

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 3, ARTICLE 3, DIVISION 45 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 33.4515, RELATING TO ADDITIONAL PENALTIES FOR TOBACCO RETAILERS

WHEREAS, State Assembly Bill 71, Business and Professions Code section 22971.3, creates a state licensing program for the sale of tobacco products and authorizes local governments to adopt their own ordinances to provide for the suspension or revocation of a local license for any violation of a state tobacco control law; and

WHEREAS, on October 30, 2007, the Council of the City of San Diego unanimously passed the Tobacco Retailer Ordinance, Ordinance No. O-19674; and

WHEREAS, Health and Safety Code section 11364.7 authorizes revocation of a business license if a person possesses with intent to furnish drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance; and

WHEREAS, Section 33.4515 of the Tobacco Retailer Ordinance incorporates by reference Health and Safety Code section 11364.7, authorizing the revocation of a business license if a business furnishes drug paraphernalia; and

WHEREAS, the City of San Diego [City] does not issue nor does it recognize a business license for the purpose of conducting business in the City of San Diego; and

WHEREAS, the intent of Health and Safety Code section 11364.7 is to regulate businesses that violate the law by furnishing drug paraphernalia; and

WHEREAS, the City has an interest in regulating business activity to discourage violations of the law, including furnishing drug paraphernalia; NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 3, Article 3, Division 45, of the San Diego Municipal Code is amended by amending Section 33.4515 to read as follows:

§33.4515 Additional Penalties

A police permit issued under this Division may be revoked if a *person* operating as a *tobacco retailer* is convicted of a violation of Health and Safety Code section 11364.7, or a lesser-included or lesser-related offense including, but not limited to, Penal Code section 415, in satisfaction of, or as a substitute for, an original charge of Health and Safety Code section 11364.7.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Linda L. Peter
Deputy City Attorney

LLP:ar
02/23/09
Or.Dept:Police
O-2009-90-DRAFT

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor