

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. M-20-4 ENACTMENT NO. m. 2020.003

SPONSORED BY: Isaac Benton and Cynthia D. Borrego

MEMORIAL

URGING THE LEGISLATURE OF THE STATE OF NEW MEXICO TO REPEAL
STATUTORY PROVISIONS PREEMPTING STRICTER COUNTY AND
MUNICIPAL REGULATION OF THE SALE OF CIGARETTES, TOBACCO
PRODUCTS, AND ELECTRONIC SMOKING DEVICES.

WHEREAS, the American Heart Association reports approximately 2,600
New Mexico residents die from smoking each year and 40,000 New Mexico
children alive today will die prematurely from smoking if nothing is done to
reduce tobacco use, indicating tobacco use continues to be a public health
problem in New Mexico; and

WHEREAS, the New Mexico 2019 Youth Risk and Resiliency Survey (YRRS)
indicated that 8.9% of New Mexico high school students smoked cigarettes on
at least one day in the past 30 days, higher than the national rate of 5.8% that
year; and

WHEREAS, the 2019 YRRS indicated 34.0% of high school students in New
Mexico used electronic vapor products on at least one day in the past 30 days,
higher than the national rate of 27.5% that year; and

WHEREAS, in 2019 5.9% of New Mexico high school students used
chewing tobacco, snuff or dip on at least one day in the past 30 days, higher
than the national rate of 4.8% in 2019; and

WHEREAS, 8.3% of high school students in New Mexico in 2019 smoked
cigars, cigarillos or little cigars on at least one day in the past 30 days, higher
than the national rate of 7.6% in 2019; and

WHEREAS, in 2020 the New Mexico State Legislature passed Senate Bill
131, later signed into law on March 4, 2020 as Chapter 46, part of which

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1 declares the sale of cigarettes, tobacco products, and electronic smoking
2 devices are matters of statewide concern; and

3 WHEREAS, by designating regulatory authority to the State, Chapter 46
4 preempts all local ordinances or regulations that govern the sale of cigarettes,
5 tobacco products, and electronic smoking devices, thereby nullifying and
6 voiding all conflicting, existing local laws and regulations and restricting the
7 ability of local communities to address their own burden of tobacco use and
8 addiction; and

9 WHEREAS, the New Mexico 2015 State Legislature passed Senate Bill 433,
10 signed into law on April 8, 2015 which repealed the provision (Section 30-49-
11 11 NMSA 1978 being Laws 1993, Chapter 244, Section 11) to read, provided
12 that local ordinances that pertain to the sale of e-cigarettes or nicotine liquid
13 containers must be consistent with the provisions of the Tobacco Products, E-
14 Cigarette and Nicotine Liquid Container Act; after "county", added "including
15 a home rule municipality or urban county", after "tobacco products", added
16 "e-cigarette or nicotine liquid containers", and after "Tobacco Products",
17 added "E-Cigarette and Nicotine Liquid Container"; and

18 WHEREAS, prior to the enactment of SB 433, New Mexico counties issued
19 their own smoking and tobacco control ordinances, some of which were more
20 stringent than State laws regulating the sale or use of tobacco products; and

21 WHEREAS, one of the top objectives of the "Healthy People 2020" campaign
22 as conducted by the Federal Office of Disease Prevention and Health Promotion
23 is to "eliminate state laws that preempt stronger local tobacco control laws";
24 and

25 WHEREAS, the City of Albuquerque believes statistical variations in tobacco
26 use by the public demonstrate its people are unique and the City should not be
27 prevented from adopting its own tobacco control laws and regulations to
28 address the specific needs of its communities; and

29 WHEREAS, the City of Albuquerque further believes that authorizing
30 counties and municipalities to further regulate the sale or use of cigarettes,
31 tobacco products, and electronic smoking devices, is necessary to combat this
32 public health problem.

BE IT MEMORIALIZED BY THE COUNCIL, THE GOVERNING BODY OF THE
CITY OF ALBUQUERQUE: The City Council of Albuquerque urges The New
Mexico State Legislature to repeal the statutory provisions preempting stricter
local and county regulation of the sale of cigarettes, tobacco products, and
electronic smoking devices, and that copies of this memorial be transmitted to
the Bernalillo County Commissioners, the New Mexico State Governor, and
the members of the New Mexico State Legislature.

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1 PASSED AND ADOPTED THIS 21st DAY OF September, 2020
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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8 Patrick Davis, President
9 City Council
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16 Bill No. M-20-4
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27 ATTEST:
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30 Ethan Watson, City Clerk
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