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COUNCIL OF THE CITY OF PHILADELPHIA

4

COMMITTEE ON PUBLIC HEALTH AND HUMAN SERVICES

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6

Monday, March 27, 2006

7

10:15 a.m.

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Room 400, City Hall

10

Philadelphia, Pennsylvania

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BILL NO. 060050 - Amending Chapter 10-600 of
the Philadelphia Code entitled "Public
13 Places - Prohibited Conduct," by prohibiting
14 smoking in public places and in the
workplace.

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PRESENT:

17

MARIAN B. TASCO, Chair
BLONDELL REYNOLDS BROWN

18

W. WILSON GOODE, JR.

19

JAMES F. KENNEY

JUAN F. RAMOS

MICHAEL A. NUTTER

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1 BILL NO. 060050 - 3/27/06

2 COUNCILWOMAN TASC0: Good morning.

3 We welcome you to City Council this morning,
4 to the Council's Committee on Public Health
5 and Human Services Public Hearing regarding
6 Bill No. 060050.

7 And we would like for the clerk to
8 read the bill, please, title of the bill.

9 THE CLERK: 060050, an Ordinance
10 amending Chapter 10-600 of the Philadelphia
11 Code, entitled, "Public Places - Prohibited
12 Conduct," by prohibiting smoking in public
13 places and in the workplace and providing for
14 penalties, all under certain terms and
15 conditions.

16 COUNCILWOMAN TASC0: Thank you very
17 much.

18 It is time. It is time for
19 Philadelphia to be smoke free. It is time for
20 Philadelphia to be smoke free.

21 (Applause.)

22 COUNCILWOMAN TASC0: It is time for
23 Philadelphia to be smoke free when England,
24 Italy, Norway, Sweden, Peru, New Zealand, and
25 as of yesterday Scotland are smoke free.

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2 It is time for Philadelphia to be
3 smoke free, when 37 states have anti-smoking
4 legislation; 11 states, including California,
5 New York, New Jersey, and Delaware, are
6 completely smoke free; and many of our
7 country's world-class cities like New York,
8 Los Angeles, Chicago, Boston, and Washington,
9 D.C., have banned smoking.

10 Consequently, one-third of the
11 United States is covered by smoke-free laws
12 and more than 100 million citizens have clean
13 air.

14 It is time for Philadelphia to be
15 smoke free, when, according to a December 17,
16 2005, Penn State poll, 84 percent of
17 Pennsylvanians supports smoke-free workplaces.
18 In another poll, 76 percent of Philadelphians
19 support prohibiting smoking in workplaces.
20 And, according to a recent Zagat survey, 83
21 percent of Philadelphia diners say smoking
22 should be banned in restaurants.

23 It is time for Philadelphia to be
24 smoke free when, according to a recent
25 Philadelphia Business Journal article, the

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2 city's annual healthcare costs related to
3 tobacco are approximately \$550 million and,
4 per the Asthma and Allergy Foundation,
5 Philadelphia is the third worst city for
6 people with asthma.

7 It is time for Philadelphia to be
8 smoke free when, in a city with a majority
9 minority population, the New England Journal
10 of Medicine reported that African-American
11 males are 55 percent more likely than other
12 ethnic groups of developing lung cancer as a
13 result of light to moderate smoking.

14 And, for me, this fact is especially
15 personal, since I lost my husband because of
16 smoking.

17 This legislation is about protecting
18 our citizens, residents from suffering further
19 losses; whether it is the loss of a loved one
20 caused by any range of conditions brought on
21 by smoking, the diminishing of their own
22 health from smoking, or from contact with
23 secondhand smoke, or the loss of enjoyment
24 during a relaxing night out that becomes
25 literally and figuratively clouded by

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2 cigarette smoke.

3 It is obvious that even tobacco
4 companies recognize the health detriments of
5 smoking. Why else would they enter into a
6 massive settlement with numerous states
7 regarding this health issue? Why would Philip
8 Morris have agreed to pay \$82 million in
9 damages to the widow of a long-time smoker of
10 Marlboro's.

11 Cigarettes pose a real and constant
12 danger to our lives and our health. That's
13 the idea behind this legislation. It is not
14 about waiting until we have to face these
15 health problems or until we are driven away
16 from our favorite places.

17 It is about steps now to make our
18 nights out more comfortable, our city's air
19 cleaner, and as its residents healthier.

20 We welcome those of you who have
21 come today to offer testimony this morning.
22 We thank you for your interest and your
23 commitment to this important subject.

24 It is my hope that my colleagues
25 will be compassionate listeners, who open

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2 their ears, minds, and hearts to the
3 information that will be presented today.

4 Today, the time has come for
5 Philadelphia to be smoke free. We want to
6 thank you all for coming. We appreciate and
7 respect your points of view.

8 We will be respectful of those
9 varying points of view, and hope that we will
10 have an open and honest dialogue today.

11 Again, thank you all for coming. I
12 thank those organizations that have been
13 working with us, Breathe Free Philadelphia and
14 the other organizations, who put a lot of time
15 into this.

16 Our first panel this morning will be
17 our City Fire Commissioner, Commissioner Lloyd
18 Ayers; and Acting Health Commissioner, Ms.
19 Carmen Paris. Would you come to the table,
20 please. And Ms. Sarah Mathew of the School
21 District of Philadelphia.

22 Commissioner.

23 COMMISSIONER LLOYD AYERS: Good
24 morning.

25 COUNCILWOMAN TASC0: And thank you

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2 for coming.

3 COMMISSIONER AYERS: Councilwoman
4 and members of the Public Health and Human
5 Services Committee, I am Fire Commissioner
6 Lloyd Ayers.

7 I want to thank you for the
8 opportunity to offer this testimony on smoking
9 and its impact on the Philadelphia Fire
10 Department and the citizens of Philadelphia.

11 Our area of concern encompasses
12 deaths as a result of smoking, fires in
13 properties caused by careless smoking
14 resulting in injuries and damage, an increase
15 in medical responses to patients suffering
16 from respiratory ailments associated with
17 smoking.

18 We believe that the successful
19 passage of this legislation to ban smoking in
20 public places will assist in reducing deaths,
21 injury, property damage, and medical responses
22 caused by smoking.

23 There have been media reports of
24 persons affected by smoking bans who decided
25 to stop smoking and have been successful in

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2 their attempts.

3 We believe each former smoker
4 represents one more step toward reducing
5 smoking fires, which may end in death or
6 injuries, as well as additional property
7 damage.

8 The current legislation banning
9 smoking in public places and the legislation
10 mandating tobacco product manufacturers to
11 produce fire-safe cigarettes will undoubtedly
12 help with our efforts to reduce death and
13 injuries due to smoking.

14 Attached to this document for
15 information are statistical data denoting
16 deaths and injuries as a result of the fires
17 caused by smoking. The data covers the Years
18 2002 through 2005.

19 During the committee hearings held
20 on March 7 of 2005, I testified that a smoking
21 ban like the one proposed by this legislation
22 has worked in other places.

23 There are six states which now have
24 smoking bans. California, Delaware, Maine,
25 Massachusetts, New York, and Rhode Island

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2 prohibit smoking in most in-door public
3 places; including bars, restaurants, and
4 indoor workplaces.

5 Most recently, the State of New
6 Jersey has enacted legislation banning smoking
7 in public places; however, casinos are exempt.

8 At the municipal level, a case study
9 of what occurred in New York City provides a
10 model to review.

11 At the one-year anniversary of their
12 ban, city research showed that business tax
13 receipts in the restaurants and bars were up
14 8.7 percent.

15 Employment in this sector had
16 increased by 10,600 jobs since the law's
17 enactment. There was a net gain in active
18 liquor licenses.

19 These statistics, along with New
20 York City's health and public perception
21 results, are hard to argue with.

22 New Yorkers overwhelmingly support
23 the law, and air quality and other benefits
24 for the health of workers have been improved.

25 The New York Times recently reported

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2 that many of the most passionate and outspoken
3 critics of the ban in New York City have come
4 to agree that the doomsday predictions of
5 negative effects simply have not come true.

6 The local example cited in our
7 previous testimony remains valid, as well.
8 Smoking has been banned in all indoor spaces
9 in the Philadelphia International Airport
10 since April 30, 2004.

11 Between May 1 and November 30, 2004,
12 sales at bars increased 11.7 percent over
13 sales during that same time period in 2003.

14 Arguably, more people continue to
15 choose to patronize these establishments
16 because they are now smoke free.

17 In reviewing the validity of various
18 economic impact studies, the findings remain
19 the same.

20 Our Budget Office reviewed studies
21 of the economic impact of smoking bans across
22 the country and came to the following
23 conclusion: In studies where the methodology
24 checked out as sound, smoke-free workplace
25 laws were shown to have neutral or positive

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2 effects on business.

3 Further, they found that tobacco- or
4 restaurant-industry-funded studies were most
5 often based on perception of impact, rather
6 than actual tax or employment data.

7 Universally, these studies indicated
8 a negative impact. In short, there is no
9 credible evidence that smoking bans have a
10 negative impact on business and business
11 development.

12 Finally, I remain firm in the belief
13 that legislation which reduces the number of
14 opportunities to smoke in turn reduces the
15 amount of opportunities to have a fire caused
16 by smoking.

17 We in the Philadelphia Fire
18 Department support this legislation and will
19 continue to educate the citizens on the
20 effects of smoking and the dangers associated
21 with smoking.

22 Thank you for the opportunity to
23 speak on this important issue, and I will be
24 happy to answer any questions that you have.

25 COUNCILWOMAN TASC0: Thank you very

1 BILL NO. 060050 - 3/27/06

2 much.

3 (Applause.)

4 COUNCILWOMAN TASCO: We will have
5 all the presentations, then open the floor to
6 questions.

7 Mrs. Paris.

8 MS. CARMEN I PARIS: Good morning,
9 Chairwoman Tasco and members of the Committee
10 on Public Health and Human Services.

11 I am Carmen Paris, Interim Public
12 Health Commissioner. And I am pleased to
13 present testimony today in support of Bill
14 060050, which would amend Chapter 10-600 of
15 the Philadelphia Code by adding a section
16 prohibiting smoking in public places and
17 workplaces.

18 The harmful effects of tobacco smoke
19 are well known and exposure to tobacco smoke
20 is clearly a public health issue.

21 I would like to address some of
22 these effects and provide an overview of the
23 department's tobacco control program.

24 Secondhand smoke is the third
25 leading cause of preventable death in the

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2 United States. It is responsible for 53,000
3 deaths annually from heart disease, lung
4 cancer, and sudden unexplained infant death.

5 Exposure to secondhand smoke is also
6 linked to asthma, bronchitis, pneumonia,
7 breast cancer, and macular degeneration.

8 Tobacco smoke contains several
9 thousand chemicals, including more than 50
10 that have been proven to be causes of cancer.

11 In 1993, the U.S. Environmental
12 Protection Agency, EPA, classified secondhand
13 smoke as a Class A carcinogenic, meaning it is
14 a definite cause of cancer and that there is
15 no safe level of exposure to it.

16 Philadelphia Tobacco Control Program
17 coordinates a variety of efforts to control
18 the use of tobacco through smoking cessation
19 classes, public awareness campaigns, youth
20 counter-marketing activities, and illegal
21 sales enforcement programs.

22 Cessation programs are offered for
23 persons in every city zip code, at eight city
24 health centers, and in several of the
25 neighborhood nursing centers operated by the

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2 National Nursing Center Consortium.

3 There are cessation classes for
4 youth, Spanish speakers, men, women, pregnant
5 women, and persons in the lesbian, gay,
6 bisexual, transgender and questioning
7 community.

8 Public awareness campaigns are
9 offered in a variety of languages, including
10 Chinese, Cambodian, Korean, and Vietnamese,
11 and are targeted to those communities known to
12 have high tobacco use.

13 A youth enforcement program is
14 conducted in conjunction with the Department
15 of Licenses and Inspections and the Health
16 Promotion Council conducting compliance checks
17 for illegal tobacco sales and educating
18 merchants of tobacco products about the city's
19 tobacco sales law.

20 These initiatives help us realize
21 our goals of increasing awareness of the
22 harmful effects of tobacco smoke, reducing the
23 number of individuals who smoke, and reducing
24 exposure to secondhand smoke.

25 Smoke free legislation protects not

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2 only persons who are customers of bars,
3 restaurants, and other businesses, but it also
4 protects the employees who must breathe
5 dangerous secondhand smoke in their workplaces
6 on a daily basis.

7 The risk of dying of lung cancer for
8 bartenders and waitresses in establishments
9 that allow smoking is one and a half to two
10 times greater than it will be in smoke-free
11 establishments.

12 Regular exposure to secondhand
13 smoke, such as that found in smoky bars and
14 restaurants, increases by 50 percent the odds
15 of suffering of a stroke.

16 Exposure to secondhand smoke also
17 causes specific concern for the health of
18 pregnant women who work through their
19 pregnancies in smoke-filled environments.

20 Exposure to secondhand by pregnant
21 women is known to contribute to miscarriages,
22 premature birth, low birth weight, and SUID.

23 It is estimated that the annual
24 healthcare cost in the U.S. resulting solely
25 from secondhand smoke exposures is nearly \$5

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2 billion, compounding the spiraling cost of
3 healthcare insurance we are all familiar with.

4 Having smoke-free legislation is
5 also an issue of social justice. Most of us
6 here today work in places where smoking is
7 prohibited.

8 In the United States, 76 percent of
9 white-collar workers are covered by smoke-free
10 policies, compared to only 52 percent of
11 blue-collar workers and 43 percent of food
12 service workers.

13 Exposure of these workers to
14 secondhand smoke is nearly four times the work
15 site exposure of white-collar employees.

16 Clearly, everyone should have their
17 right to breathe clean air where they work.
18 Prohibiting smoking in the workplace can have
19 an immediate and dramatic positive impact on
20 the health of workers and patrons in
21 Philadelphia by protecting them from the
22 dangers of secondhand smoke.

23 A 2005 study conducted in the
24 Chicago area showed that restaurants and bars
25 located in smoke-free jurisdictions have 82

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2 percent less indoor air pollution than similar
3 establishments in jurisdictions without
4 smoke-free legislation.

5 The more we can do to prevent
6 smoking in the first instance, and to
7 encourage smokers to quit, the better the
8 health of individuals and the health of the
9 community in general will be.

10 Establishment of the Clean Indoor
11 Air Worker Protection Law will be a
12 significant action that will clearly help the
13 Department of Public Health reach its goals of
14 increasing awareness of the harmful effects of
15 smoking, reducing tobacco use, and lessening
16 exposure to secondhand smoke for
17 Philadelphians.

18 Thank you so very much for the
19 opportunity to present testimony on this very
20 important issue.

21 (Applause.)

22 COUNCILWOMAN TASC0: Thank you very
23 much for your testimony. We appreciate your
24 coming.

25 And now we will hear from Ms. Mathew

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2 from the School District of Philadelphia.

3 MS. SARAH QUINN MATHEW: Dear
4 Councilwoman Tasco, the School District of
5 Philadelphia supports Bill 060050 because of
6 the devastating effects of smoking and
7 secondhand smoke on our school children.

8 Asthma has far surpassed epidemic
9 proportions amongst Philadelphia's youth. The
10 School District of Philadelphia has screened
11 over 15,000 school children, and as much as 23
12 to 27 percent of those children have screened
13 positive for asthma.

14 Asthma is the leading cause of
15 school absenteeism, loss of play time and
16 participation in physical activity, emergency
17 room visits, and prescribed drug therapy in
18 children.

19 Many parents miss work to care for
20 their asthmatic children. It represents a
21 tremendous economic drain on our schools and
22 prevents children from achieving academically.

23 Overall, it is severely affecting
24 the quality of life for over one-quarter of
25 young Philadelphians.

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2 Our data also shows that those
3 children with asthma are actually more likely
4 to experiment with smoking and to live with
5 smokers be themselves.

6 Our youth are increasingly targeted
7 for cigarette marketing and smoke-free laws
8 have been shown to discourage youth from
9 taking up smoking.

10 With one law, we can make a
11 significant contribution to lowering youth
12 smoking rates and improving the health climate
13 for asthmatic youth in our city.

14 Smoke-free legislation not only
15 protects our workers, but sends a strong
16 message to our youth that discourages smoking.

17 By passing Bill 060050 and making
18 Philadelphia 100 smoke free, we are improving
19 the lives and futures of our children. Thank
20 you.

21 COUNCILWOMAN TASC0: Thank you very
22 much.

23 (Applause.)

24 COUNCILWOMAN TASC0: Let me
25 recognize Councilman Goode and Councilman

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2 Ramos, and we will soon be joined by Council
3 Blondell Reynolds Brown and Councilman Kenney,
4 who are attending a funeral.

5 The Chair now recognizes any Council
6 member for questions or comments.

7 I want to thank you all for coming.
8 I want to ask the Commissioner, Fire
9 Commissioner, you talked about the airport
10 having gone smoke free in 2004, and you talked
11 about the revenue in the bars and restaurants
12 have increased.

13 How do you come to that conclusion?

14 COMMISSIONER AYERS: Well, we see
15 that the revenue that was generated had to
16 come from people who stopped -- going through
17 the airport, made a decision that they could
18 stop and eat in a restaurant where they see a
19 smoke-free environment, where they can stop
20 and sit.

21 Many of them may have children with
22 them, and they make decisions based on that.
23 I know when I travel, I make decisions based
24 on what the environment is.

25 I don't sit -- my daughter has

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2 asthma, so I know what it is like with an
3 asthmatic child, and those nights in the
4 hospital. And it is important for me to make
5 decisions that are based on what her needs
6 are, as well as what environment I want to
7 control.

8 I can control my home and my car,
9 and I strictly control those environments.
10 The other environments, we need help with.

11 COUNCILWOMAN TASC0: Okay. Ms.
12 Mathew, we thank you for your comments about
13 the students and asthma exposure to smoke.
14 Now, we know that they are not going into the
15 bars. They may go into some of the
16 restaurants.

17 I want to be clear that this bill
18 does not prevent people from smoking in their
19 homes, although we do support the campaign for
20 people to stop smoking. But this is only to
21 encourage nonsmoking in public venues and
22 restaurants.

23 MS. MATHEW: Right.

24 COUNCILWOMAN TASC0: Any other
25 questions?

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2 Thank you so much for your comments.
3 We have gone through this before, so I don't
4 think we need a whole lot of dialogue. This
5 is the second round on this bill.

6 And I will say that it is the
7 original bill that Councilman Nutter
8 introduced before, and we have gone back to
9 the original bill.

10 Thank you so much for coming. I
11 appreciate the information you provided. You
12 have been very helpful. Thank you.

13 COMMISSIONER AYERS: Thank you for
14 the opportunity.

15 (Applause.)

16 COUNCILWOMAN TASCO: We now have
17 another panel, Kris Minot, Philadelphia Health
18 Management Corporation; Ann Rappoport, Kids
19 Around Town and Wilson Middle School Students.
20 We will call the students later. Let me know
21 when they are here.

22 Robert Santiago, Concilio; Nicholas
23 Torres, Congreso; Gerald Wright, Greater
24 Philadelphia Urban Affairs Collision; Michael
25 Walker, Urban League of Philadelphia; Jill

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2 Mumie, restaurant owner; and Greg Walsh,
3 Ogontz Grill and Chestnut Hill Grill.

4 While the others are coming, we will
5 ask Ms. Minot to make her presentation.

6 MS. KRIS MINOT: Good morning. My
7 name is Kristen Minot. I am a senior research
8 associate at Philadelphia Health Management
9 corporation. And I am here to give testimony
10 today about the health of Philadelphia
11 residents, particularly those of working age,
12 say between 18 and 64 years.

13 Although cigarette smoking has
14 decreased substantially both nationally and in
15 Philadelphia over the past 20 years by about
16 almost 40 percent, the effects of tobacco use
17 and secondhand smoke remain major causes of
18 preventable disease.

19 The data that I will be presenting
20 here today are from a telephone survey of more
21 than 10,000 households in Southeastern
22 Pennsylvania that has been conducted by
23 Philadelphia Health Management Corporation
24 since 1983, and every two years since 1994.

25 More than 4,000 Philadelphia

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2 households participate in this survey, and the
3 interviews are conducted in both English and
4 Spanish.

5 The survey addresses many topics in
6 addition to health status, including access
7 and barriers to care, insurance, and health
8 behaviors.

9 Today I will be talking a bit about
10 the results of the survey that was conducted
11 during the summer of 2004. And, hopefully, I
12 will have some visuals so you can see it, too.

13 So to start, on a positive note, the
14 first question in the survey asks, would you
15 say that your health in general is excellent,
16 good, fair, or poor.

17 The majority of working-age adults
18 in Philadelphia do report that their health is
19 either excellent or good. That's the good
20 news.

21 However, many adults have a chronic
22 health condition that requires regular medical
23 care. Nearly one out of four adults in
24 Philadelphia have a chronic health condition;
25 and these include asthma, diabetes, and high

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2 blood pressure, which I will talk a little bit
3 more about.

4 Adults in Philadelphia are, however,
5 despite the fact that the majority are in
6 excellent or good health, they are more
7 likely, compared to adults in the surrounding
8 suburban counties, to report health problems.

9 Can you just move that forward a
10 little.

11 Differences between the percentage
12 of adults with a chronic health condition are
13 not that different between Philadelphia and
14 the four surrounding suburban counties.

15 But if you look at the actual
16 chronic conditions that people report, adults
17 in Philadelphia are less likely to report
18 allergies and more likely to report that they
19 have asthma.

20 Nearly 15 percent of working-age
21 adults in Philadelphia have asthma or have had
22 asthma at one point in their lives; nearly 10
23 percent of adults have diabetes; and nearly 20
24 percent have high blood pressure. This is
25 compared to much lower results in the

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2 surrounding suburban counties.

3 Asthma, diabetes, and high blood
4 pressure.

5 Furthermore, when we examine the
6 same health status indicators for
7 African-American and Latino results in
8 Philadelphia, the percentages are even higher.

9 These disparities are particularly
10 important to consider in this discussion of
11 exposure to tobacco smoke because
12 African-Americans and Latinos are often
13 employed in the food-service industry and,
14 therefore, more likely to be exposed to
15 secondhand smoke.

16 So if we look at Philadelphia adults
17 who report that their health is fair or poor,
18 we see that, although the majority of
19 African-American and Latino adults in
20 Philadelphia are in excellent or good health,
21 compared to 17 percent of white adults, 30
22 percent of African-American adults and 35
23 percent of Latino adults report that their
24 health is only fair or poor.

25 These percentages represent an

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2 estimated 113,000 African-Americans and nearly

3 28,000 Latinos between 18 and 64 years of age

4 living in Philadelphia.

5 African-American adults are more

6 likely to have asthma. 17 percent. And both

7 African-American and Latino adults have higher

8 than average rates of diabetes.

9 12.5 percent of African-Americans

10 and 14.2 percent of Latinos report that they

11 have diabetes, compared to 3.6 percent of

12 Asians and 5.6 percent of whites.

13 High blood pressure is also reported

14 by 30 percent of African-American adults of

15 working age and one out of five Latino adults.

16 Many of the health problems and

17 health disparities reported among Philadelphia

18 residents are exacerbated by tobacco use

19 and/or exposure to secondhand smoke. Among

20 those who choose to smoke, restrictions on

21 indoor smoking can also have benefits.

22 National estimates of the smoking

23 prevalence in different occupations reveals

24 that employees of eating and drinking places

25 have the second-highest smoking rates of any

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2 workers. Nationwide nearly 40 percent of
3 workers in the food and beverage industry
4 smoke cigarettes; however, that means that
5 also 60 percent of workers do not.

6 Workers in the food and beverage
7 industry have also been less likely than
8 persons who work in other settings to work in
9 places that prohibit or restrict smoking.

10 For those who smoke, laws that
11 prohibit or restrict smoking have been shown
12 to lead to less tobacco consumption and also
13 increased cessation among workers who smoke.

14 Simply said, workers who work in
15 smoke-free environments smoke less; and these
16 environments help them to quit, if they choose
17 to do so.

18 In summary, the data presented here
19 reveals that, although the majority of
20 working-age adults in Philadelphia are in good
21 health, many are only in fair or poor health
22 and suffer from chronic health problems;
23 including, asthma, diabetes, and high blood
24 pressure.

25 These problems are more pronounced

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2 among African-American and Latino residents,
3 who frequently work in the food-service
4 industry.

5 Since we know that exposure to
6 secondhand smoke has negative effects on both
7 adults and children, eliminating exposure to
8 secondhand smoke in the workplace is healthier
9 for both nonsmokers and smokers.

10 The health of those who smoke can
11 also benefit from these laws because they
12 would be likely to smoke less and receive
13 encouragement to quit; therefore, eliminating
14 secondhand smoke in indoor public places is a
15 major step forward to a healthier
16 Philadelphia. Thank you.

17 COUNCILWOMAN TASC0: Thank you very
18 much for your testimony.

19 (Applause.)

20 COUNCILWOMAN TASC0: Mr. Santiago,
21 Concilio.

22 MR. ROBERTO SANTIAGO: Good morning,
23 Madam Chair. Good morning, Juan. My name is
24 Roberto Santiago, and I am the Executive
25 Director of the Council of Spanish-Speaking

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2 Organization, the oldest Latino social service
3 organization in Philadelphia.

4 I have come today before this
5 committee to testify in favor of the passage
6 of the Clean Indoor Air Workers Protection,
7 otherwise known as Bill 060050.

8 This is a piece of legislation that,
9 if passed, will place Philadelphia within the
10 ranks of a growing number of world-class
11 cities, such as, Houston and San Francisco and
12 New York City, adapting similar measures for
13 the benefit of its citizens.

14 Part of the mission of the
15 organization I represent is to ensure that the
16 wellness of the community we serve. It is
17 based on that principle that I am here today
18 asking you to approve this bill.

19 We firmly and sincerely believe that
20 regardless of age, race, and social status,
21 each and every worker in the city has the
22 undeniable right to breathe clean air and
23 unpolluted air.

24 We also believe that this right is
25 dishonored whenever a person working in a

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2 restaurant, factory, office, warehouse, shop,
3 or any other enclosed place is forced to
4 endure the smoke emanating from someone else's
5 cigarette.

6 I am not going to talk about the
7 number of people who each year died in the
8 United States as a result of exposure of
9 tobacco products.

10 It is just worth mentioning that, a
11 few weeks ago, we all learned that Dana Reeve,
12 the wife of actor Christopher Reeve, died
13 after unsuccessfully battling lung cancer.
14 She wasn't even a smoker.

15 There are thousands of human beings
16 who die anonymously each year, unlike Dana,
17 from smoke-related illnesses. Many others
18 have to endure life with breathing
19 difficulties, like the thousands of
20 Philadelphia's children.

21 Before you, elected members of the
22 Council, is a possibility of giving the gift
23 of clean air to future generations of
24 Philadelphians.

25 I invite you to vote for it with a

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2 yes. Thank you.

3 (Applause.)

4 COUNCILWOMAN TASC0: Thank you very
5 much.

6 Mr. Torres, since you are there.

7 MR. NICHOLAS TORRES: Good morning.

8 COUNCILWOMAN TASC0: Good morning.

9 MR. TORRES: Let me begin by
10 thanking you, Councilwoman Tasco,
11 acknowledging Juan Ramos, for your efforts to
12 prioritize Philadelphia smoke-free legislation
13 and for recognizing the devastating health
14 implications public smoking has for this city.

15 COUNCILWOMAN TASC0: Would you
16 identify yourself, please, for the record.

17 MR. TORRES: I am Nicholas Torres,
18 president of, Congreso de Latinos Unidos, the
19 largest Latino health, education, social
20 service, and workforce development community
21 nonprofit agency in the State of Pennsylvania.

22 And on behalf of the over 24,000
23 clients that we serve on an annual basis, 70
24 percent of whom are Latino, 24 percent whom
25 are African-American, I am honored to be here

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2 today to emphasize the critical need for their
3 protection from public and workforce
4 environmental tobacco smoke.

5 Latinos represent between 10 to 12
6 percent of the city's population, but
7 represent 20 percent of the food-service
8 industry employees.

9 Food-service employment leads to a
10 160 to 200 percent greater chance of lung
11 cancer deaths in restaurants and 2 to 3 times
12 that amount in bars.

13 These employees spend eight hours a
14 day in smoke-filled, enclosed rooms, where
15 they inhale 4,000 different types of chemicals
16 from smoke and 69 different types of
17 carcinogens.

18 Many citizens of Philadelphia have
19 spent time either in bars and restaurants,
20 where the 76 percent of us who are nonsmokers
21 have been exposed to secondhand smoke, leading
22 to 26,000 new cases of asthma every year,
23 150,000 cases of respiratory tract infections
24 and the secondmost preventable cause of death.

25 One could only imagine what this

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2 looks like for the workers who diligently
3 serve us our drinks, clean our tables, and
4 prepare our food.

5 It is these same workers, 20 percent
6 who are Latino and 12 percent who are
7 African-American, who spend eight hours a day
8 with little ventilation, who continue to be
9 underinsured, underrepresented, and suffer far
10 more health effects than their counterparts.

11 Latinos and African Americans have
12 disproportionally high rates of asthma,
13 cardiovascular disease, and lung cancer than
14 other ethnicities in Philadelphia.

15 As a representative of this
16 population, Congreso cannot remain silent and
17 allow preventable health problems, that are
18 exacerbated by lawful public and workforce
19 smoking, to continue to plague the community.

20 We also believe that this smoking
21 ban will motivate current smokers to quit, as
22 it has in other cities and states, because the
23 convenience of it will severely be altered.

24 It is of great importance to us at
25 Congreso, where over two-thirds, 64.7, of

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2 Latinos in our home zip code of 19133 report
3 that they smoke.

4 Latinos throughout the entire city
5 report the highest rate of smoking among any
6 ethnic group, 31.8 percent versus a city
7 average of 25.9 percent.

8 These numbers have drastic
9 implications for public health, quality of
10 life, and for the future and current rising
11 costs of this country's Medicaid, Medicare,
12 and public assistance crisis.

13 Currently over two-thirds of
14 Congreso's constituents who have insurance
15 receive some kind of government-assisted
16 medical plan.

17 Congreso is designated to work with
18 the members of City Council in the campaign
19 for a smoke-free Philadelphia.

20 Congreso recently received a grant
21 from the American Legacy Foundation to begin a
22 smoking cessation program targeting pregnant
23 women.

24 Our future plans include the
25 incorporation of cessation counseling and

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2 assistance into all case-management services.

3 The passing of the proposed bill
4 will have a tremendous impact on our success
5 with cessation and reduction efforts in the
6 community by supplementing our actions with
7 law.

8 On behalf of Congreso de Latinos
9 Unidos, and its constituency, I thank you for
10 the opportunity to articulate our support of
11 Councilwoman Tasco's bill and the positive
12 health implications it will have for the
13 underserved Latino population. Thank you

14 COUNCILWOMAN TASCO: Thank you.
15 Thank you very much.

16 (Applause.)

17 MR. GERALD D. WRIGHT: Good morning,
18 Councilwoman Tasco and good morning to all
19 Council Members present.

20 My name is Gerald Wright. I am the
21 Director of Community Services For the Greater
22 Philadelphia Urban Affairs Coalition.

23 The population that we serve is
24 primarily African-American, but it includes
25 all who are in need in Philadelphia.

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2 You may know that the Greater
3 Philadelphia Urban Affairs Coalition is a
4 multi-faceted, nonprofit organization, and
5 has provided services to residents of the
6 greater Philadelphia region for 35 years.

7 GPUAC has focused on bringing
8 business, community, government, and
9 stakeholders together to form partnerships
10 that help solve problems.

11 In very broad terms, our target
12 population is people who live in the various
13 neighborhoods of Philadelphia who are low
14 income and need assistance in a variety of
15 areas to improve the quality of their lives.

16 One area that has been proven to
17 impact on the quality of life of our target
18 population is nicotine addiction and
19 secondhand smoke, meaning smoke exhaled by a
20 smoker and that which is the result of a
21 burning cigarette, pipe, or cigar tobacco.

22 The Greater Philadelphia Urban
23 Affairs Coalition has put anti-smoking in the
24 forefront since the Year 2000 by surveying
25 community members and research at that time.

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2 This survey resulted in a published
3 report empowering minority communities to
4 reduce the incidence and impact of smoking.
5 As a result of that survey, GPUAC has
6 advocated for smoke-free workplaces, as well
7 as increase in community efforts, while
8 developing strategies to combat tobacco use,
9 especially smoking.

10 In addition, GPUAC has implemented
11 Partners For a Healthier Community, Let's
12 Clear The Air, and YOACAP, which is a project
13 of GPUAC, and has become the coordinating
14 group for Philadelphia BUSTED, which is the
15 statewide effort developed and implemented by
16 youth.

17 YOACAP under GPUAC adopted a peer
18 education model for use in Philadelphia's
19 middle and high schools called Teens Against
20 Tobacco Use, TATU. Also, YOACAP worked in
21 conjunction with the Attic and the
22 Philadelphia Department of Public Health to
23 develop three commercials that were created by
24 youth. The commercials were aired by Comcast.

25 The response from the communities

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2 has been positive, and we really want to
3 emphasize that.

4 GPUAC has provided smoking awareness
5 and education to thousands of individuals in
6 community settings through a network of
7 organizations.

8 In addition, GPUAC has provided
9 smoking cessation, quit smoking efforts, since
10 October 2003.

11 Our experience suggests that people,
12 smokers and nonsmokers, are looking for help
13 with the smoking problem.

14 Smokers and nonsmokers approach our
15 staff with favorable feedback about
16 presentations.

17 Even smokers are shocked to learn
18 that there are 4,000 chemicals produced when a
19 cigarette is burned, and they are even more
20 surprised to learn that about 69 of those
21 chemicals are recognized as cancer-causing
22 agents.

23 Further, after contacting thousands
24 of individuals and groups, only positive
25 remarks have been provided to us by those

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2 individuals and groups.

3 To date, no individual or group that
4 we have spoken with directly has been hostile
5 or expressed opposition to the need for people
6 to stop smoking to improve their health.

7 Smokers and nonsmokers alike have
8 been receptive to our message to quit smoking
9 or to encourage people not to start.

10 For every eight smokers that die
11 from the effects of their own tobacco use, one
12 nonsmoker also dies from the effects of
13 breathing in someone else's smoke, according
14 to the Pennsylvania Alliance to Control
15 Tobacco.

16 A study published June 2005 in the
17 online journal, BMC Pediatrics, found that a
18 pregnant woman's exposure to secondhand smoke
19 can be harmful to her fetus, causing permanent
20 genetic mutations, as if the woman herself was
21 a smoker.

22 The CDC has warned persons with
23 heart disease to avoid indoor settings where
24 smoking is allowed because of the risk that
25 even short-term exposure to secondhand smoke

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2 can cause -- can trigger heart attacks,
3 according to Campaign for Tobacco-Free Kids.

4 Without taking much more of your
5 time, I want to just read a couple of facts
6 from Campaign for Tobacco-Free Kids.

7 A study conducted by researchers at
8 the University of Kentucky's College of
9 Nursing and Gatton College of Business and
10 Economics of the Lexington-Fayette County,
11 Kentucky comprehensive smoke-free law that
12 took effect April 27, 2004, found that, in
13 general, selected key business indicators in
14 Lexington restaurants, bars, and hotels have
15 not been affected by the smoke-free law.

16 When taking factors into account,
17 such as, population size, unemployment, and
18 seasonal variation, there was a slight
19 increase in restaurant employment.

20 Bar employment remained stable,
21 hotel/motel employment declined in the ten
22 months after the smoke-free law took effect.
23 There was no effect of the smoke-free law on
24 payroll withholding taxes, workers' earnings
25 in restaurants, bars, hotels, or motels in the

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2 ten months after the law went into effect,
3 after taking seasonal variation into account.

4 The smoke-free law was not related
5 to business openings or closures in
6 alcohol-serving establishments or at
7 nonalcohol-serving establishments.

8 Second fact, the study released by
9 the U.S. Centers For Disease Control and
10 Prevention found that a comprehensive
11 smoke-free policy in El Paso, Texas, did not
12 affect restaurant and bar revenue in the year
13 after it took effect in January 2002.

14 The CDC's and the Texas Department
15 of Health's analysis found no statistically
16 significant changes in overall restaurant and
17 bar revenues, bar liquor sales or restaurants
18 and bar revenue and percentage of total
19 revenue.

20 The latter finding refutes arguments
21 often made by opponents of smoke-free laws
22 that, even if bar and restaurant revenues grow
23 after such laws take effect, they do not grow
24 as fast as the rest of the economy.

25 And there are a number of facts in

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2 this document, which is also attached to my
3 testimony, that shows that a bill such as
4 this, if passed, does not impact on the
5 economy of the businesses that generally argue
6 that such a law will impact on their revenues.
7 Thank you very much for allowing me
8 to testify.
9 COUNCILWOMAN TASC0: Thank you very
10 much for coming.
11 (Applause.)
12 COUNCILWOMAN TASC0: Jill Mumie.
13 MS. JILL MUMIE: Just for the
14 record, it is Mumie.
15 Hello, everyone, today. Thank you
16 for coming out. I am a little nervous, so...
17 This is an issue that's really --
18 COUNCILWOMAN TASC0: Identify
19 yourself.
20 MS. MUMIE: Jill Mumie. Hello. I
21 thought we cleared that up. And I work in a
22 restaurant.
23 I don't own one, I am a server. So
24 I am really just here today to represent
25 myself and my views. And I just want to thank

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2 everyone, especially even the opposition, you
3 know. I might not agree with you, but I'm
4 just really glad that everyone is here.

5 Workers in the restaurant, bar,
6 hospitality, entertainment industry, we're not
7 protected from secondhand smoke. Businesses
8 in Philadelphia will not take the step to
9 protect their workers on their own.

10 When I asked my employer, the
11 general manager or the owner of Budokan, "Can
12 you make this happen for me?"

13 They kind of smiled and they nod and
14 they say, "When the city passes it. I'm sure
15 it will happen soon enough, Jill. The whole
16 country seems to be going in that direction."

17 So I'm here today to ask one last
18 time. Why is this so important to me?
19 Because I became a career server by accident.
20 I am an artist, a daughter, a sister, a
21 girlfriend, and I have been exposed to
22 secondhand smoke for almost ten years now.

23 Recently I mourned the loss of Dana
24 Reeve, a beautiful, talented strong woman, a
25 real woman, only 44, who died of lung cancer,

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2 even though she was not a smoker.

3 It was said that she had, in the
4 course of being an entertainer, spent a lot of
5 time, the time that I spend very similar, day
6 after day, her time she spent in pubs, in
7 nightclubs, in which there is a lot of
8 cigarette smoke.

9 Dana Reeve, her light went out. Her
10 death comes amid a worldwide debate on the
11 danger of passive smoking. And, as a
12 nonsmoker, it makes me sad to think I might
13 have put myself at risk for lung cancer by
14 working in this environment.

15 My peers, people who went to the
16 same college as me, Drew University, who sat
17 in the same classes, who ate at the same
18 table, these people, who may not have chose
19 this line of work, they get to breath free.

20 So please, City Council, know this:
21 You have the power to change the future, to
22 protect health, to leave a legacy, so let's
23 break some ground.

24 In closing, I will just say, life is
25 short, and life is very precious. And we all

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2 have a chance to make a difference while we
3 are here on this plant. And I am a firm
4 believer that what makes a legacy isn't what
5 you do for yourself, it's what you do for
6 others.

7 And I am really nervous right now.
8 So I am just asking you today. Thank you,
9 Marian Tasco, and thank you all who support
10 this.

11 But really asking City Council and
12 Mayor Street, think of me when you are voting
13 this forward, and think of all the others who
14 need your protection. And we need you to be
15 our voice.

16 COUNCILWOMAN TASCO: Thank you very
17 much for your testimony.

18 (Applause.)

19 COUNCILWOMAN TASCO: We appreciate
20 it.

21 Certainly in order to pass this
22 legislation, you have to let your Council
23 members know how you feel about it. The
24 constituents of Philadelphia have to let us
25 know how they feel about it.

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2 So they should contact the Council
3 members, particularly those people who live in
4 Philadelphia, who go to restaurants and bars,
5 and let them know how important it is, that
6 they will not stop patronizing these
7 establishments because they can't smoke in
8 these establishments; that they will continue
9 to support them and eat the wonderful food
10 that they provide, but they would like to do
11 it in a smoke-free environment.

12 Now we have one of my favorites,
13 Greg Welsh, who has opened a restaurant on
14 Ogontz Avenue called the Ogontz Grill, in
15 addition to owning Chestnut Hill Grill. But,
16 we appreciate your coming forth. And thank
17 you for your testimony.

18 MR. GREGORY WELSH: Thank you,
19 Councilwoman. My name is Gregory Welsh. I
20 have been a businessman, entrepreneur here in
21 the city of brotherly pay-to-play for 30
22 years.

23 It is not every time that I have
24 come in front of Council to support a
25 position. I worked very closely many years

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2 ago with Prince Gilliard and many others here
3 to confront the 10 percent liquor tax.

4 As a businessman, I need every dime
5 I can get through my doors so that I can pay
6 my taxes, especially my Business Privilege
7 Tax.

8 We own the Chestnut Grill and
9 Sidewalk Cafe in Chestnut Hill, as well as the
10 Ogontz Grill in West Oak Lane.

11 Chestnut Grill, this is our tenth
12 year, and the Ogontz Grill is now in its third
13 year. We are the largest restaurant employer
14 in the Northwestern part of the city, in
15 excess of 200 employees.

16 The issue of smoking is one that we
17 have looked at carefully. And, unfortunately,
18 too many people say, "Don't confuse me with
19 the facts, I have already made up my mind."

20 Well, we have tried to open our
21 mind. And we have looked at what's going on
22 in states around us.

23 I have called restaurants in New
24 York, places that employed me in the past.
25 And we decided, we met with our staff, with

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2 all of our staff, two restaurants, and we
3 discussed this issue. And it was the
4 overwhelming majority of staff that said, we
5 support nonsmoking.

6 And as of March the 1st of this
7 month, we went smoke free in both of our
8 restaurants.

9 (Applause.)

10 MR. WELSH: Thanks, mom.

11 What we discovered -- and we had
12 statistics and numbers in front of us. The
13 numbers showed that when independent
14 restaurants -- we're an independent, we are
15 not a corporation -- independent restaurants
16 nationwide went smoke free, for the first six
17 weeks somewhere between 5 and 8 percent of
18 revenue dropped. Beyond that six-week period,
19 revenues increased 12 to 15 percent.

20 I am happy to say that we didn't
21 notice a 6 percent -- I'm sorry, 5 percent or
22 8 percent decrease in our first four weeks of
23 nonsmoking.

24 One of the positive unintended
25 circumstances is that our bar, which is smoke

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2 free, now has become one long table where
3 people enjoy eating, where we didn't have
4 nearly as much activity for diners in the
5 past.

6 So if I can allay fears of some of
7 my fellow businesspeople here, we have not
8 lost revenue. We have, in fact, gained people
9 that I hadn't seen for a long time who don't
10 smoke.

11 Granted, we did lose several people;
12 but we have more than made it up with those
13 who have come in to support us, to thank us,
14 and to enjoy what product we put out in a
15 healthy environment. Thank you.

16 (Applause.)

17 COUNCILWOMAN TASC0: Thank you so
18 much.

19 We appreciate your testimony,
20 because it is very important to the restaurant
21 owners and the bar owners to have some point
22 of reference to know that you don't
23 necessarily lose business.

24 We went into the Ogontz Grill one
25 night, and the dining room was closed. And

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2 they said you can eat in the bar. And we
3 said, no, we can't take the smoke. That was
4 before the ban. They were kind enough to open
5 the restaurant for us, but that's because we
6 are local people and we live in the area.

7 But I can see now, if we go there
8 and the restaurant is closed, we can eat in
9 the bar, which we enjoy. And we enjoy being
10 in the neighborhood.

11 So we have so many wonderful
12 neighborhood restaurants, and I doubt
13 seriously that we would lose any revenue when
14 those bars go smoke free.

15 Now we have a health advocates
16 panel. We would like to call Dr. Walter Tsou,
17 former Health Commissioner; Deb Brown;
18 Gertrude DeVose; Dr. Charles Bridges; Jason
19 Feurman; Dr. Richard Wnder; and Thurm
20 Brendlinger. I hope I got all that right.
21 And Marveta Coleman, from Delta Sigma Theta,
22 if she would like to come forward.

23 Good morning. And thank you so much
24 for coming. We appreciate it. We don't have
25 a whole lot of questions, because we have been

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2 this round before.

3 What we want to do is just kind of
4 update and reinforce what we talked about when
5 we first had this hearing. And certainly
6 there is new information on the horizon from
7 the last hearing.

8 And we appreciate your coming back
9 again to provide testimony regarding this
10 legislation.

11 Good morning, Dr. Tsou

12 DR. WALTER TSOU: Good morning,
13 Councilwoman Tasco. I am Dr. Walter Tsou,
14 Immediate Past President of the American
15 Public Health Association, the largest public
16 health organization in the United States.

17 And in 2000, when the first
18 restriction on smoking was introduced by
19 Councilman Nutter, I served as Health
20 Commissioner of Philadelphia.

21 Today I urge members of City Council
22 to support the Clean Indoor Air Worker
23 Protection Law. This ordinance would prohibit
24 smoking in almost all public workplaces in the
25 city.

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2 Six years ago, passage of a similar
3 bill would have placed Philadelphia on the
4 leading edge of cities who put public health
5 over special interests.

6 Today we will be following the lead
7 of almost all our surrounding neighbors who
8 have gone smoke free, including New York, New
9 Jersey, Delaware, and Washington, D.C.

10 Those cities and states have had
11 similar debates and vocal opposition, but have
12 decided correctly that creating smoke-free
13 workplaces and protecting the public's health
14 was the fundamental responsibility of a
15 legislative body.

16 The link between smoking and lung
17 cancer and heart disease are facts, not
18 suppositions, noted in the Surgeon General's
19 report as far back as 1964. The dangers of
20 secondhand smoke have been well documented,
21 and I will not repeat them.

22 However, it should be obvious that
23 the public does not want to breathe in other
24 people's exhaled smoke in their lungs or
25 clothing.

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2 Levels of tobacco smoke in
3 restaurants is 60 to 100 per higher in
4 restaurants than homes, and between 390 and
5 610 percent higher in bars.

6 The studies have found chronic
7 respiratory symptoms in more than half the
8 restaurant workers surveyed have detected
9 abnormally high nicotine levels in nonsmoking
10 restaurant workers in their saliva and hair.

11 The perceptions of whether smokers
12 tip better do not justify exposing workers to
13 a Class A carcinogen.

14 In a May 2000, City Council passed
15 Bill No. 314, authorizing the Philadelphia
16 Department of Public Health to create a study
17 group, Chaired by myself, to, quote, study
18 methods of and, if deemed appropriate, develop
19 recommendations with respect to preventing, to
20 the greatest extent possible, secondhand smoke
21 from drifting or recirculating from restaurant
22 bars and indoor smoke-free areas of
23 restaurants, unquote.

24 We conducted the study with
25 representatives from the health community,

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2 hospitality community, expert witnesses from
3 the EPA, OSHA, the police department, Licenses
4 and Inspections, and ASHRAE, American Society
5 of Heating Refrigeration Air-Conditioning
6 Engineers.

7 Our final conclusion from the
8 report, quote, the least expensive method of
9 preventing drifting of smoke is to eliminate
10 it from the entire indoor restaurant
11 environment, unquote. In short, ventilation
12 systems cannot create smoke-free environments.

13 We presented this report to this
14 Council on November 1, 2000. The American
15 Public Health Association, who hosts the
16 largest public health convention in the world,
17 recognizes the hypocrisy in promoting public
18 health and not supporting smoke-free cities.

19 We have scheduled to come back to
20 Philadelphia in 2009, bringing millions of
21 dollars to the city. However, we have passed
22 a policy that we will only hold our convention
23 in a city that is smoke free.

24 And we believe and will encourage
25 other health-related conventions to adopt

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2 similar policies in the future.

3 (Applause.)

4 DR. TSOU: Government has a
5 responsibility to steer us in the right
6 direction. Those cities and states that have
7 gone smoke free have heard the same
8 predictions of doom from restaurant and bar
9 owners in their communities.

10 And, contrary to those naysayers,
11 the facts are the sales have increased and not
12 decreased.

13 Furthermore, Philadelphia, like
14 every city, is being buried by the cost of
15 healthcare. We have a chance to take an
16 important step in addressing the number one
17 modifiable risk factor for healthcare costs,
18 smoking.

19 Every health organization and the
20 Greater Philadelphia Chamber of Commerce have
21 gone on record in support of a smoke-free
22 Philadelphia. The Mayor has publicly stated
23 his support.

24 It is time for us to do what the
25 majority of Philadelphians want, fresh air

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2 with their dinner. Thank you.

3 (Applause.)

4 MS. DEBORAH P. BROWN: My name is
5 Deborah Brown, and I am here representing the
6 American Lung Association.

7 The American Lung Association
8 supports Bill No. 060050, introduced by
9 Councilwoman Marian Tasco.

10 This bill will help protect all
11 Philadelphians from toxic pollutants of
12 secondhand smoke and make Philadelphia the
13 next smoke-free city.

14 The American Lung Association has
15 championed clean indoor air legislation for
16 many years. As you already know, secondhand
17 smoke contains over 4,000 chemicals, including
18 69 known carcinogens. It is a proven cause of
19 heart disease, lung cancer, asthma, and many
20 other serious diseases.

21 Secondhand smoke is a strong
22 respiratory irritant. For many people with
23 asthma, secondhand smoke is a trigger.
24 Individuals who have asthma may see their
25 condition worsen by walking into a room where

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2 smoking is permitted, or the smoky odor on a
3 person's clothing skin or hair.

4 For these individuals, each time
5 they are exposed to secondhand smoke, in many
6 cases not by their choice, they are risking
7 their life.

8 Asthma and exposure to secondhand
9 smoke affects racial and socioeconomic groups
10 disproportionately. Asthma is found in all
11 populations, but culturally diverse groups
12 experience the disease at higher rates,
13 particularly African-Americans and Latinos.

14 According to the American Lung
15 Association's lung disease data in culturally
16 diverse communities, African-Americans have
17 the highest prevalence of asthma of any racial
18 ethnic group, while Latinos may have a higher
19 death rate from the disease.

20 Traditionally certain racial and
21 ethnic groups are overexposed to occupational
22 respiratory hazards because they are more
23 likely to be employed in industries that have
24 been associated with lung disease.

25 Occupational asthma is the most

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2 prevalent occupational lung disease in the
3 United States, with approximately 15 percent
4 of asthma cases due to occupational exposure,
5 which includes working in the hospitality
6 industry.

7 Exposure is also significantly
8 higher for individuals who live below the
9 poverty level and for those that have a lower
10 educational level.

11 Secondhand smoke is especially
12 harmful to children with asthma, who are at
13 the mercy of their parents and often have no
14 choice but to enter facilities where smoking
15 is permitted.

16 The EPA estimates that between
17 200,000 and 1 million asthmatic children's
18 exposure to secondhand smoke worsens their
19 condition. It may also be responsible for
20 8,000 to 26,000 new cases of asthma in
21 children each year.

22 Children with asthma require more
23 medicines, have more emergency room visits,
24 and lower lung function, all taxing our
25 healthcare system.

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2 Studies have shown that secondhand
3 smoke may be a major factor in the development
4 of asthma in children under 5 years.

5 The Lung Association is not the only
6 supporter of this bill. We also know that the
7 general public overwhelmingly supports a ban
8 on smoking in the workplaces and public
9 places.

10 2005 survey by the Pennsylvania
11 Alliance to Control Tobacco found that 76
12 percent of Philadelphians want smoke-free
13 workplaces. It takes a great deal of courage
14 to stand up for the right thing.

15 The American Lung Association asks
16 the Mayor and Philadelphia City Council to be
17 courageous and take a leadership role in
18 passing Bill 060050.

19 Each day without this law is one
20 more opportunity lost to save another
21 Philadelphian, another family member, another
22 loved one from the potentially deadly effects
23 of secondhand smoke. Thank you.

24 (Applause.)

25 COUNCILWOMAN TASC0: Thank you very

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2 much.

3 Just let me recognize Councilman
4 Kenney, who was here. We have established a
5 quorum for this committee for the purposes of
6 any future votes. I would like to say that,
7 for the record.

8 We thank you for your testimony.
9 And need your support to contact the Council
10 members and the Mayor. This is the Mayor's
11 bill.

12 Next.

13 MS. GERTRUDE DeVOSÉ: My name is
14 Gertrude DeVose, and I am a volunteer with the
15 American Lung association of Pennsylvania, and
16 I am an asthmatic.

17 As an asthmatic, cigarette smoke is
18 one of my biggest enemies. I am fortunate, in
19 that none of my family members, no one living
20 in my household, smoke.

21 I am also blessed that the people
22 that I spend most of my time with at work, at
23 church, recreationally, such as family,
24 friends, and associates, do not smoke.

25 I encounter the greatest threat to

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2 my health as it relates to secondhand smoke
3 when I find myself in public spaces and public
4 places that permit smoke.

5 Asthma is one of the most common
6 chronic conditions in the United States. I am
7 only one of tens of thousands of
8 Philadelphians who suffer from this disease.

9 It is unwelcome part of my daily
10 life, and it also leads to missed school,
11 missed work, frequent doctor's visits, even
12 hospitalization, occasionally death.

13 Our quality of life is directly
14 affected by the quality of air that we breath.
15 Unfortunately, here in Philadelphia,
16 asthmatics have it hard.

17 Lacking smoke-free legislation, we
18 continue to be exposed to secondhand smoke in
19 places that we work, visit, and dine.

20 Secondhand smoke is the leading
21 trigger of asthma attacks. During an asthma
22 attack, muscles surrounding your airways
23 constrict. Inflammation can then occur, which
24 narrows the airways even further and, during a
25 severe asthma attack, can cause the airways to

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2 close entirely, preventing air flow to and
3 from the lungs and restricting oxygen from
4 getting to other vital organs.

5 You gasp for breath. And when you
6 cannot get enough air into your lungs, you
7 begin to feel a sense of panic, similar to
8 what it feels like when you are under water
9 too long. It is a horrifying experience.

10 I would like everyone to indulge me
11 for a few minutes and to take a deep breath
12 and inhale. Fill your lungs with air and hold
13 it. Are you inhaling? Are you holding it?

14 Try to release that air without
15 opening your mouth or letting the air pass
16 through your nostrils. Do this for as long as
17 you can. Use your diaphragm, move your
18 stomach up and down, but to not let the air
19 out of your lungs.

20 Do this until you begin to feel a
21 sense of panic, until you begin to feel
22 light-headed and your heart begins to race.
23 Keep holding the air trapped in your lungs
24 until you feel as if you are going to pass out
25 or like you are going to die.

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2 I don't want anybody here to die
3 today, so you can now exhale.

4 You have a choice, but asthmatics
5 like myself do not have a choice. This is the
6 best example that I can give you of what it
7 feels like to have an asthma attack.

8 You can breathe without thinking
9 about it. Asthmatics, we don't have a choice.
10 Asthmatics' condition is made worse by
11 secondhand smoke. We do not have a choice.

12 There are times when we find
13 ourselves in confined, closed spaces, where we
14 are forced to breathe in secondhand smoke.
15 For some of us, this results in a trip to the
16 ER, a stay in the hospital where we may
17 experience around-the-clock visits from the
18 nursing staff where we have to incur breathing
19 treatments, steroids administered
20 intravenously, the nursing staff waking us up
21 every three hours for us to pop some pills or
22 for them to take some blood.

23 This was my experience when I was
24 first diagnosed as being an asthmatic as an
25 adult 13 years ago. Thankfully, my asthma is

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2 now under control.

3 It is upsetting, though, that, when
4 I go out for dinner with family and friends,
5 we have to insist on a table in a smoke-free
6 section as far away from the smoking section
7 as possible. This usually results in a longer
8 wait for a table.

9 A night out with friends must
10 include figuring out whether the chosen spot
11 is smoke free; and, if it is not, are we
12 willing it wait for a table to open up in a
13 smoke-free section. Or, on the other hand,
14 maybe we even have to change our plans and go
15 somewhere elsewhere we are allowed to eat in
16 peace.

17 If I want to eat at a certain
18 establishment, I will risk it and take a seat
19 in a nonsmoking section, but we all know that
20 smoke does not stay in its section.

21 There are so many wonderful places
22 in the City of Philadelphia that I hope to be
23 able to patronize some day, without the fear
24 of encountering secondhand smoke.

25 If the argument not to ban

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2 secondhand smoke in public spaces is to
3 preserve the rights of individuals who do not
4 smoke, what about the rights of the nonsmokers
5 who are, in fact, in the vast majority?

6 And what about improving the health
7 of all Philadelphians, not just those of us
8 who suffer from chronic respiratory
9 conditions?

10 Everyone should have the right to
11 breathe clean air. This is critical for so
12 many of us who live and work in the city.

13 And I asked all of you to take this
14 important step forward and make Philadelphia
15 the next great smoke-free city. Thank you.

16 (Applause.)

17 COUNCILWOMAN TASCO: Next.

18 DR. CHARLES BRIDGES: Good morning,
19 Madam Chairwoman Tasco and members of the
20 Public Health and Human Services Committee.

21 My name is Dr. Charles Bridges. I
22 am Chief of Cardiothoracic Surgery at
23 Pennsylvania Hospital and Associate Professor
24 of Surgery at the University of Pennsylvania.

25 I am former member of the American

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2 Heart Association, Southeast Pennsylvania
3 Region Board of Directors. Thank you, again,
4 for the opportunity to speak on behalf of the
5 American Heart Association in strong support
6 of City Council Bill No. 060050.

7 As a heart surgeon here in
8 Philadelphia, I have seen firsthand the
9 negative health effects of smoking and
10 secondhand smoke. I cannot overemphasize that
11 this bill is about public health.

12 It is critical to save lives and
13 ensure that restaurant and bar workers,
14 patrons, children, people with heart diseases,
15 and all Philadelphians avoid the health
16 problems that result from secondhand smoke
17 exposure.

18 Secondhand smoke contains at least
19 4,000 chemicals, including more than 70 known
20 carcinogens, according to the Centers for
21 Disease Control and Prevention. It is
22 responsible for more than 38,000 deaths in the
23 United States each year.

24 Secondhand smoke has long been
25 associated with heart disease because of

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2 tobacco smoke's overall effect on the
3 cardiovascular system.

4 Inhalation of tobacco smoke causes
5 blood vessels to contract, limiting blood flow
6 throughout the body, particularly limiting
7 blood flow to the heart. This reduces a
8 person's oxygen supply, damages arteries,
9 lowers the good, or HDL, cholesterol, and
10 increases the risk of blood clotting.

11 Those exposed to secondhand smoke
12 are more than 80 percent more likely to suffer
13 a stroke, and even occasional exposure to
14 secondhand smoke increases the risk of
15 developing heart disease by 60 percent.

16 Because of the risks that even
17 short-term exposure to secondhand smoke can
18 trigger heart attacks, the CDC has advised
19 persons with heart disease to avoid settings
20 where smoking is allowed.

21 And I want to emphasize this point.
22 Because the problem is that a lot of people
23 who have heart disease don't know they have
24 heart disease. More than half of heart
25 attacks occur in people who have no known

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2 history of heart disease. It comes as a
3 shock.

4 Therefore, at least half of the
5 people who are going to have heart attacks
6 don't know that they have heart disease, and
7 the CDC would recommend that they avoid
8 settings where smoking is allowed. The best
9 way to protect those people is to enact
10 smoke-free legislation.

11 When you think of people with heart
12 disease, the image that I am sure comes to
13 mind is one of a middle-aged or older person.
14 Heart disease more and more affects younger
15 people, including children.

16 One of the risk factors that young
17 people developing heart disease have is
18 related to an alarming increase in the
19 prevalence of obesity.

20 What does this have to do with
21 today's hearing on a smoking ban?

22 A study released in August of last
23 year showed that adolescents who are exposed
24 to tobacco smoke are at increased risk of
25 something called the metabolic syndrome; the

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2 syndrome that leads to severe forms of heart
3 disease, including stroke and heart attacks.

4 The metabolic syndrome is a cluster
5 of conditions that increase cardiovascular
6 risk. The syndrome often develops in
7 childhood and is associated with insulin
8 resistance, a disorder in which the body can't
9 use insulin effectively.

10 In teens, the metabolic syndrome
11 primarily strikes those who are overweight, or
12 a group that is at risk for obesity, and that
13 group has tripled in size in the last two
14 decades.

15 The research available indicates
16 that this is a growing segment of our nation's
17 youth uniquely vulnerable to the development
18 of this syndrome and to premature
19 cardiovascular disease and diabetes.

20 This research found that a youth was
21 almost five times as likely to develop the
22 metabolic syndrome, if exposed routinely to
23 secondhand smoke. This study is the first to
24 show a link between tobacco exposure and the
25 metabolic syndrome in this age group.

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2 There is also new information about
3 a study that builds on some information that I
4 testified on last year, when I had the
5 privilege to address Council about this issue.

6 The study was done in Helena,
7 Montana. The researchers found that hospital
8 admissions for heart attacks fell by 40
9 percent during the six months that a
10 smoke-free workplace law was implemented. The
11 number quickly returned to its previous level
12 after the law was struck down in court.

13 More recently, a similar study in
14 Pueblo, Colorado, was performed. A goal of
15 this study was to see whether the study
16 findings of in Helena were unique to that
17 community, or if they could be the basis of
18 broader evidence that links smoke-free
19 ordinances to a reduction in heart attacks.

20 Pueblo is a community of about
21 104,000, located 110 miles south of Denver.
22 The city passed its smoke-free law in 2003,
23 restricting smoking in businesses, indoor
24 areas, including bars, restaurants, bowling
25 alleys, bingo halls, et cetera.

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2 This study was released earlier this
3 year and showed that heart attacks in Pueblo,
4 Colorado, dropped by 27 percent after enacting
5 the smoking ban.

6 Researchers evaluated the number of
7 heart attacks during a three-year period,
8 including the year and a half prior to the
9 smoke-free air act and the year and a half
10 subsequent to the act and, again, found a 27
11 percent decrease.

12 In the year before the smoking ban,
13 there were 399 heart attacks in Pueblo,
14 Colorado; in the year after, there were 290
15 heart attacks. A reduction, again, of 27
16 percent.

17 This represents several million
18 dollars in healthcare costs, not including the
19 ancillary costs of missed work and loss of
20 livelihood and other personal impacts.

21 This is remarkable, to see a 30 or
22 40 percent decrease. This is not a trivial
23 finding in heart attacks.

24 And the reason it is so dramatic is
25 because, again, many of the people who have

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2 heart disease don't know they have heart
3 disease, so that they are exposed to
4 secondhand smoke.

5 When we enter a smoke-filled room,
6 many of us think of it as an annoyance.
7 Unfortunately, for some of us it may be the
8 triggering event that leads to a fatal heart
9 attack that we had no way of predicting was
10 about to occur.

11 The bottom line is simple. First,
12 the study from Pueblo, Colorado, confirms that
13 we can look forward to a significant decline
14 in hospital admissions for heart attacks
15 following the institution of a comprehensive
16 indoor smoke-free ordinance.

17 It not only reinforces the Helena
18 findings, but it shows that, using improved
19 methodology, those findings are consistent.

20 And it supports similar studies
21 elsewhere indicating that the health benefits
22 of uniform smoke-free laws aren't just
23 theoretical; they are real and immediate.

24 Smoke-free ordinances have the
25 potential to rapidly improve the public's

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2 health and save lives through a substantial
3 reduction in the number of heart attacks.

4 Please remember that this is a
5 public health issue, and a person's actions
6 cannot and should not impede another's right
7 to remain healthy.

8 The time to act is now. It is
9 incumbent upon you as lawmakers of this city
10 to protect the public welfare.

11 Secondhand smoke kills. We must
12 protect the workers of this city who are
13 exposed to secondhand smoke simply because
14 they need to earn an honest living. Their
15 rights must be protected. Their rights must
16 be protected.

17 To ignore this issue or to try to
18 obfuscate the issue, citing economic concerns
19 in the face of the overwhelming evidence of
20 the health risks involved, would be
21 irresponsible.

22 The evidence suggests, in fact, that
23 the economic fortunes of the city are likely
24 to prosper, not suffer, under smoke-free
25 legislation, as some would have you believe.

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2 Now is the time for America's next
3 great city, Philadelphia, to join the ranks of
4 major Northeast cities and population centers
5 like Boston, New York, Newark, New Jersey,
6 Wilmington, Delaware, and Washington, D.C.,
7 with clean indoor air laws that protect their
8 citizens' health.

9 Thank you for this opportunity to
10 testify, and I would be happy to answer any
11 questions.

12 (Applause.)

13 COUNCILWOMAN TASCO: Thank you.
14 Thank you very much. Councilman Kenney has a
15 question for you.

16 COUNCILMAN KENNEY: Thank you very
17 much. Thank you, Doctor, for your testimony.

18 I was wondering if you have an
19 opinion on the bill's exception, allowing for
20 smoking in cigar bars, specialty tobacco
21 establishments, and tobacco distribution
22 businesses, and do you think the health of
23 those employees are equally at risk?

24 DR. BRIDGES: Yes, I do. I mean,
25 from the point of view of the employees, there

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2 is no question.

3 The only difference is that the
4 people who patronize those establishments are
5 likely to be people who smoke, and have done
6 that willingly and knowingly; in contrast to
7 people who are in restaurants and other areas.

8 But, as far as the employees
9 themselves, the same things that I said
10 earlier pertain in terms of their own
11 protection for their health benefit.

12 COUNCILMAN KENNEY: So there is
13 really no justification for the carve-out?

14 DR. BRIDGES: Well, you know --

15 COUNCILMAN KENNEY: No medical or
16 health justification.

17 DR. BRIDGES: No medical
18 justification, no.

19 COUNCILWOMAN TASCO: Thank you.

20 DR. RICHARD WENDER: Good morning,
21 Councilwoman Tasco and members of the Public
22 Health and Human Services Committee. My name
23 is Dr. Richard Wender, and I come before you
24 to testify wearing, actually, two hats.

25 I am Chair of the Department of

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2 Family and Community Medicine at Thomas
3 Jefferson University, just a few blocks from
4 here. But in November of this year, I will
5 also be the National President of the American
6 Cancer Society. So I come testifying on
7 behalf of our millions of volunteers and
8 staff, as well.

9 There is simply no controversy,
10 serious controversy, about the health effects
11 of secondhand smoke. In my view, and the view
12 of the American Cancer Society, we should not
13 be engaging in a debate about how many deaths
14 are acceptable number of deaths.

15 We believe that even one premature
16 death that is due to secondhand smoke, a
17 factor that is completely within our control
18 in public places, is simply too many.

19 So the only reason that Philadelphia
20 has not already acted to enact a ban on
21 smoking in public places is the concern about
22 its business implications.

23 But the central aspect of my
24 testimony today is to say that the business
25 implication landscape is changing

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2 dramatically, and you heard about it just a
3 moment ago from Dr. Tsou.

4 Just a few years ago, a major
5 meeting on tobacco control was scheduled to
6 come to Washington, D.C. And, at an
7 international meeting, somebody raised their
8 hand and said, "We will not go to Washington,
9 D.C., we recommend, because it is not a
10 smoke-free city."

11 So it was not a coincidence that the
12 smoke-free initiative in Washington all of the
13 sudden got a lot of momentum, because they
14 were facing losing a meeting of thousands of
15 individuals from all around the world.

16 You heard just a moment ago about
17 the decision of the Public Health Association
18 to no longer take its major meetings to cities
19 that have not enacted a smoking ban.

20 And I can tell you today that, as we
21 speak, the American Cancer Society is
22 currently considering the same policy, where
23 we will no longer take our national meetings
24 to those cities that either their states or
25 they themselves have not enacted this type of

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2 legislation.

3 So the business implications of a
4 smoking ban really, to date, even different
5 from when we last met to debate this issue,
6 have changed dramatically and will continue to
7 do so.

8 I have no doubt in my mind, as Dr.
9 Tsou indicated, that the other major public
10 health organizations will follow suit.

11 All of us in the healthcare industry
12 of Philadelphia are very proud of our city.
13 We want our colleagues to visit this city and
14 to enjoy our entertainment, our culture, food,
15 and our drink in all public places.

16 And as they do that, we want them to
17 be able to breathe Philadelphia's sweet,
18 clean, healthy, smoke-free air.

19 (Applause.)

20 DR. WENDER: So please vote to
21 maintain our status as a world-class city and
22 to create an environment that all
23 Philadelphians and everyone who visits our
24 wonderful home can saving enjoy. Thank you.

25 (Applause.)

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2 COUNCILWOMAN TASCO: Thank you.

3 Thank you very much for your testimony.

4 I don't want to lose any business
5 here. We are trying to build a new convention
6 center. That would be terrible.

7 Yes, sir.

8 MR. JASON FEURMAN: Good morning,
9 Chairwoman Tasco and members of the Public
10 Health and Human Services Committee. My name
11 is Jason Feurman. I am the President of Elder
12 Health, a large Medicare HMO here in
13 Philadelphia and a former Board member of the
14 American Heart Association, Southeastern
15 Pennsylvania Region.

16 Thank you for the opportunity to
17 share with you briefly why I support this bill
18 and why everyone must remember that this is a
19 public health issue.

20 Cardiovascular disease and stroke
21 can strike without warning whenever and
22 wherever. It can strike the young and old
23 alike. It can strike those who have risk
24 factors and those who have no risk factors.

25 I should know. I had no risk

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2 factors. My life changed, however, one
3 evening in a parking lot of 30th Street here
4 in Philadelphia. While trying to get into my
5 car and drive home, I suddenly lost feeling in
6 the left side of my body, became confused,
7 disoriented, and started to slur my speech. I
8 soon recognized that I was having a stroke.

9 Doctors later discovered that I had
10 a congenital heart defect, which may have
11 caused my stroke, and I ended up having to
12 have open-heart surgery to correct it. Today
13 I am a father, a husband, and a stroke
14 survivor.

15 Earlier today you have heard about
16 the medical studies detailing the health
17 effects of secondhand smoke on people with
18 cardiovascular disease. Please do not view
19 this testimony as dry medical information or
20 statistics done in a vacuum.

21 These studies reflect the real
22 threat that secondhand smoke can have on
23 people with cardiovascular diseases. These
24 studies reflect a real threat that secondhand
25 smoke can have on me and that they can have on

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2 you.

3 Given my medical history, I don't
4 know for sure what will trigger for me another
5 medical event, but I have known that
6 secondhand smoke adversely affects a person's
7 cardiovascular system and has recently been
8 shown to be a trigger for those cardiovascular
9 events like heart attack and stroke, for which
10 not only I am susceptible, but, trust me, we
11 are all susceptible.

12 The CDC has advised patients at risk
13 for heart disease to avoid all indoor
14 environments that permit smoking. The CDC
15 research has also reiterated an earlier U.S.
16 Surgeon General statement that much of this
17 important health risk is preventable by the
18 implementation of comprehensive smoke-free
19 policies.

20 So, like most rational people, I
21 will not place my family in harm's way. That
22 means I won't go to a restaurant or
23 establishment where smoking is permitted, and
24 I try to avoid having to go through the smoke
25 that you find around the entrances of many

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2 buildings, especially here in Center City.

3 I am asking this Council, which has
4 enabled the City of Philadelphia to regulate
5 other public health issues by addressing lead
6 poisoning, abating rat infestation,
7 establishing protocols in flu vaccines, and
8 controlling asbestos, to keep all
9 Philadelphians out of harm's way by addressing
10 the public health issue of secondhand smoke in
11 passing this bill.

12 It is time for Philadelphia to join
13 hundreds of other cities throughout this great
14 country that are protecting their citizens
15 with smoke-free laws.

16 Your actions can save a life.
17 Perhaps that life saved by passing this bill
18 and protecting people from the dangers of
19 secondhand smoke will be that of a stranger,
20 an acquaintance, a friend, a family member, or
21 you or me.

22 Thank you for your time today.

23 (Applause.)

24 COUNCILWOMAN TASC0: Thank you very
25 much.

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2 MS. MARVETTA COLEMAN: Good morning,
3 Chairwoman Tasco and members of the Committee
4 on Public Health and Human Services. I am
5 Marvetta Coleman, Co-Chair of the Social
6 Action Committee of the Philadelphia Alumnae
7 Chapter of Delta Sigma Theta Sorority,
8 Incorporated, one of four chapters in the
9 immediate Greater Philadelphia area.

10 Our chapter membership represents
11 more than 350 members. Our base connection
12 and involvement extends to approximately 1,000
13 constituents and taxpayers.

14 I am here today on behalf of our
15 Chapter President, Marva Lisa Scott, and to
16 testify in support of Bill 060050, which is to
17 address and prohibit smoking in public places
18 and the workplace.

19 As an organization of predominantly
20 African-American professional women that
21 conducts programs and advocates for issues
22 with economic, educational, physical and
23 mental health, political and international
24 impact, we give particular attention to the
25 passage of this bill because of its potential

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2 to impact the health of those affected,
3 employees and patrons alike.

4 The impacts of secondhand smoke on
5 the quality of life and health, with both its
6 direct and subsequent ripple effects, cannot
7 be overlooked.

8 Point one. Studies have found that
9 exposure to secondhand smoke is a cause and
10 major contributing factor to serious health
11 diseases in adult nonsmokers and children.

12 Lung cancer is noted as the leading
13 cause of cancer deaths among U.S. women.
14 Exposure to environmental tobacco smoke is a
15 cause of lung cancer, an increased coronary
16 heart disease risk among women who are
17 lifetime nonsmokers.

18 Point two. Many of the workers
19 employed in environments affected by this ban,
20 restaurants, bars, coffee shops, banquet
21 halls, and catering facilities, to name a few,
22 are women. These employees may also be among
23 those who receive limited to no paid
24 healthcare coverage through their employers.

25 In fact, according to the

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2 Pennsylvania Health Status Survey, the
3 majority of uninsured adults aged 18 to 64 are
4 employed, with 62 percent of them working in
5 the service industry.

6 A potential ripple effect is created
7 when health problems, as a consequence of
8 secondhand smoke exposure in particular, arise
9 and yet are diagnosed at later stages.

10 These impacts become more
11 consequential when the affected employee is
12 also a parent and primary provider in the
13 household.

14 Point three. As it relates to
15 youth, a study released in the Year 2000 in
16 the Journal of the American Medical
17 Association found that results from national
18 surveys on youth smoking strongly suggest that
19 smoke-free workplaces and homes are associated
20 with significantly lower rates of adolescent
21 smoking.

22 The nation's capitol, Washington,
23 D.C., and 11 states, including our neighboring
24 states of Delaware, New Jersey, and New York,
25 have passed smoke-free workplace laws that

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2 include restaurants and bars.

3 Two years following passage of the
4 ban in New York, one of the most vocal
5 opponents to the smoking ban, the head of the
6 Staton Island Restaurant and Tavern
7 Association, has admitted that he had seen no
8 fall-off in business for either, and that
9 customers actually seemed to like it.

10 Officials in New York City noted
11 that data following the first year of the ban
12 showed restaurant and bar tax receipts were up
13 8.7 percent over the previous year's receipts.

14 Locally, organizations such as the
15 Greater Philadelphia Chamber of Commerce have
16 voiced their support of the proposed ban.

17 Another study has found that 75
18 percent of Philadelphia residents favor
19 prohibiting smoking in the workplace and that
20 Philadelphians are also more likely to
21 patronize smoke-free establishments.

22 According to the Centers For Disease
23 Control and Prevention, there is no known safe
24 level of secondhand smoke exposure. Policies
25 establishing smoke-free environments are the

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2 Mosey effective method to protect both workers

3 and patrons from secondhand smoke exposure.

4 And restrictions on where smoking is

5 allowed are associated with decreased

6 cigarette consumption.

7 We note that the freedom of choice,

8 cited as a concern by some, should be

9 available to those who are most directly

10 impacted in these environments, employees and

11 patrons.

12 The proposed ban on smoking is not

13 only good policy, it makes good social and

14 economic sense. Thank you so much for your

15 time this morning.

16 COUNCILWOMAN TASC0: Thank you.

17 (Applause.)

18 COUNCILWOMAN TASC0: We thank you

19 for coming down to testify, and thank Delta

20 Sigma Theta for their social action.

21 MR. THURMAN BRENDLINGER: Thank you

22 very much for giving Clean Air Council the

23 opportunity to speak to the Council committee

24 meeting.

25 My name is Thurman Brendlinger,

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2 Program Director of the Clean Air Council.
3 Clean Air Council a nonprofit environmental
4 health advocacy organization dedicated to
5 protecting everyone's right to breathe clean
6 air.

7 Founded in 1967, Clean Air Council
8 has long worked on indoor air quality issues,
9 such as environmental hazards in the
10 workplace.

11 In 1982, the Council established the
12 region's first clean indoor air pollution
13 information center for city residents to get
14 information about indoor air pollution issues
15 that directly affect them and their families.

16 Over the years, the question of how
17 to limit the harmful effects from other
18 people's cigarettes in workplaces,
19 restaurants, apartments, and taxis have been a
20 disproportionately high percentage of the
21 calls to the information center.

22 Philadelphia has a long and proud
23 tradition of protecting workers; from adopting
24 the nation's first right-to-know laws, to
25 protecting workers from exposure to asbestos.

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2 Before City Council today is a
3 comprehensive bill that would help the
4 citizens of Philadelphia with this pressing
5 health problem.

6 Workers, as we have heard, in the
7 hospitality industry are at particular risk
8 from secondhand smoke.

9 In a recent study of bars and
10 casinos in Delaware by Researcher Jim Repace,
11 it was determined that air in a smoky bar has
12 up to 50 times more carcinogens than air on a
13 busy highway. Can we really justify making
14 people work in that kind of environment?

15 There is no really good alternative
16 to adopting smoke-free ordinances. In the
17 past, attempts have been made to mitigate the
18 secondhand smoke problem through the use of
19 ventilation systems in bars and restaurants.

20 The Clean Air Council had the honor
21 of being asked by Dr. Tsou, the former
22 Philadelphia Health Commissioner, to serve on
23 a committee studying this issue when City
24 Council first looked at the workplace smoking
25 regulations.

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2 As Dr. Tsou had indicated, the
3 committee concluded that the ventilation
4 technology cannot ensure the harmful
5 components of smoke are removed from the air.

6 This was also confirmed in June of
7 2005, when the American Society of Health
8 Refrigeration and Air Conditioning Engineers
9 came out with a position paper stating, "No
10 other engineering approaches, including
11 current and advanced dilution, ventilation, or
12 air-cleaning technologies have been
13 demonstrated or should be relied upon to
14 control health risks from environmental
15 tobacco smoke exposure in places where smoking
16 occurs."

17 And they further concluded that they
18 encourage elimination of smoking in the indoor
19 environment as the optimal way to minimize
20 environmental tobacco smoke exposure.

21 Elimination of smoking in all
22 workplaces has shown significant short-term
23 health effects. A University of Wisconsin
24 study of bar workers in Madison, Wisconsin, a
25 few months after their City Council passed and

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2 implemented a smoke-free ordinance in July of
3 2005, showed a marked decline in upper
4 respiratory symptoms experienced by nonsmoking
5 employees.

6 In conclusion, Philadelphia City
7 Council has the opportunity to lead our city
8 with this public healthy initiative. The City
9 of Philadelphia can join the ranks of New
10 York, Boston, and Washington, D.C., that
11 already protect the health and well-being of
12 its citizens, workers, and visitors.

13 Clean Air Council urges City Council
14 and the Mayor to take that leadership role.
15 And we want to thank you, in particular,
16 Councilwoman Tasco, for being a champion of a
17 smoke-free Philadelphia. Thank you very much.

18 (Applause.)

19 COUNCILWOMAN TASCO: Thank you very
20 much. We appreciate it. And there are many
21 champions on this Council for the legislation,
22 and we just need a couple more. So we hope to
23 have you help us get those two more.

24 But these champions here, and they
25 are listening to the testimony. And certainly

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2 a lot of things have happened since we had the
3 last hearing, certainly many more cities and
4 states have passed legislation, information
5 about conventions going to cities where there
6 are clean air is very important.

7 We have 15,000 Deltas who will be
8 here in July and August for their convention.
9 And they will be converging on all of these
10 restaurants and bars, but I daresay they will
11 probably go where there is no smoking.

12 We thank all of you for your
13 testimony. We thank you for taking time out
14 of your day to share with us the information,
15 your new documentation.

16 Studies that have been taken and
17 done in the last year or year and a half
18 certainly help confirm the need to pass this
19 legislation. Thank you very much.

20 We have now Joe Mahoney and Denise
21 Earley, and Mr. Robert McClure. If they are
22 here, come forward, please.

23 Good afternoon. Who is going first?
24 Go ahead, Mr. Mahoney.

25 MR. JOE MAHONEY: Good afternoon,

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2 Councilwoman Tasco and members of the
3 Committee on Public Health and Human Services.

4 For the record, I am Joe Mahoney,
5 Executive Vice-President of the Greater
6 Philadelphia Chamber of Commerce. Joining me
7 today at the witness table is someone I know
8 that you all know well, Denise Earley, our
9 Director of Public Policy at the Chamber.

10 We are pleased to testify in support
11 of Bill 060050, banning smoking in public
12 places.

13 Almost one year ago to the day, as a
14 matter of fact on March 7, 2005, I testified
15 before this body in support of a bill to ban
16 smoking in public places.

17 As I stated at that time, the
18 Chamber's decision to support the smoking ban
19 was not entered into lightly.

20 Several years ago the Chamber
21 actively opposed the idea of regulating
22 smoking based upon the cost that that
23 legislation would have on the hospitality
24 industry. This legislation is different.

25 Since there are very few exceptions,

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2 only for lodging and specialty tobacco
3 establishments, the bill before us now puts
4 all restaurant and tavern owners on a level
5 playing field.

6 Statistics are now available to
7 disavow the predictions of doom and gloom of
8 several years ago. New York provides us with
9 a stunning example, as has been cited by the
10 previous panel.

11 In a report issued by the New York
12 City government agencies one year after the
13 smoking ban was instituted, business tax
14 receipts in restaurants and bars were up by
15 8.7 percent. Employment had also increased by
16 more than 10,000 jobs.

17 In fact, the number of bars in the
18 state has increased by 3.5 percent from April
19 2002 to May 2004. In the 2004 Zagat at New
20 York City Restaurant Survey, 23 percent of
21 respondents said they were eating out more
22 often because of the smoking ban, while only 4
23 percent indicated they were eating out less.

24 In every battle for clean indoor
25 air, tobacco interests argue that clean indoor

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2 air will hurt business in restaurants and
3 bars. In every study released after the clean
4 indoor act legislation goes into effect, data
5 shows the opposite to be true.

6 Rhode Island is the latest state to
7 release figures. For March through November
8 2005, when the smoke-free law first took
9 effect, sales tax collections on meals and
10 beverages rose 8.2 percent over the same
11 period in the prior year.

12 California, Delaware, Florida, New
13 York, Connecticut, Maine, Massachusetts, Rhode
14 Island, Montana, Vermont, Washington, New
15 Jersey, and the District of Columbia have
16 adopted comprehensive smoke-free workplace
17 legislation for workers, including restaurant
18 and bar workers.

19 In our neighboring State of New
20 Jersey, the ban is effective April 15, 2006.
21 Colorado, Utah, Puerto Rico, Hawaii, Maryland,
22 Illinois, Minnesota, and New Hampshire are
23 considering smoke-free decisions in the coming
24 weeks. In November, Ohio and Arizona will
25 hold ballot initiatives, where voters will

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2 decide.

3 An analysis by the University of
4 Florida's Bureau of Economic and Business
5 Research, released in June 2004, found that
6 restaurant sales were up 7 percent one year
7 after the state's smoke-free law, which made
8 all public places and restaurants 100 percent
9 smoke free. It took effect in 2003.

10 In major cities like Dallas, Texas,
11 and Lexington, Kentucky, bar and restaurant
12 businesses have remained stable since the
13 implementation of their smoke-free legislation
14 in 2003 and 2004 respectively.

15 As America's next great city, it is
16 about time that Philadelphia stepped up to the
17 plate, particularly because of our city's rich
18 medical and pharmaceutical history.

19 The world is changing, and
20 internationally the movement to ban or
21 restrict smoking in public places is well
22 underway.

23 Ireland went smoke free in 2004, and
24 on a recent visit my wife and I personally
25 witnessed the robust pub business, despite the

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2 ban.

3 In the United Kingdom, last year the
4 government published a bill banning smoking in
5 enclosed public places, but private clubs and
6 pubs where no food is served were exempt.

7 As a matter of fact, Scotland's ban
8 went into effect yesterday, with both Northern
9 Ireland and England expected to follow next
10 year.

11 Smoking in public places is banned
12 in Havana Cuba, as of February 2005. Similar
13 bans are in effect in Italy, Spain, Australia,
14 South Korea, Norway, and a host of other
15 countries.

16 Finally, the health deterioration
17 directly linked to smoking is staggering.
18 Cigarette smoking has long been identified as
19 a major cause of preventable death and has
20 been factored into underwriting decision and
21 individual risk ratings.

22 The 2004 Surgeon General's report
23 reiterates that over 400,000 Americans die
24 each year as a result of cigarette smoking;
25 and that, on average, a smoker loses about 12

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2 to 13 years of life expectancy.

3 And the effect of secondhand smoke
4 costs the U.S. economy nearly 10 billion
5 dollars a year, ranging from medical bills to
6 lost hours of work, according to a recent
7 study commissioned by insurance actuaries.

8 Before ending my prepared testimony
9 on Bill 060050, I would like to inform you
10 that I also testified before the House Health
11 and Human Services Committee in October on
12 House Bill 1489 proposing a statewide ban on
13 smoking in public places.

14 Given the above economic, health,
15 and financial implications directly associated
16 with smoking, I urge you to pass Bill 060050.

17 Thank you for the opportunity to
18 address you this morning.

19 (Applause.)

20 COUNCILWOMAN TASC0: Thank you very
21 much. Next, Mr. McClure.

22 MR. RICHARD McCLURE: Good
23 afternoon, Madam Chair and members of the
24 Public Health and Human Services Committee.
25 My name is Rich McClure, I am General Manager

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2 of ARAMARK Tower, a 32-story office tower in
3 Center City. I am pleased to be here in my
4 capacity as an Executive Officer of Building
5 Owners and Managers Association of
6 Philadelphia, commonly referred to as BOMA,
7 and as the Chair of the Codes and Legislative
8 Committee, to testify on behalf of the
9 Ordinance 060050.

10 Kudos to Councilwoman Tasco for
11 introducing this important piece of
12 legislation and undertaking to see it through
13 the legislative process.

14 As a means of background, BOMA is a
15 nonprofit organization whose members provide
16 over 116 million square feet of office space
17 for over a half a million office workers.

18 Member buildings include virtually
19 all major high-rise office towers in
20 Philadelphia, including One Liberty, Commerce
21 Square, Bell Atlantic Tower, Wanamaker
22 Building, just to name a few.

23 BOMA fully supports Ordinance No.
24 060050 insofar as it impacts commercial office
25 space within the city.

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2 On behalf of our members and member
3 buildings, we are affirming BOMA's 2001 and
4 2005 support for smoke-free legislation which
5 was presented to City Council.

6 BOMA International, with which BOMA
7 Philadelphia is affiliated, has a
8 long-standing position regarding smoking;
9 specifically, secondhand smoke does not belong
10 in buildings.

11 According to the Environmental
12 Protection Agency, it is an indoor air
13 contaminant, as well as Group A carcinogen.
14 Removing this health threat would protect
15 building occupants, remove significant
16 liability concern for owners and tenants, and
17 help improve the overall air quality in
18 commercial buildings.

19 Simply stated, BOMA's goal is to
20 provide a safe and healthy work environment
21 for our tenants and guests.

22 I am not here to testify about the
23 effects of smoking and secondhand smoke.
24 Statistics regarding the impact of smoking on
25 public health have been well represented

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2 elsewhere. Given the mountains of evidence, I
3 doubt anyone here could deny that smoking
4 causes cancer.

5 BOMA agrees that smoking is a health
6 hazard and that secondhand smoke has no place
7 in commercial office buildings. BOMA also
8 recognizes that similar legislation has
9 already been enacted in cities, in states
10 around the country.

11 Similar action was also taken for
12 federal buildings under executive Order 13058,
13 dated August 9, 1997. Similarly, many private
14 employers in Philadelphia and elsewhere have
15 already instituted their own smoke-free
16 policies within their premises. All this is
17 to say, there is currently tremendous public
18 support for this type of legislation.

19 Ordinance No. 060050, among other
20 things, would enhance the common area and
21 no-smoking policies that already in exist in
22 office buildings throughout the city.

23 It would also reduce the hazard of
24 fires started by inappropriate disposal of
25 smoking materials, aid in the improvement of

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2 indoor air quality, potentially lead to lower
3 healthcare costs for employers, and reduce
4 cleaning costs for building owners and
5 managers.

6 Most important, however, the
7 legislation would provide a uniform approach
8 for all office buildings throughout the city.

9 Quite frankly, the single most
10 frequent complaint heard by our members has to
11 do with individuals smoking by the entrances
12 to our buildings. Walking through a haze of
13 smoke does not make for a good first
14 impression, nor is it healthy.

15 The proper legislation and
16 enforcement tools are needed to address this
17 situation.

18 While we would prefer a broader
19 no-smoking area for building entrances, BOMA
20 also recognizes that enforcement of the
21 no-smoking policy in these areas presents some
22 challenges.

23 Placing the onus on building owners
24 and managers could have economic consequences
25 that are not necessarily contemplated in this

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2 ordinance.

3 Furthermore, the ordinance does not
4 detail the mechanism by which the city would
5 enforce the no-smoking policy in the exterior
6 areas.

7 Insofar as Center City is concerned,
8 perhaps a cooperative effort could be arranged
9 between the Health Department and the Center
10 City District in order to arrive at a uniform
11 means of addressing this issue and
12 enforcement. BOMA would certainly cooperate
13 in this effort.

14 On behalf of BOMA, I want to thank
15 you for your time, consideration of our
16 comments regarding Ordinance No. 060050. As I
17 have already stated, BOMA's goal is to provide
18 a safe, healthy work environment for its
19 tenants and guests.

20 We applaud this City Council for
21 considering this bold initiative on behalf of
22 all who live and work in Philadelphia, and
23 look forward to the eventual enactment of this
24 important legislation.

25 Ordinance No. 060050 is a means by

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2 you as legislators can promote the safety,
3 health, and welfare of those who work and do
4 business within the City of Philadelphia.

5 Thank you.

6 (Applause.)

7 COUNCILMAN KENNEY: Thank you very
8 much for your testimony.

9 Let me ask you, Mr. McClure --
10 because you have had such experience with the
11 business community, and Denise if you would
12 like to jump in and give your opinion -- one
13 of the physicians early on, and I agree with
14 him, testified that there really is no
15 argument about the detrimental effects of
16 smoking yourself and secondhand smoke, and he
17 said it is purely an economic issue at this
18 point. And I totally agree with him, it is an
19 economic issue.

20 With all of the studies and all of
21 the things that you have testified to and
22 others have testified to as the benefits to
23 business for a smoking ban, why do you think
24 there is such strong opposition within a
25 certain segment of the bar community, or the

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2 tavern community?

3 Why can't they see what you are
4 telling us, that their business is going to
5 improve? And then wouldn't people just simply
6 choose, as a business decision, as one
7 gentleman who testified earlier from -- I
8 think he is from Mt. Airy, has two restaurants
9 in the Northwest part of the city, if it is an
10 economic benefit, health discussion aside, why
11 hasn't everyone gone smoke free? I mean, if
12 it is so clear?

13 I mean, restaurant people do
14 demographic research all the time, they do
15 studies all the time as to what effects
16 changing the menu is going to do.

17 If this is so clearly a benefit, why
18 is there still such a strong sentiment against
19 it in a certain niche?

20 Now, I am not a smoker, I am not a
21 smoking fan, and I don't like it in
22 restaurants.

23 But a corner neighborhood tap room
24 is a different environment, health issues
25 aside, a different economic environment and a

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2 different economic model than a restaurant in
3 Center City.

4 Is it possible that some of these
5 studies have not really looked at the
6 potential detrimental effect to business in
7 that niche of businesses?

8 MR. McCLURE: I don't know if I can
9 give you a good answer to that question,
10 Councilman.

11 I guess that change, when you have a
12 small business -- and, you know, my wife has
13 two small businesses of her own; not in the
14 hospitality sector, but in the retail
15 sector -- and I know when you are used to
16 doing business a certain way, and you have
17 your projections down, and you know what you
18 are doing, health risk aside --

19 COUNCILMAN KENNEY: This is purely
20 an economic discussion.

21 MR. McCLURE: Change is always
22 something that a small-business owner, you
23 know, I think, fears.

24 And despite the studies which have
25 been done in other locations, I think that

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2 sometimes there is a question mark in the back
3 of a person's mind, well, does that really
4 affect, you know, my neighborhood, as well.

5 I think that what we said in our
6 testimony last year is, when you look at 75
7 percent of -- you know, of individuals do not
8 smoke, that it would seem that, you know, a
9 strategy of marketing to 75 percent of
10 individuals, rather than marketing to 25
11 percent, you know, is something that would be
12 a powerful incentive, but I can't speak for
13 those --

14 COUNCILMAN KENNEY: Have we been
15 able to determine, of the 75 percent of the
16 people who do not smoke, I being one of them,
17 what percentage is that reflected in people
18 who frequent neighborhood taverns?

19 Because, I mean, the neighborhood --
20 I mean, I grew up in a neighborhood, in a
21 blue-collar neighborhood, and I live in one
22 now.

23 And there is a different expectation
24 of an environment, health issues aside, when
25 you walk into a neighborhood tap room, with 15

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2 stools, as opposed to walking into somewhere
3 else in Center City, Manayunk, or Old City.

4 When I frequent -- if I choose to
5 frequent a corner tavern or tap room, as I was
6 raised calling them, I have a different
7 expectation as to the environment, as to what
8 is served, as to the cost, as to what's on
9 television, if there is a television. It is a
10 different environment.

11 And health issues aside, what I
12 struggle with is not as much the restaurants.
13 I understand it. It is that niche of people
14 that are employing four, five, six, ten
15 people, who are creating a decent place for
16 people to gather in the neighborhood, they are
17 staunchly and completely afraid of the effects
18 of this on their business.

19 Because I am sure that, even though
20 Zagat has done surveys, they are not doing
21 surveys at Danny Gallagher's pub in South
22 Philly. I am sure that's not the same people
23 they are surveying.

24 So while I understand my own need to
25 be in a restaurant, paying good dollar, and

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2 being in a smoke-free environment, I also
3 understand the difference that, when I decide
4 to walk into that door of that corner public,
5 I have a different environment.

6 And I understand it seems like it is
7 coming anyway. I understand that. But I
8 still in some ways feel that the decision, the
9 business decision, health issues aside --
10 because we could extrapolate this argument
11 into alcohol.

12 I mean, certainly alcohol doesn't
13 have a secondhand effect, but it does have a
14 detrimental effect to the person who drinks
15 and drinks to excess. It has a ripple effect
16 to people who get in a car and kill somebody
17 when they are drunk driving. It has a ripple
18 effect in family life and dysfunction. And it
19 has a ripple effect when it comes to health
20 issues.

21 I am not going to go as far as to
22 say, now that smoking has been banned
23 everywhere, we should now start looking at the
24 possibility of banning alcohol because of its
25 detrimental health and safety effects.

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2 Do you understand?

3 MR. McCLURE: I understand. And, as
4 I mentioned in my testimony, when we testified
5 on this matter, you know, a number of years
6 ago, I guess back in 2001, it was the economic
7 impact on particularly small restaurants and
8 bars that were the reason why we opposed the
9 legislation at that time.

10 And we have had a number of -- I
11 know I have talked to several of our members,
12 you know, who own small restaurants or small
13 taverns who said, if it is uniform and across
14 the board, then we are all on the same page
15 and, you know, we can support it.

16 It is the exceptions, and it was the
17 exceptions at that time, which caused us to
18 oppose the legislation.

19 But when we have seen studies, you
20 know, not just from Zagat, but from New York
21 State and from Kentucky and from other places
22 that have looked universally -- and I don't
23 know if they have specifically carved out, you
24 know, taprooms and bars, you know, looked at
25 that specifically.

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2 COUNCILMAN KENNEY: You will agree
3 that whatever the answer is -- whoever is
4 right and whoever is wrong, we will ultimately
5 find out --

6 MR. McCLURE: Absolutely.

7 COUNCILMAN KENNEY: -- but the
8 margin in that type of business, you would at
9 least agree, is a different margin than we
10 have in a Center City restaurant.

11 MR. McCLURE: Yes, sir.

12 COUNCILMAN KENNEY: My struggle is,
13 my experience, my life experience, and the
14 fact that my grandfather was a bartender for
15 40 years, and that I worked in places like
16 that myself, that there is certainly a
17 different expectation, a different cost, and,
18 health issues aside, a different experience
19 than there is in a Center City restaurant.

20 And that's my struggle right now,
21 and I just wanted to get your opinion on the
22 business side of it.

23 MR. McCLURE: I understand,
24 Councilman. Thank you.

25 COUNCILWOMAN TASCO: Thank you,

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2 Councilman. But it is a health issue, and you
3 can't say health issue aside. That is a
4 health issue.

5 (Applause.)

6 COUNCILWOMAN TASC0: And that's why
7 we are here. And they don't want to forget
8 that.

9 COUNCILMAN KENNEY: But we need an
10 amendment taking out the 25 percent of
11 sleeping quarters in hotels, specialty tobacco
12 establishments, tobacco production
13 distribution businesses.

14 If it is unhealthy for employees
15 everywhere else, it is unhealthy for these,
16 people too.

17 And here is the problem. When we
18 start making carve-out exceptions, the other
19 person whose businesses feel that they are
20 being jeopardized say, well, if you could
21 carve out for them, you could carve out for
22 me, and then we start the carve-out game.

23 And I don't understand where this
24 comes from. That, if it is a health issue,
25 and a health issue only, then they should be

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2 included, too, because their employees are as
3 much at risk as any other employee in the
4 city.

5 And you can make an argument that it
6 is unhealthy for everybody, but we don't
7 really care about those people because -- I
8 don't know why, but we should carve them out.
9 Then I have other constituencies that say, I
10 need to be carved out.

11 (Applause.)

12 COUNCILMAN KENNEY: And, again, I
13 don't mean to be disrespectful. And I am not
14 an advocate of smoking, and I do not smoke and
15 I do not like it.

16 But I find it difficult to go into a
17 private VFW club and tell a World War II vet,
18 who has been smoking, and hurting himself
19 while he is smoking, that now all of the
20 sudden you can't do that in your own private
21 club. Or a Mummer's club, where people are
22 doing bad things to themselves, but it is
23 their private club.

24 When you start carving out, other
25 people expect to be carved out, and that makes

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2 it difficult for people who have
3 constituencies pulling them in different
4 directions. That's my only point. Thanks.

5 COUNCILWOMAN TASC0: Thank you very
6 much. Thank you for your testimony.

7 Ms. Lori Fresina.

8 MS. LORI FRESINA: Good afternoon,
9 Madam Chair, Council members. Nice to be here
10 today. My name is Lori Fresina. I work for
11 the Campaign for Tobacco-Free Kids. We are an
12 organization of about 60 staff people based in
13 Washington, D.C.

14 And I have one of the jobs where I
15 am a regional person. I live right outside of
16 Boston; and I represent New England, New York,
17 New Jersey, and as of a month ago
18 Pennsylvania.

19 So it is nice to be here in
20 Philadelphia for my inaugural visit to your
21 state as your representative to the Campaign
22 For Tobacco-Free Kids.

23 Our mission, as you may know, is to
24 reduce tobacco use and its devastating
25 effects, especially among kids, and to protect

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2 everyone from the harms of secondhand smoke.
3 You have already heard more health information
4 COUNCILWOMAN TASC0: You can
5 summarize it.
6 MS. FRESINA: I am going to
7 summarize mine considerably. And I do have
8 stuff to hand in in writing.
9 But, actually, I would love to
10 respond after I am done my remarks to some of
11 Councilman Kenney's issues, as well.
12 I think we need to do a couple of
13 things here. First let me just, I want to
14 really pay some respect to all the folks who
15 are here today, particularly the opponents,
16 who have had to wait their turn patiently on
17 this.
18 I have been involved in local and
19 statewide clean indoor hearings since 1994 and
20 have attended literally dozens of hearings
21 around New New England.
22 And in the first early years, never
23 would we have gotten the Chamber of Commerce
24 from any community to come and stand front and
25 center in support of this.

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2 Many times we had police escorts
3 taking the health advocates out of those
4 hearings. They were volatile, they were
5 painful, they were neighbor against neighbor.

6 And I don't know if it is a sign of
7 how far we have come in this movement that
8 this is as respectful a hearing as it is or if
9 it is a show of the City of Brotherly Love.

10 But I like it. I am comfortable.
11 It was not this friendly in New Hampshire last
12 week, so it is good to be here.

13 This is tough. This is a really
14 difficult issue. And I don't think it is
15 going to matter that when the 50th state has
16 this debate, the last state to go smoke free,
17 it is going to be just as difficult for that
18 state as it was for the State of California

19 Because there needs to be this kind
20 of dialogue, there needs to be this kind of
21 debate.

22 The business community have very
23 legitimate fears here that we have an
24 obligation to respond to with. We now have
25 good facts, and we can respond to those fears.

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2 And I have been asked to talk a
3 little bit about the economics. But I am also
4 very open to other questions, because I have
5 been playing in this arena for a number of
6 years and have some interesting ideas on this.

7 I think -- and I am going to really
8 cut through some of this, because so many
9 people have covered this. Some of the
10 opponents -- I expect that you have heard from
11 already in previous hearings and maybe in some
12 of the e-mails and phone calls and stuff you
13 have got -- have talked about claims that
14 business has been down, in communities that
15 have gone smoke free, have gone down 20, 30,
16 40, 50 percent after restaurant and bar
17 smoking laws have gone into effect.

18 The reality is, when you look in the
19 aggregate, including the small neighborhoods
20 bars that you were looking at, sir -- and we
21 look at three different measures. We look at
22 number of permits that are held for those
23 types of establishments pre ban/post ban, tax
24 receipts obviously is something that
25 government is very interested in, and number

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2 of employees that are employed in those
3 service sectors

4 And have found across the board,
5 West Coast, East Coast, and other places,
6 there is not a negative impact.

7 There have been cases where, for a
8 few months after a ban, business has dipped a
9 little bit; but it has rebounded, and
10 oftentimes gone above that.

11 I don't know want to sit here today
12 and promise you business is going to boom in
13 Philadelphia ten times greater than it was
14 before the ban, because I don't think that's
15 responsible.

16 But we can say with great confidence
17 that it will not hurt the business in
18 Philadelphia, and it will greatly improve the
19 work quality in Philadelphia and help save a
20 whole bunch of money.

21 There is a journal called the
22 Journal of Tobacco Control. And in 2003, they
23 had done a comprehensive review of all
24 available studies at that point on the
25 economic impact of smoke-free workplace laws

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2 and concluded that, quote, all of the
3 best-designed studies report no impact or a
4 positive impact of smoke-free restaurant and
5 bar laws on sales or employment.

6 Policymakers can act to protect
7 workers and patrons from the toxins in
8 secondhand smoke confident in rejecting
9 industry claims that there will be an adverse
10 economic impact.

11 And we have seen this across the
12 board. And I am going to give you a few -- we
13 had a fancy Power Point presentation that
14 we're not going to bore you with. But I can
15 get it to you, if you want it. But I am
16 guessing people are getting hungry for lunch.

17 Some of the best evidence we have is
18 from New York City; where we found that, a
19 year after the city's comprehensive smoke-free
20 law took effect on March 20, 2003, business
21 receipts for restaurants and bars increased,
22 employment rose, and the number of liquor
23 licenses increased, and virtually all
24 establishments were complying with the law.
25 Because it was a level playing field, so there

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2 weren't the difficulties of having things
3 pieced out.

4 In Rhode Island, we just got data
5 last month showing that sales tax collections
6 on meals and beverages at bars and restaurants
7 increased 8.2 percent the year after the smoke
8 free law went into effect.

9 In Massachusetts, there was a study
10 conducted by researchers at the Harvard School
11 of Public Health. And they found one year
12 after our law went into effect in
13 Massachusetts, there was no negative impact on
14 statewide meals and alcohol beverage excise
15 tax collections, and the number of employees
16 in food service and drinking places and keno
17 sales were not affected by the law.

18 In Massachusetts, it was status quo.
19 And we had done it city by city, town by town,
20 over a ten-year period there.

21 In Delaware, comparative data shows
22 that business remains steady one year after
23 the state's smoke-free law went into effect.
24 The state's eating and drinking establishments
25 did not go out of business, as some had

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2 predicted, and, in fact, there was an increase

3 in the number of restaurant and taproom

4 licenses since the law took effect. Liquor

5 consumption increased, as well.

6 Furthermore, employment within the

7 restaurant and bar industry in Delaware has

8 also increased since the smoke-free law went

9 into effect.

10 In Minneapolis, early data shows

11 positive signs for restaurants and bars nearly

12 a year after the smoke-free law went into

13 effect.

14 An independent analysis by a local

15 newspaper found that the local hospitality

16 industry continued to grow, citing an increase

17 in taxable sales reported by restaurants and

18 bars.

19 Three months later the City of

20 Minneapolis issued a report examining revenues

21 and businesses licensed to serve alcohol on

22 their premises, and they found alcohol and

23 food sales at these establishments had

24 increased 7 percent after the ordinance went

25 into effect.

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2 And, finally, California, which is
3 the first state that went completely smoke
4 free, so we have the longest period of history
5 to look at there, taxable sales receipts for
6 bars and restaurants in the state have
7 increased every year since 1997, which was the
8 year before the state's smoke-free bar law
9 took place through 2003, which is the year we
10 have most current data available. And, in
11 addition, total employment at bars and
12 restaurants in California have increased every
13 year since 1997.

14 Members of the City Council, if you
15 look and if you hear that smoke-free laws are
16 bad for business, please think twice, think
17 three times.

18 Let me be honest with you. There
19 are two businesses that suffer when smoking
20 bans go into effect. Tobacco companies don't
21 sell as many cigarettes because smokers aren't
22 smoking as many, and dry cleaners don't do --
23 quite seriously, dry cleaning businesses are
24 hurt.

25 They have not come to testify

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2 against the bill, I suspect today. But that
3 is the one thing we hear over and over. Not
4 that they are really suffering, but we don't
5 tend to need them quite as much as we used to.

6 We are really asking that you
7 consider the evidence before you. And some of
8 the opposition arguments, the only economic
9 studies that show a negative effect are ones
10 that are in fact funded by tobacco companies.

11 We are very happy to back up that
12 claim with the facts for you, if that should
13 be something that you would be interested in.

14 We also know, and I think this has
15 been covered, that, in addition to having the
16 positive impact on patronage, when businesses
17 go smoke free, they also save money in
18 employee health costs because there is less
19 exposure to secondhand smoke, and an increase
20 in quitting behaviors. And some businesses,
21 large and small, have reported savings on
22 maintenance and cleaning costs.

23 We know that ventilation is not the
24 answer. There is no form of ventilation on
25 the plant earth, with the exception of a

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2 hurricane, that could safely remove the toxins
3 in the air from a secondhand smoke fast enough
4 to keep people safe.

5 We hear oftentimes people who oppose
6 these bills saying that it is too much
7 government interference, you are becoming a
8 nanny state.

9 Well, the reality is, this
10 secondhand smoke is the third leading cause of
11 preventable death and disease. And if you
12 really look at -- and I wish I had the chance
13 to get it -- what the Philadelphia restaurant
14 inspection and bar inspection form looks like,
15 there are probably hundreds of things that
16 they have to comply with in order to do
17 business in the City of Philadelphia.

18 And it would be crazy to sit and
19 think we would have these debates and say,
20 well, these business owners, it is their
21 business, they should get to decide whether or
22 not there is sexual harassment on their
23 premises, they should get to decide if they
24 serve dairy products or meat that has passed
25 its expiration date, they should get to decide

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2 whether or not they have fire exits that are
3 accessible to people with disabilities.

4 They don't get to decide those
5 things because they are go doing their
6 business in the public domain, and their
7 rights are balanced by responsibilities.
8 That's the gist of this.

9 These businesses are already
10 regulated from the door to the dumpster, and
11 they are doing well.

12 I think that making this -- making
13 all workplaces smoke free in Philadelphia
14 without exemptions does create that needed
15 level playing field and maybe gets to some of
16 your questions about, if this is so good for
17 businesses, why aren't they doing it anyway.

18 Partly they are not doing it because
19 they don't want to lose to the guy down the
20 street. Partly, again, it is the fear versus
21 the fact.

22 And part of our responsibility as
23 folks who work in the public interest is to
24 take care of that nonsense for them, so they
25 can get to do the right thing and run their

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2 businesses as well as they would like to.

3 (Applause.)

4 MS. FRESINA: Why do I feel like I
5 am at the Oscars, and the music just came on.
6 I am, actually, almost done.

7 This is a great city. And you have
8 got wonderful restaurants and clubs, you have
9 a music scene that is vibrant, it is growing
10 and getting better all the time.

11 A smoke-free law in Philadelphia
12 will make it only a better place for tourists
13 and for the people who live and grow up here.

14 And, Councilwoman Tasco, when you
15 started your remarks this morning, I smiled.
16 I was in a very private meeting with Tom
17 Menino, the Mayor of Boston, probably five or
18 six years ago

19 I was working at the American Cancer
20 Society at the time. And he wanted to start
21 what is now known as the Mayor's Crusade
22 Against Cancer. And I had the opportunity to
23 present the tobacco facts to him, and I was
24 scared to death. Because he is a very
25 imposing man, and he is Tom Menino. And if

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2 you grew up in the area, he was Tom Menino.

3 It was cool.

4 We laid out all of the facts about
5 secondhand smoke exposure. We laid out for
6 him some of the options that different cities
7 and towns and the State of California had
8 already done.

9 And at one point he just banged his
10 hand on the table and said, "We are going to
11 do this." And his political advisors were
12 crawling out of their skin.

13 They said, "You can't do it. It is
14 too fast." He was 18 months out from an
15 election.

16 He said, "We are going to do it." We
17 did it in two phases in Boston, and we did it
18 because Mayor Menino wants Boston to be a
19 cancer-free city.

20 He didn't wait for the right time.
21 He had the very same attitude as you, this was
22 the time. It was the time for Boston then.
23 It was good for business, it has been good for
24 people who come to Boston, it has been good
25 for people who live and work there, it is

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2 going to be good for Philadelphia.

3 And the best thing about it, for
4 folks who are worried about the economics, is
5 that smoke free is free, and it really is
6 time.

7 Thank you very much for your time
8 listening to me today, and I would be happy to
9 answer any questions you might have.

10 COUNCILMAN KENNEY: I am just
11 curious as to the phasing in in Boston. What
12 did they phase in, and what period of time?

13 MS. FRESINA: We did -- it was
14 Valentine's Day, and I can't remember the
15 year. The first phase of the Boston ban
16 banned smoking in all restaurants without
17 alcohol licenses, so what we called
18 family-style restaurants -- small, large,
19 didn't really matter on their size -- and
20 other workplaces.

21 And we did it -- and this was a very
22 interesting debate. We fought very hard with
23 the Public Boston Commission at that point to
24 not require physical separation or separate
25 ventilation. Because we were working with the

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2 Mayor -- who we knew this man could be
3 reelected until death, if he wants to be -- we
4 knew that he was good in his promise to make
5 it go all the way soon.

6 And two years later we had it cover
7 all bars, restaurants, in the City of Boston.

8 The reason that there was a phase-in
9 was, it was political. I mean, he did have a
10 race coming up. People were a little leery
11 about it. We hadn't had another major city in
12 Massachusetts go smoke free at that point.

13 So his political advisors were
14 jumpy. He wanted to do it, they didn't.

15 We didn't want physical separation
16 or ventilation put in because you don't want
17 to put an economic burden on these business
18 owners, knowing full well you are coming back
19 in two years and saying, sorry we told you you
20 had to do that, but what we really meant was,
21 the only way to protect public health and your
22 employee health was to be 100 percent smoke
23 free.

24 So, it was a calculated risk. The
25 public didn't really get it at the time. The

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2 two years, actually, went pretty fast, and it
3 has worked really well for the city.

4 COUNCILWOMAN TASC0: Let me ask you
5 a question.

6 Councilman Kenney noted the issue of
7 the hotel. Are your hotels smoke free
8 entirely?

9 MS. FRESINA: They are not entirely
10 smoke free. The bar/restaurant areas are.
11 Some have -- it is very -- Massachusetts is a
12 little bit funky, because our cities and towns
13 have the authority to go farther than the
14 state law.

15 We have some communities where there
16 is no smoking at all in hotels and motels;
17 others where they have, like, a set aside a
18 percent of rooms that can be reserved for
19 smokers.

20 We have also, though, found at least
21 two major chains -- and I am going to blank.
22 I don't know if somebody can help me. I don't
23 know if it was a Marriott. I know Kimpton had
24 gone 100 percent smoke free in the last year.

25 COUNCILWOMAN TASC0: The Wyndham

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2 Franklin Plaza has gone --

3 MS. FRESINA: Well, it is a lot
4 cheaper for them, too. I think they figured
5 it out.

6 I know the Kimpton will charge you
7 \$250 a night, if you are caught smoking in the
8 room, which is probably more than the price of
9 a room.

10 So I think we are moving that way.
11 But we did set that aside in Massachusetts,
12 and yet there has been a lot of local movement
13 to take it further.

14 COUNCILMAN KENNEY: One other
15 question.

16 Relative to the hotels. From your
17 research or your experience, are the
18 ventilation systems in the hotels separate for
19 the 25 percent of the set-aside rooms?

20 MS. FRESINA: I don't know. I mean,
21 I don't know.

22 I don't think it is written in the
23 law that it is. And I think it would be
24 really difficult for the way some of these are
25 constructed, particularly I am thinking in

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2 some of the older neighborhoods of Boston.

3 COUNCILMAN KENNEY: Can you think as
4 to what's the rationale for set-aside rooms?

5 MS. FRESINA: I think it is like
6 anything. I mean, we didn't in California or
7 Maine or Massachusetts or New York or anyplace
8 that has done this -- everyone thinks it is an
9 overnight sensation, it is not.

10 In Massachusetts we started with
11 municipal buildings, then stopping malls and
12 schools. Then we started moving into
13 restaurants and bars and other types of
14 workplaces.

15 I think this is an incrementalist
16 movement in many ways, and getting people used
17 to things. And I think there are folks who
18 believe where an area is a residence -- and
19 for some people a hotel or motel, at least for
20 that slice of their life is a residence -- or
21 nursing homes and things like that, they are
22 looking to be more reasonable in those
23 settings.

24 Over time, though, I think,
25 honestly, business owners are seeing less and

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2 less demand for it, and it is an expense to
3 clean it.

4 COUNCILMAN KENNEY: But, as far as
5 you know, there is no separate ventilation or
6 air-flow system?

7 MS. FRESINA: I would have to look.
8 I really don't know. I can certainly get back
9 to you on that.

10 COUNCILMAN KENNEY: So the
11 potential, with 25 percent in a hotel like the
12 Marriott, for example, which is a 1200-room
13 hotel, would be a pretty sizable chunk, and
14 also would continue to expose nonsmokers and
15 employees to the health risks.

16 MS. FRESINA: I will look into it.
17 I can't remember, so I don't want to lie.

18 COUNCILMAN KENNEY: Thank you.

19 COUNCILWOMAN TASC0: Thank you so
20 much for coming down to testify. We
21 appreciate your testimony.

22 (Applause.)

23 COUNCILWOMAN TASC0: Next we have
24 Mr. Prince Gilliard, Mike Driscoll, Garth
25 Weldon, Adam Xu, Pete Ciarrochhi, please

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2 forgive me, and Michael McFadden.

3 COUNCILWOMAN TASC0: Good afternoon.

4 THE WITNESS: Good afternoon. My
5 name is not on that initial list. I am on the
6 second tier, and we just sort of moved things
7 around a bit.

8 COUNCILWOMAN TASC0: Okay.

9 MR. RAY SWERDLOW: And I trust that
10 I can help Mr. Kenney with some of his
11 questions.

12 Madam Chair and members of the
13 Committee on Public Health and Human Services,
14 thank you for the opportunity to provide
15 testimony on this important topic of the
16 proposed government-mandated smoking ban in
17 the City of Philadelphia.

18 My name is Ray Swerdlow, and --

19 COUNCILWOMAN TASC0: Please. Would
20 you identify yourself. Oh, you are getting
21 ready to do that right now.

22 MR. SWERDLOW: I wanted to say hi
23 first. My name is Ray Swerdlow, and I
24 represent the Philadelphia Delaware Valley
25 Chapter of the Pennsylvania Restaurant

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2 Association.

3 We speak for our statewide
4 membership of nearly 30,000 restaurants, food
5 service and beverage establishments all across
6 the Commonwealth.

7 Our members represent individuals
8 and organizations operating both large and
9 small independent, multiple-unit chain and
10 franchise food and beverage establishments.

11 This committee, I am sure, is fully
12 aware of the economic impact of the
13 restaurant, food service, and beverage
14 industry in our city and the Commonwealth.
15 And I would like to take a moment, however, to
16 share with you for the record the impact of
17 our industry in Pennsylvania.

18 Our eating and drinking places sales
19 are expected to exceed \$14.4 billion this
20 year. We directly employ approximately
21 484,700 individuals and represent the largest
22 retail employer and the second largest private
23 sector employer in the Commonwealth.

24 One out of every four retail outlets
25 in Pennsylvania is an eating or drinking

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2 place. Each \$1 million in sales at eating and
3 drinking places provide for 36.5 jobs.

4 Restaurants serve more than meals.
5 Nine out of ten restaurants in Pennsylvania
6 are involved in charitable, philanthropic, and
7 fundraising activities in the local
8 communities. And our business owners, their
9 families, and their employees are your voting
10 constituents.

11 As a member of this committee can
12 see, our restaurant industry contributes
13 significantly to the economic viability of our
14 city and the Commonwealth.

15 It is also a highly competitive
16 industry that operates on a narrow average
17 profit margin of about 5 percent.

18 Because restaurants already operate
19 on such slim margins, proposed government
20 mandates that affect their ability to meet the
21 demands of their customers in the marketplace
22 cause grave concern about the future success
23 and viability of businesses.

24 Also of concern to many liquor
25 licensees in our city is Act 39. This

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2 legislation affects each and every takeout
3 beer and restaurant licensee, and creates \$600
4 in additional fees to allow takeout beer sales
5 on Sunday, as well as many onerous penalties
6 which no other licensee in the Commonwealth is
7 subjected.

8 These affected licensees contribute
9 sales tax to the city and Commonwealth,
10 Business Privilege Tax, and a tax of 10
11 percent for liquor and beer sales over the bar
12 and takeout beer that goes directly to the
13 School District of Philadelphia, in addition
14 to other taxes and fees large and small.

15 The Pennsylvania Restaurant
16 Association supports the existing provisions
17 of the Commonwealth's Clean Indoor Air Act.
18 And, under the act, restaurants are able to go
19 smoke free and, more importantly, they have
20 the ability to accommodate the demands of
21 their respective customers.

22 We believe that the marketplace is
23 currently responding to these customer
24 demands, as it should.

25 Effective January 2006, the Westin

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2 Hotel and Resorts became the first hotel chain
3 to go 100 percent smoke free, including all
4 guest rooms and public areas. And this policy
5 is as a result of their customer data and the
6 desire for guests for a healthy smoke-free
7 environment.

8 The Red Robin Restaurants a,
9 Pennsylvania chain of restaurants, went smoke
10 free this year because the majority of its
11 patrons prefer nonsmoking environment.

12 Their stated policy is to provide a
13 healthy environment for their staff and guests
14 and create a more family-friendly
15 establishment.

16 Restaurants and taverns stay in
17 business by offering their customers the
18 choices they are seeking. In more and more
19 cases where the majority of an establishments
20 customers desire a smoke-free environment,
21 that establishment will ban smoking on their
22 own, and it will prosper.

23 Many of our association members are
24 doing so successfully today. In other cases,
25 where an establishment must cater to a

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2 majority of smoking customers, that business
3 is currently able to offer both smoking and
4 nonsmoking sections, meeting the demands of
5 its customers, and should not be required to
6 ban smoking completely under a
7 one-size-fits-all government mandate.

8 PRA has concerns about the
9 uncertainty over the ability of local
10 governments to enact their own smoking ban.

11 The issue uppermost in the minds of
12 local and state legislators in the seemingly
13 ever-changing issue of zoning control of the
14 two gaming ventures in Philadelphia.

15 The State of New Jersey will be tied
16 up in court because they chose to exempt their
17 casinos from the statewide smoking ban.

18 This has become an issue because the
19 state's claim that their ban is a public
20 health issue rings hollow to the tavern,
21 restaurant, and bowling interests, who have
22 predictably brought suit against the state,
23 feeling that exempting casinos is nothing more
24 than pandering to the gaming industry at the
25 expense of others.

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2 Bingo halls, bowling lanes, taverns
3 and restaurants are patronized by a large
4 percentage of people who choose to smoke.

5 Should New Jersey implement a
6 complete smoking ban, and all surrounding
7 states also go smoke free, then we would all
8 have a level playing field for our businesses.

9 We believe that state preemption on
10 this issue is important. Senator Stewart
11 Greenleaf introduced Senate Bill 602 sent to
12 the Senate Public Health and Welfare
13 Committee, and Representative Sue Cornell
14 introduced House Bill 1489 sent to the House
15 Health and Human Service Committee.

16 We have learned from our states that
17 a local patchwork of different and confusing
18 ordinances has created serious problems for
19 local governments, businesses, and the public.

20 The Pennsylvania Restaurant
21 Association is most concerned about any
22 exemptions to smoking ban bills that are being
23 considered in the House and Senate and also
24 the local ordinance that is being considered
25 in Philadelphia.

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2 Any exemptions to proposed smoking
3 bans would be unfair to businesses, their
4 employees, and their customers.

5 And I thank the Chairman and members
6 on the Committee of Public Health and Human
7 Services to be able to provide testimony and
8 share our thoughts and concerns on the
9 important topic of smoking bans.

10 We appreciate your requesting our
11 participation in a process that allows all
12 stakeholders to work together, crafting
13 changes that will benefit the smokers and
14 nonsmokers in our Commonwealth.

15 We encourage the committee to call
16 upon us again as a resource for this and other
17 topics of interest to the committee and
18 restaurant, food service, and beverage
19 industry. And thank you, once again.

20 COUNCILWOMAN TASC0: Thank you very
21 much.

22 (Applause.)

23 COUNCILWOMAN TASC0: Next.

24 THE WITNESS: I just wanted to
25 acknowledge Prince Gilliard. He is not

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2 speaking today, although he serves as
3 President of the Hospitality Alliance here in
4 Philadelphia.

5 COUNCILWOMAN TASCO: And you are?

6 MR. GARTH WELDON: I am Garth
7 Weldon. I operate a business here in
8 Philadelphia, a steakhouse.

9 But I also serve on the Board of the
10 State Restaurant Association in Harrisburg.
11 And I would like to just quote something on
12 their stand.

13 The Pennsylvania Restaurant
14 Association and its Philadelphia-based
15 chapter, the Philadelphia Delaware Valley
16 Restaurant Association, strongly opposed any
17 attempt to ban smoking in restaurants or any
18 other food and beverage establishment in the
19 City of Philadelphia.

20 Hospitality businesses are in the
21 business of serving our customers, some of
22 whom smoke and some of whom do not. We stay
23 in business by giving our customers the
24 choices that they want.

25 The Pennsylvania Restaurant

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2 Association supports Pennsylvania's existing
3 Clean Indoor Air Act, which requires
4 establishments with 75 seats or more to offer
5 a nonsmoking section.

6 Under the current act, only cities
7 of first-class, that is, only Philadelphia,
8 may enact further restrictions on smoking.

9 The PRA believes this a
10 Philadelphia-only smoking ban would be
11 especially burdensome to the hospitality
12 industry in the city, since customers will be
13 able to smoke in establishments close by.

14 City establishments are already
15 burdened with a 10 percent city drink tax.

16 The association sees no further need
17 to restrict the social behavior of its
18 members' customers.

19 I would like to talk a little bit
20 about my personal experience with this issue.
21 I have been before you on other occasions. I
22 think in about 2000, since the Year 2000, and
23 I appreciate you hearing me again.

24 At that time I think I recommended
25 the same model as the -- I heard some people

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2 talk about the disability requirements. ADA
3 was put into effect in businesses all across
4 America.

5 But what did they do? Did they say
6 that immediately overnight you had to make
7 your business conform? No. They said, as you
8 remodel, as you open a new license, you have
9 to meet these requirements for railings, for
10 refitting, for that, and this.

11 And that's the way -- the model I
12 think should have been on nonsmoking. If we
13 had required all licensees back in 2000 to be
14 nonsmoking, you would have almost half your
15 establishments, as the licenses have turned by
16 now, smoke free.

17 People that have made that
18 investment going in willingly, eyes open,
19 knowing what they are getting into.

20 But as it is now, the kind of
21 investments we have made at the Prime Rib, to
22 make our people comfortable and accommodate,
23 these are not being considered.

24 For almost 30 years in the business
25 I have seen the smoking section shrink and

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2 shrink and shrink to just, basically, the bar
3 area. And that's okay.

4 It has happened not due to
5 government regulation, but because we
6 responded to our customers' desires in a free
7 market.

8 The Prime Rib restaurants in
9 Washington, Baltimore, and Philadelphia today
10 all offer just the bar area as an outlet for
11 our patrons who smoke.

12 Revenue from the bar, by the way,
13 contributes much more to the bottom line than
14 revenue from the dining room.

15 This smoking at the bar does not
16 bring complaints from our nonsmoking customers
17 or staff members. My customers and employees
18 are not hesitant to complain about anything.
19 I hear about the potato's not warm.

20 So what we did, we invested over
21 \$10,000 to put some machines that filtered the
22 air around the bar. And I have three or four
23 hundred people on a Saturday night that never
24 say a word about the smoking at the bar. It
25 is because they are not even aware of it.

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2 AS a matter of fact, the Mayor,
3 after the last hearing, came over for a tour
4 and walked through the restaurant. Guy
5 smoking at the bar. We asked him, "Can you
6 smell that smoke as you are going through the
7 dining room?" No, you can't smell it.

8 That's what the hospitality business
9 is at its best, by making people comfortable.

10 The City Council of Philadelphia has
11 been in deadlock for several years. It has
12 failed to reach consensus, I believe, because
13 the proponents do not seek consensus.

14 They want to impose an extreme
15 one-size-fits-all-ban on every single bar and
16 restaurant, regardless of the business segment
17 it occupies.

18 For our particular market niche, the
19 classic steakhouse, an after-dinner cigar at
20 the bar is an anticipated and enjoyable part
21 of the experience for many, many patrons.

22 I would be happy to lose the
23 cigarettes. They are the ones that have all
24 the chemicals, all that additives and
25 everything. The cigar is a natural product,

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2 natural leaf, and that's what I would hate to
3 lose. I wouldn't care if they banned
4 cigarettes.

5 But I support the idea of tax
6 credits for smoke-free establishments and
7 increase fees for smoking-choice businesses.

8 All restaurants and bars should also
9 be required to post smoking prohibited or
10 smoking permitted signs out front so the
11 consenting adults, who choose to occupy the
12 same space as a legal substance, tobacco, will
13 do so with free will and awareness.

14 I oppose the extreme measure of a
15 total ban because it tells my customers they
16 cannot have dinner in my 100 percent
17 nonsmoking dining room, with a separate air
18 filtration, it gets a separate feed of air
19 completely -- and I am a hundred percent
20 outside air, so there is no mixing of air --
21 that they can't come and have dinner in that
22 dining room, and then retire to the bar for an
23 after-dinner drink, cigarette, or, God forbid,
24 a cigar.

25 My bartenders tell me that many

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2 nights they make half their income in that
3 hour or hour and a half period after dinner

4 We listen closely to our customers
5 at the Prime Rib. And those that live across
6 the city line in Virginia, Maryland, and
7 suburban Pennsylvania have told us they would
8 rather not drive into the city, if it means
9 they cannot have a smoke at the bar.

10 Proponents of a total ban tell us
11 that there are people out there ready to
12 replace our smoking customers. Perhaps people
13 who haven't dined with us, because we permit
14 smoking at the bar.

15 But I hesitate to meet my payroll
16 obligations by hoping for a phantom populous
17 that may be hiding behind the curtains at
18 home.

19 There is a longstanding philosophy
20 in my business which believes it is better to
21 hold on to one regular customer than somehow
22 find ten new ones.

23 How many businesses in any industry
24 can do without 5, 10, 15 percent of their
25 clientele? That can make the difference

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2 between staying in business or going out of
3 business.

4 And I guess in that note, we are
5 getting back to the mystery of this morning,
6 that Councilman Kenney alluded to.

7 Because, you know, I said I thought
8 the same thing. If half of what we heard was
9 true, why wouldn't all businesses just
10 completely do it?

11 And the reason is, the secret is,
12 some of our customers smoke, and those tend to
13 be the ones that spend.

14 So I could have helped out the
15 fellow from the Council on his demographics,
16 25 percent, 75 percent.

17 If you have got 25 percent in there
18 all night spending, versus 75 percent stop in
19 and go, I mean, these are the ones you don't
20 want to lose. I mean, you want both, but you
21 don't want to lose any. So, I could have
22 helped him out on that.

23 But as far as the Ogontz Grill, I
24 applaud the gentleman for making a decision.
25 He made an investment, and he made a decision.

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2 I think that's the way it should be done.

3 And one last thing I would like to
4 point out. I sat there in Washington during
5 the City Council hearings. As you know, they
6 did vote 11 to 1, although the Mayor refused
7 to sign the legislation, the Mayor who is
8 responsible for the vitality of the
9 hospitality industry in the city. They did
10 vote.

11 Even though I sat there and I
12 listened to the operator of Clyde's restaurant
13 group -- they have nine restaurants, three in
14 Maryland, three in Virginia, three in D.C.

15 He said, "The first one of our
16 places to go smoke free was by a county
17 ordinance, in Columbia, Maryland. Every year
18 our revenues grew and grew and grew until they
19 put the smoking ban, and they dropped. We
20 have never recovered that business. It has
21 never come back to those levels." But maybe
22 that's just an isolated case.

23 Then they had another restaurant in
24 Chevy Chase, Maryland, right across the D.C.
25 border, downstairs bar, three bartenders, very

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2 busy place. I have been there. Three
3 bartenders, busy all the time. They had to
4 put three bartenders on that bar.

5 When they put the Montgomery County
6 smoking ban, and the people were able to still
7 smoke right across the line, they went down to
8 one bartender, and he has got time on his
9 hands.

10 So, I mean, I know I have heard all
11 the other statistics. But I am telling you,
12 certain segments and certain niches, it does
13 have a drastic effect.

14 But, I mean, they heard the same
15 thing, and they said it has no economic
16 impact.

17 The only thing that's odd about
18 this -- and I think this fellow might have
19 slipped -- the D.C. Council member, David
20 Catania, on why he proposed a delayed
21 implementation of the law.

22 One of the reasons -- quote,
23 unquote, One of the reasons I selected the
24 January 2007 deadline for a smoking ban
25 implementation, first and foremost, was to

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2 give employees a chance to make some financial
3 accommodations, either change careers or at
4 least have a good head start on saving some
5 money for themselves. So that, once this is
6 implemented, they can be able to sustain
7 themselves.

8 I think that's really very, very
9 revealing for a fellow that was in support of
10 it.

11 But I thank you for your time. And
12 I have, really, one other question, if this is
13 legislation is going to apply to the casinos
14 that are coming to Philadelphia. I don't know
15 if we have an answer on that.

16 I know it is in the bill. But I
17 remember last time we were here, no one could
18 say that the city regulation would override
19 the state.

20 COUNCILWOMAN TASC0: The city never
21 overrides the state.

22 But we hope that the state is
23 looking at the whole issue of cigarette
24 smoking. It is also looking on statewide ban.
25 So, we don't know what the state will do.

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2 MR. WELDON: And I have gone on the
3 record in the past as saying a statewide ban
4 would be fair.

5 Thank you for your time.

6 (Applause.)

7 COUNCILWOMAN TASC0: Thank you.

8 I am told that the Senate is trying
9 to work out some issue around the casino's
10 position relative to smoking.

11 I will tell you, I don't see any
12 difference in the patronage of Delaware. And
13 I find that the casinos in Atlantic City seem
14 to be empty, but Delaware is jumping.

15 Yes, sir.

16 Councilwoman Brown, let me
17 recognize, she is here. And Councilman
18 Nutter, you have a comment or question?

19 COUNCILMAN NUTTER: I had a
20 question. But if this is a panel, I can wait
21 until the panel is complete.

22 COUNCILWOMAN TASC0: We have one
23 more.

24 COUNCILMAN NUTTER: Thank you.

25 MR. MICHAEL J. McFADDEN: Thank you,

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2 Madam Tasco, Councilpeople. My name is
3 Michael J. McFadden. I am the author of the
4 book Dissecting Anti-Smokers' Brains. I am
5 here to testify against Bill No. 060050, the
6 smoking ban bill.

7 In my five minutes of testimony, I
8 cannot possibly contradict everything that you
9 have heard from the other side on the health
10 issues, but I hope I can at least make you
11 think a little bit about what you have heard.

12 There is an awful lot that you have
13 heard that is not quite true, is not quite how
14 it sounds.

15 There has never yet been a single
16 scientific study showing that the low levels
17 of exposure to secondary smoke that would
18 normally be encountered in any decently
19 ventilated modern bar or restaurant has ever
20 killed anyone.

21 You have been told that workers will
22 be protected from heart attacks by a smoking
23 ban. You haven't been told that two of the
24 largest and most recent studies in that area
25 clearly show no such effect.

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2 One of the studies that we cited
3 today was Helena. If we said that the heart
4 attacks bounced back after their ban ended,
5 that is false.

6 If you go to the online British
7 medical journal, read the responses. You will
8 see clearly that the heart attack rate in
9 Helena bounced back up to normal during the
10 course of their smoking bans, not afterward.

11 You have been told that air
12 pollution levels in bars that ban smoking go
13 down by 80 percent. What they haven't told
14 you is what they really measured was cigarette
15 smoke in the air.

16 They spent \$50,000 to do a study.
17 And they found that, if you ban smoking in a
18 bar, there is less smoke in the air.

19 They have told you several different
20 times today that there are 69 known
21 carcinogens in tobacco smoke. That is simply
22 wrong. Go to the International Agency For
23 Research on Cancer, IARC. Look at their
24 figures on elements that they consider
25 carcinogenic. Go to the Surgeon General's

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2 reports.

3 You will find that there are between
4 6 and 10 elements in tobacco smoke that are
5 known human carcinogens, not 69.

6 You have been told that bartenders
7 are healthier after a smoking ban. You were
8 not told that the studies that have looked at
9 this generally don't separate the smoking
10 bartenders from the nonsmoking bartenders.
11 Or, if they do separate them, that it is
12 largely the smoking bartenders whose health
13 improved because they don't smoke as much.

14 They have told you that the smoking
15 ban is needed to protect the pink, pure lungs
16 of children, and then they try to ban smoking
17 in the strip clubs.

18 If you have got little kids getting
19 lap dances and down at Delilah's Den after
20 school, you have got a lot more problems than
21 smoking.

22 They have told you lots of things,
23 but very little of what they have told you is
24 really completely true, once you look at it
25 closely.

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2 It is kind of like, if I was a
3 fast-talking lawyer, and I'm running for
4 Governor, and I'm sitting here speaking to a
5 big crowd of people. And I say, I believe
6 firmly in giving to organized charity and in
7 giving to the homeless on the street
8 regularly. And everybody stands up and
9 applauds me.

10 And then I get up and I walk out and
11 I see a Salvation Army bucket, and I reach in
12 my pocket and you pull out a penny and I throw
13 it in the bucket. I see a homeless guy on a
14 vent, and I take out another penny and I throw
15 it at him.

16 Well, I told the truth. I give
17 regularly to organized charity and to the
18 homeless. But I wasn't really telling the
19 truth; I was lying through my teeth. That's
20 not giving. And that's a lot of what goes on
21 with these studies and what you hear.

22 Things are distorted, things are
23 exaggerated, things are skimmed over. Even
24 things like the 69 carcinogens.

25 People who said that today are

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2 people who should know better, the heads of
3 the American Lung Association and the American
4 Heart Association, yet they have basically
5 told you false facts.

6 You might ask me, why would they lie
7 about this stuff? The answer is very clear
8 and very simple.

9 These people believe that smoking
10 bans will reduce smoking, and they feel that
11 that goal is important enough that it is worth
12 lying a little bit long the way.

13 I disagree. Your vote on this
14 smoking ban should be based on truth, not on
15 lies.

16 Council, my time is limited. I ask
17 that you go to my website, www.anti-brains.com
18 and read what is there and the pages link from
19 it.

20 Go to the British Medical Journal,
21 read the Helena study, read the responses to
22 it. See if it matches up with what you have
23 been told. Don't go by the reports you hear,
24 go and look at the studies themselves.

25 I want to close by saying that this

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2 ban will hurt real people with real lives and
3 real businesses.

4 It will not protect workers from bad
5 air; it will simply remove smoke from that
6 air. It will cause social disruption to the
7 city, as crowds hang around outside bars, and
8 it will drive wedges and divisions between
9 people who should be friends.

10 This ban is not about protecting
11 workers, it is about pressuring smokers to
12 quit smoking. That is Communist-style social
13 engineering, and it is simply wrong. It does
14 not belong in America, and it certainly
15 doesn't belong here in Philadelphia.

16 I will be happy to take any
17 questions you may have.

18 COUNCILWOMAN TASC0: Thank you very
19 much.

20 (Applause.)

21 COUNCILWOMAN TASC0: Thank you all
22 for coming. Mr. Weldon, I want to go back to
23 you for a minute, because your last comment
24 was that you would welcome a statewide ban.
25 But you talked about the loss of customers

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2 because they can't come and stay in your
3 restaurant at the bar, if there is no smoking.
4 And are you saying that these people
5 would go outside of the city so they could
6 smoke? Because the statewide ban would have
7 the same impact, they couldn't smoke.
8 MR. WELDON: A statewide ban would
9 level the playing field in Pennsylvania, as it
10 has in other states.
11 COUNCILWOMAN TASC0: Philadelphia is
12 known for all of its wonderful restaurants,
13 including yours. And they go there for food
14 and socialization.
15 And, so, if there is a statewide
16 ban, and these people can't get -- can't
17 smoke, they are not going to come, and you are
18 still going to have a revenue loss.
19 MR. WELDON: If there is a statewide
20 ban, we will be facing the same market that my
21 competition faces right across the city line.
22 COUNCILWOMAN TASC0: Who is your
23 competition?
24 MR. WELDON: Well, any restaurant
25 along City Line Avenue.

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2 COUNCILWOMAN TASC0: Not too many of
3 them. Most of them are downtown. And we love
4 the restaurants in the Delaware Valley,
5 period. We appreciate the business in
6 Pennsylvania. But we know the better
7 restaurants are in Philadelphia.

8 MR. WELDON: But I guarantee you the
9 air inside my bar is cleaner than standing out
10 in any of these office building the fellow
11 complained about. Because they are out there,
12 and you have to run that gauntlet.

13 And that's what this law would do,
14 it would make another gauntlet even bigger to
15 run through without filtration.

16 And I put the kind of machines in
17 that do the job, and simply no complaints. If
18 there were complaints, we would change it.

19 COUNCILWOMAN TASC0: Thank you.

20 Councilman Nutter.

21 COUNCILMAN NUTTER: Thank you, Madam
22 Chair.

23 And just as a start, I want to thank
24 you for your leadership and your commitment on
25 this very important public health issue, and

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2 my colleagues who are presently at the table,
3 Councilwoman Brown and Councilman Ramos,
4 strong supporters on the right issue.

5 Good afternoon, Mr. Weldon. Just a
6 couple items. You are absolutely correct that
7 we have been down this road a couple of times.
8 You and I have talked both publicly and
9 privately.

10 You know that I respect your opinion
11 as an individual and as a businessperson. You
12 run a fine establishment, and I have been
13 there on a number of occasions.

14 The only issue that I will take with
15 any of your testimony, beyond the fact that we
16 generally don't agree on the issue, is, I took
17 down a note -- I don't have a copy of your
18 testimony -- but I think I got it pretty
19 close, you made reference to the proponents of
20 the clean indoor air, paraphrasing, you said
21 were not interested in compromise.

22 I have to take great issue with that
23 because, I mean, it has taken longer to have
24 this conversation about smoke-free air in
25 Philadelphia than it took to design and sign

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2 the Declaration of Independence or the
3 Constitution of the United States of America.

4 We have been having this discussion --

5 MR. WELDON: Which took place in
6 those smoke-filled taverns.

7 COUNCILMAN NUTTER: Yes, but they
8 still figured out their business.

9 MR. WELDON: I grant you that,
10 Councilman. You are right, that we have tried
11 several compromises and approaches on both
12 sides, and it seems like we are still at the
13 impasse.

14 COUNCILMAN NUTTER: So, one, that's
15 why I take issue with that.

16 Second, you may recall Bill 00314AAA

17 COUNCILWOMAN TASCO: A.

18 COUNCILMAN NUTTER: Right. Now,
19 this is not because it was such a great bill
20 that it has all those A's behind it.

21 It has the A's because in two
22 separate hearings there were amendments made
23 in an effort to compromise in committee. The
24 A's come as a result of subsequent amendments
25 made on the floor of this City Council in a

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2 regular Council session. Every time you amend
3 a bill in Council, we put an A next to it.

4 So that bill had six different sets
5 of amendments in what someone would refer to
6 I'm sure as a Kabuki process, where you
7 negotiate against yourself.

8 Because the reality is, the
9 opponents never compromised on anything, ever.
10 And we kept moving, and they stayed in the
11 same place. And that's fine. It was a great
12 lesson, it was a great exercise, and I learned
13 a great deal. That went nowhere.

14 Last year, Bill 050063A, which is a
15 version of the bill that's in front of us
16 today. In another effort to compromise, with
17 a number of colleagues here who wanted
18 additional provisions, that bill was amended
19 on the floor. Went nowhere because, once
20 again, we were compromising with ourselves.

21 The industry has put up every
22 possible roadblock, everything that you have
23 mentioned, tax credits, carve-outs, separate
24 rooms. We had more amendments and more
25 efforts at compromise in the first bill than

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2 any bill in the United States of America.

3 And we come back to this
4 conversation. And now, six years later,
5 people want to engage in a conversation about
6 all of the wonderful components about a bill
7 from six years ago, that no one in the
8 industry was supporting.

9 So I do take great issue with the
10 notion that somehow the proponents have not
11 been willing to compromise.

12 The proponents have been the only
13 people willing to compromise, for which we got
14 zero. That has been the sum total of all of
15 the compromise efforts.

16 So I do take great issue, because I
17 spent a lot of time and my colleagues have
18 spent a lot of time. Six years is too long
19 about anything so important. It really is.
20 So that's the leadership of the Councilwoman.

21 Let me ask you a question. Prime
22 Rib, I don't know the entire corporate
23 structure, it is a chain of restaurants across
24 the country?

25 MR. WELDON: Just three.

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2 COUNCILMAN NUTTER: Where?

3 MR. WELDON: Baltimore, Washington,
4 and Philadelphia.

5 COUNCILMAN NUTTER: Baltimore,
6 Washington, and Philadelphia. Okay.

7 And your testimony ultimately lays
8 out that not only do you have, of course,
9 because of the investment that you made on
10 your own to provide separate environment and
11 clean air and coming in from the outside, et
12 cetera, et cetera, but ultimately it seems the
13 discussion comes down to the issue of spending
14 and money.

15 Is that what this is fundamentally
16 about?

17 MR. WELDON: Well, you know, going
18 back to your other point about the compromise.
19 I have always advocated that they leave one
20 outlet at the bar, and I just don't see that
21 in this legislation anymore. That has been my
22 position all along.

23 COUNCILMAN NUTTER: You are of the
24 understanding that you are in a quite unique
25 situation. Everyone can't have a

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2 Prime-Rib-like existence. You understand
3 that?

4 MR. WELDON: I am aware that my
5 place is probably more comfortable to the
6 nonsmokers than many other places, that's why
7 I don't get complaints.

8 COUNCILMAN NUTTER: Right. I
9 understand.

10 But you do comply with all the other
11 public health regulations that everyone else
12 has to comply with; right?

13 MR. WELDON: Absolutely.

14 And I even went to the maker of this
15 machinery and got them to reduce their price
16 to 2,000 from 3,400 as a way of encouraging
17 bars to put this in.

18 So I have been trying to reach
19 compromise, and I have been trying to make an
20 accommodation.

21 What I should have said earlier was,
22 we haven't been able to get there. We haven't
23 been able to get to an agreement.

24 COUNCILMAN NUTTER: Last question.

25 What do you think the impact of Washington

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2 legislation will be on the Prime Rib in
3 Washington D.C.?

4 MR. WELDON: Well, I sit there and I
5 see them having their cigars all afternoon.
6 We will just have to see what happens.

7 And that is a good test case,
8 because it is the only one that's going to be
9 affected.

10 COUNCILMAN NUTTER: Last question.

11 MR. WELDON: But, of course,
12 Virginia turned it down and Maryland turned it
13 down three weeks ago, as far as the state.

14 COUNCILMAN NUTTER: How do you
15 explain the lack of the collapse of the
16 restaurant and bar industry in New York City?

17 MR. WELDON: Well, I think, number
18 one, the baseline for that was 2001, which was
19 the worst year when they are comparing. But,
20 also, they have got every establishment in
21 there, from a Wawa, to a McDonald's. The
22 steakhouses bar business was affected.

23 COUNCILMAN NUTTER: I am talking the
24 regular restaurants.

25 MR. WELDON: That's what we were

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2 talking about earlier.

3 COUNCILMAN NUTTER: 2001 was 2001.

4 I mean, I was in New York, like, earlier this
5 year, I was in Boston, I guess, in '04 for the
6 National Convention.

7 I mean, none of these cities has
8 experienced this calamity that everyone seems
9 to think is possibly going to happen.

10 Why is Philadelphia so uniquely
11 different than New York, Chicago, Boston, Los
12 Angeles, San Francisco?

13 MR. WELDON: Chicago's legislation
14 has a provision for ventilation in your bar.

15 Chicago says, if you can prove to
16 the Public Health Commissioner that your
17 ventilation in the bar is cleaner than the air
18 outside of your bar, then you are allowed to
19 have smoking at your bar.

20 COUNCILMAN NUTTER: That's going to
21 be a fairly high test. Chicago just went in
22 December. The other cities have been around
23 for a while.

24 Why has it been able to work
25 everywhere else, and not here? How is that

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2 possible?

3 MR. WELDON: I'm not saying it can't
4 work here. I am saying, I wish we had the
5 provisions to allow a little outlet somewhere
6 that wouldn't affect the other customers, like
7 I have, and allow me to get that smoking
8 customer into the place and off to the side so
9 they are not bothering anybody.

10 COUNCILMAN NUTTER: Because you
11 really believe that that smoking customer is
12 not coming to the Prime Rib, one of the
13 premiere restaurants in Philadelphia? You are
14 convinced of that?

15 MR. WELDON: No. We are going to
16 find out. We are going to find out together.

17 COUNCILMAN NUTTER: Let me just ask,
18 any of your customers ever fly on an airplane?
19 Do you think any of them come from out of
20 town?

21 MR. WELDON: Certainly.

22 COUNCILMAN NUTTER: What do they do?
23 Your customer comes from Chicago to Philly or
24 from wherever they come from, you can't smoke
25 on an airplane.

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2 MR. WELDON: I have always said all
3 along, I don't care about the cigarettes.
4 Anybody can stop smoking cigarettes for a
5 couple of hours.

6 Just, I like to include that cigar
7 after-dinner experience at the bar. That
8 doesn't affect the other patrons.

9 COUNCILMAN NUTTER: I got you.
10 Thank you.

11 MR. WELDON: Anybody can give up a
12 cigarette.

13 COUNCILWOMAN TASC0: You can smell
14 that cigar smoke a mile away. It's terrible.

15 Thank you all so much for coming in
16 to testify. We appreciate your testimony and
17 your dialogue. Of course, Councilman Nutter,
18 we do appreciate his efforts to try to come to
19 some compromise with this legislation.

20 And, in the end, we are back where
21 we are. And that's why we started all over
22 again. And I said, if New York is doing it,
23 if New Jersey is doing it, Delaware is doing
24 it, then Philadelphia can do it. And, so,
25 that's why we are here.

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2 Next we have Mr. Towey, Derrick
3 Wanamaker, Daniel Cordero, John Jonik, and
4 Christie Montolleo. Mr. Victor Tsung, are you
5 here?

6 If I missed anyone in this group,
7 this panel. Daniel Bonner, and Allen Barag.
8 Please come forward.

9 Good afternoon. Would you please
10 state your name for the record.

11 MR. JOHN JONIK: My name is John
12 Jonik. I am from Philadelphia. I am a member
13 of the Green party. I have been a long-time
14 healthcare activist. I am an environmentalist
15 going back to Green Peace, Save the Whales in
16 the high school days.

17 And I have been supporting labor
18 issues for quite a long time as an illustrator
19 and a writer, attending demonstrations to
20 protect workers' rights.

21 In light of all this, I oppose this
22 ban on all these different grounds that relate
23 to what we said. It is unfair to workers. It
24 has been unfair to workers ever since
25 government officials decided not to tell

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2 workers what was in the cigarettes, ever since
3 they refused to put labeling on there to tell
4 them about the many pesticide residues that
5 are in cigarettes.

6 Some of them are chlorinated
7 pesticide residues, which create, when it is
8 in manufacturing, chlorinated pesticide
9 residues and chlorine paper bleach create
10 dioxin.

11 We all know about dioxin. If
12 anybody knows about Agent Orange in Vietnam or
13 Times Beach Missouri, which had a huge
14 epidemic of cancers, it is because of
15 dioxin-contaminated products dumped into the
16 streets.

17 A town called Seveso in Italy had
18 the same problem. And, of course, there is
19 always Love Canal, which is pretty famous.
20 These are all dioxin issues.

21 I sat here this morning listening to
22 all the lists of diseases that are supposedly
23 tobacco related or smoking related.

24 Almost every single one of them,
25 except maybe irritation of the throat or eye

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2 irritation, is exactly identical to symptoms
3 of dioxin exposures.

4 There's the high levels of dioxin in
5 typical cigarettes. I have the documentation.
6 I presented it in my testimony, which I passed
7 around. There is enough dioxin in one pack of
8 cigarettes, according to comparing two
9 studies -- you can't find this in the
10 government. You have to go to one science
11 place and put it together yourself.

12 There is enough dioxin in just one
13 pack of cigarettes, 20 cigarettes, to give a
14 person an overdose of 716 times the U.S. low
15 threshold tolerance for dioxin.

16 And, incidentally, it is one of the
17 most famous chemicals in the world and
18 notorious chemicals in the world for having no
19 safe dose. One bit of dioxin can
20 bioaccumulate in your fatty tissues.

21 It is indicted in causing breast
22 cancers, colon cancer, and every type of
23 cancer possible, except maybe melanoma it
24 doesn't cause.

25 So 716 -- now, I am sorry. I am

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2 getting lost. The 716 times over the limit I
3 think represents a kind of a crime against
4 consumers.

5 I think I did mention I was a
6 consumer advocate also looking for safe
7 products. I like safe products. I accept
8 tobacco, people except tobacco.

9 People think they are smoking
10 tobacco because it is called a tobacco
11 industry, because we call it a tobacco bill,
12 we have tobacco smoke, environmental tobacco
13 smoke.

14 Well, you do a little research at
15 the patent office, and you can find out that a
16 typical cigarette could be made entirely out
17 of popped corn, peanut hulls, wood chips, pine
18 cellulose, right down the line.

19 If we are going to talk about
20 tobacco smoke, we need somewhere some evidence
21 that what is being studied is tobacco.

22 The EPA did not mention what they
23 studied. They said, "tobacco." They didn't
24 qualify it for pesticide contamination or
25 chlorine bleach paper wrapping it or adhesives

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2 going down the strip or 12.3 percent sugar as
3 we find in a typical Marlboro, according to
4 the Wall Street Journal.

5 COUNCILWOMAN TASCO: Could you sum
6 up, sir.

7 MR. JONIK: What I am saying is,
8 there are three bricks in this law that seem
9 to make it illegitimate. The language about
10 tobacco is not clarified or qualified.

11 As Mr. McFadden already said, the 69
12 cancer causing things, I went through the list
13 yesterday on just easily Googling, and every
14 single one I found is a product that is not
15 possible to be in tobacco or tobacco smoke.

16 These are industrial chemicals that
17 are used in the fields, get into the
18 cigarettes, into smokers' lungs. And then the
19 studiers come along, the scientists come
20 along, and attempt to blame tobacco for this.

21 The 69 things, most of them are
22 industrial and not tobacco related. And the
23 third thing is, the 4,000 chemicals.

24 I called your office the other day,
25 Friday. Apparently nobody had a copy of these

1 BILL NO. 060050 - 3/27/06

2 4,000 chemicals. I went to Tobacco-Free Kids
3 Site, couldn't find it there.

4 Finally, after Googling, about seven
5 pages down I found two hits for the 4,000
6 chemicals finally.

7 I went down the list. Do you know
8 what I find in there? I find fig juice, plum
9 juice, maple syrup, butter. These are all
10 considered these 4,000 chemicals which have
11 not been listed or noted in any documentation
12 or testimony.

13 And I think until those things are
14 put together and resolved, the bill should
15 maybe be brought back to some other level to
16 be rewritten.

17 COUNCILWOMAN TASC0: Thank you very
18 much. Would you just hold it a moment,
19 please.

20 We have a Council member who has to
21 go to a meeting, won't be able to come back.
22 We want to pass this bill out of committee,
23 and then we will come back into the Public
24 Hearing.

25 (Public Hearing was recessed.

1 PUBLIC MEETING - 3/27/06
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 PUBLIC MEETING
4 of the
5 COMMITTEE ON PUBLIC HEALTH & HUMAN SERVICE
6 - - -
7 Monday, March 27, 2006
8 - - -
9 Public Meeting conducted by the
10 Committee on Public Health & Human Services,
11 held in Room 400, City Hall, Philadelphia,
12 Pennsylvania, on the above date, to consider
13 action on the following:
14 BILL 060050
15 - - -
16 PRESENT:
17 MARIAN B. TASC0, Chair
18 BLONDELL REYNOLDS BROWN
19 JUAN R. RAMOS
20 - - -
21
22
23
24
25

1 PUBLIC MEETING - 3/27/06

2 COUNCILWOMAN TASC0: So we are going
3 to recess the Public Hearing, go into the
4 Public Meeting.

5 And I would like to call on
6 Councilwoman Brown for a motion.

7 COUNCILWOMAN BROWN: Sure. Thank
8 you, Madam Chair.

9 I move that Bill No. 060050 be moved
10 out of committee with a favorable
11 recommendation.

12 (Duly seconded.)

13 COUNCILWOMAN BROWN: I further move
14 that the Rules of Council be suspended so as
15 to permit first reading at our next session of
16 Council.

17 (Duly seconded.)

18 COUNCILWOMAN TASC0: It has been
19 moved and seconded that Bill No. 060050 be
20 reported out of committee with a favorable
21 recommendation, and that a request for the
22 Council's Rules be suspended so this bill can
23 have a first reading on the next session of
24 Council.

25 All in favor will say aye.

1 PUBLIC MEETING - 3/27/06

2 Any opposition?

3 There being none, we will go back
4 into the Public Hearing. Thank you so much,
5 Councilwoman, we appreciate your help and your
6 support.

7 (Public Meeting adjourned.)

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2 COUNCILWOMAN TASC0: Thank you. Now
3 I am here to hear you.

4 COUNCILMAN RAMOS: Madam President,
5 a point of information.

6 The gentleman that was just on, you
7 are opposed to the bill, right?

8 MR. JONIK: Opposed to the bill.

9 COUNCILMAN RAMOS: Because I
10 listened to you. You sounded like a very good
11 environmentalist, but then you started off by
12 saying you are opposed to the bill.

13 So you are definitely opposed to
14 this bill?

15 MR. JONIK: Yes.

16 COUNCILMAN RAMOS: You are one of
17 few environmentalists that I have run into
18 that is against this bill.

19 I appreciate your point of view.
20 Thank you very much.

21 COUNCILWOMAN TASC0: Mr. Tsung.

22 MR. VICTOR TSUNG: My name is Victor
23 Tsung.

24 Personally, of course, I have been
25 listening the well organized, the campaign

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2 from the entire smoking ban. I myself, I
3 never touch cigarettes. I never drink a drop
4 of liquor in all my life. But I do own
5 business in Philadelphia.

6 In this past more than 30 years, I
7 went to two diners and six you call tavern or
8 restaurant with the liquor license. Today I
9 just want to present commonsense.

10 We can't put any idea over etiology
11 to the extreme. Okay? This is my personal
12 opinion. If I use Chinese, I mean four words.
13 It means you push your idea to the extreme,
14 you step into the territory of evil. So let's
15 back up and use our commonsense.

16 With my personal experience, my two
17 diner that I had before, the smoke and
18 nonsmoke issue wouldn't be that severe.

19 But for the tavern that I went
20 through before -- and I got seven of them, and
21 I got only one left. The reason I drop them
22 out is because the harsh environment I keep
23 getting more and more from the City of
24 Philadelphia, until the point I thought I
25 should quit.

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2 Now, today I haven't complete given
3 up yet, because there might be a hope that I
4 could retire on it. So hopefully -- of course
5 I don't prepare like the -- everybody that
6 making the speech here.

7 I just -- I was notified only a
8 couple of days ago that, Victor, can you speak
9 a few words. I said, okay, I just present my
10 personal feeling.

11 My patron so far, I, of course, in
12 many, many years, mostly, mostly, I would say
13 99 percent are smokers.

14 And in reference to my help, in the
15 short time of course I got a couple of mine
16 here, I haven't seen any my help that doesn't
17 smoke or didn't smoke.

18 So I myself, I just want -- you
19 know, use a knowledge on my street to give my
20 honest opinion. We should find a common
21 ground for this matter.

22 If we are human being loss
23 commonsense and bring propaganda up to sudden
24 or huge war that you could sue the media, sue
25 the campaign -- like this morning I listen so

1 BILL NO. 060050 - 3/27/06

2 closely to the well-organize entire smoking
3 ban campaign, I am scared.

4 And I do hope just one gentleman sit
5 in the middle here just about half hour ago,
6 he said, when the playing field level, we'll
7 see what happen.

8 I do pray by then, then my business
9 will be booming, but who knows. But according
10 to my personal experience, plain language, it
11 ain't going to happen that way.

12 Thank you for listening,
13 Councilwoman Marian Tasco. I do appreciate.
14 Actually, I personally know you for a while,
15 through friends and associates that explain to
16 me your position and stuff like this. Thank
17 you.

18 COUNCILWOMAN TASCO: Thank you.
19 Thank you for taking time to come down to
20 testify.

21 (Applause.)

22 COUNCILWOMAN TASCO: Yes, sir. Who
23 is next.

24 MR. JOHN TOWEY: John Towey from
25 Towey's Tavern in Chestnut Hill.

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2 I would like to address -- some of
3 the things that I am going to bring up were
4 brought up by Councilman Kenney. The fact
5 that the local club and VFW, or any kind of
6 club or neighborhood bar, is a little
7 different atmosphere than a restaurant or a
8 Prime Rib or any kind of place that
9 specializes in food.

10 And what I am saying is, they should
11 be treated a little bit differently than a
12 restaurant-type business.

13 And it was brought up the fact that
14 the -- I agree with most of the comments made
15 earlier this morning, about the definite
16 problems that cigarette smoking causes.

17 I don't smoke, I chose not to smoke.
18 That was my decision, not the city's decision.
19 I decided not to spoke smoke. And, like I
20 said, my wife decided to continue to smoke,
21 and that was her decision.

22 It is not the city's right to come
23 in and tell the individual what they have the
24 right to do and not to do.

25 Now, maybe, maybe if this came from

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2 a higher level, like the person from the Prime
3 Rib said, if this comes on a state or national
4 level, where they legislate into existence,
5 where they level the playing field and make
6 everybody equal, then we have a fighting
7 chance.

8 But what happens to me in Chestnut
9 Hill is, there is a section right beside us
10 called Wynnemore. And people will absolutely,
11 if they are addictive smokers, they will go to
12 another place.

13 Only places where they come into a
14 restaurant for an hour or so, they are willing
15 to tolerate the ban on smoking. But if they
16 have to -- if they have to be told that they
17 have to maintain no-smoking ban over the
18 period of time that they stay in my
19 establishment, they are going to rebel and go
20 to another bar.

21 That's going to eliminate the liquor
22 tax that the city has imposed also
23 indiscriminately on Philadelphia bars, not the
24 neighborhood bars.

25 So I am saying that Philadelphia

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2 should back up and wait until what Jersey --
3 what happened in Jersey, that it came down
4 from the state level, and that the playing
5 field is equalized where everybody has to
6 compete under the same field.

7 And that's about all I have to say.
8 Thank you.

9 COUNCILWOMAN TASC0: Thank you very
10 much. We appreciate your testimony.

11 (Applause.)

12 COUNCILWOMAN TASC0: We just want to
13 make it very clear, we are not telling people
14 not to smoke. They have a right to smoke.

15 What we are saying is, you don't
16 have that privilege to smoke in a public
17 place.

18 MR. TOWEY: Not in my bar. You are
19 telling me I can't let people smoke in my bar,
20 and I don't think that's the city's right.

21 COUNCILWOMAN TASC0: Thank you very
22 much. We appreciate your opinion.

23 (Applause.)

24 MR. ALAN BARAG: First, I want to a
25 thank you for allowing me to speak. And I

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2 feel like David against Goliath right here. I
3 have been in the bar business for 39 year --
4 COUNCILWOMAN TASC0: Identify
5 yourself, please.
6 MR. BARAG: My name is Alan Barag.
7 I have been in the bar and restaurant business
8 for 39 years.
9 I have owned restaurants in Center
10 City. I now own a neighborhood bar, which we
11 are using in these meetings constantly over
12 and over again, but there is no such thing as
13 a neighborhood bar.
14 I have the same liquor license as Le
15 Bec-Fin and some of the other steakhouses and
16 the Prime Rib who spoke, but I do under
17 \$300,000 a year business. Some years under
18 200,000, in the neighborhood that I am
19 located.
20 I don't sell steaks for \$39 and
21 drinks for 12 bucks. My customers are poor
22 people, neighborhood people. They come in to
23 enjoy themselves, to watch sports game, to shoot
24 a game of pool, to smoke a cigarette if they
25 smoke, and to -- the small amount of food that

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2 we offer is there for them. They don't bring
3 their families and kids in for dinner. Okay?

4 And I am speaking for that majority
5 of bar owners right now, which make up more
6 than 30 percent in the City of Philadelphia.

7 We are the most taxed business in
8 the Commonwealth, between the city, the state,
9 the 10 percent tax, your \$300 takeout tax the
10 city just imposed on us, and then the
11 Commonwealth of Pennsylvania imposed a takeout
12 tax on us.

13 Now, there are already two things on
14 the City Charter that gives seating places of
15 under 50 a break. One of them is that, we do
16 not need an Occupancy side. The second is
17 that we only need one entrance or exit to our
18 location, even though most bars have two.
19 Okay.

20 My personal opinion of this ban is
21 that, it may not affect where I was lucky
22 enough -- it was my 38th Anniversary last
23 week, and my children gave us a gracious gift
24 to go to Lequa, and it was \$210 for dinner.
25 There are shifts where I don't do \$210 total

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2 business.

3 If you take away my smoking
4 customers, and if you pass the law and allow
5 them to go 20 feet out away from my
6 property -- the neighborhood is up in a roar
7 now about the neighborhood bars throughout the
8 city -- I could imagine how happy they are
9 going to be that my customers are going to
10 walk 20 feet down the street and smoke a
11 cigarette in front of their house and then
12 come back into my bar.

13 So that if there is no exceptions or
14 some exclusions in this bill, it will
15 definitely hurt the neighborhood bar.

16 Now, as far as the airport, why the
17 revenue is up there. I did a little research,
18 even though I don't have the money or the
19 means of other people.

20 The reason the revenue is up in the
21 bars in the airport is because Southwestern
22 Airline has now made Philadelphia its hub, and
23 there is a thousand flights a week more coming
24 into the City of Philadelphia.

25 Now, to compare Philadelphia to New

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2 York City or to Florida or to any other city
3 or state, we are a monopoly state right here.
4 We have to buy our liquor from the state
5 store, and we cannot sell bottles of liquor.

6 You go into New York State and you
7 go into a neighborhood bar, all he has to do
8 is fill out a form and a \$200 license, and he
9 can sell you a bottle of Vodka.

10 So he may lose his smoking customer
11 who would drink a Vodka, but he still could
12 sell them a bottle. Not in this state. We
13 have to buy from the state.

14 Now, the state has did us a favor,
15 too. They opened up two wholesale stores, one
16 in the Franklin Mills and one in Delaware
17 Avenue, where anybody could walk in and --
18 they push large quantities, you have to buy a
19 liter.

20 And just to name offhand, maybe you
21 like to drink a Hennessy Cognac, it is \$8.95
22 cheaper at this state store, only if you go
23 there. So the state itself is pushing alcohol
24 down their customers and the patrons and the
25 inhabitants of this state.

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2 And cigarette smoking is horrible,
3 and secondhand smoke is horrible, but I'm sure
4 alcohol is -- kills more people than secondary
5 smoke. Okay?

6 So, basically, that's all I have.
7 And if there was -- if other members were
8 here, I would be able to answer any questions
9 when you compare one state to another.

10 COUNCILWOMAN TASC0: Thank you very
11 much.

12 (Applause.)

13 COUNCILWOMAN TASC0: Thank you very
14 much. Yes, sir.

15 MR. DANIEL CORDERO: Good morning,
16 Chairwoman, Councilman Ramos, and any other
17 Councilmen that are here that I can't see.
18 Thanks for letting me speak.

19 COUNCILWOMAN TASC0: Would you
20 identify yourself.

21 MR. CORDERO: My name is Dan
22 Cordero. I managed the Last Shot Bar at
23 Richmond and Allegheny.

24 I go down this morning, handing out
25 these letters that are on your desk. I hope

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2 you take time to read them. I sent letters
3 two years ago to every member of Council, to
4 Mayor John Street all about this smoking ban.
5 I received two responses; one from Councilman
6 Rizzo, one from Councilman Clarke. No one
7 else deemed it necessary to respond because
8 they don't care. Just a little bar up in Port
9 Richmond.

10 So this morning I was appalled by
11 quite a few things while I was up there, and I
12 am very upset about them. One was how we are
13 trying to make this smoking ban racial. Not
14 supposed to be a divided city, but we are
15 making this thing racial.

16 The blacks in the industry, the
17 Hispanics in the industry, no one mentioned me
18 standing at the bar. No one mentioned the
19 white people in this thing. But I don't want
20 to continue that on a racial basis. But that
21 was brought up in here, and it shouldn't be.
22 That shouldn't be allowed.

23 Number two, not defending anyone, I
24 was hoping Councilman Nutter would walk back
25 in the room, because I don't want to talk

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2 behind his back. But he has been here
3 approximately 30 minutes; and the only time he
4 was listening, when he was talking.

5 Other than that he has been talking
6 to different Councilpeople over here, he has
7 left the room, he is not here. He only
8 listens when is talking, and that is not
9 right, either.

10 If we are going to have a meeting,
11 we shouldn't be here now sitting here at the
12 end of the day with just a couple of us still
13 here.

14 If we are going to have a meeting
15 with Council over something this important,
16 they should all be here. There was reasons
17 this morning, a funeral, this here, a meeting,
18 whatever. They should be here now.

19 When they are here, they shouldn't
20 get up and walk out of the room unless they
21 are talking. That's number two. I get upset
22 I start to lose my train of thought.

23 Oh, I wrote letters to the Police
24 Commissioner regarding what this gentleman
25 here just said, 20 feet from my door. I also

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2 wrote the same letter to every district
3 commander in the city, without response.

4 If you pass this bill, not only can
5 they not smoke in my bar, they can't smoke
6 within 20 feet of either of my doors. All
7 right?

8 There is a pizza store on the
9 corner, a Chinese restaurant, they are under
10 the smoking ban. They can't go down there and
11 smoke. There is a empty building across the
12 street that possibly they can, but it is
13 within 20 feet, that steps within 20 feet of
14 my door.

15 This puts these people at up to and
16 including 2 o'clock in the morning on my
17 neighbor's step smoking. Now, it is not
18 marijuana, so it is not illegal. So they are
19 not going to sit there quietly and smoke, they
20 are going to sit there and smoke, maybe five
21 ten of them at a time, as they walk out of the
22 bar. When they get done, they are throwing
23 cigarette butts on the pavement.

24 These people being on the phone call
25 911, get down here and disperse these people

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2 off the pavement.

3 Where is the money and resources
4 coming from to get the policemen out there at
5 2 o'clock in the morning, when they should be
6 fighting other things in the city that are
7 wrong?

8 We can't stop marijuana. We can't
9 stop the guns. Can't stop any of the drugs.
10 But we can stop these damn cigarettes, because
11 the fine will go to the tavern owner.

12 If you want me to police my street,
13 you want me to police my pavement, you want me
14 to enforce this law in my bar, then I think I
15 should be put on the payroll of the city.

16 I should receive a check every
17 month, just as you do, to enforce these laws,
18 because you aren't coming out there enforcing
19 them.

20 I asked you before when I wrote you
21 before, please stop in the neighborhood bar
22 and see what a neighborhood bar is.

23 95 percent of my people smoke. And
24 the 5 percent that complain, I invite them to
25 leave.

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2 And as I told one gentleman, if you
3 will come in here and spend \$2,000 a week in
4 this bar, you and I will sit here alone so you
5 don't have to bother with the smoke.

6 So either come in because you enjoy
7 the people here, because they smoke, or stay
8 out of the bar. That's your choice.

9 And as I said in this letter, we
10 have been fighting wars all these years over
11 the right to have the freedoms that we have.
12 Don't start taking our freedoms off of us.

13 All these other states and all these
14 other cities that are doing this are in
15 violation of our Constitution, of the freedoms
16 that we have.

17 Let's petition Congress. Let's make
18 them outlaw tobacco, make it illegal. Right?
19 We will all make money running tobacco from
20 Florida and Canada to subsidize the losses
21 that we are going to take.

22 So I am asking you now to -- I
23 oppose this bill. I ask you not to vote on
24 it.

25 You had opportunities over the last

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2 few years to vote this bill in. When you seen
3 that you didn't have enough members to pass
4 it, you tabled it.

5 To my knowledge, if you take a vote
6 on this bill, and it loses, you can't bring
7 this bill up again for another five years.

8 So if you are going to bring this up
9 to the table, bring it up, vote on it when you
10 have your 17 members. If you win, you win.
11 All right?

12 Then I want to be reimbursed for
13 enforcing your law in my neighborhood. But
14 other than that, do away with it, do away with
15 the bill.

16 And before I get even more upset,
17 thank you very much for your time.

18 COUNCILWOMAN TASC0: Thank you very
19 much. You don't have to.

20 (Applause.)

21 COUNCILWOMAN TASC0: I would like to
22 respond to you, sir. I would like to respond
23 to you.

24 I think the issues raised this
25 morning around race in the Power Point was to

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2 show that the high rate of disease caused by
3 smoking and secondhand smoke on those
4 communities, and it didn't mean that we cared
5 any less about any other group.

6 They were trying to demonstrate that
7 these groups have a high incident of disease,
8 heart disease, and cancer, and that the
9 numbers of people in these races work in the
10 public-service industry. So that was what the
11 analysis was, as I saw it.

12 MR. CORDERO: Point taken.

13 COUNCILWOMAN TASC0: A lot of
14 members, when we scheduled these hearings,
15 have other things. It is very difficult to
16 get everybody on the same page on the same
17 day, because they keep their own schedules.

18 But that's why we appreciate those
19 Council members who were here. And they do
20 have other commitments during the day, but
21 they come in.

22 And a lot of them listen on their --
23 we have a box in our office, we hear. We have
24 it on television. So it doesn't mean that
25 they are not interested. And, so, don't think

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2 that. They are interested.

3 MR. CORDERO: Because you called me
4 back, I did have one more point.

5 We sat here for two hours and
6 listened to all these experts testify. They
7 almost read the same letter. Understood
8 whether it is fact or fix, but we sat here for
9 two hours and listened to them.

10 I stopped a couple of them going out
11 the door and asked them, as we sat here and
12 listened to every word they said, when they
13 are done talking, they leave. Why not sit
14 here and listen and see what other people have
15 to say? They don't care.

16 I don't know if they were paid by
17 Council to show up. I only found out Saturday
18 about this meeting. But I do know that they
19 are paid by their people who sent them here.

20 Now, most of us sitting here -- my
21 bar is closed now, waiting for me to get up
22 opening it up. I am losing revenue that I
23 could be generating up there right now. Most
24 of the people behind me are in the same
25 situation.

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2 But the people, the experts who were
3 here testifying, they are all getting paid by
4 somebody, they are on the clock. That's not
5 right, either.

6 COUNCILWOMAN TASC0: Well, we took
7 the participants in order of their calling
8 into the office. So -- and they, too, are on
9 a clock. So they can't -- they are paid by
10 the agency they work for, but they are not
11 paid to stay here all day, either.

12 So we appreciate -- and certainly
13 they have copies of the testimony. There is a
14 public record that they have exposure to and
15 can read, so everything is of a public nature.

16 And we have your testimony. You
17 will have theirs. And sometimes we would hope
18 that they would stay, but people are bound by
19 their own schedules.

20 And we can't make them stay, and we
21 do not pay them to come and testify. This is
22 a public testimony.

23 MR. CORDERO: I will take it to a
24 court hearing. But a court hearing, you have
25 an expert witness and an expert rebuttal. We

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2 have none of that. We had two hours of just
3 people talking their causes, and then they
4 left.

5 COUNCILWOMAN TASC0: We got the
6 opponents at the last minute, too. They did
7 not call.

8 Thank you for your testimony, and
9 your comments are well taken. Thank you very
10 much.

11 We would now like to call on the
12 students, Kids Around Town, and the Wilson
13 Middle School students. Ms. Ann Rappoport,
14 and Ms. Marilyn Krutnick, she the teacher.
15 They are coming to testify.

16 Would you all like to come to the
17 table. We have a nice group here.

18 MS. ANNA SUTTON: Thank you City
19 Council for allowing me to speak. I do not
20 want to die from secondhand smoke.

21 COUNCILWOMAN TASC0: Who are you?

22 MS. SUTTON: I am Anna Sutton.

23 COUNCILWOMAN TASC0: And you are
24 from?

25 MS. SUTTON: Wilson Middle School.

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2 I do not want to die from secondhand
3 smoke. I do not want to die because I eat in
4 Philadelphia restaurants. Secondhand smoke
5 releases toxic chemicals into the environment
6 and the air that I breath. Here is some of
7 them.

8 STUDENT: Benzene.

9 STUDENT: Ammonia.

10 COUNCILWOMAN TASC0: We can't hear
11 you.

12 STUDENT: Arsenic.

13 STUDENT: Butane.

14 MS. SUTTON: I don't want to inhale
15 these chemicals. Do you?

16 If you ban smoking in all public
17 places in Philadelphia, that will help protect
18 me and others. Pass the Indoor Clean Air
19 Ordinance today.

20 COUNCILWOMAN TASC0: Thank you very
21 much. Thank you.

22 (Applause.)

23 COUNCILWOMAN TASC0: Would you like
24 to sit down, or are you going to stand? Speak
25 up.

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2 MS. EMILY BOK: Thank you City
3 Council for letting me speak.

4 COUNCILWOMAN TASC0: What is your
5 name?

6 MS. BOK: Emily Bok.

7 One out of every six deaths in the
8 United States is a result of cigarette smoke.
9 The nicotine in cigarettes is a powerful drug
10 that raises your blood pressure, dulls your
11 senses of smell and taste, reduces your
12 stamina, wrinkles your skin, causes deadly
13 heart attacks, fatal strokes, emphysema, and
14 cancer.

15 I will not allow my health to be
16 further affected by cigarette smoke. Pass the
17 Indoor Clean Air Ordinance now. You have the
18 power to keep us safe. Thank you.

19 (Applause.)

20 COUNCILWOMAN TASC0: Thank you very
21 much.

22 MS. MARGARET BARSKOVIK: Thank you
23 City Council for allowing me to speak. My
24 name is Margaret Barskoviak from Woodrow
25 Wilson Middle School.

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2 Smoking in public places should be
3 made illegal. Smoking is affecting everyone.
4 I refuse to inhale smoke because I choose to
5 eat at a public restaurant.

6 With every pack of signatures in
7 someone's hand, another life is shortened. We
8 need to make public environments safe for
9 everyone. And with the heart and the fight,
10 you can make Philly's public places smoke
11 free. Thank you.

12 COUNCILWOMAN TASC0: Thank you very
13 much.

14 (Applause.)

15 MS. ANNAMARIA LEVICH: Thank you,
16 City Council, for allowing me to speak. My
17 name is AnnaMaria Levich.

18 How would you like it done, fresh or
19 smoked? Please pass the Indoor Clean Air
20 Ordinance today for us. Thank you.

21 (Applause.)

22 COUNCILWOMAN TASC0: Thank you.

23 MS. DEBRA SHAMALESE: Thank you,
24 City Council, for allowing me to speak. My
25 name is Debra Shamalese from Woodrow Wilson

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2 Middle School.

3 Do you care about me? Do you care
4 about us? Do you care about your family? Do
5 you care about your grandchildren?

6 Look at all the diseases secondhand
7 smoke causes.

8 STUDENT: Asthma.

9 STUDENT: Depression.

10 STUDENT: Cancer.

11 STUDENT: Heart disease.

12 STUDENT: Nicotine addiction.

13 MS. SHANESE: And gingivitis.

14 Please let Philly have clean air by passing
15 the Indoor Air Ordinance. We don't want a
16 Filth-adelphia, we want a clean air
17 Philadelphia. Thank you.

18 COUNCILWOMAN TASC0: Thank you.

19 (Applause.)

20 MS. CHANTEL WILSON: My name is
21 Chantel Wilson.

22 MS. SAMANTHA KRAMER: My name is
23 Samantha Kramer.

24 MS. ALTANA MIRTAGE: My name is
25 Altana Mirtage.

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2 MS. ASHANA HINES: My name is Ashana
3 Hines.

4 MS. WILSON: We are from the
5 National Academic League from Wilson Middle
6 School. Thank you for allowing us to speak

7 At our young age, we have been
8 exposed to toxic waste. Smoking does not just
9 affect you, but the people around you

10 In our brief presentation, we will
11 show you the effects of secondhand smoke.

12 MS. MIRTAGE: Secondhand smoke can
13 make asthma worse, causing more frequent and
14 more severe attacks.

15 Adults who are exposed to secondhand
16 smoke as children are twice as likely to
17 develop asthma in the future.

18 Secondhand smoke may cause asthma in
19 children. Secondhand smoke can make allergy
20 symptoms worse.

21 MS. KRAMER: Children and adults who
22 live with smokers have more respiratory
23 infections, including colds, bronchitis, and
24 pneumonia, than those that don't live with
25 smokers.

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2 In the United States, secondhand
3 smoke causes 150,000 to 300,000 cases of
4 bronchitis and pneumonia in infants and young
5 children each year.

6 MS. WILSON: Secondhand smoke makes
7 the heart beat faster and work harder.
8 Secondhand smoke -- if you are exposed to
9 secondhand smoke on a daily basis at work or
10 at home, it doubles the risk of having a heart
11 attack.

12 Each year 37,000 people die from
13 heart disease caused by secondhand smoke.
14 Secondhand smoke contains over 40
15 cancer-causing chemicals. It also causes
16 approximately 3,000 cases of lung cancer each
17 year in nonsmokers.

18 Recent studies have shown that
19 secondhand smoke is linked to the cancer of
20 the pancreas, kidney, bladder, cervix, breast,
21 and bladder.

22 MS. HINES: Smoking is especially
23 dangerous for children. More children die
24 from parents smoking than die from any other
25 unintentional injuries combined.

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2 A baby has twice the risk of sudden
3 infant death syndrome, SIDS, when the mother,
4 father, or any other caregiver smokes.

5 Exposure to secondhand smoke and
6 smoking while pregnant are both linked to
7 miscarriage, low birth weight and stillbirth.
8 Thank you.

9 MS. KRAMER: You have the power to
10 keep our city air clean. Support the Indoor
11 Air Ordinance law today for a clean air
12 tomorrow.

13 COUNCILWOMAN TASCO: Thank you.
14 Thank you very much for your testimony.

15 MS. ANN RAPPOPORT: The chemicals we
16 expose our children to -- and they do become
17 adults in working Philadelphia.

18 STUDENT: Benzene is a chemical.

19 MS. DEANNA FOGERTY: My name is
20 Deanna Fogerty, ammonia.

21 MS. TAYLOR ISAAC: My name is Taylor
22 Taylor Isaac, and I am turpentine.

23 MS. JULIANA SHIELD: Julianna
24 shield, and I am ammonia.

25 MS. JUDY SANG: My name is Judy

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2 Sang, and I am formaldehyde.

3 MS. LAUREN McMENAMIN: My name is
4 Lauren McMEnamin, and I am propylene glycol.

5 MS. CAROL TSOU: My name is Carol
6 Tsou, and I am lead.

7 MS. JASMINE KENT: My name is
8 Jasmine Kent, and I am embalming fluid.

9 MS. RAPPOPORT: Again, some of the
10 diseases that we expose our children to when
11 they work or eat in Philadelphia restaurants.

12 MR. PATRICK HALEY: My name is
13 Patrick Haley, and I am asthma.

14 MS. KORENA GLICK: My name is Korena
15 Glick, and I am blindness.

16 MS. NANCY LEE: My name is Nancy
17 Lee, and I am bronchitis.

18 MS. ALEX McMENAMIN: My name is Alex
19 McMEnamin, and I have arthritis.

20 MS. SHANA GRICK: My name is Shana
21 Grick, and I am depression.

22 MS. CATHERINE NAM: My name is
23 Catherine Nam, mine is oral cancer.

24 MS. FEBBA GERAGESE: My name is Feba
25 Geragese, and I am heart disease.

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2 MS. DIANNA CONSALVE: My name is
3 Dianna Consalve, and I am nicotine depression.

4 MS. DEBRA SHAMALESE: Debra
5 Shamalese, and I am gingivitis.

6 MR. TABO MOCADIA: My name is Tabo
7 Mocadia, and I am heart disease.

8 MR. HANS MUSTAFA: My name is Hans
9 Mustafa, and I am dead brain cells.

10 MS. ANNAMARIA LEVICH: My name is
11 AnnaMarie Livich, and I am pancreas cancer.

12 MS. MARGARET BARSKOVIK: My name is
13 Margaret Barskoviak, and I am mental illness.

14 COUNCILWOMAN TASCIO: We want to
15 thank you so much to Dr. Ann Rappoport, who is
16 the Director for Kids Around Town.

17 These students are from the Woodrow
18 Wilson Middle School, who came today to
19 testify on our bill. They are from six
20 classes and have been studying the issue of
21 smoking this year under a Charter Education
22 Service Learning Grant, awarded through the
23 Philadelphia School District.

24 They are partners in this study with
25 Kids Around Town, a national award-winning

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2 nonpartisan civic education program sponsored
3 by the League of Women Voters of
4 Pennsylvania's Citizen Education Fund.

5 This is a diverse group of young
6 people, as you can see. And we appreciate
7 them taking part in the research and all the
8 efforts in dealing with the issue of smoking.

9 We also want to thank Ms. Rachel
10 Millenbach, who is the Director of the Tobacco
11 Control and Prevention Program, Health
12 Promotion Council, and Councilman Michael
13 Nutter.

14 We thank you students for coming.
15 We appreciate your testimony. And we are glad
16 you are engaged in the whole issue of
17 anti-smoking, but also engaged in civic
18 government, and to understand the importance
19 of government in your lives.

20 And we welcome you here today and
21 hope it has been beneficial. Thank you all
22 very much.

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

25 MR. BRIAN LAWRENCE: Good afternoon

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2 my name is Brian Lawrence. I am a citizen and
3 taxpayer of the City of Philadelphia, not to
4 mention the father of four children who have
5 gone through or are still going through the
6 Philadelphia school system.

7 There is an awful lot to address. I
8 will keep it as concise as possible, because
9 it has been a long day and I know you are all
10 very tired.

11 There is an awful lot of things
12 about today that I find rather disturbing.
13 First of all, the preponderance of hired guns
14 that were brought in here to present points of
15 views from organizations that time and time
16 spewed out the same facts and figures that
17 were limited and distorting.

18 Let's go straight to the issue, the
19 money issue. Okay? Let's go straight to that
20 issue. The simple fact is, that study about
21 the City of New York and the revenues impacted
22 are misleading. Not study, but the facts and
23 figures that are presented.

24 Because it measured it from the time
25 the ban was enacted. Which was after 9/11.

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2 Which, in case somebody missed it here, was
3 the worst economic time in the history of the
4 City of New York for some half a century.

5 So the fact that the food and
6 beverage business rebounded 8 percent by the
7 next year was significantly less than all
8 other businesses in New York rebounded.

9 So in fact, the business level for
10 bar and restaurants was down. Stop trying to
11 mislead us.

12 If you want to say that the health
13 issue is more important than the financial
14 issue, then that's a case you can make.
15 That's a case we can discuss, when we talk
16 priorities.

17 But it is simply patently untrue
18 that New York did not suffer as a result of
19 that.

20 Now, is New York Philadelphia? Is
21 our financial situation the same? No, it is
22 not.

23 I could be mistaken, but having
24 followed Council meetings previously, for
25 instance, concerning the budget that Mayor

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2 Street talked about, we couldn't find the
3 money for additional policemen. Instead, we
4 will have to rely upon overtime to make up the
5 staffing problem we have.

6 Why? Because we don't have enough
7 money in the city.

8 Our school system, how can I say
9 this in the most delicate manner I can? It is
10 not functioning, it is not good, it is not
11 safe.

12 The children are not educated
13 properly, they are not safe. The streets they
14 walk down going to school and coming from
15 school are not safe.

16 Now, I haven't seen any of you come
17 up with answer as to how you are going to
18 solve these problems. You have not made the
19 streets safe, even though all of you have now
20 been on the Council for some time. The
21 streets are not safe and the schools are not
22 good

23 And the only excuse you have to any
24 of these is the fact that you don't have the
25 financial resources to solve them. But, yet,

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2 you can spend an inordinate amount of time on
3 this particular issue, an inordinate amount of
4 resources on this issue, and you are still
5 selling us a good of goods that no one
6 believes. No one believes this is not going
7 to impact us adversely financially. No one
8 believes that

9 And the only thing working in the
10 city right now, the only thing that is
11 bringing us revenue, is the fact that we have
12 resurgence of the bar and restaurant business,
13 which is making it a more interesting city, a
14 more livable city, and people are moving in
15 here and buying places and we are getting
16 money from that. That's all we have.

17 It is very simple. Until you find
18 other sources of revenue to pay for those
19 things, that are more important -- yes,
20 policing is more important, our schools are
21 more important -- until you can find a way to
22 pay for them, you have no right to do what you
23 are doing, no right. It is irresponsible and
24 it is immoral.

25 And I just love all these little

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2 hired guns who come in, Philadelphia has now
3 been added to her area. She is the new
4 representative for Philadelphia. She is going
5 to come in and tell us what's better for our
6 city, because we will be much better off with
7 this ban.

8 Well, excuse me but it sounds like
9 Marie Antoinette telling the people to eat
10 cake instead of bread.

11 She is not the one whose children
12 are going to have to suffer when the school
13 system is resulted, is she. She is not the
14 one who has to walk through the streets of
15 North Philadelphia and be afraid to go to
16 school.

17 You need to address this issue and
18 tell the truth. If you think it is worth us
19 suffering and having less money because it is
20 more important, then say so. Then say, yes,
21 we know it is going to impact us adversely
22 financially, but we think more lives will be
23 saved through the smoking ban than through
24 allowing the streets not to be policed
25 properly. Say it, but tell the truth.

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2 What you have done is dishonest and
3 immoral. Tell the truth. And do you know
4 what, why not be really responsible and have a
5 vote on it? Take it to the City of
6 Philadelphia. Let the citizens decide what
7 they are willing to put up with or not put up
8 with.

9 Or, excuse me, or do you simply know
10 much better than the average adult in
11 Philadelphia what's good and not good? Are
12 the great unwashed masses not able to decide
13 for themselves?

14 I think you need to stop and you
15 need to think and you need to be fair. You
16 need to table this, put this away, and you
17 need to take it to the city and make your
18 case.

19 Make your case and say that we
20 believe this is more important. We know it is
21 going to be tough, but we believe it is better
22 for you, and we want you to vote for this.
23 Have a referendum about it.

24 COUNCILWOMAN TASC0: Thank you very
25 much.

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2 (Applause.)

3 COUNCILWOMAN TASC0: Is there anyone
4 else here to testify on this bill?

5 There being no further testimony,
6 this committee is recessed until the call of
7 the Chair.

8 (Public Hearing adjourned at 2:00
9 p.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the
foregoing proceedings of the Council of the
City of Philadelphia of Monday, March 27,
2006, were reported fully and accurately by
me, and that this is a correct transcript of
same.

RE: COMMITTEE ON PUBLIC HEALTH
AND HUMAN SERVICES

DEBRA A. WHITEHEAD