

**DEPARTMENT OF AGRICULTURE  
STATE OF GEORGIA**

**IN THE MATTER OF:**

**PETITION FOR DECLARATORY  
RULING ON MATTERS RELATING TO  
HEMP AND HEMP PRODUCTS**

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**D.R. 2025-1**

**DECLARATORY RULING**

The Georgia Department of Agriculture (the “Department”) received a Petition for Declaratory Ruling (“Petition”) and hereby responds as follows:

By way of background, O.C.G.A. § 50-13-11 tasks state agencies with promulgating declaratory rulings as to the applicability of any statutory provision or rule or order of the agency.

The questions in the petition submitted by the requestor deal with the applicability of provisions under the Georgia Hemp Farming Act, O.C.G.A. §§ 2-23-1 through 2-23-12 (the “GHFA”), rules promulgated pursuant to the Act, Ga. Comp. R. & Reg. 40-32-1 through 40-32-5 (the “Rules”), and select provisions of the Georgia criminal code, O.C.G.A. §§ 16-12-240 through 16-12-243. The questions posed in the Petition are replicated in their entirety below. Petitioner’s use of “Hemp Code” should be viewed interchangeably with the Department’s use of “GHFA”. In this Declaratory Ruling, the Department does not address the applicability of any federal, state, or local law or regulation other than the GHFA, Rules, and O.C.G.A. §§ 16-12-240 through 16-12-243. The Department notes that while the Petitioner’s questions primarily address the GHFA and Rules, O.C.G.A. §§ 16-12-240 through 16-12-243 outline criminal penalties related to the sale or furnishing of consumable hemp products to individuals under 21 years of age and signage at businesses offering consumable hemp products for sale, each without reference to license status.

The Commissioner has reviewed the petition and declares the following in response to the respective questions in the petition.

**Question 1: Under the Hemp Code and Rules (including but not limited to O.C.G.A. § 2-23-3(22) and Rule 40-32-5-.01(a)(1)), may a licensed hemp retailer or wholesaler legally offer pre-rolled hemp cigarettes for sale if the product otherwise complies with the packaging and labeling standards, legal limit, and other requirements under the Hemp Code and Rules? If permitted, how does Rule 40-32-5-.06 (regulating serving sizes) apply to such products?**

The GHFA applies to pre-rolled hemp cigarettes as it applies to any other purported hemp product, both in terms of permissibility and required standards. Solely for the purposes of

responding to the Petition, the Department considers a pre-rolled hemp cigarette to be the result of grinding trimmed and dried hemp flower prior to placing the ground flower into a paper cone or similar wrapping for lighting and inhalation by a consumer. The Department assumes for purposes of this analysis that a pre-rolled hemp cigarette otherwise complies with all portions of the GHFA and Rules relevant to hemp products, such as, but not limited to, the total delta-9-THC legal limit and labelling, testing, packaging, and advertising requirements.

The GHFA prohibits any person to offer for sale at retail “the flower or leaves of the *Cannabis sativa* L. plant, regardless of the total delta-9-THC concentration in such flower or leaves.”<sup>1</sup> In contrast, “the sale of hemp products that include extracts or derivatives of [such] flower or leaves” are not prohibited.<sup>2</sup> The GHFA further deems it unlawful for any person to handle hemp in the state unless that person maintains a hemp grower license, a processing permit, or a manufacturer license with the Department, or has otherwise registered with the Department as a laboratory to test hemp and hemp products.<sup>3</sup>

The GHFA provides that “hemp” means “the *Cannabis sativa* L. plant and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total delta-9-THC concentration that does not exceed [the lesser of .3% total delta-9-THC or the percentage limit set forth in 7 U.S.C. Section 1639o].”<sup>4</sup> Total delta-9-THC concentration must be calculated to reflect the presence of THCA.<sup>5</sup>

The GHFA also provides a definition of hemp products. Hemp products include “all products with a total delta-9-THC concentration that [do] not exceed the legal limit [and] that are derived from, or made by, *processing* hemp plants or plant parts and that are prepared in a form available for commercial sale.”<sup>6</sup> Hemp products that otherwise comply with the GHFA and Rules may be sold or offered for sale at retail or wholesale by persons maintaining a retail consumable hemp establishment license or wholesale consumable hemp license with the Department, respectively.<sup>7</sup>

Consequently, the portions of the GHFA and Rules applicable to pre-rolled hemp cigarettes and the permissibility of such products under the GHFA and Rules depend on whether pre-rolled hemp cigarettes can constitute a hemp product. The Department identifies a key differentiation between hemp and hemp products. Hemp products must be *processed* from hemp into a legally marketable form. The GHFA further defines “consumable hemp products” as “hemp product[s] intended to be ingested, absorbed, or inhaled by humans or animals.”<sup>8</sup>

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<sup>1</sup> O.C.G.A. 2-23-4(a)(7).

<sup>2</sup> O.C.G.A. 2-23-4(a)(7).

<sup>3</sup> O.C.G.A. § 2-23-4.1(a)(2).

<sup>4</sup> O.C.G.A. § 2-23-3(11).

<sup>5</sup> O.C.G.A. § 2-23-3.1.

<sup>6</sup> O.C.G.A. § 2-23-3(13) (emphasis added).

<sup>7</sup> O.C.G.A. §§ 2-23-4.1(a)(3)-(4); 2-23-3(26); & 2-23-3(29).

<sup>8</sup> O.C.G.A. § 2-23-3(3).

The GHFA identifies certain minimum requirements for an act to constitute processing. To constitute processing, an act must convert “an agricultural commodity [hemp] into a legally marketable form [hemp products].”<sup>9</sup> The GHFA states certain acts do not rise to the level of processing. For example, merely placing raw or dried hemp flower into another container or packaging raw or dried hemp flower for resale cannot transform hemp into a hemp product.<sup>10</sup> For this reason, dried hemp flower simply placed in jars or similar containers does not constitute a hemp product permissible for retail or wholesale under the GHFA and Rules. Nor can traditional farming practices required to harvest and pre-process cultivated hemp, such as drying, shucking and bucking, storing, trimming, and curing, transform hemp into a hemp product.<sup>11</sup>

The Department notes potential steps in the production of pre-rolled hemp cigarettes that appear to constitute processing, namely grinding hemp flower and rolling that flower into cones for lighting and inhalation by a consumer. Accordingly, the Department determines that the provisions of the GHFA and Rules that govern the lawful sale of hemp products apply to pre-rolled hemp cigarettes. Pre-rolled hemp cigarettes must still meet all other compliance requirements for the lawful sale of hemp products, including, but not limited to, containing less than or equal to the legal limit of total delta-9-THC,<sup>12</sup> consumer safety testing,<sup>13</sup> warning stickers,<sup>14</sup> labelling,<sup>15</sup> packaging requirements,<sup>16</sup> advertising requirements,<sup>17</sup> and restrictions on sale.<sup>18</sup>

Ga. Comp. R. & Regs. r. 40-32-5-.06 does not address consumable hemp products in the form of a pre-rolled hemp cigarette.

**Question 2: Under the Hemp Code and Rules, what penalties apply to licensed retailers and wholesalers that sell the dried flower or leaves of the Cannabis sativa L. plant in violation of Rule 40-32-5-.01(a)(1), even if the product otherwise complies with the standards and requirements under the Hemp Code and Rules? What penalties apply to an unlicensed retailer or wholesaler?**

The GHFA and Rules deem it unlawful for any person to offer for sale the dried flower or leaves of the Cannabis sativa L. plant.<sup>19</sup> If such material otherwise constitutes hemp, then additional provisions of the GHFA vary in applicability by the license status of the seller. If the seller offering dried hemp flower and leaves does not possess a hemp grower license, a processing permit, or a manufacturer license issued by the Department, O.C.G.A. §§ 2-23-4.1(a)(2) & 2-23-4.1(c)-(d) apply and may subject the seller to criminal charges or a civil penalty

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<sup>9</sup> O.C.G.A. § 2-23-3(22).

<sup>10</sup> O.C.G.A. §§ 2-23-3(22)(B)(i) & 2-23-4(a)(7).

<sup>11</sup> O.C.G.A. § 2-23-3(22)(B)(ii).

<sup>12</sup> O.C.G.A. §§ 2-23-3(16) & 2-23-3.1.

<sup>13</sup> O.C.G.A. § 2-23-9.1(a); Ga. Comp. R. & Regs. r. 40-32-5-.01 through 40-32-5-.03.

<sup>14</sup> O.C.G.A. § 2-23-9.1(b)(1); Ga. Comp. R. & Regs. r. 40-32-5-.03.

<sup>15</sup> O.C.G.A. § 2-23-9.1(b)(2); Ga. Comp. R. & Regs. r. 40-32-5-.03.

<sup>16</sup> O.C.G.A. § 2-23-9.2(a); Ga. Comp. R. & Regs. r. 40-32-5-.04.

<sup>17</sup> O.C.G.A. § 2-23-9.2(b); Ga. Comp. R. & Regs. r. 40-32-5-.05.

<sup>18</sup> O.C.G.A. § 16-12-240 et seq.

<sup>19</sup> O.C.G.A. § 2-23-4(a)(7).

of up to \$5,000 per violation for handling hemp without appropriate licensure or permitting. Regardless of the seller's then-current license status, the Department conducts licensing, permitting, and registration under the GHFA and Rules in accordance with Chapter 5 of Title 2 of the O.C.G.A. Accordingly, the Department may deny or revoke any license, permit, or registration, including those issued pursuant to the GHFA and Rules, of any person found to have violated any law or rule administered by the Department.<sup>20</sup>

If the dried flower or leaves of the *Cannabis sativa* L. plant being sold or offered for sale do not constitute hemp, such as if the total delta-9-THC concentration exceeds the legal limit for hemp, the GHFA and Rules do not directly apply besides potentially incorporating relevant federal or state laws via O.C.G.A. § 2-23-4(a)(6). The Department notes, purely for Petitioner's reference, the narrowness of the carve out in O.C.G.A. § 16-13-21(16).

**Question 3: Under the Hemp Code and Rules, what penalties apply to licensed retailers and wholesalers for selling hemp products that exceed the "legal limit" under Rule 40-32-4-.02(4)(a)(2)(iv) and Rule 40-32-4-.03(4)(a)(2)(iv) but otherwise conform with the standards established by the Hemp Code and Rule? What penalties apply to an unlicensed retailer or wholesaler?**

The Department addresses this question solely in terms of the applicable provisions of the GHFA and Rules. Whether other federal, state, or local law or regulation applies to purported hemp products that exceed the total delta-9-THC legal limit set forth in O.C.G.A. § 2-23-3(16) falls beyond the scope of the Department's Declaratory Ruling function.

Regardless of license status, the GHFA provides that purported consumable hemp products and all related purported consumable hemp products that have a total delta-9-THC concentration above the legal limit shall be disposed.<sup>21</sup> Ga. Comp. R. & Regs. r. 40-32-1-.02(25) provides sample methods of disposal.

As above, the Department conducts retail consumable hemp establishment and wholesale consumable hemp licensing pursuant to the GHFA and Rules in accordance with Chapter 5 of Title 2 of the O.C.G.A.<sup>22</sup> Accordingly, the Department may deny or revoke any license, permit, or registration, including those issued pursuant to the GHFA and Rules, of any person found to have violated any law or rule administered by the Department.<sup>23</sup>

To the extent the contemplated products constitute hemp products, O.C.G.A. §§ 2-23-4.1(a)(3) & 2-23-4.1(a)(4) apply and may subject unlicensed retailers or wholesalers to criminal charges or civil penalties of up to \$5,000 per violation.<sup>24</sup>

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<sup>20</sup> O.C.G.A. §§ 2-5-5 & 2-5-6.

<sup>21</sup> O.C.G.A. § 2-23-9.1(d).

<sup>22</sup> O.C.G.A. §§ 2-23-6.2(a) & 2-23-6.3(a).

<sup>23</sup> O.C.G.A. §§ 2-5-5 & 2-5-6.

<sup>24</sup> O.C.G.A. §§ 2-23-4.1(c) & 2-23-4.1(d).



**Question 4: Under the Hemp Code and Rules, what penalties apply to licensed retailers and wholesalers for selling hemp products that exceed the serving limit under Rule 40-32-5-.06? What penalties apply to an unlicensed retailer or wholesaler?**

The Department addresses this question solely in regard to the limits stated in Ga. Comp. R. & Regs. r. 40-32-5-.06 and assumes the contemplated product meets every other compliance requirement in the GHFA and Rules.

As above, the Department conducts retail consumable hemp establishment and wholesale consumable hemp licensing pursuant to the GHFA and Rules in accordance with Chapter 5 of Title 2 of the O.C.G.A.<sup>25</sup> Accordingly, the Department may deny or revoke any license, permit, or registration, including those issued pursuant to the GHFA and Rules, of any person found to have violated any law or rule administered by the Department, including Ga. Comp. R. & Regs. r. 40-32-5-.06.<sup>26</sup>

To the extent the contemplated products constitute hemp products, O.C.G.A. §§ 2-23-4.1(a)(3) & 2-23-4.1(a)(4) apply and may subject unlicensed retailers or wholesalers to criminal charges or civil penalties of up to \$5,000 per violation.<sup>27</sup>

**Question 5: Under the Hemp Code and Rules, what penalties apply to licensed retailers and wholesalers for selling hemp products in violation of the packaging requirements under Rule 40-32-5-.04 that otherwise conform with the standards established by the Hemp Code and Rules? What penalties apply to an unlicensed retailer or wholesaler?**

The Department addresses this question solely in regard to the packaging requirements stated in Ga. Comp. R. & Regs. r. 40-32-5-.04 and assumes the contemplated product meets every other compliance requirement in the GHFA and Rules.

As above, the Department conducts retail consumable hemp establishment and wholesale consumable hemp licensing pursuant to the GHFA and Rules in accordance with Chapter 5 of Title 2 of the O.C.G.A.<sup>28</sup> Accordingly, the Department may deny or revoke any license, permit, or registration, including those issued pursuant to the GHFA and Rules, of any person found to have violated any law or rule administered by the Department, including Ga. Comp. R. & Regs. r. 40-32-5-.04.<sup>29</sup>

To the extent the contemplated products constitute hemp products, O.C.G.A. §§ 2-23-4.1(a)(3) & 2-23-4.1(a)(4) apply and may subject unlicensed retailers or wholesalers to criminal charges or civil penalties of up to \$5,000 per violation.<sup>30</sup>

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<sup>25</sup> O.C.G.A. §§ 2-23-6.2(a) & 2-23-6.3(a).

<sup>26</sup> O.C.G.A. §§ 2-5-5 & 2-5-6.

<sup>27</sup> O.C.G.A. §§ 2-23-4.1(c) & 2-23-4.1(d).

<sup>28</sup> O.C.G.A. §§ 2-23-6.2(a) & 2-23-6.3(a).

<sup>29</sup> O.C.G.A. §§ 2-5-5 & 2-5-6.

<sup>30</sup> O.C.G.A. §§ 2-23-4.1(c) & 2-23-4.1(d).

**Question 6: Under the Hemp Code and Rules, what factors influence the severity of monetary penalties, the duration of license revocations, and whether the Department takes other enforcement actions for a violation under Rule 40-32-4-.03(5)?**

Neither the GHFA nor Rules specifically prescribe factors guiding or limiting how the Department implements enforcement tools provided or referenced therein. While this question extends beyond the function of a Declaratory Ruling, the Department welcomes an informal discussion of its equitable approach to enforcement.

[Signature on Following Page]

HEREBY DECLARED this 30<sup>th</sup> day of May 2025.

A handwritten signature in blue ink, appearing to read 'Tyler J. Harper', is written over a horizontal line.

TYLER J HARPER, COMMISSIONER  
GEORGIA DEPARTMENT OF AGRICULTURE