

MAINE AGENCY GUIDELINES for ENFORCEMENT of PL 2019 c. 528[LD 1749]

Maine law, like the US Farm Bill of 2018, has expanded the definition of hemp to include cannabis plants and extracts of such plants (including cannabidiol or CBD) which have less than 0.3% delta-9-THC by dry weight. The US FDA retains the authority to regulate food, drug, and cosmetic products, including those containing hemp or cannabidiol/CBD. US FDA has issued statements prohibiting food, unapproved drugs, dietary supplements, pet food, and unapproved animal drugs that contain CBD from interstate commerce. In Maine, the Food Code had similar restrictions about CBD in food. Maine lawmakers responded with emergency enactment of PL 2019, c. 12 [LD 630], effective March 2019, and PL 2019, c. 528, effective September 19, 2019. These laws made changes to Maine's pure foods and drugs statutes and laws regarding hemp.

This guidance covers inspectors who enforce the Maine Food Code. This includes inspectors from the Department of Agriculture, Conservation and Forestry, which regulates retail food establishments, and the DHHS Health Inspection Program/designated municipalities, which regulate eating establishments. It is legal, per the Maine Food Code, for licensees to sell edible products containing CBD subject to the conditions outlined below:

- Per 22 MRS §2157(15) packaged food, food additives, or food products must be clearly labeled by including:
 - the ingredient it contains (hemp or CBD) and amount by weight or volume;
 - name and address of the source of the hemp from which the cannabidiol was derived;
 - in the case of extracts (such as CBD oil) or tinctures, indicates the batch number; and
 - a disclosure statement that the food, food, additive or food product has not been tested or evaluated for safety; or
- Per 22 MRS §2157(15) unpackaged food, food additives or food products must:
 - clearly note the inclusion of CBD on a notice next to the food, food additive or product; next to the pertinent listing on a menu; or in an open manner where the food product is served, and
 - have a conspicuously displayed directory for use by customers with information on the contents of all unpackaged food products sold/served that contain CBD from hemp.
- The food product label, menu, advertising, and any other related information must not include health claims that items with hemp or CBD can diagnose, treat, cure or prevent any disease, condition or injury without approval pursuant to federal law.
- Source CBD may be from Maine or brought into Maine from another state that has a Farm Bill 2014 hemp program. The licensee must have the state hemp program number for the source CBD provider.
- The delta-9-THC content of any hemp, CBD extract, or product must be less than 0.3%.
- Ingestible products (food) may not be imported from out of state if they already contain CBD, since that is still a violation of federal law and the Maine Food Code. **Ingestible products sold at retail in Maine must be produced in Maine.**

These guidelines are for use by DHHS and DACF retail inspection staff. They will be enforced beginning December 1, 2019. These guidelines may be shared with the understanding that state and federal statutory changes and rulemaking are ongoing and may alter any of the above conditions and/or add new conditions.