

# SENATE . . . . . No. 1064

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Jason M. Lewis***

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*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.

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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

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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.

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## The Commonwealth of Massachusetts

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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

whom shall be appointed by the treasurer and receiver general who shall have experience in licensure and corporate structure or marijuana related regulatory oversight; 1 of whom shall be appointed by the governor who shall have experience in public health and substance abuse prevention and treatment; 1 of whom shall be appointed by the attorney general who shall have experience in criminal investigations and law enforcement; 1 of whom shall be appointed by a majority vote of the governor, attorney general and the treasurer and receiver general who shall have experience in agriculture and environmental matters; and 1 of whom shall be appointed by a majority vote of the governor, attorney general and the treasurer and receiver general from a list of three nominees submitted by the American Civil Liberties Union of Massachusetts, the National Association for the Advancement of Colored People and the Union of Minority Neighborhoods. The treasurer and receiver general shall designate the chair of the commission. The chair shall serve in that capacity throughout the term of appointment and until a successor shall be appointed. Prior to appointment to the commission, a background investigation shall be conducted into the financial stability, integrity and responsibility of a candidate, including the candidate's reputation for good character, honesty and integrity. No person who has been convicted of a felony shall be eligible to serve on the 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

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

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

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

(i) The commission shall appoint an executive director. The executive director shall serve at the pleasure of the commission, shall receive such salary as may be determined by the commission, and shall devote full time and attention to the duties of the office. The executive 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 the provisions of law relative to the commission and to each administrative unit thereof. The executive director shall appoint and employ a chief financial and accounting officer and may, subject to the approval of the commission, employ other employees, consultants, agents and advisors, including legal counsel, and shall attend meetings of the commission. The chief financial and accounting officer of the commission shall be in charge of its funds, books of account and accounting records. No funds shall be transferred by the commission without the approval of the commission and the signatures of the chief financial and accounting officer and the treasurer. In the case of an absence or vacancy in the office of the executive director or in the case of disability as determined by the commission, the commission may designate an acting executive director to serve as executive director until the vacancy is filled or the absence or disability ceases. The acting executive director shall have all of the powers and duties of the executive director and shall have similar qualifications as the executive director.

(j) The executive director may, from time to time and subject to the approval of the commission, establish within the commission such administrative units as may be necessary for the efficient and economical administration of the commission and, when necessary for such purpose, may abolish any such administrative unit or may merge any 2 or more units. The 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.

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

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

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

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

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

(p) No employee of the commission in a non-major policymaking position shall acquire an interest in, or accept employment with, an applicant or a licensee of marijuana establishment 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.



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.