



CITY OF SANTA CLARITA
AGENDA REPORT

CONSENT CALENDAR

CITY MANAGER APPROVAL: Ken Stripling

DATE: May 28, 2019

SUBJECT: STATE LEGISLATION: ASSEMBLY BILL 377

DEPARTMENT: City Manager's Office

PRESENTER: Masis Hagobian

RECOMMENDED ACTION

City Council adopt the City Council Legislative Committee recommendation to oppose Assembly Bill 377 (Garcia) and transmit position statements to Assembly Member Garcia, Santa Clarita’s state legislative delegation, appropriate legislative committees, Governor Newsom, and the League of California Cities.

BACKGROUND

Authored by Assembly Member Eduardo Garcia (D-56-Coachella), Assembly Bill 377 preempts local land use authority related to microenterprise home kitchen operations (MEHKO).

For the purpose of this staff summary, MEHKO means a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be sold to, consumers. Individuals may consume the food at the MEHKO residential site, pick-up the food, or have the food delivered.

Assembly Bill 1616, Chapter 415, Statutes of 2012, preempts local authority and allows for certain food products to be made and sold from a resident’s private home. The statute includes a specific list of food products authorized under the law that can be made and sold to consumers including:

- Baked goods without cream, custard or meat fillings, such as breads, biscuits, cookies, and pastries;
- Candy, such as brittle and toffee;
- Chocolate-covered nonperishable foods, such as nuts and dried fruit;
- Honey; and

- Roasted coffee and dried tea.

During the 2018 Legislative Year, Assembly Bill 626, Chapter 470, Statutes of 2018, established MEHKO as a new category of retail food facilities and expanded the state's preemption of local authority of residential-retail food facilities. This 2018 statute allows for consumers to eat at the residential site operating a MEHKO and does not prohibit any food products from being made or sold as part of MEHKO.

However, as enacted, Assembly Bill 626, Chapter 470, Statutes of 2018, is ambiguous as to whether cities or counties have ultimate authority over the permitting of MEHKO. The current statute states that cities and counties have "full discretion" to authorize the permitting of MEHKO. However, the statute also includes a provision that a county's permitting of MEHKO supersedes a city's prohibition on the residential retail food facility.

As of April 2019, the City of Santa Clarita (City) and Los Angeles County Department of Public Health have not issued MEHKO permits.

Earlier this year, City staff was notified that Assembly Member Garcia was working on a "clean-up" bill that would amend the statute and provide clarification regarding the jurisdictional authority of the permitting of MEHKO. The anticipated amendments were expected to include language that would clarify that cities have the authority to opt out of a county's MEHKO permitting program.

The proposed urgency bill, Assembly Bill 377, as it is currently written, designates the permitting authority of MEHKO to the enforcement agency within the respective jurisdiction. An enforcement agency, as defined in the California Health and Safety Code, is the local health agency having jurisdiction over food facilities. The City uses Los Angeles County Department of Public Health for the permitting and other health services related to food facilities, and therefore, this bill would designate Los Angeles County Department of Public Health with the permitting authority of MEHKO. Furthermore, Assembly Bill 377 expresses that if a county authorizes the permitting of MEHKO, all cities and the unincorporated areas within that county, regardless of any existing city ordinance or prohibition of MEHKO, cannot opt out of the county's MEKHO permitting program.

This bill preempts local land use and zoning authority, potentially exposing the community to adverse impacts related to commercial enterprises permitted within residential zones. Specifically, this bill may adversely impact sanitation, traffic congestion, parking, excessive noise, and building and fire code issues.

The City currently has a robust process to review and develop specific zones that incorporates input from the public, City Council, commissions, and staff. This successful and local zoning process provides the City the ability to consider the unique community needs and maintains the City's community characteristics.

The City of Santa Clarita 2019 Legislative Platform includes a component consistent with the recommendation to oppose this bill. Component 21 under the "State" section of the Legislative Platform advises that the City Council, "Oppose legislation that would interfere with, limit or eliminate the decision-making authority of municipalities in the area of local land use."

Assembly Bill 377 was introduced on February 5, 2019, and passed the Assembly Committee on Health (13-1-1) on April 9, 2019. This bill passed the Assembly Committee on Appropriations (18-0) on April 24, 2019, and ordered to third reading.

The City Council Legislative Committee met on May 6, 2019, and recommends that the City Council adopt an “oppose” position on Assembly 377.

ALTERNATIVE ACTION

1. Adopt a “neutral” position on Assembly Bill 377
2. Adopt a “support” position on Assembly Bill 377
3. Take no action on Assembly Bill 377
4. Refer Assembly Bill 377 back to the Legislative Committee
5. Other action, as determined by the City Council

FISCAL IMPACT

The resources required to implement the recommended action are contained within the City of Santa Clarita's adopted Fiscal Year 2018-19 budget.

ATTACHMENTS

Assembly Bill 377 Bill Text