

MAINE AGENCY GUIDELINES for ENFORCEMENT of PL 2019 Ch. 12[LD 630]

The US Farm Bill of 2018 expanded the definition of hemp to include cannabis plants and extracts of such plants (including cannabidiol or CBD) which have less than .3% THC. This law also preserved the US FDA's authority to regulate products containing cannabis or its extracts under the federal food and drug laws. On December 20, 2018, the US FDA issued statements prohibiting in interstate commerce food, unapproved drugs, dietary supplements, pet food, and unapproved animal drugs that contain CBD.

In Maine the Food Code incorporates federal regulations under which CBD in food was considered an adulterant. The Maine legislature and Governor responded with emergency enactment of PL 2019, Ch. 12 [LD 630] effective March 27, 2019. This law made changes to Maine statutes, including 22 MRS §2156 which now states that food, food additives and food products that contain cannabidiol (CBD) are not considered adulterated based solely on the inclusion of hemp or CBD from hemp.

This guidance covers health inspectors who enforce the Maine Food Code. This includes inspectors from Maine DACF which regulates retail food establishments and food manufacturers, and Maine DHHS (HIP)/designated municipalities which regulate eating establishments. Under PL 2019, Ch. 12 it is legal for food code licensees to manufacture and sell edible products containing CBD subject to the conditions outlined below:

- Food items must be clearly labeled including the ingredient (cannabidiol or CBD) and amount by weight, name and address of manufacturer, and zip code. Restaurant menus must clearly note the inclusion of CBD and the amount, by weight, in the item.
- THC content of the hemp, CBD extract or product must be less than 0.3%.
- The food product label, menu, advertising, and any other related information must not include health claims that items with hemp or CBD can diagnose, treat, cure or prevent any disease, condition or injury absent approval pursuant to federal law.
- Food products containing CBD may not be imported from another state since federal law prohibits food with CBD in interstate commerce.
- Invoices, documents, or other evidence may be inspected to demonstrate that CBD extract and food additives were derived from an approved source.
- The CBD extraction process or method must not result in any harmful solvent residues or other contaminants in the CBD extract.

When inspectors determine that a licensed establishment is in violation of the above conditions, DACF and DHHS may initiate enforcement actions in accordance with their rules and policies.

These guidelines may be shared with the understanding that statutory changes and rulemaking may alter any of the above conditions. They will be updated as changes to statutes and rules regarding hemp/CBD become effective.