

SUMMARY OF MASSACHUSETTS CANNABIS LEGISLATION & COMPARISON TO CURRENT LAW

NEW LEGISLATION (H.3818)	REFERENDUM (CURRENT LAW)
<p>Limitation on Licenses. A company may hold no more than 3 marijuana retailer licenses, 3 medical marijuana treatment center licenses, 3 marijuana product manufacturer licenses and 3 marijuana cultivator licenses.</p>	<p>Limitation on Licenses. No limit.</p>
<p>Elimination of “Head Start” for Provisionally Licensed Medical Marijuana Applicants. The bill <u>repeals</u> the provision in the referendum that entities that had applied for a medical marijuana license and received a provisional or final certificate of registration from the Department of Public Health (“DPH”) may apply one year early for adult use retail and product manufacturer licenses and two years early for adult use cultivation licenses.</p>	<p>Elimination of “Head Start” for Provisionally Licensed Medical Marijuana Applicants. Would have allowed for the licensing “head start” for such applicants.</p>
<p>Priority Review for Medical Licensee and/or Economic Empowerment Applicants. The CCC must grant or deny any application for an adult license from applicants submitted between April 1, 2017 and April 15, 2017 that:</p> <ul style="list-style-type: none"> • Are already registered medical marijuana dispensaries with the DPH that are “<u>operational and dispensing</u>” to patients; or • demonstrate experience in or business practices that promote economic empowerment in communities disproportionately impacted by the drug war. 	<p>Priority Review for Medical Licensee and/or Economic Empowerment Applicants. Would have allowed for the licensing “head start” for RMDS that hold PCRs and FCRs from DPH.</p>
<p>Expedited Review for Medical Licensees. Medical entities that hold a PCR or FCR from the DPH that apply for any type of adult use license will be presumed to be “<u>accredited</u>” and cannot be subjected to any application requirements already were functionally completed as part of the DPH licensure process. There must be an “expedited review” for this category of applicants compared to general applicants.</p>	<p>Expedited Review for Medical Licensees. Would have allowed for the licensing “head start” for RMDs that hold PCRs and FCRs from DPH.</p>

<p>Deadlines. The CCC must begin receiving applications from all applicants for cannabis licenses on April 1, 2018 subject to priority review for certain applicants. No license may issue until June 1, 2018.</p> <p>Appointments to the CCC must be made by Sept. 1, 2017 and appointments to the Cannabis Advisory Board must be made by August 1, 2017.</p> <p>Regulations necessary for licensing must be promulgated by March 15, 2018.</p>	<p>Deadlines. The CCC was required to accept applications from entities that had applied for a medical marijuana license and received a provisional or final certificate of registration from the Department of Public Health on April 1, 2018; from all other applicants for a retail or product manufacturer adult use license on April 1, 2019 and from applicants for an adult use cultivator license on April 1, 2020.</p>
<p>Eliminates the Requirement that Medical Marijuana Licensees Operate as Not-For Profit Corporations. The bill removes the requirement that medical marijuana licensees organize as not-for-profit corporations and limit their ability to share revenue with investors. The bill provides procedures for not-for-profit RMDs to convert to for profit corporations consistent with Massachusetts law.</p>	<p>Eliminates the Requirement that Medical Marijuana Licensees Be Not-For Profit Corporations. Would not eliminate this requirement.</p>
<p>Local Control Restrictions: Cities and towns may pass zoning ordinances and by-laws that restrict where marijuana businesses may operate and the time, place and manner of their operation, but the ordinances may not be “unreasonably impractical,” as determined by the Attorney General.</p> <p>Cities and towns in which a majority of voters <u>voted in favor the statewide referendum</u> in 2016 legalizing adult use of cannabis require a city- or townwide referendum vote to (i) prohibit the siting or operation of adult use marijuana businesses; (ii) limit the number of marijuana businesses to less than 20% of the number of alcohol licenses allotted to the municipality; or (iii) limit the number of adult use marijuana businesses to fewer than the number of medical use businesses in the municipality.</p> <p>Cities and towns in which a majority of voters <u>voted against the statewide referendum</u> in 2016 legalizing adult use of cannabis may regulate marijuana businesses (including prohibiting their operation) by vote of the elected</p>	<p>Local Control Restrictions: Cities and towns may pass zoning ordinance and by-laws that restrict where marijuana businesses may operate and the time, place and manner of their operation, but the ordinances may not be “unreasonably impractical,” as determined by the Attorney General.</p> <p>Cities and towns may only (i) prohibit the siting or operation of adult use marijuana businesses; (ii) limit the number of marijuana businesses to less than 20% of the number of alcohol licenses allotted to the municipality; or (iii) limit the number of adult use marijuana businesses to fewer than the number of medical use businesses in the municipality, by a referendum vote of the entire city or town.</p>

governing body of the municipality (i.e., the City Council or Board of Selectmen), until December 31, 2019.	
<p>Restrictions on Limiting Co-Location of Adult Use Operations at Medical Licensees. Cities and towns may not prohibit “the conversion of a medical marijuana establishment licensed on or <u>before July 1, 2017</u> engaged in the cultivation, manufacture or sale of marijuana or marijuana products to an [adult use] marijuana establishment.”</p>	<p>Restrictions on Limiting Co-Location of Adult Use Operations at Medical Licensees. Cities and towns could not prohibit the location of a marijuana business in “any area in which a medical marijuana treatment center registered to [operate].”</p>
<p>Tax Rate: A maximum <u>20%</u> effective tax rate on the retail sale of <i>adult use</i> cannabis: the 6.25% state sales tax plus a state excise of 10.75% plus an optional municipal tax up to 3%. No tax is assessed on medical marijuana.</p>	<p>Tax Rate: The sales tax of 6.25% as well as a 3.75% state excise and optional 2% municipal tax for an effective tax rate of <u>12%</u> on adult use cannabis. No tax is assessed on medical marijuana.</p>
<p>Host Community Agreements. Any adult use or medical licensee <u>must</u> execute a “host community agreement” with the municipality in which it is located, which may include payment of an “impact fee,” no greater than 3 percent. The “impact fee” is effective for not more than 5 years.</p>	<p>Host Community Agreements. Such agreements are not required and may only reimburse municipalities for their costs in regulating the marijuana business.</p>
<p>Structure of Regulatory Body: The Cannabis Control Commission (“CCC”) is housed entirely within the Office of the State Treasurer, but the structure is changed. There are five commissioners; one is appointed by the Treasurer with a background in corporate management and finance; one is appointed by the governor who must have a public health or toxicology background; one is appointed by the Attorney General with a public safety background; and two are appointed by majority vote of the governor, attorney general, and treasurer, one with experience in legal, policy or social justice issues related to regulated industries and one with experience in oversight or management in regulated industries. The State Treasurer designates the chair of the CCC.</p> <p>The Cannabis Advisory Board, which makes recommendations on regulations and taxation issues, to the CCC is expanded to 25 members with representation</p>	<p>Structure of Regulatory Body: The CCC is housed entirely within the Office of the State Treasurer, with all three Commissioners appointed by her under the same model of governance as the Alcoholic Beverages Control Commission.</p> <p>The Governor appointed a smaller Cannabis Advisory Board.</p>

<p>from various departments and interest groups (such as the Massachusetts Municipal Assoc., ACLU, Patient Advocacy Alliance, and State Police). The Board is appointed by designees from the various interest groups and state agencies, as well as the Governor, Treasurer, and Attorney General.</p>	
<p>Suitability Investigation into The Applicant, Its Officers, Close Associates and Investors. None required, but the law authorizes the CCC to require such “suitability” investigations as part of the licensing process.</p>	<p>Suitability Investigation into The Applicant, Its Officers, Close Associates and Investors. None required.</p>
<p>Separation of Medical and Adult Use Cannabis. The CCC must adopt “requirements and standards sufficient to ensure for the virtual separation of marijuana cultivated, processed, manufactured, delivered or sold by a licensee that is also licensed as a medical marijuana treatment center.”</p>	<p>Separation of Medical and Adult Use Cannabis. No specific provision.</p>
<p>Seed to Sale “Interoperable” Tracking System. CCC will pass regulations requiring “all licensees [to] possess and operate an interoperable publicly available application programming interface seed-to-sale tracking system sufficient to ensure the appropriate track and trace of all marijuana cultivated, processed or manufactured.”</p>	<p>Seed to Sale “Interoperable” Tracking System. No specific provision.</p>
<p>Potency Restrictions. The CCC may pass regulations limiting potency and study the issue; no serving size of marijuana product may have more than 10 mg of THC.</p>	<p>Potency Restrictions. No specific provision.</p>
<p>Cultivation Co-Ops. The CCC is directed to create “create a craft marijuana cultivator cooperative system, including but not limited to, the following: (1) a limitation on ownership interests in a marijuana cultivator cooperative; (2) a limit on the total marijuana produced by a craft marijuana cultivator by the number of plants, surface area used for cultivation or output by weight; and (3) a reasonable fee for licensure as a craft marijuana cultivator cooperative.”</p>	<p>Cultivation Co-Ops. No specific provision.</p>

<p>Independent Testing of Cannabis Required. All cannabis and finished products shall be testified by certified independent laboratories, and shall be marked as tested prior to sale.</p>	<p>Independent Testing of Cannabis Required. Testing required, but specific details left to CCC.</p>
<p>Audits. The CCC may audit and inspect any licensee at any time.</p>	<p>Audits. No specific provision.</p>
<p>Restrictions on a Licensee or Investor’s Investment in or Operation of Another Licensee: None.</p>	<p>Restrictions on a Licensee or Investor’s Investment in or Operation of Another Licensee: None.</p>
<p>Transfer of Medical Program. Transfers Department of Public Health (“DPH”) Medical Marijuana Regulatory Program and employees to the CCC. Requires separate medical use regulations, but allows existing DPH regulations to stay in place until the CCC drafts new regulations.</p>	<p>Transfer of Medical Program. Would keep programs under separate regulators.</p>
<p>Energy Conservation. Requires the CCC to set energy conservation and environmental standards as a condition of licensure and/or renewal.</p>	<p>Energy Conservation. No specific provision.</p>