

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

SAN FRANCISCO
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DEPARTMENT OF ELECTIONS

OFFICE OF THE CITY ATTORNEY

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May 29, 2019

TO ALL INTERESTED PARTIES:

Attached is the City Attorney's title and summary for a proposed measure entitled, "VAPOR PRODUCTS." In preparing this title and summary, the City Attorney makes no representation regarding the merits or legality of the proposed legislation. Nor does the City Attorney verify or confirm any factual or legal assertion made in the proposal. The title and summary is presented as a "true and impartial statement of the purpose of the proposed measure." Elections Code § 9203.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in black ink, appearing to read "Jon Givner".

Jon Givner
Deputy City Attorney

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VAPOR PRODUCTS

DEPARTMENT OF ELECTIONS

City law regulates the sale and use of tobacco products, including vapor products such as electronic cigarettes, their component parts, and liquid nicotine. Electronic cigarettes are battery operated devices that deliver to the user vaporized nicotine. The City currently regulates the sale of these products by:

- Requiring retail establishments to obtain a permit from the City to sell them;
- Prohibiting selling flavored tobacco products to people of any age;
- Prohibiting selling electronic cigarettes everywhere the sale of other tobacco products is prohibited;
- Prohibiting selling electronic cigarettes to people ages 18, 19, and 20; and
- Prohibiting selling tobacco products on City property.

California law also currently regulates the sale of tobacco products, including electronic cigarettes and their component parts, by:

- Requiring tobacco retailers and distributors to obtain a license from the State;
- Prohibiting the sale or distribution of tobacco products to people under age 21, including internet sales;
- Requiring tobacco retailers to check the identification of any customer who appears to be under age 21;
- Requiring tobacco retailers to store products in a location inaccessible to customers without assistance; and
- Requiring sellers and distributors of tobacco products on the internet to verify that customers are at least 21 years old.

City law prohibits advertising tobacco products on billboards or other publicly visible signs in San Francisco. City law also prohibits tobacco product advertising on City property. Federal and State law impose additional advertising restrictions for these products.

This measure would authorize the retail sale of vapor products, including electronic cigarettes, in San Francisco under certain conditions. The measure would:

- Prohibit retailers from selling vapor products everywhere the sale of other tobacco products is prohibited;
- Prohibit retailers and others from selling or distributing vapor products to people under age 21;
- Require retailers to place vapor products in a location inaccessible to customers without assistance;
- Require retailers to scan photo identification of customers to verify that they are 21 years or older;
- Prohibit retailers from selling more than two devices or five finished product packages of nicotine-containing liquid, per transaction; and
- Require retailers to train their employees about these requirements twice a year.

The measure would also require individuals and entities that sell more than 100 vapor products per year on the internet to San Francisco customers to:

- Obtain a permit from the City;
- Verify that customers are at least 21 years old; and
- Sell no more than two devices or 60 milliliters of nicotine-containing liquid, per month, to each customer.

The measure would prohibit advertising or marketing vapor products designed to appeal to minors or using an advertising medium known to be seen primarily by people under 21 years old.

The measure would authorize the City's Department of Public Health to enforce the City permit requirements, and require that department to develop an education program for youth on the effects of nicotine consumption and vaping.

The measure states that it is intended to comprehensively authorize and regulate the retail sale, availability and marketing of vapor products in San Francisco.

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