

2022 MISSOURI SECTION FOR MEDICAL MARIJUANA

Facility License & Compliance Section

Guidance Document 6

New Law 195.805 RSMo, Permissible Edible Product Design and Packaging

As you know, a new law, 195.805 RSMo, regarding permissible edible product design and packaging will become effective on August 28, 2020. A copy of that law is below. We would like to offer some guidance related to how the Department will incorporate this new law into its procedures and how this may affect your operations.

First, 195.805 creates new obligations for both medical marijuana facilities and the Department.

The primary obligations are as follows:

- 1) Medical marijuana facilities will be responsible for ensuring they do not design their edible products, edible product packaging, or edible product logos “in the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings.” They must also include on edible packaging, in certain ways, a specific universal symbol.
- 2) The Department must promulgate rules prohibiting edible products designed to appeal to minors as well as rules establishing a process for pre-approval of product, package, and label design.

It is the Department’s interpretation that medical marijuana facilities are obligated to comply with these new product and packaging design parameters whether the Department has promulgated rules related to this law or not. The Department will begin incorporating this expectation into our compliance activities immediately.

Regarding rules required by this law, the Department will begin drafting these rules. However, until rules are in place, the Department will not have a process for pre-approval. Facilities should proceed as they normally would in complying with regulatory expectations; make decisions you believe comply, and ask us if you have any questions.

Finally, existing rule 19 CSR 30-95.040(4)(K) requires that facilities ensure they do not manufacture, package, or label medical marijuana in any manner designed to appeal to a minor. Clearly, this existing rule is very similar in purpose and scope to 195.805. Therefore, the Department will adjust its guidance on what appeals to minors to align with the new law. Beginning now, facilities should expect us to review product and packaging designs for anything in the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings. If you received guidance in the past that you would like to revisit in light of this new standard, please reach out to your compliance officer to discuss.

195.805. Edible marijuana — infused products, restrictions on design and shape — THC stamp required, when — violations, penalty — rulemaking authority.

1. No edible marijuana-infused product, packaging, or logo sold in Missouri pursuant to Article XIV of the Missouri Constitution shall be designed in the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings. However, geometric shapes, including, but not limited to, circles, squares, rectangles, and triangles, shall be permitted.

2. Each package, or packages with or within a package, containing an edible marijuana-infused product with ten or more milligrams of tetrahydrocannabinols (THC) shall be stamped with a universal symbol for such products, which shall consist of the following:

- (1) A diamond containing the letters "THC";
- (2) The letter "M" located under the "THC" within the diamond, to signify that the product is for medical purposes; and
- (3) The number of milligrams of THC in the package.



The universal symbol shall be placed on the front of the package in red and white print and shall measure one-half inch by one-half inch from point to point.

3. Any licensed or certified entity regulated by the department of health and senior services pursuant to Article XIV of the Missouri Constitution found to have violated the provisions of this section shall be subject to department sanctions, including an administrative penalty, in accordance with the regulations promulgated by the department pursuant to Article XIV of the Missouri Constitution.
4. The department shall promulgate rules and regulations prohibiting edible marijuana-infused products designed to appeal to persons under eighteen years of age, as well as promulgate rules and regulations to establish a process by which a licensed or certified entity may seek approval of an edible product design, package, or label prior to such product's manufacture or sale in order to determine compliance with the provisions of this section and any rules promulgated pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.

This section and chapter 536 are non-severable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be invalid and void.

(L. 2020 H.B. 1682 merged with H.B. 1896)