

**HOUSE . . . . . No. 3530**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Jay D. Livingstone, (BY REQUEST)***

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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 order requiring the opinion of the Attorney General on questions of law, regarding the marijuana (cannabis) laws.

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PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Mark Thomas*

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**HOUSE . . . . . No. 3530**

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**The Commonwealth of Massachusetts**



*House of Representatives,*

\_\_\_\_\_  
**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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1            *Ordered,* 1.    WHEREAS, the citizens of the Commonwealth by Ballot Referendum  
2 Law on November 8, 2016 purported to legalize the production, regulation, sale and  
3 consumption of Marijuana in the Commonwealth of Massachusetts;

4    2.        WHEREAS, on July 20, 2017 the Massachusetts General Court by legislative law also  
5 purported to legalize the production, regulation, sale and consumption of Marijuana in the  
6 Commonwealth of Massachusetts (H.3818);

7    3.        WHEREAS, on July 28, 2017 the Governor of Massachusetts signed into law the  
8 legislative bill, purporting to legalize the production, regulation, sale and consumption of  
9 Marijuana in the Commonwealth of Massachusetts (M.G.L. c. 10 & c. 94G);

10   4.        WHEREAS, the production, regulation, sale and consumption of Marijuana in the  
11 Commonwealth of Massachusetts violates Federal Laws as a prohibited controlled substance

12 activity (21 U. S. C. §801, et seq.), upheld by *Gonzales v. Raich*, 545 U.S. 1 (2005), rebutting  
13 any legislative presumption of constitutionality of the Massachusetts Marijuana Laws;

14 5. WHEREAS, the production, regulation, sale and consumption of Marijuana in the  
15 Commonwealth of Massachusetts appears to violate both the Massachusetts Constitution and the  
16 United States Constitution in various and sundry ways;

17 6. WHEREAS, it appearing that the purported Citizen Referendum Question on November  
18 8, 2016 could, in no way, have been correctly and legally certified by the Massachusetts  
19 Attorney General to the Massachusetts Secretary of State, as being without constitutional, legal  
20 impediment and acceptable for citizen voting;

21 7. WHEREAS, the Massachusetts Supreme Judicial Court decision, *Sears v. Treasurer &*  
22 *Receiver General*, 98 N.E.2d 621, 629 (Mass. 1951) has asserted, “The people themselves and all  
23 branches of government, Legislative, Executive, Judiciary alike, are bound by the Constitution  
24 and owe to it implicit obedience.”

25 8. WHEREAS, the decisive landmark U.S. Supreme Court decision, *Gibbons v. Ogden*, 22  
26 U.S. 1, 210-11 (1824) declared, “When a federal and state law are in conflict, the federal law is  
27 supreme.” See *James v. City of Boise*, 136 S.Ct. 685 (2016).

28 9. WHEREAS, there appears no justifiable or legal reason why state laws contradicting the  
29 Massachusetts and United States Constitutions may exist as supposed laws;

30 10. WHEREAS, M.G.L. c. 12 § 9 grants authority to either the House of Representatives or  
31 the Senate to require that the Attorney General, “shall give [her] opinion upon questions of law  
32 submitted to [her]...by either branch of the general court,” this legal conflict being important,

33 exigent questions of law, as the General Court having neglected to secure such judicial opinions  
34 prior to authorizing the Marijuana Laws;

35 11. WHEREAS, Article VI, Clause 3 of the United States Constitution mandates “all  
36 executive Officers in every State shall support this Constitution,” thereby obligating her and the  
37 General Court, by Oath, to confront these “important questions of law.”

38 12. WHEREAS, this Order requiring the Attorney General to give her opinion shall only be  
39 approved, if the House refuses to require of the Supreme Judicial Court its respective opinions of  
40 law, OR, if the Supreme Judicial Court should refuse its respective opinion.

41 NOW THEREFORE, it appearing that the Citizen Referendum and Legislative laws legalizing  
42 Marijuana in the Commonwealth of Massachusetts are: (1) repugnant, both to the Massachusetts  
43 and United States Constitutions; (2) such laws appearing null and void by violating the dual  
44 constitutions; (3) it appearing that numerous Massachusetts’ officials stand in default of their  
45 Oaths of Office regarding the aforementioned dual constitutions:

46 BE IT ORDERED, by the Massachusetts Senate in the General Court assembled, by authority of  
47 M.G.L. c. 12 § 9, this body does respectfully require the opinion of the Massachusetts Attorney  
48 General, in an expeditious manner, on the following important, exigent question(s) of law,  
49 namely:

50 I. Does the Citizen Ballot law and Massachusetts General Court laws (“the Laws”)  
51 purporting to legalize the production, regulation, sale and consumption of Marijuana in the  
52 Commonwealth (“the Acts”), plainly violate the Massachusetts Constitution, Declaration of  
53 Rights, Article IV, as defying the United States Congress’ laws already in force regulating and  
54 prohibiting Marijuana?

- 55 II. Do “the Laws and Acts” violate the Massachusetts Constitution, Chapter I; § I; Article  
56 IV, “so as the same be not repugnant or contrary to this Constitution,” as also described by  
57 Amendment Article 48, II, § 2, Cl. 5?
- 58 III. Do “the Laws and Acts” impermissibly violate and defy the Supremacy Clause, Art. VI,  
59 et seq. of the United States Constitution and 21 U. S. C. §801, et seq.?
- 60 IV. Do the “Laws and Acts” unlawfully deprive all citizens the Privileges, Immunities and  
61 equal protection of being governed by “the supreme Law of the Land?”
- 62 V. May the Massachusetts Cannabis Commission purport to promote and regulate Marijuana  
63 use in the Commonwealth when the U.S. Congress has prohibited same?
- 64 VI. May that Commission, and others, execute illegal contracts with various entities against  
65 the Contracts Clause, Art. I, § 10, Cl. 1 of the United States Constitution?
- 66 VII. Do “the Laws and Acts” run afoul of Art. IV § 1, the Full Faith and Credit Clause?
- 67 VIII. Do “the Laws and Acts” violate the several Oaths of Office and performance required of  
68 Massachusetts government officials?
- 69 IX. Did the Massachusetts Attorney General properly certify to the Secretary of State that,  
70 such Question presented no constitutional, legal impediments regarding the Marijuana  
71 Referendum Ballot Question submitted to voters in November 8, 2016?
- 72 X. Can the foregoing important questions of law be summed up by answering the following  
73 question: “Are ‘the Laws and Acts’ null and void?”