

Guidance on Hemp

Revised January 2022

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 G. L. c. 94G, § 12. This guidance is not legal advice and is only intended to authorize and clarify requirements relative to the retail sale of consumer-ready hemp or hemp products and the procurement of raw hemp and hemp products by Marijuana Establishments. The Massachusetts Department of Agricultural Resources (MDAR) retains exclusive jurisdiction over the licensing of hemp producing and processing. If you have questions regarding state or federal legal requirements, you are encouraged to consult an attorney.

Chapter 227 of the Acts of 2020¹ amended [G. L. c. 94G, §12 \(f\)](#) as follows:

“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 Establishments and Medical Marijuana Treatment Centers (MTCs) to take certain actions regarding hemp and hemp products cultivated and manufactured in compliance with a license from MDAR; however, this amendment does not give the Commission jurisdiction over those products, which remains with other agencies, including, MDAR, the Massachusetts Department of Public Health

¹ <https://malegislature.gov/Laws/SessionLaws/Acts/2020/Chapter227>



(DPH), the United States Department of Agriculture (USDA), and the United States Food and Drug Administration (FDA).

Commission licensees are encouraged to continue to monitor federal and state hemp rulemaking and to consult an attorney.

Consumer-Ready Hemp Products

MTCs, Marijuana Retailers and Marijuana Delivery Operators are permitted to purchase and sell consumer-ready hemp and hemp products (collectively Consumer-Ready Hemp Products) from MDAR licensed Producers and 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](#).

Consumer-Ready Hemp Products that MTCs, Marijuana Retailers and Marijuana Delivery Operators may sell to consumers and/or Registered Qualifying Patients 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. MTCs, Marijuana Retailers and Marijuana Delivery Operators are not required to track the sale of these products through the Commission's Seed-to-Sale System of Record, but should maintain a record of sales 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 an MTC, Marijuana Retailer or Marijuana Delivery Operator 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; M.G.L. c. 94I; 935 CMR 500.000 and/or 935 CMR 501.000. Consumers or patients that have questions or concerns about this product are encouraged to contact the manufacturer, MDAR, or the appropriate state or federal agencies. Please consume responsibly."

Raw Hemp Products

Raw hemp products deemed Consumer-Ready by MDAR, including flower and raw plant material, that are prepackaged and include the warning insert described above may be sold directly to

² For more information about MDAR's requirements, its 2021 Hemp Processor Policy is available at: <https://www.mass.gov/doc/2021-hemp-processor-policy/download>.



consumers and/or patients by MTCs, Marijuana Retailers and Marijuana Delivery Operators.

Raw hemp products that are not packaged or labeled for Consumer-Ready sale may be sold to an MTC, Marijuana Product Manufacturer, Craft Marijuana Cooperative, or Marijuana Microbusiness for manufacture into Marijuana Products and/or Finished Marijuana Products provided that:

1. Raw hemp must be accompanied by a Certificate of Analysis (COA) issued by a Commission-licensed Independent Testing Laboratory that indicates the hemp product passed the full-panel testing standards for Marijuana Products as described in the *Protocols for the Sampling and Analysis of Finished Marijuana Products and Marijuana Products for Marijuana Establishments, Medical Marijuana Treatment Centers, and Colocated Marijuana Establishments* and in accordance with 935 Code Mass Regs. § 500.160(2) or 501.160(2). The Marijuana Establishment/MTC receiving the raw hemp product is required to ensure, prior to taking custody of the hemp, that the COA is present. The Marijuana Establishment/MTC must also maintain the COA and all testing records in accordance with 935 Code Mass Regs. § 500.160(5) or 501.160(5). The Commission may, at its discretion, require additional testing when necessitated to safeguard public health or safety. 935 Code Mass Regs. § 500.160(3) and 501.160(3).
2. The Finished Marijuana Product shall not be labeled or marketed as a Hemp Product. The product must clearly be marked as a Marijuana Product and comply with all requirements for Marijuana Products under 935 Code Mass Regs. § 500.000 or 501.000. Hemp shall be listed as an ingredient on the label of the Marijuana Product.

Processed Hemp Products

Unfinished, but processed hemp products and hemp derivatives, comprising extracts, distillates, and isolates, may be sold directly to an MTC, Marijuana Product Manufacturer, Craft Marijuana Cooperative, or Marijuana Microbusiness for manufacture into Marijuana Products or Finished Marijuana Products, provided that:

1. The unfinished, but processed hemp product must be accompanied by a Certificate of Analysis (COA) issued by a Commission-licensed Independent Testing Laboratory that indicates the product was processed and passed the full-panel testing standards for Marijuana Products as described in the *Protocols for the Sampling and Analysis of Finished Marijuana Products and Marijuana Products for Marijuana Establishments, Medical Marijuana Treatment Centers, and Colocated Marijuana Establishments* in accordance with 935 Code Mass Regs § 500.160(2) or 501.160(2). The Marijuana Establishment/MTC receiving the unfinished but processed hemp product must ensure, prior to taking custody of the hemp, that the COA is present and will maintain all testing records in accordance with



935 Code Mass Regs § 500.160(5) or 501.160(5). The Commission may, at its discretion, require additional testing where necessitated to safeguard public health or safety. 935 Code Mass Regs. § 500.160(3) and 501.160(3).

2. The Marijuana Product or Finished Marijuana Product shall not be labeled or marketed as a Hemp Product. The product must clearly be marked as a Marijuana Product and comply with all requirements for Marijuana Products under 935 Code Mass Regs. § 500.000 or 501.000. Hemp shall be listed as an ingredient on the label of the Marijuana Product.

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.
- The USDA provides information on the U.S. Domestic Hemp Production Program at: <https://www.ams.usda.gov/rules-regulations/hemp>.
- 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 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>. The FDA regulations are available at: <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/cfrsearch.cfm>.

Questions?

If you have additional questions regarding hemp, please contact the Commission at (774) 415-0200 or Commission@CCCMass.com.

