

HOUSE No. 1561**The Commonwealth of Massachusetts**

PRESENTED BY:

David M. Rogers and Patricia D. Jehlen*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:
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/16/2015</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/29/2015</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>8/7/2019</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>8/7/2019</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>1/26/2015</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/2/2015</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/28/2015</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/26/2015</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/29/2015</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/29/2015</i>
<i>Brian R. Mannel</i>	<i>2nd Barnstable</i>	<i>2/4/2015</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>	<i>1/27/2015</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>1/30/2015</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>2/4/2015</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>2/4/2015</i>

HOUSE No. 1561

By Representative Rogers of Cambridge and Senator Jehlen, a joint petition (accompanied by bill, House, No. 1561) of David M. Rogers and others for legislation to legalize marijuana and establish a tax on the cannabis industry. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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:

1 An Act to regulate and tax the cannabis industry

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

4 SECTION 1. The Governor and the General Court,

5 Acknowledging that a century of criminal prohibition has failed to stop the production,
6 distribution and use of marijuana, and that sustained enforcement efforts reasonably cannot be
7 expected to accomplish that aim; and

8 Determined to protect the public health and the public safety, to eliminate the black
9 market in marijuana by licensing sufficient legal retail outlets and allowing marijuana producers
10 to participate within a lawful system of production and distribution, and to reasonably suppress
11 the availability of marijuana to persons under the age of 21; and

Informed by the success of education and treatment instead of arrest and incarceration to reduce adult and adolescent use of tobacco and alcohol, two substances with far greater documented harm to public health than marijuana; and

Endeavoring to promote new opportunities in Massachusetts agriculture, manufacturing and commerce in products from cannabis, including industrial hemp; and

Demanding transparency, fairness and objectivity in the selection of licensees; and

Respecting the personal autonomy of adults, among whom freedom supposes responsibility; and

Recognizing the needs of patients for a pharmaceutical-quality supply of medical marijuana without criminal penalty for its use; and

Recognizing further, the United States Department of Justice's interest in reducing the distribution of marijuana to minors, and the misappropriation of marijuana revenues into criminal enterprises or as a cover for trafficking in other illegal goods, and the diversion of marijuana into states where it remains illegal under state law, and alleviating violence and the use of firearms in the trade, and the growing of marijuana on public lands; and

Meaning hereby directly to address those concerns and to correct the historical error of prohibition, conceived four generations ago in a cultural and racial climate very different from our own, to bring cannabis thoughtfully and deliberately into the economic mainstream;

do hereby ordain and enact the Cannabis Regulation and Taxation Act of 2016, meaning and intending hereby to repeal all laws punishing the cultivation of and commerce in cannabis (also known as marihuana or marijuana) by persons over the age of 21.

SECTION 2. The General Laws are hereby amended by deleting the existing chapter 94D in its entirety, and inserting after chapter 94C the following chapter:—

CHAPTER 94D.

Regulation and Taxation of Cannabis

Section 1. Title: Sections one to 28, inclusive, shall be known, and may be cited, as the Cannabis Regulation and Taxation Act of 2016.

Section 2. Definitions. When used in this chapter, the following words shall, unless the context indicates otherwise, have the following meanings:

Adult: a person over the age of 21 years.

Adult consumer: An adult who purchases marijuana or marijuana products for use by other adults, but not for resale to others.

Cannabis: all parts of the plant Cannabis, and the seeds, derivatives or extracts thereof. For the purpose of this chapter, cannabis contains two subsets, marijuana and hemp.

Cannabis café: the business premises, to which the public is invited, where adults may purchase marijuana and marijuana products, and, in the company of other adults, consume them, together with other foods and beverages other than alcoholic beverages.

Cannabis café license: a license to operate a cannabis café. No premises shall be licensed as a cannabis café that is licensed to sell alcoholic beverages, or becomes licensed to sell alcoholic beverages.

Cannabis facility: a farm, factory, warehouse, testing or research laboratory, or retail outlet licensed under this chapter, whether for marijuana or hemp.

Cannabis cultivation license: A license to cultivate cannabis, for marijuana or hemp, and to sell it only to the holder of a marijuana processing license, or a hemp processing license, or at retail when designated as a farm.

Cannabis product: A substance containing cannabis, either marijuana or hemp.

Commission: the cannabis commission, created in section 21 of this act.

Cultivate: to cause or permit to grow.

Cultivation facility: the farm, greenhouse or other premises where the rights accorded to the holder of a cannabis cultivation license are exercised.

Hemp: so much of the cannabis plant, or any derivative or extract thereof, containing less than two percent THC.

Hemp processing: converting raw cannabis in the form as received from a cannabis cultivation facility into hemp and hemp products for personal use or industrial use.

Hemp product: a substance containing hemp.

Local licensing authority: municipal board as described in section 1 of chapter 140.

Marijuana: so much of the cannabis plant, or any derivative or extract thereof, containing two percent THC or more

Marijuana: cannabis containing 2% or more THC by dry weight at harvest, previously spelled marihuana.

Marijuana processing license: A license to acquire raw cannabis from the holder of a cannabis cultivation license, to convert same into to marijuana and marijuana products for sales to the holder of a wholesale license or retail license, and to operate such a facility.

Marijuana product: a substance containing marijuana

Marijuana retail license: a license to sell marijuana and marijuana products to adult consumers for consumption on the premises of the license holder, or off the premises, as provided.

Marijuana wholesale facility: the premises where the rights accorded a licensed marijuana wholesaler are exercised.

Marijuana wholesale license: a license to acquire marijuana or marijuana products from a marijuana processing facility, bearing indicia of tax compliance, to hold, store, and distribute same to the holder of a retail license, and such other activities as are reasonably required for the commercial wholesaling of marijuana and marijuana products consistent with this chapter.

Person: an individual, and when the context allows, a domestic corporation, partnership, limited liability company or limited liability partnership, or other legal entity.

Personal use: The cultivation, storage and delivery of cannabis without intent to sell.

Pre-retail licenses: cannabis cultivation licenses, marijuana processing licenses, marijuana wholesale licenses.

Principal: A person participating directly or indirectly in the ownership or management of an entity holding a license under this chapter.

Processing: the conversion of raw cannabis, acquired from the holder of a cannabis cultivation license, into either marijuana and marijuana products, or hemp and hemp products.

Processing facility: the premises where the rights accorded a licensed marijuana processor, or licensed hemp processor, are exercised.

Processing license: a license to convert raw cannabis into marijuana and marijuana products, or hemp and hemp products.

Retail facility: The premises where the rights accorded a licensed marijuana retailer are exercised, for the sale of marijuana and marijuana products to adult consumers for on-premises consumption or off-premises consumption.

Retail marijuana license: A license to sell marijuana and marijuana products to adult consumers for consumption on the holder's premises or off the holder's premises, or both, as provided by the license.

Testing and Research Facility: The premises where the rights accorded to the holder of a testing and research license are exercised.

Testing and Research License: A license to conduct laboratory testing, analysis and certification of cannabis and cannabis products, including but not limited to testing for freedom from contaminants and other impurities, cannabinoid profiles, and THC potency, other physical properties, and for the bona fide conduct of medical, social, behavioral, horticultural, genetic or other research, upon such conditions and terms, and subject to such standards, as the commission

may determine to protect the public health, and to assure safety and reliability of all testing and research methods and results in accordance with prevailing scientific standards.

THC: Tetrahydrocannabinol, more precisely its main isomer (–)-trans- Δ^9 -tetrahydrocannabinol ((6aR,10aR)-delta-9-tetrahydrocannabinol), the principal psychoactive constituent of the cannabis plant.

Transport: to carry or convey from one place to another.

Two percent THC: a quantity of THC in any substance, by dry weight equal to or in excess of two percent (2%) of the weight of the substance.

Under two percent cannabis: a quantity of THC in any substance, by dry weight less than 2% of the weight of the substance.

Section 3. Lawful operation of cannabis facilities. Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Massachusetts law for persons twenty-one years of age or older, with a valid

(a) cannabis cultivation license issued under this chapter: cultivating, propagating, breeding, harvesting, transporting, storing and such other horticultural activities as are reasonably required for the commercial cultivation of cannabis consistent with this chapter, and selling it to a marijuana or hemp processing licensee, or to adult consumers with a farm designation by the commission and a marijuana retail license from the local licensing authority;

(b) hemp processing license issued under this chapter: obtaining under-two percent THC cannabis from the holder of a cannabis cultivation license, processing, testing, converting,

132 packaging, boxing and crating, manufacturing and transporting hemp and hemp products, and
133 selling it at retail or wholesale;

134 (c) marijuana processing license issued under this chapter: obtaining over-two percent
135 THC cannabis from the holder of a cannabis cultivation license, processing, testing, packaging,
136 boxing and crating, manufacturing marijuana products, transporting marijuana and marijuana
137 products to the holder of a marijuana wholesale license or a marijuana retail license issued under
138 this chapter, and such other activities as are reasonably required for the commercial processing
139 of marijuana consistent with this chapter and other provisions of law;

140 (d) marijuana wholesale license issued under this chapter: acquiring cannabis from the
141 holder of a marijuana processing license, holding, storing, transporting and distributing cannabis
142 to the holder of a marijuana retail license, and such other activities as are reasonably required for
143 the commercial wholesaling of marijuana and marijuana products consistent with this chapter;

144 (e) marijuana retail license issued under this chapter: acquiring marijuana or marijuana
145 products from the holder of a marijuana wholesale license or cannabis cultivation license under
146 this chapter, and selling same to adult consumers for consumption within the retail facility, or
147 outside the retail facility, or both, as provided by the license, and such other activities as are
148 reasonably required for safe, prudent and lawful sale of marijuana and marijuana products to
149 adult consumers consistent with this chapter; and

150 (f) testing and research license, issued under this chapter: acquiring cannabis from any
151 license holder under this chapter for batch testing for the presences of contaminants and other
152 impurities, determining and certifying cannabinoid profiles, including THC content, and
153 otherwise conducting such bona fide medical, social, behavioral, horticultural, genetic, or other

research on cannabis upon such conditions and terms as the commission may prescribe. A statement by the commissioner that a particular person's testing and research license is in good standing shall constitute prima facie evidence in any proceeding that said license holder is in compliance with all provisions of Massachusetts law relating to the testing and research on cannabis and cannabis products.

Section 4. Distribution to minors.

(a) Whoever (1) makes a sale or delivery of any marijuana or marijuana product to any person under 21 years of age, whether for his own use or that of his parent or any other person, or

(2) being an employee or patron of a cannabis facility licensed under this chapter, delivers or procures to be delivered any marijuana or marijuana product to or for use by a person who he knows or has reason to believe is under 21 years of age, or (3) procures any such marijuana or marijuana product for a person under 21 years of age in any establishment licensed under this chapter for a person under 21 years of age who is not his child, ward or spouse, or (4) furnishes any such marijuana or marijuana product for a person under 21 years of age, shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year or both.

(b) For the purpose of this section, "furnish" and "deliver" shall mean to knowingly or intentionally supply, give, or provide to or knowingly allow a person under 21 years of age except for the children and grandchildren of the person being charged, to possess marijuana or marijuana products on premises or property owned or controlled by the person charged.

175 Unlawful furnishing or delivery excludes the social sharing of marijuana or marijuana products
176 between or among persons under the age of 21 which shall be punished as provided below.

177 (c) No license shall be issued under this chapter to a minor, nor to any person or entity
178 employing a minor. Employment of a minor shall be grounds for revocation of any license issued
179 under this chapter.

180 (d) Any person under 21 years of age who purchases or attempts to purchase marijuana or
181 marijuana products or makes arrangements with any person to purchase or in any way procure
182 same, or willfully misrepresents his age, or in any way alters, defaces or otherwise falsifies his
183 identification offered as proof of age, with the intent of purchasing marijuana or marijuana
184 products, either for his own use or for the use of any other person, shall be punished by a fine of
185 three hundred dollars; and whoever knowingly makes a false statement as to the age of a person
186 who is under 21 years of age to procure a sale or delivery of such marijuana or marijuana product
187 to such person under 21 years of age, either for the use of the person under 21 years of age or for
188 the use of some other person, and whoever induces a person under 21 years of age to make a
189 false statement of his age to procure a sale or delivery of such marijuana or marijuana products
190 to such person under 21 years of age, shall be punished by a fine of three hundred dollars.

191 (e) Possession of marijuana or marijuana products by a person under 21 years of age shall
192 be a civil offense, subjecting an offender to a civil penalty of one hundred dollars and forfeiture
193 of the marijuana or marijuana product, but not to any other form of criminal or civil punishment
194 or disqualification. If said offender is under 18 years of age, said offender shall be required, to
195 complete a Drug Awareness Program, described below.

196 (f) For the purpose of this section, “possession” does not include metabolic traces of
197 cannabis in one’s body, its secretions and excretions, nor shall such traces be the basis for any
198 punishment or the denial of any right or privilege.

199 (g) Drug Awareness Program. An under-18 offender shall complete a drug awareness
200 program within one year of the offense for possession of one ounce or less of cannabis, a
201 principal focus of which shall be to help young people intelligently and responsibly discern
202 between marijuana use and its abuse. The drug awareness program must provide at least four
203 hours of classroom instruction or group discussion, ten hours of community service and a
204 substance abuse evaluation conducted by a licensed alcohol and drug counselor as defined in
205 section 1 of chapter 111. If such a program is not reasonably available to the under-18 offender,
206 the offender shall complete such on-line curriculum as may be approved by the bureau of
207 educational services within the department of youth services pursuant to Section 7 of Chapter
208 18A of the General Laws, or successor thereto. The under-18 offender’s duty to attend the drug
209 awareness program shall be discharged and deemed satisfied by the filing, within one (1) year of
210 the date of the order to attend the drug awareness program, a statement signed by the offender’s
211 parent or guardian, that the under-18 offender has completed the program as ordered, and in any
212 event on the offender’s 18th birthday.

213 Section 5. No change in DUI laws. Nothing in this chapter shall be construed to modify
214 existing provisions of law relating to the operation of motor vehicles under the influence of
215 marijuana as provided in Chapter 90, Section 24, and otherwise. In any prosecution against a
216 person thereunder, a video recording of a traffic stop, and the driver’s performance on a field
217 sobriety test, administered in accordance with section 24Y of chapter 90, shall be taken into
218 consideration by the finder of facts as evidence of impairment subject to the rules of evidence.

Section 6. Public smoking. The public smoking of cannabis shall be subject to the smoke-free workplace law, section 22 of chapter 270. Nothing in this chapter shall be construed to allow the smoking of marijuana or any marijuana product in any place inconsistent therewith. Local ordinances or bylaws may impose further restrictions on the public smoking of cannabis beyond the said smoke-free workplace law imposes on the smoking of tobacco.

Section 7. Applicability of existing protections. The cultivation, processing, storage and distribution of cannabis, whether marijuana or hemp, whether wholesale or retail, shall be subject, as applicable, to the provisions of chapter 94, sections 186 through 194 of the general laws relating to adulteration and misbranding of food, drugs and various articles, and the penalties as provided in section 190.

Section 8. Additional standards for marijuana and marijuana products. In addition to the requirements of chapter 94, sections 186 through 194, no marijuana or marijuana product shall be sold, or offered for sale, except in accordance with the following:

(a) Marijuana shall be packaged in quantities of one ounce, one-half ounce and one-quarter ounce, and marijuana products shall be packaged in individual servings containing not more than two K units as defined below.

(b) A label shall be affixed to each package of marijuana and marijuana products bearing the following information in clear, legible type, in a clearly legible font not less than twelve points in size: (1) The cannabinoid profile of the marijuana contained, in such detail as the commission shall prescribe by regulation; (2) A statement as to whether the package contains any genetically-modified organisms; (3) The identity of the cultivator and the location in Massachusetts where the marijuana was produced; (4) The identity of the processor, a batch

number, and the location in Massachusetts where the marijuana was processed and packaged; (5) The following warning, in boldface: **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.** (6) In the case of marijuana products, the THC content, expressed in terms of 10-mg units called “K units.” If a serving contains 10 mg THC or less, it shall be labeled as “one K;” if it contains 15 mg THC or less, it shall be labeled as “1.5 K,” and if it contains over 15 mg THC but not more than 20 mg THC, it shall be labeled as “2K.”

(c) The package shall be child-resistant and senior-friendly, i.e., designed and constructed to be significantly difficult for children under five years of age to open within a reasonable time and not difficult for normal adults over 65 years of age to open, consistent with government-approved industry standards.

(d) The package shall bear such indicia as may be required by tax authorities to demonstrate compliance with section 27 and other provision of law relating to the collection of revenues.

(e) No sales of marijuana or marijuana products may be made by vending machine.

(f) 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.

Section 9. Enforcement. The department of public health shall enforce the provisions hereof relating to the preparation, packaging and sale of cannabis and cannabis products to the extent same constitute food, drugs or articles under chapter 94, sections 186 through 194, and adopt regulations consistent herewith as the public health shall require, and otherwise integrate the provisions of this chapter into existing rules and practices as same may apply. No regulation concerning the sale of cannabis and cannabis products shall require stricter provisions, including facility security, than existing regulations for the sale of alcohol or tobacco products.

Section 10. Personal use. Notwithstanding any other provision of law, except as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and shall not be a criminal or civil offense under Massachusetts law or the law of any political subdivision of Massachusetts: (a) Cultivating, processing, having or consuming marijuana or marijuana products for personal use by an individual, his friends and family, not with intent to sell, within or upon his place of residence, and delivering marijuana or marijuana products to an adult for no consideration or other gain, whether financial or otherwise; (b) Transporting not more than ten (10) ounces of marijuana or not more than ten (10) pounds of marijuana products.

Section 11. Personal Identification. No adult consumer shall be required to provide a retailer with personal information other than government-issued identification to determine the

consumer's age, nor shall any retail cannabis facility be required to acquire and record personal information about consumers.

Section 12. Protection from discrimination. No person shall be punished, or deprived of any rights, nor be the subject of inquiry by an agency of the commonwealth solely for having consumed marijuana, being a consumer of marijuana, or having been convicted of a marijuana-related offense, except (a) In proceedings relating to custody of children, visitation or parenting, when the person's behavior related to marijuana creates an unreasonable danger to the safety of a minor as established by clear and convincing evidence; (b) In proceedings relating to the admission or enrollment of students and granting of scholarships, when failing to do so would cause the school to lose a monetary benefit under federal law or regulations, with evidence that similar harm has occurred to another school by virtue of its tolerance of marijuana use by a student; (c) In proceedings relating to housing, when the landlord's toleration there would cause it to lose a monetary benefit under federal law and regulations, with evidence that similar harm has occurred to another landlord by virtue of its tolerance of cannabis use by a tenant; and (d) In proceedings relating to employment, when a failure to do so punish or deprive would cause an employer to lose a monetary or licensing related benefit under federal law or regulations, or unless an employee used or was impaired by marijuana at his/her place of employment or during the hours of employment, with evidence that similar harm has occurred to another employer by virtue of its tolerance of marijuana use by an employee.

Section 13. Cannabis commission. Upon enactment of this chapter, there shall be created a cannabis commission, having the rights, duties and authority as provided in sections 21 through 25.

Section 14. Licenses. The commission 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 Commission: cannabis cultivation licenses, marijuana processing licenses, hemp processing licenses, marijuana wholesale licenses, and testing and research licenses. Provided, however, that no such license shall be issued until the applicant demonstrates that he is 21 or more years of age, is familiar with all laws and regulations relating to cannabis, and will exercise the license in premises adequately secure and otherwise suitable, in compliance with all applicable laws and regulations. No regulation shall impose a greater restriction on the licensee than existing restrictions on alcoholic beverage licenses.

Section 15. Holding multiple licenses. No entity may hold more than three licenses issued under this chapter, nor shall any natural person, individually or as principal, officer, shareholder, manager, member or on behalf of any entity, have any direct or indirect interest in more than five (5) licenses issued under this chapter. A finding that a person holds, or is a participant in an entity holding more than three licenses issued under this chapter shall be grounds for revocation of all licenses held by such person or any entity in which he participated. The local license authorities may designate the holder of a cannabis cultivation license as a “farm”, which designation shall entitle said cultivator to sell marijuana and marijuana produced on the premises to adult consumers for consumption on or off the premises as may be provided. Such sales shall require a marijuana retail license, but the issuance thereof shall not be subject to the quota requirements of section. 17(c)(6).

Section 16. Licenses: Process, limitations.

(a) Not later than 120 days following the effective date of this act, the commission shall promulgate forms and procedures for the awarding of retail and pre-retail cannabis facility licenses. Said procedures shall require, as a minimum, that the applicant submit the following:

(1) If the application is that of an individual, partnership, domestic limited liability company, or domestic limited liability partnership, proof of Massachusetts residency and United States citizenship of the individual, partners or members by production of a certificate of birth, naturalization or as a registered voter; (2) If the application is that of a corporation, the full names and home addresses of the president, treasurer, clerk and secretary, directors and manager or other principal representative of the corporation. The application shall be accompanied by proof of United States citizenship of its officers, directors and manager or other principal representative of the corporation and of Massachusetts residency of a majority of its board of directors by production of a certificate of birth, naturalization or as a registered voter. The application shall be signed by an officer duly authorized by a vote of its board of directors or other similar board. A copy of such vote certified by the clerk or secretary of the corporation, together with a copy of the certificate of its organization, shall accompany the application. A copy of the vote certified by the clerk or secretary of the corporation appointing its manager or other principal representative shall also accompany the application; (3) If the application is in any name other than the real name of the applicant, a certified copy of the applicant's certificate filed pursuant to section 5 of chapter 110. (4) The applicant's Employer Identification Number. (5) The address of the proposed facility and a site plan of the entire parcel prepared by a professional land surveyor registered under chapter one hundred and twelve locating all buildings, security fences or walls, gates, processing areas, and storage areas, if any, and indicating the proximity to any public or private school or college, playground, housing facility

owned by a public housing authority, public or private youth center, or video arcade within one thousand feet of the parcel. (6) Plans, maps, photos and such documentation as shall establish that the proposed cultivation site will be screened from public view at grade; (7) If cultivation is contemplated, a farm plan developed as if in cooperation with USDA, to meet the applicant's horticultural goals and protect local water quality and natural resources; (8) If retail sales to adult consumers are contemplated, whether the applicant is seeking a "shop" license (for off-premises consumption) or a "café" license (for on-premises consumption), or both. (9) An interior plan of any structure in which the activities sought to be licensed are proposed to take place prepared by an architect or engineer registered under chapter 112. (10) A letter from the local zoning enforcement officer that the premises may be used as proposed as a matter of right under the local zoning ordinance or by-law or local right to farm by-law or ordinance, or that the applicant has obtained any necessary special permits or variances, or the legal equivalent thereof; (11) A list of abutters certified by the assessor within 60 days of the date of the submission of the application; (12) A security plan, including facilities, equipment, and policies to prevent unauthorized diversion of marijuana and marijuana products, commensurate with existing security standards for drug stores and retail alcoholic beverage stores. (13) A certified financial statement from the applicant and its principals; (14) A certificate, with supporting documentation, that the applicant and its principals are current in the payment of any and all federal, state or local tax liabilities; (15) Evidence that the applicants and its principals have been residents of, and done business in, Massachusetts for the preceding two years. (16) A statement that by submitting this form, the applicants and its principals are authorizing the Commissioner to perform a tax delinquency check of the individuals and business entities seeking a license. (17) An application fee in the amount of five hundred dollars (\$500). (18) An applicant may be

required to provide evidence of sufficient financial reserves or insurance coverage to demonstrate financial soundness and management capacity, but no more than a \$50,000 cash escrow may be required, nor more insurance than \$500,000 per claim or \$1,000,000 aggregate in annual claims.

(b) The application form shall be signed under the penalties of perjury. Any false statement contained in any application shall be a cause or ground for refusing to grant the license or for suspending, canceling or revoking a license granted under this chapter.

(c) For a 30-day period commencing 180 days from the effective date of this act, the commission shall accept applications for retail and non-retail licenses. No later than 250 days from the effective date of this act, the commission shall identify all applications that contain all information required by this section, and shall notify said applicants and the local licensing authorities, providing a copy of all applications for cannabis facility licenses in that municipality found by the commission to have contained said information. The commission shall also notify the abutters that such copies have been sent to, and are on file with, the local licensing authorities.

(d) In the case of applications for pre- marijuana retail licenses, the local licensing authority may, but shall not be required to, hold a hearing with regard thereto. If, upon such hearing, it finds that the applicant has committed fraud or otherwise made a material misrepresentation in its application, or that the letter under subsection 17(a)(10) was wrong as a matter of law, it shall so notify the commission. In the absence of any such finding and notice thereof, the commission shall issue the licenses and shall maintain principal supervisory responsibility over other-than-retail cannabis licensees. If the commission is so notified, it shall

suspend issuance of a license to such applicant and take such further steps as the commissioner shall determine as shall fairly protect the interests of the applicant and the municipality.

(e) In the case of applications for marijuana retail licenses, the commission shall report to the local licensing authority the names of all qualified applicants for a retail license in its municipality, with notice thereof to applicants.

(f) Subject to such restrictions as the municipality shall have imposed by ordinance or bylaw in accordance with section 19, and other provisions of this chapter, the local licensing authority may issue the retail marijuana licenses for sales of marijuana and marijuana products to adult consumers for consumption off the premises of the licensee (to be known as a “shop license”) or for sales of marijuana and marijuana products to adult consumers for consumption on the premises of the licensee (to be known as a “café license”).

(g) The local licensing authority shall hold a hearing, with written notice to all abutters, and thereupon determine what reasonable safeguards and limitations on time and use may serve the community interest as expressed in the preamble or purpose clause of the community’s zoning bylaws, and otherwise to protect the public health and safety.

(h) Not later than thirty (30) days from the close of said public hearing, the local licensing authority shall issue licenses to such applicants who accept the conditions specified. If there are applicants than licenses available pursuant to the following subsection (6) below, marijuana retail licenses shall be awarded by lottery among those applicants identified as qualified by the commission and who have accepted the conditions. The lottery also shall designate the priority order of unselected applicants in case a license becomes available within a year of the initial lottery. Licenses becoming available after the first year, for which there are

more applicants than available licenses, shall be determined by a new lottery also identifying the priority order of unselected applicants and also expiring in effect within a year. The lottery will be witnessed by an independent third party and all applicants who choose to attend.

(i) The quantity of retail licenses the local licensing authority may issue is limited as follows: unless the voters in a municipality shall have voted to prohibit all retail cannabis facilities in accordance with section 20 of this chapter, the number of retail licenses shall be not less than one nor more than a number equivalent to twenty percent (20%) of the aggregate number of licenses the municipality is authorized to issue for retail sales of alcohol under chapter 138, for sales by outlets such as common victuallers, innkeepers and taverns, and private clubs, for consumption on the premises, and to package stores and other stores selling alcoholic beverages for consumption off the premises, unless the commission shall have approved the municipality's request to increase the number of marijuana retail licenses it may issue.

(j) The commission, at the request of any city or town through its city council or selectmen, may increase the number of retail marijuana licenses authorized. If such number is increased and there are more qualified applicants than licenses available, a new lottery shall be held.

(k) With regard to the issuance and supervision of marijuana retail licenses, local licensing authorities shall have such powers and authority as provided in section 1 of chapter 140, and shall collaborate with the local board of health with regard to matters within its jurisdiction, such as food preparation and sanitation.

(l) 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 Cannabis Commission, 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 17. Medical marijuana treatment centers. All entities registered by the department of public health as a medical marijuana treatment center or a registered marijuana dispensary, and in good standing, shall be issued a marijuana retail licenses for off-premises consumption as a matter of right, without regard to the quota provisions of section 17(c)(6).

Section 18. Local Control. A municipality may enact ordinances or by-laws not in conflict with this chapter, or with regulations adopted hereunder, governing the time, place, manner and number of facilities licensed under this chapter, establishing (a) Procedures for the local review of license applications referred by the commission in accordance with section 17 of this chapter; (b) Procedures for the issuance, suspension, and revocation of a marijuana retail license; (c) Procedures for the supervision of licensees' retail operations and monitoring of compliance with license conditions and other provisions of local law, and enforcement of lawful orders; (d) A schedule of application, license and renewal fees for marijuana retail facilities, provided a licensing fee shall only be due when a license is issued by the municipality; and (e) Civil penalties for violation of an ordinance or bylaw governing the time, place, and manner of a marijuana retail operation; provided, however, that no local ordinance or bylaw shall impose more restrictive measures on the operation of a cannabis facility than presently apply to facilities used for the production, distribution and sale of tobacco and other smoking products, and the production, distribution and sale of alcoholic beverages to adults.

Section 19. Local Prohibition. A municipality may prohibit the operation of licensed cannabis facilities by ordinance or by-law; provided, however that upon petition of ten (10) registered voters said ordinance or by-law shall be presented to the voters for approval at the next biennial election. If a majority of voters fail to approve said ordinance or by-law, it shall not go into effect, or, if having gone into effect, be deemed repealed. Such petition shall be presented to city or town clerk, as the case may be, no later than 90 days prior to the biennial election next following.

Section 20. Cannabis Commission. The cannabis commission shall be managed by a board of five directors. A full term thereon shall be five years. Persons to serve respectively for an initial five-year term, an initial four-year term, and an initial three-year term, and their replacements, shall be appointed by the governor. A person to serve for an initial two-year term, and his or her replacement, shall be appointed by the president of the senate. A person to serve an initial one-year term, and his or her replacement, shall be appointed 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 14 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

484 opportunity to be heard. Three directors shall constitute a quorum for the purpose of conducting
485 the business of the commission. A vacancy shall not impair the right of the remaining directors
486 to exercise the powers of the commission.

487 Section 21. Records of the Commission. A copy of the minutes of each meeting of the
488 board of directors, including any rules and regulations adopted by the commission or any
489 amendments thereof, shall be forthwith transmitted, by and under the certification of the
490 secretary thereof, to the governor and the secretary of the commonwealth.

491 Section 22. Public Records of the Commission. All records of the commission are public
492 within the meaning of the General Laws, Chapter 66.

493 Section 23. Fiscal Year Annual Report of the Commission. The commission shall not
494 later than the fourth Wednesday of October file a written report with the governor and the
495 respective clerks of the senate and house of representatives which shall contain a comprehensive
496 reporting, accounting, description and analysis of its activities.

497 Section 24. Annual Audit. The state auditor shall conduct an annual post-audit of all
498 accounts and transactions of the commission, reasonable costs thereof to be borne by the
499 authority.

500 Section 25. Further Study. The commission shall carry out periodic studies and
501 investigations of cannabis commerce in the commonwealth and of the operation and
502 administration of similar laws in other states and countries, of studies on the subject which from
503 time to time may be published or available, of any federal laws which may affect the
504 administration of this chapter, and of the reaction of citizens of the commonwealth to existing
505 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 commission 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 26. Powers and duties of the Commission. The Commission shall have general supervision of the conduct of the business of cultivation, processing, distribution, sale at wholesale and retail and importing cannabis, both marijuana and hemp. Not later than six (6) months after the effective date of this act, the commission shall develop and adopt regulations necessary for the implementation of this chapter, taking into account the opinions of local licensing authorities, public safety, public health officials, persons engaged in the cannabis industry, and consumers. Such regulations shall not prohibit the operation of cannabis facilities, either expressly or through regulations that make their operation unreasonably impracticable. No regulation may be adopted which requires more restrictions on cannabis commerce than existing restrictions on commerce in alcoholic beverages. Such regulations shall include: (a) Procedures for the issuance, renewal, suspension, and revocation of a registration to operate a cannabis facility, with such procedures subject to all requirements of the chapter 30A. (b) A schedule of application, license and renewal fees. Application fees shall not exceed \$5,000, with this upper limit adjusted annually for inflation, unless the Commission determines a greater fee is necessary to cover its costs of processing applications. (c) Additional qualifications for licenses that are

529 directly and demonstrably related to the operation of a cannabis facility. (d) Additional security
530 requirements for cannabis facilities, including for the transportation of cannabis by their agents
531 and employees; (e) Additional requirements to prevent the sale or diversion of cannabis and
532 cannabis products to persons under the age of 21; (f) Additional labeling requirements for
533 cannabis and cannabis products sold or distributed by a cannabis facility, which requirements
534 shall be developed in consultation with the Department of Public Health; and (g) Additional
535 health and safety regulations and standards for the cultivation and processing of cannabis, and
536 manufacture of cannabis products, which regulations and standards shall be developed in
537 consultation with the department of public health, the department of agricultural resources, and
538 the executive office of labor and workforce development; and (h) Civil penalties for the failure to
539 comply with regulations issued pursuant to this chapter.

540 Section 27. Initial Funding of the Commission. The sum of \$2,500,000.00 shall be
541 appropriated to fund the commission initially, which sum shall be repaid by the commission to
542 the treasurer of the commonwealth within five years from the day that the first cannabis sale is
543 made under the provisions of this chapter, together with interest at the rate of 15% per annum
544 from said day.

545 Section 28. Revocation of Licenses. Subject to the provisions herein, the commission
546 may suspend or revoke any license for any violation of this chapter or any regulation adopted
547 hereunder, or for aiding or abetting in any violation of such rules and regulations, but within ten
548 days of such suspension or revocation, the commission shall give a hearing to the licensee, after
549 due notice to the licensee of the alleged violation(s), its underlying facts and the time and place
550 of the hearing. Such licensee may appear at the hearing with witnesses and be represented by
551 counsel.

(a) The commission 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 commission, its representative authorized to conduct such hearing may subpoena witnesses and require the production of books, papers, and documents pertinent to such inquiry, including digital or electronic versions thereof.

(b) 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 books or papers so produced shall not be used as evidence 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 commission or its authorized agent or to produce any books and papers pursuant thereto, the commission 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 commission may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify.

(c) Officers who serve subpoenas issued by the commission 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 commission or to be paid without appropriation out of the proceeds of the excise imposed by this chapter, on vouchers approved by the commission.

(d) The rules and regulations adopted by the commission 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 commission may deem necessary to establish his knowledge and understanding of this chapter.

Section 29. Acceptance of Applications. The commission shall begin accepting and processing applications to operate marijuana establishments no later than one year after the effective date of this act.

Section 30. Medical Marijuana. Nothing in this chapter shall be construed to limit any privileges or rights of a qualified medical marijuana patient, personal caregiver, healthcare provider, medical marijuana treatment center or registered marijuana dispensary, under chapter 369, acts of 2012.

Section 31. Taxation. A tax is hereby imposed

(a) on the privilege of engaging in the business as a marijuana processor, as follows:

(1) On the sale of marijuana, the processor shall remit, to the department of revenue, upon such terms and procedures as the department may prescribe, and commencing on the effective date of this chapter, an excise tax, so-called, as follows: (i) during the first year

596 following the effective date of this act, the sum of \$10 per ounce (ii) during the second year
597 following the effective date of this act, the sum of \$20 per ounce; (iii) during the third year
598 following the effective date of this act, the sum of \$35 per ounce; and (iv) during the fourth and
599 following years following the effective date of this act, the sum of \$50 per ounce.

600 (2) On the sale of marijuana products, the processor shall remit, to the department of
601 revenue, upon such terms and procedures as it may prescribe, and commencing one year from
602 the effective date of this chapter, (i) during the second year following the effective date of this
603 act, the sum of \$2.50 per K unit as defined in section 8, (ii) during the third year following the
604 effective date of this act, the sum of \$5.00 per K unit as defined in section 8, and (iii) during the
605 fourth and following years following the effective date of this act, and thereafter, the sum of
606 \$10.00 per K unit as defined in section 8.

607 (3) The processor shall affix upon each package of marijuana or marijuana products a tax
608 stamp or such other documentation as the commissioner of revenue may require, and shall
609 transfer neither title nor possession of same to any person without the said documentation
610 affixed. Said stamps shall be of such design and in such denomination as the commissioner may
611 prescribe, and shall be the means by which the excise imposed by this section shall be paid to the
612 commonwealth. The commissioner of revenue, in his discretion, may authorize the use of a
613 metering machine approved by him in lieu of stamps in order to press onto or attach to each
614 package of marijuana or marijuana products evidence of the payment of said excise. Such
615 machine shall be sealed by the commissioner's authorized representative and shall be used in
616 accordance with such rules and regulations as the he may prescribe. He may for cause at any
617 time suspend or revoke the authority to use such a metering machine.

Section 32. Income subject to taxation. The earnings of, and sales by, any licensed cannabis facility shall be subject to taxation as other enterprises legally engaged in, and subject to the laws concerning, agriculture, agricultural processing, food preparation and sale of products to the public at retail, and sales of industrial hemp, as the case may be, and shall be enforceable by such agencies having authority with regard thereto.

SECTION 3. Chapter 276 of the general laws is hereby amended by adding, after section 100D, the following new section:

Section 100D: Expungement of records of marihuana arrest, detention, conviction and incarceration.

(a) Expungement of marihuana records. Any person having a record of criminal court appearances and dispositions in the commonwealth on file with the office of the commissioner of probation, or the Department of Criminal Justice Information Services established by c. 6, sec. 167A et seq., for a marihuana offense as defined by c. 94C or other provisions of law repealed by Cannabis Regulation and Taxation Act, shall have all such records expunged forthwith from all criminal record information systems collected or distributed by any state agency, court or municipality. Any person with a criminal record eligible for expungement hereunder may apply to the commissioner, the department or the clerk of court where an expunged record exists, for expedited expungement in compliance with the provisions hereunder, and have the application acted on forthwith.

(b) Notice of expungement. When records of criminal appearances and criminal dispositions are expunged by the commissioner or department in their files, the commissioner or department shall notify forthwith the clerk and the probation officer of the courts in which the

convictions or dispositions have occurred, or other entries have been made, of such expungement, and said clerks and probation officers likewise shall expunge records of the same proceedings in their files.

(c) Effect of expungement. Such expunged records shall not operate to disqualify a person in any examination, appointment or application for public service in the service of the commonwealth or of any political subdivision thereof; nor shall such expunged records be admissible in evidence or used in any way in any court proceedings or hearings before any boards or commissions.

(d) Employment applications. An application for employment used by an employer which seeks information concerning prior arrests or convictions of the applicant shall include the following statement: "An applicant for employment with an expunged record on file with the commissioner of probation may answer 'no record' with respect to an inquiry herein relative to prior arrests, criminal court appearances or convictions. An applicant for employment with an expunged record on file with the commissioner of probation may answer 'no record' to an inquiry herein relative to prior arrests or criminal court appearances. In addition, any applicant for employment may answer 'no record' with respect to any inquiry relative to prior arrests, court appearances and adjudications in all cases of delinquency or as a child in need of services which did not result in a complaint transferred to the superior court for criminal prosecution." The attorney general may enforce the provisions of this paragraph by a suit in equity commenced in the superior court.

(e) "No record" report of expunged records. The commissioner or the department, in response to inquiries by authorized persons, shall in the case of an expunged record or in the case

of court appearances and adjudications in a case of delinquency or the case of a child in need of services, report that no record exists.

(f) Prisoners serving sentences for expunged offenses. The commissioner of correction, and the sheriffs and masters of all county Houses of Correction shall forthwith review the sentencing mittimus of all prisoners in their custody to identify any prisoner held pursuant to a conviction for a marijuana offense as defined by c. 94C or other provisions of law repealed by the Cannabis Regulation and Taxation Act. Any prisoner so identified shall be reported to the committee for public counsel services, and the district attorney for the county of the sentencing court, along with a copy of the sentencing mittimus. Any prisoner being held only for sentence under an expunged or repealed marijuana offense, or held on a probation surrender based only on drug testing or other probation violation regarding the probationer's use of marijuana, may apply to the sentencing court for an order of discharge and release. An initial hearing shall be held within ten days of court application, to determine whether any basis other than a marijuana or marijuana law violation exists for the prisoner's continued detention. If no other basis exists the prisoner shall be released forthwith at the initial hearing; if other non-marijuana related cause for custody appears to exist, the prisoner may seek a continuance of the initial hearing to further investigate and present evidence regarding a claim that the only basis for the prisoner's custody is a conviction or probation surrender for the violation of an expunged or other marijuana offense or the prisoner's use of marijuana while on probation.

SECTION 4. Chapter 64K, as appearing in the 2012 Official Edition, is hereby amended as follows:

(a) Section 1 is amended by striking the definition of "marihuana";

684 (b) Section 1 is further amended by striking the second sentence of the definition of
685 “controlled substance”;

686 (c) Section 1 is further amended by striking from the first sentence of the definition of
687 "Dealer" the words, "forty grams of marihuana, or";

688 (d) Section 3 is amended by striking out “for marihuana and”

689 e) Section 4 is amended by striking out “any marihuana or”

690 (f) Section 6 is amended by striking out “marihuana or”;

691 (g) Section 7 is amended by striking out “marihuana or”;

692 (h) Section 8 is amended by striking out “(1) on each gram of marihuana, or each portion
693 of a gram, three dollars and fifty cents; and” and renumbering the remaining two clauses.”

694 (i) Section 9 is amended by striking out “marihuana or”;

695 (j) Section 10 is amended by striking out “marihuana or”;

696 (k) Section 11 is amended by striking out “marihuana or“ wherever it appears.

697 SECTION 5. Section 2 of Chapter 62C is hereby amended by inserting after the words,
698 “sixty-five C, inclusive;” “chapter ninety-four D;”

699 SECTION 6. The fourth paragraph of Section 37H of chapter seventy-one is hereby
700 amended by striking from clause (a) the word “marijuana”; Clause (a) of the fourth paragraph of
701 Section 37H of chapter seventy-one is hereby amended by inserting after “heroin,” – “or
702 marijuana or marijuana product as defined in chapter ninety-four D.

SECTION 7. Section 1 of chapter 94C is hereby amended by striking the definition of “marihuana” and all references thereto.

SECTION 8. Section 2 of chapter 94C is hereby amended by inserting after subsection d the following: “(e) Authority to control under this section shall not extend to cannabis or cannabis products defined in chapter ninety-four D”.

SECTION 9. Section 31 of chapter 94C is hereby amended by striking “marihuana” from Class D.

SECTION 10. Section 34 of chapter 94C is hereby amended by to said section the following: “This section shall apply to persons holding a cannabis facility license under section 94D.

SECTION 11. Section 47 of chapter 94C is hereby amended by striking subsection (c)(4).

SECTION 12. Chapter 94D of the 2012 Official Edition is hereby repealed.

SECTION 13. Clause (13) of section 62 of chapter 149 as appearing in the 2012 Official Edition is hereby amended by inserting after the word “bottled” – or in the cultivating of cannabis or harvesting of cannabis or the production and packaging of cannabis products”.

SECTION 14. Clause (14) of section 62 of chapter 149 as appearing in the 2012 Official Edition is hereby amended by inserting after the word “liquors” – “or marijuana or marijuana products.”

SECTION 15. Section 10H of chapter two hundred and sixty nine is hereby amended by inserting after the word “marijuana” – or marijuana product as defined in chapter ninety-four D or.”