

Packaging Relevant Sections of Adult Use Statutes

The commission shall, in accordance with chapter 30A, adopt regulations consistent with this chapter for the administration, clarification and enforcement of laws regulating and licensing marijuana establishments. The regulations shall include:

(xxiv) requirements for the packaging of marijuana and marijuana products that shall, at a minimum: (1) require the most current consumer product safety commission standards, set forth in 16 C.F.R. 1700 et seq.; (2) protect children from accidentally ingesting marijuana or marijuana products, including by making packaging certified child-resistant and resealable; (3) require the division of each serving within a package containing multiple servings in a manner that allows consumers and card holders to easily identify a single serving; (4) prohibit the use of bright colors, cartoon characters and other features designed to appeal to minors; (5) ensure that packaging is opaque or plain in design; (6) limit each serving size to no greater than 10 milligrams of delta-nine-tetrahydrocannabinol (Δ 9-THC); and (7) prohibit any packaging that imitates or has a semblance to any existing branded consumer products, including foods and beverages, that do not contain marijuana
...
(xxvi) requirements for the labeling of a package containing marijuana or marijuana products that shall, at a minimum, include: (1) a symbol or easily recognizable mark issued by the commission that indicates the package contains marijuana or a marijuana product; (2) a symbol or other easily recognizable mark issued by the commission on the package indicating to children that the product is harmful to children; (3) the name and contact information of the marijuana cultivator or the marijuana product manufacturer who produced the marijuana or marijuana product; (4) the results of sampling, testing and analysis conducted by a licensed independent testing laboratory; (5) a seal certifying the marijuana meets such testing standards; (6) a unique batch number identifying the production batch associated with manufacturing, processing, and cultivating; (7) a list of ingredients and possible allergens; (8) the amount of delta-nine-tetrahydrocannabinol (Δ 9-THC) in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume; (9) the number of servings in a package if there are multiple servings; (10) a use-by date, if applicable; and (11) the following statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";

Appendix of Definitions

“Consumer”, a person who is at least 21 years of age.

“Licensee” - a person or entity licensed by the commission to operate a marijuana establishment under this chapter.

“Marijuana” or “Marihuana”, all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that “marijuana” shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the

weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

“Marijuana cultivator”, an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

“Marijuana product manufacturer”, an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

“Marijuana retailer”, an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

“Marijuana products”, products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

G. L. c. 94G, § 1, as amended by Stat. 2017 c. 55 § 20(1).

DRAFT Cannabis Control Commission Packaging Regulations

xxx CMR xxx

(A) Packaging and Labeling

~~(1) Marijuana shall be packaged in plain, opaque, tamper-proof, and child-proof containers without depictions of the product, cartoons, or images other than the RMD's logo. Edible MIPs shall not bear a reasonable resemblance to any product available for consumption as a commercially available candy.~~

~~(12) Labeling of Marijuana (Excluding MIPs Marijuana Products). The marijuana retailer ~~RMD~~ shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each package of marijuana that it prepares for ~~dispensing~~ retail sale, containing at a minimum the following information:~~

~~1. The registered qualifying patient's name;~~

~~(a) The name and registration number of the marijuana cultivator ~~RMD~~ that produced the marijuana, together with the marijuana cultivator's ~~RMD's~~ telephone number and mailing address, and website information, if any;~~

~~(b) The quantity of usable marijuana contained within the package;~~

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(c) The date that the marijuana retailer or marijuana cultivator~~RMD~~ packaged the contents and a statement of which licensee performed the packaging;

(d) A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;

(e) The full cannabinoid profile of the marijuana contained within the package, including THC and other cannabinoid level;

(f) A statement and a seal certifying that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with G. L. c. 94G, § 15-105-CMR 725.105(C)(2); and

(g) This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. Do not drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN." and

(h) A symbol or easily recognizable mark issued by the commission not later than March 15, 2018 that indicates the package contains marijuana or a marijuana product; and

(i) A symbol or other easily recognizable mark issued by the commission not later than March 15, 2018 on the package indicating to children that the product is harmful to children

~~2. This section shall not apply to marijuana packaged by a marijuana cultivator for transport to a marijuana retailer in compliance with xxx CMR xxx, provided however that the marijuana retailer is responsible for compliance with this subsection for all marijuana and MIPs sold or displayed for consumers.~~

(3) Labeling of Marijuana Product~~MIPs~~. The product manufacturer~~RMD~~ shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each MIP that it prepares for dispensing retail sale or wholesale, containing at a minimum the following information:

~~1. The registered qualifying patient's name;~~

(a) The name and registration number of the product manufacturer~~RMD~~ that produced the marijuana product~~MIP~~, together with the product manufacturer~~RMD~~'s telephone number and mailing address, and website information, if any;

Comment [AJ1]: Conforming to statute.

Comment [AJ2]: Note that the CCC must promulgate testing regulations before May 1, 2018, and "shall temporarily adopt the independent testing regulations currently adopted by the department of public health in 105 CMR 725.105 until the commission has promulgated the regulations, guidelines and protocols for independent testing of marijuana in section 15 of chapter 94G of the General Laws on or before May 1, 2018." G. L. c. 94G, § 15 & Stat. 2017 c. 55 § 54.

Comment [AJ3]: Conforming to language of the statute.

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Comment [AJ4]: Cross reference wholesaling regulation. Does this formulation make sense?

Comment [AJ5]: Does this formulation make sense? The idea is that the retailer is ultimately responsible for packaging marijuana, while the product manufacturer is responsible for packaging MIPs.

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~~(b)~~ The name of the marijuana product;

~~(b)~~

~~(c)~~ The quantity of usable marijuana contained within the product as measured in ounces;

~~(e)~~~~(d)~~ The type of marijuana used to produce the product, including what, if any, processing technique or solvents were used.

~~(d)~~~~(e)~~ A list of ingredients, including the full cannabinoid profile of the marijuana contained within the marijuana product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other cannabinoids in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume~~THC level~~;

~~(e)~~~~(f)~~ The date of ~~product~~ creation and the recommended “use by” or expiration date;

~~(f)~~~~(g)~~ A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;

~~(e)~~~~(h)~~ Directions for use of the marijuana product if relevant;

~~(h)~~~~(i)~~ A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with G. L. c. 94G, § 15+05-CMR 725.105(C)(2);

~~(i)~~~~(j)~~ A warning if nuts or other known allergens are contained in the product;
~~and~~

~~(k)~~ This statement, including capitalization: “This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms It is against the law to drive or operate machinery when under the influence of this product. Do not drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.”

~~(l)~~ A statement of the number of serving sizes within the marijuana product based on the limits provided in xxx CMR xxx(5).

~~(m)~~ A symbol or easily recognizable mark issued by the commission not later than March 15, 2018 that indicates the package contains marijuana or a marijuana product; and

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Comment [SL6]: May need to tailor this language to include the correct terms of art or statutory definitions for approved processing i.e., CO2, distillate, etc.

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Comment [AJ7]: Cross referencing subsection 5 below. These restrictions are required by statute but seem onerous. Is there any way to cushion the blow here?

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(n) A symbol or other easily recognizable mark issued by the commission not later than March 15, 2018 on the package indicating to children that the product is harmful to children.

This section shall apply to marijuana products packaged by a marijuana product manufacturer for transport to a marijuana retailer in compliance with xxx CMR xxx.

(4) Childproof Packaging and Labeling. The licensee responsible for packaging pursuant to xxx CMR xxx(3) & (4) shall place all marijuana and marijuana products sold or displayed for consumers in packaging that is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly. Such packaging shall be:

- a. Certified by the packaging manufacturer or by a qualified third party child-resistant package testing firm that the packaging is in compliance with the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission at 16 C.F.R. 1700.20; and
- b. Opaque or plain in design; and
- c. Re-sealable for any marijuana product intended for more than a single use or containing multiple servings;

This subsection does not apply to paper and plastic bags or other packages in which the child resistant package is placed prior to the consumer existing the licensee's establishment nor to the packaging of marijuana for wholesale by a marijuana cultivator.

(5) Serving Sizes. Packaging for marijuana products sold or displayed for consumers must provide for or allow the consumer to perform the division of each serving within a package containing multiple servings in a manner that allows consumers to easily identify a single serving. No individual serving size of any MIP may contain greater than 10 milligrams of delta-nine-tetrahydrocannabinol (Δ9-THC).

(6) Limits on Packaging Design. Packaging for marijuana or MIPs sold or displayed for consumers, including any label or imprint affixed to any packaging containing marijuana and MIPs or any paper and plastic bags or other packages in which any marijuana or MIPs are placed prior to the consumer existing exiting the licensee's establishment, shall not be attractive minors. Attractive to minors means packaging, labels, imprints or any other design or illustration that:

- a. Uses bright colors, which are defined as colors that are "neon" in appearance;
- b. Imitates or has a semblance to any existing branded consumer products, including foods and beverages, that do not contain marijuana;
- c. Features cartoons;

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Comment [AJ8]: Cross reference wholesaling regulation. Does this formulation make sense?

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Comment [AJ9]: Cross referencing the sections above making cultivators OR retailers responsible for marijuana packaging and product manufacturers responsible for MIP packaging.

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Comment [AJ10]: Yes?

Comment [AJ11]: See comment above.

Comment [AJ12]: I'm at a bit of a loss how to define the term "bright colors." Subsection (a) and (b) are drawn directly from the statute; The rest of this section is copied verbatim from the Oregon regulations.

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d. Features a design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;

e. Features symbols or celebrities that are commonly used to market products to minors;

f. Features images of minors; or

g. Features words that refer to products that are commonly associated with minors or marketed by minors.

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