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## MARYLAND ALCOHOL, TOBACCO, AND CANNABIS COMMISSION

### INFORMATION AND TRAINING ADVISORY 24-004

**\*\*\* Effective May 3, 2023, and subject to pending litigation more fully described in Recent Developments below, only those businesses holding a license issued by the Maryland Cannabis Administration (“MCA”) may legally sell or distribute intoxicating cannabis/THC products including intoxicating hemp-derived products (“Intoxicating Cannabis/THC Products”) within the State of Maryland\*\*\***

#### Legislative History

On May 3, 2023, Governor Wes Moore signed into law the Cannabis Reform Act (Chapter 254/255 of 2023) (“Act”) which was emergency legislation establishing the legal adult-use recreational cannabis market within the State of Maryland.

The Act in part created the MCA as the independent State agency which oversees the State’s *licensed cannabis market* and all licensing, registration, inspection, and testing measures for Maryland’s medical and adult-use cannabis industries.

The Act also tasked the Maryland Alcohol, Tobacco, and Cannabis Commission (“ATCC”) --- formerly, the Maryland Alcohol and Tobacco Commission --- with enforcing those laws pertaining to the *unlicensed cannabis market* including enforcement of those Alcoholic Beverages and Cannabis Article (“ABCA”) provisions related to the unlawful importation, manufacture, transportation, distribution, and sale of cannabis products without a license.

#### Practical Application to Businesses

Under the law, there are limitations on the sale of cannabis products and other products which contain cannabinoids. Only an MCA cannabis license holder may sell or distribute products which are intended for human consumption or inhalation that contain more *than 0.5 milligrams of total tetrahydrocannabinol (“THC”) content per serving or 2.5 milligrams of THC per package.*



Additionally, these products must comply with all applicable manufacturing, laboratory testing, packaging, and labeling standards.

***Be advised that businesses that are not MCA cannabis license holders may not sell Intoxicating Cannabis/THC Products, effective May 3, 2023.***

- This includes:
  - edibles, beverages or other cannabis products intended for human consumption or inhalation that contain **any type of THC above the statutory restrictions**;
  - Delta-8-THC, Delta-9-THC, and Delta-10-THC, regardless of how derived;
  - Any other cannabinoid except cannabidiol that the MCA determines to cause intoxication; and
  - Any other chemically similar compound, substance, derivative, or isomer of THC, as identified by the MCA.

***Be advised that products that contain non-naturally occurring cannabinoids may not be sold in Maryland regardless of licensure.***

***The ATCC therefore directs all businesses that are not MCA cannabis license holders but sell Intoxicating Cannabis/THC Products to REMOVE from their business premises ANY products with a total THC concentration greater than 0.5 mg per serving (or 2.5 mg of THC per package) as well as any products that contain non-naturally occurring cannabinoids such as tetrahydrocannabinol acetate (THC-O, ATHC, THC-X, Delta 8-O).***

Businesses that are not MCA cannabis license holders but sell Intoxicating Cannabis/THC Products after May 3, 2023, subject themselves to potential criminal charges and fines pursuant to ABCA § 36-1102:

- A person who sells a product with a THC concentration higher than 0.5 mg per serving or 2.5 mg per package is guilty of a misdemeanor and will be subject to a fine of up to \$5,000; and/or
- A person who sells any product that contains non-naturally occurring cannabinoids is guilty of a misdemeanor and will be subject to a fine of up to \$10,000.

### **Product Exceptions**

All businesses may still sell the following products only if such products comply with any applicable MCA testing and labeling standards:

- **hemp products not intended for human consumption or inhalation** such as lotions,



- balms, salves or pet CBD products;
- **products intended for human consumption with only trace amounts of THC in a finished product** such as CBD-dominant gummies or edibles that do not have more than 0.5 milligrams (mg) of THC per serving or 2.5 mg of THC per package; and
- a **hemp-derived tincture** if the product (a) **contains a CBD:THC ratio that is at least 15:1** or greater (e.g. a product with 2 mg of THC must have over 30 mg of CBD); (b) is dispensed **in a container that is smaller than 4 ounces with a dropper lid**; (c) is only dissolved in alcohol, glycerin or vegetable oil; and (d) **contains no more than 100 milligrams of THC per package.**

## Compliance and Enforcement Roles of the ATCC

Agents from the ATCC’s Field Enforcement Division (“FED”) provide educational outreach to inform stakeholders around the State of the prohibition against the sale or distribution of Intoxicating Cannabis/THC Products by businesses which are not licensed by the MCA.

FED agents also (i) conduct compliance inspections of businesses throughout the State; (ii) conduct further investigation of any such business selling or distributing Intoxicating Cannabis/THC Products to determine if that business is in fact licensed by the MCA; and (iii) are prepared to take any and all steps necessary to enforce the existing laws against those operating in violation of the ABCA.

Intoxicating Cannabis/THC Products may not be sold or distributed in violation of the ABCA, and must be removed from the subject business premises or destroyed, unless otherwise exempted by Recent Developments (see below). Businesses that are not MCA cannabis license holders but currently sell Intoxicating Cannabis/THC Products should therefore review their inventory to identify such products for removal or destruction. Attachment A to this Advisory provides examples of the types of products that are no longer permitted to be sold without an MCA-issued cannabis license.

## Recent Developments

Effective October 12, 2023, the Circuit Court for Washington County entered a Preliminary Injunction (“PI”) in the matter of Maryland Hemp Coalition, Inc., et al. v. Wes Moore, et al. (“Maryland Hemp Lawsuit”). The PI enjoins the State from enforcing ABCA § 36-1102 against “...any person who was already lawfully in the business of selling hemp derived products prior to July 1, 2023, until such time as the Court shall rule upon the merits...” of the Maryland Hemp Lawsuit. The MCA and the ATCC have noted an appeal of this decision but will abide by the PI unless and until it is modified or stayed.



*Be advised that the PI does not enjoin the State from enforcing ABCA §36-1102 against persons who were not already engaged in selling hemp derived products prior to July 1, 2023, and further that the burden is upon the person to prove that his or her business was already engaged in selling hemp derived products prior to July 1, 2023.*

*Be advised that the above-referenced Court proceedings are ongoing, and the MCA and the ATCC will continue to take appropriate interim measures to execute their duties under the Act, pursuant to law and all Orders of the Court, until such time as the Maryland Hemp Lawsuit is fully and finally resolved.*

### **Questions or Concerns**

More information about the MCA including its licensing, testing, and labeling procedures may be found at <https://mmcc.maryland.gov/Pages/aboutus.aspx>.

Questions about this Advisory may be directed to the ATCC at **443-300-6990** or to its Legal and Legislative Division at [ATCCLegalQuestions.UnlicensedMarket@maryland.gov](mailto:ATCCLegalQuestions.UnlicensedMarket@maryland.gov).

Information about businesses continuing to display, sell or distribute prohibited Intoxicating Cannabis/THC Products should be directed to the FED at [atcc.tips@maryland.gov](mailto:atcc.tips@maryland.gov).



## **\*UPDATED AUGUST 23, 2023\***

### **Maryland Alcohol, Tobacco, and Cannabis Commission Contacts**

- General Information: 443-300-6990
  - Alcohol & Tobacco Licensing: 410-260-7314 or [atcc.licensing@maryland.gov](mailto:atcc.licensing@maryland.gov)  
All licensing and renewal inquiries, application status checks
- Credit Control Reporting Inquiries: [credit.control@maryland.gov](mailto:credit.control@maryland.gov)
  - Wine & Distilled Spirits Credit Control Reporting System for MD Wholesalers/Retailers
- Beer Franchise Submissions or Inquiries: [beer.franchise@maryland.gov](mailto:beer.franchise@maryland.gov)
  - New beer registration, additional sizes, label changes, inquiries
- Alcohol Transportation Permit Inquiries: [transportation.permits@maryland.gov](mailto:transportation.permits@maryland.gov)
  - MD Public Transportation Permits for transporting Alcohol in MD – Inquiries, application status checks.
- Trade Practices: [trade.practices@maryland.gov](mailto:trade.practices@maryland.gov)
  - Inquiries regarding all Alcoholic Beverage Trade Practices.
- Planned Promotion Submissions or Inquiries: [planned.promotions@maryland.gov](mailto:planned.promotions@maryland.gov)
  - Wholesaler Promotional Activities Form submission, Sweepstakes and Contests approvals, Wholesaler monthly tastings submissions, Coupons, Package approvals, inquiries, Intent to Participate form 386.
- Tips on Alcohol, Tobacco & Cannabis violations: [atcc.tips@maryland.gov](mailto:atcc.tips@maryland.gov)
  - Report any suspicious activity or prohibited products concerning MD Alcohol, Tobacco & Cannabis.
- PACT Act Compliance Submissions: [pact.compliance@maryland.gov](mailto:pact.compliance@maryland.gov)
  - Submission of PACT Act Registration Forms, inquiries.
- Maryland Cannabis Administration: [information.mmcc@maryland.gov](mailto:information.mmcc@maryland.gov)
  - Contacts: <https://mmcc.maryland.gov/Pages/contact-us3.aspx>

If you would like to receive future ATCC Information & Training advisories by email, please send your request to [atcc.info@maryland.gov](mailto:atcc.info@maryland.gov)

#### **Attention:**

**WE HAVE MOVED**



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