



Testimony
of
Mary T. Bassett, MD, MPH
Commissioner
New York City Department of Health and Mental Hygiene
before the
New York City Council Committee on Health
on
Tobacco and Health

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Good morning, Chairman Johnson and members of the Committee. I am Dr. Mary Bassett, Commissioner of the New York City Department of Health and Mental Hygiene. I am joined today by Amit Bagga, Deputy Commissioner for External Affairs at the Department of Consumer Affairs, and Sheriff Joe Fucito from the Department of Finance.

The mission of the Department is to improve the health of all New Yorkers and to reduce health inequities. As Health Commissioner, I am the City's doctor – a role I take seriously. Among the most important advice for a long, healthy life that I can give my patients – the residents of this great city – is to stop smoking and using tobacco products. I am pleased to be here today to talk about this important issue. Thank you for the opportunity to testify on the suite of tobacco-related bills currently before the Council for consideration.

On April 19, I joined Mayor de Blasio, Deputy Mayor Palacio, Chairman Johnson, Council Members Lander and Cabrera to announce a series of proposals that will help us reduce the number of smokers in New York City by 160,000 over the next three years. The five bills, all of which I'm pleased will be discussed today, continue New York City's commitment to tobacco control by raising the minimum prices for all tobacco products, including cigarettes, and imposing a new 10% local tax on other tobacco products; reducing through attrition the number of tobacco retailers citywide; creating a retail license for e-cigarettes, and capping the number of e-cigarette retailers; requiring all residential buildings to create a smoking policy and disclose it to both current and prospective tenants; and banning the sale of tobacco products at pharmacies.

These bills will build on the work we have done with the Council in recent years. Since 2002, New York City's adult smoking rate has dropped by 33 percent, from 21.5 percent in 2002 to 14.3 percent in 2015, and the youth smoking rate has dropped by 67 percent between 2001 and 2015, from 17.6 percent to 5.8 percent. These reductions will have prevented 136,000 deaths in New York City by

2060. But we can't rest on our accomplishments. More than 900,000 adult and 15,000 young New Yorkers smoke, and an estimated 12,000 New Yorkers die from tobacco-related illnesses annually. I would like to acknowledge all of today's bill sponsors – Chairman Johnson, Council Members Lander, Cabrera, Torres, Vacca, Gentile, and Richards – and thank them for addressing tobacco and e-cigarette use.

Increasing the Price of Cigarettes and Other Tobacco Products

The first bill I will discuss is Intro 1544. This bill focuses on increasing the price of both cigarettes and other tobacco products, including cigars, smokeless tobacco and shisha. The City has had a tax on cigarettes since 2002 and a minimum price on cigarettes and little cigars since 2013, but it has never addressed the price of many other tobacco products. All tobacco products are inherently dangerous and contain nicotine, which is addictive. Health impacts from tobacco use include cancers, heart disease and lung disease.

The City's historical focus on reducing cigarette smoking has been justified by the heavy toll that cigarettes have had on the health of New Yorkers, and we've made remarkable progress decreasing smoking rates. However, consumption patterns and the market for tobacco products are changing. A greater proportion of our City's youth is using other tobacco products, such as cigars, including little cigars and cigarillos, and smokeless tobacco. In 2015, 5.8 percent of youth were smoking cigarettes while 5.7 percent were smoking cigars and 3.3 percent were using smokeless tobacco. In addition, between 2008 and 2014, the percentage of middle school students in New York City who had ever smoked hookah increased from 2.9 percent to 8.5 percent. In 2014, 16.1 percent of high school students reported that they had ever smoked hookah.

Raising the price of tobacco products through taxes and minimum prices is the single most effective way to decrease consumption and encourage tobacco users to quit. Studies have shown that

raising the price of tobacco decreases youth initiation, encourages tobacco users to quit and reduces consumption among those who do not quit. Since youth are particularly sensitive to price increases, measures that raise the price of tobacco products are an effective strategy for reducing use among this vulnerable population. Intro 1544 would increase the minimum price for cigarettes from \$10.50 to \$13.00 per pack. It is projected to lead to a 6.4% decline in adult cigarette smoking, or 28,000 fewer adult smokers. Among youth we project there would be a 10% decline in cigarette smoking, which would lead to 1,000 fewer youth smokers. With a minimum price of \$13 a pack, New York City would once again claim the distinction of having the most expensive cigarettes in the nation. Intro 1544 also sets a minimum price for various tobacco product categories, including smokeless tobacco, loose tobacco and shisha, and would be the first minimum price of its kind in the country for these products. In addition, the bill would increase the existing minimum price for little cigars from \$10.50 to \$13.00 a pack.

Finally, a State Public Housing Law from 1939 authorizes the City to impose a tax on other tobacco products. Any revenue generated from the tax is required by law to support public housing. The tax would be set at 10 percent of the minimum price for each non-cigarette tobacco product category and is estimated to produce revenue of \$1 million annually. We project the price increases will reduce cigar prevalence among youth by 10.5 percent, or 1,700 fewer cigar users. The smokeless tobacco prevalence among youth is projected to decrease by at least 23 percent, or 1,800 fewer users.

We must use every tool available to us to raise the price of these deadly products, especially since the State has not raised the cigarette tax since 2010 and has not allowed New York City to raise its local tax on cigarettes since 2002. We strongly support this bill and thank Chairman Johnson for introducing this needed piece of legislation.

Reducing Tobacco Retailers in New York City

Now I will turn to Intro. 1547. This bill updates the City's license for selling tobacco products in several important ways that, taken together, restrict access to tobacco. First, it acknowledges that to respond to changes in tobacco use, we need a license that applies to all tobacco products – not just to cigarettes. Tobacco products other than cigarettes have become increasingly popular among youth in recent years. To properly regulate these products, a license update to include all tobacco products is necessary.

Second, the bill establishes a process for reducing the number of licenses to sell these products over time. The City has a high level of tobacco retail density, with approximately 8,200 licensed cigarette retailers. Studies show that easy access to tobacco retailers makes it harder for smokers to quit. In addition, youth who visit retail stores that sell tobacco every week are twice as likely to try smoking as other youth. This bill will cap the number of tobacco retail licenses in each community district at 50 percent of the current number of licenses. No new tobacco licenses will be issued for that community district until the number of licenses falls below the 50 percent level. Based on estimates by the Health Department and Department of Consumer Affairs, in ten years, the bill may reduce the number of tobacco retailers by up to 40 percent. The map I've brought today illustrates what would happen in one neighborhood – East Harlem – over time, and you can see the dramatic difference in tobacco retail density. Current tobacco retailers are allowed to keep their license indefinitely unless those licenses are revoked for selling cigarettes to minors or committing other violations. And the person who buys ownership of a business with a current tobacco license will be able to apply for that license if the business has been in good standing with the law for three consecutive years. For these reasons, we strongly support passage of this bill and thank Council Member Lander for sponsoring this critical legislation.

We also enthusiastically support Intro 1131-A, Council Member Lander's bill that would prohibit pharmacies from selling cigarettes and, once the cigarette license is updated, prohibit them from selling any other tobacco products. Selling cigarettes and other forms of tobacco alongside health products runs counter to a pharmacist's mission, and the vast majority of independent pharmacies do not offer tobacco products. CVS also stopped selling tobacco in 2014, and I want to commend them for making that choice. More than 80 jurisdictions have banned pharmacies from selling tobacco products and e-cigarettes, including San Francisco and Boston, and I'm excited for New York City to join that list. It's important to note that the number of chain pharmacies in San Francisco has tripled since their pharmacy ban took effect in 2008, demonstrating that stores can thrive without tobacco sales.

Together, these two bills will greatly reduce the number of tobacco retailers over time, reducing tobacco use and improving health outcomes.

Creating a Retail License for E-Cigarettes

Next I want to discuss Intro 1532, which creates a separate license for selling electronic cigarettes. Despite being on the market for fewer than ten years, e-cigarettes were used by 15.9 percent of New York City high school students in 2015. E-cigarette use is now more than twice as common among youth as cigarette use. The increasing popularity of e-cigarettes shows the importance of this bill. Current e-cigarette retailers – except for pharmacies – will have the opportunity to apply for the new license during an open enrollment period. After the open enrollment period expires, no new licenses will be issued. Pharmacies will be prohibited from selling these products. Fourteen states and the District of Columbia have passed laws requiring e-cigarette retailers and vape shops to obtain either a license or a permit to do business, and it is time New York City does the same. By blocking any future growth of e-cigarette retailers, New York City will have the most protective policy in the country.

Although e-cigarettes do not contain tobacco, these products typically contain nicotine, which is addictive, as well as potentially harmful chemicals that should be studied to determine their cumulative health effects over time. Moreover, there is emerging evidence that youth who use e-cigarettes are more likely to later try cigarettes. For example, one study showed that youth non-smokers who used e-cigarettes were more than four times as likely to report having smoked one year later than non-smokers who did not use e-cigarettes. There is also insufficient evidence that e-cigarettes are an effective way to quit smoking, and in fact Big Tobacco is heavily invested in e-cigarettes. Many e-cigarette companies use the same marketing strategies that were once used to sell cigarettes as glamorous products, not cessation devices, while also appealing to youth with flavors like Sour Dream and Bazooka. For these reasons we thank Council Member Cabrera for this piece of legislation and we urge the Council to approve this bill.

Disclosure of Residential Smoking Policy

The next bill I would like to address is Intro 1585. This bill will empower individuals to make informed decisions about where to live, and it may encourage more buildings to adopt smoke-free policies. There is no safe level of exposure to secondhand smoke, and there is increasing evidence of risks from even low levels of smoke exposure. Air monitoring studies confirm that smoke commonly travels throughout the building from a smoker's apartment into other apartments. Adult non-smokers exposed to secondhand smoke have higher risks of stroke, heart disease and lung cancer. Children exposed to secondhand smoke have higher risks of asthma attacks, respiratory illnesses, middle ear disease and Sudden Infant Death Syndrome.

Secondhand smoke infiltration in City residences is a common basis for complaints to 311, and more than one-third of adults report smelling cigarette smoke in their home that comes from other

residences. Smelling secondhand smoke at home is more likely to afflict low-income New Yorkers than high-income New Yorkers, and those with children in the home than those without.

This bill requires all multi-unit residences in the City to choose a policy on smoking and to disclose that policy to the building's tenants on an annual basis. In addition, prospective tenants must receive a copy of the policy on smoking before signing a lease or agreeing to buy an apartment. This bill would inform tenants of rental, cooperative and condominium units where smoking is permitted and where it is prohibited in a particular building. Since the U.S. Department of Housing and Urban Development (HUD) recently issued a rule that will require public housing authorities nationwide, including NYCHA, to adopt smoke-free policies by mid-2018, we believe the time is right to empower all New Yorkers with information that will enable them to find smoke-free housing. Thank you Council Member Torres for sponsoring this important piece of legislation.

Finally, I'll briefly address the other bills on the agenda today. Intro 1471, sponsored by Chairman Johnson, would increase the cigarette retail license fee to \$340, which would equal the cost of the proposed e-cigarette retail license fee. We support increasing the license fee. Intro 484, sponsored by Council Member Vacca, would extend the smoking ban in the Smoke-Free Air Act to common areas of all multiple-dwelling buildings with three or more units. We support the extension of the Smoke-Free Air Act to include these buildings. Intro 139-A, sponsored by Council Member Gentile, would cover non-tobacco shisha smoking under the Smoke-Free Air Act and allow certain hookah establishments to continue to operate. This bill was originally heard last year. We appreciate the Council tackling the important issue of hookah use, and this proposal represents important progress in regulating these establishments. We also appreciate that Fire Code language has been added to address concerns raised by the Administration. The next two bills – Intros 977 and 1140 – are more complicated. Intro 977, sponsored by Council Member Richards, would ban smoking in all housing owned and operated by

NYCHA as well as housing financed by the City. As mentioned above, HUD announced that it will ban smoking in all public housing, including NYCHA. But this bill would go further, and we don't believe it is fair for New York City to ban smoking only in subsidized housing for low-income New Yorkers, and we think there may be legal issues with doing so. We support the concept of smoke-free housing and would welcome more discussion about how to overcome legal and policy concerns. Similarly, we have questions about Intro 1140, which is sponsored by Council Member Cabrera and would ban smoking and vaping in vehicles carrying children under age 8. While we certainly don't want anyone to smoke or vape near children, it's not clear how this law would be enforced or if the age limit is appropriate to ensure public health benefits. We look forward to talking to Council about this bill.

Policies that reduce the availability of tobacco and reduce New Yorkers' exposure to secondhand smoke will have a positive health impact, and I thank the Council for introducing these important pieces of legislation. The package of bills that I have discussed today will put New York City at the forefront of tobacco control nationally, and I'm excited to continue to work with Council on this critical public health issue.

Thank you for the opportunity to testify. We are happy to answer questions.