

THE
NATIONAL LAW REVIEW

San Francisco to Propose Banning Sale of E-Cigarettes

Thursday, March 21, 2019

- The San Francisco City Attorney, in coordination with the City's Board of Supervisors, [announced](#) on March 20, 2019 that it will introduce legislation to prohibit the sale and delivery of e-cigarettes in the City unless such products have been established as "appropriate for the protection of the public health" through the Food and Drug Administration (FDA) [Premarket Tobacco Product Application](#) (PMTA) process. Notably, the City Attorney did not indicate any intention to prohibit the [sale of cigarettes](#) within the City, the most addictive and deadly tobacco product.
- To date, no e-cigarettes have received [PMTA authorization](#) from FDA. However, e-cigarettes that were on the market on August 8, 2016, the date FDA's "Deeming Rule" went into effect, are permitted to remain on the market pursuant to FDA's [recently revised](#) compliance policy. Once the compliance policy is finalized, flavored e-cigarettes (other than tobacco, mint and menthol flavors) will have until August 8, 2021 to submit PMTAs, unless they are being marketed in a way that poses greater risk of minor access.
- The City Attorney, along with attorneys for New York City and Chicago, also sent a letter to departing FDA Commissioner Dr. Scott Gottlieb criticizing the Agency for failing to curb the crisis of youth e-cigarette use. In a press conference announcing the proposed legislation and the joint letter to FDA, the San Francisco City Attorney cited recent statistics on the rise of youth tobacco use and stated, "The FDA has simply failed to do its job in unprecedented fashion."
- San Francisco is the home of e-cigarette giant Juul Labs. According to the [City Attorney's office](#), the legislation-which is not yet public-would prevent Juul from expanding on City property if it engaged in the sale, manufacture and distribution of tobacco products.



Article By
[Food and Drug Law at Keller and Heckman](#)
[Keller and Heckman LLP](#)
[The Daily Intake](#)
[Biotech, Food, Drug](#)
[Administrative & Regulatory](#)
[California](#)

© 2019 Keller and Heckman LLP

Source URL: <https://www.natlawreview.com/article/san-francisco-to-propose-banning-sale-e-cigarettes>