

Inspections, Liability, Violations & Penalties

Massachusetts

Playing by the rules is essential- always. In a business that is still federally illegal it's imperative to know the rules and to always play at or one step above what is required to ensure you maintain safe access to cannabis for your consumers. **If rules are broken, an agent and the business they work for may face state and/or federal law enforcement action** as well as administrative liability.

When there is non-compliance, regulators will investigate to determine the severity of the violation, who was involved, and will also identify aggravating and mitigating factors in order to determine the penalties to be imposed.

Know your specific location's **standard operating procedures**. Compliance is a team endeavor. If any agent or company breaks the rules, there are consequences. We must be aware of all activity on the licensed premises. We may be held accountable for violations that occur.

In the cannabis industry, we can incur the following **three types of liability**:

1. **Criminal Liability:** A person is liable, or responsible, for a crime when he or she has acted with criminal intent.
2. **Civil Liability:** the legal requirement to compensate another party for causing them some form of bodily injury or property damage.
3. **Administrative Liability:** laws that govern the formation and operation of administrative agencies and the rulings made by administrative agencies. This type of law is sometimes called regulatory law.

There may be times when the licensee must comply with **Administrative Holds and/or Quarantine Orders** that are applied to specific batches of inventory. For example- during the 2019 Vape Crisis, cartridges were on an Administrative Hold and under a Quarantine Order until data could be gathered to determine how to proceed safely. Cartridges could not be sold throughout that time. In late March 2020, we had a **Cease & Desist** for adult-use establishments for several weeks during the COVID-19 pandemic.

Administrative Hold means a hold requiring temporary isolation of Marijuana or Marijuana Products by a Licensee or Registrant pending further investigation.

Quarantine Order means an order to quarantine or otherwise restrict the sales or use of Marijuana, Marijuana Products, or MIPs by a Licensee or Registrant to protect the public health, safety, or welfare.

Cease and Desist Order means an order to stop or restrict operations including, but not limited to, cultivation, product manufacturing, Transfer, sale, delivery, or testing, of Marijuana, Marijuana Products or Marijuana-infused Products (MIPs) by a Licensee or Registrant to protect the public health, safety or welfare.

To ensure we are creating safe product and working compliantly, we can expect unannounced visits & **inspections** of our business books and records, products, buildings, equipment, and/or transport/delivery vehicles from the following agencies:

- Cannabis Control Commission (CCC)
- Local or State Law Enforcement
- Fire Department
- Local and State Health Department (DPH)
- Dept of Agriculture (MDAR)
- Permit granting agents
- Other agencies

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If an inspector or investigator arrives at your establishment, invite them to sign the visitor log, request and review their ID* (their city or state badge - Driver License not required), supply them with a visitor badge, and inform your manager. A manager will escort them to all requested areas and share/show all requested items.

Inspections can happen when a business is applying for a license, renewing a license, during operational hours and at any time deemed necessary. Inspections may also include a request for specific tests on cannabis to occur. **Failure to participate in or allow an inspection will result in non-compliance and administrative or disciplinary action.**

In Massachusetts, the CCC also has a formal **Secret Shopper Program** where they may authorize an employee or other agent to pose as a customer to detect diversion or investigate it.

If a licensee receives a deficiency statement, or communication from the CCC that they are out of compliance, they must submit a **written plan of correction** for each deficiency **within 10 days**, which includes the specific corrective step(s) to be taken, a timetable for such steps, and the date by which compliance will be achieved.

Potential Sanctions and Penalties

- License suspension or revocation
- Agent badge suspension or revocation
- Fines to the business of up to \$50,000 for each violation
- Cease & desist order
- Non-renewal of license
- Quarantine or seizure of product
- Civil penalties
- Referral to state, local, civil, or criminal investigative or enforcement entities
- Incarceration
- Fines to the agent
- Any combination of the above

935CMR 500.300: Complaints Process

(1) In a time and manner determined by the Commission, a dedicated telephone number, email address or other means shall be provided for members of the public or Consumers to notify the Commission of complaints regarding Marijuana Establishments or Marijuana Establishment Agents.

(2) The Commission may, at its discretion, investigate or decline to investigate any complaint or refer a complaint to another law enforcement or regulatory authority

935CMR 500.310: Deficiency Statements

After an inspection in which a violation of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000, or 935 CMR 501.000: Medical Use of Marijuana is observed or a violation is otherwise determined to have occurred, the Commission shall issue a deficiency statement citing every violation identified, a copy of which shall be left with or sent to the Marijuana Establishment.

935CMR 500.320: Plans of Correction

(1) A Marijuana Establishment shall submit to the Commission a written plan of correction for any violations cited in the deficiency statement issued pursuant to 935 CMR 500.310, within ten business days after receipt of the statement.

(2) A plan shall state, with respect to each deficiency, the specific corrective step(s) to be taken, a timetable for such steps, and the date by which compliance will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible.

(3) The Commission shall review the plan of correction and shall notify the Marijuana Establishment of either the acceptance or rejection of the plan or any component of the plan.

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- (4) An unacceptable plan shall be amended and resubmitted within five business days after receipt of such notice.
- (5) The approval of a plan of correction shall not preclude the Commission from issuing an order for further corrective action fixing a reasonable time for correction of the violation, assessing an administrative fine, or taking any other administrative action authorized under the Commission's regulations.
- (6) A Marijuana Establishment shall notify the Commission once the plan of correction has been fully implemented and completed.

500.321: Administrative Hold

- (1) Pursuant to M.G.L. c. 94G, § 4(a)(xix), the Commission or a Commission Delegee may order an Administrative Hold of Marijuana or Marijuana Products to examine and inspect a Marijuana Establishment to ensure compliance with the provisions of 935 CMR 500.000, prevent the destruction of evidence, prevent the diversion of Marijuana or Marijuana Products, or as otherwise necessary to protect the public health, safety or welfare.
- (2) A Marijuana Establishment subject to an Administrative Hold shall retain its inventory pending further investigation by the Commission or a Commission Delegee pursuant to the following procedure:
 - (a) If during an investigation or inspection of a Marijuana Establishment, the Commission has reasonable cause to believe certain Marijuana or Marijuana Products are noncompliant under 935 CMR 500.000, or otherwise constitutes a threat to the public health, safety or welfare, the Commission may issue a notice to administratively hold any Marijuana or Marijuana Product. The notice shall identify the Marijuana or Marijuana Product subject to the Administrative Hold and a concise statement stating the reasons relied on in the issuance of the Administrative Hold.
 - (b) Following the issuance of a notice of Administrative Hold, the Commission will identify and mark the Marijuana or Marijuana Product subject to the Administrative Hold in the Commission's Seed-to-sale SOR. The Marijuana Establishment shall continue to comply with all inventory requirements including, but not limited to, 935 CMR 500.105(8).
 - (c) The Marijuana Establishment shall completely and physically segregate the Marijuana or Marijuana Product subject to the Administrative Hold in a Limited Access Area, where it shall be safeguarded by the Marijuana Establishment.
 - (d) While the Administrative Hold is in effect, the Marijuana Establishment shall be prohibited from selling, transporting or otherwise Transferring or destroying the Marijuana or Marijuana Product subject to the Administrative Hold, except as otherwise authorized by the Commission.
 - (e) While the Administrative Hold is in effect, the Marijuana Establishment shall safeguard the Marijuana or Marijuana Product subject to the Administrative Hold and shall fully comply with all security requirements including, but not limited to, 935 CMR 500.110.
 - (f) An Administrative Hold may not prevent a Marijuana Establishment from the continued possession, cultivation or harvesting of the Marijuana or Marijuana Product subject to the Administrative Hold, unless otherwise provided by an order of the Commission. All Marijuana or Marijuana Products subject to an Administrative Hold shall be put into separately tracked Production Batches.
 - (g) An Administrative Hold may not prevent a Marijuana Establishment from voluntarily surrendering Marijuana or Marijuana Products subject to an Administrative Hold, except that the Marijuana Establishment shall comply with the waste disposal requirements in 935 CMR 500.105(12).
 - (h) At any time after the initiation of the Administrative Hold, the Commission or a Commission Delegee may modify, amend or rescind the Administrative Hold.
 - (i) The failure to cooperate with provisions of 935 CMR 500.321 may result in administrative or disciplinary action against the Licensee

935CMR 500.330: Limitation of Sales

- (1) If the Commission or a Commission Delegee determines that a Marijuana Establishment does not substantially comply with applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000, the Commission or a Commission Delegee may order that the Marijuana Establishment dispose of and may not sell Marijuana or Marijuana Products, after a date specified.
- (2) The Commission or a Commission Delegee may not make such a determination until a Marijuana Establishment has been notified that the establishment does not substantially comply with applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000, that an order to dispose of or limit sales is contemplated, and that the establishment has a reasonable opportunity to correct the deficiencies.
- (3) An order that a Marijuana Establishment dispose of and may not sell Marijuana or Marijuana Products pursuant to 935 CMR 500.330(1) may be rescinded when the Commission or a Commission Delegee finds that the establishment is in substantial compliance with the applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000.

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500.335: Removal and Prohibition of Marijuana and Marijuana Products

(1) Pursuant to M.G.L. c. 94G, § 4(a½)(xxxi), the Commission or a Commission Delegee may order the removal or prohibition of sales by more than one Licensee of categories of product types, of specific product types or of specific brands of products after notice and a determination that Marijuana, Marijuana Products, and Marijuana Accessories (for the purposes of 935 CMR 500.335 "Product"), which based on preliminary evidence, pose a substantial risk to the public health, safety or welfare including, but not limited to, that the product is especially appealing to Persons younger than 21 years old.

(a) The Commission may vote to initiate a complaint about a Product and refer that complaint to the Executive Director and Enforcement staff for investigation.

(b) In consultation with the Executive Director, Enforcement staff may conduct an investigation and make a recommendation as to the Removal of Product. The recommendation shall be based on credible and reliable evidence and provide a specific description of the scope of removal and specify whether the removal or prohibition on sales applies to one of the following:

1. Category of Product Type(s). A type of Product including, but not limited to, Marijuana seeds, Marijuana Clones, Marijuana Edibles, Beverages, topical products, ointments, oils, Tinctures, oral dosage forms or any other product identified by the Commission or a Commission Delegee.

2. Specific Product Type(s). A specific type of Product within a category of Products, but not including other types of Product within the same category.

3. Specific Brand of Product(s). One or more specific Product types or category types Manufactured by a Marijuana Product Manufacturer or a specific Product type or category type Manufactured by multiple Marijuana Product Manufacturers subject to an agreement including, but not limited to, a partnership, product licensing, distribution, branding, Advertising, marketing or sales agreement.

(2) After receiving a recommendation from Enforcement staff, the Executive Director may act to address the substantial risk to the public health, safety or welfare including, but not limited to:

(a) Refer the matter to a Hearing Officer with expertise to evaluate scientific evidence to conduct an informal hearing;

(b) If credible and reliable evidence has been evaluated and found to meet the standard of a substantial risk to public health, safety or welfare if one is not yet issued, order the quarantine or Removal of Product or prohibition on sales of a Product pending consideration by a Hearing Officer; or

(c) Refer the matter to the Commission.

(3) When a matter is referred by the Executive Director, the Hearing Officer may conduct an informal hearing.

(a) If necessary and in consultation with the Executive Director, the Hearing Officer may develop a process for the purpose of identifying the Licensees and Registrants that may be impacted by a current or future order including, but not limited to, identifying those Licensees and Registrants to whom providing adequate notice and an opportunity to be heard shall be given.

(b) The Hearing Officer shall exercise discretion in admitting and weighing evidence including, but not limited to, testimony and evidence from:

1. Licensees and Registrants; and

2. Subject-matter experts.

(c) The Hearing Officer shall issue findings of fact and make a recommended decision to the Executive Director.

(d) To the extent that the Hearing Officer recommends that Products be removed or prohibited, this recommendation shall be based on credible and reliable evidence that the Product poses a substantial risk to the public health, safety and welfare.

(4) The Executive Director may refer the matter to the Commission and make a recommendation.

(5) On referral by the Executive Director, prior to issuing any order, the Commission shall deliberate on the Executive Director's recommendation at a public meeting of the Commission.

(a) If there is a recommendation that the Products be removed and prohibited, this recommendation shall be based on credible and reliable evidence that the Product poses a substantial risk to the public health, safety and welfare.

(b) An order shall require a vote by the Commission.

(c) The Commission or a Commission Designee shall send written notice of the action taken against an identified Licensee or Registrant and the basis for that action. The notice shall include, but not be limited to, the following information:

1. the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter; and its authority to take action with regards to the License or registration;

2. the factual basis for that action;

3. the extent to which the product poses a substantial risk to the public health, safety and welfare; and

4. the current restrictions on the Licensee's or Registrant's operations or sales or other use of Products, if any, including the method and timing of the Removal of Product including, but not limited to, whether the Product shall be destroyed in accordance with 935 CMR 500.105(12).

(d) The Commission or a Commission Designee may modify, amend or rescind a notice on condition(s) just to all the parties.

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- (6) On receipt of the order, the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the Commission, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission.
- (7) The order shall be transmitted immediately to all other Licensee(s) or Registrant(s) that may reasonably be affected by the order by electronic and certified mail.
- (8) The order may be posted on the Commission's website.
- (9) It shall be a violation of 935 CMR 500.000 for Licensees to produce, sell or otherwise make available the categories of Product Types, Specific Product Types or Specific Brands of Products identified in the order.
- (10) A Marijuana Establishment subject to the order shall accept Consumer returns of unused and unopened product for a period of 30 days after the effective date of the order.
- (11) The failure to cooperate with provisions of 935 CMR 500.335 may result in further administrative or disciplinary action against the Licensees or Registrants

935CMR 500.340: Quarantine Order

- (1) Pursuant to its authority under M.G.L. c. 94G, § 4(a)(xix) and (a½)(xxxi), a **Quarantine Order** may be
 - (1) Pursuant to its authority under M.G.L. c. 94G, § 4(a)(xix) and (a½)(xxxi), a Quarantine Order may be imposed by the Commission or a Commission Delegee to immediately quarantine or otherwise restrict the sale or use of Marijuana or Marijuana Products by a Licensee or Registrant to protect the public health, safety or welfare.
 - (2) If, based on complaint(s), inspection(s), affidavit(s) or other credible evidence, the Commission or a Commission Delegee determines that a Licensee or Registrant, or the Marijuana or Marijuana Products cultivated, produced or sold by a Licensee or Registrant pose an immediate or serious threat to the public health, safety or welfare, the Commission or a Commission Delegee may issue an order to the Licensee that:
 - (a) quarantines or otherwise restricts the sale or use of Marijuana or Marijuana Products prepared by or in the possession of the Licensee; or
 - (b) quarantines or otherwise restricts the sales or use of Marijuana or Marijuana Products to the extent necessary to avert a threat, pending final investigation results.
 - (3) On receipt of the order, the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the Commission, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission or a Commission Delegee.
 - (4) The Commission or a Commission Delegee may modify, amend or rescind the order at any time after its issuance on condition(s) to all the parties.
 - (5) To the extent that the issuance of a Quarantine Order is to investigate a substantial risk to public safety, health and welfare, a Licensee may not have a right to a hearing, unless and until the order remains in effect beyond 21 calendar days without any further action by the Commission or a Commission Delegee. (6) The failure to cooperate with provisions of 935 CMR 500.340 may result in administrative or disciplinary action against the Licensees or Registrants.

935CMR 500.350: Cease and Desist Order and Summary Suspension Order

- (1) Pursuant to its authority under M.G.L. c. 94G, § 4(a) and (a½), a Cease and Desist Order or a Summary Suspension Order may be imposed by the Commission or a Commission Delegee prior to a hearing to protect the public health, safety, or welfare.
- (2) If based on inspection(s), affidavit(s), or other credible evidence, the Commission or a Commission Delegee determines that a Licensee or Registrant or the Marijuana or Marijuana Products cultivated, produced or sold by a Licensee or Registrant pose an immediate or serious threat to the public health, safety or welfare, the Commission or a Commission Delegee may:
 - (a) Issue a Cease and Desist Order that requires cessation of any or all operations including, but not limited to, the cultivation, product manufacturing, Transfer, sale, delivery or transportation of Marijuana or Marijuana Products; or
 - (b) Issue a Summary Suspension Order that requires the immediate suspension of a License and its associated registrations and cessation of all operations.
- (3) **Notice of Violations.**
 - (a) For a Cease and Desist or Summary Suspension Order issued under 935 CMR 500.350(2), the Commission or a Commission Delegee shall send written notice of the action taken against a Licensee or Registrant and the basis(es) for that action which shall include, but not be limited to, the following information:
 - 1. The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to take action with regards to the License or registration;
 - 2. The factual basis(es) of the action;
 - 3. The immediate threat to the public health, safety, and welfare;
 - 4. The alleged violation(s) of law, including the alleged noncompliance with law, regulation, guideline or other applicable requirement;

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5. The current restriction(s), if any, on the Licensee's or Registrant's operations;
6. Requirements for the continued maintenance and security of any Marijuana and Marijuana Products;
7. The potential for further disciplinary action(s), sanction(s) or fine(s); and
8. The Licensee's right to a hearing, if any.

(b) The Commission or a Commission Delegee may modify, amend or rescind the order at any time after its issuance on condition(s) just to all the parties.

(4) On receipt of the order issued under 935 CMR 500.350(2), the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission or a Commission Delegee.

(5) **Hearings.** Pursuant to its authority under M.G.L. c. 94G, § 4(a)(xxiv) and (g), the Commission has the authority to administer the administrative hearing process and to delegate to a Hearing Officer the authority to conduct an administrative hearing.

(a) **Hearing Request.** On written request filed with the Commission, a Licensee shall be afforded a hearing on an order issued under 935 CMR 500.350(2). The hearing request shall be submitted in a form and a manner determined by the Commission or a Commission Delegee including, but not limited to, the request shall be made no later than 21 calendar days after the effective date of the order. A request for a hearing is filed on the date the request is received by the Commission.

1. A timely request for a hearing shall specifically identify each issue and fact in dispute and state the position of the Licensee, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.

2. The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the findings set forth in the notice of violation(s) or action(s).

(b) **Hearing Notice.** If a hearing is requested in a timely manner under 935 CMR 500.350(5)(a), the Hearing Officer shall provide notice and a hearing promptly after that request, or as soon as is practicable, or at a time mutually agreed by the parties.

(c) **Conduct of the Hearing.**

1. The hearing shall be conducted pursuant to Standard Adjudicatory Rules of Practice and Procedure, which includes 801 CMR 1.01: Formal Rules, 801 CMR 1.02: Informal/Fair Hearing Rules, and/or 801 CMR 1.03: Miscellaneous Provisions Applicable to All Administrative Proceedings.

2. The scope of the hearing shall be limited to whether there existed prior to, or at the time of the order(s) issued pursuant to 935 CMR 500.350(2), or an amended or a modified order, an immediate or serious threat to the public health, safety, or welfare.

3. If the Commission proves by a preponderance of the evidence that there existed an immediate or serious threat to the public health, safety, or welfare, the Hearing Officer shall affirm the order.

4. The Hearing Officer shall electronically mail a copy of the recommended decision to each Licensee or Registrant and their attorney(s) of record, and mail a copy on written request.

(6) The requirements of an order issued under 930 CMR 500.350(2) shall remain in effect until one of the following events has occurred:

(a) The Commission modifies, amends or rescinds the order;

(b) There is a Final Decision on the merits of the order, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or rescinded by the Commission;

(c) There is a Final Decision on the merits of a subsequently issued Order to Show Cause under 935 CMR 500.370, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or rescinded by the Commission; or until such time as is otherwise established under the procedures set forth in 935 CMR 500.500.

935CMR 500.360: Fines

The Commission or a Commission Delegee may issue an order to a Licensee to show cause as to why a fine or other financial penalty against a Licensee or Registrant should not be imposed for any acts or omissions determined to be in violation of the state Marijuana laws, including M.G.L. c. 94G, and 935 CMR 500.000.

(1) **Notice of Fines.** The Commission or a Commission Delegee shall send written notice of the action taken against a Licensee or Registrant and the basis(es) for that action which shall include, but not be limited to, the following information:

(a) The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to issue the order with regards to the License or registration;

(b) The factual basis(es) of the order;

(c) The alleged violation(s) of law;

(d) An assessment of an administrative fine of up to \$50,000 per violation, or an order for corrective action fixing a reasonable time for correction of the violation or both; and

(e) Notice to the Licensee or Registrant that they may request a hearing in accordance with 935 CMR 500.500.

(2) An administrative fine of up to \$50,000 may be assessed for each violation.

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- (a) The decision to impose any fine or financial penalty shall identify the factors considered by the Commission or a Commission Delegee in setting the amount.
- (b) Each day during which a violation continues may constitute a separate violation, and each instance and provision of the state Marijuana laws, including M.G.L. c. 94G, and 935 CMR 500.000, that is violated may constitute a separate violation.
- (3) The Commission or a Commission Delegee, in determining the amount of fine or financial penalty to impose may consider greater or lesser amount depending on aggravating or mitigating circumstances including, but not limited to:
- (a) Aggravating Circumstances.
1. Duration and severity of violation;
 2. Whether the Licensee has previously been subject to an administrative action against its provisional or final License including, but not limited to, a notice of deficiency;
 3. Whether the Licensee knew or had reason to know of the violation including, but not limited to, warning or issuance of a notice of deficiency; and
 4. Whether the offense:
 - a. Constitutes grounds for denial of a renewal application or suspension or revocation of licensure;
 - b. Involved multiple Persons or Entities Having Direct or Indirect Control or agents of the Licensee;
 - c. Involved any compensating features associated with a valid waiver issued pursuant to 935 CMR 500.850;
 - d. Involved a Person younger than 21 years old or a Registered Qualifying Patient or Caregiver; e. Involved or affected multiple Consumers;
 - f. Involved or exposed the public to risk of diversion; or
 - g. Created a risk to the public health, safety or welfare.
- (b) Mitigating Circumstances.
1. Whether the Commission learned of the violation or risk of violation from the Licensee or Registrant prior to investigation;
 2. The financial impact of corrective measures, if any, which provide safeguards exceeding the minimum requirements of 935 CMR 500.000. However, financial impact may not include any cost associated with loss of economic opportunity due to noncompliance or costs of corrective action necessary to achieve compliance with minimum requirements of 935 CMR 500.000;
 3. The Licensee's or Registrant's good faith efforts to avoid a violation;
 4. The Licensee's or Registrant's degree of cooperation in the investigation;
 5. The Licensee's or Registrant's willingness to accept responsibility;
 6. The Licensee's or Registrant's compliance with the training requirements pursuant to 935 CMR 500.105(2)(b);
 7. The Licensee's or Registrant's status as current or past leader pursuant to the Leadership Ratings Program under 935 CMR 500.040.
- (4) The fine or financial penalty shall be due and payable within 30 calendar days of the date of one of the following:
- (a) The date of the assessment; or
- (b) If a hearing is requested pursuant to 935 CMR 500.500, the date of the final agency action.
- (5) Failure to timely pay the fine or financial penalty may result in further action being taken by the Commission or a Commission Delegee including, but not limited to, suspension or revocation of a License or registration.
- (6) If remaining unpaid at the time of Licensure renewal, the fine or financial penalty shall be added to the fee for renewal of the License. A License may not be renewed without the payment of the renewal fee and if applicable, an unpaid fine or financial penalty.
- (7) All fines and financial penalties collected by or on behalf of the Commission, pursuant to 935 CMR 500.360, shall be made payable to the Commission and deposited into the Marijuana Regulation Fund. The failure to cooperate with provisions of 935 CMR 500.360, may result in administrative or disciplinary action against the Licensees or Registrants.

500.450: Marijuana Establishment License: Grounds for Suspension, Revocation and Denial of Renewal Applications

Each of the following, in and of itself, constitutes full and adequate grounds for suspending or revoking a Marijuana Establishment's License or denying a renewal application for a Marijuana Establishment License.

- (1) The Marijuana Establishment is not operational within the time projected in the License application or the time otherwise approved by the Commission.
- (2) Information provided by the Marijuana Establishment was deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.
- (3) The Marijuana Establishment has failed to comply with any requirement of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000, or any applicable law or regulation including, but not limited to, the laws and regulations of the Commonwealth relating to taxes, child support, workers' compensation, and professional and commercial insurance coverage.
- (4) The Marijuana Establishment has failed to submit a plan of correction as required or to implement the plan as submitted pursuant to 935 CMR 500.320.

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- (5) The Marijuana Establishment has assigned or attempted to change ownership or assign its License to another entity without prior approval of the Commission under 935 CMR 500.104.
- (6) The Licensee failed to comply with the control limitations listed in 935 CMR 500.050(1)(b) or would likely fail to comply with such limitations if a renewal License were granted.
- (7) There has been a lack of responsible operation of the Marijuana Establishment, as shown by, but not limited to, one or more of the following:
 - (a) Failure to maintain the Marijuana Establishment in a clean, orderly, and sanitary fashion;
 - (b) Permitting a Marijuana Establishment Agent to use a Registration Card belonging to a different person;
 - (c) Failure to make substantial progress toward the Marijuana Establishment's submitted diversity plan or positive impact plan;
 - (d) Repeated sales of Marijuana Products to individuals younger than 21 years old, unless, in each instance, the Marijuana Establishment Agent reasonably relied on validly issued government-issued identification card in compliance with M.G.L. c. 94G, § 9(b);
 - (e) Repeated failure to verify the age of an individual prior to permitting that individual on the Premises of a Marijuana Establishment or making sales of Marijuana Products to that individual; or
 - (f) Other incompetent or negligent operation.
- (8) The financial management of the Marijuana Establishment has resulted in the filing of a petition for a Court Appointee related to the financial solvency of the Marijuana Establishment.
- (9) A Licensee fails to satisfy the requirements of 935 CMR 500.104(3) or (4), as applicable.
- (10) A person on a Marijuana Establishment License has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of a Marijuana Establishment in another Jurisdiction including, but not limited to: a failure to correct deficiencies, a limitation on, or a suspension, revocation or refusal to grant or renew a registration or License to operate.
- (11) The conduct or practices of the Marijuana Establishment demonstrate a lack of suitability as specified in 935 CMR 500.800 and 500.801.
- (12) An individual or entity on a Marijuana Establishment License or Marijuana Establishment Agent has a history of criminal conduct as evidenced by any criminal proceedings that resulted in conviction, guilty plea, plea of nolo contendere, or admission to sufficient facts in the Commonwealth or Other Jurisdictions.
- (13) An individual or entity listed on a Marijuana Establishment License has committed, permitted, aided or abetted, or conspired to commit any illegal practice(s) in the operation of any Marijuana Establishment including, but not limited to, engaging in the diversion of Marijuana or Marijuana Products.
- (14) The Marijuana Establishment has failed to cooperate or give information to a law enforcement official acting within his or her lawful jurisdiction related to any matter arising out of conduct at any Marijuana Establishment.
- (15) The conduct or practices of the Marijuana Establishment have been detrimental to the safety, health, or welfare of the public.
- (16) The conduct or practices of the Marijuana Establishment violate 935 CMR 500.145(1)(g)(3) or 500.146(12).
- (17) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55, or 935 CMR 500.000.

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- (a) Restrictions on **personal cultivation**. No person shall cultivate or process marijuana plants pursuant to section 8 of this chapter if the plants are visible from a public place without the use of binoculars, aircraft or other optical aids or cultivate or process marijuana plants outside of an area that is equipped with a lock or other security device. A person who violates this subsection shall be punished by a civil penalty of not more than \$300 and forfeiture of the marijuana but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.
- (b) Restrictions on **personal possession**. No person shall possess more than 1 ounce of marijuana or marijuana products within the person's place of residence pursuant to section 8 of this chapter unless the marijuana and marijuana products are secured by a lock. A person who violates this subsection shall be punished by a civil penalty of not more than \$100 and forfeiture of the marijuana.
- (c) Restrictions on **public consumption** of marijuana. No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited. A person who violates this subsection shall be punished by a civil penalty of not more than \$100. This subsection shall not apply to a person who consumes marijuana or marijuana products in a designated area of a marijuana establishment located in a city or town that has voted to allow consumption on the premises where sold and shall not be construed to limit the medical use of marijuana.
- (d) Possession of **marijuana in motor vehicles**. No person shall, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, possess an open container of marijuana or marijuana products in the passenger area of any motor vehicle. A person who violates this subsection shall be punished by a civil penalty of not more than \$500. For purposes of this section, "open container" shall mean that the package

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containing marijuana or marijuana products has its seal broken or from which the contents have been partially removed or consumed and "passenger area" shall mean the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or passenger while in a seated position; provided however that the passenger area shall not include a motor vehicle's trunk, locked glove compartment or the living quarters of a house coach or house trailer, or if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

(e) **Possession or cultivation of excess marijuana.** Notwithstanding chapter 94C of the General Laws and until the import or export of marijuana to or from the commonwealth is not prohibited by federal law, a person who is at least 21 years of age and who cultivates more than 6 but not more than 12 marijuana plants or who possesses an amount of marijuana outside of his or her place of residence having a weight of more than 1 ounce but not more than 2 ounces shall be subject only to a civil penalty of not more than \$100 and forfeiture of the marijuana not allowed by section 8 of this chapter, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.

(f) **Procurement of marijuana by a person under 21 years of age.** A person under 21 years of age, except a qualifying patient holding a valid registration card for the medical use of marijuana, who purchases or attempts to purchase marijuana, marijuana products or marijuana accessories, or makes arrangements with any person to purchase or in any way procure marijuana, marijuana products or marijuana accessories, or who willfully misrepresents such person's age, or in any way alters, defaces or otherwise falsifies identification offered as proof of age, with the intent of purchasing marijuana, marijuana products or marijuana accessories, shall be punished by a civil penalty of not more than \$100 and shall complete a drug awareness program established pursuant to section 32M of chapter 94C of the General Laws. The parents or legal guardian of any offender under the age of 18 shall be notified in accordance with section 32N of chapter 94C of the General Laws and the failure within 1 year of the offense of such an offender to complete a drug awareness program may be a basis for delinquency proceedings for persons under the age of 17 at the time of the person's offense.

(g) **Enforcement.** Civil penalties imposed pursuant to this section shall be enforced by utilizing the non-criminal disposition procedures provided in section 32N of chapter 94C of the General Laws.

(h) Notwithstanding chapter 94C, a **person less than 21 years of age, except a qualifying patient** holding a valid registration card for the medical use of marijuana, who **cultivates not more than 12 marijuana plants shall be punished by a civil penalty of not more than \$100 and** shall complete a drug awareness program established pursuant to section 32M of chapter 94C. If that person is less than 18 years of age, the parent or legal guardian of that person shall be notified in accordance with section 32N of said chapter 94C. If a person is less than 17 years of age at the time of the offense and fails to complete a drug awareness program not later than 1 year after the offense, that person may be subject to delinquency proceedings.

(i) **Whoever furnishes marijuana, marijuana products or marijuana accessories to a person less than 21 years of age**, either for the person's own use or for the use of the person's parent or another person shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 1 year or both such fine and imprisonment. For the purposes of this subsection, "furnish" shall mean to knowingly or intentionally supply, give or provide to or allow a person less than 21 years of age, except for the children and grandchildren of the person being charged, to possess marijuana, marijuana products or marijuana accessories on premises or property owned or controlled by the person charged.