crucial, because we know that
23 nine out of ten smokers wish they'd never
24 started to begin with.

25 Because of the Clean Indoor Air

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2 Worker Protection Law and other efforts
3 championed by the Mayor and by Council,
4 such as our quit-smoking media campaigns,
5 tax increases, and restricting sales to
6 minors, we've seen a 15 percent decline
7 in adult smoking since 2008 and a 30
8 percent drop in youth smoking since 2007.
9 That translates to 50,000 fewer smokers
10 in Philadelphia, and it means that we've
11 helped thousands to prevent becoming sick
12 from smoking or even dying from
13 tobacco-related diseases.

14 When first enacted by Council,
15 the law allowed some businesses and
16 private clubs to apply for waivers or
17 exemptions during a very short initial
18 time period. However, over the years, we
19 have seen the waiver period reopened from
20 time to time and several additional
21 businesses granted exemptions.

22 Councilwoman Tasco, just a few
23 short weeks ago when this Committee
24 considered several waivers, you assured
25 the audience in this room that Pandora's

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2 box would not be opened and that new
3 legislation would be forthcoming to end
4 waivers going forward, and today we are
5 very grateful to you and your colleagues
6 for working so quickly to fulfill that
7 promise. Thank you. Today I encourage
8 the Committee to vote in favor of this
9 bill to protect further the health of our
10 residents by removing the possibility for
11 new exemptions for bars and private
12 clubs.

13 Everyone, no matter where they
14 work, where they go to dinner, where they
15 have a drink, deserves protections from
16 the harms of smoking, particularly
17 secondhand smoke. Moreover, by taking
18 this step, Philadelphia will make itself
19 more competitive for health-related
20 conferences and conventions whose
21 sponsoring organizations will only
22 consider host cities with comprehensive
23 smoke-free policies.

24 Under the amended ordinance,
25 businesses in Philadelphia that were

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2 previously exempted from the law will be
3 grandfathered, meaning that they will
4 still be able to allow smoking indoors.
5 However, these entities that have
6 exemptions already must continue to
7 comply with the provisions of the
8 original law that enabled their
9 exemption. If they do not do so, their
10 waiver could be lifted or revoked. The
11 Department of Public Health will continue
12 to monitor compliance with the
13 regulations and the provisions of those
14 original exemptions or existing
15 exemptions.

16 Lastly, I hope that we see even
17 more businesses that have had exemptions
18 give up smoking. At least three bars
19 have done so in the last few years.
20 Business owners recognize that
21 non-smoking spaces attract new customers
22 and cut down on worker illness. As we
23 heard last fall when Mayor Nutter honored
24 stores that voluntarily stopped selling
25 tobacco products, many business owners

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2 have themselves suffered from diseases
3 caused by smoking. They've had enough,
4 and today I ask you to say enough.

5 Thank you for your
6 consideration of this bill and for
7 helping to make Philadelphia a healthy,
8 cleaner, safer, and more smoke-free city.

9 Dr. Mallya and I would be
10 delighted to answer any questions that
11 you might have.

12 Thank you.

13 COUNCILWOMAN TASCIO: Are there
14 any questions?

15 (No response.)

16 COUNCILWOMAN TASCIO: I don't
17 think we have any questions.

18 DR. BUEHLER: Thank you very
19 much.

20 COUNCILWOMAN TASCIO: Thank you
21 so much.

22 Thank you very much. We have
23 the next panel, Ms. Diane Phillips,
24 Director of Government Relations,
25 American Cancer Society.

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2 (Witness approached witness
3 table.)

4 MS. PHILLIPS: Good morning,
5 Madam Chairwoman and members of the
6 Committee.

7 COUNCILWOMAN TASCO: Good
8 morning.

9 MS. PHILLIPS: My name is Diane
10 Phillips and I'm the Director of
11 Government Relations for the American
12 Cancer Society Cancer Action Network,
13 also known as ACS CAN. ACS CAN is the
14 advocacy affiliate of the American Cancer
15 Society, and our office is located on
16 Locust Street here in Philadelphia.

17 I am here today to speak in
18 support of Bill 150090, legislation that
19 would amend Philadelphia's Clean Indoor
20 Air Worker Protection Law. The bill will
21 prevent the granting of waivers to local
22 businesses to avoid compliance with
23 Philadelphia's important smoke-free air
24 protections.

25 In 1993, the U.S. Environmental

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2 Protection Agency, or EPA, released a
3 landmark report, documenting the link
4 between secondhand smoke and cancer and
5 other chronic diseases. Since that time,
6 many states and communities have decided
7 to go smoke-free, protecting the health
8 and lives of their residents, and the
9 City of Philadelphia has been a leader in
10 that regard.

11 The EPA has classified
12 secondhand smoke as a Group A carcinogen,
13 a substance which is known to cause
14 cancer in humans. Secondhand smoke is a
15 serious health hazard, containing more
16 than 70 known or probable carcinogens and
17 more than 7,000 substances, including
18 formaldehyde, arsenic, cyanide, and
19 carbon monoxide.

20 Each year in the United States,
21 secondhand smoking causes approximately
22 42,000 deaths among non-smokers,
23 including up to 7,300 lung cancer deaths.
24 Secondhand smoke can also cause or
25 exacerbate a wide range of other adverse

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2 health issues, including respiratory
3 infections and asthma.

4 Multiple Surgeon General's
5 reports have confirmed that the
6 scientific evidence indicates there is no
7 risk-free level of exposure to secondhand
8 smoke.

9 The most important reason to
10 preserve smoke-free coverage of
11 businesses in Philadelphia is the health
12 of employees. Philadelphia workers
13 deserve your protection. No one should
14 have to choose between their job and good
15 health.

16 Typically the employees most
17 affected by secondhand smoke work in the
18 hospitality industry. While restaurant
19 and bar patrons can choose which
20 establishments they spend their time,
21 workers do not have the same choice.

22 In addition, by allowing
23 smoking in the workplace, business owners
24 increase their cost of doing business.
25 The economic value of lost wages, fringe

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2 benefits, and services associated with
3 secondhand smoke exposure has been
4 estimated to amount to \$4.7 billion per
5 year nationwide. Employers pay increased
6 health, life, and fire insurance
7 premiums; make higher workers'
8 compensation payments; incur higher
9 worker absenteeism; and settle for lower
10 work productivity. Other costs include
11 increased housekeeping and maintenance
12 costs.

13 For these reasons, ACS CAN
14 respectfully urges you to vote yes on
15 Bill 150090 to strengthen the City's
16 Clean Indoor Air Worker Protection Law.
17 By doing so, you will be making an
18 important contribution to employee health
19 throughout the City.

20 Thank you for the opportunity
21 to speak this morning, and I'd be happy
22 to answer any questions.

23 COUNCILWOMAN TASCO: Thank you
24 very much for taking time out to come out
25 to testify on this bill.

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2 Before we move forward, are
3 there any questions of this witness?
4 (No response.)

5 COUNCILWOMAN TASCO: Let me
6 recognize the presence of Councilman
7 O'Brien.

8 Thank you all very much. There
9 are no questions.

10 MS. PHILLIPS: Thank you.

11 COUNCILWOMAN TASCO: It doesn't
12 take much convincing today.

13 Is there anyone else here to
14 testify on this bill?

15 Would you come forward, please.

16 (Witness approached witness
17 table.)

18 COUNCILWOMAN TASCO: Good
19 morning. Would you state your name for
20 the record, please, and proceed with your
21 testimony.

22 MR. KIRCH: Jonathan Kirch.
23 Good morning, Chairwoman Tasco and
24 members of Council. I'm here today
25 representing the American Heart

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2 Association.

3 The American Heart Association
4 supports the legislation proposed and
5 before this Committee today, which seeks
6 to close the door on Clean Indoor Air
7 Worker Protection Law's waivers and
8 exemptions. The members of this
9 Committee and City Council understand
10 that secondhand smoke is dangerous to
11 human health, and we have been before
12 this Committee recently regarding why the
13 Clean Indoor Air Law is so important to
14 Philadelphians.

15 It's important to note that
16 less than a quarter of Philadelphians are
17 smokers and the vast majority of
18 Philadelphians don't smoke and they would
19 prefer not to be exposed to secondhand
20 smoke. We agree that Council ought never
21 again grant another waiver exemption from
22 this important public health protection.
23 And the original law clearly sought to
24 create a finite process with a clear end
25 point in mind, a completely comprehensive

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2 law. The sponsor's original intent did
3 not anticipate that Council would offer
4 individual exemptions after the
5 application period, and this bill is
6 aimed at ending that unfortunate pattern,
7 which developed in the years after
8 passage of the original law.

9 The American Heart Association
10 and others respectfully urge this
11 Committee to consider putting an end to
12 additional waivers and exemptions in the
13 City's Clean Indoor Air Worker Protection
14 Law. The fairest law is a law that
15 treats every business establishment and
16 every worker in this City the same with
17 regard to indoor smoking. We hope that
18 Philadelphia City Council will one day
19 simplify this Clean Indoor Air Worker
20 Protection Law and make it apply
21 everywhere - no waivers, no exemptions,
22 no special treatment.

23 Large health-focused
24 organizations are considering local and
25 state laws on smoking when determining

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2 where to hold large national and regional
3 meetings, and this City's waivers may
4 ultimately jeopardize the ability to
5 attract large meetings sponsored by the
6 American Heart Association and other
7 major health and science organizations
8 and associations. So we hope that we can
9 work with the next Administration and
10 Council to end all waivers and
11 exemptions.

12 But in conclusion, we thank
13 Councilwoman Tasco for proposing the bill
14 that is before you, and we ask the
15 Committee support it. And we further ask
16 you to contemplate how Philadelphia
17 workers can one day enjoy protection from
18 secondhand smoke in every workplace in
19 this City, without exception.

20 Thank you very much for your
21 accomodation and allowing us to address
22 you this morning. I'd be happy to answer
23 any questions.

24 COUNCILWOMAN TASCO: Thank you
25 very much for your testimony.

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2 Are there any questions?

3 (No response.)

4 COUNCILWOMAN TASCO: Thank you
5 very much.

6 Is there anyone else here to
7 testify?

8 (No response.)

9 COUNCILWOMAN TASCO: There
10 being no further testimony, we will close
11 our public hearing and go into our public
12 meeting.

13 The Chair recognizes
14 Councilwoman Sanchez.

15 COUNCILWOMAN SANCHEZ: Thank
16 you, Madam Chair. I offer an amendment
17 to Bill No. 150090. A copy of the
18 amendment has been circulated to all
19 members of the Committee. I move that
20 the amendment to the bill be approved.

21 (Duly seconded.)

22 COUNCILWOMAN TASCO: Would you
23 explain the amendment, please.

24 Councilman Greenlee will
25 explain the amendment.

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2 COUNCILMAN GREENLEE: Madam
3 Chair, just to put on the record, the
4 amendment basically makes it clear that
5 the sites that were already granted, I
6 guess, about three weeks ago are
7 grandfathered in. But they're the only
8 ones that are. After that, there will be
9 no other exemptions given.

10 COUNCILWOMAN SANCHEZ: The Law
11 Department --

12 COUNCILMAN GREENLEE: The Law
13 Department felt there had to be a
14 clarification in there.

15 COUNCILWOMAN TASCO: Could the
16 Law Department come and explain to us why
17 we are doing this.

18 COUNCILWOMAN SANCHEZ: Bob
19 Murken.

20 It memorializes in this
21 amendment the actual addresses of the
22 locations that were previously approved.

23 COUNCILWOMAN TASCO: Any other
24 questions about the amendment?

25 (No response.)

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2 COUNCILWOMAN TASC0: Okay.

3 Thank you.

4 It has been moved and properly
5 seconded that the amendment to Bill No.
6 150090 be approved.

7 All those in favor signify by
8 saying aye.

9 (Aye.)

10 COUNCILWOMAN TASC0: Is there
11 any opposition?

12 (No response.)

13 COUNCILWOMAN TASC0: Thank you.
14 There being no opposition, the motion is
15 carried.

16 Okay. Now the Chair calls on
17 Councilwoman Quinones-Sanchez.

18 COUNCILWOMAN SANCHEZ: Thank,
19 you, Madam Chair. I move that Bill
20 150090, as amended, be moved out of this
21 Committee with a favorable recommendation
22 and I further move that the rules of
23 Council be suspended to allow first
24 reading at our next public session.

25 (Duly seconded.)

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2 COUNCILWOMAN TASC0: It has
3 been properly moved and seconded that
4 Bill No. 150090, as amended, be reported
5 from this Committee with a favorable
6 recommendation and further moved that the
7 rules of Council be suspended to permit
8 first reading of these bills at the next
9 session of Council.

10 All those in favor of the
11 motion will signify by saying aye.

12 (Aye.)

13 COUNCILWOMAN TASC0: Is there
14 any opposition?

15 (No response.)

16 COUNCILWOMAN TASC0: There
17 being none, the motion is carried.

18 This concludes the hearing, and
19 thank you all very much.

20 (Committee on Public Health and
21 Human Services concluded at 10:45 a.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter, and that this is a true and
correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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