



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: ORD 22-010, **Version:** 1

Introduce, waive reading, and set March 15, 2022 at 10:30 a.m. as the date and time to consider adoption of an ordinance amending Chapter 7.80 of the Monterey County Code to ban the sale of flavored tobacco products and single use electronic cigarettes.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Introduce, waive reading, and set March 15, 2022 at 10:30 a.m. as the date and time to consider adoption of an ordinance amending Chapter 7.80 of the Monterey County Code to ban the sale of flavored tobacco products and single use electronic cigarettes.

SUMMARY/DISCUSSION:

In May 2012, the Monterey County Board of Supervisors adopted Ordinance Number 5200 to add Chapter 7.80 to the Monterey County Code to establish licensing requirements for tobacco retailing within the unincorporated area of Monterey County. The purpose of the ordinance was to reduce illegal sales of tobacco products to minors.

Enforcement is conducted by Environmental Health Bureau who provides retail education at the point of purchase to ensure compliance issues are addressed onsite. Additional enforcement is provided by law enforcement.

Electronic cigarettes, (also called e-cigarettes and/or electronic vaporizers), are battery-operated devices that deliver vapor (sometimes called aerosol) made up of nicotine, flavorings, and other chemicals. These devices were first introduced into the American market in 2007 with shapes and sizes quickly changing over time; providing a sleek and modern look appealing to youth. Many electronic cigarettes have removable cartridges that are filled with liquids that come in a variety of flavors such as mint, fruit and candy that do not smell or taste like regular cigarettes. In addition, the liquids may include nicotine salts that feel less harsh on the throat and lungs allowing users to inhale more deeply.

There is increasing evidence that the large amount of nicotine salts within electronic cigarettes may be responsible for increasing nicotine addiction among youth. With traditional cigarettes and older types of electronic cigarettes, the smoke and high nicotine levels can appear harsh for users, resulting in coughing, dizziness and even nausea. For many, these negative effects are enough to keep them from becoming regular users. Nicotine salts prevent these side effects, which means youth who try electronic cigarettes are more likely to continue using them regularly and become addicted.

Youth use of electronic cigarettes is impacted by several factors, including flavoring, nicotine salts, industry marketing and the extent of regulation. Recent market trends show an increase in sales of electronic cigarettes that deliver high levels of nicotine more efficiently and with less irritation, making it easier for young people to initiate use and develop addiction. The industry targets youth with sweet and fruit flavored products. Research shows adolescents consider flavor the most important factor when trying electronic cigarettes and are more likely to initiate use with flavored products. Overall, data illustrates electronic cigarette use more than doubled among middle school and high school students from 2017 to 2019. Data from Monitoring The Future showed

that from 2017 to 2018, current (use with past 30-days) electronic cigarette use significantly increased from 6.6 percent to 10.4 percent among 8th graders (a 58 percent increase), 13.1 percent to 21.7 percent among 10th graders (a 66 percent increase) and 16.6 percent to 26.7 percent among 12th graders (a 61 percent increase).

Of the various types of electronic cigarettes, disposable electronic cigarettes pose the highest potential environmental costs, because they contain e-waste elements similar to those of reusable electronic cigarettes, but are used only for a predetermined time (about 400 puffs or 20--40 cigarettes' worth of vapor). When littered or improperly discarded, broken devices can leach heavy metals (including mercury, lead, and bromines), battery acid, and nicotine into the local environment, affecting humans and other organisms.

On January 11, 2022, the Public Health Bureau made a presentation to the Board of Supervisors on the dangers of flavored tobacco and e-cigarettes to youth. The Board provided direction to staff to draft an ordinance banning the sale of flavored tobacco products and single use electronic cigarettes in order to reduce youth access to tobacco products and ameliorate the effects of single use electronic cigarettes on the environment.

The proposed ordinance amending Chapter 7.80 of the Monterey County Code bans retailers from selling flavored tobacco products to anyone regardless of age and bans the sale of single use electronic cigarettes.

The ordinance was introduced on January 25, 2022 and was set for adoption on February 8, 2022. On January 25, the Board of Supervisors provided additional direction to staff to update the ordinance to exclude Modified Risk Products from the definition of flavored tobacco products pursuant to 21 U.S.C. Section 387k. Staff updated the flavored tobacco definition and the ordinance attached as Attachments 1 and 2.

On February 8, 2022, staff returned to the Board of Supervisors with updated ordinance language to exclude Modified Risk Products from the definition of flavored tobacco products. The Board of Supervisors provided direction to staff to return on March 1, with the original proposed ordinance language that includes a full ban on flavored tobacco products. Staff updated the flavored tobacco definition and provided the ordinance as Attachments 1 and 2. Approval of this ordinance will strengthen Chapter 7.80 of the Monterey County Code in an effort to reduce access to purchase flavored tobacco products, and access to single use electronic cigarettes and devices.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiative: 2. Enhance public health and safety through prevention. Additionally, this work supports four of the ten essential public health services: 3. Inform, educate, and empower people about health issues; 4. Mobilize community partnerships and action to identify and solve health problems; 5. Develop policies and plans that support individual and community health efforts; and 6. Enforce laws and regulations that protect health and ensure safety.

OTHER AGENCY INVOLVEMENT:

The office of the County Counsel has approved the ordinance as to form and legality.

FINANCING:

The proposed amendment will be funded 100% by the costs associated with the TRL program. There will be no financial impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Michelle House, Health Program Coordinator, 755-4607

Approved by:

Date: _____

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachments:

Draft Ordinance (redline version)

Draft Ordinance (clean version)