

SENATE No. 40

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting the growing and use of hemp and hemp products.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>4/12/2023</i>

SENATE No. 40

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 40) of Joanne M. Comerford for legislation relative to promote the growing and use of hemp and hemp products. Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act promoting the growing and use of hemp and hemp products.

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, as appearing in the 2020
2 Official Edition, is hereby amended by inserting after the word “tobacco,” in line 4, the
3 following words:- , hemp as defined in section 116 of chapter 128.

4 SECTION 2. Section 1 of chapter 94G of the General Laws, as appearing in the 2020
5 Official Edition, is hereby amended by inserting after the first paragraph the following
6 definition:-

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

9 SECTION 3. Said section 1 of said chapter 94G, as so appearing, is hereby further
10 amended striking out the definition of ‘Hemp’ in lines 49 to 55, inclusive, and inserting in place
11 thereof the following definition:-

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

16 SECTION 4. Subsection (a) of section 4 of said chapter 94G, as so appearing, is hereby
17 amended by striking out clauses (xxvii) and (xxviii) and inserting in place thereof the following
18 5 clauses:-

19 (xxvii) monitor any federal activity regarding marijuana;

20 (xxviii) consult with the department of public health and the department of agricultural
21 resources on the implementation of sections 117 to 123, inclusive, of chapter 128;

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

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

26 (xxxi) adopt, amend or repeal regulations for the implementation, administration and
27 enforcement of this chapter.

28 SECTION 5. Subsection (a 1/2) of said section 4 of said chapter 94G, as so appearing, is
29 hereby amended by striking out clauses (xxxiii) and (xxxiv) and inserting in place thereof the
30 following clauses:-

31 (xxxiii) requirements that prohibit marijuana product manufacturers from altering or
32 utilizing commercially-manufactured food products when manufacturing marijuana products

33 unless the food product was commercially manufactured specifically for use by the marijuana
34 product manufacturer to infuse with marijuana; provided, however, that a commercially-
35 manufactured food product may be used as an ingredient in a marijuana product if: (i) it is used
36 in a way that renders it unrecognizable as the commercial food product in the marijuana product;
37 and (ii) there is no statement or advertisement indicating that the marijuana product contains the
38 commercially-manufactured food product;

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

41 (xxxv) procedures and policies on the implementation of sections 117 to 123, inclusive,
42 of chapter 128; provided however, that the commission may consult with the department of
43 agricultural resources; and

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

47 SECTION 6. Chapter 111 of the General Laws is hereby amended by inserting after
48 section 243 the following section:-

49 Section 244. The department shall promulgate regulations to govern the administration
50 and manufacturing of cannabidiol in food products, as provided in sections 116 to 123, inclusive,
51 of chapter 128; provided however, that the department shall consult with the cannabis control
52 commission and the department of agricultural resources on said regulations; provided further,
53 that sales of cannabidiol within marijuana establishments and medical marijuana treatment

54 centers shall fall under the sole regulatory authority of the cannabis control commission pursuant
55 to section 4 of chapter 94G.

56 SECTION 7. Section 116 of chapter 128 of the General Laws, as appearing in the 2020
57 Official Edition, is hereby amended by striking out the definitions of “Hemp” and “Industrial
58 hemp” in lines 4 to 12 and inserting in place thereof the following definitions:-

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

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

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

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

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

75 Section 117. (a) Hemp may be planted, grown, harvested, processed, bought, sold or
76 researched subject to sections 116 to 123, inclusive. The planting, growing, harvesting,
77 possessing, processing or research of hemp as an agricultural product shall be subject to the
78 supervision and approval of the department pursuant to sections 116 to 123, inclusive.

79 (b) A person planting, growing, harvesting, or processing hemp shall be licensed by the
80 department.

81 (c) No person shall produce or distribute hemp seed without a license issued by the
82 department.

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

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

94 (f) All documents included in an application for licensure submitted under subsection (e)
95 except for the address of a licensee's cultivation or production facilities and any documents
96 describing, depicting or otherwise outlining a licensee's security schematics or global positioning

97 system coordinates, which are considered by the department to be confidential in nature due to
98 their public safety implications, shall be considered public records for the purposes of chapter 66.

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

102 (b) The commissioner shall deny an application for a license filed pursuant to section 117
103 if the applicant: (i) fails to satisfy the minimum qualifications for licensure pursuant to sections
104 116 to 123, inclusive; or (ii) for good cause shown.

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

108 Section 120. (a) The department and the commissioner shall promulgate rules and
109 regulations for the implementation, administration and enforcement of sections 116 to 123,
110 inclusive; provided, that the department shall consult with the cannabis control commission
111 when promulgating rules and regulations, under section 5B of chapter 132B, for pesticide use on
112 hemp and marijuana that includes, but is not limited to, the ability for operational collaboration
113 between the agencies for inspections; and provided further, that the department shall consult with
114 the cannabis control commission and the department of public health when promulgating rules
115 and regulations under subsection (c) of section 122.

116 (b) Pursuant to section 2 of chapter 30A, the department may promulgate, amend or
117 repeal any regulation promulgated under this chapter as an emergency regulation if the
118 regulation is necessary to protect the interests of the commonwealth in regulating hemp.

119 Section 121. The department may inspect and have access to the equipment, supplies,
120 records, real property and other information deemed necessary to carry out the department's
121 duties under sections 116 to 123, inclusive, from a person participating in the planting, growing,
122 harvesting, possessing, processing, purchasing or researching of hemp. The department may
123 establish an inspection and testing program to determine delta-9 tetrahydrocannabinol levels and
124 ensure compliance with the limits on delta-9 tetrahydrocannabinol concentration.

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

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

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

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

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

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

150 SECTION 9. Chapter 132B of the General Laws is hereby amended by inserting after
151 section 5A the following section:-

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