



Legislation Text

File #: 15-00410, **Version:** 3

Ordinance No. 15-55 creating a new Section 9.7.209 pertaining to the manufacture of marijuana concentrates involving the use of a compressed flammable gas, flammable gas, flammable liquid, or combustible liquid as a solvent in a residential setting, and providing penalties for the violation thereof.

From:

Christopher P. Riley, Fire Chief

Summary:

The City of Colorado Springs Fire Department seeks City Council's approval to adopt an ordinance creating a new section of the Code of the City of Colorado Springs to prohibit the extraction of hash oil through the use of a compressed flammable gas, flammable gas, flammable liquid, or combustible liquids in a residential setting. This ordinance is necessary for the public health, safety, and welfare of our community and impacted emergency responders.

Previous Council Action:

There has been no previous Council action on the extraction of hash oil; however, there have been actions related to marijuana at a City and State level, as summarized below:

City of Colorado Springs Marijuana-related ordinances include Chapter 2 (Business Licensing, Liquor Regulation and Taxation), Article 3 (Sales of Goods and Services), Part 1 (Medical Marijuana License Code), and Chapter 9 (Public Offenses) Article 7 (Dangerous Weapons and Substances) Part 2 (Other Dangerous Weapons and Substances) 9.7.206 (possession of marijuana), 9.7.207 (consumption of marijuana in public prohibited), and 9.7.208 (consumption of marijuana in vehicles prohibited).

Colorado's marijuana industries are in place due to the passage of citizen ballot initiatives to modify our state's constitution. Both sections addressing Colorado's marijuana industries are contained within Article XVIII: Section 14 Medical Use of Marijuana for Persons Suffering from Debilitation Medical Conditions and Section 16 Personal Use and Regulation of Marijuana (Recreational). Statutes.

Related provisions of Colorado Revised Statutes (C.R.S.) include § 18-18-406.6, which makes extraction of marijuana concentrate a Level 2 Drug Felony. It is unlawful for any person, who is not licensed, to knowingly manufacture concentrate using an "inherently hazardous substance". It is unlawful for anyone, who is not licensed, who owns or controls any premises to knowingly allow marijuana concentrate to be manufactured on the premises using an "inherently hazardous substance". "Inherently Hazardous Substance" is any liquid chemical, compressed gas, or commercial product with a flash point at or lower than 100 degrees Fahrenheit (Butane, Propane,

Diethyl Ether) but it EXCLUDES Ethanol and all forms of alcohol.

The Medical Marijuana Code is comprised of C.R.S. § 12-43.3-101 et. seq. and the Retail Marijuana Code is comprised of C.R.S. § 12-43.4-101 et. seq. C.R.S. § 9-7-113 provides that, “A local government may ban the use of a compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids in a residential setting.”

Background:

The manufacture of marijuana concentrate is an increasing trend in residential occupancies. Since the de facto and actual legalization of marijuana, many new trends have developed. The emergence of the tetrahydrocannabinol (THC) extraction lab, commonly referred to as a butane hash oil (BHO) lab, is a prime example. The major draw to marijuana extract is the potency of the final product. Some marijuana concentrates can contain 80-90% THC; whereas a typical marijuana cigarette averages 10-15% THC. Marijuana users state that vaporizing even a small amount of marijuana concentrate produces a more euphoric high than smoking.

There are several solvents that can be used during the extraction process, including acetone, butane, carbon dioxide (CO₂), hexane and rubbing alcohol. However, butane hash oil extraction has become an increasingly popular method of producing marijuana concentrate. The process involves forcing butane through an extraction tube filled with finely-ground marijuana. The residue that emerges from the opposite end of the tube is a mixture of highly-concentrated THC and butane. Once the butane evaporates, the final product is a viscous liquid known as “hash oil,” “honey oil,” “dab,” “wax,” “shatter,” or “earwax,” to name a few. Hash oil does not emit the characteristic odor traditionally associated with marijuana.

Butane, as well as other flammable and combustible solvents, is very volatile and explosive. Flash fire and explosions have originated from the butane, as well as other solvents used in the extraction process. Several elements can spark a deadly explosion, such as static electricity, open flame from a cigarette lighter, or a simple electric switch. This process has sent several individuals to the hospital for burn treatments and the numbers continue to rise (from “The Legalization of Marijuana in Colorado, The Impact,” Volume 2/August 2014, Section 9, THC Extraction Labs, Rocky Mountain High Intensity Drug Trafficking Area (HIDTA)).

The solvent fumes or vapors, if not properly ventilated, will ignite with the smallest spark, which has caused houses and apartment buildings to sustain significant damage. This has posed an extreme danger to first responders and the general public. There are cases of severe burns and/or deaths to the subjects during the process of extraction.

Another dangerous step in this process may include what is referenced as winterization. The purpose of winterization is to purify the mixture by removing inactive ingredients like fats, lipids, waxes and excess plant material. Winterization is the process of dissolving a butane honey oil mixture in 190 proof polar ethanol and freezing for approximately 48 hours. During the winterization process, butane vapors can accumulate in the freezer and can be ignited by static electricity, a spark from a compressor, a fan motor, or simply opening the door to turn on the light.

Additional methods of extraction may include the use of flammable liquids by soaking plant material for a certain amount of time, usually in acetone or an alcohol based solvent.

State of Colorado Statistics 2011-2014:

32 THC extraction explosions

27 injuries from the 32 explosions (varying degrees of burns)

As of August 2014 96% (or 25/26) of the incidents were residential

Location:

- 19 homes/townhomes/condos
- 5 apartments
- 1 commercial building
- 1 motel

Reported to University Hospital Burn Unit (as of 07/10/2015)

2015 = 2

2014 = 11

2013 = 11

2012 = 1

2011 = 1

The numbers represent the number of self-admitted burn victims related to marijuana extraction at University Hospital. Several patients suffered severe burns ranging from large portions of their body to hands/face/legs.

From 2013 - June 2015, the Colorado Springs Police Department responded to 17 residential marijuana concentrate extraction related incidents; eight incidents involved explosion or fire; one incident also occurred in Manitou Springs.

Other Colorado municipalities that have adopted ordinances prohibiting the extraction of marijuana concentrate involving flammable gas or liquids including Denver, Erie, Telluride, and San Miguel County.

Financial Implications:

The cost to the public to implement this ordinance is negligible and consistent with the standard of care for citizens and emergency responders.

Penalties for convicted violation is subject to a fine of not more than \$2,500; jail time of up to 189 days; probation; or by a combination of these. The Municipal Court designates fines that may be made payable at the Violations Bureau.

Though no cost analysis is available at this time; it is anticipated that both public and private expenditure associated with injuries, fatalities, and destruction of property will decrease as a result of deterrence.

Board/Commission Recommendation:

N/A

Stakeholder Process:

This ordinance is supported and approved by various local agencies: the Colorado Springs Police Department, the Pikes Peak Regional Building Department, the Colorado Springs Council of

Neighbors and Organizations (CONO), and the Colorado Marijuana Industry Group (MIG), a marijuana trade association representing both the medical and recreational marijuana industry, support this ordinance (see attached letters).

We attempted contact with the Cannabis Business Alliance (CBA) via their website, however, we did not receive a response.

Alternatives:

N/A

Proposed Motion:

A motion to approve and adopt the ordinance as written.

An ordinance creating a new Section 9.7.209 pertaining to the manufacture of marijuana concentrates involving the use of a compressed flammable gas, flammable gas, flammable liquid, or combustible liquid as a solvent in a residential setting, and providing penalties.