

Guidance for the Retail Sale of Hemp

The following guidance is provided to address questions regarding Section 37 of Chapter 227 of the Acts of 2020 (FY21 Budget) and its change to M.G.L. 94G, §12. This guidance is not legal advice and is only intended to authorize and clarify requirements relative to retail sales and does not authorize processing, i.e., manufacturing, of hemp or hemp products, including in the course of manufacturing marijuana products. The Massachusetts Department of Agricultural Resources (MDAR) retains exclusive jurisdiction over the licensing of hemp processing. If you have questions regarding state or federal legal requirements, you are encouraged to consult an attorney.

The FY21 Budget amended [M.G.L. 94G, §12\(f\)](#) to read:

“No marijuana establishment shall cultivate, manufacture, sell or otherwise transact business with any products containing cannabinoids other than those that were produced, distributed and taxed in compliance with this chapter, **or any hemp and hemp products cultivated and manufactured in compliance with a license from the department of agricultural resources pursuant to chapter 128 and is in compliance with regulations set forth by the United States Department of Agriculture.**” (emphasis added).

This amendment permits Cannabis Control Commission (Commission)-licensed Marijuana Establishments¹ to take certain actions with regard to hemp and hemp products; however, this amendment does not provide the Commission jurisdiction over those products, which remains with other agencies, including, the MDAR, the Massachusetts Department of Public Health (DPH), the United States Department of Agriculture (USDA), and the United States Food and Drug Administration (FDA).

Given that the regulatory requirements are still changing, Commission licensees are encouraged to monitor federal and state laws and consult an attorney.

¹ This amendment does not impact operations of a Medical Marijuana Treatment Center.



At this time, Marijuana Retailers are permitted to purchase and sell consumer-ready hemp and hemp products (collectively Consumer-Ready Hemp Products) from MDAR licensed Processors.² For a list of the Consumer-Ready Hemp Products that can or cannot be wholesaled, please visit [MDAR's FAQs: Sale of Hemp-Derived Products in the Commonwealth](#).

The Consumer-Ready Hemp Products that Marijuana Retailers may sell to consumers will be treated like accessories and branded goods under the Commission's regulations. As a result, these products must be displayed in a dedicated section of a retail store and may not be offered or sold to individuals under the age of 21. Marijuana Retailers are also not required to track the sale of the products through the Commission's Seed-to-Sale System of Record but should maintain a record of sale for all Consumer-Ready Hemp Products and are encouraged to consult with the Massachusetts Department of Revenue regarding taxation and other similarly related matters.

Any Consumer-Ready Hemp Products sold by a Marijuana Retailer must provide an insert at the point of sale which includes the following warning:

"This product was produced, packaged, and labeled by a Massachusetts hemp processor licensed by the Massachusetts Department of Agricultural Resources (MDAR). It is not regulated by the Massachusetts Cannabis Control Commission and the product may not be consistent with the requirements of M.G.L. c. 94G or 935 CMR 500.000. Consumers that have questions or concerns about this product are encouraged to contact the manufacturer, MDAR, or the appropriate state or federal agencies."

In addition to this guidance document, guidance from other state and federal agencies with jurisdiction over hemp includes, but is not limited to, the following:

- MDAR provides information on its Industrial Hemp Program at <https://www.mass.gov/industrial-hemp-program>. Any questions regarding the sale of hemp and hemp products can be directed to MDAR's Industrial Hemp Program at mahemp@mass.gov.
- DPH has issued guidance on CBD in Food Manufactured or Sold in Massachusetts at <https://www.mass.gov/info-details/cbd-in-food-manufactured-or-sold-in-massachusetts>.
- The FDA issued a statement on the sale of hemp and hemp products containing CBD at <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-steps-advance-agencys-continued-evaluation>; and provided

² For more information about MDAR's requirements, its 2020 Hemp Processor Policy is at <https://www.mass.gov/doc/2020-hemp-processor-policy/download>.



responses to frequently asked questions at <https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd#cosmetics>.

