

Vapor Products*

Digest by the Ballot Simplification Committee

Status: Final Digest

On: Friday, August 9, 2019

Members: Packard, Anderson, Raveche

Deadline to Request Reconsideration: 4:30 p.m. on Wednesday, August 7

The Way It Is Now: The City and the State of California regulate the sale of tobacco products. The term “tobacco products” includes vapor products such as electronic cigarettes, their cartridges and other parts, and liquid nicotine. Electronic cigarettes are battery-operated devices that vaporize liquid nicotine and deliver it to the user.

City and State laws regulate the sale of electronic cigarettes in San Francisco in the following ways:

- The City and State prohibit the retail sale of tobacco products to people under age 21 and the State prohibits the sale of tobacco products on the internet to people under age 21;
- The City prohibits the sale of electronic cigarettes everywhere the sale of other tobacco products is prohibited;
- The City prohibits the sale of flavored tobacco products, including flavored electronic cigarettes;
- The City prohibits the sale, manufacture and distribution of electronic cigarettes and other tobacco products on City property; and
- The City prohibits advertising of certain tobacco products on billboards or other publicly visible signs in San Francisco and on City property. Federal and State law impose additional advertising restrictions on tobacco products.

The City and State regulate the sale of electronic cigarettes as follows:

- Tobacco retailers must obtain permits from the City and the State, and tobacco distributors must obtain a license from the State;
- State law requires tobacco retailers to check the identification of any customer who appears to be under age 21, and to store electronic cigarettes where customers cannot access them without assistance; and
- State law requires sellers and distributors of electronic cigarettes on the internet to verify that customers are at least 21 years old.

The U.S. Food and Drug Administration (FDA) regulates tobacco products. Beginning in late January 2020, the City will suspend the sale of electronic cigarettes that have not gone through required pre-market review by the FDA. As of July 2019, the FDA has not completed a review for any electronic cigarette products.

The Proposal: Proposition __ would authorize and regulate the retail sale, availability and marketing of electronic cigarettes in San Francisco. The measure would:

- Repeal the City law passed by the Board of Supervisors that suspends the sale of electronic cigarettes that lack required authorization by the FDA; and
- Partially repeal City law to allow the sale, manufacture and online retail sale of electronic cigarettes on City property.

Proposition __ may repeal other City laws that apply to electronic cigarettes, including the City law that prohibits the sale of flavored electronic cigarettes.

**Working title, for identification only. The Director of Elections determines the title of each local ballot measure; measure titles are not considered during Ballot Simplification Committee meetings.*

Proposition ___ would impose new regulations on the sale and distribution of electronic cigarettes in San Francisco as follows:

- Require retailers to scan photo identification to verify that customers are 21 years or older;
- Prohibit retailers from selling more than two electronic cigarette devices or five finished product packages of liquid nicotine in each transaction; and
- Require retailers to train their employees twice a year.

Proposition ___ would also require individuals and entities that sell more than 100 electronic cigarettes 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 electronic cigarette devices or 60 milliliters of liquid nicotine, per month, to each customer.

Proposition ___ would prohibit advertising electronic cigarettes designed to appeal to minors or using an advertising medium known to be seen primarily by people under 21 years old.

A "YES" Vote Means: If you vote "yes," you want to overturn the law passed by the Board of Supervisors that suspends the sale of electronic cigarettes that lack required FDA authorization and to adopt new regulations on the sale, manufacture, distribution and advertising of electronic cigarettes in San Francisco.

A "NO" Vote Means: If you vote "no," you want to keep existing laws regulating electronic cigarettes.