

SENATE No. 2579

The Commonwealth of Massachusetts

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

SENATE, February 1, 2024.

The committee on Agriculture, to whom was referred the petitions (accompanied by bill, Senate, No. 40) of Joanne M. Comerford for legislation relative to promote the growing and use of hemp and hemp products; (accompanied by bill, House, No. 90) of Mark J. Cusack relative to hemp and hemp products; and (accompanied by bill, House, No. 93) of Smitty Pignatelli, Natalie M. Blais and others relative to expanding agriculture preservation restrictions for hemp cultivation, report the accompanying bill (Senate, No. 2579).

For the committee,
Joanne M. Comerford

SENATE No. 2579

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**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 2022
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 so appearing, is hereby
5 amended by inserting before the definition of “Cannabinoid” 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 of said chapter 94G, as so appearing, is hereby further
9 amended striking out the definition of “Hemp” and inserting in place thereof the following
10 definition:-

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

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

15 SECTION 4. Clause (xxxix) of subsection (a) of section 4 of said chapter 94G, as so
16 appearing, is hereby amended by striking out, in line 93, the word “and”.

17 SECTION 5. Said subsection (a) of said section 4 of said chapter 94G, as so appearing, is
18 hereby further amended by inserting after clause (xxxix) the following 3 clauses:-

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

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

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

25 SECTION 6. Clause (xxxvii) of subsection (a1/2) of said section 4 of said chapter 94G,
26 as so appearing, is hereby amended by striking out, in line 327, the word “and”.

27 SECTION 7. Said subsection (a1/2) of said section 4 of said chapter 94G, as so
28 appearing, is hereby further amended by inserting after clause (xxxviii) the following 2 clauses:-

29 (xxxix) procedures and policies on the implementation of sections 117 to 123, inclusive,
30 of chapter 128; provided however, that the commission may consult with the department of
31 agricultural resources; and

32 (xl) operational collaboration with the department of agricultural resources over the
33 administration of pesticide use on marijuana and marijuana products pursuant to section 5B of
34 chapter 132B.

35 SECTION 8. Chapter 111 of the General Laws is hereby amended by adding the
36 following section :-

37 Section 245. The department shall promulgate regulations to govern the administration
38 and manufacturing of cannabidiol in food products, as provided in sections 116 to 123, inclusive,
39 of chapter 128; provided however, that the department shall consult with the cannabis control
40 commission and the department of agricultural resources on said regulations; and provided
41 further, that sales of cannabidiol within marijuana establishments and medical marijuana
42 treatment centers shall fall under the sole regulatory authority of the cannabis control
43 commission pursuant to section 4 of chapter 94G.

44 SECTION 9. Said chapter 128 of the General Laws is hereby further amended by striking
45 out sections 116 to 123, inclusive, and inserting in place thereof the following 8 sections:-

46 Section 116. As used in this section and sections 117 to section 123, inclusive, the
47 following words shall, unless the context clearly requires otherwise, have the following
48 meanings:-

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

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

60 "Person", a natural person, corporation, association, partnership or other legal entity.

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

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

66 (b) A person planting, growing, harvesting, or processing hemp shall be licensed by the
67 department. A person may sell and possess hemp and hemp products, other than hemp seed,
68 without a license.

69 (c) A person producing, possessing, selling or distributing hemp seed shall be licensed
70 by the department.

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

72 (e) An application for a license issued pursuant to subsection (b) or (c) shall include, but
73 not be limited to: (i) the name and address of any applicants; (ii) the name and address of the

74 hemp operation of the applicant; (iii) the global positioning system coordinates and legal
75 description of the property used for the hemp operation; (iv) the acreage size of the field where
76 the hemp will be grown, if applicable; (v) a written consent allowing the department to conduct
77 both scheduled and random inspections of and around the premises on which the hemp is being
78 sown, grown, harvested, stored and processed; (vi) a nonrefundable application fee in an amount
79 that shall be established by the commissioner; (vii) any other information as may be required
80 pursuant to subsection (d); and (vii) any other information as may be required by the
81 commissioner.

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

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

90 (b) The commissioner shall deny an application for a license filed pursuant to section
91 117 if the applicant: (i) fails to satisfy the minimum qualifications for licensure pursuant to
92 sections 116 to 123, inclusive; or (ii) for good cause shown.

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

96 Section 120. (a) The department and the commissioner shall promulgate rules and
97 regulations for the implementation, administration and enforcement of sections 116 to 123,
98 inclusive; provided, that the department shall consult with the cannabis control commission and
99 the department of public health when promulgating rules and regulations under subsection (c) of
100 section 122.

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

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

110 Section 122. (a) Notwithstanding any other provision of law to the contrary, hemp
111 products are not considered to be adulterated or misbranded based solely on the inclusion of
112 hemp or any part of the hemp plant. The marketing, sale or distribution of dietary supplements,
113 food or food products within the commonwealth that contain hemp or any part of the hemp plant
114 may not be restricted or prohibited based solely on the inclusion of hemp or any part of the hemp
115 plant. The label of a hemp product may not make any claims that food or food products that
116 contain hemp can treat, cure or prevent any disease without approval pursuant to federal law.

117 (b) Notwithstanding any other general or special law to the contrary, derivatives of
118 hemp, including hemp-derived cannabidiol, may be added to animal and human products
119 intended for topical application such as cosmetics, personal care and grooming products, and
120 animal and human products intended for consumption such as dietary supplements, foods and
121 beverages, and such an addition is not considered an adulteration of such products.

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

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

129 SECTION 10. Chapter 132B of the General Laws is hereby amended by inserting after
130 section 5A the following section:-

131 Section 5B. (a) The department may authorize the application of pesticides on marijuana,
132 marijuana products and hemp that are labeled for hemp by the United States Environmental
133 Protection Agency; provided, that the label includes use on food and tobacco crops and is exempt
134 from a federal food tolerance limit unless otherwise authorized by federal law. Use of pesticides
135 under this section shall not be considered a manner of use that is inconsistent with the label as
136 required by section 6A.

137 (b) The department shall consult with the cannabis control commission when
138 promulgating rules and regulations under subsection (a) for pesticide use on marijuana,

139 marijuana products and hemp that includes, but is not limited to, the ability for operational
140 collaboration between the agencies for inspections.