

Fw: THC Edibles & Adult Use Cannabis

EDA

Thu 1/11/2024 1:55 PM

To: Houston County BOC <BOC@co.houston.mn.us>;

From: Eric Johnson
Sent: Thursday, January 11, 2024 9:59:12 AM
To: EDA
Subject: Fwd: THC Edibles & Adult Use Cannabis

Allison

We will have a general discussion at next week's workshop on the Cannabis issue with the latest information Sam has given us in his latest email. Thank You

Eric

Sent from my iPhone

Begin forwarded message:

From: Samuel Jandt <Samuel.Jandt@co.houston.mn.us>
Date: January 9, 2024 at 11:01:15 AM CST
To: Dewey Severson <Dewey.Severson@co.houston.mn.us>, Eric Johnson <Eric.Johnson@co.houston.mn.us>, Greg Myhre <Greg.Myhre@co.houston.mn.us>, Robert Burns <Robert.Burns@co.houston.mn.us>, Robert Schuldt <Robert.Schuldt@co.houston.mn.us>
Cc: John Puleasa <John.Puleasa@co.houston.mn.us>, Martin Herrick <Martin.Herrick@co.houston.mn.us>
Subject: FW: THC Edibles & Adult Use Cannabis

Commissioners:

This email is response to a question(s) that have been raised regarding the Board's role in regulating THC Edibles & Adult Use Cannabis. Recently I met with members of the MN County Attorney Association (MCAA) Cannabis Legislation Workgroup to discuss their report to MCAA. Specifically, I inquired about two issues: (1) how many licenses must a county issue if their population is more than 12,500 – but less than 25,000; and (2) what authority under MN Statute 145A (public health statutes) does a county have to regulate THC Edibles & Adult Use Cannabis in their jurisdiction.

Issue (1) – the consensus was that a county must have a minimum of one licensed business upon request, however, a county need not license an additional business unless/until the 25,000 population threshold is met.

Issue (2) – the consensus was that a county has the ability to limit what a lesser municipality may do via a county's public health authority if it chooses to do so. However, those I met with

suggested working with a lesser municipality if possible. This could be accomplished through a delegation of authority by a county via a Joint Powers Agreement. I have included the applicable sections of MN 145A for your review:

145A.05 LOCAL ORDINANCES.

Subdivision 1. Generally.

A county board may adopt ordinances for all or a part of its jurisdiction to regulate actual or potential threats to the public health under this section and section [375.51](#), unless the ordinances are preempted by, in conflict with, or less restrictive than standards in state law or rule.

Subd. 9. Relation to cities and towns.

The governing body of a city or town may adopt ordinances relating to the public health authorized by law or agreement with the commissioner under section [145A.07](#). The ordinances must not conflict with or be less restrictive than ordinances adopted by the county board within whose jurisdiction the city or town is located.

Finally, the above-listed information is subject to change/modification via the upcoming legislative session. I will forward any information I would receive in that regard.

Thanks, Sam

Office of the Revisor of Statutes

Office of the Revisor of Statutes

2023 Minnesota Statutes

[Authenticate](#)  [PDF](#)**342.13 LOCAL CONTROL.**

(a) A local unit of government may not prohibit the possession, transportation, or use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products authorized under this chapter.

(b) Except as provided in section [342.22](#), a local unit of government may not prohibit the establishment or operation of a cannabis business licensed under this chapter.

(c) A local unit of government may adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses. A local unit of government may prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.

(d) The office shall work with local units of government to:

- (1) develop model ordinances for reasonable restrictions on the time, place, and manner of the operation of a cannabis business;
- (2) develop standardized forms and procedures for the issuance of a retail registration pursuant to section [342.22](#); and
- (3) develop model policies and procedures for the performance of compliance checks required under section [342.22](#).

(e) If a local unit of government is conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of a cannabis business, the governing body of the local unit of government may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens. Before adopting the interim ordinance, the governing body must hold a public hearing. The interim ordinance may regulate, restrict, or prohibit the operation of a cannabis business within the jurisdiction or a portion thereof until January 1, 2025.

(f) Within 30 days of receiving a copy of an application from the office, a local unit of government shall certify on a form provided by the office whether a proposed cannabis business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code. The office may not issue a license if a cannabis business does not meet local zoning and land use laws.

(g) Upon receipt of an application for a license issued under this chapter, the office shall contact the local unit of government in which the business would be located and provide the local unit of government with 30 days in which to provide input on the application. The local unit of government may provide the office with any additional information it believes is relevant to the office's decision on whether to issue a license, including but not limited to identifying concerns about the proposed location of a cannabis business or sharing public information about an applicant.

(h) The office by rule shall establish an expedited complaint process to receive, review, and respond to complaints made by a local unit of government about a cannabis business. Complaints may include alleged violations of local ordinances or other alleged violations. At a minimum, the expedited complaint process shall require the office to provide an initial response to the complaint within seven days and perform any necessary inspections within 30 days. Nothing in this paragraph prohibits a local unit of government from enforcing a local ordinance. If a local unit of government notifies the office that a cannabis business other than a cannabis retailer, cannabis microbusiness with a retail operations endorsement, cannabis mezzobusiness, lower-potency hemp edible retailer, medical cannabis retailer, or medical cannabis combination business poses an immediate threat to the health or safety of the public, the office must respond within one business day and may take any action described in section [342.19](#) or [342.21](#).

(i) A local government unit that issues cannabis retailer registration under section [342.22](#) may, by ordinance, limit the number of licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement to no fewer than one registration for every 12,500 residents.

(j) If a county has one active registration for every 12,500 residents, a city or town within the county is not obligated to register a cannabis business.

(k) Nothing in this section shall prohibit a local government unit from allowing licensed cannabis retailers in excess of the minimums set in paragraph (i).

(l) Notwithstanding the foregoing provisions, the state shall not issue a license to any cannabis business to operate in Indian country, as defined in United States Code, title 18, section 1151, of a Minnesota Tribal government without the consent of the Tribal government.

History: [2023 c 63 art 1 s 13](#)

Official Publication of the State of Minnesota
Revisor of Statutes