



Hemp Derived Edible Cannabinoid Product Guidance for Food Operators



Background

On July 1, 2022, state law (Minnesota Statute 151.72) pertaining to the sale of certain products derived from hemp changed to allow the processing and sale of goods defined as Edible Cannabinoid Product (ECP). Under the revised law, an ECP is not considered a food or drug though it is meant for human consumption and is made with food ingredients. A food license is not required to make or sell an ECP, nor does state law prohibit licensed food businesses from making or selling an ECP. This document provides summary information to food business operators about ECP requirements as well as ECP and food protection guidelines.

Selling Edible Cannabinoid Product

- An ECP can only be sold to individuals 21 years of age or older.
- An ECP must not be marketed to or target children.
- An ECP must not:
 - » bear the likeness or contain characteristics of persons, animals, or fruit that appeal to children;
 - » be modeled after a brand of products primarily consumed by or marketed to children; or
 - » be made by applying a hemp-derived cannabinoid to a commercially available candy or snack food item.

Packaging

- Prior to sale, an ECP must be prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque or placed into packaging or a container meeting these same requirements.
- An ECP intended to be consumed as a beverage and which contains no more than a trace amount of any tetrahydrocannabinol (THC) must meet ECP packaging requirements but is not required to be in child-resistant packaging.
- An ECP must not be offered unpackaged or further prepared for service after packaging.
- An ECP must not:
 - » be packaged in a way that resembles the trademark, characteristic, or product-specialized packaging of a commercially available food product; or

- » be packaged in a container that includes a statement, artwork, or design that could reasonably mislead any person to believe the package contains anything other than ECP.

Labeling

- An ECP must bear a label that can be easily read and understood by the consumer that has:
 - » the serving size;
 - » the cannabinoid profile per serving and in total;
 - » a list of ingredients, including any major food allergens declared by name; and
 - » the following statement: “Keep this product out of the reach of children.”
- The following information must be provided on the product label or may be provided using a scannable barcode or matrix barcode linking to a page on the manufacturer’s website if the page contains all of the following information in terms that can be easily read and understood by the consumer:
 - » the name, location, and website of the manufacturer;
 - » the name and address of the independent, accredited laboratory that tested the product;
 - » an accurate statement of the amount or percentage of cannabinoids in each unit of the product; and
 - » a statement that the product does not claim to diagnose, treat, cure, or prevent any disease and has not been evaluated or approved by the FDA, unless the product has been so approved.
- The labeling must not contain any claim that the product may be used or is effective for the prevention, treatment, or cure of a disease or that it may be used to alter the structure or function of human bodies, unless the claim has been approved by the FDA.

Misbranding

- An ECP shall be considered misbranded if the product labeling is false or misleading in any manner, or in violation with the sale of certain hemp-derived product law.
- Promotional materials and signage about the ECP also must not contain any misleading information.

Dosage

An ECP must not contain more than five milligrams of any THC in a single serving, or more than a total of 50 milligrams of any THC per package and must not contain more than 0.3 percent of any THC.

Making Edible Cannabinoid Product

Ingredients

- Other than a hemp-derived cannabinoid, an ECP must not contain any ingredient that is not approved by the FDA for use in food.
- Food ingredients used should come from sources approved to sell food in Minnesota and should meet the requirements of Minnesota Food law being safe and wholesome.
- Cannabinoids used to make an ECP must be derived from hemp grown lawfully within the U.S. or approved as meeting U.S. criteria for hemp if grown elsewhere, and be certified under an official state, tribal, or federal hemp regulatory program.

Lab Testing

A manufacturer of an ECP must submit representative samples of each batch of the ECP to an independent, accredited laboratory to certify that the product complies with standards adopted by the Board of Pharmacy. Testing must confirm that the product:

- contains the amount or percentage of cannabinoids that is stated on the label of the product;
- does not contain more than trace amounts of any mold, residual solvents, pesticides, fertilizers, or heavy metals;
- does not contain more than 0.3% of any THC; and
- does not contain an ingredient, other than a hemp-derived cannabinoid, that has not been approved by the FDA for use in food.

Adulteration

An ECP shall be considered an adulterated drug if:

- it consists, in whole or in part, of any filthy, putrid, or decomposed substance;
- it has been produced, prepared, packed, or held under unsanitary conditions where it may have been rendered injurious to health, or where it may have been contaminated with filth;
- its container is composed, in whole or in part, of any poisonous or deleterious substance that render the contents injurious to health;
- it contains food additives, color additives, or excipients found by the FDA to be unsafe for human consumption;
- it contains an amount or percentage of nonintoxicating cannabinoids that is different than the amount or percentage on the label;

- it contains more than 0.3 percent of any THC, or more than five milligrams of any THC in a single serving or more than a total of 50 milligrams of any THC per package; or
- it contains more than trace amounts of mold, residual solvents, pesticides, fertilizers, or heavy metals.

ECP Processing and Food Protection Guidelines

- Protect consumer health while producing an ECP by:
 - » washing hands with soap and warm water prior to processing;
 - » preventing bare-hand contact with ECP ingredients during processing;
 - » avoiding processing an ECP while ill with symptoms of vomiting and/or diarrhea;
 - » other than hemp-derived cannabinoid, using ingredients approved by the FDA for use in food;
 - » ensuring safe temperature control during storage, preparation, delivery, and display;
 - » making an ECP on surfaces that have been cleaned and sanitized prior to processing; and
 - » avoiding cross-contact with food allergens.
- Licensed food business operators must ensure hemp-derived cannabinoid does not transfer to regulated food product. Food preparation surfaces used to make an ECP must be cleaned and sanitized immediately afterward. Regulated food exposed to or contaminated with hemp-derived cannabinoid is subject to state policy and procedures relating to and food laws governing prohibited acts, adulteration, misbranding, and enforcement.

Cottage Food Licensing Exemption

Since ECP is not considered food, a cottage food producer is not permitted to make and sell an ECP under their registration according to Minnesota cottage food law.

Apparent violations of state law pertaining to the sale of ECP may be referred to the MN Board of Pharmacy or to local law enforcement agencies for investigation and enforcement.

Additional Resources

Please visit the following websites for more detailed information about the law and specific state agency information:

- MN Sale of Certain Cannabinoid Products Law: <https://www.revisor.mn.gov/statutes/cite/151.72>
- MN BoP Hemp Derived Products FAQs: https://mn.gov/boards/assets/Hemp%20Derived%20Products%20FAQ_tcm21-532612.pdf
- MDA Hemp in Food FAQs: <https://www.mda.state.mn.us/food-feed/hemp-food-faqs>
- MN Food Code Fact Sheets: <https://www.mda.state.mn.us/food-feed/minnesota-food-code-fact-sheets>