



County of Monterey

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

Board Report

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Receive a presentation from the Monterey County Health Department, Tobacco Control Program on the dangers of electronic smoking devices and flavored tobacco products and provide direction regarding amending the Monterey County Tobacco Retail Ordinance to address the ban of electronic cigarettes and flavored tobacco products. (Board Referral: 2020:03)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive a presentation from the Monterey County Health Department, Tobacco Control Program on the dangers of electronic smoking devices and flavored tobacco products and provide direction regarding amending the Monterey County Tobacco Retail Ordinance to address the ban of electronic cigarettes and flavored tobacco products. (Board Referral: 2020:03)

SUMMARY:

The Monterey County Health Department (Health Department) received a Board referral from District 1 requesting a presentation to amend the County of Monterey's Tobacco Retail License (TRL) Ordinance to ban flavored tobacco products and e-cigarettes in unincorporated Monterey County. Work is currently under way to amend the Chapter 7.80 of the County Code. The Health Department has drafted a proposed revision to Chapter 7.80 in coordination with the Office of the County Counsel that includes an e-cigarette and flavored tobacco ban. This presentation summarizes the reasons to proceed with such an amendment and local efforts made to date to address the public health crisis surrounding e-cigarettes and flavored tobacco.

Based on the Board referral, the Health Department is seeking direction from the Board regarding the amendment to the TRL Ordinance. Specifically, the Health Department recommends that the Board consider: 1) a complete e-cigarette ban in all areas of unincorporated Monterey County; and 2) a complete ban on flavored tobacco products in all areas of unincorporated Monterey County.

DISCUSSION:

The Board of Supervisors implemented a county wide TRL Program in 2012 by adopting an ordinance adding Chapter 7.80 to the county code establishing licensing requirements for tobacco retailing within the unincorporated area of Monterey County. The primary goal of the TRL Program is to reduce youth access to tobacco and protect youth from the predatory behavior of tobacco industry marketing.

Enforcement is conducted by the Environmental Health Bureau who provide retail education at the point of purchase to ensure minor compliance issues are corrected on site. Additional enforcement is provided by the Monterey County Sheriff's Office.

In January of 2020, the United States Food and Drug Administration placed a ban on cartridge-based electronic cigarette products in fruit, dessert and mint flavors. The ban provides an exemption for menthol and tobacco flavors as well as refillable electronic cigarettes. The ban contains a loophole that permits flavors to be sold in devices disposed of after one use. These disposable, completely self-contained electronic cigarettes such as Blu, Posh, and Puff Bar share the characteristics of Juul in a throw away.

In January 2020, the city of Pacific Grove became the first jurisdiction in Monterey County to pass a comprehensive TRL ordinance that prohibits the sale of flavored tobacco products. In August of 2020, the California State Legislature passed Senate Bill 793 (SB-793), banning the sale of flavored tobacco products and tobacco product flavor enhancers, with exceptions for hookah tobacco, loose leaf tobacco, and premium cigars. SB-793 is on the ballot in California as a veto referendum on November 8, 2022. The referendum has suspended the implementation of SB-793 pending the election outcome.

Electronic cigarettes, (also called e-cigarettes, electronic vaporizers, and/or vapes), 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.¹ 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.¹

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.² 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.³ Overall, data illustrates electronic cigarette use more than doubled among middle school and high school students from 2017 to 2019.⁴ 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).⁵

With the proposed Amendment, Monterey County's current TRL ordinance will require changes to Section 7.80.20-definitions. The update may include definition additions and/or changes such as:

- Electronic smoking devices
- Flavored tobacco products
- Product containing, made, or derived from tobacco or nicotine
- Any component, part, or accessory used with a tobacco product

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Goal two; 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 Monterey County Health Department, Tobacco Control Program has been working with The Office of the County Counsel to develop this amended tobacco retail licensing ordinance.

FINANCING:

Financial impact of this amended tobacco retail licensing ordinance will vary depending upon the extent of the ban and type of enforcement provided.

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.

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Approved by:

Date: _____

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Attachments:

References

PowerPoint Presentation