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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING AND PUBLIC MEETING
BEFORE COUNCIL COMMITTEE ON
PUBLIC HEALTH & PUBLIC SAFETY

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, June 10, 1999
9:33 a.m.

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BILL 990289 - Amending Chapter 10-800 of The
Philadelphia Code entitled "Safety" by adding a
new section providing that any person (including,
but not limited to, any registered or licensed
firearms manufacture or dealer) who transports,
sells, exposes for sale, poses for sale, assigns,
or transfers any firearm shall be liable in
tort. . .

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PRESENT: COUNCILMAN ANGEL L. ORTIZ, Chair
COUNCILMAN DAVID COHEN
COUNCILWOMAN DONNA REED-MILLER
COUNCILMAN JAMES F. KENNEY
COUNCILMAN FRANK DICICCO
COUNCILMAN RICHARD T. MARIANO
COUNCILMAN FRANK RIZZO

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2 P R O C E E D I N G S

3 COUNCILMAN ORTIZ: Good morning. This
4 is the Committee on Public Safety on Bill 990289.
5 I believe that we're having a quorum -- Councilman
6 Kenney, Councilman DiCicco, Councilwoman Miller,
7 Councilman Cohen, and Councilman Rizzo all being
8 present.

9 We can now proceed with Bill No.
10 990289. I believe we have one more person to
11 testify. Is there somebody here to testify so we
12 can close off -- Mr. Morris Klein?

13 (Morris Klein comes forward.)

14 COUNCILMAN ORTIZ: Please identify
15 yourself for the record.

16 MR. KLEIN: Yes. My name is Morris
17 Klein.

18 COUNCILMAN ORTIZ: You may proceed.

19 MR. KLEIN: Okay. Well, I just got a
20 copy of the bill this morning, so I only recently
21 reviewed it, but some issues are still rather
22 ambiguous on this in terms of the language and the
23 exceptions, but it assumes that there can be,
24 within four years, such a thing as a "smart gun"
25 that will work properly. And I see police of

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2 exempted from the carrying of the smart gun, and
3 rightly so, because it's not even a technology
4 that exists and is not really going to exist for
5 quite a number of years due to the difficulties of
6 actually having something that will function
7 reliably in a life-and-death situation.

8 And there are so many problems with the
9 technology. The one manufacturer, Colt, who
10 actually is developing the smart gun using the
11 radio transponder technology where you have to be
12 within a certain short range to be able to have
13 the firearm function does you not preclude the
14 possibility of, say, an armed robber and a
15 struggling police officer taking that gun away
16 from him and shooting the officer with his own at
17 very close range, execution style. Because the
18 radio signal will travel when the gun is placed
19 right against the officer's body. So the smart
20 gun is nothing to prevent officers being killed by
21 their own weapon, which is, I think, one of the
22 reasons to create this feature.

23 And then the idea that you can force
24 unproven technology or even the technology at this
25 point because it really exists into the real

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2 world, we should have learned that this sort of
3 thing, forcing the technology before its time, can
4 be extremely dangerous. When the auto industry
5 pushed the airbags into automobiles, it took about
6 five, six years before they even admitted that the
7 airbags as designed were killing women and
8 children, and numerous women and children had to
9 die before they modified the designs, and they're
10 only doing that now, and they still don't have
11 them in widespread use. So, you know, the
12 potential for a nightmarish situation of people,
13 you know suffering from the unintended results of
14 a technology that does not even exist at this
15 point, I mean the difficulties are myriad.

16 You know, there is a lot of information
17 on the Internet about this, and basically, it just
18 talks about failure after failure to create this
19 smart gun. If you put electronics in the gun, in
20 the rough-and-tumble use that a police officer
21 would give it you, drop the gun, it's been known
22 to fail, and then the officer doesn't have that
23 gun when he needs it.

24 The other problem is that supposing the
25 officer loses control of his gun against an armed

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2 felony, his partner would not be able to use his
3 gun if the technology is that personalized.

4 COUNCILMAN ORTIZ: Well, we understand
5 that the technology is not totally completed.
6 That's why we're giving the implementation period
7 to be four years from today on the passing of this
8 bill. So we understand that there are some
9 technical glitches. The technology is there and
10 needs to be perfected, but we're giving enough
11 time and leeway for that to happen.

12 Do you have anything else to add?

13 MR. KLEIN: Well, actually, you know,
14 they're using the biometrics to allow students
15 into their dorms at the University of Penn, and
16 this is not shrunk into size of a firearm grip,
17 and that fails and life and death is not involved.

18 COUNCILMAN ORTIZ: We realize that
19 there are glitches in technology. Do you have
20 anything else to add?

21 MR. KLEIN: Yes.

22 COUNCILMAN ORTIZ: We are running short
23 of time, so. . .

24 MR. KLEIN: I understand. All right, I
25 will try to finish it up.

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2 Well, there are so many issues about
3 this legislation. I believe it's trying to solve
4 a problem that doesn't exist. If you're trying to
5 -- I really don't fully understand what this is
6 trying to accomplish. If it's trying to prevent
7 small children from dying from firearms, the
8 numbers have steadily shrunk year after year after
9 year to the point where, I think, the most repeat
10 figures are maybe 200 a year compared to more
11 serious dangers to our children from auto
12 accidents and drowning, yet I see no one to
13 seeking to legislate on bathtubs, bicycles, and
14 automobiles to prevent children from dying --
15 that's a more significant problem when you're
16 talking about thousands and thousands of children.

17 To say that, Well, if we can save one
18 life, isn't it worth it? But if you push the
19 technology, an unproven technology, before it's
20 actually even in the testing stages, then you may
21 end up costing more than the one life that you may
22 save.

23 And -- all right, I'll finish up at
24 this point. There are many other issues that
25 could be brought up but I understand that you're

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2 pressed for time. Thank you so much for hearing
3 me.

4 COUNCILMAN ORTIZ: Thank you.

5 This concludes the hearing side of the
6 hearing on Bill No. 990289. And we --

7 COUNCILMAN KENNEY: Point of order.

8 COUNCILMAN ORTIZ: Yes, sir?

9 COUNCILMAN KENNEY: Mr. Chairman, have
10 the -- has the amendment been formally offered?

11 COUNCILMAN COHEN: No.

12 COUNCILMAN KENNEY: No?

13 COUNCILMAN ORTIZ: Excuse me?

14 COUNCILMAN KENNEY: Has the amendment
15 been formally offered, the amendment?

16 COUNCILMAN ORTIZ: Yes.

17 COUNCILMAN KENNEY: It's going to be
18 offered in the meeting?

19 COUNCILMAN ORTIZ: Yes.

20 COUNCILMAN KENNEY: Okay. Thank you.

21 I just have a question on the portion of the
22 amendment when it's offered.

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2 COUNCILMAN ORTIZ: Okay. All right,
3 now we're having a quorum of Councilman Kenney,
4 Councilman DiCicco, Councilwoman Miller,
5 Councilman Rizzo, Councilman Cohen, and I saw Rick
6 Mariano around here somewhere.

7 COUNCILWOMAN MILLER: There he is.

8 COUNCILMAN ORTIZ: All right. The
9 Mayor has offered some amendments, and they were
10 distributed yesterday afternoon. The amendments
11 are -- that you have in front of you are not in
12 the form that we usually do it here in Council.

13 The bold-type letter words in brackets
14 are the words that are being substituted or added
15 to the legislation. And in essence, what we have
16 is adding some phrases to the title and some
17 phrases to the "whereas." And in "strict
18 liability," adding a year so that the period that
19 the bill becomes effective four years after the
20 date of this section becomes law, the strict
21 liability part comes into play.

22 I recognize Councilman Cohen to offer
23 the amendments.

24 COUNCILMAN COHEN: Mr. Chairman. I
25 move that the following amendments be made to Bill

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2 No. 990289:

3 In the title of the ordinance, on line
4 4, in the middle line, after the word "who," there
5 should be -- the amendment is to do the word
6 "manufacturers." "Before manufacturer comma" to
7 go in after the word "who" so the language will
8 read: ". . . who manufacturers, transports,
9 sells," etc.

10 Then in the first "whereas,"
11 immediately after it says "whereas the City of
12 Philadelphia," add after the word "Philadelphia"
13 this phrase: ". . . recognizing that the
14 technology to personalize firearms, which was
15 first developed for law enforcement and
16 correctional officers, will be commercially
17 feasible in the future." That is to be inserted
18 prior to the word "wishes."

19 Then the next amendment.

20 COUNCILMAN ORTIZ: No, no, the word
21 "commercial." "Wishes to promote. . ."

22 COUNCILMAN COHEN: "Wishes to promote
23 the safe" -- and add the word "commercial" after
24 the word "safe" --

25 COUNCILMAN ORTIZ: "The safe commercial

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2 manufacture of firearms," right.

3 Next page.

4 COUNCILMAN COHEN: The next page.

5 COUNCILMAN ORTIZ: Section 1 of

6 "Definitions."

7 COUNCILMAN COHEN: In definition (.1),

8 in line 5, after the word "sold," remove the

9 period and add "or an immediate family member of

10 that individual who is the legal age to purchase a

11 firearm."

12 Then in (.2), the word "medical" is

13 being used to replace a word that has --

14 COUNCILMAN ORTIZ: It's a typo.

15 COUNCILMAN COHEN: -- a misspelling at

16 the end of line 2 in that paragraph. The word is

17 "medial." That word should be "medical," so

18 delete the word "medial" and we'll add the word

19 "medical" in its place.

20 In the main paragraph (2), at the

21 bottom of Page 2 entitled "Strict Liability," the

22 word "three" should be deleted, and it will be

23 replaced by the word "four." And further --

24 (Councilman DiCicco comments off-mike.)

25 COUNCILMAN COHEN: Yes, "four,"

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2 F-O-U-R.

3 And further in that paragraph,
4 following the word "who" on the first line on Page
5 3, there would be added the word "manufacturers,"
6 to precede the rest of the phrase "transports,
7 sells, expose for sale," etc.

8 That completes the amendments. So I'll
9 offer the amendments as read.

10 COUNCILMAN ORTIZ: Councilman Kenney,
11 you said you had a question?

12 COUNCILMAN KENNEY: The only question I
13 had, you cleared up because of the way in which it
14 was presented.

15 COUNCILMAN ORTIZ: Right.

16 COUNCILMAN KENNEY: I thought those
17 terms were being deleted, but they're being added.

18 COUNCILMAN ORTIZ: Right.

19 COUNCILMAN KENNEY: So no question.

20 COUNCILMAN ORTIZ: Yes.

21 Is there a second?

22 (Duly seconded.)

23 COUNCILMAN ORTIZ: Any comments?

24 (No response.)

25 COUNCILMAN ORTIZ: Hearing none, I call

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2 for a vote on the amendment.

3 All those in favor, say aye?

4 Those opposed?

5 (None opposed.)

6 COUNCILMAN ORTIZ: Hearing none, I

7 recognize Councilman Cohen for a --

8 COUNCILMAN COHEN: Mr. Chairman, I move

9 that Bill No. 990289, as amended, be reported out

10 with a favorable recommendation and with a request

11 for a suspension of the rules to permit first

12 reading at the Council meeting to take place later

13 this morning.

14 (Duly seconded.)

15 COUNCILMAN ORTIZ: I call for a vote on

16 the bill as amended.

17 All those in favor, say aye.

18 Those opposed?

19 Hearing none, the bill is approved and

20 will be reported to the next session of City

21 Council. Bill No. 990289 has been approved with a

22 favorable recommendation and a request for a

23 suspension of the rules.

24 This concludes the meeting of the

25 Public Safety Committee. Thank you very much.

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2 And we begin now the Law & Government meeting.

3 (Adjourned at 9:44 a.m.)

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RE: COUNCIL COMMITTEE

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ON PUBLIC HEALTH & PUBLIC SAFETY

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BILL NO. 990289

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JOSEPHINE CARDILLO,

Registered Professional Reporter