



Legislation Text

File #: 21-0540, **Version:** 1

Hemp Ad Hoc Committee recommending the Board conceptually approve an Ordinance for a permanent ban on hemp cultivation in El Dorado County.

FUNDING: N/A

DISCUSSION / BACKGROUND

From September of 2020 to present, the Hemp Ad Hoc Committee held six public meetings to discuss developing reasonable regulations for the cultivation of industrial hemp in the County. The Hemp Ad Hoc Committee discussed several topics, including reasonable setback amounts, odor concerns, and pollen drift concerns. In those meetings, the committee discovered that the science and data surrounding the impact of hemp cultivation on agriculture is new and evolving.

The committee was particularly concerned of the potential impact of the cultivation hemp on the emerging cannabis industry and potential effects on wine grapes and other existing EL Dorado County agricultural crops. Santa Rosa Junior College has embarked upon as multi-year program to define and quantify the agricultural impacts from hemp and corresponding mitigation measures that could be applied. The Ad-Hoc committee has encouraged the continued collection of information/data from this source and others to develop a better understanding of hemp growing best management practices (BMP) as Industrial hemp is a derivative of the plant *Cannabis sativa L.* and that plant can also be grown for cannabis purposes. That can make it difficult to visually distinguish between *Cannabis sativa L.* grown for industrial hemp purposes and one grown for cannabis purposes. This makes it difficult for law enforcement and code enforcement to independently distinguish between an industrial hemp plant and a cannabis plant without obtaining samples for testing and having those samples tested. The committee was concerned that a grower might be incentivized by the similarity between the plants and the comparatively liberal hemp laws to cultivate cannabis disguised as industrial hemp instead of obtaining a Commercial Cannabis Annual Operating Permit and a Commercial Cannabis Use Permit from the Planning and Building Department. This would undermine the County's cannabis program and impose a danger to health, safety, and the environment.

Without adequate data, the committee was concerned that they could not fully evaluate the potential impact of the cultivation of industrial hemp. The committee has not held meetings to discuss other issues including enforcement, fees, destruction of crops, testing, and signage.

The California Industrial Hemp Farming Act authorized the commercial production of industrial hemp in California and became effective on January 1, 2017 due to a provision in the Adult Use of Marijuana Act (Proposition 64, November 2016). As directed by this Act, the California Department of Food and Agriculture developed an industrial hemp cultivation program and opened registration on April 30, 2019. California's proposed State Regulatory Plan for hemp production was submitted to the United States Department of Agriculture for review and approval on September 17, 2020. The Federal Final Rule establishing the U.S. Domestic Hemp Production Program was published on January 19, 2021 and became effective March 22, 2021. California is currently updating its State Regulatory Plan to meet the changes in the Federal Final Rule and will be resubmitting the plan to

the United States Department of Agriculture.

The Hemp Ad Hoc Committee considered the development of a pilot program that would allow registrants who were issued a registration in the year before the moratorium was enacted to be issued a new registration in 2021. The purpose of the pilot program would be to develop additional data and information for the development of reasonable regulations on the cultivation of hemp. The committee held a meeting on April 27, 2021, to discuss this option. It was concluded from that meeting that there was inadequate time to develop regulations for the pilot program. Furthermore, the grower borne costs to fund: 1) the Sheriff's Office THC testing; 2) odor testing of fields via the nasal ranger instrument; and 3) the Ag department's staff and resource requirements to manage the pilot program lacked definition.

The Hemp Ad Hoc Committee concluded at the April 27, 2021 meeting that there was not adequate science and data to develop reasonable regulations at this time. The committee recommends that the Board give conceptual approval to staff to develop a permanent ban on hemp cultivation in the County.

On January 26, 2021 the Agriculture Department, on behalf of the Hemp Ad Hoc Advisory Committee, recommending the Board approve an urgency Ordinance **5138** extending an interim 45-day moratorium on the cultivation of industrial hemp for all purposes within the unincorporated areas of the County of El Dorado, pending the study and development of reasonable regulations, for ten months (10) and fifteen (15) days. It is important to note that a registrant who was issued a registration in 2020 may finish cultivating industrial hemp consistent with the terms of that registration. This moratorium will expire on December 11, 2021. If the Board does not want to adopt a permanent ban, the Board could instead before that moratorium expires on December 11, 2021, vote to extend that moratorium for another year using the authority in Government Code Section 65858.

ALTERNATIVES

- 1) The Board could choose for the Committee to come back with an update to the moratorium with a Pilot Program with existing registrants to gather more data,
- 2) Direct the Committee to continue with working on the proposed ordinance with reasonable regulations,
- 3) Direct staff to come to the Board in early December of 2021 to extend the moratorium on the cultivation of industrial hemp for one more year, and then evaluate whether there is adequate data to develop reasonable regulations on hemp.

PRIOR BOARD ACTION

The Ad Hoc Committee was established following a presentation on industrial hemp by the Agriculture Department on June 23, 2020 (Legistar Item #20-0468), and formed the Ad Hoc Hemp Committee to include District I Supervisor John Hidahl and District IV Supervisor Lori Parlin.

The Ad Hoc Hemp Committee held a planning meeting via ZOOM on August 19, 2020. County staff participants were Sheriff John D'Agostini, Sheriff Lieutenant Mike Cook, Deputy County Counsel Daniel Vandekoolwyk, and Agricultural Commissioner Charlene Carveth. Agricultural Commission members, Bill Draper and David Bolster, also participated. The Ad Hoc Committee discussed the scope of the study for the Committee and is returning to Board for further direction.

On September 22, 2020, the Board of Supervisors provided direction on the scope of study for the Ad

Hoc Committee (Legistar Item #20-1181). The Ad Hoc Committee held a Zoom Meeting on October 29, 2020, at 2:00pm to develop an Urgency Ordinance adopting an interim moratorium on the cultivation of industrial hemp for all purposes within the unincorporated areas of the county of El Dorado pending a study and development of reasonable regulations.

On December 15, 2020, the Boards adopted Urgency Ordinance 5137 implementing a temporary forty-five day moratorium on the cultivation of industrial hemp (Legistar Item #20-1481). The Board approved an extension for an additional ten months (10) and fifteen (15) days on January 26, 2021 (Legistar Item #21-0045).

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Sheriff's Office, County Counsel, Planning and Building

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

Currently the only funding for the Hemp program in the Agriculture Department is solely for registration and renewal issuance, training of county personnel, and enforcement activities covered under the California Department of Food and Agriculture (CDFA) contract and other billable cost as associated with the CDFA Hemp program.

CLERK OF THE BOARD FOLLOW UP ACTIONS

Department will work with Clerk of the Board to establish a Hearing Date if Board gives conceptual approval to rescind the urgency Ordinance **5138** moratorium established January 26, 2021 and to instead adopt a permanent ban on the cultivation of industrial hemp.

STRATEGIC PLAN COMPONENT

Public Safety and Healthy Communities

CONTACT

Charlene Carveth, Agricultural Commissioner, Sealer of Weights & Measures
Sheriff John D'Agostini