



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street. Sacramento. CA 95814-2604

STAFF REPORT  
January 18, 2011

Honorable Members of the  
Law and Legislation Committee

**Title:** Discussion and policy direction on restricting tobacco retailing near schools (M10-021)

**Location/Council District:** Citywide

**Recommendation:** Discussion and policy direction on restricting tobacco retailing near schools (M10-021)

**Contact:** Joy Patterson, Principal Planner, (916) 808-5607

**Presenter:** Joy Patterson, Principal Planner, (916) 808-5607

**Department:** Community Development

**Organization No:** 21001010

## **Description/Analysis:**

**Issue:** At the City Council meeting of January 12, 2010, Council members McCarty and Sheedy noted that there is a new effort in California communities to explore regulations regarding limitations of distance and hours of operation on the sale of tobacco products near schools. They requested that staff provide the Law and Legislation Committee with information related to any ordinances in California communities regarding this issue.

In November of 2009, California State Senator Alex Padilla wrote a letter to local governments asking them to consider adopting an ordinance prohibiting and/or restricting the sale of tobacco near schools. The Senator noted in his letter that surveys confirm that the closer a tobacco retailer is to a school, the more likely they are to sell to children. On February 27, 2009 Senator Alex Padilla introduced SB203, Tobacco Sales near Schools. This bill would prohibit the sale of tobacco within 600 feet of school, stiffen penalties for selling tobacco to minors, establish an annual tobacco license renewal fee and limit categories of retailers eligible to sell tobacco. The bill is currently held in committee.

Since November 2009 there have been local governments that have discussed this issue. In January 2010, San Francisco Mayor Newsom sponsored an ordinance amending the San Francisco Health Code prohibiting the sale of tobacco within 1,000 feet of public or private schools. This proposed ordinance

was referred to the City Operations and Neighborhood Services Committee but has not been heard. The Chula Vista City Council also discussed the issue on January 7, 2010, but decided not to support an ordinance that would outlaw tobacco sales near schools. The City of Union City adopted an ordinance in February 2010 which prohibits tobacco related sales within 1,000 feet of any sensitive use (Ord. 728-10). Sensitive uses are defined as any park, playground, public library, recreation center, religious institution, school or youth oriented establishment. On November 9, 2010, the Santa Barbara County Board of Supervisors adopted an ordinance amending the tobacco control sections of the Santa Barbara County Code. These changes included restricting new retailers from selling tobacco products within 1,000 feet of schools, strengthening requirements and penalties associated with selling tobacco to youth and increasing tobacco retail licensing fees. The goals of the regulations are to encourage responsible tobacco retailing and discourage the sale or distribution of tobacco products and paraphernalia to minors.

Currently the City of Sacramento does not have a distance or hours of operation requirement on the sale of tobacco products by schools. The City does, however, have other regulations in the City Code related to tobacco sales including, but not limited to, prohibitions on: the use of self service tobacco merchandising (5.122.030); sales of tobacco products from vending machines (5.140.040); smoking in public places (8.80.040); smoking in the work place (8.80.200); distribution of tobacco products to minors, including requirements on proof of age to purchase tobacco products and posting of signs regarding minimum age (9.12.120); and tobacco sales within the Del Paso Boulevard Special Planning District (17.108.020).

In addition, on March 30, 2004, the City Council adopted Sacramento City Code Section 5.138, the Tobacco Retailer Ordinance. This ordinance regulates tobacco retailers located within the City by requiring a yearly non-transferrable license, regular business compliance inspections, under-age sales sting operations, and license suspension/revocation procedures. Currently there are approximately 430 licensed tobacco retailers located within the city. Since passage of these regulations, the Community Development Department has conducted sting operations at approximately 300 retailers, resulting in 30 license suspensions, and conducted approximately 1,000 routine business compliance inspections. All other incoming tobacco related complaints are handled by the department and are processed in the order they are received.

**Policy Considerations:** The policy consideration is whether the committee wishes to direct staff to draft an ordinance implementing additional regulations on tobacco retailers.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** Because this report concerns general policy and procedure making, CEQA does not apply per Section 15378(b)(3), which states that continuing administrative or

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maintenance activities, which are not conducted in conjunction with a project subject to CEQA review, are not considered to be "projects" and are therefore exempt from CEQA.

**Sustainability Considerations:** None

**Rationale for Recommendation:** There is no staff recommendation. This report is for the Committee's information and to provide staff with policy direction.

**Financial Considerations:** None.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased under this report.

Approved by: \_\_\_\_\_



Max Fernandez  
Director of Community Development

Recommendation Approved:



Gus Vina  
Interim City Manager

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