



## Legislation Text

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File #: 23-0590B, Version: 1

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### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Pass the ordinance amending Sections 3-3-3 and 3-3-14 of the Naperville Municipal Code that will prohibit the sale and possession of tetrahydrocannabinol (THC) products for human consumption to individuals under the age of 21

**DEPARTMENT:** Legal Department

**SUBMITTED BY:** Jennifer Bonner, Senior Assistant City Attorney

#### **BACKGROUND:**

The 2018 Agricultural Improvement Act (“Act”) legalized products containing up to 0.3% percent on a dry weight basis of delta-9 tetrahydrocannabinol concentration. The legalization of hemp created a loophole for products manufactured from hemp-derived cannabiniol, which resulted in the emergence of hemp-derived tetrahydrocannabinol (“THC”) products at tobacco stores and gas stations.

Delta-8 tetrahydrocannabinol products, also known as Delta-8 THC, and Delta-9 tetrahydrocannabinol products, also known as Delta-9 THC are the most widely accessible THC products. Delta-8 THC and Delta-9 THC are available in stores and online in the form of gummies, vapes, candy, cookies, and other varieties for human consumption. Delta-8 THC is a psychoactive substance found in the cannabis sativa plant, which is typically manufactured from hemp-derived cannabidiol. Delta-9 THC is the psychoactive ingredient in marijuana illegal at the federal level. However, Delta-9 THC products are being offered for sale with the explanation that they contain less than 0.3% Delta-9 THC on a dry-weight basis.

The U.S. Food and Drug Administration (“FDA”) has not evaluated or approved Delta-8 THC products for safe use and issued warnings that products containing Delta-8 THC pose a serious health risk. The FDA received 104 reports of adverse events in patients who consumed Delta-8 THC products in a twenty-four-month period. Adverse events included hallucinations, vomiting, tremor, anxiety, dizziness, confusion, and loss of consciousness.

The Naperville Police Department has received complaints about the sale of Delta-8 THC products to minors. In one report, 16-year-old purchased a “rice krispy” edible containing Delta-8 from a tobacco and cigarette dealer. The parents of the 16-year-old reported that their child was sleepy, sluggish and had slurred speech. No action was taken on the complaint because minors are currently able to legally purchase these products.

Staff requested additional information from 360 Youth Services regarding THC products. A copy of the information received is attached.

On May 16, 2023, City Council conducted first reading of the proposed amendment and no concerns were raised.

**DISCUSSION:**

Since the passage of the Act, over a dozen states have banned the sale of Delta-8 THC products or required compliance with a state's existing marijuana laws. Elk Grove Village recently passed an ordinance prohibiting the sale of THC products following an investigation into the sale of these products to minors.

The proposed text amendment would prohibit the sale of THC products to, and possession by, individuals under the age of 21. It applies to products with Delta 1 THC, Delta-6 THC, Delta 3.4 THC, Delta-8 THC, Delta-9 THC, Delta-10 THC, Delta-6a THC, and any psychoactive substance therein. Enacting this text amendment will assist in protecting young people from the potential adverse effects of these unregulated products.

The Naperville Police Department will be tasked with enforcement of this ordinance. Violations will result in the issuance of a citation that requires a court appearance and is punishable by a fine plus court costs. Additionally, tobacco and liquor licensees will be subject to administrative penalties through the City's Liquor Commission, up to and including suspension or revocation of their tobacco or liquor licenses.

**FISCAL IMPACT:**

Corresponding decrease in sales taxes.