

HOUSE No. 3373

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:
<i>Hannah Kane</i>	<i>11th Worcester</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>James J. Lyons, Jr.</i>	<i>18th Essex</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>

<i>David M. Nangle</i>	<i>17th Middlesex</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>John C. Velis</i>	<i>4th Hampden</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>

HOUSE No. 3373

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.

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

32 (c) Each commissioner shall serve for a term of 5 years or until a successor is appointed,
33 provided that of the Commissioners first appointed to serve on the inaugural commission, the
34 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.

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

51 (e) The chair shall have and exercise supervision and control over all the affairs of the
52 commission. The chair shall preside at all hearings at which the chair is present and shall
53 designate a commissioner to act as chair in the chair's absence. To promote efficiency in
54 administration, the chair shall, from time to time, make such division or re-division of the work
55 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.

64 (g) Commissioners shall receive salaries not greater than three-quarters of the salary of
65 the commissioner of administration and finance under section 4 of chapter 7; provided, however,
66 that the chair shall receive a salary equal to the salary of the commissioner of administration and
67 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.

79

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
84 administrative head of the commission and shall be responsible for administering and enforcing
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

102 assignment of its functions to its various administrative units, offices and employees and of the
103 places at which and the methods by which the public may receive information or make requests.
104 A current copy of the plan of organization shall be kept on file with the state secretary and in the
105 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.

123 (l) Immediately upon assuming office, each commissioner and employee of the
124 commission, 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.

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

147 communications; (iv) require staff and personnel subject to their direction and control to observe
148 the same standards of fidelity and diligence; (v) disqualify themselves from proceedings in
149 which their impartiality might reasonably be questioned; and (vi) refrain from financial or
150 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.

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

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

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

172 (u) All records of the commission shall be considered public records within the meaning
173 of 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.