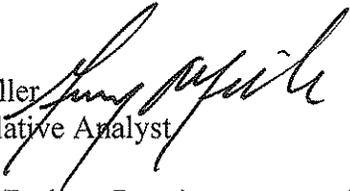


**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: July 22, 2013

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller 
Chief Legislative Analyst

Council File No: 13-0002-S88
Assignment No: 13-05-0463

SUBJECT: Resolution (Parks - Perry) to oppose SB 566, which would permit hemp to be grown in the state of California upon federal approval

CLA RECOMMENDATION: Receive and file Resolution (Parks - Perry) to include in the City's 2013 – 2014 State Legislative Program OPPOSITION to SB 566 (Leno), which would permit hemp to be grown in California, upon federal approval, by excluding “industrial hemp” from the definition of “marijuana”, and defining it as a non-psychoactive type of the plant Cannabis sativa L. that has no more than 0.3% of Tetrahydrocannabinol (THC) in the dried flowering tops.

SUMMARY

On May 22, 2013, a Resolution (Parks - Perry) was introduced to oppose SB 566, The California Industrial Hemp Farming Act, legislation which would permit hemp to be grown in the state of California upon federal approval. The Resolution states that under current law, industrial hemp is defined as marijuana, and its cultivation is illegal. The Resolution further states that SB 566 will undermine law enforcement efforts to curtail marijuana cultivation, and result in increased costs in connection with the prosecution of marijuana trafficking cases.

The Resolution also states that legalizing the cultivation of hemp in California would enable marijuana cultivators to camouflage their illegal crop with legal hemp, raising numerous public safety concerns. The Resolution, therefore, seeks an official position of the City of Los Angeles to oppose SB 566, legislation which would permit hemp to be grown in California upon federal approval, by excluding “industrial hemp” from the definition of “marijuana”, and defining it as a non-psychoactive type of the plant Cannabis sativa L. that has no more than 0.3% of THC in the dried flowering tops.

BACKGROUND

Under existing law, controlled substances are placed in five schedules, ranked by their medical benefits and potential for abuse. Schedule I substances are deemed by the government to have no medical benefits and a high potential for abuse. Currently, marijuana is listed as a schedule I controlled substance. The state defines marijuana as “all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, preparation of the plant, its seeds or resin.” Under current law, the cultivation of marijuana is a felony in California. This felony

includes the cultivation of hemp varieties of the Cannabis sativa L. plant, which is far lower in THC than the narcotic varieties.

SB 566 would legalize the cultivation of industrial hemp in California, upon authorization from the federal government, by redefining marijuana to exclude hemp. SB 566 defines "Industrial hemp" as the non-psychoactive varieties of the plant Cannabis sativa L., and its seeds, with no more than 3/10 of 1% (0.3%) THC contained in its flowering tops. SB 566 imposes significant regulations on the growth of industrial hemp, in order to discourage illegal marijuana cultivation.

While hemp and marijuana come from the same species of plant, they are different varieties, and there are significant differences between them. Hemp generally has a very low concentration of THC, while a congressional study found that marijuana has an average THC content of 10%. Further, the hemp plant is visually distinct from the marijuana plant, as it has a stalk similar to bamboo, has few branches and has been bred to produce significant amounts of seed. It is also densely planted, with an average of 100 to 300 plants per square yard. Marijuana plants, in contrast, are bred to have a large amount of branches to maximize flowering and minimize seeding. Marijuana plants are usually planted with significant space between plants in order to maximize flowering.

Industrial hemp has a variety of uses. Its seeds produce oil high in fatty acids found in fish oil, which is used in health products as well as in paints, inks and other applications. It can be used in plastic composites, which can be used in automobiles and other manufactured goods. Currently Ford, BMW, and Mercedes use hemp composites in their vehicles. The plant can also be used to make building and construction materials such as fiber board, animal bedding, fiber for textiles, pulp and paper, and cosmetics. California companies account for over 50 percent of the revenues of the US retail market for hemp products.

SB 566 is supported by a wide variety of organizations, including the ACLU, the California State Sheriffs' Association, the County of Lake, the Kern County Sheriff, the Kings County Sherriff, California Certified Organic Farmers, the California Alliance with Family Farmers, the California State Grange, the Teamsters, among others. Supporters of this bill argue that SB 566 is necessary to enable California farmers to take advantage of the economic opportunity that would be created by a change in federal law allowing for the cultivation of industrial hemp. Supporters state that the retail market for hemp products has been steadily increasing over the last 20 years, and that California farmers should be able to take advantage of that demand.

SB 566 is opposed by the California Narcotic Officers' Association and the California Police Chief's Association. Opponents state that SB 566 would undermine law enforcement efforts to curtail marijuana cultivation, and will result in increased costs related to the prosecution of marijuana trafficking cases. Opponents also believe that legalized hemp will be used to camouflage illegal marijuana crops, requiring law enforcement to test crops for THC content before taking any action. As state crime labs are currently not equipped to test for THC content, they would have to be updated to test for THC, or local law enforcement agencies would have to incur the cost of utilizing private labs for testing THC content in marijuana crops. Further, opponents doubt the economic arguments in favor of growing hemp are accurate, and do not believe that the risk to public safety outweighs any possible economic gain.

While the opposition's concerns are valid, SB 566 addresses them. The growth of industrial hemp will be strictly controlled. Only specific varieties of industrial hemp, approved by the California Department of Food and Agriculture, will be allowed for cultivation. Further, growers will have to register with their County Agricultural Commission, and provide information about the cultivation plot location and what type of hemp they will grow. Hemp will also be required to be grown on plots of at least five continuous acres, and signs must be posted surrounding the field of cultivation indicating that industrial hemp is being grown. SB 566 also prohibits ornamental and clandestine cultivation, as well as the pruning, culling and tending or individual hemp plants.

Prior to harvest, farmers will be required to obtain a laboratory test report from a federal Drug Enforcement Agency (DEA) registered laboratory indicating the THC content of their crop. Only hemp with a THC content of 0.3% or less will be allowed for sale. If a crop tests above 0.3%, but below 1%, it will be tested again and, if it tests above 0.3% a second time, it is required to be destroyed. Any crop that tests above 1% THC content will be required to be destroyed within 48 hours. In addition to testing, no flowering tops of the hemp plant are permitted to be removed from the field of cultivation, except as required for the THC content testing. This requirement relieves law enforcement of the need to distinguish between hemp and marijuana, and is why the bill is supported by the State Sheriffs' Association.

A similar bill was passed in the 2011-2012 Legislative Session, but was vetoed by the Governor because of concerns that the law would invite federal prosecution of farmers.

DEPARTMENTS NOTIFIED

Police Department

BILL STATUS

02/22/2013	Bill introduced in Senate
04/10/2013	Passed in Senate committee on Agriculture
05/01/2013	Passed in Senate committee on Public Safety
05/29/2013	Passed in Senate (39-0)
05/30/2013	Bill in Assembly
06/17/2013	Referred to the Assembly's committees on Agriculture and Public Safety


Joshua Drake
Analyst

GFM:MF:jwd

Attachment: Resolution (Parks - Perry)

13-002-588

MAY 22 2013

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, industrial hemp is a variety of the plant Cannabis Sativa L. and has been grown as a fiber and seed crop for centuries, currently grown in 30 countries; and

WHEREAS, hemp products are available in the U.S. marketplace as components of goods such as textiles, paper, and body care products; and

WHEREAS, under current State law, the definition of marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks; and

WHEREAS, currently pending before the State Senate is a bill, SB 566 (Leno), which would permit hemp to be grown in the State, upon federal approval, by defining "industrial hemp" to be excluded from the definition of "marijuana"; and

WHEREAS, SB 566 creates a new division under the Department of Food and Agriculture (CDFA) to regulate the development, growth, harvesting, and sale of industrial hemp seeds and the CDFA estimates that the bill would cost the State over \$3.1 million for personnel and operating expenses; and

WHEREAS, supporters of SB 566 cite market demand in the United States for hemp products has grown to \$500 million in 2012 and hemp growth improves soil conditions for agriculture; and

WHEREAS, Dr. Valerie Vantreese-Askren, Professor of Agricultural Economics at the University of Kentucky, recognized by many as the leading authority on hemp cultivation, disputes these facts and believes that American hemp farmers would be unable to compete with the heavily subsidized Chinese and European cultivation industries; and

WHEREAS, SB 566, "will undermine law enforcement efforts to curtail marijuana cultivation and result in increased costs in connection with the prosecution of marijuana trafficking cases;" and

WHEREAS, legalizing hemp will allow marijuana cultivators to camouflage their illegal crop which raises numerous public safety concerns;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that upon the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-2014 State Legislative Program OPPOSITION to S.B. 566, The California Industrial Hemp Farming Act, which would permit hemp to be grown in the State, upon federal approval, by defining "industrial hemp" to be excluded from the definition of "marijuana" and to mean a nonpsychoactive type of the plant Cannabis Sativa L. that has no more than .3% THC contained in the dried flowering tops.

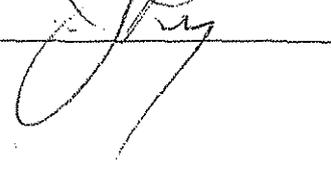


MAY 22 2013

PRESENTED BY:

BERNARD C. PARKS
Councilmember, 8th District

SECONDED BY



ORIGINAL