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Frequently Asked Questions (FAQs)

Regarding Laws Governing Adult Use Marijuana in Massachusetts

What law(s) governs the adult use of marijuana?

The 2016 ballot petition known as “Question 4” became Chapter 334 of the Acts of 2016. It created General Laws Chapter 94G which governs the adult use of marijuana and creates the [Cannabis Control Commission](#) (“Commission”). Chapter 334 and G.L. c.94G was amended by Chapter 55 of the Acts of 2017. These laws are herein referred to as The 2017 Act, unless otherwise noted. See [Marijuana Laws in Massachusetts](#).

Who will be establishing the regulations for adult use marijuana in Massachusetts?

The Commission will establish regulations with input from the [Cannabis Advisory Board](#), stakeholders and the public.

When will regulations be issued?

The 2017 Act requires the Commission to promulgate regulations necessary for the issuance of licenses by March 15, 2018.

When can I apply for a business license to sell cannabis?

The Commission is required under the 2017 Act to begin accepting applications by April 1, 2018.

What kind of business licenses can I apply for?

The 2017 Act requires five types of [licenses](#) to be available: retail, manufacturer, cultivator, craft marijuana cultivator cooperative, and independent testing laboratory licenses.

How can I get a license to grow or sell industrial hemp?

Under the law, industrial [hemp](#) can only be used for research purposes and for commercial purposes determined to be reasonable by the Commissioner of the Massachusetts Department of Agricultural Resources (DAR). The Massachusetts DAR is the agency responsible for this process.

How much marijuana can I have?

If you are over 21 years old, you may possess up to one ounce of marijuana on your person, except that not more than five grams of marijuana may be in the form of marijuana concentrate. In your home, you may possess up to 10 ounces of marijuana and any marijuana produced by plants cultivated on the premises. Any amount of marijuana or marijuana products over one ounce kept within your place of residence must be secured by a lock. Failure to keep marijuana and marijuana products in excess of one ounce locked up within the home may be punished by a civil penalty of up to \$100 and forfeiture of the marijuana. See [Penalties for Violations](#).

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Can I smoke or consume adult-use marijuana/marijuana products in public?

No, you cannot smoke recreational marijuana in a place where you are prohibited from smoking tobacco and you cannot consume recreational marijuana in a public place. The civil penalty is up to \$100. See [Penalties for Violations](#). Cities and towns may pass bylaws or ordinances authorizing exceptions in certain areas for social consumption.

Can I grow my own marijuana in my home?

Yes. The law allows an individual over 21 years of age to grow up to six plants in their home. If there are other individuals over 21 years of age living in the residence who wish to grow, the maximum number of plants that may be grown in a residence is 12 plants. The plants must be grown in an area that is equipped with a lock or security device. The plants cannot be visible from a public place without the use of binoculars, aircraft or other optical aids. An individual cannot produce cannabis-based extracts or concentrates at home by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit. See [Home Cultivation and Manufacturing](#).

Can I drive with marijuana in my car?

Like alcohol, you may not have an open container of adult-use marijuana/marijuana products in the passenger area of your car while on the road or at a place where the public has access. An “open container” includes a package with its seal broken or a package from which the contents have been partially removed. The “passenger area” does not include a trunk or a locked glove compartment. The 2017 Act does not change the existing penalties for operating a car if you are impaired by the use of marijuana or marijuana products. You are strictly prohibited from consuming marijuana while operating a car. For specific information, see MGL c.90 § 24.

Can I smoke or consume adult-use marijuana/marijuana edibles at work?

An employer may restrict the consumption of marijuana in the workplace.

Can my city or town ban adult-use marijuana facilities?

Yes, but if your town voted for Question #4 on the 2016 state election ballot, entitled: “Legalization, Regulation, and Taxation of Marijuana”, the city or town must pass the ban through a ballot referendum measure where all voters of their town/city would have an opportunity to vote.

Will this new law impact my medical marijuana registration?

Your status as a patient does not change under the adult-use law. Under the 2017 Act, by December 31, the Medical Use of Marijuana Program will transfer from the Department of Public Health to the Commission. See [Medical Use of Marijuana](#).

What if I have a question that is not answered here?

You can email us at cannabiscommission@state.ma.us. You may also come to one of our public meetings and address the Commission when public comment is on the agenda. Please note, however,

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that the Commission cannot provide individual legal advice. Our meeting schedules, locations, and agendas are available on our website at <https://www.mass.gov/orgs/cannabis-control-commission>.

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**Agency Partners Involved in the
Regulation and Operation of the Marijuana Industry**

Will the Cannabis Control Commission work with other agencies to regulate the marijuana industry?

Yes. The Commission is working in cooperation with several state agencies that control different aspects of cannabis regulation under state law.

In particular, the following will require ongoing collaboration with the listed agencies:

- **Background checks:** With regard to background checks and fingerprinting, the Commission will work with the Department of Criminal Justice Information Services and the Massachusetts State Police, and will receive FBI Statewide Applicant Fingerprint Identification Services (SAFIS) results as required under the 2017 Act.
- **Cooperatives:** In partnership with the Department of Agricultural Resources (DAR), the Commission will develop procedures to policies to promote and encourage full participation in the regulated marijuana industry by farmers and businesses of all sizes, including a craft marijuana cultivator cooperative system.
- **Drug awareness programs:** A person under the age of 18 who possesses marijuana is required to complete a drug awareness program. The drug awareness program must provide at least four hours of classroom instruction or group discussion and ten hours of community service. The Department of Youth Services (DYS) is responsible for developing the drug awareness programs specific to the use and abuse of marijuana and other controlled substances, with particular emphasis on early detection and prevention of abuse of substances.
- **Health standards:** In consultation with the Department of Public Health (DPH) and DAR, the Cannabis Control Commission will issue health and safety standards for the cultivation, process, manufacture and distribution of marijuana. DAR is the state agency authorized to promulgate regulations pertaining to the use of pesticides.
- **Hemp:** DAR is the state agency authorized to license industrial hemp for commercial purposes and to write regulations governing its production and sale.
- **Potency investigation:** In conjunction with the DPH, the Commission will investigate the effects of marijuana and marijuana products with a high potency of THC on the human

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body and recommend whether there should be potency restrictions on marijuana and marijuana products.

- **Public awareness campaigns:** The Executive Office of Public Safety and Security (EOPSS) has responsibility under the 2017 Act to establish public awareness campaigns to:
 - (i) educate the public about impaired driving;
 - (ii) inform the public that a gift of marijuana given in conjunction with the sale of another item in order to evade laws governing the sale of marijuana is illegal and that a person who grants such a gift is subject to prosecution; and
 - (iii) inform people eligible to have their records sealed as a result of changes to criminal laws resulting from marijuana decriminalization and legalization.

- **Research:** The Commission will develop a research agenda intended to help further understanding of the social and economic trends in marijuana within the Commonwealth; to inform future decisions relative to the closure of the illicit marketplace; and to inform the Commission about the public health impacts of marijuana. To this end, the Commission is partnering with the DPH, the Department of Elementary and Secondary Education (DESE), the Department of Higher Education (DHE), EOPSS and the Executive Office of Labor and Workforce Development (EOLWD).

Agriculture

Is the cultivation of marijuana considered agriculture for local zoning purposes?

No. The cultivation, manufacture, and distribution of marijuana is not protected by the agricultural exemption in Section 3 of the Zoning Act, which prevents municipalities from requiring special permits or unreasonably restricting agricultural uses. However, the Zoning Act expressly states that it does not preclude a municipality from establishing zoning by-laws or ordinances to allow commercial marijuana growing and cultivation on land used for commercial agriculture and related activities.

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Calendar of Important Dates

What is the timeline for the implementation of the 2017 Act?

The Commission is required to promulgate regulations by March 15, 2018 and begin accepting applications on April 1, 2018. Based on these dates, we expect the following approximate timeline, which is subject to change.

<i>Important Dates</i>	
Date	What to Expect
December 15, 2016	As of this date, adults over 21 may legally possess limited amounts of cannabis.
October 2017	The Commission held a listening period with listening sessions throughout the state and accepted written comments from the public regarding a range of issues related to the 2017 Act's content, implementation, regulation, and implications.
November 2017	The Commission expects to receive recommendations from the Cannabis Advisory Board regarding the regulation of the legal marijuana industry in Massachusetts.
December 2017	The Commission expects to issue draft regulations for the implementation of the 2017 Act.
January 2018	The Commission expects to hold public hearings and accept public comments on the draft regulations.
March 2018	The Commission expects to issue final regulations for the implementation of the 2017 Act and release business license applications.
April 2018	The Commission expects to begin accepting and reviewing business license applications.
July 2018	Retail sales of adult use marijuana are expected to begin.

Cannabis Advisory Board

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What is the Cannabis Advisory Board?

The Cannabis Advisory Board is an appointed, uncompensated board that studies and makes recommendations to the Cannabis Control Commission on the regulation and taxation of marijuana.

Who serves on the Cannabis Advisory Board?

The board consists of 25 members. Ten members are ex officio:

- the Executive Director of the Cannabis Control Commission who serves as chair;
- the Secretary of Housing and Economic Development or a designee;
- the Commissioner of Revenue or a designee;
- the Commissioner of Public Health or a designee;
- the Commissioner of Agricultural Resources or a designee;
- the Colonel of the State Police or a designee;
- the President of the Massachusetts Municipal Association, Inc. or a designee;
- the President of the Massachusetts Patient Advocacy Alliance, Inc. or a designee;
- a registered qualifying patient appointed by the President of the Massachusetts Patient Advocacy Alliance, Inc.;
- the Executive Director of the American Civil Liberties Union of Massachusetts, Inc. or a designee;

Fifteen members were appointed personally by the Governor, Treasurer and Receiver-General, Attorney General. They are listed below by the appointment criteria set out in the law and the current appointee.

Treasurer and Receiver-General:

- an expert in marijuana cultivation—*Norton Arbelaez*;
- an expert in marijuana retailing—*Michael Dundas*;
- an expert in marijuana product manufacturing—*Jaime Lewis*;
- an expert in laboratory sciences and toxicology—*Dr. Alan Balsam*; and
- an expert in providing legal services to marijuana businesses—*Shanel Lindsay* .

Governor:

- an expert in minority business development—*Kimberly Napoli*;
- an expert in economic development strategies for under-resourced communities—*Henry M. Thomas, III*;
- an expert in farming or representing the interests of farmers—*Lydia Sisson*;
- an expert representing the interests of employers—*Mary Ann Pesce*; and

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- an expert in municipal law enforcement with advanced training in impairment detection and evaluation—*Chief John Carmichael, Jr.*

Attorney General:

- an expert in social welfare or social justice—*Horace Small*;
- an expert in criminal justice reform to mitigate the disproportionate impact of drug prosecutions on communities of color—*Andrea Cabral*;
- an expert in minority business ownership—*Ray Berry*;
- an expert in women-owned business ownership—*Tessa Murphy-Romboletti*; and
- an expert in the prevention and treatment of substance use disorders—*Dr. Sharon Levy*.

How long is the term of a Cannabis Advisory Board member?

Members of the board serve for terms of 2 years.

Is the Cannabis Advisory Board subject to the Open Meeting Law?

Yes. For the purposes of taking action at a meeting, a majority of the members of the board present and voting constitutes a quorum. This principle applies to the subcommittees of the Cannabis Advisory Board as well.

Are there subcommittees of the Cannabis Advisory Board?

Yes. There are mandatory subcommittees created by law, but other subcommittees may be created. The mandatory subcommittees are:

- a subcommittee on public health to develop recommendations on products, labelling, marketing, advertising, related public health issues, potency, which may include a recommended maximum limit for individual servings of marijuana products, and packaging, which may include the development and implementation of a public health warning to appear on marijuana products;
- a subcommittee on public safety and community mitigation to develop recommendations on law enforcement, property, business and consumer issues;
- a subcommittee on the cannabis industry to develop recommendations on cultivation, processing, manufacturing, transportation, distribution, seed-to-sale tracking and market stability; and
- a subcommittee on market participation to develop recommendations on women, minority and veteran-owned businesses, local agriculture and growing cooperatives.

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Cannabis Control Commission

What is the Cannabis Control Commission?

The Cannabis Control Commission (the Commission) was established by Chapter 55 of the Acts of 2017 to oversee the legal marijuana industry in Massachusetts and implement regulations for its operation. There are five Commissioners, appointed by the Governor, Treasurer and Attorney General.

Who serves on the Cannabis Control Commission?

There are five Commissioners on the Commission: one appointed by the Treasurer and Receiver-General; one appointed by the Governor; one appointed by the Attorney General; and two appointed by a majority vote of these appointing authorities. Appointees were selected based on their expertise in legally defined areas as follows:

- an expert in corporate management, finance or securities, appointed by the treasurer and receiver general—*Chairman Steven Hoffman was appointed to this seat in 2017 for a five-year term;*
- an expert in in public health, mental health, substance use, or toxicology, appointed by the governor—*Commissioner Jennifer Flanagan was appointed to this seat in 2017 for a four-year term;*
- an expert in public safety, appointed by the attorney general—*Commissioner Britte McBride was appointed to this seat in 2017 for a four-year term;*
- an expert in oversight or industry management, including commodities, production or distribution in a regulated industry, appointed by a majority vote of the treasurer and receiver general, the governor, and the attorney general—*Commissioner Kay Doyle was appointed to this seat in 2017 for a three-year term;* and
- an expert in legal, policy or social justice issues related to a regulated industry, appointed by a majority vote of the treasurer and receiver general, the governor, and the attorney general—*Commissioner Shaleen Title was appointed to this seat in 2017 for a three-year term.*

How long is the term of a Commissioner?

The initial Commissioners' terms range from 3-5 years, depending on who appointed them. After that, each Commissioner will serve for a term of five years, or until a successor is appointed, and is eligible for reappointment. However, no Commissioner may serve for longer than 10 years.

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Is the Cannabis Control Commission subject to the Open Meeting Law?

Yes. The Commission is subject to the Open Meeting Law. Notices of the Commission's meetings are posted on its website: <https://www.mass.gov/orgs/cannabis-control-commission>. A quorum of the Commission is three Commissioners. An affirmative action by the Commission requires a vote of three Commissioners.

Consumption Restrictions

Is it legal to consume marijuana in public?

No. Consuming marijuana or marijuana products in a public place is prohibited. The civil penalty is up to \$100. Cities and towns may pass bylaws or ordinances authorizing social consumption in certain areas. Consumption of marijuana is limited to adults over 21, with limited, specific medical exceptions.

Contracts

Are contracts with marijuana businesses and related to marijuana transactions enforceable in Massachusetts?

Yes. Under the 2017 law, contracts related to the lawful operation of marijuana establishments are generally enforceable in Massachusetts as a matter of the Commonwealth's public policy. Accordingly, contracts entered into by properly licensed marijuana establishments, their licensed agents, or by persons who allow property to be used by licensed marijuana establishments may not be deemed unenforceable or void in Massachusetts exclusively because the actions or conduct permitted pursuant to a valid license is prohibited by federal law.

Definitions of Marijuana, Related Products, Activities and Hemp

What is the difference between marijuana, marijuana accessories, marijuana products, and hemp?

Marijuana is defined in the law as all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including THC. *Marijuana* does not include:

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- The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- Hemp; or
- The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana accessories are equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana products are products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Process/processing is to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture.

Manufacture/manufacturing is the process by which to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

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

Industrial hemp is hemp that is used exclusively for industrial purposes including, but not limited to, the fiber and seed.

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Delivery Services

I have received a business card for a company that delivers marijuana. How do I know if it is a lawful business?

Currently, the only individuals authorized to deliver marijuana sold to a consumer are dispensary agents employed by a registered marijuana dispensary. Dispensary agents are required to carry a registration card issued by the Department of Public Health when they are transporting marijuana.

The registered marijuana dispensaries open for business are listed on the Department of Public Health’s Medical Use of Marijuana Program [website](#), and some offer statewide delivery services.

Farmers

What protections exist in the law for farmers?

The Commission is required to enact procedures and policies, in cooperation with the Department of Agricultural Resources (DAR), to promote and encourage full participation in the regulated marijuana industry by farmers and businesses of all sizes. This includes the [craft marijuana cultivator cooperative](#) program.

In order to measure whether it meets these goals, the Commission, in consultation with DAR, must report to the Joint Committee on Marijuana Policy and the House and Senate committees on Ways and Means on participation in the regulated marijuana industry by farmers and businesses of all sizes. The first report will provide recommendations to ensure farmers’ access to marijuana licenses and to allow for the growth, cultivation, production and harvest of marijuana on farm or agricultural lands, including, to the extent permitted by state and federal law, lands protected under an agricultural preservation restriction and the possibility of including marijuana and industrial hemp as land in horticultural. These recommendations, including drafts of legislation necessary to carry the recommendations into effect are to be reported by July 28, 2018. The second report, which will be due December 31, 2018, will update the General Court on progress made to promote and encourage full participation in the regulated marijuana industry by farmers and businesses of all sizes.

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Gifting

Can I give marijuana or marijuana products as a gift?

Yes. The 2017 Act prohibits punishment for the act of giving away or otherwise transferring without payment or other compensation up to one ounce of marijuana to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public. Additionally, the law allows for up to five grams of marijuana concentrate to be gifted to a person 21 years of age or older.

It is illegal, however, to give a gift of marijuana in conjunction with the sale of another item to evade laws governing the sale of marijuana. Only those licensed by the Commission or DPH are authorized to sell marijuana. The individual offering a gift as part of a sale is subject to criminal prosecution.

Hemp Program

What are the rules around growing, distributing, manufacturing, and use of hemp?

Under the law, hemp can only be used for research purposes and for commercial purposes determined to be reasonable by the Commissioner of the Massachusetts Department of Agricultural Resources (DAR). DAR is the agency responsible for this process. DAR has the authority to license industrial hemp for commercial purposes and to write regulations governing its production and sale. Similar to marijuana licenses, hemp licenses will be required in order to product or distribute industrial hemp seed, or to plant, grow, harvest, possess, process or sell industrial hemp for commercial purposes.

Home Cultivation and Manufacturing

I am interested in home cultivation of marijuana for adult use. What are the restrictions?

An individual 21 years of age or older may grow and process 6 plants in their home. If more than one individual 21 years of age or older lives in the residence and wishes to grow or process marijuana, the maximum number of plants that may be grown or processed at the residence is 12 plants total.

Some important rules to keep in mind:

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- The plants must be grown and processed in an area that is equipped with a lock or security device;
- The plants cannot be visible from a public place without the use of binoculars, aircraft or other optical aids; and
- An individual cannot manufacture at home marijuana or hemp by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

A violation of the law regarding home cultivation is subject to a fine of up to \$300 and forfeiture of the marijuana.

Laboratory Testing

Does marijuana sold lawfully in Massachusetts have to be tested?

Yes. Marijuana and marijuana products in Massachusetts cannot be lawfully sold or marketed until they have been tested by a licensed independent testing laboratory. This is a requirement intended to protect consumers and public health and safety.

It is important for all marijuana and marijuana products that are made available to consumers to have undergone testing, in compliance with the Commission's standards.

Who performs the testing for marijuana and marijuana products produced and sold in Massachusetts?

The law requires independent testing laboratories to test all marijuana and marijuana products produced and sold for recreational use in Massachusetts. An independent testing laboratory must be licensed by the Commission and must adhere to these three criteria:

- (1) labs must be accredited to the most current [International Organization for Standardization 17025](#) by a third-party accrediting body that is a signatory to the [International Laboratory Cooperation mutual recognition arrangement](#) or that is otherwise approved by the Commission;
- (2) labs must be independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts test; and
- (3) labs must be qualified to test marijuana in compliance with regulations promulgated by the Commission. An independent testing laboratory will be required to apply for a

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certificate of registration from the Commission prior to testing, processing or transporting marijuana.

How does the Commission ensure the objectivity of independent testing laboratories?

To ensure objectivity, laboratories must be independent from marijuana establishments in the following ways:

- No laboratory agent or employee of an independent testing laboratory shall receive direct or indirect financial compensation, other than such reasonable contractual fees to conduct such testing, from any entity for which it is conducting testing pursuant to this chapter; and
- No individual who possesses an interest in or is a laboratory agent employed by an independent testing laboratory, and no immediate family member of that individual, shall possess an interest in or be employed by a marijuana establishment.

Are background checks required for laboratory agents?

Yes. No one may be a laboratory agent who has been convicted of a felony drug offense. The Commission is authorized to conduct criminal history record checks with the Department of Criminal Justice Information Services (“DCJIS”), including the fingerprinting of lab agents for the purpose of conducting a national criminal history records check.

Are there standards for testing?

Yes. The Commission is required to promulgate regulations for the licensure and oversight of independent testing laboratories, and establish testing protocols for the sampling, testing and analysis of marijuana, finished marijuana and marijuana products in consultation with the Department of Public Health and the Department of Agricultural Resources. The regulations must be based on the most recent standards as issued by the [United States Pharmacopeia Convention](#) and shall address sampling and analysis to characterize the cannabinoid profile and biological and chemical contaminants, including but not limited to terpenoids, pesticides, plant growth regulators, metals, microbiological contaminants, mycotoxins, and residual solvents introduced through cultivation of marijuana plants and post-harvest processing and handling of marijuana, marijuana products and ingredients. Until the Commission promulgates testing regulations, the testing protocols established by DPH will be used testing for marijuana for adult use.

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What if a laboratory finds evidence of contamination?

An independent testing laboratory shall report any results indicating contamination to the Commission within 72 hours of identification.

Landlord-Tenant Issues

Can a landlord prohibit tenants from consuming or possessing marijuana on leased property?

A landlord may, in a lease agreement, lawfully prohibit or otherwise regulate the consumption of marijuana by *smoking* and the display, production, processing, manufacturing, or sale of marijuana or marijuana accessories on or in property that the landlord owns.

However, a lease agreement may not prohibit a tenant from *consuming* marijuana by means *other* than smoking on or in property in which the tenant resides, unless failing to do so would cause the *landlord* to violate a federal law or regulation or if the property is owned by the Commonwealth, a subdivision of the Commonwealth (e.g. a county, city or town) or a state or local government agency.

The Commonwealth, a subdivision of the Commonwealth (e.g., a county, city or town) or a state or local government agency may prohibit or otherwise regulate the possession or consumption of marijuana or marijuana accessories within a building owned, leased or occupied by it.

The 2017 Act prohibits a landlord from being punished under state law for allowing marijuana consumption or other marijuana-related activities conducted lawfully under the 2017 law and the Commission's regulations on the landlord's property.

Licensing

I am interested in getting into the marijuana industry. What licenses are available?

The 2017 Act creates licenses for five kinds of marijuana establishments requiring a license to operate:

A *marijuana cultivator* is an entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

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A craft marijuana cultivator cooperative is a separate type of marijuana cultivator.

Cooperatives, or co-ops, allow cultivators to pool their resources so that farmers and businesses of all sizes can participate in the legal marijuana industry. Co-ops must be comprised of Massachusetts residents organized as a Massachusetts limited liability company, limited liability partnership, or other appropriate business structure as determined by the Commission. Co-ops will be licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to other marijuana establishments, but not directly to consumers. The Commission is required by the 2017 Act to adopt regulations that place limits on both the allowable ownership interests in co-ops and the total marijuana produced by each co-op.

*An independent testing laboratory is a laboratory that is licensed by the Commission, meeting certain protocols and standards. See *Laboratory Testing*.*

A marijuana product manufacturer is an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

A marijuana retailer is an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

The 2017 Act additionally allows the Commission to establish and provide for issuance of additional types or classes of licenses to operate marijuana-related businesses, including licenses that authorize:

- limited cultivation, processing, manufacture, possession or storage of marijuana or marijuana products;
- limited delivery of marijuana or marijuana products to consumers;
- the consumption of marijuana or marijuana products on the premises where sold;
- the consumption of marijuana at special events, in limited areas and for a limited time; and
- licenses intended to facilitate scientific research or education.

Are there restrictions on how many licenses can one person or entity may hold?

Yes. No licensee shall be granted more than three marijuana retailer licenses, three medical marijuana treatment center licenses, three marijuana product manufacturer licenses or three

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marijuana cultivator licenses. A licensee may hold the maximum number of licenses for all or a combination of these marijuana establishments.

How long do licenses last?

Unless the Commission determines a particular license should have a longer term, a license will last one year for a registrant in good standing.

Marijuana Establishments

What kinds of businesses or enterprises are regulated by the Commission?

The Commission broadly regulates marijuana establishments, defined as a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business. See also *Licensing*.

Marijuana Industry Jobs

What kind of jobs will be available in the marijuana industry?

The Commission anticipates substantial growth in the availability of jobs in the legal marijuana industry in all areas, from cultivation to retail of marijuana, and in related enterprises.

The Commission is expressly authorized to set out regulations for licenses for working in marijuana establishments. The Commission is also expressly required to adopt policies and procedures to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities. The Commission is also expressly required to develop procedures and policies, in cooperation with DAR, to promote and encourage full participation in the regulated marijuana industry by farmers and businesses of all sizes. The Commission is also required to conduct a study on participation in the regulated marijuana industry, including participation by minority business enterprises, women business enterprises and veteran business enterprises.

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Will there be background checks?

As part of determining suitability for licensure, the Commission is required to conduct fingerprint-based checks of state and national criminal history databases prior to issuing licenses.

Under the 2017 Act, no individual who has been convicted of a felony or convicted of an offense in another state that would be a felony in the commonwealth may be an officer, board member, or have a 10% or greater financial or voting interest in a marijuana establishment. There is an important exception -- no one will be disqualified from working or owning a marijuana business solely because of a past marijuana offense or certain other drug possession offenses, unless the offense involved distribution of marijuana to a minor.

Marijuana Laws in Massachusetts

There are a number of different laws governing medical and adult use of marijuana in Massachusetts. What are they and how do they work together?

In November, 2008, Massachusetts voters voted on a ballot petition to replace criminal penalties for adults possessing one ounce or less of marijuana with civil penalties, also known as decriminalization. The ballot petition became Section 32L of Chapter 94C in the Massachusetts General Laws.

Four years later, in November, 2012, Massachusetts voters voted again on a ballot petition, this time for the medical use of marijuana. The 2012 ballot petition became Chapter 369 of the Acts of 2012. The 2012 law required the Department of Public Health to set up a Medical Use of Marijuana Program and promulgate regulations to implement the law. The regulations, 105 CMR 725.000, et seq., were approved on May 24, 2013.

During the November, 2016, election, another ballot question asked Massachusetts voters to vote on the full legalization of adult use marijuana. It was approved, and the ballot petition became Chapter 334 of the Acts of 2016. In December, 2016, the Massachusetts Legislature amended the 2016 law to delay implementation by six months for the purpose of clarifying how municipal land use regulations would treat the cultivation of marijuana, allowing more time for the creation of industry regulations, and refining allowable usages for marijuana industry related revenue.

In 2017, the legislature created the Joint Committee on Marijuana Policy to draft revisions to the 2016 law and respond to emerging marijuana policy needs. In the Spring of 2017, the

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House and Senate proposed different bills amending the 2016 law. A conference committee was appointed to reconcile the two bills. After further debate, the Legislature approved H.3818, which became Chapter 55 of the Acts of 2017, referred to here as the 2017 Act, which requires the Cannabis Control Commission to develop and implement industry regulations and the Department of Agricultural Resources (DAR) to develop and implement regulations for an industrial hemp program.

The 2017 Act also requires that the Medical Use of Marijuana Program be migrated to the Commission by December 2018 and that the 2012 law be rescinded.

Marijuana Products

What is a “marijuana product” regulated by the Commission?

Marijuana products are products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

What is a “marijuana product” manufacturer licensed and regulated by the Commission?

A marijuana product manufacturer is an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Medical Procedures or Treatment

Can I be denied medical care in Massachusetts if I consume marijuana?

The 2017 Act states that the use of marijuana shall not disqualify a person from any needed medical procedure or treatment, including organ and tissue transplants. Please note that the 2017 Act does not change the classification of marijuana under federal law as a Schedule I drug.

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Medical Use of Marijuana

I am a medical use of marijuana registered qualifying patient. What is going to happen to the Medical Use of Marijuana Program now that adult use of marijuana is permitted?

The 2017 Act requires the operation of Medical Use of Marijuana Program to move from the Department of Public Health (DPH) to the Cannabis Control Commission on or before December 31, 2018. When it moves, the 2012 Act will be repealed and a new law, G.L. c.94I, will take its place. G.L. c.94I is very similar to the 2012 Act, but there are a few key updates:

- **Confidentiality** Every registered qualifying patient will have the right to confidentiality of records and communications related to their care provided by a medical use marijuana licensee or establishment or by their healthcare provider.
- **Taxes** Medical use marijuana procured from a medical use marijuana licensee or establishment will remain exempt from taxes.

Penalties for Violations

Are there limits on marijuana possession and allowable uses? What is the penalty for exceeding limits or on unauthorized use?

Yes. The 2017 Act provides civil penalties for certain violations. If conduct is not expressly protected by the 2017 Law and is not described below as being punishable by civil penalty, it may be subject to criminal enforcement.

<i>Consumption in Public or Smoking in Smoke-Free Zone</i>	
Description of Violation	Penalty
Consuming marijuana in a public place.	Civil penalty of no more than \$100.
Smoking marijuana where smoking tobacco is prohibited, unless it is an area in a marijuana establishment authorized by the municipality for social consumption.	Civil penalty of no more than \$100.

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<i>Unauthorized Cultivation</i>	
Description of Violation	Penalty
Home cultivation visible from a public place without the use of binoculars, aircraft or other optical aids.	Civil penalty of no more than \$300 and forfeiture of the marijuana.
An individual 21 years or older found cultivating more than 6 marijuana plants, but not exceeding 12 plants.	Civil penalty of not more than \$100 and forfeiture of the unauthorized amount of marijuana.
An individual 18-20 years old (unless a patient with a registration card for medical use of marijuana) found cultivating 12 marijuana plants or less.	Civil penalty of not more than \$100 and completion of a drug awareness program.
An individual under 18 years old found cultivating 12 marijuana plants or less.	Civil penalty of not more than \$100, completion of a drug awareness program, and notification of parent or legal guardian.
An individual under 17 years old found cultivating 12 marijuana plants or less.	Civil penalty of not more than \$100, completion of a drug awareness program, and notification of parent or legal guardian. Failure to complete drug awareness program within 1 year of offense may be basis for delinquency proceedings.

<i>Unauthorized Possession</i>	
Description of Violation	Penalty
An individual 21 years or older (unless a patient with a registration card for medical use of marijuana) possesses more than 1 ounce but not more than 2 ounces outside his/her home.	Civil penalty of not more than \$100 and forfeiture of the unauthorized amount of marijuana.

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<i>Unauthorized Attempted Purchase</i>	
Description of Violation	Penalty
An individual 18-20 years old (unless a patient with a registration card for medical use of marijuana) purchases or tries to purchase marijuana, marijuana products, or marijuana accessories.	Civil penalty of not more than \$100 and completion of a drug awareness program.
An individual under 18 years old purchases or tries to purchase marijuana, marijuana products, or marijuana accessories.	Civil penalty of not more than \$100, completion of a drug awareness program, and notification of parent or legal guardian.
An individual under 17 years old purchases or tries to purchase marijuana, marijuana products, or marijuana accessories.	Civil penalty of not more than \$100, completion of a drug awareness program, and notification of parent or legal guardian. Failure to complete drug awareness program within 1 year of offense may be basis for delinquency proceedings.

<i>Falsification of Identification with Intent to Purchase</i>	
Description of Violation	Penalty
An individual 18-20 years alters, defaces or otherwise falsifies ID offered as proof of age with the intent of purchasing marijuana, marijuana products, or marijuana accessories.	Civil penalty of not more than \$100 and completion of a drug awareness program.
An individual under 18 years old alters, defaces or otherwise falsifies ID offered as proof of age with the intent of purchasing marijuana, marijuana products, or marijuana accessories.	Civil penalty of not more than \$100, completion of a drug awareness program, and notification of parent or legal guardian.
An individual under 17 years old alters, defaces or otherwise falsifies ID offered as proof of age with the intent of purchasing marijuana, marijuana products, or marijuana accessories.	Civil penalty of not more than \$100, completion of a drug awareness program, and notification of parent or legal guardian. Failure to complete drug awareness program within 1 year of offense may be basis for delinquency proceedings.

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<i>Unauthorized Transfer</i>	
Description of Violation	Penalty
Knowingly and intentionally supplying, giving, providing marijuana, marijuana products or marijuana accessories to a person under 21 years of age, either for the person’s own use or for the use of the person’s parent or another person.	Civil penalty of not more than \$2,000 or imprisonment for not more than 1 year or both the fine and imprisonment.
Knowingly and intentionally allowing a person under 21 years of age (except for the children and grandchildren of the person charged) to possess marijuana, marijuana products or marijuana accessories on premises or property owned or controlled by the person charged.	Civil penalty of not more than \$2,000 or imprisonment for not more than 1 year or both the fine and imprisonment.

<i>Open Container</i>	
Description of Violation	Penalty
An individual found with an open package (seal broken or contents partially removed or consumed) containing marijuana or marijuana products, upon a public street or a street accessible by the public in the passenger area of any motor vehicle, not including the trunk, locked glove compartment or the living quarters of a house coach or house trailer, or if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or a passenger.	Civil penalty of not more than \$500.

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Possession Restrictions

Are there restrictions on the possession of marijuana in Massachusetts?

An individual 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for:

- **Personal Possession** possessing, using, purchasing, processing or manufacturing 1 ounce or less of marijuana, *except* that not more than 5 grams of marijuana may be in the form of marijuana concentrate; or
- **Residential Possession** possessing up to 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises, and possessing, cultivating or processing up to 6 marijuana plants for personal use as long as no more than 12 plants are cultivated on the premises at once.

An individual possessing more than 1 ounce of marijuana or marijuana products within their place of residence, must secure the marijuana and marijuana products with a lock. Failure to keep marijuana and marijuana products in excess of 1 ounce locked up within the home may be punished by a civil penalty of up to \$100 and forfeiture of the marijuana.

Protection for Consumers

Are there legal protections for parents who consume, purchase, or cultivate marijuana for personal use within the parameters of the law, or for professional service providers working within the industry?

Yes. The 2017 Act recognizes that there are considerations related to the consumption, purchase, or cultivation of adult use marijuana, or about professional participation in the industry, that are specific to parents and professionals.

Parenthood and Marijuana:

- **Marijuana, Parental Rights and Custody:** The 2017 Act limits how the use or possession of marijuana may affect parental rights. Absent clear, convincing and articulable evidence that the person's actions related to marijuana have created an unreasonable danger to the safety of a minor child, neither the presence of cannabinoid components or metabolites in a person's bodily fluids nor conduct permitted under this chapter related to the possession, consumption, transfer, cultivation, manufacture or sale of marijuana, marijuana products or marijuana accessories by a person charged with the well-being of a child shall form the sole or primary basis for substantiation, service

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plans, removal or termination or for denial of custody, visitation or any other parental right or responsibility.

Professional Service Providers in the Marijuana Industry

- **Professional Licensure:** A person engaged in a profession or occupation subject to licensure shall not be subject to disciplinary action by a professional licensing board solely for providing professional services to prospective or licensed marijuana establishments related to activity authorized under the 2017 Act that is not subject to criminal penalty under the laws of the commonwealth.

Research Agenda

Will any research be done about the impacts of and participation in the legal marijuana industry?

Yes. The 2017 Act requires the Commission to develop a research agenda in order to understand the social and economic trends of marijuana in the commonwealth, to inform future decisions that would aid in the closure of the illicit marketplace, and to inform the Commission on the public health impacts of marijuana.

The research agenda shall include, but not be limited to:

- (1) patterns of use, methods of consumption, sources of purchase and general perceptions of marijuana among minors, among college and university students and among adults;
- (2) incidents of impaired driving, hospitalization and use of other health care services related to marijuana use, including a report of the state of the science around identifying a quantifiable level of marijuana-induced impairment of motor vehicle operation and a report on the financial impacts on the state healthcare system of hospitalizations related to marijuana;
- (3) economic and fiscal impacts for state and local governments including the impact of legalization on the production and distribution of marijuana in the illicit market and the costs and benefits to state and local revenue;
- (4) ownership and employment trends in the marijuana industry examining participation by racial, ethnic and socioeconomic subgroups, including identification of barriers to participation in the industry;

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- (5) a market analysis examining the expansion or contraction of the illicit marketplace and the expansion or contraction of the legal marketplace including estimates and comparisons of pricing and product availability in both markets;
- (6) a compilation of data on the number of incidents of discipline in schools, including suspensions or expulsions, resulting from marijuana use or possession of marijuana or marijuana products; and
- (7) a compilation of data on the number of civil penalties, arrests, prosecutions, incarcerations and sanctions imposed for possession, distribution or trafficking of marijuana or marijuana products, including the age, race, gender, country of origin, state geographic region and average sanctions of the persons charged.

The Commission will incorporate available data into its research agenda, including the baseline study conducted by the Department of Public Health, as directed by the Massachusetts Legislature pursuant to chapter 351 of the acts of 2016.

Additionally, the Commission will annually report on the results of its research agenda and, when appropriate, make recommendations for further research or policy changes. The annual reports shall be posted online in a machine-readable format. The first report will be published no later than July 1, 2019.

Additional Resources

Where can I find the text of the 2017 Act?

Original ballot question: Chapter 334 of the Acts of 2016

<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter334>

2017 Amendments: Chapter 55 of the Acts of 2017

<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter55>

Where can I find the regulations that govern the marijuana industry?

(Link forthcoming)

Where can I find the regulations that govern the hemp program?

(Link forthcoming)

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How can I apply for a license to operate a marijuana establishment?

(Link forthcoming)

Security Requirements for Marijuana Establishments

A marijuana establishment has been proposed for my community. What security measures are required for marijuana establishments?

Marijuana establishments are required to meet minimum security requirements, as determined by the Commission, sufficient to deter and prevent theft and unauthorized entrance into areas containing marijuana. No marijuana establishment may cultivate, process, test, store or manufacture marijuana or marijuana products at any location other than at a physical address approved by the Commission and within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the marijuana establishment to access the area. Under the 2017 Act, security cameras are required.

In addition, a greenhouse or outdoor marijuana cultivation area must have sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals, including perimeter security fencing designed to prevent unauthorized entry.

Marijuana establishments are prohibited from allowing cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from a public place without the use of binoculars, aircraft or other optical aids.

Inspectors from the Cannabis Control Commission must be permitted to inspect a licensee's premises at any time to ensure compliance.

Taxes

How is marijuana for adult use taxed by the Commonwealth?

An excise tax is imposed on the sale of marijuana or marijuana products for adult use by a marijuana retailer to anyone except another marijuana establishment. The excise tax is 10.75% of the total sales price of the marijuana or product sold. A state sales tax of 6.25% is also imposed.

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May municipalities tax marijuana for adult use?

Yes. A city or town that accepts the 2017 Act may impose a local sales tax upon sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the municipality to anyone other than a marijuana establishment at a rate no greater than 3% of the total sales price.

The marijuana retailer pays the local sales tax to the Massachusetts Department of Revenue (DOR) at the same time and in the same manner as the sales tax due to the Commonwealth. DOR will distribute the local sales taxes, at least quarterly, to the municipality. If the municipality wishes to dispute the amount it receives, it must notify DOR in writing within 1 year of the date the tax was distributed to it.

Is marijuana for medical use taxed?

No. Like other medicines, marijuana for medical use is considered exempt from taxation.

Where does the tax money collected from marijuana for adult use sales go?

Tax revenues collected from the marijuana industry are collected in a fund called the Marijuana Regulation Fund.

Money in the fund shall be subject to appropriation by the Massachusetts Legislature. The 2017 Law sets out the following prioritization requirements for spending the funds:

- First, money in the fund shall be expended by the Commission for the implementation, administration and enforcement of the 2017 Act, and by the Department of Agricultural Resources for the implementation, administration and enforcement of the industrial hemp program and the provision of pesticide control.
- After the expenses above are met, money in the fund shall be spent on:
 - (i) public and behavioral health including but not limited to, evidence-based and evidence-informed substance use prevention and treatment and substance use early intervention services in a recurring grant for school districts or community coalitions who operate on the strategic prevention framework or similar structure for youth substance use education and prevention;
 - (ii) public safety;
 - (iii) municipal police training;
 - (iv) the Prevention and Wellness Trust Fund established in section 2G of chapter 111; and
 - (v) programming for restorative justice, jail diversion, workforce development, industry specific technical assistance, and mentoring services for economically-

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disadvantaged people in communities disproportionately impacted by high rates of arrest and incarceration for marijuana offenses pursuant to chapter 94C of the Massachusetts General Laws.