

HOUSE No. 4528

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 9, 2020.

The committee on Cannabis Policy, to whom was referred the petition (accompanied by bill, House, No. 4001) of Mark J. Cusack and others for legislation to further regulate hemp and hemp products, reports recommending that the accompanying bill (House, No. 4528) ought to pass.

For the committee,

DAVID M. ROGERS.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to hemp and hemp products in the commonwealth.

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 1 of chapter 94G of the General Laws, as appearing in the 2018

2 Official Edition, is hereby amended by inserting the following definition:

3 "Cannabidiol" or "CBD", the compound by the same name derived from the hemp
4 variety of the *Cannabis sativa* L. plant.

5 SECTION 2. Section 1 is hereby further amended striking out lines 49-55 and
6 inserting in place thereof the following definition:

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

11 SECTION 3. Section 116 of chapter 128 of the General Laws, as appearing in the
12 2018 Official Edition, is hereby amended by striking out the lines 4-12, and inserting in place
13 thereof the following definitions:

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

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

20 “Hemp Products”, all products derived from, or made by, processing hemp plants or plant
21 parts, that are prepared in a form available for commercial sale, including, but not limited to
22 cosmetics, personal care products, food intended for animal or human consumption, cloth,
23 cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more
24 hemp-derived cannabinoids, such as cannabidiol.

25 “Industrial Hemp”, the equivalent in all meanings to hemp, as defined in this section.

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

27 SECTION 4. Chapter 128 of the General Laws, as appearing in the 2018 Official
28 Edition, is hereby amended by striking out sections 117-123, and inserting in place thereof the
29 following sections:

30 Section 117. (a) Industrial hemp may be planted, grown, harvested, possessed,
31 processed, bought, sold or researched subject to sections 116 to 123, inclusive. The planting,

32 growing, harvesting, possessing, processing or research of industrial hemp as an agricultural
33 product shall be subject to the supervision and approval of the department pursuant to sections
34 116 to 123, inclusive.

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

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

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

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

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

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

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

58 (b) The commissioner shall deny an application for a license filed pursuant to section 117
59 if the applicant: (i) fails to satisfy the minimum qualifications for licensure pursuant to sections
60 116 to 123, inclusive; or (ii) for good cause shown.

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

64 Section 120. (a) The department and the commissioner shall promulgate rules and
65 regulations for the implementation, administration and enforcement of sections 116 to 123,
66 inclusive.

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

71 Section 121. The department may inspect and have access to the equipment,
72 supplies, records, real property and other information deemed necessary to carry out the
73 department's duties under sections 116 to 123, inclusive, from a person participating in the

74 planting, growing, harvesting, possessing, processing, purchasing or researching of hemp or
75 industrial hemp. The department may establish an inspection and testing program to determine
76 delta-9 tetrahydrocannabinol levels and ensure compliance with the limits on delta-9
77 tetrahydrocannabinol concentration.

78 Section 122. (a) Notwithstanding any other provision of law to the contrary, food
79 or food products that contain hemp or any part of the hemp plant, including the seeds and all
80 naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, isomers,
81 acids, salts, salts of isomers or cannabidiol derivatives, are not considered to be adulterated or
82 misbranded based solely on the inclusion of hemp or any part of the hemp plant. The non-
83 pharmaceutical or nonmedical production, marketing, sale or distribution of food or food
84 products within the commonwealth that contain hemp or any part of the hemp plant may not be
85 restricted or prohibited based solely on the inclusion of hemp or any part of the hemp plant. An
86 entity licensed under Section 118 or an entity selling hemp products within the commonwealth
87 may not make any claims that food or food products that contain hemp can treat, cure or prevent
88 any disease without approval pursuant to federal law.

89 (b) Hemp and hemp products cultivated and manufactured in other states pursuant to a
90 USDA approved hemp program may be sold within the Commonwealth.

91 (c) Notwithstanding any other law, derivatives of hemp, including hemp-derived
92 cannabidiol, may be added to cosmetics, personal care products, and products intended for
93 human or animal consumption, and such an addition is not considered an adulteration of such
94 products.

95 (d) The THC found in hemp and being within the federally defined THC level for hemp

96 shall not be considered to be THC in qualifying as a controlled substance.

97 Section 123. The department may establish civil administrative fines for

98 violations of sections 116 to 123, inclusive. A person aggrieved by the assessment of a fine under

99 this section or a licensure action under section 119 may appeal by filing a notice of appeal with

100 the department not later than 21 days after the receipt of the notice of the fine or licensure action.

101 The adjudicatory hearing shall be conducted in accordance with chapter 30A.