

**SENATE . . . . . No. 1059**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***William N. Brownsberger, (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 bill:

An Act relative to the use and legal effects of marijuana.

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PETITION OF:

NAME:

*Mark A. Thomas*

DISTRICT/ADDRESS:

*482 Beacon Street Boston, MA 02115*

**SENATE . . . . . No. 1059**

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By Mr. Brownsberger (by request), a petition (accompanied by bill, Senate, No. 1059) of Mark A. Thomas for legislation relative to the use and legal effects of marijuana. Marijuana Policy.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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An Act relative to the use and legal effects of marijuana.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           1.       WHEREAS, by public referendum on November 8, 2016 in accord with the  
2       Massachusetts Constitution, citizen in the Commonwealth voted in the affirmative to approve the  
3       legal use, consumption and ingestion of certain amounts of the drug marijuana;

4           2.       WHEREAS, decriminalization of marijuana use does not eliminate other forms of  
5       criminal behavior or civil infractions;

6           3.       WHEREAS, the use of marijuana may, in fact, increase criminal activity and civil  
7       wrong-doing;

8           4.       WHEREAS, marijuana is a mind-altering drug that directly affects the brain and  
9       the human thought process;

10          5.       WHEREAS, the medical and psychological effects and uncertain human behavior  
11       as to action and intent of any person using, consuming and ingesting marijuana will be present in  
12       the Commonwealth and pose a threat to the safety of all persons, property and animals;

13           6.       WHEREAS, the use of marijuana, legalized by the passage of the referendum law  
14 on November 8, 2016 will, in fact, substantially increase in the workplace, in homes, in schools,  
15 on the roadways, in public transportation, and in all public and private spaces and offices;

16           7.       WHEREAS, the Massachusetts Legislature, along with the Executive and Judicial  
17 Branches of government in the Commonwealth have both an implicit and explicit obligation to  
18 protect citizens under the Massachusetts Constitution and its Preamble, from all foreseen  
19 dangers;

20           NOW, THEREFORE, being established that the legalized use of marijuana in the  
21 Commonwealth will increase other unwanted criminal and civil wrong-doing:

22           BE IT ENACTED by the Senate and House of Representatives in General Court  
23 assembled, that a rebuttal presumption of culpability and liability exists in all civil matters being  
24 determined by any adjudicative process governed by law or statute in the Commonwealth  
25 devolving to those persons found to have traces of marijuana in their bodily systems. Such  
26 rebuttal presumption may be overcome by oath or affirmation of clear and convincing evidence  
27 that no such use of marijuana occurred or that such bodily traces of marijuana had no material  
28 effect on the conduct being adjudicated. A finding of use of marijuana towards any participants  
29 in a civil adjudicative process may be established by any credible process and proved by a  
30 preponderance of the evidence.

31           IT IS FURTHER ENACTED, that a rebuttal presumption of criminal intent exists in all  
32 criminal matters being determined by any law or statute in the Commonwealth where evidence  
33 of marijuana use by any criminal defendant is determined by an adjudicative process. Such  
34 rebuttal presumption may be overcome by oath or affirmation of clear and convincing evidence

35 that no such use of marijuana occurred or that such bodily traces of marijuana had no material  
36 effect of the conduct being adjudicated. Credible medical, forensic, self-incriminating, video,  
37 audio, digital evidence or the sworn testimony or deposition of 3 persons may establish the use  
38 of marijuana by any defendant.

39 FINALLY, evidence of prior use or possession of marijuana by any person, defendant or  
40 witness within the past 365 days of the incident or conduct being adjudicated is admissible in all  
41 civil and criminal proceedings by the same aforementioned process. A refusal to submit to a duly  
42 authorized or court-ordered drug test is automatically held as prima-fascia proof of marijuana  
43 use.