



STATE OF ARIZONA
DEPARTMENT OF LIQUOR LICENSES AND CONTROL

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THC AND MARIJUANA INFUSED BEVERAGES

In recent weeks the Department of Liquor Licenses and Control ("ADLLC") has received numerous questions about marijuana or tetrahydrocannabinol ("THC") infused beverages. This advisory should provide clarity to the industry regarding these beverages and the regulations that relate to them.

Proposition 207 was passed into law in November 2020 and legalized marijuana for adult personal use. The statutory provision that resulted from Proposition 207 is found in the Arizona Revised Statutes (A.R.S.) Title 36, Chapter 28.2. This voter initiative allows adults over the age of 21 to possess, purchase, transport, or process 1 ounce or less of marijuana or 5 grams or less of marijuana concentrate. The Arizona Department of Health Services ("ADHS") is responsible for licensing and regulating marijuana, marijuana retail sales, marijuana growth, and testing facilities in Arizona. Therefore, the ADLLC has no specific enforcement or regulatory authority over marijuana or comestibles containing marijuana. This authority resides with ADHS.

The ADLLC is mandated to enforce laws as they relate to spirituous liquor as defined by A.R.S. § 4-101.28. Although our special agents are all sworn peace officers, with authority to enforce all criminal laws, they have no more nor less enforcement authority over marijuana than any other peace officer in Arizona pursuant to the current law.

Therefore, any non-alcohol beverage, which does not fall into the definition of A.R.S. § 4-101.28, and is infused with marijuana or THC, is not subject to regulation by the ADLLC. The sole authority over these non-alcohol beverages or comestibles remains with the ADHS.

However, alcohol beverage products remain prohibited from containing marijuana or THC according to the Alcohol Tobacco and Trade Bureau of the United States Department of the Treasury ("TTB"). TTB will not approve any formulas or labels for alcohol beverage products that contain a controlled substance under Federal law,

including marijuana. The Controlled Substances Act, 21 U.S.C. § 802(16), (“CSA”), defines marijuana as all parts of the cannabis sativa L. plant (and its derivatives) with certain specific exclusions. Substances (such as THC, cannabidiols (“CBD”), or terpenes) that are derived from any part of the cannabis plant that is not excluded from the CSA definition of marijuana are controlled substances, regardless of whether such substances are lawful under State law.

Due to the TTB prohibition, a licensee may not purchase or resell products containing a controlled substance. Doing so may violate Federal law as well as A.R.S. § 4-225(A) as it relates to food safety and federal preemption regarding controlled substances.

Finally, please be mindful that, pursuant to A.R.S. § 36-2853(C), it is still unlawful for a person to smoke marijuana in a public place or open space. Further, pursuant to A.R.S. § 36-601.01(B), smoking of any kind is prohibited in all public places and places of employment within the State of Arizona, with limited exceptions. Licensees are encouraged, therefore, to be mindful of these prohibitions if they encounter persons smoking marijuana on their premises. A licensee who knowingly encourages or permits illegal conduct on their premises may be deemed to have failed to satisfactorily maintain the capability, qualifications, and reliability requirements for licensure pursuant to A.R.S. § 4-210(A)(2).

Please utilize the following resources for further information on these topics.

- U.S. Department of the Treasury, Alcohol Tobacco and Trade Bureau
<https://www.ttb.gov/faqs/alcohol>
- Arizona Department of Health Services, Bureau of Marijuana Licensing
<https://www.azdhs.gov/licensing/marijuana/index.php>
- Arizona Revised Statutes Title 36, Chapter 28.2, Adult Use of Marijuana
<https://www.azleg.gov/arsDetail/?title=36>

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