

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Barbara Garcia, Director, Department of Public Health  
John Rahaim, Director, Planning Department  
Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector  
Regina Dick-Endrizzi, Director, Office of Small Business

FROM: Erica Major, Assistant Committee Clerk, Public Safety and Neighborhood Services Committee

DATE: March 21, 2016

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Peskin on March 15, 2016:

**File No. 160253**

**Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit in a Supervisorial District with 45 or more such permits, and on issuing the permit to a tobacco shop.**

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Greg Wagner, Department of Public Health  
Colleen Chawla, Department of Public Health  
Scott Sanchez, Planning Department  
Sarah Jones, Planning Department  
AnMarie Rodgers, Planning Department  
Aaron Starr, Planning Department  
Joy Navarrete, Planning Department  
Jeanie Poling, Planning Department  
Amanda Kahn Fried, Office of the Treasurer and Tax Collector

1 [Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit  
2 Ordinance]

3 **Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two**  
4 **prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit**  
5 **for The Humidor's new location at One Embarcadero Center: the prohibitions on**  
6 **issuing the permit in a Supervisorial District with 45 or more such permits, and on**  
7 **issuing the permit to a tobacco shop.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
11 **Board amendment additions** are in double-underlined Arial font.  
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
13 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. General Background and Findings.

17 (a) The Humidor was founded in Santa Rosa in the mid-1980s as a family business  
18 by Baram Bakhshi, Javid Bakhshi, Jamshid Bakhshi, and Habid Bakhshi. The Humidor moved  
19 to San Francisco in 1990 and has occupied several different locations in San Francisco. It  
20 has been in operation in San Francisco (with no breaks in operation of more than two years)  
21 for a 26 years. In 2003, The Humidor moved to One Embarcadero Center, into a space that  
22 had previously been operated as a Tobacco Shop. In 2006, The Humidor moved into a new  
23 location at 275 Battery Street. It has been at that location from 2006 to 2016. During the  
24 entirety of its operations in San Francisco, The Humidor has been a Tobacco Shop operating  
25 with a tobacco sales permit.

1 (b) The Humidor has been nominated for inclusion on the Legacy Business Registry  
2 as a longstanding, community serving business and a valuable cultural asset of the City.

3 (c) In late 2015, the building at 275 Battery Street was sold to new owners who  
4 have refused to renew The Humidor's lease. The Humidor, after negotiations with a new  
5 landlord, is entering into a lease for a space at One Embarcadero Center, which is not the  
6 space it occupied there from 2003 to 2006.

7 (d) Section 19H.5 of the Health Code caps the number of establishments with  
8 tobacco sales permits in every supervisorial district at 45. Further, Section 19H.4(f)(5) of the  
9 Health Code states that no new tobacco sales permit shall be issued in any supervisorial  
10 district that has 45 or more establishments with tobacco sales permits. The supervisorial  
11 district in which The Humidor intends to be located, at One Embarcadero Center, is the same  
12 supervisorial district where The Humidor has been located, at 275 Battery Street, and the  
13 district has 45 or more establishments with tobacco sales permits.

14 (e) Section 19H.4(f)(7) of the Health Code states that no new permits shall be  
15 issued for the operation of a Tobacco Shop. The Humidor is a Tobacco Shop.

16 (f) Based on the facts as stated in this Section 1, reasonable grounds support  
17 granting The Humidor an exception to Sections 19H.4(f)(5) and 19H.4(f)(7) of the Health  
18 Code, and Section 19H.5 to the extent that that section reiterates the ban on issuance of more  
19 than 45 tobacco sales permits in a supervisorial district. The Humidor is a longstanding  
20 holder of a tobacco sales permit. Its new location, at One Embarcadero Street, is less than  
21 300 feet away from its previous location at 275 Battery Street, and is in the same supervisorial  
22 district. Issuing a tobacco sales permit to The Humidor at its new location will not change the  
23 number of such permits in that supervisorial district that existed when The Humidor had its  
24 tobacco sales permit at its previous location on Battery Street. Further, the space occupied  
25 by The Humidor at 275 Battery Street is approximately 970 square feet, while the space that

1 Humidor plans to occupy at One Embarcadero Center is approximately 730 square feet.  
2 Accordingly, The Humidor will be devoting fewer square feet to tobacco product sales at One  
3 Embarcadero Center than at its previous location at 275 Battery Street.


4 Section 2. Exemption of The Humidor From Certain Requirements of Health Code  
5 Sections 19H.4 and 19H.5.

6 For the reasons stated in Section 1 of this ordinance, The Humidor, under its current  
7 ownership, is hereby exempted from the requirements of Sections 19H.4(f)(5) and 19H.4(f)(7)  
8 of the Health Code, and Section 19H.5 to the extent that that section reiterates the ban on  
9 issuance of more than 45 tobacco sales permits in a supervisorial district. In providing for this  
10 exemption, it is intended that the aforementioned provisions not serve as a barrier to The  
11 Humidor's obtaining a tobacco sales permit at its new location at One Embarcadero Center.  
12 This ordinance is intended to apply solely to that location.

13 Section 3. Effective Date. This ordinance shall become effective 30 days after  
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 of Supervisors overrides the Mayor's veto of the ordinance.

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18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By:

  
21 ALEETA M. VAN RUNKLE  
22 Deputy City Attorney

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