



Legislation Text

File #: 19-111B, Version: 1

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Pass the ordinance amending Section 10-2-3-1:1.1 by adding a definition of hemp and excluding hemp from the definition of cannabis

DEPARTMENT: Legal Department

SUBMITTED BY: Jennifer Lutzke, Senior Assistant City Attorney

BOARD/COMMISSION REVIEW:

The Liquor Commission considered this matter on January 3, 2019 and voted unanimously to recommend approval of the text amendment.

BACKGROUND:

On December 20, 2018, President Trump signed the 2018 Farm Bill. The 2018 Farm Bill permanently removed Hemp from the Controlled Substances Act, which makes it an agricultural commodity, not a controlled substance like, marijuana. It redefined "hemp" as "the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." Popular hemp products - such as hemp-deprived (CBD) were also removed from the Controlled Substances Act. The Food and Drug Administration (FDA) retained jurisdiction over the regulation of ingestible and topical hemp products. FDA approval is required for any product marketed with a therapeutic claim, and the FDA takes enforcement action concerning the sale of unapproved products.

Prior to passage of the 2018 Farm Bill, former Governor Rauner signed the Industrial Hemp Act (Illinois Public Act 100-1091). The Industrial Hemp lifted restrictions on the production of industrial hemp and removed industrial hemp from the state definition of cannabis. Hemp is defined as follows in the Industrial Hemp Act: "the plant Cannabis sativa L. and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis that has been cultivated under a license issued under this Act or is otherwise lawfully present in this State, and includes any intermediate or finished product made or derived from industrial hemp."

The City was approached last summer by a business seeking to sell cannabidiol (CBD) in the downtown area. CBD is derived from the Cannabis sativa L. plant (either marijuana or hemp varieties). Although the petitioner withdrew his request, it became apparent that the changing laws could impact the City's Code.

DISCUSSION:

By removing hemp from the Controlled Substances Act, the 2018 Farm Bill paved the way for the wholly legal cultivation, possession, sale and distribution of the hemp plant. Marijuana and hemp are variations of the Cannabis sativa L. plant with different concentrations of tetrahydrocannabinol (THC). THC is the chemical that produces psychoactive effects. Hemp contains low amounts of THC while marijuana contains a much higher concentration.

The FDA has identified three lawful hemp derivatives, including hulled hemp seeds, hemp seed protein and hemp seed oil. Hemp-based products are already available online, and several stores in Naperville already have these types of products available. It is recommended that the City amend its Code to be consistent with the changes in federal and state law to allow consumers to purchase these products without fear of being cited for possession of cannabis. The proposed amendment mirrors the hemp definition in the 2018 Farm Bill.

On January 3, 2019, the Liquor Commission unanimously recommended that the City Council approve the text amendment.

Draft minutes from the January 3, 2019 Liquor Commission meeting are attached.

On February 5, 2019, City Council conducted the first reading of the text amendment. A clarifying question was asked concerning whether the intent of this amendment is to ensure our code is consistent with changes in federal law. The text amendment mirrors the hemp definition in the 2018 Farm Bill.

FISCAL IMPACT:

N/A