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NEW YORK STATE  
PUBLIC HEALTH COUNCIL MEETING

Re: Proposed Regulation Limiting  
Smoking in Indoor Areas.

Place: SUNY Health Sciences Center  
Lecture Hall #6  
Stoney Brook, New York

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Monday  
December 22, 1986  
10:05 a.m.

B E F O R E :            MONSIGNOR CHARLES J. FAHEY

Nora Castaldo  
Hearing Reporter

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## A P P E A R A N C E S :

MONSIGNOR CHARLES J. FAHEY

GERALD THOMSON, M.D. (not present)

RUSSELL ALTONE, ESQ.  
Attorney for State Health Department

## ALSO PRESENT:

STEVE STEINHARDT, ESQ.  
Associate Counsel,  
New York State Department of Health

DAVID MOMROW  
Director of Bureau of Adult &  
Gerintological Health

\* \* \* \*

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3                   MSGR. FAHEY:        Good morning. My  
4                   name is Charles Fahey, and I have the privilege to  
5                   chair this hearing today. I'm a member of the  
6                   Public Health uouncil, an instrumentality of the  
7                   State of New York, that has broad responsibilities  
8                   for the health of the people of the State. There  
9                   are 14 of us that are appointed by various  
10                  governors. Over the years we have acted in a  
11                  number of areas, and for the past six months or so  
12                  we have been deeply concerned about the issues  
13                  involved with smoking. We are particularly  
14                  concerned with those who would be exposed to smoke  
15                  involuntarily, and as you know, a series of  
16                  discussions have been held over the last six  
17                  months, and the Public Health Council has  
18                  published a set of regulations which are not yet  
19                  formally in the process of being approved, but we  
20                  do want to have these before us. These are things  
21                  we are seriously considering and we are anxious to  
22                  have the input of people from throughout the  
23                  state. This is one of a series of hearings being  
24                  held. One is being held in Syracuse, and after  
25                  the first of the year, hearings will be held in

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1  
2 Buffalo, Albany and in New York City.

3 We have a number of persons who have  
4 asked to be heard today, and we are delighted to  
5 be able to hear you.

6 Lest you think you are being slighted  
7 because all of the other members of the Public  
8 Health Council are not here, that is not so, but  
9 what it really important is the written record.

10 We have the stenographer with us  
11 today, a court stenographer, and all of the  
12 comments will be available to the people on the  
13 Public Health Council, and they will be read very  
14 carefully.

15 In order that all may be heard who  
16 wish to be heard, we would ask you to restrict  
17 your comments to 10 minutes, even if you have a  
18 prepared written statement, if you wish to  
19 summarize it, I'm sure that none of us would be  
20 crushed and that whole written statement will be  
21 entered as part of the record.

22 For those who would wish to amend  
23 their statements or to make a written  
24 presentation, the record will remain open until  
25 January the 16th.

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2 On my right is Russell Altone, who is  
3 part of the legal staff, an attorney with the  
4 State Health Department, who is going to make sure  
5 that I stay on the straight and narrow, and also  
6 that all of those who wish to be a part of the  
7 hearing will.

8 He's also the official timekeeper,  
9 and I am an expert at putting people to sleep at  
10 homilies, so I know that anything over ten minutes  
11 isn't going to be heard anyway, so we want to  
12 adhere to that time framework.

13 I might also note that while we have  
14 an official agenda of those who have requested to  
15 be heard, and certainly all of those will be  
16 heard, if there be anyone else who would wish to  
17 come before us today, we will try to work you in,  
18 and whereas -- who is they should speak to, to  
19 sign up?

20 Everybody, if you just give your name  
21 to Steve, he will make sure that you have the  
22 opportunity to be heard.

23 Is there anything else that we  
24 should -- okay, well then, we'll proceed.

25 Of course, I should note one of the

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reasons we are particularly interested to be out on the Island, is that the Island is taking the leadership in this area, and with the local ordinances that exist in Nassau and Suffolk County, we are interested to hear how that is working out, what effect it's having on people and the economy, et cetera, et cetera, and among those who have been very helpful to us, have been the two Commissioners of Health, and our first lead-off witness today is a representative of Dr. John Dowling, who is the Commissioner of Nassau County.

I would ask each of the witnesses to come before the microphone so you can be heard, and if you would identify yourself or the person you may be representing, and/or if you are representing yourself, fine, and the organization in which in you are routed.

DR. NIEBLING: Thank you, very much, Monsignor Fahey, and members of the New York State Public Health Council in abstentia, I am Dr. Robert Niebling, Deputy Commissioner of the Nassau County Department of Health, and on behalf of the Department and its Commissioner, Dr. John J. Dowling, and the Nassau County Board of Health, I

1  
2 offer encouragement to the Council, as it  
3 considers a proposal which would promote the  
4 health of the residents of New York State in an  
5 almost unprecedented fashion.

6 We appreciate the opportunity to  
7 testify briefly today and we refer you to our  
8 lengthier written submission from which these  
9 subsequent telegraphic comments are drawn.

10 The scientific foundation for the  
11 regulation of smoke in our society is well  
12 established. Society, from our point of view, is  
13 receptive for smoking regulation, and that  
14 regulation, which you have proposed, will be  
15 successful. Nassau County has regulated smoking  
16 since 1980 with success, initially through an  
17 ordinance limited in scope, but since February 1,  
18 1986, through a comprehensive ordinance which  
19 brought smoking regulation into the workplace; in  
20 my view that is the most significant achievement  
21 of all.

22 The dire predictions of the tobacco  
23 interests and others have not materialized. To  
24 the extent that comments and information has been  
25 brought to our attention, there have been few

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1  
2 physical confrontations. Few involvements of  
3 police, few waiting lines for entry into smoking  
4 sections of restaurants. Rather, the reverse.  
5 Little evidence of loss of productivity or  
6 amenities among groups or places of employment.

7           There have been acceptable costs for  
8 the implementation of the ordinance in our county.

9           There have been no hearings or fines,  
10 and only one request for a waiver, all in the face  
11 of significant advances in the implementation of  
12 the ordinance.

13           Among other gains, we have seen  
14 little smoking in food stores or we now see little  
15 smoking in food stores. Almost none in theaters,  
16 we dine in cleaner air in restaurants, when we  
17 choose to sit in the no smoking section. And  
18 there is no longer a blue haze in the Nassau  
19 County Memorial Colliseum at the hockey games.

20           We commend the Council for several  
21 provisions in this proposal which fine tune the  
22 regulations, building apparently on the experience  
23 of others who have gone before.

24           We refer to the proscription of  
25 retaliation by employers, to the anticipation of

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interpretation of the many gray areas which will arise, in favor of the non-smokers, and the clearing up of jurisdictional questions by inclusion of schools and hospitals.

However, based on our experience, we suggest reconsideration of the proposal in the following respects: An enforcement agency will not readily be able to gain, say by, a restaurant's decision as to the extent of demand for no smoking seating.

That could be done by the cumulative hearsay evidence received from patrons or by the assignment of an inspector in a restaurant over a lengthy period of time. Both approaches are problematical. We recommend a 50 percent minimum as entirely workable.

Secondly, we suggest that exclusion of small restaurants from regulation abandons non-smokers in those situations, and this is not in harmony with the general tenor of your proposal. If anyone is to be inconvenienced at this time in society, we suggest it should be the smoker.

Even when we are faced with a less

1  
2 than ideal regulatory situation as pertains in  
3 small restaurants, we should take advantage of the  
4 symbolic and educational value associated with the  
5 posting of signs and the doing of our best.

6 In places of employment we think it  
7 important to clearly establish that no smoking is  
8 the norm, not the exception. And that smoking is  
9 the exception. This is certainly what the Council  
10 has intended, however, several statements in  
11 Section 25.2 may be interpreted to mean otherwise.

12 References are made to employees "who  
13 desire smoke-free work areas". The employee has a  
14 right to designate his work area as a no smoking  
15 area and post signs. Our experience indicates  
16 that this will most certainly be at least  
17 temporarily interpreted to mean that the  
18 non-smoker must stand up and request his right or  
19 else it need not be given. Our experience is that  
20 a simpler approach will suffice.

21 In essence, smoking is prohibited in  
22 the workplace. Except in certain designated  
23 areas, which the code defines by type.

24 In any case, work areas in their  
25 entirety in our ordinance must be smoke free and

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1  
2 physically separate from any area where there is  
3 smoke, unless occupied exclusively by a smoker or  
4 smokers. In this way non-smoking is the norm,  
5 non-smokers need not ask for what is their right,  
6 but smokers may gain their privilege at the  
7 discretion of the employer, if conditions permit.

8 Finally, it is often said that  
9 smoking regulations are unenforceable. In Nassau  
10 County, when we ask or when citizens voluntarily  
11 offer a comment, almost universally they say there  
12 has been a big change for the better, in regard to  
13 smoking in public. To me this is the most  
14 powerful response to that suggestion. Thank you.

15 MSGR. FAHEY: Thank you very  
16 much, Dr. Niebling. You've been very instructive  
17 and helpful. I know my fellow Council members  
18 will find it of interest.

19 Is Ms. Brennan Moran in the back?

20 MS. MORAN: Good day. My name  
21 Brennan Moran. I am assistant to the president of  
22 the Tobacco Institute, an association representing  
23 American cigarette manufacturers.

24 Along with a broad spectrum of New  
25 York State business people, New York State labor

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1  
2 and representatives of minority communities in New  
3 York, we strongly oppose adoption of the  
4 anti-smoking regulation under review by the New  
5 York Public Health Council.

6           There are several compelling reasons  
7 for our opposition to the proposed regulation.  
8 For years, the legislature has declined to issue  
9 the kind of restrictions the Public Health Council  
10 is considering. For the Council now to go ahead  
11 in these circumstances is, we believe, most  
12 inappropriate.

13           Secondly, the scientific evidence  
14 simply does not support conclusions that  
15 environmental tobacco smoke, or ETS, represents a  
16 health hazard to non-smokers.

17           Third point being that such  
18 regulations would carry a price tag of hundreds of  
19 millions of dollars annually for New York  
20 taxpayers, and for private sector interests.

21           In its preamble to the proposed  
22 regulation, the Council states that the  
23 preponderance of the evidence indicates that ETS  
24 is a public held hazard. We, along with much of  
25 the scientific community, disagree. Despite the

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1  
2 emotional nature of the debate on ETS, the  
3 following statement is valid and remains sound  
4 advice, "Should lawmakers wish to take legislative  
5 measures with regard to passive smoking, they  
6 will, for the present, not be able to base their  
7 efforts on a demonstrated health hazard from  
8 passive have smoking."

9 That was the assessment of a panel of  
10 scientists convened in Vienna, Austria, in 1984,  
11 in cooperation with a variety of international  
12 health bodies, including the International Green  
13 Cross.

14 In a more recent refutation of the  
15 Health Council's premise was record in a February  
16 1986 report in Medical World News. After  
17 reviewing statements submitted to the National  
18 Academy of Science, the Medical World News article  
19 concluded that, "Solid scientific evidence of  
20 passive smoking's health risk to nonsmokers is as  
21 elusive as the smoke itself."

22 Yet another study in the July 1986  
23 edition of the British Journal of Cancer concludes  
24 that environmental tobacco smoke "carries no  
25 significant increase in risk of lung cancer,

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1  
2 bronchitis or heart disease."

3           The National Academy of Sciences,  
4 which has just reviewed this matter, makes no  
5 findings about ETS in the workplace or public  
6 place. The Surgeon General has just issued a  
7 report that has reached a contrary conclusion. I  
8 would like to come back do that.

9           As a matter of scientific fact,  
10 exposure to ETS in normal environments is  
11 extremely low. A recent study for the Institute  
12 indicates that a nonsmoking employee in a typical  
13 New York City office would have to work nonstop  
14 for almost 24 days -- more than 550 uninterrupted  
15 hours -- to be exposed to nicotine equivalent of  
16 one cigarette.

17           Just as ETS does not represent any  
18 established health hazard to the nonsmoker, it  
19 should not be an irritant to the average  
20 nonsmoker, assuming ventilation equipment is  
21 properly installed and maintained, and is  
22 functioning according to established indoor air  
23 quality standards. TINY 0014652

24           Indeed, a recent NIOSH study of 203  
25 buildings found only 2 percent of those structures

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2 had indoor air quality problems attributable to  
3 high concentrations of ETS. NIOSH found that  
4 about half of the problems were related to poor or  
5 inadequate maintained ventilation. These  
6 government findings are consistent with those of  
7 the nation's leading private indoor air quality  
8 research firm, ACVA, Atlantic of Fairfax,  
9 Virginia.

10 We respectfully suggest that ACVA's  
11 numerous investigations and broad experience with  
12 major office buildings is directly relevant to  
13 Council's proposed smoking regulation. The  
14 president of ACVA has, in writing, volunteered his  
15 time and efforts to investigate two New York  
16 buildings selected at the discretion of the  
17 Council. It would seem prudent for the Council to  
18 suggest such inspections before adopting a  
19 sweeping regulation and essentially missing the  
20 heart of the indoor air quality problem.

21 It seems obvious that the evidence  
22 does not support conclusions that ETS represents a  
23 health hazard to nonsmokers. Quite clearly, a  
24 decision to ban public and worksite smoking cannot  
25 be justified from a scientific perspective.

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2 It is just as clear if these rules  
3 are adopted and enforced, their costs to the  
4 taxpayers and the private sector in New York will  
5 be astronomical.

6 A 1986 economic impact study of the  
7 costs associated with a similar, but slightly less  
8 restrictive, measure under review in New York City  
9 indicates the cost for that one city would be in  
10 excess of \$265 million, with 90 percent of that  
11 cost being incurred year, after year, after year.

12 The New York City survey, conducted  
13 for the New York State AFL-CIO by James Savarese &  
14 Associates, estimates conservatively that public  
15 and private workplaces could expect annual  
16 productivity losses of more than \$140 million in  
17 New York City alone.

18 Labor and business leaders alike  
19 share our concerns about these costs, and about  
20 other costs, like those with regard to personal  
21 freedom, that cannot be measured in dollars, but  
22 are of great significance too.

23 Recognizing this, the need to involve  
24 workers in the decision-making process, is the  
25 AFL-CIO Executive Committee this year agreed



1  
2 unanimously that issues related to smoking on the  
3 job can best be worked out voluntarily in  
4 individual workplaces between labor and management  
5 in a manner that protects the interests and rights  
6 of all workers and not by legislative mandate."

5  
7 New York State AFL-CIO president Ed  
8 Cleary echoed those sentiments in November before  
9 the Council's Committee on Codes and Legislation.  
10 Mr. Cleary noted that the proposed regulation  
11 would arbitrarily break existing contracts,  
12 interfere with the collective bargaining process,  
13 extend management's ability to punish workers  
14 unjustly, and give some an excuse to avoid dealing  
15 with real indoor air quality problems in the  
16 workplace.

17 Leaders of the State's restaurant and  
18 hospitality industries have also spoken loudly  
19 against in the rules. In his statement before the  
20 same Committee, New York State Restaurant  
21 Association president Fred Sampson said that the  
22 Council's proposal "is more of an emotional  
23 response to this issue of ETS than a realistic and  
24 practical one."

25 Other business men and women agree

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1  
2 with Mr. Sampson's assessment.

3 Raymond Schuler, president of the  
4 3,300-member Business Council of New York State,  
5 restated that opinion in testimony before the  
6 Council's Codes and Legislation Committee in  
7 November when he said, "In summary, of all the  
8 smoking restriction proposals we have seen in  
9 recent years, this one represents the most  
10 Draconian response. We believe it's a classic  
11 case of regulatory over-kill."

12 We think it important for everyone to  
13 remember that right now, without another  
14 administrative regulation, business people,  
15 working with employee representatives, are free to  
16 establish any smoking/no-smoking setup they see  
17 fit.

18 Leaders within minority communities  
19 have been quick to recognize the discriminatory  
20 nature of smoking restriction policies of the type  
21 being considered by the Council.

22 In a statement on anti-smoking  
23 legislation, the National Black United Fund  
24 official position statement noted, "NBUF advocates  
25 a voluntary response, rather than legislation, to

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2 address the multiple problems that would be  
3 effected by this type of legislation that impacts  
4 on what is recognized and historically accepted as  
5 a personal freedom."

6 Jimmy Hargrove, president emeritus of  
7 the National Association of Black Police  
8 Associations, spoke to the issue of enforcement.  
9 Hargrove noted a concern of many police officers  
10 when he said, as professional law enforcement  
11 officers, we are sick and tired of people that are  
12 not even legislators imposing frivolous laws on us  
13 that are just totally unenforceable."

14 It is doubtful that the citizens of  
15 New York State would want their police manpower  
16 and resources relegated to attempts at enforcement  
17 of smoking rules at the expense of police  
18 assistance with murder, rape, arson and robbery.

19 Hispanick leaders also take issue  
20 with government-mandated smoking laws. In  
21 response to U.S. government moves to restrict  
22 smoking, LULAC, the League of United Latin  
23 American Citizens, said in part, "It would be  
24 unfair and unwise to impose smoking restrictions  
25 in the workplace which could be used as an excuse

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2 to erode the civil rights of Hispanic Americans."

3 Mr. Chairman, it is clear that the  
4 smoking rules before you today are not warranted  
5 on health grounds. Experts in the area from the  
6 Center for Environmental Health and Human  
7 Toxicology advise us that the evidence about ETS  
8 is just not there. Frankly, the dedicated  
9 scientist in this group and others have taken a  
10 good deal of political heat for that forthright  
11 and undeniably correct position.

12 In a letter to a county health  
13 officer in California earlier this year, the U.S.  
14 Surgeon General made the following statement: "In  
15 summary, the Center's statement that the currently  
16 available evidence does not support a conclusion  
17 that exposure to environmental tobacco smoke  
18 represents an existing health hazard is  
19 supportable, given the existing evidence."

20 Why that private position differs  
21 from Dr. Koop's public pronouncements is a  
22 question only he can answer.

23 Apart from the lack of scientific  
24 evidence, it is evidence that promulgation of  
25 these unwarranted regulations will cause economic

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2 hardship to millions of New Yorkers and perhaps  
3 encourage discriminatory enforcement at the  
4 expense of the state's minority communities.

5 The tobacco industry stands with many  
6 allies against this rush to administrative  
7 judgment. Business people, from bowling alley  
8 proprietors, to chamber of commerce officials, to  
9 restaurateurs, to hoteliers, to retailers, oppose  
10 your measure. Labor leaders view it as  
11 unnecessary and unfair. Minority groups see a  
12 frightenly familiar discriminatory element.

13 Indeed, many leaders within the New York State  
14 Legislature and in the press even question the  
15 Council's mandate to impose such sweeping rules.

16 We believe the proposed regulation  
17 should be rejected as unnecessary, unwanted,  
18 economically burdensome and a threat to the  
19 personal liberty of millions of New Yorkers.

20 Thank you.

21 MSGR. FAHEY: Thank you, Ms.  
22 Moran, we will take serious cognizance of what you  
23 have had to say, as we have in the past.

24 Is Mr. Ernest Howell here from the  
25 New York State Coalition on Smoking and Health?

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2 Is Dr. Harris here or a  
3 representative of Dr. Harris?

4 We will come back to these folks if  
5 they are not here, because this is ahead of the  
6 time, but I think we'll go through people that we  
7 have listed and then go back.

8 Arthur Levine. Mr. Levine, please,  
9 and if you have a copy of your speech, when you  
10 have completed your statement, if you would give  
11 it to the stenographer.

12 MR. LEVINE: My name is Arthur  
13 Levine or Arthur S. Levine. I'm with the Nassau  
14 Chapter of the American Heart Association, and I'm  
15 a volunteer.

16 And I'm here on behalf of the Nassau  
17 Chapter of the American Heart Association and its  
18 membership of over 5,000 families to express our  
19 concerns and support for stronger regulation of  
20 smoking in public places currently being  
21 considered by this Public Health Council.

22 Studies have linked passive smoking  
23 to 5,000 annual deaths in this country. These are  
24 needless deaths which can be prevented. In  
25 addition, children of parents who smoke are more

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2 likely to have bronchitis and pneumonia during the  
3 first year of life. Nearly \$500 million in income  
4 and productivity is lost each year by New Yorkers  
5 who are disabled by smoking-related illnesses. The  
6 tobacco smoke caused lung cancer risk to  
7 non-smoking office workers appears to be 250 to  
8 1,000 times the level of acceptable risk using  
9 standard guidelines for carcinogens in air or  
10 water or food.

11           Studies have also shown that  
12 involuntary smoking can aggravate the condition of  
13 people with heart disease as asthma, chronic lung  
14 disease and allergies. For example, involuntary  
15 exposure to tobacco smoke reduces the time angina  
16 patients could exercise without chest pain by 22  
17 percent.

18           Now, I'm here today because we feel  
19 that it is imperative that something should be  
20 done immediately to rescue both young people and  
21 those with chronic conditions from the preventable  
22 burden of smoking related illness and death.

23           Thirty years of research conducted in  
24 over 80 countries has generated 50,000 studies on  
25 smoking or health. The case against smoking is

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2 air-tight. Now, attention has been turned towards  
3 the effects of sidestream smoke, of the cigarette  
4 smoke that non-smokers inhale involuntarily from  
5 the ambient air. Research on sidestream smoke  
6 over the past ten years shows that:

7 Children of parents who smoke have a  
8 much higher rate of colds and upper respiratory  
9 infections compared to children whose parents do  
10 not smoke.

11 The non-smoking wife of a smoker runs  
12 a higher risk of lung cancer than do the  
13 non-smoking wives of non-smokers. Shortly, clear  
14 evidence will be available that the same is also  
15 true for the incidence of heart disease, emphysema  
16 and other obstructive lung diseases among  
17 non-smoking wives of smokers.

18 Sidestream smokers exposed to other  
19 people's heavy smoking in the same office space or  
20 work room absorb as much smoke as if they  
21 themselves were mainstream smoking two to three  
22 cigarettes per day.

23 Now, there are over 4,000 components  
24 of cigarette smoke. Sidestream or mainstream,  
25 including the following toxic substances; tars,

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2 naphthalene, pyrene, benzopyrene, carbon monoxide,  
3 methane, ammonia, acetylene, and hydrogen cyanide.  
4 Some of these substances are found in greater  
5 concentration in sidestream smoke than in main-  
6 stream smoke.

7 Tar, the most carcinogenic substance  
8 is 70 percent more concentrated in sidestream  
9 smoke.

10 Carbon monoxide is 2.5 times greater  
11 in sidestream smoke.

12 Nicotine is 2.7 times greater in  
13 sidestream smoke.

14 Ammonia is 73 times greater in  
15 sidestream smoke.

16 Now, what does all this mean on a  
17 personal, day-to-day basis to the individuals. I  
18 shall leave the specific examples of cigarette  
19 smoke on chronic lung disease, asthma, allergies  
20 and cancer to others who I assume will be  
21 testifying later today and I will confine myself  
22 to chronic heart disease, hypertension and  
23 strokes.

24 One of the many ways that cigarette  
25 smoke affects individuals is to cause the blood

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2 vessels to constrict. What this means is that the  
3 heart has to work harder to pump the blood through  
4 the body. But, on top of the fact that the heart  
5 works harder, thereby increasing the blood  
6 pressure, it is also delivering less oxygen to the  
7 various organs which require it because there is  
8 2.5 times more carbon monoxide in the blood from  
9 the cigarette smoke that's displacing the needed  
10 oxygen. Fortunately, with the exception of our  
11 brain, our body lets us know when it is becoming  
12 oxygen starved by sending us distress signals in  
13 the form of pain. Any of you who are joggers and  
14 have gotten cramps in your legs have experienced  
15 this. Those with angina pectoris get pains when  
16 the heart, which is the most remarkable muscle in  
17 our body, begins to become oxygen starved. If  
18 sufficient oxygen doesn't get to the heart within  
19 a short period of time, the pain gets worse, until  
20 a heart attack occurs. At this point, part of the  
21 heart has died. It can never be repaired. A  
22 heart doesn't regenerate itself as most of the  
23 rest of our body can do.

24 The other organ that doesn't  
25 regenerate itself is the brain. The blood vessels

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1  
2 that feed oxygen to the brain are much smaller  
3 than the heart and, therefore, it takes a lot less  
4 interference with the supply of oxygen for a  
5 stroke to occur.

6 Now, I have suffered a severe heart  
7 attack or M.I. myself. Fortunately, I have  
8 successfully undergone quadruple bypass surgery,  
9 but after my heart attack and before I was strong  
10 enough to undergo surgery, I was being maintained  
11 by medicine alone. During that period, every time  
12 I was forced into a situation where there was an  
13 atmospheric ambiance of cigarette smoke, I  
14 developed severe angina pains. They were promptly  
15 relieved when I removed myself from the smoke  
16 filled environment. Now, my doctors have told me  
17 that there are probably no more survivable heart  
18 attacks left on my balance sheet. Naturally, I  
19 have a personal stake in cutting down the odds  
20 that would cause another to occur.

21 The reason why I've come to testify  
22 is that in spite of the disinformation from the  
23 tobacco industry about there being no direct  
24 causal relationships, there are hundreds of  
25 thousands of personal experiences similar to mine.

TINY 0014665

1  
2           You also only have to look into the  
3 deaths of all those "Marlboro Men" I'm talking  
4 about the American cowboys, to draw your own  
5 conclusions.

6           I would like to conclude by  
7 recognizing that there are a large group of  
8 smokers who claim inalienable if not  
9 constitutional rights to be able to smoke if and  
10 when and where they want. And I shall not be  
11 drawn into whether or not a government can or  
12 cannot legislate against suicide, no matter how  
13 the individual may choose to commit it, but the  
14 same way that I do not want to be maimed or killed  
15 by a person who jumps from a high building, I  
16 don't want to have my life endangered by  
17 unthinking people who want to play Russian  
18 roulette with cigarettes.

19           Thank you very much.

20           MSGR. FAHEY:        Thank you.

21           Is Dr. Harris from the New York  
22 Coalition on Smoking, or a representative here?

23           I'll move on.

24           Linda Eichman, is she present?

25           Leon Hertzson.

TINY 0014666

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I call Rhena Bedford.

MS. BEDFORD: Good morning, my name is Rhena Bedford, I live in Bayside, Queens, and I took time off work to be here.

While considering legislation, the most important thing to be considered is that secondhand smoke is not just a nuisance, but it is a real cause of a large number of deaths. The medical community now agrees that passive smoking causes 5,000 lung cancer deaths per year and many more heart disease deaths also occur in non-smokers from passive smoking. John Topping, representing the Environmental Protection Agency in a National Academy of Sciences hearing, pointed out that passive smoking probably causes more deaths than drunk driving.

In my opinion, and in all fairness, public smoking, since it causes more deaths in innocent by-standers, should be treated even more seriously than drunk driving. While the legislation now being considered will not do this, it still will save the lives of many non-smokers.

I work in New York, I live in New York, I shop, bank in New York. When I am exposed

TINY 0014667

1  
2 to cigarette smoke, my eyes get very watery, which  
3 affects my eyesight, and I get very hoarse.

4 Needless to say, I am not alone with this problem.

5 There are millions like me. Lots of my friends

6 and co-workers have difficulty breathing when

7 exposed to smoking pollutants. We desperately

8 need strong laws banning smoking in public places.

9 Unless smoke is prohibited in essentially all

10 public places and work places, I am faced with the

11 unacceptable choice of having secondhand smoke

12 inflicted upon me or staying away from many public

13 places.

14 But I must work, I can't stay away  
15 from work. When the tobacco industry claims that  
16 all you have to do is ask smokers nicely to  
17 refrain from blowing smoke in your face in  
18 restaurants, workplaces, et cetera, and they  
19 comply, is sheer nonsense, and those people are  
20 knowingly insulting our intelligence. We need  
21 strong laws and enforcement, not reliance on the  
22 possible consideration of the smoker, which in my  
23 experience is nil.

24 Thank you.

25 MSGR. FAHEY: Dr. Peter Cohn,

TINY 0014668

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would he be present?

Dr. Scott Weiss, would he be present?

Why don't we go back. We do have an additional speaker. Would Robert Slavin be present?

A VOICE: He just stepped out.

MSGR. FAHEY: I might ask, is there anyone here who is listed as a speaker at this time, please, would you like to come forward? Would it be convenient for you at this time?

MS. MILLMAN: Fine, sure.

MSGR. FAHEY: You can tell us who you are. I can't introduce you.

MS. MILLMAN: As a matter of fact, after my testimony, may I also present for a restaurant owner who couldn't be here today, and I've got his testimony. Do you want me to do that right afterwards or later on?

MSGR. FAHEY: Yes, if you are brief. Why don't you do yours first and we'll see what the time is.

MS. MILLMAN: I am Claire Millman, Vice-President of GASP of New York. I am also testifying as an individual member of GASP.

TINY 0014669

1  
2 I would like to express my deep  
3 appreciation to the Public Health Council for  
4 taking positive action on this vital health issue.

5 Experience has shown that stringent  
6 and specific legislation produces effective  
7 results. Legislation which is not specific in its  
8 regulations and wording will not accomplish the  
9 stated public Council objective of the  
10 preservation and improvement of the public health.  
11 The present version of the legislation is neither  
12 as specific nor as effective as Draft 2.

13 I would like to respectfully make the  
14 following specific recommendations:

15 In the workplace: The present  
16 version of this section enables the employer to  
17 permit smoking in the work area except where a  
18 non-smoker requests smoke-free work area. This  
19 places an unfair burden on the non-smoking  
20 employee. Experience shows that when a  
21 non-smoking employee has to request a smoke-free  
22 area, it places him or her in a difficult and  
23 sometimes impossible position. The non-smoker  
24 whose employer and/or fellow employees are defiant  
25 smokers would understandably be intimidated, and

TINY 0014670



1  
2 rather than risk antagonism which could be  
3 manifested in other ways regarding his or her job,  
4 would be forced to suffer the smoke.

5 I strongly recommend in the wording  
6 of the workplace section of the Nassau County  
7 ordinance, which clearly mandates no smoking in  
8 the work area, and permits an employer to  
9 designate for smoking a portion of the premises  
10 that's physically separated from work areas. In  
11 addition, regarding employee lounges and  
12 cafeterias, Draft 2 wording, stating no more than  
13 30 percent may be designated for smoking, should  
14 be reinstated.

15 Restaurants: I strongly urge  
16 reinstatement of Draft 2 wording which mandated 70  
17 percent of the seating capacity of all restaurants  
18 as no smoking. I would recommend the exemption of  
19 bar areas.

20 The current version does not mandate  
21 a specific percentage of the seating capacity of a  
22 restaurant as no smoking. Experience has shown  
23 that when a substantial minimum percentage is not  
24 mandated as no smoking, those restaurateurs  
25 wishing to discourage the practice designate a few

TINY 0014671

1  
2 tables in undesirable locations as no smoking,  
3 thus causing the non-smoking patrons to pass up  
4 those tables, and then the restaurateurs claim  
5 there is little demand for no smoking. In  
6 addition, exempting restaurants with seating  
7 capacity of 50 or less is inappropriate. It would  
8 be more advisable to prohibit smoking entirely in  
9 a small restaurant for adequate protection of  
10 non-smoking patrons.

11 I would recommend replacing the  
12 wording "each person shall be given an opportunity  
13 to state his/her preference" with the wording  
14 "each person shall be asked his/her preference  
15 when making a reservation and upon entering the  
16 restaurant."

17 Regarding conventions and trade shows  
18 open to the public, Section 25.2(5)(ii): Exempts  
19 all other conventions and trade shows open to the  
20 public provided that notice be given that smoking  
21 will not be restricted. This translates as, if  
22 you wish to participate you must suffer the smoke,  
23 otherwise you can't come. Why shouldn't everyone  
24 be entitled to attend trade shows open to the  
25 public? I recommend that smoking be prohibited

TINY 0014672

1  
2 except in designated physically separate areas at  
3 conventions and trade shows open to the public.

4 Fact: The ever-mounting scientific  
5 evidence, the testimony of four U.S. Surgeons  
6 General and statements of every health  
7 organization worldwide irrefutably establish the  
8 necessity for protection of our citizens from  
9 those toxic fumes. Fortunately, unlike other  
10 afflictions which rage unchecked until the proper  
11 remedy is discovered, this threat to public health  
12 has a known and simple remedy.

13 Fact: Overwhelming public support  
14 for smoking bans is consistently reflected in  
15 numerous local and national polls in the U.S. and  
16 Canada. I've included the facts in the rest of my  
17 testimony.

18 Every argument the opposition has to  
19 offer has now been proven outdated and invalid as  
20 effective smoking restriction legislation in  
21 communities throughout the country take root and  
22 quickly produce a way of life where the no smoking  
23 sections of restaurants are the more popular and,  
24 therefore, larger areas and people automatically  
25 drop their butts before entering an enclosed area.

TINY 0014673

1  
2 Dramatic case in point: No one smokes in banks  
3 anymore on Long Island. Walking in a bank in New  
4 York City literally takes ones breath away.

5 In fact: Recognition of the  
6 beneficial impact on business is increasingly  
7 reported in prestigious publications for, as the  
8 policy spreads, new evidence surfaces clearly  
9 reflecting cuts in costs heretofore not researched  
10 in this regard.

11 In the health issue of smoking, the  
12 initial studies produced the more obvious findings  
13 that smoking could cause lung cancer. Subsequent  
14 concentrated studies produced the now well-  
15 documented evidence that smoking can cause heart  
16 disease, other cancers, strokes, fatal damage,  
17 harm to non-smokers. So it is with the economic  
18 indications in business which, with increased  
19 studies and experience, are evidencing benefits of  
20 greater scope than the more obvious benefits  
21 resulting from healthier employees indicated in  
22 the initial studies.

23 Thus, contrary to opposition  
24 contentions, the legislation has the solid support  
25 of hard factual evidence in all three areas

TINY 0014674

1  
2 concerned: Health, public support, and business.  
3 Precedents confirms successful implementation and  
4 smooth operation.

5 I strongly urge passage of a more  
6 stringent and specific version of the legislation.  
7 It is important not just to do it, but to do it  
8 right.

9 Thank you.

10 MSGR. FAHEY: Thank you.

11 Would you submit the other statement  
12 as well, and the whole thing is going to be part  
13 of the record. Why don't you submit it and we'll  
14 be able to receive it, and the other members will  
15 have the opportunity to read it.

16 Now, Robert Murphy.

17 MR. MURPHY: In our experience  
18 with no smoking sections in our restaurants we  
19 have been very pleased with the response from the  
20 general public. We started no smoking sections  
21 twelve years ago, long before the law was  
22 activated in our area, because we felt there would  
23 be a large demand for that kind of service. Once  
24 we put it into motion we were overwhelmed by the  
25 great appreciation that followed. Many letters of

TINY 0014675

1  
2 thank you were received.

3 Since the law has gone into effect in  
4 our area the demand for no smoking has become even  
5 stronger. We have people who will not eat here if  
6 they cannot sit in a no smoking section.

7 It is our belief that people deserve  
8 to be able to enjoy their meal free from smoke.  
9 We also feel it is good will for the people who do  
10 smoke to not have to worry that their smoking is  
11 having a bad effect on someone else.

12 Our success in the service industry  
13 is based on trying to see and meet the demands of  
14 the general public. No smoking sections in public  
15 areas is a legitimate demand; it is the obligation  
16 of persons responsible for and to the general  
17 public to satisfy that demand. In the restaurant  
18 business it is not only kind, it is good business.  
19 Serving some 20,000 people per week, we are in a  
20 good position to state what we have seen.

21 MSGR. FAHEY: I know my fellow  
22 Council members would want me to recognize Dr.  
23 Harris as having been a great help to us, as we  
24 try to get through this proposition, and we are  
25 delighted to hear from him today.

TINY 0014676

1  
2 I know the other Council members will  
3 look forward to reading your remarks.

4 DR. HARRIS: Thank you for those  
5 very kind words.

6 I'm going to focus my remarks to the  
7 Council. On the experience we have had in Suffolk  
8 County, that on August 27th of 1984, a local law  
9 to limit smoking in the County of Suffolk went  
10 into effect. Its passage by our legislature was a  
11 prolonged and stormy process, during the course of  
12 which its opponents made many dire predictions.

13 Let me tell you about them. Some  
14 said it was unenforceable, it will be scoffed at,  
15 and respect of the law will suffer.

16 Some said not to try to enforce it,  
17 the effort will be far too costly. Others  
18 prophesied economic doom. Some said it will cost  
19 business money, it will decrease productivity in  
20 the workplace, it will set off bitter personnel  
21 problems. And still others foretold chaos in the  
22 restaurant business, and a fall-off in the number  
23 of people who would dine outside the home.

24 Two years and some months have come  
25 to pass, and not one of those predictions has come

TINY 0014677

1  
2 true. The doom sayers have in any event been  
3 proven wrong. The local law has been a success.

4 To begin with, the law has been for  
5 the most part self-enforcing voluntary compliance,  
6 notwithstanding today's Newsday, has been the  
7 overwhelming rule.

8 Of food establishments here in  
9 Suffolk County, more than 1,000 have been  
10 inspected; 98 percent are in compliance with the  
11 law, of the 2 percent not in compliance, after  
12 inspections or inspection, all are in compliance  
13 now. Only four have come as far as formal  
14 hearings for the Department.

15 The Department of Health Service here  
16 in Suffolk has received 160 complaints about food  
17 establishments since the law took effect, most  
18 violations were minor, for example, no smoking  
19 signs not posted, management somewhat lax in  
20 enforcing the law. Through education and  
21 exhortation, 100 percent compliance has been  
22 achieved in each of these 160 cases that came to  
23 us via the complaint route.

24 Now, the workplace, 480 or 94 percent  
25 of companies affected by the law in Suffolk County

TINY 0014678



1  
2 have submitted acceptable smoking limitation  
3 policies, and 17 percent of these companies have  
4 chosen, and this is voluntary, to ban smoking  
5 completely in their workplace.

6 We received some complaints from the  
7 workplace, 64 complaints in all since the law took  
8 effect. And in 97 percent of these complaints the  
9 companies became compliant after contact by our  
10 departmental staff. The kind of complaints  
11 received were as follows: Smoking in conference  
12 rooms, smoking in lunch rooms, smoking in press  
13 rooms, smoking in hallways.

14 In each and every one of those -- 97  
15 percent of the complaints, in each and every one  
16 of those, the complaints were rectified, the 3  
17 percent of the companies that did not comply,  
18 immediately upon notification are in the process  
19 of compliance.

20 There were 46 complaints received  
21 from an assortment of sites, for example, smoking  
22 in service lines, smoking in theaters, smoking in  
23 health clubs, smoking in meetings open to the  
24 public.

25 In 45 instances, that's 45 out of the

1  
2 46, compliance was achieved merely by notification  
3 by the departmental staff. The one case, a school  
4 district not in compliance, that case is presently  
5 in litigation.

6 I happen to be confident that we will  
7 prevail in the courts, and of course if this  
8 measure is enacted by the Public Health Council,  
9 that will become, of course, past history, and  
10 schools will of course have no grounds for saying  
11 that they are exceptions.

12 The cost of enforcement, which  
13 somebody predicted to be terrible, has proven to  
14 be minimal, we infect -- will you note that as a  
15 misstatement of the word, we don't "infect," -- we  
16 inspect food establishments regularly, and the  
17 smoking limitations law has just been added to our  
18 sanitary checklist, so we really haven't incurred  
19 special costs there.

20 We have also observed, the longer the  
21 law is in effect, the more accepted and  
22 self-enforcing by peer and public pressure it has  
23 become. Surveys have shown that these kinds of  
24 measures, such as the Suffolk law are supported by  
25 non-smokers and smokers alike, and our experience

TINY 0014680

1  
2 bears this out.

3 Smokers, in my view, and in our  
4 experience, are no less considerable than others  
5 in the population, and they have no desire to  
6 break the law to annoy or injure others. Besides,  
7 smokers have a great deal to gain personally,  
8 smoking limitations tend to reduce the  
9 opportunities to smoke and the consumption of  
10 cigarettes.

11 As I often say, a cigarette postponed  
12 is often a cigarette never smoked. And if I were  
13 not sure, if I were not sure about this, my  
14 feelings would only be reenforced by the fact when  
15 the Suffolk law was being considered, one of the  
16 most vociferous opponents of the measure was the  
17 Tobacco Institute, in my experience the Tobacco  
18 Institute has never opposed a measure that would  
19 increase or even stabilize the consumption of  
20 cigarettes.

21 So, what is the sum of our experience  
22 in Suffolk which I laid before the Council:

23 First, cheerful, voluntary compliance  
24 is the rule.

25 2, Enforcement is not costly and can

TINY 0014681

1  
2 be accomplished without marked resistance.

3 3, Our restaurant industry in Suffolk  
4 County is booming.

5 4, Businesses are reaping the  
6 benefits of better employee health, and what is  
7 more, a cleaner and a safer workplace.

8 And lastly, smokers and non-smokers  
9 benefit alike.

10 In short, since the passage of our  
11 local law more than two years ago, the indoor air  
12 in Suffolk is cleaner and everybody should be  
13 breathing easier.

14 If the State Public Health Council's  
15 proposed addition to the Sanitary Code is adopted,  
16 my department and I will enforce it gladly and  
17 vigorously. It's a significant public health  
18 measure, and I support its passage with  
19 enthusiasm.

20 I have brought with me 20 copies of  
21 the report of our two-year experience, which I  
22 sort of summarized in my statement.

23 MSGR. FAHEY: We gave Mr. Slavin a  
24 chance earlier and he walked out, hopefully not to  
25 get a cigarette, but he's back now, so Mr. Robert

1  
2 Slavin, if you please, identify yourself and if  
3 you have a copy of your testimony, it would be  
4 most appreciative.

5           While you are coming to the podium,  
6 there have been a number of folks who have come  
7 in. I might just note, not for your benefit, but  
8 for the benefit of all the others, we are working  
9 under some ground rules here today. The most  
10 important thing is to get the written record,  
11 which will be shared with all of the members of  
12 the Public Health Council, and I can assure you we  
13 take all of the comments with a great deal of  
14 seriousness, and they will be the basis of our  
15 ultimate decision.

16           The important thing is what gets on  
17 the record and what is in the printed material.

18           Secondly, we would ask people to  
19 constrain themselves to 10 minutes. I know many  
20 of you have strong feelings, and have a great deal  
21 of experience in this, but it is necessary, and if  
22 there will be additional remarks that you didn't  
23 have time for, we'll be happy to receive written  
24 statements, and the record remains open until the  
25 16th of January.

TINY 0014683

1  
2 And I think probably we know this is  
3 the kind of thing in which we all have strong  
4 feelings and deep commitments, but we are all  
5 people of good will, and I think that it's maybe  
6 out of place in an area in which we are trying to  
7 consider these seriously to applaud, or boo, or  
8 otherwise demonstrate our feelings which may be  
9 there, so I'll try to restrain my feelings and I  
10 hope the rest of the group will restrain their  
11 signs of approval or disapproval.

12 MR. SLAVIN: Good morning, my name  
13 is Bob Slavin. I'm the president of the Clean Air  
14 Company, which offices are in New York and New  
15 Jersey. Our business is air quality. We  
16 represent one of 31 manufacturers of electronic  
17 air cleaning devices now manufactured in the  
18 United States. And we've been doing this for  
19 approximately ten years with between five and six  
20 thousand installations where we are cleaning up  
21 the air.

22 I am very happy that the Public  
23 Health Council is holding these public hearings  
24 and learning what the problems are that exist out  
25 on the street. There seems to be a, as Monsignor

TINY 0014684

1  
2 was saying, there is a battle going on right now  
3 between the smoker and the non-smoker, you are  
4 either for it or against it, and nobody is  
5 offering any alternatives, any other options. To  
6 smoke or not to smoke seems to be the problem.

7 New Jersey's no smoking law is by far  
8 the best law that's ever been written in the  
9 United States. And I received a copy of the  
10 proposed legislation just this past week for New  
11 York State, and I think the Public Health Council  
12 hopefully is recognizing that they can lead to a  
13 more proper solution, and I would like to read to  
14 you the declaration and findings and intent.

15 A balance must be struck between  
16 safeguarding citizens from involuntary exposure to  
17 secondhand smoke on one hand, and minimizing  
18 government intrusion into the affairs of its  
19 citizens on the other. It is also recognized that  
20 certain volunteer efforts have been carried out  
21 independent of government intervention, seeking to  
22 address the problem of secondhand smoke, and the  
23 question in the public health to enact regulations  
24 which harmonize with such efforts so long as they  
25 do not compromise the public health, therefore the

TINY 0014685

1  
2 Public Health Council declares the intent and  
3 purpose of this part is to preserve and improve  
4 the public health by limiting the exposure of the  
5 public to tobacco smoke.

6 I don't know if you were familiar  
7 with New Jersey's no smoking law, but it offers  
8 something, it's called freedom of choice. It also  
9 offers protection to the non-smoker, and offers an  
10 opportunity for the smoker to have a cigarette.

11 In the restaurant part of the law in  
12 New Jersey, you must post a sign that there is a  
13 no smoking section, or the second sign might be,  
14 we do not have a no smoking section, or the third  
15 sign might read, we are using electronic air  
16 cleaners to eliminate tobacco smoke.

17 In the office space, it gives a  
18 freedom of choice of management to do what they  
19 feel is best for their employees.

20 Unbeknownst to I guess many people,  
21 management does care about the health and welfare  
22 of their employees. They do care. We service, I  
23 guess by way of demonstration, we service  
24 companies like Exxon, Mobile, Hess, Chevron, ADP,  
25 AT&T, New Jersey Bell, Ciba-Geigy, Hoffman La



1  
2 Roche, Home Box Office, First Fidelity Bank, the  
3 largest bank in New Jersey, but these companies  
4 did something for their employees without being  
5 forced to by law. Employers do care about their  
6 employees breathing cleaned air.

7           Forget about tobacco smoke for a  
8 minute, there's diesel dust, paper dust, bacteria,  
9 pollen and spores, these are eliminated when using  
10 electronic air cleaners. I am supporting the use  
11 of, I am supporting the idea of offering as an  
12 option to satisfy the smoker and the non-smoker,  
13 for it to be written into law that air cleaners  
14 would be offered as an option. Air cleaners would  
15 be a viable solution because respiratory  
16 specialists and allergists recommend or rather  
17 prescribe electronic air cleaners to their  
18 patients and the Internal Revenue Service  
19 recognizes them as being medical deductions.

20           In the restaurant field, by posting a  
21 sign at the door, it advises a potential patron of  
22 what the conditions are inside that restaurant.  
23 The restaurant industry depends on customer  
24 satisfaction, and customer demand. Supposing a  
25 non-smoker saw a sign that says we do not have a

TINY 0014687

1  
2 no smoking section. The logical thing for him to  
3 do would be to take his dollars elsewhere and  
4 spend it with somebody who does care. Who  
5 benefits; certainly not the restaurant owner who  
6 has lost business.

7           The Surgeon General in his recent  
8 report said that the segregation is not really the  
9 answer, because smoke is going to go where it  
10 wants to, those are my words, not the Surgeon  
11 General's, but he's quite right, if you have a  
12 problem, why not remove that problem, but only  
13 offer it as an option. If a good number of the  
14 Fortune 500 companies have already done this  
15 without the need of regulation, don't you think  
16 that New York State might consider it also?

17           There is going to be national  
18 publicity on the no smoking laws of New York City,  
19 only because we are in the heart of the media and  
20 so forth. Shouldn't New York State take the lead  
21 or at least follow another state or sister state  
22 over there in New Jersey, and follow what they  
23 have done, which is provided something for  
24 everybody.

TINY 0014688

25           There isn't any need for the smoker

1  
2 and the non-smoker to come to blows. There is an  
3 option, and I'm asking the state, New York State,  
4 to consider it. It's worked well in New Jersey,  
5 it's worked well in Nassau, it's worked well in  
6 Suffolk, it's worked well in San Francisco, and  
7 other states and municipalities throughout the  
8 country.

9 Thank you very much.

10 Consider the options. Think about  
11 it.

12 MSGR. FAHEY: Thank you, Mr.  
13 Slavin.

14 I just made a ruling a moment ago and  
15 I was about to see who was the first one who was  
16 going to break it.

17 Would Linda Eichman be here by any  
18 chance? She was scheduled for 11:10, in that  
19 slot.

20 Irma Greenbaum, who is here as an  
21 individual, would like to make a brief statement.

22 MS. GREENBAUM: My name is Irma  
23 Greenbaum, I work for the Telephone Company.

24 I am here really as an individual,  
25 because my father died at the age of 44, he had

TINY 0014689

1  
2 angina, a very heavy smoker, and I, at the age of  
3 10 lost my father, and I feel that I missed out.  
4 And my mother had to raise us by herself. So I  
5 feel I have lost out because my father was a very,  
6 very heavy smoker. He had a very heavy cough and  
7 I think I was sensitized at the age of 10, and as  
8 I was growing up, I became more aware.

9 I've gone to the library, and I  
10 realize today that's the only place that I can go  
11 and feel good, and I was wondering why, and one of  
12 the reasons is because I know there is going to be  
13 no smoking, and everybody is very friendly, nobody  
14 has to fight the smoking.

15 I don't know how the library did it,  
16 but maybe you should be investigating how they did  
17 it, because anybody who works in a library knows  
18 they don't smoke. I am also a free-lance courier,  
19 which means that I go back and forth to Europe  
20 many times, and I don't go first class, I go  
21 economy. And because I'm a free-lance courier, I  
22 have to go at the drop of a hat. So my bags are  
23 always packed, but when I come to the airport, I  
24 have to take a chance on what seat I'm going to  
25 get on the plane.

TINY 0014690

1  
2 Now, 7 to 11 hours on a plane in  
3 economy is not very pleasant. So I really dread  
4 going on the plane because I have to -- I do, I  
5 try very hard to sneak my way into the area where  
6 there is no smoking. But I've also seen on the  
7 plane when the announcements are made, and  
8 everybody who has been on a plane knows the  
9 announcements that they make, no smoking in the  
10 bathroom, and when I go to the bathroom, cigarette  
11 butts all over the place, it's very frightening.

12 I understand the problem of the  
13 smoker, because I'm a foodaholic, so I understand  
14 that it's very difficult, but I also feel that,  
15 you know, that it's very important that people  
16 become more aware of what they are doing to  
17 themselves and to other people around them. And I  
18 just plead and hope that people just learn that  
19 smoking is really not doing them any good and it  
20 may harm their families, and especially the small  
21 children who they have to take care of, so I'm  
22 just asking for, please, on the smoking, you know,  
23 cut down or be more aware of what is happening,  
24 and that's it.

25 MSGR. FAHEY: Thank you, Ms.

TINY 0014691

1  
2 Greenbaum.

3 Would Leon Hertzon be here?

4 MR. HERTZON: As requested, I am  
5 presenting a written paper. I prefer to speak  
6 off-the-cuff.

7 MSGR. FAHEY: That's fine, if you  
8 would like to summarize the paper, but your whole  
9 paper would go into the record for the benefit of  
10 others.

11 MR. HERTZON: Well, I think it is  
12 significant. I would like to work from it. It's  
13 titled: Results from the Implementation of a  
14 Non-Smoking Policy in Factory/Office Environment.

15 My name is Leon Hertzon, president of  
16 the company called Clean Room Products, and also  
17 Colonial Clove and Garment, both in Ronkonkoma,  
18 and our businesses are associated with  
19 contamination control in a variety of industries  
20 and technologies.

21 For over two years our companies have  
22 implemented a non-smoking policy for more than 135  
23 employees. A number of conclusions can be drawn  
24 from the results of both objective and subjective  
25 studies relating to the responses and actual

TINY 0014692

1  
2 benefits to both worker, production capability and  
3 financial benefits derived from the program.

4           Initially our company was very  
5 concerned as to the worker reaction to a  
6 non-smoking restriction. To provide the  
7 approximate 30 percent of the work force that are  
8 active smokers with a means of some relief and to  
9 avoid the cases of sneaking cigarettes in  
10 restricted areas, such as bathrooms, warehouses,  
11 shops and out-of-doors, we allow one small area,  
12 10-foot by 20-foot of our lunchroom, that's  
13 serviced by two large Smoke Eaters, to be the only  
14 unrestricted zones in a 67,000 square foot  
15 building.

16           With notices prior to the no-smoke  
17 program, and with minor monitoring subsequent to  
18 said implementation, we have found that there has  
19 been a 100 percent worker acceptance without  
20 disgruntled or rebellious attitudes on the part  
21 of our work force. The only problems that did  
22 occur, that have been corrected, have been outside  
23 service personnel, who on delivering or servicing  
24 equipment in our company, had to be reminded of  
25 our restrictive policy.

TINY 0014693

1  
2                   Our building is a new energy  
3 efficient design, which is exceptionally tight,  
4 with minimal windows and sufficient makeup air to  
5 provide for fresh air circulation as established  
6 by the standards set by the American Society of  
7 Heating, Refrigerating and Air Conditioning  
8 Engineers, ASHRAE, in 1981, and currently a  
9 regulation is under revision.

10                   As part of our energy efficient  
11 program the design of our heating and air  
12 conditioning systems rely on the use of  
13 interstitial plenum space over our dropped  
14 ceilings. This implies that all air which  
15 recirculates from offices, warehouse and shops  
16 will typically blend and merge with air from every  
17 zone, being returned to the intermediate space.

18                   As a scientist/engineer I have been  
19 quite concerned about the interactive  
20 relationships of the small levels of vapors and  
21 other pollutants which, as part of an air  
22 recirculation system, will merge with and  
23 chemically unite.

24                   By adding cigarette smoke to already  
25 present low levels of outside pollutants, vapors

TINY 0014694



1  
2 and outgassing from plastics and related  
3 materials, and lastly minor solvent and associated  
4 elements from manufacturing, we raise the risk of  
5 further health impairment.

6 It is well established that a tight  
7 building syndrome termed TBS and SBS, are more and  
8 more prevalent in today's energy efficient  
9 designs.

10 Considering the serious liability  
11 problems that any business owner faces with  
12 relation to long-term health effects to employees,  
13 we therefore chose to use a non-smoking policy. A  
14 policy which we now feel has been of great merit  
15 and benefit in a number of ways. Primary is the  
16 awareness towards a wellness program by our  
17 employees, a reduction in overall sick days and a  
18 resulting improvement in efficiency in our  
19 operation. From a financial standpoint we have  
20 seen an overall five percent improvement in our  
21 gross profits since moving into our new building.  
22 A good portion of this is attributable to higher  
23 productivity of our employees. Relating this to  
24 actual hard cash figures, this has provided a  
25 bottom-line profit increase of over three percent,

TINY 0014695

1  
2 quite a feather in a manufacturer's cap when one  
3 considers how difficult it is to achieve improved  
4 profits.

5 We have opted for non-smoking; our  
6 employees have responded favorably to it; we have  
7 proved that it works and we have proved that it is  
8 a viable alternate to a conventional  
9 smoker/non-smoker environment with all the  
10 attendant problems associated with it. Since the  
11 average individual spends between 80 and 90  
12 percent of their time indoors, it is again  
13 desirable to consider the benefits of reducing  
14 internal contamination levels.

15 Thank you for your interest in this  
16 presentation. We hope that you will actually  
17 consider the benefits associated with it and  
18 suitable legislation to foster similar programs  
19 throughout the state.

20 MSGR. FAHEY: Thank you. Very  
21 interesting.

22 We are going to take about a minute  
23 and let our court stenographer rest.

24 (Pause)

25 MSGR. FAHEY: If we can call at

1  
2 this time Eleanore Simpson, who I know is present  
3 from the Long Island Tourism and Convention  
4 Commission.

5 MS. SIMPSON: My name is Eleanor  
6 Simpson, I am president of the Long Island Tourism  
7 and Convention Commission, a bi-county tourist  
8 promotion agency for Nassau and Suffolk, and I  
9 will go right into my testimony, telling you a bit  
10 about the Long Island Tourism and Convention  
11 Commission, the success of our promotional  
12 activities at the regional level depends upon many  
13 elements, including the involvement of the private  
14 sector, the hospitality industry, our private  
15 members, and the concern and the commitment of  
16 county and state government, not merely by  
17 resolutions, but through demonstrated dollar  
18 involvement in the development of tourism and  
19 visitor spending on Long Island as an economic  
20 force.

21 We are funded by the counties of  
22 Nassau and Suffolk. We are funded by our private  
23 sector membership, hotels, attractions,  
24 transportation companies, everyone who would be  
25 involved and effected by the no smoking

TINY 0014697

1  
2 regulations. And also, the New York State  
3 Department of Commerce, their division of tourism,  
4 they really have been a true partner in our  
5 endeavors, which include public travel information  
6 through our visitor information centers, our  
7 popular quarterly Calendar of Events/Directory of  
8 Services, advertising the Long Island region  
9 through the "I Love New York" Matching Funds  
10 Program, familiarization tours for travel writers,  
11 meeting planners and most recently the New York  
12 State Legislators who came from all parts of the  
13 state to Long Island.

14 You on the Council will probably hear  
15 testimony from representatives of all of the  
16 regions in New York. We are divided into 11  
17 regions from Niagra down to Long Island, and I  
18 assume you will be hearing similar testimony in  
19 other areas of the state.

20 Tourism on Long Island has grown from  
21 a \$1.2 billion industry in 1978, at the time that  
22 the Tourism Commission was founded, to a \$5  
23 billion industry in 1985. 1986 will have seen  
24 more than 20 million visitors on Long Island.

25 We have come of age as a high

TINY 0014698

1  
2 visability destination choice for convention  
3 delegates, for beach lovers and fishermen, and for  
4 people watchers, and whale watchers.

5 We are hosting state associations,  
6 from the Fortune 500 conferences, to motor coach  
7 tours, to where we now enjoy an unusually high  
8 occupancy rate, the highest in the state.

9 Whereas, the tourism industry on Long Island  
10 focused primarily on beaches and fishing ten years  
11 ago, it now translates, as it does statewide, into  
12 60 percent business travel. Much of that business  
13 travel, i.e., conferences, seminars, exhibitions,  
14 takes place within the bi-county region. The  
15 meeting-convention business creates more than  
16 80,000 jobs on Long Island.

17 The legislative intent of the  
18 proposed smoking regulations is a noble gesture to  
19 provide non-smokers freedom from annoying smoke in  
20 public places.

21 The Tourism Commission emphatically  
22 states that the regulations as proposed not only  
23 gives preferential treatment to non-smokers, but  
24 will create an unworkable and unenforceable burden  
25 upon the hospitality industry of Long Island.

1  
2                   In today's Newsday we read about the  
3 enforceability. It is a gentle enforceability,  
4 and we realize we do not expect people to call the  
5 police when someone refuses to put out a  
6 cigarette.

7                   Gentle enforceability is something I  
8 experienced on Saturday evening, as I was  
9 privileged to be at the Nassau Colliseum to  
10 witness Billy Joel, my first venture into a rock  
11 concert. It was wonderful, I enjoyed myself  
12 tremendously, however, the smoke in the Nassau  
13 Colliseum was enough to choke me.

14                   Now, as a former smoker and a non-  
15 smoker, I would say that that's far from  
16 enforceability. And there is an area where I  
17 think it could use a little more enforceability.

18                   It also exposes our state, now this  
19 is my great concern, to a potential loss of  
20 convention business and its resultant sales tax  
21 revenues by creating an inhospitable image. As an  
22 example, it has taken the Utah Ski Council and the  
23 Slt Lake Valley Convention Bureau in Utah,  
24 millions of promotional dollars over the past ten  
25 years to overcome the image that no alcoholic

TINY 0014700

1  
2 beverages were available in the state. How many  
3 times have you heard a skier say, I won't go to  
4 Utah, you can't get a drink there. It is not so,  
5 they have difficult laws, but it is the Convention  
6 Bureau that has the tremendous job to overcome a  
7 negative image. A hotel, a restaurant or a  
8 convention center must create an ambience which is  
9 not cluttered by a myriad of signs which direct  
10 the guests where one can and cannot smoke. The  
11 atmosphere which a hotelier creates is far from  
12 that of a railroad station or an airport. We are  
13 attempting to create a home away from home for the  
14 guest. A good restaurateur wishes to please his  
15 guests and in many cases was already providing  
16 non-smoking areas on a voluntary basis, without  
17 signs, without local legislation, and without  
18 being an unwilling victim of overzealous  
19 regulators.

20 Your hosts in the hospitality  
21 industry do not wish to be deputised as  
22 enforcement officers of this onerous proposed  
23 legislation.

24 I have not heard discussion on the  
25 enforcement methods proposed for the

TINY 0014701

1  
2 implementation of the proposed regulations.

3 In the case of a smoker reluctant to  
4 abide by the regulations would the general manager  
5 of a hotel or restaurateur be responsible for  
6 holding the violator until a summons was issued?

7 Well, in today's Newsday I hear they  
8 haven't even had any summonses issued or any real  
9 confrontations, that's what I mean by gentle  
10 enforcement. We create these regulations and we  
11 hope, ladies and gentlemen, that you go along with  
12 them. What priority will a violation of this type  
13 even be given by a enforcement officer with  
14 traffic accidents, crimes, aided cases, health  
15 emergencies; and the response time for a smoking  
16 violation might be hours, by which time the  
17 violator and the complainant will no longer be  
18 present.

19 Local police departments have no more  
20 than a few men on duty at one time. The residents  
21 pay dearly in their real estate taxes for top  
22 police protection of their families and their  
23 property. Use of police time on Long Island, a  
24 5-year patrolman costs the municipality \$50,000  
25 salary and benefits a year, and the taking of a

TINY 0014702



1  
2 patrolman and car off the road to enforce smoking  
3 regulations would seem a non-essential use of  
4 taxpayer's dollars. It is beyond reason to  
5 imagine a response call of this nature followed by  
6 a not guilty plea and the officer being required  
7 to appear in court, with a few adjournments added  
8 and the local municipality footing the bill for  
9 all court appearances for police overtime. It  
10 would appear that these proposed regulations would  
11 join the many other state mandates which become  
12 burdens upon the local municipalities in cost and  
13 enforcement.

14 Some advocates of strong anti-smoking  
15 legislation claim that even though they recognize  
16 that the law might be unenforceable to a great  
17 extent, just having it on the books would be a  
18 deterrent to potential violators. It would also  
19 placate the good guys who have been pressuring  
20 state legislators and the governer to do something  
21 about the smokers.

22 Ladies and gentlemen, other  
23 municipalities have smoking regulations on the  
24 books at the present time, legislation which has  
25 been supported by both factions and legislation

1  
2 which the hospitality industry has been able to  
3 live with. I would go so far as to say that our  
4 elected officials have no problem with any rules  
5 and regulations which do not emanate from their  
6 good offices.

7           The Mayor of New York City has asked  
8 for voluntary compliance because of  
9 un-enforceability of regulations which aim to  
10 control what has never before been looked upon as  
11 criminal or anti-social behavior. No doubt, his  
12 comfort level will rise if the ruling is not his.

13           Raymond Schuler, President of the New  
14 York State Business Council, in a letter to  
15 Commissioner John Dowling, of Nassau County, dated  
16 May 7, 1985, stated that Business Council's  
17 opposition to these proposed regulations. The  
18 membership of the Business Council totals 3,200  
19 companies, large and small, in virtually every  
20 type of business all over New York State. Mr.  
21 Schuler also sent Commissioner Dowling a copy of  
22 recently delivered testimony which was presented  
23 to the New York City Council and I would recommend  
24 that this correspondence be reviewed by the  
25 members of the Board as it is part of the record.

TINY 0014704

1  
2 The LITCC urges the New York State Public Health  
3 Council to take reasonable and workable approach  
4 to what is apparently perceived by this body as a  
5 public health problem.

6 Because, further infringement upon  
7 the hospitality industry would have a decidedly  
8 negative long-term impact upon the convention and  
9 meeting business in Nassau County and New York  
10 State and the city, and because the County of  
11 Nassau is aggressively advertising to attract new  
12 business and visitors to Long Island through its  
13 promotional efforts, we regard this type of  
14 restrictive legislation as anti-business and  
15 certainly not in keeping with the spirit and image  
16 which we the Tourism Commission and our publicly  
17 elected officials are presently seeking to  
18 accomplish.

19 I thank you for this opportunity.

20 MSGR. FAHEY: Thank you, Ms.  
21 Simpson. There is something, if I may ask, it's  
22 slightly out of character, but you mentioned that  
23 other folks from the comparable committees  
24 throughout New York State are likely to give  
25 testimony, I think it would be helpful if you

TINY 0014705

1  
2 were, in fact, with them to ask them to address  
3 specifically the provisions in the proposed  
4 statute that have to do with conventions. We have  
5 listened to some extent and have tried to modify  
6 the approach slightly in this regard, and it would  
7 be useful to have specific comments.

8 MS. SIMPSON: I will do that.

9 I think at your last hearing Mr.  
10 Robert Schmidt, President of the New York State  
11 Convention Visitors Bureau did appear, but I will  
12 contact him and tell him if he can address those  
13 particular portions of the proposed rules and  
14 regulations, to address the convention industry in  
15 his concerns.

16 MSGR. FAHEY: That would be  
17 helpful, to make sure we had some explicit  
18 comments. Thank you, very much.

19 He may have addressed them in the  
20 first hearing, which was in Syracuse last  
21 Thursday, and members of the council have not had  
22 the opportunity to see that transcript as yet, but  
23 again, I reiterate, perhaps I mentioned it before  
24 you were in the room, we will be having hearings  
25 in New York City and Buffalo and Albany after the

TINY 0014706

1  
2 first of the year.

3 Is it Mr. Kramer or Dr. Kramer?

4 DR. KRAMER: I am Dr. Paul Kramer,  
5 a professor of physics of the State University of  
6 New York at Farmingdale, and as a volunteer I work  
7 for the American Cancer Society, where I chair the  
8 anti-smoking committee, and the smoke-out efforts.

9 I'm sorry I don't have written  
10 remarks, I'm speaking somewhat extemporaneously.

11 The position of the Cancer Society is  
12 that smoking kills. That's very simple. It  
13 causes cancer. The other agencies on Long Island  
14 that deal with some other diseases know that  
15 smoking also kills. It kills because of heart  
16 disease, circulatory diseases, lung diseases,  
17 what-have-you.

18 Our position is also that the  
19 question is incontrovertable. There is no longer  
20 a question about whether smoking kills, that  
21 question was opened long before the 1964 Surgeon  
22 General's report, and was essentially closed then,  
23 and in the mountain of voluminous research that  
24 followed afterwards. Furthermore, the evidence is  
25 growing now that smoking kills, not only the

TINY 0014707

1  
2 smoker but the non-smoker.

3                   Therefore, I view the smoking issue  
4 as purely and simply a public health issue. Those  
5 who have a vested interest in continuing the  
6 smoking habit would like to continue to turn this  
7 question into a question of a battle between the  
8 smoker and the non-smoker, which needs to be  
9 refereed by the Department of Health or by  
10 legislation. This is not a question that needs  
11 refereeing, this is a public health issue that  
12 needs to be addressed and solved.

13                   We should know longer allow smoking  
14 to exist as a public menace any more than we allow  
15 a typhoid carrier to work in a restaurant, or an  
16 air conditioning system in a hotel that carries  
17 Legionnaire's disease; we investigate and stop all  
18 these issues that come to the {surface|surveys}.

19                   We have some very, very advanced  
20 legislation now here in Nassau and Suffolk County,  
21 yet that legislation needs additional support on  
22 the state level. People know in this area that it  
23 is just for this area. Furthermore, we need  
24 protection when we go elsewhere in the state from  
25 the drifting smoke from the smokers all around us.

TINY 0014708

1  
2 So the pending regulations I view as being very  
3 important to support the effort that has been  
4 generated here and to give support to those who  
5 recognize that smoking is a public health menace  
6 throughout the state.

7 The question of jobs is often listed,  
8 and I did a little so-called back of the envelope  
9 calculation, which we physicists love to do, and  
10 we project a half million smoking deaths in the  
11 country each year, because that's really well  
12 documented, smoking caused half a million deaths  
13 in the country. It comes down to about 15,000 to  
14 New York State, give or take a few, an awful lot  
15 of jobs lost, people who will never work again.

16 And that doesn't address those who  
17 are out for a while, usually a long while, while  
18 being medicated for cancer or the other diseases  
19 that smoking causes. There is a lot of lost work,  
20 a lot of lost money in the commerce and industry,  
21 because of the disease caused by this public  
22 health menace.

23 And that doesn't begin to address the  
24 kinds of things that you see in the family, lost  
25 family members, lost support, what-have-you.

TINY 0014709

1  
2 Miss Greenbaum earlier mentioned her  
3 father that she saw die from cancer at an early  
4 age. Multiply that by the 15,000 deaths in New  
5 York State, and you see where the real problem  
6 lies.

7 But to me, perhaps the most important  
8 aspect of any legislation of this kind is not the  
9 question of whether it will or will not be  
10 enforced, whether I will receive immediate  
11 protection when I walk into a restaurant or I will  
12 not. Because I see the educational aspect of the  
13 rule working even now in Nassau and Suffolk  
14 County.

15 I was in a restaurant last night and  
16 I asked for a table in a no-smoking section. It  
17 was in Nassau County, where they have to actually  
18 ask you or they at least make a practice of asking  
19 you, and it wasn't available, so reluctantly,  
20 because we were a big group, I didn't want to  
21 cause everyone to wait, we went into the smoking  
22 section and sat with some trepidation. I looked  
23 around to see just how my fresh air rights were  
24 going to be infringed upon, and as I sat down in  
25 that area, and lo and behold I couldn't find a



1  
2 smoker even in that area any more.

3           Why is that happening? Well, I see  
4 it happening. As I do smoking clinics, I see it  
5 happen. As I go into corporations and talk about  
6 the smoking effort, trying to support their  
7 compliance with the law.

8           The smokers are recognizing that the  
9 norm is becoming not to smoke. I've had people in  
10 clinics come and say to me such things as, I went  
11 to a meeting and a bunch of friends were there,  
12 about 10 people, and I knew them all to be  
13 smokers, and I looked around and I was the only  
14 one smoking. It was downright embarrassing.

15           The educational effort, ladies and  
16 gentlemen, is where the real value of this kind of  
17 legislation comes to the floor. The  
18 enforceability, as you heard Dr. Harris say, does  
19 work, it works through public pressure, public  
20 awareness, that it is no longer appropriate to  
21 smoke. It's harming all of us when people smoke,  
22 and that awareness is coming right down to the  
23 individual who is more and more reluctant to smoke  
24 in public, more and more reluctant to continue the  
25 smoking habit. And the educational effect of the

1  
2 legislation continues. What now is a growing  
3 trend of a reduction of a couple of percent a year  
4 in those who smoke, which lead to the ultimate  
5 clean air result, the clean air result we get when  
6 no one is smoking.

7 Thank you very much.

8 MSGR. FAHEY: Thank you, very  
9 much, Dr. Kramer.

10 I might note for clarification of the  
11 record, we are not really proposing legislation as  
12 proposing regulation. There are those who think  
13 inappropriately. On the other hand, we are  
14 satisfied, having done quite a bit of research,  
15 and hearing from others in the state legislature  
16 as well, we are not only doing what we are allowed  
17 to do, but we are doing what we are mandated to do  
18 by the current statute. It is a regulatory  
19 activity which we are concerned about, and perhaps  
20 will propose specific, and we are likely to  
21 propose specific regulations.

22 Okay, now, just to bring ourselves up  
23 to date, as we are at a quarter of 12, at 11:40,  
24 and Dr. Peter Cohn was scheduled to testify, but I  
25 don't --

TINY 0014712

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DR. COHN: I am here.

MSGR. FAHEY: Wonderful, right on the button. I was hoping it was you.

Introduce yourself for the record, please.

DR. COHN: My name is Dr. Peter Cohn. I am testifying as the President of the Suffolk Chapter of the American Heart Association. I'm also the chief of cardiology here at the State University of New York, Health and Sciences Center at Stony Brook, and a professor of medicine at the medical school. My remarks really are to be directed from the cardiologist's point of view, not so much as the aesthetics of smoking or non-smoking, not so much of the convenience of people who don't like smoke blown in their face, et cetera, strictly from a medical point of view.

As by way of a preface, I should add that when you go to a meeting of cardiologists today as opposed to 10 or 15 years ago, it's not even necessary to place an ashtray in the room, the percentage of cardiologists who smoke is very, very small, and, in fact, with respect to physicians in general, it's declining markedly, so

TINY 0014713

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this is a case where physicians are not only preaching to you, they are doing what they are preaching. Obviously there is something to be said for not smoking. In my own interest, but particularly in the non-smoking regulations, even though I've referred in the text to legislation, it is in the encouragement that it will give people not to smoke, just as the previous speaker made that point, so I'll just read from these prepared remarks and ad lib as I go along. It's very brief.

We know that cigarette smoking is an established risk factor for the development of coronary artery disease. In other words, the blockages in the coronary arteries that lead to heart attack, death, et cetera.

The other risk factors are high blood pressure, which often requires medication, high cholesterol in the blood, which requires stringent diet, diabetes, which requires medication.

Cigarette smoking is the only one of those that can simply be considered as a phenomenon, that can be stopped without medication, et cetera.

In study after study people who smoke

1  
2 are much more likely than non-smokers, to develop  
3 angina pectoris heart attacks and die from heart  
4 disease. The most famous of these, which is the  
5 Framingham study, which I'm sure most people are  
6 aware of, which established the fact that  
7 cigarette smoking was such an evil.

8 The reasons that cigarette smoking is  
9 harmful are quite clear, and related to the  
10 ingredients in the cigarettes themselves, such as  
11 nicotine or the cigarette smoke, such as carbon  
12 monoxide. The thing that is the most dangerous is  
13 the nicotine itself which has direct effects on  
14 the heart and blood vessels.

15 One of the encouraging aspects of the  
16 cigarette story, however, is that once a person  
17 stops smoking, chances of developing heart disease  
18 drop markedly; this is very, very important.

19 In other words, once you have begun  
20 the smoking habit, it doesn't necessarily mean the  
21 damage has already occurred. By stopping smoking  
22 you can prevent heart disease from developing.

23 Those who already have heart disease,  
24 who are smokers, can also help themselves by  
25 stopping. The chances of dying from heart

1  
2 disease, and for people who already have it, it  
3 can decrease significantly when they stop smoking.

4 Because getting people to stop  
5 smoking is very, very difficult, and I won't  
6 belabor that point, it's very, very difficult.

7 One of the advantages of the new  
8 non-smoking regulations will be to discourage  
9 smokers from lighting up. This, combined with  
10 other educational techniques can only help in our  
11 fight against smoking. There is no question that  
12 public censure is a powerful tool. The fact that  
13 it's no longer an "in" thing to do to smoke, the  
14 fact that there are so many regulations,  
15 restrictions against smoke, all of these things  
16 bears on the smoker's attitudes towards lighting  
17 up a cigarette, and though alone might not be  
18 sufficient to stop people from smoking, this  
19 combined with other aspects of anti-smoking  
20 policies, have been a very, very powerful  
21 attitude. We feel very strongly that all of the  
22 attempts to regulate smoking will force people to  
23 stop smoking, and that in the long run will be  
24 good for the heart.

25 In addition to the helpful efforts of

1  
2 this proposed regulation on smokers, there is also  
3 a potential benefit for non-smokers who otherwise  
4 would be exposed to cigarette smoke. There is  
5 some data suggesting that passive smoking can have  
6 harmful effects on the heart, however, I think at  
7 this stage it's probably fair to say that this is  
8 not as conclusive as is the evidence on the smoker  
9 directly. The smoker can damage his own heart and  
10 of course the lungs, but there is suggestive  
11 evidence that even passive smoke is bad.

12 For all of these reasons, the direct  
13 effect on the smoker, the possible harmful effects  
14 of passive smoking for health reasons,  
15 cardiologists and the American Heart Association  
16 are in favor of tough non-smoking laws,  
17 regulations, and other policies that discourage  
18 smoking.

19 Thank you.

20 MSGR. FAHEY: Thank you.

21 May I ask at this time if any of our  
22 scheduled speakers are present with us who have  
23 not spoken as yet?

24 We have a couple of other people from  
25 GASP, Helen McCullough.

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A VOICE: You have her testimony.

MSGR. FAHEY: Helen McCullough  
of GASP?

A VOICE: I don't know how she  
wanted to testify; it's in there.

MSGR. FAHEY: Rita Sleven?

A VOICE: She could not come.

MSGR: Rhoda Nichter.

A VOICE: She will be here at 1:00  
o'clock.

MSGR. FAHEY: She is scheduled at  
1:20. Just to make sure.

A VOICE: I'm not schedule, but I  
would like to speak later this afternoon.

MSGR. FAHEY: Having no other  
speakers at this time, I would suggest that we  
have a brief adjournment. Thank you, very much.

(Whereupon, a recess was taken at  
11:50 a.m.)

(Time resumed: 12:25 p.m.)

MR. ALTONE: If you will take your  
seat, we'll get set to resume our public hearing.

Monsignor Fahey was called away  
unexpectedly. I will try to take his place here.



1  
2 My name is Russell Altone, I'm an attorney with  
3 the New York State Health Department.

4 For those of you who recently  
5 arrived, we ask that you limit your presentations  
6 to no more than 10 minutes, and again, if you wish  
7 to make written submissions, you may do so now by  
8 giving a copy of any prepared statement to the  
9 stenographer, and you also have until January 16th  
10 to forward any written submittals to the  
11 Department of Health.

12 Our next speaker will be Ruben A.  
13 Dankoff.

14 Would you please come to the podium,  
15 state your name for the record, and your  
16 representative capacity.

17 MR. DANKOFF: My name is Ruben  
18 Dankoff, I am an officer of the New York State  
19 Bowling Proprietors Association, and Chairman of  
20 its Legislative Committee. As such, I am here,  
21 today to express our concern and apprehension  
22 about the language in your proposed Regulation of  
23 Smoking as it relates to Bowling Establishments.

24 The commercial bowling center  
25 operations industry in New York State comprises

1  
2 approximately 575 bowling centers with an average  
3 investment of about \$2 million each. We,  
4 therefore, have much at stake in the wording of  
5 any proposal to limit or restrict smoking in  
6 bowling centers.

7 We are fully cognizant of our  
8 responsibility to help create an atmosphere that  
9 will appear to non-smokers as well as smokers.  
10 Our business is dependent upon the patronage and  
11 goodwill of both.

12 We know that you have already singled  
13 out our bowling establishments for unconventional  
14 treatment because of the great physical  
15 difficulties which we face in attempting to cater  
16 to both smokers and non-smokers who participate  
17 together in a recreational sport. And for this we  
18 are truly appreciative.

19 However, we are positive that an  
20 attempt to compel our bowling leagues to vote on  
21 whether or not such leagues shall be smoking or  
22 non-smoking leagues would be destructive of the  
23 league system of bowling. On the basis of over 50  
24 years of experience with our league bowlers, we  
25 are positive that the ensuing controversy would

TINY 0014720

1  
2 result in the decimation of our league system of  
3 bowling. This would spell economic ruin for our  
4 industry, because over 90 percent of our bowling  
5 sales and income comes from our league system of  
6 bowling.

7 Long before the smoking problem  
8 became a subject of extraordinary interest and  
9 controversy our industry recognized the necessity  
10 for creating a smoke-free atmosphere in our  
11 bowling centers. In the past 30 years, therefore,  
12 the period during which most modern bowling  
13 centers were created, we have all installed  
14 special air-handling equipment having the capacity  
15 to constantly remove smoke from the populated  
16 areas of our bowling centers. We have therefore  
17 enjoyed a mixture of both types of participants,  
18 without special problems.

19 Recognizing, however, that any  
20 non-smoker, whether he or she bowls in a league or  
21 not, is entitled to be able to relax in a totally  
22 smoke-free area while waiting to bowl and between  
23 bowling ball deliveries, we are respectfully  
24 asking for a different type of regulation which we  
25 are patrons without resulting in the economic

TINY 0014721

1  
2       destruction of our business.

3               The normal seating area which bowlers  
4 occupy, while actually bowling, occupies a  
5 relatively small percentage of the total populated  
6 areas of our centers. Such smaller areas are  
7 known as the bowler settee areas. The far greater  
8 percentage of our populated areas are the  
9 concourse of promenade areas, which are located  
10 just behind and contiguous to the bowler settee  
11 areas. The concourse or promenade areas are used  
12 by customers waiting to bowl; by customers waiting  
13 for their turn to deliver their bowling balls; and  
14 by non-bowling spectators who may or may not be  
15 with bowlers.

16               We are virtually unanimous in our  
17 feeling of responsibility to all persons who come  
18 onto our premises, that if we would be required by  
19 your Regulation to maintain an area or areas equal  
20 to at least 25% of our concourse or promenade  
21 areas, which would be clearly and visibly  
22 designated as non-smoking areas, that the health  
23 interests of all non-smokers would be assured.

24               Since the actual time which a bowler  
25 uses to deliver a bowling ball, in each frame, is

1  
2 only a small portion of the total time spent in  
3 the entire bowling experience, any person who  
4 wishes could then easily and quickly find such  
5 smoke-free designated areas to which to rest,  
6 relax, wait for his or her turn, or be a spectator  
7 while so occupied.

8 We are also convinced that such a  
9 Regulation, when implemented, would also satisfy  
10 the large numbers of non-smokers who do not bowl  
11 in leagues, but who also enjoy our game and sport.  
12 We need and want their patronage as well. We  
13 fully recognize that the percentage of non-smokers  
14 versus smokers has been and will continue to grow.  
15 We, therefore, respectfully request that you give  
16 us the opportunity to prove that our  
17 recommendation will work. And that all of our  
18 patrons will be able to enjoy themselves as  
19 participants in a healthful sport while in a  
20 healthful atmosphere.

21 We have not yet seen the exact  
22 language of any proposed enforcement or penalties  
23 procedures that you may have in mind to bring  
24 about compliance with your proposed regulations.  
25 It is therefore difficult to make any comments on

1  
2 these at this time. However, while we believe  
3 that the operators of bowling centers should be  
4 required to ask any smoker to cease smoking in or  
5 leave the designated non-smoking areas, such  
6 operators cannot and should not be held legally  
7 responsible for every possible individual  
8 infraction of your regulations.

9 We deeply appreciate the opportunity  
10 you have given us here today to express our  
11 feelings with your proposals.

12 Thank you.

13 MR. ALTONE: Thank you, Mr.  
14 Dankoff.

15 Is Dr. Scott Weis here? Is Arthur  
16 Carney here from RHG Electronics Laboratory?

17 Do we have Betty Cooney here from the  
18 New York State Cancer Society, Deveda Horn?

19 MS. HORN: If you have someone  
20 else, I'm not quite ready.

21 MR. ALTONE: I'm not sure we do  
22 have someone else at the moment, but I'll ask.

23 MS. HORN: All right, I guess I'll  
24 be ready.

25 MR. ALTONE: Is there anyone

1  
2 ready?

3 (Pause)

4 I guess it's you then.

5 MS. HORN: Yes, okay.

6 My name is Daveda Horn, President of  
7 Suffolk Opposes Smoke, which was an ad hoc  
8 organization which was formed to lobby for the  
9 recent Suffolk County legislation which was passed  
10 in Suffolk County.

11 I helped to draft the legislation in  
12 Suffolk County with Paul Sabatino, the county  
13 attorney and legislator for Michael DeAndre, and I  
14 would like to welcome the New York State Public  
15 Health Council, the representatives, to Suffolk  
16 County, the first county in New York State to  
17 enact no smoking legislation. We lobbied for that  
18 legislation and at the time it was applauded as  
19 the toughest legislation in the country.

20 We felt there was much to be desired,  
21 it didn't go nearly as far as we would have wanted  
22 it to go, it was a compromised bill, the result of  
23 months and months of deliberation and hearings and  
24 revisions and watered down versions from what it  
25 had originally been, starting with the Harridon

TINY 0014725

1  
2 Bill and the DeAndre Bill, but we were thrilled  
3 nevertheless to have something, to have gotten in  
4 the door, a beginning for which other counties to  
5 follow, and Nassau County certainly did with a  
6 much stricter piece of legislation.

7 At the time the revisions were  
8 finally made, the ultimate bill was to appease the  
9 different opposing factions, specifically the New  
10 York State Restaurant and Caterers Association,  
11 the Bowling Alley Proprietors Association, the  
12 Tobacco Institute, the Huntington Chamber of  
13 Commerce, and the same people are out in force  
14 again, I mean they never let us down, they give us  
15 somewhat of a challenge, we are very pleased that  
16 New York State is on the verge of passing a  
17 statewide ordinance to protect non-smokers. And I  
18 wish to outline what I see as the deficits of this  
19 proposed ordinance. Unfortunately, in  
20 restaurants, and the workplace -- am I coming over  
21 okay on this microphone -- the burden is being  
22 placed upon the non-smoker in restaurants and the  
23 workplace to demand no smoking areas. Now this is  
24 unreasonable and unfair. No minimum space is  
25 required of the restaurateurs to allocate a



1  
2 no-smoking area, the 70 percent stipulation as  
3 satisfying customer demand is ambiguous as stated  
4 in this newest version, so as that the  
5 restaurateur does not have to establish 70  
6 percent as the minimum space allocated, this  
7 should be more specifically stated in the  
8 legislation as it had previously been before it  
9 was watered down, the 70 percent should be a  
10 mandated minimum requirement, because true demand  
11 is not going to be ascertained by non-smokers who  
12 are often inarticulated in their own plight. And  
13 a true picture of customer demand will not be  
14 evident.

15           Exempting restaurants, this is very  
16 important, with 50 or fewer than 50 seating  
17 capacity, we have a similar thing in Suffolk  
18 County and I think it's horrendous, unreasonable,  
19 because, well, first of all, a lot of  
20 consideration was given to the so-called mom and  
21 pop establishments. Now are they to be  
22 considered, their welfare to be considered over  
23 the welfare of the 75 percent of the non-smoking  
24 majority, their health and well-being, after all  
25 of the reports that have come out as to the

1  
2 dangers of passive smoking, secondhand smoke?

3 In the smaller restaurants, of all  
4 places, with lesser square footage of air space,  
5 there is less room for the smoke to difuse itself.

6 And I am happy that air cleaning  
7 machines -- Mr. Slavin is not here right now, I  
8 would have loved to have spokeen to him directly.  
9 He works for Honeywell, at least he was working  
10 for Honeywell a few years ago. I understand he  
11 spoke earlier -- I'm glad air cleaning machines  
12 are not being allowed instead of no smoking  
13 sections, because they are ineffective and there  
14 are so many abuses, as we have seen, since the law  
15 passed in Suffolk County, the restauranteurs are  
16 not turning them on, you go into these restaurants  
17 where these machines are installed, they are not  
18 turning them on because they are trying to save on  
19 their energy costs. So the little effectiveness  
20 that they have, which isn't much, no one is even  
21 getting the benefit of.

22 In the workplace, leaving demand for  
23 no smoking work areas to employees seriously  
24 compromises the employees' job security and  
25 relationship with co-workers, as well as

TINY 0014728

1  
2 management. This is unfair.

3           Although it's stipulated in the  
4 legislation that the preference of the non-smoker  
5 will be catered to, at what price, we can ask. I  
6 mean at what price and in subtleties or in overt  
7 discrimination against that employee. Will this  
8 employee have to contend with speaking out, and so  
9 just for the sake of peace, many non-smoking  
10 employees will go on suffering as they have in the  
11 past. I think this has to be spelled out more  
12 clearly, and as to how much space is allowed for  
13 non-smokers and where.

14           Shopping malls, there is no mention  
15 of shopping malls. Now, anyone who suffers from  
16 ambient smoke knows that it is deplorable walking  
17 through a shopping mall and being surrounded by  
18 smoke. If all these different public places are  
19 listed, and I'm thrilled about it, what happened  
20 in this proposed legislation, what happened to the  
21 shopping malls, not to make mention of them at  
22 all. What happened to the hair styling places,  
23 beauty parlors where you are trapped, virtually  
24 trapped? In Suffolk County the idea of entrapment  
25 was brought out by introducing the concept of

TINY 0014729

1  
2 service lines, meaning in any business place,  
3 retail or business establishment, that if one or  
4 more person is giving or receiving service, that  
5 it would be no smoking on that line, the reason  
6 being, that when you are on a line, whether it's  
7 in a bank or a post office -- or a post office is  
8 covered by Federal law -- but if you are on a line  
9 anywhere, in any kind of business establishment,  
10 you are trapped, unless you want to lose your  
11 place and hope that when you get back on somebody  
12 wouldn't be lighting up again.

13 You are trapped, and you can go  
14 nowhere, so the idea to eliminate entrapment, this  
15 was the purpose of putting this into the  
16 legislation.

17 Well, the same reasoning applies with  
18 hair styling places. Anyone who has to sit in a  
19 hair styling place knows that it is an impossible  
20 situation to be trapped with smoke all around you.  
21 This should be totally prohibited in places of  
22 this sort. Not even a no smoking area, but  
23 totally prohibited.

24 This, in general, over the past ten  
25 years and especially the past few years in Suffolk

1  
2 County has been a process of consciousness  
3 raising, whereby the legislature -- well, it was  
4 such a volatile subject, we couldn't even get  
5 theiring attention. When we spoke to them, it was  
6 like we were speaking a foreign language, and we  
7 have come a long way, and I'm happy about that.

8 It's time to recognize that this  
9 legislation that New York State is proposing is no  
10 longer an option, but a necessity. It's a  
11 necessity for government to be protecting the 75  
12 percent of the non-smoking majority from the  
13 wreckless endangerment of the 25 percent of the  
14 smoking minority who thinks it can light up  
15 whenever and wherever it pleases.

16 This just can't go on any longer. We  
17 don't allow -- there are laws to prohibit driving  
18 while intoxicated, to protect innocent people from  
19 that kind of wreckless endangerment, but it's the  
20 same principle here, and so I'm happy about the  
21 progress and I hope some of these changes can be  
22 made in the legislation because I think basically  
23 it's good, it's good stuff.

24 Thank you.

25 MR. ALTONE: Thank you, Ms. Horn.

1  
2 Is there anyone here who has  
3 preregistered and wishes to speak? Is there  
4 anyone here who is not preregistered and wishes to  
5 speak?

6 Hearing no answer, we will go off the  
7 record for a while and have a recess, and we are  
8 expecting several more speakers. The first one  
9 would be at approximately 1:20.

10 We'll have a recess until 1:15 p.m.  
11 and we will continue.

12 (Whereupon, a recess was taken at  
13 12:45 p.m.)

14 (Time resumed: 12:55)

15 MR. ALTONE: Since my last  
16 announcement, we have had an appearance by Rhoda  
17 Nichter, who is president of the New York State  
18 Group Against Smoking Pollution, otherwise known  
19 as GASP of New York. At her request we'll go back  
20 on the record now so that she can make another  
21 appointment this afternoon.

22 MS. NICHTER: My name is Rhoda  
23 Nichter, I am president of GASP. By way of  
24 introduction, I would like to tell you that I am  
25 an ex-smoker for 25 years and that I speak here

TINY 0014732

1  
2 with fourteen years of hard work and experience  
3 behind me in educating the public on the hazards  
4 of smoking. In the schools of the greater New  
5 York area, I have conducted smoking prevention  
6 programs and have spoken to more than 100,000  
7 students of all ages from kindergarten through  
8 graduate school. I am course director of the  
9 stop-smoking clinics at St. Francis Hospital in  
10 Roslyn and the Town of Hempstead Department of  
11 Drug & Alcohol Addiction. And, I am the founder  
12 and president of GASP of New York. GASP stands  
13 for Group Against Smoking Pollution and has a  
14 membership of more than 5000 at this time. So,  
15 you can see, I come here to speak to you from many  
16 points of view on the smoking problem.

17 My purpose in speaking here today is  
18 to analyze certain parts of the draft, to point  
19 out some of the weaknesses I see which might create  
20 problems, and to offer suggestions and possible  
21 solutions to avoid these problems in order to make  
22 the law more effective.

23 We have found from previous  
24 experience, that under pressure from opponents of  
25 such worthwhile legislation, well-written laws

TINY 0014733

1  
2 were truncated, convoluted, distorted and watered  
3 down to create ineffective laws, difficult to  
4 interpret and enforce, very often defeating the  
5 original purpose of the law. Vagueness and lack  
6 of specificity in the wording prompts varied  
7 interpretations, confusion and general lack of  
8 effective regulation.

9 Now I'll get down to specifics.

10 In section 25.2, paragraph 4, I see a  
11 problem arising regarding hospitals and  
12 residential health care facilities. Using the  
13 term "area" could mean that it is only part of a  
14 room, and I believe that this is not your intent.  
15 To be effective, smoking should be allowed only in  
16 a separate enclosed room as mentioned in the last  
17 part of the sentence in Section 25.2, paragraph 4.

18 In Section 25.2, paragraph 5, I  
19 suggest the following should be added to this  
20 paragraph and mentioned specifically:

21 Indoor waiting areas for trains,  
22 buses, taxis, airports, beauty parlors, indoor  
23 farmers markets, hotels lobbies. I suggest that  
24 hotel lobbies should have clearly marked smoking  
25 and no smoking sections of a specified percentage.



1  
2 I suggest 50 percent, because that might be  
3 workable but 70 percent would be better.

4 In Section 25.2, paragraph 5 ii, for  
5 conventions and trade shows, rather than merely  
6 permitting the advising of the public that smoking  
7 will not be restricted, which means that smoking  
8 will be allowed, I urge that the wording of this  
9 paragraph should read that a sponsor or organizer,  
10 in any promotional material or advertisements, for  
11 conventions that are trade shows, must give notice  
12 as to whether smoking is permitted or prohibited.  
13 If the sponsor wants to prohibit smoking, he  
14 should be given the opportunity to articulate such  
15 a preference with a positive statement. There  
16 should be no assumption in this paragraph or  
17 anywhere else in this law that silence or omission  
18 means that smoking is prohibited. Such silence  
19 will not undue 75 years of the assumption that  
20 smoking is permitted everywhere unless prohibited.  
21 Clear indications of policy must be made in either  
22 choice. Smoking or no smoking must be clearly  
23 stated.

24 Now, in Section 25.2, paragraph 6,  
25 Restaurants. First, let me comment on the

1  
2 exemption of restaurants seating 50 patrons or  
3 less. Reason would prompt for complete banning of  
4 smoking in such small restaurants. I urge that  
5 these small restaurants be included in the  
6 legislation. If then find that it cannot work,  
7 they should be allowed to apply for a waiver, as  
8 they did in Nassau County.

9           Second, if I were a restaurant owner,  
10 I am not sure I would understand what is required  
11 by the regulation. How does a non-exempt  
12 establishment show that it's meeting customer  
13 demand? What has to be done to prove that the  
14 demand is less than 70 percent? This paragraph  
15 would lead to varied interpretations, not always  
16 to the advantage of nonsmokers.

17           My personal experience on a recent  
18 trip to Florida will illustrate what can happen  
19 when the law is vague. Florida law does not  
20 provide for a percentage designation for smoking  
21 and no-smoking in restaurants. When my husband  
22 and I requested no-smoking seating in a  
23 restaurant, we were escorted to what we were told  
24 was the no-smoking area. When someone at the  
25 adjacent table lit up, we complained to the

TINY 0014736

1  
2 manager and were told that our table was a  
3 no-smoking area. This is a bad law. The way  
4 Section 25.2 in this draft is written, this could  
5 be a frequent occurrence in New York State and I'm  
6 sure this is not your intent.

7 Vague regulations in restaurants will  
8 lead to ad hoc minute-by-minute designations and  
9 will make a mockery of the law. The law must be  
10 specific about designated areas.

11 I urge that in addition to the posted  
12 signs required in the entry of restaurants, signs  
13 designating the smoking and no-smoking areas in  
14 restaurants should be required, so that there will  
15 be no confusion nor flouting of the law.

16 Pre-emption is another concern. I'm  
17 concerned about pre-emption of local laws by the  
18 state law. I urge that this legislation not  
19 pre-empt stronger local laws where they exist. In  
20 addition, I urge that any weaker provisions in a  
21 local law should be superceded by a stronger state  
22 law.

23 Members of the Council, don't be  
24 vague; be specific. Until the public is fully  
25 educated, no-smoking must be posted and mentioned

1  
2 as often and as specifically as possible. There  
3 used to be many more NO SPITTING signs, which you  
4 hardly see any more because of the educational  
5 process that took place during the period of years  
6 that spitting was changing from acceptable to  
7 unacceptable for sanitary and health reasons.  
8 Through this legislation, which in itself is  
9 educational, the same process will take place in  
10 creating the unacceptability of public smoking.

11 I would like to say that I will not  
12 be approaching the economic aspects of this  
13 legislation because I had already discussed that  
14 at the Codes Committee, Public Health Council  
15 Codes Committee hearing, at which I was invited to  
16 speak.

17 Thank you for the opportunity of  
18 making this presentation. I would be pleased to  
19 answer any questions.

20 A VOICE: One quick question. I  
21 didn't come in in the beginning --

22 MR. ALTONE: Let me, first of all,  
23 say for the record, clarify that I'm not a member  
24 of the Public Health Council, I am an attorney  
25 with the New York State Health Department, the

1  
2 Public Health Council has trusted to run the  
3 hearings from time to time.

4 I don't have any questions to ask you  
5 right now. If you want to supplement anything you  
6 said, you have until January 16th. The Public  
7 Health Council would welcome anything further you  
8 wish to submit and any questions from the audience  
9 or the media, we would like to direct that other  
10 than to this microphone.

11 If you want to go off the record now  
12 we can be flexible with our timing, if anyone  
13 should appear who has either preregistered or  
14 otherwise wishes to speak, we will be prepared to  
15 go back on the record.

16 MS. NICHTER: The eyes of the  
17 world are upon New York State at this time and I  
18 think if New York State will pass a good, specific  
19 smoking restriction law, other communities in the  
20 country certainly and maybe in the world will use  
21 them as an example.

22 MR. ALTONE: Thank you very much.

23 (Whereupon, a recess was taken at  
24 1:10 p.m.)

25 (Time resumed: 1:45 p.m.)

TINY 0014739

1  
2 MR. ALTONE: May I have your  
3 attention please? We have another speaker here  
4 who has preregistered and wishes to speak now, who  
5 is Michael Dubin for the American Lung  
6 Association.

7 MR. DUBIN: Mr. Chairman, ladies  
8 and gentlemen, my name is Michael Dubin, I am the  
9 president of the American Lung Association of  
10 Nassau-Suffolk. I'm also a pulmonary physician in  
11 practice in Nassau County.

12 In 1984, the American Lung  
13 Association of Nassau-Suffolk strongly supported  
14 smoking regulations proposed for Suffolk County.  
15 In 1985, we supported, with equal vigor, similar  
16 regulations proposed for Nassau County. In both  
17 instances, our reason was the growing body of  
18 evidence that involuntary or passive smoking was  
19 decidedly hazardous to the health of what might be  
20 called "innocent bybreathers".

21 These proposals were approved and the  
22 results, as reported by the respective  
23 Commissioners of Health, are highly favorable with  
24 excellent cooperation from business and  
25 individuals.

TINY 0014740

1  
2 Today, we are considering state-wide  
3 regulations and the timing is most appropriate.  
4 The Surgeon General's report, "The Health  
5 Consequences of Involuntary Smoking" has just been  
6 released, and it concludes, in the strongest  
7 language ever used by that office, that  
8 "Involuntary smoking is a cause of disease,  
9 including lung cancer, in healthy non-smokers".

10 The report also concludes that, "the  
11 simple separation of smokers and non-smokers  
12 within the same air space may reduce but cannot  
13 eliminate non-smoker exposure to environmental  
14 tobacco smoke".

15 These are firm unequivocal statements  
16 and they are supported by solid scientific data.  
17 As a physician specializing in pulmonary disease,  
18 I am impressed by the quality of the research.

19 With this overwhelming evidence in  
20 hand, the tobacco lobby's arguments about  
21 "freedom" and "individual liberty" have an  
22 extremely hollow ring. What part of the U.S.  
23 Constitution grants the right to damage someone  
24 else's lungs? Surely, the minor inconvenience of  
25 confining smoking to certain designated areas is

1  
2 heavily outweighed by the right to preserve the  
3 health of the non-smoking majority.

4           Although the two counties my  
5 organization serves are now protected by adequate  
6 smoking regulations, we believe that such  
7 protection should be extended to the other  
8 counties of our state and to our neighbor, New  
9 York City. We, therefore, urge that the proposals  
10 of the New York State Public Health Council be  
11 adopted without change and without delay.

12           Thank you.

13           MR. ALTONE:           Thank you very much.

14           Okay, Joyce Caiazza.

15           MS. CAIAZZA:        I am a member of  
16 GASP. I would like to speak just as a concerned  
17 citizen with rights. I would like regular places  
18 restricting smoking. Workplaces should be  
19 non-smoking so non-smokers do not have to make  
20 requests. Smoking should be in designated areas  
21 only, away from the work area.

22           My daughter is afraid to say anything  
23 as her boss is a smoker, though the majority are  
24 non-smokers.

25           Restaurants should have minimum

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1  
2 established no smoking areas, at least 70 percent,  
3 so I can enjoy my meals smoke-free. I have had to  
4 give up my favorite sport, bowling, as I could not  
5 take the smoke headaches and burning eyes any  
6 more.

7 MR. ALTONE: Thank you, very much.

8 Is there anyone else here who is  
9 preregistered or anyone else here who wishes to  
10 speak? Does anyone know whether there are any  
11 other people who will be arriving shortly and who  
12 wish to speak?

13 We are not going to adjourn yet, but  
14 we will again take a recess.

15 (Whereupon, a recess was taken at  
16 1:55 p.m.)

17 (Time resumed: 2:28 p.m.)

18 MR. ALTONE: At the present time,  
19 as there do not appear to be any more persons who  
20 wish to make presentations, we will close the  
21 record. On behalf of the Public Health Council, I  
22 would like to thank those who participated in  
23 today's hearing.

24 (Time noted: 2:30 p.m.)  
25

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