



# Memorandum

**TO:** PUBLIC SAFETY, FINANCE  
AND STRATEGIC SUPPORT  
COMMITTEE

**FROM:** Paul Joseph

**SUBJECT:** Hemp Regulation Status  
Report

**DATE:** April 2, 2025

Approved

Date:

4/10/2025

## **RECOMMENDATION**

Accept the status report on efforts to ban the sale of chemically synthesized hemp and require registration of industrial hemp retailers.

## **BACKGROUND**

On June 11, 2024, City Council directed the Police Department's Division of Cannabis Regulation to bring the following items to a future Public Safety, Finance and Strategic Support Committee meeting<sup>1</sup>:

- a. Banning the sale of chemically synthesized hemp in the City of San José.
- b. Requiring the registration of industrial hemp retailers.

In September 2024, after this direction was given, California Governor Gavin Newsom issued proposed emergency regulations<sup>2</sup> aimed at protecting youth from the adverse health effects of dangerous hemp products. The new State regulations require industrial hemp food, beverage, and dietary products intended for human consumption to have no detectable tetrahydrocannabinol (THC) or other intoxicating cannabinoids per serving, set a minimum age to purchase hemp products at 21, and limit the number of servings of hemp products to five per package. The emergency regulations<sup>3</sup> were readopted and

<sup>1</sup> City Council Meeting. June 11, 2024. Item 3.5. Revised Memorandum from Jimenez, Torres, Cohen, Ortiz and Foley, June 7, 2024.

<https://sanjoseca.primegov.com/api/compilemeetingattachmenthistory/historyattachment/?historyId=71d17ee1-35a5-4669-bfa1-742471a85113>

<sup>2</sup> Governor Gavin Newsom. News. Governor Newsom issues regulations to protect kids from dangerous and intoxicating hemp products. September 6, 2024. <https://www.gov.ca.gov/2024/09/06/governor-newsom-issues-regulations-to-protect-kids-from-dangerous-and-intoxicating-hemp-products/>

<sup>3</sup> California Department of Public Health. California Code of Regulations. Title 17. Public Health. Division 1. Chapter 5. Subchapter 2.6 Industrial Hemp. [https://www.cdph.ca.gov/Programs/OLS/CDPH%20Document%20Library/DPH-24-005E\\_Readopt\\_Text.pdf](https://www.cdph.ca.gov/Programs/OLS/CDPH%20Document%20Library/DPH-24-005E_Readopt_Text.pdf)

approved on March 24, 2025, and will be in effect until September 23, 2025. Staff are monitoring this emergency regulation to understand the State's plans and actions following September 23, 2025.

As a result of the State's emergency regulations and rules already existing in State Assembly Bill (AB) 45<sup>4</sup>, staff believes the City's role and focus should be on enforcement efforts of the State's ban and AB 45 rather than creating an additional and separate ban on the sale of chemically synthesized hemp and requiring a registration process of industrial hemp retailers.

## **ANALYSIS**

Implementing a successful strategy to address chemically synthesized hemp being sold in retail locations in San José requires careful consideration of the scope of the problem, regulations, and enforcement tools already in place, as well as constraints, additional enforcement tools, and additional resources that may be required. The following analysis outlines important factors and research to inform the City's path forward.

### **Scope of the Problem**

Unregulated products containing intoxicating cannabinoids are being sold in locations such as vape shops, smoke shops, and convenience stores due to loopholes in the Farm Bill of 2018<sup>5</sup> and AB 45. As a result, staff has received reports from various stakeholders regarding concerns about chemically synthesized hemp being sold at businesses throughout the City. In addition, Code Enforcement staff in the Planning, Building and Code Enforcement Department have observed hemp products being offered for sale in some Tobacco Retail License businesses and have received complaints reporting illegal hemp products for sale.

Per the emergency State regulations, hemp products with THC will no longer be available in the retail marketplace, and legal cannabis products must be sold in licensed cannabis businesses. Per the City Manager's Fiscal Year (FY) 2024-2025 Mid-Year Budget Review<sup>6</sup> issued in January 2025, the FY 2023-2024 Cannabis Business Tax was \$15.7 million. Based on the City Manager's FY 2026-2030 Five-Year Forecast and Revenue Projections report<sup>7</sup> issued in February 2025, it is anticipated that Cannabis Business Tax receipts will total \$13.0 million in FY 2024-2025, which includes \$1.0 million in compliance revenues. The decrease from FY 2023-2024 revenues has been

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<sup>4</sup> California Legislative Information. Assembly Bill No. 45. Chapter 576. Approved by Governor October 6, 2021. [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=20210220AB45](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=20210220AB45)

<sup>5</sup> U.S. Department of Agriculture. Farm Bill of 2018. [www.usda.gov/farming-and-ranching/farm-bill](http://www.usda.gov/farming-and-ranching/farm-bill)

<sup>6</sup> City Manager's Budget Office. 2024-2025 City Manager's Mid-Year Budget Review Report. <https://www.sanjoseca.gov/home/showpublisheddocument/117592/638739307421570000>

<sup>7</sup> City Manager's Budget Office. 2025-2026 City Manager's Budget Request and 2026-2030 Five-Year Forecast Report. <https://www.sanjoseca.gov/home/showpublisheddocument/118378/638774620293430000>

attributed to the closing of two businesses. With all sales of products containing THC being required to be sold in licensed cannabis businesses, the City and State should benefit from increased cannabis tax revenue.

## **State Regulations and Enforcement**

As stated above, in September 2024, Governor Gavin Newsom issued proposed emergency regulations<sup>8</sup> to protect youth from the adverse health effects of dangerous hemp products. As cited above, per the Governor's news release dated September 6, 2024, the regulations, proposed by the California Department of Public Health (CDPH), strengthen California's ability to stop the peddling of intoxicating hemp products to California's children. The new regulations require that industrial hemp food, beverage, and dietary products intended for human consumption have no detectable THC or other intoxicating cannabinoids per serving, set a minimum age to purchase hemp products at 21, and limit the number of servings of hemp products to five per package. The emergency regulations<sup>9</sup> were readopted and approved on March 24, 2025, and will be in effect until September 23, 2025.

State regulators, including the Department of Public Health, the Department of Cannabis Control, the California Department of Alcoholic Beverage Control (ABC), and the California Department of Tax and Fee Administration (CDTFA) will work together to ensure industrial hemp is enforced from manufacture to sale. Local enforcement officials also have the authority to ensure licensed retail establishments comply with the law.

CDPH staff are currently working with industry and regulatory partners to ensure compliance with these emergency regulations and existing law. Businesses that violate these laws are subject to enforcement actions, including licensure actions and civil, administrative, and/or criminal penalties.

The CDPH Finding of Emergency (DPH-24-005E) notification includes a section regarding existing state law and AB 45 requirements<sup>10</sup>. The notification states:

State Assembly Bill 45 requires that all industrial hemp products that are sold or distributed in California shall conform with all applicable state laws and regulations. In current law, industrial hemp products cannot include total THC of more than 0.3% (delta-8 THC, delta-9 THC, delta-10 THC) and THC acid.

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<sup>8</sup> Governor Gavin Newsom. News. Governor Newsom issues regulations to protect kids from dangerous and intoxicating hemp products. September 6, 2024. <https://www.gov.ca.gov/2024/09/06/governor-newsom-issues-regulations-to-protect-kids-from-dangerous-and-intoxicating-hemp-products/>

<sup>9</sup> California Code of Regulations. Title 17. Public Health. Division 1. Chapter 5. Subchapter 2.6 Industrial Hemp. [https://www.cdph.ca.gov/Programs/OLS/CDPH%20Document%20Library/DPH-24-005E\\_Readopt\\_Text.pdf](https://www.cdph.ca.gov/Programs/OLS/CDPH%20Document%20Library/DPH-24-005E_Readopt_Text.pdf)

<sup>10</sup> California Department of Public Health. Finding of Emergency. Regulations for Serving Size, Age, and Intoxicating Cannabinoids for Industrial Hemp. DPH-24-005E. <https://www.cdph.ca.gov/Programs/OLS/CDPH%20Document%20Library/DPH-24-005E-FindingsText.pdf>

Industrial hemp products cannot include THC isolate as an added ingredient and cannabinoids produced through chemical synthesis. Manufacturers must include a certificate of analysis to confirm allowable total THC concentration and product content, and they must provide proof that the industrial hemp product in its final form or extract was from an approved industrial hemp growing program.

Hemp products with THC will no longer be available in the retail marketplace in California. Legal cannabis products must be sold in licensed businesses and are required to be labeled with the universal cannabis symbol.

### **Regulation in Other Cities and Counties**

Staff reviewed hemp regulations in various California cities and counties for the purpose of peer analysis and understanding the landscape of current practices.

- **County of Sacramento:** The Sacramento County Board of Supervisors adopted an ordinance on October 22, 2024<sup>11</sup>, prohibiting the sales of certain products containing intoxicating cannabinoids derived from hemp. The ordinance also establishes administrative fines for violations on an escalation scale, with the first violation being the lowest fine, followed by increases for the second and third (and any subsequent) violations within a twelve-month period from the date of the first violation (\$2,500/\$5,000/\$10,000).
- **County of Marin:** On January 28, 2025<sup>12</sup>, the Marin County Board of Supervisors approved the proposed 2025 Legislative Platform, which included supporting evidence-based policies to regulate recreational cannabis and other THC-containing products, including intoxicating hemp, for adults to ensure it is used safely and legally.
- **County of Santa Clara:** Currently, there are no regulations on the sale of intoxicating hemp products in unincorporated areas of the County.
- **City of Campbell:** On March 18, 2025<sup>13</sup>, Campbell City Council discussed the proliferation of smoke shops and implemented a temporary moratorium on issuing tobacco retailer permits at new locations until new regulations are proposed and enacted.

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<sup>11</sup> Sacramento County. Board of Supervisors Meeting. October 22, 2024. Item 9.

<https://agendanet.saccounty.gov/BoardofSupervisors/Meetings/ViewMeeting?id=8787&doctype=2>

<sup>12</sup> Marin County. Board of Supervisors Meeting. January 28, 2025. Item 13.

[https://marin.granicus.com/GeneratedAgendaViewer.php?view\\_id=33&clip\\_id=12449](https://marin.granicus.com/GeneratedAgendaViewer.php?view_id=33&clip_id=12449)

<sup>13</sup> City of Campbell. City Council Meeting. March 18, 2025. Item 10.

[https://www.campbellca.gov/AgendaCenter/ViewFile/Agenda/\\_03182025-3057](https://www.campbellca.gov/AgendaCenter/ViewFile/Agenda/_03182025-3057)

- **City of San Diego:** In December 2023<sup>14</sup>, the City of San Diego's Cannabis Business Division and the San Diego Police Department issued a letter to all businesses that retail intoxicating hemp-derived cannabidiol (CBD) products stating enforcement actions will be taken if they do not comply with the regulations.

## **San José Regulations and Enforcement**

City ordinances related to cannabis and tobacco are designed to encourage the responsible sale of cannabis and tobacco products and discourage violation of cannabis and tobacco-related laws. The Administrative Citation Schedule of Fines for violations of the San José Municipal Code (SJMC) establishes an escalation scale, with the first violation being the lowest fine, followed by increases for the second and third (and any subsequent) violations within a twelve-month period from the date of the first violation. The fine schedule related to cannabis violations is tiered, with the lowest offenses starting at \$250 and escalating to \$5,000. More significant offenses start at \$10,000 and escalate to \$50,000.

Selling hemp products containing THC is a cannabis sale. No business shall operate in the City of San José until it has first filed a registration application in accordance with the provisions of Chapter 6.88 of Title 6 (Business Licenses and Regulation) of the SJMC related to the City's Cannabis Regulatory Program, has paid all fees required, and has received a Notice of Completed Registration from the City Manager to operate. If a business is found to be non-compliant with this requirement, a more egregious violation would be assessed at the highest level (\$10,000/\$25,000/\$50,000).

## **Constraints**

Currently, there are no City resources allocated to hemp regulation. In July 2024, the Police Department and Planning, Building and Code Enforcement Department sent all current Tobacco Retail Licensees a letter with their annual renewal notices regarding selling intoxicating hemp, reminding them to discontinue selling these products and to destroy the products or bring them to the Police Department for destruction.

The Division of Cannabis Regulation regulates registered cannabis businesses, including conducting inspections and taking civil action against businesses not in compliance with the cannabis regulatory program regulations. San José's cannabis regulation staffing is based on regulatory and enforcement operations related to registered cannabis businesses. Registered businesses pay the program costs through various fees.

The Planning, Building and Code Enforcement Department has a Tobacco Retail License (TRL) program funded by cost recovery license fees. It is responsible for

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<sup>14</sup> City of San Diego. Letter to Hemp Retailers. December 1, 2023. [https://www.sandiego.gov/sites/default/files/2023-12/intoxicating\\_hemp\\_business\\_warning\\_letter\\_12\\_1\\_23\\_0.pdf](https://www.sandiego.gov/sites/default/files/2023-12/intoxicating_hemp_business_warning_letter_12_1_23_0.pdf)

conducting annual inspections to ensure compliance with TRL regulations, Chapter 6.87 of the SJMC. A zoning amendment to add an enumerated use for vape shops and smoke shops has been incorporated into the Planning Division workplan tentatively for later this year. The Code Enforcement Division plans to provide a status update on the implementation of the Flavored Tobacco Ban and other program-related improvements to the Neighborhood Services and Education Committee in June 2025.

As currently structured, the Police Department's Division of Cannabis Regulation and TRL staff in the Code Enforcement Division of the Planning, Building and Code Enforcement Department are entirely funded through cost recovery fees. This means staff are unable to perform tasks not associated with their respective regulatory programs unless either: (1) General Fund resources were made available or (2) new cost recovery fees were imposed to pay for such tasks. Additionally, if staffing levels were increased to enforce the State's ban and age verification process, there would need to be sufficient legal staff to pursue administrative and/or civil actions against businesses not complying with the State regulations.

### **Next steps**

As noted above, the Division of Cannabis Regulation is unable to expand its current scope to include hemp regulation in various retail shops, including vape shops, smoke shops, and convenience stores. Planning, Building and Code Enforcement Department's Code Enforcement Division will continue to conduct annual proactive inspections of TRL businesses and regulatory compliance inspections of registered cannabis businesses. Staff will also continue to respond to complaints from the public regarding illegal cannabis activity and TRL business operations. Staff will continue to refer any criminal activity observed to the Police Department for follow-up as appropriate.

Should City Council direct staff to inspect vape shops, smoke shops, and convenience stores for hemp products containing THC, either (1) General Fund resources need to be made available or (2) new cost recovery fees need to be created to pay for such tasks. Additionally, if staffing levels were increased to enforce the State's ban and age verification process, it may be necessary to have potential decoys to conduct enforcement of underage sales, and sufficient legal staff to pursue administrative or other actions against businesses not complying with the State regulations.

April 2, 2025

**Subject: Hemp Regulation Status Report**

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## **COORDINATION**

This memorandum was coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Planning, Building and Code Enforcement Department.

A handwritten signature in black ink, appearing to read "Paul Joseph".

Paul Joseph  
Chief of Police

For questions regarding Code Enforcement, please contact Rachel Roberts, Deputy Director, Planning, Building and Code Enforcement Department, at [rachel.roberts@sanjoseca.gov](mailto:rachel.roberts@sanjoseca.gov) or (408) 535-7719.

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