

SENATE No. 1064

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/24/2017</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/25/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/2/2017</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>	<i>2/1/2017</i>

SENATE No. 1064

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 1064) of Jason M. Lewis, Joseph D. McKenna, Richard J. Ross, Steven Ultrino and others for legislation relative to the regulatory authority for oversight of the recreational marijuana industry. Marijuana Policy.

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 from a
20 list of three nominees submitted by the American Civil Liberties Union of Massachusetts, the
21 National Association for the Advancement of Colored People and the Union of Minority
22 Neighborhoods. The treasurer and receiver general shall designate the chair of the commission.
23 The chair shall serve in that capacity throughout the term of appointment and until a successor
24 shall be appointed. Prior to appointment to the commission, a background investigation shall be
25 conducted into the financial stability, integrity and responsibility of a candidate, including the
26 candidate's reputation for good character, honesty and integrity. No person who has been
27 convicted of a felony shall be eligible to serve on the commission.

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

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

35 appointee of the Governor shall serve for a term of one year, the appointee of the treasurer and
36 receiver general shall serve for a term of 2 years, the appointee of the attorney general shall serve
37 for a term of 3 years, and the appointee with experience in agriculture and environmental matters
38 shall serve for a term of 4 years. Each shall be eligible for reappointment; provided, however,
39 that no commissioner, with the exception of the appointees serving an initial term 4 years or less,
40 shall serve more than 10 years; A person appointed to fill a vacancy in the office of a
41 commissioner shall be appointed in a like manner and shall serve for only the unexpired term of
42 such commissioner. The (d) The commission shall annually elect 1 of its members to serve as
43 secretary and 1 of its members to serve as treasurer. The secretary shall keep a record of the
44 proceedings of the commission and shall be the custodian and keeper of the records of all books,
45 documents and papers filed by the commission. The secretary shall cause copies to be made of
46 all minutes and other records and documents of the commission and shall certify that such copies
47 are true copies, and all persons dealing with the commission may rely upon such certification.

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

53 (f) 3 members shall constitute a quorum for conducting the business of the commission
54 and the affirmative vote of 3 commissioners shall be required for an action of the commission.
55 The chair or 3 members of the commission may call a meeting; provided, however, that notice of
56 all meetings shall be given to each commissioner and to other persons who request such notice.
57 The commission shall adopt regulations establishing procedures, which may include electronic

58 communications, by which a request to receive notice shall be made and the method by which
59 timely notice may be given. A vacancy shall not impair the right of the remaining members to
60 exercise the powers of the commission.

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

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

76 (i) The commission shall appoint an executive director. The executive director shall serve
77 at the pleasure of the commission, shall receive such salary as may be determined by the
78 commission, and shall devote full time and attention to the duties of the office. The executive
79 director shall be a person with skill and experience in management and shall be the executive and

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

93 (j) The executive director may, from time to time and subject to the approval of the
94 commission, establish within the commission such administrative units as may be necessary for
95 the efficient and economical administration of the commission and, when necessary for such
96 purpose, may abolish any such administrative unit or may merge any 2 or more units. The
97 executive director shall prepare and keep current a plan of organization of the commission, of the
98 assignment of its functions to its various administrative units, offices and employees and of the
99 places at which and the methods by which the public may receive information or make requests.
100 A current copy of the plan of organization shall be kept on file with the state secretary and in the
101 office of the secretary of administration and finance.

102 (k) The executive director may appoint such persons as the executive director shall
103 consider necessary to perform the functions of the commission; provided, however, that chapter
104 31 and section 9A of chapter 30 shall not apply to commission employees. If an employee
105 serving in a position which is classified under said chapter 31 or in which an employee has
106 tenure by reason of said section 9A of said chapter 30 shall be appointed to a position within the
107 commission which is not subject to said chapter 31, the employee shall, upon termination of
108 service in such position, be restored to the position which the employee held immediately prior
109 to such appointment; provided, however, that the employee's service in such position shall be
110 determined by the civil service commission in accordance with the standards applied by that
111 commission in administering said chapter 31. Such restoration shall be made without impairment
112 of the employee's civil service status or tenure under said section 9A of said chapter 30 and
113 without loss of seniority, retirement or other rights to which uninterrupted service in such prior
114 position would have entitled such employee. During the period of such appointment, each person
115 so appointed from a position in the classified civil service shall be eligible to take any
116 competitive promotional examination for which such person would otherwise have been eligible.
117 Employees of the commission shall be classified as group 1 pursuant to paragraph (g) of
118 subdivision (2) of section 3 of chapter 32.

119 (l) Immediately upon assuming office, each commissioner and employee of the
120 commission, except for secretarial and clerical personnel, shall swear or affirm that the
121 commissioner or employee possesses no interest in a marijuana establishment. No individual
122 shall be employed by the commission if, during the period commencing 3 years prior to
123 employment, that individual held any direct or indirect interest in, or was employed by, a
124 licensee of a marijuana establishment.

125 (m) No employee of the commission shall pursue any other business or occupation or
126 other gainful employment outside of the commission without the prior written approval of the
127 commission that such employment will not interfere or be in conflict with the employee's duties
128 to the commission.

129 (n) No commissioner shall acquire an interest in, or accept employment with, an
130 applicant or licensee for a period of 3 years after the termination of employment with the
131 commission.

132 (o) No employee of the commission holding a major policymaking position shall acquire
133 an interest in, or accept employment with, an applicant or licensee for a period of 2 years after
134 the termination of employment with the commission.

135 (p) No employee of the commission in a non-major policymaking position shall acquire
136 an interest in, or accept employment with, an applicant or a licensee of marijuana establishment
137 for a period of 1 year after termination of employment with the commission.

138 (q) The commissioners and those employees holding major policymaking positions shall
139 be sworn to the faithful performance of their official duties. The commissioners and those
140 employees holding major policymaking positions shall: (i) conduct themselves in a manner so as
141 to render decisions that are fair and impartial and in the public interest; (ii) avoid impropriety and
142 the appearance of impropriety in all matters under their jurisdiction; (iii) avoid all prohibited
143 communications; (iv) require staff and personnel subject to their direction and control to observe
144 the same standards of fidelity and diligence; (v) disqualify themselves from proceedings in
145 which their impartiality might reasonably be questioned; and (vi) refrain from financial or
146 business dealings which would tend to reflect adversely on impartiality.

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

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

160 (t) The commission shall establish a comprehensive employee accountability and internal
161 control system that closely aligns with the human resources division's rules and policies
162 established pursuant to section 28 of chapter 7 for employees and managers not subject to
163 collective bargaining under chapter 150E. The system shall take into account rates set by the
164 United States General Services Administration for similar services when determining the
165 maximum reimbursable rate and shall include specific policies related to travel expenses and
166 meal reimbursement, including a requirement that the commission shall not reimburse employees
167 for alcoholic beverages or marijuana products.

168 (u) All records of the commission shall be considered public records within the meaning
169 of chapter 66 of the General Laws.

170 SECTION 3. Section 1 of chapter 94G of the General Laws is hereby amended by
171 striking subsection (c) and inserting in place thereof the following section:-

172 (c) "Commission", The Marijuana Health and Safety Protection Commission established
173 by chapter 23N of the General Laws.