



# DEVELOPING LOCAL CANNABIS POLICY IN MASSACHUSETTS

A Primer for Elected Leaders and Staff  
Across the Commonwealth



JUNE 2018

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## Introduction

Massachusetts is well on its way toward supporting a safe, responsible, and soundly-regulated cannabis industry. In November 2016, voters passed Question 4, *Legalization, Regulation and Taxation of Marijuana*. The Massachusetts General Court subsequently adopted comprehensive legislation known as Chapter 55 of the Acts of 2017 in July 2017. More recently, in March 2018, the Cannabis Control Commission promulgated final regulations governing Massachusetts' adult-use cannabis industry, providing municipalities with a policy framework and set of guidelines for adopting local policies.

The launch of this industry marks the beginning of an exciting chapter for the Commonwealth. According to *The Boston Globe* and the Massachusetts Department of Revenue, the regulated cannabis market has the potential to grow into well over a \$1 billion industry, generating hundreds of millions of dollars in state and local tax revenue. It will also create thousands of new jobs in industries like retail, agriculture, advanced manufacturing, technology, biotech, and research, as well as in ancillary services, such as construction, professional services, security, and technology. Tens of millions of dollars will be generated in local property taxes.<sup>1</sup>

Local elected leaders, government officials, and staff all play an essential role in ensuring the success of this industry and advancing the many benefits that cities and towns stand to gain. From tax rates and zoning regulations to operating hours and host agreements, local governments face many important decisions as they set out to develop a responsible policy framework for this industry that allows municipalities to take advantage of this expansive new sector of the economy.

A useful starting point for approaching the development of local cannabis policy is data from the Federal Government's National Survey on Drug Use and Health (NSDUH), which found that 1.1 million Massachusetts residents consumed cannabis in 2015—roughly one out of five individuals aged eighteen years or older.<sup>2</sup> Given that there are fewer than 50,000 registered medical cannabis patients in Massachusetts, this means that more than one million individuals purchase or consume cannabis from the illegal market each year.

**1.1 Million  
Massachusetts  
Residents  
Consumed  
Cannabis in 2015**

Local cannabis policies are ultimately about transitioning the production, sale, and consumption of cannabis from the illegal market to a structured and highly-regulated system where product is tested, taxed, and kept out of the hands of youth and criminals.

The purpose of this primer is to help inform the policymaking process in cities and towns across Massachusetts as they set out to address this issue and, ultimately, make the transition from the illegal market to a functioning, regulated cannabis industry. Developed by Weedmaps—the oldest and largest cannabis technology firm in the world—this document provides a breadth of information on this industry and its related policies.

[Section 1](#) and [Section 2](#) begin by detailing the history of cannabis policy in the United States and Massachusetts' gradual adoption of comprehensive cannabis reform policies. [Section 3](#) offers a brief overview of key dates throughout the rollout of Massachusetts' adult-use cannabis industry. [Section 4](#) and [Section 5](#) provide context on the Commonwealth's emerging regulatory framework for cannabis and the state agencies in charge of regulating, overseeing, and enforcing the rules governing this industry. [Section 6](#) and [Section 7](#) provide an overview of each major adult-use cannabis license category and their individual and aggregated economic impact. [Section 8](#) outlines the role that municipalities play within this regulatory framework and the authority they have in setting local policy. [Section 9](#) dives deeper into the specific policy areas local

governments can address in regulating the industry. [Section 10](#) addresses several commonly-voiced concerns about cannabis legalization by examining the latest studies, data, and industry-related developments. Finally, [Section 11](#) puts forward additional resources that local government officials can reference as they develop local policy frameworks for the industry.

This document should not be viewed as official government guidance but rather as a useful resource for facilitating a more informed and constructive dialogue on cannabis policy in your community. The Cannabis Control Commission (CNB)—the independent government agency that is principally responsible for regulating the industry—issued an official document providing [Guidance for Municipalities Regarding Marijuana for Adult Use](#) in March 2018. This primer serves as a supplement to the CNB's official guidance, and we hope that it contributes meaningfully to a proactive and dynamic discussion on local cannabis policy.

The regulatory framework for the cannabis industry will continue to evolve over the coming months. As developments impacting this industry and related policies emerge, we will update this primer accordingly. We welcome your feedback and will incorporate your questions and recommendations in subsequent versions.

If you have any outstanding questions about this primer or would like to schedule a meeting with Weedmaps' Government Relations team, please reach out to Ben Mays (Senior Associate, Government Relations) anytime at the contact information below. We welcome any opportunity to serve as a resource to you and your colleagues.

## About Weedmaps

Founded in 2008, Weedmaps is the oldest and largest cannabis technology company in the world and is the leading innovator in developing software and other technology-driven platforms that support and advance the cannabis industry. Our core platform, [weedmaps.com](#), connects people with local cannabis dispensaries, delivery services, doctors, deals, brands, lab data and real-time menus. The site directly integrates with laboratories to collect data and dispensary point of sale systems to provide product availability. Weedmaps' full suite of business-to-business and business-to-consumer software includes laboratory data integration, point-of-sale, and medical practice management.

Beyond providing the software and advertising solutions that underpin the industry, Weedmaps has been advocating for measured growth and responsible federal, state, and local policies to guide the modernization of the industry for nearly a decade. Weedmaps is working collaboratively with all levels of government across the United States, Canada, and Europe to encourage reforms and establish regulatory frameworks capable of ensuring safe and reliable access to cannabis and addressing the public safety, health, tax, and community reinvestment goals of legislators and regulators.

### Contacting Weedmaps with Questions, Concerns, and Policy-Related Requests

If you have any outstanding questions about this primer or would like to schedule a meeting with Weedmaps' Government Relations team, please reach out to Ben Mays at any time.

#### Ben Mays

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## Section 1: A History of Cannabis Legalization in the United States

### Early American Use of Cannabis and the Transition to Prohibition

Cannabis has a rich and longstanding history in the United States. As early as the 17<sup>th</sup> century, the American colonies encouraged the production of hemp (a variety of the cannabis plant) for commercial uses. For much of the 19<sup>th</sup> century, cannabis was widely used for medicinal purposes. In fact, the medical benefits of cannabis were so broadly recognized that the third edition of the United States Pharmacopeia, published in 1851, included cannabis in its list of medicines.<sup>3</sup>

Federal and state cannabis policies began to shift towards prohibition in the early 20<sup>th</sup> century with several state-led bans and subsequent federal legislation such as the Marihuana Tax Act (1937), the Boggs Act (1952), and the Narcotics Control Act (1956). In 1970, the Federal Government further codified its rigid approach to cannabis policy with the passage of the Controlled Substances Act (CSA).<sup>4</sup>

In recent years, the Federal Government has adopted a more flexible approach to cannabis policy that accommodates state medical and adult-use cannabis laws. Most notably, in 2013 the U.S. Department of Justice (DOJ) issued what is commonly cited as the “Cole Memorandum”—federal DOJ guidance which formally shifted the Federal Government’s marijuana enforcement priorities away from individual use and state-regulated cannabis markets to targeting more critical priorities such as organized crime. Despite the fact that U.S. Attorney General Jeff Sessions rescinded the Cole Memorandum in January 2018, federal enforcement remains at the discretion of U.S. Attorneys, several of whom have publicly reaffirmed that they will not interfere with state-level cannabis laws (additional information on this matter is provided in the [Addressing Constituent Concerns](#) section).

### Broadening of Support for Cannabis Legalization



**Figure 1: 64% of Americans Now Support Legalizing Cannabis** Source: Gallup.

While much of the 20<sup>th</sup> century was characterized by federal and state laws that prohibited the sale and consumption of cannabis, the past three decades have seen a steady and dramatic increase in public support for legalization of cannabis. Whereas a mere 12 percent of the American public favored legalization in 1969, a strong majority of Americans (64 percent) now support legalizing cannabis.<sup>5</sup>

State-led efforts to implement medical and adult-use cannabis laws have played a central role in increasing public support for legalization. These reforms have delivered myriad benefits—from tax revenue generation to economic development—with few, if any, repercussions. Since California became the first state to legalize medical marijuana in 1996, national support for legalization has more than doubled—72 percent of Democrats, 67 percent of Independents, and 51 percent of Republicans now favor full legalization.



Figure 2: American Support for Cannabis Legalization, 1969-2017

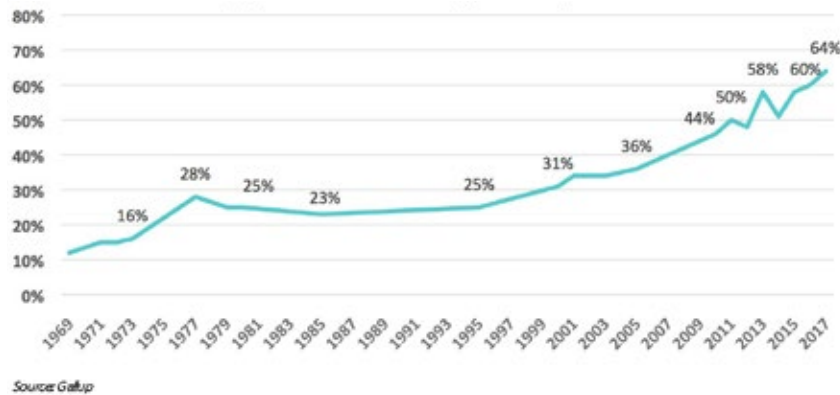


Figure 3: American Support for Cannabis Legalization, by Party

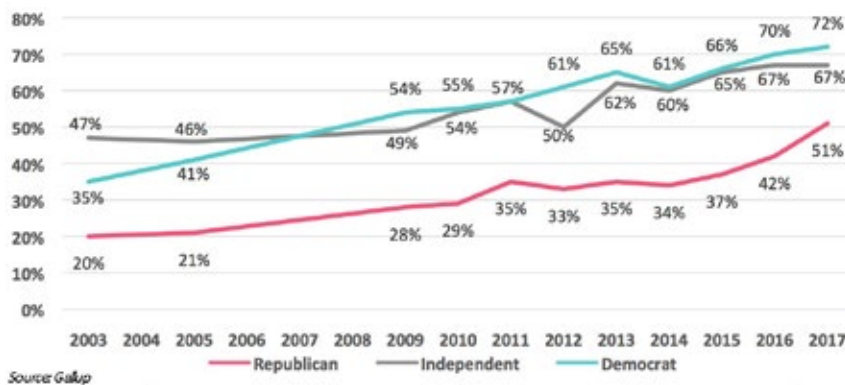
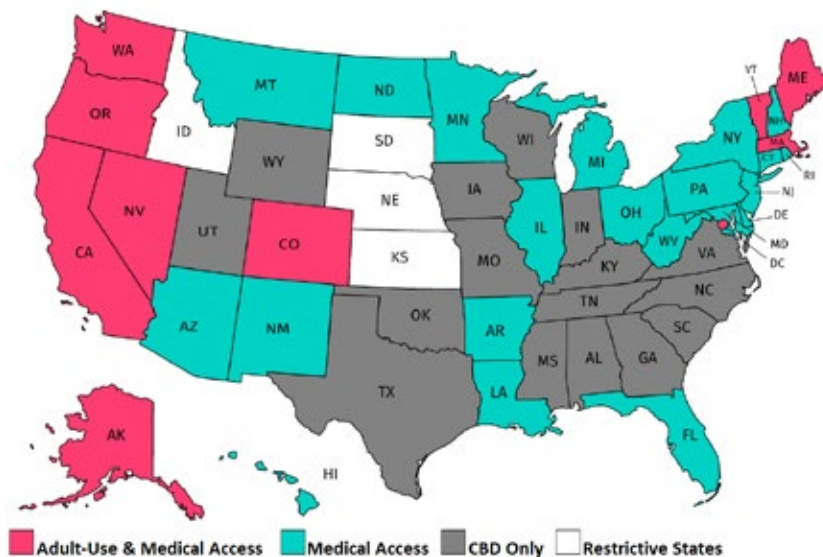


Figure 4: Status of State-Level Cannabis Laws in the U.S.



## The Adoption of State-Level Medical Cannabis and CBD Laws

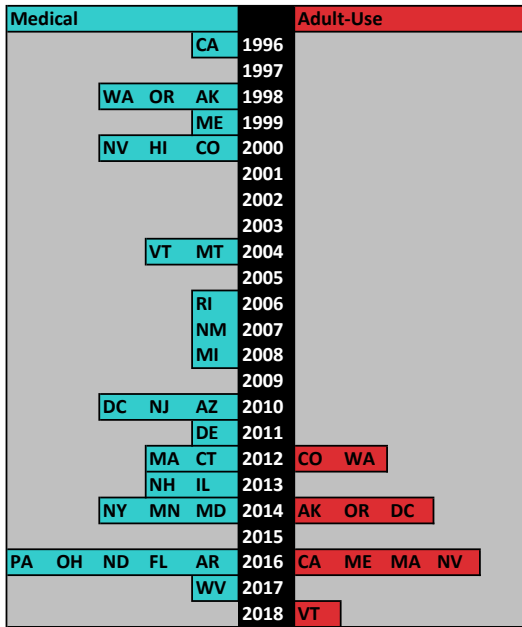
The 1990s and 2000s saw a proliferation of state medical marijuana laws, which provide patient access to cannabis for qualifying, physician-approved conditions. Since 2010, a growing number of states—most recently West Virginia, Florida, and Ohio—have passed medical marijuana laws. Thirty states and the District of Columbia now have legal medical access to cannabis.

Recognizing the far-reaching medicinal benefits of cannabis, a select number of states—mostly in the southeastern and midwestern U.S.—have passed limited cannabidiol (CBD) laws that legalize medical access to CBD oil for qualifying medical conditions. These laws were adopted post-2010, largely due to epilepsy and cancer advocates and patients. However, a broad range of policy experts and patient advocates argue that CBD-only laws are far too restrictive and fail to meet the medical needs of most patients. There are currently sixteen states with limited CBD laws.

## The Emergence of State-Level Adult-Use Cannabis Laws

Adult-use cannabis laws—commonly referred to as “recreational marijuana” laws—emerged in the 2010s as voters began recognizing the benefits of replacing prohibition with comprehensive cannabis policy reforms to regulate and tax the possession, consumption, and sale

Figure 5: Timeline of State-Level Cannabis Policy Reforms



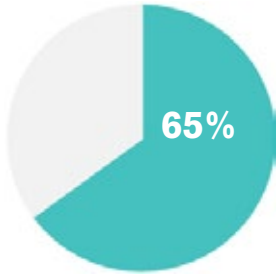
of marijuana. In 2012, Colorado and Washington became the first adult-use states in the U.S. with voters' passage of Amendment 64 and Initiative 502, respectively. Similar adult-use ballot initiatives have since passed in Alaska, California, Maine, Massachusetts, Nevada, Oregon, and the District of Columbia. In January 2018, Vermont became the first state to institute adult-use cannabis access legislatively rather than through a ballot initiative.

The bottom line is that there is broad-based, bipartisan support for cannabis legalization, with support increasing over time. Moreover, Massachusetts is not alone in advancing safe, responsible, and successful cannabis policies. The vast majority of states (46 to be exact) now have some form of legal access to cannabis, allowing local policymakers to look to data-driven analysis from other jurisdictions to determine policy best practices.

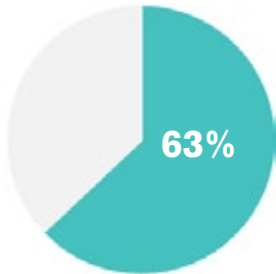
## Section 2: A History of Cannabis Legalization in Massachusetts

**Figure 6: Cannabis Ballot Question & Polling Results in Massachusetts**

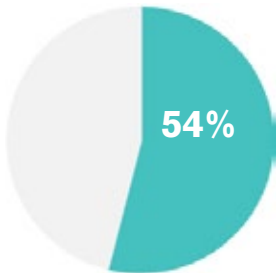
**2008: Question 2**  
Approve Decriminalization



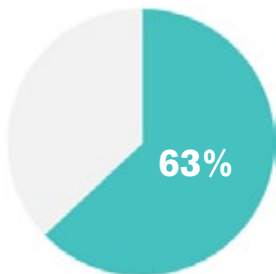
**2012: Question 3**  
Approve Medical Use



**2016: Question 4**  
Approve Adult-Use



**2017: Boston Herald Poll**  
Approval of Adult-Use



Massachusetts has a long history of implementing statewide cannabis reform policies. Much like the histories of cannabis legalization in other states, these reforms have been led by voter ballot initiatives. Massachusetts lawmakers have played a central role in implementing these policy changes and ensuring a smooth transition from outdated prohibition laws to safe, responsible, and successful cannabis policies.

It's important to note that while the Commonwealth has been an early mover in shifting away from prohibition, these reforms have been gradual—implemented over the course of more than a decade.

The Commonwealth's first major shift on cannabis policy occurred in 2008 when Massachusetts voters passed Question 2, *Possession of Marijuana*, to decriminalize the possession of cannabis. The ballot initiative passed by a wide margin with 65 percent of voters favoring passage.<sup>6</sup> Question 2 went into effect in January 2009 as Chapter 387 of the Acts of 2009.

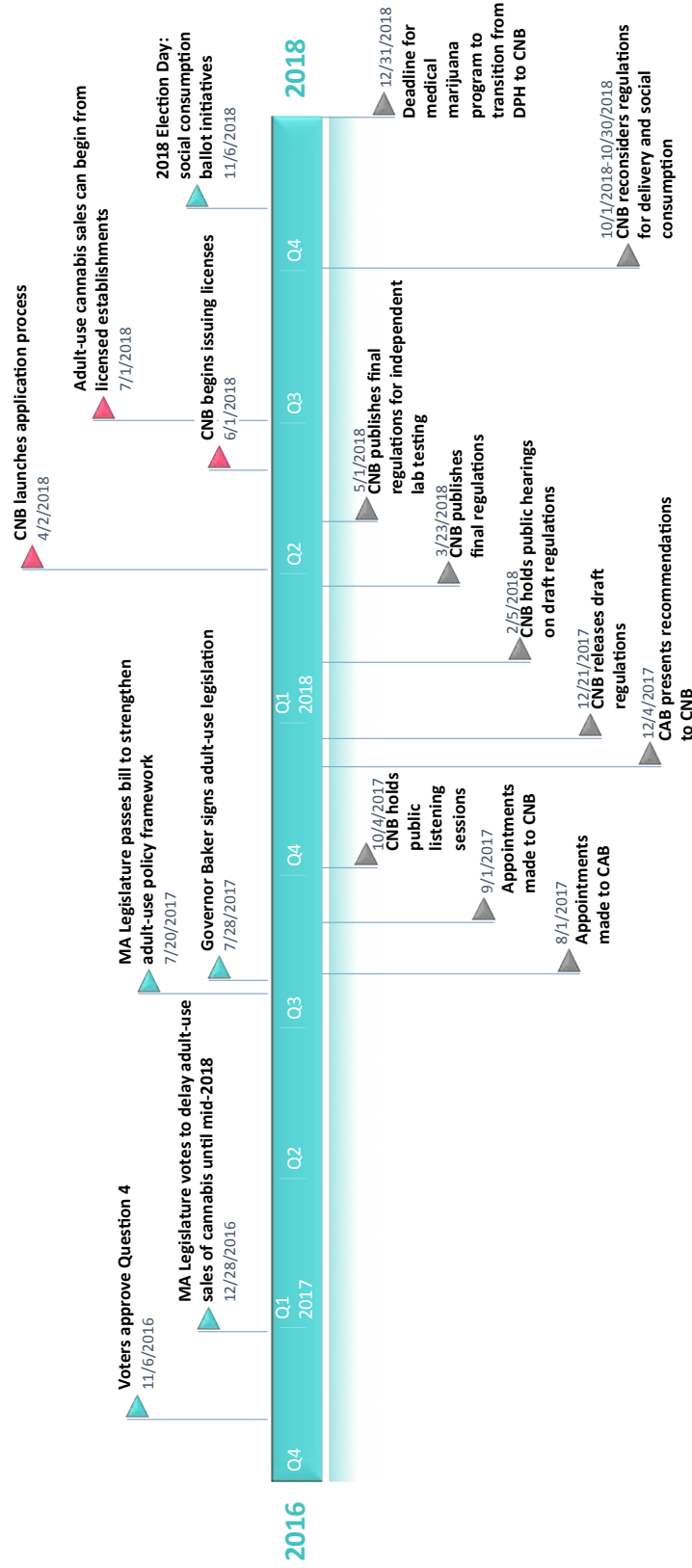
Massachusetts' second breakthrough in cannabis legalization was voters' 2012 passage of Question 3, *Medical Use of Marijuana*, which legalized the medical use of cannabis for qualifying, physician-approved conditions such as cancer, Parkinson's disease, and multiple sclerosis. Question 3 passed with 63 percent of the vote and went into effect in January 2013 as Chapter 369 of the Acts of 2012.<sup>7</sup> As of March 2018, the Commonwealth's Medical Use of Marijuana Program had 48,265 registered patients, 241 registered healthcare providers, 24 open registered marijuana dispensaries or "RMDs", and more than 100 RMDs with provisional state approval.<sup>8</sup>

Massachusetts' most recent shift in cannabis policy emerged in 2016 with voters' passage of Question 4, *Legalization, Regulation and Taxation of Marijuana*, which legalized adult-use cannabis. The ballot initiative passed with 54% of the vote. Recognizing the importance of developing nation-leading regulations for the Commonwealth's future cannabis industry, the Massachusetts General Court postponed the full implementation of Question 4 and passed comprehensive omnibus legislation in July 2017 (See [Chapter 55 of the Acts of 2017](#)), further strengthening the industry's policy framework for both medical and adult-use marijuana. The Cannabis Control Commission (CNB)—the state agency principally responsible for overseeing the Commonwealth's cannabis market—promulgated final regulations in March 2018 and launched a comprehensive licensing application process in April 2018. Adult-use sales of cannabis are expected to begin in July 2018.

Following the passage of Question 4, support for adult-use cannabis has increased considerably. According to a recent poll conducted by the *Boston Herald* and the Bennett Group, 63 percent of Massachusetts voters now support adult-use cannabis.<sup>9</sup> These figures make clear that as the Commonwealth and municipal governments move forward with implementing responsible policies, public support for regulated cannabis sales increases.



# Section 3. Massachusetts' Adult-Use Cannabis Policy Timeline: Key Dates and Deadlines



## Section 4: Overview of State-Level Cannabis Policy

Since voters approved Question 4 in November 2016, Massachusetts legislators and regulators have spent more than a year strengthening and fine-tuning a nation-leading policy framework for the Commonwealth's emerging cannabis industry. Building upon the experiences of Massachusetts' Medical Use of Marijuana Program and other states with medical and adult-use cannabis policies, the Commonwealth's state-level cannabis policies establish a robust system of oversight and enforcement that addresses a broad range of issues and concerns.

### Personal Use of Marijuana (Chapter 94C, Section 32L and Chapter 94G, Section 2)

The centerpiece of Massachusetts' cannabis policy framework is the establishment of legal adult-use cannabis access. Specifically, Massachusetts law now permits:

- Possession, purchase, and consumption of two ounces or less of marijuana by adults aged 21 years or older.
- Home cultivation of up to six marijuana plants per individual and twelve marijuana plants per household by individuals aged 21 years or older.

However, it's critical to note that this legislation maintains penalties for operating vehicles under the influence of marijuana and punishments for transferring marijuana to individuals under the age of 21. It also allows employers to restrict marijuana consumption in the workplace.

### Industry Oversight and Enforcement (Chapter 10, Sections 76-77 and Chapter 94G, Section 4)

For the purposes of implementing, overseeing, and enforcing the Commonwealth's cannabis policies, Massachusetts lawmakers created the Cannabis Control Commission (CNB), an independent five-member government agency. The CNB has broad regulatory, investigative, and enforcement powers to ensure that the Commonwealth's cannabis industry is safe, responsible, and successful. Among the many roles under the CNB's purview are:

- Overseeing a comprehensive state application and licensing system to ensure that all industry licensees and employees uphold the highest standards, pass rigid background checks, and align their operations with the specifications of local governments. Examples of these rigorous application requirements include: (1) documentation that the applicant conducted a publicly-posted community outreach meeting in accordance with CNB guidance, (2) certificates of good standing from the Massachusetts Department of Revenue and the Corporations Division of the Secretary of the Commonwealth, (3) a detailed summary of the proposed establishment's operating policies and procedures, including security protocols, (4) documentation of all available capital resources and certification that the funds used to finance the proposed establishment were lawfully earned or obtained, and (5) certification that the proposed establishment has executed a host community agreement with the municipality in which it seeks to locate (for full multipage list of all application requirements, see CNB's final regulations 935 CMR 500.101).
- Monitoring and enforcing compliance with state and local policies through inspections, audits, and the issuance of fines and penalties.
- Promoting social equity and full participation in the cannabis industry among women, minorities, and populations that have been disproportionately impacted by the war on drugs.

The work of the CNB is enhanced by a 25-member Cannabis Advisory Board (CAB), which incorporates a broad range of policy perspectives and expertise.

### **State and Local Taxation (Chapter 64N)**

Massachusetts lawmakers adopted an informed approach to cannabis tax policy that will generate hundreds of millions of dollars in tax revenue for the State and municipalities. This tax policy framework includes an all-in tax rate of 20.00% that consists of (1) a 6.25% state sales tax, (2) a 10.75% state excise tax, and (3) an optional 3.00% local excise tax restricted to the final point of sale. The Department of Revenue will collect all state and local taxes and distribute local tax revenue back to municipalities.

### **Public Safety and Security Standards (Chapter 94G, Sections 4 and 12)**

Beyond the CNB's oversight and enforcement of the industry, the Commonwealth has put forward robust public safety and security standards for the industry. In addition to the mandated background checks for all industry licensees and employees, the CNB has been granted the authority to develop on-site security standards for marijuana establishments. The most important component of these standards is a state-of-the-art seed-to-sale tracking system to prevent diverting product to youth, criminals, or out-of-state jurisdictions. Additionally, licensees will need to ensure that all entrances are secured, submit emergency response plans to local police and fire departments, and provide additional safeguards such as alarm systems, 24/7 camera monitoring, and security lighting.

### **Public Health and Lab Testing Standards (Chapter 94G Sections 4 and 15)**

In 2013, Massachusetts was the first state in the country to require that all medical marijuana products be tested. Following suit, Chapter 55 of the Acts of 2017 tasks the CNB with developing and enforcing comprehensive public health standards for all industry licensees and operations, including the cultivation, manufacturing, production, and delivery of marijuana. A key feature of these standards is mandatory independent lab testing of marijuana to ensure that all products in Massachusetts are safe and free of pesticides, mold, and other contaminants. The CNB is also developing limitations on potency and dosing for edible marijuana products to prevent incidents related to overconsumption.

### **Social Equity (Chapter 10, Chapter 94G, and 935 CMR 500)**

The Commonwealth has adopted several important policies to advance an equitable and inclusive industry. These policies include:

- **Required Diversity Plans:** The CNB's application process requires all prospective marijuana establishments to submit "diversity plans to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientation."
- **Social Equity Program:** The CNB instituted a nation-leading Social Equity Program, which will provide training and technical assistance to qualifying applicants and licensees through a Social Equity Training and Technical Assistance Fund.
- **Priority Certification for Economic Empowerment Applicants:** The CNB established a process to award priority certification (a status wherein licensing applications receive priority review from the CNB) to Economic Empowerment Applicants who meet three of six criteria such as minority business ownership.

- **Tax Revenue Distribution:** Chapter 94G, Section 14 specifies that the Commonwealth shall allocate a portion of the state-level cannabis tax revenue to (1) restorative justice, (2) jail diversion, (3) workforce development, and (4) training and technical assistance.
- **Market Participation Subcommittee:** Chapter 10, Section 77 establishes a Market Participation Subcommittee within the Cannabis Advisory Board “to develop recommendations on women, minority and veteran-owned businesses, local agriculture and growing cooperatives.”
- **Citizens Review Committee:** The CNB created a nine-member Citizens Review Committee to advise the Commission on the implementation of the Social Equity Program as well as the distribution of state-level tax revenue towards community reinvestment.

### Packaging, Labeling, and Advertising Standards (Chapter 94G, Section 4)

The Commonwealth has instituted some of the strictest packaging, labeling, and advertising standards in the nation in order to address concerns about youth usage and public health.

- **Packaging:** These packaging standards include: (1) complying with all consumer product safety commission standards, (2) mandating that all product be enclosed in opaque, child-resistant, resealable packaging, and (3) prohibiting the use of bright colors, cartoon characters, and other features that may appeal to minors—among other stringent requirements.
- **Labeling:** These labeling standards include: (1) a clear symbol and demarcation that the product contains marijuana, (2) information on tetrahydrocannabinol (THC) potency (the psychoactive component of cannabis), (3) a list of ingredients, (4) and lab testing results—among other stringent requirements.
- **Advertising:** These advertising standards include: (1) a ban on marketing that is deceptive or appeals to youth, (2) a prohibition on advertising through mediums where the audience is comprised of less than 85 percent adults, (3) a requirement that all advertisements contain standard health warnings—among other stringent requirements.

#### Mandatory Labeling of Cannabis



**CONTAINS THC**



In Massachusetts, all cannabis and cannabis products are required to have the above symbols.

### Energy and Environmental Standards (Chapter 55 of the Acts of 2017, Section 78)

The CNB is mandated to convene an energy and environmental group in collaboration with the Department of Environmental Protection, the Department of Energy Resources, and the Department of Agricultural Resources to develop energy and environmental standards to reduce the cannabis industry’s energy and environmental impact. Given the Commonwealth’s track record on sustainability and the environment, these standards will most likely put forward the most comprehensive and restrictive requirements in the nation.

### Local Control (Chapter 94G, Section 3)

Finally, the Commonwealth has established a clear policy framework through which municipalities can tax, regulate, restrict, and even ban the cannabis industry (more information provided in later sections).

## Section 5: Massachusetts State Agencies Working on Cannabis Policy

### Cannabis Control Commission (CNB)

The Cannabis Control Commission (CNB) is an independent, five-member government agency that has been charged with regulating, overseeing, and enforcing the Commonwealth's medical and adult-use cannabis laws. The CNB's governing Commissioners are appointed by the Governor, Attorney General, and Treasurer. The CNB is the chief agency overseeing Massachusetts' cannabis industry and has adopted a mission statement "to honor the will of the voters of Massachusetts by safely, equitably and effectively implementing and administering the laws enabling access to medical and adult use marijuana in the Commonwealth."<sup>10</sup> The CNB has broad regulatory, oversight, and enforcement powers and will, over time, employ 40-50 government officials, ranging from inspectors and enforcement officers to hearing officers and policy analysts, thus ensuring that cannabis businesses, consumers, and affiliated organizations comply with the Commonwealth's robust policy framework.

### Cannabis Advisory Board (CAB)

The Cannabis Advisory Board (CAB) is a 25-member body of government officials, industry affiliates, and concerned stakeholders that provides policy advice and recommendations to the CNB. The CAB is comprised of four focused subcommittees: (1) Cannabis Industry Subcommittee, (2) Public Health Subcommittee, (3) Market Participation Subcommittee, and (4) Public Safety and Community Mitigation Subcommittee. The CAB delivered their initial recommendations to the CNB in December 2017 and will continue to serve as a critical resource to ensure that the Commonwealth's cannabis policy framework rests upon a solid foundation of information and a broad range of perspectives.

### Massachusetts Department of Public Health (DPH)

The Department of Public Health (DPH) will continue to oversee Massachusetts' Medical Use of Marijuana Program until such oversight transfers over to the CNB in 2018. Additionally, DPH will play an important role in ensuring that the rollout of the Commonwealth's adult-use cannabis system is held to the highest public safety and health standards. In addition to advising the CNB on such matters as THC potency and independent lab testing, DPH will develop a statewide health warning for the advertising, marketing, and sale of cannabis and cannabis products. DPH will also collaborate with the CNB to launch a series of science-based public awareness campaigns to reduce youth usage of cannabis, prevent impaired driving, and broadly promote responsible consumption practices.

### Massachusetts Attorney General's Office

The Municipal Law Unit of the Massachusetts Attorney General's Office is tasked with approving local by-laws and ordinances regulating the cannabis industry. The Municipal Law Unit plays an important role in ensuring that local regulations are not unreasonably impracticable for industry licensees and comply with state law. In fact, the Attorney General's Office has already reviewed dozens of local ordinances related to moratoriums and outright bans.



### **Massachusetts Department of Agricultural Resources (MDAR)**

The Department of Agricultural Resources (MDAR) will take a leading role in promulgating regulations and implementing standards for independent lab testing, the use of pesticides, and general public health and safety requirements for the cannabis industry. Additionally, MDAR will work with the CNB to increase industry participation among farmers and small businesses—particularly through the state-issued craft marijuana cultivator license. While not entirely related to Massachusetts' emerging cannabis market, MDAR will also oversee the Commonwealth's Hemp Program, which will regulate the growth and manufacturing of hemp for commercial purposes.

### **Massachusetts Department of Criminal Justice Information**

The Department of Criminal Justice Information will run background checks on all industry licensees to ensure that the owners, operators, and managers of cannabis businesses within the Commonwealth are held to the highest standard.

### **Department of Revenue (DOR)**

The Massachusetts Department of Revenue (DOR) will primarily work with the CNB to explore the feasibility of alternative forms of taxation on cannabis and cannabis products. Additionally, DOR will approve all point-of-sale (POS) systems and sales recording modules used by industry licensees.

### **Department of Energy Resources (DOER) and Department of Environmental Protection (MassDEP)**

The Massachusetts Department of Energy Resources (DOER) and Department of Environmental Protection (MassDEP) will collaborate with the CNB to develop energy and environmental standards for the cannabis industry.

## Section 6: Economic Impact & Tax Revenue

### National Economic Impact of the Regulated Cannabis Industry

The regulated cannabis industry is a proven driver of economic growth, tax revenue generation, and job creation. According to the market research firm New Frontier Data, medical and adult-use cannabis markets generated \$6.6 billion in revenue across the U.S. in 2016, and the industry is projected to reach \$24.1 billion in annual sales by 2025.<sup>11</sup>

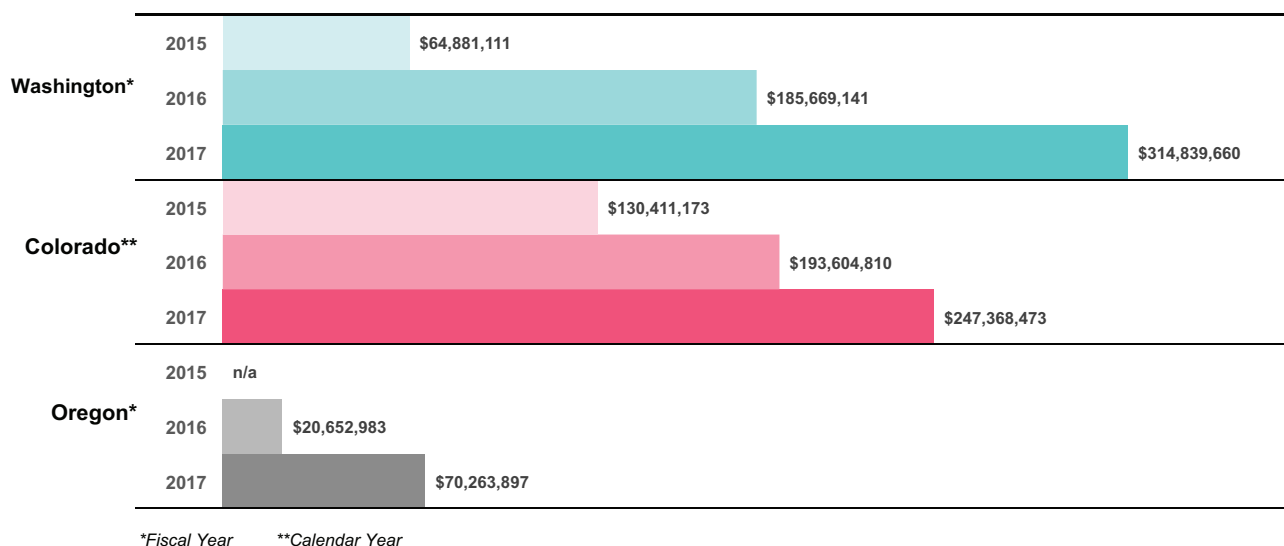
If employment levels nationally are comparable to those levels identified in an October 2016 economic impact analysis conducted for the State of Colorado, then this industry directly employed an estimated 83,434 full-time equivalent (FTE) workers. Including direct, indirect, and induced employment, the regulated industry supported an estimated 119,310 FTE jobs nationwide in 2016.<sup>12</sup>

By 2020, New Frontier Data projects that the cannabis industry will directly employ 198,195 workers nationally.<sup>13</sup> As a point of comparison, the coal mining industry directly employed 52,100 workers as of October 2017.<sup>14</sup>

Another positive impact of implementing medical and adult-use cannabis laws is tax revenue generation. Despite the fact that the regulated cannabis sector is still in its infancy, this industry has proven to generate hundreds of millions of dollars for state, county, and local governments. One need only look at the states of Washington, Colorado, and Oregon to highlight the substantial tax revenue potential of this industry. In 2017, Washington, Colorado, and Oregon generated \$314.8 million, \$247.4 million, and \$70.3 million, respectively.<sup>15</sup>

In Colorado, the cannabis industry has generated so much tax revenue that in fiscal year 2016-17, the State’s Marijuana Tax Cash Fund distributed \$40 million to school capital construction, \$5.7 million to the Public School Fund, \$4.4 million to the Early Literacy Competitive Grant Program, \$2.3 million to the School Health Professional Grant Program, \$900,000 to the School Bullying Prevention & Education Grant Program, and \$900,000 to drop-out prevention programs.<sup>16</sup>

Figure 7: Cannabis Industry Tax Revenue by State, 2015-2017



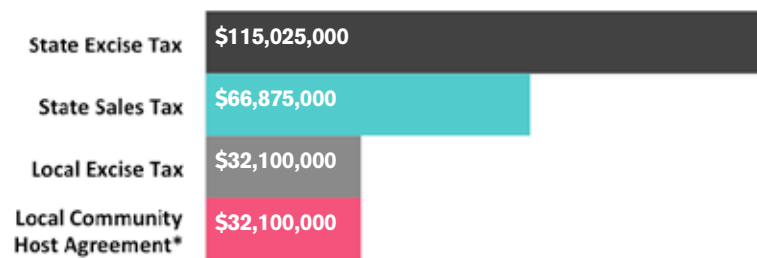
It should be noted that these estimates do not include very sizable increases in local property taxes. A large-scale cultivation facility, as an example, may provide between \$75,000 and \$250,000 in new property taxes—in addition to introducing dozens of new, local jobs.

Another benefit is the cannabis industry’s positive impact on property values. As an August 2017 study published in the *Journal of Real Estate Economics* found, the values of properties in close proximity to adult-use cannabis establishments increased 8 percent following the opening of these facilities.<sup>17</sup>

### Projected Economic Impact of the Cannabis Industry in Massachusetts

According to the market research firm New Frontier Data, the Commonwealth’s regulated cannabis industry is projected to generate \$1.07 billion in annual revenue by 2020.<sup>18</sup> At employment levels comparable to those that exist in Colorado, Massachusetts’ cannabis industry will directly employ 14,791 FTE jobs and support an additional 6,360 FTE jobs.<sup>19</sup>

**Figure 8: State and Local Revenue from the MA Cannabis Industry**



\* Figure assumes that municipalities adopt maximum 3 percent community impact fee on marijuana retailers.

While it will take some time for the regulated industry to establish itself, eventually this industry will generate hundreds of millions of dollars in tax revenue each year for the State and municipalities, not inclusive of payroll and property taxes or related ancillary business growth. Including local government revenue generated from host community agreements, an established \$1.07 billion cannabis industry in Massachusetts would generate more

than \$246 million in government revenue. Municipal governments would capture upwards of \$64 million of this revenue. It’s important to note that these local tax revenue figures do not include tens of millions of dollars in newly generated local property taxes.

In order to achieve desired levels of local tax revenue, it is critical that municipalities adopt proactive cannabis policies around matters like zoning, license caps, and hours of operation. Absent a functional policy framework, the regulated industry will struggle to uproot the illegal market, and local governments will not receive expected tax revenue.

## Section 7: Massachusetts License Types, Economic Impact, and Tax Revenue

The Cannabis Control Commission has put forward nation-leading regulations for a broad range of license types—all of which play an important role in a functioning cannabis market.

### Marijuana Retailer

Marijuana retailers—often referred to as “dispensaries”—are the consumer-facing businesses of the industry that sell cannabis and cannabis products directly to consumers. Massachusetts law defines marijuana retailer as “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.”



Source: Weedmaps

In Washington and Colorado, the average marijuana retailer generated \$2,643,280 and \$2,494,776 in annual sales, respectively.<sup>20</sup> Assuming Massachusetts’ cannabis industry evolves in a similar fashion, it is reasonable to assume that the typical marijuana retailer will generate an estimated \$2.5 million in annual sales. With a 3 percent local excise tax and community impact fee, local governments should expect to generate roughly \$150,000 in revenue from each dispensary’s retail sales alone. Note that in light of current medical marijuana sales figures from existing Registered Marijuana Dispensaries in Massachusetts, these are very conservative estimates of projected economic impact and tax revenue generation at the local level.

In Washington State, the average marijuana retailer employed 16 workers and paid an average hourly wage of \$16.66.<sup>21</sup>

Figure 9: Bottom Line—Economic Impact of Single Marijuana Retailer

Annual Sales	Annual Local Sales Tax Revenue (3%)	Annual Community Impact Fee (3%)	Employment	Average Hourly Wage
\$2,500,000+	\$75,000+	\$75,000+	16 workers	\$16.66

### Marijuana Cultivator

Marijuana cultivators are the backbone of the cannabis industry and grow marijuana for processing, production, and, eventually, sale to consumers. Massachusetts law defines marijuana cultivators as “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.”



Source: Weedmaps

Under the regulations put forward by the Cannabis Control Commission, marijuana cultivators are grouped into 11 tiers based upon the aggregate square footage of each licensee’s “canopy” area or the total space dedicated to the cultivation of mature plants (flower and mother rooms), ranging from 0 to a cap of no more than 100,000 square feet of canopy.

The amount of revenue generated by a cultivation facility largely depends on the square footage of canopy space (the area of a facility dedicated to the actual cultivation of cannabis). In an analysis commissioned by a municipality in Colorado, the economic research firm BBC Research & Consulting estimated that a 10,000 square foot cultivation facility generates \$3.1 million in annual revenue.<sup>22</sup> In Washington State, the average marijuana cultivator employed 16 workers and paid an hourly wage of \$16.27.<sup>23</sup>

**Figure 10: Bottom Line—Economic Impact of Single Marijuana Cultivator (10,000 sq. ft.)**

Annual Sales	Annual Local Sales Tax Revenue	Employment	Average Hourly Wage
\$3,064,931+	n/a	16 workers+	\$16.27

### Marijuana Product Manufacturer

Marijuana product manufacturers take the flower and trimmings of the cannabis plant and manufacture them into finished products like cannabis oils and concentrates. Massachusetts law defines marijuana product manufacturers as “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.”



Source: Cannabis Industry Journal

The amount of revenue generated by a product manufacturer largely depends on the scale, product type, and brand recognition of the company. According to a survey conducted by the industry publication *Marijuana Business Daily*, the median marijuana product manufacturer generates \$600,000 in annual revenue and employs 7 workers in advanced manufacturing positions.<sup>24</sup> In Washington State, the average marijuana product manufacturer paid an hourly wage of \$16.27.<sup>25</sup>

**Figure 11: Bottom Line—Economic Impact of Single Marijuana Product Manufacturer**

Annual Sales	Annual Local Sales Tax Revenue	Employment	Average Hourly Wage
\$600,000	n/a	7 workers	\$16.27

### Marijuana Transporter

Marijuana transporters safely and securely transport marijuana and marijuana products between other licensed marijuana establishments. The Cannabis Control Commission defines marijuana transporters as “an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, but not to consumers.”



Source: MPS Security

The economic impact of marijuana transporters will vary based upon the scale of each operation.



## Independent Testing Laboratory

Independent testing laboratories test cannabis and cannabis products in-line with Massachusetts’ nation-leading lab testing standards to ensure that cannabis consumption meets rigid public health and safety standards. The Cannabis Control Commission will license two kinds of facilities within this category: independent testing laboratories and standards testing laboratories.

There is not enough publicly available data to provide a reliable estimate of the average annual revenue of an independent testing laboratory; however, according to a survey conducted by the industry publication *Marijuana Business Daily*, the average independent testing lab employs 8 workers.<sup>26</sup> Testing labs hire highly-skilled staff—typically with advanced degrees—to run their operations.



Source: Oregon Business

## Additional License Categories: Craft Marijuana Cooperative, Microbusiness, and Marijuana Research Facility

The Cannabis Control Commission has established provisions for a range of other licensing types to spur innovation, promote opportunities for small businesses, and allow for greater diversity and more localized ownership within the industry. These license types are briefly summarized below.

- **Craft Marijuana Cooperative:** A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to marijuana establishments, but not to consumers.
- **Microbusiness:** A co-located marijuana establishment that can be either a Tier 1 Marijuana Cultivator (a cultivator with no more than 5,000 sq/ft of canopy, defined as the areas containing mature plants, such as flower and mother rooms) or Product Manufacturer or both, in compliance with the operating procedures for each license.
- **Marijuana Research Facility:** An entity licensed to engage in research projects by the Commission.

## Adult-Use Marijuana Establishment License Types

Licensed adult-use cannabis facilities are broadly referred to as “Marijuana Establishments” under Massachusetts law. Note that the term “Marijuana Establishment” does not cover Medical Marijuana Treatment Centers (or Registered Marijuana Dispensaries—RMDs), which fall under the Massachusetts Medical Use of Marijuana Program. Local ordinances and by-laws should cover all of the below license types.

### **Marijuana Establishment**

A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

### **Craft Marijuana Cooperative**

A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

### **Independent Testing Laboratory**

A laboratory that is licensed by the Commission.

### **Marijuana Cultivator**

An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.

### **Marijuana Product Manufacturer**

An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

### **Marijuana Retailer**

An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers.

### **Marijuana Transporter**

An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.

### **Microbusiness**

A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license.

### **Research Facility**

An entity licensed to engage in research projects by the Commission.

## Section 8: Authority of Local Governments

### Massachusetts Local Control Framework

While the Cannabis Control Commission (CNB) and other state agencies are taking the lead in regulating, licensing, overseeing, and enforcing the Commonwealth's cannabis industry, municipalities also have an important role in governing the industry. In fact, Chapter 94G, Section 3 of the Massachusetts General Laws ([M.G.L. ch.94G §3](#)) puts forward a robust "Local Control" policy framework that outlines the many ways in which local governments can regulate the production, sale, and consumption of cannabis in their communities.

Specifically, Section 3 states that "a city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter."

### Limitations on Local Control

Massachusetts law places the following limitations on local control:

- **Conversion of Registered Marijuana Dispensaries (RMDs):** Section 3(a)(1)(i) states that a municipality may not prevent a RMD (a medical cannabis facility) that received a Provisional Certificate of Registration (PCR) or Final Certificate of Registration (FCR) from the Department of Public Health prior to July 1, 2017 from converting into an adult-use marijuana establishment conducting the same type of business activity.
- **Transportation of Cannabis:** Section 3(c) states that a municipality may not "prohibit the transportation of marijuana or marijuana products or adopt an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable."
- **Regulations Considered Unreasonably Impracticable:** Section 3(a) states that municipalities can institute regulations that "govern the time, place and manner" of industry licensees. However, these regulations cannot be "unreasonably impracticable," meaning that local by-laws and ordinances cannot "subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment." Municipalities should carefully review the CNB's regulations to ensure any proposed ordinances or by-laws are not in conflict with such state requirements or create a duplicative or onerous expansion of state requirements such that they may be deemed "unreasonably impracticable."

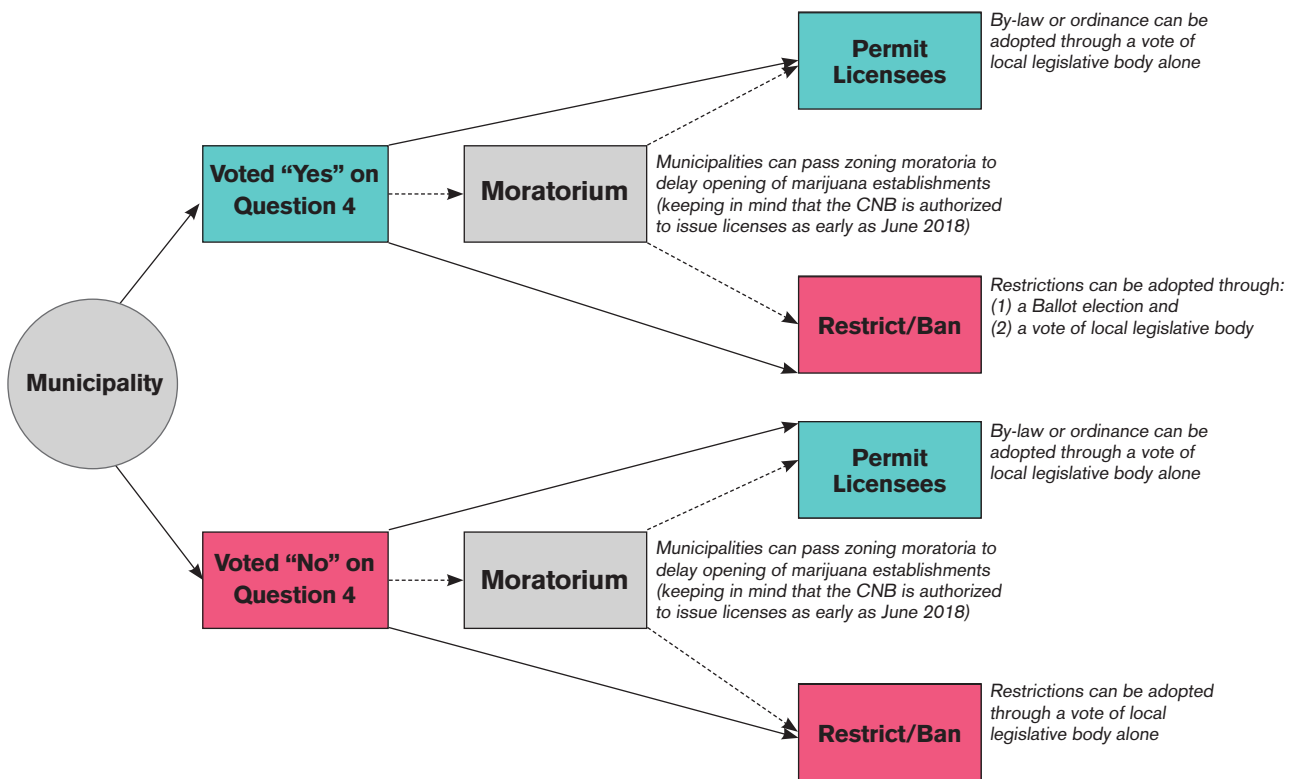
### Overarching Policy Decision: Bans, Moratoriums, and Opening the Door to the Industry

The most important choice facing municipalities is whether to permit marijuana licensees in their respective communities. Section 3 lays out a clear process that local governments must go through in order to permit, postpone, or ban the opening of marijuana establishments.

- **Option #1 – Permit:** Municipalities can pass an ordinance or by-law to regulate "the time, place and manner" of industry licensees. These ordinances and by-laws should take into consideration such matters as zoning, licensing, and taxation.

- **Option #2 – Postpone:** Municipalities can pass a temporary moratorium to postpone the issuance of licenses in order to have more time to develop a by-law or ordinance. While December 2018 currently serves as the longest timeframe for moratoriums as approved by the Massachusetts Attorney General, we would recommend that municipalities move forward expeditiously with adopting the appropriate ordinances/by-laws given that the Cannabis Control Commission may begin issuing licenses as early as June 1, 2018.
- **Option #3 – Restrict/Ban:** With the exception of RMDs that received a Provisional Certificate of Registration (PCR) or a Final Certificate of Registration (FCR) prior to July 1, 2017 (see p. 25), municipalities can pass an ordinance or by-law to ban all marijuana establishments, ban one or more types of marijuana establishments, or restrict the number of marijuana retailers to fewer than 20 percent of the number of liquor licenses for off-premise consumption. If a city or town voted “yes” on Question 4, then this measure must be passed both by a ballot election and through a local legislative body (i.e. a City Council, Town Council, or Town Meeting). If a city or town voted “no” on Question 4, then this measure can be passed through a local legislative body alone.

Figure 12: Local Control Policy Framework



Beyond the critical decision of whether to open the door to the cannabis industry, local governments can also adopt regulations that “govern the time, place and manner of marijuana establishment operations.” Such matters include zoning, taxation, signage, and the licensee selection process. Local governments can also negotiate host community agreements with marijuana establishments. All of these issues are addressed in a later section.

# Local Cannabis Policy Checklist

## 1. Establish Goals, Timeline, & Process for Adopting Local Policy

- Establish the goals, timeline, and process for adopting local marijuana policy and designate the appropriate governmental body or bodies to implement the same.
- Optional:* Municipalities may wish to appoint an advisory task force, working group, or special committee to support such activities.

## 2. Determine License Types

- Determine which license types the municipality wishes to allow and what—if any—restrictions it will impose on the number of each license type (keeping in mind municipalities' requirements under State law).
- Optional:* Adopt language specifying hours of operation through a stand-alone ordinance/by-law or broader ordinance/by-law.

## 3. Adopt Zoning Standards

- Determine where each license type will be permitted to locate.
- Determine whether the municipality wishes to reduce the buffer around public/private K-12 schools below the state-established 500-foot standard.

## 4. Establish Local Selection Process

- Select a process and appropriate entity to approve prospective marijuana establishments (e.g. special permit process, existing/new licensing authority, host community agreement negotiation).
- Specify a clear timeline for reviewing and approving license applications and executing host community agreements.

## 5. Pass Optional Local Sales Tax

- Draft language to adopt the optional local sales tax of up to 3%.



## Section 9: Local Government Considerations

While the Cannabis Control Commission and other State agencies are taking on the vast majority of industry-related regulatory, oversight, and enforcement functions, local governments have an important role to play in advancing a safe, responsible, and successful cannabis industry. Additionally, municipalities are critical for ensuring that cannabis businesses and operations align with community goals and concerns.

As local governments approach regulating the cannabis industry, officials should consider the following policy issues: (1) the appropriate process and timeline for adopting policy, (2) license types and caps, (3) zoning standards, (4) license selection process, (5) industry taxation, and (6) additional matters like hours of operation and aesthetic standards.

### Recommended Timeline and Process for Advancing Local Cannabis Policies

#### Timeline for Advancing Local Cannabis Policies

Since state law authorizes the Cannabis Control Commission to begin issuing licenses as early as June 1, 2018, municipalities are encouraged to expeditiously move forward with appropriate ordinances/by-laws as soon as possible.

#### Process for Advancing Local Cannabis Policies

The optimal process for advancing successful local cannabis policies will vary based upon each municipality's government structure, politics, and underlying sentiment on cannabis legalization.

A potential starting point is designating an entity to serve as the primary developer of local cannabis policies. This entity can either be (1) an existing body (e.g. Council of the Whole, Ordinance Committee, etc.) or (2) a new committee or working group solely dedicated to drafting a local by-law or ordinance.

### License Types and Caps

The most important decision facing municipalities is the type of industry licensees they will permit in their communities and whether they will place caps on the number of licensees allowed within each licensing category.

With the exception of medical cannabis facilities (RMDs) that received a Provisional Certificate of Registration (PCR) or a Final Certificate of Registration (FCR) from the Massachusetts Department of Public Health prior to July 1, 2017 and, therefore, cannot be prevented from converting to adult-use establishments, local governments will need to decide whether to permit the following license types: (1) marijuana retailers, (2) marijuana cultivators, (3) marijuana product manufacturers, (4) craft marijuana cultivator cooperatives, (5) independent testing laboratories, (6) marijuana micro-businesses, and (7) marijuana transporters. The experiences of other jurisdictions make clear that permitting a range of license types—particularly marijuana retailers—is essential in order to facilitate a smooth transition to a functioning regulated market and to achieve desired tax revenue, economic development, and job creation goals.

Additionally, local governments will need to determine whether to place caps on each license type and, if so, what the optimal number of licenses are within each licensing category. Since local zoning standards and market forces are sufficient in guarding communities from industry overreach, license caps are generally not needed—particularly for marijuana cultivators, marijuana product manufacturers, marijuana

transporters, and independent testing laboratories. That said, certain municipalities may find a degree of comfort in setting license caps.

To the extent that local governments wish to set caps on marijuana retailers, data from around the country demonstrates that an optimal density level is one marijuana retailer per 7,500 residents. Once retail density falls far below this level, consumer access to the regulated market is insufficient, and the legal market will struggle to replace the illegal market. Many municipalities in other states have facilitated much higher density levels. For example, Denver, CO has a density level of one marijuana retailer per 3,158 residents, and Portland, OR has a density level of one marijuana retailer per 4,475 residents. Accordingly, small towns in Massachusetts will be able to support marijuana retailers, and large municipalities can host higher density levels.

Massachusetts law provides an additional framework for setting licensing caps. Chapter 94G, Section 3 establishes a floor of one marijuana retailer per five off-premise liquor licenses. This 20 percent liquor license threshold establishes a sufficient—if conservative—licensing cap for marijuana retailers.

In April 2018, the Cannabis Control Commission provided guidance on how municipalities should calculate the 20 percent liquor license figure, noting that “If the calculation results in a number higher than one, but includes a fraction (e.g. 20% of 11 equals 2.2), the Commission recommends ‘rounding up’ as the most cautious approach to ensure compliance with the statute.”

**“If the [20 percent liquor license] calculation...includes a fraction the Commission recommends ‘rounding up’ as the most cautious approach to ensure compliance with the statute.”**

—Cannabis Control Commission  
(4/3/2018)

Municipalities should bear in mind that the 20 percent liquor license figure is a minimum floor for the number of marijuana retailers and, as such, is the most conservative cap local officials can place on marijuana retailers without following the appropriate procedures outlined in Chapter 94G, Section 3.

The following are useful guidelines for municipalities as they consider setting caps on marijuana establishments:

- **Licensing Caps Unnecessary:** Rather than place restrictive licensing caps on the number of marijuana establishments, municipalities can rely upon zoning standards and market forces to facilitate appropriate density levels in their communities. Caps are particularly unnecessary for non-storefront license types such as marijuana cultivators, marijuana product manufacturers, and marijuana transporters.
- **20 Percent Liquor License Figure as a Floor:** Municipalities should view the 20 percent liquor license figure as a floor rather than as a cap and consider setting higher caps. Data from other adult-use jurisdictions indicates that a more appropriate density level is one marijuana retailer per 7,500 residents.
- **Calculating the 20 Percent Liquor License Figure:** Municipalities seeking to set the most conservative cap on the number of marijuana retailers should adhere to the 20 percent liquor license figure. In calculating this figure, municipalities should follow the Cannabis Control Commission’s official guidance by rounding up this floor to the nearest integer.

## Zoning Standards

Zoning is another important consideration for municipal governments since these standards are critical for ensuring sufficient access to the legal market while also addressing local concerns like community preservation. Overall, local cannabis policies should address the following zoning issues: (1) appropriate zoning districts for each licensing type, (2) buffers both between marijuana establishments and around facilities like schools, and (3) aesthetic issues such as signage.

Massachusetts law provides virtually no guidance on zoning and leaves these decisions entirely to the Commonwealth's 351 municipalities, provided that local zoning standards (1) do not prevent the conversion of RMDs that received a Provisional Certificate of Registration (PCR) or a Final Certificate of Registration (FCR) prior to July 1, 2017, (2) are not "unreasonably impracticable" for industry licensees, (3) do not impose buffers greater than 500 feet around K-12 public and private schools, and (4) allow for the minimum required number of marijuana retailers as established by the 20 percent liquor license threshold.

### Zoning Districts

The following guidelines for zoning districts ensure that industry licensees locate in areas that do not upend existing community planning and preservation standards

- **Marijuana Retailers:** Commercial, retail, business, mixed use, industrial, and manufacturing zones.
- **Marijuana Cultivators:** Agricultural, industrial, and manufacturing zones.
- **Marijuana Product Manufacturers:** Agricultural, industrial, and manufacturing zones.
- **Independent Testing Laboratories:** Commercial, retail, business, mixed use, industrial, and manufacturing zones.
- **Craft Marijuana Cultivator Cooperatives:** Agricultural, industrial, and manufacturing zones.
- **Marijuana Transporters:** Agricultural, industrial, and manufacturing zones.
- **Marijuana Micro-Businesses:** Agricultural, industrial, and manufacturing zones.

While some local government officials may be encouraged to relegate marijuana retailers to peripheral zones like industrial and manufacturing districts, it's important to note that these decisions severely undermine access to the legal market and will undermine the transition from the illegal market to a safe, responsible, and functioning cannabis industry.

Rather than impose overly-restrictive zoning standards, local governments should allow industry licensees in a range of districts but require a special use permit in those districts where zoning is a particularly sensitive issue.

### Buffers Between Marijuana Retailers and Around Select Facilities

Following much deliberation among a broad range of concerned stakeholders, Massachusetts lawmakers established a 500-foot buffer around pre-existing K-12 public and private schools. Municipalities can choose to decrease the 500-foot buffer if desired.

Municipalities seeking to place buffers around additional sensitive uses should bear in mind that these zoning decisions may be legally challengeable since they go beyond Massachusetts law and could be con-

**Figure 13: Potential Buffers for Educational Facilities, Easthampton, MA**  
 Source: Easthampton, MA



sidered “unreasonably impracticable” insofar as they reduce the number of suitable locations for licensed marijuana establishments.

### Signage and Other Aesthetic Restrictions

Under Massachusetts law, local governments can regulate aesthetic zoning issues such as signage. Specifically, Chapter 94G, Section 3 provides local governments with the ability to regulate marijuana establishment signage, provided these standards are no more restrictive than those that exist for liquor stores. For aesthetic matters other than

signage, local regulations for liquor stores serve as a useful model worth replicating for the cannabis industry.

### Licensee Selection Process

While not clearly delineated in state law, it is important for municipal governments to establish a clearly delineated licensee review and selection process. Cities and towns’ existing liquor license selection process serves as a useful model worth replicating to cannabis licensees.

Based upon the Cannabis Control Commission’s regulatory framework and licensing approval process, this selection process should incorporate (1) a collaborative mechanism for licensees to hold community outreach meetings and (2) an explicit process, set of parameters, and timeline for negotiating host community agreements. Municipalities have the option of establishing their own local permitting process; however, this is not required, and much of the work may be duplicative given the intensive review process at the state-level as well as the required host community agreement negotiation process.

Rather than involve a broad range of municipal entities in the licensee selection process, local governments should consider centralizing these functions within a single entity or job function in order to have a streamlined review process that (1) minimizes costs for the municipality; (2) establishes a central hub of information and clear point-of-contact for residents, state regulators, and prospective applicants; and (3) ensures that accountability falls to a single authority or contact.

### Community Outreach Meetings

Under the Cannabis Control Commission’s final regulations, license applicants are required to hold a community outreach meeting that provides residents and other stakeholders the opportunity to learn and ask questions about the proposed marijuana establishment. Applicants are required to file meeting notices with the municipal clerk, planning board, the local contracting authority, and the local adult-use cannabis licensing authority (if such a licensing authority exists).

While not required, local governments may find it useful to designate a municipal entity (e.g. the municipal clerk or solicitor) to assist applicants with filing the required meeting notices and providing meeting space for community outreach meetings.

### Host Community Agreements

Under Massachusetts law, license applicants are required to execute a host community agreement with the municipality. Massachusetts is the only state in the country that requires such agreements, underscoring the Commonwealth's prioritization of and emphasis on local control.

Chapter 94G, Section 3 establishes clear parameters around what provisions host community agreements can include. Specifically, host community agreements can cover "all stipulations of responsibilities between the host community agreement and the marijuana establishment or medical marijuana treatment center." However, these agreements can last no longer than 5 years, and payments from the licensee to the municipality are restricted to a community impact fee of no more than up to 3 percent of gross sales so long as this fee is "reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment or medical marijuana treatment center." These costs must be documented by the municipality and are public record.

Municipalities should designate a single entity or contact to negotiate these agreements, set a reasonable negotiation timeline, and ensure that all costs included in the community impact fee are (1) "reasonably related" to the operation of the licensee, (2) properly documented, and (3) made publicly available.

The host community agreement negotiation process serves as a thorough and sufficient mechanism for selecting licensees; however, some municipalities may wish to have an additional layer of licensing approval. If a municipality wishes to establish a local licensing process, officials should ensure that such a process is not "unreasonably impracticable" by imposing overly-burdensome application requirements or other standards upon prospective licensees.

### Industry Taxation

State lawmakers instituted a straightforward tax regime for the cannabis industry that consists of (1) a 6.25% state sales tax, (2) a 10.75% state excise tax, and (3) an optional local excise tax that is capped at 3.00% and restricted to the final point of sale. In addition, the Massachusetts Department of Revenue is responsible for collecting all taxes and distributing those revenues back to cities and towns on behalf of municipalities. As such, the only policy decisions local governments need to make on cannabis taxation are (1) whether to pass a local excise tax on cannabis and (2) the rate (up to 3.00%) this excise tax should be set.

In order to maximize the tax revenue generated from this industry, it is recommended that municipalities adopt the full 3.00% local excise tax on cannabis sales.

## Additional Considerations

### Market Participation & Social Equity

Establishing an equitable and diverse cannabis industry is a central goal of lawmakers and regulators in the Commonwealth. Accordingly, both the Massachusetts General Court and the CNB have advanced several programs and policies to promote social equity and diversity among licensed establishments.

Municipalities play an important role in establishing local policy frameworks that promote the Commonwealth's social equity and diversity goals. In order to advance equity and diversity, municipalities (1) may wish to make an intentional effort to authorize CNB-certified Economic Empowerment Applicants in their communities and (2) should consider the following broader policies to create sufficient opportunities for a diverse and qualified applicant pool:

- **Authorize a Sufficient Number of Marijuana Retailers:** Rather than setting overly-restrictive licensing caps, municipalities should authorize a sufficient number of marijuana retailer licenses to accommodate a diverse pool of qualified applicants. While the 20% liquor license calculation is the minimum figure municipalities can consider to remain in compliance with Massachusetts law, municipalities should consider either setting no licensing cap or achieving a retail density level of one marijuana retailer per 7,500 residents.
- **Authorize Additional License Types:** Municipalities should authorize a broad range of license types to provide ample opportunity for market participation. While marijuana cultivators and marijuana product manufacturers are essential licensing categories that deliver significant economic benefits for communities, smaller scale licensed operations like microbusinesses and craft marijuana cultivator cooperatives are also important and require less capital, thereby allowing a more diverse pool of qualified applicants.
- **Authorize Licensed Outdoor Cultivation:** Municipalities with farmland should authorize and permit outdoor cannabis cultivation on agricultural properties to provide the Commonwealth's farmers with opportunities to participate in the industry.

### Social Consumption

Social consumption—oftentimes referred to as “on-site consumption” wherein adults are able to consume cannabis on the premises of a licensed facility—is likely not an immediate priority for municipalities. Nonetheless, local government officials should not immediately dismiss the value of social consumption since providing legal venues for cannabis consumption will dramatically reduce nuisance and odor complaints related to consuming cannabis in public.

The Cannabis Control Commission has yet to promulgate regulations governing social consumption; however, the Commission has made clear that in order to host social consumption establishments in a city or town, the municipality must first authorize these facilities through the local ballot process outlined in Chapter 94G, Section 3. This ballot process can only occur during a biennial election (e.g. November 2018 or 2020) and must first receive signatures from 10 percent of the voters in the municipality.



Given the Cannabis Control Commission's delay in promulgating regulations for social consumption lounges, municipalities may wish to refrain from including language on this matter until additional guidance emerges.

To the extent local government officials wish to proactively advance social consumption within their communities, they should work with individuals in their community to place a ballot question before voters to authorize the municipality to establish regulations for social consumption.

### Delivery

In order to focus on the immediate task of building a new government agency and preparing for the July 2018 launch of the Commonwealth's adult-use cannabis system, the Cannabis Control Commission chose to delay delivery licensing for several months. The Commission will reconsider this issue in October 2018 with the goal of drafting regulations by February 2019.

Since the Cannabis Control Commission has yet to develop a policy framework for delivery licensing, municipalities should refrain from including language on this issue until additional guidance emerges.

### Miscellaneous Issues

There are additional issues local governments may want to consider, including hours of operation and other regulations that "govern the time, place and manner of marijuana establishments." For hours of operation and other matters, standards used to regulate liquor stores serve as useful models that should be extended to marijuana retailers.

## Section 10: Addressing Constituent Concerns

Local government officials will face a broad range of questions and concerns from their constituents. Many of these concerns stem from misinformation, the decades-long stigmatization of cannabis consumption, and entrenched opposition to medical and adult-use cannabis policies. The following section addresses a few of the most commonly-voiced concerns about the industry with the latest studies, data, and other relevant information.

### U.S. Attorney General Jeff Sessions and Federal Enforcement of the Controlled Substances Act

Ever since U.S. Attorney General Jeff Sessions rescinded the Obama-era Cole Memorandum, which insulated state medical and adult-use cannabis systems from federal enforcement of the Controlled Substances Act, there has been renewed concern about the Federal Government interfering with the implementation of state-level cannabis policies.

While Attorney General Sessions' rescindment of the Cole Memorandum may raise new concerns at the local level, it's important to note that this repeal is merely a shift in guidance for U.S. Attorneys' "investigative and prosecutorial discretion" and not a formal change in federal policy.<sup>27</sup> Enforcement of federal cannabis policies remains under the purview of individual U.S. Attorneys, and several have publicly asserted that they will not interfere with state medical and adult-use cannabis systems. Most notably, U.S. Attorney Bob Troyer declared that the U.S. Attorney's Office in Colorado will continue to follow prior Obama-era guidance on the enforcement priorities outlined in the Cole Memorandum.<sup>28</sup> U.S. Attorney Troyer has been joined by a broad range of politicians from both sides of the aisle who called upon the Federal Government to not return to the failed policies of prohibition. These elected leaders include Republican Governor Brian Sandoval of Nevada and Republican Senator and Chair of the National Republican Senatorial Committee Cory Gardner of Colorado.<sup>29</sup>

In Massachusetts, a wide array of elected leaders at the federal and state levels have also come forward to reaffirm their support for the Commonwealth's adult-use cannabis system.

Shortly after Attorney General Sessions rescinded the Cole Memorandum, the Office of Governor Charlie Baker publicly announced that "the Baker-Polito Administration fully supports the will of the voters and the CCC's mission. The Administration believes this is the wrong decision."<sup>30</sup> Massachusetts Attorney General Maura Healey stated, "The people of Massachusetts have voted to make marijuana legal under state law and the Cannabis Control Commission has been given the authority to establish a strong regulatory system that ensures public safety and allows for responsible sale and use of marijuana products. My office is committed to assisting the Commission, local municipalities and our partners in law enforcement to implement the will of the voters effectively."<sup>31</sup> Similar statements have been made by U.S. Senator Elizabeth Warren, Massachusetts House Speaker Robert DeLeo, and Massachusetts Acting Senate President Harriette Chandler—among many others.<sup>32</sup>

Most importantly, the Cannabis Control Commission has made clear that Attorney General Sessions' announcement does not impact their work, asserting "As far as the mandate and the work of the Cannabis Control Commission is concerned, nothing has changed. We will continue to move forward with our process to establish and implement sensible regulations for this emerging industry in Massachusetts."<sup>33</sup>

## Bringing Cannabis into Our Community

A common sticking point for the adoption of sensible local cannabis policies is a fear that opening the door to the regulated industry will introduce cannabis to the surrounding community. This fear could not be further from reality. According to the Federal Government's National Survey on Drug Use and Health, more than one million Massachusetts residents consumed cannabis in 2015.<sup>34</sup>

**Figure 14: Selected Drug Use, Perceptions of Great Risk, Past Year Substance Use Disorder and Treatment, and Past Year Mental Health Measures in Massachusetts, by Age Group: Estimated Numbers (in Thousands), Annual Averages Based on 2015-2016 NSDUHs**

Measure	12+	12-17	18-25	26+	18+
<b>ILLCIT DRUGS</b>					
Past Month Illicit Drug Use <sup>1,2</sup>	818	50	238	529	767
Past Year Marijuana Use	1,088	70	345	672	1,017
Past Month Marijuana Use	691	42	218	431	649

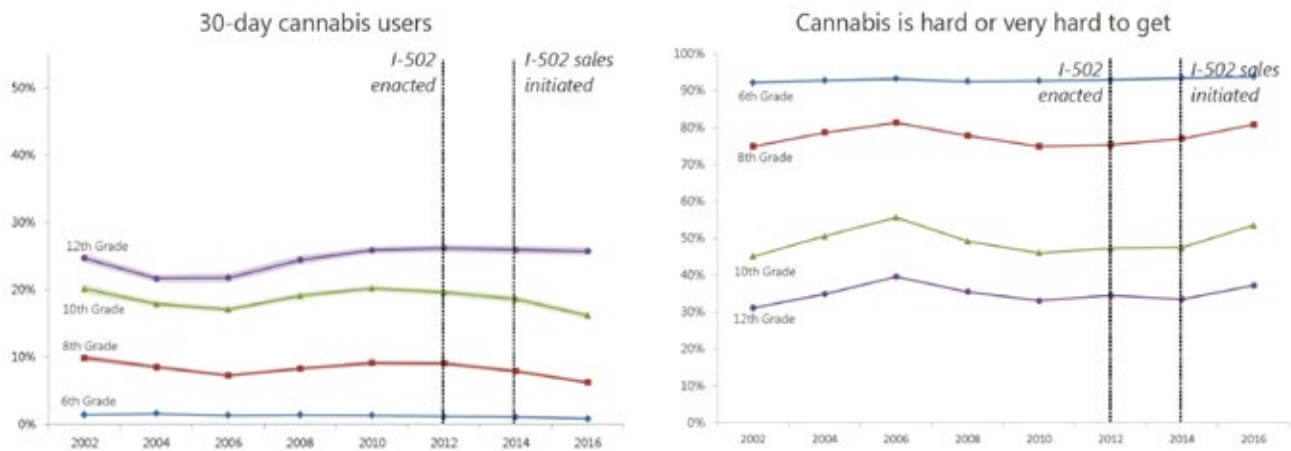
Source: SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2015 and 2016.

Statewide cannabis consumption rates exceed 18 percent, meaning that roughly one out of every five Massachusetts residents consumes cannabis each year. Enacting safe and responsible cannabis policies on the municipal level is ultimately about transferring this consumption to a regulated system where product is taxed, tested, regulated, and kept out of the hands of youth and criminals. Moreover, bringing cannabis consumption out from the shadows will allow state and local governments to more effectively tackle existing public health concerns.

## Youth Usage of Cannabis

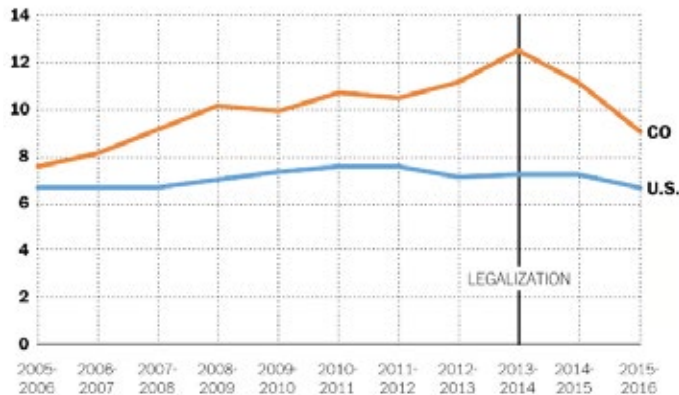
A related concern is that cannabis legalization will contribute to a dramatic increase in youth usage of marijuana. Given the damaging impact cannabis consumption can have on youth brain development, such fears are well-intentioned; however, federal and state survey data demonstrate that legalization in Colorado and Washington—the states with the longest histories of adult-use cannabis laws—has resulted in a marked decline in youth cannabis consumption.

**Figure 15-16: Youth Cannabis Consumption Rates in Washington State, 2002-2016**



Source: Washington State Institute for Public Policy. I-502 Evaluation and Benefit-Cost Analysis, September 2017, p. 24.

**Figure 17: Teen Pot Use Drops Sharply in Colorado. Percent of 12-to-17 Year Olds Using Marijuana in the Past Month**



Source: Washington Post

According to data from the Federal Government’s National Survey on Drug Use and Health, an even more dramatic decrease in youth usage of cannabis has occurred in Colorado.<sup>35</sup>

A likely reason for why youth usage of cannabis has declined since Washington and Colorado launched their adult-use systems is the fact that adolescents have reported that access to cannabis is increasingly difficult.<sup>36</sup> Unlike operators on the illegal market, regulated and licensed cannabis businesses with multi-million dollar investments have underlying incentives to comply with state laws that prohibit cannabis sales to minors. Toward this end, a recent state-led operation in Oregon, which investigated licensed retailers’ compliance with prohibitions on sales to minors, resulted in a 100 percent compliance rate. Reflecting upon these results, the Executive Director of the Oregon Liquor Control Commission stated, “That our licensed retailers in central Oregon scored 100 percent on refusal to sell marijuana to a minor is a sign that this segment of our regulated industry understands the importance of compliance.”<sup>37</sup>

Massachusetts lawmakers have implemented several policies to prevent youth usage, including some of the most restrictive advertising standards in the country and penalties for licensed businesses, employees, and individuals who knowingly transfer cannabis to minors. Additionally, there are fines and penalties to deter youth from consuming cannabis as well as mandatory notifications of parents after each attempt to purchase cannabis.

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### The Association Between Cannabis and Crime Rates

Another constituent concern about opening the door to the cannabis industry is that licensed cannabis businesses will increase crime in surrounding areas. Academics and researchers have conducted several studies on the association between regulated cannabis businesses and crime rates, and there is virtually no evidence to support the claim that cannabis legalization increases crime.

- In a 2014 study of medical marijuana laws and state-level crime rates, researchers at the University of Texas’ Program in Criminology found no association between the legalization of medical marijuana and increases in crime rates. In fact, the study found that the passage of medical marijuana laws is associated with a decline in homicide and assault rates.<sup>38</sup>
- In a 2012 study of cannabis retail density and crime rates, professors at University of California, Los Angeles (UCLA) found no association between cannabis retail density and crime, leading the authors to conclude that “the density of medical marijuana dispensaries may not be associated with crime rates or that other factors, such as measures dispensaries take to reduce crime (i.e., door-men, video cameras), may increase guardianship such that it deters possible motivated offenders.”<sup>39</sup>
- In a 2017 study of the impact of medical marijuana laws on violent and property crime, researchers at Victoria University of Wellington found no association between the passage of medical marijuana laws and crime rates both nationally and within individual states that had legalized medical

marijuana—but for one exception: California, where the legalization of marijuana was associated with a 20 percent reduction in property and violent crime.<sup>40</sup>

- In a 2017 study of the association between medical marijuana dispensary closures and crime, researchers from University of Southern California's (USC) Marshall School of Business found that the actual closure of medical marijuana dispensaries is associated with increases in crime.<sup>41</sup>
- In a recent study of the impact of tobacco shops, alcohol stores, and medical marijuana dispensaries on crime rates in South Los Angeles, researchers from several universities found no association between medical marijuana dispensaries and crime rates; however, the study did find an association between alcohol stores and tobacco shops and increased crime.<sup>42</sup>

Rather than introduce crime into surrounding neighborhoods, licensed cannabis businesses are responsible community partners with secure operations that prevent crime. Massachusetts lawmakers have undertaken several steps to further ensure that cannabis businesses do not contribute to criminal activity in surrounding areas, including the CNB's strict security requirements for all cannabis licensees.

### The Gateway Drug Theory

Perhaps the most commonly-voiced concern about cannabis legalization is the so-called “gateway drug” theory, which alleges that cannabis can lead individuals along a path towards harder and more dangerous drugs. Studies have long discredited the gateway drug theory. Most notably, in a seminal 1999 report, the Institute of Medicine found that marijuana “does not appear to be a gateway drug to the extent that it is the cause or even that it is the most significant predictor of serious drug abuse.”<sup>43</sup>

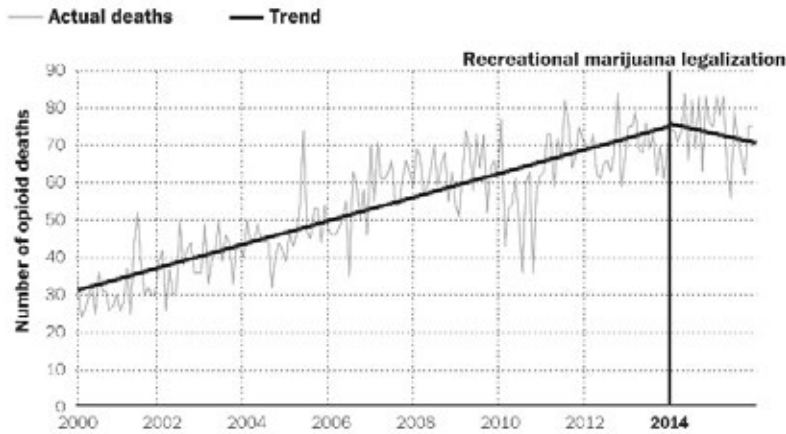
More recent studies further undermine the gateway drug theory.

- In a 2006 study published in the *American Journal of Psychiatry*, researchers found that drug abuse is not determined by preceding use of marijuana, but rather a user's individual tendencies and environmental circumstances.<sup>44</sup>
- In a 2002 study, RAND's Drug Policy Research Center concluded that “it is not marijuana use but individuals' opportunities and unique propensities to use drugs that determine their risk of initiating hard drugs.”<sup>45</sup> Upon the release of this study, Andrew Morral, Associate Director of RAND's Public Safety and Justice division, asserted, “We have shown that the marijuana gateway effect is not the best explanation for the link between marijuana use and the use of harder drugs. While the gateway theory has enjoyed popular acceptance, scientists have always had their doubts. Our study shows that these doubts are justified.”<sup>46</sup>

With the passage of medical and adult-use cannabis laws in several states, researchers have begun studying the impact of expanded cannabis access on hard drug use. In a May 2014 National Bureau of Economic Research paper, public health researchers at Emory University found that the implementation of medical marijuana laws had no impact on hard drug use, leading to the conclusion that “the often-voiced concerns about the potential gateway effect of marijuana is not supported by our findings.”<sup>47</sup>

While evidence supporting the gateway drug theory is limited, there is a growing body of research indicating that medical cannabis has actually served as a substitute for alternative substances like alcohol, prescription drugs, and illicit drugs.<sup>48</sup> In fact, researchers have even found that medical cannabis laws are

**Figure 18: In Colorado, Opioid Deaths Fall Following Marijuana Legalization. Monthly Opioid Deaths in Colorado, 2000–2015**



Source: Washington Post

associated with significant reductions in prescription medications, opioid pain reliever (OPR) overdose deaths, and OPR hospitalizations.<sup>49</sup> In fact, a 2014 study published in the *Journal of the American Medical Association* found that states with medical cannabis laws had 20 percent fewer opioid-related deaths, and a 2017 study published in the *American Journal of Public Health* found that opioid-related deaths declined in excess of 6 percent following the legalization of adult-use cannabis in Colorado.<sup>50</sup>

In short, there is no evidence suggesting that marijuana use in and of itself is a gateway to harder drugs or drug abuse. On the contrary, regulated cannabis has the potential to reduce abuse of harmful drugs.



## Section 11: Additional Resources

### **Cannabis Control Commission (CNB)**

<https://www.mass.gov/orgs/cannabis-control-commission>

As the primary government agency overseeing the Commonwealth's cannabis industry, the Cannabis Control Commission (CNB) regularly updates its website with the latest information on state-level regulations and other policy-related matters. The Commission also posts information about upcoming public hearings and public comment periods that provide stakeholders with the opportunity to observe and participate in the rulemaking process. Since January 2018, the Commission has released several guidance documents for municipalities, including its official [Guidance for Municipalities Regarding Marijuana for Adult Use](#).

### **Massachusetts Association of Regional Planning Agencies (MARPA)**

<http://www.massmarpa.org/recreational-marijuana>

The Massachusetts Association of Regional Planning Agencies (MARPA) is comprised of the Commonwealth's thirteen regional planning agencies and has an entire webpage dedicated to providing key policy updates and links to relevant educational resources like cannabis policy PowerPoint presentations and overview documents. MARPA and each of the Commonwealth's regional planning agencies are working to provide expertise on the evolving landscape of Massachusetts cannabis policy.

### ***The Boston Globe, This Week in Weed***

<http://pages.email.bostonglobe.com/ThisWeekInWeedSignUp/>

Run by *Boston Globe* reporter Dan Adams, *This Week in Weed* is a weekly newsletter that provides in-depth updates on the Commonwealth's cannabis industry. The newsletter is released every Saturday and includes stories on national, state, and local cannabis news. *This Week in Weed* is widely considered one of the best resources for up-to-date information on cannabis in Massachusetts.

### **Massachusetts Office of the Attorney General, Municipal Law Unit**

<http://www.mass.gov/ago/government-resources/municipal-law/>

The Office of the Massachusetts Attorney General's Municipal Law Unit is responsible for reviewing municipal ordinances and by-laws related to the cannabis industry. The Municipal Law Unit posts its decisions online, and Assistant Attorney General Margaret Hurley, the head of the Municipal Law Unit, can serve as a resource for questions about the legality of local cannabis policies.

### **Easthampton, MA Ordinance**

[https://easthampton.org/images/Easthampton\\_Adult\\_Use\\_Cannabis\\_Establishments.pdf](https://easthampton.org/images/Easthampton_Adult_Use_Cannabis_Establishments.pdf)

In March 2018, the City of Easthampton approved a local ordinance governing adult-use cannabis establishments. This ordinance serves as a useful model as municipalities continue crafting their own policies.

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