

SENATE No. 2664

The Commonwealth of Massachusetts

—
**In the One Hundred and Ninety-Second General Court
(2021-2022)**
—

SENATE, February 7, 2022.

The committee on Cannabis Policy, to whom was referred the petition (accompanied by bill, Senate, No. 71) of Adam G. Hinds, Joanne M. Comerford and James B. Eldridge for legislation relative to the growth of hemp, reports the accompanying bill (Senate, No. 2664).

For the committee,
Sonia Chang-Diaz

SENATE No. 2664

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to hemp and agriculture in the cannabis industry.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of Chapter 61A of the General Laws is hereby amended by
2 inserting, in line 4, after the word “tobacco” the following words:-

3 ", hemp as defined in section 116 of chapter 128".

4 SECTION 2. Section 1 of chapter 94G of the General Laws, is hereby amended by
5 inserting the following definition:-

6 “Cannabidiol” or “CBD”, the compound by the same name derived from the hemp
7 variety of the Cannabis sativa L. plant.

8 SECTION 3. Said section 1 is hereby further amended striking out lines 49-55 and
9 inserting in place thereof the following definition:-

10 “Hemp”, the plant Cannabis sativa L. and any part of that plant, including the seeds
11 thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,

12 whether growing or not, with a THC concentration percentage that does not exceed the limit set
13 by federal law for hemp. Hemp shall be considered an agricultural commodity.

14 SECTION 4. Subsection (a) of section 4 of said chapter 94G is hereby amended by
15 striking out clauses (xxvii) and (xxviii) and inserting in place thereof the following 5 clauses:-

16 (xxvii) monitor any federal activity regarding marijuana;

17 (xxviii) adopt, amend or repeal regulations for the implementation, administration and
18 enforcement of this chapter;

19 (xxix) consult with the department of public health and the department of agricultural
20 resources on the implementation of sections 117-123 of chapter 128;

21 (xxx) permit the sale of CBD in food products at marijuana establishments and medical
22 marijuana treatment centers as provided in section 122 of chapter 128; and

23 (xxx) collaborate with the department of agricultural resources over the administration of
24 pesticides on marijuana and marijuana products pursuant to section 5B of chapter 132B.

25 SECTION 5. Subsection (a 1/2) of said section 4 of said chapter 94G is hereby amended
26 by striking out clauses (xxxiii) and (xxxiv) and inserting in place thereof the following 4
27 clauses:-

28 (xxxiii) requirements that prohibit marijuana product manufacturers from altering or
29 utilizing commercially-manufactured food products when manufacturing marijuana products
30 unless the food product was commercially manufactured specifically for use by the marijuana
31 product manufacturer to infuse with marijuana; provided, however, that a commercially-
32 manufactured food product may be used as an ingredient in a marijuana product if: (i) it is used

33 in a way that renders it unrecognizable as the commercial food product in the marijuana product;
34 and (ii) there is no statement or advertisement indicating that the marijuana product contains the
35 commercially-manufactured food product;

36 (xxxiv) energy and environmental standards for licensure and licensure renewal of
37 marijuana establishments licensed as a marijuana cultivator or a marijuana product manufacturer;

38 (xxxv) procedures and policies on the implementation of sections 117-123 of chapter
39 128; provided however, that the commission may consult with the department of agricultural
40 resources; and

41 (xxxvi) operational collaboration with the department of agricultural resources over the
42 administration of pesticide use on marijuana and marijuana products pursuant to section 5B of
43 chapter 132B.

44 SECTION 6. Chapter 111 of the General Laws is hereby amended by adding at the end
45 thereof the following new section:-

46 Section 243. The department shall promulgate regulations to govern the administration
47 and manufacturing of cannabidiol in food products, as provided in sections 116-123 of chapter
48 128; provided however, that the department shall consult with the cannabis control commission
49 and the department of agricultural resources on said regulations; provided further, that sales of
50 cannabidiol within marijuana establishments and medical marijuana treatment centers shall fall
51 under the sole regulatory authority of the cannabis control commission pursuant to section 4 of
52 chapter 94G.

53 SECTION 7. Section 116 of chapter 128 of the General Laws is hereby amended by
54 striking out the lines 4-12, and inserting in place thereof the following definitions:-

55 “Cannabidiol” or “CBD”, the compound by the same name derived from the hemp
56 variety of the Cannabis sativa L. plant.

57 “Hemp”, the plant Cannabis sativa L. and any part of that plant, including the seeds
58 thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
59 whether growing or not, with a THC concentration percentage that does not exceed the limit set
60 by federal law for hemp. Hemp shall be considered an agricultural commodity.

61 “Hemp Products”, all products derived from, or made by, processing hemp plants or plant
62 parts, that are prepared in a form available for commercial sale, including, but not limited to
63 animal and human products intended for topical application such as cosmetics, personal care and
64 grooming products; animal and human products intended for consumption such as dietary
65 supplements, foods and beverages; and products intended for other uses such as cloth, cordage,
66 fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-
67 derived cannabinoids, such as cannabidiol.

68 “Tetrahydrocannabinol” or “THC”, shall have the definition as found in federal law.

69 SECTION 8. Chapter 128 of the General Laws is hereby amended by striking out
70 sections 117-123, and inserting in place thereof the following sections:-

71 Section 117. (a) Industrial hemp may be planted, grown, harvested, processed, bought,
72 sold or researched subject to sections 116 to 123, inclusive. The planting, growing, harvesting,

73 possessing, processing or research of industrial hemp as an agricultural product shall be subject
74 to the supervision and approval of the department pursuant to sections 116 to 123, inclusive.

75 (b) A person planting, growing, harvesting, or processing industrial hemp shall be
76 licensed by the department;

77 (c) No person shall produce or distribute industrial hemp seed without a license issued by
78 the department.

79 (d) A person utilizing industrial hemp for research shall register with the department.

80 (e) An application for a license issued pursuant to subsection (b) or (c) shall include, but
81 not be limited to: (i) the name and address of any applicants; (ii) the name and address of the
82 industrial hemp operation of the applicant; (iii) the global positioning system coordinates and
83 legal description of the property used for the industrial hemp operation; (iv) the acreage size of
84 the field where the industrial hemp will be grown, if applicable; (v) a written consent allowing
85 the department to conduct both scheduled and random inspections of and around the premises on
86 which the industrial hemp is being sown, grown, harvested, stored and processed; (vi) a
87 nonrefundable application fee in an amount which shall be established by the commissioner; (vii)
88 any other information as may be required pursuant to subsection (d); and (viii) any other
89 information as may be required by the commissioner.

90 (f) All documents included in an application for licensure submitted under subsection (e)
91 except for the address of a licensee's cultivation or production facilities and any documents
92 describing, depicting or otherwise outlining a licensee's security schematics or global positioning
93 system coordinates, which are considered by the department to be confidential in nature due to
94 their public safety implications, shall be considered public records for the purposes of chapter 66.

95 Section 118. (a) After receipt, review and approval of an application for licensure
96 pursuant to section 117, the commissioner may grant an annual license upon issuance of written
97 findings that the requirements of sections 116 to 123, inclusive, have been satisfied.

98 (b) The commissioner shall deny an application for a license filed pursuant to section 117
99 if the applicant: (i) fails to satisfy the minimum qualifications for licensure pursuant to sections
100 116 to 123, inclusive; or (ii) for good cause shown.

101 Section 119. The commissioner shall suspend, revoke or refuse to renew the license of a
102 person who violates sections 116 to 123, inclusive, following appropriate process in accordance
103 with chapter 30A.

104 Section 120. (a) The department and the commissioner shall promulgate rules and
105 regulations for the implementation, administration and enforcement of sections 116 to 123,
106 inclusive; provided, that the department shall consult with the cannabis control commission
107 when promulgating rules and regulations, under section 5B of chapter 132B, for pesticide use on
108 hemp and marijuana that includes, but is not limited to, the ability for operational collaboration
109 between the agencies for inspections; and provided further, that the department shall consult with
110 the cannabis control commission and the department of public health when promulgating rules
111 and regulations under section 122(c). (b) Pursuant to section 2 of chapter 30A, the department
112 may promulgate, amend or repeal any regulation promulgated under this chapter as an
113 emergency regulation if the regulation is necessary to protect the interests of the commonwealth
114 in regulating industrial hemp.

115 Section 121. The department may inspect and have access to the equipment, supplies,
116 records, real property and other information deemed necessary to carry out the department's

117 duties under sections 116 to 123, inclusive, from a person participating in the planting, growing,
118 harvesting, possessing, processing, purchasing or researching of hemp or industrial hemp. The
119 department may establish an inspection and testing program to determine delta-9
120 tetrahydrocannabinol levels and ensure compliance with the limits on delta-9
121 tetrahydrocannabinol concentration.

122 Section 122. (a) Notwithstanding any other provision of law to the contrary, dietary
123 supplements, food or food products that contain hemp or any part of the hemp plant, including
124 the seeds and all naturally occurring cannabinoids, compounds, concentrates, extracts, isolates,
125 resins, isomers, acids, salts, salts of isomers or cannabidiol derivatives, are not considered to be
126 adulterated or misbranded based solely on the inclusion of hemp or any part of the hemp plant.
127 The marketing, sale or distribution of dietary supplements, food or food products within the
128 commonwealth that contain hemp or any part of the hemp plant may not be restricted or
129 prohibited based solely on the inclusion of hemp or any part of the hemp plant. The label of a
130 hemp product may not make any claims that food or food products that contain hemp can treat,
131 cure or prevent any disease without approval pursuant to federal law.

132 (b) Hemp and hemp products cultivated and manufactured in other states pursuant to a
133 USDA approved hemp program, or produced lawfully under the laws of another state, tribe, or
134 country, may be sold within the Commonwealth.

135 (c) Notwithstanding any other law, derivatives of hemp, including hemp-derived
136 cannabidiol, may be added to animal and human products intended for topical application such
137 as cosmetics, personal care and grooming products, and animal and human products intended for

138 consumption such as dietary supplements, foods and beverages, and such an addition is not
139 considered an adulteration of such products.

140 (d) The THC found in hemp and being within the federally defined THC level for hemp
141 shall not be considered to be THC in qualifying as a controlled substance.

142 Section 123. The department may establish civil administrative fines for violations of
143 sections 116 to 123, inclusive. A person aggrieved by the assessment of a fine under this section
144 or a licensure action under section 119 may appeal by filing a notice of appeal with the
145 department not later than 21 days after the receipt of the notice of the fine or licensure action.
146 The adjudicatory hearing shall be conducted in accordance with chapter 30A.

147 SECTION 9. Chapter 132B of the general laws is hereby amended by adding the
148 following section after section 5A:-

149 Section 5B. The department shall authorize the application of pesticides on marijuana and
150 marijuana products that are labeled for hemp by the environmental protection agency; provided,
151 that the label includes use on food and tobacco crops and is exempt from a federal food tolerance
152 limit unless otherwise authorized by federal law. Use of pesticides under this section shall not be
153 considered a manner that is inconsistent with the label as required by section 6A.