



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 2
File #: 19-1031

Board Meeting Date: 11/5/2019

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Supervisor Carole Groom, District 2
Supervisor David J. Canepa, District 5

Subject: Ordinance to add a new Chapter 4.95 to Title 4 of the San Mateo County Ordinance Code to prohibit the sale or distribution of electronic cigarettes

RECOMMENDATION:

Introduction of an ordinance adding a new Chapter 4.95 to Title 4 of the San Mateo County Ordinance Code to prohibit the sale or distribution of electronic cigarettes and waive the reading of the ordinance in its entirety.

BACKGROUND:

Tobacco use is the number one cause of preventable death and disease in San Mateo County. Data from the Office of Statewide Health Planning and Development (OSHPD) indicate that there were 47,066 smoking-associated hospitalizations in San Mateo County between 2006 and 2010. Treatment costs for these hospitalizations were \$566,797,878; with \$20,780,822 of this total spent at the San Mateo Medical Center.

The San Mateo County Board of Supervisors has been at the forefront of enacting legislation that controls the impact of tobacco use in the community. Ordinances previously enacted by the County include those requiring smoke-free multi-unit housing facilities, workplaces, and restaurants; banning tobacco self-service displays; requiring licenses for tobacco retailers; prohibiting smoking within 30 feet of doors/windows in County owned or operated buildings; and requiring smoke-free County campuses. Local laws such as these have helped lead to the State's implementation of statewide policies on these issues.

In order to minimize the number of children who start to smoke and become addicted to tobacco, the US Food and Drug Administration (FDA) implemented a ban on flavored cigarettes. However, the ban did not include menthol flavored cigarettes or other tobacco products other than cigarettes. In 2018,

the San Mateo County Board of Supervisors enacted Ordinance No. 04799, prohibiting the sale of flavored tobacco products and pharmacy sales of all tobacco products.

Electronic cigarettes are the most commonly used tobacco product among middle and high school students. While the current cigarette use rate is 3.1% for high school students in San Mateo County, the 2017-18 California Student Tobacco Survey showed that 20.8% of high school students in San Mateo County use electronic cigarettes. This prevalence is much higher than the statewide prevalence of 10.9%.

DISCUSSION:

Within the unincorporated areas of San Mateo County, there are currently 47 retailers which are licensed to sell tobacco products, which will be impacted by the prohibition on sales of electronic cigarette products.

The following are the key provisions of the proposed ordinance:

- It applies only in the unincorporated areas of San Mateo County.
- It prohibits the sale or distribution of any electronic cigarette to a person in unincorporated San Mateo County unless the electronic cigarette has been approved by the FDA after its mandatory premarket review and is not a Flavored Tobacco Product prohibited by Chapter 4.99 of the San Mateo County Ordinance Code.
- It would be enforced by the County Health System within the unincorporated areas of the County.
- It would go into effect 30 days after the ordinance's final approval, but enforcement will not begin until six months after its effective date.

The ban on electronic tobacco products has been an ongoing goal for organizations wishing to ensure that sales of electronic tobacco products other than flavored products are included in the sales prohibition.

FISCAL IMPACT:

There is no fiscal impact with the acceptance of this ordinance.