Title: (Pass for Publication) Ordinance Restricting the Sale and Possession of Butane

Location: Citywide

Recommendation: 1) Review an ordinance amending section 8.04.100 and adding chapter 8.52 of the Sacramento City Code relating to sales and possession of butane; and 2) pass for publication the ordinance title as required by the Sacramento City Code section 32(c) to be adopted on May 15, 2018.

Contact: Joe Devlin, Office of Cannabis Policy and Enforcement Manager, (916) 808-4772, Department of Finance; Zarah Cruz, Program Specialist, (916) 808-8925, Office of Cannabis Policy and Enforcement, Department of Finance

Presenter: Joe Devlin, Office of Cannabis Policy and Enforcement Manager, (916) 808-4772, Department of Finance

Attachments:
1-Description/Analysis
2-Report on Butane Hash Oil Fire/Explosion Incidents
3-Ordinance (Redline)
4-Ordinance (Clean)
Description/Analysis

Issue Detail: Butane is a highly volatile solvent used in the extraction of tetrahydrocannabinol (THC) from a marijuana flower. This process, known as Butane Hash Oil (BHO) extraction, generates an oil known by different names including “hash oil,” “honey oil,” “resin,” “wax,” “shatter” or “dab” and has become increasingly popular. The desirability of this product has resulted in an increased number of attempted, dangerous extractions at homes. The proposed ordinance will set a purchase limit of 600 mL per person per 30 days and a possession limit of 600 mL at any given time while exempting lawful commercial manufacturing and wholesaling of butane. Retailers would be required to create a bill of sale and maintain it for two years when selling butane to the public.

While butane also has legitimate uses such as a fuel for heating equipment or as a refrigerant, large quantities are often associated with illegal BHO production. Unsafe and illegal BHO extraction has resulted in dwelling fires, explosions, third-degree burns, and even the loss of life. Because butane is an odorless gas, escaped vapors in a confined area create a risk of ignition from sources as simple and common as a lit cigarette, the pilot light of an oven or a water heater, or friction from floor coverings. In the City of Sacramento, BHO-extraction incidents have been responsible for at least 15 fire-related injuries since 2008, which also resulted in $1.24 million in property loss (Attachment 2).

Policy Considerations: Butane is readily available and can be purchased from the camping, hardware, and home-improvement sections of many retail outlets. When used in an uncontrolled environment and with unsafe equipment, butane can escape during BHO extraction and create hazardous and possibly catastrophic conditions.

The ordinance will restrict access to butane by limiting the legally purchasable amount of butane to 600 mL per person in any 30-day period. The ordinance further prohibits any person—except for lawful manufacturers, wholesalers, and retailers—from storing more than 600 mL of butane at any one time.

To track the sale of butane the ordinance will require every seller to prepare a bill of sale that lists the date of sale, quantity purchased, and the customer’s identification, including the date of birth. The bill of sale must be kept for two years. Violations of the ordinance will be considered a misdemeanor and public nuisance.

Economic Impacts: The proposed ordinance will establish additional regulatory burdens on businesses, but costs are not known at this point.
Environmental Considerations: This action is not a project that is subject to CEQA because it does not have the potential for causing a significant effect on the environment. (CEQA Guidelines §15061(b)(3).)

Sustainability: Not applicable

Commission/Committee Action: On August 22, 2017, the Law and Legislation Committee (Committee) directed staff to draft an ordinance similar to the one adopted earlier in the year by the County of Sacramento restricting the sale of butane to 600 mL per month. At the time a bill was also pending in the California State Legislature creating similar restrictions and would not have required a local ordinance with the same intent. The bill was passed by the Legislature but was later vetoed by the Governor.

Rationale for Recommendation: Restricting the amount of butane a consumer can purchase and store, combined with a purchase-age restriction may reduce the availability of butane used in illegal and unsafe cannabis manufacturing.

Financial Considerations: There are no direct financial impacts associated with the proposed ordinance.

Local Business Enterprise (LBE): Not applicable.
## Fire Incidents Associated with BHO Manufacturing

### Reporting Period: May 2008 - Jan 2018

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<th>Time</th>
<th>Street No.</th>
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**Totals**

- **15** incidents
- **15** arresting agencies
- **0** fatalities
- **$1,241,500.00** fire loss

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**Reported by:** Patrick Taylor, Fire Investigator II

**Report Date:** 03/08/18
ORDINANCE NO. ___________

Adopted by the Sacramento City Council

AN ORDINANCE AMENDING SECTION 8.04.100 AND ADDING CHAPTER 8.52 OF THE SACRAMENTO CITY CODE RELATING TO BUTANE SALES AND POSSESSION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

A. Subsection Q is added to section 8.04.100 of the Sacramento City Code to read as follows:

Q. Any condition in violation of chapter 8.52 (Butane Sales and Possession).

B. Except as amended by subsection A above, all provisions of section 8.04.100 remain unchanged and in full effect.

SECTION 2.

Chapter 8.52 is added to the Sacramento City Code to read as follows:

Chapter 8.52 BUTANE SALES AND POSSESSION

8.52.010 Findings and purpose.

Butane is a highly volatile solvent used in extracting crystals containing tetrahydrocannabinol (THC) from cannabis flowers. The process generates a substance known as “hash oil,” “honey oil,” “resin,” “wax,” “shatter” or “dab,” (hereafter “honey oil”).

Butane can easily explode when exposed to an ignition source. The uncontrolled extraction of THC through the use of refined butane causes flammable butane
vapors to accumulate low to the ground near ignition sources such as oven and water heater pilot lights, and electric static discharge from floor-covering friction. A study by the County of San Diego’s Department of Environmental Health, Hazardous Materials Division, found that 99.5% of extracted THC butane mixture volatilizes in immediate areas making it highly susceptible to easy ignition. The use of butane in the extraction process has also resulted in numerous incidents, including dwelling fires and explosions causing third-degree burns and other serious injuries, and, in some cases, death. Additionally, innocent bystanders and public safety personnel, including law enforcement officers and firefighters, have been placed at risk or incurred injury when responding to calls for service. A butane honey-oil lab presents a serious hazard for first responders as butane is an odorless gas that can only be detected by a combustible gas instrument. Such conditions present grave risk of loss where devices such as a TASER are capable of igniting the gas, resulting in an explosion.

Most uses of butane do not require the large quantities associated with honey oil production.

The sale of butane occurs at levels sufficient to aid the manufacture of honey oil. Such sales and possession of butane should therefore be regulated to prevent the use of butane in the manufacture of honey oil where such activity presents grave dangers to city residents and first responders.

8.52.020 Definitions.

For the purpose of this chapter, the following definitions apply:

“Bill of sale” means the written or electronic record of a retail butane transaction as required under section 8.52.030.

“Butane” means iso-butane (also known as “ethyl propane”), n-butane, or refined butane of any power.

“Canister” means a container in which butane is stored, collected, or dispensed.

“Customer” means any person who is sold or acquires butane from any retailer during a transaction.

“Manufacturer” means any person who separates butane from unprocessed natural gas or extracts butane from unrefined petroleum (also known as “crude oil”).
“Package” means butane offered for sale at quantities of two or more canisters.

“Sell” means to furnish, give away, exchange, transfer, deliver, surrender, distribute, or supply.

“Retailer” means any person that sells, or offers to sell, products to any customer. It does not include any wholesaler engaged in a wholesale transaction or any manufacturer transacting with a wholesaler or retailer for purposes of resale.

“Wholesaler” means any person whose business is the selling of goods in gross to retailers for purposes of resale.

8.52.030 Sale, purchase, and possession of butane.

A. No retailer shall sell, or offer to sell, to a customer any number of butane canisters that exceed a combined total storage quantity of 600 mL of butane during any single transaction.

B. A retailer shall maintain a bill of sale at the location of a butane transaction with a customer for a period of not less than two years from the date of the transaction. The customer shall provide, and the retailer shall record on the bill of sale, at the time of the butane transaction, the following information:

1. The date of the transaction;

2. The name of the customer;

3. The name, address, and date of birth of the person accepting receipt of the butane on behalf of the customer;

4. The driver’s license number, state identification card number, passport number, or other valid government-issued photographic identification of the person accepting receipt of the butane on behalf of the customer;

5. The brand, type, and quantity of butane transferred to the customer;

6. The identity of the person transferring the butane on behalf of the retailer.
C. No customer shall purchase or acquire any number of butane canisters that exceed a combined total storage quantity of 600 mL of butane, whether sold individually or by the package, during any 30-day period.

D. No customer shall possess, or have in his or her custody or control, any number of butane canisters that exceed a combined total storage quantity of 600 mL of butane at any one time.

E. The limitations in subsections C and D do not apply to the following:

1. Butane canisters possessed by persons solely for the purposes of furthering their ongoing, lawful, commercial operations; or

2. Butane canisters containing a sulfur-containing odorant, such as ethyl mercaptan.

8.52.040 Enforcement.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.

B. A violation of any provision of this chapter constitutes a public nuisance.

C. All remedies prescribed under this chapter are cumulative and the election of one or more remedies does not bar the city from the pursuit of any other remedy to enforce this chapter.
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vapors to accumulate low to the ground near ignition sources such as oven and water heater pilot lights, and electric static discharge from floor-covering friction. A study by the County of San Diego’s Department of Environmental Health, Hazardous Materials Division, found that 99.5% of extracted THC butane mixture volatilizes in immediate areas making it highly susceptible to easy ignition. The use of butane in the extraction process has also resulted in numerous incidents, including dwelling fires and explosions causing third-degree burns and other serious injuries, and, in some cases, death. Additionally, innocent bystanders and public safety personnel, including law enforcement officers and firefighters, have been placed at risk or incurred injury when responding to calls for service. A butane honey-oil lab presents a serious hazard for first responders as butane is an odorless gas that can only be detected by a combustible gas instrument. Such conditions present grave risk of loss where devices such as a TASER are capable of igniting the gas, resulting in an explosion.

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A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.

B. A violation of any provision of this chapter constitutes a public nuisance.

C. All remedies prescribed under this chapter are cumulative and the election of one or more remedies does not bar the city from the pursuit of any other remedy to enforce this chapter.