

HOUSE No. 4398

House bill No. 4367, as amended and passed to be engrossed by the House. February 5, 2020.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to host community agreements.

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. Section 3 of chapter 94G of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof
3 the following subsection:-

4 (d) (1) A marijuana establishment or a medical marijuana treatment center, as defined in
5 section 1 of chapter 94I, seeking to operate or continue to operate in a municipality which
6 permits such operation shall execute an agreement with the host community setting forth the
7 conditions to have a marijuana establishment or medical marijuana treatment center located
8 within the host community which shall include, but not be limited to, all stipulations of
9 responsibilities between the host community and the marijuana establishment or medical
10 marijuana treatment center.

11 (2) An agreement between a marijuana establishment or a medical marijuana treatment
12 center and a host community may include a community impact fee for the host community;
13 provided, however, that the community impact fee shall be reasonably related to the costs

14 imposed upon the municipality by the operation of the marijuana establishment or medical
15 marijuana treatment center and shall not amount to more than 3 per cent of the gross sales of the
16 marijuana establishment or medical marijuana treatment center or be effective for longer than
17 one 5 year term; provided, however, that the 5 years shall commence on the date the marijuana
18 establishment or medical marijuana treatment center commences operation of business. The
19 community impact fee shall encompass all payments and obligations, including, but not limited
20 to, monetary payments, in kind contributions and charitable contributions by the marijuana
21 establishment or medical marijuana treatment center to the municipality or any other
22 organization pursuant to negotiations with the host community. Any other contractual financial
23 obligation that is explicitly or implicitly a factor considered in or is a condition of an agreement
24 shall not be enforceable; provided, however, that nothing shall preclude, nor require, a marijuana
25 establishment or a medical marijuana treatment center from voluntarily providing organizations
26 with in-kind contributions and charitable contributions after the execution of the host agreement.

27 (3) Terms and conditions related to the community impact fee shall be severable. If a
28 term or condition related to the community impact fee is invalidated by the commission, all
29 remaining provisions of the agreement shall remain in full force and effect. No applicant,
30 licensee, or holder of a provisional or final certificate of registration shall be denied a license,
31 registration, renewal thereof by the commission on the sole basis of an agreement containing an
32 invalid term or condition related to the community impact fee.

33 (4) An agreement required by this subsection may be waived at the discretion of the host
34 community with approval of the commission; provided, however, that the host community
35 submits to the commission a written waiver executed by the host community and the marijuana
36 establishment or medical marijuana treatment center.

37 (5) Any cost to a city or town imposed by the operation of a marijuana establishment or
38 medical marijuana treatment center shall be documented and considered a public record as
39 defined by clause Twenty-sixth of section 7 of chapter 4.

40 (6) The commission shall promulgate regulations necessary to carry out the provisions of
41 this subsection. SECTION 2. Subsection (a) of section 4 of said chapter 94G, as so
42 appearing, is hereby amended by striking out clauses (xxvii) and (xxviii) and inserting in place
43 thereof the following 3 clauses:-

44 (xxvii) monitor any federal activity regarding marijuana;

45 (xxviii) adopt, amend or repeal regulations for the implementation, administration and
46 enforcement of this chapter; and

47 (xxix) review, regulate and enforce all host community agreements pursuant to section 3.

48 SECTION 3. Subsection (a 1/2) of said section 4 of said chapter 94G, as so appearing, is
49 hereby amended by striking out clauses (xxxiii) and (xxxiv) and inserting in place thereof the
50 following 3 clauses:-

51 (xxxiii) requirements that prohibit marijuana product manufacturers from altering or
52 utilizing commercially-manufactured food products when manufacturing marijuana products
53 unless the food product was commercially manufactured specifically for use by the marijuana
54 product manufacturer to infuse with marijuana; provided, however, that a commercially-
55 manufactured food product may be used as an ingredient in a marijuana product if: (i) it is used
56 in a way that renders it unrecognizable as the commercial food product in the marijuana product;

57 and (ii) there is no statement or advertisement indicating that the marijuana product contains the
58 commercially-manufactured food product;

59 (xxxiv) energy and environmental standards for licensure and licensure renewal of
60 marijuana establishments licensed as a marijuana cultivator or marijuana product manufacturer;
61 and

62 (xxxv) requirements and procedures for host community agreements, including without
63 limitation criteria for calculating community impact fees, consistent with subsection (d) of
64 section 3.