

Frequently Asked Questions: Farm Bill 2018

Is growing hemp legal under federal law now?

The 2018 Farm Bill created a distinction between hemp and marijuana under federal law recognizing hemp as an agricultural commodity, and removing it from Schedule I of the Controlled Substance Act. The 2018 Farm Bill also authorized the United States Department of Agriculture (“USDA”) to develop regulations and guidelines related to the cultivation of hemp, establishing that hemp cultivation in the United States will require licensing, either through USDA, or in accordance with a state plan developed by a state department of agriculture and approved by USDA. Until such time as USDA develops regulations and guidance, Section 7606 of the 2014 Farm Bill, which authorized Agricultural Research Programs through state departments of agriculture or universities of higher education, remains in place. States are awaiting further direction and guidance from USDA as to how to proceed with developing, expanding, and implementing hemp programs within their jurisdiction.

Until such time as Massachusetts receives additional information or a legislative change is made, MDAR will continue to implement existing Massachusetts law. Under Massachusetts General Laws, Chapter 128, Sections 116 through 123, growing hemp for commercial purposes in Massachusetts falls under the jurisdiction of MDAR, and the planting, growing, harvesting, processing, and retail sale of hemp and hemp products requires licensing by MDAR. MDAR is currently licensing only growing and processing activities related to hemp. Activities that may require registration (i.e. agricultural research programs) or other licensing under M.G.L. c. 128, Section 118 will be addressed at a later date.

What is the impact of the 2018 Farm Bill and federal hemp legalization on the MDAR hemp program?

The passage of the 2018 Farm Bill set the stage for major changes to the Industrial Hemp industry in the United States. There are a number of immediate changes to the legal status of hemp, including but not limited to, the following:

- Hemp has been removed from the Controlled Substances Act, and is now considered an agricultural commodity rather than a drug, although still subject to state and federal oversight.
- Hemp is now eligible for federal crop insurance and hemp farmers may now participate in USDA programs for certification and competitive grants.
- States and Tribes may impose additional restrictions or requirements on hemp production and the sale of hemp products; however, they cannot interfere with the interstate transport of hemp or hemp products.
- It is important to remember that no changes were made to the United States Federal Drug Administration’s (“FDA”) jurisdiction or the Federal Food, Drug, and Cosmetic Act.

However, many of the changes to hemp production in the US will take time to roll out. Under the new law, USDA must establish a federal plan and promulgate regulations and guidelines for the production of hemp in the US. In addition, each state must submit a plan for the oversight of hemp within their boundaries for federal approval. Until the federal plan is released, and state programs are approved, section 7606 of the 2014 Farm Bill remains in place until a year after such oversight is promulgated and there will be no immediate changes to the status of hemp program requirements in Massachusetts.

Does Massachusetts have a state plan ready to submit to USDA?

MDAR is waiting for additional guidance from USDA before developing a plan to ensure compliance with the 2018 Farm Bill and regulations or guidance that will be promulgated by USDA.

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Do I still need to be licensed?

Yes. Until the USDA releases federal hemp guidelines, or approves a state program, a Massachusetts license is still required. It is important to remember that the 2018 Farm Bill also requires that the cultivation of hemp only be done with permission from either a state department of agriculture or USDA and that this licensing requirement will remain in place regardless of future changes to the hemp program.

Am I able to grow hemp on APR land or land subject to an Agricultural Covenant now?

No. The federal legalization of Industrial Hemp under the 2018 Farm Bill does not change the eligibility of APR land or land subject to an Agricultural Covenant to allow for the cultivation of hemp.

In the event of a legislative change to Massachusetts General Laws, Chapter 61A, any APR that has been acquired by MDAR using federal funds or that contains language within the APR limiting activities involving a federally prohibited crop would not be eligible to engage in most activities related to

Can I process crops that were grown outside of Massachusetts?

No, there is currently no change to the [MA Commercial Hemp Policy](#) that would allow a processor to process hemp not grown by a Massachusetts licensed grower. The only exception to this is if such hemp to be processed was obtained lawfully under federal law from an approved source. We are still waiting on guidance from USDA as to how domestically grown, unprocessed hemp may be transported over state lines and as such no unprocessed hemp grown in the United States may be brought into Massachusetts for processing at this time. marijuana or hemp while both remain prohibited by federal law.

Will I be allowed to cultivate hemp for food, or manufacture edible products that contain hemp?

The FDA has completed evaluations of three hemp products: hulled hemp seeds, hemp seed protein, and hemp seed oil, and indicated they are Generally Recognized as Safe (GRAS). The use of these hemp or hemp-derived products in food is legal. However, cannabidiol ("CBD") derived from hemp is still undergoing evaluations for use as a food additive or supplement and a determination has not yet been made relative to its use in products intended for consumption.

<https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm628988.htm>