

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

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, March 13, 2014
1:30 p.m.

PRESENT:

COUNCILWOMAN MARIAN B. TASCO, CHAIR
COUNCILWOMAN CINDY BASS
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN KENYATTA JOHNSON
COUNCILMAN DENNIS O'BRIEN
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ
COUNCILWOMAN BLONDELL REYNOLDS BROWN

BILL 140095 - An ordinance amending Chapter 10-600 of The Philadelphia Code, entitled "Public Places-Prohibited Conduct," by adding a new Section to prohibit the use of Electronic Smoking Devices in public places...

BILL 140096 - An ordinance amending Chapter 9-600 of The Philadelphia Code, entitled "Service and Other Businesses," by clarifying penalties for violations of Section 9-622, entitled "Cigarettes and tobacco Products..."

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COUNCILWOMAN TASCO: Good afternoon. I'd like to call the Committee on Public Health and Human Services to order and recognize that we have a quorum in the presence of Councilman Dennis O'Brien, Councilman Greenlee, Councilwoman Quinones-Sanchez, and myself.

We'd like to have the Clerk read the bill for the record. Thank you.

THE CLERK: Bill No. 140095, an ordinance amending Chapter 10-600 of The Philadelphia Code, entitled "Public Places-Prohibited Conduct," by adding a new Section to prohibit the use of Electronic Smoking Devices in public places and in the workplace, under certain terms and conditions.

Bill No. 140096, an ordinance amending Chapter 9-600 of The Philadelphia Code, entitled "Service and Other Businesses," by clarifying penalties for violations of Section 9-622, entitled "Cigarettes and Tobacco

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2 Products," and by adding a new section to
3 prohibit sales of electronic smoking
4 devices and unapproved nicotine delivery
5 products to minors, under certain terms
6 and conditions.

7 COUNCILWOMAN TASCO: Thank you
8 very much.

9 Before we begin our public
10 testimony, I'd like to call on Councilman
11 Greenlee for some remarks.

12 COUNCILMAN GREENLEE: Thank
13 you, Madam Chair, and thank you for
14 calling this hearing.

15 First, I want to recognize the
16 efforts of former Councilman Green and
17 his staff members, Alison Perelman and
18 Hadji Maloumian, for their efforts on
19 this issue. Councilman Green introduced
20 by the first bill dealing with this
21 issue.

22 I also certainly want to
23 recognize my Legislative Director, Noelle
24 Marconi, who first raised this issue with
25 me and has done extensive research and

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2 work on it.

3 There are two bills before this
4 committee today deal with electronic
5 cigarettes, one which I don't believe
6 will, or at least it should not, generate
7 much opposition, except for maybe some
8 dispute on language, will ban sale of
9 e-cigarettes to minors. I think it just
10 makes common sense to not let kids be
11 able to obtain a product which, quite
12 frankly, we don't know a lot about.

13 And that brings us to the
14 second bill, which would regulate, not
15 ban, regulate electronic cigarette uses,
16 particularly in public places.

17 The opponents of this bill will
18 say, We don't know enough about this
19 product, so don't implement any
20 regulations until we do. Well,
21 respectfully, I say the fact that we
22 don't know enough about this product --
23 by the way, this totally unregulated
24 product to this day -- is the reason we
25 should have these regulations.

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2 Various ingredients can be put
3 into electronic cigarettes, and right now
4 we don't know what they are and we don't
5 know what effect they may have. So I say
6 let's err on the side of caution and put
7 in place what I believe are reasonable
8 restrictions.

9 You'll hear from our Health
10 Commissioner, Dr. Schwarz, former
11 Commissioner Dr. Tsou, and a couple of
12 other professionals who will tell better
13 than I can that at least we have
14 potential risk of these products. And
15 may I add, I could bring a lot more
16 people in here to testify, but in order
17 to try to move this process along, I
18 think it's better to have quality rather
19 than quantity.

20 And I must add, with all due
21 respect to everyone involved, electronic
22 cigarettes are heavily produced by
23 tobacco companies. Now, the individuals
24 in those companies I'm sure are fine
25 people, but do I have to remind anyone

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2 that it was these corporations who for
3 years and years denied the effects of
4 cigarettes on individuals? And then for
5 more years, denied the effects of
6 second-hand smoke until it literally
7 smacked them right in the face. They're
8 saying now, Trust us, these products are
9 safe, even if they don't have proof.

10 Well, I'm a pretty trusting person, but
11 on this one, you got to give me real
12 proof before I say that it's not
13 necessary.

14 And by the way, we're not
15 blazing new ground here, Madam Chair.
16 New York City, Chicago, Seattle, Boston,
17 Indianapolis, Los Angeles, the State of
18 New Jersey -- and, by the way, for all
19 those who think this is just some liberal
20 movement, those leftist bastions of North
21 Dakota and Utah -- have passed
22 legislation dealing with this issue that
23 are very similar to what we have today.

24 So I respectfully request that
25 the Committee moves this bill forward

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2 once they hear all the testimony.

3 Thank you very much, Madam

4 Chair.

5 COUNCILWOMAN TASC0: Thank you

6 very much for your comments.

7 Are there any other comments

8 from members of the Committee?

9 (No response.)

10 COUNCILWOMAN TASC0: Thank you.

11 We will begin our testimony with our

12 Commissioner. He will testify. All the

13 witnesses who come to testify, because we

14 have a large number of people who have

15 requested to speak, you will be limited

16 to two minutes. We don't need to eat the

17 whole cow to know it's beef. So we will

18 limit it to two minutes.

19 (Witnesses approached witness

20 table.)

21 COUNCILWOMAN TASC0:

22 Commissioner Schwarz.

23 DR. SCHWARZ: Thank you, Madam

24 Chairman. I am Donald Schwarz, the

25 Health Commissioner for the City of

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2 Philadelphia. I want to begin by
3 thanking not only the Committee today,
4 but particularly Councilman Greenlee for
5 his leadership on this issue and his
6 staff for their hard work.

7 I appreciate having the chance
8 to testify today on Bills 140095 and
9 140096. As the City's lead public health
10 official and a pediatrician with over 25
11 years experience in caring for and about
12 children, I believe that these two bills
13 to ban cigarette sales to minors and to
14 prohibit e-cigarette use in indoor places
15 are reasonable and necessary to promote
16 the public's health.

17 E-cigarette use is growing
18 rapidly. Yet there is no, as we heard,
19 federal regulation of their manufacture
20 or content. Therefore, there's a great
21 deal that we don't yet know about
22 e-cigarettes. However, we know enough to
23 take action locally, to take action now
24 to assure that e-cigarettes do not cause
25 harm. In fact, now is the best time to

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2 take action before e-cigarette exposure
3 becomes more extensive.

4 E-cigarettes generally consist
5 of three parts, as described in the
6 legislation - a battery, a vaporizer or
7 atomizer - and liquid usually containing
8 nicotine and other chemicals. When an
9 e-cigarette is used, the battery heats
10 the liquid and turns that liquid into
11 vapor. Then by inhaling, the vapor is
12 delivered to the lungs and, in turn,
13 chemicals enter the bloodstream very
14 quickly. Users also blow out vapor into
15 the air around them.

16 E-cigarettes come in many
17 shapes and sizes, configurations. They
18 look like cigarettes. Sometimes they
19 look like cigars, hookah pipes, pens, and
20 even computer USB drives. I have a few
21 different kinds if the Committee would
22 like to inspect what some different kinds
23 and brands look like.

24 These products are called
25 hookah pipes or vape pens by kids, and

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2 they're growing in popularity and
3 availability, and the products themselves
4 are changing rapidly. While e-cigarettes
5 were initially sold only as complicated
6 starter kits costing \$50 to \$100, they're
7 now available on South Street and other
8 places throughout Philadelphia in
9 disposable form for \$7 or less,
10 particularly at convenience stores. One
11 disposable e-cigarette can last as long
12 as two packs of regular cigarettes.

13 Over the past several years,
14 e-cigarette use has doubled among adults
15 and youth. It's reported that about one
16 in five adult smokers and 7 percent of
17 all of our youth have used e-cigarettes.
18 Many believe this is an underestimate
19 because of reporting. With some
20 non-smoking youth using these products,
21 we must be concerned that e-cigarettes are
22 another way that kids are getting
23 addicted to nicotine.

24 The increased use of
25 e-cigarettes has been in response to a

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2 surge of marketing. There have been
3 Super Bowl TV ads, celebrity
4 endorsements, and cartoon character
5 promotions. E-cigarettes even come in
6 candy flavors. I have some
7 cherry-flavored cigarettes here and
8 vanilla-flavored cigarette cartridges if
9 people would like to smell them.

10 The three major U.S. tobacco
11 companies, as Councilman Greenlee
12 mentioned, are now heavily invested in
13 manufacture, sale, and advertising of
14 e-cigarettes. In other words, the makers
15 of Newport, Marlboro, and Camel are now
16 all making their own e-cigarettes.

17 Despite their dramatic growth,
18 e-cigarettes are unregulated at the
19 federal level. That means that the
20 shampoo that your son or daughter or
21 grandchild used this morning gets far
22 more regulatory scrutiny than the
23 e-cigarettes he or she may try this
24 afternoon. E-cigarettes can be
25 reformulated by companies without

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2 external oversight. The ingredients can
3 vary widely from product to product, and
4 the existing labeling is often
5 inaccurate.

6 For example, some e-cigarettes
7 that are labeled as nicotine-free
8 actually have nicotine in them. To
9 protect e-cigarette users and those
10 exposed to e-cigarette vapor, we believe
11 that it is crucial for the FDA to
12 regulate how these products are
13 manufactured and labeled. Even then, the
14 FDA won't address local sale and use, the
15 issues that we're considering in these
16 bills. As a result, we should not wait
17 for federal action. We should act
18 locally.

19 For each of us, we need to ask,
20 do we want our children or grandchildren
21 to buy these products? Given that there
22 is no control over the contents of these
23 products, how do you or your family -- do
24 you or your family want to sit next to
25 someone using an e-cigarette in a movie

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2 theatre or a restaurant? Do we want
3 pregnant women and children to breathe
4 unregulated vapor from the person at a
5 neighboring cubicle or table?

6 Youth can currently go into
7 stores all across Philadelphia and buy
8 e-cigarettes, no ID, no asking of age,
9 nothing. Bill 140096 prohibits sales to
10 minors. It requires ID for purchase if
11 the buyer looks to be younger than age 27
12 years. It sets fines of \$250 for illegal
13 sales to minors. These restrictions
14 mirror those established for cigarettes
15 by this Council. Through this framework,
16 we've been able to reduce cigarette sales
17 to youth by 30 percent over the past
18 three years.

19 This bill will prevent kids
20 from getting addicted to nicotine in
21 e-cigarettes and possibly graduating to
22 the use of deadly conventional
23 cigarettes. It will also protect our
24 youth from the potential harms of these
25 products. The most common effects of

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2 e-cigarette use are cough and irritation
3 in the mouth and throat. E-cigarettes
4 can also negatively impact lung function
5 after just five minutes of use. In
6 addition, nicotine exposure increases
7 heart rate and blood pressure and impairs
8 circulation.

9 In Philadelphia, we've reduced
10 youth smoking by 40 percent with this
11 Council's active participation over the
12 past ten years. Let's not turn our backs
13 on that progress.

14 Bill 140095 restricts the use
15 of e-cigarettes in indoor places. Let me
16 be clear. We are not advocating the
17 prohibition of e-cigarettes. Rather, we
18 are advocating a sensible precautionary
19 approach with respect to second-hand
20 exposure. Studies have found e-cigarette
21 vapor to contain nicotine in particular;
22 in addition, heavy metals and even
23 cancer-causing compounds. Instead of
24 waiting for harms to be identified,
25 though, it's recommended -- it's the

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2 recommendation of our department that we
3 should take a preventive and protective
4 stance. Some businesses in Philadelphia
5 have already prohibited indoor
6 e-cigarette use through workplace
7 policies, including the University of
8 Pennsylvania. Thomas Jefferson
9 University and the Philadelphia Airport
10 are developing policies, and Jefferson
11 you'll hear from today. The Greater
12 Philadelphia Business Coalition on
13 Health, which has 35 large employer
14 members with 350,000 employees and
15 dependents, supports this policy.

16 Across the country, companies
17 like Walmart and Starbucks have already
18 prohibited e-cigarette use indoors by
19 staff and customers. So has the U.S. Air
20 Force in their buildings and the U.S.
21 Department of Transportation in its
22 airplanes.

23 In short, this isn't a radical
24 notion. We believe setting a consistent
25 citywide standard through legislation is

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2 critical. In the last several months,
3 Los Angeles, Chicago, and New York have
4 all passed laws prohibiting e-cigarette
5 use indoors. Locally, we've heard from
6 big and small businesses about situations
7 in which people are caught off guard by a
8 customer or an employee using an
9 e-cigarette indoors. Managers, staff,
10 and co-workers often don't know how to
11 respond. They don't know the rules.
12 Many wish they had guidance or direction.

13 Most e-cigarettes are made to
14 mimic regular cigarettes, as you see.
15 They look and feel like regular
16 cigarettes, and the vapor they release
17 looks like smoke. This can lead to
18 confusion that may negatively impact
19 public health in several ways. First, it
20 can make it difficult to enforce our
21 existing laws regarding tobacco use
22 indoors, particularly in crowded or dimly
23 lit spaces. Imagine being a bar manager
24 or a club bouncer who has to determine
25 whether cigarette smoke or e-cigarette

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2 vapor is coming from the other side of
3 the room.

4 Moreover, by allowing these
5 cigarette-like products to be used
6 indoors, we may make it seem more
7 acceptable to smoke. This would be a
8 huge loss for public health in
9 Philadelphia. We've worked very hard for
10 the gains that we've made. Clean air
11 laws, like the one established in
12 Philadelphia in 2007, make smoking less
13 visible and less acceptable. Along with
14 other tobacco-control strategies, local
15 smoke-free laws have driven down rates of
16 smoking in Philadelphia by 15 percent
17 since 2008. That means 42,000 fewer
18 smokers in Philadelphia, and ultimately
19 20,000 fewer Philadelphians will die from
20 tobacco-related causes. We need to keep
21 that momentum going.

22 One question commonly raised,
23 don't e-cigarettes actually help people
24 quit smoking? My first response is that
25 these bills do not -- and I'm going to

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2 highlight that -- do not prevent adults
3 from using these products for quitting,
4 if they so choose. They can use
5 e-cigarettes at home or outdoors any time
6 of the day. As I mentioned, the point is
7 not prohibition, and as Councilman
8 Greenlee put it, regulation, but only
9 setting some -- it is regulation.

10 Setting some clear rules about where
11 e-cigarettes can and cannot be used.

12 Second, while many users of
13 e-cigarettes say they are using them to
14 quit or cut down on regular cigarette
15 use, real-world studies to date don't yet
16 show them to be effective quit aids,
17 real-world studies. Individual stories
18 can be compelling, and we acknowledge
19 them, but the science just isn't there
20 yet. One recently published national
21 study of 2,800 smokers showed that those
22 who used e-cigarettes were one-third less
23 likely to quit successfully than smokers
24 who did not use e-cigarettes. Many
25 smokers are, in fact, dual users. That

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2 means they both smoke and use
3 e-cigarettes. Without cutting down on
4 smoking, this could increase their risk
5 of harm from nicotine and other
6 unregulated products in e-cigarette
7 vapor.

8 That said, e-cigarettes could
9 eventually prove useful for helping some
10 smokers to quit. We just don't know at
11 this point how effective they will be or
12 for whom. Even the Blu-brand e-cigarette
13 package itself states, and I quote,
14 Electronic cigarettes are not a smoking
15 cessation product and have not been
16 evaluated by the FDA.

17 Nevertheless, the e-cigarette
18 industry is subtly marketing their
19 products as quit aids, including
20 featuring doctors in their advertising.
21 When the FDA tried to regulate
22 e-cigarettes, when the FDA, federal
23 agency, tried to regulate e-cigarettes as
24 medication, drug delivery devices, a
25 large e-cigarette company sued them and

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2 prevented that action. So this industry
3 wants to generate huge sales by
4 suggesting that their products can help
5 people quit, but it doesn't want to have
6 to do the studies to prove that the
7 product is actually effective.

8 You might ask, what's the
9 alternative to regulating e-cigarettes as
10 medications? In fact, it's to regulate
11 them as tobacco products. That means
12 implementing the types of policies that
13 are being proposed in these two bills.

14 We know from our work here in
15 Philadelphia that the majority of our
16 280,000 smokers are desperate to quit.
17 In fact, nine out of ten smokers regret
18 ever having started in the first place.
19 My message to smokers is that you can
20 quit successfully. It might take
21 multiple attempts, but you can do it.
22 Don't give up. Here's some brief advice.
23 Set a quit date. Tell family and friends
24 and co-workers that you're quitting.
25 Anticipate challenges of quitting and

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2 strategies for coping. Remove tobacco
3 products, ashtrays, lighters, matches and
4 anything else that reminds you of smoking
5 from your home, cars or offices that
6 reminds you of cigarettes, and talk to
7 your doctor about medications that might
8 help you quit.

9 It is clear that smokers are
10 more than twice as likely to quit for
11 good if they quit with proven treatments,
12 like counseling or nicotine replacement
13 therapy. Any Philadelphian can call
14 1-800-QUIT-NOW, the quit line, to get a
15 quit coach and up to eight weeks of
16 nicotine patches, gum or lozenges mailed
17 to their home for free. These
18 medications have been carefully and
19 rigorously studied and shown to be safe
20 and effective, and they are regulated by
21 the Food and Drug Administration.

22 Philadelphians with Medicaid
23 insurance pay only \$1 per month for any
24 approved cessation therapy, including
25 nicotine inhalers. The FDA regulates

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2 those products, and they don't create a
3 vapor.

4 If you choose to use an
5 e-cigarette to quit, get as much
6 information you can. Talk to your
7 doctor. Try again through another
8 approach. Philadelphians can also visit
9 smokefreephilly.org, our website, for
10 more information.

11 In conclusion, the two proposed
12 bills are reasonable, justifiable, and
13 laudable approaches for protecting the
14 public's health. Now is not the time to
15 wait or hesitate. E-cigarette use is
16 rising rapidly among youth and adults.
17 We must ensure that these products are
18 not used by children; that smoking-like
19 behaviors are not glamorized; and the
20 City has a consistent, enforceable
21 approach to smoking in e-cigarette use
22 indoors; finally, that adults who choose
23 not to use e-cigarettes can breathe
24 vapor-free air.

25 Thank you for your

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2 consideration. I'm happy to answer any
3 questions.

4 COUNCILWOMAN TASCO: Thank you
5 very much.

6 The Chair recognizes Councilman
7 Greenlee.

8 COUNCILMAN GREENLEE: Thank
9 you, Madam Chair.

10 Basically I just wanted to say,
11 Dr. Schwarz, thank you and to all your
12 staff for all the work you've done on
13 this. There really isn't any questions
14 to ask very much. You've kind of covered
15 everything, but I did want to emphasize
16 the one issue about the cessation factor,
17 because I thought in the beginning that
18 was one thing that I thought maybe
19 merited some consideration, and I
20 understand there will be people talking
21 about that, but I think it is sort of
22 important that you state that the
23 companies did not want to be called
24 cessation, a cessation product, did not
25 want the FDA to do that, and yet many of

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2 them are now saying at least intimating,
3 if not right out saying, that they can
4 help you quit smoking.

5 So it seems like that's fairly
6 contradictory to me. Either you say you
7 are or you're not. And it seems like
8 we're getting those mixed messages.

9 But, again, I appreciate
10 everything you have done and continue to
11 do for the health of the citizens of
12 Philadelphia.

13 DR. SCHWARZ: Thank you very
14 much.

15 COUNCILMAN GREENLEE: Thank
16 you, Madam Chair.

17 COUNCILWOMAN TASCO: Thank you
18 very much.

19 Are there any other questions
20 or comments?

21 Councilman O'Brien.

22 COUNCILMAN O'BRIEN:
23 Commissioner, I'm just perusing a New
24 York Times article, and it seems that the
25 CDC took a survey and it showed that 10

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2 percent of high school students
3 nationwide say they have tried
4 e-cigarettes, double that of the year
5 before, but none of these individuals who
6 use hookah pipes -- or hookah pens,
7 hookahs, and vapor pens consider them the
8 same as e-cigarettes. Could you comment
9 to me. That just seems like that's a
10 clever marketing tool and that these --
11 and would you respond, are they covered
12 when we talk about the language, would
13 they be covered under any other such
14 products in this legislation?

15 DR. SCHWARZ: They would if
16 they're non-tobacco products explicitly
17 in this. Your confusion and The New York
18 Times' lack of clarity I think helps
19 explain our particular concern about
20 youth. So messaging for youth is less
21 than clear. I can show you examples that
22 will really chill you of ads for
23 cigarettes and ads for new e-cigarettes,
24 historic ads for cigarettes and how
25 similar they are to e-cigarette

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2 advertising. I have copies for the
3 Committee.

4 It worries me that we have
5 young people who aren't as able to
6 discern differences, who aren't as able
7 to figure out rules and regulations, and
8 we have not yet in any way protected them
9 or helped them not engage in this
10 behavior. All the products that you
11 mentioned are covered by the law.

12 COUNCILMAN O'BRIEN: They would
13 be covered under our definition?

14 DR. SCHWARZ: Yes.

15 COUNCILMAN O'BRIEN: That makes
16 me feel good.

17 And can you also -- as I look
18 at all these different pictures of these
19 devices, they all look very similar, but
20 there also seems to be a labeling issue.
21 Some labels state that there's nicotine
22 content. I'm looking at one, the King
23 E-Hookah. The label says this product
24 contains nicotine, and later it says no
25 nicotine. Have you come across those

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2 kinds of disparities?

3 DR. SCHWARZ: You're seeing the
4 same thing that we see. Remember, these
5 are unregulated products, so there is no
6 federal oversight. There is no federal
7 standard of manufacture or sale.

8 COUNCILMAN O'BRIEN: And there
9 can be a wide variation in the content of
10 nicotine; is that correct?

11 DR. SCHWARZ: There can be
12 complete variation. In addition, I
13 should point out in terms of the indoor
14 use regulation, that the content of the
15 cartridges that you saw, these are -- in
16 some cases, the cartridges are
17 refillable. So people can fill them with
18 their own liquid, which means that
19 whatever studies -- and they've been
20 limited studies -- have looked at what's
21 contained in e-cigarettes and what the
22 vapor from e-cigarettes might do in the
23 general environment, that depends on
24 having analyzed a limited number of
25 products, liquid and vapor. What we have

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2 as a problem is, the liquid can be filled
3 by individuals and new products come onto
4 the market constantly. So any study
5 that's been done of a limited number of
6 marketed products doesn't in any way take
7 account of the fact that you could be
8 sitting next to someone who filled their
9 own e-cigarette with whatever they want
10 and you're now breathing in that vapor.

11 COUNCILMAN O'BRIEN: Can you
12 make an analogy -- I was involved in the
13 tobacco settlement when that legislation
14 was crafted in Harrisburg. Can you make
15 any comparison to the issue of
16 second-hand smoke as it relates to
17 tobacco products and those of
18 e-cigarettes, hookahs?

19 DR. SCHWARZ: The answer to
20 this -- and I think you're going to hear
21 from a researcher in Philadelphia who has
22 looked at the limited amount of
23 information that's out there on a limited
24 number of e-cigarettes to figure out
25 based on the liquid and the vapor that

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2 would be produced by those e-cigarettes
3 would people sitting next to someone be
4 exposed to high levels of carcinogens and
5 other things. That study found, one,
6 nicotine exposure; and, two, exposure to
7 what are thought of as the liquids, the
8 glycol and propylene -- the glycerin and
9 propylene glycol that's in the major part
10 of the liquid, and we don't know much
11 about what that exposure is going to do
12 either to the user or the person next to
13 them. But it couldn't take account of
14 newer brands. They weren't on the market
15 when the study was done. It couldn't
16 take account of anyone filling one of
17 these cartridges with whatever they want.
18 So sitting next to someone, we have no
19 way to know, because we have no
20 regulation, what we're breathing in.
21 That's the concern of the Department.
22 The easy way to remove that risk is to
23 not allow people to do it in indoor
24 spaces where we're breathing each other's
25 air.

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2 COUNCILMAN O'BRIEN: Thank you.

3 DR. SCHWARZ: Thank you.

4 COUNCILWOMAN TASCO: Any other
5 questions or comments?

6 (No response.)

7 COUNCILWOMAN TASCO: Thank you
8 so much for your thoughtful testimony and
9 all the work that you do to keep us all
10 healthy in Philadelphia.

11 DR. SCHWARZ: Thank you.

12 COUNCILWOMAN TASCO: Thank you
13 very much, Dr. Schwarz.

14 DR. SCHWARZ: Thank you for
15 considering this.

16 COUNCILWOMAN TASCO: Our next
17 panel will be Dr. Walter Tsou, Dr. Frank
18 Leone, and Dr. James Plumb.

19 (Witnesses approached witness
20 table.)

21 DR. TSOU: Good afternoon,
22 Chairwoman Tasco and members of the
23 Committee on Public Health and Human
24 Services. My name is Dr. Walter Tsou and
25 currently I serve as an Adjunct Professor

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2 at the University of Pennsylvania and I
3 had formerly served as Health
4 Commissioner for Philadelphia during the
5 early debate about restricting smoking in
6 public places.

7 In 2000 when proposals like
8 smoke-free restaurants were first
9 proposed, many restaurants opposed any
10 government regulations with statements
11 like, quote, "let the patrons decide" or
12 "smokers will flock to the suburbs if we
13 go smoke free." Well, now 14 years
14 later, the business objections are
15 vanished. Verifiable billing receipts
16 showed that restaurant businesses
17 flourished under smoke-free laws, and
18 today the public would be offended, even
19 outraged, if smoking were allowed back in
20 public places.

21 Businesses have found many
22 benefits from the smoke-free laws,
23 including increased revenue, lower
24 cleaning costs, and healthier employees.
25 Enter a new threat to our public air

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2 space, except instead of smoke, we have
3 vapor coming from e-cigarettes.

4 Commissioner Schwarz has broadly outlined
5 the consensus public health professionals
6 have about e-cigarettes. And as he
7 mentioned, businesses like Walmart and
8 Starbucks and Penn have become proactive
9 and have prohibited e-cigarettes in their
10 premises.

11 E-cigarette use is also
12 prohibited on airplanes. For many years,
13 the public, now accustomed to smoke-free
14 laws, would be confused by making an
15 exception for e-cigarettes. Business and
16 building managers would be left to
17 differentiate between products that mimic
18 one another. The smell of the vapor from
19 e-cigarettes would still be noticed, and
20 vapor may cause cough and throat
21 irritation, and the health effects of
22 second-hand vapor exposure have not been
23 fully studied. This is particularly
24 challenging, as e-cigarettes are
25 unregulated, as mentioned before, at the

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2 federal level. Their contents are not
3 clearly and accurately labeled, and the
4 levels of chemicals can vary from product
5 to product.

6 For these reasons, major cities
7 like New York, Chicago, and LA have
8 included e-cigarettes in their smoke-free
9 law. Those cities have held similar
10 hearings to this one and heard the
11 evidence on both sides, but in their
12 judgment, common sense and consistency
13 should prevail. In short, no smoke or
14 flavored vapor should be allowed in
15 public spaces.

16 Clean air laws also have been a
17 major contributor to convincing people to
18 quit or not take up the habit. By making
19 it the law, we are making smoking or
20 vaping a less visible or acceptable
21 behavior. At a time when the federal
22 government has had almost no regulation
23 of e-cigarettes, it is incumbent upon
24 local cities and townships to lead.

25 Finally, the tobacco industry

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2 owns major e-cigarette manufacturers and
3 knows that adding nicotine to
4 e-cigarettes can help addict the next
5 generation of young smokers or vapers.
6 The public demands action. These
7 commonsense regulations are not a ban on
8 e-cigarettes. I urge you to use the
9 lessons from creating a smoke-free
10 Philadelphia and keeping e-cigarette use
11 out of public places and out of the hands
12 of minors.

13 Thank you for allowing me to
14 testify.

15 COUNCILWOMAN TASCO: Thank you
16 very much for testifying. Welcome to
17 Council again.

18 DR. TSOU: Thank you.

19 DR. LEONE: Thanks, Madam Chair
20 Tasco, members of the Committee on Public
21 Health and Human Services. I'd like to
22 thank you for the opportunity to present
23 on these two bills. I believe that these
24 two bills taken together really represent
25 an important, a very reasonable and

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2 necessary step forward in your ongoing
3 efforts to protect the public's health.

4 My name is Frank Leone. I am
5 the Director of University of
6 Pennsylvania's comprehensive smoking
7 treatment program, but I've been in
8 practice as a pulmonary physician in
9 Philadelphia since 1997. Over the past
10 17 years, I've cared for thousands of
11 Philadelphians suffering from tobacco
12 dependence, which in my view is a
13 disorder of the brain with a biology that
14 is more complex than most people give it
15 credit for. It's severely
16 underestimated.

17 My team and I have participated
18 in research investigating a dozen
19 different treatment strategies, including
20 two current projects evaluating the
21 potential of e-cigarettes as therapeutic
22 devices. I'm most proud to say that I've
23 been a vocal advocate on behalf of the
24 people facing challenges of tobacco
25 dependence. I serve on local, state, and

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2 national tobacco policy committees that
3 sometimes wrestle with confusing and
4 incomplete data for guidance. Throughout
5 it all, I think of myself not as
6 anti-smoking, but instead as strongly
7 pro-smoker, working hard to ensure that
8 the people with tobacco dependence are
9 treated with dignity and respect that
10 they deserve. It's actually from this
11 perspective that I support these two
12 bills.

13 While it may be
14 counterintuitive at first, I believe that
15 your efforts to restrict accessibility to
16 e-cigarettes are consistent with a
17 pro-smoker advocacy position. I'd like
18 to explain.

19 Nicotine is a drug that is more
20 capable of creating lifelong compulsion
21 to continue its use than heroin or
22 alcohol. The effects of nicotine on the
23 brain are subtle, but strong. Nicotine
24 hijacks a person's most fundamental
25 survival systems, creating a circumstance

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2 in which the presence of nicotine is
3 experienced as safety, comfort, and
4 security, while its absence is
5 experienced as a visceral sense of
6 uncertainty and insecurity. The paradox
7 for tobacco-dependent people is the
8 presence of two minds. Intellectually
9 people are very well aware that smoking
10 is bad for them, but instinctively feel
11 that nicotine is good to them.

12 Quitting is hard, not because
13 it's complicated or because it's painful,
14 but because it's often difficult for a
15 person to imagine ways to run counter to
16 the deep instincts in their soul. My
17 patients experience this as a terrible
18 situation. Imagine spending a lifetime
19 stuck in a never-ending Hobson's choice,
20 protecting your health only if you are
21 able to sacrifice your instinctive
22 well-being. And if that isn't bad
23 enough, imagine feeling stuck there while
24 your family, friends, and co-workers look
25 at you with disbelief and disgust. The

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2 impact of nicotine's effect on the brain
3 are obdurate and do not resolve in days,
4 weeks or even months. For some folks,
5 the rhythms of daily life represent a
6 never-ending series of tripping points,
7 reminders of the underlying attraction to
8 the comfort of nicotine's embrace and the
9 threats to the continued avoidance of
10 smoking.

11 It's no wonder then that
12 tobacco dependence is characterized by
13 people seeking the least worst compromise
14 position. It's equally no wonder that
15 people stuck in this position are
16 vulnerable to emotional claims and the
17 promises of safety.

18 I imagine you will hear
19 testimony today suggesting that
20 e-cigarettes represent a potentially
21 life-saving alternative to smoking. This
22 actually may be true. I have no doubt
23 that there are some people who will
24 benefit from e-cigarette use.
25 Unfortunately, I am equally certain that

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2 there are people for whom the visible
3 presence of e-cigarettes in their lives
4 is an impediment to their healthy goals.
5 My concern is that public, visible,
6 unrestricted use of e-cigarettes may
7 sufficiently simulate the smoking
8 behavior that, in the long run, it
9 impedes a smoker's ability to abstain and
10 increases an abstainer's likelihood of
11 relapse. There is epidemiologic data
12 supporting the notion that all three of
13 those possible outcomes are actually
14 happening simultaneously within
15 populations, but there is insufficient
16 data to know for sure that the benefits
17 of unrestricted public e-cigarette use
18 will outweigh the threat to the
19 population's health. Until we know where
20 the balance lies for Philadelphians as a
21 whole, I would endorse any bill that
22 seeks to keep e-cigarette use as a
23 private and personal endeavor.

24 The notion that e-cigarettes
25 represent a potentially life-saving

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2 alternative to smoking is itself a non
3 sequitur. This assertion would be true
4 if the contention that the device saves
5 lives was supported by evidence rather
6 than by wishful thinking. On one hand,
7 it is absolutely true that e-cigarette
8 aerosols have been shown to contain much
9 lower concentrations of carcinogens than
10 tobacco smoke. It's also true that these
11 aerosols do not seem to have long-term
12 effect on lung function. However,
13 propylene glycol, the constituent of
14 e-cigarettes that produces the smoke-like
15 suspension, is metabolized by the liver
16 into an aldehyde, a class of compounds
17 similar to structure to formaldehyde.
18 For this reason, OSHA has set limits on
19 acceptable levels of short-term exposure
20 among workers in the theatre industry and
21 other contexts where propylene glycol is
22 commonly employed. The FDA, in fact,
23 does approve medications that use
24 propylene glycol in their formulation.
25 Doctors and nurses administer those

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2 medications every day. However, the
3 benefits of the medications are
4 accompanied by cautions to watch for
5 sudden drops in blood pressure, cardiac
6 rhythm problems, liver dysfunction, and
7 buildup of blood acids.

8 I want to be clear that I'm not
9 saying that a few puffs off of an
10 e-cigarette is likely to cause these
11 problems. I would agree that's very
12 unlikely. What I am saying is that the
13 impact of long-term exposure to
14 e-cigarette aerosols in an entire
15 population remains unknown and, as such,
16 in my view, remains a very legitimate
17 cause for ongoing concern. Wouldn't it
18 be an awful shame if we kept our eye
19 exclusively on the potential for the
20 e-cigarette to reduce the probability of
21 lung cancer while they were
22 simultaneously unknowingly also raising
23 the probability of other non-tobacco
24 related illnesses? In my view, concern
25 over safety remains a legitimate

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2 rationale for restricting the types of
3 places where people may use e-cigarettes
4 until some of these important questions
5 have been reasonably answered.

6 As you deliberate on the merits
7 of these two bills, I would like to ask
8 you to keep in mind the fact that there
9 is currently no such thing as "an"
10 e-cigarette. In the United States, there
11 are currently over 400 brands of devices
12 under the umbrella term of "e-cigarette,"
13 each with its own proprietary formulation
14 and characteristics. This fact should
15 not suggest that we can never be secure
16 in e-cigarettes' safety and efficacy.
17 However, it is to suggest that current
18 marketing models, with ubiquitous access,
19 few guidelines for use, enormous
20 variability in product characteristics,
21 and little product reliability or
22 manufacturer accountability has the
23 potential to distract smokers interested
24 in harm reduction away from safe and
25 effective methods for controlling the

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2 compulsion to smoke. Remember a time
3 when we all thought it made perfect sense
4 that filtered cigarettes and low tar
5 cigarettes just had to be safer than
6 regular cigarettes. That is, until
7 careful study showed them not to be.

8 It's okay for the e-cigarette
9 to occupy a hopeful position in our
10 minds. What's not okay is for that
11 hopefulness to overtake our security in
12 the well-being of our friends and
13 neighbors. We have a hundred years
14 experience with the disappointments of
15 wishful thinking in the context of smoke
16 exposure and smoking. Introducing a few
17 straightforward minimum assurances is the
18 right thing for City Council to do, so
19 that we as a community do not repeat the
20 awful mistakes of the past while the
21 truth about the impact of e-cigarettes on
22 our lives makes itself apparent.

23 Thank you.

24 COUNCILWOMAN TASCO: Thank you
25 very much. As I stated earlier, we have

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2 a long calendar here of people who are
3 here to testify. So we ask you to please
4 try and summarize your comments,
5 particularly if some of the other
6 witnesses made the same comments. Thank
7 you.

8 DR. PLUMB: Yes, ma'am. Good
9 afternoon, Chairman Tasco and members of
10 the Committee on Public Health and Human
11 Services. It's good to sit before you
12 again. My name is Jim Plumb and I'm a
13 Professor in the Department of Family and
14 Community Medicine and Director of the
15 Center for Urban Health at Jefferson, and
16 I thank the Committee for giving us an
17 opportunity to provide testimony on the
18 two bills in question.

19 On behalf of the many patients
20 and families, our faculty and our
21 employees, let me thank each member of
22 City Council for your many efforts on a
23 wide range of issues to improve the
24 quality of life for the citizens of our
25 great city. We are proud of our strong

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2 linkage to the City through our patients,
3 our families, and our 12,000 employees.
4 We have over 47,000 hospital admissions
5 and serve as a safety net hospital
6 providing care to the City's most
7 vulnerable citizens.

8 We at Jefferson feel that it's
9 crucial for Philadelphia's academic
10 health centers and other large employers
11 to take a lead in tobacco and e-cigarette
12 policy. Jefferson is doing this. We
13 have joined other healthcare institutions
14 in taking steps to discourage smoking.
15 That includes prohibiting smoking around
16 the buildings in our campus, effective
17 July 1st, 2014.

18 Jefferson's activities include
19 high-profile community engagement with a
20 vision to reduce health disparities
21 through improved outcomes and quality of
22 life.

23 To that end, Jefferson has
24 developed a three-year community benefit
25 plan to make this vision a reality, and a

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2 major component of that plan is to reduce
3 smoking-related illness and death.

4 To demonstrate the commitment
5 to this strategy, Jefferson University
6 and Hospital has developed a tobacco-free
7 environment policy to promote the safety,
8 health, and wellness of all patients,
9 employees, volunteers, faculty members,
10 medical staff, students, and vendors.

11 Beginning in 2014 in July, all
12 tobacco use is prohibited on the
13 Jefferson campus. This policy applies to
14 all patients, visitors, vendors,
15 students, volunteers, medical staff, and
16 employees within 50 feet of the entryway
17 to or exit from any property owned,
18 rented or leased by Jefferson.

19 These tobacco products and
20 smoking materials refer to all smoke and
21 tobacco products, including e-cigarettes.

22 We are siding with our
23 colleagues in public health that believe
24 the jury is still out with respect to
25 their use and the impact of second-hand

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2 vapors. Other reasons they are
3 prohibited under our policy include the
4 following:

5 We are concerned that they
6 could be a gateway to the use of other
7 smoking devices, such as cigarettes. We
8 believe that allowing indoor use of
9 e-cigarettes would make enforcement of
10 existing smoking bans in and around
11 buildings more challenging. And we
12 believe that from a public health
13 perspective, that cessation is the best
14 solution, and we provide support for a
15 number of resources to our employees.

16 In short, we have banned the
17 use of e-cigarettes in our policy and
18 believe that indoor smoking bans should
19 apply to e-cigarettes to best support
20 public health. The City of Philadelphia
21 has been a leader in the nation in
22 reducing smoking rates through a variety
23 of measures passed by City Council. You
24 have been involved in many of these
25 efforts, not without opposition from

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2 multiple groups.

3 The evidence of the real and
4 potential harmful health effects of
5 e-cigarettes has been well explained by
6 my colleagues on these panels, and
7 Jefferson has taken a strong and prudent
8 stand on e-cigarette use. It is our
9 obligation as an institution to protect
10 the health and welfare of our family and
11 of our patients, and I urge you to do the
12 same for the Philadelphia family.

13 Thank you.

14 COUNCILWOMAN TASC0: Thank you
15 very much. We appreciate your testimony.
16 The one paragraph that you left out that
17 I thought was most compelling, hiring
18 policy.

19 DR. PLUMB: The hiring policy.

20 COUNCILWOMAN TASC0: Yes.

21 DR. PLUMB: We have elected,
22 after much deliberation in our HR
23 department, to have a non-smoking hiring
24 policy, beginning July 1st.

25 COUNCILWOMAN TASC0: Very

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2 interesting. Very good. Thank you very
3 much.

4 Any questions?

5 Councilman O'Brien.

6 COUNCILMAN O'BRIEN: Councilman
7 Greenlee.

8 COUNCILMAN GREENLEE: Go ahead.

9 COUNCILMAN O'BRIEN: I'm just
10 haunted, because in my previous life when
11 I was Chairman of Health and Human
12 Services in Harrisburg, I chaired the
13 tobacco settlement conversations, and we
14 put together the Joint State Government
15 Commission, and all our academic health
16 center partners were involved in those
17 conversations. We had over a hundred of
18 the CEOs send -- unfortunately, I was
19 talking to Commissioner Schwarz -- that
20 that's under attack right now, the
21 integrity -- how we used that to bring
22 investigators here to Pennsylvania.

23 But what I'm really haunted by
24 is, I remember, as we're going on the
25 other side, the tobacco companies, and

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2 we're getting all these wonderful
3 disclosures that were hidden and tobacco
4 companies hired the best researchers on
5 the planet, and one of the issues -- and
6 I'm looking at all these hookahs and
7 e-hookahs and e-cigarettes and all that
8 kind of jiggle, and I remember that the
9 tobacco companies knew that
10 metaphysically -- and I'm just
11 paraphrasing this -- that if a woman was
12 smoking, that it would have an effect on
13 their weight, maybe five to seven pounds
14 or something like that, and the tobacco
15 companies specifically used that
16 information to market Virginia Slims.

17 I'm out of my mind thinking
18 that they're using those same marketing
19 tactics right now and that we are being
20 exposed and, as you have adequately
21 pointed out, our young people are going
22 to be tricked into getting addicted to
23 these harmful substances before the
24 information and the data catches up.

25 The other thing -- and this is

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2 pure speculation. Have you ever -- I'm
3 sure you've heard about the Monell
4 Institute out at 35th and Market.
5 They're an international center for
6 sniffs and smells, and while I was
7 putting some of my other discussions
8 together on health and human services, I
9 used to go to senior citizens and -- I'm
10 a hugger, and my kids, you know, they use
11 that Old Spice and all these, and I
12 get -- my face, my sinuses get clogged
13 every morning, and it drives me crazy. I
14 went out there and they -- an
15 international center for sniffs and
16 smells. I thought I was crazy that I
17 could be allergic to perfumes. That's
18 what they do for a living.

19 I'm wondering if you have ever
20 looked into the possibility that the
21 chemicals in the vapors that are
22 contained in these hookahs and
23 e-cigarettes that, aside from the obvious
24 health concerns that we are discussing
25 here today, if the simple allergic

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2 component is another health issue that we
3 should be looking at. Do you have any
4 thoughts on that?

5 DR. LEONE: I'm not aware of
6 any data about the sort of specific
7 allergic component of these aerosols.

8 COUNCILMAN O'BRIEN: I would
9 just ask perhaps we could ask my
10 wonderful friends at the Monell
11 Institute, because that's what they do
12 for a living.

13 DR. LEONE: Yeah.

14 COUNCILMAN O'BRIEN: Their
15 biggest sponsors are the perfume
16 companies around the world, because what
17 they have to do is identify and document
18 how someone is allergic to perfume so
19 that they can market those products. But
20 I'm just wondering, there's all kinds of
21 chemicals in other health discussions
22 that we find are problematic. And maybe
23 they are or not. I'm not going to get
24 into some of my other issues where
25 certain chemicals have been related to

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2 issues, but I'm just wondering if that is
3 an issue that we could pursue or just
4 find some information about.

5 DR. LEONE: Absolutely. The
6 people have actually pursued that
7 question from the point of view from the
8 particulate mass itself. So that in the
9 aerosol, there's a lot of suspended
10 particulates, and it's more of a sort of
11 mechanical effect on airway function,
12 nasal epithelia function, that sort of
13 thing, but it's not really from the
14 perspective of an allergic response, nor
15 is it from the perspective strictly of
16 odorants, rather from the perspective of
17 the particulate mass in the vapor.

18 COUNCILMAN O'BRIEN: See, Bill,
19 that's exactly what I was going to say,
20 but he said it much better.

21 DR. PLUMB: I have some
22 students working with me this semester
23 that I'm going to put on this particular
24 question.

25 COUNCILMAN O'BRIEN: Thank you

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2 so much.

3 DR. PLUMB: And we'll get back
4 to you with what we can find. Thanks.

5 COUNCILMAN O'BRIEN: I'm most
6 appreciative. Thank you.

7 COUNCILWOMAN TASCO: The Chair
8 recognizes Councilman Greenlee.

9 COUNCILMAN GREENLEE: Thank
10 you, Madam Chair. I really don't have
11 any questions for the panel, except to
12 say thank you, not just for being here,
13 but all the work you do for the health of
14 the citizens.

15 I did want to put on record,
16 though, Madam Chair, as I said in my
17 opening statement, we could have more
18 people here speaking, but we want to try
19 to move this along. But if I just put on
20 record that we do have support letters
21 for these two bills from the American
22 Academy of Pediatrics, the Greater
23 Philadelphia Business Coalition on
24 Health, the Kimmel Cancer Center at
25 Thomas Jefferson, the Center for Public

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2 Health Initiatives at University of
3 Pennsylvania, the Philadelphia Medical
4 Society, Professors of Public Health At
5 Temple University, and just in today,
6 Independence Blue Cross. So I think
7 that's a pretty cross section of health
8 advocates in the City of Philadelphia.

9 Thank you.

10 COUNCILWOMAN TASCO: Thank you
11 very much.

12 Thank you for taking time to
13 come out and testify. We appreciate it
14 very much.

15 Our next panel will be Dr. Joel
16 Nitzkin, R Street; Mr. Igor Burstyn,
17 Mr. Tim McKinney, and Bill Godshall.

18 (Witnesses approached witness
19 table.)

20 DR. NITZKIN: Madam Chair, I've
21 been advised that Mr. Burstyn had to
22 leave because of, I guess, an airplane
23 connection, so he will be unable to
24 testify.

25 I am Dr. Joel Nitzkin. I'm a

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2 public health physician. I am here to
3 present and discuss the public health
4 case in favor of e-cigarettes and in
5 opposition to the two bills in question.

6 I've been assured by staff that
7 not only my remarks, but a package of
8 background materials has been shared with
9 the Committee members. Thank you for the
10 opportunity to make this presentation.

11 While strongly supporting in
12 principle the banning of e-cigarette
13 sales to minors, I find the wording of
14 both of these bills harmful to the health
15 of the public.

16 My recommendations are the
17 result of extensive research done, first
18 on behalf of the American Association of
19 Public Health Physicians and later with
20 support from the R Street Institute.
21 This effort, begun in 2007, led us to the
22 conclusion that a tobacco harm reduction
23 initiative with e-cigarettes presents the
24 only feasible policy option before us
25 that would enable us to substantially

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2 reduce the number of smokers and the
3 numbers of tobacco attributable deaths in
4 the United States over the next 20 years.

5 Despite the best of our tobacco
6 control efforts, CDC estimates show that
7 the numbers of smokers and numbers of
8 smoking attributable deaths in the United
9 States have remained essentially
10 unchanged for the last ten years.

11 If we are to save the lives of
12 current adult smokers, we will have to do
13 something new.

14 Now, I have been a local health
15 director, a state health director,
16 president of two national public health
17 organizations, and I've been involved in
18 tobacco control since the early 1980s.
19 I'm not a company representative and I'm
20 not new to this game. Given the promise
21 of e-cigarettes as a harm reduction
22 modality and the inability of AAPHP, the
23 organization that I -- for support of
24 this effort to adequately support the
25 research and advocacy needed to overcome

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2 resistance within the tobacco control
3 community, I sought and secured outside
4 support to enable me to continue this
5 work and received that support from the R
6 Street Institute.

7 R Street is a Washington-based
8 libertarian think tank that respects the
9 role of government to impose regulations
10 to protect the health and environment,
11 while opposing what it considers to be
12 excessive governmental interference in
13 the marketplace.

14 Neither I nor R Street is
15 beholden to the tobacco or e-cigarette
16 industries in any way. The opinions I
17 present here today are entirely my own
18 and do not represent any policy positions
19 adopted by AAPHP, R Street or any other
20 organization I may be affiliated with.

21 The bills before you appear to
22 be the products of conservative forces
23 within the tobacco control community who
24 are unwilling to consider the possibility
25 that any non-drug company product might

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2 have major public health benefits. They
3 are unwilling to take a stance that might
4 be in opposition to their partners and
5 colleagues in the drug companies that so
6 generously fund their research, annual
7 meetings, and other activities.

8 Despite the best of intentions,
9 these bills, if adopted, will not protect
10 or enhance the health of the public.
11 They will not reduce teen smoking. They
12 will not protect bystanders. They will
13 convey the impression that e-cigarettes
14 are as harmful or more harmful than
15 traditional tobacco cigarettes. By doing
16 so, they will protect the major cigarette
17 makers and drug companies from
18 competition from these more effective
19 low-risk options.

20 As the specific provisions in
21 the two bills, 40095, defining
22 e-cigarettes as smoking devices is a
23 major distortion of the truth. The
24 toxins created by tobacco combustion
25 cause the potentially fatal heart

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2 disease, lung disease, cancer, and other
3 diseases and magnify the addictive
4 potential of the nicotine. E-cigarette
5 vapor contains no products of combustion
6 and only the tiniest traces of other
7 toxic substances. E-cigarettes pose a
8 risk well below 2 percent the risk posed
9 by regular cigarettes, and for all
10 practical purposes, no risk to
11 bystanders.

12 E-cigarette fluid, we know
13 what's in it. It contains nicotine,
14 flavoring, propylene glycol, glycerin,
15 and water. The lack of regulation by FDA
16 is due to political and bureaucratic
17 hang-ups within FDA that had nothing to
18 do with e-cigarettes.

19 And if anyone wants, I can
20 enlarge on this in the question and
21 answer period.

22 The original CDC survey data
23 referenced in these bills clearly show
24 that the dramatic recent increases in
25 e-cigarette use are almost entirely by

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2 current cigarette smokers and that such
3 use has been associated with reductions
4 in smoking prevalence. Impressions to
5 the contrary are entirely from press
6 releases pulling data out of context to
7 support these preconceived conclusions.
8 The same is true of the other studies
9 proponents of this bill quote to imply
10 recruitment of teen non-smokers.

11 Again, I'd be happy to
12 elaborate on that if there's a desire to
13 do so.

14 Even with e-cigarettes designed
15 to look like tobacco cigarettes, it is
16 very easy for bystanders to tell the
17 difference even across the room. No
18 evidence has been presented to date to
19 suggest that e-cigarettes have eroded
20 no-smoking enforcement.

21 The published evidence
22 available to date, much of which is
23 summarized in my handouts, shows that
24 non-smoking teens and adults who
25 experiment with e-cigarettes rarely

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2 continue their use.

3 E-cigarettes are not intended

4 to be a smoking cessation medication.

5 They are intended to be long-term,

6 low-risk substitutes for cigarettes.

7 Again, if you'd like to discuss

8 the issue of why the e-cigarette

9 manufacturers opted not to be licensed as

10 drugs, I'd be happy to go into that

11 issue.

12 Bill 40096, Definition (1)(c),

13 unapproved nicotine delivery product, as

14 worded is problematic. It would outlaw

15 all non-pharmaceutical tobacco products

16 since all such products deliver nicotine.

17 It would outlaw chewing tobacco,

18 cigarettes, all that.

19 The FDA Center for Tobacco

20 Products has yet to promulgate quality of

21 manufacture regulations for any product

22 subject to their jurisdiction, thus none

23 have been approved or otherwise certified

24 anywhere within the FDA today.

25 The issues addressed above for

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2 40095 also apply to 40096. While I and
3 other proponents of tobacco harm
4 reduction support the prohibition of sale
5 of nicotine delivery products to teens,
6 this bill is so laced with problematic
7 statements that I recommend that it be
8 pulled from the Council agenda and
9 replaced with a better-worded bill.

10 It is important to note that
11 the nicotine delivery products most
12 accessible to teens are the FDA
13 pharmaceutical patches, gums, lozenges,
14 and inhalers on sale on open shelves in
15 every drugstore, discount store, and most
16 supermarkets, with the gum and lozenges
17 available in a variety of fruit and candy
18 flavors. If your real concern is
19 stopping kids from initiating nicotine
20 use and you're not influenced or trying
21 to support the pharmaceutical industry, I
22 think this is an issue worthy of Council
23 attention.

24 For some unspecified reason,
25 neither the local tobacco control

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2 community nor either of these bills
3 considers these products to be potential
4 gateways for youth use of conventional
5 cigarettes.

6 I, therefore, urge that Bills
7 40095 and 96 be pulled from the Council
8 agenda and that steps be taken to develop
9 a new and properly worded bill to
10 prohibit sales of e-cigarettes and other
11 nicotine products to minors.

12 Thank you.

13 COUNCILWOMAN TASCO: Thank you
14 very much.

15 MR. GODSHALL: Hi. I'm Bill
16 Godshall, Founder and Director of
17 Smokefree Pennsylvania. Since 1990,
18 we've advocated local, state, and federal
19 policies to ban smoking in workplaces,
20 stop cigarette marketing to youth,
21 increase cigarette tax rates, hold
22 cigarette companies accountable in civil
23 court, and help smokers quit.

24 During the past decade, we've
25 been educating the public that cigarettes

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2 are 100 times more hazardous than all
3 smoke-free tobacco/nicotine alternatives,
4 including smokeless tobacco, nicotine
5 gums, lozenges, patches, inhalers, and
6 electronic e-cigarettes, and we've been
7 urging smokers who can't or aren't ready
8 to quit all tobacco/nicotine use to
9 switch to these far less hazardous
10 alternatives.

11 After the FDA banned -- for
12 disclosure, neither Smokefree
13 Pennsylvania nor I have ever received any
14 funding from any tobacco, drug or
15 e-cigarette company. So we have no
16 conflicts financially.

17 After FDA banned all
18 e-cigarette imports due to big
19 pharmaceutical company lobbying, the
20 agency revealed its unscientific,
21 unethical, and inhumane policy by telling
22 reporters, quote, "We don't want the
23 public to perceive them as a safer
24 alternative to cigarettes." And that
25 underlying policy is shared by the people

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2 who are supporting this bill. They just
3 don't want the public to know the facts
4 or the truth.

5 After Customs agents seized
6 their shipments in 2009, two e-cigarette
7 companies sued the FDA, and Smokefree
8 Pennsylvania collaborated with those
9 companies in their litigation against the
10 FDA. We filed an amicus brief with the
11 DC Court of Appeals in 2010, which
12 unanimously upheld Judge Leon's ruling
13 that the FDA unlawfully banned
14 e-cigarettes and provided no evidence of
15 proof of any of their claims about the
16 health claims.

17 Since our goal is to reduce
18 smoking, we urge this committee to reject
19 both of these bills, because --
20 especially the vaping ban, because it
21 bans the use of these life-saving
22 e-cigarettes, threatens the lives of
23 vapers, discourages smokers from
24 quitting, deceitfully defines smoke-free
25 e-cigarettes as electronic smoking

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2 devices, imposes a \$300 fine on employers
3 and managers for not enforcing the law,
4 which they can't enforce anyhow, which
5 I'll get into later. It requires posting
6 of signs that falsely claim e-cigarettes
7 are smoking devices, and finally I think
8 this bill is preempted by our state
9 Pennsylvania Clean Indoor Air Act, which
10 specifically prohibits municipalities
11 from enacting ordinances that are
12 different than the state's smoking ban.

13 In sharp contrast to the many
14 false and misleading fear mongering
15 claims made by e-cigarette opponents,
16 including this morning right before us,
17 since 2009, the scientific and empirical
18 evidence during the past five years has
19 consistently found that e-cigarettes are
20 99 percent less hazardous than
21 cigarettes, plus or minus 1 percent. So
22 the whole scientific debate is -- are
23 they 98 percent less hazardous or 99.99
24 percent? It's all in that range.

25 They've helped several million

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2 smokers quit and several more millions
3 sharply reduce their cigarette
4 consumption, and they're consumed almost
5 exclusively, about 99 percent, by
6 cigarette smokers and by former smokers
7 who switched to these products to quit.
8 Public health benefits every time a
9 smoker uses an e-cigarette instead of
10 smoking. E-cigarettes have already
11 replaced a billion packs of cigarettes in
12 the United States in the past five years
13 and last year U.S. cigarette consumption
14 plummeted by 4.6 percent as e-cigarettes
15 sales skyrocketed.

16 E-cigarettes are more effective
17 for smoking cessation than FDA-approved
18 gums, lozenges, patches, and inhalers,
19 which have a 95 percent failure rate.
20 They only help one out of 20 people who
21 have used them quit smoking. The other
22 19 go back to cigarettes.

23 And e-cigarettes pose fewer
24 risks than FDA-approved Chantix, as
25 Pfizer is facing hundreds of lawsuits for

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2 causing depression, suicides, and
3 suicidal thoughts among their consumers.

4 E-cigarettes pose no risks to
5 non-users. Hundreds of common workplace
6 and household products and activities
7 emit far greater levels of indoor air
8 pollution than e-cigarettes, including
9 furniture, carpet, paint, printers,
10 copiers, cooking, cleaning products, dry
11 cleaning clothes, hair spray, perfume,
12 nail polish, and even a cup of coffee,
13 but we don't ban any of those things.

14 Meanwhile, e-cigarettes have
15 never been found to create daily
16 dependence in any non-smoker anywhere in
17 the world, and I challenge anybody to
18 find one kid who became addicted to
19 nicotine because of e-cigarettes. And
20 they've never found to precede cigarette
21 use in any daily smoker.

22 Although a CDC survey found
23 that e-cigarette use doubled among teens
24 from 2011 to 2012, smokers accounted for
25 the overwhelming majority of these

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2 e-cigarette users. Among high school
3 students, 7.6 percent of smokers and 0.4
4 percent of non-smokers reported past 30
5 day e-cigarette use in 2011, and that
6 doubled for the next year to 15.7 percent
7 of smokers and 0.7 percent of
8 non-smokers. So less than one out a
9 hundred non-smoking youth have ever tried
10 an e-cigarette.

11 Since CDC's surveys found that
12 teen smokers are at least 20 times more
13 likely than non-smokers to report use of
14 an e-cigarette and found that teen
15 smoking has declined every year since
16 e-cigarettes have been marketed,
17 e-cigarettes are a gateway away from, not
18 towards, cigarette smoking for teens,
19 just as they are for adults.

20 Regardless, just as we don't
21 ban adults from consuming alcohol,
22 smokeless tobacco, coffee or candy
23 because some teens consume these
24 products, it's absurd to ban e-cigarettes
25 for that reason.

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2 E-cigarettes benefit many
3 employers and management since workers
4 don't waste company time on smoke breaks
5 and customers don't disrupt businesses by
6 going outside. Some employers actively
7 encourage smokers to switch to
8 e-cigarettes to improve employee health
9 and save money, including healthcare
10 costs.

11 Besides, it's impossible to
12 enforce vaping bans, and it's unfair to
13 impose \$300 fines on employers and
14 businesses for violations, since
15 e-cigarette users can eliminate all
16 visible vapor by simply holding their
17 breath for two seconds. And if you watch
18 closely, I want all of you to see if you
19 can tell if I'm using this e-cigarette or
20 not.

21 Nobody can tell. It's
22 impossible to enforce, but you want to
23 impose a \$300 fine on any management for
24 not being able to tell if I'm using an
25 e-cigarette or not? That is absurd.

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2 Since 2009, Smokefree
3 Pennsylvania has also advocated state
4 laws banning the sale of e-cigarettes to
5 minors, which 27 states have already
6 enacted and many more are in the process
7 of enacting, including four laws passed
8 in the past two weeks that have been sent
9 to their governors.

10 I just sent you last night, all
11 of you, a copy of the most recent update
12 of state and local legislation. It's
13 about 13 pages long.

14 Regarding the other bill, Bill
15 No. 96, we oppose the text of it because
16 it appears to be preempted by the state
17 law banning tobacco sales to minors
18 because it falsely defines smoke-free
19 e-cigarettes as electronic smoking
20 devices and creates a new derogatory
21 category of unapproved nicotine delivery
22 products to confuse and scare people, and
23 because it requires all e-cigarette
24 retailers to post enormous signs claiming
25 that these are smoking devices when

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2 they're not.

3 I urge this committee to amend
4 Bill No. 96 to make it consistent with
5 the language requirements and penalties
6 in Senator Tim Solobay's bill, which is
7 Senate Bill 1055. I sent a copy of it to
8 you. We also urge the Philadelphia City
9 Council to support Tim Solobay's bill,
10 which would ban the sale of all
11 alternative nicotine products to minors
12 in the State to Pennsylvania, and it also
13 preempts the City ordinance anyhow. So
14 even if you pass this ordinance, if
15 Solobay's bill gets passed by the General
16 Assembly, then this bill would be
17 preempted by state law and you'd have to
18 go back and revisit this. So I'd ask you
19 to make these consistent.

20 Thank you very much.

21 COUNCILWOMAN TASCO: Thank you
22 very much for your testimony.

23 COUNCILMAN GREENLEE: Thank
24 you, Madam Chair.

25 Just a few things. I don't

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2 want to go on forever, but just a couple
3 thing. First of all, Dr. Nitzkin,
4 somewhere in your comments you said about
5 this bill -- these two bills must be a
6 result of a conservative element for the
7 pharmaceutical people, something like
8 that?

9 DR. NITZKIN: Conservative
10 movement within the tobacco control
11 community, which basically is most of the
12 people in the tobacco control community.
13 And basically on their belief, they do
14 not consider the possibility that any
15 non-pharmaceutical product could have a
16 public health benefit, so they approach
17 it from that point of view. There can
18 only be harm, no benefit, and everything
19 else follows suit.

20 There is a small, but rapidly
21 growing, component of the public health
22 community, myself, Mr. Godshall, others
23 you may hear of, public health
24 professionals, who with independent
25 review and no commitment or no support

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2 from the pharmaceutical industry
3 challenge that wisdom. As I noted, we
4 have a problem. The numbers of smokers,
5 the numbers of deaths have not gone down
6 in ten years. We need something new, and
7 this product offers a pathway. By
8 invoking legislation that makes people
9 believe that these are as bad as
10 cigarettes or as harmful, you are
11 preventing that potential public health
12 benefit. That is the public health case
13 against these bills.

14 COUNCILMAN GREENLEE: Okay.
15 First of all, just -- and I say this kind
16 of laughingly. I don't think I've ever
17 been involved with anything that's been
18 called conservative. Usually I'm called
19 a bleeding heart liberal. Just for the
20 record. I guess it balances out
21 sometimes.

22 COUNCILWOMAN TASCO: That's for
23 all of us.

24 COUNCILMAN GREENLEE: Yeah, I
25 guess. I don't know.

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2 And you say that we're saying
3 that it's the same as cigarettes. I
4 don't think there's anywhere that says
5 that as tobacco. And we're not banning
6 it. We're regulating it. And right now
7 there are no regulations. Am I correct
8 to say there are no regulations on
9 electronic cigarettes as we speak,
10 federal regulations? Is that correct?

11 DR. NITZKIN: That is correct.

12 COUNCILMAN GREENLEE: Okay.

13 DR. NITZKIN: But your
14 regulations are supposedly intended to
15 protect the health of the public. The
16 case that we're making is that there's a
17 substantial amount of research that the
18 prior speakers are either unfamiliar with
19 or have chosen to ignore that address the
20 very questions that you're talking about.

21 Now, prohibition of sales of
22 nicotine products to minors is a topic
23 totally separate from banning
24 e-cigarettes. That's another topic. And
25 we fully support the banning of nicotine

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2 products to minors, but not with the
3 wording of the bill in front of you.

4 COUNCILMAN GREENLEE: And as
5 far as the wording goes -- and I don't
6 want to get into a semantic argument; we
7 can be here for a long time, but you said
8 that it shouldn't be called smoking.

9 Well, they're called electronic
10 cigarettes. What do you do with
11 cigarettes? You smoke them. I guess
12 some people eat them, but most people
13 smoke them. And if you say even what
14 Mr. Godshall just did, if you puff on
15 something, you inhale it and at some
16 point or another exhale it. I think if
17 you went out on the street and described
18 that action to a man or woman walking up
19 the street, said, What did we just do, I
20 think they'd say we were smoking. So, I
21 mean, why are we getting into this whole
22 thing? Should this be regulated or not?
23 But if we're going to get into -- I think
24 most people call this smoking.

25 DR. NITZKIN: Yes, it should be

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2 regulated, but by presenting what
3 e-cigarettes produce is smoke, you are
4 distorting it. It is the toxins in the
5 smoke that are not present in e-cigarette
6 vapors that cause all of the potentially
7 fatal illness, and also it is those toxic
8 substances that so magnify the effect of
9 the nicotine that people get addicted to
10 cigarettes. They don't get addicted to
11 e-cigarettes. That's a huge difference.

12 COUNCILMAN GREENLEE: Okay.
13 And I respect your opinion, and you
14 certainly have it. There obviously are
15 many, many other people -- and I read the
16 list besides the witnesses today, a list
17 of people -- and I would certainly call
18 them medical professionals -- who feel
19 differently. Now, I don't know. Maybe
20 you'd say they're all in the pockets of
21 the pharmaceutical society. I doubt
22 that. But in any event, I appreciate
23 your comments.

24 Thank you.

25 MR. GODSHALL: I would like to

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2 respond. Water vapor is not smoke, and
3 the people that are pushing this bill are
4 trying to convince people that water
5 vapor is smoke. I drove from Pittsburgh
6 today. It was below zero when I left. I
7 was emitting water vapor the whole time I
8 breathed, but I wasn't smoking.

9 COUNCILMAN GREENLEE: Were you
10 puffing on something and inhaling it and
11 exhaling it?

12 MR. GODSHALL: That has nothing
13 to do with it. Smoke is smoke.

14 COUNCILMAN GREENLEE: You say
15 it has nothing to do with it. I say it
16 does.

17 MR. GODSHALL: You're trying to
18 confuse everybody into believing that
19 water vapor is smoke, and that's wrong.
20 Water vapor doesn't harm people. It's
21 not harmful, and you're trying to make it
22 sound like it is as hazardous as smoking.

23 COUNCILWOMAN TASCO: What's in
24 the water vapor?

25 MR. GODSHALL: Pardon?

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2 COUNCILWOMAN TASCO: What's in
3 the water vapor that they're puffing on?

4 MR. GODSHALL: It's water
5 vapor. It's when you breathe when it's
6 cold out. It's the same thing. It's
7 propylene glycol. You see it in
8 entertainment in rock concerts. I'm sure
9 you've been there, nightclubs, except
10 that it's about a million times greater
11 concentrations of vapor than are emitted
12 by an e-cigarette. It's just tiny.
13 You're talking about micrograms. It's
14 barely detectable in microscopes, and
15 they're trying to make it sound like it's
16 as hazardous as smoke. Smoking kills
17 people. Inhaling vapor doesn't.

18 COUNCILMAN GREENLEE: We're not
19 saying it's as hazardous. We're saying
20 that there are serious -- that there have
21 been serious health professionals who
22 have raised questions about it, and what
23 we are saying is that until at least we
24 get those questions answered by a neutral
25 organization like the FDA or something

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2 like that, that it leaves --

3 MR. GODSHALL: FDA is not

4 neutral.

5 COUNCILMAN GREENLEE: Hold on.

6 Hold on.

7 MR. GODSHALL: They banned --

8 COUNCILMAN GREENLEE: Hold on.

9 Did I interrupt you? Then don't
10 interrupt me, please.

11 MR. GODSHALL: They're not
12 neutral.

13 COUNCILMAN GREENLEE: You don't
14 interrupt me. Thank you.

15 Now, all we're saying is that
16 you have -- we're putting regulations on
17 them. The word "ban" kept being used.
18 We're not banning it. You could step
19 outside. You can use it in your own
20 home. You can sit in Love Park today if
21 this bill was passed and use it. We are
22 not banning it.

23 So as long as we're playing
24 semantics, gentlemen, I think we ought to
25 make it clear that this is not a ban. It

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2 is a regulation of something that is, as
3 we sit here today, is not regulated.

4 Now, we can disagree on how much of a
5 danger it is, but I think we can also --
6 we can have differences of opinion, but
7 the fact of the matter is, we're not sure
8 because we don't know all that's put in
9 to these devices, so --

10 MR. GODSHALL: Yes, we do.

11 COUNCILMAN GREENLEE: Well, you
12 think you do. I don't think we do.

13 MR. GODSHALL: The people that
14 say we don't know are the people that
15 either refuse to read the research --
16 there's been over 200 studies published
17 in the last five years in these products.
18 I've sent them to most of these people.
19 The Philadelphia Health Department has
20 received copies of most of those. They
21 refuse to read them. Instead they come
22 out and say, We don't know anything.
23 There's no science. And the FDA called
24 it a regulation in 2009 when they banned
25 e-cigarettes. It's called code word for

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2 prohibition. Let's call it regulation.

3 It sounds nice. They seized --

4 COUNCILMAN GREENLEE: Two
5 separate words.

6 MR. GODSHALL: -- a thousand
7 shipments, Customs agents did, of U.S.
8 ports, and that's what caused the two
9 e-cigarette companies to sue FDA and win
10 in federal court. I mean, you want to
11 play games with words, let's be honest.

12 COUNCILMAN GREENLEE: I don't
13 want to play games. I'm saying it
14 directly what it is. I'm not playing
15 games at all. I'm saying directly what I
16 feel it is.

17 MR. GODSHALL: Banning
18 e-cigarette use in every workplace in
19 this city is effectively a ban, except
20 you can go outside. So, I mean, why
21 don't you ban coffee? It's got
22 carcinogens in it, toxin chemicals.

23 COUNCILMAN GREENLEE: I haven't
24 seen anybody inhale it and put it out in
25 the air.

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2 MR. GODSHALL: Cooking in every
3 workplace, carpet. This carpet emits far
4 more carcinogens than all the
5 e-cigarettes combined in this country
6 ever.

7 COUNCILMAN GREENLEE: Is
8 anybody smoking the carpet?

9 MR. GODSHALL: No, but they
10 have carcinogens in it. You say you're
11 worried about these unknown risks. Why
12 don't you -- we know about the risks of a
13 lot of these other products and you're
14 not banning them, but you're suddenly
15 banning this given that there's no
16 evidence of disease --

17 COUNCILMAN GREENLEE: Thank
18 you, sir. Thank you. We're not going
19 anywhere. Thank you, sir.

20 MR. GODSHALL: -- or death ever
21 caused by this product.

22 COUNCILMAN GREENLEE: Thank
23 you.

24 DR. NITZKIN: Thank you. I'd
25 like to leave extra copies of my --

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2 COUNCILMAN O'BRIEN: Wait a
3 minute. I have a question. I have a
4 question.

5 What was the number of that
6 Senate bill?

7 MR. GODSHALL: Senate Bill
8 1055, Tim Solobay. He's a democrat.

9 COUNCILMAN O'BRIEN: Great. I
10 know Tim. He's a good friend of mine. I
11 am going to take you up on your
12 invitation. I think I'm going to call
13 him --

14 MR. GODSHALL: Good. Thank
15 you.

16 COUNCILMAN O'BRIEN: -- and I'm
17 going to have a conversation with him,
18 and if I can't dissuade him to amend the
19 bill, perhaps I'll persuade some of his
20 colleagues to have some creative
21 amendments either in committee or on the
22 floor.

23 MR. GODSHALL: You want Solobay
24 to amend his bill to call these smoking
25 devices?

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2 COUNCILMAN O'BRIEN: I used to
3 do that. I used to do the amendatory
4 process very well in Harrisburg, and I
5 may take you up on that offer and --

6 MR. GODSHALL: No. I'm saying
7 you should support Solobay's bill.

8 COUNCILMAN O'BRIEN: -- looking
9 into --

10 MR. GODSHALL: -- and ban sales
11 of all --

12 COUNCILMAN O'BRIEN: I
13 understand what you said. Please don't
14 be argumentative.

15 Doctor, can I ask you a
16 question? I'm speculating that you were
17 way ahead of the curve in 2007 in doing
18 research. Just for a point of clarity,
19 were you doing research in other
20 countries on e-cigarettes or were you
21 doing research in the United States for
22 e-cigarettes that were in other
23 countries? Because I understand that
24 e-cigarettes were not introduced in the
25 United States until 2010. So can you

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2 please tell me --

3 DR. NITZKIN: Let's me tell you
4 what I was doing and why.

5 COUNCILMAN O'BRIEN: And if I'm
6 wrong, I would welcome some current
7 research to dissuade me of the
8 information that I have.

9 DR. NITZKIN: February of 2007
10 is the date the FDA law was introduced
11 into Congress.

12 COUNCILMAN O'BRIEN: Am I
13 correct that the e-cigarettes were not
14 introduced until 2010? So I'm just
15 wondering --

16 MR. GODSHALL: E-cigarettes
17 were introduced in 2006 in the United
18 States and FDA seized a thousand
19 shipments at U.S. ports in 2009 and 2010.
20 So definitely what you were told is
21 inaccurate. That's why the e-cigarette
22 companies sued in May of 2009 the FDA,
23 because FDA seized shipments. Most of
24 these were made in China. They were
25 shipped into U.S. ports. Customs agents

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2 were seizing them.

3 COUNCILMAN O'BRIEN: I was
4 asking him a question, if you don't mind.

5 DR. NITZKIN: The research that
6 we began in 2007 was on tobacco harm
7 reduction on smokeless tobacco products.
8 And then when e-cigarettes became more
9 prominently available and visible, we
10 added research on e-cigarettes to the
11 work that we were doing. But the initial
12 concept then and the concept now is one
13 of tobacco harm reduction, enabling
14 smokers who are unable or unwilling to
15 quit, to reduce their risk of potentially
16 fatal illness by 98 percent or more by
17 switching to a much lower risk product.
18 Yes, cessation is best, but it's not an
19 option for many smokers. So the research
20 we were doing was tobacco harm reduction.

21 COUNCILMAN O'BRIEN: I thought
22 you said it was e-cigarettes, and I thank
23 you because I'm just infected as
24 Mr. Greenlee is on the razzmatazz and
25 merry-go-round, so...

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2 COUNCILWOMAN TASCO: The Chair
3 recognizes Councilwoman Sanchez.

4 COUNCILWOMAN SANCHEZ: I just
5 have a clarifying question, and this is a
6 yes or no answer. Is your assessment the
7 same for these hookah? What did you call
8 the, hookah smokeless stuff?

9 DR. NITZKIN: This assessment
10 is the same for all electronic nicotine
11 delivery systems and devices, which is
12 the technically proper name for all of
13 these.

14 COUNCILWOMAN SANCHEZ: Thank
15 you. And I'll just note for the record,
16 notwithstanding the state bans, many
17 times legislation flows up and many times
18 it flows down. We will abide by the law
19 and then sometimes we pass laws and we
20 get sued, and we're okay with that too.

21 Thank you.

22 COUNCILWOMAN TASCO: Thank you
23 very much.

24 Are you Mr. McKinney?

25 UNIDENTIFIED SPEAKER: No.

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2 COUNCILWOMAN TASC0: The next
3 panel, Gilbert Ross, Medical and
4 Executive Director of American Council on
5 Science and Health; Carl Phillips,
6 Consumer Advocates for Smoke Free
7 Alternatives Association; and Jeffrey
8 Daman, Daman Associates.

9 (Witnesses approached witness
10 table.)

11 COUNCILWOMAN TASC0: Good
12 afternoon. Would you state your name for
13 the record and begin your testimony.

14 DR. PHILLIPS: My name is Carl
15 V. Phillips, Ph.D. I am a former
16 Professor of Public Health and am now the
17 Scientific Director for Consumer
18 Advocates for Smoke Free Alternatives
19 Association, called CASAA, the leading
20 advocacy group for the millions of
21 smokers who have quit smoking, thanks to
22 the use of low-risk alternatives. I
23 lived here up until fairly recently,
24 although a few months ago I moved out of
25 state.

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2 CASAA supports the prohibition
3 of sales to e-cigarettes to minors in
4 principle, although there are some fatal
5 flaws with the wording of the current
6 bill that have been pointed out. These
7 are contained in my written testimony and
8 are easier to follow there, so I will not
9 waste time repeating those. We support
10 the principle of the bill. It could
11 easily be amended to fix the wording
12 problems.

13 Dr. Igor Burstyn was hoping to
14 be able to present here regarding the
15 question of placing bans on e-cigarette
16 use. He is the world's leading expert on
17 the health effects of the chemicals in
18 e-cigarettes. He's a Professor at Drexel
19 University School of Public Health.
20 Unfortunately, he was not able to be
21 scheduled early enough and had to leave.

22 To summarize what he would have
23 been able to tell you in much greater
24 detail, the environmental exposure from
25 e-cigarettes is not at all similar to

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2 smoking. Professor Burstyn's recent
3 review, which is a review of every
4 available study about e-cigarettes, over
5 9,000 observations, including every
6 single study that you have heard
7 mentioned here today that suggested that
8 there might be a risk, concluded that the
9 exposure of chemicals to the user, both
10 the intended ingredients and the
11 contaminants, was far below the level
12 that would create any health concern.
13 That's to the user himself. The
14 conclusion was that exposure to
15 bystanders is a thousand or 10,000 times
16 less than the quantity which was already
17 shown to be inconsequential. Therefore,
18 the basis of this proposed ban, that
19 there's some threat to bystanders, has
20 absolutely no basis in science.

21 You've heard other witnesses
22 make hand-waving statements about, Oh, we
23 just don't know, but in fact, we have
24 thousands upon thousands of observations.
25 And the result is not that, Oh, this just

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2 sneaks in below the level that we might
3 consider hazardous. The result is that
4 this is thousands of times lower than the
5 level that would be considered hazardous
6 and, as has already been noted by other
7 witnesses, is far less than the exposure
8 that you get from restaurant kitchens or
9 furniture, someone peeling an orange or
10 simply a room full of people breathing,
11 none of which I suspect you're planning
12 on banning. And banning is the key word
13 here.

14 You have our written testimony
15 from my organization. So I'd like to
16 note that you've heard a remarkable
17 number of claims from witnesses in
18 support of this place ban, protesting
19 frequently, Oh, this isn't a ban, and yet
20 if you look at most of what they said, it
21 had nothing to do with any issues about
22 exposures to bystanders. It was all
23 about reasons why those witnesses would
24 like to ban e-cigarettes entirely.

25 In addition, hundreds of

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2 statements that were made, literally over
3 a hundred statements there, were simply
4 false. I could spend until midnight
5 carefully debunking a lot of the
6 scientific nonsense that you've heard
7 here today, but I realize I'm not going
8 to get an opportunity to do that.

9 But set that aside, even if you
10 believe most of what was said, most of
11 them were attacks on the existence of
12 e-cigarettes, not on allowing these
13 products to be used because they are a
14 public health miracle for smokers to quit
15 smoking, but just we don't want other
16 people exposed to them. The testimony
17 had almost nothing at all to do with
18 that.

19 Vaping is about 99 percent less
20 harmful than smoking, and hundreds of
21 thousands of American smokers who would
22 not have otherwise quit have switched to
23 e-cigarettes, thus reducing their health
24 risks almost as much as if they had quit
25 cold turkey. Anything that discourages

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2 the switching is bad for public health.

3 Now, you might be inclined to

4 say, Well, despite Igor Burstyn's

5 definitive study, better safe than sorry.

6 But this is not safe. This is very

7 costly. Being able to use an e-cigarette

8 in a bar or one's office rather than

9 having to trudge outside to smoke is a

10 big draw. People come for the

11 convenience, but they stay for the 99

12 percent reduction and health risk. Take

13 away that convenience and you're going to

14 be responsible for killing many people

15 who would have quit smoking as a result

16 of that, but instead figure that they

17 might as well just keep smoking. This is

18 hardly erring on the side of caution.

19 The rest of my written

20 testimony is on record. I just have to

21 pause here and say that I think this is

22 really sad. There was the remark about

23 liberals and conservatives before. I'm

24 about the strongest progressive liberal

25 on most issues that you ever might want

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2 to find, and yet I'm one of the many
3 people who has come to distrust and even
4 hate government over actions like this.

5 Basically, the argument was, We
6 banned smoking, so, yeah, let's go ahead
7 and ban this too. But where does that
8 leave us? This is Philadelphia. This
9 isn't New York. This is Philadelphia,
10 the "cradle of liberty," the home of the
11 Liberty Bell and Independence Hall.

12 These get called public place bans, but
13 this is not a public place ban for the
14 most part. This would impose
15 restrictions on a million private office
16 managers, restauranteurs, and bar owners
17 to not allow them to make the decision.
18 You heard the testimony about various
19 private actors who have decided on their
20 own to not allow vaping on their private
21 property. That's fine. That's their
22 choice. But for the government to step
23 in and set and override the judgment of a
24 bar owner who thinks that it is perfectly
25 acceptable to allow this, as far as we

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2 can tell, harmless activity to take place
3 in their own space is a huge government
4 overreach and the worst of the slippery
5 slope arguments that you hear and that
6 have caused so many people to lose their
7 faith in government. So you're taking an
8 action that dramatically restricts
9 private choice based on misinformation
10 when the correct information shows that
11 there's no genuine risk here.

12 I'm speaking for myself right
13 now, not my organization, where I have to
14 say that this is just a very sad thing
15 for Philadelphia to be considering.

16 Thank you.

17 COUNCILWOMAN TASCO: Thank you
18 very much.

19 Any questions or comments?

20 Oh, I'm sorry. Next.

21 DR. ROSS: Hi. I'm Dr. Gilbert
22 Ross, Medical and Executive Director of
23 the American Council on Science and
24 Health. You have our printed position
25 statement as well, I believe.

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2 ACSH, which is our acronym, was
3 founded in 1978, and we've been in the
4 forefront of anti-smoking advocacy since
5 then. We hate smoking. We love smokers,
6 but we hate smoking.

7 A few years ago, we became
8 convinced, based upon evidence, that the
9 best way out of smoking was with tobacco
10 harm reduction, supplying nicotine
11 addicts from cigarette smoke with the
12 nicotine that they crave, but removing
13 the carcinogens and toxins that are
14 plentiful in cigarette smoke. But what
15 people have been talking about here, all
16 of those folks who testified in favor of
17 these bills kept repeating over and over
18 again about the evils of smoking and how
19 the tobacco companies and the cigarette
20 makers deceived and manipulated ads and
21 seduced kids into smoking and all of
22 that. Well, yes, perhaps. I mean,
23 that's certainly true, but
24 e-cigarettes -- the theme here seems to
25 be conflating e-cigarettes with real

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2 cigarettes. They are not at all similar.

3 Some of them look like cigarettes, and I

4 think that generates the fear and

5 loathing based upon the big tobacco

6 tactics of the 20th century. But

7 e-cigarettes are not cigarettes. There

8 is no tobacco in e-cigarettes. There is

9 no smoke associated with e-cigarettes.

10 So to call them smoking devices is

11 ridiculous. There's no combustion.

12 The dangers of cigarette

13 smoking, everybody here will agree, comes

14 from the tar and gaseous phase that

15 smokers inhale hundreds of times a day

16 for hundreds of months and years, and

17 that's what kills them. Smokers smoke

18 for the nicotine, but they die from the

19 smoke.

20 So banning, restricting, and

21 otherwise removing access from smokers to

22 e-cigarettes, which seems to be a public

23 health miracle based upon the information

24 we have, is the opposite of public

25 health. Nobody here has bothered to

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2 mention yet the following facts:

3 We have 44 million approximate
4 smokers in this country, two-thirds of
5 whom at least are daily smokers, meaning
6 they're addicted. Four-hundred and
7 eighty thousand actually was the last CDC
8 estimate of the number of Americans who
9 die each year from cigarette smoke. Zero
10 is the estimate of the number of people
11 who have been sickened or killed by
12 e-cigarettes, and yet you say we don't
13 know what's in them.

14 As Carl Phillips just
15 testified, Igor Burstyn is one of the
16 world's experts on this subject, and it's
17 a shame that the hearing was delayed
18 sufficiently long so that he was unable
19 to testify.

20 But the vapor that e-cigarette
21 users inhale has no threat to health,
22 much less the threat from so-called
23 second-hand vapor, which is a term that
24 has -- it's just nonsensical in terms of
25 medical risk.

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2 People who say we need to
3 regulate e-cigarettes, that they're not
4 regulated, want basically to regulate
5 them off the market. Again, as Carl
6 said, it's really, in effect, a hatred of
7 these devices because they remind people
8 of cigarettes. They want to regulate
9 them right off the market.

10 We believe that regulation of
11 e-cigarettes is a good thing in terms of
12 age limits on marketing and sales, making
13 sure that they're manufactured
14 appropriately, responsibly, that
15 childproof packaging and accurate
16 labeling are all appropriate regulation.
17 Also people have said that there's no
18 federal regulation. Well, the Family
19 Smoking Prevention and Tobacco Control
20 Act of 2009 is, in effect, a regulation
21 to this extent. It's been also implied
22 that e-cigarette companies are trying to
23 kid the public that they're not really a
24 smoking cessation device, that there's
25 some other ulterior goal. E-cigarette

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2 companies are not permitted by that law
3 to tell anybody that they can be used to
4 stop smoking. It would be a violation of
5 the law. So they have to go around the
6 ban to try to imply that it might be
7 healthier for you to use e-cigarettes
8 than to smoke, which is obviously true,
9 but they're not allowed to say that. It
10 would be a violation of the law.

11 We know this for a fact: You
12 say that there's no hard evidence that
13 e-cigarettes lead to smoking cessation.
14 We do know that millions and millions of
15 units of these devices have been sold
16 over the last couple of years and sales
17 seem to be doubling each year. At the
18 same time, sales of cigarettes have
19 declined by historic levels. Between 4
20 and 5 percent fewer cigarettes were sold
21 last year than the year before.

22 Also, there's some fear about
23 teens being addicted to nicotine and
24 becoming cigarette smokers thanks to
25 e-cigarettes and this ridiculous CDC

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2 report that was manipulated to scare
3 people that e-cigarette use had been
4 doubling among teens. Well, you heard
5 the data from Mr. Godshall about how
6 phony those data were. In fact, teen
7 smoking has declined significantly over
8 the last couple years, which flies in the
9 face of the theory that e-cigarette use
10 has anything to do with increasing the
11 risk of teen smoking. That's another
12 false alarm, red herring.

13 Basically e-cigarette vapor is
14 steam, as Mr. Godshall said, with some
15 discussion about that. It contains
16 nicotine and propylene glycol, glycerin
17 and trace amounts of other chemicals.
18 There's nothing in it that could harm
19 anybody.

20 I'd ask you before you pass
21 this bill, which is misguided, to think
22 about the 480,000 Americans who die every
23 year from cigarettes. E-cigarettes seem
24 to be a way out of smoking, and to
25 restrict them or reduce access to them is

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2 antithetical to public health. Please
3 give it serious thought before you go
4 ahead with this misguided measure.

5 Thank you.

6 COUNCILWOMAN TASCO: Thank you.

7 Next.

8 MR. DAMAN: Good afternoon and
9 increasingly close to evening,
10 Councilwoman Tasco and the rest of the
11 Committee. My name is Jeffrey Daman. I
12 do want to thank the Councilmembers for
13 taking the time to think about the issues
14 related to these personal electronic
15 vaporizing units, such as has been
16 labeled, the electronic cigarettes.

17 I think the good news is by
18 this point many people have said most of
19 even what I was going to say, and so
20 while my written testimony has already
21 been submitted, I will deviate, both in
22 the hopes of being closer to the time
23 limits imposed and just because most of
24 this has already been said and I think we
25 are beginning to get a little bit weary.

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2 On that note, I want to thank
3 the Council's exceptional staff for
4 providing water to the table in light of
5 the water vapor debate. I wasn't sure if
6 they were trying to poison me, but I
7 think the gesture is well intended.

8 The problem I have, therefore,
9 as we deviate from the testimony is --
10 and as I've sat here and observed the
11 Committee hearing -- is there's a lot of
12 fear mongering going on, and I was
13 surprised to even hear that already
14 brought up before I got to it. It's
15 startling to me that we're discussing
16 regulations where, with respect,
17 Councilman Greenlee, the justification is
18 we don't understand it, we don't know
19 that it's dangerous, but I guess we
20 should regulate it, that seems to be a
21 deviation from the political process that
22 Councilwoman Quinones-Sanchez has
23 eloquently pointed out.

24 For Dr. Schwarz to say that,
25 quote, the science just isn't there yet,

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2 at the same time to justify regulation,
3 you know, whereas also be voting the fact
4 that we don't know what's going on, just
5 seems to be a departure from the
6 traditional legislative process, as
7 surprisingly has already been mentioned
8 by my panelist, Mr. Phillips.

9 There are indeed many studies,
10 and I worry that the way things have been
11 presented today that we just don't know
12 is on some level sticking one's head in
13 the sand. It would be appropriate, I
14 think, to regulate based on the evidence,
15 and we too are going to mention Professor
16 Burstyn from Drexel University. He's
17 somewhat local. I'm sure he'd be happy
18 to follow up if the Council asked him.
19 He has published studies, and the major
20 conclusion in that study is that there is
21 really no danger from second-hand vapor,
22 if you want to call it that.

23 Electronic cigarettes are not
24 being targeted to our youth. We and the
25 people we have spoken with do not oppose

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2 banning or regulating the sales of
3 electronic cigarettes to youth, but as
4 the other panelists before me have said,
5 the problem is the way that this
6 particular bill is drafted, and we would
7 support it being amended to clarify what
8 it does and what it does not apply to.

9 The premise that vaping devices
10 are dangerous is really the flawed issue
11 with the second and more major regulatory
12 move by the Council. Whether or not it
13 conflicts with the Commonwealth's own
14 actions, as the Councilwoman previously
15 pointed out, is I guess ultimately a
16 question for the courts.

17 But I do just want to conclude
18 by saying it seems odd to me that while
19 we are promoting regulations -- and
20 Dr. Ross mentioned this before -- we
21 blame electronic vaping devices or
22 cigarette manufacturers, who oftentimes
23 have been purchased by tobacco companies
24 but are rarely in fact developed by them,
25 we blame them for not saying this is an

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2 electronic smoking cessation device when
3 they're not allowed to do so. It seems
4 again that we hide ourselves within the
5 folds of political chicanery when we
6 claim that we don't know what's going on,
7 but think that we have enough science
8 upon which to base the regulation and we
9 fault people for not claiming that which
10 would be illegal for them to fault.

11 So I guess I conclude with
12 urging the Council to consider the vast
13 amounts of evidence that does seem to be
14 out there now and to propose and promote
15 responsible regulation targeting sales to
16 minors and to take into account the true
17 science and distinction between vaping
18 and actual tobacco cigarette use when
19 promoting any further proposals.

20 Thank you.

21 We are losing the Council.

22 COUNCILWOMAN TASCO: Let me
23 just ask you a question. What is the joy
24 in using e-cigarettes?

25 MR. DAMAN: What is the joy?

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2 COUNCILWOMAN TASC0: What's
3 joy? I mean, why do people smoke them?

4 MR. DAMAN: I'll let others
5 perhaps answer after me. I use neither.
6 I believe the joy that people get is the
7 health benefit that they perceive from
8 having a far less dangerous, far lower
9 content. The joy that they get is the
10 ability to be able to use it in areas
11 where it would be inappropriate to use
12 tobacco products because of the impact
13 and because that impact is really
14 significantly lessened on other people.
15 The access with which they have to use it
16 I believe is another promoting factor.
17 The convenience with which they use it is
18 a promoting factor.

19 COUNCILWOMAN TASC0: Do the
20 e-cigarettes contain nicotine? What's in
21 them?

22 DR. ROSS: Most e-cigarettes
23 contain nicotine, but they don't have to.
24 Some people that have quit smoking thanks
25 to e-cigarettes have tapered down their

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2 nicotine level gradually to zero over the
3 course of weeks, months or even years,
4 but many just enjoy the nicotine anyway
5 without the toxins and carcinogens.

6 Nicotine from an e-cigarette is
7 not toxic. As a matter of fact, a
8 nicotine in a regular cigarette is not
9 toxic. Many people think that nicotine
10 is a toxin or carcinogen. Even some
11 physicians think so. This is false.
12 Nicotine in a cigarette is an important
13 part of the addictive quality of
14 cigarette smoke, but nicotine per se is
15 not toxic.

16 I'm curious, though, as to why
17 you ask, if you don't mind my asking,
18 about the pleasure.

19 COUNCILWOMAN TASCO: Well, I
20 just wanted to know why people -- because
21 we've got some comments that I've stopped
22 smoking and this helps me to continue to
23 not to smoke. So it seems to me that
24 there's something in the cigarette that's
25 similar to a -- in the e-cigarette that's

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2 similar to the regular cigarette, but has
3 a lower amount of nicotine. And so what
4 is the joy in doing the e-cigarette?

5 DR. ROSS: I'm going to pass
6 the mic on to the expert in that subject,
7 Dr. Carl Phillips.

8 DR. PHILLIPS: As both a
9 scientific expert and as the only, as far
10 as I know, nicotine user on the current
11 panel, although there are certainly
12 plenty in the room, I use nicotine
13 because it is a wonderful cognitive
14 enhancer. It makes my brain work better.
15 This is true for an awful lot of people.
16 It's very much like caffeine, and the
17 analogy to caffeine continues beyond
18 that. They are both relatively harmless,
19 although neither one is perfectly
20 harmless, but basically the risk is about
21 the same. The effects are very similar.
22 Some people, of course, become habitual
23 users. I, for one, can take it or leave
24 it. Some people are not in that
25 fortunate situation and, therefore, find

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2 that the opportunity to use a low-risk
3 form of nicotine such as e-cigarettes or
4 smokeless tobacco allows them to not
5 suffer the enormous difficulty of going
6 from smoking to abstinence, but to still
7 basically eliminate the health risks in
8 the range of 99 percent of all the health
9 risks. And so those are some. There are
10 a few other reasons why people like to
11 use this, but the simplest possible
12 answer that I think everybody can
13 understand is for the same reason that
14 people drink coffee.

15 DR. ROSS: I have only two
16 very, very fast things to say. One -- it
17 hasn't been said yet -- nobody wants
18 anybody to take up nicotine who is not
19 already on nicotine. E-cigarettes are
20 for people who are addicted smokers to
21 use them to quit.

22 And, second, people refer to
23 evidence-based medications and
24 methodologies to help smokers quit. The
25 FDA approved medications, including Zyban

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2 Bupropion and Chantix Varenicline and the
3 patches and the gums work rarely.

4 Somebody did say that, but let me
5 emphasize that. They work between 5 and
6 10 percent of the time. So that when you
7 tell people, smokers, addicted smokers,
8 over 50 percent of whom are going to die
9 from smoking, to stick to the FDA
10 approved products, you're telling them to
11 quit or die.

12 COUNCILWOMAN TASCO: Well,
13 they're going to die eventually.

14 Councilman.

15 COUNCILMAN GREENLEE: Thank
16 you. Again, I'm not going to try to go
17 too long here.

18 I have to say, though,
19 Dr. Ross, that's a total -- to say that
20 we're telling them to die, that's
21 ridiculous. That's ridiculous. You said
22 it was like telling them to die. That's
23 ridiculous, and I really have a problem
24 with statements like that.

25 DR. ROSS: The FDA approved

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2 methods do not work. So when you tell an
3 addicted smoker to use the quit lines and
4 the FDA approved methods and to not use
5 e-cigarettes, as all of federal and most
6 of the local health agencies do, you warn
7 them not to try e-cigarettes, stick to
8 the FDA approved products, what you're
9 telling them is quit your addiction to
10 nicotine or else have over 50 percent
11 chance of dying from continuing to smoke.
12 Maybe I should have phrased it that way.

13 COUNCILMAN GREENLEE: Okay.
14 Whatever.

15 Let me just ask, I said in my
16 opening statement that a lot of the
17 producers of electronic cigarettes are
18 the tobacco companies. Is that not an
19 accurate statement?

20 DR. PHILLIPS: By far, the
21 majority of the producers are not the
22 major tobacco companies. Electronic
23 cigarettes were created, perfected, and
24 popularized by companies that had no
25 connection to the traditional tobacco

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2 industry at all. A few of those
3 companies have now been acquired by
4 tobacco companies. A few tobacco
5 companies have started their own
6 products. They were way behind the
7 curve. They were way late in the game on
8 this. They did not create this.

9 COUNCILMAN GREENLEE: The
10 reason I'm bringing that up is that some
11 of the strongest lobbying that's been
12 done against this bill before today were
13 by folks hired by the tobacco companies.
14 So that's the reason I raise that.

15 MR. DAMAN: It's always been
16 viewed as a threat to their market. So
17 it was traditionally competitive, and as
18 I'm sure the Councilman recognizes,
19 sometimes large companies acquire their
20 competition. But it's always been viewed
21 as a competitor to the market.

22 COUNCILMAN GREENLEE: I lost
23 that. Say that one more time.

24 MR. DAMAN: Electronic
25 cigarettes, if we're going to call them

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2 that, have always been viewed by
3 traditional tobacco products as a
4 competitor to their market. So on some
5 levels, they've acquired some of those
6 companies. As I'm sure the Council is
7 aware, sometimes you acquire your
8 competition. But they've always been
9 viewed as a threat to their market
10 because of the effectiveness of enabling
11 people to stop using traditional
12 products, and they were almost always
13 developed outside of those companies.

14 COUNCILMAN GREENLEE: But their
15 lobbyists are now advocating against
16 these bills, certainly against the
17 regulation bill that I'm going to call
18 it.

19 DR. ROSS: But any banning or
20 restricting of e-cigarettes will have the
21 effect of protecting cigarette markets
22 and helping the big tobacco companies.

23 COUNCILMAN GREENLEE: They are
24 advocating against the bills, sir.
25 They're advocating against the bills. So

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2 if it was going to help them, why
3 wouldn't they want to see this bill go
4 forward?

5 DR. ROSS: I frankly have no
6 insight into that.

7 COUNCILMAN GREENLEE: Let me
8 ask -- the other two witnesses made a
9 point of saying they had no connection
10 with tobacco companies and their
11 organization was not supported by tobacco
12 companies. Will you three say the same
13 thing? Mr. Ross -- or I'm sorry. Is it
14 Dr. Ross?

15 DR. ROSS: The American Council
16 on Science and Health will accept
17 no-strings-attached donations from
18 anybody that will send us money.

19 COUNCILMAN GREENLEE: Do you
20 get support from tobacco companies?

21 DR. ROSS: Yes.

22 COUNCILMAN GREENLEE: Okay.

23 DR. PHILLIPS: CASAA has
24 refused offers of support from
25 traditional tobacco companies.

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2 COUNCILMAN GREENLEE: So you do
3 not get support, but the American Council
4 on Science and Health does, right?

5 DR. ROSS: Yes. And if you
6 wish to perceive of the American Council
7 on Science and Health as being a holy
8 owned subsidiary of a big tobacco
9 company, feel free to do so.
10 Nevertheless, everything I've said here
11 remains true.

12 COUNCILMAN GREENLEE: Okay. I
13 didn't say anything. You just used the
14 word "subsidiary." I never used that
15 word at all. I just asked a question.

16 DR. ROSS: I was being a
17 reductio ad absurdum, but still all of
18 the --

19 COUNCILMAN GREENLEE: Being a
20 what?

21 DR. ROSS: Reductio, meaning
22 whether we get 1 percent of our funding
23 from tobacco companies or 99.8 percent,
24 everything I said was still true.

25 COUNCILMAN GREENLEE: Okay.

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2 It's your opinion. Whether it's true is
3 obviously an argument.

4 Mr. Daman, I think you're here
5 as a --

6 MR. DAMAN: We are not
7 supported by any tobacco companies. It's
8 a simple answer.

9 COUNCILMAN GREENLEE: That's
10 fine. And let me just in general say --
11 and I know people have used words like
12 hate mongering and all. I don't think
13 we're doing any of the kind, and I could
14 go on for a long time --

15 DR. ROSS: Fear mongering.

16 COUNCILMAN GREENLEE: I think
17 there was hate and then there was fear
18 mongering.

19 MR. DAMAN: I think it was both
20 fear. We're hopeful that Councilman
21 O'Brien, who has professed an expertise
22 in amending bills, will be able to help
23 bring these bills back to a more specific
24 and well-intended purpose, particularly
25 the youth-directed bill.

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2 COUNCILMAN O'BRIEN: I'm
3 focused on Tim Solobay's bill right now.

4 MR. DAMAN: I'm sure the
5 Commonwealth will look forward to your --

6 COUNCILMAN GREENLEE: Actually,
7 Councilman O'Brien can speak for himself,
8 but I think he told me he supports these
9 bills.

10 MR. DAMAN: But now I think
11 he's going to hear reason from -- I'm
12 sure he's open to the constituency's
13 testimony and he'll try to improve it,
14 because that's his legislative history.

15 COUNCILMAN O'BRIEN: I'm not
16 interested in having you put words in my
17 mouth. I'll make my own statements.
18 Thank you very much.

19 MR. DAMAN: I'm referring to
20 your previous statement.

21 COUNCILMAN GREENLEE: Thank
22 you.

23 Thank you, Madam Chair.

24 COUNCILWOMAN TASCO: Thank you
25 very much.

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2 Next.

3 (Thank you.)

4 COUNCILWOMAN TASC0: Chris

5 Webber, Patrick Carroll, David Keller,

6 and Chris Donnelly -- Doney. I'm sorry

7 if I mispronounce your name.

8 (Witnesses approached witness
9 table.)

10 COUNCILWOMAN TASC0: Okay.

11 Would you state your name for the record,
12 please, and proceed with your testimony.

13 MR. PFEIFFER: Absolutely.

14 Good afternoon, Madam Chairperson,

15 members of the Committee. My name is

16 Christopher Pfeiffer and I am here today

17 as a resident of Mount Wolf, Pennsylvania

18 and a manager of a vape shop in York. I

19 was also a smoker until three years ago

20 when I was discovered the wonders of

21 vaping.

22 Now, I get my nicotine craving

23 satisfied without the nasty side-effects

24 of cigarette smoking. There are no

25 longer butts littering the pavement

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2 outside the house, nor overflowing
3 ashtrays, emanating horrible noxious
4 odors. The best part is that I don't
5 smell like a smoker anymore. My clothes,
6 my car, my house, all free of tobacco
7 smoke.

8 For those who want to believe
9 that second-hand vape is just as bad as
10 second-hand smoke, go ahead and ask my
11 girlfriend if she prefers the old days of
12 having everything smelling like an
13 ashtray or if she prefers the way things
14 are now. In fact, early studies of the
15 vapor emitted from a personal vaporizer,
16 exhaled contains comparable amounts of
17 pollution similar to normal outside air.

18 I mentioned that I am a manager
19 of a vape shop here in Pennsylvania, and
20 as far as I can tell, passing this bill
21 as it is currently written would do
22 wonders for business outside of
23 Philadelphia and possibly out of the
24 great State of Pennsylvania. Our
25 business used to be located in Glen

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2 Burnie, Maryland, but for reasons similar
3 to why we are here today, the business
4 owners decided to relocate to York,
5 Pennsylvania. Passing of this bill will
6 undoubtedly send plenty of vapers, new
7 and old, out of Philadelphia to satisfy
8 their desire. We would hope that they
9 head over to our shop and experience a
10 vape-friendly atmosphere where they can
11 see what we have to offer, have the
12 opportunity to try the myriad of
13 different flavors that are available, and
14 enjoy their device and their flavor at
15 any number of vape-friendly
16 establishments in our area.

17 That's all I have. Thank you
18 for your time, and vape on.

19 COUNCILWOMAN TASCO: Next.

20 MR. CARROLL: Hi. My name is
21 Patrick Carroll. I'm a resident of
22 Philadelphia and I'm the Co-Founder of an
23 electronic cigarette company called Jet
24 Cigs. We're a Philadelphia company,
25 though our office is located in Folcroft

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2 just over the border, but we're a
3 Philadelphia company for tax purposes and
4 all that.

5 I --

6 COUNCILWOMAN TASC0: Do you pay
7 taxes in Philadelphia?

8 MR. CARROLL: Yes.

9 COUNCILWOMAN TASC0: Do you pay
10 taxes in Folcroft?

11 MR. CARROLL: No; here,
12 Philadelphia. That's where our
13 headquarters is, here in Philadelphia.

14 COUNCILWOMAN TASC0: Thank you.
15 I misunderstood you. Forgive me.

16 MR. CARROLL: I'm a non-smoker,
17 but I became interested in this industry
18 after doing a lot of research, and there
19 has been a lot of scientific studies done
20 on the effects of both e-cigs vapor and
21 second-hand vapor. I'm a chemical
22 engineer and I've watched a lot of my
23 co-workers and friends and such struggle
24 with attempting to quit smoking and using
25 the methods that are available and wanted

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2 to see if I could become part of that,
3 among other things.

4 I want to focus fairly narrowly
5 on the issue of indoor air quality around
6 e-cigs. There have been three or four
7 studies done on this, all of which have
8 determined no detectable toxic components
9 of the vapor that a user exhales when
10 using an electronic cigarette. What I
11 feel is the best study, which is called
12 Secondhand Exposure to Vapors from
13 Electronic Cigarettes by Jan Czogala,
14 found -- this was actually referenced by
15 Dr. Schwarz in his testimony, saying that
16 there were detectable levels of nicotine
17 found in the exhaled vapor of e-cigs.
18 It's true that they were detectable.
19 However, our abilities to detect things
20 are pretty darn good in the science
21 community these days. The levels which
22 they detected were 0.8, 6.2 micrograms
23 per meters cubed, which is equivalent to
24 parts per billion. And I did a
25 calculation of just how much nicotine a

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2 user could be -- a non-user, a person
3 sitting next to a person vaping, could be
4 expected to be exposed to from the e-cig
5 based on these figures, and even at the
6 high end of the range, after eight hours,
7 they would be exposed to the equivalent
8 of nicotine that's contained in one
9 eggplant.

10 There is nicotine in --

11 COUNCILWOMAN TASC0: One
12 eggplant?

13 MR. CARROLL: Eggplant, yes.

14 COUNCILWOMAN TASC0: Some of
15 them are pretty big.

16 MR. CARROLL: That's true. I
17 will allow that. This is an average
18 eggplant.

19 So I do feel that there is a
20 belief, and as a non-smoker, I can
21 appreciate this belief, that nicotine is
22 this terrifying chemical we need to avoid
23 at all costs, but it is at low levels
24 perfectly harmless, as far as I can tell
25 and as far as the people who regulate

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2 eggplants and their lack of warning
3 labels can tell. And other than
4 nicotine, again, there are no detectable
5 tar, smoke part, minimal particulate
6 levels, tobacco-specific nitrosamines or
7 any of the other components of cigarette
8 smoke found in the exhaled vapor of an
9 e-cig. And one reason why we might want
10 to keep people who are trying to quit
11 smoking indoors rather than sending them
12 outside to smoke with people who are
13 smoking cigarettes is that a lot of
14 cigarette smoking appears to me to be a
15 social activity. So if a person who is
16 trying to quit smoking is forced to go
17 out there with the smokers, he or she
18 more likely to bum a cigarette from one
19 of them and start smoking again. If
20 they're able to stay inside and not go
21 outside to use what they're using as an
22 alternative to cigarettes, I think
23 they're more likely to be able to quit.
24 I suppose that's all I have to
25 say. Thank you very much.

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2 COUNCILWOMAN TASCO: Thank you
3 very much for your testimony.

4 Our next witness, please.

5 MR. WEBBER: Thank you,
6 Councilwoman. My name is Chris Webber.
7 I graduated from the University of
8 Pennsylvania and lived in West
9 Philadelphia for five years. I've always
10 studied neurology and psychology at Penn,
11 in addition to working at HUP in a brain
12 imaging laboratory. I'm not here to talk
13 about the science. I'm here to talk
14 about my experiences as a former smoker.

15 I was a smoker for almost ten
16 years, and now I thankfully quit, thanks
17 to vaping. And as a former smoker, I can
18 actually address a question you brought
19 up earlier. What is the joy? Why do
20 people smoke? Smokers represent a
21 community. I had tried to quit times and
22 times again, and like this gentleman just
23 mentioned, when you see smokers outside,
24 you want to join them. I would see
25 smokers congregating outside of bars or

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2 buildings, and that's where I felt
3 comfortable. That was my community.

4 As I'm sure we're all aware,
5 because we've heard it so much today,
6 tobacco is an incredibly hard habit to
7 break. Ninety-five percent of people who
8 try fail. Furthermore, it's a huge
9 public health issue. Almost half a
10 million people die every year because of
11 tobacco.

12 We need a solution.
13 Traditional nicotine replacement therapy
14 has a success rate, as was mentioned,
15 about 7 percent, and as we heard from
16 proponents of the ban or regulation,
17 people should stick to FDA-approved
18 therapies like the patch or the gum or
19 the lozenge, as well as therapy.
20 Personally, I know a lot of people who
21 just can't afford to pay thousands of
22 dollars and spend hours every week in
23 therapy on top of spending hundreds of
24 dollars a month on techniques that just
25 don't work.

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2 The reality is, people smoke
3 because life is hard, and they get a
4 little bit of pleasure from smoking and
5 it gets them through their day. The
6 problem is is that it kills them.

7 Vapor devices represent an
8 incredible breakthrough, because they
9 allow smokers to get that pleasure, have
10 that sense of community, but avoids
11 almost all, if not all, of the health
12 risks of tobacco.

13 I understand my story is only
14 one story, but there's quite a bit of
15 research. In addition to anecdotal
16 research, population-based studies that
17 show between 22 percent and 88 percent of
18 people who start vaping completely end
19 their tobacco use. I know this is true,
20 and there's actually quite a bit of
21 research that I can send to you, if you'd
22 like.

23 The reason why it's so
24 effective is because vaping preserves
25 that sense of community. It preserves

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2 the ritual of smoking, while completely
3 eliminating most, if not all, of the
4 health risks. It's not a sneaky plan to
5 re-normalize smoking. It's a community
6 that's trying not to kill itself. Like
7 was mentioned before, this vaping came
8 along well before tobacco industries got
9 into it. This was a community that's
10 really watching every other person die
11 because of this habit, and we're trying
12 to stop that. I mean, this is -- it
13 really is an attempt not -- to save our
14 lives.

15 As was mentioned by other
16 people testifying, there really is no
17 scientific basis for a ban, especially
18 considering the fact that second-hand
19 vapor has never been demonstrated to have
20 any negative harm effects to bystanders.
21 So that I ask you, you really have to
22 consider, when considering this
23 regulation, what the real effect is.
24 You're going to be driving smokers back
25 out to face their own personal devil, to

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2 be around other people using tobacco, and
3 that really is going to harm a lot of
4 people. You have to ask yourself, why
5 are you going to do this? Again, no
6 scientific basis, and everything that
7 I've heard today at least speaks to the
8 fact that people just don't like the way
9 it looks. They don't like the appearance
10 of vapor being exhaled.

11 Personally I think when banning
12 things that help a certain community just
13 because of their appearances is bad
14 public policy. And not only that, it's
15 downright immoral. Banning things
16 because of how they look is just wrong.

17 I would like to thank the
18 Council for this time.

19 COUNCILWOMAN TASC0: Thank you
20 very much.

21 Next.

22 MR. KELLER: Hi, Council.
23 Thank you for having me. My name is Dave
24 Keller. I'm a proud resident of the
25 Fairmount area of Philadelphia and also

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2 the co-owner of an online vapor store,
3 Adirondack Vapor, that both specializes
4 in the manufacture and sales of the
5 liquids within vaporizers.

6 I wanted to be very clear. I
7 was a smoker, and I was a smoker for the
8 better part of a decade, pack a day
9 religiously, and there was absolutely no
10 possibly -- nothing I could do that would
11 allow me to quit. I did go through the
12 patches, the gum. I did Chantix, with
13 horrific side-effects. I used all of the
14 appropriate methodology in order to try
15 and quit up until the point of actually
16 hypnosis. The only thing that has worked
17 for me in order to get me to quit is
18 electronic cigarettes.

19 So while there may be other
20 speculation that they don't work because
21 they're not FDA approved, I can tell you
22 that myself and hundreds more like me
23 that I've met in my travels would say to
24 the contrary.

25 Also in my experience, there

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2 have been establishments which I have
3 used my personal vaporizer in, usually
4 it's with permission. Most of the time
5 it's in social situations such as at bars
6 and things of that nature. And for the
7 most part, not only has this been a
8 favorable thing for the bars in not
9 having to regulate patrons going in and
10 outside, but I can say for myself at
11 least a dozen people that I've met in
12 that situation, I've converted to not
13 smoking. Again, this is over a dozen
14 people that no longer smoke because they
15 were introduced to an electronic
16 cigarette inside the walls of an
17 establishment.

18 What this bill here as it's
19 written would effectively do is prevent
20 that situation from occurring in the City
21 of Philadelphia.

22 Also, during my tenure as a
23 vaper, I have become quite learned. I'd
24 like to consider myself to be a lifetime
25 learner and I have -- my pedigree allows

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2 me to do this. Before coming into this
3 realm, I was a clinical scientist. My
4 title was actually clinical research
5 associate. I worked in the research and
6 development of pharmaceutical compounds.

7 I've read the vast majority of
8 the clinical studies associated with
9 electronic cigarettes, and I can tell you
10 with a straight face that almost --
11 actually, there has never been one that
12 I've read that the scientific methodology
13 is well founded enough to make any
14 negative conclusions against the use of
15 electronic cigarettes, both in primary
16 user and secondary vapor.

17 So basically I'm reiterating
18 what many of my colleagues here have
19 already said. There really isn't much of
20 a basis behind why this bill is being
21 introduced, and in fact, it will
22 eventually be harmful in the fact that
23 the availability to switch to electronic
24 cigarettes will be very much limited by
25 this bill.

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2 Thank you.

3 COUNCILWOMAN TASC0: Thank you
4 very much. Thank you for your testimony.

5 Who is next?

6 MR. WEBBER: Thank you.

7 COUNCILWOMAN TASC0: Thank you.
8 This is deja vu for us.

9 Let me recognize Councilwoman
10 Cindy Bass, who is a member of the
11 Committee, who has joined us.

12 MR. DONEY: My name is Chris
13 Doney. First off, I'd like to thank
14 everyone for the opportunity to voice my
15 opinions regarding this legislation.

16 Now I could do like -- many
17 other people have testified and explained
18 how electronic cigarettes have changed my
19 life, my health, et cetera, and it would
20 be the same testimony you've heard from
21 many others. I'd much rather spend the
22 time discussing why we should embrace
23 this vaping community and the e-cig
24 industry while trying to avoid demonizing
25 vaping and casting out those who are

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2 simply looking for a safer alternative to
3 smoking tobacco.

4 Now I ask you guys, why are
5 vapers being targeted? I run a social
6 club called The Vape Meet in the
7 Allentown area. It's an opportunity for
8 e-cig users and potential e-cig users to
9 get together, enjoy the company of
10 others. We have a few beers and laughs.
11 We sample each other's and other vendors'
12 e-liquids. We run giveaways and host
13 classes on e-cig-related topics. We are
14 a tight-knit group, varying in age from
15 mid 20's into their 50's, and we probably
16 would have never become acquainted if it
17 weren't for electronic cigarettes.

18 We host at a local diner and
19 are all paying customers, providing that
20 local business an average of \$300 to \$500
21 extra dollars on our meet nights. We are
22 a respectful group. We are respectful of
23 other diners. We don't get loud or
24 obnoxious, and all the servers and
25 managers appreciate our added business to

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2 them.

3 I bring this up because we vape
4 indoors in a restaurant with other paying
5 customers, but we do so with the
6 permission of the establishment. And I
7 myself have not heard of one single
8 complaint come from our group, and we
9 have never had anyone ask us to stop
10 vaping or complain to a manager.

11 Now, if a bill like 140095 were
12 to pass in the Allentown area, we would
13 be required to relocate our meet-ups back
14 to a cigarette-infested bar, going home
15 wreaking of cigarettes and the very thing
16 we are trying to get away from.

17 Why force us outside to vape or
18 back into a smoky bar when 95 percent of
19 the e-cig users will ask the
20 establishment if it allows vaping before
21 using indoors and be very respectful of
22 others' opinions? Why can't the business
23 itself make up that own decision on e-cig
24 use?

25 Which brings me to my next

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2 thought. What happens to those stores
3 that carry e-cig equipment and e-liquid?
4 If they're grouped in with the hookah
5 lounges and bars, they need special
6 permits and forms to allow vaping
7 indoors, an unnecessary and damning blow
8 to an infant of an industry. There are
9 at least five vendors that I can think of
10 in the Philadelphia area that provide
11 stimulus for this reigning economy,
12 offering jobs and community outreach
13 programs to help people get away from
14 traditional tobacco.

15 I've seen vendors donate time,
16 money, and equipment to a program
17 designated to help veterans and less
18 fortunate people stop using cigarettes.

19 So I ask you again, why are we
20 criticizing a community that does a lot
21 to help each other out and even total
22 strangers? I urge you to vote no on
23 140095 and keep vapers welcome in
24 Philadelphia.

25 Thank you.

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2 COUNCILWOMAN TASC0: Thank you
3 very much.

4 Thank you all for your
5 testimony. We appreciate you taking the
6 time out to come.

7 The next group will be Benjamin
8 Daines, Suzanne Theresa, and Suzanne
9 Parrotti. Then we have Gregory Conley
10 and Dr. Robert Sklaroff. Are you here?

11 MR. CONLEY: Gregory Conley.
12 The doctor who opposed the use of the ban
13 had to leave for another hearing.

14 COUNCILWOMAN TASC0: Just wait
15 until you sit down and we'll ask you to
16 testify. Okay?

17 Sir.

18 MR. DAINES: My name is Ben
19 Daines and I started smoking at the age
20 of --

21 COUNCILWOMAN TASC0: Sir, could
22 you please speak into the microphone.
23 Thank you very much.

24 MR. DAINES: My name is Ben
25 Daines and I started smoking at the age

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2 of 13. By my freshman year of college, I
3 was smoking a pack and a half a day, and
4 this was closer to two packs if I was
5 drinking. Nearly two years ago, I bought
6 an electronic cigarette after reading
7 about them online, and within the first
8 week I stopped smoking tobacco cigarettes
9 altogether.

10 Electronic cigarettes are
11 perhaps the first technological
12 development that stands a very good
13 chance of eliminating tobacco usage
14 completely. In recent years, the portion
15 of the U.S. population who smokes has
16 stagnated, showing that the current
17 methods of encouraging people to quit are
18 no longer working. These are people who
19 know full well the risks and adverse
20 health effects that come with smoking,
21 yet they choose to smoke anyway.

22 Rather than continuing to push
23 abstinence only in the form of quit or
24 die, it may be time to embrace a harm
25 reduction model. In fact, cigarette

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2 sales this year were down from last
3 year -- compared to previous years, and I
4 do not think it is a coincidence that the
5 electronic cigarettes have gained huge
6 popularity in the same year.

7 The majority of harm that comes
8 from smoking is from the smoke itself,
9 not nicotine. Nicotine is not the
10 anti-Christ and, in fact, it carries
11 about the same level of addiction, and
12 its effects on the body and mind are very
13 similar to that of caffeine. In fact,
14 two drugs, one totally socially
15 acceptable -- I would venture to guess
16 that most people in this room have had at
17 least one cup of coffee today -- and the
18 other vilified by anti-smoking groups are
19 very similar on the biochemical level.

20 Because quit or die is showing
21 that it has run its course and nicotine
22 usage is not a major public health
23 concern, it is time we encourage those
24 who remain smokers to switch to vaping.
25 We should be doing everything in our

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2 power to encourage them to switch to
3 vaping, especially since smoking kills
4 millions of Americans each year and is
5 the number one cause of preventable death
6 in the nation.

7 For this reason, electronic
8 cigarettes should not be included in an
9 existing indoor smoking ban. To include
10 them would send the message to the
11 general public that electronic cigarettes
12 carry the same risks and adverse health
13 effects as smoking does. This is simply
14 not true.

15 While it is a valid point that
16 electronic cigarettes have not been
17 around long enough to have long-term data
18 on their effects, it can be said with
19 great certainty that any potential risks
20 involved with their use are many orders
21 of magnitude less than those risks that
22 we know tobacco cigarettes carry. To
23 keep this information from the public or
24 to perpetuate misinformation about
25 electronic cigarettes is grossly

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2 irresponsible and will directly
3 contribute to the deaths of many of your
4 constituents.

5 Furthermore, indoor smoking
6 bans are accepted on the basis of
7 negative impact -- on the negative impact
8 smoking has on the health of the smoker
9 and those around them. These risks are
10 not present with electronic cigarettes
11 and, therefore, there's no health or
12 scientific basis for including electronic
13 cigarettes in smoking bans.

14 The sole reason for including
15 them in smoking bans is one based on the
16 ideological belief that it is wrong for
17 people to appear to be smoking. However,
18 as I have already discussed, this is
19 silly and will only serve to dissuade
20 many smokers from making the switch to
21 relatively harmless vapor products.

22 In fact, the ingredients in
23 e-liquid or the nicotine solution used
24 are, with the exception of nicotine and
25 flavoring, the exact same chemicals used

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2 in commercial fog machines and asthma
3 inhalers, which have been extensively
4 studied and deemed safe to inhale.

5 As a respectful adult, I
6 understand that it is not appropriate to
7 use my electronic cigarette everywhere I
8 please, and for this reason, I completely
9 support individual establishments that
10 choose to disallow vaping on their
11 premises, but there is no need for a
12 citywide ban on their usage.

13 The vaping community is large
14 and tight-knit. We support each other
15 daily and is in some ways similar to the
16 support found within the rooms of AA and
17 NA. If our lives were not affected in an
18 incredibly positive way, we would not be
19 here today taking away time from our work
20 and studies to speak to you on an issue
21 that is very close to our hearts and our
22 lungs, for that matter.

23 Also, while I fully support
24 regulation that disallows the sale of
25 electronic cigarettes to minors, I find

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2 the proposed signage highly questionable.

3 The specific objection that I have is to

4 the wordage labeling vapor products as

5 electronic smoking devices. As

6 previously stated, electronic cigarettes

7 must not be associated with the evils of

8 smoking in any way. Many of us are even

9 opposed to them being called electronic

10 cigarettes in the first place.

11 Furthermore, it is misleading

12 to refer to electronic cigarettes as

13 unauthorized nicotine delivery products.

14 It is simply unnecessary and even

15 offensive. A much better proposed sign

16 would say something along the lines of

17 electronic nicotine devices, as that's

18 what they are, a method of nicotine

19 ingestion, not a device for smoking. We

20 vape. We do not smoke.

21 So for these reasons, I urge

22 you to vote against proposed Bills 140096

23 and 140095. My Councilmembers, today you

24 have the opportunity to stand in the way

25 of the current trend of hanging smokers

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2 out to dry and vilifying these devices
3 that stand a chance for the first time
4 ever to do away with smoking, and I urge
5 you to embrace this wonderful harm
6 reduction solution. It would be
7 hypocritical not to, especially in a city
8 with one of the highest smoking rates in
9 the country and a city that embraces harm
10 reduction strategies when it comes to IV
11 drug usage in the form of needle
12 exchanges.

13 Thank you.

14 COUNCILWOMAN TASCO: We thank
15 you for coming out this afternoon to
16 testify, and though we may not always be
17 on the same page, we appreciate all of
18 you for taking time out to come to let
19 your voices be heard, and we appreciate
20 that. Thank you.

21 Next.

22 MR. CONLEY: Chairwoman and
23 distinguished members of the Philadelphia
24 Health Committee, my name is Gregory
25 Conley. Three and a half years ago after

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2 trying and failing to quit smoking
3 multiple times with the kinds of methods
4 recommended by the Philadelphia
5 Department of Health, the nicotine gum,
6 lozenge, patch, et cetera, I finally
7 managed to quit smoking with the use of a
8 smoke-free, tobacco-free electronic
9 cigarette. And I have spent the last
10 three and a half years trying to
11 encourage state and local legislatures to
12 embrace policies that recognize that
13 electronic cigarettes and all smoke-free
14 nicotine products, including the gum
15 patch and lozenge, are all 98 to 99
16 percent less hazardous than smoking and
17 that none of these products should be
18 banned -- and it is a ban -- by cities in
19 places where smoking is banned.

20 In regards -- and I am here
21 today, I should add, speaking on behalf
22 of the National Vapers Club, a non-profit
23 that funds research on e-cigarettes as
24 well as representing e-cigarette
25 consumers, and I am here as a volunteer.

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2 In regards to youth access, no
3 one opposes banning the sale of
4 electronic cigarettes to minors. On that
5 note, it should be noted that the Health
6 Commissioner in his testimony did not
7 refer to electronic cigarettes as
8 electronic smoking devices. Over and
9 over again, he accurately called them by
10 their most common name, electronic
11 cigarettes or e-cigarettes. So why does
12 this bill deceitfully refer to electronic
13 cigarettes as electronic smoking devices?
14 As pointed out by Bill Godshall in his
15 testimony, if SB 1055 passes the
16 Pennsylvania Legislature, which it likely
17 is -- and it will not be amended to say
18 electronic smoking devices -- business
19 owners will be required to post two signs
20 in the City of Philadelphia, one sign
21 mandated by the Pennsylvania government
22 saying you can't sell alternative
23 nicotine products, cigarettes, and
24 tobacco products to minors, and a whole
25 separate sign from the Philadelphia

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2 Department of Health saying you can't
3 sell cigarettes, tobacco products,
4 electronic smoking devices, and whatever
5 unapproved nicotine delivery products
6 are, to minors. This is utterly
7 ridiculous. And for what? To falsely
8 call a product that does not create smoke
9 smoking? It doesn't make sense.

10 Additionally, the Commissioner
11 of Health spent a lot of time talking
12 about how individual businesses have
13 banned e-cigarette use. This is exactly
14 how policy on e-cigarette use should be
15 set. Let's make it clear. Business
16 owners are free to ban e-cigarette use,
17 and all the people here today respect
18 that. However, many businesses don't,
19 particularly bars.

20 In New York City, the
21 hospitality association showed up and
22 testified against the indoor usage ban,
23 because they wisely realized that when
24 you have a lot of neighbors complaining
25 that the drunks at your bar are outside

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2 smoking cigarettes and screaming and
3 yelling at 2 o'clock, 3 o'clock in the
4 morning, that it's vastly preferable to
5 have people inside using an e-cigarette
6 rather than outside smoking and
7 littering.

8 I'd also love to know what your
9 enforcement plan is for this law. I
10 mean, right outside the doors today there
11 are giant signs on every door saying no
12 smoking within 20 feet of the door. Who
13 is smoking two feet away from the door
14 today? One of your security guards
15 that's supposedly tasked with keeping
16 people from smoking within 20 feet of the
17 door. If you can't enforce your own
18 smoke-free policy, how in the world do
19 you expect to enforce an e-cigarette
20 policy?

21 Just to make a point, I sat in
22 the back there and I put my device up to
23 my lips about 20, 25 times during the
24 course of this hearing. If this law
25 passed, would one of those men in the

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2 back come up and tell me, Sorry, even
3 though you're not releasing visible
4 vapor, even though we cannot tell if you
5 are pressing the button and inhaling
6 something, you have to stop. Am I going
7 to be subject to a fine? And how in the
8 world are you going to prove that in a
9 court of law, that I actually used my
10 electronic cigarette?

11 Multiple jurisdictions have
12 banned e-cigarette use where smoking is
13 banned and no ticket. There is no record
14 of any enforcement in a bar, restaurant,
15 office, et cetera. And meanwhile, being
16 from New Jersey where e-cigarette use has
17 been banned, I can tell you confidently
18 that e-cigarette use is rampant all
19 around New Jersey. I proudly tell people
20 when I meet them that our vapers, By the
21 way, it's banned indoors, but 99 percent
22 of the population is aware, and of the 1
23 percent that is, I don't know, maybe 0.1
24 percent actually would complain if they
25 saw it.

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2 And as somebody who comes to
3 Philadelphia about once a week, usually
4 this time of year on cold winter nights,
5 I have no plans to step outside into 10
6 degree weather to use this. I will just
7 sit and I will puff and I will hold my
8 breath and nothing will come out, and I'd
9 love to be the test case in court.

10 Most importantly, at a bare
11 minimum, you should allow businesses to
12 go through the same waiver process that
13 businesses that allowed smoking were
14 given when the Philadelphia City Council
15 banned smoking in clubs and bars, I
16 believe, ten years ago or less. It's not
17 fair that you're giving a product that
18 presents no risk to bystanders or, even
19 by the admittance of the sponsor, less
20 risk to bystanders, it is completely
21 unfair that you are giving -- that you
22 gave more favorable treatment as a City
23 Council to bars and clubs that allowed
24 cigarettes by allowing them to apply
25 through a waiver process than you are for

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2 e-cigarettes. No bar, restaurant, office
3 that wants to allow e-cigarette use will
4 be allowed under this bill, but when you
5 banned smoking, you did allow bars and
6 clubs to apply for an exemption. So
7 please tell me why we can't enact that
8 same process for bars and restaurants
9 currently existing that wish to allow
10 e-cigarette use in their establishment.

11 And before I close, Councilman
12 Greenlee, I interacted with you on
13 Twitter last night and I told you that
14 when I spoke to you in person, I would
15 say that you or the staff handling your
16 Twitter account were 100 percent wrong
17 when you stated that the passionate,
18 dedicated e-cigarette users that were
19 Tweeting at you were, in your own words,
20 paid spambots. I keep my promises, so
21 Councilman Greenlee, you were incorrect.
22 Those are passionate people who care
23 about vaping and care about saving
24 people's lives by encouraging them to use
25 a smoke-free product.

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2 So in conclusion, ten years
3 ago, or however long when the City
4 Council banned smoking, you allowed bars,
5 restaurants to apply for a waiver to
6 continue to allow smoking. And now when
7 you're dealing with a product that
8 creates no smoke that you are planning on
9 deceptively defining as smoking, you're
10 not giving that process. So please,
11 don't rush this bill out of committee.
12 Let it sit. Let it simmer and actually
13 look at some of the science. And as for
14 the youth access bill, please let that
15 sit, even if only for a week, and fix the
16 incorrect misleading definitions that
17 have no place in law. And I'd be happy
18 to answer any questions.

19 COUNCILWOMAN TASCO: Thank you
20 very much for your testimony. Thank you
21 very much.

22 MR. CONLEY: And I think it's
23 unfortunate that I believe you're going
24 to have someone from the Department of
25 Health up and not have anyone to rebut

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2 anything that they're saying.

3 But have a great day. Thank
4 you for holding this hearing.

5 COUNCILWOMAN TASCO: I don't
6 think we have to rebut anything.

7 Is there anybody else here to
8 testify on this bill?

9 (No response.)

10 COUNCILWOMAN TASCO: Councilman
11 Greenlee, I recognize you for comments.

12 COUNCILMAN GREENLEE: Just very
13 quick as we wrap up here, just to clear
14 up a few things that were said. First of
15 all, the gentleman that had the vape
16 shop, according to this bill, if you have
17 a vape shop, you still can vape in your
18 establishment. So vape on, sir, if
19 that's what you want to do.

20 I just want to repeat, as I
21 said many, many times, this is not a ban.
22 And I'm not trying to play semantics.
23 These are regulations, regulations
24 regulating a product that is not
25 regulated at all now.

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2 Someone said about appearance,
3 that we're mostly concerned about
4 appearance. Maybe that was mentioned
5 once. Most of us, the witnesses and
6 myself, all said our main concern was
7 that we do not know what's in this
8 product. We're not -- there's
9 conflicting testimony about the potential
10 harm, and all we're saying is that we're
11 erring on the side of caution, and if
12 people want to use this product, they
13 should not do it in the public spaces.

14 And we don't want people to
15 smoke, and if this is the way they can
16 quit smoking, we certainly say go ahead
17 and do it. So we're not -- and we're
18 never and have never said, I don't think
19 anybody, that we equate this with
20 smoking. Our concern is that we don't
21 know a lot about it.

22 I could go on, but I'm just --
23 oh, and also if you have a waiver, if an
24 establishment has a waiver to allow
25 smoking, they're also allowed to use the

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2 electronic cigarettes in those places.

3 And with that, Madam Chair, as
4 we move to the meeting, I hope the
5 Committee sees fit to move these bills
6 forward. Thank you very much.

7 COUNCILWOMAN TASCO: Thank you.

8 Let me recognize Councilman
9 Kenyatta Johnson, who is a member of this
10 committee, and recognize Councilwoman
11 Blondell Reynolds Brown, who is at her
12 seat. Are you on this committee?

13 COUNCILWOMAN BROWN: No.

14 COUNCILWOMAN TASCO: Who has
15 come in for the testimony.

16 We will now adjourn our public
17 hearing and go into the public meeting.

18 I call on Councilman Greenlee
19 to call up Bill 140095.

20 COUNCILMAN GREENLEE: First of
21 all, Madam Chair, I want to move an
22 amendment to Bill No. 140095. That
23 amendment, which has been circulated,
24 will may the effective date of this
25 ordinance July 1st, 2014, and I move the

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2 adoption of that amendment.

3 (Duly seconded.)

4 COUNCILWOMAN TASC0: It has
5 been moved and seconded that we accept
6 the amendment for Bill 140095.

7 All in favor?

8 (Aye.)

9 COUNCILWOMAN TASC0: Is there
10 any opposition?

11 (No response.)

12 COUNCILWOMAN TASC0: There
13 being none, the amendment is passed.

14 Now I call on Councilman
15 Greenlee to call up Bill 140095, as
16 amended, to be reported out of the
17 Committee with a favorable
18 recommendation.

19 COUNCILMAN GREENLEE: Thank
20 you.

21 COUNCILWOMAN TASC0: And the
22 rules -- go ahead.

23 COUNCILMAN GREENLEE: Thank
24 you, Madam Chair. I move that Bill No.
25 140095, as amended, be reported out of

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2 this committee with a favorable
3 recommendation and that the rules of
4 Council be suspended to allow for first
5 reading at our next session of Council.

6 (Duly seconded.)

7 COUNCILWOMAN TASC0: Thank you.

8 It has been moved that Bill No. 140095,
9 as amended, be reported out of this
10 committee with a favorable recommendation
11 and a request that Council's rules be
12 suspended so this bill can be placed on
13 Council's next session.

14 All in favor?

15 (Aye.)

16 COUNCILWOMAN TASC0: Is there
17 any opposition?

18 (No response.)

19 COUNCILWOMAN TASC0: There
20 being none, the motion is carried.

21 Now I call on Councilman
22 Greenlee for Bill 140096.

23 COUNCILMAN GREENLEE: Thank
24 you, Madam Chair. I move that Bill No.
25 140096 be reported out of this committee

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2 with a favorable recommendation and that
3 the rules of Council be suspended to
4 allow for first reading at our next
5 session of Council.

6 (Duly seconded.)

7 COUNCILWOMAN TASCO: It has
8 been moved and properly seconded that
9 Bill 140096 -- that we accept the
10 amendment --

11 COUNCILMAN GREENLEE: No
12 amendment for that.

13 COUNCILWOMAN TASCO: I'm sorry.
14 That Bill 140096 be reported out of
15 committee with a favorable recommendation
16 and that the rules be suspended so this
17 bill can be heard at Council's next
18 session.

19 All in favor?

20 (Aye.)

21 COUNCILWOMAN TASCO: Is there
22 any opposition?

23 (No response.)

24 COUNCILWOMAN TASCO: There
25 being none, the motion is carried.

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2 Thank you very much. This bill
3 will be called up in Council's next
4 session. Thank you very much.

5 (Committee on Public Health and
6 Human Services concluded at 4:00 p.m.)

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CERTIFICATE

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

MICHELE L. MURPHY
RPR-Notary Public

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