

# THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



## Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114  
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lt. Governor

KATHLEEN A. THEOHARIDES  
Secretary

JOHN LEBEAUX  
Commissioner

## GUIDANCE ON SELLING HEMP AND HEMP-DERIVED PRODUCTS TO MARIJUANA ESTABLISHMENTS

Issued October 4, 2021

On December 11, 2020, Chapter 94G Section 12 was amended to include additional language relative to the sale of hemp and hemp-derived products by marijuana establishments (in **bold**):

*"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."*

In order to allow for the sale of hemp and hemp-derived products to a marijuana establishment licensed by the Cannabis Control Commission ("CCC Licensee"), the Massachusetts Department of Agricultural Resources ("MDAR") updated its "2021 Hemp Processor Policy" and its "Policy Statement Regarding the Sale of Hemp-Derived Products in the Commonwealth." This document provides guidance for Massachusetts Licensed Hemp Producers and Hemp Processors ("MDAR Licensees") who want to sell hemp and/or hemp derived products to a CCC Licensee in accordance with the Amendment. This Guidance explains new requirements for MDAR Licensees and introduces a list of hemp products that may now be sold to a CCC Licensee.

Please note that this guidance applies only to the sale of hemp and hemp-derived products by a MDAR Licensee to a CCC Licensee. All activities related to the purchase or sale of any product by a CCC Licensee are under the jurisdiction of the CCC. MDAR does not have jurisdiction over any activity that takes place in a marijuana establishment or that otherwise falls under the jurisdiction of the CCC. MDAR does not require any additional licensing for CCC Licensees to sell consumer-ready hemp or hemp-derived products purchased from MDAR licensees or products that use hemp or hemp-derived products as an ingredient. Questions related to a marijuana establishment or its activities that may be subject to any license issued by the CCC should be directed to the attention of the CCC.

This guidance is not legal advice. It was created with the intent of assistance for MDAR Licensees to navigate the sale of hemp and hemp-derived products to marijuana establishments in accordance with state laws and regulations. Please consult an attorney if you have any questions regarding any legal requirements that may apply to the production, processing, or sale of hemp.

## **Hemp Products allowed for sale to a CCC Licensee**

MDAR now allows for sale of the following hemp and hemp-derived products from a MDAR Licensee to a CCC Licensee in addition to previously approved products allowed for sale in the Commonwealth in accordance with the [2021 Processor Policy](#):

- Raw, unprocessed hemp, including flower
- Unfinished hemp-derived material such as extracts and distillates
- Finished hemp products, including raw flower packaged, labeled and ready for sale.

## **Selling Packaged and Labeled Finished Products, Including Flower and Raw Plant Material**

### Flower as a Finished Product

Unprocessed or raw plant material, including the flower, that is meant for end use by a consumer remains prohibited in Massachusetts **except** as otherwise sold to a CCC Licensee for sale in a marijuana establishment in accordance with any guidance or regulation promulgated by the CCC as authorized by M.G.L. c. 94G, Section 4 and 12.

### New Labeling Requirements

MDAR Licensed Processors that manufacture finished hemp-derived products must label those intended for human consumption or absorption (including but not limited to inhaling, swallowing or topical application) in accordance with the [2021 Processor Policy](#) and ensure that all finished products are labeled in clear, legible wording no less than 1/16 inch in size on each container.

Labels shall be firmly affixed and shall include the following:

- Manufacturer name, license number and address
- Cannabinoid profile (must include THC and CBD concentrations)
- Batch number
- State of origin for the Hemp or Hemp Extract used.
- Statement: "This product derived from Hemp has not been tested, analyzed, or approved by the Massachusetts Department of Agricultural Resources or the FDA."
- Ingredients
- Allergen warnings, as needed

### Additional Requirements for Unprocessed or Raw Plant material, Including Flower

Unprocessed or raw plant material, including the flower, that is meant for end use by a consumer remains prohibited in Massachusetts **except** to a CCC Licensee for sale in a marijuana establishment in accordance with any guidance or regulation promulgated by the CCC as authorized by M.G.L. c. 94G, Sections 4 and 12. It is important to note that hemp produced in accordance with M.G.L. c. 128, Sections 116 through 123 and rules issued by the USDA is not subject to contaminant testing requirements from MDAR. Once a crop has been certified by MDAR to have Acceptable THC Levels, the hemp may be sold as-is unless the CCC or the CCC Licensee requires anything additional.

MDAR Licensees must keep records of the sale of any unprocessed or raw plant material, including flower, sold to a CCC Licensee. These records should include the MA Industrial Hemp Certificate(s) for any hemp sold and the amount sold (in lbs. weight.) These records must be made available to MDAR upon request.

Any unprocessed or raw plant material, including flower, sold to a CCC licensee must be accompanied by the following documentation provided by the Licensed Hemp Producer:

- MA Industrial Hemp Certificate(s)
- Amount sold (in lbs. weight)

### **Information for CCC Licensees**

If a CCC Licensee wants to manufacture products using hemp as an ingredient, an MDAR License is not required. However, finished products manufactured by or in a marijuana establishment may **not be labeled or marketed as hemp**. Please be aware that the CCC may have additional requirements for hemp and hemp-derived products purchased or sold by a CCC Licensee. Hemp Producers, Processors, and CCC Licensees should ensure that any hemp material or finished hemp products to be purchased or sold by CCC Licensees are in compliance with all applicable requirements from both MDAR and the CCC. For more information, please visit:

<https://masscannabiscontrol.com/wp-content/uploads/2021/05/Guidance-for-the-Retail-Sale-of-Hemp.pdf>

If a CCC Licensee wants to manufacture finished products that are packaged and labeled as hemp or hemp-derived, the CCC Licensee must obtain a MA Hemp Processor License prior to engaging in the activity. Licensed Hemp processing facilities may not be co-located with marijuana operations to ensure compliance with state and federal law.