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S.F. Supervisors Raise Tobacco-Buying Age to 21; Will it Stick?

Posted By Max DeNike on Wed, Mar 2, 2016 at 10:27 AM

San Francisco on Tuesday joined a growing movement to increase the minimum age to purchase tobacco products and e-cigarettes to 21 — for those keeping score at home, 18-year-olds will still be able to buy medical cannabis — yet it's unclear if the city's new tough-on-smokes stance **will survive lawsuits.**

Dozens of cities nationwide **have approved new minimum age requirements** for buying cigarettes, chewing tobacco, and electronic cigarettes, which vaporize liquid containing nicotine. San Francisco becomes the second largest, behind New York.

Hawaii is so far the only state to increase the age requirement, **but a California 21-and-up cigarette law, Senate Bill 151, was introduced in the state Legislature last year.** San Francisco's own state Sen. Mark Leno is a co-sponsor.

The local law, **unanimously approved by the Board of Supervisors on Tuesday, would take effect July 1** — as long as it's not challenged or delayed. And it will be challenged.

In recent years, the city has made several legal moves to reduce nicotine use or at least make it more expensive to buy such products.

In 2014, as the popularity of e-cigarettes skyrocketed, San Francisco banned e-cigs at the places where traditional cigarette use is banned. And it's a long list: The city made it harder to smoke in residential units in 2013, boosting laws first enacted in 2010. Also in 2010, smoking was banned at farmers markets; while waiting in lines in public, such as for an ATM; at golf courses; and at public transit stops, among many other anti-tobacco initiatives.

San Francisco in 2008 also restricted pharmacies from being able to sell tobacco products, winning a legal fight and setting a precedent followed by others nationwide. This is why your Walgreens won't smell smokes if it also sells prescription drugs.

And this year, "dipping" by baseball players — a slang term for using chewing tobacco — is prohibited at AT&T Park following a ban approved last year that was introduced by Supervisor Mark Farrell.

Supervisor Scott Wiener, who authored the minimum age increase legislation, said before Tuesday's vote that



Hasta la fumar siempre.

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the new law "will save lives," **according to KQED.**

However, Tom Briant of the National Association of Tobacco Outlets told KQED that San Francisco and other municipalities in California have overstepped their bounds on the age laws.

"There needs to be some resolution on these questions, and the best person to do that is the California attorney general," **Briant said.**

Santa Clara County and the city of Healdsburg also raised the age limit, **but the latter did not enact its new law due to a threat of a lawsuit.**

KQED pointed out that the California Legislature does appear to hold sway over the matter:

"It is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section," **reads Penal Code Section 308-308b.**

If SB 151 is approved, it could set a new standard for cities and counties to regulate tobacco and nicotine sales.

Meanwhile, the minimum age to receive a physician's recommendation to purchase and use medical cannabis is still 18 statewide. That would not change under any new tobacco/nicotine restrictions. Meaning, the kids can get stoned — they just can't roll a spliff. Meanwhile, somewhere, a black market cigarette seller — probably about 19 years of age — is laying out a business plan.



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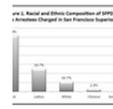
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