

HOUSE No. 4791

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 17, 2022.

The committee on Ways and Means, to whom was referred the Senate Bill relative to equity in the cannabis industry (Senate, No. 2823), reports recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4791.

For the committee,

AARON MICHLEWITZ.

HOUSE No. 4791

Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill relative to equity in the cannabis industry (Senate, No. 2823). May 17, 2022.

The Commonwealth of Massachusetts

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

By striking out all after the enacting clause and inserting in place thereof the following:—

1 SECTION 1. Section 1 of chapter 64N of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by adding the following subsection:-

3 (c) “Social equity business”, a marijuana retailer that is a social equity business, as
4 defined in section 1 of chapter 94G.

5 SECTION 2. Section 5 of said chapter 64N, as so appearing, is hereby amended by
6 adding the following paragraph:-

7 In the case of a social equity business, 1 per cent of the revenue collected pursuant to
8 section 2 from any social equity business shall not be deposited in the Marijuana Regulation
9 Fund, but shall be distributed, credited and paid by the state treasurer upon certification of the
10 commissioner to the city or town in which the social equity business is located.

11 SECTION 3. Section 1 of chapter 94G of the General Laws, as so appearing, is hereby
12 amended by inserting after the definition of “Host community” the following definition:-

13 “Host community agreement”, an agreement between a marijuana establishment or a
14 medical marijuana treatment center and a municipality pursuant to subsection (d) of section 3.

15 SECTION 4. Said section 1 of said chapter 94G, as so appearing, is hereby further
16 amended by inserting after the definition of “Marijuana retailer” the following definition:-

17 “Medical marijuana treatment center”, a medical marijuana treatment center as defined in
18 section 1 of chapter 94I.

19 SECTION 5. Said section 1 of said chapter 94G, as so appearing, is hereby further
20 amended by inserting after the definition of “Residual solvent” the following definition:-

21 “Social equity business”, a marijuana establishment that is majority-owned by individuals
22 who are eligible for the social equity program under section 22, or whose ownership qualifies it
23 as an economic empowerment priority applicant as defined by the commission pursuant to
24 section 4.

25 SECTION 6. Section 3 of said chapter 94G, as so appearing, is hereby amended by
26 striking out subsection (b) and inserting in place thereof the following subsection:-

27 (b)(1) For the purposes of this subsection, the following words shall, unless the context
28 clearly requires otherwise, have the following meanings:

29 “Ballot question committee”, as defined in section 1 of chapter 55.

30 “Registrars”, as defined in section 1 of chapter 50.

31 (2)(i) The city council of a city and the board of selectmen, the select board or town
32 council of a town shall, upon the filing with the city or town clerk of a petition meeting the

33 requirements of subparagraph (ii), request to the city or town clerk that the question appearing in
34 said subparagraph (ii), as to whether to allow, in the city or town, the sale of marijuana and
35 marijuana products for consumption on the premises where sold, be submitted to the voters of
36 the city or town.

37 (ii) The petition shall be on a form prepared by the state secretary, signed by not less than
38 10 per cent of the number of voters of the city or town who voted at the preceding biennial state
39 election and filed with the city or town clerk, who shall then submit the petition to the registrars
40 forthwith. The registrars shall certify the signature of registered voters not more than 7 days after
41 receipt of the petition. Upon certification of the signatures, the registrars shall submit such
42 certification to the city council, town council or board of selectmen, as the case may be, which
43 shall cause the following question, and a fair and concise summary of the question to be prepared
44 by the city solicitor or town counsel, to be placed on the ballot for the next regularly occurring
45 municipal or state election in the city or town:

46 “Shall [city or town] allow the sale of marijuana and marijuana products, as those terms
47 are defined in section 1 of chapter 94G of the General Laws, for consumption on the premises
48 where sold, a summary of which appears below?”

49 (iii) The question shall appear on the ballot for the next regularly occurring municipal
50 election if the election is to be held not less than 35 days after certification. To appear on the
51 ballot for the next regularly occurring biennial state election, the city or town clerk shall provide
52 notice, including the ballot question and summary, to the state secretary not later than the first
53 Wednesday in August before the biennial state election.

54 (iv) If a majority of the votes cast in the city or town are not in favor of allowing the
55 consumption of marijuana or marijuana products on the premises where sold, such city or town
56 shall not have authorized the consumption of marijuana and marijuana products on the premises
57 where sold. If a majority of the votes cast in the city or town are in favor of allowing the
58 consumption of marijuana or marijuana products on the premises where sold, such city or town
59 shall have authorized the consumption of marijuana and marijuana products on the premises
60 where sold.

61 (3) As an alternative to a local voter initiative petition process pursuant to paragraph (2),
62 a city or town may, by ordinance or by-law, allow the consumption of marijuana or marijuana
63 products on the premises where sold. No local voter initiative shall be required if the sale of
64 marijuana and marijuana products for consumption on the premises is authorized by such
65 ordinance or by-law.

66 (4) A ballot question committee organized to favor or oppose a question placed on the
67 ballot pursuant to paragraph (2) of this subsection shall comply with applicable guidance and
68 regulations issued by the office of campaign and political finance for municipal ballot question
69 committees.

70 SECTION 7. Said section 3 of said chapter 94G, as so appearing, is hereby further
71 amended by striking out subsection (d) and inserting in place thereof the following subsection:-

72 (d)(1) A marijuana establishment or a medical marijuana treatment center seeking a new
73 license or renewal of a license to operate or continue to operate in a municipality that permits
74 such operation shall negotiate and execute a host community agreement setting forth the
75 conditions to have a marijuana establishment or medical marijuana treatment center located

76 within the host community, which shall include, but shall not be limited to, all stipulations of
77 responsibilities between the host community and the marijuana establishment or medical
78 marijuana treatment center.

79 (2)(i) Notwithstanding any general or special law to the contrary, a host community
80 agreement may include a community impact fee for the host community; provided, however, that
81 no host community agreement shall include a community impact fee after the fifth year of
82 operation of a marijuana establishment or a medical marijuana treatment center. The community
83 impact fee shall: (A) be reasonably related to the costs imposed upon the municipality by the
84 operation of the marijuana establishment or medical marijuana treatment center, which shall be
85 calculated as the costs imposed in the preceding year by the operation of said establishment or
86 treatment center, reduced by the costs that would be imposed upon the municipality by a
87 business entity that is not a marijuana establishment or medical marijuana treatment center, as
88 documented pursuant to subparagraph (iii); (B) amount to not more than 3 per cent of the gross
89 sales of the marijuana establishment or medical marijuana treatment center; (C) not be effective
90 after the marijuana establishment or medical marijuana treatment center's fifth year of operation;
91 (D) commence on the date the marijuana establishment or medical marijuana treatment center is
92 granted a final license by the commission; and (E) not mandate a certain percentage of total or
93 gross sales as the community impact fee.

94 (ii) Notwithstanding any general or special law to the contrary, the community impact fee
95 shall encompass all payments and obligations between the host community and the marijuana
96 establishment or a medical marijuana treatment center. The community impact fee shall not
97 include any additional payments or obligations, including, but not limited to, monetary
98 payments, in-kind contributions or charitable contributions by the marijuana establishment or

99 medical marijuana treatment center to the host community or any other organization. Payment of
100 the community impact fee shall be due annually to the host community, with the first payment
101 occurring not sooner than upon the first annual renewal by the commission of a final license to
102 operate the marijuana establishment or medical marijuana treatment center. Any other
103 contractual financial obligation that is explicitly or implicitly a factor considered in, or is a
104 condition of, a host community agreement, shall not be enforceable. Nothing in this section shall
105 preclude a marijuana establishment or a medical marijuana treatment center from voluntarily
106 providing organizations with monetary payments, in-kind contributions or charitable
107 contributions after the execution of the host community agreement; provided, however, that a
108 host community agreement shall not include a promise to make a future monetary payment, in-
109 kind contribution or charitable contribution.

110 (iii) Any cost imposed upon a host community by the operation of a marijuana
111 establishment or medical marijuana treatment center shall be documented by the host community
112 and transmitted to the licensee not later than 1 month after the date of the annual renewal of a
113 final license to operate the marijuana establishment or medical marijuana treatment center and
114 shall be a public record as defined by clause Twenty-sixth of section 7 of chapter 4 and chapter
115 66.

116 (iv) If a licensee has cause to believe that the information documented and transmitted by
117 a host community is not reasonably related to the actual costs imposed upon the host community
118 in the preceding year by the operation of the marijuana establishment or medical marijuana
119 treatment center, the licensee may petition the commission to review the costs documented by
120 the host community and determine if the host community's calculation of reasonably related
121 costs conforms to the requirements of this section; provided, that the commission may consider

122 the reasonableness of past community impact fees paid under the same host community
123 agreement during its review.

124 (3) The commission shall review and approve each host community agreement as part of
125 a completed marijuana establishment or medical marijuana treatment center license application
126 and at each license renewal. If the commission determines that a host community agreement is
127 not in compliance with this section, the commission shall provide written notice of any
128 deficiencies and may request additional information from the prospective licensee and host
129 community. The commission shall not approve a final license application unless the commission
130 approves the host community agreement and certifies that the host community agreement
131 complies with this subsection. The commission shall complete its review of a host community
132 agreement not later than 45 days after it is received by the commission.

133 (4) A host community may waive the host community agreement requirement; provided,
134 however, that the host community shall submit to the commission a written waiver executed by
135 the host community and the marijuana establishment or medical marijuana treatment center.

136 (5) Notwithstanding any general or special law to the contrary, all host communities shall
137 establish procedures and policies to promote and encourage full participation in the regulated
138 marijuana industry by people from communities that have previously been disproportionately
139 harmed by marijuana prohibition and enforcement and to positively impact those communities;
140 provided, that the commission shall establish minimum acceptable standards for such procedures
141 and policies that may be adopted by host communities to achieve compliance with the
142 requirements of this paragraph. A city or town that is not a host community shall establish such

143 procedures and policies before entering into a host community agreement with a marijuana
144 establishment or medical marijuana treatment center.

145 SECTION 8. Subsection (a) of section 4 of said chapter 94G, as so appearing, is hereby
146 amended by striking out clauses (xxvii) and (xxviii) and inserting in place thereof the following
147 4 clauses:-

148 (xxvii) monitor any federal activity regarding marijuana;

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

151 (xxix) review, determine the lawfulness of and approve host community agreements
152 pursuant to paragraph (3) of subsection (d) of section 3; and

153 (xxx) prioritize social equity program businesses, economic empowerment priority
154 applicants and any other class of applicants the commission deems eligible for expedited review.

155 SECTION 9. Subsection (a $\frac{1}{2}$) of said section 4 of said chapter 94G, as so appearing, is
156 hereby amended by striking out clauses (xxxiii) and (xxxiv) and inserting in place thereof the
157 following 4 clauses:-

158 (xxxiii) requirements that prohibit marijuana product manufacturers from altering or
159 utilizing commercially-manufactured food products when manufacturing marijuana products
160 unless the food product was commercially manufactured specifically for use by the marijuana
161 product manufacturer to infuse with marijuana; provided, however, that a commercially-
162 manufactured food product may be used as an ingredient in a marijuana product if: (A) it is used
163 in a way that renders it unrecognizable as the commercial food product in the marijuana product;

164 and (B) there is no statement or advertisement indicating that the marijuana product contains the
165 commercially-manufactured food product;

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

168 (xxxv) criteria for reviewing and approving host community agreements and community
169 impact fees, including, but not limited to, criteria for calculating community impact fees
170 consistent with paragraph (2) of subsection (d) of section 3; and

171 (xxxvi) minimum acceptable standards for municipal policies to promote and encourage
172 full participation in the regulated marijuana industry pursuant to paragraph (5) of subsection (d)
173 of section 3.

174 SECTION 10. Section 14 of said chapter 94G, as so appearing, is hereby amended by
175 inserting after the words “chapter 132B”, in line 15, the following words:- ; provided, however,
176 that, annually, 15 per cent of the fund shall be transferred to the Cannabis Social Equity Trust
177 Fund established in section 14A.

178 SECTION 11. Said chapter 94G is hereby further amended by inserting after section 14
179 the following new section:-

180 Section 14A. (a) There shall be a Cannabis Social Equity Trust Fund to encourage the full
181 participation in the commonwealth’s regulated marijuana industry of entrepreneurs from
182 communities that have been disproportionately harmed by marijuana prohibition and
183 enforcement. The fund shall consist of: (i) funds transferred pursuant to subsection (b) of section
184 14; and (ii) any funds from private sources, including, but not limited to, gifts, grants and

185 donations. Money in the fund shall be used to make grants and loans, including no-interest loans
186 and forgivable loans, to social equity program participants and economic empowerment priority
187 applicants. The fund shall be administered by the executive office of housing and economic
188 development, in consultation with the cannabis social equity advisory board established in
189 subsection (b). Money remaining in this fund at the end of the fiscal year shall not revert to the
190 General Fund.

191 (b) There shall be a cannabis social equity advisory board, hereinafter referred to as the
192 advisory board, consisting of individuals from, or with experience advocating on behalf of,
193 communities that have been disproportionately harmed by marijuana prohibition and
194 enforcement. The board shall consist of: 1 person appointed by the governor with a background
195 in the cannabis industry, who shall serve as chair; 1 person appointed by the treasurer and
196 receiver-general with a background in finance or commercial lending; 1 person appointed by the
197 attorney general with a background in business development or entrepreneurship; and 2 persons
198 appointed by a majority vote of the governor, treasurer and receiver-general and attorney
199 general, both of whom shall have experience in business development, preferably in the cannabis
200 industry. When making appointments, an appointing authority shall select individuals who are
201 from, or have experience advocating for, communities that have been disproportionately harmed
202 by marijuana prohibition and enforcement. Each advisory board member shall serve for a 5-year
203 term and may be reappointed by their appointing authority, and shall serve without compensation
204 except for reimbursement of actual expenses reasonably incurred in the performance of their
205 duties as a member or on behalf of the advisory board. Any vacancy in a seat on the advisory
206 board shall be filled by the appropriate appointing authority within 60 days of the vacancy. The
207 appointing authority may remove an advisory board member who was appointed by that

208 appointing authority for cause. Before removal, the advisory board member shall be provided
209 with a written statement of the reason for removal and an opportunity to be heard.

210 (c) The executive office of housing and economic development, in consultation with the
211 advisory board, shall promulgate regulations governing the structure and administration of the
212 fund, including, but not limited to: (i) requirements for social equity businesses and
213 municipalities who host such businesses to apply to receive a grant or loan from the fund; (ii)
214 conditions of such grants and loans; (iii) procedures pertaining to marijuana establishments or
215 medical marijuana treatment centers that default on a loan from the fund; and (iv) a process by
216 which a license is sold as a result of a licensee's default on a loan from the fund. The secretary of
217 housing and economic development, in consultation with the advisory board, shall be responsible
218 for the selection of recipients, grant or loan values and conditions for such grants or loans.

219 (d) Annually, not later than July 31, the executive office of housing and economic
220 development, in consultation with the advisory board, shall report on expenditures from the fund
221 in the previous fiscal year. The report shall include, but shall not be limited to: (i) information
222 that identifies and describes the amount of money expended from the fund; (ii) a list of the
223 entities that received a grant or loan from the fund; (iii) the geographic location of recipient
224 entities; (iv) the form of funding received by each entity; (v) information indicating whether each
225 recipient entity is a minority-owned entity; and (vi) any other information that the executive
226 office and the advisory board deem appropriate to ensure equity and accountability. The report
227 shall be filed with the clerks of the house of representatives and the senate, the house and senate
228 committees on ways and means and the joint committee on cannabis policy. The executive office
229 shall make the report publicly available on its website.

230 SECTION 12. Said chapter 94G is hereby further amended by adding the following
231 section:-

232 Section 22. The commission shall administer a social equity program to encourage and
233 enable full participation in the marijuana industry of people from communities that have been
234 disproportionately harmed by marijuana prohibition and enforcement and to positively impact
235 those communities. The program shall offer: (i) technical assistance and training; and (ii) access
236 to funds available through the Cannabis Social Equity Trust Fund, established in section 14A, to
237 individuals certified by the commission as economic empowerment priority applicants and that
238 meet other criteria determined by the commission.

239 SECTION 13. Subsection (a) of section 22 of chapter 270 of the General Laws, as
240 appearing in the 2020 Official Edition, is hereby amended by inserting after the definition of
241 “Enclosed” the following definition:-

242 “Licensed marijuana social consumption establishment”, an establishment that: (i) is
243 licensed by the Massachusetts cannabis control commission established in section 76 of chapter
244 10 for the sale of marijuana and marijuana products for consumption on the premises where sold;
245 and (ii) permits smoking of marijuana on the premises.

246 SECTION 14. Subsection (c) of said section 22 of said chapter 270, as so appearing, is
247 hereby amended by inserting after paragraph (5) the following paragraph:-

248 (5½) A licensed marijuana social consumption establishment;

249 SECTION 15. Chapter 276 of the General Laws, as so appearing, is hereby amended by
250 inserting after section 100K the following section:-

251 100K¹/₄. (a) Notwithstanding the requirements of section 100I and section 100J, a court
252 shall, within 30 days of a petition being filed, order the expungement of a record created as a
253 result of a criminal court appearance, juvenile court appearance or disposition for:

254 (1) the possession or cultivation of an amount of marijuana decriminalized by chapter
255 387 of the acts of 2008;

256 (2) the possession or cultivation of an amount of marijuana decriminalized by chapter
257 334 of the acts of 2016;

258 (3) the possession or cultivation of an amount of marijuana decriminalized by chapter 55
259 of the acts of 2017;

260 (4) possession of marijuana with intent to distribute decriminalized by chapter 387 of the
261 acts of 2008, chapter 334 of the acts of 2016 or chapter 55 of the acts of 2017; or

262 (5) distribution of marijuana based on an amount of marijuana decriminalized by chapter
263 387 of the acts of 2008, chapter 334 of the acts of 2016 or chapter 55 of the acts of 2017.

264 (b) Prior to entering an order of expungement pursuant to section (b), the court shall hold
265 a hearing if requested by the petitioner or the district attorney. Upon the granting or denial of a
266 petition for expungement, the court shall enter written findings of fact.

267 (c) The court shall forward any order of expungement pursuant to this section forthwith
268 to the clerk of the court where the record was created, to the commissioner and to the
269 commissioner of criminal justice information services appointed pursuant to section 167A of
270 chapter 6.

271 SECTION 16. (a) Notwithstanding any general or special law to the contrary, a host
272 community shall establish initial procedures or policies required by paragraph (5) of subsection
273 (d) of section 3 of chapter 94G of the General Laws not later than July 1, 2023.

274 (b) The failure of a host community to establish procedures or policies pursuant to
275 subsection (a) shall result in a monetary penalty to the host community equal to the annual total
276 of community impact fees received from all marijuana establishments or medical marijuana
277 treatment centers operating within the host community, to be deposited into the Cannabis Social
278 Equity Trust Fund established in section 14A of said chapter 94G.

279 SECTION 17. Initial appointments to the cannabis social equity advisory board
280 established in section 14A of chapter 94G of the General Laws shall be made not later than 60
281 days after the effective date of this act.

282 SECTION 18. The Massachusetts cannabis control commission shall promulgate or
283 amend regulations as necessary to be consistent with this act not later than 1 year from the
284 effective date of this act.