HOUSE DOCKET, NO. 138 FILED ON: 1/7/2013

HOUSE . . . . . No. 1632

The Commonwealth of Massachusetts

PRESENTED BY:

Ellen Story

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to regulate and tax the cannabis industry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Ellen Story	*3rd Hampshire*	*1/7/2013*
Lori A. Ehrlich	*8th Essex*	*1/17/2013*

HOUSE DOCKET, NO. 138 FILED ON: 1/7/2013

HOUSE . . . . . No. 1632

By Ms. Story of Amherst, a petition (accompanied by bill, House, No. 1632) of Ellen Story and Lori A. Ehrlich for legislation to legalize marijuana and establish a tax on the cannabis industry. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1371* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to regulate and tax the cannabis industry.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Name

sections 2 – 42 of this act shall be known as The Cannabis Regulation and Taxation Act, to be codified as Chapter 138A of the General Laws.

Section 2. Preamble

The governor and the General Court,

- acknowledging that 100 years of criminalization in the Commonwealth has failed to stop the production, distribution and use of marijuana, and that sustained enforcement efforts cannot reasonably be expected to accomplish that goal;
- determined to protect the public health and the public safety, to eliminate prohibition-related crime and to raise new revenue; and
- promoting new jobs and industries in commercial cannabis and hemp, and
- respecting the personal autonomy of adults, where freedom supposes responsibility,

do hereby ordain and enact The Cannabis Regulation and Taxation Act.

Section 3. Possession or cultivation of cannabis by adults for personal use and sale

(a) The following conduct is hereby excepted from the provisions of, and shall not constitute a violation of, chapters 94C or 64K of the General Laws:

(1) Possession or cultivation of cannabis by an adult for personal use.

(2) Gratuitous distribution of cannabis to an adult. Transfer directly or indirectly related to or contemporaneous with the sale or tendering for sale of any goods, services or other things of value, shall be deemed not gratuitous.

(b) The commercial cultivation, possession and distribution of cannabis under a valid license issued in accordance with this chapter is excepted from the provisions of, and shall not constitute a violation of chapter 94C or chapter 64K of the General Laws when lawful under the laws of the United States.

Section 4. Operation of motor vehicles

This chapter shall in no way affect existing provisions of law relating to the operation of a motor vehicle under the influence of marijuana, an intoxicant or otherwise in an impaired condition.

Section 5. Definitions

When used in this chapter, the following words shall, unless the context indicates otherwise, have the following meanings:

a. ACT: This chapter of the General Laws, also known as The Cannabis Regulation and Taxation Act, as amended.

b. ADULT: A person twenty-one years of age.

c. AUTHORITY. The Cannabis Control Authority established by section 6.

d. CANNABIS: Any part of the plant Cannabis sativa L, or Cannabis indica, or any other variety of the genus cannabis, whether growing or not; the seeds thereof; and resin extracted from any part of the plant, and every compound, manufacture, salt derivative, mixture or preparation of the plant, its seeds or resin. However, the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, sterilized seed of the plant which is incapable of germination or resin extracted from any part of the plant, and every compound, manufacture, salt derivative, mixture or preparation of the plant, its seeds or resin containing less than one half of one percent (.5%) THC by dry weight or seed

incapable of producing flowers with a THC content greater than one half of one percent (.5%) THC by dry weight shall not be subject to the provisions of this chapter nor to the provisions of chapters 94C or 64K.

e. COMMERCIAL: Of or related to a non-gratuitous exchange; with consideration.

f. CULTIVATE: To cause or permit to grow.

g. DOMESTIC: originating from or within the commonwealth.

h. CULTIVATION LICENSE: A license to cultivate cannabis accordance with section 10 of this chapter.

i. FARMER-PROCESSOR-RETAILER: A license issued in accordance with Section 10(s) of this chapter .

j. IMPORT: To bring into the commonwealth or cause to be brought into the commonwealth or to receive from without the commonwealth.

k. IMPORT LICENSE: A license to import cannabis in accordance with section 10 of this chapter.

l. LICENSED PREMISES: The grounds and buildings whereon a licensee cultivates, processes or possesses cannabis and conducts such business as licensed.

m. LICENSING AUTHORITIES: the authority or the local licensing authorities or both, as the case may be.

n. LOCAL LICENSING AUTHORITIES: the licensing boards and commissions established in any city or town under special statute or charter or, in a city having no such board or commission the aldermen, or, in a town having no such board or commission, the selectmen.

o. MARIHUANA OR MARIJUANA: Cannabis.

p. PACKAGE: A container in which cannabis is sold to the purchaser at retail.

q. PROCESS or PROCESSING: To possess cannabis for the purpose of converting same from intact plants to packaged form, and the act of so converting.

r. PROCESSING LICENSE: A license to process cannabis in accordance with section 10 of this chapter.

s. PURITY: Freedom from substances not indigenous to cannabis, except for water.

t. RESEARCH LICENSE: A license to conduct bona fide research issued in accordance with section 10(u) of this chapter.

u. RETAIL: Of or pertaining to the transfer not at wholesale of cannabis for consideration made in the ordinary course of trade or usual prosecution of the seller's business to the purchaser for consumption or use.

v. RETAIL LICENSE: A license to sell cannabis to the general public in accordance with section 10 of this chapter.

w. SALE: Transfer for consideration.

x. THC: Delta-9 tetrahydrocannabinol.

y. TRADE LICENSE: A license to distribute cannabis in accordance with section 10 of this chapter.

Section 6. Cannabis Control Authority; members

There is hereby created an authority to be known as the Cannabis Control Authority, to be managed by a board of seven directors. A full term thereon shall be seven years. Persons to serve respectively for an initial seven-year term, an initial six-year term, and an initial five-year term, and their replacements, shall be appointed by the governor, with the approval of the council. Directors for an initial four-year term and an initial one-year term shall be appointed and vacancies in said directorships filled by the president of the senate. Directors for an initial three-year term and an initial two-year term shall be appointed, and vacancies in said directorships filled, by the speaker of the house. Directors shall receive a salary of 20% of the salary of the governor, and will serve on a part-time basis. The directors shall elect, from among their number, a chairman, who shall preside over all official activities of the board of directors. The chairman shall serve for three years or until his term as director ends. A chairman may not serve in excess of six consecutive years. The directors shall elect, from among their number, a secretary, who shall record all official activities of the board of directors. The secretary shall serve for three years or until his term as director ends. A secretary may not serve in excess of six consecutive years. No director shall serve more than fourteen years. Any vacancy filled shall be for the remainder of the unexpired term of the vacancy. The governor may remove any member for neglect of duty, misconduct or malfeasance in office, after providing the member with a written statement of the charges and an opportunity to be heard. Four directors shall constitute a quorum for the purpose of conducting the business of the authority. A vacancy shall not impair the right of the remaining directors to exercise the powers of the authority.

Section 7. Records of the Authority

A copy of the minutes of each meeting of the board of directors, including any rules and regulations adopted by the authority or any amendments thereof, shall be forthwith transmitted, by and under the certification of the secretary thereof, to the governor and the secretary of the commonwealth.

Section 8. Powers and duties of the authority

The authority shall have general supervision of the conduct of the business of cultivation, processing, distribution, sale at wholesale and retail and importing cannabis, and also of the quality, purity and grade thereof. The authority shall make such rules and regulations as it deems necessary to enable it to carry out and enforce the provisions of this chapter, and shall prescribe the forms of application for licenses under this chapter and may require therein such information as it deems necessary. The authority shall establish application fees for each class of license sufficient to cover the authority's cost of processing applications. Every license hereunder shall be governed and controlled by the rules and regulations adopted by the authority.

Subject to the provisions herein, the authority may suspend or revoke any license for any violation of the rules and regulations established hereunder or for aiding or abetting in any violation of such rules and regulations, but before such suspension or revocation, the authority shall give a hearing to the licensee, after due notice to him of the charges against him and of the time and place of the hearing. Such licensee may appear at the hearing with witnesses and be represented by counsel. The authority and any representative thereof duly authorized to conduct any hearing under this chapter shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the authority, the authority or its representative authorized to conduct such hearing may subpoena witnesses and require the production of books, papers, and documents pertinent to such inquiry. No witness under subpoena authorized to be issued by any provision of this chapter shall be excused from testifying or producing books or papers on the ground that such testimony or the production of such books or other documentary evidence would tend to incriminate him, but such evidence or the books or papers so produced shall not be used in any criminal proceeding against him arising out of any violation of any provision of this chapter. If any person shall disobey such process or, having appeared in obedience thereto, shall refuse to answer any pertinent question put to him by the authority or its authorized agent or to produce any books and papers pursuant thereto, the authority or such representative may apply to the superior court for the county wherein the person, relative to whose business such hearing is ordered, resides or wherein such business has been conducted, or to any justice of said court if the same shall not be in session, setting forth such disobedience to process or refusal to answer, and said court or justice shall cite such person to appear before said court or justice to answer such questions or to produce such books and papers, and, upon his refusal so to do, may commit him to jail until he shall testify, but not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the authority may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the authority or under its authority and witnesses attending a hearing conducted by it hereunder shall receive fees and compensation at the same rates as officers and witnesses before the courts of the commonwealth, to be paid on vouchers of the authority or to be paid without appropriation out of the proceeds of the excise imposed by this chapter, on

vouchers approved by the authority. The rules and regulations adopted by the authority shall be printed as part of the application blank for licenses and for renewal thereof, and every applicant, as a condition of being licensed hereunder, shall submit to such examinations as the authority may deem necessary to establish his knowledge and understanding of The Cannabis Regulation and Taxation Act.

Section 9. Excise Tax Established

The authority shall collect an excise upon sales by processors of cannabis at a rate of ten dollars per 1% of THC content per ounce. The amount of said excise shall be calculated by multiplying the THC content of the cannabis, expressed by percentage, by one thousand dollars (Example: an ounce of cannabis containing 5% THC is taxed fifty dollars, as .05 x $1,000 is $50.) Determination of THC content shall be established by dry weight, without seeds. Subject to approval by the general court, such excise shall be adjusted by the authority from time to time as necessary to maximize the revenue derived therefrom, and to minimize the incentive for the sale of cannabis not in accordance with the provisions of this chapter.

Section 10. Licenses

The authority shall, consistent with the objectives set forth in the preamble to this act, issue the following licenses to such applicants as may qualify under this act and the rules and regulations of the authority: cultivation licenses, processing licenses, trade licenses, retail licenses, import licenses, research licenses and farmer-processor-retailer licenses. Provided, however, no such license shall be issued until the applicant therefor demonstrates to the satisfaction of the authority that he is twenty-one or more years of age, is familiar with all laws and regulations relating to cannabis, and will exercise said license in premises adequately secure and otherwise suitable.

a. The holder of a cultivation license may possess, propagate, grow and cultivate cannabis and carry on such other horticultural activities as are reasonably required for the commercial cultivation of cannabis. He may sell cannabis only to the holder of a processing license, his agent or employee, and to no other person. He shall file regular reports as may be required by the authority, and shall be subject to all reasonable times to inspection by the authority or its representatives. A cultivation license shall be exercisable in one place only. The annual fee for a cultivation license shall be $500.

b. The holder of a processing license, his agents and employees, may obtain cannabis only from the holder of a cultivation or import license. He may possess, process, package, box and crate cannabis, and may transfer cannabis only to the holder of a trade license, his agents or employees. Processing, packaging, boxing and crating of cannabis shall be conducted in only one place. Cannabis shall be packaged in quantities of one ounce, by dry weight, in bulk only, not rolled into cigarette form. The processor shall cause a label to be placed on each package bearing the following information:

(1) The name and place of business of the processor;

(2) The THC level by percentage of dry weight, without seeds.

(3) The following statement: The Operation of a Motor Vehicle under the influence of cannabis, alcohol or any other intoxicant is a crime punishable of a fine of up to $5,000 or imprisonment up to two and a half years, or both, and the loss of your license to drive.

c. The processor shall affix upon each cannabis package a tax stamp or such other documentation as the authority may require, and shall transfer neither title nor possession of same to any person without the said stamps affixed. Said stamps shall be of such design and in such denomination as the authority may prescribe, and shall be the means by which the excise imposed by section nine hereunder shall be paid to the authority. The authority, in its discretion, may authorize the use of a metering machine approved by it in lieu of stamps in order to press onto or attach to each package of cannabis evidence of the payment of said excise. Such machine shall be sealed by its authorized representative and shall be used in accordance with such rules and regulations as the authority may prescribe. The authority may for cause at any time suspend or revoke the authority to use such a metering machine.

d. The authority shall redeem any unused or mutilated but identifiable stamps or unused amounts for which a meter is set that any license processor may present for redemption; provided, they were originally lawfully purchased by the processor who presents them for redemption. Such redemption shall be made at the face value thereof. The authority may prescribe necessary rules and regulations for redemptions under this section. If the authority is satisfied that a processor is entitled to a redemption he shall issue to him stamps of equivalent value to cover the mutilated stamps or he may order a refund equal to the actual amount paid for said unused or mutilated stamps for the unused amounts for which the meter was set.

e. All processors shall file under the penalties of perjury with the authority, on forms to be furnished by it, monthly reports on or before the 20th day of each calendar month showing the number of stamps on hand at the beginning of the month, the number purchased during the month, the number on hand at the end of the month, the number affixed or otherwise disposed of during the month, and such other information as the authority shall require. All processors shall keep complete and accurate records from which information can be obtained to complete and audit said report, and such other records as the authority may prescribe, shall preserve such records for three years and shall offer them for inspection at any time upon oral or written demand of the authority or its duly authorized agents. The stocks of unused stamps in any metering machines shall be open to inspection by the authority or its duly authorized agents at all reasonable times.

f. The holder of a processing license, his agents and employees, may possess, process, package, box and crate cannabis seeds and may transfer such seeds as are capable of germination to the holder of a cultivation license if said seed is capable of producing cannabis preparations

having a THC content of more than 0.5% by dry weight, without seeds. The annual fee for a processing license shall be $1,000.

g. All cannabis sold by processors shall be analyzed and graded by level of THC, established by dry weight, without seeds.

i. The holder of a trade license, his agents and employees, may obtain cannabis only from a duly licensed processor or importer, and may possess cannabis only bearing valid documentation required to be affixed to all packages under the provision of paragraph 10(b) above. He may keep, store, warehouse, and transport same, and may sell cannabis only to duly licensed retailers. The annual fee for a trade license shall be $3,000.

j. . The holder of a retail license may sell cannabis only to adult members of the public, not visibly intoxicated or otherwise in such condition as may present a threat to public safety.

k. . All sales of cannabis to the public must take place within the licensed premises of the retailer, which premises must be enclosed.

l. . A retail license shall be exercisable only at the location specified in the license.

m. All cannabis sold by a licensed retailer must bear all appropriate labels and documentation required by this act and prescribed by the authority.

n.. Cannabis shall not be sold or distributed to any person not an Adult as defined above.

o. Possession of packaged cannabis for sale at retail not bearing valid documentation as prescribed hereunder shall be a violation of Chapter 94C, Section 34, of the General Laws. It shall be no defense to a claim of violation of this paragraph that the retailer in good faith believed documentation borne by cannabis in his possession to be valid.

p. The annual fee for a retail license shall be $2,000.

q. The holder of an import license may possess cannabis and shall distribute same only to the holder of a processing license. All imported cannabis is subject to the same requirements of this act relating to labeling and grading as domestic cannabis.

r. The annual fee for an import license shall be $2,500.

s. The holder of a farmer-processor-retailer license may cultivate, process and sell cannabis at retail subject to the same requirements of this act relating to labeling, grading and taxation, and provided all cultivation, processing and retail sales occur on a single licensed premises.

t. The annual fee for a farmer-processor-retailer license shall be $2,500.

u. The authority may issue research licenses for the bona fide conduct of medical, social, behavioral or other research, upon such conditions and terms as the authority may prescribe consistent with the objectives of this act.

Section 11. Disposition of license fees

The license fees for original and renewal Retail and Farmer-Processor-Retailer licenses shall be paid to the city or town authorized by this chapter to grant such license. Such fees shall be distributed to the general fund of said municipality. All other license fees, taxes, excises and other monies collected in accordance with this chapter shall be expended only for the following purposes, and in the following order.

a. To the Cannabis Control Authority for the reasonable cost of carrying out its responsibilities under this Chapter;

b. . The balance of said fund shall be distributed to the general fund of the commonwealth.

Section 12. General provisions

a. All applications for licenses or for a transfer of such a license from one location to another, or an application for a change in the description of a licensed premises under this chapter shall be made on a form or forms to be prescribed by the authority and shall include a sworn statement by the applicant giving the names and addresses of all persons who have a direct or indirect beneficial interest in said license. No stock in a corporation holding a license shall be transferred, pledged, or issued without first obtaining the permission of the local licensing authority and the authority. Provisions of this section shall not apply to stockholders of a corporation whose stock is listed for sale to the general public with the Securities and Exchange Commission and who hold less than ten per cent of the outstanding stock entitled to vote at the annual meeting of said corporation. Notation of the date and hour of filing shall be made on every application. All applicants for licenses under this chapter shall be citizens and residents of the commonwealth, or partnerships composed solely of such citizens and residents or to corporations organized under the laws of the commonwealth and whereof all directors shall be citizens of the United States and a majority residents of the commonwealth or to limited liability companies or limited liability partnerships organized under the laws of the commonwealth, subject to such conditions as the authority may prescribe by regulation to address issues of citizenship and residency and the requirements for a citizen manager or citizen principal representative of an alien licensee qualifications for a limited liability company or limited liability partnership to hold a license pursuant to this chapter. No person, firm, corporation, association, or other combination of persons, directly or indirectly, or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever, shall be granted, in the aggregate, more than three such licenses in the commonwealth, or participate in decisions regarding the cultivation of nor purchasing of cannabis or the purchasing of insurance or

accounting or bookkeeping services, or receive any percentage or fee derived from gross revenues in exchange for management assistance, or participate in any other action designed to effect common results of more than three licensees under this chapter, or be granted more than one such license in a town or two in a city.

b. No license shall be issued to any person or business entity composed of persons who have a direct or indirect beneficial interest in said entity who during the preceding ten years has been convicted of a felony except a felony involving cannabis under Chapter 94C or any other prior law of this jurisdiction or of any felony offense of any other jurisdiction, federal, state, or territorial, which is the same as or necessarily includes the elements of said offense. Except that if such conviction is of a stockholder of a corporation whose stock is listed for sale to the general public with the Securities and Exchange Commission and who holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of said corporation shall not disqualify such corporation. Notwithstanding any general or special law to the contrary the authority prior to approving any application shall conduct a criminal records check.

c. No such license shall be granted except to an applicant approved by the authority. Such applicant shall be at least twenty-one years of age and of good character in the city or town in which he seeks a license hereunder. Each license shall describe the premises to which it applies. No such license shall be issued until the applicant therefor demonstrates to the satisfaction of the authority that he is familiar with all laws and regulations relating to cannabis, and will exercise said license in premises adequately secure and otherwise suitable. Each license shall be exercised only at the location specified in the license and all licenses shall be for only one location.

Section 13. Expiration and renewal

Each license issued hereunder shall expire two years from the date of issue by the authority, unless sooner revoked by the authority, or local licensing authority, as provided herein, or unless the business with respect to which such license was issued shall change ownership, or unless the holder of the license shall remove his business from the premises covered by the license, the authority not having given written approval for the transfer of said license to another person in accordance with the provisions of section 14, in any of which cases the license shall thereupon expire. In the event that a licensee removes his business to another location within his city or town, the license with respect to the former place of business shall, without the payment of an additional fee, be reissued for the new location for the balance of the unexpired term. The holder of each license, on application to the authority, accompanied by the applicable fee prescribed, may, before the expiration date of the license then held by him, renew his license for a further period of two years. In case of suspension, revocation or cancellation of a license issued by the authority, no abatement or refund of any part of the fee paid therefor shall be made.

Section 14. Transfer of license, surviving spouse or legal representative

a.Any license issued under this chapter may, upon application to the authority upon such forms and in accordance with such procedures as the authority may prescribe, be transferred from one location to another or the description of the licensed premises may be changed with the approval of the authority. Any license under this chapter held by an individual, partnership or corporation may be transferred to any individual, partnership or corporation qualified to receive such a license in the first instance, if, in the opinion of the authority, such transfer is in the public interest.

b.The surviving spouse or legal representative of a deceased non-corporate licensee may continue to exercise the license for ninety days following the death of the licensee, but thereafter only with the written consent of the authority, which consent shall expire, if not sooner revoked or the license transferred, fifteen months from the date of death. Consent shall be withheld unless the said surviving spouse or legal representative meets the qualifications prescribed for the type of license sought to be retained.

Section 16. Tax stamps and documentation

Stamps and documentation hereunder may be issued by the authority to processors on a credit basis, provided the processor shall have furnished a surety company bond with a surety company authorized to do business in the commonwealth as surety, in such amount as the authority may fix. In lieu of a surety company bond a licensee may deposit with the authority bonds or other negotiable obligations of the commonwealth or of the United States of America of such aggregate face amount as the authority may from time to time deem necessary adequately to secure payment of the excise provided by this chapter; provided, that bonds need not be accepted by the authority unless in registered form and of denominations satisfactory to it. In case of a deposit of bonds or other negotiable obligations with the authority hereunder, it shall, while in possession of such bonds, remit to such licensee as aforesaid, or persons entitled thereto, the interest accruing and payable thereon, and if such excises together with all interest and other charges accrued thereon shall be paid in full and if the person is no longer a licensee hereunder, it shall return such bonds or obligations to the persons entitled thereto. If the excise together with all interest and other charges accrued thereon provided by this chapter shall not be paid in accordance with this chapter, the authority may sell all or any part of such bonds or obligations to satisfy the amount due the authority as aforesaid and shall return to the persons entitled thereto any excess left in its hands.

Section 17. Monthly reports, importer reports, records

Every licensee shall, on or before the twentieth day of each calendar month, file with the authority, on a form or forms prescribed by it, a report signed under the penalties of perjury, stating the amount of cannabis sold by such licensee in the commonwealth during the preceding calendar month and such report shall contain or be accompanied by such further information as

the authority shall require; provided, that if a licensee ceases to sell cannabis within the commonwealth he shall forthwith file with the authority such a report for the period ending with such cessation. In addition to the foregoing cultivators shall report the identity of the processor to whom sales were made, processors shall report the number of stamps on hand at the beginning of the prior month, the number purchased during the prior month, the number on hand at the end of the prior month, the number affixed or otherwise disposed of during the prior month, the source and dry weight of cannabis processed in the prior month and the identify of the trader or traders and amounts sold to each, and traders shall report the identify of the retailer or retailers and amounts sold to each.

Each import licensee shall, upon importation of cannabis into the commonwealth, file with the authority a report, stating the amount of cannabis imported and the processor to whom it was delivered and such other information as the authority shall require.

All licensees shall keep complete and accurate records from which information can be obtained to complete and audit said report, and such other records as the authority may prescribe and shall preserve such records for a minimum of three years. The authority shall at all reasonable times, through its designated officers and agents, have access to all such books, records and other documents of any licensee relating to the business licensed hereunder.

Section 18. Licensing of Retail and Farmer-Processor-Retailer

The number of retail and farmer-processor-retailer licenses available within any city or town shall not exceed the total number of alcoholic beverage licenses authorized in said city or town under the provisions of Section 17 of Chapter 138 of the General Laws, regardless of the number of alcoholic beverage licenses actually issued. For purposes of this section, “alcoholic beverage licenses” shall mean the aggregate number of licenses which authorize the sale of alcoholic beverages to consumers.

Within ten days after receipt of any such application, the local licensing authorities shall cause a notice thereof to be published at the expense of the applicant. Such notice shall be published in the city or town wherein the license is intended to be exercised or, if no newspaper is published in such city or town, in a newspaper, published within the commonwealth, providing general circulation in such city or town, or if there is no newspaper providing general circulation in such city or town, then in a daily newspaper published in the county wherein such license is intended to be exercised. After such publication the name of the newspaper publishing such notice shall be noted by the local licensing authorities on the application for a license. The notice shall set forth the name of the applicant in full, the kind of license applied for, a description of the location and area where the license is intended to be exercised, designating, if practicable, the street and number. No application shall be acted upon by the local licensing authorities except after hearing thereon which shall be held not sooner than ten calendar days after the publication of such notice. An affidavit of the person making such publication on behalf of such authorities,

together with an attested copy of the notice published, shall be filed in the office of such authorities, and a certified copy of such affidavit shall be prima facie evidence that such notice has been published in accordance with this section. Where there are no premises actually in existence at the time the application is made, the applicant may file with the local licensing authorities a plan showing the actual dimensions of premises which are to be constructed on which the license is to be exercised. The local licensing authorities may thereafter grant a license upon the condition that such license shall issue upon completion of such premises according to said plan, and the decision of the licensing authorities as to whether or not said plan has been complied with shall be final.

Every applicant for an original license under this section or for a transfer of such a license from one location to another, or an applicant for a change in the description of a licensed premises, or someone on his behalf, shall, within three days after publication as hereinbefore provided, cause a copy of the published notice to be sent by registered mail to each of the persons appearing upon the assessors' most recent valuation list as the owners of the property abutting on the premises where the license is intended to be exercised and, if a school, which gives not less than the minimum instruction and training to children of compulsory school age required by chapter seventy-one, or a church or hospital, is located within a radius of five hundred feet from said premises, to such school, church or hospital. The notice sent to such school, church or hospital shall indicate the necessity of a written objection to prevent the issuance or transfer of such license. An affidavit of the applicant or of the person mailing such notice in his behalf, together with an attested copy of the notice mailed, shall be filed in the office of the local licensing authorities, and a certified copy of such affidavit shall be prima facie evidence that such notice has been mailed in accordance with this section. If any abutter or the authorities in charge of any such school, church or hospital shall make complaint in writing to the local licensing authorities that such license was granted or transferred hereunder without such notice having been mailed to him or them as required hereby, and after due hearing it appears that such notice was not mailed as aforesaid, the local licensing authorities may cancel the license. Any person who has filed a complaint with the local licensing authorities under this section who is aggrieved by the action of such authorities in refusing to cancel a license hereunder or by their failure to act upon such a complaint within a period of thirty days may appeal to the authority in writing within five days following receipt of written notice of such action or within five days following the expiration of the thirty day period, and the authority may, after hearing, cancel such a license and in such event, shall send notice of the cancellation to the local licensing authorities. Nothing herein contained shall be construed to prohibit a licensee whose license has been cancelled by the local licensing authorities under authority contained in this section from appealing to the authority as provided in section sixty-seven. No application by the same applicant for the same type of license to be exercised on the same premises may be filed within one year of the date of his last prior application except in the discretion of the licensing authorities.

The local licensing authority shall establish application fees for each class of license it is authorized to grant sufficient to cover the local authority's cost of processing applications, including the allocatable cost of employee compensation and expenses incurred for the conduct of the public hearing and establish a local license fee to be paid by approved applicants, provided the authority can establish such local license fee is necessary to meet the costs of local enforcement.

The local licensing authorities shall grant such licenses by such standards as said local licensing authorities shall reasonably determine shall protect the public health and safety

No such license shall be effective until also approved by the authority.

Section 19. Posting of price list and warning

Every Retail and Farmer-Processor-Retailer licensee shall keep conspicuously posted in each room where any cannabis is sold a price list of such cannabis. Sales by such licensees shall be made only in the original processor's package and at the prices stated on the current posted price list. Every Retail and Farmer-Processor-Retailer licensee shall also keep conspicuously in each room where any cannabis is sold a sign with the following statement: WARNING: Consumption of cannabis may impair your ability to operate a motor vehicle or machinery, and may cause health problems. The Operation of a motor vehicle while impaired from the consumption of cannabis, intoxicating liquor, narcotic drugs, depressants or stimulant substances or the vapors of glue by a fine of not less than five hundred nor more than five thousand dollars or by imprisonment for not more than two and one-half years, or both such fine and imprisonment.

Section 20. Retail sales

The holder of a retail license may sell cannabis only to adult members of the public, not visibly intoxicated or otherwise in such condition as may present a threat to public safety. All cannabis so sold must bear all appropriate labels and documentation required by this chapter and prescribed by the authority and must take place within the licensed premises of the retailer, which premises must be enclosed.

Section 21. Possession of packaged cannabis for sale not bearing valid documentation

Possession of packaged cannabis for sale at retail or by the holder of a trade license not bearing valid documentation as prescribed hereunder, or bearing any stamp or other documentation that is stained or smudged or its characteristics be so blurred, obscured or indistinct that it cannot be distinguished as genuine shall be a violation of Chapter 94C, Section 34, of the General Laws. It shall be no defense to a claim of violation of this paragraph that the retailer or trader in good faith believed documentation borne by cannabis in his possession to be valid. Each package shall constitute a separate offense.

Section 22. Possession of unstamped packaged cannabis or bearing illegible stamp or documentation

No trader or retailer shall accept packaged cannabis that is not stamped or otherwise documented or bearing any stamp or other documentation that is stained or smudged or its characteristics be so blurred, obscured or indistinct that it cannot be distinguished as genuine. The processor or trader must accept its return and replace them with packages of cannabis upon which stamps have been properly affixed.

Section 23. Fraudulent or counterfeit stamps or documentation

a. Whoever falsely or fraudulently makes, forges, alters or counterfeits, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited, any excise stamps or other documentation prepared or prescribed by the authority under this chapter, or whoever knowingly and willfully utters, publishes, passes or tenders as true, any such false, altered, forged or counterfeited stamp or makes a false affixation of or uses any stamp provided for by this chapter which has already been used, for the purposes of evading the excise imposed by this chapter, shall be punished by a fine of not more than $20,000 or by imprisonment for not more than five years, or both.

b. If any person secures, manufactures or causes to be secured or manufactured, or has in his possession, any cannabis excise stamp or die or device not prescribed or authorized by the authority, or any counterfeit impression, such fact shall be prima facie evidence that such person has counterfeited cannabis excise stamps. Whoever willfully removes or alters or knowingly permits to be removed or altered the cancellation or defacing mark of any stamp provided for by this chapter with intent to use such stamp, or knowingly or willfully buys, prepares for use, uses, has in possession, or suffers to be used, any metering machine without authority, or any washed, restored or counterfeit stamps, or whoever intentionally removes or causes to be removed, or knowingly permits to be removed any stamp or meter impression affixed pursuant to this chapter, or whoever tampers with or causes to be tampered with any metering machine authorized to be used under the provisions thereof, shall be punished by a fine of not more than $20,000 or by imprisonment for not more than five years, or both.

Section 24. Vending machine sales prohibited

Sale or distribution of cannabis by vending machine or similar automation is prohibited.

Section 25. Adulteration prohibited.

The license of any licensee who, directly or through any agent, employee or other person, changes in any manner cannabis in his possession by adding a dilutant, attenuant, intoxicant, preservative or any additive of any kind, the effect whereof is to reduce the purity of cannabis to less than 100%, shall be suspended by the authority for a period of not less than six months, and

the licensee shall be subject to such additional sanction as the authority may prescribe. Presence on the licensed premises of cannabis less than 100% pure shall be prima facie evidence of a violation of this section.

Section 26. Civil damages for injury caused by additive

Whoever places or causes to be placed any additive in cannabis shall be liable to any person injured by reason of ingestion thereof to the extent of three times actual damages, plus damages for pain and suffering, costs and reasonable attorney's fees.

Section 27. Suspension or revocation of license granted by local authority.

Any person aggrieved by the conduct of any license holder hereunder, his agents or employees licensed by the local authority, shall state his grievance in writing to the local licensing authority of the city or the selectmen of the town wherein the complained of conduct occurred. After investigation and hearing said authority or selectmen shall, if the public interest so requires, within seventy-five days from the date of the first regular meeting following the receipt of said complaint, submit to the authority a certified copy of the original complaint, together with a report of the commission's or the selectmen's findings and recommendation, which recommendations shall include, but not be limited to, one of the following:

a.. That no action be taken against the license whose conduct is complained of.

b.. That the licensee's license be suspended for a specified period of time, not less than one week nor more than one year.

c. That the licensee's license be revoked.

d. The authority shall, within thirty days of receipt of such findings and recommendations, implement the said recommendations unless the licensee complained of shall, during said thirty-day period: have requested a hearing or the authority shall have deemed a hearing to be in the interest of fairness. In either said event, the authority shall, within sixty days, hold a hearing de novo, and thereupon accept, reject or reverse the recommendation of the license commission. No revision shall exceed the limits set forth in this section for recommendations of the license commission. All hearings shall be conducted in accordance with Chapter 30A of the General Laws, and the licensee shall have the right of appeal as prescribed therein.

Section 28. Suspension or revocation of license granted by authority

Any person aggrieved by the conduct of any license holder hereunder, his agents or employees licensed solely by the authority, shall state his grievance in writing to the authority. After investigation and hearing conducted in accordance with Chapter 30A of the General Laws,

the authority if the public interest so requires, within seventy-five days from the date of the first regular meeting following the receipt of said complaint:

a. Take no action against the license.

b. Suspended the license for a specified period of time, not less than one week nor more than one year.

c. Revoke the licensee's license be revoked.

Subject to a hearing under Chapter 30A of the General Laws the authority may suspend or revoke any license issued under this chapter for failure of the licensee to comply with any provision hereof or of the rules and regulations promulgated by the authority.

Any person whose license has been suspended or revoked shall not cultivate, import, process, trade, sell or offer for sale cannabis or cause or permit cannabis to be sold during the period of such suspension or revocation and be subject to the provisions of Chapter 94C as if never licensed.

Section 29. Cost and expenses of the authority

Except as specifically provided in this chapter, all costs and expenses of the authority, including salaries and rent, shall be borne by the authority from revenues collected.

Section 30. Cannabis as security

Licensees hereunder shall not sell, borrow, loan or exchange unstamped cannabis or stamps to, from or with other such licensees unless authorized by the authority.

Section 31. No property right in license

No holder of a cannabis license hereunder shall have any property right in any document or paper evidencing the granting of such license issued by the authority, and said authority, upon the expiration, suspension, revocation, cancellation, or forfeiture of such a license shall be entitled upon demand to the immediate possession thereof. The superior court shall have jurisdiction in equity, on petition of the licensing authorities, to enforce this provision.

Section 32. Display of license

Every license issued under the provisions of this chapter or a duplicate copy thereof shall be prominently displayed on the premises covered by the license.

Section 33. Authority's records public

All records of the authority are public within the meaning of the General Laws, Chapter 66.

Section 34. Fiscal year annual report of authority

The authority shall not later than the fourth Wednesday of October file a written report with the governor and the respective clerks of the senate and house of representatives which shall contain a comprehensive reporting, accounting, description and analysis of its activities.

Section 35. Annual Audit

The state auditor shall conduct an annual post-audit of all accounts and transactions of the authority, reasonable costs thereof to be borne by the authority.

Section 36. Continuous study

The authority shall carry on a continuous study and investigation of cannabis commerce in the commonwealth and of the operation and administration of similar laws in other states and countries, of studies on the subject which from time to time may be published or available, of any federal laws which may affect the administration of this chapter, and of the reaction of citizens of the commonwealth to existing and potential features of this chapter in order (1) to ascertain any defects in this chapter or in the administration thereof or any evasion of said law or said rules and regulations as may arise or be practiced, and (2) to formulate recommendations for changes in said law and the rules and regulations promulgated thereunder to prevent such abuses and evasions, and (3) to guard against the use of said law and regulations issued thereunder as a cover for the carrying on of criminal activities. The authority shall report immediately to the governor and the general court any matters which require immediate changes in the laws of the commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations promulgated thereunder or to rectify undesirable conditions in connection with the administration of this chapter.

Section 37. No off licensed premises advertising

a. No holder of a license of any class shall, directly or indirectly, personally or through any agent or employee, whether for consideration or gratuitously, cause to be published in a newspaper or magazine distributed anywhere in the commonwealth or to be broadcast to a radio or television receiver in the commonwealth, or to appeal in any display signs or personal solicitation, or any manner of advertising, any advertisement or notice to promote or encourage the consumption of cannabis.

b. The preceding shall not apply to the following:

(1). Cannabis packages, crates, cartons, or boxes of Cannabis packages, provided, however, that no such items shall be used for any display, ornament, or fixture on the licensed premises.

(2). Logos contained in private correspondence or publications not intended for public distribution.

(3). A single notice reading “Authorized Cannabis Outlet,“ in a style to be prescribed by the authority.

Section 38. No promotional games or gimmicks

The use of any device or game of chance to aid, promote or induce sales or purchases of cannabis or any goods or services is prohibited. The giving of cannabis in connection with any device or game of chance is prohibited.

Section 39. Cannabis sales and so called use tax

The sale of cannabis in accordance with this section shall not be subject to the provisions of:

a. Chapter 64H of the General Laws, relating to a sales tax on sales of tangible personal property at retail; or

b. The provisions of Chapter 64I of the General Laws, relating to a tax on the storage, use or other consumption of certain tangible property.

c. The provisions of Chapter 94 of the General Laws relating to the inspection and sale of food, drugs, and various articles.

Section 40. Excises paid direct tax on consumer

All excises paid in pursuance of this chapter shall conclusively be presumed to be a direct tax on the retail consumer, pre-collected for the purpose of convenience and facility only.

Section 41. Contracts void

Any contract, express or implied, made by any person, firm or corporation in violation of any of the provisions herein is declared to be an illegal and void contract and no recovery thereon shall be had.

Section 42. Initial funding of the Authority

The sum of $2,500,000.00 shall be appropriated to fund the authority initially, which sum shall be repaid by the authority to the treasurer of the commonwealth within five years from the day that the first cannabis sale is made under the provisions of this chapter, together with interest at the rate of 15% per annum from said day.

Section 43. Appointment of directors and promulgation of initial regulations

Unless appointed sooner, within thirty days following enactment by the United States of legislation that repeals the federal prohibition on the commercial activities regulated by the act the governor and council, the president of the senate and speaker of the house shall make the appointments provided for in section 6. Within ninety days following appointment of the authority the authority shall promulgate regulations for effectuating the licensing of commercial cannabis commerce.