

# **Proposed State and Local Regulation of RF Emissions**

January 11, 2010

## Proposed State and Local Regulation of RF Emissions

The Maine Legislature and the San Francisco Board of Supervisors are actively considering legislation that would impose warning requirements on wireless handsets and other regulations concerning RF emissions, even though the phones comply with the FCC's existing RF emission standards.

### Maine

The Maine Legislature is considering a bill (HP 1207, LD 1706) entitled the "Children's Wireless Protection Act" (Attachment 1) that would prohibit manufacturers of wireless phones from selling phones in Maine or to retailers in Maine – or "for use in" Maine – unless the device and its packaging contain certain warnings:

(1) The handset and packaging must bear a "prominent," "conspicuous," and "nonremovable" warning label containing the following statement:

**WARNING, THIS DEVICE EMITS ELECTROMAGNETIC RADIATION, EXPOSURE TO WHICH MAY CAUSE BRAIN CANCER. USERS, ESPECIALLY CHILDREN AND PREGNANT WOMEN, SHOULD KEEP THIS DEVICE AWAY FROM THE HEAD AND BODY.**

(2) The warning label must take up "at least 30% of the back surface" of the handset and must appear on the front and the back of the phone's "packaging."

(3) The legislation directs the Maine Department of Health and Human Services to require by regulation that the warning contain a "color graphic" of the "brain of a 5-year old," which "must be positioned beside the words of warning using small red arrows labeled 'cell phone' and 'radiation area.'" (Attachment 3)

(4) The bill further directs the agency to require that the warning "be a permanent nonremovable advisory of risk," in black type, except for the word "warning," which must be in large, red capital letters, "all on a field of white, with a narrow red border."

The Maine bill is currently being considered as part of Maine's emergency legislative session.

The bill will receive a committee hearing and vote before going to the full legislature; the schedule will be available the week of Jan. 19, but the hearing will almost certainly take place in early February. All bills must be heard by the middle of March.

## San Francisco

The San Francisco Commission on the Environment ("COE") is considering a resolution (Attachment 4) "recommending measures for educating the public on and reducing exposure to radiation from cell phones." The resolution calls for the Board of Supervisors to adopt a proposal that would:

- (1) recommend that the State of California and the federal government adopt legislation that requires that warning labels be placed on all cell phone packaging regarding exposure to radiation, especially for children;
- (2) require the specific absorption rate ("SAR") for each wireless device to be posted at the point of sale in type at least as large as the price;
- (3) recommend a host of limitations on use of cellphones by children because of alleged sensitivity; and
- (4) involve city government in "ways to encourage cell phone companies to develop technologies, products, and educational programs that facilitate the safest possible use of cell phones" and in developing educational campaigns "to help consumers identify low SAR value phones and protective measures to reduce exposure to cell phone radiation."

The next step would be for the full COE to vote on the proposal; this may happen at the COE's next meeting on January 26th. If approved, the resolution would go to the Board of Supervisors, who may vote on it as early as February. It would then go to the mayor for signature.

\* \* \*

In both jurisdictions, the proposed legislation is based on the assessment that federal standards are wrong. For example, in the view of the San Francisco COE, the FCC has merely "accepted the safety standards for cell phone radiation set by the electronics professional trade association, the Institute of Electrical and Electronic Engineers (IEEE)."

In doing so, according to the COE, the FCC "do[es] not provide sufficient protection in determining a maximum allowable SAR value of 1.6 W/Kg for the human head and brain." In particular, according to the COE, the Commission has not accounted for "increased vulnerabilities of children." Criticizing the FCC standard, COE member and spokesperson Debbie Raphael has said that the FCC's safety standard is based on short-term effects and "very little information." The proposal also calls for the federal government to review and revise the existing standard "based on concerns for children and long-term effects."

Likewise, in Maine the sponsor of the legislation, Andrea Boland, concluded that the legislation is necessary because "numerous studies" have shown that wireless phone use carries an increased risk of cancer and that users "do not know what the risks are." (see Attachment 2).

Officials in both jurisdictions have indicated that they intend and expect their initiatives to serve as a model for other state and local jurisdictions in adopting their own requirements. For example, San Francisco Mayor Gavin Newsom has said that if San Francisco "prevail[s], other cities will follow suit." (see Attachment 5).

## Attachments

1. HP 1207, "An Act to Create the Children's Wireless Protection Act," LD 1706, LR 2212, 124th Maine Legislature (Jan. 2010).
2. Glenn Adams, *Maine to Consider Cell Phone Warnings*, Associated Press (Dec. 21, 2009).
3. Color Graphic, "Brain of a 5-Year-Old," Gandhi *et al.* (referenced in Maine proposal).
4. Policy Committee, San Francisco Commission on the Environment, Policy Options (adopted Dec. 14, 2009).
5. Debra J. Saunders, *Mayor Can't Keep His Nose Out of Cell Phone Business*, S.F. CHRONICLE, D6 (Dec. 20, 2009).

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Create the Children's Wireless Protection Act**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA c. 261-B** is enacted to read:

### **CHAPTER 261-B**

### **CHILDREN'S WIRELESS PROTECTION ACT**

#### **§ 1537. Warning labels for cellular telephones**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

**A. "Cellular telephone"** means a device used to access a wireless telephone service.

**2. Warning label required.** A manufacturer of cellular telephones may not sell at retail in this State, to a retailer in this State, or for use in this State a cellular telephone unless the cellular telephone and its packaging bear a warning label that is legible, nonremovable, is located in a prominent place that is conspicuous and not obscured by other written matter, contrasts with the type, layout and color of the other printed matter, includes a color graphic symbol, appears on both the front and back of the packaging, takes up at least 30% of the back surface of the cellular telephone and contains the following statement:

"WARNING, THIS DEVICE EMITS ELECTROMAGNETIC RADIATION, EXPOSURE TO WHICH MAY CAUSE BRAIN CANCER. USERS, ESPECIALLY CHILDREN AND PREGNANT WOMEN, SHOULD KEEP THIS DEVICE AWAY FROM THE HEAD AND BODY."

The requirements of this subsection may not result in a cost to the retailer or distributor of cellular telephones.

**3. Violation.** A violation of this section is a violation of the Maine Unfair Trade Practices Act.

**4. Rulemaking.** The department shall adopt rules to implement this section, including, but not limited to, rules establishing requirements for uniform warning labels for cellular telephones and cellular telephone packaging under this section. Rules adopted under this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Rulemaking; requirements.** In adopting initial rules establishing requirements for uniform warning labels pursuant to the Maine Revised Statutes, Title 22, section 1537, the Department of Health and Human Services shall adopt rules requiring that warning labels:

1. Be a permanent nonremovable advisory of risk, in black type, except for the word "warning," which must be large and in red, capital letters, all on a field of white, with a narrow red border; and
2. Include a color graphic of "Brain of 5-year-old" depicted by O.P. Gandhi et al., in IEEE Transactions on Microwave Theory and Techniques, "Electromagnetic Absorption in the Human Head and Neck for Mobiletelephones at 835 and 1900 MHz," 1996 44(10): 1884-1897, which must be positioned beside the words of warning using small red arrows labeled "cell phone" and "radiation area," pointing to those respective areas of the graphic and containing beneath the graphic the label, "Brain of 5-year-old," with attribution in tiny print as appropriate, the entire graphic taking up 30% of the label.

### SUMMARY

This bill provides that a manufacturer may not sell at retail in this State, or to a retailer in this State or for use in this State a cellular telephone unless, at no cost to the Maine retailer or Maine distributor, the cellular telephone and its packaging bear a warning label relating to the potential for brain cancer associated with electromagnetic radiation of the form emitted from cellular telephones, with the recommendation that users, especially children and pregnant women, keep the device away from the head and body. A violation of this provision is a violation of the Maine Unfair Trade Practices Act.



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December 21, 2009 Monday 9:11 PM GMT

**SECTION:** DOMESTIC NEWS

**LENGTH:** 852 words

**HEADLINE:** Maine to consider cell phone cancer warning

**BYLINE:** By GLENN ADAMS, Associated Press Writer

**DATELINE:** AUGUSTA Maine

**BODY:**

A Maine legislator wants to make the state the first to require cell phones to carry warnings that they can cause brain cancer, although there is no consensus among scientists that they do and industry leaders dispute the claim.

The now-ubiquitous devices carry such warnings in some countries, though no U.S. states require them, according to the National Conference of State Legislators. A similar effort is afoot in San Francisco, where Mayor Gavin Newsom wants his city to be the nation's first to require the warnings.

Maine Rep. Andrea Boland, D-Sanford, said numerous studies point to the cancer risk, and she has persuaded legislative leaders to allow her proposal to come up for discussion during the 2010 session that begins in January, a session usually reserved for emergency and governors' bills.

Boland herself uses a cell phone, but with a speaker to keep the phone away from her head. She also leaves the phone off unless she's expecting a call. At issue is radiation emitted by all cell phones.

Under Boland's bill, manufacturers would have to put labels on phones and packaging warning of the potential for brain cancer associated with electromagnetic radiation. The warnings would recommend that users, especially children and pregnant women, keep the devices away from their head and body.

The Federal Communications Commission, which maintains that all cell phones sold in the U.S. are safe, has set a standard for the "specific absorption rate" of radiofrequency energy, but it doesn't require handset makers to divulge radiation levels.

The San Francisco proposal would require the display of the absorption rate level next to each phone in print at least as big as the price. Boland's bill is not specific about absorption rate levels, but would require a permanent, nonremovable advisory of risk in black type, except for the word "warning," which would be large and in red letters. It would also include a color graphic of a child's brain next to the warning.

While there's little agreement about the health hazards, Boland said Maine's roughly 950,000 cell phone users among its 1.3 million residents "do not know what the risks are."

All told, more than 270 million people subscribed to cellular telephone service last year in the United States, an increase from 110 million in 2000, according to CTIA-The Wireless Association. The industry group contends the devices are safe.



Maine to consider cell phone cancer warning Associated Press Online December 21, 2009 Monday 9:11 PM GMT

"With respect to the matter of health effects associated with wireless base stations and the use of wireless devices, CTIA and the wireless industry have always been guided by science, and the views of impartial health organizations. The peer-reviewed scientific evidence has overwhelmingly indicated that wireless devices do not pose a public health risk," said CTIA's John Walls.

James Keller of Lewiston, whose cell phone serves as his only phone, seemed skeptical about warning labels. He said many things may cause cancer but lack scientific evidence to support that belief. Besides, he said, people can't live without cell phones.

"It seems a little silly to me, but it's not going to hurt anyone to have a warning on there. If they're really concerned about it, go ahead and put a warning on it," he said outside a sporting good store in Topsham. "It wouldn't deter me from buying a phone."

While there's been no long-term studies on cell phones and cancer, some scientists suggest erring on the side of caution.

Last year, Dr. Ronald B. Herberman, director emeritus of the University of Pittsburgh Cancer Institute, sent a memo to about 3,000 faculty and staff members warning of risks based on early, unpublished data. He said that children should use the phones only for emergencies because their brains were still developing and that adults should keep the phone away from the head and use a speakerphone or a wireless headset.

Herberman, who says scientific conclusions often take too long, is one of numerous doctors and researchers who have endorsed an August report by retired electronics engineer L. Lloyd Morgan. The report highlights a study that found significantly increased risk of brain tumors from 10 or more years of cell phone or cordless phone use.

Also, the BioInitiative Working Group, an international group of scientists, notes that many countries have issued warnings and that the European Parliament has passed a resolution calling for governmental action to address concerns over health risks from mobile phone use.

But the National Cancer Institute said studies thus far have turned up mixed and inconsistent results, noting that cell phones did not come into widespread use in the United States until the 1990s.

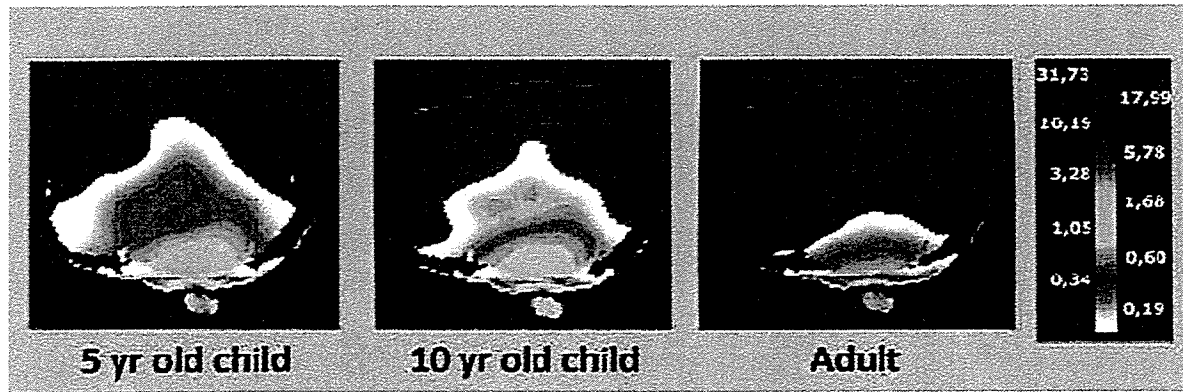
"Although research has not consistently demonstrated a link between cellular telephone use and cancer, scientists still caution that further surveillance is needed before conclusions can be drawn," according to the Cancer Institute's Web site.

Motorola Inc., one of the nation's major wireless phone makers, says on its Web site that all of its products comply with international safety guidelines for radiofrequency energy exposure.

A Motorola official referred questions to CTIA.

**LOAD-DATE:** December 22, 2009

**Graphic: "Brain of a Five-Year Old"**  
(nonremovable "label" mandated by proposed Maine legislation)



Source: Gandhi *et al.*, IEEE Transactions on Microwave Theory and Techniques, 1996.

1 [CELL PHONE RADIATION SAFETY AND DISCLOSURE]

2  
3 **Resolution recommending measures for educating the public on and**  
4 **reducing exposure to radiation from cell phones, including disclosure of**  
5 **radiation information at point of sale.**

6  
7 WHEREAS, The Policy Committee of the Commission on the Environment met  
8 on December 14, 2009 and unanimously adopted the findings and recommendations  
9 listed below; and

10 WHEREAS, More than 270 million people in the United States (US) use cell  
11 phones with an increasing number of them children, and

12 WHEREAS, Cell phones are an important tool of communication, especially  
13 during times of emergency; and

14 WHEREAS, A cell phone emits Radio Frequency (RF) radiation from the antenna  
15 of the device, often in a 360-degree pattern, as the device seeks to make a connection  
16 with the cell tower; and

17 WHEREAS, Recently published long-term studies looking at cell phone use for  
18 10 years have indicated evidence of increasing occurrence of brain and salivary cancers  
19 especially on the side of the head where cell phones are held; and

20 WHEREAS, Children are potentially more vulnerable to this radiation exposure  
21 due to their smaller head size, thinner skulls, different composition of tissues, and still-  
22 developing brains and bodies; and

23 WHEREAS, Governments around the world including France, Israel, Germany,  
24 Finland, and Switzerland, have issued warnings about prolonged cell phone use,  
25 especially for children; and

1 WHEREAS, The French Senate is considering legislation that would restrict the  
2 promotion and sale of cell phones for use by children and would require companies to  
3 offer headsets with each phone sold; and

4 WHEREAS, The maximum level of radiation emitted from a cell phone and  
5 absorbed by the human brain and body is called the Specific Absorption Rate (SAR) and  
6 these values range in cell phones from 0.2 to 1.6 W/kg, the maximum legal value in the  
7 US; and

8 WHEREAS, The United States Food and Drug Administration (FDA) does not  
9 review the safety of cell phones before they come to market but does have the authority  
10 to take action against the unsafe exposure to radiation from these products; and

11 WHEREAS, the United States Federal Communications Commission (FCC) has  
12 accepted the safety standards for cell phone radiation set by the electronics professional  
13 trade association, the Institute of Electrical and Electronic Engineers (IEEE); and

14 WHEREAS, cell phone radiation safety levels accepted by the FCC do not take  
15 into account potential increased vulnerabilities of children nor the cumulative effects of  
16 long-term use and do not provide sufficient protection in determining a maximum  
17 allowable SAR value of 1.6 W/Kg for the human head and brain; and

18 WHEREAS, San Francisco has adopted a Precautionary Principle Ordinance  
19 that compels government agencies to heed early warning signs from the scientific  
20 literature and to take protective action to prevent harm; and

21 WHEREAS, Cell phone manufacturers are required to report the SAR values of  
22 their phones to the FCC but are not obligated to make this information available to the  
23 public; and

24 WHEREAS, Consumers in San Francisco, and beyond, have the right to know  
25 the level of radiation being emitted by cell phones as they make their purchasing  
26 decisions; and

1 WHEREAS, Consumers in San Francisco should be informed of any steps that  
2 can be taken to minimize harm, such as the importance of using head-sets and texting  
3 as an alternative to speaking directly into the phone, now, therefore, be it

4 RESOLVED that the San Francisco Commission on the Environment recommends  
5 that the:

- 6 a. Federal Government conduct a review of cell phone safety standards and revise  
7 these based on concerns for children and long-term effects and consider a ban  
8 on cell phone advertising aimed at children.
- 9 b. State of California and the Federal Government adopt legislation that requires  
10 warning labels be placed on all cell phone packaging regarding exposure to  
11 radiation, especially for children.
- 12 c. City/County adopt legislation requiring that retailers of cell phones provide point-  
13 of-sale information on SAR values and information on safer use. The SAR value  
14 should be as visible to the consumer as the price.
- 15 d. City/County work closely with the School District to educate students, parents,  
16 caregivers and teachers about cell phone radiation and the importance of  
17 appropriate use of cell phones including: limiting their use to emergencies, use of  
18 a headset, and keeping the phone away from the child's body to the maximum  
19 extent possible.
- 20 e. City/County work closely with the School District to prohibit the distribution of cell  
21 phone promotional materials and the use of cell phones as part of the curriculum  
22 especially for elementary schools.
- 23 f. City/County explore ways to encourage cell phone companies to develop  
24 technologies, products, and educational programs that facilitate the safest  
25 possible use of cell phones.
- 26 g. Director of the Department of the Environment and the Department of  
27 Technology, under the Precautionary Purchasing Ordinance, require that cell

1 phones purchased by City Departments minimize SAR values and come with  
2 both a headset and educational materials on minimizing exposure to radiation.  
3 h. Department of the Environment staff initiate an educational campaign that  
4 includes a web page to help consumers identify low SAR value phones and  
5 protective measures to reduce exposure to cell phone radiation.



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**San Francisco Chronicle**  
The San Francisco Chronicle (California)

December 20, 2009 Sunday  
FINAL Edition

**SECTION:** Insight; DEBRA J. SAUNDERS; Pg. D6

**LENGTH:** 741 words

**HEADLINE:** Mayor can't keep his nose out of cell phone business

**BYLINE:** Debra J. Saunders

**BODY:**

Gavin Newsom is at it again. The San Francisco mayor's latest foray into annoying nanny statism is a proposal, reported in The Chronicle last week, to require the city's cell phone retailers to post the radiation levels of their products.

Where to begin?

In other cities, mayors usually try to make it easier for local businesses to prosper. But in the Special City, the mayor somehow manages to find ways that, if anything, make it harder for commercial enterprises to compete with out-of-town retailers.

In San Francisco, that's not a priority. Newsom wants to require cell phone companies to post warnings for an ostensible cancer threat that has not been established.

Don't take my word for it. The Federal Communications Commission and the Food and Drug Administration say cell phones sold in America are safe. The World Health Organization says they are not a health risk.

The Environmental Working Group has found studies that suggest that there could be problems from long-term cell phone use.

On the other hand, the American Cancer Society - which isn't afraid to cry "carcinogen" - looked at studies on cell phone use and cancer and found the following: "Patients with brain tumors do not report more cell phone use overall than the controls. This finding is true when all brain tumors are considered as a group, when specific types of tumors are considered, and when specific locations within the brain are considered. In fact, most of the studies show a trend toward *a lower risk of brain tumors among cell phone uses, for unclear reasons.*" *My italics.* The Cancer Society did warn that there has not been enough research to determine if cell phones might affect children differently than adults.

Now I would not suggest that Newsom require that cell phone retailers post signs that say that adult cell phone users may be *less likely* to get cancer.

For one thing, at some point, researchers probably will find some kind of link between gluing one's ear to a mobile device and a disease - if only because cell phone addicts often work nonstop, talk too loudly and sometimes walk in front of moving cars. These days, everything eventually gets linked to cancer.

Mayor can't keep his nose out of cell phone business The San Francisco Chronicle (California) December 20, 2009  
Sunday

But couldn't the mayor wait until a health authority or cancer-fighting organization deemed cell phones to be carcinogenic?

Of course not. Why, the French Senate is considering restrictions on the promotion and sale of cell phones to children. And as Newsom told The Chronicle's Heather Knight, "If we prevail, and I believe we will prevail, other cities will follow suit."

The siren call - a Model for Other Cities - is ineluctable to a mayor who cannot resist the whiff of bragging rights at the Davos Economic Forum annual confab.

Newsom can point to the city's Precautionary Principle Ordinance, which cites "a duty to take anticipatory action to prevent harm." That's EssEff-ese for: more mandates for warning signs.

After all, who possibly could object to signs that simply inform consumers?

Problem is, since the passage of Proposition 65, which mandated warning signs for anything remotely toxic, in 1986, Californians don't even notice warning signs. You see them in buildings, on line, in elevators - even at the cell phone store - except you don't notice them because they're like background noise.

So an Outline by Team Newsom proposes to get around warning blindness by requiring that stores post a phone's SAR - or specific absorption rate, a new term you can learn and forget - in type as large as the font for the phone's price. Talk about your invitation to small print.

The most annoying part of all: Newsom and city supervisors spend too much time trying to do other people's jobs when they ought to be working on improving the quality of life in San Francisco.

There's no need to be a fill-in for the FDA. If Newsom thinks it is his job to reduce risky behavior, he instead could focus on the estimated 900-plus new cases of HIV in the city year.

Closer to home, if Newsom feels the urge to warn people of potential threats, he might want to put up warning signs under Welcome to San Francisco banners - that disclose the city's 99 homicides in 2008. As the precautionary principle ordinance notes, the public has a "right to know."

"Patients with brain tumors do not report more cell phone use overall than the controls. ... In fact, most of the studies show a trend toward a lower risk of brain tumors among cell phone users, for unclear reasons."

American Cancer Society

**LOAD-DATE:** December 20, 2009



**San Francisco SAR "Disclosure" Ordinance  
Background Materials**

1. San Francisco Commission on the Environment, Policy Committee, *Resolution Recommending Measures for Educating the Public On and Reducing Exposure to Radiation from Cell Phones, Including Disclosure of Radiation Information At Point of Sale* (adopted Dec. 14, 2009).
2. Heather Knight, S.F. CHRONICLE, *Radiation Levels Proposed; Cell Phones: Newsom Says Consumers Have Right to Know*, (Dec. 15, 2009).
3. Katie Worth, S.F. EXAMINER, *Law Would Require Cell Phone Warnings* (Dec. 15, 2009).
4. Proposed S.F. Ordinance, *Cell Phones; Retailers' Duty to Disclose Radiation Levels* (introduced Jan. 26, 2010)
5. Press Release, *Mayor Newsom Introduces Cell-Phone Radiation Labeling Legislation* (Jan. 26, 2010), *available at* <http://www.sfmayor.org/press-room/press-releases/press-release-cell-phone-radiation-labeling>.
6. S.F. Ordinance, *Cell Phones; Retailers' Duty to Disclose Specific Absorption Rate Values* (approved by S.F. Board of Supervisors June 15, 2010)
7. Jesse McKinley, N.Y. TIMES, *San Francisco Passes Cellphone Radiation Law* (June 15, 2010)
8. Rachel Gordon, S.F. CHRONICLE, *Supes Want Cell Phone Radiation Levels Posted* (June 16, 2010)
9. FCC, Office of Engineering and Technology (OET), *RF Safety FAQs*
10. Materials from the FDA's website regarding cell phones and RF



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**San Francisco Chronicle**  
The San Francisco Chronicle (California)

December 15, 2009 Tuesday  
FINAL Edition

**SECTION:** Main News; Pg. A1

**LENGTH:** 683 words

**HEADLINE:** Radiation level labels proposed;  
CELL PHONES;  
Newsom says consumers in S.F. have right to know

**BYLINE:** Heather Knight, Chronicle Staff Writer

**BODY:**

San Francisco would become the first city in the country to require that cell phone retailers label the devices with the level of radiation they emit under a controversial proposal being discussed at the Department of the Environment and endorsed by Mayor Gavin Newsom.

There is no scientific consensus that cell phones pose health hazards, and the Federal Communications Commission is adamant that any cell phone legally sold in the United States is safe for consumer use.

But Newsom - who said he'll keep on using his beloved iPhone - said customers have the right to the information.

"The information exists, but not at the point of sale," he said. "If we prevail, and I believe we will prevail, other cities will follow suit."

The FCC, working with the U.S. Food and Drug Administration, has adopted limits for safe exposure to radiation, which are calculated in terms of a unit called the Specific Absorption Rate that signifies the amount of radio frequency energy a person absorbs into his or her body and brain when talking on a cell phone.

The FCC requires that cell phone manufacturers ensure their phones are at or below a SAR level of 1.6 watts per kilogram of body tissue to be legally sold in this country. Some phones emit as little as 0.2 watts per kilogram.

Newsom supports legislation to require that cell phone retailers display the SAR level next to each phone in a font at least as large as the price. Retailers would also have to provide information about what SAR values mean.

All types of stores selling phones would be affected. The Department of Public Health would monitor stores' compliance and could levy fines.

The city's environment commission is debating the legislation, though it would need approval at the Board of Supervisors to become law.

Other ideas being discussed at the commission are encouraging the school district to ban cell phone use in elementary schools because children are more susceptible to radiation and requiring that all cell phones be sold with a headset so radiation is farther away from the brain.

Radiation level labels proposed; CELL PHONES; Newsom says consumers in S.F. have right to know The San Francisco Chronicle (California) December 15, 2009 Tuesday

The Cellular Telecommunications and Internet Association, a trade group representing cell phone companies, hotly disputes the notion that cell phone radiation poses health concerns.

It points to the American Cancer Society's findings that cell phones are "unlikely" to cause cancer and to the World Health Organization's determination that cell phones aren't a public health risk.

John Walls, vice president of public affairs for the trade group, released a statement reading in part, "CTIA and the wireless industry have always been guided by science, and the views of impartial health organizations. The peer-reviewed scientific evidence has overwhelmingly indicated that wireless devices do not pose a public health risk."

The organization didn't specify whether it would fight San Francisco's legislation, but Newsom said he expects it.

The Environmental Working Group, a national nonprofit research and advocacy organization, recently conducted its own study on radiation in cell phones and maintains that consumers should have access to the information.

Renee Sharp, director of the organization's California office, said only recently have scientific studies examined radiation effects of people using cell phones for more than 10 years.

"There have been several very large studies which have been done in other countries which have found increased rates of brain tumors and salivary gland tumors especially on the side of the brain or side of the face where the user preferentially uses their cell phones," she said.

She said the FCC's regulations are inadequate, especially for children. She said other countries are taking far more progressive steps, including recommending which phones are safest for children.

Sharp, who has been advising San Francisco officials on their legislation, said more public information can only be positive.

Safest devices

The Environmental Working Group recently published information on cell phones and radiation levels, including which devices are the safest. Find the information at [www.ewg.org/cellphone-radiation](http://www.ewg.org/cellphone-radiation).

---LOAD-DATE: December 15, 2009





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## Law would require cell phone warnings

By: **Katie Worth**  
Examiner Staff Writer  
December 15, 2009

SAN FRANCISCO — Every cell phone sold in San Francisco could soon come with a label detailing the level of radiation you will be exposed to by using it and recommending a headset to avoid radiation exposure.

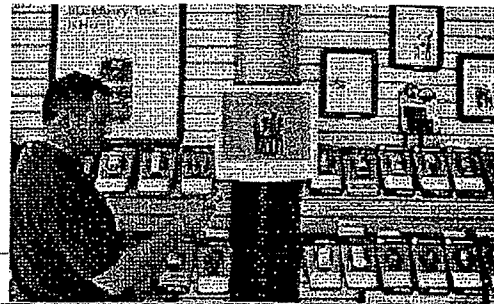
If a proposal endorsed Monday by the Commission on the Environment's policy committee — and preliminarily supported by the mayor — moves forward, not only would consumers be alerted of potential risks of cell phone radiation, but it could become illegal to promote the devices in public schools, and the federal government would be officially called upon to change their standards for cell phones.

The committee's 3-0 vote came in response to some scientific studies that suggest cell phone radiation can, over long periods of time, cause brain tumors on the side of the brain where the phone is held, and men who carry cell phones in their pocket may experience lower sperm counts.

Other recommendations made by the committee Monday were that The City purchase cell phones emitting the lowest possible radiation; that the school district educate students and parents about cell phone radiation; and the federal and state governments consider banning cell phone advertising aimed at children, who may be more vulnerable to any health risks associated with mobile phones.

The committee initially considered requiring cell phone merchants to provide a headset with any cell phone, but backed off on that requirement for now. It instead directed The City to "explore ways to encourage" the cell phone industry to provide headsets.

The proposal still must be endorsed by the Commission on the Environment, and then approved by the Board of Supervisors and the mayor. However, Mayor Gavin Newsom supports the idea in concept, mayoral spokesman Joe Arellano said.



Health threat? A city proposal would call upon the government to change mobile phone standards in the wake of studies suggesting cell phone use can cause tumors. (AP)

"Mayor Newsom believes that cell phone radiation labeling is the next frontier in terms of consumer safety," Arellano said. "He believes this step will allow The City to take a lead role in the United States in promoting labeling for cell phones at the point of purchase."

In fact, Maine may beat San Francisco to the punch. That state's legislature is considering a bill that would require a warning label on cell phones advising children and pregnant women to keep the devices away from their heads and bodies.

Monday's meeting was attended by Ellie Marks of Lafayette, who helped advocate for Maine's bill after her husband developed a large tumor on the side of his brain where he holds his cell phone. She said they are convinced his extensive cell phone use over 20 years caused the tumor. She said he used the phone so much she often threatened to throw it away.

"And how I wish I had," she said. "I'm angry because this horror could have been avoided."

## Dial defense

A Commission on the Environment committee is proposing all cell phones sold in The City be accompanied by labels detailing radiation levels.

Possible effects of cell phone usage

- Brain tumors
- Lowered sperm count

Committee recommendations

- City purchase cell phones emitting lowest possible radiation
- Schools educate students and parents about cell phone radiation
- Federal and state governments restrict cell phone advertising aimed at kids

*Source: Commission on the Environment policy committee*

[kworth@sfxaminer.com](mailto:kworth@sfxaminer.com)

### Find this article at:

<http://www.sfxaminer.com/local/Law-would-require-cell-phone-warnings-79284337.html>

☐ Check the box to include the list of links referenced in the article.

1 [Cell Phones; Retailers' Duty to Disclose Radiation Levels.]

2  
3 Ordinance amending the San Francisco Environment Code by adding Chapter 11,  
4 Sections 1100 through 1104, to require retailers to disclose Specific Absorption Rate  
5 values for cell phones, and making environmental findings.

6 Note: Additions are single-underline italics Times New Roman;  
7 deletions are ~~strikethrough italics Times New Roman~~.  
8 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

9 Be it ordained by the People of the City and County of San Francisco:

10  
11 Section 1. **Findings.**

12 (a) Government agencies and scientific bodies in the European Union (EU) and Israel  
13 have recognized the potential harm of long-term exposure to radiation emitted from cell  
14 phones and, as a result, have issued warnings about their use, especially their use by  
15 children.

16 (b) The United States Federal Communications Commission ("the FCC") has  
17 established a maximum allowable Specific Absorption Rate ("SAR") rating that manufacturers  
18 must disclose to the government when offering a portable wireless device (cell phone) for  
19 sale. The SAR is a value that corresponds to the relative amount of radiofrequency energy  
20 absorbed in the head or body of a user of a wireless handset. At the time of adoption of this  
21 ordinance, the FCC limit for public exposure from cellular telephones is an SAR level of  
22 1.6 watts per kilogram (1.6 W/kg) for spatial peak (local) SAR, such as SAR in the user's  
23 head, as averaged over any 1 gram of tissue.

24 (c) The SAR values for different makes and models of cell phones differ widely, but  
25 consumers are not able to make informed purchasing decisions because there is no

1 requirement that the retailer provide the applicable SAR values to the consumer at the point  
2 when the consumer is deciding between various makes and models.

3 (d) Cell phones are an important communication tool, especially during emergencies,  
4 and radiation exposure from cell phones can be reduced by using a speakerphone or a  
5 headset, or by sending text messages.

6  
7 Section 2. The San Francisco Environment Code is hereby amended by adding  
8 Chapter 11, Sections 1100 through 1104, to read as follows:

9  
10 **CHAPTER 11: CELL PHONE DISCLOSURE REQUIREMENTS**

11  
12 **SEC. 1100. TITLE.**

13 *This Chapter may be known as the "Cell Phone Right-to-Know Ordinance."*

14  
15 **SEC. 1101. DEFINITIONS.**

16 *For the purposes of this Chapter, the following terms shall have the following meanings, unless*  
17 *the context requires otherwise:*

18 *(a) "Cell phone" means a portable wireless telephone device that is designed to send or receive*  
19 *transmissions through a cellular radiotelephone service, as defined in Section 22.99 of Title 47 of the*  
20 *Code of Federal Regulations. A cell phone does not include a wireless telephone device that is*  
21 *integrated into the electrical architecture of a motor vehicle.*

22 *(b) "Director" means the Director of the Department of the Environment, or his or her*  
23 *designee.*

24 *(c) "Retailer" means any person or entity which sells or leases cell phones to the public, or*  
25 *which offers cell phones for sale or lease. "Retailer" shall not include anyone selling or leasing cell*

1 phones over the phone, by mail, or over the internet. "Retailer" shall also not include anyone selling or  
2 leasing cell phones directly to the public at a convention, trade show, or conference, or otherwise  
3 selling or leasing cell phones directly to the public within the City for fewer than 10 days in a year.

4 (d) "SAR value" means the maximum whole-body and spatial peak Specific Absorption Rate for  
5 a particular make and model of cell phone as registered with the Federal Communications Commission  
6 (see, generally, Section 2.1093 of Title 47 of the Code of Federal Regulations) and publicly available  
7 on the Federal Communications Commission website.

8  
9 **SEC. 1102. REQUIRING RETAILERS TO DISCLOSE SPECIFIC SAR VALUES FOR CELL**  
10 **PHONES.**

11 (a) No retailer within the City may sell or lease, or offer to sell or lease, any cell phone to the  
12 public without disclosing the SAR value for that phone as required by this Chapter and any regulations  
13 promulgated pursuant to this Chapter.

14 (b) The SAR value shall be listed on any tag, sticker, or decal attached to a cell phone that lists  
15 the price or features of the phone, and on any display material posted immediately adjacent to a  
16 sample phone or phones on display at the retail location that lists the price or features of the phone.  
17 This requirement shall not apply to any tag, sticker, or decal attached to a cell phone by the  
18 manufacturer, or to the manufacturer's packaging for a cell phone.

19 (c) The statement of the SAR value shall be printed in a font size no smaller than that used to  
20 state the price or features. The SAR value listing shall also include a statement that explanatory  
21 materials are available from the retailer. A retailer who does not display sample cell phones to  
22 customers must prominently post a chart, approved by the Department of the Environment, listing the  
23 all makes and models of cell phones available for sale or lease at that location and their respective  
24 SAR values.

1        (d) The Director may, in his or her discretion, authorize a retailer to use alternate means of  
2        disclosing SAR values to customers. The Director shall authorize such alternate means through the  
3        adoption of a regulation after a noticed hearing, and no retailer may sell or lease cell phones to the  
4        public or offer to sell or lease cell phones to the public using any alternate means of compliance with  
5        this Chapter unless specifically authorized to do so in advance in writing by the Director.

6  
7        **SEC. 1103. DISTRIBUTION OF EDUCATIONAL MATERIALS.**

8        (a) The Department of the Environment, in consultation with the Department of Public Health  
9        shall develop educational materials, based on and consistent with the relevant information provided by  
10       the FCC or other federal agency having jurisdiction, explaining the significance of the SAR value and  
11       potential effects of exposure to cell phone radiation. The materials shall also inform customers of  
12       actions that can be taken by cell phone users to minimize exposure to radiation, such as turning off cell  
13       phones when not in use, using a headset and speaker phone, and texting.

14       (b) Retailers shall provide copies of educational materials regarding SAR values, approved by  
15       Department of the Environment, to customers who request them at no charge, as provided in  
16       Section 1102(b).

17  
18       **SEC. 1104. IMPLEMENTATION AND ENFORCEMENT; OPERATIVE DATE.**

19       (a) By July 2, 2010, the Department of the Environment shall issue regulations specifying the  
20       requirements for implementation of this ordinance.

21       (b) By September 24, 2010, the Department of the Environment shall develop materials that  
22       will be available for retailers as provided in Section 1103.

23       (c) Beginning December 17, 2010, retailers shall be required to comply with requirements of  
24       Sections 1102 and 1103. Beginning on that date, the City Administrator shall issue a written warning  
25       to any Retailer he or she determines is violating provisions of the Chapter. If after issuance of the

1 written warning the City Administrator finds that the person receiving the warning has continued to  
2 violate the provisions of the Chapter, the City Administrator may impose administrative fines as  
3 provided below in subsections (d), (e), and (f).

4 (d) Violation of this Chapter or of any regulations promulgated pursuant to this Chapter shall  
5 be punishable by administrative fines in the amount of:

6 (1) Up to \$100.00 for the first violation;

7 (2) Up to \$250.00 for the second violation within a twelve-month period; and

8 (3) Up to \$500 for the third and subsequent violations within a twelve-month period.

9 (e) Except as provided in subsection (c) setting forth the amount of administrative fines,  
10 Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as  
11 may be amended from time to time, is hereby incorporated in its entirety and shall govern the  
12 imposition, enforcement, collection, and review of administrative citations issued by the Department of  
13 the Environment to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter.

14 (f) For purposes of this Chapter, each individual item that is sold or leased, or offered for sale  
15 or lease, contrary to the provisions of this Chapter shall constitute a separate violation.

### 16 17 **Section 3. Additional Provisions.**

18 (a) **Disclaimer.** In adopting and implementing this Chapter, the City and County of  
19 San Francisco is assuming an undertaking only to promote the general welfare. It is not  
20 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it  
21 is liable in money damages to any person who claims that such breach proximately caused  
22 injury.

23 (b) **Conflict with State or Federal Law.** This Chapter shall be construed so as not to  
24 conflict with applicable federal or State laws, rules or regulations. Nothing in this Chapter  
25 shall authorize any City agency or department to impose any duties or obligations in conflict

1 with limitations on municipal authority established by State or federal law at the time such  
2 agency or department action is taken.

3 (c) **Severability.** If any of the provisions of this Chapter or the application thereof to  
4 any person or circumstance is held invalid, the remainder of those provisions, including the  
5 application of such part or provisions to persons or circumstances other than those to which it  
6 is held invalid, shall not be affected thereby and shall continue in full force and effect. To this  
7 end, the provisions of this Chapter are severable.

8 (d) **Environmental Findings.** The Planning Department has determined that the  
9 actions contemplated in this ordinance are in compliance with the California Environmental  
10 Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the  
11 Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by  
12 reference.

13  
14  
15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18  
19 By: \_\_\_\_\_  
20 THOMAS J. OWEN  
21 Deputy City Attorney  
22  
23  
24  
25



## Press Release

### Mayor Newsom Introduces Cell-Phone Radiation Labeling Legislation

*Legislation would require cell phone retailers to post cell phone radiation levels at point of sale*

01/26/10 – Mayor Gavin Newsom today announced major consumer right-to-know legislation that will require cell phone retailers to post cell phone radiation levels at point of sale. The ordinance will be introduced at the Board of Supervisors meeting today.

"Telephone manufacturers currently disclose cell phone radiation levels to the federal government," said Mayor Newsom. "This same information should also be made easily accessible to the consumer."

While more research needs to be conducted on the safety of cell phone radiation, recent studies published in internationally regarded journals indicate that long term exposure to cell phone radiation may be responsible for increased rates of brain and salivary cancer, as well as other serious health problems. With the growing number of people using cell phones on a daily basis and the increasing use by young children, the questions around potential health effects are significant enough to warrant precautionary action.

"In addition to protecting the consumers' right to know," said Mayor Newsom, "this legislation will encourage telephone manufacturers to redesign their devices to function at lower radiation levels. This is similar to Prop 65, which dramatically reduced public exposure to toxic materials because chemical companies removed toxic ingredients from their products in order to avoid product warnings."

Cell phone radiation is regulated by both the FDA and the FCC, with a legal limit of 1.6 Watts per kilogram of SAR (specific absorption rate). Cell phone radiation varies widely depending on the model, with SAR's between 0.19 and 1.6. There is no technological reason why a cell phone needs to emit the maximum allowed levels of radiation. Phones that emit lower amounts of radiation work just as well, and sport just as many features.

"I am not suggesting by any means that people should be fearful of using a cell phone," said Mayor Newsom. "Cell phones are an integral part of modern life; however, there are simple things that can be done to minimize exposure to the radiation emitted by the telephone such as using a head set, speaker phone or texting, and turning off the phone when it's not in use."



[Cell Phones; Retailers' Duty to Disclose Specific Absorption Rate Values.]

**Ordinance amending the San Francisco Environment Code by adding Chapter 11, Sections 1100 through 1106 ~~1105~~, to require retailers to disclose Specific Absorption Rate values for cell phones, and making environmental findings.**

Note: Additions are *single-underline italics Times New Roman*;  
deletions are *strikethrough italics Times New Roman*.  
Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

**Section 1. Findings.**

(a) Government agencies and scientific bodies in the European Union (EU) and Israel have recognized the potential harm of long-term exposure to radiation emitted from cell phones and, as a result, have issued warnings about their use, especially their use by children.

(b) The United States Federal Communications Commission ("the FCC") has established a maximum allowable Specific Absorption Rate ("SAR") rating that manufacturers must disclose to the government when offering a portable wireless device (cell phone) for sale. The SAR is a value that corresponds to the relative amount of radiofrequency energy absorbed in the head or body of a user of a wireless handset. At the time of adoption of this ordinance, the FCC limit for public exposure from cellular telephones is an SAR level of 1.6 watts per kilogram (1.6 W/kg) for spatial peak (local) SAR, such as SAR in the user's head, as averaged over any 1 gram of tissue.

(c) The SAR values for different makes and models of cell phones differ widely, but consumers are not able to make informed purchasing decisions because there is no

1 requirement that the retailer provide the applicable SAR values to the consumer at the point  
2 when the consumer is deciding between various makes and models.

3 (d) Cell phones are an important communication tool, especially during emergencies,  
4 and radiation exposure from cell phones can be reduced by using a speakerphone or a  
5 headset, or by sending text messages.

6  
7 Section 2. The San Francisco Environment Code is hereby amended by adding  
8 Chapter 11, Sections 1100 through 1106 ~~1105~~, to read as follows:

9  
10 **CHAPTER 11: CELL PHONE DISCLOSURE REQUIREMENTS**

11  
12 **SEC. 1100. TITLE.**

13 *This Chapter may be known as the "Cell Phone Right-to-Know Ordinance."*

14  
15 **SEC. 1101. DEFINITIONS.**

16 *For the purposes of this Chapter, the following terms shall have the following meanings, unless*  
17 *the context requires otherwise:*

18 *(a) "Cell phone" means a portable wireless telephone device that is designed to send or receive*  
19 *transmissions through a cellular radiotelephone service, as defined in Section 22.99 of Title 47 of the*  
20 *Code of Federal Regulations. A cell phone does not include a wireless telephone device that is*  
21 *integrated into the electrical architecture of a motor vehicle.*

22 *(b) "Cell phone retailer" means any person or entity within the City which sells or leases cell*  
23 *phones to the public or which offers cell phones for sale or lease. "Cell phone retailer" shall include a*  
24 *"formula cell phone retailer." "Cell phone retailer" shall not include anyone selling or leasing cell*  
25 *phones over the phone, by mail, or over the internet. "Cell phone retailer" shall also not include*

anyone selling or leasing cell phones directly to the public at a convention, trade show, or conference,  
or otherwise selling or leasing cell phones directly to the public within the City for fewer than 10 days  
in a year.

(c) "Cell phone service provider" means a telecommunications common carrier authorized to  
offer and provide cellular service for hire to the general public.

(d) "Director" means the Director of the Department of the Environment, or his or her  
designee.

(e) "Display materials" means informational or promotional materials posted adjacent to a  
sample phone or phones on display at the retail location that describe or list the features of the phone.  
"Display materials" shall not include any tag, sticker, or decal attached to a cell phone by the  
manufacturer, the manufacturer's packaging for a cell phone, or materials that list only the price and  
an identifier for the phone.

(f) "Formula cell phone retailer" means a cell phone retailer which sells or leases cell phones  
to the public, or which offers cell phones for sale or lease, through a retail sales establishment located  
in the City which, along with eleven or more other retail sales establishments located in the United  
States, maintains two or more of the following features: a standardized array of merchandise; a  
standardized facade; a standardized decor and color scheme; a uniform apparel; standardized  
signage; or, a trademark or service mark.

(g) "SAR value" means the maximum whole-body and spatial peak Specific Absorption Rate for  
a particular make and model of cell phone as registered with the Federal Communications  
Commission. (See, generally, Section 2.1093 of Title 47 of the Code of Federal Regulations.)

1 **SEC. 1102. REQUIREMENTS FOR CELL PHONE SERVICE PROVIDERS.**

2 (a) Beginning September 1, 2010, any cell phone service provider that sells its service through  
3 a retailer in the City must provide a list of those retail locations to the Department of the Environment  
4 in a form determined by the Department. The service provider must update the list annually. The  
5 Department shall adopt regulations governing the form and submission of the lists.

6 (b) Beginning November 1, 2010, any cell phone service provider that sells its service through  
7 a retailer in the City must provide those retailers with the SAR value for each make and model of cell  
8 phone sold or leased at that location in connection with cell phone service from the provider. The  
9 service provider must update the information it provides to retailers whenever new makes and models  
10 of cell phones covered by the service provider are added or old makes and models dropped, or  
11 whenever the service provider receives new information on the SAR values of any of the phones.

12 (c) If a cell phone service provider is unable to provide this information (in subsection b) to  
13 retailers in the City, then the Department of Environment upon the request of the service provider shall  
14 provide assistance in procuring that information.

15  
16 **SEC. 1103. REQUIREMENTS FOR CELL PHONE RETAILERS.**

17 (a) If a cell phone retailer posts display materials in connection with sample phones or phones  
18 on display, the display materials must include these three elements:

19 (1) The SAR value of that phone and the maximum allowable SAR value for cell phones  
20 set by the FCC;

21 (2) A statement explaining what a SAR value is; and,

22 (3) A statement that additional educational materials regarding SAR values and cell  
23 phone use are available from the cell phone retailer.

24 The Department of the Environment shall adopt regulations specifying the content and format  
25 for the elements required by this subsection (a), and shall develop a template for those elements. The

elements shall be printed in a space no smaller than 1 inch by 2.625 inches. The SAR values and header text shall be printed in type no smaller than the size and readability equivalent of "Arial" 11 point, and the copy text shall be printed in type no smaller than the size and readability equivalent of "Arial" 8 point.

Formula cell phone retailers must comply with the requirements of this subsection (a) beginning February 1, 2011. All other cell phone retailers must comply by February 1, 2012.

(b) If a cell phone retailer does not post display materials in connection with sample phones or phones on display, the retailer must display, in a prominent location within the retail location visible to the public, a poster that includes these three elements:

(1) The SAR value of each make and model of cell phone offered for sale or lease at that retail location and the maximum allowable SAR value for cell phones set by the FCC;

(2) A statement explaining what a SAR value is; and,

(3) A statement that additional educational materials regarding SAR values and cell phone use are available from the cell phone retailer.

The Department of the Environment shall adopt regulations specifying the content and format for the elements required by this subsection (b), and shall develop a template for those elements. The store poster shall be no smaller than 8.5 inches by 11 inches.

Formula cell phone retailers must comply with the requirements of this subsection (b) beginning February 1, 2011. All other cell phone retailers must comply by February 1, 2012.

(c) The Director may, in his or her discretion, authorize a retailer to use alternate means to comply with the requirements of subsections (a) and (b). The Director shall authorize such alternate means through the adoption of a regulation after a noticed hearing, and no retailer may sell or lease cell phones to the public or offer to sell or lease cell phones to the public using any alternate means of compliance with this Chapter unless specifically authorized to do so in advance in writing by the Director.

1 **SEC. 1104. DEPARTMENTAL FACTSHEETS; ASSISTANCE WITH COMPLIANCE.**

2 (a) Following a public hearing, the Department of the Environment, in consultation with the  
3 Department of Public Health, shall develop a supplemental factsheet regarding SAR values and the use  
4 of cell phones, as well as templates for display materials and store posters required by this Chapter.  
5 The Department of the Environment shall hold the initial public hearing by September 1, 2010, and  
6 complete the supplemental factsheet by November 1, 2010. The supplemental factsheet shall be no  
7 larger than 8.5 inches by 11 inches.

8 (b) By November 1, 2010, the Department of the Environment shall issue regulations specifying  
9 the contents and format for the elements required by Section 1103, subsections (a) and (b), for display  
10 materials and store posters, respectively. By that date, the Department of the Environment shall also  
11 adopt templates for display materials and store posters.

12 (c) The Department shall develop content for all of these materials that is based on and  
13 consistent with the relevant information provided by the FCC or other federal agencies having  
14 jurisdiction over cell phones, explaining the significance of the SAR value and potential effects of  
15 exposure to cell phone radiation. The materials shall also inform customers of actions that can be  
16 taken by cell phone users to minimize exposure to radiation, such as turning off cell phones when not in  
17 use, using a headset and speaker phone, or texting.

18  
19 **SEC. 1105. IMPLEMENTATION AND ENFORCEMENT.**

20 (a) Notwithstanding those provisions of Section 1103(a) and (b) applicable to formula cell  
21 phone retailers, requiring them to make certain disclosures and statements in connection with cell  
22 phone sales and leases, the City shall not enforce those provisions until May 1, 2011. During the  
23 period between the operative date for those requirements, February 1, 2011, and May 1, 2011, the  
24 Department of the Environment shall conduct an education and assistance program for formula cell  
25



1 phone retailers, and shall visit the retailers and assist them with meeting the requirements of the  
2 subsections.

3 (b) Notwithstanding those provisions of Section 1103(a) and (b) applicable to all cell phone  
4 retailers other than formula cell phone retailers, requiring them to make certain disclosures and  
5 statements in connection with cell phone sales and leases, the City shall not enforce those provisions  
6 until August 1, 2012. During the period between the operative date for those requirements,  
7 February 1, 2012, and August 1, 2012, the Department of the Environment shall conduct an education  
8 and assistance program for those cell phone retailers, and shall visit the retailers and assist them with  
9 meeting the requirements of the subsections.

10 (c) The City Administrator shall issue a written warning to any person he or she determines is  
11 violating provisions of this Chapter or any regulation issued under this Chapter. If 30 days after  
12 issuance of the written warning the City Administrator finds that the person receiving the warning has  
13 continued to violate the provisions of the Chapter or any regulation issued under this Chapter, the City  
14 Administrator may impose administrative fines as provided below in subsections (d), (e), and (f).

15 (d) Violation of this Chapter or any regulation issued under this Chapter shall be punishable  
16 by administrative fines in the amount of:

17 (1) Up to \$100.00 for the first violation;

18 (2) Up to \$250.00 for the second violation within a twelve-month period; and,

19 (3) Up to \$500 for the third and subsequent violations within a twelve-month period.

20 (e) Except as provided in subsection (d), setting forth the amount of administrative fines,  
21 Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as  
22 may be amended from time to time, is hereby incorporated in its entirety and shall govern the  
23 imposition, enforcement, collection, and review of administrative citations issued by the City  
24 Administrator to enforce this Chapter or any regulation issued under this Chapter. Violation of this  
25

1 Chapter is not a misdemeanor, and the Board of Supervisors intends that the requirements of  
2 this Chapter be enforced only through administrative fines as provided in this Section.

3 (f) For purposes of this Chapter, each individual item that is sold or leased, or offered for sale  
4 or lease, contrary to the provisions of this Chapter or any regulation issued under this Chapter shall  
5 constitute a separate violation.

## 6 7 **SEC. 1106. DISCLAIMER.**

8 In adopting and implementing this Chapter, the City and County of San Francisco is  
9 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it  
10 imposing on its officers and employees, an obligation for breach of which it is liable in money  
11 damages to any person who claims that such breach proximately caused injury.

### 12 13 **Section 3. Additional Provisions.**

14 ~~(a) Disclaimer. In adopting and implementing this Chapter, the City and County of San~~  
15 ~~Francisco is assuming an undertaking only to promote the general welfare. It is not assuming,~~  
16 ~~nor is it imposing on its officers and employees, an obligation for breach of which it is liable in~~  
17 ~~money damages to any person who claims that such breach proximately caused injury.~~

18 (a) (b) **Conflict with State or Federal Law.** This Chapter shall be construed so as not  
19 to conflict with applicable federal or State laws, rules or regulations. Nothing in this Chapter  
20 shall authorize any City agency or department to impose any duties or obligations in conflict  
21 with limitations on municipal authority established by State or federal law at the time such  
22 agency or department action is taken.

23 (b) (c) **Severability.** If any of the provisions of this Chapter or the application thereof  
24 to any person or circumstance is held invalid, the remainder of those provisions, including the  
25 application of such part or provisions to persons or circumstances other than those to which it

1 is held invalid, shall not be affected thereby and shall continue in full force and effect. To this  
2 end, the provisions of this Chapter are severable.

3 (c) ~~(d)~~ **Environmental Findings.** The Planning Department has determined that the  
4 actions contemplated in this ordinance are in compliance with the California Environmental  
5 Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the,  
6 Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by  
7 reference.

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11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13  
14 By: \_\_\_\_\_  
15 THOMAS J. OWEN  
16 Deputy City Attorney  
17  
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**The New York Times**

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June 15, 2010

# San Francisco Passes Cellphone Radiation Law

By JESSE McKINLEY

SAN FRANCISCO — Imposing roughly the same cautionary standards for cellphones as for fatty food or sugary soda, this city — never shy about its opinions — voted on Tuesday to require all retailers to display the amount of radiation each phone emits.

The law — believed to be the first of its kind in the nation — came despite a lack of conclusive scientific evidence showing that the devices are dangerous, and amid opposition from the wireless telephone industry, which views the labeling ordinance as a potential business-killing precedent.

But the administration of Gavin Newsom, the city's tech-happy mayor (he has more than 1.3 million followers on Twitter), called the vote a major victory for cell phone shoppers' right to know.

"It's information that's out there if you're willing to look hard enough," said Tony Winnicker, a spokesman for Mr. Newsom. "And we think that for the consumer for whom this is an area of concern, it ought to be easier to find."

Under the law, retailers will be required to post materials — in at least 11-point type — next to phones, listing their specific absorption rate, which is the amount of radio waves absorbed into the cellphone user's body tissue. These so-called SAR rates can vary from phone to phone, but all phones sold in the United States must have a SAR rate no greater than 1.6 watts per kilogram, according to the Federal Communications Commission, which regulates the \$190

billion wireless industry.

But John Walls, a spokesman for C.T.I.A. - The Wireless Association, a trade group, said that forcing retailers to highlight that information might actually confuse consumers into thinking "some phones are safer than others."

"We believe there is an overwhelming consensus of scientific belief that there is no adverse health effect by using wireless devices," Mr. Walls said, "and this kind of labeling gets away from what the F.C.C.'s standard actually represents."

San Francisco, whose health- and eco-conscious residents already face mandatory composting and a ban on plastic bags, is not the first place to consider putting notices on cellphones. Earlier this month, the California Senate voted down an even more wide-ranging labeling bill. A bill in Maine that would have required warning labels on cellphones like those on cigarettes was defeated in March.

Part of that legislative track record may stem from the fact that there is little conclusive proof that cellular devices are hazardous. Both the National Cancer Institute and the F.C.C. say that there is no scientific evidence that wireless phones are dangerous, but each agency continues to monitor continuing medical studies.

A major study of cellphone use in 13 countries published online last month in the International Journal of Epidemiology found no increased risk for the two most common types of brain tumors, according to the cancer institute. In the most extreme cellphone users, there was a small increase in a type of cancer that attacks the cells that surround nerve cells, though researchers found that finding inconclusive.

In San Francisco, officials were cautioning that the law was not meant to discourage cellphone use, or sales, rather merely to inform consumers.

"This is not about telling people not to use cellphones," said Mr. Winnicker. "Nobody loves his iPhone more than Mayor Newsom."

*Malia Wollan contributed reporting*



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## San Francisco Chronicle

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**SECTION:** Main News; Pg. A1

**LENGTH:** 538 words

**HEADLINE:** Supes want cell phone radiation levels posted;  
**PUBLIC HEALTH**

**BYLINE:** Rachel Gordon, Chronicle Staff Writer

**BODY:**

San Francisco moved a step closer Tuesday to becoming the first city in the nation to require that retailers post in their stores notices on the level of radiation emitted by the cell phones they offer.

The Board of Supervisors voted 10-1 to give preliminary approval to the proposal. Final approval is expected next week. Supervisor Sean Elsbernd was the lone vote in opposition. Mayor Gavin Newsom, an early proponent of the legislation, plans to sign it into law when it reaches his desk.

Cast by backers as a pro-consumer measure, the ordinance would not ban the sale of certain cell phones but would require retailers to provide the "specific absorption rate" - a measurement of radiation registered with the Federal Communications Commission - next to phones displayed in their shops. Consumers also would be notified about where they can get more educational materials.

"This is about helping people make informed choices," said Supervisor Sophie Maxwell, chief sponsor of the legislation.

But a trade group for the cell phone industry said the law could lead to confusion.

"Rather than inform, the ordinance will potentially mislead consumers with point-of-sale requirements suggesting that some phones are 'safer' than others, based on radio frequency emissions," John Walls, vice president of public affairs for the Cellular Telecommunications and Internet Association, said after the vote. "In fact, all phones sold legally in the U.S. must comply with the Federal Communication Commission's safety standards for radio frequency emissions."

The FCC has adopted limits for safe exposure to radiation. The measurement shows the amount of radio frequency energy people absorb in their bodies when talking on a cell phone.

The potential long-term health impacts of cell phone use, particularly on the brain, is still a matter of scientific debate.

A similar right-to-know measure, carried by state Sen. Mark Leno, D-San Francisco, died in the Legislature this year amid heavy lobbying by the cell phone industry.

Supes want cell phone radiation levels posted; PUBLIC HEALTH The San Francisco Chronicle (California) June 16, 2010 Wednesday

Small business advocates in San Francisco also lobbied against the local labeling law, saying they didn't have an appetite for more government mandates, particularly in this tough economic climate.

"This is not about discouraging people from using their cell phones," said Newsom spokesman Tony Winnicker. "This is a modest and commonsense measure to provide greater transparency and information to consumers."

The posting requirements would be phased in, beginning in February. Violators would face fines of up to \$300. City officials still need to educate retailers and figure out how the law would be enforced, when and if it is finally adopted. Hundreds of stores in San Francisco sell cell phones.

Renee Sharp, director of the California office of the Environmental Working Group, a national nonprofit research and advocacy group, lauded San Francisco for its "leadership in protecting the public's health and right to know, and we hope it's the beginning of a movement that won't stop until everybody shopping for a phone has easy access to this information."

"This is a modest and commonsense measure to provide greater transparency and information to consumers."

Tony Winnicker, spokesman for Mayor Gavin Newsom

**GRAPHIC:** Cell phone retailers, under the ordinance, would be required to post the level of radio frequency energy absorbed into the body when talking on each device. Casey Rodgers / Associated Press 2009

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