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REPORT NO. R 22 - 0155
MAY 04 2022

REPORT RE:

REVISED DRAFT ORDINANCE ADDING SECTIONS 46.90.1 AND 46.90.2 TO THE LOS ANGELES MUNICIPAL CODE TO LIMIT THE SALE OF FLAVORED TOBACCO PRODUCTS AND AMENDING SECTIONS 41.50, 46.90, 46.91, 46.92, 46.93, 46.97, 46.98, 46.99, 47.14, AND 63.44 OF THE LOS ANGELES MUNICIPAL CODE TO UPDATE VARIOUS PROVISIONS RELATED TO TOBACCO RETAILING

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 18-1104

Honorable Members:

Pursuant to City Council's request, this Office transmitted, on September 17, 2021, a draft ordinance that would have added new Sections 46.90.1 and 46.90.2 to the Los Angeles Municipal Code (LAMC) to limit the sale of flavored tobaccos by banning the sale of flavored tobacco products except for the sale of flavored shisha by existing hookah lounges. The draft ordinance would have also amended Sections 41.50, 46.90, 46.91, 46.92, 46.93, 46.97, 46.98, 46.99, 47.14, and 63.44 of the LAMC to update various provisions related to tobacco retailing.

After consideration of the matter, the City Council, on March 30, 2022, requested this Office make changes to the draft ordinance consistent with 12 recommendations contained in the March 8, 2022, report issued by the Arts, Parks, Health, Education and Neighborhoods Committee.

The enclosed revised draft ordinance would add LAMC Sections 46.90.1 and 46.90.2 to limit the sale of flavored tobacco by banning the sale of flavored tobacco products, except for the sale of flavored shisha by existing hookah lounges, as expressly directed by the City Council. Existing state and City law does not define hookah lounge, and some businesses self-identify as a hookah lounge by facilitating the smoking of shisha in an outdoor area. As requested by City Council, Section 46.90.1(b) was revised to include these businesses. In addition, the revised draft ordinance includes two technical edits to accomplish the recommendations in the Committee Report. First, recommendation 4 in the Committee Report requested a revision to Subsection 46.90(c), but the correct subsection is Subsection 40.90(b). Similarly, Recommendation 7 in the Committee Report requested an addition to the definition of tobacco products in Subsection 46.90(k) to clarify that flavored tobacco products need not contain nicotine. This clarification was inserted as a new Subsection (k)(2), as reflected in the enclosed draft ordinance.

Lastly, the revised draft ordinance also amends Sections 41.50, 46.90, 46.91, 46.92, 46.93, 46.97, 46.98, 46.99, 47.14, and 63.44 of the LAMC to update various provisions related to tobacco retailing.

Council Rule 38 Referral

A copy of the revised draft ordinance was sent, pursuant to Council Rule 38, to the Los Angeles Police Department, with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Celina Z. Porras at (213) 202-5595. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

DM:CP:ac
Transmittal