

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

- - -

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, June 9, 2009
1:20 p.m.

- - -

PRESENT:

COUNCILWOMAN MARIAN B. TASCIO, CHAIR
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN MARIA QUINONES-SANCHEZ
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN BLONDELL REYNOLDS BROWN

BILLS 090260, 090261, 090383
RESOLUTION 090397

- - -

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2 COUNCILWOMAN TASCO: Good
3 afternoon. We will call the Committee on
4 Public Health and Human Services to
5 order. We will recognize that we have a
6 quorum in the presence of Councilwoman
7 Sanchez, Councilwoman Blondell Reynolds
8 Brown, Councilman Goode and myself.

9 We'll ask the Clerk to read the
10 first bill.

11 THE CLERK: Bill No. 090260, an
12 ordinance amending Section 6-403 of Title
13 6 ("Health Code") of The Philadelphia
14 Code, to establish prohibitions on items
15 containing lead and to add jewelry to the
16 list of items that may not receive or
17 maintain a lead-based coating, all under
18 certain terms and conditions.

19 COUNCILWOMAN TASCO:
20 Dr. Schwarz, are you prepared to testify?

21 (Witness approached witness
22 table.)

23 COUNCILWOMAN TASCO: Good
24 afternoon.

25 COMMISSIONER SCHWARZ: Good

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 afternoon, Councilwoman Tasco --

3 Chairwoman Tasco, members of the

4 Committee on Public Health and Human

5 Services. I'm Donald Schwarz,

6 Commissioner of the Department of Public

7 Health. Thank you for the opportunity to

8 testify about Bill 090260. Thank you for

9 this opportunity to present testimony.

10 The incidence of childhood lead

11 poisoning in Philadelphia children has

12 greatly decreased in the past 20 years,

13 from over 80 percent of children tested

14 in 1988 to less than five percent of the

15 children tested in 2008, a great success.

16 Despite the success, over 1,000 children

17 were lead poisoned in 2008, and new

18 research indicates that even lower levels

19 of lead in the body can cause harm.

20 In Philadelphia, the main

21 source of the lead that can enter a

22 child's body continues to be deteriorated

23 lead paint. Over 500,000 homes in

24 Philadelphia contain lead paint. In

25 addition to lead paint, there are many

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2 other sources of exposure from common
3 items such as tap water in homes with
4 pipes that contain lead solder, some
5 newsprint, contaminated food, poorly made
6 lead-containing crystal, fishing weights,
7 toys and jewelry.

8 Since July 2001, the Consumer
9 Product Safety Commission has identified
10 excessive amounts of lead in over 248
11 different household products used for
12 children. Most alarming is that the
13 recalls involved millions of children's
14 toys and jewelry items. Sometimes the
15 product was painted with lead paint, but
16 more often the lead was part of the
17 material that was used to manufacture the
18 item, usually as part of the plastic
19 itself. The lead would transfer from the
20 toy or jewelry to the child's hand or
21 mouth and be ingested. In response to
22 this problem, Congress passed the
23 Consumer Product Safety Improvement Act
24 in 2008, which strengthened the Consumer
25 Product Safety Commission-required

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2 product testing and certification by the
3 manufacturer and lowered the limits of
4 lead allowed in products.

5 The Philadelphia Health Code
6 recognizes that lead is hazardous to
7 children, but the Code was written at a
8 time when few children's toys and jewelry
9 were manufactured with plastics or
10 contained lead in the material from which
11 the toy or jewelry was made. The Code
12 does not recognize that a toy that
13 contains lead is hazardous. Only if the
14 toy is painted or coated with lead paint
15 is it considered a hazard. If the Health
16 Department determines that a toy contains
17 lead that poses a hazard to a child, we
18 can only suggest that the toy be
19 discarded or not be available to the
20 child. The Department also lacks
21 authority to prevent items that contain
22 lead from being sold in the City. At
23 this time, we can only report the item
24 containing lead to the Consumer Product
25 Safety Commission and wait for them to

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 take action.

3 The proposed changes to the
4 Health Code would mirror the federal
5 regulations and allow the Department to
6 protect the health of children in
7 Philadelphia.

8 Thank you again for this
9 opportunity to discuss this issue with
10 the Committee. I'm happy to answer any
11 questions you might have about the
12 proposed legislation.

13 COUNCILWOMAN TASC0: Thank you
14 very much.

15 Are there any questions from
16 members of the Committee?

17 (No response.)

18 COUNCILWOMAN TASC0: One of the
19 first bills I introduced back in 1988
20 when I came to Council was around the
21 lead paint.

22 COMMISSIONER SCHWARZ: Thank
23 you so much for doing so.

24 COUNCILWOMAN TASC0: Okay.
25 There being no questions, would you like

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2 to move to your next bill?

3 COMMISSIONER SCHWARZ: Be happy
4 to.

5 COUNCILWOMAN TASC0: Read the
6 title of the next bill, please.

7 Do you want a rules suspension
8 on this bill, suspension of the rules on
9 your bill you just testified about?

10 COMMISSIONER SCHWARZ: Yes.

11 COUNCILWOMAN TASC0: Yes.
12 Okay.

13 THE CLERK: Bill No. 090261, an
14 ordinance amending Title 6 of The
15 Philadelphia Code, entitled "Health
16 Code," to eliminate the requirement of
17 semi-annual license renewal for mobile
18 food vendors and to provide for
19 protective gloves and head coverings as
20 established in regulations of the Board
21 of Health, all under certain terms and
22 conditions.

23 COUNCILWOMAN TASC0: Good
24 afternoon.

25 COMMISSIONER SCHWARZ: Good

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 afternoon, Chairwoman Tasco, members of
3 the Committee of Public Health and Human
4 Services. I'm Donald Schwarz,
5 Commissioner of the Department of Public
6 Health. Thank you for this opportunity
7 to testify about Bill 090261.

8 In accordance with the Home
9 Rule Charter and Title 6 of The
10 Philadelphia Code, the Department of
11 Public Health has responsibility for
12 regulating the operation of food
13 establishments within Philadelphia.

14 The first part of Bill 090261
15 would rescind the requirement of
16 semi-annual inspections of mobile food
17 vendors.

18 In November 2006, the
19 Department provided testimony to this
20 Committee on the subject of a risk-based
21 approach to inspections. Since January
22 15, 2009, the Department has adopted new
23 regulations that reflect a risk-based
24 approach to inspection. This method
25 evaluates and addresses the factors and

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2 lead to a more comprehensive inspection.

3 A risk-based system also provides a
4 systematic means of determining
5 inspection frequency, which can lead to
6 more efficient use of personnel and other
7 resources, rather than a fixed number of
8 annual inspections of all food
9 establishments.

10 The risk-based approach
11 establishes an appropriate range of from
12 one to four inspections annually for
13 specific establishments or established
14 classes, depending on the assigned risk
15 category. Risk categories of all food
16 establishments, including mobile food
17 vendor operations, are based on the
18 thorough evaluation of the entire
19 food-handling operation and the potential
20 for food-borne illness to occur as a
21 result of specific handling practices.

22 Essentially, each mobile vending
23 operation is individually evaluated and
24 the required frequency of inspection is
25 determined. Because the level of risk

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2 determines the required frequency of
3 inspections, mandating semi-annual
4 inspections of mobile vendors is not
5 necessary.

6 The second part of the bill
7 sets forth requirements for persons
8 engaged in the preparation of food to
9 wear protective gloves and suitable head
10 coverings to protect the food from
11 contamination. The issue of preventing
12 contamination of food is an important
13 part of the food protection program and,
14 as such, has already been addressed in
15 the regulations governing food
16 establishments. These requirements are
17 components not only of the food
18 establishment inspection process, but
19 also of required food handler education
20 and certification training.

21 Thank you for the opportunity
22 to present testimony today. I'll now
23 answer any questions that you may have.

24 COUNCILWOMAN TASCO: Thank you
25 very much.

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2 Would you just please explain
3 to me in layman's terms what you're doing
4 here.

5 COMMISSIONER SCHWARZ: Okay.

6 COUNCILWOMAN TASC0: What
7 presently exists and what we will go to.

8 COMMISSIONER SCHWARZ: So
9 presently we are asked to inspect all
10 mobile food vendors twice annually. We
11 know that there are some vendors who sell
12 products or handle food stuffs and they
13 should be inspected more often, because
14 the risk to the public is significant and
15 seasonal differences may make a
16 difference to them.

17 There are also vendors who
18 handle materials that are packaged and
19 unlikely to cause hazard to the public,
20 and as a result, what this allows us to
21 do is more efficiently deploy our
22 resources and match the particular
23 product and food that is prepared with
24 the amount of inspection that will be
25 performed. And this allows us with the

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2 hair and hand coverings to actually put
3 into law what we already do as part of
4 our inspection.

5 COUNCILWOMAN TASC0: Okay. So
6 right now you are inspecting all mobile
7 vendors twice a year no matter what --

8 COMMISSIONER SCHWARZ: Correct.

9 COUNCILWOMAN TASC0: -- or how
10 they handle food?

11 COMMISSIONER SCHWARZ: Correct.

12 COUNCILWOMAN TASC0: So now
13 you're going to do it on a risk-based
14 basis. Okay.

15 Other questions?

16 COUNCILWOMAN BROWN: Yes, Madam
17 Chair.

18 COUNCILWOMAN TASC0: Let me
19 recognize Councilwoman Donna Reed Miller
20 has joined us.

21 Councilwoman Brown.

22 COUNCILWOMAN BROWN: Thank you
23 very much.

24 Good afternoon, Commissioner.

25 COMMISSIONER SCHWARZ: Good

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2 afternoon.

3 COUNCILWOMAN BROWN: Presuming
4 this becomes law, I am a citizen and I
5 know that it's law and I see a vendor who
6 is in violation. Procedurally what
7 should that citizen do?

8 COMMISSIONER SCHWARZ: A
9 citizen can and should always call our
10 Food Management Unit. The Health
11 Department is always open for reports.
12 Should there be a problem with the food
13 establishment, we go out, based on a
14 complaint, immediately. We inspect. We
15 assure that the standards have been met,
16 and if not, we take action with the
17 particular vendor, both a mobile vendor
18 and an established other vendor,
19 retailer, to make sure that the public
20 safety is assured.

21 COUNCILWOMAN BROWN: Being
22 honored.

23 And so do the rules change for
24 establishments that are not mobile?

25 COMMISSIONER SCHWARZ: This is

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 the current --

3 COUNCILWOMAN BROWN: As of this
4 new measure.

5 COMMISSIONER SCHWARZ: This is
6 the current standard that this Council
7 passed for non-mobile vendors.

8 COUNCILWOMAN BROWN: All right,
9 then. Thank you for your testimony.

10 COMMISSIONER SCHWARZ: Thank
11 you.

12 COUNCILWOMAN TASC0:
13 Dr. Schwarz, are you requesting a rules
14 suspension for this bill also?

15 COMMISSIONER SCHWARZ: Yes,
16 ma'am.

17 COUNCILWOMAN TASC0: Thank you.
18 Let me note that Bill 090397 is
19 being held at the request of the sponsor.

20 Now the Clerk will read Bill
21 No. 090383.

22 THE CLERK: An ordinance
23 amending the Health Code, Title 6 of The
24 Philadelphia Code, by amending Section
25 6-102, entitled "Definitions" and by

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.
2 creating a new Section 6-309, entitled
3 "Outdated Products" to prohibit the sale
4 of expired non-prescription drugs, infant
5 formula, baby food, milk, milk products
6 and eggs, all under certain terms and
7 conditions.

8 COUNCILWOMAN TASCO: Thank you
9 very much.

10 The Chair recognizes
11 Councilwoman Sanchez.

12 COUNCILWOMAN SANCHEZ: Thank
13 you, Madam Chair. I wanted to remind my
14 colleagues on this Committee, this
15 legislation comes as a result of what has
16 been a national campaign that has
17 identified that within the corporate
18 sector, we have certain chains that have
19 been identified to maintain a practice of
20 selling expired goods. This is even
21 after attorney generals and other
22 consumer advocates have come before some
23 of these establishments and have called
24 them on the practice of their continuous
25 sell of expired goods. In this case

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2 we're talking about milk, we're talking
3 about medicine, products that impact --
4 can have a dangerous impact on children,
5 women and families.

6 We are here today to legislate
7 and regulate in a very limited way the
8 scope in terms of these products so that
9 we can prevent a situation from occurring
10 where some child gets sick from expired
11 products that it consumes.

12 We have been in discussions
13 with the Administration, and we are
14 willing to make some -- an amendment,
15 some technical amendments, on the bill,
16 although there is still one point of
17 contention that I will speak to once
18 we've had full testimony from the
19 Administration and the advocates.

20 So thank you.

21 COUNCILWOMAN TASCO: Thank you
22 very much.

23 The Chair recognizes
24 Dr. Schwarz.

25 COMMISSIONER SCHWARZ: Good

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 afternoon, Chairwoman Tasco and members
3 of the Committee on Public Health and
4 Human Services. I'm Donald Schwarz,
5 Deputy Mayor for Health and Opportunity
6 and Commissioner of the Department of
7 Public Health. Thank you for the
8 opportunity to testify about Bill 090383.

9 I want to start by
10 acknowledging the amendments to this
11 piece of legislation. My testimony was
12 written taking into account some of them,
13 but potentially not all of them. I'm
14 happy at the end to discuss any questions
15 that you may have.

16 (Witness approached witness
17 table.)

18 COMMISSIONER SCHWARZ: I'm
19 joined by Duane Bumb from the Commerce
20 Department.

21 Bill 090383 would establish
22 requirements prohibiting the sale in
23 Philadelphia of expired non-prescription
24 drugs, infant formula, baby food, milk
25 products and eggs.

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2 The Nutter Administration
3 strongly supports the intention of this
4 bill. I want to reiterate that. We
5 strongly support the intention of this
6 bill; that is, to protect the health of
7 Philadelphia consumers against unsafe
8 food and medication.

9 In accordance with the Home
10 Rule Charter and Title 6 of The
11 Philadelphia Code, the Department of
12 Public Health currently has
13 responsibility to ensure food safety and
14 protect the public from food-borne
15 illness. As part of this responsibility,
16 the Department conducts regular
17 inspections of all establishments that
18 sell or distribute food to the public in
19 Philadelphia and issues citations for any
20 violations found. Products inspected
21 include infant formula, baby food, milk
22 products and eggs to ensure they are not
23 sold beyond their expiration date.

24 When the Department finds a
25 product for sale beyond this date, it

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2 requires immediate removal of the product
3 from sale, destruction of the product and
4 instructs the merchant to notify the
5 manufacturer. When a member of the
6 public notifies the Department of an
7 outdated product for sale, staff is
8 dispatched to make an inspection and take
9 any necessary action.

10 The regulation as written
11 includes all non-prescription drugs which
12 are required by the Food and Drug
13 Administration to include an expiration
14 date. According to the FDA, there are
15 over 100,000 non-prescription or
16 over-the-counter drug products marketed
17 encompassing about 800 significant active
18 ingredients. Almost all require an
19 expiration date and would be included in
20 this bill. The list goes well beyond
21 medicines and includes sunscreen, cough
22 syrops, some mouthwash, fluoride
23 toothpaste, weight-control drug products,
24 any cosmetic with sunscreen in it - that
25 includes lip balm, shampoo and skin

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2 cream - and many more products. They are
3 sold in a variety of stores, including
4 gas stations, grocery stores, convenience
5 stores, discount stores and drugstores.

6 If the Department of Public Health were
7 to begin to inspect these products, we
8 would need a substantial increase in the
9 number of sanitarians employed in this
10 activity, along with possible funding for
11 training by the FDA. The cost of just
12 one sanitarian is about \$60,000 per year.

13 We're in conversations with the
14 FDA about the definition of items covered
15 under the term "non-prescription drugs"
16 and about what would be required to
17 engage in this inspection activity. As
18 we gain clarity, we may return to Council
19 with some suggested amendments.

20 While the Administration
21 supports the intent of the bill, we are
22 concerned that certain elements of the
23 legislation present unneeded financial
24 hardship for some local retailers and
25 supermarkets, an industry sector that is

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2 of great and growing importance to the
3 City's economic vitality that could
4 impact their growth in currently
5 underserved neighborhoods. For example,
6 permitting consumers 30 days to return an
7 outdated product leaves the door open for
8 abuse by certain consumers who, under the
9 guise of a receipt for a recently
10 purchased item, may seek to return an
11 item previously bought and since expired.

12 We believe that there are
13 alternatives; for example, requiring
14 consumers to identify expired items at
15 the time they are in the establishment
16 that will protect consumers and provide
17 the incentive for retailers to remove
18 expired, unsafe products from sale while
19 ensuring that Philadelphia is an
20 attractive place for businesses to
21 encourage retailers and supermarkets to
22 locate in the City, especially in
23 underserved areas.

24 We are confident that through
25 additional dialogue with the business

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2 community and the Councilwoman's office
3 we will arrive at a measure that not only
4 preserves the health and safety of our
5 citizenry, but also is sensitive to the
6 needs of local businesses.

7 Thank you for the opportunity
8 to provide testimony. I'll be happy to
9 answer any questions.

10 COUNCILWOMAN TASC0: Thank you
11 very much.

12 Are there questions from
13 members of the Committee?

14 The Chair recognizes
15 Councilwoman Sanchez.

16 COUNCILWOMAN SANCHEZ: As I
17 mentioned earlier, the Administration
18 brought to our attention what they
19 considered to be a potential abuse, and I
20 want my colleagues to look at a piece
21 that was distributed, A Guide to Outdated
22 Products, if the folks could look at it.
23 Can you give us an example of what you
24 perceive would be an abuse, an example of
25 an abuse of this?

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2 COMMISSIONER SCHWARZ: The
3 concern would be, for instance, the way
4 the bill is currently written and it's
5 particularly, as I mentioned, the 30-day
6 issue. So if a grocery store that is
7 located in Eastern North Philadelphia,
8 for instance, sells dandruff shampoo that
9 has an expiration date and the dandruff
10 shampoo is sold beyond the expiration
11 date, it's clear that a consumer can show
12 that at the register and receive remedy.

13 If someone has an expired
14 product at home, this would allow them to
15 purchase the same item, bring it home and
16 return with the expired product and a
17 receipt and receive a new product. While
18 we may perceive that as a minor expense,
19 the concern is that for small businesses
20 in particular in communities where it's
21 been very difficult to get particular
22 retailers to locate, this may be a
23 disincentive for them to locate in those
24 communities.

25 COUNCILWOMAN SANCHEZ: Outside

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2 of the bodegas, most stores have bar
3 codes and we're asking people with
4 receipts. Wouldn't they be able to
5 verify that through their bar codes?

6 COMMISSIONER SCHWARZ: If
7 stores have bar codes, you're absolutely
8 correct, and that's the reason for
9 conversation about this, and we believe
10 that there has to be a way that we can
11 protect both consumers and retailers in
12 this. So we support the idea here, but
13 we want to be sure that we don't provide
14 a disincentive for retailers in
15 underserved in particular communities and
16 small businesses who don't have bar
17 scanners.

18 COUNCILWOMAN SANCHEZ: They
19 have to return the product unopened and
20 unused. So the notion that someone on a
21 fixed income would buy two products to
22 receive a discount of 50 percent on the
23 second product is something that's hard
24 for me to accept. I mean, for the most
25 part, all the Rite Aids, all the CVS's,

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2 all of the folks, even the cousins who
3 are not chain stores, Shop Rite, they all
4 have bar codes. They have a way of
5 tracking this.

6 I mean, we've tried to maintain
7 consistency with the FDA requirements in
8 terms of 30 days. So it's difficult for
9 me to -- I'm not saying that one or two
10 people can't happen, but because of this,
11 that we not -- it's a little bit
12 difficult for me to accept.

13 COMMISSIONER SCHWARZ: If the
14 language was such that it was confined to
15 larger retailers who have scanning
16 devices, I think we would be reassured.
17 That way, there is a way to verify that
18 in fact the product brought back is the
19 same product sold.

20 COUNCILWOMAN SANCHEZ: If we
21 just did large establishments?

22 COMMISSIONER SCHWARZ: Or
23 establishments that have scanning
24 devices. I'm not sure what the best
25 language would be, but confining this,

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2 for instance -- excluding bodegas, for
3 instance, that don't have scanning
4 devices would make it, I think, more
5 appealing for bodegas to locate in
6 neighborhoods, because they wouldn't be
7 disadvantaged.

8 COUNCILWOMAN SANCHEZ: We don't
9 have a problem with bodegas locating in
10 neighborhoods. I have one around the
11 corner.

12 COMMISSIONER SCHWARZ: I can
13 appreciate that, although we don't have
14 the legislation.

15 COUNCILWOMAN SANCHEZ: I can
16 assure you.

17 Again, I'm trying to get to
18 which businesses we're trying to protect,
19 and if you're trying to protect my bodega
20 at the corner, they're not going
21 anywhere.

22 Okay. I don't know. Duane,
23 did you want to add something to that?

24 MR. BUMB: Yeah. Duane Bumb,
25 Deputy Commerce Director.

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2 Just to sort of add on to what
3 Dr. Schwarz has said, I think our concern
4 here is sort of the potential for misuse.
5 It's also the sort of loss of once the
6 product leaves the store, the store has
7 sort of lost control of the product.

8 COUNCILWOMAN SANCHEZ: But
9 they're bringing it back closed and
10 sealed.

11 MR. BUMB: So a hypothetical
12 would be a customer who buys baby food,
13 which in fact is absolutely a protected
14 product, and buys lots of baby food and
15 some of it has expired over time and the
16 customer doesn't want to throw it away
17 because -- and doesn't want to give it to
18 a child and buys additional baby food and
19 returns it. It will have the same bar
20 code. It doesn't necessarily -- the bar
21 code is the same for the product no
22 matter what the store is. So the bar
23 code reads the same whether it's sold at
24 a supermarket or sold at a drugstore. So
25 you're not guaranteeing it's returning it

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2 to the same sort of vendor. So, in
3 fact -- or even if it was -- you're
4 not -- we can't confirm because we've
5 lost sort of control of the line of
6 ownership or control of the product,
7 which the store was or that that product
8 with certainty is the exact same product
9 and not a substitute product.

10 It was where -- I think our
11 sort of suggestion here was because you
12 certainly can under this legislation come
13 up to the counter, sort of say, I see
14 this product is expired, and the consumer
15 gets the discount because of that, it
16 very much gives immediate sort of
17 feedback to the store that it's got an
18 expired product and actually incentivizes
19 the store to take the product off. I
20 think the suggestion that we had here,
21 this discussion about could you limit
22 this to larger stores, it might be done
23 in the same way, that there's a section
24 in the ordinance that talks about a
25 reporting requirement which is limited

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2 only to larger establishments. And so I
3 guess there's --

4 COUNCILWOMAN SANCHEZ: But
5 current law allows people to go back and
6 get a refund. I mean, people do that
7 now.

8 I have not -- I worked very
9 closely with the Bodega Association, with
10 all the other merchants. I have not
11 gotten one person opposing this. We've
12 been very public in this. It was all in
13 the Spanish media. I got not one call
14 where someone saying to me, Hey, Maria,
15 this is going to hurt me. Not one.

16 So I'm trying to get at who
17 you're trying to protect, because those
18 constituencies, who are very close to me,
19 not one has complained. So you're asking
20 me to put a regulation where that
21 constituency hasn't said it's an issue.
22 So, I mean, unless they've called you
23 guys and said otherwise --

24 MR. BUMB: No. They haven't
25 called me at least, and this has more to

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2 do with the fact that we in fact try to
3 encourage additional fresh food products
4 within underserved neighborhoods, which
5 is not an easy thing to do, and we want
6 to be mindful that we don't want to sort
7 of send the message that we're being
8 somehow punitive or --

9 COUNCILWOMAN SANCHEZ: But the
10 scope of this particular bill and the
11 items, we're not regulating everything.
12 We're regulating very --

13 MR. BUMB: Well, I think that
14 that's -- I agree with that on the food
15 products as well. They're very clearly
16 defined. We know what those food
17 products are. They are consistent with
18 the federal and state regulations on
19 those products.

20 I think sort of there's also a
21 little bit of definitional concern on
22 the, as the testimony indicated, on those
23 non-prescription products, because in
24 fact the scope of those is much larger
25 than we may have originally thought when

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2 you can sort of think about shampoo
3 products, for example, which are captured
4 by that and yet probably don't sort of
5 have the same level of health concern
6 that we are in fact wanting to focus this
7 legislation on.

8 COUNCILWOMAN SANCHEZ: I don't
9 have any further questions.

10 COUNCILWOMAN TASCO:
11 Councilwoman Brown.

12 COUNCILWOMAN BROWN: Good
13 afternoon, gentlemen.

14 So to the issues that you've
15 raised, have you had an opportunity to
16 share with the sponsor of the bill
17 alternative language that will ultimately
18 serve to improve the bill, since we're
19 hearing from you that you agree with the
20 spirit of the bill?

21 COMMISSIONER SCHWARZ: We've
22 been in, I think, active and productive
23 discussion with the Councilwoman's office
24 about this, yes.

25 COUNCILWOMAN BROWN: And to

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2 your point regarding non-food products,
3 is that how you described them?

4 COMMISSIONER SCHWARZ: The
5 specific point --

6 COUNCILWOMAN SANCHEZ:
7 Non-prescription.

8 COUNCILWOMAN BROWN: Oh,
9 non-prescription products.

10 COMMISSIONER SCHWARZ: It's
11 non-prescription drugs, and the issue
12 there is, the Food and Drug
13 Administration has a definition for that
14 specific term, non-prescription drugs,
15 and it's quite extensive.

16 Non-prescription drugs are classed into
17 two groups, if you will. There are
18 shampoos and lip balms and Tylenol and
19 other things that have an expiration
20 date, and there are others that have
21 what's a "best used by" date, and the
22 difference --

23 COUNCILWOMAN SANCHEZ: The bill
24 is consistent with FDA and everything.
25 The only point where we're in a

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2 disagreement is whether people have the
3 ability to ask for the refund if they
4 take the product home. That is the only
5 difference. Everything -- the language
6 is consistent with FDA, and all the other
7 technical amendments that the
8 Administration requested, we incorporated
9 in an amendment that I will do. The only
10 part is whether someone can do that once
11 they get home. That's the only
12 difference that we're having.

13 COUNCILWOMAN BROWN: So if they
14 bring it back unopened with a receipt --

15 COUNCILWOMAN SANCHEZ: Sealed.

16 COUNCILWOMAN BROWN: -- and
17 sealed, then I'm at a loss to understand
18 the wrinkle.

19 COMMISSIONER SCHWARZ: The best
20 I can do is give an example. So if I
21 purchase milk and I purchase two
22 containers of milk and I take them both
23 home and today is June the 9th and they
24 expire on June the 21st, between today
25 and June the 21st I consume one of the

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2 cartons of milk and I still have another
3 carton of milk. On June the 22nd, I
4 return it to the store with my receipt
5 from having purchased a new carton of
6 milk. So on June the 22nd, I purchase a
7 new carton of milk. I take it home. I
8 take my old carton of milk. I go back to
9 the store. I hand in my receipt from
10 June 21st and I say, I have this carton
11 of milk that's expired.

12 So I don't know because I'm
13 not -- and I don't think we are -- small
14 business owners. We don't know whether
15 that will be perceived as a disincentive
16 to locate in communities going forward or
17 not. We agree with the Councilwoman,
18 we've not heard pushback from that
19 community. I don't know how well aware
20 they are of this.

21 COUNCILWOMAN BROWN: Okay. All
22 right, then. Thank you for your
23 testimony.

24 COUNCILWOMAN TASC0: The Chair
25 recognizes Councilwoman Miller.

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2 COUNCILWOMAN MILLER: Thank
3 you.

4 Good afternoon.

5 COMMISSIONER SCHWARZ: Good
6 afternoon.

7 COUNCILWOMAN MILLER: I just
8 want to ask a couple questions regarding
9 the non-prescription drugs. The reason
10 I'm asking, I was talking to my physician
11 about a prescription drug that I had that
12 had an expiration date on it, and I was
13 concerned because I thought I'd probably
14 need a new one, and he said, Well, you
15 know, this has a shelf life of one year
16 past that expiration date. So how does
17 that fit in to these non-prescription
18 drugs?

19 COMMISSIONER SCHWARZ:
20 Non-prescription drugs have the same
21 standards under the FDA.

22 COUNCILWOMAN MILLER: So
23 something that might have an expiration
24 date of June 8th, 2009 actually is good
25 for maybe another year or so, year or two

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2 actually, because I think the medication
3 that I have at home is good up to two
4 years after. So how would all of that be
5 taken into consideration in terms of
6 shelf life on non-prescription drugs?

7 COMMISSIONER SCHWARZ: Shelf
8 life is not part of this legislation. So
9 it's based on the expiration date.

10 COUNCILWOMAN MILLER: Okay.

11 COUNCILWOMAN TASC0: But do
12 they have a right to sell it past the
13 expiration date if there's a shelf life?

14 COMMISSIONER SCHWARZ: They
15 should not sell it past that date.

16 COUNCILWOMAN MILLER: Because
17 of the legislation?

18 COMMISSIONER SCHWARZ: Because
19 of federal and state law as well.

20 COUNCILWOMAN MILLER: So the
21 federal law says you can't sell past the
22 prescription date even though the shelf
23 life is longer?

24 COMMISSIONER SCHWARZ: Correct.

25 COUNCILWOMAN MILLER: And the

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2 medication is still good.

3 COMMISSIONER SCHWARZ: Correct.

4 COUNCILWOMAN MILLER: I

5 actually have some Tylenol in my office.

6 I took it. It worked. Even though after

7 that I did throw it away and purchased

8 some new.

9 COMMISSIONER SCHWARZ: The

10 determination of the date is in part

11 based on knowing that people will take

12 medication home and it will expire while

13 it's at home and there's a margin of

14 safety there in case someone completes a

15 bottle, for instance, after the

16 expiration date. That doesn't mean that

17 we in public health or that we in

18 government endorse people doing that, nor

19 do we allow retailers to sell it past the

20 date.

21 COUNCILWOMAN MILLER: I think

22 that this actually needs like a whole

23 public education, because I'm sitting

24 here and quite surprised over things like

25 lip balm and some of the other items that

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2 you named. And I guess the shampoo, I
3 think I heard you say dandruff shampoo?

4 COMMISSIONER SCHWARZ:

5 Medicated.

6 COUNCILWOMAN MILLER: So people
7 probably need to know more about this.

8 Thank you.

9 Thank you, Madam Chair.

10 COUNCILWOMAN TASC0: The Chair
11 recognizes Councilman Goode.

12 COUNCILMAN GOODE: Thank you,
13 Madam Chair.

14 Good afternoon.

15 COMMISSIONER SCHWARZ: Good
16 afternoon.

17 COUNCILMAN GOODE: I have a
18 series of questions actually for both
19 witnesses, starting with, in simple
20 terms, what is the state and federal law
21 on expired products?

22 COMMISSIONER SCHWARZ: I'm
23 going to bring a colleague.

24 (Witness approached witness
25 table.)

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2 COMMISSIONER SCHWARZ: We have
3 the law and CFR numbers and so forth, but
4 essentially federal law says that you may
5 not sell an expired product past the
6 expiration date. So it's clear.

7 COUNCILMAN GOODE: So it's
8 against the law to sell the product past
9 the expiration date?

10 COMMISSIONER SCHWARZ: Federal
11 law. Excuse me, for non-prescription
12 drugs.

13 COUNCILMAN GOODE: Okay. So
14 what happens with expired products?

15 COMMISSIONER SCHWARZ: Under
16 current law, a consumer either returns it
17 to the store and either receives a new
18 product or a refund, whatever they
19 determine, or --

20 COUNCILMAN GOODE: My --

21 COMMISSIONER SCHWARZ: -- calls
22 the state or federal government.

23 COUNCILMAN GOODE: I'm not
24 clear what the actual law is in terms of
25 what happens with expired products.

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2 COMMISSIONER SCHWARZ: The law
3 states that the seller, the retailer, is
4 to return the product to the
5 manufacturer. It doesn't specifically
6 give remedy to the consumer.

7 COUNCILMAN GOODE: And what
8 happens when the seller returns the
9 product to the manufacturer?

10 COMMISSIONER SCHWARZ: It's
11 destroyed by the manufacturer.

12 COUNCILMAN GOODE: So they make
13 no money off the product?

14 COMMISSIONER SCHWARZ: They
15 make no money off the product; is that
16 what you said? The air conditioner is
17 right above us.

18 COUNCILMAN GOODE: So the
19 seller makes no money off of the product?

20 COMMISSIONER SCHWARZ: That's
21 correct.

22 COUNCILMAN GOODE: So under
23 your scam scenario, the expired product
24 that would go back to the seller would
25 then go to the manufacturer, and the

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2 seller --

3 COMMISSIONER SCHWARZ: Just for
4 the distinction, the example I gave
5 related to a food stuff as opposed to a
6 non-prescription drug. So for food
7 stuffs, the regs are very different. For
8 a non-prescription drug, if I had given
9 the example of a non-prescription drug,
10 yes, it would go back and all that's on
11 the shelf should go back too, anything in
12 the storeroom --

13 COUNCILMAN GOODE: So the
14 seller makes no money off of it?

15 COMMISSIONER SCHWARZ: That's
16 correct.

17 COUNCILMAN GOODE: But under
18 this legislation, the seller, if the law
19 was implemented, would be getting new
20 business?

21 COMMISSIONER SCHWARZ: Would
22 be?

23 COUNCILMAN GOODE: Getting new
24 business that's actually bringing a
25 customer to the store to buy a product as

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2 they're returning a product that the
3 seller can't make money off of anyway?

4 COMMISSIONER SCHWARZ: I'm not
5 sure I'm understanding. Let me just say
6 that in the current situation, federal
7 law addresses the removal of, if you
8 will, the public safety concern, the
9 removal of the product and returned to
10 the manufacturer.

11 COUNCILMAN GOODE: Because it's
12 illegal to make money off of that product
13 after it's expired?

14 COMMISSIONER SCHWARZ: Correct,
15 to sell it.

16 COUNCILMAN GOODE: Okay. So if
17 the product is actually sold -- if the
18 product was actually not sold, it's
19 illegal to make money off of it. If the
20 product is sold --

21 COMMISSIONER SCHWARZ: There
22 isn't remedy, as far as I know, in
23 federal law. What the individual
24 retailer does is up to that retailer. So
25 the retailer may give a new -- you bring

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2 back an expired product. I give you a
3 new product. I take the expired product
4 and I send it back. They may give a
5 refund. It depends on the retailer.

6 COUNCILMAN GOODE: So
7 essentially what I'm saying is that if
8 the product is actually expired, the
9 seller is not entitled to make money off
10 of it.

11 COMMISSIONER SCHWARZ: That's
12 correct.

13 COUNCILMAN GOODE: But under
14 this legislation, what happens?

15 COMMISSIONER SCHWARZ: Under
16 this legislation, it's similar, but it --

17 COUNCILMAN GOODE: Under this
18 legislation, the seller has already made
19 money off of a product that would
20 otherwise be expired. And this is why I
21 asked for both witnesses to testify,
22 because it's not --

23 COMMISSIONER SCHWARZ: I see
24 your point.

25 COUNCILMAN GOODE: It is not

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2 logical to assume that all of the
3 inventory is being exhausted. And it
4 makes no sense under the scam scenario
5 that people are going to be hoarding
6 products, waiting for them to expire.
7 There could be an assumption that these
8 products were either already expired or
9 were going to expire on the shelves, and
10 that seller has no right to make any
11 money off of that product.

12 COMMISSIONER SCHWARZ: I don't
13 believe -- and we can confirm -- that
14 federal regulation at the moment actually
15 talks about making money or not making
16 money. It talks about the return of a
17 product --

18 COUNCILMAN GOODE: They can't
19 sell it, which means they can't --

20 COMMISSIONER SCHWARZ: They're
21 not supposed to sell it, that's correct.

22 COUNCILMAN GOODE: It's illegal
23 to sell it.

24 COMMISSIONER SCHWARZ: Yes.
25 What the legislation is attempting to do

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2 is to say if a product that's expired is
3 sold, we in Philadelphia should
4 determine, in a sense, what the procedure
5 should be and what the consumer's right
6 is. So the difference between the two is
7 the federal government talks about the
8 process and procedure in terms of the
9 retailer and the distributor. This --

10 COUNCILMAN GOODE: Dr. Schwarz,
11 whether it uses this specific language or
12 not, the federal reg, as you described
13 it, says that that seller is not entitled
14 to make money off of that product. That
15 seller must send that expired product
16 back to the manufacturer and will not
17 make money off of it.

18 COMMISSIONER SCHWARZ: That is
19 correct.

20 COUNCILMAN GOODE: So you agree
21 then under federal law the seller is not
22 supposed to make money off of an expired
23 product.

24 COMMISSIONER SCHWARZ: Yes.

25 COUNCILMAN GOODE: So what is

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2 wrong with providing a local remedy?

3 COMMISSIONER SCHWARZ: I'm not
4 arguing or complaining, if you will,
5 about the issue of remedy. I think it's
6 the specific language and the nature of
7 the remedy, what the procedure is for it,
8 that is the concern that we're raising,
9 not that there should be remedy. As we
10 say, we are in spirit in agreement.

11 COUNCILMAN GOODE: What I'm
12 suggesting is that to some extent under
13 the majority of cases -- I'm not sure we
14 have any numbers on this on either side
15 of this debate, but it has to be assumed
16 that in the majority of cases, the seller
17 has made money off of an expired product
18 that it's not entitled to make money off
19 of, and the remedy provided in this
20 situation is that they actually get new
21 business from having done that by the
22 buyer bringing the product back and
23 actually giving them new business for
24 business they weren't entitled to to
25 begin with for selling expired products.

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2 COMMISSIONER SCHWARZ: I think
3 I understand your point, and I think I
4 agree with it. What this does, if I hear
5 you correctly, is, it creates clear
6 guidelines for the interaction between
7 the buyer and the seller, which provides
8 an incentive for the buyer to come back
9 to the retailer.

10 COUNCILMAN GOODE: That's
11 exactly how I would see it. It actually
12 provides an incentive for the buyer to go
13 back to an establishment where a seller
14 has already made money off of a product
15 it's not entitled to make money off of.

16 COMMISSIONER SCHWARZ: And I
17 believe we would agree that establishing
18 those rules is a good thing. So I don't
19 think there's any argument there. It's
20 just the nature of the --

21 COUNCILMAN GOODE: Not just a
22 good thing, but a necessary thing. Even
23 when you look at what we talk about in
24 terms of incentives for neighborhood
25 economic development, for supporting

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2 small businesses, it is actually mending
3 a relationship there where a relationship
4 could be broken, because someone has made
5 money off of a product they weren't
6 entitled to make money off of.

7 And to further go to that
8 point, Mr. Bumb, you said in your
9 testimony that part of the reason why the
10 Administration has concerns is because of
11 its support of small businesses within
12 neighborhoods and trying to attract food
13 and retail establishments within
14 neighborhoods. I can say, as I think the
15 sponsor has stated already, there are not
16 a lack of establishments. There are a
17 lack of quality establishments. And even
18 from my neighborhood business work that
19 I've done, we did surveys, we can stand
20 in front of a supermarket and ask
21 neighborhood consumers what they would
22 like to see attracted to the
23 neighborhood, and they would say a
24 supermarket. And the reason for that,
25 because it wasn't selling quality

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2 products.

3 So the issue here in terms of
4 quality products in neighborhoods and how
5 we ensure it and how we build up
6 neighborhood commerce by ensuring that
7 people will shop in neighborhoods because
8 they know they will receive quality
9 products, I think is a whole other angle
10 that the Administration needs to look at.

11 Thank you, Madam Chair.

12 COUNCILWOMAN TASC0: The Chair
13 recognizes -- that's it. All right.
14 Second panel: Karen Bojar, Karen Collins
15 and Liana Rodriguez.

16 (Witnesses approached witness
17 table.)

18 COUNCILWOMAN TASC0: Are you
19 leaving?

20 COMMISSIONER SCHWARZ: Yes.
21 What's your pleasure?

22 COUNCILWOMAN TASC0: That's
23 fine. Okay. Thank you.

24 Good afternoon. Would you
25 state your name for the record, please.

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2 MS. COLLINS: Good afternoon.

3 My name is Karen Collins.

4 COUNCILWOMAN TASC0: Are you
5 going to testify first?

6 MS. COLLINS: Yes.

7 COUNCILWOMAN TASC0: Please go
8 ahead.

9 MS. COLLINS: Good afternoon.
10 My name is Karen Collins and I was born
11 and raised in --

12 COUNCILWOMAN TASC0: Pull the
13 mike to you, please, so we can hear you.
14 Thank you.

15 MS. COLLINS: My name is Karen
16 Collins. I was born and raised in the
17 City of Philadelphia. I'm a proud
18 volunteer with the Women's Community
19 Revitalization Project, or WCRP. WCRP is
20 a grassroots community development
21 corporation committed to social and
22 economic equality for low-income women
23 and their families. We build low-income
24 housing for people who need it and
25 organize the community to improve quality

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2 of life.

3 My own experience with
4 homelessness led me to get involved with
5 WCRP, but one of the reasons I stay
6 involved is because of WCRP's commitment
7 to the Eastern North Philadelphia
8 community where it has worked for more
9 than 20 years.

10 A commitment to a neighborhood
11 means many things. It means the people
12 who live there have decent and affordable
13 housing, spaces to learn and play, and
14 access to safe, healthy products. That
15 is why I'm here today.

16 Earlier this year it came to my
17 attention that CVS was selling expired
18 products. I saw a news segment showing
19 many items that were expired, including
20 infant formula and over-the-counter
21 medicines still sitting on shelves
22 available for purchase. As the mother of
23 two young children, I was upset. I spend
24 my hard-earned dollars there and I expect
25 products that are not outdated. I can't

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2 tell you how many times I have gone to
3 the nearby store to pick up Benadryl for
4 my daughter's runny nose or Robitussin
5 for my son's cough. As someone who has
6 had to be creative on a fixed income,
7 also known as low income, I have relied
8 on these kinds of stores to feed my kids,
9 calm their upset stomachs and cure my own
10 headache.

11 I have to tell you, though,
12 even though I was appalled when I learned
13 that this big chain was selling expired
14 products, I was not surprised. It had
15 been my experience that corporations
16 often have to be private to become
17 responsible corporate citizens, the kind
18 of businesses that care about the people
19 who live in the neighborhoods where they
20 open up shop.

21 When this bill gets voted out
22 of Committee and passed by the full City
23 Council, CVS and other large companies
24 will have a legal obligation to stop
25 selling expired products. Since we can't

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2 count on companies like CVS to regulate
3 themselves, this law will put the City of
4 Philadelphia in a position to hold these
5 companies accountable.

6 On behalf of WCRP, I want to
7 thank Councilwoman Sanchez as well as
8 Councilwoman Reynolds Brown and
9 Councilman Greenlee and their leadership
10 on this issue. Thank you for working to
11 stop the sale of expired goods in
12 Philadelphia.

13 Thank you again.

14 (Applause.)

15 MS. BOJAR: My name is Karen
16 Bojar. I am the President of the
17 Philadelphia Chapter for the National
18 Organization for Women.

19 It's a parent's worst
20 nightmare. Your child has a fever or
21 cough and the medicine you've given her
22 is not helping. Or another nightmare,
23 you think you're giving your child what
24 she needs when you give her a bottle of
25 formula, but there isn't enough nutrition

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2 in the bottle to help her grow strong.

3 Both those bad dreams could
4 come true if the medicine or the formula
5 is passed its expiration date. And if
6 you bought the product at a CVS pharmacy,
7 there is a chance it was already expired
8 when you bought it.

9 CVS, the largest drugstore
10 chain in the country, has a long reckless
11 history of selling expired products.

12 Other people here will give you details
13 on that record today. Suffice it to say
14 that the history is enough to make it
15 clear it is time to pass the bill we are
16 discussing today. It is time to make it
17 illegal to sell expired products in our
18 city.

19 The products pose significant
20 threat to our children and families, and
21 the members of the Philadelphia Chapter
22 of the National Organization for Women
23 are outraged by CVS's behavior. Our
24 national organization has also gotten
25 involved in this issue, and some of our

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2 members will be going to Washington later
3 this week to testify.

4 Far from resolving the issue,
5 CVS has not even apologized to its
6 customers for these recurring problems.
7 CVS has spent millions of dollars on ads
8 to create the image that CVS supports
9 women as caregivers. They use the slogan
10 "CVS, for all the ways you care." But
11 women don't want to expose their children
12 or themselves or anyone we care about to
13 the risk of expired products.

14 Just last night at our
15 Philadelphia NOW chapter meeting, one of
16 our members, Dee Johnson, reported that
17 recently she almost bought a container of
18 expired milk at a CVS store. Because our
19 chapter has been involved in this
20 campaign, Dee thought to look at the
21 expiration date. The milk had expired a
22 week ago.

23 Checking the date is not
24 something Dee would normally have done.
25 Most of us don't. Most of us assume a

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2 reputable store will not sell expired
3 milk, of all things.

4 Clearly, we cannot trust
5 companies like CVS to act responsibly,
6 and the members of the Philadelphia
7 Chapter of the National Organization for
8 Women think it is time for the City of
9 Philadelphia to have the enforcement
10 powers it needs to protect Philadelphians
11 from the potential dangers posed by
12 expired medications and infant formula,
13 and we thank Councilpersons Maria
14 Quinones-Sanchez, Blondell Reynolds Brown
15 and Bill Greenlee for taking the lead on
16 this issue, and we thank the rest of you
17 for coming today to hear our testimony.

18 Thank you.

19 COUNCILWOMAN TASC0: Thank you
20 very much.

21 (Applause.)

22 COUNCILWOMAN TASC0: Next
23 witness, please, would you identify
24 yourself for the record.

25 MS. RODRIGUEZ: Sure. My name

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2 is Liana Rodriguez. Good afternoon and
3 thank you for giving me the opportunity
4 to testify in support of this bill,
5 090383. As I stated, my name is Liana
6 Rodriguez. I'm the maternal, infant and
7 child healthcare manager at Congreso de
8 Latinos Unidos. I currently supervise
9 three programs providing services to
10 families in our community. Alcanza is
11 one of the programs which works with
12 parent teens between the ages of 12 and
13 19 years old.

14 UBC is Un Buen Comienzo, which
15 stands for "a new beginning," which works
16 with at-risk moms who are pregnant, and
17 we focus mainly on prenatal care.

18 And the third program I have is
19 SAFE, which focuses on parents that have
20 children zero to four years old.

21 As you might already know,
22 Congreso is a nationally recognized,
23 community-based, non-profit organization
24 that primarily serves the neighborhoods
25 of Eastern North Philadelphia, where the

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2 majority of the City's Latino population
3 resides. This area is a culturally
4 vibrant community challenged by issues of
5 poverty, access to healthcare, low
6 educational attainment and unemployment.

7 Founded in 1977 as a grassroots
8 organization providing health services to
9 the region's Puerto Rican community,
10 Congreso has responded to the community's
11 changing demographics and evolving needs
12 for more than 30 years by growing into a
13 multi-faceted comprehensive provider of
14 human services. Congreso's mission is to
15 strengthen Latino communities through
16 social, economic, education and health
17 services, leadership development and
18 advocacy. We're currently servicing
19 20,000 people, 60 percent female and 40
20 percent male.

21 The current mortality rate is
22 14.9 deaths, 1,000 live births. Upper
23 North Philadelphia has the highest
24 percent of infants with low birth weight
25 and second highest percent of women

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2 receiving late or no prenatal care.

3 In 2001, we had 1,500 teenagers
4 approximately in the City give birth, and
5 18 percent of these individuals were
6 Latinas, which is a high rate considering
7 that Latinos make only eight to ten
8 percent of Philadelphia's population.

9 This is all to say that many of
10 our families can face multiple barriers,
11 including cultural and language barriers,
12 language barriers, meaning that they
13 cannot read English or speak English when
14 they go to certain places to obtain
15 items, culture being believed that there
16 is no such thing as an expiration date or
17 believe and trust that they can go to any
18 store and obtain these products without
19 questions or worries.

20 Low-income families cannot
21 afford to have health insurance.
22 Therefore, they rely on over-the-counter
23 medication that sometimes is sold already
24 expired. Baby formula should not be
25 bought or fed beyond the expiration date.

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2 After the expiration date on baby
3 formula, some vitamin levels decrease and
4 change in physical properties, such as
5 discoloration and separation of fat may
6 occur. A formula that does not provide
7 the nutrient levels required under the
8 Act would be subject to seizure by the
9 FDA.

10 At Congreso's own Un Buen
11 Comienzo program, we already encounter
12 various health-related issues among
13 newborns. We do not need to have
14 additional hazards in our community. All
15 infant formula containers carry "used by"
16 or "used before" dates to ensure that the
17 consumer receives a wholesome,
18 high-quality product, but the reality is
19 that at the time of purchase, many of our
20 clients do not look for that date or
21 might not understand what it stands for.
22 We have clients in the past that have
23 purchased expired baby formula and baby
24 food without being aware that the
25 purchased items were expired.

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2 Parents often do not know that
3 food items are expired until they have to
4 take one of their children to the
5 emergency room. We have had one specific
6 family that bought an expired baby food
7 item without knowing. Unfortunately, she
8 found out the hard way, which was her
9 having to take her child to the ER due to
10 an upset stomach and vomiting.

11 We need more regulation for our
12 government regarding this problem so that
13 we can avoid further health issues in our
14 community. All items with expired items
15 should be removed from these sales racks.
16 These items should not be sold at a
17 lesser price. These items should not be
18 sold at all.

19 On behalf of Congreso, I thank
20 you.

21 (Applause.)

22 COUNCILWOMAN TASCO: Thank you
23 all very much.

24 Are there questions for the
25 panel?

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2 (No response.)

3 COUNCILWOMAN TASC0: Thank you
4 all for taking time to come down to
5 support this legislation. Nice to see
6 you again.

7 MS. RODRIGUEZ: Thank you.

8 COUNCILWOMAN TASC0: The third
9 panel, we have Lance Haver, Mayor's
10 Office of Consumer Affairs, and Joanna
11 Bouldin, CureCVS.

12 (Witnesses approached witness
13 table.)

14 COUNCILWOMAN TASC0: Good
15 afternoon. Would you state your name for
16 the record.

17 MS. BOULDIN: Joanne Bouldin.

18 COUNCILWOMAN TASC0: Are you
19 going to testify first?

20 MS. BOULDIN: Sure.

21 COUNCILWOMAN TASC0: Go ahead.

22 MS. BOULDIN: Before I get
23 started, we have a basket of products
24 purchased at CVS's in the Philadelphia
25 area here, and I was wondering if we

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2 could maybe present it to the Committee
3 to just pass it around so you can see the
4 kinds of products that we've been talking
5 about today.

6 As I said, my name is Joanne
7 Bouldin and I'm the coordinator with a
8 campaign called CureCVS, which is a
9 project of Change to Win, and I'm here to
10 testify in support of Bill 090383.

11 First I just want to thank the
12 entire Committee for being here today and
13 for your time and consideration, and in
14 particular I'd like to thank Councilwoman
15 Sanchez and Councilwoman Reynolds Brown
16 for your great leadership on this issue.

17 The presence of expired
18 over-the-counter products, including
19 medicine and infant formula on store
20 shelves in Philadelphia, is a real
21 problem. I don't think a year or two ago
22 I would have even thought that this was
23 an issue, but after spending the last
24 year looking at stores and seeing the
25 kinds of products that are actually

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2 offered for consumers, I really had my
3 eyes opened.

4 CVS, the retail drugstore
5 giant, is evidence that this problem
6 exists and is a perfect example of why we
7 really do need this legislation. They're
8 a giant company. They make tons of
9 money. They should be able to take care
10 of this problem, and yet they haven't.

11 CureCVS, just to give you a
12 little bit of context for the research
13 that we've done and for some of the
14 displays here, CureCVS is an initiative
15 by Change to Win and other organizations
16 working to reform CVS, the country's
17 leading provider of prescription drugs
18 and the largest drugstore chain in the
19 country. Along with our partner
20 organizations here in Philadelphia, such
21 as the Philadelphia Chapter of NOW, who
22 you heard from their President, Karen
23 Bojar, earlier; the NAACP; the
24 Philadelphia Black Clergy; the
25 Philadelphia AFL-CIO; PA ACORN and

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2 numerous other organizations, we're
3 working to ensure that CVS provides equal
4 access across all communities and all
5 income levels to its stores and services,
6 but also to ensure that it provides
7 quality products to its consumers. And
8 this last issue, the issue of quality
9 products and the research that we did
10 around expired products, has become a
11 major concern to our coalition partners
12 here.

13 Over the last year, we surveyed
14 CVS stores all around the country and
15 almost 200 stores here in the
16 Philadelphia area, and what we found in
17 store after store was very disturbing:
18 Expired infant formula, expired eggs,
19 expired milk, other expired
20 over-the-counter medicines. And if
21 you'll take a look just behind you, you
22 can see the map of the United States
23 on -- I know it's far away, so if people
24 don't have their glasses, it might be
25 hard to see, but what you'll see there is

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2 that CureCVS has found expired products
3 at CVS stores in 21 cities around the
4 country, from Boston to Miami, from New
5 York to Atlanta and from Houston to Los
6 Angeles. We found these products in
7 nearly 1,000 CVS stores.

8 Here in Philadelphia since the
9 beginning of last year, we have found
10 expired goods at 22 CVS stores within the
11 City limits, and that's over half of
12 their stores here. And they weren't just
13 in one part of the City. I think when we
14 talked to people about this research, a
15 lot of folks asked, Well, is it all just
16 concentrated in a couple neighborhoods.
17 But it's really not. We found them in
18 South Philly, in Mount Airy, in West
19 Philly, in the Northeast and here in CVS
20 stores right near City Hall. We have
21 found them in stores in eight of the ten
22 Council districts. We found expired
23 products at three stores in Chairwoman
24 Tasco's district, two in the district of
25 Vice-Chair Donna Reed Miller and four

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2 stores in Councilmember

3 Quinones-Sanchez's district. So this is

4 very real, and it's coming into our

5 neighborhoods and it's really impacting

6 community members.

7 On the table right there,

8 you'll see other expired products that we

9 purchased in Philadelphia between January

10 of last year and up to last week. So you

11 can see it's really an ongoing problem.

12 One of the things that has been

13 particularly shocking I think is to not

14 just see the amount of products, the

15 number of products that you'll find

16 expired, but also how expired. I mean,

17 we found stuff that was over two years

18 old. I mean, that's really quite old.

19 And, you know, of course, maybe there's a

20 little bit of leeway with your expiration

21 date, but no one should be selling

22 products that are two years old. And

23 those expiration dates are really on

24 there for a reason.

25 The problem is not just

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2 widespread, though, widespread across the
3 country, widespread across the City, but
4 it's also quite persistent. We've seen
5 that CVS has been called to task on this
6 issue many times over the last six years,
7 and yet they've really failed to have an
8 adequate response if we're continuing to
9 find expired products just last week.

10 You'll see the timeline there.

11 As far back as 2003, the Attorney General
12 of New York that caught CVS selling
13 expired medications in New York City and
14 the suburbs, and CVS paid a penalty and
15 signed a binding agreement. They
16 committed to stop selling expired
17 medications and to institute procedures
18 to prevent their sale in the future.

19 Well, if you fast forward a couple years,
20 in June 2008, again, the New York State
21 Attorney General, Andrew Cuomo, found
22 expired goods at 142 CVS stores.

23 In December, he filed a lawsuit
24 charging CVS with, quote, "failure to
25 take steps to ensure its customers are

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2 purchasing safe and effective products."

3 And we should note that Mr. Cuomo also
4 found expired products at Rite Aid
5 stores, though there were fewer stores
6 than at CVS and at a lower rate than CVS.
7 And unlike CVS, Rite Aid was willing to
8 come to an agreement to establish steps
9 to prevent the problem from happening
10 again, including a plan to sweep its
11 stores every week to pull expired
12 products, a plan that seems very
13 reasonable.

14 Also, in June of 2008,
15 California Attorney General, Jerry Brown,
16 accused CVS of selling expired goods and
17 said that the company was breaking state
18 laws against false advertising and unfair
19 business practices.

20 Here in Philadelphia we've made
21 repeated attempts to call the company's
22 attention to this problem. At press
23 conferences, in front of stores, here in
24 City Hall, organizations representing
25 residents all over the City have called

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2 on CVS to clean up its act. In December
3 of '08, we released a report which found
4 expired products for sale at CVS stores
5 across the country. Just a month later,
6 in January, Fox 29 reporter Joyce Evans
7 took a crew to five CVS stores and found
8 expired goods at three of them. Then
9 again in March, she went back, found them
10 in more CVS stores. And the City
11 Administration here in Philadelphia,
12 responding to concerned community
13 members, has taken the issue very
14 seriously and has tried to take action to
15 stop CVS from selling expired products,
16 and Mr. Haver will talk about those
17 steps. But City law currently does not
18 ban stores from selling expired products
19 and state consumer protection law may,
20 and Mr. Haver called on Attorney General
21 Corbett to follow the example of its
22 colleagues in California and New York,
23 but nothing has happened. And I think
24 that's why it's so encouraging that our
25 Councilmembers here have taken the

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2 initiative to introduce this bill that
3 would protect Philadelphia residents and
4 would give us the power here in the City
5 to ensure that folks aren't exposed to
6 these potentially harmful products.

7 Thank you.

8 (Applause.)

9 MR. HAVER: Good afternoon. My
10 name is Lance Haver. I'm the Director of
11 the Mayor's Office of Consumer Affairs.
12 Thank you for this opportunity to testify
13 regarding Bill 090383, which will amend
14 Title 6 of The Philadelphia Code to
15 prohibit the sale of expired
16 non-prescription drugs, infant formula,
17 baby food, milk, milk products and eggs.

18 I'd like to begin my testimony
19 by reading into the record CVS's written
20 information regarding baby formula and
21 over-the-counter medicines. On its web
22 page, CVS.com, CVS writes under the
23 heading, "Which formula should I feed my
24 baby," quote, "Check for a date on the
25 formula package. Do not use or buy

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2 formula whose date has expired (passed)."

3 Under the heading "Safe
4 medication storage at home," CVS states,
5 quote, "Clean out the clutter. At least
6 once a year you should check the labels
7 on all of your medications. Medications
8 that are past their expiration date, that
9 have changed in color, smell, texture, or
10 medicines you are no longer taking should
11 be disposed of properly. Expired
12 medications may not work as well for you
13 or may even be harmful."

14 CVS itself, along with
15 healthcare professionals and consumer
16 advocates, all agree consumers should not
17 use expired products. Outdated products
18 are often inedible, always unreliable and
19 at times may pose a health risk to the
20 person using it. To sell an expired
21 out-of-date product as if it were fresh
22 constitutes consumer fraud, and yet these
23 products can be found in stores across
24 Philadelphia. As we sit here today, no
25 store in Philadelphia or Pennsylvania has

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2 ever been fined or ordered to make a
3 refund after selling an expired product.

4 The problem of expired products
5 is not limited to Philadelphia.

6 Consumers in other cities and other
7 states face similar difficulties. There
8 is a significant difference, though.

9 Attorney generals in other states, as
10 you've just heard, have taken actions to
11 protect their citizens. In Pennsylvania,
12 unfortunately, our attorney general has
13 declined to join with them.

14 As a result, the people of
15 Philadelphia face a unique problem. We
16 have an attorney general who does not see
17 a problem and existing laws that do not
18 allow the City to act. That is why I
19 believe it is so important to pass this
20 bill.

21 If the bill becomes law, it
22 will provide protection for consumers,
23 protections we will not have to wait to
24 have enforced.

25 I know there are some who will

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2 say the bill is unnecessary, that stores
3 attempt to clear out their shelves of
4 out-of-date products and expired
5 products. They will suggest that the
6 many examples of out-of-date dairy
7 products, baby formula and
8 over-the-counter medicines documented are
9 a small percentage of the items sold.

10 Assuming for the sake of
11 argument they are right, that the
12 community groups, attorney generals in
13 other states and I are wrong, that this
14 is not an important issue, I ask what is
15 the harm in passing this bill?

16 The bill requires no action on
17 the part of any store other than the
18 posting of a sign unless expired products
19 are sold on its shelf. If the critics
20 are to be believed, no out-of-date
21 products will be found, no other actions
22 would be necessary.

23 On the other hand, if those
24 supporting the bill are correct, that all
25 too often expired dairy products, baby

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2 formula and over-the-counter medicines
3 are mistakenly sold, this will give
4 consumers the protections they deserve
5 and perhaps an incentive for the
6 retailers to make removing the expired
7 products a priority.

8 I know that many stores offer a
9 refund to consumers who can prove they
10 have bought an expired product. The
11 reality is, this policy has little value.
12 Even assuming most people save and file
13 their register receipts, which would be
14 an erroneous assumption, few consumers
15 have the time and money to make a return
16 trip to the store. Such programs are
17 akin to mail-in rebates. The people who
18 study these know that most people don't
19 file for the rebate. I believe the
20 people who say a return policy is
21 sufficient know for most people it is not
22 cost effective to return an item. The
23 end result is a store collecting full
24 price for a worthless and at times
25 dangerous product.

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2 I urge Council to pass this
3 bill. I would like to go on record as
4 saying I can certainly support the
5 amended version, provided that there's a
6 year point which the Health Department
7 comes back and says how successful it's
8 been or if it's failed and we have to
9 take further actions. If the Health
10 Department believes, as they've said,
11 that does not have to be a 30-day
12 opportunity for a refund at 50 percent
13 and you can agree, I can support that
14 easily, provided that one year from today
15 the Health Department comes back and
16 tells you how well it's been enforced and
17 how well we're doing.

18 Again, thank you for this
19 opportunity to testify.

20 COUNCILWOMAN TASC0: Thank you
21 very much. I see here you have sent a
22 letter to the state attorney general, and
23 what has been his response?

24 MR. HAVER: Well, they asked if
25 we had specific items to show them, and I

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2 responded that we did and I offered to
3 bring them to their office, and they
4 declined for me to come.

5 COUNCILWOMAN TASCO: Do they
6 have an investigative arm of their
7 department that is supposed to look at
8 issues like this and do they work with
9 the Health Department, the state Health
10 Department?

11 MR. HAVER: They certainly can
12 look at items like this. They've chosen
13 not to.

14 In many ways the brilliance of
15 this bill protects consumers by giving
16 consumers immediate refunds if they find
17 expired products. Attorney generals
18 often file suit, but whatever they
19 collect doesn't go back to the consumers.
20 It goes to the attorney general's office,
21 which then uses it for something else.
22 What I consider the importance and the
23 brilliance of this bill is, consumers
24 become the watchdogs and the people who
25 enforce the law rather than being a

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2 department of government that may be
3 overworked, it may be understaffed. In
4 this way, consumers can go through the
5 stores, make sure the product is current,
6 and if it's not, they'll actually be
7 rewarded for their time.

8 COUNCILWOMAN TASC0: Ms.

9 Bouldin, you talked about that you did
10 scout out a couple of Rite Aids. What
11 about Walgreens, Eckerds and maybe some
12 Dollar Stores?

13 MS. BOULDIN: Just to clarify
14 my earlier testimony, the research that
15 was done into Rite Aid stores was done by
16 the New York Attorney General. I have
17 not done research into Rite Aid. We've
18 been looking into CVS around the issue of
19 expired products, but also regarding a
20 range of other issues, such as where
21 they're locating their stores.

22 COUNCILWOMAN TASC0: Know what?

23 MS. BOULDIN: I'm sorry?

24 COUNCILWOMAN TASC0: Such as?

25 I didn't understand what you said.

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2 MS. BOULDIN: We've been
3 looking not only at the extent of the
4 expired products, but also investigating
5 other elements of the quality of the
6 store for CVS. We've looked specifically
7 at CVS because they are the industry
8 leader. They're the largest chain
9 drugstore in the country, and so we've
10 been looking specifically at them because
11 we're trying to call on them to in fact
12 be a leader.

13 COUNCILWOMAN TASC0: So you
14 haven't really focused in on other
15 establishments like CVS?

16 MS. BOULDIN: No.

17 COUNCILWOMAN TASC0: Okay.

18 MR. HAVER: Madam Chairwoman,
19 what we found out was somewhat surprising
20 to me, which is the City doesn't believe
21 it has the authority without this bill to
22 do anything about any expired product
23 sold in any store. And that's the
24 difficulty we face. I asked the
25 Solicitor, the City Solicitor, if there's

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2 something we could do so that consumers
3 were guaranteed buying products that were
4 usable, and the Solicitor's position was
5 unfortunately there is no existing law
6 that would allow the City to act to
7 protect consumers. So in many ways, the
8 issue wasn't what other stores are doing.
9 The issue became clear what can we do
10 about it, and that's why we went in this
11 direction.

12 COUNCILWOMAN TASC0: What about
13 the Charter that gives the Health
14 Department the charge to protect the
15 health and welfare of its citizens?

16 MR. HAVER: Well, I could
17 disagree all I wanted with the Solicitor,
18 but that would be wasting your time and
19 mine. I can only tell you what the
20 Solicitor told me, which is unfortunately
21 the existing law is insufficient, and
22 that's why this bill is so important.

23 COUNCILWOMAN TASC0: The City
24 Solicitor is young, too.

25 Ms. Bouldin, who stamps the

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2 expiration date on a product when it goes
3 to a CVS? Let's talk about CVS.

4 MS. BOULDIN: That's a good
5 question. Could I call someone else who
6 is more qualified to testify about this?

7 COUNCILWOMAN TASC0: Mm-hmm.

8 (Witness approached witness
9 table.)

10 MR. SEYMOUR: Good afternoon,
11 Madam Chairman and members of the
12 Committee. My name is Christopher
13 Seymour, and I'm the lead researcher with
14 the Change to Win drugstore campaign.
15 And in answer to your specific question,
16 the expiration dates on over-the-counter
17 medications and other products are
18 stamped by the manufacturers of those
19 products.

20 COUNCILWOMAN TASC0: And so who
21 puts the products on the shelves in the
22 stores? Are they the vendor? Sometimes
23 you see a vendor in an establishment
24 placing their products on the shelf.

25 MR. SEYMOUR: Madam Chairman,

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2 the answer to that varies. As you
3 notice, there are certain products that
4 are called direct delivery products,
5 which are shelved by the vendor. Those
6 are typically your dairy products, sodas,
7 chips and things like that. The
8 over-the-counter medications and other
9 products are typically stocked by the
10 staff of the store in question.

11 COUNCILWOMAN TASCO: Now, if a
12 vendor stocks the shelves, are they
13 responsible for taking the expired
14 products off the shelves?

15 MR. SEYMOUR: I can't say that
16 I know specifically the answer to that
17 question. I would say that if a product
18 is on the shelves in a store that you
19 own, it would behoove you to make sure
20 that you're not offering it for sale if
21 it's expired.

22 COUNCILWOMAN TASCO: Okay.

23 The Chair recognizes Councilman
24 Kenney.

25 COUNCILMAN KENNEY: Thank you,

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2 Madam Chair. I was just having an
3 off-camera discussion with the sponsor of
4 the bill, and I see no problem in
5 supporting this bill. I think there's no
6 excuse that anyone could have, whatever
7 size establishment you have, for selling
8 something that's expired. I mean, if I
9 choose to take a chance with my milk
10 carton in my refrigerator a day or so
11 after it expires, that's up to me. A
12 smell test is usually enough to tell me
13 whether I'm in danger or not, but that's
14 my decision to make and not the store's
15 decision to sell it.

16 Has there been any testimony
17 from the Administration as to how we
18 would notify -- I mean, obviously CVS,
19 Rite Aid, Walgreens are large enough to
20 promulgate this information to all of
21 their different stores. Is there a
22 mechanism that has been envisioned in
23 sending the corner grocery store, the
24 meat market as to what the law will be
25 and how we can notify them of that? It's

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2 either at their health license renewal or
3 is there some process we can mail to
4 them?

5 Maybe, Lance, you have an idea
6 on how to do that.

7 MR. HAVER: I would hope that
8 we would do a mailing when we do the
9 business privilege tax license renewals
10 and just make everyone aware, and we
11 would try and do as much of a public
12 campaign as possible.

13 I would humbly say that it
14 continues to be a problem for us for a
15 number of different issues. We don't do
16 a good job of telling the towing
17 companies what the current law is. We
18 don't always do a good job of telling
19 used car dealers what the lemon law is,
20 and I agree with you that's a
21 frustration. I would hope that we could
22 learn from each experience to do better
23 the next time.

24 COUNCILMAN KENNEY: I would
25 suspect that once this bill passes, the

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2 larger chains will notify their employees
3 and their managers and produce the signs
4 and all the other things. One of the
5 things I'd like to concentrate on is in
6 the neighborhoods where you may have a
7 mom-and-pop store that is either aware of
8 it or not aware of it, that we don't wind
9 up with confrontations with some of the
10 people who come back and say, You owe
11 me -- it's 50 percent discount now. I
12 can see some of the groceries in my
13 neighborhood like having a bit of a rowel
14 about it. I would think it would
15 probably be easier with the larger
16 stores, because once this is over,
17 they'll hopefully comply, but I want to
18 make sure that we kind of get into the
19 neighborhood level, too.

20 COUNCILWOMAN SANCHEZ: Yeah. I
21 think there's two things we can do. We
22 can do folks with business privilege
23 licenses and we can do folks who are food
24 establishments. I mean, I think we can,
25 the City, can do a campaign on their

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2 business renewal or the food
3 establishments, do a mailing informing
4 them in the new fiscal year. But we
5 would have to work with the
6 Administration to make sure the
7 information gets out.

8 COUNCILMAN KENNEY: Okay.

9 Thank you.

10 MR. HAVER: Councilman, I think
11 your point is well taken, and, again, I
12 think we make that mistake on a regular
13 basis. When we change rules and
14 regulations, we don't do a good job of
15 telling the people whose rules and
16 regulations are changed what's happening.

17 COUNCILMAN KENNEY: And this
18 should be self-evident, but apparently
19 it's not, especially when it comes to the
20 products that are listed in the bill. I
21 mean, if non-consuming or non-consumable
22 products have issues relative to
23 expiration, that's one thing, but baby
24 formula and medicine and milk, eggs are a
25 different story.

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2 So thank you.

3 COUNCILWOMAN TASC0: I notice
4 that this bill says chain stores. What
5 about the mom-and-pop stores that sell
6 milk and eggs, are they covered?

7 MR. HAVER: You might be better
8 off asking the person who drafted the
9 bill. My understanding in reading of it
10 is yes, that that is the intent and that
11 is in fact what the law will be. But,
12 again, I would certainly bow to greater
13 wisdom. I think some of the authors are
14 in the room.

15 COUNCILWOMAN SANCHEZ: Yes,
16 they would be subjected to this, too.

17 COUNCILWOMAN TASC0: All right.

18 Any other questions?

19 (No response.)

20 COUNCILWOMAN TASC0: Thank you
21 very much for your testimony. We
22 appreciate it very much.

23 Is there anyone else here to
24 testify on this bill?

25 (No response.)

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2 COUNCILWOMAN TASCO: The Chair
3 recognizes Councilwoman Sanchez.

4 COUNCILWOMAN SANCHEZ: I just
5 want to, before Joanne and Lance Haver
6 left the table, thank them for all their
7 work related to the research and the data
8 and the organizing that went into this
9 initiative and for bringing it to our
10 attention. It's been a pleasure working
11 with you, and my staff, Justin and Dan.

12 Thank you.

13 MS. BOULDIN: Thank you very
14 much.

15 (Applause.)

16 COUNCILWOMAN TASCO: We're now
17 going to adjourn the meeting and go
18 into -- the public hearing and go into
19 the meeting.

20 The Chair recognizes
21 Councilwoman Sanchez for an amendment to
22 the bill.

23 COUNCILWOMAN SANCHEZ: Thank
24 you, Madam Chair. I have an amendment to
25 Bill 090383. Some of the -- it was

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2 circulated. Some of these amendments are
3 in response to some recommendations by
4 the Administration; some of them are
5 technical in nature. So I move that the
6 amendment for Bill 090383 be adopted.

7 (Duly seconded.)

8 COUNCILWOMAN TASC0: It has
9 been moved and seconded that the
10 amendment to Bill 090383 be adopted.

11 All in favor?

12 (Aye.)

13 COUNCILWOMAN TASC0: Is there
14 any opposition?

15 (No response.)

16 COUNCILWOMAN TASC0: There
17 being none, the amendment is passed.

18 The Chair recognizes
19 Councilwoman Sanchez to move Bill 090383
20 out of Committee.

21 COUNCILWOMAN SANCHEZ: Thank
22 you, Madam Chair. I move that Bill
23 090383 be moved out of Committee and for
24 the rules of Council to be suspended to
25 allow first hearing at our next public

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 session, as amended.

3 (Duly seconded.)

4 COUNCILWOMAN TASC0: It has
5 been moved and seconded that Bill 090383,
6 as amended, be reported out of Committee
7 with a favorable recommendation and that
8 the rules of Council be suspended so that
9 this bill will be heard at Council's next
10 session.

11 (Applause.)

12 COUNCILWOMAN TASC0: We haven't
13 voted yet.

14 All in favor will say aye.

15 (Aye.)

16 COUNCILWOMAN TASC0: Is there
17 any opposition?

18 (No response.)

19 COUNCILWOMAN TASC0: There
20 being none, this bill will be reported
21 out of Committee.

22 Now you may applaud.

23 (Applause.)

24 COUNCILWOMAN TASC0: The Chair
25 recognizes Councilwoman Miller for a

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 report on Bill 090260.

3 COUNCILWOMAN MILLER: Thank
4 you, Madam Chair. I move that Bill No.
5 090260 be reported out of this Committee
6 with a favorable recommendation and
7 further move that the rules of Council be
8 suspended so as to permit first reading
9 at our next session.

10 (Duly seconded.)

11 COUNCILWOMAN TASC0: It has
12 been moved and seconded that Bill 090260
13 be reported out of Committee with a
14 favorable recommendation and a request
15 that the rules of Council be suspended so
16 this bill will be heard at Council's next
17 session.

18 All in favor will say aye.

19 (Aye.)

20 COUNCILWOMAN TASC0: Is there
21 any opposition?

22 (No response.)

23 COUNCILWOMAN TASC0: There
24 being none, this bill is passed.

25 The Chair recognizes

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 Councilwoman Blondell Reynolds Brown for
3 Bill 090261.

4 COUNCILWOMAN BROWN: Certainly,
5 Madam Chair. I move that Bill No. 090261
6 be reported out of Committee with a
7 favorable recommendation and further move
8 that the rules of Council be suspended so
9 as to permit first reading at the next
10 scheduled session.

11 (Duly seconded.)

12 COUNCILWOMAN TASC0: It has
13 been moved and seconded that Bill 090261
14 be reported out of Committee with a
15 favorable recommendation and a request
16 made that the rules of Council be
17 suspended so this bill can be heard at
18 Council's next session.

19 All in favor will say aye.

20 (Aye.)

21 COUNCILWOMAN TASC0: Is there
22 any opposition?

23 (No response.)

24 COUNCILWOMAN TASC0: There
25 being none, this bill is passed.

1 6/9/09 - PUBLIC HEALTH - BILL 090260, etc.

2 There being no further business
3 before this Committee, we will adjourn
4 this Committee. Thank you.

5 (Committee on Public Health and
6 Human Services concluded at 2:45 p.m.)

7 - - -

1
2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on June 9, 2009, and that
8 this is a true and correct transcript of same.
9
10
11
12
13

14 _____
15 MICHELE L. MURPHY
16 RPR-Notary Public
17
18

19 (The foregoing certification of this
20 transcript does not apply to any reproduction
21 of the same by any means, unless under the
22 direct control and/or supervision of the
23 certifying reporter.)
24
25