



# City of San Antonio

## Agenda Memorandum

**File Number:**15-5917

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**Agenda Item Number:** 5.

**Agenda Date:** 11/16/2015

**In Control:** Neighborhoods and Livability Committee

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**DEPARTMENT:** Health

**DEPARTMENT HEAD:** Vincent Nathan, PhD, MPH

**COUNCIL DISTRICTS IMPACTED:** City Wide

### **SUBJECT:**

Proposed Changes to City Code Chapter 36, "Smoking"

### **SUMMARY:**

On June 26, 2014, Councilman Cris Medina submitted a Council Consideration Request (CCR) asking City staff to review adding restrictions to the sale and possession of electronic cigarettes (e-cigarettes), nicotine cartridges, nicotine infused liquids, and their implements to anyone under the age of 18 to the City Code, in addition to penalties for the sale of traditional tobacco products to minors. During the 84<sup>th</sup> Legislative Session, the Texas Legislature passed, and the Governor signed into law, Senate Bill 97 which prohibited the possession and sale of e-cigarettes to anyone less than 18 years of age.

### **BACKGROUND INFORMATION:**

At the request of the CCR submitted by Councilman Cris Medina, Metro Health provided a briefing to the Governance Committee on April 15, 2015 to discuss the issue of restricting the sale and possession of e-cigarettes to persons under the age of 18. At that time, Metro Health recommended to place the item on hold pending the outcome of Senate Bill 97 which was introduced during the most recent Legislative Session and addressed the issue raised in the CCR.

On May 28, 2015, Governor Greg Abbot signed Senate Bill 97 which banned the sale and possession of e-cigarettes to persons under the age of 18 and provided for penalties for the sale of e-cigarettes to minors. In addition to the restrictions imposed by the new law, recently the Food and Drug Administration (FDA) forwarded their proposed rule, which would add several additional tobacco products under their authority to

regulate, to the White House Office of Management and Budget (OMB) for review. Currently, only e-cigarettes that are marketed for therapeutic purposes are regulated by the FDA.

**ISSUE:**

Based on the recent passage of Senate Bill 97 which effectively banned the sale and possession of e-cigarettes to minors in Texas, it is not necessary for the City to alter Chapter 36 to add language to this effect. This law went into effect October 1, 2015.

**ALTERNATIVES:**

City Council could choose to consider revising Chapter 36 to include further regulation of e-cigarettes similar to what is currently in effect for other tobacco products.

**FISCAL IMPACT:**

There is no fiscal impact associated with this item. This memo is for briefing purposes only.

**RECOMMENDATION:**

Metro Health recommends that the City continue to follow its current ordinance, which is in line with Texas Senate Bill 97. The Department will also continue to monitor the proposed rule by the Food and Drug Administration.