

HOUSE No. 3195

The Commonwealth of Massachusetts

PRESENTED BY:

Denise Provost

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 improving taxation and regulation of marijuana.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/20/2017</i>

HOUSE No. 3195

By Ms. Provost of Somerville, a petition (accompanied by bill, House, No. 3195) of Denise Provost relative to the regulation and taxation of marijuana. Marijuana Policy.

The Commonwealth of Massachusetts

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

An Act improving taxation and regulation of marijuana.

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 3 of Chapter 334 of the acts of 2016 is hereby amended by striking
2 all language in Section 3 of Chapter 334 of the acts of 2016 that inserted Section 76 and Section
3 77 of Chapter 10 of the General Laws.

4 SECTION 2. Section 4 of chapter 334 of the acts of 2016, is hereby amended by striking
5 out the figure “4.” and inserting in place thereof the following figure: “3.”

6 SECTION 3. State excise imposition; rate; payment. Section 2 of Chapter 64N of the
7 General Laws inserted by Chapter 334 of the acts of 2016, is hereby amended by striking out the
8 words “rate of 3.75” and inserting in place thereof the following words: “rate of 2.0”

9 SECTION 4. Said section 2 of Chapter 64N of the General Laws inserted by Chapter 334
10 of the acts of 2016, is hereby further amended by striking out the words “General Laws” and
11 inserting in place thereof the following words: “General Laws. The provisions of chapter 64I of

12 the General Laws shall apply to the storage, use or other consumption in the commonwealth of
13 marijuana.”

14 SECTION 5. Application of tax revenue. Section 5 of Chapter 64N of the General Laws
15 inserted by Chapter 334 of the acts of 2016, is hereby amended by striking out the word
16 “appropriation. ” and inserting in place thereof the following words: “appropriation. Of the tax
17 collected pursuant to Chapters 64H and 64I of the General Laws, less all amounts allowed as
18 refunds and abatements, 12.5% shall be credited to the Agricultural Resolve and Security Fund
19 established in section 2III of chapter 29 of the General Laws and 12.5% shall be credited to the
20 Commonwealth Substance Abuse Prevention and Treatment Fund established in section 2BBBB
21 of chapter 29 of the General Laws and spent for the purposes thereof subject to appropriation by
22 the legislature.”

23 SECTION 6. Section 5 of chapter 334 of the acts of 2016, is hereby amended by striking
24 out the figure “5.” and inserting in place thereof the following figure: “4.”

25 SECTION 7. Section 1 of chapter 94C of the General Laws is amended by inserting after
26 the words “any part of the plant” the following words, “that contain tetrahydrocannabinol.”
27 Section 1 is further amended by inserting after the word “resin” the following words, “that
28 contain tetrahydrocannabinol” Section 1 is further amended by amending the definition of
29 "Tetrahydrocannabinol" by striking the words “except when it has been established that the
30 concentration of delta-9 tetrahydrocannabinol in said marijuana exceeds two and one-half per
31 cent.”

32 SECTION 8. Subsection (a) of section 1 of chapter 94G of the General Laws, inserted by
33 section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out the figure “(a)”
34 and inserting in place thereof the following figure “(c)”

35 SECTION 9. Section 1 of Chapter 94G of the General Laws is hereby amended by
36 inserting the figure and words: “ (a) “Cannabis café”, an establishment licensed as a common
37 victualler or innholder pursuant to section 2 of chapter 140 and licensed pursuant to this chapter
38 to engage in retail sale of marihuana including foods prepared with marijuana as an ingredient
39 for consumption by customers on the premises.”

40 Section 2. Subsection (a) of section 1 of chapter 94G of the General Laws is hereby
41 amended by striking out the figure “(a)” and inserting in place thereof the following figure “(b)”

42 Section 3. Subsection (c) of section 1 of Chapter 94G is repealed.

43 Section 4. Subsection (b) of section 1 of chapter 94G of the General Laws is hereby
44 amended by striking out the figure “(b)” and inserting in place thereof the following figure “(c)”

45 Section 5. Said subsection (i) of section 1 of chapter 94G of the General Laws is hereby
46 further amended by striking out the words “”Marijuana cultivator”, an entity” and all words
47 thereafter and inserting in place thereof the following words “ “Marijuana cultivator”, an entity
48 or a farmer who intends to sell marijuana seeds, plants or marijuana whether at wholesale to
49 marijuana product producers or retailers, or to persons 21 years of age registered with the
50 commissioner as a retailer in accordance with chapter 94G G.L.”

51 Section 6. Said subsection (j) of section 1 of chapter 94G of the General Laws is hereby
52 further amended by striking out the word: “retailer” in the definition for “Marijuana
53 establishment” and inserting in place thereof the following words: “retailer or cafe”

54 Section 7. Section 1 of chapter 94G of the General Laws is hereby amended by inserting
55 the figure and words: (q) “Marijuana farm”, a parcel of 5 acres or more, or a parcel of 2 acres or
56 in an area zoned for agriculture, horticulture, floriculture or viticulture as set forth in the first
57 paragraph of section 3 of chapter 40A of the Section 16. General Laws G.L. c. 40A, on which a
58 farmer intends to cultivate cannabis registered with the commissioner of agricultural resources.”

59 Section 8. Section 1 of chapter 94G of the General Laws is hereby amended by inserting
60 the figure and words: (r) “Marijuana farmer’s market”, a public market for the primary purpose
61 of connecting and mutually benefiting Massachusetts marihuana farmers, communities, and adult
62 shoppers while promoting and selling products grown and raised by participating farmers.”

63 Section 9. Said subsection (k) of section 1 of chapter 94G of the General Laws is hereby
64 further amended by striking out all language after the words: “Marijuana product manufacturer”
65 and inserting in place thereof the following words: “a person or business entity licensed by the
66 department of public health under Chapter 94G Section 4 (b), as described in SECTION 14,
67 authorized to purchase marijuana at wholesale from a marijuana farmer for the purpose of
68 manufacturing and selling marijuana products to a marijuana retailer.”

69 Section 10. Said subsection (n) of section 1 of chapter 94G of the General Laws is hereby
70 further amended by striking all language in the definition for “Marijuana retailer” and inserting
71 in place thereof the following words: “a person, or an entity, including a cannabis café, licensed
72 to purchase and deliver marijuana, raw marijuana, and marijuana products from marijuana

73 establishments and to deliver, sell or otherwise transfer marijuana, raw marijuana, and marijuana
74 products from marijuana establishments and to consumers, and who has registered each location
75 at which sales are conducted with the commissioner as required under this chapter.”

76 Section 11. Section 1 of chapter 94G of the General Laws is hereby amended by inserting
77 the figure and words: (s) “Medical marijuana treatment center” or “MMTC”, a not-for-profit
78 entity established pursuant to Chapter 369 of the Acts of 2012 and department of public health
79 regulations.”

80 Section 12. Section 1 of chapter 94G of the General Laws is hereby amended by inserting
81 the figure and words: (t) “Raw marijuana”, the plant severed from its roots, including the leaves
82 and flowers, recognizable as vegetable matter.”

83 Section 13. Section 1 of chapter 94G of the General Laws is hereby amended by inserting
84 the figure and words: (u) “Secret shopper program”, at a minimum, 6 visits per year to a retail
85 sales outlet by a person retained by a retailer, where the person poses as a customer in order to
86 ensure compliance by the outlet's employees with laws prohibiting the sale of marijuana or
87 marijuana products to juveniles and minors, with each visit made on a different day and at a
88 different time, and, where practical, to a different outlet employee.”

89 SECTION 10. Subsection (e) of section 2 of chapter 94G of the General Laws, inserted
90 by section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out the word
91 “employees.” and inserting in place thereof the following words:- o employees, provided that the
92 employer maintains employment practices regarding adult off-duty consumption of marijuana
93 that is treated equal to their employment practices regarding adult off-duty consumption of

94 alcoholic beverages, unless the employer proves that equal treatment in such activities would
95 cause loss of monetary benefit under federal law or regulations.

96 SECTION 11. Section 1. Section 3 of chapter 94G of the General Laws, inserted by
97 section 5 of chapter 334 of the acts of 2016, is hereby amended by inserting the following figures
98 and language: “No municipality shall enact any bylaw or ordinance, rule or regulation that
99 imposes additional requirements upon: marijuana farms than imposed upon any other farm
100 engaged in horticulture; marijuana farmer’s market on an appropriate site, except that the
101 municipal licensing authority may require a daily fee for a license to hold such a farmer’s
102 market, not to exceed \$100; marijuana products producers than imposed upon any other food
103 processing use, or additional requirements on retailers than those imposed upon sellers of
104 tobacco products; cannabis cafés beyond those imposed upon common victuallers licensed to sell
105 alcoholic beverages for on-premises consumption. No municipality shall enact any bylaw or
106 ordinance, rule or regulation that prohibits the use by lawful owners or tenants 21 years of age or
107 older of residential property in the exercise of their right to cultivate marijuana, possess it for
108 their personal use and that of their household members and guests 21 years of age and older that
109 imposes additional requirement upon such use. No municipality shall enact any bylaw, ordinance
110 or regulation that imposes any penalty greater than that imposed upon those possessing an open
111 container of alcoholic beverage in public, for publicly consuming marihuana or for displaying an
112 open container of marijuana or marijuana product in public, and any such ordinance or bylaws
113 shall in the first instance be enforced by the noncriminal disposition process in section 21D of
114 chapter 40 of the General Laws.”

115 Section 2. Section 3 of Chapter 94G is further amended by adding, after paragraph (d) the
116 following new paragraph, (e) Licenses of cannabis cafés authorizing sale of marijuana to be

117 consumed on premises; suspension or revocation; hours of sale; liability insurance; excise tax on
118 gross sales In any municipality that approves the licensing of cannabis cafés the local licensing
119 authority shall grant licenses. No license shall be granted for more than 1 year and may be
120 renewed annually. Notwithstanding the provisions of section 22 of chapter 270, the patrons may
121 smoke marijuana and marijuana products in such licensed premises. A cannabis café may allow a
122 patron to retain and take off the premises only so much as may remain of marijuana or marijuana
123 product purchased by them in conjunction with a meal and not totally consumed during such
124 meal. Such remaining marijuana or marijuana product must be sealed in a one-time-use tamper-
125 proof transparent bag, with a receipt affixed thereto that prominently displays the date of
126 purchase of the meal and the purchase of the marijuana or marijuana product. The local licensing
127 authority may impose a fee no greater than that imposed on applicants for a license for an on-
128 premises all-alcoholic-beverages license. It may also establish a process similar to but no more
129 rigorous than that imposed on an applicant for an on premises all-alcoholic-beverages license.
130 Upon approval of a license the licensing authorities shall set the hours during which the café may
131 be open for business during which marijuana may be served, either generally or specially for
132 each licensee; provided, however, that no license shall authorize operation between the hours of
133 2 a.m. and 8 a.m. and that no such licensee shall be barred from being open between the hours of
134 11 a.m. and 11 p.m.; provided, further, that any such licensee or the licensee's manager shall not
135 be prohibited from being on the licensed premises at any time; provided, further, that the
136 employees, contractors or subcontractors shall not be prohibited from being upon such premises
137 at any time for the purpose of cleaning, making renovations, making emergency repairs to or
138 providing security for such premises or preparing food for the day's business or opening or
139 closing the business in an orderly manner. The licensing authority shall not decrease the hours

140 during which sales may be made by a licensee until after a public hearing concerning the public
141 need for such decrease; provided, however, that a licensee affected by any such change shall be
142 given 2 weeks notice of the public hearing. The licensee shall cause to be displayed a copy of the
143 certificate of licensure. A license granted under this section may be suspended or revoked for
144 cause by the local licensing authority after notice and a hearing; however, no action shall be
145 taken on account by such authority with respect to that business's common victualler's license. A
146 licensee aggrieved by the action of a local authority suspending or revoking such license may
147 appeal within 30 days to the superior court division having jurisdiction in accordance with
148 section 14 of chapter 30A. The local licensing authorities may accept the surrender of a license
149 issued under this section, but no refund of any fees paid shall be authorized. No license issued
150 under this section shall be subject to any condition or requirement varying the occupancy of the
151 licensed premises as certified by any person or state or local agency charged with the
152 administration or enforcement of the state building code or any of its rules or regulations. A
153 licensee may provide on-premises sample marijuana tasting; provided, however, that the licensee
154 shall not solicit orders for off-premises consumption; and provided further, that any such tasting
155 shall be limited to one-twentieth of a gram, and food shall be served in conjunction with any
156 such tasting. The licensee shall register the location with the commissioner under section 67 of
157 chapter 62C. In addition to the tax imposed by section 64N on marijuana not infused into a meal
158 and the tax on meals imposed by chapter 64H and if applicable 64L, there shall be levied,
159 assessed and collected an excise at the rate of 0.75 per cent of such taxpayer's gross receipts. No
160 license shall be issued or renewed under this section until the applicant or licensee provides
161 proof of coverage under a liability bond or general liability insurance policy for bodily injury or
162 death for a minimum amount of \$1,000,000 on account of injury to or death of 1 person, and

163 \$2,500,000 on account of any 1 accident resulting in injury to or death of more than 1 person.
164 Proof of the insurance coverage required by this section shall be made by filing a certificate of
165 insurance in a form acceptable to the local licensing authority. The insurance shall be subject to
166 sections 5 and 6 of chapter 175A of the General Laws. The number of licenses issued in any city
167 or town under this section and section 63 may not exceed the number of licenses it may issue for
168 the sale of alcoholic beverages for on premises consumption.

169 SECTION 12. -Section 4 of Chapter 94G of Chapter 334 of the acts of 2016 is hereby
170 amended by striking all figures and language in Section 4 of the General Laws, inserted by
171 section 5 of Chapter 94G of Chapter 334 of the acts of 2016 that inserted Section 76 and Section
172 77 of Chapter 10 of the General Laws, and inserting in place thereof the following figures and
173 language: “Section 4. Registration of Retailers”

174 SECTION 13. Section 4 of Chapter 94G of the General Laws, inserted by section 5 of
175 Chapter 334 of the acts of 2016 is hereby amended by inserting subsection (a) and the following
176 language: “Regulatory authority for the promulgation of regulations for marijuana shall be
177 placed within the following agencies: Department of Agricultural Resources (DOAR),
178 Department of Revenue (DOR), and the Department of Public Health (DPH). Marijuana
179 cultivators shall be regulated by DOAR and DOR. Marijuana product manufacturers shall be
180 regulated by DPH and DOR. Marijuana retailers shall be regulated by the DOR.”

181 SECTION 14. Section 4 of Chapter 94G of the General Laws, inserted by section 5 of
182 Chapter 334 of the acts of 2016 is hereby amended by inserting subsection (b) and the following
183 language: “No person shall engage in the business of a marijuana products producer unless each
184 place of business is licensed by the department of public health, which license shall be granted if

185 the applicant establishes that it will prepare, test, package and label its products in conformance
186 with the department’s regulations for MMTCs as amended from time to time. For the first year
187 after the effective date of this act the annual fee for such a license shall be \$1,500.00 for each
188 place of business. Thereafter, pursuant to chapter 94G of the General Laws, the secretary of
189 administration and finance shall establish the annual fee, but in no event shall it increase more
190 than 50% from year to year.”

191 SECTION 15. Section 4 Chapter 94G of the General Laws, inserted by section 5 of
192 Chapter 334 of the acts of 2016 is hereby amended by inserting subsection (c) and the following
193 language: “No person shall engage in the business of retail sale of marijuana unless a registration
194 shall have been issued to him for each place of business in accordance with section 67 of chapter
195 62C. Such registration shall specify as the tax type “sales tax on marijuana.” A MMTC may
196 register as a retailer and collect sales tax only from adults not registered as a patient.”

197 SECTION 16. Section 5 and Section 6 of . Chapter 94G of the General Laws, inserted by
198 section 5 of Chapter 334 of the acts of 2016 are repealed.

199 SECTION 17. Section 1. Chapter 94G of the General Laws, inserted by section 5 of
200 Chapter 334 of the acts of 2016 is amended by adding the following new Section, Section 5. (a)
201 No person shall cultivate marijuana for commercial purposes unless the land on which it is
202 grown is registered with the department of agricultural resources as a marijuana farm under
203 chapter 128, section 116 and the marijuana farmer is registered with the commissioner. The
204 marijuana farmer shall comply with all general laws applicable to the cultivation of plants
205 intended as food for human consumption and shall prepare raw marijuana intended for sale to

206 marijuana products producers, retailers or retailed directly to persons over the age of 21 as
207 required by general law for the preparation of produce for human consumption.

208 Section 2. (b) Chapter 128 of the general laws is amended by adding the following, Every
209 marijuana farm as defined in section 1 of chapter 94G shall be registered with the commissioner,
210 the fee for which shall be \$100, and such registration shall expire on March 31st of the year
211 following the date of issuance, unless sooner revoked. Chapter 128 is further amended by adding
212 the following section:

213 Section 3. (c) Annually on or before the 31st day of December all registered marijuana
214 farms shall in a manner prescribed by the commissioner report their yield per acre by weight of
215 seed and stalk, and the identity of each marijuana product manufacturer and marijuana retailer, as
216 defined in section 1 of chapter 94G, who purchased marijuana from them, the amount of
217 marijuana sold to them by weight and the purchase price and the amount of marijuana by weight
218 sold by the farm at retail and the purchase price.

219 SECTION 19. 94G of Chapter 334 of the acts of 2016 is hereby amended by inserting the
220 following new Section, Section 6: (A) Retailers shall

221 (a) deny persons under the age of 21 access to rooms in which marijuana or marijuana
222 products are displayed for sale by verifying by means of valid government issued photographic
223 identification that each person entering the sales room is 21 years of age or older and repeating
224 the verification prior to sale—no such verification is required for any person who appears 27
225 years of age or older—and, if employing 6 or more persons, shall undertake an in-house secret
226 shopper program as a routine part of its business to test implementation and compliance with this
227 age verification requirement;

228 (b) not use vending machines or any other electronic or mechanical device to effectuate
229 sales of marijuana or marihuana products;

230 (c) not use self-service displays of marijuana or marijuana products;

231 (d) not display marijuana or marijuana products exposed for sale to persons outside the
232 sales room;

233 (e) implement and operate a training program for all employees who handle exchanges of
234 marijuana or marihuana products regarding compliance with laws prohibiting the sale of
235 marijuana or marijuana products to juveniles and minors;

236 (f) post a copy of the penalties set forth in subdivision (1) of section 24 of chapter 90 for
237 driving under the influence and for the sale, delivery or furnishing marijuana or marijuana
238 products to a juvenile or minor. Said copies shall be posted conspicuously by the owner or
239 person in charge of the respective establishment.

240 (g) place purchases in sealed containers;

241 (h) affix to all packages containing marijuana a label in boldface font of not less than 10
242 points, with these warnings, in boldface: "For adults only. Keep out of reach of children", "May
243 be habit-forming", "It is a crime to operate a motor vehicle, recreational vehicle, boat or aircraft
244 if impaired by consumption of this product" and "This product must be stored in a locked
245 container when you are not present."

246 (B) Advertising

247 (a) Outdoor advertising, including advertising in enclosed stadiums and advertising from
248 within a retail establishment that is directed toward or visible from the outside of the

249 establishment, in any location that is within a 1,000-foot radius of any public playground,
250 playground area in a public park, elementary school or secondary school is prohibited.

251 (b) Point-of-sale advertising of marijuana or marijuana products outside of the sales room
252 may be placed on the premises, provided that no portion of such advertising is placed lower than
253 5 feet from the floor of any retail establishment which is located within a 1,000-foot radius of
254 any public playground, playground area in a public park, elementary school or secondary school,
255 and which is not an adult-only retail establishment.

256 (c) The use of cartoon characters in any advertisement is prohibited.

257 (d) No signs or other printed matter advertising any brand or kind of marijuana or
258 marijuana product shall be displayed on the exterior or interior of any licensed premises where
259 such a brand or kind of marijuana or marijuana product is not regularly and usually kept for sale.

260 (e) The use of vehicles equipped with either radio or loudspeakers for the advertising of
261 marijuana or marihuana products is prohibited. The use of radio or loudspeaker equipment in any
262 licensed premises for the purpose of attracting attention to the sale of marijuana or marijuana
263 products therein is also prohibited. Any retailer that violates the provisions of this section shall
264 be subject to a civil penalty of \$1000 but not to any other form of criminal or civil punishment or
265 disqualification. Enforcement shall be in a manner consistent with the provisions of section 21D
266 of chapter 40 of the General Laws.”

267 SECTION 19. Section 1. Clause (1) of subsection (a) of section 7 of chapter 94G of the
268 General Laws, inserted by section 5 of chapter 334 of the acts of 2016, is hereby amended by
269 striking out the words “1 ounce or less of” Said clause (1) of subsection (a) of section 7 of
270 chapter 94G of the General Laws, inserted by section 5 of chapter 334 of the acts of 2016, is

271 hereby further amended by striking out the words “except that not more than 5 grams of
272 marijuana may be in the form of marijuana concentrate” and inserting in place thereof the
273 following words:-or a form of marijuana concentrate.

274 Section 2. Clause (2) of subsection (a) of section 7 of chapter 94G of the General Laws,
275 inserted by section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out the
276 words “up to 10 ounces of” and is hereby further amended by striking out the words “not more
277 than 6” and further amended by striking out the words “so long as not more than 12 plants are
278 cultivated on the premises at once”

279 Section 3. Clause (4) of subsection (a) of section 7 of chapter 94G of the General Laws,
280 inserted by section 5 of chapter 334 of the acts of 2016, is hereby further amended by striking
281 out the words “up to 1 ounce of marijuana, except that not more than 5 grams of marijuana may
282 be in the form of marijuana concentrate” and inserting in place thereof the following words:-
283 “marijuana or a form of marijuana concentrate.”

284 Section 4. Subsection (d) of section 7 of chapter 94G of the General Laws, inserted by
285 section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out the word
286 “responsibility.” and inserting in place thereof the following words:- “responsibility. A parent’s
287 conduct related to marijuana permitted under chapter 94G shall not be considered misconduct in
288 making an order or judgment relative to visitation or custody of a child.”

289 SECTION 20. Section 1. Section 13 of chapter 94G of the General Laws, inserted by
290 section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out all language in
291 subsection (b) Restrictions on personal possession

292 Section 2. Subsection (c) of section 13 of chapter 94G of the General Laws, inserted by
293 section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out the figure “(c)”
294 and inserting in place thereof the following figure: “(b).”

295 Section 3. Subsection (d) of section 13 of chapter 94G of the General Laws, inserted by
296 section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out the figure “(d)”
297 and inserting in place thereof the following figure: “(c).”

298 Section 4. Subsection (e) of section 13 of chapter 94G of the General Laws, inserted by
299 section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out the figure “(e)”
300 and inserting in place thereof the following figure: (d).”

301 Section 6. Said subsection (e) of section 13 of chapter 94G of the General Laws, inserted
302 by section 5 of chapter 334 of the acts of 2016, is hereby further amended by striking out the
303 words “age and who cultivates more than 6 but not more than 12 marijuana plants or who
304 possesses an amount of marijuana outside of his or her place of residence having a weight of
305 more than 1 ounce but not more than 2 ounces shall be subject only to a civil penalty of not more
306 than \$100 and forfeiture of the marijuana not allowed by section 8 of this chapter, but shall not
307 be subject to any other form of criminal or civil punishment or disqualification solely for this
308 conduct.” and inserting in place thereof the following words: “age, may cultivate an unlimited
309 amount of marijuana inside of his or her place of residence, and shall not be subject to any form
310 of criminal or civil punishment for cultivating and possessing any amount marijuana.”

311 Section 7. Subsection (f) of section 13 of chapter 94G of the General Laws, inserted by
312 section 5 of chapter 334 of the acts of 2016, is hereby amended by striking out the figure “(f)”
313 and inserting in place thereof the following figure: (e).”

314 SECTION 20. Section 1.Said subsection (f) of section 13 of chapter 94G of the General
315 Laws, inserted by section 5 of chapter 334 of the acts of 2016, is hereby further amended by
316 striking out the word “offense.” and inserting in place thereof the following words: “offense.”
317 Such an offender shall also undergo a substance abuse evaluation conducted by a licensed
318 alcohol and drug counselor as defined in section 1 of chapter 111J, and a report of the evaluation
319 shall be provided to the parents or legal guardian and to the offender if over the age of 16.

320 Section 2. section 13 of Chapter 94G is further amended by adding the following new
321 section, Section (h) Any person 21 years of age or older who fails to comply with the provisions
322 of chapter 94G of the G.L. and as a result of such noncompliance a person under the age of 21,
323 not his spouse, who was a foreseeable trespasser or guest acquires marijuana shall be punished
324 by a fine of not more than \$2,000 or by imprisonment for not more than 1 year or both.

325 Section 3. section 13 of Chapter 94G is further amended by adding the following new
326 section, Section (I) Any person 21 years of age or older who knowingly allows a person under 21
327 years of age, to consume marijuana on premises or property owned or controlled by the person
328 charged shall be punished by a fine of not more than \$2,000 or by imprisonment for not more
329 than 1 year or both.

330 Section 4. Section 13 of Chapter 94G is further amended by adding the following new
331 section, Section (j) (1) Any person 21 years of age or older who sells, distributes or delivers
332 marijuana to a person they know or should know is under 21 years of age, shall be punished by a
333 fine of not more than \$3,000 or by imprisonment for not more than 2 years or both. (2) Any
334 person convicted of violating subsection (1) of this section after one or more prior convictions, or
335 of any offense of any other jurisdiction, federal, state, or territorial, which is the same as or

336 necessarily includes the elements of said offense, shall be imprisoned in state prison for not more
337 than 5 years or a house of correction for not more than 2 years, or a fine of not less than \$3,000
338 nor more than \$5,000 or both such fine and imprisonment.”

339 Section 5. Section 13 of chapter 94G of the General Laws, inserted by section 5 of
340 chapter 334 of the acts of 2016, is hereby amended by adding the following figure and language:
341 “ (k) Whoever intentionally administers marijuana or causes marijuana to be ingested by a
342 person without that person’s knowledge and consent, or whoever intentionally leaves unattended
343 marijuana in a public place shall be punished by a term of imprisonment in the state prison for
344 not less than two and one-half nor more than 5 years or by imprisonment in a jail or house of
345 correction for not less than 1 nor more than two and one-half years and a fine of not less than
346 \$500 nor more than \$10,000.”

347 Section 7. Section 13 of chapter 94G of the General Laws, inserted by section 5 of
348 chapter 334 of the acts of 2016, is hereby amended by adding the following figure and language:
349 “(m) The delivery of marijuana in or from a building, booth, stand or other place, except a
350 private dwelling-house, such delivery in any case being to a person not a resident therein, shall
351 be prima facie evidence that such delivery is a sale.”

352 Section 8. Section 13 of chapter 94G of the General Laws, inserted by section 5 of
353 chapter 334 of the acts of 2016, is hereby amended by adding the following figure and language:
354 “(n) Issuance of search warrant for marijuana kept or deposited contrary to law Search warrants
355 may issue upon the application of 2 persons of full age under oath setting forth the facts upon
356 which they rely for their belief that marijuana described in the application is kept or deposited by
357 a person named therein in the place specified therein and intended for sale contrary to law. In all

358 other respects such application, warrant and execution shall comply with the provisions of
359 sections 1, 2, 2A, 2B and 3 of chapter 276.”

360 SECTION 22. Chapter 94G of the General Laws, inserted by section 5 of chapter 334 of
361 the acts of 2016, is amended by adding at the end thereof the following new Section, Section 15,
362 Chapter 334 of the Acts of 2016 and the inserted chapter 94G of the general laws and the
363 amended sections to chapter 94G of the general laws shall apply retroactively to:

364 (a) all unpaid citations for violation of section 32L of chapter 94C;

365 (b) all criminal actions pending in the courts of the commonwealth alleging a person 21
366 years of age or older at the time of offense violated section 34 of chapter 94C;

367 (c) all criminal actions pending in the courts of the commonwealth alleging a person 21
368 years of age or older at the time of offense violated section 32C of chapter 94C by means of
369 cultivating marijuana where there is insufficient proof that the defendant intended to distribute it
370 for profit.

371 (d) all criminal actions pending in the courts of the commonwealth alleging a person 21
372 years of age or older at the time of offense violated section 40 of chapter 94C where the
373 defendant was the customer and there is insufficient proof that the defendant intended to
374 distribute it for profit.

375 SECTION 23. Chapter 94G of the General Laws, inserted by section 5 of chapter 334 of
376 the acts of 2016, is amended by adding at the end thereof the following new section, Section 16.
377 The commissioner of banks shall promulgate rules and regulations establishing standards relative
378 to the provision of banking services by banks or credit unions under his supervision for the

379 provision of banking services to entities authorized to engage in marijuana commerce under
380 chapter 94C of the general laws. Such regulations to be established by July 1, 2017.

381 SECTION 24: Section 10 of chapter 209C of the general laws is amended by adding the
382 following subsection: (g) In making an order or judgment relative to visitation or custody of
383 child, a parent’s conduct related to marijuana permitted under chapter 94C shall not be
384 considered misconduct.

385 SECTION 25. Section 14 of chapter 139 of the general laws is hereby amended by
386 inserting after the word “thirty-eight” the words—“illegal keeping or sale of marijuana, as
387 defined in chapter 94C,”.

388 SECTION 26. Section 3 of chapter 40A of the General Laws, as inserted by section 1 of
389 chapter 351 of the acts of 2016, is hereby amended by striking out, in lines 39 - 42, the words
390 “thereof provided, however, that the terms agriculture, aquaculture, floriculture or horticulture
391 shall not include the growing, cultivation, distribution or dispensation of marijuana as defined in
392 section 2 of Chapter 369 of the Acts of 2012, marijuana as defined in section 1 of chapter 94C or
393 marijuana or marijuana as defined in section 1 of chapter 94G.” and inserting in place thereof the
394 following word: ‘thereof;’

395 SECTION 27. Section 62 of chapter 149 of the General Laws is hereby amended as
396 follows: (a)inserting after the word “bottled” in clause (13) — “or if under the age of 21 in the
397 cultivating of cannabis or harvesting of cannabis or the production and packaging of marijuana
398 products”; and (b)inserting after the word “liquors” in clause (14) —“or if under the age of 21
399 marijuana or marijuana products”.

400 SECTION 28. The provisions of sections 186, 187, 188-190, 192 and 193 of chapter 94 of
401 the General Laws in the case of food shall apply to marijuana and marijuana products; however,
402 marijuana shall not be considered for purposes hereof a poisonous or deleterious substance.

403 SECTION 29. Section 187 of chapter 94 of the General Laws is hereby amended by
404 striking the words "cannabis" and "marijuana" following the words, "Fifth, if it is for use by man
405 and contains any quantity of the narcotic or hypnotic substance."

406 SECTION 3. The first paragraph of section 24J of chapter 90 of the General Laws is
407 hereby amended by inserting after the word "liquor" the words "or marijuana". The first
408 paragraph of section 24J is further amended by inserting after the words "served alcohol" in the
409 first paragraph the words "or marijuana". The first paragraph of section 24J is further amended
410 by inserting after the words "alcohol on the premises" the words "or marijuana on the premises".
411 The second paragraph of section 24J is amended by inserting after the word "shall" the words "in
412 the case of alcohol". The second paragraph of section 24J is amended by inserting after the word
413 "commission," the words "or in the case of marijuana to the local licensing authority and".

414 SECTION 31. Severability - The provisions of this law are severable and if any clause,
415 sentence, paragraph or section of this measure, or an application thereof, shall be adjudged by
416 any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or
417 invalidate the remainder thereof but shall be confined in its operation to the clause, sentence,
418 paragraph, section or application adjudged invalid. We the undersigned state under the pains and
419 penalties of perjury that we have personally read the final text of this proposed statute, fully
420 subscribe to its contents, are qualified voters of the commonwealth at the addresses printed

421 below our names, and freely and voluntarily agree to be one of its original signers as required by
422 Amendment Article 48 of the Constitution of the Commonwealth of Massachusetts.