

<b>REQUEST FOR COUNCIL ACTION</b> CITY OF SAN DIEGO				CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)	
TO: CITY COUNCIL		FROM (ORIGINATING DEPARTMENT): Police Department		DATE: 4/7/2016	
SUBJECT: Tobacco Retailers/E-cigarette Ordinance Update					
PRIMARY CONTACT (NAME, PHONE): Andrew Hoffman, LT,619-531-2897 MS735			SECONDARY CONTACT (NAME, PHONE): Roberto Casillas, SGT, 619-531-2349 MS735		
<b>COMPLETE FOR ACCOUNTING PURPOSES</b>					
FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00
FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00
COST SUMMARY (IF APPLICABLE): No cost associated.					
<b>ROUTING AND APPROVALS</b>					
CONTRIBUTORS/REVIEWERS:		APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	
Liaison Office		ORIG DEPT.	Ramirez, David	04/07/2016	
		CFO			
		DEPUTY CHIEF			
		COO	LoMedico, Stacey	04/12/2016	
		CITY ATTORNEY	Peter, Linda	04/08/2016	
		COUNCIL PRESIDENTS OFFICE			
PREPARATION OF:	<input type="checkbox"/> RESOLUTIONS	<input type="checkbox"/> ORDINANCE(S)	<input type="checkbox"/> AGREEMENT(S)	<input type="checkbox"/> DEED(S)	
This is an informational item only.					
STAFF RECOMMENDATIONS: No Action Requested – Informational Only for PS&LN.					
SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)					
COUNCIL DISTRICT(S):	ALL				
COMMUNITY AREA(S):	ALL				
ENVIRONMENTAL IMPACT:	N/A				
CITY CLERK	N/A				

INSTRUCTIONS:	
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**COUNCIL ACTION  
EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO**

DATE: 4/7/2016

ORIGINATING DEPARTMENT: Police Department

SUBJECT: Tobacco Retailers/E-cigarette Ordinance Update

COUNCIL DISTRICT(S): ALL

CONTACT/PHONE NUMBER: Andrew Hoffman, LT/619-531-2897 MS735

**DESCRIPTIVE SUMMARY OF ITEM:**

This is an informational report from the San Diego Police Department regarding the Tobacco and Electronic Cigarette Retailer Ordinance. Since November 2007, retail sellers of tobacco products have been police regulated. Retailers of tobacco products are required to obtain a police permit to operate in the City. In 2014, the SDMC was amended to regulate retail sellers of electronic cigarettes, electronic cigarette paraphernalia, and vaping juice, in the same manner that retail sellers of tobacco products are regulated, by requiring a police permit. Section 33.4519 of the SDMC requires the San Diego Police Department to report to the PS&LN on an annual basis, or as required.

**STAFF RECOMMENDATION:**

No Action Requested – Informational Only for PS&LN.

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

The City regulates retail business that sell tobacco products, tobacco paraphernalia, electronic cigarettes, electronic cigarette paraphernalia, and vaping juice by requiring police permits. The intent is to discourage violations of law prohibiting the sale or distribution of tobacco products and electronic cigarettes to minors to protect their health, welfare, and safety. Because of the increasing popularity of electronic cigarettes and the unknown health risks associated with their use, the City also regulates the sale of vaping juice, which is often packaged and marketed to attract youth. The costs of enforcing the regulations related to the retail sales of tobacco products and electronic cigarettes are borne by retailers who apply for and obtain police permits. Revenue generated by the application and permit fees are used to administer and enforce the regulations.

Part of the ordinance states that the San Diego Police Department will present a report to the committee on the status of the tobacco ordinance upon request.

**Administration Information -**

The San Diego Police Department has identified 1163 businesses that sell or distribute tobacco products in the City of San Diego, per the California State Board of Equalization 2015 reporting period. The Department has gained compliance from 1,116 of those businesses. The Department is verifying with the other 47 State Licensed business owners to confirm their current retail status and require compliance of those who are in fact selling tobacco and/or tobacco products.

**Inspections/Enforcement -**

The San Diego Police Department's Vice, Permits and Licensing Unit Officers conducted 121 overt field inspections during calendar year 2015. These inspections are used as an opportunity to educate, gain voluntary compliance and confirm prior noted deficiencies have been corrected by the business owners.

In addition to the overt inspections, the San Diego Police Department; Vice Permits and Licensing Unit Officers also conducted 17 covert (undercover) juvenile decoy operations in the City of San Diego. A total of 369 covert inspections were completed during these operations. All of these inspections were used to educate the business owners and cite those selling tobacco and/or tobacco products to a juvenile.

The results are as follows:

Date	Inspections	Citations	Council Districts
01/30/15	21	3	7/8
02/19/15	17	6	3
02/27/15	22	1	6/7
03/25/15	11	1	7
03/27/15	8	2	7
04/02/15	7	2	2
04/22/15	28	1	7/9
05/28/15	50	2	2/8
06/12/15	25	2	6/7
07/31/15	29	1	7/9
08/05/15	29	1	1/5/6/8
08/27/15	13	0	6/7
09/25/15	9	3	6/7
10/23/15	13	1	6
11/24/15	40	3	9
12/18/15	15	0	6/7
12/22/15	22	1	4/5/9

The 369 business locations inspected were both randomly selected by Council District and also selected in response to community complaints regarding the possible sale of tobacco products to juveniles. They include all types and sizes of stores (including Hookah Lounges and Vape Shops) selling tobacco products. All covert decoy operations were conducted during normal working hours and utilized vetted juvenile volunteers. No overtime compensation expenses were incurred. The operations resulted in 30 instances where tobacco products were sold to our minor decoy(s). Those 30 store operators were cited and released on their written promise to appear.

Estimated Illegal Sales Rate -

We conducted 369 undercover inspections that resulted in 28 violations for tobacco products and 2 violations for electronic cigarettes, electronic cigarette paraphernalia and/or vaping juice. The

overall total estimated rate of illegal sales to juveniles was 8% Citywide. This is a decline from calendar year 2014's 13.2% rate.

Fees and fines -

During calendar year 2015, the Police Department, Vice, Permits and Licensing Unit collected \$128,773 (Renewal) in regulatory fees and \$18,864 (New) in application fees for a total of \$147,637. This represents an increase of \$1,703 from calendar year 2014. All monies were sent to the City's general fund.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods.

Objective #1: Protect lives, property, and the environment through timely and effective response in all communities.

Objective #2: Reduce and prevent crime.

FISCAL CONSIDERATIONS:

None.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

No prior actions. This presentation was requested as an annual update by PS&LN Committee.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The San Diego Police Department; Vice Permits and Licensing Unit notifies, in writing, the owner of each business inspected during covert operations advising them of the inspection and whether they (their employee) complied with the law or not in selling to a juvenile. This practice has been greatly appreciated by the business owners and we are aware that some owners have enacted an employee reward policy when they receive notification that their business "passed" a covert inspection. And conversely, business owners notified of a failure are now on notice and expected to review their training policy as it applies to the sale of tobacco and/or tobacco products.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include all current and future permit holders and the community at large.

Ramirez, David

Originating Department

LoMedico, Stacey

Deputy Chief/Chief Operating Officer

# SAN DIEGO POLICE DEPARTMENT

## TOBACCO ORDINANCE ANNUAL REPORT CY2015

April 20, 2016

*Lieutenant Andrew Hoffman*  
*Detective Sergeant Roberto Casillas*



## BACKGROUND

- 33.4501-33.4519 SDMC-November 2007
- Regulate the sale of tobacco products and e-cigarettes
- Discourage/prevent sales to juveniles through permitting and enforcement
- Cost recoverable through permit fees.

## ADMINISTRATION INFORMATION

- 1,163 Active State Tobacco Licenses
- 1,116 New/Renewal Permits =  $-.53\%$  CY 2014
- 326 Notice of Violations-Expired Permits
- 50 Hookah businesses =  $+7$  CY 2014
- 20 Vape Shop businesses permitted =  $+9$  CY 2014



## INSPECTIONS & ENFORCEMENT

- 369- Locations Inspected Covertly
- 28 tobacco product citations
- 2 e-cig, e-cig paraphernalia or vaping juice citations
- Compliance notifications mailed
- 121 – Locations inspected Overtly



## **FIELD OPERATIONS**

<b>Date</b>	<b>Inspections</b>	<b>Viol/I-Cite</b>	<b>District(s)</b>
<b>01/30/15</b>	<b>21</b>	<b>3/3</b>	<b>7/8</b>
<b>02/19/15</b>	<b>17</b>	<b>6/6</b>	<b>3</b>
<b>02/27/15</b>	<b>22</b>	<b>1/1</b>	<b>6/7</b>
<b>03/25/15</b>	<b>11</b>	<b>1/1</b>	<b>7</b>
<b>03/27/15</b>	<b>18</b>	<b>2/2</b>	<b>7</b>
<b>04/02/15</b>	<b>7</b>	<b>2/2</b>	<b>2</b>
<b>04/22/15</b>	<b>28</b>	<b>1/1</b>	<b>7/9</b>



## **FIELD OPERATIONS**

<b>Date</b>	<b>Inspections</b>	<b>Viol/I-Cite</b>	<b>District(s)</b>
<b>05/28/15</b>	<b>50</b>	<b>2/2</b>	<b>2/8</b>
<b>06/12/15</b>	<b>25</b>	<b>2/2</b>	<b>6/7</b>
<b>07/31/15</b>	<b>29</b>	<b>1/1</b>	<b>7/9</b>
<b>08/05/15</b>	<b>29</b>	<b>1/1</b>	<b>1/5/6/8</b>
<b>08/27/15</b>	<b>13</b>	<b>8/0</b>	<b>6/7</b>
<b>09/25/15</b>	<b>9</b>	<b>7/3</b>	<b>6/7</b>



## **FIELD OPERATIONS**

<b>Date</b>	<b>Inspections</b>	<b>Viol/I-Cite</b>	<b>District(s)</b>
<b>10/23/15</b>	<b>13</b>	<b>7/1</b>	<b>6</b>
<b>11/24/15</b>	<b>40</b>	<b>3/3</b>	<b>9</b>
<b>12/18/15</b>	<b>15</b>	<b>9/0</b>	<b>6/7</b>
<b>12/22/15</b>	<b>22</b>	<b>1/1</b>	<b>4/5/9</b>

## CY2015 TOBACCO FEES

- \$128,773 Regulatory Fees Collected  
(Renewals)
- \$18,864 Application Fees Collected  
(New applications)
- **\$147,637** Fees Collected CY2015  
*+\$1,703 or +1.7% from CY2014*

# TOBACCO SALES TO MINORS

## CY2015

369 Covert Inspections  
28 tobacco product violations  
2 e-cig, e-cig paraphernalia, vape  
Total Violations -30 = **8%**

## CY2014

341 Covert Inspections  
Total Violations-45 = **13.2%**



**SAN DIEGO POLICE  
DEPARTMENT  
VICE ADMINISTRATION  
PERMITS & LICENSING**

**QUESTIONS?**