



## Legislative Background

### BOS File No. 190312

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<u>Name:</u>	Health Code - Restricting the Sale, Manufacture, and Distribution of Tobacco Products, Including Electronic Cigarettes
<u>Sponsor(s):</u>	Supervisor Walton
<u>Date Introduced:</u>	March 19, 2019
<u>Date Referred:</u>	March 27, 2019
<u>Scheduled for BOS Committee:</u>	Public Safety and Neighborhood Services Committee

### ***Legislation Overview:***

Ordinance amending the Health Code to prohibit the sale by tobacco retail establishments of electronic cigarettes that require, but have not received, an order from the Food and Drug Administration (FDA) approving their marketing; and prohibiting the sale and distribution to any person in San Francisco of flavored tobacco products and electronic cigarettes that require, but have not received, an FDA order approving their marketing.

### ***Existing Laws***

Federal:

The Family Smoking Prevention and Tobacco Act (Tobacco Control Act) authorizes the Federal Drug Administration (FDA) to set national standards governing the manufacture of tobacco products, to limit the levels of harmful components in tobacco products, and to require manufacturers to disclose information and research relating to the products' health effects. A significant requirement of the Tobacco Control Act is **premarket review** of all new tobacco products. A "new tobacco product" is defined as any tobacco product not on the market in the United States as of February 15, 2007. New tobacco products must be authorized by the FDA for sale in the United States before it may enter the marketplace. A new tobacco product may not be marketed until the FDA has found that the product is:

1. Appropriate for the protection of public health upon review of a premarket tobacco application;
2. Substantially equivalent to a grandfathered product;
3. Exempt from the substantial equivalence requirements.

The Tobacco Act also establishes age 18 as the federal nationwide minimum age for legal cigarette and smokeless tobacco sales and requires retailers to verify age for all over-the-counter sales by checking a photographic ID. Importantly, the Tobacco Act preserves state and local governmental authority to impose higher minimum-age laws. In nine states<sup>1</sup>, the minimum age for cigarette and tobacco sales is 21<sup>2</sup>. Of the other 41 states, there are 38 where the legal age is 18 and three where the legal age is 19. In 17 of the 41 states, 156 cities and counties mandate that the legal age is 21.

Importantly, relative to electronic cigarettes the FDA issued guidelines in 2017 where they stated that companies manufacturing electronic cigarette devices would have until August 2022 to come into compliance with premarket review requirements. The FDA has since issued new draft guidelines

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<sup>1</sup>[https://www.tobaccofreekids.org/assets/content/what\\_we\\_do/state\\_local\\_issues/sales\\_21/states\\_localities\\_MLSA\\_2\\_1.pdf](https://www.tobaccofreekids.org/assets/content/what_we_do/state_local_issues/sales_21/states_localities_MLSA_2_1.pdf)

<sup>2</sup>In two of the nine states the legal age goes into effect May 2019 and 1 in July 2021.

that are currently out for public comment. The draft guidelines require that manufacturers of all flavored electronic cigarette products (other than tobacco-, mint-, and menthol-flavored) that remain on the market before their premarket, specifically limit youth access and appeal and also submit their premarket applications by Aug. 8, 2021- one year earlier than the current draft guidelines mandate. While tobacco, mint, and menthol flavored electronic cigarette products will still have until August of 2022 to submit their pre-market applications, products in that category that specifically target youth will have to come into compliance by August 8, 2021. As stated by the FDA, evidence indicates that mint- and menthol-flavored electronic cigarette products are preferred more by adults than minors.

State:

There are 10 state Tobacco Control Laws that San Franciscans must adhere to, please see Appendix A for the full list. Most relevant for this legislation is CA Penal Code 308 (2016) – this prohibits retailers from selling tobacco products to persons under 21 years of age<sup>3</sup>.

Local:

There are 25 local Tobacco Control Laws that are administered in San Francisco, please see Appendix A for a full list and description. Most relevant for this legislation:

- Since 2003, Health Code Article 19H.3. has required that retailers obtain a permit for tobacco sales. Permits must be renewed annually. A tobacco sales application fee is \$91 and the annual license fee is \$346.
- In 2015 Article 19H was amended to include a density cap. Only 45 tobacco sales permits are allowed per Supervisorial district. As such, no new permits will be issued in a district with 45 or more tobacco retailers. Additionally no permits will be issued if the retail location is within 500 feet of another tobacco retailer or school.
- In 2016, Article 19 was amended and raised the minimum legal tobacco purchasing age to 21.
- In 2017, San Francisco voted to adopt Health Code Article 19Q, the Flavored Tobacco Ban. This mandated that retail tobacco permit holders would no longer be able to sell any nicotine or tobacco product, including but not limited to smokeless/chew, cigarettes, cigars, cigarillos, vape liquid and hookah tobacco, that is manufactured to have an aroma and/or flavor, such as fruit, sweet, candy, alcohol, mint, spice or menthol. Although the effective date was August 7, 2017, the operative date was mandated to be April 1 2018. This mitigation measure allowed for retailers to sell off whatever flavored tobacco products they had remaining.

### ***Amendments to Current Law***

BOS File No. 190312 proposes to amend the Health Code to prohibit permitted tobacco retail establishments located in San Francisco from selling electronic cigarettes that require premarket review by the FDA, but have not undergone such review. The ordinance would also prohibit the sale to any person in San Francisco via mail or internet of: 1) flavored tobacco products, including electronic cigarettes; and 2) electronic cigarettes that require FDA premarket review, but have not gone under such review.

An administrative fine will be imposed if a Person is found to be in violation of this ordinance in an amount that will not exceed \$1000. The City Attorney may also at any time, institute civil

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<sup>3</sup> <https://2gahjr48mok145j3z438sknv-wpengine.netdna-ssl.com/wp-content/uploads/San-Francisco-Tobacco-Control-Laws-2019.pdf>

proceedings for injunctive and monetary relief including civil penalties, against any Person in violation of this ordinance. The Director of Health may also refer a case to the City Attorney for civil enforcement.

### ***Youth Tobacco Use in San Francisco***

The legislative findings discussed in this proposed ordinance include a number of statistics regarding youth tobacco use nationally and in San Francisco which were drawn from the [Youth Risk Behavior Survey](#) (YRBS) administered by the Centers for Disease Control and Prevention. Specifically, the following was highlighted:

- In 2017, 16.7% of San Francisco high schoolers tried cigarette smoking – This number is down from 24.4% reported in 2015. **This is also the lowest number of San Francisco high schoolers to report having tried smoking since 1997.** Nationally, in 2017 28.9% of high schoolers reported to have tried cigarette smoking;
- In 2017, 25% of San Francisco high schoolers reported to have ever used an electronic vapor product – this number is down from 32.2% reported in 2015. Nationally, in 2017 42.2% of high schoolers reported to have ever used an electronic vapor product;
- In 2017, 7.1% of San Francisco high schoolers reported to currently use an electronic vapor product (meaning, at least one day in the 30 days prior to being surveyed. This is **significantly less** than the 13.1% of San Francisco high schoolers who reported to currently use an electronic vapor product in 2015. Nationally in 2017, 13.2% of high schoolers reported to currently use an electronic vapor product;
- Importantly, the findings did not highlight that **in 2017 only .7% of San Francisco high schoolers reported that they used electronic vapor products daily** – this number is down from 1% of high schoolers reporting daily use in 2015. Nationally, 2.4% of high school students reported that they used electronic vapor products daily;
- In 2017, 13.6% of high school students who reported to currently use electronic cigarettes indicated that they usually got them by buying them in a store. **Importantly:**
  - “Store” is not specifically defined in the YRBS to be San Francisco City licensed tobacco retail establishment. However, it is inferred to be such on page 4 line 2 of the legislation.
  - In 2017, the total population of 9<sup>th</sup>-12<sup>th</sup> graders enrolled in the San Francisco Unified School District was reported to be ~15,861. **If 7.1% of high schoolers reported to currently use electronic cigarettes that would be ~1,126. If 13.1% of ~1,126 high schoolers reported to usually buy their electronic cigarettes in a store that would be ~153 students.**
  - The remaining 86.4% of the ~1126 high schoolers, it can be assumed, are obtaining their e-cigarettes from places other than a store – including friends, other social sources, and most critically from internet e-cigarette vendors.

A conclusion that may be drawn from the above data points is that San Francisco Tobacco Control Laws are generally working as intended. Overall tobacco use among 9<sup>th</sup>-12<sup>th</sup> graders is the lowest it has been since 1997. There were particularly sharp decreases in tobacco use from 2013 to 2015 which were likely due to the Tobacco Retail Permit requirement implementation.

Additionally, notable decreases in tobacco use in all but one measure were also reported between 2015 and 2017- likely due to the Flavored Tobacco Ban. **The one measure where there was a dramatic reported increase was in the number of high schoolers reporting that they smoked more than 10 cigarettes per day.** In 2015, 2.9% of current high school cigarette smokers reported to smoke more than 10 cigarettes per day. In 2017, that number increased to 9.7%.

***Considerations:***

As of December 2018 there were ~746 existing tobacco retail permits in San Francisco (see attached). This number has been steadily decreasing since the Tobacco Retail Density Ordinance was implemented (see attached). It is estimated that **at least~700 of the existing tobacco retailers may be held by small, independently owned grocers and corner stores, many of which are owned by minorities and immigrants.**

Critically and notwithstanding the fact that California has some of the highest business taxes in the nation, for these entities in particular, the cost of doing business in San Francisco is extraordinarily high. Over the past decade alone, commercial retail rents have skyrocketed and grocers and corner store owners have had to comply with a multitude of new local and state legislative measures including but not limited to: the [Minimum Wage Ordinance](#), the [Plastic, Litter, and Toxics Reduction Law](#), [Sugary Drinks Tax](#), the [Health Care Security Ordinance](#), the [San Francisco Bag Ban](#), the [Cigarette Litter Abatement Fee](#), the [Childcare Tax](#), the [Deemed Approved Use](#) ordinance, and the [Flavored Tobacco Ban](#). While these measures have undoubtedly been in the interest of the greater public good for San Franciscans, their sudden and successive implementation have had an adverse economic impact on many grocers and corner store owners (among other small businesses). Undeniably, these measures have also contributed to small business closures and potentially to the increase in the retail vacancy rate.

In San Francisco, e-cigarettes have been sold by grocers and corner stores for at least the past five years, likely longer. Those entities have factored past sales into their gross receipts projections. Although an economic impact study has not been commissioned by the City (though one was requested by the Commission in response to the flavored tobacco ban in 2017), one corner store owner shared with [the Chronicle](#) that an e-cigarette ban would cost him \$200-\$250 a day. Based on this number, conservatively, **it can be estimated that small business owners could stand to lose close to \$72,000 a year in sales if this legislation passes.** This is not inclusive of possible sunk costs in permit fees and e-cigarette.

Also notable, there were 222 Tobacco Check Inspections that the FDA has conducted in San Francisco since 2012, only one small and independently owned business was issued a warning letter for failing to verify the purchaser's age when they attempted to purchase an e-cigarette product<sup>4</sup>. There were eight violations observed in total by just six businesses who account for .54% of tobacco

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<sup>4</sup> [https://www.accessdata.fda.gov/scripts/oc/inspections/oc\\_insp\\_searching.cfm](https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm)

retail permit holders. The San Francisco Department of Public Health reported that in 2018, there were 21 instances by 20 businesses where it was found that a licensed tobacco retailer did not verify a purchaser's age, in other words, ~3%.

Also notable is that other controlled substances with a legal purchasing age of 21 and older, that have an equally if not greater negative impact on youth populations, such as cigarettes, alcohol, and cannabis have not been locally regulated as robustly as e-cigarettes. **This is especially odd given that both cannabis (which may also be consumed via an e-cigarette device) and e-cigarettes are not FDA approved.** Conspicuously, cannabis use among youth was reported in the YRBS to be higher than e-cigarette use. In 2017 16% of high school youth reported to be current users of cannabis and 7.1% of high schoolers reported to be current e-cigarette users.

### ***Expected Implications of the Ordinance:***

Should this legislation pass as written, there will be some small grocer and corner store closures. This will not only contribute to an increase in retail vacancies but also job losses- essentially, tantamount to a City sanctioned economic crisis. Additionally, crime may rise as well in more vulnerable neighborhoods.

According to a Harvard Business Review [study](#), retail closures were associated with an increase in crime. Why? Retail establishments, like small grocers and corner stores, generate foot traffic, and with later hours provide for additional external lighting. Foot traffic thus, provides a form of “incidental surveillance that can increase public safety” (Chang and Jacobson). As such, areas with high walk scores (i.e. dense neighborhood commercial areas) will see less significant crime increases with one or two retail establishments close. Areas with low walk scores will likely see higher rates of crime in the event of a retail closure. Relatedly, a City-wide e-cigarette ban may also contribute an increase in illegal transactions involving the product.

Additionally, despite unsubstantiated claims, e-cigarettes have been found to be a critical aid in cigarette smoking cessation among adult users. Indeed, according to a 2018 National Academy of Sciences, Engineering, and Medicine Report (also cited in the legislation), there is substantial evidence that completely switching from regular use of cigarettes to e-cigarettes results in reduced short-term adverse health outcomes in several organ systems. Importantly, substantial evidence is defined as having “supportive findings from good-quality observational studies or controlled trials with few or no credible opposing findings. A firm conclusion can be made, but minor limitations, including chance, bias, and confounding factors, cannot be ruled out with reasonable confidence”. As such, limiting access for adult users 21 and over who typically make their purchases at retail stores in San Francisco, would potentially have the adverse and unintended consequence of subverting their smoking cessation efforts and encouraging their continued use of cigarettes.



# San Francisco Tobacco Control Laws

(Revised March 2019)

## PROTECTION FROM SECOND HAND SMOKE

**Smoke-free Workplaces, Restaurants, & Bars:** [CA Labor Code 6404.5, \(2016\)](#). This State law prohibits smoking in enclosed workplaces, restaurants, and bars, including owner operated businesses. Restaurants and bars must post "No-Smoking" signs and remove ashtrays. [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). No smoking where food is served in outdoor dining areas of restaurants, cafes and coffee shops. No smoking in all bars. For more information call (415) 581-2400. Enforcement: Department of Public Health, San Francisco (415) 252-3903.

**Smoke-free Playgrounds and Tot Lots:** [CA Health and Safety Code, Sec 104495 \(2002\)](#). This State Law prohibits the smoking of tobacco products, including electronic cigarettes, within 25 feet of a playground or tot lot sandbox area. It also prohibits the disposal of tobacco-related waste (including but not limited to cigarette butts) in these areas. Enforcement: Department of Recreation and Park Patrol (415) 753-7015.

**Smoke-free Entrances:** [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). Smoking permitted only at curb of commercial, multi-unit residential and mixed use building entrances, exits, operable windows, and vents. If there is no curb, smoking is only permitted 15 feet or more away from entrances, exits, operable windows, and vents. Signs must be posted at entrances stating as such. [California Government Code Sections 7596-7598 \(2004\)](#). This State Law prohibits smoking of tobacco product, including electronic cigarettes, within 20 feet of main entrances, exits and operable windows of city, county and state buildings. For more information call (415) 581-2400.

**Tobacco free Parks and Recreation Athletic Fields:** [SF Health Code Article 19I, Sec 1009.81 \(2006\)](#). This ordinance bans smoking in unenclosed areas under the jurisdiction of the City, including parks, squares, gardens, sport or playing fields. Enforcement: Department of Recreation and Park Patrol (415) 753-7015.

**Smoke-free Public Transit Vehicles, Stations, and Stops:** [CA Health and Safety Code Sec 118925-118945](#) and [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). These



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ordinances ban smoking of tobacco products, including electronic cigarettes, in public transit vehicles or at public transit stops and shelters. For information call (415) 581-2400.

**Smoke-free Public Golf Courses:** [SF Health Code Article 19I, Sec 1009.81 \(2006\)](#). This ordinance bans smoking, including electronic cigarettes, on public golf courses. For information call (415) 753-7015.

**Smoke-free Cars:** [CA Health & Safety Code, Sec 118947-118949 \(2008\)](#). This state law bans smoking of tobacco products, including electronic cigarettes, in any motor vehicle in which there is a minor under 18 years old, regardless of whether the vehicle is in motion or at rest.

**Smoke-free Taxis:** [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). This ordinance bans smoking in taxicabs and other motor vehicles for hire.

**Smoke-free Charity Bingo Games:** [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). No smoking during charity bingo games. For more information call (415) 581-2400. Enforcement: Department of Public Health, San Francisco. (415) 252-3800.

**Smoke-free Piers, Wharfs, Dock, Bulkhead, or Marine Facility:** [SF Police Code Article 1, Sec 55 \(1944\)](#). It shall be unlawful for any person to smoke, carry or possess a lighted cigar, cigarette, or pipe, or to smoke tobacco or any other similar substance in any form, or to ignite any match or mechanical lighter on or in any wharf, pier, dock, bulkhead, or marine facility

**Smoke-free Service Waiting Lines:** [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). No smoking within designated areas where customers are required to wait to do business including at ATMs ticket lines, movie theater lines, athletic event lines, concert event lines, and at cab stands.

**Smoke-free Tobacco Shops:** [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). No smoking in tobacco shops. For more information call (415) 581-2400. Enforcement: Department of Public Health, San Francisco. (415) 252-3800.

**Smoke-free Farmers Markets:** [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). No smoking at all farmers markets.

**Smoke-free Common Areas of Multi-Unit Residences:** [SF Health Code Article 19F, Sec 1009.22 \(2010\)](#). No smoking in enclosed common areas of multi-unit residences



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including common halls, elevators, parking areas, lobbies, waiting areas, bathrooms, cooking, dining, lounge, laundry facilities, and recreation areas. Tenant smoking in their private unit must keep front door of their private unit closed while smoking. For more information call (415) 581-2400.

Enforcement: Department of Public Health, San Francisco (415) 252-3800.

**Smoke-free Public Housing:** *SF Public Housing Authority Admissions and Continued Occupancy Policy (2010)*. All new leases will state that premises and any interior common areas, including but not limited to individual units, community rooms, community bathrooms, lobbies, reception areas, hallways, laundry rooms, stairways, offices and elevators, occupied by Resident, members of Resident's household and any guest of the Resident shall be smoke free.

**Smoke-free Outdoor Events:** *SF Health Code Article 19L, (2013)*. Smoking is not permitted at public events on City & County property that require City & County permits, except for neighborhood block parties. Requires event organizers to notify the public that event is smoke-free. For information call: (415) 581-2400.

**Disclosure of Landlord's Designation of Smoke-free and Smoking-optional Multi-Unit Rental Properties:** *SF Health Code Article 19M (2013)*. Landlords of multi-unit residential properties, including Single Residency Occupancy Hotels (SROs) are required to: designate all units as smoke-free or smoking-optional: include designation in vacancy listings; and provide a list of smoking-optional units before offering a unit to an applicant. Buildings with 100% smoke-free units are exempt. For information call: (415) 581-2400.

**Electronic Cigarette Usage Prohibited in any Location Traditional Cigarette Usage is Prohibited:** *SF Health Code Article 19N (2014)*. The use of electronic cigarettes is prohibited wherever smoking of tobacco products is prohibited by law including Articles 19 et seq. of the Health Code. All limitations and requirements of tobacco availability and promotion apply to electronic cigarettes as well. *Senate Bill X2-5 (2016)*. The use of electronic cigarettes is now considered a tobacco product and usage is prohibited wherever tobacco product usage is prohibited by state law.

## TOBACCO PROMOTION AND SPONSORSHIP

**Ban on Tobacco Advertising on City & County Property:** *SF Administrative Code, Chapter 4, Sec 4.20, (1992)*. This ordinance bans tobacco advertising and placement



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of names of tobacco companies or tobacco products on City & County property. E-cigarette advertising applies as well. For information call (415) 581-2400.

**Ban on Tobacco Advertising in the City:** [SF Police Code Article 10, Sec. 674 \(2004\)](#). No person shall place or maintain, or cause or allow to be placed or maintained, in any manner any advertising or promotion of cigarettes or tobacco products on a billboard or advertising display sign in a publicly visible location in the City.

**Ban on Tobacco Promotional Items in San Francisco Schools:** [SFUSD Student and Family Handbook \(2013\)](#). The San Francisco Unified School District's Dress Code prohibits the wearing and carrying of tobacco promotional items in the schools. For information call: (415) 581-2400.

**Ban on Tobacco Companies Sponsoring any Athletic, Musical, Artistic, or other Social or Cultural Event:** [Code of Federal Regulations, Title 21, Sec 1140.34 \(2013\)](#). No manufacturer, distributor, or retailer may sponsor or cause to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event.

## TOBACCO AVAILABILITY

**Tobacco Free Pharmacies:** [SF Health Article Code 19J, Sec 1009.92 \(2008\)](#). This ordinance prohibits the sales of tobacco products at pharmacies including electronic cigarettes. For information call (415) 581-2400.

**Tobacco Free City & County Property:** [SF Health Code Article 19K, Sec 1010.1 \(2008\)](#). This ordinance bans tobacco and electronic cigarette sales on City & County property. For more information call (415) 581-2400.

**Requirement of Permit for Tobacco Sales:** [SF Health Code Article 19H \(2014\) / Assembly Bill X2-11 \(2016\)](#). These ordinances require that anyone who engages in or allows tobacco product sales to obtain a valid permit from the Department of Public Health and Board of Equalization. These permits must be renewed annually and permitted establishments must comply with all tobacco control laws listed throughout this document to maintain their permits. All tobacco retailers must have both a San Francisco Department of Public and Board of Equalization to sell in San Francisco.  
Enforcement: Department of Public Health (415) 252-3800. SF Health Code Article



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19H was amended in 2015 to include a density element. There is now a cap of 45 permits per supervisorial district, therefore no new permits will be issued in a district with 45 or more tobacco retailers. Also, no new permits will be issued in a new location. No permits will be issued if the retail location is within 500 feet of another tobacco retailer or school.

**a) Self-Service Display Ban:** [SF Police Code Article 46, Sec 4600.3 \(1996\) / Senate Bill X2-5 \(2016\)](#). These ordinances prohibit self-service displays of tobacco products. A self-service display is a rack, shelf or kiosk that holds tobacco products such as cigarettes or containers of chewing tobacco that the public has access to without a clerk's help. For more information call (415) 581-2400.

**c) Increasing of Minimum Purchasing Age:** [SF Health Code Article 19H \(2016\) / Senate Bill X2-7 \(2016\)](#). These ordinances increase the minimum purchasing age of all tobacco products from 18 to 21 years of age. The focus of enforcement will be on the sale of tobacco products NOT the possession or use of tobacco products by young people.

**Ban on Cigarette Vending Machines:** [SF Health Code Article 19D, Sec 1009.1, \(1997\)](#). This San Francisco ordinance bans cigarette vending machines in the City & County of San Francisco including vending machines located in places where minors are not permitted by law such as bars. For more information call (415) 581-2400. Enforcement: Department of Public Health (415) 252-3800.

**Illegal Sale of Tobacco to Minors:** [CA Penal Code 308, \(2016\)](#). This state law prohibits retailers from selling tobacco products to persons under 21 years of age. This includes the sale of cigarette papers and paraphernalia that is designed for the use of tobacco or any controlled substance. Enforcement: call (415) 970-3062. To report sales to minors call: 1-800-527-5443.

**Ban on Free Distribution of Tobacco Products or Coupons:** [SF Police Code, Article 1, Sec 95 \(1988\)](#). This San Francisco ordinance makes it illegal to give away free samples of tobacco products in public areas. This includes coupons or other materials that can be turned in for free tobacco products. Amended in 2008 to include tobacco accessories in any place open to the public including bars and nightclubs. Enforcement: District Police Station.

**Ban on Free Distribution of Tobacco Products:** [CA Health and Safety Code, Section 118950](#). This State Law prohibits the distribution of free or low-cost tobacco



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products, coupons, coupon offers, and rebate offers on public grounds, and on private grounds that are open to the public. Enforcement: San Francisco Police Department (415) 970-3062. Tobacco Control Act, Section 102 (2016). This federal law prohibits the distribution of free samples of newly deemed tobacco products, as required by section 102 of the Tobacco Control Act.

**Ban on sales of single cigarettes:** [CA Penal Code, Sec. 308.2 \(1991\)](#). It is illegal to sell one or more cigarettes except in the manufacturer's package, sealed and properly labeled under federal labeling requirements. For more information call (415) 581-2400. Enforcement: San Francisco Police Department (415) 970-0362

**Restrictions regarding the sale of "Bidi" cigarettes:** [CA Penal Code, Sec 308.1 \(2002\)](#). Prohibits the sale, distribution, or importation of "Bidis" with the exception of businesses where minors are not permitted by law. Enforcement: San Francisco Police Department (415) 970-3062

**Minimum Package Size:** [CA Penal Code, Section 308.3 \(2002\)](#). This State law indicates that cigarettes may not be manufactured, distributed, sold, or offered for sale in packages of less than 20 cigarettes. Roll-your-own tobacco may not be manufactured, distributed, sold, or offered for sale in a package containing less than 0.60 ounces of tobacco. Enforcement: San Francisco Police Department (415) 970-3062.

**Child resistant Packaging:** Senate Bill X2-5 (2016). This state law requires all cartridges for electronic cigarettes and solutions for filling or refilling an electronic cigarette shall be in child resistant packaging effective October 1, 2016. "Child resistant packaging" means packaging that meets the specifications in Section 1700.15(b) of, and is tested by the method described in Section 1700.20 of, Title 16 of the Code of Federal Regulations.

**Ban on the Sale of Flavored Tobacco Products:** [SF Health Code, Article 19Q](#) This San Francisco ordinance makes it illegal to sell or distribute flavored tobacco products in San Francisco. Enforcement: Department of Public Health, [Environmental Health Branch](#)

## TOBACCO USAGE



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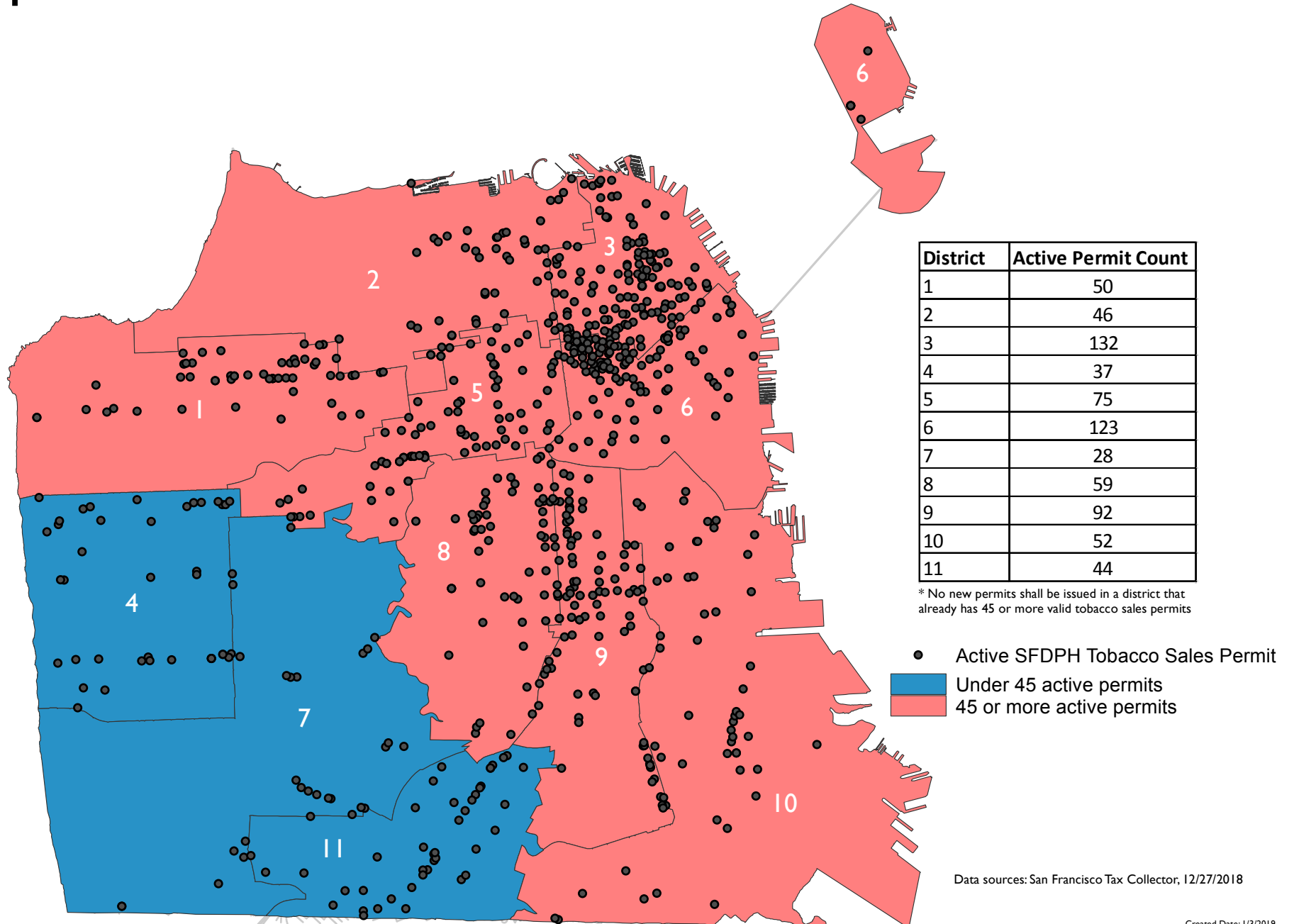
**Tobacco Free Ball Parks:** *SF Health Code 19O (2015)/ AB-768 (2015)*. These ordinances prohibit the usage of smokeless tobacco at all sport or playing fields in San Francisco.



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# Density of Active SFDPH Tobacco Sales Permits by Supervisor District

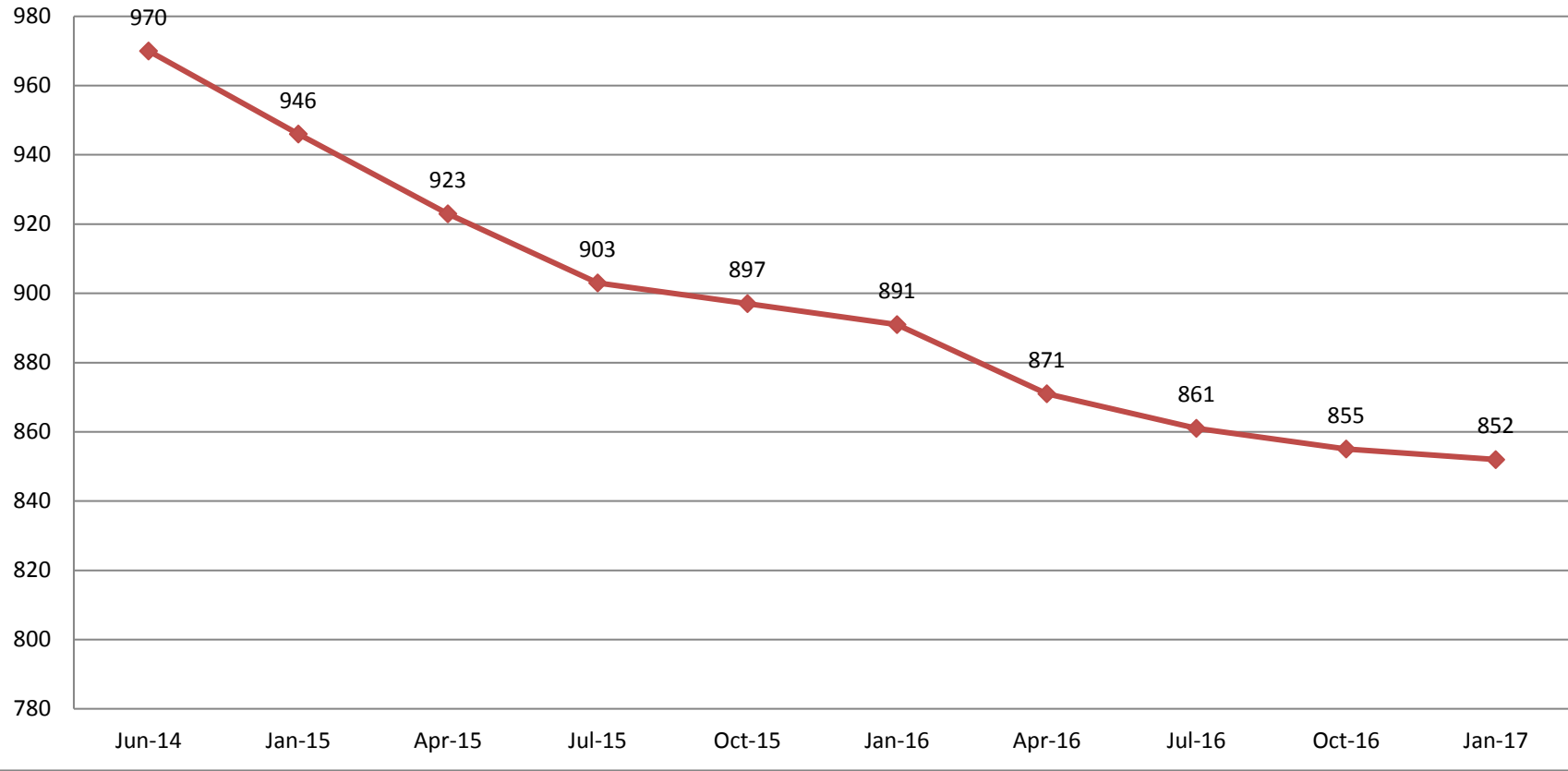
City and County of San Francisco Department of Public Health: Environmental Health Branch



Data sources: San Francisco Tax Collector, 12/27/2018

Created Date: 1/3/2019

## Total Tobacco Permits in SF since Implementation of Tobacco Retail Density Ordinance

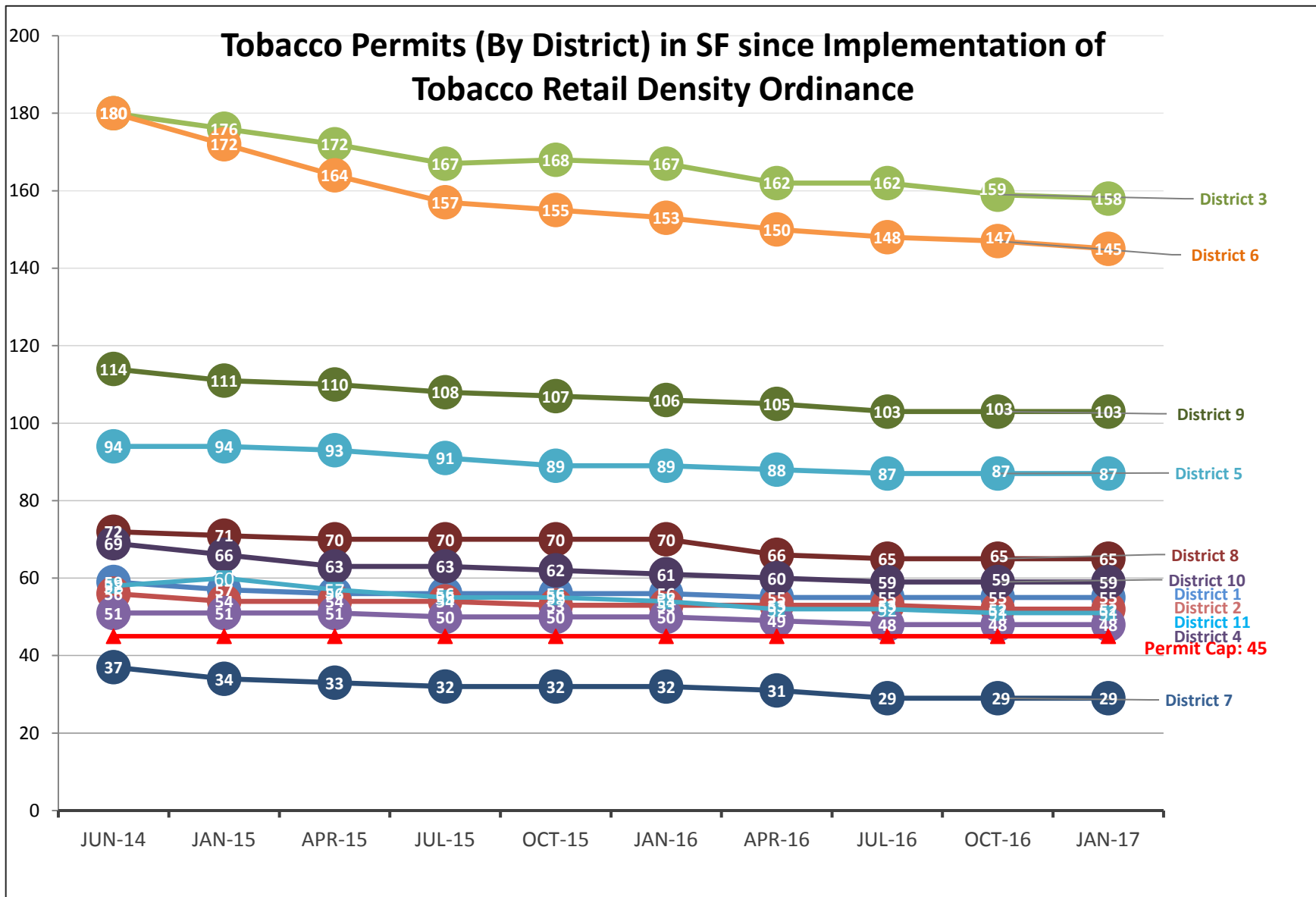


District	Jun-14	Jan-15	Apr-15	Jul-15	Oct-15	Jan-16	Apr-16	Jul-16	Oct-16	Jan-17	% Change from 6/2014 to 1/2017
1	59	57	56	56	56	56	55	55	55	55	-6.78%
2	56	54	54	54	53	53	53	53	52	52	-7.14%
3	180	176	172	167	168	167	162	162	159	158	-12.22%
4	51	51	51	50	50	50	49	48	48	48	-5.88%
5	94	94	93	91	89	89	88	87	87	87	-7.45%
6	180	172	164	157	155	153	150	148	147	145	-19.44%
7	37	34	33	32	32	32	31	29	29	29	-21.62%
8	72	71	70	70	70	70	66	65	65	65	-9.72%
9	114	111	110	108	107	106	105	103	103	103	-9.65%
10	69	66	63	63	62	61	60	59	59	59	-14.49%
11	58	60	57	55	55	54	52	52	51	51	-12.07%
Density Cap	45	45	45	45	45	45	45	45	45	45	0.00%
<b>Total Permits</b>	970	946	923	903	897	891	871	861	855	852	-12.16%

D3 in July 2016 is 162 counting The Humidor

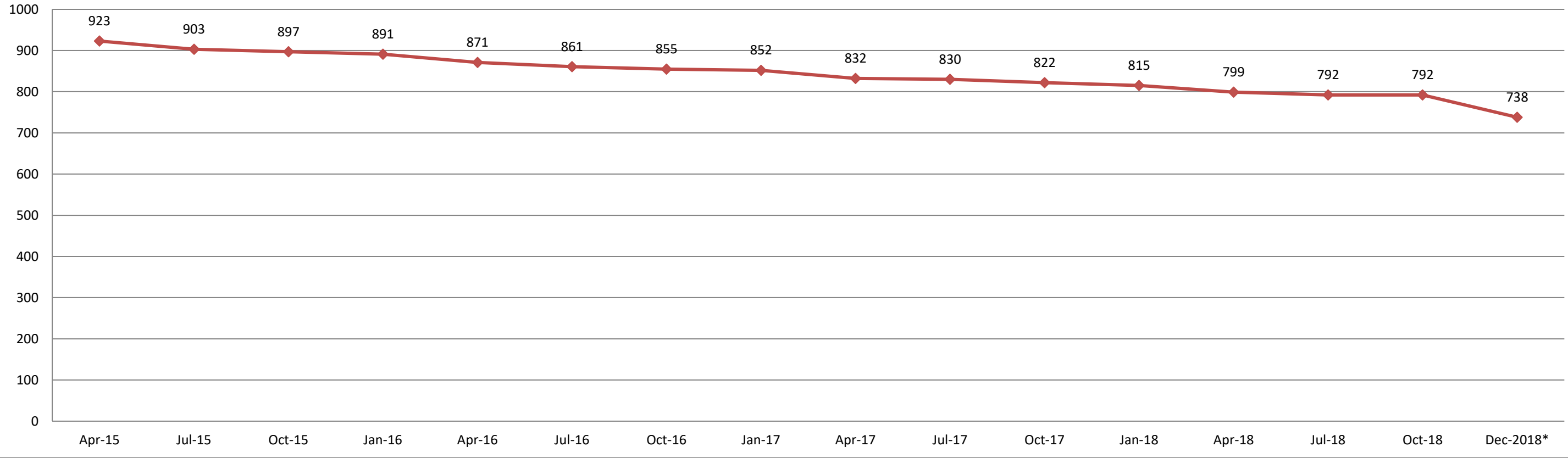
D6 in July 2016 is 148 not counting SOMA Wines

## Tobacco Permits (By District) in SF since Implementation of Tobacco Retail Density Ordinance

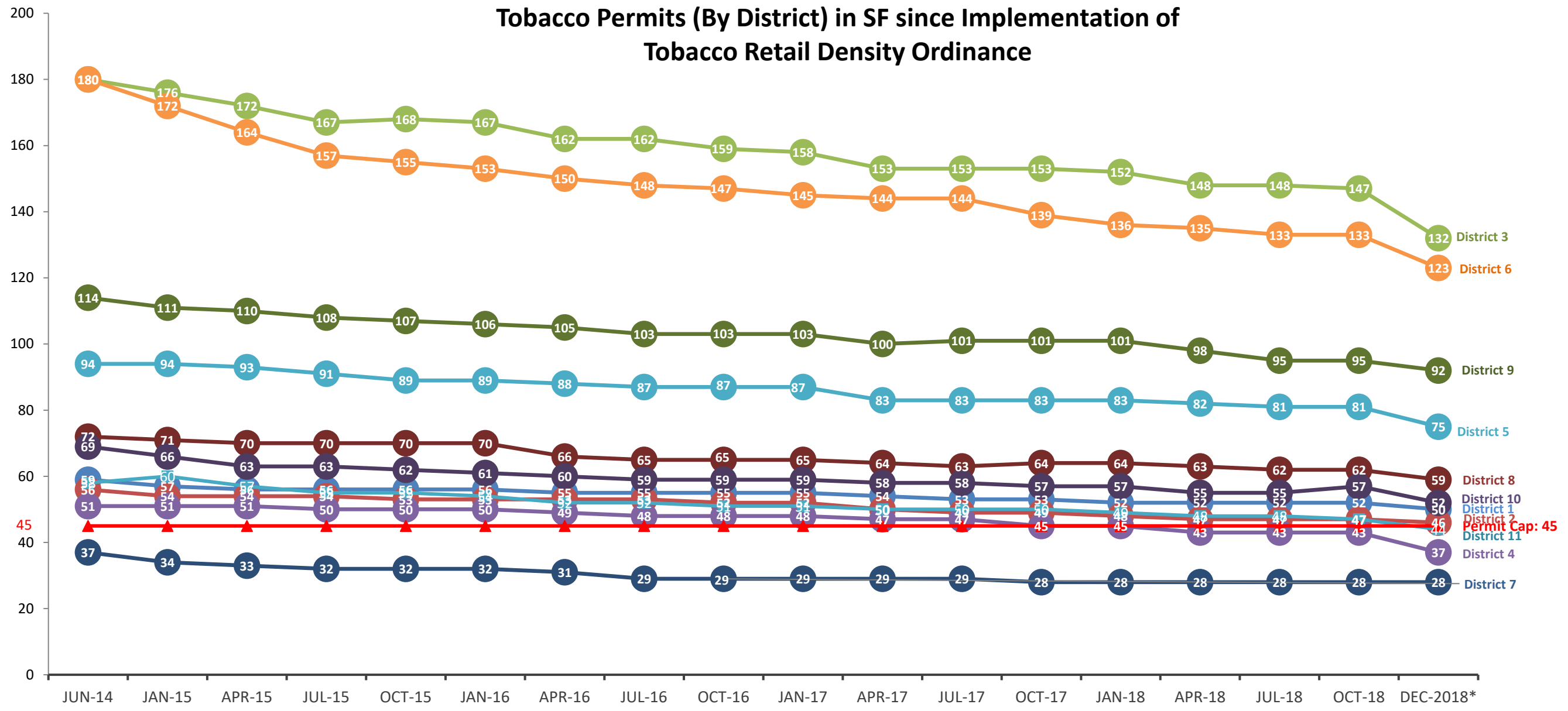




### Total Tobacco Permits in SF since Implementation of Tobacco Retail Density Ordinance



### Tobacco Permits (By District) in SF since Implementation of Tobacco Retail Density Ordinance



Permit Cap: 45

District	Jun-14	Jan-15	Apr-15	Jul-15	Oct-15	Jan-16	Apr-16	Jul-16	Oct-16	Jan-17	Apr-17	Jul-17	Oct-17	Jan-18	Apr-18	Jul-18	Oct-18	Dec-2018*	% Change from 6/2014 to 12/2018
1	59	57	56	56	56	56	55	55	55	55	54	53	53	52	52	52	52	50	-15.25%
2	56	54	54	54	53	53	53	53	52	52	50	49	49	48	47	47	47	46	-17.86%
3	180	176	172	167	168	167	162	162	159	158	153	153	153	152	148	148	147	132	-26.67%
4	51	51	51	50	50	50	49	48	48	48	47	47	45	45	43	43	43	37	-27.45%
5	94	94	93	91	89	89	88	87	87	87	83	83	83	83	82	81	81	75	-20.21%
6	180	172	164	157	155	153	150	148	147	145	144	144	139	136	135	133	133	123	-31.67%
7	37	34	33	32	32	32	31	29	29	29	29	29	28	28	28	28	28	28	-24.32%
8	72	71	70	70	70	70	66	65	65	65	64	63	64	64	63	62	62	59	-18.06%
9	114	111	110	108	107	106	105	103	103	103	100	101	101	101	98	95	95	92	-19.30%
10	69	66	63	63	62	61	60	59	59	59	58	58	57	57	55	55	57	52	-24.64%
11	58	60	57	55	55	54	52	52	51	51	50	50	50	49	48	48	47	44	-24.14%
Density Cap	45	45	45	45	45	45	45	45	45	45	45	45	45	45	45	45	45	45	0.00%
Total Permits	970	946	923	903	897	891	871	861	855	852	832	830	822	815	799	792	792	738	-23.92%

\* New method of obtaining tobacco permit data - beginning 12/27/18, TTX data is used by Environmental Health (no longer the EHD system data)