

San Francisco Voters Uphold Ban on Flavored Vaping Products

The measure is considered the strictest in the nation. Voters backed it despite an expensive advertising campaign funded by a major tobacco company.

By Jan Hoffman

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Voters in San Francisco on Tuesday upheld a ban on all flavored tobacco products, from colorfully packaged e-liquids to menthol cigarettes. Mike Segar/Reuters

Despite a \$12 million ad blizzard by a giant tobacco company, voters in San Francisco resoundingly supported a new ban on the selling of flavored tobacco products, including vaping liquids packaged as candies and juice boxes, and menthol cigarettes.

The measure, known as Proposition E, is said to be the most restrictive in the country, and health groups predicted it could serve as a model for other communities.

The vote had been expected to be close, but the final tally was 68 percent to 32 percent in support of the ban. Those results reflected a big miscalculation by R. J. Reynolds Tobacco Company, which had saturated the city with multimedia ads in four languages, likening the ban to Prohibition and invoking a black market crime wave.

“They had a strategic chance there to show that they are actually walking the walk and talking the talk about moving smokers to nonsmoker tobacco products,” said Eric Lindblom, a Georgetown Law professor and former Food and Drug Administration tobacco official. “Instead they took this scorched earth approach, trying to eliminate the entire flavor ban. They failed and now other jurisdictions can say, ‘Why should we compromise?’”

Although using electronic cigarettes, or vaping, is touted as a means of smoking cessation, parents, public health advocates and federal regulators have expressed deepening concern as some studies show that the products are gateways to smoking for teenagers. E-cigarettes give users a powerful hit of nicotine, but without the mix of toxins contained in traditional, combustible cigarettes.

Schools across the country have grown increasingly alarmed about the growing use of e-cigarettes among middle- and high school students, and some are taking harsh disciplinary measures, including suspensions, to curtail it.

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Dr. Melissa Welch, a spokeswoman for the American Heart Association, one of several national organizations that fought to uphold the ban, said she hoped the San Francisco vote would be a first step toward ending “the sale of candy-flavored tobacco before nicotine addiction claims a new generation of young people.”

Proponents of the ban pointed to some 7,000 products, including those with flavors said to be particularly alluring to young users like bubble gum, chicken and waffles, and unicorn milk.

San Francisco’s Board of Supervisors unanimously approved the ban last year. It was to take effect in April. But R. J. Reynolds, which makes popular vaping products called Vuse, as well as Newport menthol cigarettes, propelled the campaign to block it by getting the initiative on Tuesday’s ballot.

Jacob McConnico, a spokesman for R. J. Reynolds, called the vote “a setback for tobacco harm reduction efforts because it removes from the market many potentially reduced-risk alternatives.”

Nevertheless, he added, the company would urge federal officials to draft regulations to restrict youths' access to the products while "preserving choice for adult smokers who are looking for alternatives to help them switch."

Juul Labs, maker of the top-selling vaping devices, which is based in San Francisco, did not have a prominent voice in the debate. The company did not respond to requests for comment.

A coalition of groups, including the American Cancer Society, the American Heart Association, the American Lung Association and Tobacco-Free Kids Action Fund, conducted a vigorous drive to uphold the ban. Their war chest was significantly smaller — \$2.3 million, including a \$1.8 million personal contribution from Michael R. Bloomberg, the former mayor of New York City.

In a statement, Mr. Bloomberg said the vote "shows that the tobacco industry, no matter how much money it spends on misleading ads, can be defeated. This vote should embolden other cities and states to act."

The United States has lagged behind other nations in regulating menthol cigarettes. The inclusion of menthol in the San Francisco ban was hailed by numerous groups, concerned about the booming sales of menthol cigarettes among minorities, who have seen disproportionately high mortality rates related to smoking.

"The ban on menthol cigarettes is a monumental step forward for health equity and social justice for communities of color," said Dr. Phil Gardiner, a co-chairman of the African-American Tobacco Control Leadership Council.

Canada banned the sale of menthol cigarettes last fall, and a similar measure for the European Union will take effect in 2020. In the United States, the F.D.A. banned cigarettes with flavors like chocolate, cinnamon and vanilla in 2009 and said it would look at menthol cigarettes. Though it has taken steps to regulate them as well, the agency has continued to allow them on the market.

A handful of other cities, including Chicago, New York and Providence, R.I., have some restrictions on flavored tobacco products, such as limiting their sale to adults-only stores.

Matthew Myers, president of the Campaign for Tobacco-Free Kids, said that some cities, including Duluth and St. Paul in Minnesota, have instituted more circumscribed bans than San Francisco's, but held off widening their reach when they saw the pushback from R. J. Reynolds.

"When Reynolds paid to put this on the ballot, other jurisdictions were cautious," he said. "The resounding vote in San Francisco is going to lead a lot of cities to take a closer look."

Such policies can be tough to manage, said Mark D. Meaney, a senior lawyer for the Public Health Law Center, which has helped draft tobacco restrictions. "But San Francisco certainly has the expertise and capacity to enforce them."

Oakland recently passed restrictions that will soon take effect, and outreach workers are contacting small retailers to educate them about the new ordinance. Just this week, the San Mateo County, Calif., Board of Supervisors unanimously approved a ban that very much resembles San Francisco's and one in small, rural Yolo County, Calif.

Although R. J. Reynolds led the attack on the ban, other groups joined in. Libertarians took up the protest, saying that the government was overreaching. Small business owners also fought back, saying that the ban would sharply reduce their profits.

“Anchor products allow us to stay competitive to big-box stores, and we will lose regular customers that keep our doors open,” said Miriam Zouzounis, a board member of the Arab American Grocers Association, which represents over 400 businesses in San Francisco. She said the law would disproportionately affect Arab, Sikh and Asian store owners.

The ban is expected to take effect within days after the vote is officially certified.

Sheila Kaplan contributed reporting.

Jan Hoffman has been a Science reporter since 2013. Before that she wrote about young adolescence and family dynamics for Styles and was the legal affairs correspondent for Metro. She joined The Times in 1992.

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