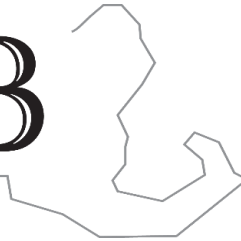


MAHBB

Assisting Massachusetts Boards of Health through
training, technical assistance and legal education



Massachusetts Association of Health Boards

Cheryl Sbarra, J.D.

Executive Director and Senior Staff Attorney

www.mahb.org sbarra@mahb.org

This information is provided for legal educational purposes only. It is not to be construed as legal advice. For legal advice, please contact your own attorney.

Hemp-Derived Synthetic Cannabis Products containing Delta-8 THC or Delta-10 THC cannot be sold or manufactured in Massachusetts.

1. The Massachusetts Department of Agricultural Resources (MDAR) is the agency that regulates hemp; and MDAR has deemed that selling or processing hemp-derived Delta-8 (THC)¹ products is illegal.

Because delta-8 is not naturally occurring in hemp (except for possible trace amounts), to produce delta-8 in commercial quantities it must be derived from hemp synthetically. While the Farm Bill did removed hemp from the Controlled Substances Act, it did not impact the control status of synthetically derived cannabinoids, thus delta-8 THC remains a controlled substance, regardless of the source. As a result, we do not allow hemp-derived Delta-8 products to be processed or sold in Massachusetts.² (Emphasis added).

2. The Massachusetts Department of Public Health (DPH) is the agency that regulates food pursuant to 105 CMR 500. The food code requires that all edible products must be from approved food sources that comply with federal, state, and local regulations and must not contain any prohibited ingredients. Federal law prohibits the addition of CBD (hemp-derived cannabidiol products) in food because it is not an approved food source. Therefore, **any edible product that contains hemp-derived Delta-8 and/or Delta-10 cannot be manufactured or sold in Massachusetts.³**

3. Massachusetts law bans the sale of all flavored tobacco products except in state-licensed smoking bars for onsite consumption only.⁴ The definition of tobacco products includes “electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization regardless of nicotine in the product.”⁵ Therefore, **all flavored vaping products, including hemp-derived THC vaping products with Delta-8 and Delta-10 are prohibited.**

¹ Because Delta-10 is also a synthetically manufactured THC hemp-derived product, MDAR’s legal position on Delta 8 would similarly apply to Delta-10.

² <https://www.mass.gov/guides/hemp-in-massachusetts-faqs#-is-it-legal-to-manufacture-delta-8-thc-from-hemp?>

³ 105 CMR 500.

⁴ *Id.*

⁵ *Id.*