

SENATE No. 222

The Commonwealth of Massachusetts

PRESENTED BY:

William J. Driscoll, Jr.

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 to regulate Hemp-derived beverages like alcohol.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>William J. Driscoll, Jr.</i>	<i>Norfolk, Plymouth and Bristol</i>	
<i>Pavel M. Payano</i>	<i>First Essex</i>	<i>10/21/2025</i>

SENATE No. 222

By Mr. Driscoll, a petition (accompanied by bill, Senate, No. 222) of William J. Driscoll, Jr. for legislation to regulate Hemp-derived beverages by imposing a fine if a person that is involved in establishing or maintaining an infused beverage manufacturing operation without an endorsement granted by the commission. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act to regulate Hemp-derived beverages like alcohol.

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. Chapter 138 of the General Laws is hereby amended by inserting after
2 section 78 the following sections:-

3 Section 79. Definitions applicable to sections 79 through 84, inclusive

4 As used in this section, the following words shall have the following meanings unless the
5 context clearly requires otherwise:

6 “Artificially-derived cannabinoid”, a chemical substance that is created by a chemical
7 reaction that changes the molecular structure of any chemical substance derived from the
8 cannabis plant. “Artificially-derived cannabinoid” does not include: a naturally occurring
9 chemical substance that is separated from the cannabis plant by a chemical or mechanical
10 extraction process; or a cannabinoid that is produced by decarboxylation from a naturally
11 occurring cannabinoid acid without the use of a chemical catalyst.

“Cannabinoid”, any of several compounds produced by the cannabis plant that have medical and psychotropic effects. This includes but is not limited to cannabidiol (CBD) and tetrahydrocannabinol (THC).

“Certificate of analysis”, a document produced by an independent testing laboratory listing the quantities of the various analytes for which testing was performed.

“Container” means an object that is offered, intended for sale or sold to a consumer and directly contains an infused beverage product, and does not include an object or packaging that indirectly contains, or contains in bulk for transportation purposes, an infused beverage.

“Hemp”, as defined in section 1 of chapter 94G.

“Independent testing laboratory”, a laboratory that does not have a direct or indirect interest in the entity whose product is being tested; does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells infused beverages or infused beverage products in the state and is accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization.

“Infused beverage”, a beverage intended for human consumption that is not an alcoholic beverage, as defined in section 1, that contains, or is advertised, labeled or offered for sale as containing an intoxicating cannabinoid and may contain one or more non-intoxicating cannabinoids. Infused beverage shall not be considered “food” as defined in section 1 of chapter 94.

“Infused beverage product”, an infused beverage in a container intended for retail sale.

An infused beverage product shall not be considered “food” as defined in section 1 of chapter 94.

“Infused beverage product class”, a group of infused beverage products that have all ingredients in common; and are produced by or for the same company.

“Intoxicating cannabinoid”, a cannabinoid with intoxicating properties that changes the function of the nervous system and results in alterations of perception, cognition, or behavior.

“Intoxicating cannabinoid” shall include, but shall not be limited to, delta-6-tetrahydrocannabinol, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, delta-10-tetrahydrocannabinol, and delta-9-tetrahydrocannabinolic acid A.

“Non-intoxicating cannabinoid”, a cannabinoid without intoxicating properties that changes the function of the nervous system and results in alterations of perception, cognition, or behavior. “Non-intoxicating cannabinoid” shall include, but shall not be limited to, cannabidiol, cannabidiolic acid, cannabidivarin, cannabidivarinic acid, cannabichromene, cannabichromenic acid, cannabigerolic acid, cannabigerol, and cannabinol.

“Transportable hemp concentrate”, the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; is derived from the hemp plant that, based on sampling that was collected no more than 30 days before the day on which the hemp plant was harvested, contains a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis; has a THC and THC analog concentration total that is less than 20% when concentrated from the hemp plant to the purified state; and is intended to be processed into an infused beverage product.

Section 80. Manufacture of infused beverages

(a) No person shall manufacture an infused beverage that is intended to be sold or offered for sale in the commonwealth unless such person holds an infused beverage manufacturer endorsement or a certificate of compliance issued by the commission pursuant to this section. The commission may impose a fine of up to \$10,000 on a person that advertises, announces, establishes, maintains or is concerned in establishing or maintaining an infused beverage manufacturing operation without an endorsement granted by the commission. Each day during which a violation continues shall constitute a separate offense. The commission may conduct surveys and investigations to enforce compliance with this section.

(b) The commission shall issue for a term of one year, and renew for a like term, an endorsement to manufacture infused beverages under this section to an entity that submits to the commission, in a form and manner prescribed by the commission, an application that demonstrates eligibility for an endorsement under this section. Such an endorsement shall be subject to suspension, revocation or refusal to renew for cause. Any application for an endorsement under this section, or renewal thereof, shall be accompanied by an application processing fee in the amount of five thousand dollars. The commission shall approve or deny such an application within thirty days of submission.

(c) The commission shall not issue an endorsement under this section unless the applicant holds an unencumbered license to: (i) manufacture alcoholic beverages issued under section 19 of this chapter, (ii) manufacture marijuana-infused products issued by the cannabis control commission under chapter 94G, or (iii) manufacture hemp products issued by the department of agricultural resources under chapter 128.

(d) No holder of an endorsement or certificate of compliance under this section shall sell an infused beverage or infused beverage product to any person in the commonwealth unless such person holds an endorsement or certificate of compliance from the commission to manufacture infused beverages under this section or to sell infused beverage products at wholesale issued under section 81.

(e) A holder of an endorsement issued under this section may utilize existing facilities and equipment to manufacture infused beverages and infused beverage products in accordance with regulations promulgated by the commission. No infused beverage manufacturer shall obtain any hemp or hemp product for the purpose of manufacturing any infused beverage that is intended to be manufactured, sold or offered for sale in this state unless such hemp product is in the form of transportable hemp concentrate, and no such infused beverage manufacturer shall use any hemp product other than transportable hemp concentrate to manufacture any such infused beverage or infused beverage product.

(f) The commission shall issue a certificate of compliance to an out of state entity authorized by its home state to manufacture or distribute alcoholic beverages or hemp products; provided, however, that such certificate shall be issued upon the condition that the holder shall furnish from time to time as the commission may require, but in no event more often than once each month, information concerning all shipments or sales of infused beverage products made by them into the commonwealth, and that they comply with the provisions of this chapter and any rules or regulations promulgated hereunder that pertain to a licensee of the same class, type or character, doing business in this commonwealth under a license issued by the commission. The commission may suspend, cancel or revoke any certificate issued hereunder for a violation of the terms or conditions thereof. All certificates shall be issued to expire December thirty-first of the

year of issuance and the fee therefor shall be no less than \$200. The commission shall issue a certificate of compliance within thirty days of application submission.

Section 81. Wholesale of infused beverage products

(a) No person shall sell an infused beverage product at wholesale in the commonwealth unless such person holds an infused beverage product wholesaler and importer endorsement issued by the commission pursuant to this section. The commission may impose a fine of up to \$10,000 on any person that advertises, announces, establishes, maintains or is concerned in establishing or maintaining an infused beverage wholesaler without an endorsement granted by the commission. Each day during which a violation continues shall constitute a separate offense. The commission may conduct surveys and investigations to enforce compliance with this section.

(b) The commission shall issue for a term of one year, and renew for a like term, an endorsement to import or sell infused beverage products at wholesale to an entity that submits to the commission, in a form and manner prescribed by the commission, an application that demonstrates eligibility for an endorsement under this section. Such an endorsement shall be subject to suspension, revocation or refusal to renew for cause. Any application for an endorsement under this section, or renewal thereof, shall be accompanied by an application processing fee in the amount of five thousand dollars. The commission shall approve or deny such an application within thirty days of submission.

(c) The commission shall not issue an endorsement under this section unless the applicant holds an unencumbered license to import or sell alcoholic beverages at wholesale issued under section 18 of this chapter.

(d) No holder of an endorsement under this section shall sell an or infused beverage product to any person unless such person holds an endorsement from the commission to retail infused beverages under section 82.

Section 82. Retail of infused beverage products

(a) No person shall sell, or offer for sale, at retail an infused beverage product unless such person holds an infused beverage product retailer endorsement issued by the commission pursuant to this section. No infused beverage product shall be sold, or offered for sale, at retail to any individual by way of any indirect means, including, but not limited to, by way of mail or any telephonic or other electronic means. The commission may impose a fine of up to \$10,000 on a person that advertises, announces, establishes, maintains or is concerned in establishing or maintaining a retail establishment that sells, or offers for sale, at retail infused beverage products in violation of this subsection. Each day during which a violation continues shall constitute a separate offense. The commission may conduct surveys and investigations to enforce compliance with this section.

(b) The commission shall issue for a term of one year, and renew for a like term, an endorsement to sell infused beverage products at retail to an entity that submits to the commission, in a form and manner prescribed by the commission, an application that demonstrates eligibility for an such endorsement under this section. Such an endorsement shall be subject to suspension, revocation or refusal to renew for cause. Any application for an endorsement under this section, or renewal thereof, shall be accompanied by an application processing fee in the amount of five hundred dollars. The commission shall approve or deny such an application within thirty days of submission.

(c) The commission shall not issue an endorsement under this section unless the applicant holds an unencumbered license to: (i) sell all alcoholic beverages or beer and wine at retail under this chapter, (ii) operate a medical marijuana treatment center issued by the cannabis control commission under chapter 94I, or (iii) operate a retail adult-use marijuana establishment issued by the cannabis control commission under chapter 94G.

(d) No holder of an endorsement under this section shall purchase infused beverage products to be sold at retail from any person unless such person holds an endorsement to wholesale infused beverage products issued by the commission under section 81.

Section 83. Age restriction

No infused beverage product shall be sold to any individual who is younger than twenty-one years of age. No owner, agent or employee of a business authorized to sell infused beverage products shall sell any infused beverage products to an individual without first verifying the individual's age with a valid government-issued driver's license or identity card to establish that such individual is twenty-one years of age or older.

Section 84. Infused beverage product registration; standards for infused beverage products

(a) No infused beverage product shall be sold in the commonwealth unless such product is registered with the commission and complies with this section. The commission shall publish a publicly available list of registered infused beverage products.

(b) The commission shall register an infused beverage product following submission of an application, in a form and manner prescribed by the commission, that demonstrates

compliance with this section. At a minimum, such application shall include: (i) the name and address of the applicant; (ii) the name and address of the brand or company whose name shall appear on the label of the infused beverage product; (iii) the name of the infused beverage product; (iv) the name and address of the origin of the infused beverage product with which the final product was manufactured; (v) a complete copy of the front and back of the label that will appear on the infused beverage product; and, (iv) a certificate of analysis from an accredited third-party laboratory for the lot for each product. Such registration shall be subject to suspension or revocation for cause. Any initial application for registration under this section shall be accompanied by a registration processing fee in the amount of two hundred dollars. The commission shall approve or deny such an application within thirty days of submission. Any of the following shall require a new product registration and fee: (i) a change in the chemical composition or formula of an infused beverage product; (ii) a change to the serving size or directions for use of an infused beverage product; or, (iii) any change to the label of an infused beverage product.

(c) No Infused beverage product may be distributed or sold in the commonwealth unless such product:

(1) has a certificate of analysis prepared by an independent testing laboratory that states the infused beverage or infused beverage product is from a batch that has been tested for, and does not contain more than trace amounts of, pesticides, residual solvents, metals, harmful pathogens, and toxicants;

(2) accurately reflects testing results and contains less than a ten percent variance of the concentration of total cannabinoid content as listed on the product label;

(3) is distributed or sold in a container that is: (i) suitable to contain products for human consumption; (ii) is not attractive to children; and, (iii) is tamper evident; and,

(4) complies with the labeling and warning requirements specified in subsection (d).

(d) No Infused beverage product may be distributed or sold in the commonwealth unless the label of such product:

(1) is plainly identifiable to a reasonable consumer that the product is an infused beverage product;

(2) includes a scannable barcode or quick response code linked to the certificate of analysis of the infused beverage from an independent testing laboratory;

(3) includes the expiration date, brand name, list of ingredients and the name, telephone number and email address of the product manufacturer;

(4) specifies the number of milligrams of each cannabinoid per serving and serving size, if specific cannabinoids are contained within or marketed for the product;

(5) does not include any claim that the product may be used or is effective for the prevention, treatment, or cure of a disease or that it may be used to alter the structure or function of human or animal bodies unless such claim has been approved by the federal Food and Drug Administration; and,

(6) includes a warning label containing the following or substantially similar language: (i) a statement that the product has not been evaluated or approved by the United States Food and Drug Administration (unless such approval has been secured); (ii) the potential for the product to cause the consumer to fail a drug test for THC; (iii) a statement that products containing THC

may cause impairment and impact a consumer's ability to operate a vehicle; (iv) a statement that the product is not recommended for use by pregnant or breastfeeding women; (v) a statement that product use may result in health risks and medication interactions; (vi) a statement in capital letters to KEEP THIS PRODUCT OUT OF REACH OF CHILDREN; and (vii) a statement or infographic that the product is intended only for individuals age 21+.

(e) The commission shall establish by regulation a maximum amount of intoxicating cannabinoids per infused beverage product container; provided, however, that such maximum amount per container established by the commission shall be 5 milligrams per container or shall equal the container limit for marijuana-infused beverage products established by the cannabis control commission under chapter 94G, whichever is greater.

Section 85. Taxation of infused beverages

(a) An infused beverage product excise tax will be levied on all infused beverage products at a rate of \$2.20 per gallon. Manufacturers must file their tax at a schedule specified by the department of revenue and pay for products manufactured in Massachusetts for sale in Massachusetts. Out of state businesses wholesalers must file at a schedule specified by the department of revenue and pay for infused beverage products shipped into Massachusetts for sale in Massachusetts. Infused beverage products shall be exempt from sales tax. Infused beverage products stored or manufactured in Massachusetts intended for or sold outside Massachusetts shall not be subject to an excise tax.

(b) The administration of the tax imposed by this section shall be vested in the commissioner of revenue and governed by the provisions of chapter 62C. All sums received under sections 80 to 85, inclusive, including all sums received as penalties, forfeitures, interest,

228 costs of suits and fines, less all amounts allowed as refunds and abatements under sections 79 to
229 85, inclusive, shall be credited as follows:

230 (1) 20 per cent shall be credited to the commission for implementation and enforcement
231 of sections 79 to 85, inclusive, including, but not limited to, infused beverage product licensing,
232 oversight and enforcement.

233 (2) 20 per cent shall be credited to the department of public health for the purposes of
234 public education regarding illicit hemp products and for the purposes of funding enforcement
235 efforts by local boards of health regarding illicit hemp products.

236 (3) The balance shall be credited to the General Fund.

237 Section 86. Regulations for the implementation of sections 70 to 86, inclusive

238 The commission shall promulgate regulations for the implementation sections 79 to 86,
239 inclusive. The commission may, in its discretion, promulgate regulations regarding the
240 advertisement, manufacture, distribution, importation, retail, and labelling of infused beverage
241 products; provided however, such regulations shall not conflict with sections 79 to 85, inclusive,
242 and otherwise shall not be more restrictive than regulations promulgated by the commission
243 under this chapter governing the advertisement, manufacture, distribution, importation, retail,
244 and labelling of alcoholic beverages.

245 SECTION 2. The alcoholic beverages control commission, established under section 70
246 of chapter 10, shall promulgate regulations to implement section 1 not later than 180 days
247 following the effective date of this Act.