

The Commonwealth of Massachusetts

PRESENTED BY:

Hannah Kane

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 the regulatory authority for oversight of the recreational marijuana industry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Hannah Kane	11th Worcester	1/20/2017
Donald R. Berthiaume, Jr.	5th Worcester	2/3/2017
Thomas J. Calter	12th Plymouth	2/2/2017
Claire D. Cronin	11th Plymouth	1/27/2017
David F. DeCoste	5th Plymouth	1/23/2017
Shawn Dooley	9th Norfolk	1/24/2017
Carolyn C. Dykema	8th Middlesex	1/25/2017
Kimberly N. Ferguson	1st Worcester	1/23/2017
Paul K. Frost	7th Worcester	2/2/2017
Denise C. Garlick	13th Norfolk	2/2/2017
Danielle W. Gregoire	4th Middlesex	1/26/2017
Sheila C. Harrington	1st Middlesex	1/26/2017
Kevin J. Kuros	8th Worcester	2/3/2017
James J. Lyons, Jr.	18th Essex	1/25/2017
Joseph D. McKenna	18th Worcester	1/25/2017
Michael O. Moore	Second Worcester	2/3/2017
David K. Muradian, Jr.	9th Worcester	2/2/2017
Mathew Muratore	1st Plymouth	1/23/2017

David M. Nangle	17th Middlesex	1/30/2017
John H. Rogers	12th Norfolk	2/3/2017
Thomas M. Stanley	9th Middlesex	2/2/2017
John C. Velis	4th Hampden	2/2/2017
Jonathan D. Zlotnik	2nd Worcester	2/2/2017

By Mrs. Kane of Shrewsbury, a petition (accompanied by bill, House, No. 3373) of Hannah Kane and others for legislation to establish the marijuana health and safety protection commission. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

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

An Act relative to the regulatory authority for oversight of the recreational marijuana 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 SECTION 1. Chapter 10 of the General Laws is hereby amended by striking subsections

2 76 and 77.

3 SECTION 2. The General Laws are hereby amended by inserting after chapter 23M the

4 following chapter:-

5 CHAPTER 23N. The Marijuana Health and Safety Protection Commission

6 Section 1. Marijuana health and safety protection commission; members; appointment;

7 terms; chairman; secretary

- 8 (a) There shall be a commission known as the Marijuana Health and Safety Protection
- 9 Commission, hereinafter referred to in this section and in sections 1 to 2 inclusive, as the
- 10 commission, to have general supervision and sole regulatory authority over the conduct of the
- 11 business of marijuana establishments. The commission shall consist of 5 commissioners, 1 of

12 whom shall be appointed by the treasurer and receiver general who shall have experience in 13 licensure and corporate structure or marijuana related regulatory oversight; 1 of whom shall be 14 appointed by the governor who shall have experience in public health and substance abuse 15 prevention and treatment; 1 of whom shall be appointed by the attorney general who shall have 16 experience in criminal investigations and law enforcement; 1 of whom shall be appointed by a 17 majority vote of the governor, attorney general and the treasurer and receiver general who shall 18 have experience in agriculture and environmental matters; and 1 of whom shall be appointed by 19 a majority vote of the governor, attorney general and the treasurer and receiver general who shall 20 have experience in municipal government. The treasurer and receiver general shall designate the 21 chair of the commission. The chair shall serve in that capacity throughout the term of 22 appointment and until a successor shall be appointed. Prior to appointment to the commission, a 23 background investigation shall be conducted into the financial stability, integrity and 24 responsibility of a candidate, including the candidate's reputation for good character, honesty and 25 integrity. No person who has been convicted of a felony shall be eligible to serve on the 26 commission.

(b) Each commissioner shall be a resident of the commonwealth within 90 days of
appointment and, while serving on the commission, shall not: (i) hold, or be a candidate for,
federal, state or local elected office; (ii) hold an appointed office in a federal, state, or local
government; or (iii) serve as an official in a political party. Not more than 3 commissioners shall
be from the same political party.

(c) Each commissioner shall serve for a term of 5 years or until a successor is appointed,
 provided that of the Commissioners first appointed to serve on the inaugural commission, the
 appointee of the Governor shall serve for a term of one year, the appointee of the treasurer and

35 receiver general shall serve for a term of 2 years, the appointee of the attorney general shall serve 36 for a term of 3 years, and the appointee with experience in agriculture and environmental matters 37 shall serve for a term of 4 years. Each shall be eligible for reappointment; provided, however, 38 that no commissioner, with the exception of the appointees serving an initial term of 4 years or 39 less, shall serve more than 10 years; A person appointed to fill a vacancy in the office of a 40 commissioner shall be appointed in a like manner and shall serve for only the unexpired term of 41 such commissioner. The governor may remove a commissioner if the commissioner: (i) is guilty 42 of malfeasance in office; (ii) substantially neglects the duties of a commissioner; (iii) is unable to 43 discharge the powers and duties of the commissioner's office; (iv) commits gross misconduct; or 44 (v) is convicted of a felony.

(d) The commission shall annually elect 1 of its members to serve as secretary and 1 of its members to serve as treasurer. The secretary shall keep a record of the proceedings of the commission and shall be the custodian and keeper of the records of all books, documents and papers filed by the commission. The secretary shall cause copies to be made of all minutes and other records and documents of the commission and shall certify that such copies are true copies, and all persons dealing with the commission may rely upon such certification.

(e) The chair shall have and exercise supervision and control over all the affairs of the commission. The chair shall preside at all hearings at which the chair is present and shall designate a commissioner to act as chair in the chair's absence. To promote efficiency in administration, the chair shall, from time to time, make such division or re-division of the work of the commission among the commissioners as the chair deems expedient.

56 (f) 3 members shall constitute a quorum for conducting the business of the commission 57 and the affirmative vote of 3 commissioners shall be required for an action of the commission. 58 The chair or 3 members of the commission may call a meeting; provided, however, that notice of 59 all meetings shall be given to each commissioner and to other persons who request such notice. 60 The commission shall adopt regulations establishing procedures, which may include electronic 61 communications, by which a request to receive notice shall be made and the method by which 62 timely notice may be given. A vacancy shall not impair the right of the remaining members to 63 exercise the powers of the commission.

(g) Commissioners shall receive salaries not greater than three-quarters of the salary of
the commissioner of administration and finance under section 4 of chapter 7; provided, however,
that the chair shall receive a salary equal to the salary of the commissioner of administration and
finance. Commissioners shall devote their full time and attention to the duties of their office.

68 (h) All of the commissioners shall, if so directed by the chair, participate in the hearing 69 and decision of any matter before the commission; provided, however, that at least 3 70 commissioners shall participate in the hearing and decision of matters other than those of formal 71 or administrative character coming before the commission; provided further, that any such matter 72 may be heard, examined and investigated by an employee of the commission designated and 73 assigned by the chair, with the concurrence of 1 other commissioner. Such employee shall make 74 a report in writing relative to the hearing, examination and investigation of every such matter to 75 the commission for its decision. For the purposes of hearing, examining and investigating any 76 such matter, such employee shall have all of the powers conferred upon a commissioner by this 77 section. For each hearing, the concurrence of a majority of the commissioners participating in the 78 decision shall be necessary.

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80 (i) The commission shall appoint an executive director. The executive director shall serve 81 at the pleasure of the commission, shall receive such salary as may be determined by the 82 commission, and shall devote full time and attention to the duties of the office. The executive 83 director shall be a person with skill and experience in management and shall be the executive and administrative head of the commission and shall be responsible for administering and enforcing 84 85 the provisions of law relative to the commission and to each administrative unit thereof. The 86 executive director shall appoint and employ a chief financial and accounting officer and may, 87 subject to the approval of the commission, employ other employees, consultants, agents and 88 advisors, including legal counsel, and shall attend meetings of the commission. The chief 89 financial and accounting officer of the commission shall be in charge of its funds, books of 90 account and accounting records. No funds shall be transferred by the commission without the 91 approval of the commission and the signatures of the chief financial and accounting officer and 92 the treasurer. In the case of an absence or vacancy in the office of the executive director or in the 93 case of disability as determined by the commission, the commission may designate an acting 94 executive director to serve as executive director until the vacancy is filled or the absence or 95 disability ceases. The acting executive director shall have all of the powers and duties of the 96 executive director and shall have similar qualifications as the executive director.

97 (j) The executive director may, from time to time and subject to the approval of the 98 commission, establish within the commission such administrative units as may be necessary for 99 the efficient and economical administration of the commission and, when necessary for such 100 purpose, may abolish any such administrative unit or may merge any 2 or more units. The 101 executive director shall prepare and keep current a plan of organization of the commission, of the

assignment of its functions to its various administrative units, offices and employees and of the
places at which and the methods by which the public may receive information or make requests.
A current copy of the plan of organization shall be kept on file with the state secretary and in the
office of the secretary of administration and finance.

106 (k) The executive director may appoint such persons as the executive director shall 107 consider necessary to perform the functions of the commission; provided, however, that chapter 108 31 and section 9A of chapter 30 shall not apply to commission employees. If an employee 109 serving in a position which is classified under said chapter 31 or in which an employee has 110 tenure by reason of said section 9A of said chapter 30 shall be appointed to a position within the 111 commission which is not subject to said chapter 31, the employee shall, upon termination of 112 service in such position, be restored to the position which the employee held immediately prior 113 to such appointment; provided, however, that the employee's service in such position shall be 114 determined by the civil service commission in accordance with the standards applied by that 115 commission in administering said chapter 31. Such restoration shall be made without impairment 116 of the employee's civil service status or tenure under said section 9A of said chapter 30 and 117 without loss of seniority, retirement or other rights to which uninterrupted service in such prior 118 position would have entitled such employee. During the period of such appointment, each person 119 so appointed from a position in the classified civil service shall be eligible to take any 120 competitive promotional examination for which such person would otherwise have been eligible. 121 Employees of the commission shall be classified as group 1 pursuant to paragraph (g) of 122 subdivision (2) of section 3 of chapter 32.

(1) Immediately upon assuming office, each commissioner and employee of thecommission, except for secretarial and clerical personnel, shall swear or affirm that the

125 commissioner or employee possesses no interest in a marijuana establishment. No individual 126 shall be employed by the commission if, during the period commencing 3 years prior to 127 employment, that individual held any direct or indirect interest in, or was employed by, a 128 licensee of a marijuana establishment. 129 (m) No employee of the commission shall pursue any other business or occupation or 130 other gainful employment outside of the commission without the prior written approval of the 131 commission that such employment will not interfere or be in conflict with the employee's duties 132 to the commission. 133 (n) No commissioner shall acquire an interest in, or accept employment with, an 134 applicant or licensee for a period of 3 years after the termination of employment with the 135 commission. 136 (o) No employee of the commission holding a major policymaking position shall acquire 137 an interest in, or accept employment with, an applicant or licensee for a period of 2 years after 138 the termination of employment with the commission. 139 (p) No employee of the commission in a non-major policymaking position shall acquire 140 an interest in, or accept employment with, an applicant or a licensee of marijuana establishment

141 for a period of 1 year after termination of employment with the commission.

(q) The commissioners and those employees holding major policymaking positions shall
be sworn to the faithful performance of their official duties. The commissioners and those
employees holding major policymaking positions shall: (i) conduct themselves in a manner so as
to render decisions that are fair and impartial and in the public interest; (ii) avoid impropriety and
the appearance of impropriety in all matters under their jurisdiction; (iii) avoid all prohibited

communications; (iv) require staff and personnel subject to their direction and control to observe
the same standards of fidelity and diligence; (v) disqualify themselves from proceedings in
which their impartiality might reasonably be questioned; and (vi) refrain from financial or
business dealings which would tend to reflect adversely on impartiality.

151 (r) The commissioners and employees shall not own, or be in the employ of, or own any 152 stock in, a business which holds a marijuana establishment license, nor shall they have, directly 153 or indirectly, a pecuniary interest in, or be connected with, any such business or be in the employ 154 of or connected with any person financing any such business; provided, however, that immediate 155 family members of commissioners and employees holding major policymaking positions shall 156 not own, or be in the employ of, or own stock in, any business which holds a marijuana 157 establishment license. The commissioners and employees shall not personally, or through a 158 partner or agent, render professional services or make or perform any business contract with or 159 for any regulated entity, except contracts made with the commissioners for the furnishing of 160 services, nor shall the commissioners or employees directly or indirectly receive any 161 commission, bonus, discount, gift or reward from a regulated entity.

(s) The marijuana health and safety protection commission shall be a commission for thepurposes of section 3 of chapter 12.

(t) The commission shall establish a comprehensive employee accountability and internal
control system that closely aligns with the human resources division's rules and policies
established pursuant to section 28 of chapter 7 for employees and managers not subject to
collective bargaining under chapter 150E. The system shall take into account rates set by the
United States General Services Administration for similar services when determining the

maximum reimbursable rate and shall include specific policies related to travel expenses and
meal reimbursement, including a requirement that the commission shall not reimburse employees
for alcoholic beverages or marijuana products.

- (u) All records of the commission shall be considered public records within the meaningof chapter 66 of the General Laws.
- 174 SECTION 3. Section 1 of Chapter 94G of the General Laws is hereby amended by
- 175 striking subsection (c) and inserting in place thereof the following section:-
- 176 (c) "Commission", The Marijuana Health and Safety Protection Commission established
 177 by Chapter 23N of the General Laws.