

The Chronicle: American Adult-Use Marijuana Laws - Retail Licenses

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As one would expect, all licensing states^[1] require retailers to be licensed. Retail licenses expire and must be renewed annually in all licensing states except Illinois. Retail licenses in Illinois expire on March 31 of even-numbered years.

Common Provisions

Zoning, Time, Place, and Manner Regulation

All licensing states either subject retail licensees to the power of local governments to enforce time, place, and manner restrictions on marijuana establishments or explicitly provide that retail licensees are subject to the zoning powers of local governments.

In association with applications for a new or renewal license, Colorado requires local governments to inform the state regulator whether an establishment location complies with the local government's time, place, and manner restrictions, in addition to the local cap on the number of marijuana businesses.

Maine requires marijuana establishments outside of municipalities to obtain approvals and permits pertaining to land use planning and development from the Maine Land Use Planning Commission.

Prohibition on sales of marijuana not produced, distributed, and taxed in compliance with law

All licensing states except Alaska expressly prohibit retailers from selling marijuana products that were not produced, distributed, and taxed in compliance with the law.

Limit on amount of marijuana sold at one time

Colorado limits sales to Colorado residents to no more than one ounce of retail marijuana or its equivalent in retail marijuana products during a single transaction. Colorado retailers may not sell more than a quarter of an ounce of retail marijuana and no more than a quarter of an ounce equivalent of retail marijuana product to a nonresident during a single transaction. Colorado is the only state that imposes a statutory limit on sales to nonresidents that is lower than the amount that may be sold to residents.

Washington limits sales to "any combination" of the following: one ounce of useable marijuana, 16 ounces of marijuana-infused product in solid form, 72 ounces of marijuana-infused product in liquid form, and seven grams of marijuana concentrate.

Oregon authorizes the regulator to limit the quantity of marijuana items that may be transferred to a consumer if the regulator determines that the limitation is necessary to prevent the resale of marijuana items.

Maine explicitly limits sales to no more than the amount that a person is permitted to carry on their person at any one time (2.5 ounces). The other states do not explicitly state a similar prohibition, but the limit on the amount that may be carried by any person at one time would seem to operate as a functional limit on the amount that may be sold in a single transaction.

Retailers prohibited from giving away marijuana

California, Colorado, Illinois, Maine, Massachusetts, and Nevada prohibit retailers from giving marijuana products away free of charge.

Oregon prohibits retailers from discounting a marijuana item or offering a marijuana item free of charge if the retail sale of the marijuana item is made in conjunction with the retail sale of any other item.

Washington permits retailers to donate lockable boxes to customers; however, they may not use the donation of lockable boxes as an incentive or as a condition of a recipient's purchase of marijuana or paraphernalia. Retailers may also sell lockable boxes, so long as they are not sold at less than cost.

Marijuana may not be given away as a prize

California, Illinois, Maine, Massachusetts, and Oregon prohibit marijuana from being given away as a prize as part of a business promotion or other commercial activity.

Sales of alcohol or tobacco by retailers

California, Colorado, Maine, and Washington prohibit retailers from selling alcohol or tobacco products.

Illinois prohibits retailers from selling any product containing alcohol except tinctures, which must be limited to containers that are no larger than 100 milliliters.

Michigan prohibits retailers from selling tobacco products, but does not address sales of alcohol.

Potency information

All licensing states except Alaska statutorily require information regarding the potency of a marijuana product to be provided to consumers via a label or as part of a display of the product.

California requires all marijuana product labels to provide a list of active ingredients, including the amount in milligrams of THC and other cannabinoids per serving as well as the total amount in the package.

Illinois provides that the "acceptable tolerances" for the minimum percentage printed on the label of a marijuana product for the amount of THC, THCA, CBD, and CBDA may not be below 85% or above 115% of the labeled amount.

Other states simply require the label to disclose the amount of THC in the package and each serving.

Uncommon Provisions

Drive-through windows

Illinois, Maine, and Washington prohibit sales of marijuana via drive-through windows.

Vending machines

Illinois, Maine, Nevada, and Washington prohibit sales of marijuana via vending machines.

Colorado permits sales by vending machines only if the vending machine is on the premises of a licensed retail marijuana store.

Sale of non-marijuana products by retailers

Washington prohibits retailers from selling products or services other than marijuana products or paraphernalia intended for the storage or use of marijuana products.

Colorado prohibits retailers from selling or giving away any consumable product, including cigarettes, alcohol, and any edible product that does not contain marijuana, "including, but not limited to sodas, candies, or baked goods." Colorado retailers may sell nonconsumable products, such as apparel and marijuana-related products such as childproof packaging containers.

Maine, on the other hand, explicitly authorizes retailers to sell marijuana products, consumable products not containing marijuana, "including, but not limited to, sodas, candies and baked goods, and any other nonconsumable products, including, but not limited to, apparel and marijuana-related products."

Illinois prohibits retailers from selling marijuana products in combination or bundled with each other or any other items for a single price. Each item of marijuana, concentrate, or marijuana-infused product must be separately identified by quantity and price on the receipt. If the retailer bundles marijuana products with non-marijuana products in a sale, then the entire sale is subject to the marijuana purchaser excise tax.

Sales to intoxicated persons

Maine and Oregon prohibit the sale of marijuana to a person who is visibly intoxicated.

Internet sales

Colorado prohibits retailers from selling marijuana products over the internet or delivering marijuana products to a person not physically present in the retail marijuana store's licensed premises. Maine also prohibits sales made over the internet or via delivery service.

Nevada, on the other hand, expressly permits sales by retailers over the internet and using a delivery service.

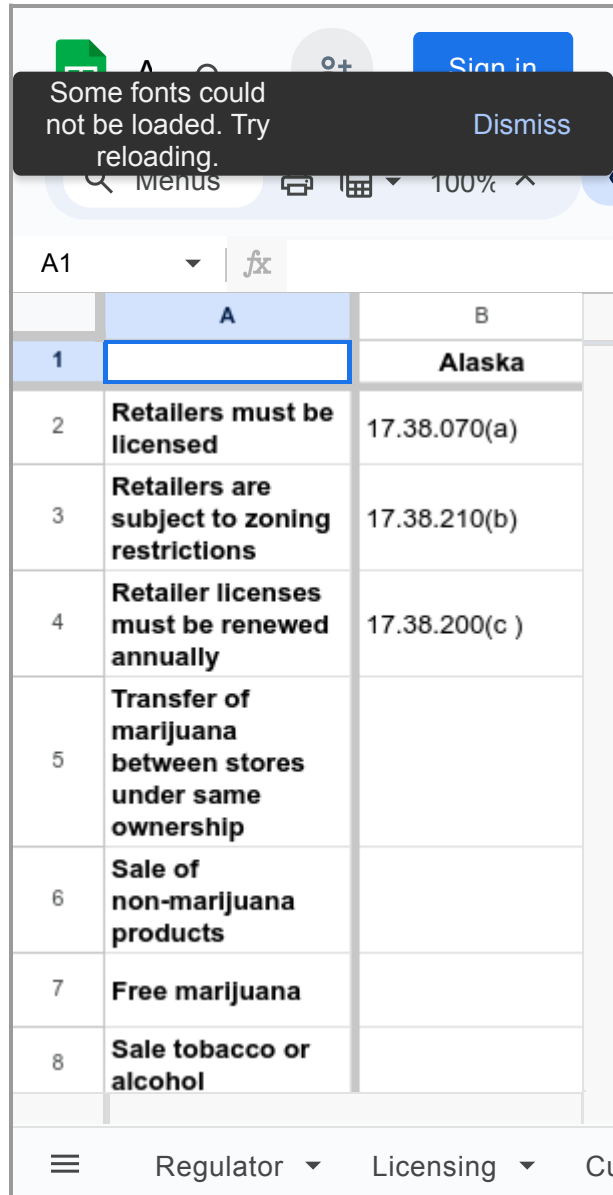
Transfer of marijuana between establishments under same ownership

Oregon explicitly requires the regulator to establish rules that permit a retailer to deliver marijuana items to another marijuana retailer that is owned by the same or substantially the same persons.

Massachusetts permits a marijuana retailer to "purchas[e], sell[], or otherwise transfer[] or deliver[] marijuana or marijuana products to or from a marijuana establishment."

[1] All the states that have legalized the use of adult-use marijuana, except Vermont and Washington, D.C., provide for the licensing of various entities involved in the adult-use marijuana industry, including retailers, cultivators, testing laboratories, and so on. This article uses the term "licensing states" to refer only to those states that provide for a licensing scheme. The term does not include Vermont and Washington, D.C.

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	A	B
1		Alaska
2	Retailers must be licensed	17.38.070(a)
3	Retailers are subject to zoning restrictions	17.38.210(b)
4	Retailer licenses must be renewed annually	17.38.200(c)
5	Transfer of marijuana between stores under same ownership	
6	Sale of non-marijuana products	
7	Free marijuana	
8	Sale tobacco or alcohol	

Regulator ▾ Licensing ▾ Cu

- Illinois – All citations are to Chapter 410, Act 705 (Cannabis Regulation and Tax Act)
- Maine – All citations are to Title 28-B (Adult Use Marijuana)
- Massachusetts – All citations are to Title XV, Chapter 94G (Regulation of the Use and Distribution of Marijuana Not Medically Prescribed)
- Nevada – All citations are to laws set to take effect on July 1, 2020, per 2019 Nevada Laws Chapter 595 (A.B. 533)
- Vermont – All citations are to Title 18 (Health), except the citation to section 17 of Act 86 (2018)

Authored By



Benjamin E. Stearns

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