

HOUSE No. 3189

The Commonwealth of Massachusetts

PRESENTED BY:

Leonard Mirra, (BY REQUEST)

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 relative to persons under the age of twenty-one possessing an ounce or less of marijuana and collection of the civil penalty related thereto.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Steven S. Epstein

Timothy R. Whelan

1st Barnstable

HOUSE No. 3189

By Mr. Mirra of West Newbury (by request), a petition (accompanied by bill, House, No. 3189) of Steven S. Epstein and Timothy R. Whelan relative to the penalties for marijuana possession by juveniles. Marijuana Policy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to persons under the age of twenty-one possessing an ounce or less of marijuana and collection of the civil penalty related thereto.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to ensure juveniles cited for marijuana possession obtain a substance abuse evaluation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public [Emergency Preamble Context].

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

1 SECTION 1 Section 32L of General Laws Chapter 94C is amended by striking the first
2 sentence thereof and inserting in place thereof the following sentence, “Notwithstanding any
3 general or special law to the contrary, possession of one ounce or less of marihuana by an
4 offender under 21 years of age to a civil penalty of one hundred dollars and forfeiture of the
5 marihuana, but not to any other form of criminal or civil punishment or disqualification.”

6 SECTION 2 Section 32L of General Laws Chapter 94C is further amended by striking
7 from the second sentence thereof the words “a drug awareness program which meets the criteria
8 set forth in Section 32M of this Chapter” and inserting in place thereof the following words, “a

9 substance abuse evaluation conducted by a licensed alcohol and drug counselor as defined in
10 section 1 of chapter 111J, and a report of the evaluation shall be provided by the licensed alcohol
11 and drug counselor to the parents or legal guardian and to the offender if over the age of 16, and
12 to the police department that issued the citation. The evaluation shall not be a public record.

13 SECTION 3 Section 32L of General Laws Chapter 94C is further amended by striking
14 from the third sentence thereof the words, “availability of a drug awareness program” and
15 inserting in place thereof the words, “requirement of a substance abuse evaluation”.

16 SECTION 4 Section 32L of General Laws Chapter 94C is further amended by striking
17 from the fourth sentence thereof the words, “one year of the offense to complete both a drug
18 awareness program” and inserting in place thereof the words, ninety day of the offense to
19 complete both a substance abuse evaluation”.

20 SECTION 5 Section 32L of General Laws Chapter 94C is further amended by striking
21 from the first sentence of the third paragraph the word “tetrahydrocannabinol” and inserting in
22 place thereof the words “5 grams of marijuana concentrate as defined in subsection (g) of section
23 7 of chapter 94G of the General Laws, inserted by section 5 of chapter 334 of the acts of 2016, or
24 a combination thereof equaling one ounce or less”.

25 SECTION 6 Section 32M of General Laws Chapter 94C is amended by striking the
26 section and inserting the following section, “32M Possession of one ounce or less of marihuana;
27 substance abuse evaluation. An offender under the age of eighteen is required to complete a
28 substance abuse evaluation within ninety days of the offense for possession of one ounce or less
29 of marihuana. In addition to the civil penalties authorized by Section 32L and 32N of this

30 Chapter, the failure of such an offender to complete a substance abuse evaluation shall be a basis
31 for delinquency proceedings for persons under the age of 18 at the time of their offense.

32 SECTION 7 Section 32N of General Laws Chapter 94C is hereby amended by striking
33 the second paragraph thereof and inserting the following paragraph, “The person in charge of
34 each such department shall direct the department's public safety officer or another appropriate
35 member of the department to function as a liaison between the department and persons providing
36 the substance abuse evaluation programs pursuant to Section 32M of this Chapter and the Clerk-
37 Magistrate's office of the Division of the Juvenile Court serving the political subdivision. The
38 person in charge shall also issue books of non-criminal citation forms to the department's officers
39 which conform with the provisions of this Section and Section 21D of Chapter 40 of the General
40 Laws”.

41 SECTION 8 Section 32N of General Laws Chapter 94C is hereby further amended by
42 striking the third paragraph and inserting the following, “In addition to the notice requirements
43 set forth in Section 21D of Chapter 40 of the General Laws, a second copy of the notice
44 delivered to an offender under the age of eighteen shall be mailed or delivered to at least one of
45 that offender's parents having custody of the offender, or, where there is no such person, to that
46 offender's legal guardian at said parent or legal guardian's last known address. If within 150 days
47 of the issuance of the citation the police department does not receive a copy of the substance
48 abuse evaluation in accordance with Section 32M the police department shall file a juvenile
49 delinquency complaint against the offender.

50 SECTION 9 General Laws Chapter 94C is hereby amended by inserting the following
51 Section 32O, Collection of civil penalty. The police department issuing the citation on behalf of

52 the municipality in which the offense occurred, or the municipality shall, if the civil fine is not
53 paid when due, enforce collection of the civil penalty using the procedure authorized by section
54 21 of chapter 218. The offender in such action shall be deemed to have waived all defenses
55 except sufficiency of the service of the citation and the right of appeal provided in section 23 of
56 chapter 218. The court shall not impose a filing fee for such action. The court shall award the
57 municipality \$300 in damages together with interest at the rate of 12 percent per annum from the
58 twenty-first day after the citation issued against persons over the age of 18 and against the
59 parents of a person under the age of 18.

60 Any civil penalties imposed under the provisions of "An Act Establishing A Sensible
61 State Marihuana Policy" shall inure to the city or town where the offense occurred.