



COUNTY OF HUMBOLDT

Legislation Text

File #: 19-457, **Version:** 1

To: Board of Supervisors

From: Agricultural Commissioner

Agenda Section: Departmental

SUBJECT:

Adoption of an Urgency Ordinance Establishing a Temporary Moratorium on the Cultivation of Industrial Hemp (4/5 Vote Required)

RECOMMENDATION(S):

That the Board of Supervisors:

1. Adopt the Interim Urgency Ordinance declaring a temporary moratorium on the cultivation of industrial hemp by “Established Agricultural Research Institutions” and any growers of industrial hemp within the unincorporated areas of Humboldt County based on the findings set forth within the Interim Urgency Ordinance under the provisions contained in California Government Code Sections 25123 (d) and 65858 (4/5 vote required); and
2. If adopted, direct the Clerk of the Board to publish the post-adoption summary of the ordinance within 15 days.

SOURCE OF FUNDING:

N/A

DISCUSSION:

Passage of the Agriculture Improvement Act (2018 Farm Bill), created a legal pathway for industrial hemp to be grown not just by “established agricultural research institutions” (EARI) but by persons interested in the commercial production of industrial hemp. Although the Farm Bill and the California Industrial Hemp Law (Food and Agriculture Code (FAC) §§ 81000-81011) allows industrial hemp production, the California Department of Food and Agriculture (CDFA) has not created the state regulations that must be put in place before an individual (other than an EARI) can legally grow industrial hemp. Although registration with the Agricultural Commissioner to grow industrial hemp might have been expected to begin as soon as Jan. 1, 2019, the specific regulations describing registration and required pre-harvest testing procedures have not been approved. The Office of Administrative Law (OAL) may approve the registration fee to become effective as soon as April 3, 2019, or within 45 days thereafter, and CDFA has requested that the registration regulation become effective immediately. However, regulations designating approved testing facilities and procedures required by FAC § 81006 (d)(3) and (d)(5) have yet to be proposed or approved. If Humboldt County

does not adopt a moratorium and if the OAL approves the registration fee regulation, cultivators may assert that the Agricultural Commissioner is required to register and allow the cultivation of industrial hemp and file suit to compel the Agricultural Commissioner to do so before all the regulations governing cultivation and testing have been adopted.

Absent full and final regulations for the state industrial hemp program 12 California counties (Calaveras, Lassen, Mendocino, Mono, Sacramento, San Bernardino, Shasta, Siskiyou, Tehama, Tulare, Yolo and Yuba) have chosen to place some form of moratorium on hemp production until regulations are in place. Until the Industrial hemp regulations are approved and the state program governing hemp cultivation is fully in place it is unclear what the status would be for a crop that is planted prior to the approval of regulations governing the testing and sampling procedures that growers must follow in order to harvest their crop.

FINANCIAL IMPACT:

There is no financial impact to hearing the report. If your Board decides to adopt a moratorium on industrial hemp cultivation the Agricultural Commissioner's Office will not collect the \$900 registration fee proposed by CDFA (\$500 of which is remitted to CDFA and \$400 is retained by the Agricultural Commissioner's office). If no moratorium is adopted by the Board there will be costs associated with the Agricultural Commissioner's Office mandate to regulate industrial hemp beyond the registration process, although at this time the potential workload and associated costs are unknown, but likely to include: staff time, vehicle mileage, and industrial hemp THC level tests. The Industrial Hemp Law authorizes counties to establish additional fees to cover those costs (FAC § 81005 (c)).

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework core role of enforcing laws and regulations to protect residents.

OTHER AGENCY INVOLVEMENT:

CDFA

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The county could choose to do nothing and address issues as they arise on a case-by-case basis. This approach may lead to conflicts between commercial cannabis growers and producers of industrial hemp.

ATTACHMENTS:

1. Interim Urgency Ordinance Declaring a Temporary Moratorium on the Cultivation of Industrial Hemp.
2. Post-adoption summary of ordinance

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A

