

# Conference Committee Report on an Act to ensure safe access to medical and adult-use of marijuana in the commonwealth.

- ***Maintaining structure:*** The structure of the ballot question voted on last November stays the same with chapter 94G, 64N, chapter 10 sections 77 and 76, with outside sections, as well as creating a chapter 94I (medical marijuana transfer).
- ***Ensuring a Balanced Approach to Governance:*** Cannabis Control Commission shall sit under the Treasury but remain independent and shall be diversified to capture more areas of expertise.
  - Five (5) member Cannabis Control Commission (CCC)
    - 1 appointed by the Governor with a background in public health, mental health, substance use or toxicology.
    - 1 appointed by the AG with a background in public safety.
    - 1 appointed by the Treasurer with a background in corporate management and finance & securities.
    - 1 appointed by a majority vote of the 3 constitutional officers with a background in oversight or industry management.
    - 1 appointed by a majority vote of the 3 constitutional officers with a background in legal, policy or justice issues related to a regulated industry.
    - Commissioners are full-time, paid state employees.
    - Commission chair to be appointed by the Treasurer.
    - Executive Director to be appointed by a majority vote of the 5 Commissioners.
  - CCC operates as a state agency
    - Report budget to Executive Office of Administration & Finance.
    - Budget then has to be approved by the legislature.
  - Twenty-three (23) member Cannabis Advisory Board (CAB), is strictly advisory to CCC and unpaid.
    - CCC Executive Director will serve as the chair
    - Secretary of Housing & Economic Development or designee
    - Commissioner of Dept. of Revenue or designee
    - Commissioner of Dept. of Public Health or designee
    - Commissioner of Agricultural Resources or designee
    - Superintendent of MA State Police or designee
    - President of MA Municipal Association or designee
    - President of the MPAA or designee
    - Registered qualifying patient appointed by the MPAA
    - Executive director of the ACLU of Massachusetts
    - Five (5) members appointed by the Treasurer, an expert in:
      - Marijuana cultivation;
      - Marijuana retailing;
      - Marijuana product manufacturing;

- Laboratory sciences and toxicology;
      - Providing legal services to marijuana businesses
    - Five (5) members appointed by the Governor, an expert in:
      - Minority business development;
      - Economic development strategies for under-resourced communities;
      - Farming or representing the interests of farmers;
      - Representing the interests of employers;
      - Municipal law enforcement personnel.
    - Five (5) members appointed by the Attorney General, an expert in:
      - Social welfare or social justice;
      - Criminal justice reform to mitigate the disproportionate impact of drug prosecutions on communities of color;
      - Minority business ownership;
      - Women-owned business ownership;
      - The prevention and treatment of substance use disorders.
  - CAB may appoint subcommittees.
  - CAB will make recommendations related to costs associated with the purchase of medical marijuana by veterans of the US military.
- ***Setting a tax rate that balances state and local revenue while impeding the blackmarket:*** Incentivizes local adoption of retail licensees, allows state investments in public health education, substance abuse prevention and treatment, and law enforcement while not driving consumers back to the blackmarket.
  - 10.75% State Excise Tax
  - 6.25% State Sales Tax
  - 3% Local Option Excise Tax
  - Host agreement with a cap of 3% on gross revenue
  - Maintain that medical use of marijuana is not taxed
- ***Establish the Marijuana Regulation Fund:*** Spending of the monies received by the CCC will first go to the operation and regulations of the CCC, the designated programs, then remainder to the General Fund.
  - Substance use prevention and treatment;
  - Substance use early intervention services in a recurring grant for school districts or community coalitions;
  - Public Safety;
    - Public awareness campaign established by EOPSS
  - Public Health;
    - Science-based public awareness campaign in consultation with DPH
  - Programming for restorative justice, jail diversion, workforce development, industry specific technical assistance, and mentoring services for economically-disadvantaged persons in communities disproportionately impacted.
  - Medical Marijuana Fund will be transferred into this fund.
- ***Allowing the CCC to regulate the marijuana industry:*** Gives direction to the CCC through stating regulations needed and powers of CCC, along with direction to create studies and reports.

- CCC to set fees and fines.
  - CCC shall create rules and regulations lined out at a minimum within the bill.
  - The ability to license, register, investigate, revoke, or suspends a marijuana establishment.
  - Develop a research agenda of the social and economic trends of marijuana in Massachusetts.
  - Ability to audit marijuana licensees
  - Adopt diversity licensing goals, including minority, women, and veteran business enterprises.
  - Establish energy and environmental standards.
- ***Ensuring a timely launch of adult use through streamlining state oversight and leveraging existing experience:*** Consolidation of DPH MMJ Program and CCC enables for ~25 competent and educated staff to immediately start at the CCC towards implementation of adult use marijuana, allows for economies of scale through elimination of duplication, and allows for “lessons-learned” from MMJ roll-out to be baked into the CCC’s oversight.
    - Move DPH Medical Use of Marijuana Program to the CCC
      - Creates new chapter of law 94I
      - ~25 competent staff who are educated in marijuana policy and supported by the industry
      - \$7.25M transferred from existing MMJ Trust Fund to CCC to support ongoing operations
    - Treasurer with DCAMM will assist in finding location to start operation.
- ***Codify and Update Medical Use of Marijuana Statute:*** Codify ballot into General Law, update terminology and processes to match current MMJ Program and regulations, add critical transparency, and ensure patient confidentiality.
    - Align and modernize terminology and definition to reflect current regulations and statutes
    - Allows for Medical Marijuana Establishments to be for profit, as it will add transparency and bring down patient costs
    - Extend patient bill of rights to MMJ patients, ensuring patient confidentiality
    - Makes patients a high priority in the transfer and update of the statute and regulations.
- ***Responsibly eliminate industry-backed “head start” while ensuring timely launch of the program:*** Eliminate the industry-backed two-year head-start and allow for all interested parties to apply on Day 1; however, leverage healthcare industry concept of “Deemed Accreditation” by recognizing those medical marijuana establishments which have received provisional certificates of approval as having achieved substantial compliance, creating an expedited review process for their approval.
    - “Deemed Accreditation”
      - Medical marijuana establishments that have passed the MA standard and requirements already, so that they do not have to go through the full process multiple times
    - Virtual Separation through seed-to-sale tracking technology
      - Allows co-location of medical and adult use marijuana establishments, reducing footprint within communities
- ***Ensure critical support of our Commonwealth’s municipalities and allowing municipalities’ control:*** Creates a hybrid of the House and Senate bills.

- Allow for local bylaws and ordinances
  - Cannot overly restrict more than have done for a medical marijuana zoning bylaw or ordinance (if applicable)
  - A municipality who had voted in the affirmative for Chapter 334 of the Acts of 2016 shall have a ballot question voted on by the voters if prohibits,
    - the operating of 1 or more marijuana establishments;
    - the number of marijuana retailers to fewer than 20% of off-premise of alcohol to be drunk licensees;
    - the number of marijuana establishments to fewer than medical treatment centers registered in the municipality.
  - A municipality who had voted in the negative for Chapter 334 of the Acts of 2016, the decision to prohibit or restrict marijuana establishments will go to the municipality's legislative body.
- ***Establish nation-leading independent testing standards:*** Ensure nation-leading minimum testing standards and labeling requirements across both adult use and medical, allowing consumers and patients the ability to have confidence in the safety of all marijuana products sold in Massachusetts.
    - Establish oversight of independent testing laboratories, requiring all labs to be 100% independent from marijuana establishments and licensed through CCC.
    - Require compliance with United States Pharmacopeia, aligning with pharmacy standards for purity.
    - Use for both medical and adult-use marijuana testing.
    - Built on the existing DPH standards.
    - Require detailed standards for testing and labeling by the CCC.
  - ***Ensure instructions to CCC and align where possible between medical and adult use for packaging and labeling:*** Ensure clear standards for adult use that align with existing medical standards for public health and safety.
    - Packaging minimum requirements for CCC:
      - Certified child-resistant and resealable;
      - Each serving within a multiple serving package divided to easily be identified;
      - Prohibits bright colors, cartoon characters, and other features appealing to minors;
      - Opaque or plain
      - Serving sizes no greater than 10 milligrams of delta-9 THC and;
      - Cannot resemble any currently sold food or product that is non-marijuana.
    - Labeling minimum requirements for CCC:
      - Symbol or mark indicating product is marijuana;
      - Harmful to children;
      - Name and contact information of marijuana product manufacturer;
      - Results of testing, and that it has meet testing standards;
      - Unique batch number, if necessary;
      - List of ingredients and allergens;
      - Amount of THC in the product and each serving size;
      - Number of servings within a package;
      - Use-by-date, and;

- Informational warning statement.
- ***Creates minimum standard for advertising, marketing, and branding for registered adult-use marijuana dispensaries.*** Extracts regulations from the medical marijuana regulations, other states that have already enacted adult-use marijuana and alcohol and tobacco federal regulations.
  - No false, misleading or deceptive statements
  - No TV, radio, billboard, print or internet unless at least 85% of audience is over 21
  - Cannot appeal to anyone less than 21 or depict anyone less than 21
  - Prohibit certain promotional items as determined by the CCC
  - Cannot say products are safe, other than using labeling as regulated by the bill and CCC
  - Illuminated external signs reasonable prohibition, no neon signs
  - No use of vehicles with radio or loud speaker or a radio or loud speaker themselves
  - Can sponsor charitable, sports or similar event, but must still appease the 85% threshold
  - Website shall verify user is 21 or older
  - Contain a standard health warning developed by DPH
- ***Maintains personal use provisions, but adds liquor license penalties for U-21 sales:*** Does not amend adult use personal use provisions, but aligns with liquor license penalties for U-21 sales.
  - 21+.
  - Poss 1oz and gift up to 1oz; 10oz in home.
  - 6 plants per person, but capped at 12 plants/10oz per residence.
  - CCC shall issues rules and regulations on manufacturing from home grow.
  - Open container prohibition.
  - Adds penalties in-line with new laws for U-21 possession between the ages of 18-20.
  - Social host language from alcohol statute added.
  - Adds ABCC statutory penalties for serving U-21.
- ***Allows for the growing and production of industrial hemp:*** Industrial hemp would be statutorily recognized as an agricultural product and may be planted, grown, harvested, possessed, processed, bought, sold and/or researched.
  - The Department of Agricultural Resources shall oversee industrial hemp as an agricultural product
  - Any person growing industrial hemp shall be licensed by the department
  - Industrial hemp may be used for research and commercial purposes
  - Industrial hemp shall be tested to ensure that THC levels do not exceed 0.3 per cent
- ***Establishes a special commission on driving under the influence of substances:*** The commission shall conduct a comprehensive study relative to the regulation and testing of drivers operating under the

influence of marijuana, narcotic drugs, depressants or stimulant substances and make recommendations on enforcement.

- Thirteen member Driving Under the Influence commission
  - The Executive Director of the Cannabis Control Commission, who will chair the special commission.
  - The Attorney General or his or her designee.
  - The Secretary of the Executive Office of Public Safety or his or her designee.
  - The Colonel of the Massachusetts State Police or his or her designee.
  - The president of the Massachusetts Chiefs of Police Association or his or her designee.
  - The president of the Massachusetts District Attorney's Association or his or her designee.
  - The president of the Massachusetts State Bar Association or his or her designee.
  - The president of the ACLU of Massachusetts or his or her designee.
  - The president of the AAA Southern New England or a designee.
  - The president of the NAACP New England Area Conference or a designee.
  - The president of the Massachusetts Medical Society or his or her designee.
  - 1 person appointed by the Secretary of Health and Human Services with medical and physiological expertise.
  - 1 public member appointed by the Governor with expertise in scientific research on or technological development in testing capabilities of these substances.
- The special commission shall submit its final report and any recommendations for legislation by January 1, 2019 with the House of Representatives and Senate

- ***Important Dates:***

- March 15, 2018
  - CCC shall promulgate rules and regulations for the issuance of licenses.
- April 1, 2018
  - Accept applications for licenses.
- April 1-15, 2018
  - Review applications of operating medical establishments and businesses that demonstrate experience in or business practices that promote economic empowerment in communities disproportionately impacted, for grant or denial of license.
- May 1, 2018
  - Independent Testing Laboratory regulations and rules promulgated.
  - Regulations for Nantucket and Duke counties promulgated.
- June 1, 2018
  - CCC may start issuing licenses for marijuana establishments.
- December 31, 2018
  - If CCC has not yet transferred medical marijuana program from DPH, program automatically transfers.