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Updated September 2022

Division of Cannabis Regulation

State Fairgrounds • P.O. Box 19281 • Springfield, IL 62794-9281 • 217/524-2143 • TDD 866/287-2999 • Fax 217/524-4215

Compliance Issue

The Division of Cannabis Regulation (Division) has received inquiries regarding licensed infuser organizations seeking to produce or extract cannabis concentrates with the intent to create cannabis-infused products. Infusers are prohibited from performing extraction of cannabis concentrates, including production of “cannabutter” and other cannabis concentrates.

Background

In January 2020, the Illinois Department of Agriculture (Department) filed emergency rules for the Cannabis Regulation and Tax Act (CRTA), (410 ILCS 705/et seq). The emergency rules for the Act appeared in the [January 17, 2020 Illinois Register](#). The Department then filed the proposed rules, which appeared in the [March 13, 2020 Illinois Register](#). Notice appeared in the [June 19, 2020 Illinois Register](#) that the rules had been adopted, effective June 3, 2020.

410 ILCS 705/35-25 Infuser organization requirements; prohibitions.

(n) At no time shall an infuser organization or an infuser agent perform the extraction of cannabis concentrate from cannabis flower.

410 ILCS 705/1-10 Definitions.

"Cannabis concentrate" means a product derived from cannabis that is produced by extracting cannabinoids, including tetrahydrocannabinol (THC), from the plant through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; water, ice, or dry ice; or butane, propane, CO₂, ethanol, or isopropanol and with the intended use of smoking or making a cannabis-infused product. The use of any other solvent is expressly prohibited unless and until it is approved by the Department of Agriculture.

"Cannabis-infused product" means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis or cannabis concentrate ***that is not intended to be smoked.*** [Emphasis added.]

"Infuser organization" or "infuser" means a facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

"Smoking" means the inhalation of smoke caused by the combustion of cannabis.

8 IAC 1300.475 Operations – Infused Products

(a) (1) No cannabis-infused products requiring refrigeration or hot-holding or considered potentially hazardous food meeting the definition under Section 4 of the Food Handling Regulation Enforcement Act shall be manufactured at an infuser for sale or distribution at a dispensing organization.

Compliance Objective

The objective of this compliance alert is to clarify that under current Illinois statutes and regulations, infusers are prohibited from performing the extraction of cannabis concentrate from cannabis flower. This prohibition extends to all extraction methods including but not limited to the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; water, ice, or dry ice; or butane, propane, CO₂, ethanol, or isopropanol.

Infusers must obtain concentrates from an Illinois Department of Agriculture licensed cannabis cultivation center or craft grower in order to manufacture cannabis infused products. The definition of “cannabis-infused product” specifically limits production to products that must not be intended to be smoked. This means that an infuser organization cannot manufacture

or process cannabis into pre-rolls or other cannabis products intended to be smoked, which is defined in the CRTA as “inhalation of smoke caused by the combustion of cannabis”. **Oil vape cartridges can be considered “cannabis-infused products” under the CRTA since vaping would not generally be considered “smoking”, so long as combustion is not required to vaporize the “cannabis-infused product”.**

Additionally, licensed infusers must only produce infused cannabis products that are shelf stable. No cannabis infused products that require refrigeration or hot-holding may be manufactured for sale or distribution at a dispensing organization.

Questions

For questions related to this Compliance Alert, please contact the Illinois Department of Agriculture, Division of Cannabis Regulation, by emailing AGR.ADULTUSE@Illinois.gov.

Infusers and Vape Cartridges

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Infuser Organizations – Vape Cartridges

The purpose of this Notice is to update and clarify certain information provided in the August 2022 “INFUSER ORGANIZATION COMPLIANCE ALERT.” The August 2022 alert stated that “an infuser organization cannot manufacture or process cannabis into pre-rolls or cannabis concentrate into vape cartridges.” Upon further review, it has been determined that an oil vape cartridge can be considered a “cannabis-infused product” under the Cannabis Regulation and Tax Act (CRTA) for purposes of determining what types of products licensed infusers may produce. Therefore, the Department is revising its prior bulletin to clarify that licensed infusers are permitted to directly incorporate cannabis or cannabis concentrate into oil vape cartridges. Infusers are still prohibited from manufacturing pre-rolls.

Under the CRTA, licensed “infusers” are permitted to directly incorporate cannabis or cannabis concentrate into a product formulation to produce “cannabis-infused products.” 410 ILCS 705/1-10 (definition of “infuser organization”). The CRTA defines a “cannabis-infused product” as “a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis or cannabis concentrate that is not intended to be smoked.” *Id.* Finally, the CRTA defines “Smoking” as “the inhalation of smoke caused by the combustion of cannabis.” *Id.* Based on these provisions in the CRTA, vaping would generally not be considered “smoking” as it does not require combustion and involves the inhalation of “vapor,” rather than smoke.

Additional Information Concerning Taxation

The purpose of this Notice is to address the specific issue of whether infusers are permitted to produce vape cartridges pursuant to an infuser organization license issued by the Department. Any questions or concerns with respect to the taxation of these or any other products should be directed to the Illinois Department of Revenue at 217-782-6045.