

ARTS, PARKS, HEALTH, EDUCATION, AND NEIGHBORHOODS COMMITTEE REPORT relative to a 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 (LAMC) to update various provisions related to tobacco retailing.

Recommendation for Council action:

REQUEST the City Attorney to draft a revised ordinance relative to 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 LAMC to update various provisions related to tobacco retailing with the following changes:

1. Revise 41.50(C)(a) as follows: Any business with an Outdoor Dining Area as defined in Section 41.50 A.3.a, shall post no-smoking signs of sufficient number to ensure that the no-smoking prohibition is clearly visible and readable to patrons in the Outdoor Dining Area and to persons passing outdoors within 10 feet of the Outdoor Dining Area. The no-smoking signs shall state in size 14 font or larger, "No Smoking in this Outdoor Dining Area or within 10 feet of this Outdoor Dining Area."
2. Revise 46.90(d) as follows: (d) "Flavored Tobacco Product" shall mean any Tobacco Product that imparts a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a Tobacco Product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, molasses, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim made or disseminated by the Tobacco Retailer or manufacturer of a Tobacco Product, or by any person authorized or permitted by the Tobacco Retailer or manufacturer to make or disseminate public statements concerning such Tobacco Product, that such Tobacco Product imparts a taste or smell other than tobacco shall constitute presumptive evidence that a Tobacco Product is a Flavored Tobacco Product.
3. Revise 46.90(l) as follows: "Tobacco Retailer" shall mean any person or Proprietor who Sells, offers for Sale, or exchanges or offers to exchange a Tobacco Product to consumers for any form of consideration. Tobacco Retailing shall mean engaging in any of the above activities. The definitions here are without regard to the quantity of Tobacco Product sold, offered for Sale, exchanged, or offered for exchange and without regard to whether the Sale is wholesale or retail.

4. Revise 46.97(b) as follows: The transfer or Sale of a Hookah Lounge in the possession of a valid Tobacco Retailer's Permit issued prior to the effective date of this ordinance does not automatically transfer the Tobacco Retailer's Permit associated with the Hookah Lounge. However, the transferee or prospective purchaser may apply for a new Tobacco Retailer's Permit and, if approved, will be deemed to first have been issued the Tobacco Retailer's Permit for purposes of Section 46.90.1(c) prior to the effective date of this section.
5. Remove presumption in section 46.90.1(b) which can be interpreted as making possession of flavored tobacco a crime. The focus of the enforcement is on tobacco retailers (brick and mortar stores). Therefore, I propose we replace 46.90.1(a) with the following language: (a) Pursuant to Section 46.91, tobacco products may only be sold at a location which has been issued a City Tobacco Retailer's Permit. It shall be unlawful to Sell or offer for Sale, or possess with the intent to Sell, any Flavored Tobacco Product at a permitted tobacco retailing location.
6. Revise 46.90(k)(1) in light of the rise of synthetic tobacco and synthetic nicotine products that would otherwise be left unregulated, as follows: Any product or products containing, made of, or derived from tobacco or nicotine whether natural or synthetic that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any means, including, but not limited to, a cigarette, a cigar, or a pipe and also includes chewing tobacco, snuff, or snus.
7. Add 46.90(k)(4): Any substance intended for smoking in a hookah pipe and marketed or labeled as a synthetic or non-tobacco Shisha Product whether or not the product contains nicotine.
8. Remove section 46.90.2 (d)
9. Remove section 46.90.2 (f)
10. Remove section 46.90.2 (g)
11. Replace 46.90.2(h) with the following: Any Hookah Lounge that permits indoor smoking must have a stand-alone ventilation system that is not shared with any other business or any other portion of the building in which the Hookah Lounge is located.

12. The operative date of the ordinance shall be January 1, 2023. Hookah Lounges in existence as of the effective date of this ordinance shall be considered grandfathered in.

Fiscal Impact Statement: Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: Yes

For if Amended:
Studio City Neighborhood Council

Summary:

On March 8, 2022, your Committee considered a September 17, 2021, City Attorney report and a draft ordinance relative to 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 LAMC to update various provisions related to tobacco retailing. The report attached to the Council file includes some background on the matter.

After providing an opportunity for public comment, the Committee moved to approve the recommendation reflected above. This matter is now forwarded to the Council for its consideration.

Respectfully Submitted,

ARTS, PARKS, HEALTH, EDUCATION, AND NEIGHBORHOODS COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
LEE:	YES
BONIN:	YES
BUSCAINO:	YES

EV 18-1104_rpt_aphen_03-08-22

-NOT OFFICIAL UNTIL COUNCIL ACTS-