

HOUSE No. 178

The Commonwealth of Massachusetts

PRESENTED BY:

Jon Santiago

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 to ensure the equitable empowerment of minority-owned businesses within communities disproportionately Impacted by the failed war on drugs.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-------------------------|-----------------------|------------------|
| <i>Jon Santiago</i> | <i>9th Suffolk</i> | <i>2/19/2021</i> |
| <i>Liz Miranda</i> | <i>5th Suffolk</i> | <i>2/26/2021</i> |
| <i>James J. O'Day</i> | <i>14th Worcester</i> | <i>2/26/2021</i> |
| <i>Vanna Howard</i> | <i>17th Middlesex</i> | <i>3/19/2021</i> |
| <i>Marcos A. Devers</i> | <i>16th Essex</i> | <i>3/30/2021</i> |

HOUSE No. 178

By Mr. Santiago of Boston, a petition (accompanied by bill, House, No. 178) of Jon Santiago and others for legislation to establish a cannabis community empowerment fund to offer low- or no-interest loans to certain minority-owned businesses. Cannabis Policy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to ensure the equitable empowerment of minority-owned businesses within communities disproportionately Impacted by the failed war on drugs.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith equitable economic opportunities for minority-owned businesses in communities disproportionally impacted by the failed war on drugs, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 23A of the General Laws, as appearing in the 2018 Official
2 Edition, is hereby amended by adding the following section:-

3 SECTION 47. (a) There shall be established and set up on the books of the
4 commonwealth an Cannabis Community Empowerment Fund, referred to in this section as the
5 fund, within the Massachusetts Development Finance Agency, referred to in this section as the
6 agency. In carrying out its duties under this section, the agency may utilize the fund as provided
7 in this section to offer low- or no-interest loans to eligible businesses as specified in subsection
8 (c). The fund shall be administered and managed by a fund director who shall be appointed by

9 the executive director of the agency. The agency may adopt guidelines necessary to implement
10 the program. The fund may coordinate with other agencies and instrumentalities of the
11 commonwealth to effectuate this section.

12 (b) The fund shall consist of: (i) revenue from appropriations or other monies authorized
13 by the general court and specifically designated to be credited to the fund; (ii) funds from public
14 or private sources, including, but not limited to, gifts, grants, donations, rebates and settlements
15 received by the commonwealth that are specifically designated to be credited to the fund; (iii)
16 funds from repayment of loans offered under this section; and (iv) any income derived from an
17 investment of amounts credited to the fund. No expenditure shall be made from the fund which
18 shall cause the fund to be deficient at the close of a fiscal year. Revenues deposited in the fund
19 that are unexpended at the end of a fiscal year shall not revert to the General Fund and shall be
20 available for expenditure in the following fiscal year; provided, however, that in the event that
21 the total balance of the fund exceeds \$100,000,000 at the end of a fiscal year, an amount equal to
22 the total balance of the fund minus \$100,000,000 shall revert to the General Fund.

23 (c) The agency shall use the fund to offer low- or no-interest loans to eligible businesses
24 to provide for capitol for startup or expansion costs. Eligible businesses shall be social equity and
25 economic empowerment applicants for state licensure pursuant to chapter 94G, as well as
26 Massachusetts Minority Business Enterprises as certified by the State Office of Minority and
27 Women Business Assistance and engaged in business of any kind within Areas of
28 Disproportionate Impact as defined by the Cannabis Control Commission.

29 (d) The liabilities and obligations of the fund shall not extend beyond the monies which
30 are deposited in the fund and shall not constitute a debt or pledge of the faith and credit of the
31 commonwealth or any political subdivision of the commonwealth.

32 (e) Monies in or received for the fund may be deposited with and invested by any
33 institution designated by the treasurer of the agency at the sole discretion of the treasurer and
34 paid as the fund director shall direct. Any return on investment received by the fund as a result of
35 the deposits and the agency's equity investments shall be deposited and held for the use and
36 benefit of the fund. The treasurer may make payments from the deposit accounts for use under
37 this section. The agency may be reimbursed annually from the fund for all reasonable and
38 necessary direct costs and expenses incurred with its administration, management and operation
39 of the fund, including reasonable staff time, out-of-pocket expenses and administrative costs,
40 provided, however, that such annual reimbursement shall not exceed 15 per cent of deposits to
41 the fund during the same fiscal year.

42 (f) The fund may apply for and accept subventions, grants, loans, advances and
43 contributions from any source of money, property, labor or other things of value to be held, used
44 and applied in furtherance of this section.

45 (g) The agency shall submit an annual report to the clerks of the senate and house of
46 representatives who shall forward the report to the house and senate committees on ways and
47 means, the joint committee on economic development and emerging technologies, joint
48 committee on cannabis policy, and the joint committee on labor and workforce development by
49 December 31. The report shall include the number of projects assisted through the fund, with a
50 specification of the amount of loan awarded to each, a current assessment of the progress of each

51 project funded through the fund, financial statements related to the effectiveness of the fund and
52 such other information that would provide a fair evaluation of the program.

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

56 (d) (1) A marijuana establishment or a medical marijuana treatment center, as defined in
57 section 1 of chapter 94I, seeking to operate or continue to operate in a municipality which
58 permits such operation shall execute an agreement with the host community setting forth the
59 conditions to have a marijuana establishment or medical marijuana treatment center located
60 within the host community which shall include, but not be limited to, all stipulations of
61 responsibilities between the host community and the marijuana establishment or medical
62 marijuana treatment center.

63 (2) An agreement between a marijuana retailer or a medical marijuana treatment center
64 and a host community may include a community impact fee for the host community; provided,
65 however, that the community impact fee shall be reasonably related to the costs imposed upon
66 the municipality by the operation of the marijuana retailer or medical marijuana treatment center
67 and shall not amount to more than 3 per cent of the gross sales of the marijuana retailer or
68 medical marijuana treatment center or be effective or renewed for longer than one 5 year term;
69 provided, however, that the 5 years shall commence on the date the marijuana retailer or medical
70 marijuana treatment center commences operation of business. The community impact fee shall
71 encompass all payments and obligations, including, but not limited to, monetary payments, in
72 kind contributions and charitable contributions by the marijuana establishment or medical

73 marijuana treatment center to the municipality or any other organization pursuant to negotiations
74 with the host community. Any other contractual financial obligation that is explicitly or
75 implicitly a factor considered in or is a condition of an agreement shall not be enforceable;
76 provided, however, that nothing shall preclude, nor require, a marijuana establishment or a
77 medical marijuana treatment center from voluntarily providing organizations with in-kind
78 contributions and charitable contributions after the execution of the host agreement.

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

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

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

92 (6) The commission shall promulgate regulations necessary to carry out the provisions of
93 this subsection.

94

95 SECTION 3. Subsection (a) of section 4 of said chapter 94G, as so appearing, is hereby
96 amended by striking out clauses (xxvii) and (xxviii) and inserting in place thereof the following
97 3 clauses:-

98 (xxvii) monitor any federal activity regarding marijuana;

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

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

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

105 (xxxiii) requirements that prohibit marijuana product manufacturers from altering or
106 utilizing commercially-manufactured food products when manufacturing marijuana products
107 unless the food product was commercially manufactured specifically for use by the marijuana
108 product manufacturer to infuse with marijuana; provided, however, that a commercially-
109 manufactured food product may be used as an ingredient in a marijuana product if: (i) it is used
110 in a way that renders it unrecognizable as the commercial food product in the marijuana product;
111 and (ii) there is no statement or advertisement indicating that the marijuana product contains the
112 commercially-manufactured food product;

113 (xxxiv) energy and environmental standards for licensure and licensure renewal of
114 marijuana establishments licensed as a marijuana cultivator or marijuana product manufacturer;
115 and

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

119 SECTION 5. Notwithstanding any general or special law to the contrary, not later than
120 October 1, 2021 and without further appropriation, the comptroller shall annually transfer
121 \$10,000,000 from the Marijuana Regulation Fund established under section 14 of chapter 94G of
122 the General Laws to the Equitable Cannabis Industry Fund established in section 47 of chapter
123 23A of the General Laws.

124 SECTION 6. Notwithstanding any general or special law to the contrary, the Cannabis
125 Control Commission shall allow licensees and applicants for licensure under chapter 94G of the
126 General Laws to make voluntary contributions to the Cannabis Community Empowerment Fund
127 established in section 47 of chapter 23A. Contributions which equal or exceed one percent of the
128 licensee's annual gross sales or an applicant's anticipated annual gross sales shall satisfy the
129 positive impact plan requirement established by 935 CMR 500.101(1)(a)11. The Cannabis
130 Control Commission in consultation with the Massachusetts Development Finance Agency shall
131 promulgate rules and regulations to implement this section.

132 SECTION 7. Notwithstanding any general or special law to the contrary, upon the
133 expiration of any community impact fee mutually agreed upon between a marijuana retailer or a
134 medical marijuana treatment center and its host community in accordance with section 3(d)(2) of
135 chapter 94G, all licensed marijuana retailers or medical marijuana treatment centers shall make
136 an annual contribution to the Cannabis Community Empowerment Fund equal to one percent of
137 the marijuana retailer's annual gross sales. Such contribution shall not satisfy the positive impact

138 plan requirement established by 935 CMR 500.101(1)(a)11. The Cannabis Control Commission
139 in consultation with the Massachusetts Development Finance Agency shall promulgate rules and
140 regulations to implement this section.