

NEW YORK CITY  
INTERMEDIATE STATUS REPORT

INT. #259

April 17, 1985

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# THE TOBACCO INSTITUTE

ONE COLUMBIA PLACE  
ALBANY, NY 12207

RICHARD E. SCANLAN  
Regional Vice President  
518 462-6501

April 17, 1985

## MEMORANDUM

TO: William P. Buckley  
FROM: Richard E. Scanlan  
RE: New York City Intermediate Status Report

### BACKGROUND

The following will report on the activities to impact the New York City Council Health Committee (Exhibit A) which held a public hearing April 12, 1985, (Exhibit B) on Int. #259 (Exhibit C). The current New York City Code (Exhibit D) presently restricts smoking in various public places including retail stores, supermarkets, theaters, etc. Originally, Int. # 839 (Exhibit E) was scheduled to be heard by the committee as well. This introduction would prohibit sampling of tobacco products in New York City. Health Committee Chairman Jerry Crispino, prior to the hearing, withdrew the sampling prohibition measure from the agenda to reschedule it for a public hearing at a later date.

Although the public smoking legislation was originally introduced on December 14, 1982, no action on this bill occurred until sponsors Carol Greitzer and Stanley Michels held a press conference to promote the legislation. Exhibit F is a press clipping from the August 2, 1984 Daily News. Following this press conference, Shea & Gould local counsel Robert Bishop provided this office with his analysis of the political situation (Exhibit G). Over the intervening eight months, local counsel continued to work with members of the City Council Health Committee and forestalled any action until the public hearing was scheduled for April 12, 1985.

At the request of local counsel, this office submitted on February 12, 1985, a TAN Action Request (Exhibit H) to begin grassroots mobilizations in opposition to the legislation (see Grassroots - Tobacco Action Network section). During the intervening period before the public hearing, periodic updates (Exhibit I) were submitted to Headquarters to insure the most recent updates for distribution to member companies.

680531171

#### DIRECT LOBBYING

The firm of Shea & Gould through Messrs. Ruggieri and Bishop, coordinated all direct lobbying efforts to impact the City Council. Weekly meetings and/or conference calls were held with counsel and other local counsel retained by the Institute. These include Howard J. Rubenstein and associate Marcia Horowitz, Mr. Vernon Dempsey of Phoenix Marketing who individually met with the members of the committee to discuss the sampling introduction, Int. # 839. New York State counsel Joseph F. Carlino was contacted to coordinate a coalition building effort for the bowling proprietors whom he represents in Albany. Mr. George Elicofon of the New York State Association of Tobacco and Candy Distributors met individually with several members of the committee and Mr. Tiny Weintraub, special counsel to the Institute, assisted in the coordination of coalition efforts to impact members of the committee. In the final two weeks of our campaign to impact the committee, Mr. Ruggieri requested additional assistance from a member of his firm, one Kevin McGrath who coordinated our campaign to impact the committee.

Various coalition supporters contributed to our Direct Lobbying efforts including: Mr. Fred Sampson of the New York State Restaurant Association; Mr. Michael Prendergast of the Hotel Association of New York City; and, Mr. Barry Feinstein of the Teamsters.

#### COALITION SUPPORT

This office coordinated efforts to solicit coalition support in opposition to the legislation. Two lists were generated of those likely to assist in our efforts. The primary contact list consisted of those organizations which have traditionally supported our efforts to oppose state-wide smoking restriction legislation in Albany. Exhibit J will provide a copy of my letter dated February 14, 1985, to solicit assistance from this primary group (Exhibit K) for opposition.

Our secondary list (Exhibit L) consisted of those organizations which we felt could be contacted for additional assistance. Exhibit M is a copy of my letter of solicitation dated March 25, 1985, sent to these secondary organizations. Exhibit N is a listing of task assigned to key contacts for these various organizations who would be more successful in achieving favorable results. For example, Philip Morris, because of their presence in New York City, agreed to contact those organizations with which they had had previous

680531172

dealings. Howard J. Rubenstein likewise had agreed to contact those organizations with which they had had earlier dealings.

Based upon this team effort, we were able to achieve the maximum utilization of key contacts to impact these organizations which could be of assistance.

Exhibit O will provide copies of memoranda submitted by various organizations in opposition to the legislation.

Our coalition development program consisted of several aspects. The first and foremost was to secure organizations to testify in opposition and second, should they be unavailable to testify, that they formally send a memorandum of opposition to the committee. Exhibit P will show the listing of these organizations which stated that they would testify at the public hearing. This office will secure a transcript of all testimony of the hearing and submit it to Headquarters at a later date. This office will also secure through local counsel a copy of memoranda filed in opposition to the committee which will be submitted when available.

#### PUBLIC RELATIONS

Public relations counsel Howard J. Rubenstein and Associates coordinated all efforts, in conjunction with local counsel Bernard J. Ruggieri, to solicit favorable media response in opposition to the legislation. This office coordinated key coalition programs and media editorial briefings at New York City newspaper office headquarters. Based upon these briefings, Exhibit Q will provide copies of editorials in opposition to the smoking restriction legislation. Exhibit R is correspondence from Howard Rubenstein's office to solicit favorable editorial comments. The favorable editorials appeared in the following newspapers:

New York Amsterdam News	March 23, 1985
New York Daily News	April 10, 1985
New York Post	April 12, 1985

The New York Times prior to the public hearing published an Op-Ed piece by a professor from Fordham University's Law School. This article (Exhibit S) was a balanced article which discusses the notion that laws are not necessary. The Times would not editorialize against the bill and, therefore, this is the most favorable piece that could be achieved by counsel under the circumstances.

680531173

New York City Intermediate Status Report  
April 17, 1985  
Page Four

At the public hearing Marcia Horowitz coordinated our media effort by securing coalition supporters to be interviewed by both the electronic and print media. Based on these efforts, Exhibit T will provide a copy of a press clip which appeared in the April 14, 1985 New York Times. This article is unquestionably balanced in our favor because of the efforts of Horowitz.

#### TOBACCO ACTION NETWORK

Following approval by member companies of the February 13, 1985, TAN Action Request (see Exhibit H), a mailing to some 1,000 plus TAN volunteers was sent on March 7, 1985. On March 21, 1985, this office held a New York TAN Advisory Committee meeting with those members from the metropolitan New York area (Exhibit U). This meeting was designed to focus on a final push to solicit letters to members of the committee and to secure petition signatures for submittal to the committee. In addition to the efforts by this office, TAP/TAN enrollees were mobilized by Philip Morris and a mailing was sent to some 550 TAP/TAN enrollees who reside in New York City.

Although we will not know with any degree of certainty the impact of this TAN letter writing campaign, this office has requested local counsel to selectively survey the members of the City Council and the Health Committee to get a sampling of the number of letters which were received. When these figures become available, Headquarters will be advised. Exhibit V will provide a sampling of letters mailed by enrollees and letters received from members of the Council and the Health Committee.

#### TACTICAL SUPPORT (Exhibit W)

At the request of local counsel, additional programs were initiated to impact the members of the committee.

#### PHOENIX MARKETING

Phoenix Marketing was retained by the Institute to solicit petition signatures. The petition was circulated by Mr. Dempsey's firm from March 18-27, 1985 so that signatures could be submitted to the committee at the public hearing. Phoenix Marketing efforts generated 15,008 signatures in the New York City area. A summary of the petition collection efforts, the location of the work and the number of signatures obtained is provided.

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JAMES SAVARESE AND ASSOCIATES

At the request of local counsel Bernard Ruggieri, the firm of James Savarese and Associates was retained by the Institute's Public Relations Division to conduct an economic impact study of the smoking restriction legislation. The Savarese Economic Impact Study was submitted at the public hearing to the committee on behalf of the New York State Association of Tobacco and Candy Distributors. Mr. Savarese delivered testimony to the committee at the public hearing; a copy of which is provided. The economic data submitted by Savarese received favorable notice from the committee and indeed was a prominent issue in the New York Times report which appeared subsequent to the hearing.

COMMUNICATIONS MANAGEMENT, INC.

The Institute retained Communications Management, Inc. on March 26, 1985, to conduct a communications program designed to solicit letters from business leaders in New York City to be submitted to the Health Committee. A copy of the agreement reached between CMI and the Institute is provided. The timing of this project is also provided as well as copies of the communications sent to the business community requesting their letter writing efforts to impact the committee. Instrumental in the success of this program was the utilization of the New York Chamber of Commerce and Industry which agreed to allow CMI to use their name as the sponsor of this program. Vice President of the Chamber, George Cooper, was extremely cooperative and, in the final analysis, is to be congratulated for his efforts in the successful completion of this program.

While no exact count has been achieved to dated, local counsel will attempt to determine, through a representative sampling of the committee, the actual number of letters received through this program.

GOLDMAN ASSOCIATES

On April 5, 1985, a polling firm headquartered in Boston, which had conducted earlier voter surveys for the Institute, was retained to conduct a telephone survey of some 500 registered voters in New York City to determine their attitudes as to smoking restriction legislation. This polling survey was conducted from April 8 through April 11, 1985. Mr. Ed Riley drafted a Summary of Findings, which is provided, which when analyzed revealed a serious problem with his interpretation of the figures.

680531175

New York City Intermediate Status Report  
April 17, 1985  
Page Six

My memorandum of April 17, 1985 to you discusses this matter and suggests a resolution of the problem. Upon the favorable resolution of this item, it is my belief that the survey can be submitted to Chairman Crispino for his information.

#### CONCLUSION

Our intensive two month program to impact the New York City Council's Health Committee was the first salvo in the efforts to oppose public smoking restriction legislation in New York City. While some 23 witnesses appeared at the public hearing on April 12 to oppose the legislation, efforts will be on-going to continue to impact the New York City Council.

The possibility exists that Chairman Crispino will schedule a second public hearing at some future date and/or schedule a vote in the committee. Mr. Crispino appears to be neutral on the issue at the present time but a majority of the seven members of the committee appear to be opposed to the legislation. My memorandum of Section I dated March 18, 1985, provides a copy of our preliminary projected headcounts. Clearly this issue will continue to be an active one in New York City as 1985 is an election year for all members of the City Council. Please be assured our program will be on-going to favorably impact the New York City Council.

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## EXHIBITS

- A. New York City Council  
New York City Council Health Committee
- B. Announcement of April 12, 1985 Public Hearing
- C. Int. # 259
- D. New York City Code
- E. Int. # 839
- F. 8/2/84 Daily News Article
- G. 8/20/84 Analysis of Political Situation
- H. 2/13/85 TAN Action Request
- I. Periodic Updates 2/12/85 - 4/2/85
- J. 2/14/85 Letter of Solicitation
- K. Targeted Organizations of 2/14/85 Solicitation
- L. Targeted Organizations of 3/25/85 Solicitation
- M. 3/25/85 Letter of Solicitation
- N. Coalition Development/Task Assigned To
- O. Memoranda in Opposition to Int. # 259
- P. Organizations/Testifiers
- Q. Editorials in Opposition to Int. #259
- R. Solicitation Letters to Media for Favorable  
Editorials
- S. 4/9/85 New York Times Article
- T. 4/14/85 New York Times Article
- U. 3/21/85 TAN Advisory Committee Agenda RE: New York  
City Legislation
- V. Sampling of Letters to and from Council and Health  
Committee
- W. Tactical Support
  - ° Phoenix Marketing Retainer Agreement
  - ° Petition
  - ° Phoenix Marketing/Final Report
  - ° Savarese/Economic Impact Study
  - ° Savarese Testimony at Public Hearing
  - ° Communications Management, Inc. Retainer  
Agreement
  - ° CMI Timing Schedule
  - ° CMI Mailgram, Telephone Script & Second  
Mailgram
  - ° Goldman's Summary of Findings
  - ° 4/17/85 Memorandum RE: Summary of Findings

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NEW YORK CITY COUNCIL, City Hall, New York 10007      566-5058

President      Carol Bellamy      566-6447

Staten Island

1	Frank Fossella (D)	93 New Dorp Lane, S.I. 10306	987-6900
35	Jerome X. O'Donovan, Jr. (D-C)	160 Major Ave., S.I. 10305	273-3284

Manhattan

2	Miriam Friedlander (D)	City Hall, N.Y. 10007	566-1324
3	Carol Greitzer (D)	51 Chambers St., N.Y. 10007	349-2466
4	Ruth W. Messinger (D)	City Hall, N.Y. 10007	566-7109
5	Frederick E. Samuel (D)	163 W. 125 St., N.Y. 10027	663-2822
6	Stanley E. Michels (D)	City Hall, N.Y. 10007	566-1322
7	Robert J. Dryfoos (D)	223 E. 82 St., N.Y. 10028	535-5866
* 8	Carolyn B. Maloney (D)	City Hall, N.Y. 10007	566-1320

Bronx

9	Rev. Wendell Foster (D)	City Hall, N.Y. 10007	665-6688
10	June Eisland (D)	490 W. 238 St., Bx. 10463	549-0158
*11	Rafael C. Colon (D)	1826 Westchester Ave. Bx. 10472	822-4515
12	Michael DeMarco (D)	80 Westchester Sq., Bx. 10461	931-6063
13	Fernando Ferrer (D)	2021 Grand Concourse Ste.301,Bx. 10453	294-2114
*14	Jerry L. Crispino (D)	1067 Allenton Ave., Bx. 10469	994-1300

Queens

15	Walter Ward (D)	82-17 153 Ave., Howard Beach 11414	845-0808
16	Sheldon S. Leffler (D)	205-07 Hillside Ave., Hollis 11423	465-8202
17	Archie Spigner (D)	114-71 Farmers Blvd., St. Albans 11412	776-3700
*18	Morton Povman (D)	108-18 Queens Blvd., Forest Hills 11375	793-2255
19	Edward L. Sadowsky (D)	138-51 37 Ave., Flushing 11354	539-2020
20	Peter F. Vallone (D)	22-45 31 St., Astoria 11105	274-4500
21	Walter H. Crowley (D)	84-56 Grand Ave., Elmhurst 11373	457-8585
22	Arthur J. Katzman (D)	118-21 Queens Blvd., Forest Hills 11375	544-3212
34	Joseph F. Lisa (D)	250 Broadway, N.Y. 10007	566-7756

Brooklyn

23	Herbert E. Berman (D)	250 Broadway, N.Y. 10007	566-8144
*24	Priscilla A. Wooten (D)	1962 Linden Blvd., Bklyn 11207	566-8259
*25	Susan D. Alter (D)	1469 Flatbush Ave., Bklyn 11210	859-4760
26	Enoch H. Williams (D)	1666 Pitkin Ave., Bklyn 11212	498-9012
*27	Victor L. Robles (D)	815 Broadway, Rm. 404, Bklyn 11206	963-3141
28	Mary Pinkett (D)	324 DeKalb Ave., Bklyn 11221	957-0959
29	Abraham G. Gerges	111 Court St., Bklyn 11201	875-5200
30	Thomas J. Cuite (D)	City Hall, N.Y. 10007	566-5250
31	Salvatore F. Albanese (D)	476 76 St., Bklyn 11209	748-9400
32	Noach Dear (D)	1373 Coney Island Ave., Bklyn 11230	338-1110
33	Samuel Horwitz (D)	314 Brighton Beach Ave., Bklyn 11235	646-5550

\* Member of the Health Committee

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THE CITY OF NEW YORK  
VICE CHAIRMAN OF THE COUNCIL  
CITY HALL  
NEW YORK, N.Y. 10007

JOSEPH STRASBURG  
COUNSEL

TELEPHONE  
566-5058  
562-8998

March 28, 1985

Re: Int. #259 - Smoking, public meetings  
Res. #100 - No Smoking Sections in  
Restaurants

Please be advised the Committee on Health will meet on Friday, April 12, 1985 at 10:00 a.m., in the Committee Room, second floor, City Hall, New York, New York, to consider the enclosed proposed legislation.

You are invited to attend this hearing and participate therein.

Thank you for your cooperation.

Sincerely yours,

*Joseph Strasburg*  
Joseph Strasburg,  
Counsel

js/mr  
encs.

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# THE COUNCIL

The City of New York

Int. No. 259

December 14, 1982

Introduced by Council Members Stern and Michels; also Council Members Codd, Friedlander, Greitzer and Wallace—read and referred to the Committee on Health.

## A LOCAL LAW

- To amend the administrative code of the city of New York, in relation to protecting the public health, comfort and environment by prohibiting smoking in public places and at public meetings except in designated smoking areas.

*Be it enacted by the Council as follows:*

- 1 Section 1. Chapter twenty-two of the administrative code of the city of New York, as last amended  
2 by local law thirty-seven of nineteen hundred seventy-seven, is hereby amended by adding thereto a new  
3 title, to be title E, to read as follows:

### TITLE E

- 5 § D22-1.0 Definitions.—For the purposes of this section: (1) "Public place" means any  
6 enclosed, indoor area used by the general public, or serving as a place of work, excluding factories  
7 as defined in subdivision nine of section two of the state labor law, and including, but not limited  
8 to, restaurants, retail stores, public means of transportation, all schools, colleges and universities,  
9 hospitals as defined by article twenty-eight of the state public health law, auditoriums, theaters,  
10 libraries, museums, arenas and meeting rooms, but not including private enclosed offices occupied  
11 exclusively by smokers even though such offices may be visited by non-smokers.

- 12 (2) "Public meeting" includes any meeting open to the public held in an enclosed indoor area.

- 13 (3) "Smoking" includes inhaling and exhaling the fumes of a lighted cigar, cigarette, pipe or  
14 any other lighted smoking equipment, and the carrying of a lighted cigar, cigarette, pipe or any other  
15 lighted smoking equipment.

Note: Matter in *italics* is new; matter in brackets [ ] to be omitted.

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BROWN & WILLIAMSON - LOUISVILLE  
DOCUMENT CONTROL PROJECT

PHOTOCOPYING VARIANCE SHEET

AT THE TIME OF REPRODUCTION, THE  
FOLLOWING NOTATIONS WERE MADE:

- ☐ DOCUMENT COPIES ARE IN THE SAME SEQUENCE AS THEY APPEARED IN THE ORIGINAL.
- ☐ DUPLICATE DOCUMENTS APPEARED IN THE ORIGINAL.
- ☒ PAGE NUMBER(S) MISSING IN THE ORIGINAL. #2
- ☐ POOR QUALITY ORIGINAL.
- ☐ OVERLAY ITEM COULD NOT BE REMOVED WITHOUT DAMAGE TO THE ORIGINAL.
- ☐ NO DOCUMENTS WERE FOUND WITHIN THE ORIGINAL:
  - ☐ FILE FOLDER.
  - ☐ REDROPE EXPANDABLE FILE.
  - ☐ HANGING FILE.
  - ☐ ENVELOPE.
  - ☐ OTHER (SPECIFY) \_\_\_\_\_
- ☐ DOCUMENT COPIES WERE REPRODUCED IN COLOR TO PERMIT CORRECT INTERPRETATION.
- ☐ OTHER VARIANCE [EXPLAIN]: \_\_\_\_\_  
\_\_\_\_\_

1       § D22-7.0 Enforcement.—For the purposes of enforcing the provisions of this title, appear-  
2       ance tickets may be issued by any person authorized to issue tickets for parking violations. Such  
3       appearance tickets may be returnable to the environmental control board which shall have the power  
4       to impose the civil penalties herein provided.

5       § D22-8.0 Inconsistent provisions of rules by city agencies superseded.—Insofar as the  
6       provisions of this title are inconsistent with the provisions of any rules or regulations promulgated by  
7       a city agency, the provisions of this title shall be controlling.

8       § 2. This local law shall take effect on the first day of January next succeeding the date on which  
9       it shall have become law.

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apartment house into automatic elevators and from leaving the passenger elevators unattended by competent operators, as the statute did not require that the elevator should at all times be operated man-

ually for the tenants when there is no fire.—*Richman v. Fleisher*, 276 App. Div. 374, 96 N. Y. S. 2d 172 (1950), rev'g 194 Misc. 1090, 89 N. Y. S. 2d 445 (1949).

§ C19-164.1 **Fire alarm signs.**—a. In a conspicuous location in every lobby or entrance hall of a commercial or public building, the owner shall post a sign indicating the method of transmitting a fire alarm. Such signs shall conform to the following format and the owner shall insert all information necessary to complete the instructions contained therein:

Fire alarm box at ..... and .....  
(Street or avenue) (Street or avenue)  
or

Telephone—"911" or (depending upon the borough in which the property is located, insert one of the following telephone numbers:

for Bronx properties—665-2200  
for Brooklyn properties—636-1700  
for Manhattan properties—628-2900  
for Queens properties—847-6600  
for Richmond properties—727-1100)

—to report a fire.

(Caption added and subd. a amended by L. L. 1972, No. 15, Feb. 25, 1972, eff. April 26.)

b. Such sign shall be ten inches in width by twelve inches in length. The lettering thereon shall be of the size, type and spacing called for by the regulations of the department. Any person who shall violate or refuse or neglect to comply with any provision of this section, shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars or by imprisonment not exceeding thirty days, or by both.

c. This section shall not apply to schools where regularly supervised fire drills are conducted. (Added by L. L. 1959, No. 4, January 1.)

§ C19-165.0 **Lighted matches, cigars, cigarettes, discarding of, regulated.**—It shall be unlawful for any person to throw away any lighted match, cigar or cigarette within any building or structure, or in any boat, car or other vehicle for the common carriage of passengers unless it be to deposit the same in a suitable container of metal or other non-combustible material provided for the reception thereof. Any person who shall violate, or refuse, or neglect to comply with any provision of this section, shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, or by imprisonment not exceeding thirty days, or by both; and any such person shall, also, for each offense, be subject to the payment of a penalty in the sum of fifty dollars to be recovered in a civil action brought in the name of the commissioner.

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§ 19-165.1 Smoking prohibited in theatres, opera houses, portions of buildings being used for theatrical or operatic purposes, theatres displaying motion pictures.—It shall be unlawful for any person to smoke or carry a lighted cigar, cigarette, pipe or match or use any spark, flame or fire-producing device which has not been authorized for use by the commissioner in any theatre, opera house, portion of a building being used for theatrical or operatic purposes and in which building stage scenery and machinery is being used in connection with such theatrical or operatic purposes or theatre displaying motion pictures. The rooms and locations designated as follows shall be exempt from this prohibition:

a. Lobbies, designated smoking and rest rooms in theatres, opera houses, portions of buildings being used for theatrical or operatic purposes and in which buildings stage scenery and machinery is being used in connection with such theatrical or operatic purposes, or theatres displaying motion pictures.

b. Loges, boxes, mezzanines or balconies in theatres (for the purpose hereof the raised seating rows, levels, tiers or portions of those theatres erected in what is known as the stadium form of theatre or structures, shall be deemed a balcony or mezzanine), provided that any floor covering beneath the seating area is flame-proofed, and provided further that in such locations where seats are fixed in position suitable containers or receptacles of metal or other incombustible material are affixed to seats in accessible locations, and where seats are not fixed in positions such containers or receptacles shall be provided and be placed in accessible positions for use, such containers or receptacles to be used for the deposit of lighted cigars, cigarettes, pipes and matches and the discarded parts and ashes thereof.

c. A designated section with a number of seats not in excess of one-third the total number in the orchestra section of any theatre or portion of a building used for theatrical or operatic purposes or theatre displaying motion pictures which has no loges, boxes, mezzanine or balcony, provided that any floor covering beneath the seating area is flameproofed, and provided further that in such locations where seats are in fixed position, suitable containers or receptacles of metal or other incombustible material are affixed to seats in accessible locations, and where seats are not fixed in position such containers or receptacles shall be provided and be placed in accessible positions for use, such containers or receptacles to be used for the deposit of lighted cigars, cigarettes, pipes and matches, and the discarded parts and ashes thereof.

d. The designation of any section for smoking as provided in subdivision "c" hereof shall be made with the approval of the fire commissioner and commissioner of housing and buildings. (As amended by L. L. 1945, No. 44, October 3.)

680531187

§ C19-165.2 **Smoking prohibited in retail stores.**—It shall be unlawful for any person to smoke or carry a lighted cigar, cigarette, pipe or match or use any spark, flame or fire-producing device which has not been authorized for use by the commissioner in any existing or newly created retail store which is designed and arranged to accommodate more than three hundred persons, or in which more than twenty-five persons are employed. Designated smoking and rest rooms, restaurants, executive offices and beauty parlors in such retail stores shall be exempted from this prohibition. Any person who shall violate, or refuse, or neglect to comply with any provision of this section shall, upon conviction thereof, be punished by a fine of not less than ten dollars and not more than one hundred dollars, or by imprisonment not exceeding thirty days, or by both. (As added by L. L. 1943, No. 29, July 24.)

§ C19-165.3 **Ventilation and maintenance of restaurant type cooking equipment.**—a. Independent exhaust systems provided to exhaust grease-laden vapors and fumes from restaurant type cooking equipment and appliances such as ranges, deep fat fryers, grills, boilers, candy kettles, cruller furnaces and ovens and the hoods, fire extinguishing systems, exhaust fans, ductwork, and filters or other approved devices to extract grease from such exhaust systems shall be constructed, installed and maintained in accordance with the provisions of the building code. Clear, concise and complete operating and cleaning instructions covering all components of the exhaust system shall be permanently posted under glass at the main entrance or other suitable entrance to the cooking location and a schematic drawing or sketch at least 8½ inch by 11 inch in size, showing the origin, run and terminus of the grease duct shall be similarly posted.

b. The extinguishing system and its automatic valve operation shall be tested once a year by the owner and a record of such test shall be kept on the premises for inspection.

c. The entire exhaust system shall be inspected at least once every three months, by qualified employees of the owner or by a cleaning agency, and cleaned to remove deposits of residue and grease in the system. A record of such inspection and cleaning shall be kept on the premises for inspection.

d. Filters shall be serviced and replaced regularly by qualified employees of the owner or by a cleaning agency. A record indicating the name of the person or firm doing the servicing and the dates when filters were cleaned or replaced shall be kept on the premises. Filters shall be cleaned or replaced once every three months or more frequently if necessary. No exhaust system shall be operated without filters installed while cooking equipment is being used.

e. The provisions of this section shall apply to restaurant and similar cooking ventilation systems with equipment installed on or

680531188

§ C19-165.3 ADMINISTRATIVE CODE OF CITY OF NEW YORK 218

after December sixth, nineteen hundred sixty-eight, in accordance with the provisions of the building code. Restaurant and similar cooking ventilation systems with equipment installed prior to December sixth, nineteen hundred sixty-eight, or not otherwise installed in accordance with the building code may be lawfully continued provided the construction, installation and maintenance thereof complies with the code and regulations under which such systems were installed. (Added by L. L. 1975, No. 35, July 28.)

§ C19-165.4 **Smoking prohibited in hospitals, sanatoria, nursing homes, convalescent homes, homes for the aged or for chronic patients or portions of buildings being used for such purposes.**—It shall be unlawful for any person to smoke or carry a lighted cigar, cigarette, pipe or match or use any spark, flame or fire-producing device which has not been authorized for use by the commissioner in any hospital, sanatorium, nursing home, convalescent home, home for the aged or for chronic patients, or any portion of a building being used for such purpose. Designated smoking and rest rooms, recreation rooms, hospital dining rooms, restaurants, administrative offices and other similar areas in such buildings shall be exempted from this prohibition. The designation of any such rooms or other areas for smoking shall be made only with the approval of the commissioner. Any person who shall violate, or refuse, or neglect to comply with any provision of this section shall be guilty of an offense and shall, upon conviction thereof, be punished by a fine of not more than fifty dollars, or by imprisonment not exceeding thirty days, or both; and any such person shall, also, for each offense, be subject to the payment of a penalty in the sum of two hundred fifty dollars, to be recovered in a civil action brought in the name of the commissioner. (Added by L. L. 1962, No. 3, February 21.)

§ C19-166.0 **Ashes.**—It shall be unlawful for any person to deposit ashes on the wooden floor of any building, or in any barrel, or box, or other wooden vessel standing on any such floor, or to place any such barrel, box, or other vessel containing ashes, upon any such floor.

§ C19-166.1 **Stoves and ranges.**—No stove, range, oven or other heating device which is fueled directly, including those using gas or electricity as fuel, and which is used for processing combustible fabrics with inflammable mixtures or combustible mixtures having a flash point of less than 125° Fahrenheit as determined by a Tagliabue open cup tester, shall be maintained or installed hereafter in a non-fireproof building except on the top story of such building unless such building is provided with an approved automatic sprinkler system throughout. Any person who shall violate the

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provisions of this section shall be guilty of an offense and shall be punished by a fine of not more than \$500 or by imprisonment not exceeding six months, or both. (Added by L. L. 1958, No. 33, January 1, 1959.)

§ C19-167.0 **Lights.**—All lights used in theatres and other places of public amusement, factories, stores, hotels, lodging houses, and in show windows shall be properly protected by globes or glass coverings, or in such other manner as the commissioner shall prescribe. All lighted candles, oil or fluid lamps, or burning lights of any kind, which are taken into or used in any barn or stable, shall be enclosed and secured in a good glass, horn, or other lantern.

§ C19-168.0 **Fires and lights on vessels transporting petroleum.**—It shall be unlawful for the owner or for any of the officers, employees, or crew of any ship, vessel, canal boat, barge, lighter, boat or other craft lying at or within one hundred fifty feet of any warehouse, yard, shed, dock, pier, bulkhead, wharf or other place within the city, at, in, or on which petroleum oil, or any of its products, is stored, or kept for export, or in quantities exceeding ten thousand gallons; or, for any other person or persons, to bring, keep, have or use, or suffer or permit to be brought, kept, had or used on board of any such ship, vessel, canal boat, barge, lighter, boat or other craft, or at, in, or on any such warehouse, shed, yard, dock, pier, bulkhead, wharf, or other place, any lighted match, or lighted cigar, cigarette or pipe, or any fire or light of any kind, without or otherwise than in strict conformity with written permission of the owner, lessee or superintendent of such warehouse, shed, yard, dock, pier, bulkhead, wharf, or other place, specifying the fire or light to be kept, had, or used, the particular purpose for, and the place or spot at which the same may be so kept, had, or used, and the particular manner of keeping, having, or using the same. This section shall not apply to steam tugs while transacting their ordinary business, nor to steam fire engines engaged in extinguishing fires. Every violation of this section shall be a misdemeanor, triable before the court of special sessions.

§ C19-168.1 **Lighted matches, cigars, cigarettes, prohibited on the waterfront.**—a. It shall be unlawful to smoke, carry or possess a lighted cigar, cigarette, pipe, or match upon a bulkhead, farm, dock, drydock, shipyard, pier, wharf, warehouse or shed, or in and about any airport, its buildings and appurtenances thereto, or to smoke, carry, or possess a lighted cigar, cigarette, pipe, or match on board any ship, lighter, carfloat, scow, and all other similar floating craft or equipment whether such be berthed or moored at a dock, wharf, pier, or to a vessel made fast thereto or in a shipyard; provided that smoking may be permitted in such portions of any of

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§ C19-168.1 ADMINISTRATIVE CODE OF CITY OF NEW YORK 220

the aforementioned structures or locations as may be designated by the commissioner of marine and aviation, or by the fire commissioner.

b. Any person who violates this section is guilty of a misdemeanor and, upon conviction, shall be punished for a first offense by a fine of not more than fifty dollars or imprisonment for thirty days or both; for a second offense, by imprisonment for not less than thirty days; for a third offense, by imprisonment for not less than sixty days. (As added by L. L. 1942, No. 6, April 9; as amended by L. L. 1942, No. 42, August 21.)

§ C19-169.0 Vessels transporting cotton.—a. It shall be the duty of every owner, agent, master or captain of any vessel or craft, propelled in whole or in part by steam, or on which any steam engines, boilers or stoves are used, to cover securely each funnel or smokestack on such vessels with an efficient metal spark arrester, the wire mesh of which shall not be less than four to the inch, when crossing the pierhead line in approaching any grain elevator, or any pier, in waters within the jurisdiction of the city, at which cotton or naval stores are being handled or stored, and shall keep the same covered the entire time while within such pierhead line.

b. It shall be the duty of every owner, agent, master or captain of any such vessel, while loading or discharging cotton or naval stores into or from such vessel at any pier in waters within the jurisdiction of the city, to protect or have protected all hatch combings so that the cargo of cotton or naval stores so loaded or unloaded shall not come in contact with the combings.

c. It shall be the duty of every owner, agent, master or captain of any vessel or craft, propelled in whole or in part by steam, while in waters within the jurisdiction of the city, and while such vessel or craft is loading or discharging a cargo of cotton or naval stores, to couple its fire hose and keep the same ready for use at all times while so loading or discharging such cargo at such wharf or pier, and it shall keep sufficient steam while so loading or discharging, at all hours, on the donkey or one of the main boilers, to enable the full steam of water to be turned on in case of fire occurring upon or alongside such vessel or craft; and to supply such vessel with sufficient fire hose to reach to each and every hatch of such vessel or craft.

§ C19-170.0 Violations.—Any person who shall violate, or refuse, or neglect to comply with any provision of Sections C19-161.0, C19-161.1, C19-161.2, C19-164.0, C19-165.1, C19-165.3, C19-166.0, C19-167.0, and C19-169.0 of the code shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars, or by imprisonment not exceeding six months, or both; and any such person shall, also, for each offense, be subject to

680531191

§ C19-1.0 ADMINISTRATIVE CODE OF CITY OF NEW YORK 19

regulations shall control and have precedence over any conflicting reference or regulation covering the same substance, business, trade or industry made in any other portion of part one of this title.

§ C19-4.0 Federal government.—[Repealed by L. L. 1968, No. 74, Oct. 22.]

§ C19-5.0 City officers.—The heads of the various agencies of the city shall be subject to the provisions of part one of this title with regard to obtaining permits and with regard to the requirements for certificates of fitness for their employees; but they shall not be required to furnish a bond or to pay a fee in connection therewith.

§ C19-6.0 Seizure of contraband material.—Any article or thing the manufacture, transportation, storage, keeping, sale or use of which is prohibited by part one of this title, or which is manufactured, transported, stored, sold, kept, or used in violation thereof, is liable to seizure by the fire commissioner, and may be destroyed or otherwise disposed of at his discretion.

§ C19-7.0 Revenues; disposition of.—All fees, fines and forfeitures and all proceeds of suits for penalties, which may be paid or collected pursuant to part one of this title shall be paid in and disbursed pursuant to title B of this chapter.

§ C19-8.0 Electrical perils, protection against.—In workshops, factories, and other establishments, where volatile inflammable oils or liquids, or inflammable or explosive substances, are used or handled, all fixtures, machinery and apparatus liable to generate or be affected by an electric spark, or which are in any way exposed to the influence of an electric discharge (such as lightning), shall be "grounded" in a manner satisfactory to the commissioner.

§ C19-9.0 Smoking prohibited.—It shall be unlawful to smoke or carry a lighted cigar, cigarette, pipe or match within any room or enclosed place, or in any cellar or basement, or in any part of any premises in which an explosive or highly combustible or inflammable material is manufactured, stored or kept for use or sale.

CASE NOTES

¶ 1. A fireman was injured while attending a garage fire. He sued the garage owner for negligence in not advising the firemen that the fire was caused by the burning of gasoline and in a separate cause of action pleaded a violation of this section by an employee of the garage owner as the cause of the fire and General Municipal Law § 205-a which gives a

fireman a right of action against persons guilty of a violation of law giving rise to a cause of action. During the course of the trial, the plaintiff withdrew his cause of action based upon this section when defendant moved to dismiss it on the ground that the action was maintainable not against the owner but against the guilty employee. The issue of negligence

680531192



approved metal cabinet with a vent to the outside of the building not less than fourteen square inches for each one hundred pounds of inflammable film capacity or per four hundred fifty pounds of safety film capacity and with an automatic sprinkler head which may be connected to the house supply by not less than three-fourth inch pipe; provided, that the water pressure at that elevation shall not be less than fifteen pounds per square inch; provided further, however, that a cabinet constructed so that each reel is in a separate compartment and will burn out without communicating fire to film in an adjoining compartment, need not be provided with an automatic sprinkler;

3. In the special storage room, which shall be constructed, located and protected as required by the commissioner, the amount on hand in excess of sixteen thousand feet of inflammable film, such excess, however, in no event to exceed ten thousand feet, and the amount on hand in excess of forty-eight thousand feet of safety film, such excess, however, in no event to exceed thirty thousand feet, shall be stored in approved cabinets or vaults. (Paras. 1, 2, and 3 of subd. b as amended by L. L. 1953, No. 178, December 16.)

4. No collodion, amyl acetate or other similar inflammable cement or liquid in quantities greater than one-half pint shall be kept in the projection booth or rewinding room;

5. Such portable fire appliances as required by the commissioner shall be provided;

6. Smoking or the carrying of a lighted pipe, cigar, or cigarette, or other form of smoking material is prohibited in booths, rewinding rooms or special storage rooms;

7. The number of projection booths that may safely be permitted in any building shall be determined by the commissioner. A preliminary set of plans shall be submitted to and approved by the commissioner before any work in connection with the construction of a screening or projection room is started. Such plans shall show the location and size of the room and also specify as to the location of all other screening rooms in the building. Upon approval of preliminary plans such number of sets of clean, corrected plans on cloth as the commissioner may require, not exceeding three, shall be filed for final approval of the commissioner.

8. The projection machines and all other electrical apparatus shall comply with the electrical code and be approved by the department of water supply, gas and electricity. (Para. 8 of subd. b as added by L. L. 1953, No. 178, December 16.)

9. All furniture and fittings where film is stored, handled or used shall be incombustible material, except that chair seats and table and floor coverings may be of slow burning material.

680531193

15. All lights shall be at the ceiling and of the fixed marine type with vapor-proof globes and conduit wiring. All switches shall be outside the vault.

16. Heating, when required to prevent sprinkler pipes from freezing, shall be by hot water or low pressure steam with automatic control limiting the vault temperature to not in excess of seventy degrees Fahrenheit. Radiators shall be placed at the ceiling, over aisle space, with pipes and radiators protected with wire guards so arranged that no inflammable motion picture film can be placed within twelve inches of such pipes or radiators.

17. Materials other than film and film cement shall not be stored in the film vault.

**o. Cabinets for storing inflammable motion picture film.**

1. Cabinets shall be of a construction approved by the commissioner and shall not have a capacity in excess of thirty-eight standard or seventy-six sub-standard reels or three hundred eighty pounds of inflammable motion picture film.

2. Cabinets may be constructed of one-fourth inch asbestos board on a framework of one and one-fourth by one and one-fourth by one-eight inch angles or may be made of 18 U. S. gauge metal double walled with one and one-half inch air space.

3. Racks in the cabinet shall be of metal so arranged that containers can be stored on edge.

4. Doors shall be so arranged as to remain normally closed and shall be provided with catches at three points.

5. Cabinets having a capacity of over five standard or ten sub-standard reels or fifty pounds of inflammable motion picture film shall be provided with a vent to the outside of the building. The vent shall have a minimum effective sectional area of fourteen square inches per hundred pounds of inflammable motion picture film capacity.

6. Vent flues inside the building shall be of a construction equivalent to 18 U. S. gauge metal, covered with one inch of heat insulating material.

7. Each cabinet holding over five standard or ten sub-standard reels, or fifty pounds of inflammable motion picture film, shall be provided with at least one automatic sprinkler, provided, however, that a cabinet constructed so that each reel is in separate compartment and will burn out without communicating fire to film in an adjoining compartment, need not be provided with an automatic sprinkler.

**p. "No Smoking" signs.**

Every room in which inflammable motion picture film is handled shall have posted therein in conspicuous locations "no smoking" signs. (Amended by L. L. 1953, No. 178, Dec. 16; L. L. 1964, No. 229, December 29.)

680531194

any boiler or furnace in any such dry cleaning or dry dyeing establishment unless separated from the remainder of the building by an unpierced fireproof wall consisting of solid masonry, or its equivalent, of at least eight inches in thickness; provided, however, that where the construction of such unpierced wall shall be impracticable, the commissioner may permit such openings in the wall as may be necessary, and prescribe such protection therefor as in his judgment the particular case shall require.

e. Carrying matches. It shall be unlawful to carry matches into any room or compartment in which volatile inflammable oil is used or stored, and the person holding the certificate of fitness as the manager of the establishment shall be responsible for the enforcement of this section. He shall also see that all clothing intended to be dry cleaned is searched and all matches removed therefrom, before being brought into the compartments where volatile inflammable oils are stored or used.

#### ARTICLE 14

##### MOTORCYCLE REPAIR SHOPS AND STORAGE PLACES

§ C19-81.0 **Permit.**—Except upon premises for which a permit has been issued under this article, it shall be unlawful to conduct a repair shop for motorcycles, or to store, house or keep, or receive for storage, housing or keeping, more than four motorcycles containing gasoline in their fuel tanks; provided, however, that such a permit shall not be required for premises used as a garage under a permit duly issued therefor, or for premises used for the storage or repair of motorcycles owned and operated by members of but one family.

§ C19-82.0 **Restrictions.**—a. Storage of oil. Such permit shall state the amount of kerosene and lubricating oils which may be stored on such premises, which amount shall not be exceeded.

b. Basement premises. No permit shall be granted for premises below the grade story of any building.

c. No permit shall be issued for premises which do not comply with the building code-regulating industrial occupancies. (Subd. c amended by L. L. 1968, No. 76, Nov. 6.)

§ C19-83.0 **Fire prevention.**—In all premises for which a permit is issued under this article, the following regulations shall be complied with:

1. No gasoline, except that in the fuel tanks of motorcycles, shall be permitted on the premises, and such fuel tanks shall not be opened, drawn from or filled on the premises;

2. No coal or oil burning stove shall be used;

3. No motorcycle or part thereof shall, under any circumstances, be cleaned by the use of gasoline;

680531195

4. Only electric lights shall be used, the bulbs of which shall be enclosed in wire cages or otherwise properly protected in a manner approved by the commissioner;

5. Except under special authority from the commissioner, no gas or open flame shall be used for heating, lighting, or repair purposes;

6. Fire pails, filled with sand, approved fire extinguishers and "no smoking" signs shall be provided in such number as the commissioner may require.

#### ARTICLE 15

##### PAINTS, VARNISHES AND LACQUERS

§ C19-84.0 **Permit.**—It shall be unlawful to manufacture, store or keep for sale paints, varnishes or lacquers or any other substances, mixtures and compounds commonly used for painting, varnishing, staining or other similar purposes, in quantities greater than twenty gallons, without a permit.

§ C19-85.0 **Restrictions.**—No permit for the manufacture, mixing or compounding of paints, varnishes or lacquers shall be issued for any premises:

1. Which are situated within fifty feet of the nearest wall of a building occupied as a school, theatre or other place of public amusement or assembly;

2. Where the building does not comply with the requirements of the building code regulating high hazard occupancies;

3. Which are artificially lighted by any means other than electricity;

4. Where drugs, cigars, cigarettes or tobaccos are kept for sale;

5. Where dry goods or other highly inflammable materials are manufactured, stored or kept for sale.

(Amended by L. L. 1968, No. 76, Nov. 6.)

§ C19-86.0 **Volatile inflammable oil.**—No permit shall be issued for the storage and sale of volatile inflammable oil in any paint shop, in a tenement house, or for the storage of such oil in excess of twenty gallons in any building occupied by two families, or for the storage of such oil in excess of fifty-five gallons in any building occupied as a dwelling by one family.

#### ARTICLE 16

##### CALCIUM CARBIDE

§ C19-87.0 **Permit.**—It shall be unlawful to store or keep calcium carbide in excess of one hundred twenty pounds without a permit.

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## CASE NOTES

¶ 1. Whether contract to furnish material and install an oil heating system in certain premises was *malum per se* or *malum prohibitum* because there was no compliance with Administrative Code § C19-57.0, subd. c, making it unlawful for any person to install oil burning equipment until he has secured a license therefor from the Fire Commissioner, could only be determined upon the trial where inquiry could be made as to the evils intended to be corrected by requirement of a license.—*Galise v. Schwartz*, 118 (45) N. Y. L. J. (9-1-47) 362, Col. 7 F.

## ARTICLE 9

## INFLAMMABLE MIXTURES

§ C19-58.0 **Permit.**—Except as otherwise provided in part one of this title, it shall be unlawful to manufacture, transport, store or sell any inflammable mixture without a permit and no such permit shall be granted for any inflammable mixture which shall be for use as a stove polish or insecticide. Nor shall any such permit be granted for metal polish, furniture polish, or cleaning fluid that emits an inflammable vapor below eighty degrees Fahrenheit, when tested in a Tagliabue open cup tester; provided, nevertheless, that a permit and a certificate of approval may be granted to any person to manufacture, transport, store or sell any inflammable mixture which emits an inflammable vapor below eighty degrees Fahrenheit, when tested in a Tagliabue open cup tester, and which is for domestic or household use solely as a cleansing fluid and so described and represented on the can or container, and not otherwise. Such mixture shall be put up in air-tight, screw-top cans or other approved containers as provided in subdivision c of section C19-59.0 of the code, and shall contain no more than twelve ounces. (As amended by L. L. 1942, No. 50, October 29.)

## CASE NOTES

¶ 1. Judgment for plaintiff in wrongful death action based on violation of Administrative Code §§ C19-58.0 and C19-59.0 was reversed on ground the record did not disclose a causal connection between the violations of law and the accident.—*Richman v. Follman*, 260 App. Div. 1009, 23 N. Y. S. 2d 917 [1940], *aff'd* without opinion, 286 N. Y. 669, 36 N. E. 2d 908 [1941].

¶ 2. Refusal of Fire Department to approve manufacturer's application for permit to sell lighter fluid in 5 oz. polyvinyl chloride containers was not arbitrary.—*In re Zippo Mfg. Co.*, 153 (4) N. Y. L. J. (1-7-65) 15, Col. 3 F.

§ C19-59.0 **Manufacture.**—a. Certificate of approval. It shall be unlawful to install any system for the storage of volatile inflammable oils in any building used for the manufacture of inflammable mixtures unless it be of a type for which a certificate of approval shall have been issued. (Subd. a as amended by L. L. 1942, No. 50, October 29.)

b. Restrictions. No permit for the manufacture of inflammable mixtures shall be issued for any building:

680531197

§ C19-124.11 ADMINISTRATIVE CODE OF CITY OF NEW YORK 180

3. Safety film of less than 16 mm widths, quantities 200,000 feet.
4. Quantities 200,000 feet in aggregate, of safety film in any size.
5. Quantities, in aggregate, weighting 500 pounds. (Added by L. L. 1964, No. 29, December 29.)

§ C19-124.12 **Restrictions.**—a. No permit for the handling, use, storage or recovery of safety film for commercial purposes shall be issued for any premises as defined herein in a building which is of frame construction or which is of other than fireproof construction if more than three stories of fifty feet in height.

b. A permit shall not be issued for any premises as defined herein that is not equipped with an automatic sprinkler system having at least one source of water supply which may be either gravity tank, pressure tank or an approved direct connection with the city water main; or where such system is supplied by a house water source and approved by the commissioner.

c. No permit shall be issued for any premises that does not provide at least one approved two and one-half gallons fire extinguisher for every twenty-five hundred square feet of such areas. (Added by L. L. 1964, No. 29, December 29.)

§ C19-124.13 **Signs.**—Any and all establishments requiring and granting permits under this article shall display a notice announcing that the said establishment is a "Safety Film Establishment," together with a suitable warning that no inflammable or nitrate film is to be allowed on the premises unless conforming to the provisions of article twenty of the fire prevention code. "No Smoking" signs shall be posted in every premise. (Added by L. L. 1964, No. 29, December 29.)

§ C19-124.14 **Storage.**—a. Storage rooms shall not exceed ten thousand square feet and are to be so marked or identified as storage rooms when used exclusively and regularly for storage of safety film for commercial purposes. Storage therein of safety film in excess of the minimum amount permitted under "Safety Class 1" paragraph twenty-eight of section C19-24.0 of this code shall require that such room or rooms be equipped with an automatic sprinkler system having at least one source of supply, which may be gravity tank, pressure tank, or an approved direct connection to the city water main, or connected to an adequate house water supply. The sprinkler shall be of a type required for ordinary hazard occupancy as defined in chapter twenty-six of the administrative code.

b. Film may be kept on the floors of these storage rooms, provided the film is in metal, fibre or cardboard containers.

c. It shall be unlawful to handle or store any safety film for commercial purposes, in quantities greater than the amount per-

680531198

upon such vessel, at the same time, any electric fuse, blasting caps, detonators, or other exploders. This subdivision shall not apply to vessels engaged in export trade.

d. Landing. It shall be unlawful to land or place explosives upon a dock, pier, bulkhead, or other landing place. Explosives intended for use within the city shall be transferred from the vessel making the delivery directly to a vehicle for transporting explosives, at the docks or piers designated by the commissioner, for which a permit has been issued under section C19-28.0 of the code. Explosives intended for shipment to points outside the city may be transferred from a vessel directly to another vessel lying at a city dock or pier designated by the commissioner, provided the amount so transferred does not exceed twenty-five hundred pounds. All such shipments, in excess of twenty-five hundred pounds and not exceeding five thousand pounds, must be transferred from vessel to vessel at a distance of not less than one thousand feet from any pier line.

e. Precautions. It shall be unlawful to smoke while in or upon any vessel carrying explosives, or carry therein or thereon any matches, other than safety matches, or allow in or upon such vessel, any intoxicated person.

#### CASE NOTES

§ 1. A determination of the Fire Commissioner that "Nitratron" is an explosive subject to regulation by the City is in obvious conflict with Federal regulations authorizing the handling thereof at piers and docks insofar as it is being shipped in interstate or foreign commerce. The de-

termination is to that extent annulled.—*E. I. du Pont de Nemours & Co., Inc. v. Board of Standards and Appeals*, 5 Misc. 2d 100, 158 N. Y. S. 2d 456 (1956); aff'd 5 A. D. 2d 811, 170 N. Y. S. 2d 982 (1958).

§ C19-33.0 Report of deliveries.—It shall be unlawful for any holder of a permit under section C19-28.0 or section C19-31.0 of the code to deliver explosives to any person, firm or corporation not holding a permit from the commissioner. Each vendor of explosives shall maintain a record and file with the commissioner, on each business day, a verified statement of all deliveries made on the preceding day. This record and statement shall contain the following information:

1. Name and address of the person to whom delivered;
2. Date of delivery;
3. Location of magazine where delivered;
4. Name of person having charge of the magazine at which delivery was made;
5. Number of pounds of explosives delivered and the identification numbers of each stick and container of explosives. (Amended by L. 1943, ch. 595; L. 1944, ch. 268; L. 1946, ch. 672; L. 1949, ch. 278; L. 1958, No. 17, May 22.)—

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NYC Stamping

Int. No. 839

By Council Member Albanese:

## A LOCAL LAW

To amend the administrative code of the city of New York to prohibit the unsolicited distribution of tobacco products to the public.

Be it enacted by the Council as follows:

Section one. Title A of chapter twenty-two of the administrative code of the city of New York is hereby amended by adding a new section 568-3.0, to follow section 568-2.3, to read as follows:

(bf) §568-3.0 Prohibition of the unsolicited distribution of tobacco products.

a. Findings.--The council finds that the use of tobacco products such as cigarettes, cigars, and smoking tobacco is harmful to the health of the users of such products, as well as to the health and comfort of non-users of such products. The council also finds that the distribution or furnishing of unsolicited tobacco products to the general public without charge encourages the use of tobacco products which is injurious to the public health. The council further finds that such unsolicited distribution increases the availability of tobacco products to minors, thereby encouraging their use by minors.

b. Purpose.--It is the purpose of this local law to prohibit the unsolicited distribution of tobacco products for the purpose of encouraging their use or sale in order to protect the health, welfare, and safety of the people of the city and to limit their availability to minors.

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c. Unsolicited distribution of tobacco products prohibited.--1) No person, corporation, partnership, business or any other entity shall distribute or furnish, or hire another person, corporation, partnership, business or any other entity to distribute or furnish, to the general public without charge unsolicited cigarettes, cigars or smoking tobacco for commercial purposes.

2) This prohibition shall apply only to the distribution of tobacco products where such distribution is taking place on public ways such as streets and sidewalks, or in public buildings. This prohibition shall not apply to private social, business, religious or political functions held on privately owned property.

d. Penalties for violations.--Any person, corporation, partnership, business, or any other entity violating this section shall be subject to a civil penalty of five hundred dollars for the first such violation, and two hundred and fifty dollars for each subsequent violation occurring within a twenty-four hour period of the first violation, not to exceed over one thousand dollars for each twenty-four hour period.

2. This local law shall take effect on the thirtieth day after it shall be adopted.

CE/rt  
LS#1456  
10-02-84

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THE NEW YORK TIMES  
WEDNESDAY, AUGUST 1, 1984

## NEW YORK Day by Day

### No-Smoking Drive Gains

**T**was a heavy smoker — two, three packs a day," Zipora Hirschfeld said yesterday. "I got a lung infection, and they didn't think I'd survive."

When she recovered, her husband, Abraham, asked what she would like. Mr. Hirschfeld, a real-estate developer, also owns Rachel's Restaurant, on Hudson Street.

"So, I asked him to make a big part of the restaurant 'no smoking,'" Mrs. Hirschfeld said.

Now, one room of the 280-seat restaurant is designated for no smoking. And today, two members of the City Council, Stanley E. Michels and Carol Greitzer, will hold a news conference there to dramatize Intro. 259, their bill to require public places to have no-smoking sections.

The measure was originally introduced in the Council in 1981 by Henry J. Stern, who is presently the Parks Commissioner. Now sponsored by Mr. Michels, the bill is in the Health Committee. The sponsors have asked for a hearing in the fall.

"The restaurant industry will realize that the time has come for this," said Mr. Michels, who does not anticipate much opposition. "And smokers are aware that their smoke bothers others."

"It doesn't ban smoking," Mrs. Greitzer said. "It just makes it environmentally pleasant for everyone."

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DATE August 1, 1984  
TIME 5:30 - 6:00 PM  
STATION WABC-TV Channel Seven  
LOCATION New York City  
PROGRAM Eyewitness News

Kaity Tong, anchor:

A new push today to limit smoking in New York City restaurants. Supporters of the move to get no smoking sections put in all city restaurants gathered at one that already has a "no smoking" section, Rachel's in Manhattan. While the owners of Rachel's did it on their own, there has been legislation before the city council for several years. It's failed to pass so far, but now supporters are planning a new effort.

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# Push for eatery cig curb

By RICKI FULMAN

Flanked by City Council members Carol Greitzer and Stanley Michels, Zipora Hershfeld fiddled with her worry beads yesterday at Rachel's Restaurant, as she explained why she had asked her husband to set aside one room in their restaurant for nonsmokers.

A three-pack-a-day smoker for 20 years, Hershfeld developed a lung infection in May and was forced to quit. Hypnosis and doctors didn't work, but worry beads did. She owns 10 different sets now.

"When I was coming home from the hospital, my husband offered me any gift I wanted to celebrate my recovery," she said. She asked for a nonsmoking section in the Tribeca restaurant.

The designation of the area prompted Greitzer and Michels to revive a New York City bill that, if passed, would prohibit smoking in public places except in designated smoking areas.

Originally introduced in March 1981 by Henry Stern, now the parks commissioner, the bill has languished.

"Maybe the time wasn't right for such a law before," said Michels. "People are

much more aware of the hazards of smoking now. So much is written about it. People worry when they inhale others' smoke."

Greitzer added: "When we were in San Francisco for the Democratic convention, we saw that designated smoking areas are working there. We should be in the forefront with this kind of legislation."

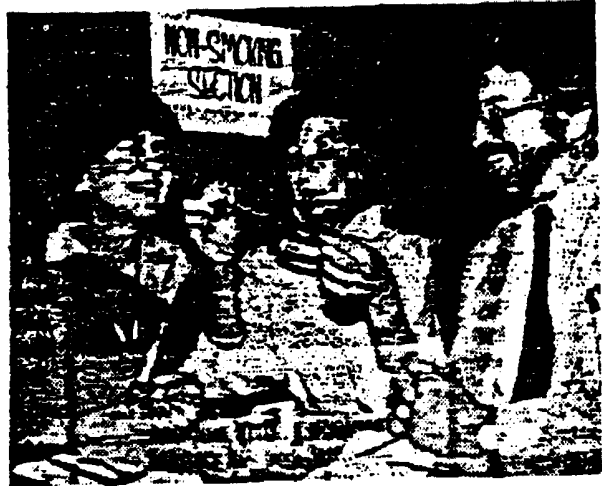
The bill would require nonsmoking sections in restaurants with more than 80 patrons, in schools, hospital waiting rooms and theaters. Greitzer and Michels don't foresee any resistance to their bill, they said, and expect it to be passed in the fall.

While many health-food restaurants have set aside space for nonsmokers, or

have banned smoking altogether, no one keeps formal records on how widespread this practice is in Manhattan.

"If customers asked for it in large enough numbers, many restaurants would

adopt it," said Fred Sampson, president of the New York State Restaurant Association. "But there haven't been numerous requests yet, partly because restaurant ventilation systems have improved so much."



HARRY HAMBURG DAILY

At Rachel's (l. to r.): Greitzer, Hershfeld and Michels.

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# Push for eatery cig curb

**Westchester and Fairfield**  
**CityLife**  
 CLASSIFIED ADS  
 IN THIS SECTION

Daily News, Thursday, August 2, 1984

By RICKI FULMAN

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said Michels. "People are much more aware of the hazards of smoking now. So

ple worry when they inhale others' smoke."

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we saw that designated smoking areas are working there.

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The bill would require no smoking sections in restaurants with more than 80 patrons, in schools, hospital

waiting rooms and theaters. Cretzer and Michels don't

force any resistance to their bill, they said, and expect it to be passed in the fall.

While many health-food restaurants have set aside space for nonsmokers, or

many restaurants would have enough numbers, "If customers asked for it

Manhattan.

spread this practice is in fact, records on how wide-

alike, no one keeps for- adopt it," said Fred Sampson,

president of the New York State Restaurant Association. "But there haven't been

numerous requests yet, partly because restaurant ventilation systems have improved so much."



HARRY HAMBURG DAILY NEWS

At Rachel's (l. to r.): Cretzer, Herschfeld and Michels.

NEW YORK POST, August 2, 1984

## ***2 pols spark no-cig plan for eateries***

TWO members of the City Council yesterday ignited interest in a bill demanding no-smoking sections in city restaurants.

Councilwoman Carol Greitzer and Councilman Stanley Michels made their pitch at Rachel's, a restaurant in lower Manhattan owned by millionaire real estate developer Abe Hirschfeld, whose wife, Zipora, recently gave up smoking.

Rachel's has designated one room of the 260-seat restaurant for non-smokers.

"This is the age of recognition of the rights of the non-smoker," Mrs. Greitzer said. Michels said they hope to pass the measure in the fall.

If it becomes law the measure will force restaurant owners whose establishments can seat more than eight patrons to set aside a section where smoking is barred. The measure would not apply to bars.

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Councilwoman Carol Greitzer, left, and Councilman Stanley Michels sit with Zipora Hirschfeld, owner of Rachel's restaurant, which recently set aside an area for non-smokers. Greitzer and Michels hope their bill to prohibit smoking in enclosed public places except in designated areas will soon become law.

## No-smoking sector on this restaurant's menu

By Mark Palmer  
NEW YORK TRIBUNE STAFF

The decision to introduce a no-smoking area in their Manhattan restaurant was easy for Abe and Zipora Hirschfeld.

Mrs. Hirschfeld, who used to smoke nearly three packs a day, had just been released from Roosevelt Hospital where she spent 3 weeks recovering from a serious lung ailment.

Her husband, a real estate executive, was so pleased when she was released that he offered to buy her almost anything she wanted. She chose a no-smoking section at Rachel's, their Hudson Street eatery.

Yesterday, the Hirschfelds were joined at a news conference by City Council members Carol Greitzer and Stanley Michels, both Manhattan Democrats, who have co-sponsored a bill that would require restaurants, waiting rooms and other public places to set aside no-smoking areas.

"The time has come for New York City to realize that non-smokers have rights too," said Michels.

Michels and Greitzer said they had seen such a law while they were in San Francisco for the Democratic National Convention.

"It hasn't hurt businesses there, and we feel that it can work here," Greitzer said.

The bill, which Michels said he hoped would be signed into law this fall, would only affect restaurants with more than 80 seats. Bars would not be affected.

Both lawmakers praised the Hirschfelds for opening a no-smoking section in their 18-month-old restaurant. They hoped other restaurateurs would follow suit.

Mrs. Hirschfeld, who plays with beads — "worry-beads" as she calls them — to help take her mind off smoking, said there had been no complaints from smokers about the restricted area.

"It's a help to me and a help to others," she said. "I suffered and don't want others to have to pay a price with their health."

680531209

**TRENDS** LIGHTING UP IN PUBLIC PLACES Edited by JANE ELLIS

# Burning issue: Should smokers dine separately?

By AUDREY FAROLINO

SMOKING in public places is a burning issue, and nowhere more so than in restaurants.

For some people, a meal isn't complete without a cigaret. For others, food can't be enjoyed when smoke starts wafting over from neighboring tables.

Can smokers and non-smokers co-exist peacefully in the Big Apple's eateries? City Councilmembers Stanley Michels and Carol Greitzer think they have the answer.

Michels and Greitzer are heading a drive to pass legislation that will restrict smoking to designated areas in most public places in the city, including restaurants that seat over 50 people.

"It's not our intention to ban smoking," says Michels, who admits to enjoying an occasional cigaret. "What we are doing is asking for mutual respect for smokers and non-smokers."

The bill was originally introduced by Michels and former Councilmember Henry Stern (now Parks Commissioner) in December 1982, but has since been stalled in the Council's Health Committee.

Michels explains that opposition from various groups, including the restaurant and tobacco industries, has been responsible for the bill's slow progress, but adds that "we think the time has come for New York to recognize the fact that non-smokers have rights."

Greitzer and Michels point to several factors that may smooth the way for the bill's passage.

First, some 34 other jurisdictions in the U.S. have already passed some form of smoking-restrictive legislation, including Suffolk County, which has just enacted one of the country's toughest anti-smoking laws, and San Francisco, some of July's Democratic convention.

Michels attended the convention and was impressed by how workable the concept of separate smoking areas proved to be even in the traditionally smoke-filled atmosphere of a political convention hall.

Secondly, a growing number of



Legislation has been sponsored that would restrict smoking in N.Y.C.'s public places — including restaurants — to specific areas.

medical studies, including a report this year from the U.S. Surgeon General, show evidence that non-smokers' health can be harmed by exposure to "secondhand" or "side-stream" cigaret smoke.

"I don't think the public is sufficiently aware of the sidestream smoke danger," says Michels, citing a U.S. Dept. of Health, Education and Welfare report that says smoke from the burning end of a cigaret contains twice as much tar and nicotine, five times as much carbon monoxide, and 44 times as much ammonia than the smoke inhaled by the smoker.

Michels and Greitzer are beginning intensive efforts to get the Health Committee to move on the bill, and hope that public hearings will be held before the year's end. But Michels acknowledges that passage of the bill won't be easy.

"All the forces are going to be marshaled — pro, con, neutral — so something like this is going to be quite a fight, quite a public wrenching of feelings."

But he believes it will be worth the effort: "We hope we can convince some of these naysayers that we have reasonable legislation and that we're not really against smoking — that's up to the individual what we are against is the lack of consideration, or the ignoring of the rights of non-smokers."

Most restaurants try to move customers bothered by another diner's smoking. (Some restaurants will go a step further: see right.)

## Eateries that can cater to non-smokers

"I DON'T even know how I started, but I know how I stopped," says Zipora Hirschfeld, a former heavy smoker who is now an active anti-smoker.

Earlier this year, Zipora, wife of real estate developer Abe Hirschfeld, developed a life-threatening lung infection as the result of her 20-year-long, 2½-pack-a-day cigaret habit.

After recuperating from her illness — and throwing her last pack of cigarets in the garbage — Zipora was asked by her husband what gift she would like to celebrate her recovery.

"I said, 'As long as we own a restaurant, will you make one section of it non-smoking?'" says Zipora. Abe agreed, and now Rachel's, at 23 Hudson St., is one of the few restaurants in the city that voluntarily offers a section for non-smokers.

Because Rachel's is a large restaurant (it seats 200) with several different dining areas, few customers complained about smoke even before the new section was opened, but now most of the restaurant's patrons are happy — if a bit surprised — to be given a choice.

Here's a look at how some other restaurants in the city handle the problem:

• **An Natural** (1043 Second Av.) divides the restaurant into thirds, with the center section for smoking. "We've had them since we opened the restaurant six years ago," says manager Kathie Barbaulsky. "We feel it goes with our concept of light, natural food. And we do not allow pipe or cigar smoking." An Natural also has an ionizing air filter to further purify the air.

• **Old Fashioned Mr. Jennings Ice Cream Parlor** (12 W. 154th St.) reserves the front section of its L-shaped space for non-smokers. "That way non-smokers don't have to go through a smoking area," reports owner Louis Jennings, who says about ¾ of his customers request seating in the no-smoking section. No pipe or cigar smoking is allowed in the restaurant.

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NEW YORK DAILY NEWS  
New York, N.Y.

AUG. 2 84

# Push for eatery cig curb

By RICKI FULMAN

Flanked by City Council members Carol Greitzer and Stanley Michels, Zipora Hershfeld fiddled with her worry beads yesterday at Rachel's Restaurant, as she explained why she had asked her husband to set aside one room in their restaurant for nonsmokers.

A three-pack-a-day smoker for 20 years, Hershfeld developed a lung infection in May and was forced to quit. Hypnosis and doctors didn't work, but worry beads did. She owns 10 different sets now.

"When I was coming home from the hospital, my husband offered me any gift I wanted to celebrate my recovery," she said. She asked for a nonsmoking section in the Tribeca restaurant.

The designation of the area prompted Greitzer and Michels to revive a New York City bill that, if passed, would prohibit smoking in

public places except in designated smoking areas.

Originally introduced in March 1981 by Henry Stern, now the parks commissioner, the bill has languished.

"Maybe the time wasn't right for such a law before," said Michels. "People are much more aware of the hazards of smoking now. So much is written about it. People worry when they inhale others' smoke."

Greitzer added: "When we were in San Francisco for the Democratic convention, we saw that designated smoking areas are working there. We should be in the forefront with this kind of legislation."

The bill would require nonsmoking sections in restaurants with more than 80 patrons, in schools, hospital waiting rooms and theaters. Greitzer and Michels don't foresee any resistance to their bill, they said, and expect it to be passed in the fall.

While many health-food restaurants have set aside space for nonsmokers, or



HARRY HAMBURG DAILY NEWS

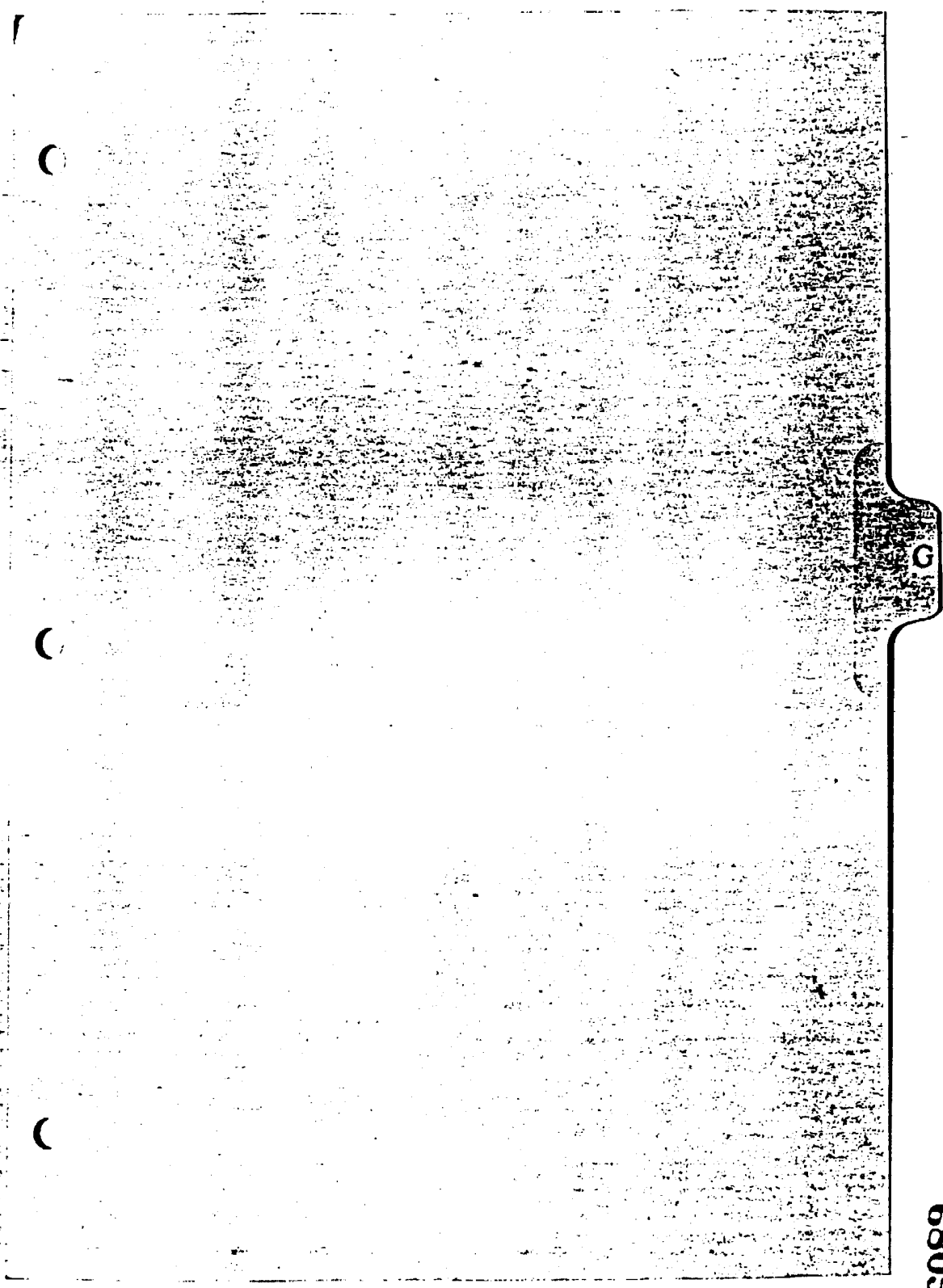
At Rachel's (l. to r.): Greitzer, Hershfeld and Michels.

have banned smoking altogether, no one keeps formal records on how widespread this practice is in Manhattan.

"If customers asked for it in large enough numbers, many restaurants would

adopt it," said Fred Sampson, president of the New York State Restaurant Association. "But there haven't been numerous requests yet, partly because restaurant ventilation systems have improved so much."

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680531212

August 20, 1984

MEMORANDUM

TO: Michael J. Kerrigan  
FROM: Richard E. Scanlan  
RE: New York City Legislative Planning Meeting

---

Enclosed please find a memorandum dated August 16th from Robert Bishop which contains his analysis of the situation in New York City regarding Intro. 259 by Council Members Greitzer and Michels. Should you have any questions regarding this matter, please let me know.

prp  
Enclosure

680531213

MEMORANDUM

AUG 20 1984

TO: Richard Scanlan August 16, 1984  
FROM: Robert J. Bishop  
RE: New York City Public Smoking Legislation, Intro - 259

-----

Intro - 259 would prohibit smoking in a public place . . . except in designated smoking areas. Only bars and restaurants with less than 80 seats would be exempt from the ordinance. Council Members Carol Greitzer and Stanley Michels, sponsors of the bill, held a press conference on August 1, 1984 and described the bill as an effort to "recognize the rights of non-smokers in public places." They both recently returned from San Francisco where a similar bill has been in effect for about six months and has, according to the Council Members, worked out well with no ill effects on business.

As you know, this bill has been pending in the Council's Health Committee for about two and one-half years. In fact, three of the persons listed on the bill, Stern, Codd and Wallace, are no longer members of the Council. The remaining sponsors are now pressing for a public hearing.

Council contacts say there may well be a hearing on the bill and have requested that we discuss the matter with them

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after Labor Day. We should begin to prepare for such a hearing immediately.

The chairman of the Council's Health Committee is Jerry Crispino (D-L Bronx). Other members are Morton Povman (D-Queens), Carol Maloney (D-Manhattan), Susan Alter (D-Brooklyn), Rafael Colon (D-L Bronx), and Priscilla Wooten (D-Brooklyn).

R.J.B.

RJB:rn  
cc: Mr. Howard Rubenstein

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# Action Request

*Rye Scanlan*

Tobacco Action Network, 1875 Eye Street, N.W., Washington, D.C. 20006 800-424-9876

February 13, 1985

## MEMORANDUM

TO: State Activities Policy Committee

FEB 19 1985

FROM: Roger L. Mozingo *Ry*

RE: New York City Legislation: Smoking Restriction/  
Sampling Prohibition

### LEGISLATIVE HISTORY/BACKGROUND

The New York City Council (Exhibit A) is considering two anti-tobacco measures: Intro. 259 - "to prohibit smoking in public places and at public meetings except in designated smoking areas" (Exhibit B) and Intro. 839 - "to prohibit the unsolicited distribution of tobacco products to the public" (Exhibit C). We anticipate a public hearing to be scheduled before the Health Committee of the City Council (Exhibit D) in March. You will be advised when a date for the hearing has been set.

### PLAN OF ACTION

Direct Lobbying. Local counsel is arranging one-on-one meetings with the Health Committee members. Meetings are also being scheduled with Tom Cuite, the Vice Chairman and Majority Leader of the Council.

Legislative Support. Plans are being undertaken and executed to enlist the support of tobacco-related groups and coalition organizations in order to defeat the legislation. Included are distributors, retailers, restaurateurs, hotel/motel associations, chambers of commerce and labor associations. We will be asking for one or more of the following responses: participation in petition campaigns, letter writing, memoranda in opposition, testimony in opposition, and lobbying support.

680531217

Action Request/New York City  
February 13, 1985  
Page Two

Additionally, a public relations campaign will be developed in conjunction with our Public Relations Division and Rubenstein & Associates for possible use on this effort.

ACTION REQUESTED

Request permission to ask company TAN Activists to:

1. Write immediately to members of the City Council Health Committee. Attached is the letter (Exhibit E) to TAN Activists and a list of suggested points that the volunteers can make in their correspondence (Exhibit F).
2. Participate in a telephone bank effort prior to any action by the Health Committee. This will take place after normal business hours.
3. Participate in a "letter-to-the-editor" campaign in selected media markets.
4. Participate in "meet your councilman" programs in selected areas. If necessary, such programs will occur during normal business hours.
5. Participate in a flier distribution program.
6. Participate in a petition drive.
7. Attend committee hearings. Such hearings may take place during normal business hours.
8. Participate in similar activities should these measures pass the Health Committee and be considered in the full City Council.

We also ask that you assist us by contacting companies in New York City with whom you do business or are affiliated (subsidiaries, suppliers, advertisers and business organizations) in order to secure their early opposition.

Upon review of the lobbying laws of New York City and New York State, Covington & Burling has determined that the actions requested herein do not require participants to register as legislative agents/lobbyists.

Please contact Bill Cannell with your approval of the requested action and with recommendations for additional activity.

RLM/prp  
Attachments

680531218

Action Request/New York City  
February 13, 1985  
Page Three

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Mr. Walter N. Woodson  
Ms. Catherine Yoe

680531219

EXHIBIT A

NEW YORK CITY COUNCIL City Hall, New York, NY 10007 212/566-5068

President -- Carol Bellamy Vice Chairman and Majority Leader --  
Thomas J. Cuite

MEMBERS OF THE COUNCIL

Borough of Staten Island

- 1 - Nicholas La Porte, 93 New Dorp Lane, Staten Island, NY 10306  
212/987-6990 (D)
- 35 Jerome X. O'Donovan, Staten Island District Office: 36  
Richmond Terrace, Room #303, Staten Island, NY 10301  
212/727-9730 (D-C); Brooklyn District Office: 2340 86th  
Street, Brooklyn, NY 11214 212/266-8778

Borough of Manhattan

- 2 Miriam Friedlander, City Hall, New York, NY 10007 212/566-1324  
(D)
- 3 Carol Greitzer, City Hall, New York, NY 10007 212/349-2466  
(D-L)
- 4 Ruth W. Messinger, 250 Broadway, New York, NY 10007  
212/566-0719; 212/799-7400 486 Amsterdam Avenue, New York, NY  
10024 (D-L)
- 5 Frederick E. Samuel, 163 West 125th Street, New York, NY 10027  
212/663-2822 (D-L)
- 6 Stanley E. Michels, 49 Chambers Street, Room #400, New York,  
NY 10007 212/566-1322; District Office: 656 West 181st Street,  
New York, NY 10033 212/928-1322 (D-L)
- 7 Robert J. Dryfoos, 223 East 82nd Street, New York, NY 10028  
212/535-5866; City Hall -- Room #6A, New York, NY 10007  
212/566-4361 (D)
- 8 Carolyn B. Maloney, City Hall, New York, NY 10007  
212/566-0423; District Office: 203 East 116th Street, New  
York, NY 10029 212/348-7748 (D)

680531220

Borough of the Bronx

- 9 Rev. Wendell Foster, City Hall, New York, NY 10007  
212/665-7289, 212/566-7823; District Office: 212/299-4800-1 (D)
- 10 June M. Eisland, District Office: 490 West 238th Street, Bronx,  
NY 10464 212/549-0158, City Hall, New York, NY 10007  
212/566-5097 (D-L)
- 11 Rafael Castaneira Colon, 1826 Westchester Avenue, Bronx, NY  
10472 212/822-4515 (D-L)
- 12 Michael DeMarco, 80 Westchester Square, Bronx, NY 10461  
212/931-6063 (D-C)
- 13 Fernando Ferrer, 2021 Grand Concourse, (Royal Prof. Bldg.)  
Suite 301, Bronx, NY 10453 212/294-2114 (D-L)
- 14 Jerry L. Crispino, District Office: 1067 Allerton Avenue,  
Bronx, NY 10469 212/994-1300 (D-L)

Borough of Queens

- 15 Walter Ward, 82-17 153rd Avenue, Howard Beach, NY 11414  
212/845-0808 (D-C-R)
- 16 Sheldon S. Leffler, 205-07 Hillside Avenue, Suite 21B, Hollis,  
NY 11423 212/465-8202 (D-L)
- 17 Archie Spigner, 114-71 Farmers Boulevard, St. Albans, NY 11412  
212/776-3700 (D-L)
- 18 Morton Povman, 108-18 Queens Boulevard, Forest Hills, NY 11375  
212/793-2255 (D)
- 19 Edward L. Sadowsky, 136-51 37th Avenue, Flushing, NY 113 54  
212/539-2020 (D-L)
- 20 Peter F. Vallone, 22-45 31st Street, Astoria, NY 11105  
212/274-4500 (D)
- 21 Thomas J. Manton, 46-12 Queens Boulevard, Sunnyside, NY 11104  
212/429-0808 (D)
- 22 Arthur J. Katzman, 118-21 Queens Boulevard, Forest Hills, NY  
11375 212/544-3212 (D-L)
- 34 Joseph F. Lisa, City Hall, Room 6A, New York, NY 10007 District  
Office: 50-07 108th Street, Corona, NY 11366 212/271-0200 (D)

680531221

Borough of Brooklyn

- 23 Herbert G. Berman, City Hall, New York, NY 10007 212/566-8144  
(D)
- 24 Priscilla Wooten, 760 Eldert Lane, Brooklyn, NY 11208, 382 Van  
Siclen Avenue, Brooklyn, NY 11207; District Office: New Jersey  
Avenue & Linden Boulevard, Brooklyn, NY 11207 212/272-3050;  
City Hall 212/566-8259 (D)
- 25 Susan D. Alter, City Hall, New York, NY 10007 212/566-7968;  
District Office: 1469 Flatbush Avenue, Brooklyn, NY 11207  
212/859-4760 (D)
- 26 Enoch Williams, 250 Broadway, New York, NY 10007 212/566-7925;  
District Office: 1515 Fulton Street, Brooklyn, NY 11216  
212/604-8132 (D)
- 27 Victor Robles, 85 Graham Avenue, Brooklyn, NY 11206  
212/566-3999; District Office: 212/387-8119 (D-L)
- 28 Mary Pinkett, District Office: 324 DeKalb Avenue, Brooklyn, NY  
11205 212/857-0959, 212/857-2971; 250 Broadway, New York, NY  
10007 212/566-0289 (D-L)
- 29 Abraham G. Gerges, 111 Court Street, Brooklyn, NY 11201  
212/875-5200 (D-L)
- 30 Thomas J. Cuite, 34 Fuller Place, Brooklyn, NY 11215  
212/449-0011; office 212/566-5250 (D-C)
- 31 Sal F. Albanese, District Office: 476 76th Street, Brooklyn,  
NY 11209 212/748-4722; City Hall, New York, NY 10007  
212/566-1499 (D-L)
- 32 Noach Dear, 1373 Coney Island Avenue, Brooklyn, NY 11230  
212/338-1110 (D)
- 33 Samuel Horwitz, 314 Brighton Avenue, Brooklyn, NY 11235  
212/646-5550 (D-L)

680531222

NYC STAMPUNG

Int. No. 839

By Council Member Albanese:

A LOCAL LAW

To amend the administrative code of the city of New York to prohibit the unsolicited distribution of tobacco products to the public.

Be it enacted by the Council as follows:

Section one. Title A of chapter twenty-two of the administrative code of the city of New York is hereby amended by adding a new section 568-3.0, to follow section 568-2.3, to read as follows:

(bf) §568-3.0 Prohibition of the unsolicited distribution of tobacco products.

a. Findings.--The council finds that the use of tobacco products such as cigarettes, cigars, and smoking tobacco is harmful to the health of the users of such products, as well as to the health and comfort of non-users of such products. The council also finds that the distribution or furnishing of unsolicited tobacco products to the general public without charge encourages the use of tobacco products which is injurious to the public health. The council further finds that such unsolicited distribution increases the availability of tobacco products to minors, thereby encouraging their use by minors.

b. Purpose.--It is the purpose of this local law to prohibit the unsolicited distribution of tobacco products for the purpose of encouraging their use or sale in order to protect the health, welfare, and safety of the people of the city and to limit their availability to minors.

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c. Unsolicited distribution of tobacco products prohibited.--1) No person, corporation, partnership, business or any other entity shall distribute or furnish, or hire another person, corporation, partnership, business or any other entity to distribute or furnish, to the general public without charge unsolicited cigarettes, cigars or smoking tobacco for commercial purposes.

2) This prohibition shall apply only to the distribution of tobacco products where such distribution is taking place on public ways such as streets and sidewalks, or in public buildings. This prohibition shall not apply to private social, business, religious or political functions held on privately owned property.

d. Penalties for violations.--Any person, corporation, partnership, business, or any other entity violating this section shall be subject to a civil penalty of five hundred dollars for the first such violation, and two hundred and fifty dollars for each subsequent violation occurring within a twenty-four hour period of the first violation, not to exceed over one thousand dollars for each twenty-four hour period.

2. This local law shall take effect on the thirtieth day after it shall be adopted.

CE/rt  
LS#1456  
10-02-84

680531224



EXHIBIT D

NEW YORK CITY COUNCIL  
HEALTH COMMITTEE

CHAIRMAN : CRISPINO, Jerry L.

ALTER, Susan D.

CASTANEIRA COLON, Rafael

MALONEY, Carolyn B.

POVMAN, Morton

ROBLES, Victor

WOOTEN, Priscilla

680531225

EXHIBIT E

Dear TAN Volunteer:

As concerned citizens of New York City and members of the Tobacco Action Network (TAN), you have often voiced your views about increasing governmental intrusion into your personal and business lives.

As you may know, the new york city health committee has before it a bill, Intro. 259, which would regulate or prohibit smoking in public places, workplaces and public meetings. The Health Committee also has before it Intro. 839, a bill to prohibit the unsolicited distribution of tobacco products to the public. There are fines, penalties and court proceedings provided in these bills for anyone being "caught smoking" or sampling.

I request your opposition to this unnecessary and unenforceable legislation. Your letter to your City Council representative asking for a NO vote will be extremely helpful in our efforts to oppose these restrictive pieces of legislation.

If you agree that this legislation is unwarranted, please write and call your Councilperson listed on the attached sheet. To aid you in this request, I have enclosed a "Points to Make" sheet on these issues. It might help when you write your representative. I would very much appreciate receiving a copy of the letter you send and any response you may receive from your legislator.

I want to thank you for your assistance in advance.

Sincerely,

Richard E. Scanlan RES

RES/prp  
Attachments

680531226

EXHIBIT F

SUGGESTED POINTS TO MAKE

SMOKING RESTRICTIONS

The cost to government and private business to attempt to comply with these measures will translate into higher costs and increased prices for the consumers.

Government control is not the answer to the public smoking issue. The answer lies in courtesy by smokers and tolerance by nonsmokers.

Imagine the mess if we encouraged everyone who found something annoying about another's behavior or taste to seek relief from government, especially when those annoyances could be readily resolved without government intervention.

Laws that attempt to restrict or segregate smokers in public places are of such low priority to the police that they receive little or no attention. Lack of attention by the police erodes confidence in our law enforcement agencies.

Legislation to control personal behavior and life-styles does not work. Prohibition is a glaring example.

This measure only creates a larger bureaucracy to handle a matter that already is handled by citizens without outside interference.

Respect, tolerance and accommodation are and must remain the business of the people, not government.

Anti-smoking legislation asks for government control of personal behavior and intrudes on individual freedoms. Great gains have been made in the area of individual rights. Limiting the rights of smokers is a reversal of such gains.

Single-interest groups, including anti-smoking organizations, can lose sight of the larger concerns of society, but policy makers cannot afford to ignore the precedence that can be set by public smoking laws.

SAMPLING

Distributing free samples has long been recognized as a legitimate and proper way of promoting consumer products.

Distributing samples is one of the oldest forms of advertising. Banning it would be an unfair attack on an ethical and important business marketing practice.

Cigarette manufacturers emphatically believe that smoking is an adult custom. They follow a Code of Cigarette Sampling Practices that strictly prohibits sample distribution to youth.

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I

April 2, 1985

MEMORANDUM

TO: William P. Buckley  
William A. Cannell

FROM: Richard E. Scanlan

RE: New York City Sampling Legislation/Special Counsel

---

As you are aware, the Institute has contacted Mr. Vernon Dempsey to request his availability to impact members of the New York City Health Committee regarding Intro. 839. While we have learned that the sampling bill will not be heard before the Health Committee on April 12, 1985, New York City counsel Bernard J. Ruggieri has asked Mr. Dempsey to meet with members of the committee. Consequently, Mr. Robert Bishop has scheduled meetings with members of the committee commencing April 4th and to conclude April 11th.

In return for Mr. Dempsey's time and expertise, it is hereby recommended that he be compensated in the amount of \$2,000 for his services. Should you have any questions or comments regarding this matter, please let me know.

prp

680531229

March 25, 1985

MEMORANDUM

TO: William P. Buckley  
William A. Cannell

FROM: Richard E. Scanlan

RE: New York City Legislation

---

Enclosed please find a memorandum from Bernard J. Ruggieri dated March 11, 1985, which requests a number of activities to be initiated by this office.

With regard to items 1, 2 and 3 we have resolved these issues and under separate cover you have received my memorandum regarding Phoenix Marketing contracting to undertake this project.

With regard to item 4, I have told Mr. Ruggieri that what compendium letters are available by April 1 will be delivered but that additional letters would also be received between April 1-12.

We have discussed item 5.

Item 6 will be addressed in a separate memorandum to you.

With regard to item 7, I have requested that Bernard contact Vernon Dempsey so that they may coordinate scheduling for visits to district offices.

Should you have any questions or comments regarding this matter, please let me know.

prp  
Enclosure

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REDACTED

REDACTED

680531231

March 25, 1985

MEMORANDUM

TO: William P. Buckley  
William A. Cannell

FROM: Richard E. Scanlan

RE: New York City Sampling Legislation

---

Legislative counsel Bernard J. Ruggieri has recommended that the sampling bill be heard before the City Council's Health Committee on April 12, 1985.

This will request your assistance and member company approval to authorize their sampling company representatives to testify at the public hearing. Following your approval, I will then contact individually each member company to coordinate the efforts of their sampling company representatives. Should you have any questions, please let me know.

prp

680531232



March 25, 1985

MEMORANDUM

TO: William P. Buckley  
William A. Cannell

FROM: Richard E. Scanlan

RE: New York City Lobbying

---

Enclosed please find Bernard J. Ruggieri's letter which suggests that Covington & Burling review the New York City Lobbying Laws so that we have clear direction with regard to filing expenditures incurred in our effort to oppose the legislation. Your assistance in this matter would be greatly appreciated.

prp  
Enclosure

680531233

**REDACTED**

AT 87881114 SQUARE

**REDACTED**

680531234

March 18, 1985

MEMORANDUM

TO: William P. Buckley  
FROM:— Richard E. Scanlan  
RE: New York City Council Update

---

This will update you as to activities pursued in the past week to impact legislation (Intro. 259 and Intro. 839) restricting smoking in public places and prohibiting sampling respectively in New York City.

Direct Lobbying. Based on consensus of opinion, it is projected at this time that the Health Committee members have the following positions:

COMMITTEE MEMBER	POSITION	TASK ASSIGNED TO:
Jerry L. Crispino (chairman)	undecided	Bernard J. Ruggieri
Carolyn B. Maloney	undecided	Bernard J. Ruggieri
Rafael C. Colon	opposes	Stan Scott
		Nick Cavatara
		Philip Morris
Morton Poyman	opposes	Bernard J. Ruggieri
		Nick Cavatara
Priscilla A. Wooten	opposes	Philip Morris
Susan D. Alter	supports	Bernard J. Ruggieri
Victor L. Robles	opposes	Philip Morris

As you can see from this initial headcount on the smoking restriction bill, additional work will be pursued by counsel and all concerned with those who are questionable. With regard to the sampling prohibition legislation, counsel will meet with members of the committee to determine whether Intro. 839 can be withdrawn from the committee agenda so that no public hearing is held. Should a hearing be scheduled, however, Robert J. Bishop and Vernon Dempsey will meet individually with each member of the committee to solicit opposition to the legislation. As this item develops, you will be advised.

680531235

New York City Update  
March 18, 1985  
Page Two

Direct lobbying efforts are also being initiated by various coalition groups who are targeting the members of the Health Committee. At this time, the New York State Restaurant Association, the New York State Bowling Proprietors, the Chamber of Commerce and Industry, the Retail Food Merchants and others have already begun meeting with every member of the committee. A proposal will be submitted to you under separate cover to retain the services of Michael G. Griffin who will assist in coordinating labor organizations. Griffin will be assigned the responsibility to achieve opposition letters from various labor leaders in New York City. Also assisting in the direct lobbying effort are Messrs. Paul Buier and Nick Cavaturo who will be coordinated by Philip Morris. Howard Rubenstein will also meet with Bernard Ruggieri to determine and coordinate the extent of his activities.

Coalition Development. Attached please find a preliminary listing of organizations which will be impacted and urged to oppose the legislation. These groups are in addition to that previously submitted in my February 27th memorandum to you. The key at the bottom indicates those individuals who have accepted responsibility to impact these groups. As this listing is not all inclusive, it is requested that any other group not listed herein should be added so that they might be solicited for help. For example, member company headquarters in New York may have recommendations for groups which might be helpful.

The Griffin Media Group will assist in coordinating the efforts to impact these coalitions. The coalitions will be asked to not only file a memorandum of opposition to the Council, but to also appear at the April 12th public hearing to testify in opposition to the legislation. They will also be asked to initiate direct lobbying efforts prior to the hearing with members of the committee. At this point, a number of coalition groups have submitted memoranda of opposition. These include the Business Council of New York State, the New York State Restaurant Association, the Bowling Proprietors Association, the Police Benevolent Association, Sloan's Supermarkets, the Brooklyn Chamber of Commerce and the New York Chamber of Commerce and Industry.

Counsel has requested a compendium of opposition letters by April 1st for distribution to members of the committee.

680531236

New York City Update  
March 18, 1985  
Page Three

Public Relations. Howard J. Rubenstein has initiated meetings with editorial writers of New York City newspapers. A meeting has been held with Mr. Bill Tatum of the Amsterdam News to brief him on the issue and to solicit an editorial in opposition to the legislation. A meeting will be established for April 1st or 2nd with the writer for the Daily News which will be attended by several of our coalition groups opposing the legislation. The New York Times and the New York Post will also be targeted for future meetings with the editorial staff. Arrangements have been made to schedule the availability of Anne Browder so that a spokesperson will be available to appear on local radio and television programs. These will be coordinated by Marcia Horowitz at the request of Bernard Ruggieri.

TAN. On Monday, March 11th, some 1,008 letters were mailed to members of the Tobacco Action Network (TAN) who reside in New York City. This letter requested that they write and call their councilperson stating their opposition to the legislation. A TAP/TAN Action Request will be mailed to some 478 members the week of March 18th also urging that the members of the City Council oppose the legislation.

A New York State TAC meeting has been scheduled for March 21st in New York City. At this time, the attendees will be asked to distribute petitions for the collecting of signatures, participate in telephone bank efforts to be scheduled and to schedule attendance at the public hearing of various industry employees. They will also be asked to participate in a selected letter-to-the-editor program.

Tactical Support. The Economic Impact Study by Mr. James Savarese has been finalized and submitted to counsel for his final approval. Following his approval, the study will be submitted to various coalition groups for their approval and submittal to the City Council.

Phoenix Marketing has been retained to conduct a petition signature program in New York City. This program will commence March 18th and will conclude March 27th. The some 15,000 expected petition signatures will then be submitted to various coalition groups for use with the members of the Health Committee.

Should you have any questions regarding the above matters, please do not hesitate to contact me.

prp

680531237

March 12, 1985

MEMORANDUM

TO: William A. Cannell  
FROM: Richard E. Scanlan  
RE: New York City Petition Signature Campaign/Phoenix  
Marketing

---

Under separate cover you will receive this date a proposal from Phoenix Marketing President Vernon Dempsey. He will propose a contract whereby his firm will collect a guaranteed 15,000 signatures with an expectation of 20,000. He will begin this project on March 18th and will conclude no later than April 1st. In return for his services, he proposes a fee of \$11,953.

I have discussed this matter with legislative counsel Bernard J. Ruggieri who endorses this project. However, his caveat is that the signatures be collected from throughout the boroughs and not be collected in targeted districts.

As counsel endorses this proposal, I hereby request your approval for this project and that the firm of Phoenix Marketing be retained immediately to initiate this project.

Should you have any questions regarding the above, please do not hesitate to contact me.

prp

680531238

# THE TOBACCO INSTITUTE

1875 I STREET, NORTHWEST  
WASHINGTON, DC 20006  
202/457-4800 • 800/424-9878

WILLIAM A. CANNELL  
Manager—Administrative Services  
State Activities

February 27, 1985

## MEMORANDUM

TO: State Activities Policy Committee  
FROM: William A. Cannell *WAC*  
RE: New York City Legislation

MAR 4 1985

The attached report from Ric Scanlan on the smoking restriction and sampling legislation in the New York City Council Health Committee will be of interest.

Please do not hesitate to call Ric or myself should you have recommendations for additional contacts or activity in New York City.

WAC:da

Enclosure

### Distribution List:

W.E. Ainsworth, Jr., Esquire  
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Joseph P. Carlino, Esquire  
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Mr. Edgar M. Cullman, Jr.  
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Mr. Roger L. Mozingo  
Mr. Jack Nelson  
Mr. Howard Rubenstein  
Bernard J. Ruggieri, Esquire  
Mr. Richard E. Scanlan  
Mr. Stanley S. Scott  
Mr. Guy L. Smith, IV  
Mr. George Walters  
J. Kendrick Wells, III, Esq.  
Mr. Kent L. Wold  
Mr. Walter N. Woodson  
Ms. Catherine Yoe

680531239

February 27, 1985

MEMORANDUM

TO: William A. Cannell  
FROM: Richard E. Scanlan  
RE: New York City Council Legislative Update

This is the first in a series of weekly reports submitted to you so that you may be updated on our efforts to impact legislation in the New York City Council.

BACKGROUND

The New York City Council Health Committee will hold public hearings on Intro. 259 and Intro. 839 (copies attached) on April 12 at 10:00 A.M. Intro. 259 would restrict smoking in public places in New York City and Intro. 839 would prohibit the sampling of tobacco products in New York City. The seven member Health Committee, chaired by council member Jerry Crispino, has been pressured by sponsors Michels and Greitzer to hold these public hearings.

DIRECT LOBBYING

The firm of Shea & Gould will coordinate all direct lobbying activities to impact the New York City Council. The firm is registered on behalf of the Tobacco Institute with the Clerk of the City Council. Public relations counsel has also registered on behalf of the Institute and will coordinate his efforts with Shea & Gould. I will also register to lobby and will provide a report to you outlining the lobbyist registration requirements so that it can be determined whether other individuals should register.

Counsel will meet individually with members of the Health Committee prior to the hearing.

It has been recommended that the major organizations and groups who would be directly impacted by the pending legislation be in the forefront opposing these measures.

680531240



#### COALITION DEVELOPMENT

**SMOKING RESTRICTIONS:** Attached please find a listing of organizations and associations which have received correspondence advising them of this smoking restriction legislation and urging their involvement to impact the City Council Health Committee. Executives of the restaurant and hotel associations have commenced this activity already and have met with members of the Health Committee; they will also schedule meetings with their membership to impact members of the committee. Additionally, other groups will be targeted to impact specific key legislators on the committee to urge their no vote.

This office has contacted other groups who are targeting their efforts to impact the Health Committee including the Business Council of New York State, the New York Chamber of Commerce & Industry, the New York State Food Merchants Association and the Convention & Visitors Bureau, the New York State Bowling Proprietors Association, and others.

I have met to date with our legislative and public relations counsel, and with staff of member companies, to identify other potential coalition organizations for support against this legislation. I will schedule meetings with other industry groups in the coming weeks for the same purpose and will follow up those contacts identified.

**SAMPLING:** Legislative counsel has requested that member companies authorize their sampling company representatives to be available the week of March 11, 1985 for lobbying efforts with members of the Health Committee. This office will coordinate all activities in this regard requested by counsel.

#### PUBLIC RELATIONS

Howard J. Rubenstein Associates will initiate briefings with editorial boards to solicit favorable editorial responses. Meetings will be scheduled with the Amsterdam News, the New York Post, the Daily News, the New York Times and others. Draft ads are being prepared in the event that they would be necessary. These drafts will be forwarded to you for your review and consideration well in advance of any expected utilization. Coalition spokespersons, as well as Tobacco Institute spokespersons, will be placed on various media. Letters-to-the-editor will also be coordinated through the Rubenstein firm. The public relations campaign is ongoing.

680531241

New York City Legislative Update  
February 27, 1985  
Page Three

#### TOBACCO ACTION NETWORK

Attached please find a copy of my Action Request dated February 13, which requests member company enrollees to write to members of the New York City Health Committee in opposition to the legislation. My letter to the enrollees will be mailed within the week and followed up with a phone bank effort.

This office will also assist in letter-writing efforts with various coalition groups.

#### TACTICAL SUPPORT

An economic impact study has been prepared in draft form by Mr. Jim Savarese and is now being reviewed for determination as to its most effective utilization.

Member companies have been requested to contact suppliers, subsidiaries and advertisers for their assistance in impacting the Health Committee. This office will assist in coordinating these activities where approved.

Should you have any questions regarding any of the above matters, please do not hesitate to contact me.

prp  
Attachments

680531242

February 14, 1985

<GENDER> <FIRST> <MIDDLE> <LAST NAME>  
<TITLE>  
<CONAME>  
<ADD>

Dear <Gender> <last name>:

In 1982, Intro. 259 (copy attached) was introduced in the New York City Council by council members Greitzer and Michels. This legislation would restrict or prohibit smoking in enclosed indoor areas used by the public or areas used as places of work including restaurants, hotels, retail stores, arenas and meeting rooms and many other places. Smoking areas may be designated by proprietors who shall post signs if areas are designated. It is unclear, however, as to the intent of the legislation and the size of either area. Violators of this proposal would be punished by a civil fine for not less than \$25 nor more than \$50. Any person authorized to issue tickets for parking violations would be responsible for enforcement.

It has come to our attention that this legislation will be the subject of a public hearing in March before the New York City Council's Health Committee. As soon as a date has been established, you can be assured I will contact you.

Similar legislation has been proposed in the New York State Legislature and in the past two sessions has been defeated by the Assembly. The New York City Council legislation is similar to the state-wide bill but has never been the subject of a public hearing in the past.

Numerous organizations have objected to the onerous provisions of this type of bill. They object that they would be unfairly subjected to more government regulations which are unnecessary and unenforceable. They are also concerned that this matter is one which should be handled by courtesy and common sense, not fines.

This communication will request your assistance in helping to defeat Intro. 259 by filing a memorandum of opposition with the Health Committee and appearing at the scheduled public hearing to verbally express your opposition to the legislation. Should this office be able to provide any assistance to you on this matter, please do not

680531243

hesitate to contact me. I will be contacting you in the coming weeks to determine if we can be of any additional help. Thanking you in advance, I am

Sincerely,

Richard E. Scanlan

RES/prp  
Attachments

680531244

NEW YORK CITY COUNCIL, City Hall, New York 10007 566-5068

President Carol Bellamy 566-6447

Staten Island

1	Frank Fossella (D)	93 New Dorp Lane, S.I. 10306	987-6900
35	Jerome X. O'Donovan, Jr. (D-C)	160 Major Ave., S.I. 10305	273-3284

Manhattan

2	Miriam Friedlander (D)	City Hall, N.Y. 10007	566-1324
3	Carol Greitzer (D)	51 Chambers St., N.Y. 10007	349-2466
4	Ruth W. Messinger (D)	City Hall, N.Y. 10007	566-7189
5	Frederick E. Samuel (D)	163 Q. 125 St., N.Y. 10027	663-2822
6	Stanley E. Michels (D)	City Hall, N.Y. 10007	566-1322
7	Robert J. Dryfoos (D)	223 E. 82 St., N.Y. 10028	535-5866
* 8	Carolyn B. Maloney (D)	City Hall, N.Y. 10007	566-1320

Bronx

9	Rev. Wendell Foster (D)	City Hall, N.Y. 10007	665-6688
10	June Eisland (D)	490 W. 238 St., Bx. 10463	549-0158
*11	Rafael C. Colon (D)	1826 Westchester Ave. Bx. 10472	822-4515
12	Michael DeMarco (D)	80 Westchester Sq., Bx. 10461	931-6063
13	Ferrando Ferrer (D)	2021 Grand Concourse Ste. 301, Bx. 10453	294-2114
14	Jerry L. Crispino (D)	1067 Allenton Ave., Bx. 10469	994-1300

Queens

15	Walter Ward (D)	82-17 153 Ave., Howard Beach 11414	845-0808
16	Sheldon S. Leffler (D)	205-07 Hillside Ave., Hollis 11423	465-8202
17	Archie Spigner (D)	114-71 Farmers Blvd., St. Albans 11412	776-3700
*18	Morton Povman (D)	108-18 Queens Blvd., Forest Hills 11375	793-2255
19	Edward L. Sadowsky (D)	138-51 37 Ave., Flushing 11354	539-2020
20	Peter F. Vallone (D)	22-45 31 St., Astoria 11105	274-4500
21	Walter H. Crowley (D)	84-56 Grand Ave., Elmhurst 11373	457-8585
22	Arthur J. Katzman (D)	118-21 Queens Blvd., Forest Hills 11375	544-3212
34	Joseph F. Lisa (D)	250 Broadway, N.Y. 10007	566-7756

Brooklyn

23	Herbert E. Berman (D)	250 Broadway, N.Y. 10007	566-8144
*24	Priscilla A. Wooten (D)	1962 Linden Blvd., Bklyn 11207	566-8259
*25	Susan D. Alter (D)	1469 Flatbush Ave., Bklyn 11210	859-4760
26	Enoch H. Williams (D)	1666 Pitkin Ave., Bklyn 11212	498-9012
*27	Victor L. Robles (D)	815 Broadway, Rm. 404, Bklyn 11206	963-3141
28	Mary Pinkett (D)	324 DeKalb Ave., Bklyn 11221	857-0959
29	Abraham G. Gerges	111 Court St., Bklyn 11201	875-5200
30	Thomas J. Cuite (D)	City Hall, N.Y. 10007	566-5250
31	Salvatore F. Albanese (D)	476 76 St., Bklyn 11209	748-9400
32	Noach Dear (D)	1373 Coney Island Ave., Bklyn 11230	338-1110
33	Samuel Horwitz (D)	314 Brighton Beach Ave., Bklyn 11235	646-5550

\* Member of the Health Committee

680531245

ORGANIZATIONS SOLICITED TO OPPOSE THE NEW YORK CITY  
RESTRICTIVE SMOKING LEGISLATION

Mr. James F. Marquart  
President  
New York State Hotel & Motel Association, Inc.  
40 West 38th Street  
New York, New York 10018  
212/921-8888

Mr. Raymond T. Schuler  
President  
The Business Council of New York State  
152 Washington Avenue  
Albany, New York 12210  
518/465-7511

Mr. Vito J. Pitta  
President  
New York Hotel and Motel Trades  
707 Eighth Avenue  
New York, New York 10038  
212/245-8100

Fred G. Sampson  
President  
New York State Restaurant Association  
250 West 57th Street  
New York, New York 10107  
212/246-3434

Mr. Charles Gillett  
President  
New York Convention & Visitors Bureau, Inc.  
Two Columbus Circle  
New York, New York 10019  
212/397-8200

Mr. Morton J. Getman  
Executive Vice President  
New York Chamber of Commerce and Industry  
200 Madison Avenue  
New York, New York 10016  
212/561-2060

Mr. Malcolm L. Fleischer  
Managing Director  
Retail Tobacco Dealers of America, Inc.  
New York Statler  
Avenue & 33rd Street  
New York, New York 10001  
212/244-8650

680531246

Mr. George Burton  
Executive Director  
N.Y.S. Bowling Proprietors Association  
Plaza Seven, Suite 300  
1202 Troy-Schenectady Road  
Latham, New York 12210  
518/783-9777

Mr. Fred Yolen  
President  
Cigarette Merchandisers Association, Inc.  
1032 Mamaroneck Avenue  
Mamaroneck, New York 10543  
914/696-1728

Mr. Charles A. Anthony  
Secretary, Treasurer  
Hotel, Restaurant & Club Employees and Bartenders  
Union Local 6, AFL-CIO  
709 Eighth Avenue  
New York, New York 10038  
212/957-8000

Ms. Norma Sharp  
Executive Vice President  
New York State Automobile Dealers, Inc.  
Elk Street  
Albany, New York 12224  
518/463-1148

Mr. Albert A. Formicola  
President  
Hotel Association of New York City, Inc.  
141 West 51st Street  
New York, New York 10019  
212/869-4600

Mr. Leonard E. Friedlander  
Counsel  
United Restaurant, Hotel, Tavern Association  
of New York State  
11 North Pearl Street  
Suite 803  
Albany, New York 12207  
518/436-8121

Mr. George Elicofon  
Executive Director  
New York State Association of Tobacco and Candy  
Distributors, Inc.  
211 East 43rd Street  
New York, New York 10017  
212/682-3576

680531247

Mr. John DeConcini  
President  
Bakery, Confectionery and Tobacco Workers  
International Union  
10401 Connecticut Avenue  
Kensington, Maryland 028953961  
301/933-8600

Mr. Dennis Griesing  
Director of Government Relations  
New York State Food Merchants Association  
303 South Broadway  
Tarrytown, New York 10591  
914/631-4100

Mr. Stephen P. Woods  
Director, Governmental Relations  
National Federation of Independent Business  
8 Elk Street  
Albany, New York 12207  
518/434-1262

Mr. P.J. Maurice  
Information Officer  
National Black Police Association  
Post Office Box 138  
Albany, New York 11412  
516/286-3361

Mr. Abe Gordon  
President  
Teamsters, Chauffeurs, Warehousemen and Helpers,  
Local Union No. 805  
10 Columbus Circle  
Suite 2280  
New York, New York 10018  
212/582-1261

Mr. Jules Rose  
Chairman of the Board  
Sloan's Supermarkets  
2 Bennett Avenue  
New York, New York 10033  
212/795-5600

Dr. Marcella Maxwell  
National Association of Negro Business and  
Professional Women's Clubs, Inc.  
35 Prospect Park West  
Brooklyn, New York 11215

680531248



( Lloyd Williams  
President and Chief Executive Officer  
Uptown Chamber of Commerce  
209 West 125th Street  
New York, New York 10027  
212/427-7200

Mr. Louis Rosally  
Chairman  
N.Y.S. Hispanic Chamber of Commerce  
210 East 86th Street  
Suite 502  
New York, New York 10028  
212/737-9708

Ms. Bernice F. Powell  
President  
Coalition of 100 Black Women  
10 East 87th Street  
New York, New York 10128  
212/410-7510

Mr. Phil Caruso  
President  
Patrolmen's Benevolent Association  
( Broadway  
New York, New York 10017  
212/233-5531

Mr. Jack Coppola  
Chemical Bank  
380 Madison Avenue  
9th Floor  
New York, New York 10017

680531249

# Action **TEN** Request

Tobacco Action Network, 1875 Eye Street, N.W., Washington, D.C. 20006 800-424-9876

February 13, 1985

## MEMORANDUM

TO: State Activities Policy Committee  
FROM: Roger L. Mazingo *R. Mazingo*  
RE: New York City Legislation: Smoking Restriction/  
Sampling Prohibition

### LEGISLATIVE HISTORY/BACKGROUND

The New York City Council (Exhibit A) is considering two anti-tobacco measures: Intro. 259 - "to prohibit smoking in public places and at public meetings except in designated smoking areas" (Exhibit B) and Intro. 839 - "to prohibit the unsolicited distribution of tobacco products to the public" (Exhibit C). We anticipate a public hearing to be scheduled before the Health Committee of the City Council (Exhibit D) in March. You will be advised when a date for the hearing has been set.

### PLAN OF ACTION

Direct Lobbying. Local counsel is arranging one-on-one meetings with the Health Committee members. Meetings are also being scheduled with Tom Cuite, the Vice Chairman and Majority Leader of the Council.

Legislative Support. Plans are being undertaken and executed to enlist the support of tobacco-related groups and coalition organizations in order to defeat the legislation. Included are distributors, retailers, restaurateurs, hotel/motel associations, chambers of commerce and labor associations. We will be asking for one or more of the following responses: participation in petition campaigns, letter writing, memoranda in opposition, testimony in opposition, and lobbying support.

680531250

Action Request/New York City  
February 13, 1985  
Page Two

Additionally, a public relations campaign will be developed in conjunction with our Public Relations Division and Rubenstein & Associates for possible use on this effort.

ACTION REQUESTED

Request permission to ask company TAN Activists to:

1. Write immediately to members of the City Council Health Committee. Attached is the letter (Exhibit E) to TAN Activists and a list of suggested points that the volunteers can make in their correspondence (Exhibit F).
2. Participate in a telephone bank effort prior to any action by the Health Committee. This will take place after normal business hours.
3. Participate in a "letter-to-the-editor" campaign in selected media markets.
4. Participate in "meet your councilman" programs in selected areas. If necessary, such programs will occur during normal business hours.
5. Participate in a flier distribution program.
6. Participate in a petition drive.
7. Attend committee hearings. Such hearings may take place during normal business hours.
8. Participate in similar activities should these measures pass the Health Committee and be considered in the full City Council.

We also ask that you assist us by contacting companies in New York City with whom you do business or are affiliated (subsidiaries, suppliers, advertisers and business organizations) in order to secure their early opposition.

Upon review of the lobbying laws of New York City and New York State, Covington & Burling has determined that the actions requested herein do not require participants to register as legislative agents/lobbyists.

Please contact Bill Cannell with your approval of the requested action and with recommendations for additional activity.

RLM/prp  
Attachments

680531251

Action Request/New York City  
February 13, 1985  
Page Three

Distribution List:

Mr. William A. Adams  
W.E. Ainsworth, Jr., Esquire  
Robert A. Bishop, Esquire  
James T. Breedlove, Esquire  
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James R. Cherry, Esquire  
Mr. Samuel D. Chilcote  
Mr. Edgar M. Cullman, Jr.  
Mr. K.v.R. Dey, Jr.  
Mr. Dale Florio  
Mr. Hugh W. Foley  
Mr. K. Michael Irish  
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Matthew H. Mataraso, Esquire

Mr. Donald E. Mott  
Mr. Jack Nelson  
Ernest Pepples, Esquire  
Daniel A. Rowley, Esquire  
Mr. Howard Rubenstein  
Bernard J. Ruggieri, Esquire  
John P. Rupp, Esquire  
Mr. Richard E. Scanlan  
Mr. Stanley S. Scott  
Mr. Guy L. Smith, IV  
Mr. George Walters  
J. Kendrick Wells, III, Esquire  
Mr. Kent L. Wold  
Mr. Walter N. Woodson  
Ms. Catherine Yoe

680531252

EXHIBIT A

NEW YORK CITY COUNCIL City Hall, New York, NY 10007 212/566-5068

President -- Carol Bellamy Vice Chairman and Majority Leader --  
Thomas J. Cuite

MEMBERS OF THE COUNCIL

Borough of Staten Island

- 1 Nicholas La Porte, 93 New Dorp Lane, Staten Island, NY 10306  
212/987-6990 (D)
- 35 Jerome X. O'Donovan, Staten Island District Office: 36  
Richmond Terrace, Room #303, Staten Island, NY 10301  
212/727-9730 (D-C); Brooklyn District Office: 2340 86th  
Street, Brooklyn, NY 11214 212/266-8778

Borough of Manhattan

- 2 Miriam Friedlander, City Hall, New York, NY 10007 212/566-1324  
(D)
- 3 Carol Greitzer, City Hall, New York, NY 10007 212/349-2466  
(D-L)
- 4 Ruth W. Messinger, 250 Broadway, New York, NY 10007  
212/566-0719; 212/799-7400 486 Amsterdam Avenue, New York, NY  
10024 (D-L)
- 5 Frederick E. Samuel, 163 West 125th Street, New York, NY 10027  
212/663-2822 (D-L)
- 6 Stanley E. Michels, 49 Chambers Street, Room #400, New York,  
NY 10007 212/566-1322; District Office: 656 West 181st Street,  
New York, NY 10033 212/928-1322 (D-L)
- 7 Robert J. Dryfoos, 223 East 82nd Street, New York, NY 10028  
212/535-5866; City Hall -- Room #6A, New York, NY 10007  
212/566-4361 (D)
- 8 Carolyn B. Maloney, City Hall, New York, NY 10007  
212/566-0423; District Office: 203 East 116th Street, New  
York, NY 10029 212/348-7748 (D)

680531253

Borough of the Bronx

- 9 Rev. Wendell Foster, City Hall, New York, NY 10007  
212/665-7289, 212/566-7823; District Office: 212/299-4800-1 (D)
- 10 June M. Eisland, District Office: 490 West 238th Street, Bronx,  
NY 10464 212/549-0158, City Hall, New York, NY 10007  
212/566-5097 (D-L)
- 11 Rafael Castaneira Colon, 1826 Westchester Avenue, Bronx, NY  
10472 212/822-4515 (D-L)
- 12 Michael DeMarco, 80 Westchester Square, Bronx, NY 10461  
212/931-6063 (D-C)
- 13 Fernando Ferrer, 2021 Grand Concourse, (Royal Prof. Bldg.)  
Suite 301, Bronx, NY 10453 212/294-2114 (D-L)
- 14 Jerry L. Crispino, District Office: 1067 Allerton Avenue,  
Bronx, NY 10469 212/994-1300 (D-L)

Borough of Queens

- 15 Walter Ward, 82-17 153rd Avenue, Howard Beach, NY 11414  
212/845-0808 (D-C-R)
- 16 Sheldon S. Leffler, 205-07 Hillside Avenue, Suite 21B, Hollis,  
NY 11423 212/465-8202 (D-L)
- 17 Archie Spigner, 114-71 Farmers Boulevard, St. Albans, NY 11412  
212/776-3700 (D-L)
- 18 Morton Povman, 108-18 Queens Boulevard, Forest Hills, NY 11375  
212/793-2255 (D)
- 19 Edward L. Sadowsky, 136-51 37th Avenue, Flushing, NY 11354  
212/539-2020 (D-L)
- 20 Peter F. Vallone, 22-45 31st Street, Astoria, NY 11105  
212/274-4500 (D)
- 21 Thomas J. Manton, 46-12 Queens Boulevard, Sunnyside, NY 11104  
212/429-0808 (D)
- 22 Arthur J. Katzman, 118-21 Queens Boulevard, Forest Hills, NY  
11375 212/544-3212 (D-L)
- 34 Joseph F. Lisa, City Hall, Room 6A, New York, NY 10007 District  
Office: 50-07 108th Street, Corona, NY 11366 212/271-0200 (D)

680531254

Borough of Brooklyn

- 23 Herbert G. Berman, City Hall, New York, NY 10007 212/566-8144  
(D)
- 24 Priscilla Wooten, 760 Eldert Lane, Brooklyn, NY 11208, 382 Van  
Siclen Avenue, Brooklyn, NY 11207; District Office: New Jersey  
Avenue & Linden Boulevard, Brooklyn, NY 11207 212/272-3050;  
City Hall 212/566-8259 (D)
- 25 Susan D. Alter, City Hall, New York, NY 10007 212/566-7968;  
District Office: 1469 Flatbush Avenue, Brooklyn, NY 11207  
212/859-4760 (D)
- 26 Enoch Williams, 250 Broadway, New York, NY 10007 212/566-7925;  
District Office: 1515 Fulton Street, Brooklyn, NY 11216  
212/604-8132 (D)
- 27 Victor Robles, 85 Graham Avenue, Brooklyn, NY 11206  
212/566-3999; District Office: 212/387-8119 (D-L)
- 28 Mary Pinkett, District Office: 324 DeKalb Avenue, Brooklyn, NY  
11205 212/857-0959, 212/857-2971; 250 Broadway, New York, NY  
10007 212/566-0289 (D-L)
- 29 Abraham G. Gerges, 111 Court Street, Brooklyn,, NY 11201  
212/875-5200 (D-L)
- 30 Thomas J. Cuite, 34 Fuller Place, Brooklyn, NY 11215  
212/449-0011; office 212/566-5250 (D-C)
- 31 Sal F. Albanese, District Office: 476 76th Street, Brooklyn,  
NY 11209 212/748-4722; City Hall, New York, NY 10007  
212/566-1499 (D-L)
- 32 Noach Dear, 1373 Coney Island Avenue, Brooklyn, NY 11230  
212/338-1110 (D)
- 33 Samuel Horwitz, 314 Brighton Avenue, Brooklyn, NY 11235  
212/646-5550 (D-L)

680531255

EXHIBIT B

## THE COUNCIL

The City of New York

Int. No. 259

December 14, 1982

Introduced by Council Members Stern and Michels; also Council Members Codd, Friedlander, Greitzer and Wallace—read and referred to the Committee on Health.

## A LOCAL LAW

To amend the administrative code of the city of New York, in relation to protecting the public health, comfort and environment by prohibiting smoking in public places and at public meetings except in designated smoking areas.

*Be it enacted by the Council as follows:*

- 1 Section 1. Chapter twenty-two of the administrative code of the city of New York, as last amended  
2 by local law thirty-seven of nineteen hundred seventy-seven, is hereby amended by adding thereto a new  
3 title, to be title E, to read as follows:

## TITLE E

- 5 § D22-1.0 Definitions.—For the purposes of this section: (1) "Public place" means any  
6 enclosed, indoor area used by the general public, or serving as a place of work, excluding factories  
7 as defined in subdivision nine of section two of the state labor law, and including, but not limited  
8 to, restaurants, retail stores, public means of transportation, all schools, colleges and universities,  
9 hospitals as defined by article twenty-eight of the state public health law, auditoriums, theaters,  
10 libraries, museums, arenas and meeting rooms, but not including private enclosed offices occupied  
11 exclusively by smokers even though such offices may be visited by non-smokers.

- 12 (2) "Public meeting" includes any meeting open to the public held in an enclosed indoor area.

- 13 (3) "Smoking" includes inhaling and exhaling the fumes of a lighted cigar, cigarette, pipe or  
14 any other lighted smoking equipment, and the carrying of a lighted cigar, cigarette, pipe or any other  
15 lighted smoking equipment.

Note: Matter in *italics* is new; matter in brackets [ ] to be omitted.

680531256



(4) "Smoking area" means a designated area in which smoking is permitted.

§ D22-2.0 Prohibition.—No person shall smoke in a public place, at a public meeting except in designated smoking areas. This prohibition shall not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place.

§ D22-3.0 Designation of smoking areas.—Smoking areas may be designated by proprietors or other persons in charge of public places except in areas in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation. Where smoking areas are designated, a prominent sign shall indicate their location, and existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent non-smoking areas. In the case of public places consisting of a single room the provisions of this law shall be considered met if one side of the room is reserved and posted as a no-smoking area. No public place other than a restaurant which seats fewer than eighty patrons or a bar shall be designated as a smoking area in its entirety. For the purposes of this article a bar shall mean a place at which the principal business shall be the retail sale of alcoholic beverages for on-premises consumption, or that area of a restaurant which is devoted primarily to the sale and service of alcoholic beverages. If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously.

§ D22-4.0 Responsibilities of proprietors.—The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by:

1. posting prominent appropriate signs;
2. arranging seating to provide a smoke-free area;

§ D22-5.0 Rules and regulations.—The commissioner of health shall adopt rules and regulations necessary and reasonable to implement the provisions of this title. The commissioner or his or her designee may, upon request, waive the provisions of this section if he or she determines that there are compelling reasons to do so and a waiver would not significantly affect the health and comfort of non-smokers.

§ D22-6.0 Penalty.—Any person found in violation of any provision of this title shall be punished by a civil fine of not less than twenty-five dollars nor more than fifty dollars.

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1       § D22-7.0 Enforcement.—For the purposes of enforcing the provisions of this title, appear-  
2       ance tickets may be issued by any person authorized to issue tickets for parking violations. Such  
3       appearance tickets may be returnable to the environmental control board which shall have the power  
4       to impose the civil penalties herein provided.

5       § D22-8.0 Inconsistent provisions of rules by city agencies superseded.—Insofar as the  
6       provisions of this title are inconsistent with the provisions of any rules or regulations promulgated by  
7       a city agency, the provisions of this title shall be controlling.

8       § 2. This local law shall take effect on the first day of January next succeeding the date on which  
9       it shall have become law.

680531258

NYC STAMPING

Int. No. 839

By Council Member Albanese:

A LOCAL LAW

To amend the administrative code of the city of New York to prohibit the unsolicited distribution of tobacco products to the public.

Be it enacted by the Council as follows:

Section one. Title A of chapter twenty-two of the administrative code of the city of New York is hereby amended by adding a new section 568-3.0, to follow section 568-2.3, to read as follows:

(b1) §568-3.0 Prohibition of the unsolicited distribution of tobacco products.

a. Findings.--The council finds that the use of tobacco products such as cigarettes, cigars, and smoking tobacco is harmful to the health of the users of such products, as well as to the health and comfort of non-users of such products. The council also finds that the distribution or furnishing of unsolicited tobacco products to the general public without charge encourages the use of tobacco products which is injurious to the public health. The council further finds that such unsolicited distribution increases the availability of tobacco products to minors, thereby encouraging their use by minors.

b. Purpose.--It is the purpose of this local law to prohibit the unsolicited distribution of tobacco products for the purpose of encouraging their use or sale in order to protect the health, welfare, and safety of the people of the city and to limit their availability to minors.

680531259

c. Unsolicited distribution of tobacco products prohibited.--1) No person, corporation, partnership, business or any other entity shall distribute or furnish, or hire another person, corporation, partnership, business or any other entity to distribute or furnish, to the general public without charge unsolicited cigarettes, cigars or smoking tobacco for commercial purposes.

2) This prohibition shall apply only to the distribution of tobacco products where such distribution is taking place on public ways such as streets and sidewalks, or in public buildings. This prohibition shall not apply to private social, business, religious or political functions held on privately owned property.

d. Penalties for violations.--Any person, corporation, partnership, business, or any other entity violating this section shall be subject to a civil penalty of five hundred dollars for the first such violation, and two hundred and fifty dollars for each subsequent violation occurring within a twenty-four hour period of the first violation, not to exceed over one thousand dollars for each twenty-four hour period.

2. This local law shall take effect on the thirtieth day after it shall be adopted.

CE/rt  
LS#1456  
10-02-84

680531260

EXHIBIT D

NEW YORK CITY COUNCIL  
HEALTH COMMITTEE

CHAIRMAN : CRISPINO, Jerry L.

ALTER, Susan D.

CASTANEIRA COLON, Rafael

MALONEY, Carolyn B.

POVMAN, Morton

ROBLES, Victor

WOOTEN, Priscilla

680531261

EXHIBIT E

Dear TAN Volunteer:

As concerned citizens of New York City and members of the Tobacco Action Network (TAN), you have often voiced your views about increasing governmental intrusion into your personal and business lives.

As you may know, the new york city health committee has before it a bill, Intro. 259, which would regulate or prohibit smoking in public places, workplaces and public meetings. The Health Committee also has before it Intro. 839, a bill to prohibit the unsolicited distribution of tobacco products to the public. There are fines, penalties and court-proceedings provided in these bills for anyone being "caught smoking" or sampling.

I request your opposition to this unnecessary and unenforceable legislation. Your letter to your City Council representative asking for a NO vote will be extremely helpful in our efforts to oppose these restrictive pieces of legislation.

If you agree that this legislation is unwarranted, please write and call your Councilperson listed on the attached sheet. To aid you in this request, I have enclosed a "Points to Make" sheet on these issues. It might help when you write your representative. I would very much appreciate receiving a copy of the letter you send and any response you may receive from your legislator.

I want to thank you for your assistance in advance.

Sincerely,

Richard E. Scanlan RES

RES/prp  
Attachments

680531262

EXHIBIT F

SUGGESTED POINTS TO MAKE

SMOKING RESTRICTIONS

The cost to government and private business to attempt to comply with these measures will translate into higher costs and increased prices for the consumers.

Government control is not the answer to the public smoking issue. The answer lies in courtesy by smokers and tolerance by nonsmokers.

Imagine the mess if we encouraged everyone who found something annoying about another's behavior or taste to seek relief from government, especially when those annoyances could be readily resolved without government intervention.

Laws that attempt to restrict or segregate smokers in public places are of such low priority to the police that they receive little or no attention. Lack of attention by the police erodes confidence in our law enforcement agencies.

Legislation to control personal behavior and life-styles does not work. Prohibition is a glaring example.

This measure only creates a larger bureaucracy to handle a matter that already is handled by citizens without outside interference.

Respect, tolerance and accommodation are and must remain the business of the people, not government.

Anti-smoking legislation asks for government control of personal behavior and intrudes on individual freedoms. Great gains have been made in the area of individual rights. Limiting the rights of smokers is a reversal of such gains.

Single-interest groups, including anti-smoking organizations, can lose sight of the larger concerns of society, but policy makers cannot afford to ignore the precedence that can be set by public smoking laws.

SAMPLING

Distributing free samples has long been recognized as a legitimate and proper way of promoting consumer products.

Distributing samples is one of the oldest forms of advertising. Banning it would be an unfair attack on an ethical and important business marketing practice.

Cigarette manufacturers emphatically believe that smoking is an adult custom. They follow a Code of Cigarette Sampling Practices that strictly prohibits sample distribution to youth.

680531263

February 22, 1985

MEMORANDUM

TO: State Activities Policy Committee  
FROM: William A. Cannell  
RE: New York City Legislation

The attached report from Ric Scanlan on the smoking restriction and sampling legislation in the New York City Council Health Committee will be of interest.

I would also take this opportunity to request approval of the February 13 New York City action request at your earliest convenience if you have not already done so.

Please do not hesitate to call Ric or myself should you have recommendations for additional contacts or activity in New York City.

WAC:da

Enclosure

Distribution List:

W.E. Ainsworth, Jr., Esquire  
Robert A. Bishop, Esquire  
James T. Breedlove, Esquire  
Joseph F. Carlino, Esquire  
James R. Cherry, Esquire  
Mr. Samuel D. Chilcote  
Mr. Edgar M. Cullman, Jr.  
Mr. K.v.R. Dey, Jr.  
Mr. Dale Florio  
Mr. Hugh W. Foley  
Mr. K. Michael Irish  
Mr. William Kloepper  
Gerald P. Kupris, Esquire  
Matthew H. Mataraso, Esquire

Mr. Donald E. Mott  
Mr. Roger L. Mozingo  
Mr. Jack Nelson  
Mr. Howard Rubenstein  
Bernard J. Ruggieri, Esquire  
Mr. Richard E. Scanlan  
Mr. Stanley S. Scott  
Mr. Guy L. Smith, IV  
Mr. George Walters  
J. Kendrick Wells, III, Esq.  
Mr. Kent L. Wold  
Mr. Walter N. Woodson  
Ms. Catherine Yoe

680531264



February 22, 1985

MEMORANDUM

TO: William A. Cannell  
FROM: Richard E. Scanlan  
RE: New York City Council Legislative Update

This is the first in a series of weekly reports submitted to you so that you may be updated on your efforts to impact legislation in the New York City Council.

BACKGROUND

The New York City Council Health Committee will hold public hearings on Intro. 259 and Intro. 839 (copies attached) on April 12 at 10:00 A.M. Intro. 259 would restrict smoking in public places in New York City and Intro. 839 would prohibit the sampling of tobacco products in New York City. The seven member Health Committee, chaired by council member Jerry Crispino, has been pressured by sponsors Michels and Greitzer to hold these public hearings.

DIRECT LOBBYING

The firm of Shea & Gould will coordinate all direct lobbying activities to impact the New York City Council. The firm is registered on behalf of the Tobacco Institute with the Clerk of the City Council. Public relations counsel Howard J. Rubenstein has also registered on behalf of the Institute and will coordinate his efforts with Shea & Gould. I will also register to lobby and will provide a report to you outlining the lobbyist registration requirements so that it can be determined whether other individuals should register.

Counsel will meet individually with members of the Health Committee prior to the hearing.

It has been recommended that the major organizations and groups who would be directly impacted by the pending legislation be in the forefront opposing these measures.

680531265

New York City Legislative Update  
February 22, 1985  
Page Two

#### COALITION DEVELOPMENT

**SMOKING RESTRICTIONS:** Attached please find a listing of organizations and associations which have received correspondence advising them of this smoking restriction legislation and urging their involvement to impact the City Council Health Committee. Executives of the restaurant and hotel associations have commenced this activity already and have met with members of the Health Committee in the past week; they will also schedule meetings with their membership to impact members of the committee. Additionally, other groups will be targeted to impact specific key legislators on the committee to urge their no vote.

This office has contacted other groups who are targeting their efforts to impact the Health Committee including the Business Council of New York State, the New York Chamber of Commerce & Industry, the New York State Food Merchants Association and the Convention & Visitors Bureau, the New York State Bowling Proprietors Association, and others.

I have met to date with our legislative and public relations counsel, and with Philip Morris staff, in order to identify other potential coalition organizations for support against this legislation. I will schedule meetings with other member companies and industry groups in the coming weeks for the same purpose and will follow up those contacts identified.

**SAMPLING:** Legislative counsel has requested that member companies authorize their sampling company representatives to be available the week of March 11, 1985 for lobbying efforts with members of the Health Committee. This office will coordinate all activities in this regard requested by counsel.

#### PUBLIC RELATIONS

Howard J. Rubenstein Associates will initiate briefings with editorial boards to solicit favorable editorial responses. Meetings will be scheduled with the Amsterdam News, the New York Post, the Daily News, the New York Times and others. Draft ads are being prepared in the event that they would be necessary. These drafts will be forwarded to you for your review and consideration well in advance of any expected utilization. Coalition spokespersons, as well as Tobacco Institute spokespersons, will be placed on various media. Letters-to-the-editor will also be coordinated through the Rubenstein firm. The Public Relations campaign has been and will be ongoing.

680531266

New York City Legislative Update  
February 22, 1985  
Page Three

#### TOBACCO ACTION NETWORK

Attached please find a copy of my Action Request dated February 13, which requests member company enrollees to write to members of the New York City Health Committee in opposition to the legislation. My letter to the enrollees will be followed up with a phone bank effort.

This office will also assist in letter-writing efforts with various coalition groups.

#### TACTICAL SUPPORT

An economic impact study has been prepared in draft form by Mr. Jim Savarese. This report will be finalized in the coming week and submitted to counsel for determination as to its most effective utilization.

Member companies have been requested to contact suppliers, subsidiaries and advertisers for their assistance in impacting the Health Committee. This office will assist in coordinating these activities where approved.

Should you have any questions regarding any of the above matters, please do not hesitate to contact me.

prp  
Attachments

680531267

February 20, 1985

MEMORANDUM

TO: James Cherry, Esquire  
Mr. Hugh Foley  
Mr. K. Michael Irish  
Mr. Donald E. Mott  
J. Kendrick Wells, III, Esquire  
Mr. Kent L. Wold

FROM: William A. Cannell

RE: Use of Sampling Company Representatives to Impact New  
York City and New York State Legislative Proposals

---

BACKGROUND

As you know, legislation which would prohibit sampling is pending in the New York City Council and New York State Legislature. Intro. 839 will be heard in the New York City Council Health Committee on March 29, 1985. In Albany, A. 502 was approved by the Assembly Health Committee by a 15-2 vote on February 12 and referred to the Ways and Means Committee for future consideration.

ACTION REQUESTED

Legislative counsel in New York has requested that representatives from sampling companies with whom you do business in New York State be available to meet with key city and state legislators. The purpose of these meetings is to brief legislators on the issue of sampling, the industry's Code of Sampling Practices, actual techniques utilized in the sampling process, and the potential economic impact of a sampling ban.

It is anticipated that sampling company representatives would be utilized in Albany March 4 or 5 and in New York City the week of March 11 for one day.

Please notify Ric Scanlan as soon as possible with the name of your sampling company representative so that Ric can begin to schedule these important briefings and make other necessary arrangements.

Your prompt attention to this matter is appreciated.

prp  
cc: Roger Mozingo

680531268

February 19, 1985

MEMORANDUM

TO: James Cherry, Esquire  
Mr. Hugh Foley  
Mr. K. Michael Irish  
Mr. Donald E. Mott  
J. Kendrick Wells, III, Esquire  
Mr. Kent L. Wold

FROM: William A. Cannell

RE: Use of Sampling Company Representatives to Impact New  
York City and New York State Legislative Proposals

---

Legislative counsel in New York has requested the availability of representatives from sampling companies with whom you do business in New York State to meet with key legislators. These meetings would be designed to brief legislators on the issue of sampling, the Institute's Code of Sampling Practices and the actual techniques utilized to sample.

I hereby request your approval to use your sampling companies and request your identifying the appropriate individuals who would be willing to travel to Albany, New York the week of March 4, 1985 and to New York City the week of March 11, 1985. Your prompt attention to this matter is appreciated.

prp.

680531269

February 12, 1985

MEMORANDUM

TO: State Activities Policy Committee  
FROM: Roger L. Mozingo  
RE: New York City Legislation/Smoking Restriction/  
Sampling Prohibition

---

LEGISLATIVE HISTORY/BACKGROUND

The New York City Council (Exhibit A) is considering two anti-tobacco measures: Intro. 259 - "to prohibit smoking in public places and at public meetings except in designated smoking areas" (Exhibit B) and Intro. 542 - "to prohibit the unsolicited distribution of tobacco products to the public" (Exhibit C). We anticipate a public hearing to be scheduled before the Health Committee of the City Council (Exhibit D) in March. You will be advised when a date for the hearing has been set.

PLAN OF ACTION

Direct Lobbying. Local counsel is arranging one-on-one meetings with the Health Committee members. Meetings are also being scheduled with Tom Cuite, the Vice Chairman and Majority Leader of the Council.

Legislative Support. Plans are being undertaken and executed to enlist the support of tobacco-related groups and coalition organizations in order to defeat the legislation. Included are distributors, retailers, restaurateurs, hotel/motel associations, chambers of commerce and labor associations. We will be asking for one or more of the following responses: participation in petition campaigns, letter writing, memoranda in opposition, testimony in opposition, and lobbying support.

680531270

Action Request/New York City  
February 12, 1985  
Page Two

Additionally, a public relations campaign will be developed in conjunction with our Public Relations Division and Rubenstein & Associates for possible use on this effort.

ACTION REQUESTED

Request permission to ask company TAN activists to:

1. Write immediately to members of the City Council Health Committee. Attached is the letter (Exhibit E) to TAN Activists and a list of suggested points that the volunteers can make in their correspondence (Exhibit F).
2. Participate in a telephone bank effort prior to any action by the Health Committee. This will take place after normal business hours.
3. Participate in a "letter-to-the-editor" campaign in selected media markets.
4. Participate in "meet your councilman" programs in selected areas. If necessary, such programs will occur during normal business hours.
5. Participate in a flier distribution program.
6. Participate in a petition drive.
7. Attend committee hearings. Such hearings may take place during normal business hours.
8. Participate in similar activities should these measures pass the Health Committee and be considered in the full City Council.

We also ask that you assist us by contacting companies in New York City with whom you do business or are affiliated (subsidiaries, suppliers, advertisers and business organizations) in order to secure their early opposition.

Upon review of the lobbying laws of the City of New York, Covington & Burling has determined that the actions requested herein do not require participants to register as legislative agents/lobbyists.

Please contact Bill Cannell with your approval of the requested action and with recommendations for additional activity.

RLM/prp  
Attachments

680531271

Action Request/New York City  
February 12, 1985  
Page Three

Distribution List:

Mr. William A. Adams  
W.E. Ainsworth, Jr., Esquire  
Robert A. Bishop, Esquire  
James T. Breedlove, Esquire  
Mr. William A. Cannell  
Joseph F. Carlino, Esquire  
James R. Cherry, Esquire  
Mr. Samuel D. Chilcote  
Mr. Edgar M. Cullman, Jr.  
Mr. K.v.R. Dey, Jr.  
Mr. Dale Florio  
Mr. Hugh W. Foley  
Mr. K. Michael Irish  
Mr. William Kloepper  
Gerald P. Kupris, Esquire  
Matthew H. Mataraso, Esquire.

Mr. Donald E. Mott  
Mr. Jack Nelson  
Ernest Pepples, Esquire  
Daniel A. Rowley, Esquire  
Mr. Howard Rubenstein  
Bernard J. Ruggieri, Esquire  
John P. Rupp, Esquire  
Mr. Richard E. Scanlan  
Mr. Stanley S. Scott  
Mr. Guy L. Smith, IV  
Mr. George Walters  
J. Kendrick Wells, III, Esquire  
Mr. Kent L. Wold  
Mr. Walter N. Woodson  
Ms. Catherine Yoe

680531272



EXHIBIT D

NEW YORK CITY COUNCIL  
HEALTH COMMITTEE

CHAIRMAN : CRISPINO, Jerry L.

ALTER, Susan D.

CASTANEIRA COLON, Rafael

MALONEY, Carolyn B.

POVMAN, Morton

ROBLES, Victor

WOOTEN, Priscilla

680531273

EXHIBIT E

Dear TAN Volunteer:

As concerned citizens of New York City and members of the Tobacco Action Network (TAN), you have often voiced your views about increasing governmental intrusion into your personal and business lives.

As you may know that the new york city health committee has before it a bill, Intro. 259, which would regulate or prohibit smoking in public places, workplaces and public meetings. The Health Committee also has before it Intro. 542, a bill to prohibit the unsolicited distribution of tobacco products to the public. There are fines, penalties and court proceedings provided in these bills for anyone being "caught smoking" or sampling.

I request your opposition to this unnecessary and unenforceable legislation. Your letter to your City Council representative asking for a NO vote will be extremely helpful in our efforts to oppose these restrictive pieces of legislation.

If you agree that this legislation is unwarranted, please write and call your Councilperson listed on the attached sheet. To aid you in this request, I have enclosed a "Points to Make" sheet on these issues. It might help when you write your representative. I would very much appreciate receiving a copy of the letter you send and any response you may receive from your legislator.

I want to thank you for your assistance in advance.

Sincerely,

Richard E. Scanlan

RES/prp  
Attachments

680531274

EXHIBIT F

SUGGESTED POINTS TO MAKE

- The cost to government and private business to attempt to comply with these measures will translate into higher costs and increased prices for the consumers.
- Government control is not the answer to the public smoking issue. The answer lies in courtesy by smokers and tolerance by nonsmokers.
- Imagine the mess if we encouraged everyone who found something annoying about another's behavior or taste to seek relief from government, especially when those annoyances could be readily resolved without government intervention.
- Laws that attempt to restrict or segregate smokers in public places are of such low priority to the police that they receive little or no attention. Lack of attention by the police erodes confidence in our law enforcement agencies.
- Legislation to control personal behavior and life-styles does not work. Prohibition is a glaring example.
- This measure only creates a larger bureaucracy to handle a matter that already is handled by citizens without outside interference.
- Respect, tolerance and accommodation are and must remain the business of the people, not government.
- Anti-smoking legislation asks for government control of personal behavior and intrudes on individual freedoms. Great gains have been made in the area of individual rights. Limiting the rights of smokers is a reversal of such gains.
- Single-interest groups, including anti-smoking organizations, can lose sight of the larger concerns of society, but policy makers cannot afford to ignore the precedence that can be set by public smoking laws.
- Distributing free samples has long been recognized as a legitimate and proper way of promoting consumer products.
- Distributing samples is one of the oldest forms of advertising. Banning it would be an unfair attack on an ethical and important business marketing practice.
- Cigarette manufacturers emphatically believe that smoking is an adult custom. They follow a Code of Cigarette Sampling Practices that strictly prohibits sample distribution to youth.

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ORGANIZATIONS SOLICITED TO OPPOSE THE NEW YORK CITY  
RESTRICTIVE SMOKING LEGISLATION

Mr. James F. Marquart  
President  
New York State Hotel & Motel Association, Inc.  
40 West 38th Street  
New York, New York 10018  
212/921-8888

Mr. Raymond T. Schuler  
President  
The Business Council of New York State  
152 Washington Avenue  
Albany, New York 12210  
518/465-7511

Mr. Vito J. Pitta  
President  
New York Hotel and Motel Trades  
707 Eighth Avenue  
New York, New York 10038  
212/245-8100

Mr. Fred G. Sampson  
President  
New York State Restaurant Association  
250 West 57th Street  
New York, New York 10107  
212/246-3434

Mr. Charles Gillett  
President  
New York Convention & Visitors Bureau, Inc.  
Two Columbus Circle  
New York, New York 10019  
212/397-8200

Mr. George Cooper  
Vice President of State Governmental Affairs  
New York Chamber of Commerce and Industry  
90 South Swan Street  
Albany, New York 12210  
518/463-4319

Mr. Malcolm L. Fleischer  
Managing Director  
Retail Tobacco Dealers of America, Inc.  
New York Statler  
7th Avenue & 33rd Street  
New York, New York 10001  
212/244-8650

680531277

Mr. George Burton  
Executive Director  
N.Y.S. Bowling Proprietors Association  
Plaza Seven, Suite 300  
1202 Troy-Schenectady Road  
Latham, New York 12210  
518/783-0777

Mr. Fred Yolen  
President  
Cigarette Merchandisers Association, Inc.  
1032 Mamaroneck Avenue  
Mamaroneck, New York 10543  
914/696-1728

Mr. Charles A. Anthony  
Secretary, Treasurer  
Hotel, Restaurant & Club Employees and Bartenders  
Union Local 6, AFL-CIO  
709 Eighth Avenue  
New York, New York 10038  
212/957-8000

Ms. Norma Sharp  
Executive Vice President  
New York State Automobile Dealers, Inc.  
37 Elk Street  
Albany, New York 12224  
518/463-1148

Mr. Albert A. Formicola  
President  
Hotel Association of New York City, Inc.  
141 West 51st Street  
New York, New York 10019  
212/869-4600

Mr. Leonard E. Friedlander  
Counsel  
United Restaurant, Hotel, Tavern Association  
of New York State  
11 North Pearl Street  
Suite 803  
Albany, New York 12207  
518/436-8121

Mr. George Elicofon  
Executive Director  
New York State Association of Tobacco and Candy  
Distributors, Inc.  
211 East 43rd Street  
New York, New York 10017  
212/682-3576

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Mr. John DeConcini  
President  
Bakery, Confectionery and Tobacco Workers  
International Union  
10401 Connecticut Avenue  
Kensington, Maryland 028953961  
301/933-8600

Mr. Dennis Griesing  
Director of Government Relations  
New York State Food Merchants Association  
303 South Broadway  
Tarrytown, New York 10591  
914/631-4100

Mr. Stephen P. Woods  
Director, Governmental Relations  
National Federation of Independent Business  
8 Elk Street  
Albany, New York 12207  
518/434-1262

Mr. P.J. Maurice  
Information Officer  
National Black Police Association  
Post Office Box 138  
Jamaica, New York 11412  
516/286-3361

Mr. Abe Gordon  
President  
Teamsters, Chauffeurs, Warehousemen and Helpers,  
Local Union No. 805  
10 Columbus Circle  
Suite 2280  
New York, New York 10018  
212/582-1261

Mr. Jules Rose  
Chairman of the Board  
Sloan's Supermarkets  
2 Bennett Avenue  
New York, New York 10033  
212/795-5600

Dr. Marcella Maxwell  
National Association of Negro Business and  
Professional Women's Clubs, Inc.  
35 Prospect Park West  
Brooklyn, New York 11215

680531279

Mr. Lloyd Williams  
President and Chief Executive Officer  
Uptown Chamber of Commerce  
209 West 125th Street  
New York, New York 10027  
212/427-7200

Mr. Louis Rosally  
Chairman  
N.Y.S. Hispanic Chamber of Commerce  
210 East 86th Street  
Suite 502  
New York, New York 10028  
212/737-9708

Ms. Bernice F. Powell  
President  
Coalition of 100 Black Women  
10 East 87th Street  
New York, New York 10128  
212/410-7510

Mr. Phil Caruso  
President  
Patrolmen's Benevolent Association  
250 Broadway  
New York, New York 10017  
212/233-5531

Mr. Jack Coppola  
Chemical Bank  
380 Madison Avenue  
9th Floor  
New York, New York 10017

Mr. Dennis Griesing  
New York State Food Merchants Association  
303 South Broadway  
Tarrytown, New York 10591  
914/631-4100

Mr. Charles Burhan  
Nationwide Insurance Companies  
Pine West 3  
Washington Avenue Extension  
Albany, New York 12205  
518/456-9539

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# THE TOBACCO INSTITUTE

ONE COLUMBIA PLACE

ALBANY, NY 12207

February 14, 1985

RICHARD E. SCANLAN

Regional Vice President

518 482-6501

<GENDER> <FIRST> <MIDDLE> <LAST NAME>  
<TITLE>  
<CONAME>  
<ADD>

Dear <Gender> <last name>:

In 1982, Intro. 259 (copy attached) was introduced in the New York City Council by council members Greitzer and Michels. This legislation would restrict or prohibit smoking in enclosed indoor areas used by the public or areas used as places of work including restaurants, hotels, retail stores, arenas and meeting rooms and many other places. Smoking areas may be designated by proprietors who shall post signs if areas are designated. It is unclear, however, as to the intent of the legislation and the size of either area. Violators of this proposal would be punished by a civil fine for not less than \$25 nor more than \$50. Any person authorized to issue tickets for parking violations would be responsible for enforcement.

It has come to our attention that this legislation will be the subject of a public hearing on April 12, 1985, before the New York City Council's Health Committee.

Similar legislation has been proposed in the New York State Legislature and in the past two sessions has been defeated by the Assembly. The New York City Council legislation is similar to the state-wide bill but has never been the subject of a public hearing in the past.

Numerous organizations have objected to the onerous provisions of this type of bill. They object that they would be unfairly subjected to more government regulations which are unnecessary and unenforceable. They are also concerned that this matter is one which should be handled by courtesy and common sense, not fines.

This communication will request your assistance in helping to defeat Intro. 259 by filing a memorandum of opposition with the Health Committee and appearing at the scheduled public hearing to verbally express your opposition to the legislation. Should this office be able to provide any assistance to you on this matter, please do not hesitate to contact me. I will be contacting you in the coming weeks to determine if we can be of any additional help. Thanking you in advance, I am

Sincerely,

Richard E. Scanlan

RES/prp  
Attachments

680531282

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ADDITIONAL COALITIONS SOLICITED TO OPPOSE THE NEW YORK CITY  
RESTRICTIVE SMOKING BILL

Ms. Margaret Swezey  
President  
Queens Chamber of Commerce  
29-15 Queens Plaza North  
Long Island City, New York 11101

Mr. Joseph French  
President  
Brooklyn Chamber of Commerce  
333 Atlantic Avenue  
Brooklyn, New York 11201

Mr. Richard Gidron  
President  
Bronx Chamber of Commerce  
226 East Fordham Road  
Bronx, New York 10458

Mr. Edward S. Cabot  
President  
New York Chamber of Commerce  
and Industry  
200 Madison Avenue  
Third Floor  
New York, New York 10016

Mr. John J. Amdio  
President  
Staten Island Chamber of Commerce  
130 Bay Street  
Staten Island, New York 10301

Mr. Michael J. Bello  
Executive Director  
Flushing Chamber of Commerce  
39-01 Main Street  
Flushing, New York 11354

Mr. Robert Richards  
Executive Director  
Greater Jamaica Chamber of Commerce  
89-31 161st Street  
Jamaica, New York 11432

Ms. Annette Kroll  
Executive Director  
East Mid Manhattan Chamber  
of Commerce  
501 5th Avenue  
New York, New York 10017

680531284

Dr. Rosco C. Brown  
President  
One Hundred Black Men  
105 East 22nd Street  
New York, New York

Mr. Thomas F. Galvin  
President  
Jacob Javitz Convention Center  
of New York  
2 Penn Plaza  
Suite 1900  
New York, New York 10121

Mr. Norman Hildes-Heim  
President  
Hotel Development Associates  
41 East 42nd Street  
New York, New York 10017

Mr. Harvey Grotsky  
Hotel and Resort Industry  
488 Madison Avenue  
New York, New York 10022

Mr. Morris Lee  
President  
Aviation Dev. Council, Inc.  
P.O. Box 699  
La Guardia Airport  
Flushing, New York 11371

Dr. Leon Star  
President  
JFK Chamber of Commerce  
JFK Medical Center  
Building 198  
Medical Office  
JFK International Airport  
Jamaica, New York 11430

Mr. Charles Walford  
Vice President &  
General Manager  
Dunhill of London, Inc.  
11 East 26th Street  
New York, New York 10010

Mr. Eric Schoenfeld  
Director  
American Business Association  
292 Madison Avenue  
New York, New York 10017

680531285

Mr. James Conner  
President  
Association of the Graphic Arts  
5 Penn Plaza  
New York, New York 10001

Mr. Ira Glasser  
New York Civil Liberties Union  
132 West 43rd Street  
New York, New York 10036

Mr. James Marquart  
New York State Hotel &  
Motel Association, Inc.  
40 West 38th Street  
New York, New York 10018

Mr. Vito Pitta  
President  
New York Hotel and Trades  
Council Association of New York City  
707 8th Avenue  
New York, New York 10036

Mr. Ted Wiley  
President  
Shoe Retailers League, Inc.  
275 Madison Avenue  
New York, New York 10016

Mr. Justin J. Murphy  
Director  
Downtown Lower Manhattan Association  
61 Broadway  
New York, New York 10006

Mr. John Riordan  
General Manager  
International Council of  
Shopping Centers, Inc.  
665 5th Avenue  
New York, New York 10022

Mr. Gerry Hansen  
President  
Jewelry Industry Council  
608 5th Avenue  
New York, New York 10020

Mr. G. Harris  
Director  
UNIA Chamber of Commerce  
451 Lenox Avenue  
New York, New York 10037

680531286

Mr. Douglas Thomas  
President  
Toy Manufacturers of America  
200 5th Avenue  
Suite 740  
New York, New York 10010

Mr. Howard Cohen  
President  
Tobacco Merchants Association  
1220 Broadway  
Suite 705  
New York, New York 10001

Mr. Albert Liu  
President  
Taiwan Merchants Association  
39-06 Union Street  
Flushing, New York 11354

Mr. John Krupe  
President  
Madison Square Garden Corp.  
2 Penn Plaza  
New York, New York 10001

Mr. John Schramm  
President  
Association for Corporate Growth  
211 East 43rd Street  
Suite 1601  
New York, New York 10017

Mr. Larry Weinfeld  
President  
Wally Frank Ltd.  
63-25 69th Street  
Middle Village, New York 11379

Mr. Jimmy Lee  
President  
Chinese American Restaurant  
Association  
173 Canal Street  
New York, New York 10013

Mr. John Hong  
President  
Flushing Korean Chamber  
of Commerce  
136-75 Roosevelt Avenue  
Flushing, New York 11354

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# THE TOBACCO INSTITUTE

ONE COLUMBIA PLACE  
ALBANY, NY 12207

RICHARD E. SCANLAN  
Regional Vice President  
518 462-6501

March 25, 1985

<GENDER> <FIRST> <MIDDLE> <LAST NAME>  
<TITLE>  
<CONAME>  
<ADD>

Dear <Gender> <last name>:

In 1982, Intro. 259 (copy attached) was introduced in the New York City Council by council members Greitzer and Michels. This legislation would restrict or prohibit smoking in enclosed indoor areas used by the public or areas used as places of work including restaurants, hotels, retail stores, arenas and meeting rooms and many other places. Smoking areas may be designated by proprietors who shall post signs if areas are designated. It is unclear, however, as to the intent of the legislation and the size of either area. Violators of this proposal would be punished by a civil fine for not less than \$25 nor more than \$50. Any person authorized to issue tickets for parking violations would be responsible for enforcement.

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Sincerely,

Richard E. Scanlan

RES/prp  
Attachments

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Z

### COALITION DEVELOPMENT

DF	Queens Chamber of Commerce Margaret Swezey, President 29-15 Queens Plaza North Long Island City, NY 11101	SS	One Hundred Black Men 105 East 22nd Street New York, New York
MH	Brooklyn Chamber of Commerce Joseph French, President 333 Atlantic Avenue Brooklyn, New York 11201	FS	Restaurant League of NY 218 W. 57th Street New York, New York
NC	Bronx Chamber of Commerce Richard Gidron, President 226 East Fordham Road Bronx, New York 10458	SS	Jacob Javitz Convention Center of NY Thomas F. Galvin, Pres. 2 Penn Plaza Suite 1900 New York, New York 10121
RES	New York Chamber of Commerce and Industry Edward S. Cabot, President 200 Madison Avenue 3 Floor New York, New York 10016	RES	Hotel Development Assoc. 41 East 42nd Street New York, New York
NC	Staten Island Chamber of Commerce John J. Amdio, President 130 Bay Street Staten Island, NY 10301	BJR	Hotel Employees and Rest- aurant Employers Union Local 100 760 8th Avenue New York, New York
DF	Flushing Chamber of Commerce 39-01 Main Street Flushing, New York 11354	BJR	Hotel and Resort Industry 488 Madison Avenue New York, New York
DF	Greater Jamaica Chamber of Commerce 29-15 Queens Plaza North LIC, New York 11101	BJR	Hotel Restaurant and Club Employers and Bartenders Union Local 100 760 8th Avenue New York, New York
DF	East Mid Manhattan Chamber 501 5th Avenue New York, New York 10017	DF	Aviation Dev. Council Inc. P.O. Box 699 La Guardia Airport Flushing, NY 11371
DF	JFK Chamber of Commerce Dr. Leon Star, President JFK Medical Center Building 198 Medical Office JFK International Airport Jamaica, New York 11430	BJR	New York Civil Liberties Union 84 5th Avenue New York, New York

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MP	NYS Hotel & Motel Association 40 West 38th Street New York, New York	DF	NY Coat and Suit Assoc. 225 West 34th Street New York, New York
MRH	Manufacturing Jewellers and Silversmiths of America 570 7th Avenue New York, New York	MP	NY Hotel & Trades Council Assn. of New York City 321 West 44th Street New York, New York
DF	Wally Frank Ltd.(Pipe Mfg) 344 Madison Avenue New York, New York		NY Lamp and Shade Mfrs. 15 East 26th Street New York, New York
	Dunhill of London, Inc. 50 Park Lane Providence, Rhode Island 11 East 26th Street New York, New York		Associated Corset and Brassiere Manufacturers 475 5th Avenue New York, New York
DF	Zaima International 949 Broadway New York, New York	FS	NYS Restaurant Association 250 West 57th Street New York, New York
DF	Rosen Enterprises Manufacturers of Rosen-Nesor Advertising Lighters 175 5th Avenue New York, New York		Printing Industries of Metro New York Inc. 461 8th Avenue New York, New York
	American Business Association 292 Madison Avenue New York, New York		Private Label Manufacturer Association 570 7th Avenue New York, New York
	American Cloak and Suite Manufacturers Assoc. 450 7th Avenue New York, New York	FS	Restaurant League of NY 218 West 57th Street New York, New York
RES	Retail Tobacco Dealers of America 55 Maple Avenue Rockville Centre, NY 11570	DF	International Council of Shopping Centers 665 5th Avenue New York, New York
	Shoe Retailers League, Inc. 275 Madison Avenue New York, New York		Jewelry Industry Council 608 5th Avenue New York, New York
DF	Chinese Merchants Assoc. 83 Mott Street New York, New York	DF	Luggage and Leather Goods Manufacturers of America 350 5th Avenue New York, New York

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DF	Clothing Manufacturers Assn. of the United States 1290 Avenue of the Americas New York, New York	DF	Ladies Apparel Retailers Guild, Inc. 1457 Broadway New York, New York
	Downtown Lower Manhattan Association 61 Broadway New York, New York	DF	National Assn. of Textiles and Apparel Wholesalers 401 7th Avenue New York, New York
DF	East Side Chamber of Commerce 237 1st Avenue New York, New York		National Knitwear MFRS Association 350 5th Avenue New York, New York
DF NC	Federation of Apparel Mfrs. 450 7th Avenue New York, New York		Womens Garment MFRS Supl. Association 71 West 23rd Street New York, New York
RES DF	Greater NY Retail Merchants Association 1250 Broadway New York, New York	DF	West Side Chamber of Commerce 2112 Broadway New York, New York
	INDA Assn. of the Nonwoven Fabrics Industry 1700 Broadway New York, New York	DF	West Side Assn. of Commerce 1221 Ave. of the Americas New York, New York
	United Better Dress MFRS Association, Inc. 110 West 40th Street New York, New York	DF	Pipeworks 18 West 55th Street New York, New York 10019
DF	UNIA Chamber of Commerce 451 Lenix Avenue New York, New York	DF	Toy Manufacturers of America 200 5th Avenue New York, New York
DF	Tobacco Merchants Assoc. 1220 Broadway New York, New York	DF	Thirty Fourth Street Midtown Association 47 West 34th Street New York, New York
DF	Third Avenue Merchants Assn. 161 East 22nd Street New York, New York	DF	Taiwan Merchants Assn. 39-06 Union Turnpike Flushing, New York
DF	Racetracks Bowling Alleys Stadia Arenas	HJR	Madison Square Garden John Krupe, President 2 Penn Plaza New York, New York 10001

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DF Association for Corporate  
Growth  
211 East 43rd Street  
New York, New York

DF Association of Commercial  
Property Owners  
299 Broadway  
New York, New York

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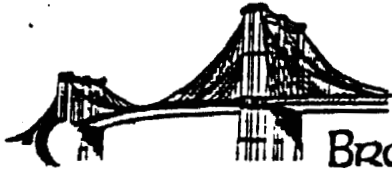
Key:

RJB- Robert J. Bishop  
NC - Nick Cavatara  
DF - Deborah Friedman  
MH - Marcia Horowitz  
MRH- Martin Ryan Haley  
MP - Michael Prendergast  
HJR- Howard J. Rubenstein  
BJR- Bernard J. Ruggieri  
FS - Fred Sampson  
RES- Richard E. Scanlan  
SS - Stanley Scott

*Huntington Chamber*

680531294

680531295



## Brooklyn Chamber of Commerce

333 ATLANTIC AVENUE • BROOKLYN, NEW YORK 11201-5896 (718) 875-1000

March 8, 1985

### MEMORANDUM IN OPPOSITION TO BILL

On Behalf of the 1,150 members of the Brooklyn Chamber of Commerce,

I wish to express our opposition to the proposed City Council

Intro:#259 Prohibiting Smoking in Public Places.

Some of the arguments which highlight the weaknesses of this legislation include:

- The cost to government and private business to attempt to comply with these measures will translate to higher costs and increased prices for the consumer.
- Laws that attempt to restrict or segregate smokers in public places are of such low priority to the police that they receive little or no attention. Lack of attention by the police erodes confidence in law enforcement agencies.
- This measure only creates a larger bureaucracy to handle a matter that already is handled by citizens without outside interference.
- Anti-smoking legislation asks for governmental control of personal behavior and it intrudes on individual freedom.

Joseph F. French  
President

680531296





## The Business Council of New York State

7 March 1985

Honorable Jerry L. Crispino  
Chairman, Health Committee  
New York City Council  
1067 Allenton Avenue  
Bronx, New York 10469

RE: Introduction No. 259 (Michels, Greitzer)

Dear Councilman Crispino:

It has been brought to our attention that the Health Committee of the New York City Council intends to hold a public hearing on March 29, 1985 regarding Introduction Number 259, the restrictive smoking proposal. The Business Council of New York State will be testifying at the hearing, but would like to take this opportunity to express our concern with this legislation.

As you may know, The Business Council is a broadbased statewide business association which represents businesses both large and small, upstate and downstate, that are involved in virtually every type of business and industry in New York State. Our membership totals 3,200 companies and includes over 200 local chambers of commerce and regional business associations.

The subject legislation would restrict or prohibit smoking in enclosed areas used by the public. These areas would include places of work, offices, meeting rooms, restaurants, hotels, retail stores and others, thus affecting a vast segment of our membership. Smoking areas would be designated by proprietors who must post signs stating as such. Violators would be punished by a civil fine for not less than \$25 nor more than \$50. Those persons authorized to issue tickets for parking violations would be responsible for enforcement.

As you are probably aware, legislation similar to this has been introduced over the past several years in the New York State Legislature. And as a demonstration of the opposition to the proposal, it has been soundly defeated in the Democratic controlled Assembly the last two years.

Two years ago this month, The Business Council met with Assemblyman Grannis (sponsor to the restrictive smoking proposal) to discuss this issue. To accommodate the Assemblyman's concerns, we agreed to reassess our position vis-a-vis a survey mailing to our membership.


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Review of the Public Policy Institute survey reveals that a full 83% of the respondents felt that this issue should be handled on a voluntary company basis. Additionally, 66% of our responses indicated that the issue of on-the-job smoking is not considered a significant personnel issue. Lastly, 70% of our membership responding to the survey stressed that they are opposed to restrictive smoking legislation.

In lieu of the results of the survey and from other responses to this perennial bill from our membership, it is clear that the business community is solidly opposed to legislation of this type.

The Business Council welcomes the opportunity to present our views and those of the business community before the Health Committee at the upcoming public hearing.

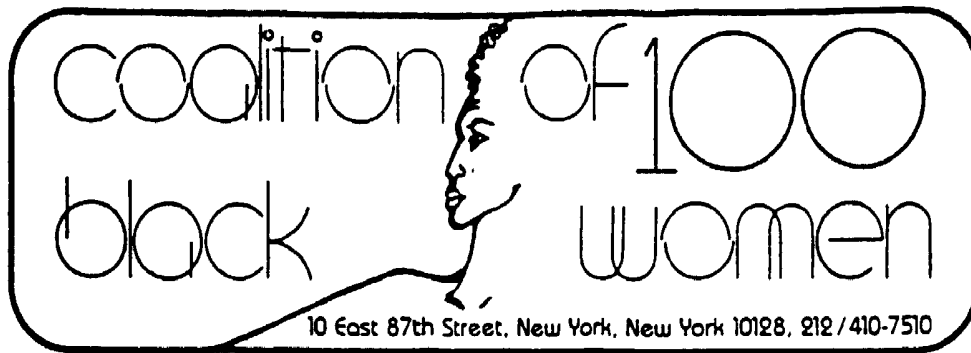
Sincerely,



Raymond T. Schuler  
President

dcb

680531298



April 10, 1985

To: New York City Council Health Committee

Re: Int. No. 259 - Restrictive Smoking legislation

I am writing to express opposition to Int. No. 259 - Restrictive Smoking Legislation.

I am concerned that this would disproportionately affect minority citizens and, importantly, would divert police officers from dealing with the many serious crimes in our community.

Sincerely,

*Bernice F. Powell*  
Bernice F. Powell  
President

680531299

President Bernice F. Powell • Honorary President and National President Jewell Jackson McCabe  
Vice Presidents Carol C. Aubert / Gladys Strachan / Betty Adams • Corresponding Secretary Sydney Redford • Recording Secretary Sonnie Humphrey • Treasurer Deborah A. Watson •  
Board of Directors Terri Parsons / Leonardo M. Abbott / Mike Pusan / Gladys V. Barnes / Joyce Brown / JoAnn Canty / Dolly Christian / Geraldine L. Daniels / Hazel Dukes / Barbara C. Duncan /  
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T. Patton / Veronica Pollard / Ernesta Procope / Evelyn Jones Rich / Judy Smith / LaVerne J. Washington / Audrae Wilson • Committee Chairs Peg Altson / Rahone Gaines / Jeneal Hardaway /  
Barbara Hunt / Sandra Jackson / Vernice Jackson-Lewis / Norma Leach / Goulie Lewis / Elba McDonald / Mary Burnie Nicholas / Era Brisbane Young • Legal Counsel Margretta Jeffers



**Hotel, Restaurant & Club Employees and Bartenders Union Local 6**  
Hotel Employees & Restaurant Employees International Union, AFL-CIO, 709 Eighth Ave., NY, NY 10036 (212) 957-8000

April 5, 1985

**MEMORANDUM IN OPPOSITION TO NYC COUNCIL INTRO. NO. 259 PROHIBITING SMOKING**

Local 6 is strongly opposed to the above referenced New York City Council legislation which would ban smoking in public places, including restaurants, except in designated smoking areas. The members of this Local earn their living by providing service to people. The recipients of this service must be pleased in order for our industry to survive and for our members to have adequate employment opportunity. This type of legislation is particularly threatening to us because it is we who must assume the role of the enforcer. We must remind people that they are in a no-smoking area. We must tell people to sit on the other side of the restaurant. We will incur the hostility of the customers.

There is no doubt that this kind of legislation, no matter how well intended, is overly intrusive upon people's social customs. This bill will hurt the restaurant and tourist trade in New York City and therefore the members of Local 6. Furthermore, this bill will impose smoking regulations on most places of work in New York City without any opportunity for the workers to be heard.

I urge you to join with us in opposing this legislation.

Respectfully submitted,

Vito J. Pitta  
Business Manager

680531300

200 Madison Avenue  
New York, New York 10016  
212-561-2020

# New York Chamber of Commerce and Industry

An affiliate of the New York City Partnership, Inc.

## STATEMENT OF THE NEW YORK CHAMBER OF COMMERCE AND INDUSTRY

### BEFORE THE CITY COUNCIL

### COMMITTEE ON HEALTH

EVANGELINE BINDER/MANAGER OF GOVERNMENT AFFAIRS

April 12, 1985

Good morning. My name is Evangeline Binder, and I am Manager of Government Affairs for the New York Chamber of Commerce and Industry. The Chamber is the City's most broadly-based organization representing approximately 2,000 businesses in the five boroughs, from all sectors of the business community.

Thank you for the opportunity to present our views on Intro. 259 which would prohibit smoking in public places and at public meetings except in designated smoking areas, and on Res. 100 which calls upon the Board of Health to require restaurants to establish no smoking sections. We believe the proposed measures are well intentioned, but the Chamber opposes them because they are impractical, could not realistically be enforced, and would create undue economic hardship on City businesses.

Employees in the workplace are generally grouped in work areas according to the functions they perform. It would be impractical, if not impossible, for an employer to assign employees to work areas

David Rockefeller  
Chairman

E. Virgil Conway  
Treasurer

Edward S. Cabot  
President

#### Directors

Boris S. Berkovitch  
Thornton F. Bradshaw  
Alfred Brittain III  
Sharnia Buford  
George Bugliarello  
Manuel A. Bustelo  
Willard C. Butcher  
E. Virgil Conway  
John J. Creedon  
Mark J. D'Arcangelo  
William M. Ellinghaus  
William C. Ferguson  
Owen J. Flanagan  
Robert G. Freese  
Robert F. Froehke  
George J. Greenberg  
Maurice R. Greenberg  
John M. Harris  
Arthur Hausburg  
Harry B. Helmsley  
Howard C. Kauffmann  
Frank J. Macchiarola  
John F. McGillicuddy  
C.E. Meyer, Jr.  
Edward H. Michaelsen  
G.G. Michelson  
Edward J. Montola  
J. Richard Munro  
Edmund T. Pratt, Jr.  
John L. Procope  
James D. Robinson III  
David Rockefeller  
Donald K. Ross  
Lewis Rudin  
Geo. T. Scharffenberger  
James E. Seitz  
Richard R. Shinn  
Walter V. Shipley  
Delbert C. Staley  
Preston Robert Tisch  
Edward H. Tuck  
Richard F. Tucker  
Richard A. Voell  
Eugene H. Webb  
George Weissman  
Wilmot F. Wheeler, Jr.  
John C. Whitehead

680531301

on the basis of whether they are smokers or non-smokers, regardless of what their job function or who supervises them. It would also be costly. In order to comply with the proposed bill, employers would have to make expensive office alterations or prohibit smoking at the work area entirely, in which case they would probably have to offer smoking breaks to employees who smoke.

Literally all business establishments would be covered under this bill, and the task of monitoring them would be overwhelming and costly. If this bill became law, and the City was serious about enforcing it, it would need to hire additional enforcement personnel to inspect regulated premises, and the Environmental Control Board would have to hire additional administrative judges to adjudicate summonses and impose penalties. In New York City, where enforcement officers and inspectors are understaffed, it is difficult to even visualize meaningful enforcement of the proposed bill. We feel resources that would be expanded to enforce the smoking law could be otherwise employed to enforce more serious problems.

Finally, we believe this is an issue that can best be addressed voluntarily by individual businesses and by individuals rather than by governmental intervention. Many businesses have established smoking restrictions, tailored to their individual needs, on their own initiative. As more and more employers, employees, and patrons of establishments express their preference regarding smoking, more businesses will address this issue in ways appropriate to their own particular concerns. Most businesses will provide for the comfort of smokers and non-smokers should they perceive the need.

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In conclusion, we urge you to oppose Intro. 259 because it is impractical, unenforceable and costly to both businesses and the City.

Thank you.

680531303



New York Hotel and Motel Trades Council Affiliated with AFL-CIO 707 Eighth Ave., NY, NY 10036 (212) 245-8100

April 5, 1985

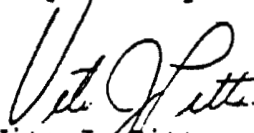
MEMORANDUM IN OPPOSITION TO NYC COUNCIL INTRO. NO. 259 PROHIBITING SMOKING

The Hotel Trades Council is strongly opposed to the above referenced New York City Council legislation which would ban smoking in public places, including restaurants, except in designated smoking areas. The members of the Hotel Trades Council earn their living by providing service to people. The recipients of this service must be pleased in order for our industry to survive and for our members to have adequate employment opportunity. This type of legislation is particularly threatening to us because it is we who must assume the role of the enforcer. We must remind people that they are in a no-smoking area. We must tell people to sit on the other side of the restaurant. We will incur the hostility of the customers.

There is no doubt that this kind of legislation, no matter how well intended, is overly intrusive upon people's social customs. This bill will hurt the restaurant and tourist trade in New York City and therefore the members of the Hotel Trades Council. Furthermore, this bill will impose smoking regulations on most places of work in New York City without any opportunity for the workers to be heard.

I urge you to join us in opposing this legislation.

Respectfully submitted,

  
Vito J. Pitta  
President

680531304



# New York State AFL-CIO

451 Park Avenue South  
New York, N.Y. 10016  
(212) 689-9320

99 Washington Avenue  
Albany, N.Y. 12210  
(518) 436-8516



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---	--	--

April 11, 1985

TO:    Hon. Jerry L. Crispino  
         Chairman  
         New York City Council  
         Health Committee

RE:    Intro. Res.#259

We the members and affiliates of the New York State AFL-CIO oppose Intro. Res. 259, "No Smoking in Public Places."

We in organized labor representing over 2.1 million members in New York State and over 1 million members in New York City believe that this resolution violates existing negotiated contracts and past practices. We further believe that this attempts to legislate what has always been a workplace negotiated item and matter for collective bargaining.

We believe this ordinance will foster reduced productivity and divisions in the work force.

For the above stated reasons, the New York State AFL-CIO stands opposed to Intro. 259.

Fraternally Yours,

*Edward J. Cleary*  
Edward J. Cleary  
President  
New York State AFL-CIO

cc: New York City Council Members

680531305

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ELLEN TAYLOR



ALFONSO LUBRANO  
President

# New York State Beer Wholesalers Association, Inc.

7 WOODLAND AVENUE  
LARCHMONT, NEW YORK 10538

(914) 834-8712 • ALBANY • (518) 465-6115

March 7, 1985

## MEMORANDUM IN OPPOSITION

As an intrical part of New York's Hospitality Industry,  
we strongly urge the defeat of the No Smoking Legislative  
Bill.

We echo the opposition voiced by the growing coalition  
AGAINST this type of legislation, which hurts New York's  
image as a good place to do business, unfettered by over-  
regulation and bureaucratic red tape....please oppose the  
No Smoking Legislative Bill.

Respectfully submitted,

NEW YORK STATE BEER WHOLESALERS ASSOCIATION, INC.

By:

*Alfonso Lubrano*

Alfonso Lubrano, President

680531306

SPRING MEETING

Lake Placid Hilton

Lake Placid, NY

June 2-5, 1985

53rd ANNUAL CONVENTION

Rochester Marriott Inn

(Rochester, NY)

October 20-23, 1985

# N.Y.S. HISPANIC CHAMBER OF COMMERCE

210 east 86th street, suite 502, new york, new york 10028 (212) 737-9708

TO: New York City Council Health Committee

FROM: The New York State Hispanic Chamber of Commerce

RE: Opposition to Restrictive Smoking Ordinance  
(Int. No. 259)

DATE: April 11, 1985

As Chairman of the New York State Hispanic Chamber of Commerce and resident of New York, I am writing to express my opposition to Int. No. 259 restrictive smoking ordinance.

As you may know, the survival of businesses in our city is constantly threatened by not only the normal competitive circumstances but by overregulation as well. Small, women, and minority businesses, in particular, do not need another unnecessary, burdensome law like restrictions on smoking in the workplace.

This legislation would force business operators to segregate smokers from non-smokers, and require the posting of signs. These requirements would not only disrupt work routines, but also decrease efficiency and productivity resulting in irretrievable businesses losses and worse, business failure.

Employers and employees have for years been able to resolve problems of smoking etiquette through understanding, courtesy, and cooperation. People who operate business have to work around the clock just to make a living. They don't have time to enforce nuisance laws.

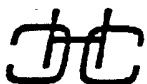
In light of my concerns on this issue, I am going on record as opposing Int. No. 259 and urge you not to support it.

Sincerely,  
NYSBCC

*Louis Rosally*  
Louis Rosally  
Chairperson

680531307

NEW YORK STATE



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Rocio Asic



# *Patrolmen's Benevolent Association*

Of The City of New York, Incorporated  
250 Broadway • New York, N.Y. 10007 • (212) 233-5531

## **Memorandum in OPPOSITION to Bill**

Senate Intro. No.

Senate Print No. 2366

Sponsor: Dunne

March 10, 1985

Assembly Intro. No.

Assembly Print No. 2746-A

Sponsor: Grannis

The Patrolmen's Benevolent Association urges  
that A-2746-A (Grannis Smoking Bill) be defeated.

The members of the New York City Police  
Department have among the toughest jobs in the nation.  
We oppose any bill which would force them away from  
pursuing real criminals in order to issue petty summonses  
for people whose only offense is smoking in the wrong  
place.

PHIL CARUSO  
President

680531308

MALCOLM L. FLEISCHER  
Managing Director and General Counsel

Edward L. Grant, President  
Ira B. Fader, Jr., First Vice President  
Ellis H. Milan, Second Vice President  
Diana Gits, Secretary  
William E. Martin, Chairman of Policy Committee

# Retail Tobacco Dealers of America, Inc.

55 Maple Avenue — The Atrium — Rockville Centre, N.Y. 11570 • Telephone (516) 766-4100



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Howard M. Wallack, Los Angeles, Calif.  
Daniel R. Wilkinson, Jr., Richmond, Va.

To: Committee on Health - New York City Council

Re: Int. #259 - Smoking, public meetings.

Hearing: Scheduled for Friday, April 12, 1985-10A.M.

Speaking on behalf of the thousands of small business people who sell cigarettes in New York City (there are some 20,000 such licensed cigarette retailers), we are vehemently opposed to Int. # 259.

Admittedly, there is a vocal minority of people who do not want others to smoke and in their over-zealousness are determined to prohibit smoking by everyone. For these do-gooders, it is not a matter of scientific validity that ambient tobacco smoke is harmful but rather their emotional feelings which have been excited by widely circulated news articles and television programs expounded by writers and commentators who are seeking public attention on the issue of passive smoking.

These antismokers raise their own cloud of smoke to press for the enactment of legislation to regulate smoking in public places and to ban smoking in workplaces. Their frequent reliance is on studies whose validity has become suspect. An evaluation of scientists who attended a workshop in 1983 on involuntary smoke exposure sponsored by the U.S. National Institute of Health held that:

"Data from the studies which address the effect of passive smoking on the respiratory system suggest that the effect varies from negligible to quite small."

The American people are proudest of their liberty and rights and to interfere with the fundamental concept that as a people we are free of restrictions is almost sacrilegious. Where does government stop to dictate what an individual can and cannot do?

The Carrie Nations tried to rule the personal lives of people early in this century and were defeated

680531309

after causing much harm and destruction. At most, tobacco smoke to some individuals may be a source of annoyance. But common courtesy and a common sense approach can eliminate 99% of what is an emotional reaction and one not based on scientifically established results.

The antismoking organizations are bent on eliminating smoking altogether by making it socially unacceptable and seeking all kinds of restrictions and prohibitions from governmental bodies. They are bolstering their arguments for so-called protective legislation on the basis that some people are annoyed by those who smoke.

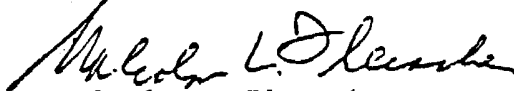
Where would our legislators stop if laws were proposed to eliminate annoyances? All new building would be stopped at once for a jack-hammer can make one mighty uncomfortable. All rail and auto traffic would be stopped because of noise and pollution. There would be no opportunity for progress and new ideas from the factories of the nation. Maybe these do-gooders just want us to stand still!

What is needed in our country is for our legislators, who have great power, to use their positions to promote courtesy and cooperation among people and to preach the value of tolerance. There are ways to ask for courteous behavior, and one of them is not to douse a smoker with a glass of water or pull the cigarette or cigar out of his mouth.

If, we in this country were faced with rigid and inflexible behavior such as advocated by the smoking prohibitionists, the American people would lose all hope for continued freedom. Today, the prohibitionists' vogue is to eliminate smoking - tomorrow it may be to eliminate various foods and various rights and privileges that are sacred to a free people.

Introductory Bill # 259 should be unanimously voted down by the Health Committee with the proclamation that it is not the duty of the City Council to single out a segment of the population and dictate their behavior and habits. But, in the interest of good health and a better life for the citizens of the great city of New York, it should urge all people to be more courteous and considerate of others.

Respectfully submitted,



Malcolm L. Fleischer

Managing Director and General Counsel

Dated: April 12, 1985

680531310



March 6, 1985

MEMORANDUM IN OPPOSITION

The A-2746 (Grannis Smoking Bill) should be rejected by the New York State Assembly.

We oppose any bill which would further burden our business community with another unnecessary, unenforceable, and costly layer of bureaucracy.

We have found that smokers and non-smokers have worked out any problems through courtesy and common sense. Why give us another unnecessary regulation that creates confusion by selective enforcement?

Sincerely,

SLOAN'S SUPERMARKETS, INC.

Jules Rose  
Chairman of the Board

/mc

680531311

# UPTOWN

## CHAMBER of COMMERCE

209 WEST 125th STREET / NEW YORK, N.Y. 10027 / (212) 427-7200

April 10, 1985

New York City Council Health  
Committee Members  
City Hall  
New York, N.Y. 10007

Re: Int. No. 259 Restrictive Smoking

Dear Members:

As President and CEO of the Uptown Chamber of Commerce and resident of New York, I am writing to express my opposition to Int. 259 restrictive smoking ordinance.

As you may know, the survival of businesses in our city is constantly threatened by not only the normal competitive circumstances but by overregulation as well. Small, women, and minority businesses, in particular, do not need another unnecessary, burdensome law like restrictions on smoking in the workplace.

This legislation would force business operators to segregate smokers from non-smokers, and require the posting of signs. These requirements would not only disrupt work routines, but also decrease efficiency and productivity resulting in irretrievable business losses and worse, business failure.

Employers and employees have for years been able to resolve problems of smoking etiquette through understanding, courtesy, and cooperation. People who operate businesses don't have time to enforce nuisance laws.

In light of my concerns on this issue, I am going on record as opposing Int. No. 259 and urge you not to support it.

Sincerely,



Lloyd Williams  
President

LW:sw

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FRED WALLACE  
Harlem Teams to: Self-Help

680531312



## NEW YORK STATE RESTAURANT ASSOCIATION'S POSITION

### ON NO-SMOKING LEGISLATION

My name is Fred G. Sampson and I am President of the New York State Restaurant Association, a trade association representing in excess of 6,500 outlets throughout the State and City. We continue to oppose the establishing of mandated no-smoking sections in foodservice establishments.

The consistency in our position, over the many years, is based on the fact that the restaurant public's attitude in relation to this question has not changed. The demand or, in fact, even request from our patrons for no-smoking sections has not been forthcoming. It may very well be that one of the reasons that there has been no demand for no-smoking sections in restaurants is because of the greatly improved ventilation systems that have been developed over the past five years. In fact a recent survey by the Gallup Organization indicates that in the past few years the number of restaurants with no-smoking sections has remained stable. In 1981, 20% of the restaurateurs surveyed has separate sections for smoking and non-smoking patrons. This figure rose just one percentage point to 21% in Gallup's 1985 survey.

Our industry has a history of responding to the requests of our patrons. As an example of this I offer the following: Almost every foodservice operation today offers patrons a sugar substitute not because our legislature required it but because our customers requested it. The same is true with decaffeinated coffee. Again, no one had to pass a law for us to do it, we did it in response to our customers' requests. Many restaurants carry low salt items, low calorie dishes, and countless other health related meals on their menus, not because of legislative action but because of the demand of the marketplace. Certainly, Mr. Chairman, if there were a public demand foodservice facilities would be responding because our business, like all others, must give their customers what they want if they're going to continue to be successful. A case in point of ignoring the demands of the marketplace is the terrible problems that the American automobile industry has suffered because they misread the mood of the public. Rest assured, we will not make that mistake.

We have for the past 7 years faced similar legislation at the state, county, and city levels throughout the State. In almost every instance, once the problems of the industry were presented to the various governing bodies, restaurants were exempt when the no-smoking legislation passed.

Eating out, in many instances, is a social event. It is not like shopping in a supermarket, having to use an elevator to get to the 50th floor of a building, or having to fly commercially from New York to Denver. In these cases you are almost a captured audience. This is not the case where the public in New York City has almost 16,000 foodservice outlets from which to choose. To restrict a restaurant patron's right to smoke at the conclusion of his meal reminds us of bringing back prohibition. In fact, probably the greatest illustration of all times, as to the failure of trying to legislate national social habits, was prohibition. This was clearly a case of the prescribed cure creating more problems than the disease and eventually this law was repealed.

Continued.../...

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New York State Restaurant Association  
Position on No-Smoking Legislation  
April 12, 1985  
Page 2 - Continued

The no-smoking movement has been a dramatic and somewhat effective one but there are still those who either resent or ignore those forces, who have sought legislative remedies to reduce smoking in this country. A glaring example of this is that although there has been no cigarette advertising on radio or television over the past few years, indications are that more cigarettes are still being smoked in large numbers, despite the widespread newspaper coverage describing the perils of smoking and an ominous warning on the side of every package of cigarettes manufactured.

In October of 1978 the New York State Restaurant Association, in cooperation with the American Lung Association, introduced a voluntary no-smoking program within its membership. While the results have been slow in coming about, the fact of the matter is that this type of emotional issue takes time to establish and is best left to a voluntary effort.

The foodservice industry today is burdened with mountains of regulations, rulings and laws. In fact, we live in a regulatory revolving door. To add to this burden, particularly where we would have to confront our patrons in the role of a policeman, is to add to our predicament. We urge you not to place us in this uncomfortable position and finally we repeat, Mr. Chairman, that when there is a visible public demand from our patrons, those who eat in our restaurants not just those who would like to have this legislation passed, I can assure you we will respond.

It is for these reasons that we oppose this bill.

Respectfully submitted,

Fred G. Sampson  
President

New York State Restaurant Association  
250 West 57th Street  
New York, New York 10019  
212-246-3434

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ORGANIZATIONS SOLICITED TO TESTIFY THE NEW YORK CITY  
RESTRICTIVE SMOKING LEGISLATION

Mr. James F. Marquart  
President  
New York State Hotel & Motel Association, Inc.  
212/921-8888

TESTIFY

Mr. Raymond T. Schuler  
President  
The Business Council of New York State  
518/465-7511

TESTIFY  
Ken Lane

Mr. Vito J. Pitta  
President  
New York Hotel and Motel Trades  
212/245-8100

TESTIFY

Mr. Fred G. Sampson  
President  
New York State Restaurant Association  
212/246-3434

TESTIFY  
Mike O'Neil

Mr. Charles Gillett  
President  
New York Convention & Visitors Bureau, Inc.  
212/397-8200

TESTIFY  
Harvey Katz

Mr. George Cooper  
Vice President of State Governmental Affairs  
New York Chamber of Commerce and Industry  
518/463-4319

TESTIFY

Mr. Malcolm L. Fleischer  
Managing Director  
Retail Tobacco Dealers of America, Inc.  
212/244-8650

TESTIFY

Mr. George Burton  
Executive Director  
N.Y.S. Bowling Proprietors Association  
518/783-0777

TESTIFY  
Jo Jo Russo

Mr. Fred Yolen  
President  
Cigarette Merchandisers Association, Inc.  
914/696-1728

Mr. Charles A. Anthony  
Secretary, Treasurer  
Hotel, Restaurant & Club Employees and Bartenders  
Union Local 6, AFL-CIO  
212/957-8000

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Ms. Norma Sharp  
Executive Vice President  
New York State Automobile Dealers, Inc.  
518/463-1148

Mr. Albert A. Formicola  
President  
Hotel Association of New York City, Inc.  
212/869-4600

TESTIFY

Mr. Leonard E. Friedlander  
Counsel  
United Restaurant, Hotel, Tavern Association  
of New York State  
518/436-8121

Mr. George Elicofon  
Executive Director  
New York State Association of Tobacco and Candy  
Distributors, Inc.  
212/682-3576

TESTIFY

Mr. John DeConcini  
President  
Bakery, Confectionery and Tobacco Workers  
International Union  
301/933-8600

TESTIFY

Mr. Dennis Griesing  
Director of Government Relations  
New York State Food Merchants Association  
914/631-4100

letter only

Mr. Stephen P. Woods  
Director, Governmental Relations  
National Federation of Independent Business  
518/434-1262

Mr. P.J. Maurice  
Information Officer  
National Black Police Association  
516/286-3361

TESTIFY  
Jim  
Hargrove

Mr. Abe Gordon  
President  
Teamsters, Chauffeurs, Warehousemen and Helpers,  
Local Union No. 805  
212/582-1261

Mr. Jules Rose  
Chairman of the Board  
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# NEWS FROM

HOWARD J. RUBENSTEIN ASSOCIATES, INC.  
1345 Avenue of The Americas New York, N.Y. 10105 489-6900

## NEW YORK Amsterdam News

Saturday, March 23, 1985

### Government: 'Smokers be damned'

The movement towards no-smoking laws in public places is not only a movement towards accomodating a vocal and militant minority of non-smokers. It's a movement against the rights of smokers to enjoy the same privileges as everyone else.

We believe that New Yorkers are not beyond settling smoking issues with a little bit of courtesy and common sense.

Banishing smokers to separate sections in restaurants and workplaces may seem like an accomodation but it's really a veiled form of harassment and punishment.

Smokers pay taxes, make worthy contributions to society, have friends, family and co-workers who don't smoke and work hard to enjoy the better things in life. To sever relationships along smoking and non-smoking lines is to create inefficient, unnecessary and economically unsound barriers. And, to strip smokers of the same benefits that non-smokers enjoy is to discriminate unfairly and take away important basic rights.

The answer can be and should be voluntary controls. For example, we have no doubt that restaurant owners will accomodate non-smokers and smokers alike. Both are their customers and, in both cases, the aim is equally to please.

Each restaurant, or public area or business can work out any problem in the best and most efficient manner in order to suit their individual needs and their unique situations. Blanket regulations do not take into account the special factors which must be considered before segregating smokers and non-smokers who, for example, might need to work side by side in order to get the job done. In these cases, these people might not mind working together and can solve any problems with consideration and understanding.

Making smokers social outcasts and second-class citizens is not the answer.

Restaurant owners are in the business, first of all, to make money. Does it not stand to reason that if the market place demanded "smoke free" restaurants, where money could be made, that the owners would be the first to establish a no smoking policy in existing restaurants or to open new ones where such a policy obtained?

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# DAILY NEWS

Wednesday, April 10, 1985

NEW YORK'S PICTURE NEWSPAPER®

## Put out the smoking bill

Some zealous members of the City Council are pushing a bill to partition New York into smoking, nonsmoking areas. The Health Committee holds a public hearing on it Friday. That's a good time to stub out this misguided measure.

The bill is prompted by a wide-spread belief that "passive smoking"—breathing someone else's tobacco fumes—is hazardous to the health. Some people are so deeply convinced on this point that they've physically assaulted smokers.

The evidence to support the claim, however, is sketchy at best. One often-cited study done in Japan found nonsmoking wives of smokers had a high cancer rate. But that has been discredited. Among the errors: The women came from an industrial area with heavy air pollution; the raw numbers showed single nonsmoking women with a higher cancer rate than the wives.

Obviously, more research on the issue is needed. Meanwhile, there's no justification whatsoever for the hamfisted measures contained in the Council bill. It would require almost every space in the city in which people get together—offices, banks, barber shops, restaurants, bowling alleys, etc.—to be divided on tobacco lines.

That would be horrendously expensive. It would create chaos among those who complied. It would be an invitation to arbitrary enforcement—and the nourishment of graft that always lurks behind selective application of rules. It would create confusion bordering on chaos in workplaces. It would be a heavy brake on business activity and tourism.

There's a similar measure afloat in Albany to impose only slightly less restrictive measures on the entire state. It deserves to be doused, too.

The day may dawn when Americans come to their senses and kick the cigaret habit. Meanwhile, those who object to smoke around them in restaurants and other public facilities can make their point with their feet. It makes medical sense for everyone to stop smoking. But until they do, smokers and nonsmokers must work out their differences amicably among themselves without the heavy, intruding hand of Big Brother.

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## City would be wise to butt out of the smoking controversy

Public hearings begin today on a bill before the New York City Council that would restrict smoking in restaurants, bars and other public places to special "designated smoking areas." A similar bill is before the state Legislature.

Now, protecting sufferers from irritating smoke is reasonable. But that's already being accomplished voluntarily. To please their customers, restaurants and movie theaters generally separate smokers from those who find cigaret smoke offensive.

That is quite different from imposing universal restrictions, restricting impatient smokers to little ghettos and insisting on the full paraphernalia of signs, warnings, special ventilation systems and physical barriers. This amounts to mild social persecution.

Zealous anti-smokers justify such

massive official intrusions by claiming that smokers inflict inconvenience, health risks and expense on them.

Concede the inconvenience. Don't anti-smokers also inflict it on passionate smokers? Shouldn't we settle these little social disputes without calling in the cops?

Most health studies do not support the argument that smoking damages the health of others.

If society restricts smoking because ill-health boosts health and insurance costs, what about other health hazards? Will City Hall enforce jogging? Or healthy diets?

Anti-smoking bills are, finally, costly and unenforceable. Let's remember the experience of Prohibition — which reduced not drinking, but respect for the law — before embarking on it again.

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