

SENATE No. 2090

Senate, – Text of the Senate amendment (Senator Jehlen) to the House Bill to ensure the public health and safety of patient and consumer access to medical and adult use of marijuana in the Commonwealth

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

1 SECTION 1. Pursuant to the voter-approved initiative to legalize, regulate and tax
2 marijuana for adult use, the commonwealth by this act establishes a cannabis control
3 commission. The commission shall develop a robust, competitive and legal market for
4 recreational marijuana in the commonwealth. To that end, the commission shall be responsible
5 for establishing rules, regulations and practices to receive, evaluate and issue license applications
6 and licenses to individuals and entities based on competence, capacity and integrity. The
7 commission shall enforce its rules and regulations fairly and rigorously to provide a clear and
8 expedient path toward a marketplace for the recreational use of marijuana in the commonwealth
9 while ensuring the health and safety of its people.

10 SECTION 2. Chapter 10 of the General Laws is hereby amended by striking out sections
11 76 and 77, as appearing in the 2016 Official Edition, and inserting in place thereof the following
12 2 sections:-

13 Section 76. (a) As used in this section, the following words shall have the following
14 meanings unless the context clearly requires otherwise:

15 “Commission”, the cannabis control commission.

16 “Commissioner”, a member of the cannabis control commission.

17 (b) There shall be within the department of the state treasurer a cannabis control
18 commission. The commission shall have general supervision and sole regulatory authority over
19 the conduct of the business of marijuana establishments as defined in chapter 94G. The
20 commission shall adopt rules and regulations pursuant to chapter 30A for the administration of
21 its duties and powers and for the administration, clarification and enforcement of laws regulating
22 and licensing marijuana establishments in accordance with said chapter 94G.

23 (c) The commission shall consist of: 1 person who shall be appointed by the state
24 treasurer who shall have experience in the regulation and business of consumer commodities and
25 who shall serve as chair; 1 person who shall be appointed by the governor who shall have
26 experience in public health; 1 person who shall be appointed by the attorney general who shall
27 have experience in law enforcement; and 2 persons who shall be appointed by a majority vote of
28 the state treasurer, the governor and the attorney general, 1 of whom shall have experience in
29 social justice and 1 of whom shall have experience in the production and distribution of
30 marijuana and marijuana products. The state treasurer, the governor or the attorney general may
31 remove a commissioner who was appointed by that appointing authority for neglect of duty,
32 misconduct or malfeasance in office or for inability to discharge the powers and duties of the
33 office. The state treasurer, the governor and the attorney general may, by majority vote, remove a
34 commissioner who was appointed by majority vote of the state treasurer, the governor and the
35 attorney general for neglect of duty, misconduct or malfeasance in office or for inability to
36 discharge the powers and duties of the office. Before removal, the commissioner shall be
37 provided with a written statement of the reason for removal and an opportunity to be heard.

38 (d) Each commissioner shall serve for a term of 4 years. A person appointed to fill a
39 vacancy shall be appointed in the manner specified in subsection (c) and shall serve for the
40 remainder of the unexpired term of the commissioner who position is being filled. Each
41 commissioner shall serve until a successor is appointed and shall be eligible for reappointment;
42 provided, however, that a commissioner shall not serve for more than 8 years.

43 (e) The chair of the commission shall be a full-time employee and shall receive a salary
44 commensurate with the duties of the office. All other commissioners shall serve without pay but
45 shall be reimbursed for actual expenses necessarily incurred in the performance of their duties. A
46 commissioner shall not be employed by, serve as a consultant to or member of the board of
47 directors of, or be affiliated with, have a financial stake in or otherwise be a representative of a
48 marijuana establishment while serving as commissioner.

49 (f) Three commissioners shall constitute a quorum and the affirmative vote of 3
50 commissioners shall be necessary for action to be taken by the commission. A vacancy shall not
51 impair the right of a quorum to exercise the rights and duties of the commission.

52 (g) The commission shall be subject to the Open Meeting Law, including sections 18 to
53 25, inclusive, of chapter 30A. The commission shall be subject to all other provisions of said
54 chapter 30A and the records pertaining to the administration of the commission shall be subject
55 to section 42 of chapter 30 and section 10 of chapter 66. The commission shall be subject to
56 chapters 268A and 268B.

57 (h)(1) The commission shall appoint an executive director who shall supervise the
58 administrative affairs, general management and operations of the commission. The executive

59 director shall receive a salary commensurate with the duties of the office. Sections 9A, 45, 46
60 and 46C of chapter 30 and chapters 31 and 150E shall not apply to the executive director.

61 (2) The executive director may appoint other officers and employees as may be necessary
62 to the operation of the commission. The executive director shall appoint and may remove agents
63 and subordinate officers as the executive director may consider necessary and may establish such
64 subdivisions within the commission as the executive director considers appropriate to fulfill the
65 purposes of the commission. Said sections 45, 46 and 46C of chapter 30 shall not apply to an
66 employee of the commission. The executive director may establish personnel policies for the
67 officers and employees of the commission.

68 (3) The executive director shall, with the approval of the commission: (i) plan, direct,
69 coordinate and execute administrative functions in conformity with the policies and directives of
70 the commission; (ii) employ professional, investigative and clerical staff as necessary; (iii) report
71 to the commission on all operations under its control and supervision; (iv) prepare an annual
72 budget and manage the administrative expenses of the commission; and (v) undertake any other
73 activities necessary to implement the powers and duties of the commission, subject to approval
74 of the commission.

75 (4) Annually, not later than December 1, the executive director shall submit to the state
76 treasurer a budget and a personnel report containing the job classifications, duties and salary of
77 each officer and employee of the commission together with personnel policies applicable to
78 those officers and employees.

79 Section 77. (a) There shall be a cannabis advisory board to study and make
80 recommendations to the cannabis control commission on the regulation and taxation of

81 marijuana. The board shall consist of: the executive director of the cannabis control commission,
82 who shall serve as chair; the commissioner of the department of revenue or a designee; the
83 commissioner of public health or a designee; the commissioner of agricultural resources or a
84 designee; the secretary of the executive office of public safety and security or a designee; the
85 superintendent of the Massachusetts state police or a designee; the president of the
86 Massachusetts Municipal Association, Inc., or a designee; the executive director of the American
87 Civil Liberties Union of Massachusetts, Inc., or a designee; 6 members who shall be appointed
88 by the state treasurer who shall have experience in marijuana cultivation, marijuana retailing,
89 marijuana product manufacturing, laboratory sciences and toxicology, representing the interests
90 of registered qualifying patients and in the prevention and treatment of substance use disorders;
91 and 6 members appointed by the attorney general who shall have experience in social welfare or
92 social justice, representing the interests of employers, representing the interests of property
93 owners, providing legal services to marijuana businesses, marijuana consumers or medical
94 marijuana patients in the commonwealth and municipal law enforcement. Members of the board
95 appointed shall serve terms of 2 years. Members of the board shall serve without compensation
96 but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of
97 their official duties. Members of the advisory board shall not be state employees for purposes of
98 chapter 268A by virtue of their service on the advisory board. For purposes of taking action at a
99 meeting, a majority of the members of the board present and voting shall constitute a quorum.

100 (b) The cannabis advisory board shall: (i) consider all matters submitted to it by the
101 commission; (ii) on its own initiative, recommend to the commission guidelines, rules and
102 regulations and any changes to guidelines, rules and regulations that the advisory board considers

103 important or necessary for the commission’s review and consideration; and (iii) advise on the
104 preparation of regulations pursuant to this chapter.

105 (c) The chair may appoint subcommittees in order to expedite the work of the board;
106 provided, however, that the chair shall appoint: (i) a subcommittee on public health to develop
107 recommendations on packaging, labelling, advertising and related public health issues; (ii) a
108 subcommittee on public safety and community mitigation to develop recommendations on law
109 enforcement, local, property, business and consumer issues; (iii) a subcommittee on the cannabis
110 industry to develop recommendations on cultivation, processing, manufacturing, transportation,
111 distribution, seed to sale tracking and market stability; and (iv) a subcommittee on market
112 participation to develop recommendations on women, minority and veteran owned business,
113 local agriculture and growing cooperatives.

114 SECTION 3. Section 5I of chapter 18 of the General Laws, as appearing in the 2016
115 Official Edition, is hereby amended by striking out, in lines 41 to 43, inclusive, the words “or for
116 the payment to the commonwealth of or any political subdivision thereof of any fees, fines, bail
117 or bail bonds ordered by a court” and inserting in place thereof the following words:- ; for the
118 payment to the commonwealth or a political subdivision thereof of a fee, fine, bail or bail bond
119 ordered by a court; or marijuana or marijuana products that are not prescribed for medicinal
120 purposes.

121 SECTION 4. Section 5J of said chapter 18, as so appearing, is hereby amended by
122 striking out, in line 14, the words “or on cruise ships” and inserting in place thereof the following
123 words:- on a cruise ship; or at an establishment or business that sells marijuana or marijuana
124 products that are not prescribed for medicinal purposes.

125 SECTION 5. Section 5 of chapter 64N of the General Laws, as so appearing, is hereby
126 amended by striking out, in lines 2 and 3, the words “this chapter, other than revenue collected
127 pursuant to section 2 of chapter 64H of the General Laws,” and inserting in place thereof the
128 following words:- section 2 and the revenue generated by the tax imposed by section 2 of chapter
129 64H on the sale of marijuana and marijuana products by a marijuana retailer to anyone other than
130 a marijuana establishment.

131 SECTION 6. Section 1 of chapter 94C of the General Laws, as so appearing, is hereby
132 amended by inserting after the word “plant”, in line 225, the following words:- , industrial hemp
133 as defined in section 116 of chapter 128.

134 SECTION 7. Section 32L of said chapter 94C, as so appearing, is hereby amended by
135 striking out, in lines 2, 25, 30, 35, 36 and 45, the words “one ounce” and inserting in place
136 thereof, in each instance, the following words:- 2 ounces.

137 SECTION 8. Said section 32L of said chapter 94C, as so appearing, is hereby further
138 amended by striking out, in lines 19 and 20, the words words ““An Act Establishing a Sensible
139 State Marihuana Policy,” neither” and inserting in place thereof the following words:- section
140 24I of chapter 90, chapter 94G and chapter 387 of the acts of 2008, neither.

141 SECTION 9. Said section 32L of said chapter 94C, as so appearing, is hereby further
142 amended by striking out, in line 23, the words “an ounce” and inserting in place thereof the
143 following words:- 2 ounces.

144 SECTION 10. Section 32M of said chapter 94C, as so appearing, is hereby amended by
145 striking out, in line 3, the words “one ounce” and inserting in place thereof the following words:-
146 2 ounces.

147 SECTION 11. Chapter 94G of the General Laws, as so appearing, is hereby amended by
148 striking out section 3 and inserting in place thereof the following section:-

149 Section 3. (a) A city or town may adopt ordinances and by-laws that impose reasonable
150 safeguards on the operation of marijuana establishments that:

151 (i) govern the time, place and manner of the operations of marijuana establishments and
152 businesses that deal in marijuana accessories; provided, however, that a zoning ordinance or by-
153 laws shall not prohibit the placement of a marijuana establishment that cultivates, manufactures
154 or sells marijuana or marijuana products in an area in which a medical marijuana treatment
155 center is registered to engage in the same type of activity;

156 (ii) restrict the licensed cultivation, processing and manufacturing of marijuana that is a
157 public nuisance;

158 (iii) establish reasonable restrictions on public signs related to marijuana establishments;
159 and

160 (iv) establish a civil penalty for the violation of an ordinance or by-law enacted pursuant
161 to this subsection, which shall be similar to a penalty imposed for violation of an ordinance or
162 by-law relating to alcoholic beverages.

163 An ordinance or by-law adopted pursuant to this subsection shall not be unreasonably
164 impracticable or conflict with this chapter or the regulations made pursuant to this chapter.

165 (b) The voters of a city or town may limit the number of marijuana establishments in the
166 city or town by accepting any of the following ballot questions:

167 (i) Shall this [city or town] prohibit the operation of any type of marijuana establishment
168 within the [city or town], a summary of which appears below?

169 The summary shall be prepared by the city solicitor or town counsel and shall include a
170 fair and concise summary of the proposed prohibition, including identification of the types of
171 marijuana establishments that shall be subject to the prohibition as voted by the board of
172 selectmen or city or town council.

173 (ii) Shall this [city or town] limit the number of marijuana retailers to less than 20 per
174 cent of the number of licenses issued within the [city or town] for the retail sale of alcoholic
175 beverages not to be drunk on the premises under chapter 138 of the General Laws, a summary of
176 which appears below?

177 The summary shall be prepared by the city solicitor or town counsel and shall include a
178 fair and concise summary of the proposed limitation including, if applicable, the total number of
179 marijuana retailers that will be authorized to operate in the municipality as voted by the board of
180 selectmen or city or town council.

181 (iii) Shall this [city/town] limit the number of any type of marijuana establishment to less
182 than the number of medical marijuana treatment centers registered to engage in the same
183 type of activity in the [city or town], a summary of which appears below?

184 The summary shall be prepared by the city solicitor or town counsel and shall include a
185 fair and concise summary of the proposed limitation including, if applicable, the total number of
186 the types of marijuana establishments that will be authorized to operate in the municipality as
187 voted by the board of selectmen or city or town council.

188 If a majority of the votes cast in the city or town on a ballot question is in the negative,
189 the city or town shall be taken to not have authorized the prohibition or limitation as described in
190 that question. The city or town clerk shall provide notice of the results of the vote to the state
191 secretary, attorney general, and state treasurer not later than 30 days after the vote was taken.

192 A ballot question under this subsection may be placed on the ballot at a regular or special
193 election held by the city or town by a vote of the board of selectmen or town council in a town or
194 by a vote of the city council, with the approval of the mayor, in a city and subject to a municipal
195 charter, if applicable.

196 (c) A city or town that has adopted a local acceptance provision under subsection (b) may
197 overturn that decision by a majority vote of the governing body of that city or town or by the
198 voters of the municipality accepting the following ballot question:

199 Shall this [city or town] repeal the limitation on marijuana establishments within the [city
200 or town] previously adopted by ballot question, a summary of which appears below?

201 The summary shall be prepared by the city solicitor or town counsel and shall include a
202 fair and concise summary of the currently limitations, the number and type of marijuana
203 establishments that would be allowed to operate upon passage and the estimated tax revenue
204 generated for the municipality.

205 The city or town clerk shall provide notice of the results of the vote to the state secretary,
206 attorney general and state treasurer not later than 30 days after the vote was taken.

207 If a majority of the votes cast in the city or town are in the affirmative, the city or town
208 may still adopt ordinances and by-laws under subsection (a).

209 A ballot question under this subsection may be placed on the ballot at a regular or special
210 election held by the city or town by a vote of the board of selectmen or city or town council, with
211 the approval of the mayor, and subject to a municipal charter, if applicable.

212 (d) The city council of a city and the board of selectmen or town council of a town shall,
213 upon the filing with the clerk of the city or town of a petition that meets the requirements of this
214 subsection and is signed by not less than 10 per cent of the number of voters of the city or town
215 voting at the preceding biennial state election that requests that the question of whether to allow
216 the sale of marijuana and marijuana products for consumption on the premises where sold be
217 submitted to the voters of the city or town, place the following question on the ballot,
218 accompanied by a fair and concise summary prepared by by the city solicitor or town counsel:

219 Shall this [city or town] allow the sale of marijuana and marijuana products for
220 consumption on the premises where sold, a summary of which appears below?

221 If a majority of the votes cast in answer to the question is in the negative, the city or town
222 shall be taken to have not authorized the consumption of marijuana and marijuana products on
223 the premises where sold.

224 The petition shall be on a form prepared by the state secretary and shall, after filing with
225 the clerk of the city or town, be submitted immediately by the clerk to the board of registrars or
226 election commissioners who shall certify the signatures of registered voters on the petition not
227 more than 7 days after receipt of the petition. Upon certification of the signatures, the question
228 shall be placed upon the ballot at the next occurring regular municipal or state election; provided,
229 however, that the question shall only appear on a municipal ballot for an election to be held not
230 less than 35 days after certification. For the question to appear on the biennial state election

231 ballot, the city or town clerk shall provide notice, which shall include the ballot question and
232 summary as prepared by the city solicitor or town counsel, to the state secretary not later than the
233 first Wednesday in August before that election.

234 (e) A city or town shall not prohibit the transportation of marijuana or marijuana products
235 or adopt an ordinance or by-law that makes the transportation of marijuana or marijuana products
236 unreasonably impracticable.

237 (f) An agreement between a city or town and a marijuana establishment shall not require
238 the payment of a fee to that city or town that is not directly proportional and reasonably related to
239 the costs imposed upon the city or town by the operation of a marijuana establishment. A cost to
240 a city or town by the operation of a marijuana establishment shall be a public record under clause
241 Twenty-Sixth of section 7 of chapter 4. SECTION 12. Clause (9) of subsection (a) of section 4 of
242 said chapter 94G, as so appearing, is hereby amended by inserting after the word “products”, in
243 line 54, the following words:- , requirements that prohibit the use of bright colors, cartoon
244 characters and other features designed to appeal to minors.

245 SECTION 13. Clause (10) of said subsection (a) of said section 4 of said chapter 94G, as
246 so appearing, is hereby amended by inserting after the word “product”, in line 63, the following
247 words:- , a warning that marijuana and marijuana products are illegal under federal law, a
248 standard health warning developed by the department of public health.

249 SECTION 14. Clause (13) of said subsection (a) of said section 4 of said chapter 94G, as
250 so appearing, is hereby amended by striking out the word “children”, in line 78, and inserting in
251 place thereof the following words:- a person or persons less than 21 years of age or which
252 portrays anyone less than 21 years of age.

253 SECTION 15. Subsection (a) of section 4 of said chapter 94G, as so appearing, is hereby
254 amended by striking out clauses (14) and (15) and inserting in place thereof the following 6
255 clauses:-

256 (14) procedures and requirements to enable the transfer of a license for a marijuana
257 establishment to another qualified person or to another suitable location;

258 (15) provisions for the enforcement of this chapter, including: (i) penalties for civil
259 violations for the failure to comply with a regulation made pursuant to this section or for a
260 violation of section 13; (ii) for the collection of fees and penalties imposed; (iii) for the
261 suspension of a license of a marijuana establishment, including provision for allowing the
262 continued maintenance and security of marijuana and marijuana products; (iv) for the
263 termination of the license; and (v) for the appeal of civil penalties or licensing actions;

264 (16) procedures and policies to promote and encourage full participation in the regulated
265 marijuana industry by farmers and businesses of all sizes, which may include, but not be limited
266 to creating a schedule of cultivator license fees commensurate with cultivation size and
267 promulgating regulations to create a craft marijuana cultivator cooperative system to encourage
268 access to the industry by farmers and small businesses;

269 (17) requirements for ensuring that marijuana testing facilities are independent from
270 marijuana cultivators, marijuana product manufacturers, marijuana retailers and craft marijuana
271 cultivation cooperatives, including a prohibition on an individual who possesses an interest in or
272 is employed by a marijuana testing facility, or an immediate family member of that individual,
273 from possessing an interest in or being employed by another marijuana establishment;

274 (18) requirements that marijuana products are not manufactured in the distinct shape of a
275 human, animal or fruit or another shape designed to be especially appealing to minors; and

276 (19) requirements that prohibit marijuana product manufacturers from altering or utilizing
277 commercially-manufactured food products when manufacturing marijuana products unless the
278 food product was commercially manufactured specifically for use by the marijuana product
279 manufacturer to infuse with marijuana; provided, however, that a commercially-manufactured
280 food product may be used as an ingredient in a marijuana product if: (i) it is used in a way that
281 renders it unrecognizable as the commercial food product in the marijuana product; and (ii) there
282 is no statement or advertisement indicating that the marijuana product contains the
283 commercially-manufactured food product.

284 SECTION 16. Said section 13 of said chapter 94G, as so appearing, is hereby further
285 amended by adding the following subsection:-

286 (h) Notwithstanding chapter 94C, a person under 21 years of age, except a qualifying
287 patient holding a valid registration card for the medical use of marijuana, who cultivates not
288 more than 12 marijuana plants shall be punished by a civil penalty of not more than \$100 and
289 shall complete a drug awareness program established pursuant to section 32M of chapter 94C. If
290 such person is under the age of 18, the parents or legal guardian of such person shall be notified
291 in accordance with section 32N of said chapter 94C. If a person is under the age of 17 at the
292 time of the offense and fails to complete a drug awareness program not later than 1 year after the
293 offense, that person may be subject to delinquency proceedings.

294 SECTION 17. Section 14 of chapter 94G of the General Laws, as so appearing, is hereby
295 amended by striking out, in line 8, the words “of the General Laws” and inserting in place

296 thereof the following words:- , revenue generated by the tax imposed by section 2 of chapter 64H
297 on the sale of marijuana and marijuana products by a marijuana retailer to anyone other than a
298 marijuana establishment.

299 SECTION 18. Said section 14 of said chapter 94G, as so appearing, is hereby further
300 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

301 (b) Money in the fund shall be subject to appropriation. Money in the fund shall be
302 expended for the implementation, administration and enforcement of this chapter by the
303 commission. Thereafter, money in the fund shall be expended for the following purposes: (i)
304 public and mental health; (ii) public safety; (iii) the municipal police training committee
305 established in section 116 of chapter 6; (iv) the Prevention and Wellness Trust Fund established
306 in section 2G of chapter 111; and (v) programming for restorative justice, jail diversion, and
307 workforce development or alternative education in communities disproportionately impacted by
308 high rates of arrest and incarceration for offenses under chapter 94C.

309 SECTION 19. Said chapter 94G, as so appearing, is hereby amended by inserting after
310 section 14 the following section:-

311 Section 15. (a) The commission shall develop a research agenda in order to understand
312 the social and economic trends of marijuana in the commonwealth, to inform future decisions
313 that would aid in the closure of the illicit marketplace and inform the commission on public
314 health impacts of marijuana. The research agenda shall include, but not be limited to: (i) patterns
315 of use, methods of consumption and general perceptions of marijuana; (ii) incidents of impaired
316 driving and hospitalization related to marijuana use including a report of the state of the science
317 around identifying a quantifiable level of marijuana-induced impairment of motor vehicle

318 operation; (iii) economic and fiscal impacts for state and local governments, which shall include
319 the impact of legalization on the production and distribution of marijuana in the illicit market as
320 well as costs and benefits to state and local revenue; (iv) ownership and employment trends in
321 the marijuana industry examining participation by racial, ethnic and socio-economic subgroups,
322 including identification of barriers to participation in the industry; (v) a market analysis
323 examining the expansion or contraction of the illicit marketplace and the expansion or
324 contraction of the legal marketplace that includes estimates and comparisons of pricing and
325 product availability in both markets; and (vi) a compilation of data on the number of arrests,
326 prosecutions, incarcerations and sanctions imposed as a result of violations of chapter 94C for
327 possession, distribution or trafficking of marijuana or marijuana products, including
328 identification of race, gender, country of origin, state geographic region and average sanctions of
329 the individuals charged.

330 (b) The commission shall incorporate available data into its research plan and coordinate
331 and form partnerships with the department of public health, the executive office of public safety
332 and security and the executive office of labor and workforce development. The commission shall
333 annually report on the results of its research agenda and, when appropriate, make
334 recommendations for further research or policy changes. The commission shall publish the first
335 such report not later than July 1, 2019.

336 SECTION 20. Chapter 128 of the General Laws, as so appearing, is hereby amended by
337 adding the following 7 sections:-

338 Section 116. As used in sections 116 through section 121, inclusive, the following words
339 shall, unless the context clearly requires otherwise, have the following meanings:

340 “Hemp products”, products made from industrial hemp including, but not limited to,
341 cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastics, seed, seed meal, seed oil
342 and certified seed for cultivation if such seeds originate from industrial hemp varieties.

343 “Hemp”, the plant of the genus cannabis and any part of the plant, whether growing or
344 not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry
345 weight basis, or per volume or weight of marijuana product, or the combined per cent of delta-9-
346 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus
347 cannabis regardless of moisture content.

348 “Industrial hemp”, the plant referred to as hemp as defined in this section that is used
349 exclusively for industrial purposes including, but not limited to, the fiber and seed.

350 “Person”, a natural person, corporation, association, partnership or other legal entity.

351 Section 117. (a) Industrial hemp may be planted, grown, harvested, possessed, processed,
352 bought, sold or researched subject to sections 116 through 121. The planting, growing,
353 harvesting, possessing, processing, selling or research of industrial hemp as an agricultural
354 product shall be subject to the supervision and approval of the department pursuant to sections
355 116 through 121, inclusive.

356 (b) A person planting, growing, harvesting, possessing, processing, or selling industrial
357 hemp for commercial purposes shall: (i) be licensed by the department pursuant to section 118;
358 and (ii) only acquire hemp seeds imported from a distributor registered with the United States
359 Drug Enforcement Administration and certified by the United States Department of Agriculture.

360 (c) Hemp products may be used only for the following: (i) research purposes; and (ii)
361 commercial purposes considered reasonable by the commissioner.

362 Section 118. (a) No person, other than a person utilizing hemp products for commercial
363 purposes pursuant to subsection (c) or a person utilizing industrial hemp or hemp products for
364 research pursuant to subsection (d), may plant, grow, harvest, possess, process or sell industrial
365 hemp without a license issued by the department.

366 (b) No person may produce or distribute industrial hemp seed without a license issued by
367 the department.

368 (c) A person utilizing hemp products for commercial purposes shall register with the
369 department.

370 (d) A person utilizing industrial hemp or hemp products for research conducted under an
371 agricultural pilot program or other agricultural or academic research shall register with the
372 department.

373 (e) An application for a license issued pursuant to subsection (a) or (b) shall include, but
374 not be limited to, the following: (i) the name and address of the applicant or applicants; (ii) the
375 name and address of the industrial hemp operation of the applicant; (iii) the global positioning
376 system coordinates and legal description of the property used for the industrial hemp operation;
377 (iv) the acreage size of the field where the industrial hemp will be grown, if applicable; (v) a
378 written consent allowing a state and federal criminal history background check to be conducted;
379 (vi) a written consent allowing the department to conduct both scheduled and random inspections
380 of and around the premises on which the industrial hemp is being sown, grown, harvested, stored
381 and processed; (vii) a nonrefundable application fee in an amount established by the

382 commissioner; (viii) all other information required pursuant to subsection (d); and (ix) any other
383 information that may be required by the commissioner.

384 (f) All records related to sections 116 through 121, inclusive, except for the address of a
385 licensee's cultivation or production facilities and any documents describing, depicting or
386 otherwise outlining a licensee's security schematics or global positioning system coordinates,
387 which are considered by the department to be confidential in nature due to their public safety
388 implications, shall be considered public records for the purposes of chapter 66 of the General
389 Laws.

390 Section 119. (a) Upon receipt, review and approval of an application for licensure
391 pursuant to section 118, the commissioner may grant an annual license upon issuance of written
392 findings that the requirements of sections 116 through 121, inclusive, and any regulations
393 promulgated pursuant to those sections are satisfied and upon the issuance of written findings
394 that issuing the license will be in the best interest of the commonwealth.

395 (b) The commissioner shall deny an application for licensure filed pursuant to section 118
396 if the applicant: (i) fails to satisfy the minimum qualifications for licensure pursuant to sections
397 116 through 121, inclusive, and any regulations promulgated pursuant to those sections; or (ii)
398 for good cause shown.

399 Section 120. The commissioner shall suspend, revoke or refuse to renew the license of a
400 person who violates sections 116 through 121, inclusive, or any regulations promulgated
401 pursuant to those sections, following appropriate process in accordance with chapter 30A.

402 Section 121. (a) The department and the commissioner shall promulgate rules and
403 regulations for the implementation, administration and enforcement of sections 117 through 121,
404 inclusive.

405 (b) The department may, pursuant to section 2 of chapter 30A, promulgate, amend or
406 repeal any regulation promulgated under this chapter as an emergency regulation if the
407 regulation is necessary to protect the interests of the commonwealth in regulating industrial
408 hemp.

409 SECTION 21. Chapter 334 of the acts of 2016 is hereby amended by striking out section
410 8.

411 SECTION 22. Section 10 of said chapter 334 of the acts of 2016, as amended by section
412 351 of the acts of 2016, is hereby further amended by striking out the section in its entirety and
413 inserting in place thereof the following section:-

414 “SECTION 10. The commission shall begin accepting applications not later than April 1,
415 2018.”

416 SECTION 23. Said chapter 334 of the acts of 2016 is hereby further amended by striking
417 out section 11.

418 SECTION 24. The state treasurer and the attorney general shall make the initial
419 appointments to the cannabis advisory board created by section 77 of chapter 10 of the General
420 Laws not later than August 1, 2017.

421 SECTION 25. There shall be a special commission to study impaired driving due to
422 substance use other than alcohol to consist of: the executive director of the cannabis control

423 commission, who will serve as the chair; the secretary of public safety and security or a
424 designee; the president of the Massachusetts District Attorneys Association or a designee; the
425 president of the Massachusetts Chiefs of Police Association Incorporated or a designee; the chief
426 executive officer and president of the AAA Southern New England; a representative from the
427 Massachusetts Bar Association; the executive director of the American Civil Liberties Union of
428 Massachusetts, Inc., or a designee; a representative from the NAACP New England Area
429 Conference; the president of the Massachusetts Medical Society or his or her designee; 1 person
430 appointed by the secretary of the executive office of health and human services who shall have
431 medical and physiological expertise; and 1 designee from the Massachusetts Life Sciences
432 Center with expertise in scientific research on the effects and testing ability of these substances.

433 The commission shall examine a variety of areas including, but not limited to, the effects
434 of marijuana consumption on driving, the effects of prescription drugs and over the counter
435 medicine on driving, the effects of other substances on driving, the admissibility of evidence of
436 impaired driving in court proceedings, a review of the available technology that may be used to
437 detect tetrahydrocannabinol, the efficacy of establishing an impairment level for
438 tetrahydrocannabinol and a review of procedures that other jurisdictions where marijuana use is
439 legal employ to detect driving under the influence of marijuana.

440 The commission shall convene its first official meeting not later than November 1, 2017.
441 The commission shall file a report including recommendations based on their findings with the
442 clerks of the senate and house of representatives not later than July 1, 2018.

443 SECTION 26. The cannabis control commission shall establish a working group and
444 provide recommendations on how to reduce energy and water usage in the recreational marijuana
445 industry not later than April 1, 2018.

446 SECTION 27. The cannabis control commission shall report to the joint committee on
447 marijuana policy and the house and senate committees on ways and means on progress made to
448 promote and encourage full participation in the regulated marijuana industry by farmers and
449 businesses of all sizes, any impediments thereto, and recommendations for legislation, if any, no
450 later than May 1, 2018.

451 SECTION 28. The commission shall maintain a confidential, interoperable database
452 including, at a minimum, the qualifying patients issued a registration card for medical use of
453 marijuana, the physicians and healthcare professionals registered to issue written certifications,
454 the names of medical use cannabis establishments and the quantity of marijuana for medical use
455 dispensed to a registered qualifying patient and other pertinent information. Individual names
456 and other identifying information shall be exempt from section 10 of chapter 66, and not subject
457 to disclosure, except to employees of the commission in the course of their official duties,
458 medical use cannabis establishments to facilitate dispensing of marijuana for medical use and to
459 state or local law enforcement officials for the purposes of conducting an investigation pursuant
460 this chapter.

461 SECTION 29. The department of public health, in consultation with the cannabis control
462 commission, shall create the following science-based public awareness campaigns: (i) a
463 campaign to inform the public about responsible adult use of marijuana, including information
464 on edibles and warnings about the dangers of manufacturing marijuana products at home; and (ii)

465 a campaign to educate youth about marijuana use with a goal of decreasing the youth usage rate.
466 The public awareness campaigns shall be funded from revenues received from the Marijuana
467 Regulation Fund established in section 14 of chapter 94G.

468 SECTION 30. The executive office of public safety and security shall create public
469 awareness campaigns to: (i) educate the public about impaired driving including, but not limited
470 to, impairment by the use of marijuana; and (ii) inform people eligible to have their records
471 sealed as a result of changes to criminal laws resulting from marijuana decriminalization and
472 legalization. The public awareness campaign shall be funded from revenues received from the
473 Marijuana Regulation Fund established in section 14 of chapter 94G of the General Laws

474 SECTION 31. Notwithstanding any general or special law to the contrary, a person
475 licensed as of July 1, 2017 to dispense medical use cannabis, or an application pending before
476 the department of public health which has not received provisional or final certification of
477 registration, shall be entitled to convert from a non-profit corporation organized pursuant to
478 chapter 180 of the General Laws into a domestic business corporation or a domestic other entity
479 pursuant to chapter 156 of the General Laws, or any other such domestic business entity as
480 permitted by the General Laws, by adopting a plan of entity conversion in accordance with
481 section 9.51 of chapter 156D of the General Laws approved by a vote of 2/3 of the members of
482 its board of directors at a meeting duly called for the purpose or by unanimous written consent;
483 provided, however, that notwithstanding any law to the contrary, a plan of entity conversion
484 adopted by a medical use cannabis licensee or an application for a medical use cannabis license
485 pending before the commission which has not received provisional or final certification of
486 registration shall not be required to be approved in accordance with the organic law of the non-
487 profit corporation organized under said chapter 180. Articles of entity conversion shall be signed

488 and submitted to the secretary of the commonwealth in the manner prescribed in and subject to
489 section 9.53 and section 9.55 of said chapter 156D on a form prescribed by the secretary of the
490 commonwealth, and the secretary of the commonwealth shall approve all such filings submitted
491 pursuant to this section. For the purposes of converting from a non-profit corporation organized
492 pursuant to said chapter 180 into a domestic business corporation or a domestic other entity
493 pursuant to said chapter 156, notwithstanding any provision in the articles of organization
494 applications pending before the commission which have not received provisional or final
495 certification of registration to the contrary, the members of its board of directors may determine
496 that such plan of entity conversion is consistent with its purpose and such non-profit corporation
497 shall be entitled to surrender its articles of organization in connection with the plan of entity
498 conversion. Notwithstanding any law to the contrary, neither the entity conversion nor the
499 issuance of shares, interests, or other securities, obligations, rights to acquire interests or other
500 securities, cash, other property or any combination of the foregoing, set forth in or resulting from
501 the plan of entity conversion, shall be subject to taxation or result in the imposition of a tax by
502 the commonwealth.

503 SECTION 32. Notwithstanding any general or special law to the contrary, for the
504 purposes of reviewing and approving an application for a license to operate a marijuana
505 establishment, the commission shall identify applicants who are holders of a provisional or final
506 certificate of registration pursuant to chapter 369 of the acts of 2012 and accompanying
507 regulations. The commission shall consider issuance of a provisional or final certificate of
508 registration as achievement of accreditation status. The commission shall ensure an expedited
509 review process for applicants for a license to operate a marijuana establishment who have
510 achieved accreditation status and shall only require that such applicants submit specific

511 information not previously required, analyzed, approved and recognized by the department of
512 public health.

513 SECTION 33. Notwithstanding subsection (d) of section 76 of chapter 10 of the General
514 Laws, the initial appointments to the cannabis control board by the governor and the attorney
515 general shall be for 3 years and the initial appointments by majority vote of the state treasurer,
516 governor and attorney general shall be for 2 years.

517 SECTION 34. (a) As used in sections 34 through 38, the following terms shall, unless the
518 context clearly requires otherwise, have the following meanings:-

519 “Commission”, the cannabis control commission established pursuant to chapter 10A of
520 the General Laws.

521 “Department”, the department of public health.

522 “Program”, the department’s medical use of marijuana program.

523 (b) Notwithstanding any general or special law to the contrary, the department and the
524 commission shall develop and implement a transfer agreement providing for the orderly transfer
525 of the program, including personnel, from the department to the commission. Upon the
526 assumption of the outstanding liabilities, obligations and debt of the program by the commission,
527 the program shall be dissolved and, without further conveyance or other act, all the assets,
528 liabilities, obligations and debt, as well as all rights, powers and duties of the program shall be
529 transferred to, and assumed by, the commission.

530 (c) On the date of the transfer required by subsection (a): (i) ownership, possession and
531 control of all personal property, including, but not limited to, all equipment, books, papers,

532 memorandums, files, maps, plans, records and documents of whatever description pertaining to
533 the operation of the program which are in the possession of the program or department or
534 employees thereof shall pass to, and be vested in, the commission without consideration or
535 further evidence of transfer; and, (ii) all duly existing contracts or obligations of the program
536 which remain in force immediately before the effective date of the transfer pursuant to
537 subsection (a) shall be considered obligations of the commission. The commission may exercise
538 all rights and enjoy all interests conferred upon the program or department by such contracts or
539 obligations. In the case of collective bargaining agreements, obligations under the agreements
540 shall expire on the stated date of expiration of those agreements.

541 (d) The department shall transfer the program to the commission upon receipt of written
542 certification from the commission that the commission has in place the legal and regulatory
543 framework to regulate and oversee medical marijuana without disruption to the medical
544 marijuana industry or patient access to medical marijuana, or on December 31, 2018, whichever
545 occurs first.

546 The transfer of the assets, liabilities, obligations and debt of the program to the
547 commission shall be effective upon execution of the transfer agreement authorized herein and
548 shall bind all persons with or without notice and without any further action or documentation.

549 (e) Each employee of the program whose salary is paid partially or in full by revenues
550 generated by the program and whose salary is accounted for on the books of the program as
551 arising from revenue generated by the program as of June 1, 2017 shall become an employee of
552 the commission upon execution of the transfer agreement authorized herein, or on December 31,
553 2018, whichever occurs first.

554 (f) All applications submitted and other proceedings appropriately and duly brought
555 before the program before the effective date of this act shall continue unabated and remain in
556 force, but shall be assumed and completed by the commission.

557 SECTION 35. (a) Notwithstanding any general or special law to the contrary, each
558 employee of the program shall become an employee of the commission upon the execution of the
559 transfer agreement required pursuant to section 21, or on January 1, 2019, whichever occurs first.

560 (b) All officers and employees of the program who are transferred to the service of the
561 commission shall be transferred without impairment of seniority, retirement or other statutory
562 rights of employees, without loss of accrued rights to holidays, sick leave, vacation and other
563 benefits, except as otherwise provided in this act. Terms of service of employees of the program
564 shall not be considered interrupted by virtue of transfer to the commission.

565 (c) Nothing in this section shall be construed to confer upon any employee of the
566 program any right not held immediately before the date of said transfer to the commission, or to
567 prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or
568 abolition of position not prohibited before such date.

569 SECTION 36. Notwithstanding any general or special law to the contrary, the terms and
570 conditions of a collective bargaining agreement that is in effect upon transfer of the program
571 with respect to employees of that program shall continue in effect until the stated expiration date
572 of the agreement, at which point the agreement shall expire; provided, however, that all such
573 employees shall retain their right to collectively bargain pursuant to chapter 150E of the General
574 Laws and shall be considered employees of the cannabis control commission established
575 pursuant to chapter 10A for the purposes of said chapter 150E. Upon the effective date of this

576 act, the program shall not engage in negotiations for future collective bargaining agreements with
577 employees of the program.

578 The personnel administrator of the commonwealth, in consultation with the commission,
579 shall complete a study of job titles in the program. The personnel administrator, in consultation
580 with the commission, shall determine the appropriate job titles for former employees of the
581 program transferred to the commission. Employees transferred to the commission shall be placed
582 in job positions as determined by the personnel administrator, and shall be paid wages and
583 receive benefits consistent with the bargaining unit contract governing such job positions.
584 Employees not transferred to the commission shall be released pursuant to an applicable
585 collective bargaining agreement or policy in place upon the effective date of this act.

586 SECTION 37. Notwithstanding any general or special law to the contrary, on and after
587 the effective date of this act, the program shall not enter into a contract to employ a person as an
588 employee or officer beyond December 31, 2018.

589 SECTION 38. Notwithstanding any general or special law to the contrary, any order,
590 rule, or regulation duly promulgated, or any license, permit, certificate or approval duly granted,
591 by or on behalf of the program, shall continue in effect and shall be enforced by the commission
592 until its expiration or until superseded, revised, rescinded or cancelled by the commission.