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 big 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.

Despite a $12-million dollar ad blizzard by a big 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. It is said to be the most restrictive in the country.

Although the vote had been expected to be tight, city residents overwhelmingly favored so-called Proposition E, roughly 68 percent to 32 percent.

“We believe the success of Proposition E will encourage other cities to follow suit and end the sale of candy-flavored tobacco before nicotine addiction claims a new generation of young people,” said Dr. Melissa Welch, a spokeswoman for the American Heart Association, one of several national organizations that fought to uphold the ban.

Some analysts said the results reflected a huge 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, suggesting that it would have been smarter to compromise by saying, “We will not oppose this if you only ban flavors for combustible tobacco products, and leave some flavors for e-cigarettes and less harmful products.”
“Instead,” he said, “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 growing 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.

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.”

A handful of other cities, including Chicago, New York and Providence, R.I., have narrower types of 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.”

Oakland recently passed restrictions which 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.

Libertarians took up the protest too, 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.

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.

But 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.

A leading voice behind the ban was the African-American Tobacco Control Leadership Council, a local group that has sought to limit sales of flavored tobacco near schools in numerous jurisdictions. Its attention to menthol in particular was in response to the booming sales of Newport 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 council.