

LEGISLATIVE DIGEST

[Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees]

Ordinance amending the Health Code by adding density, proximity and sales establishment limitations on the granting of new tobacco sales permits; amending the Business and Tax Regulations Code by increasing the annual license and application fees for permits; and making environmental findings.

Existing Law

Article 19 of the Health Code provides a process for applying for tobacco retail sales permits. Any establishment that sells tobacco products in San Francisco must have a valid permit issued by the Health Department.

Amendments to Current Law

The proposed amendments to the Health Code impose a cap on the number of permitted tobacco sales establishments located within each supervisorial district. The Health department will not grant a new permit where there are 45 or more permitted establishments within a particular district.

No permit shall be issued if:

- the Applicant will be within 500 feet of the nearest point of the property line of a school;
- the Applicant will be located within 500 feet of the nearest point of the property line of an existing Establishment;
- any Applicant whose main purpose is offering food or alcoholic beverages for sale for consumption on the premises, including Bars and restaurants; and
- no new permit shall be issued to any Applicant for operation of a Tobacco Shop.

The proposed amendments to Section 19H.6 have created additional exceptions for new permits applications:

Notwithstanding Section 19H.5 and Sections 19H.4(f)(3),(4) ,(5) and (7),

(a) If an owner of a retail food store establishment as defined in the Planning Code or tobacco shop who holds a tobacco sales permit and has been in business for five years as of the effective date of this Section 19H.6, and submits an affidavit to the Director that attests to ownership of the business at the same location and under the same tobacco sales permit for

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five consecutive years immediately preceding submission of the affidavit and that also states that the owner is in negotiations with a specific buyer for the retail food store establishment or tobacco shop at that location, then that buyer ("new buyer") may apply for, and the Director may issue, a tobacco sales permit to the new buyer on a one-time basis.

(b) If the new buyer submits an affidavit to the Director, stating that the new buyer has been in business continuously as a retail food store establishment or tobacco shop at that same location under the tobacco retail sales permit obtained in accordance with subsection (a) and also states that the new buyer has held the permit for at least 10 years, then a subsequent buyer of the retail food store establishment or tobacco shop at that location ("subsequent buyer") may apply for, and the Director may issue, a tobacco sales permit to the subsequent buyer on a one-time basis.

(c) A child of the owner of a retail food store establishment or tobacco shop that holds a tobacco sales permit as of the effective date of this Section 19H.6, may apply for, and the Director may issue, a tobacco sales permit to the child for that retail food store establishment or tobacco shop at that location.

(d) An owner of a retail food store establishment or tobacco shop holding a tobacco sales permit as of the effective date of this Section 19H.6, who must relocate under Chapter 34B of the Building Code may apply for, and the Director may issue, a new tobacco sales permit.

Background Information

The proposed ordinance is intended to address the growing epidemic of tobacco use by youth. 36.8% of California youth have smoked an entire cigarette by age 14 according to a 2012 survey conducted by the California Department of Public Health. The former United States Surgeon General at a February 2014 summit emphasized that the key factor in the fight against tobacco is preventing minors from becoming smokers. As former United States Surgeon General Regina Benjamin noted, "for every smoker who dies, there are two so-called replacement smokers trying a cigarette for the first time and getting hooked."

Empirical research connects lower densities of retail outlets with lower consumption of tobacco, particularly among youth. Higher tobacco retail density encourages smoking by making cigarettes more accessible and available, by normalizing tobacco use, and through increasing environmental cues to smoke. Research focused on California has found a higher prevalence of current smoking and experimental smoking among students at schools in areas with a higher density of tobacco outlets. Prevalence of smoking was higher at schools in neighborhoods with five or more stores that sell tobacco than at schools in neighborhoods without any stores that sell tobacco.

California communities in lower socio-economic areas with a higher concentration of convenience stores have significantly higher rates of smoking. Residents of these neighborhoods are more at risk for tobacco related disease and death. Likewise, San Francisco's most disadvantaged neighborhoods are disproportionately impacted by high tobacco retail density. The six supervisory districts with the highest proportions of tobacco

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retail by population (Districts 3, 5, 6, 9, 10, and 11) also have the lowest median household incomes in the city. District Six, with a median household income of \$38,610, has 270 tobacco permits while District Two, with a median household income of \$102,457, has only 51 tobacco permits. African American and Latino residents are more likely to live in districts with the highest number of tobacco retail outlets.

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