

*This model legislation is a collaborative project led by the Minority Cannabis Business Association in cooperation with participants from Students for Sensible Drug Policy, Cannabis Cultural Association, Drug Policy Alliance, Greenlining Institute, Law Enforcement Action Partnership, National Cannabis Festival, Multidisciplinary Association for Psychedelic Studies, Families for Justice as Healing, Denver Relief Consulting, and THC Staffing Group. Legal support was provided by the Law Office of Richard M. Juang, Wyatt Legal Consulting, Rachelle Yeung, Esq., Shaleen Title, Esq., Shabnam Malek, Esq., Thomas Silverstein, Esq., and the law firm of Vicente Sederberg, LLC. The generous support of Kayvan Khalatbari made this project possible. For further information, see the MCBA model bill website at <http://minoritycannabis.org/model-bill.html>*

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## **Section 1      Purposes and Findings.**

(a)      This State has established that it is not contrary to the public interest to permit the well-regulated cultivation, sale, processing, testing, study, and consumption of cannabis.

(b)      The State now further finds that the arrest and prosecution of persons for minor cannabis-related offenses has had an adverse disparate and discriminatory effect on persons and communities of color.

(c)      The State further finds that the collateral civil and criminal consequences of cannabis-related prosecutions, convictions, and stigmatization have placed an unfair, disparate, and discriminatory burden on persons and communities of color.<sup>1</sup>

(d)      The State further finds that the social stigmatization of personal and medical cannabis use serves no significant public interest and is harmful to the public welfare by preventing access to medical treatments and to open and constructive education and dialogue about drug use.

(e)      The State finds, therefore, that remedial and protective legislation is necessary to the public interest and welfare in order to remedy and prevent unfair, disparate,

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<sup>1</sup> Advocates should be alert that some states may prohibit or severely curtail remedial measures based on race or ethnicity, such as California under Proposition 209. See Coral Construction, Inc. v. City and County of San Francisco, 50 Cal. 4<sup>th</sup> 315 (2010), observing that “. . . even in the rare case in which racial preferences are required by equal protection as a remedy for discrimination, the governmental body adopting such remedies must undertake an extraordinary burden of justification “to assure all citizens that the deviation from the norm of equal treatment of all racial and ethnic groups is a temporary matter, a measure taken in the service of the goal of equality itself.”” Because advocates may face an “extraordinary burden of justification,” they should therefore encourage legislators to incorporate state-specific evidence and research about racially discriminatory impacts, practices, and animus into the legislative record and the legislation itself.

and discriminatory practices that have arisen from the past criminalization and stigmatization of personal and therapeutic cannabis use.

(f) The State, therefore, hereby intends to enact certain measures intended to relieve persons and communities of this history of unfair, disparate, and discriminatory burdens.

(g) The State furthermore hereby enacts certain measures intended to protect all residents of this State from future unfair discrimination arising from past conduct that is no longer deemed unlawful and from the social stigmatization of the personal and medical uses of cannabis.

(h) The State furthermore recognizes and establishes that it is the economic policy of this State to ensure that the benefits of commerce related to cannabis flow in a manner that is equitable to all Residents of this State and that it is in the public interest to remedy past economic discrimination.

(i) Therefore, this Act also takes certain measures that are intended to promote the participation of persons of color and women in commerce related to cannabis, to the extent made lawful in this State.

## **Section 2 Reform of Civil and Criminal Penalties.**

(a) Notwithstanding any law, regulation, or ordinance to the contrary, no person shall be:

(i) arrested, prosecuted, penalized, fined, disciplined, sanctioned or disqualified;

(ii) restricted or denied in any right, entitlement, benefit, or privilege;<sup>2</sup>

(iii) subject to the seizure or forfeiture of any property or asset;

(iv) for possessing, using, cultivating, purchasing, processing, manufacturing, transporting, offering, selling, marketing, transferring, testing,

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<sup>2</sup> This provision is consistent with several cannabis reform laws in the U.S. It is intentionally broad. The breadth may, however, create ambiguities that are interpreted in a restrictive rather than expansive manner. Advocates should consider whether or not to spell out the specific rights, entitlements, benefits, and privileges, if any, that can be restricted or defined depending on the particular offense listed in the schedules below. Rights that may be critical to expressly preserve might include, for example, voting (despite a felony conviction) and custody of children.

providing or sharing cannabis plants, cannabis in any form, drug paraphernalia as defined under 21 U.S.C. § 863 or other cannabis-related goods or services;<sup>3</sup>

(v) facilitating, enabling, or assisting in any cannabis-related possession, control, use, storage, sharing, distribution, cultivation, manufacturing, transportation, testing, research, or any other personal, social, or commercial activity lawful under this Act,

(vi) except as expressly permitted under this Act and the regulations lawfully promulgated thereunder.

(b) Under this Act and notwithstanding any other law to the contrary, the following acts shall be deemed acts that are not unlawful, civil offenses or criminal offenses according the following schedules and subject to the penalties specified therein or as otherwise specified by a court pursuant to paragraph (c):

(i) Schedule for Possession Offenses:<sup>4</sup>

<b>Knowing Possession of Cannabis in an amount</b>	<b>Charge</b>	<b>Penalty</b>
Less than and including 2.5 ounces (including concentrates, edibles, liquids) by persons 21 years old or older in any place not prohibited under this Act.	None.	None.
Greater than 2.5 oz. and not more than 16 oz, except where the amount is derived directly from home cultivation of 6 to 20 plants under (b)(ii). When the amount derives from the home cultivation of 6 to 20 plants under (b)(ii), the lesser penalty shall apply.	Misdemeanor	Up to \$500 fine, and/or no more than 3 months imprisonment.

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<sup>3</sup> Advocates should craft the scope of this reference to drug paraphernalia and cannabis-related goods or services to fit the particular needs of their state laws. Advocates should also monitor developments in federal law for changes to the Controlled Substances Act and related laws in order to refine this section of this Model Bill and develop future protections.

<sup>4</sup> Each state will typically require its own schedule or table of offenses and penalties, tailored to fit within and to reform the state’s drug laws and penalties. For an alternative way to structure a schedule or table of offense and penalties, see Connecticut: <https://www.cga.ct.gov/2016/rpt/pdf/2016-R-0273.pdf>

Greater than 16 oz. and not more than 50 pounds. <sup>5</sup>	Misdemeanor	Up to \$1000 fine and/or no more than 1 year imprisonment.
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(ii) Schedule for Growing and Cultivation Offenses:

<b>Knowingly growing or cultivating cannabis plants without a license or other authorization a regulatory body of competent jurisdiction:</b>	<b>Charge</b>	<b>Penalty</b>
Equal to or fewer than 6 mature plants	None	None
From 6 to 20 Mature Plants	None	\$250
More than 20 mature plants (first offense)	Misdemeanor	\$500 fine and no more than 3 months imprisonment.
More than 20 plants (subsequent offense)	Felony	\$2500 fine and no more than 18 months imprisonment.

(iii) Schedule for Distribution Offenses

<b>Knowingly selling or otherwise providing for remuneration cannabis by a person 18 years old or older to one or more persons:<sup>6</sup></b>	<b>Charge</b>	<b>Penalty</b>
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<sup>5</sup> Possession with Intent to Distribute (Deliver) is eliminated in this Model as an offense.

<sup>6</sup> This Model Bill eliminates distribution offenses for minors. The penalties in this schedule apply only to unlawful sale and distribution by persons eighteen years old or older. MCBA does not consider the incarceration of juvenile “felony” offenders to be an option consistent with the remedial purposes of this Model Bill. Alternative public policy options should be discussed and designed for each state and may be implemented through the regulatory process established later in this Act.

Who is under 14 years old.	Felony	\$2500 fine and no more than 18 months imprisonment.
Who is 14 to under 18 years old.	Misdemeanor	\$500 fine and no more than 6 months imprisonment.
Who is 18 years old or older in any amount over 2.5 oz as a first offense	Misdemeanor	\$250 fine and no more than 3 months imprisonment.
In any amount over 2.5 oz and less than 50 lbs. as a second or any subsequent offense,	Misdemeanor	\$500 fine and no more than 6 months imprisonment.
In any amount equal to or greater than 50 lbs. and less than 100 lbs. as a second or any subsequent offense.	Felony	\$1000 fine and up to 1 year imprisonment.
In any amount equal to or greater than 100 lbs. and less than 2000 lbs. as a second or subsequent offense.	Felony	No more than 18 months and \$2,500
In any amount equal to or greater than 2000 lbs. and less than 10,000 lbs. as a second or subsequent offense.	Felony	\$5000 fine and no more than 2 years imprisonment.
In any amount equal to or greater than 10,000 lbs. as a second or subsequent offense.	Felony	\$10000 fine and no more than more than 30 months imprisonment.

(iv) Schedule for Manufacturing Offenses:

<b>Knowingly manufacturing hash and concentrates<sup>7</sup> without a license:</b>	<b>Charge</b>	<b>Penalty</b>
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<sup>7</sup> Hash, concentrates or concentrated cannabis may be defined as “the separated resin, whether crude or purified, obtained from marijuana.” California Health & Safety Code §11006.5. See also California Prop. 64.

Unauthorized Manufacture (first offense).	Misdemeanor	\$500 fine and no more than 6 months imprisonment.
Unauthorized Manufacture (second offense or subsequent offense).	Felony	\$2500 fine and no more than 18 months imprisonment.
Chemical Manufacture.	Felony	\$2500 fine and no more than 18 months imprisonment.

(c) A Court may, if it is in the interest of justice and rehabilitation, offer to a person accused or convicted of a cannabis-related offense under paragraph (b), entry into a pre-trial diversion program, a conditional discharge of the offense, conditional release from a term of imprisonment or penalty, or entry into a diversion program for narcotics, in lieu of the imposition of any penalty under paragraph (b). Relief under this paragraph (c) shall be available only to persons with no prior criminal convictions for cannabis-related offenses or who have not previously received relief under paragraph (c) for a cannabis-related offense. Successful completion of the terms of such pre-trial diversion program, conditional discharge, conditional release, or diversion program as provided in this paragraph (c) shall result in the automatic expungement of the defendant’s record of arrest, charge, findings of facts, and conviction.<sup>8</sup>

**Section 3 Relief From Sentences, Penalties, and Court Costs for Prior Offenses**

(a) Any person who, prior to the effective date of this Act, is serving a term of or subject to:

- (i) criminal or civil confinement in an adult or juvenile facility;
- (ii) confinement, but presently suspended;

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<sup>8</sup> In this Model Bill, “expungement” is used throughout to mean the thorough removal and destruction of records so that no trace of the information remains, including erasure of the act of expungement itself, whenever possible. “When a record is expunged, all traces of it vanish, and no indication is left behind that information has been removed. In contrast, when records are sealed . . . they do not disappear; they continue to exist but become unavailable to the public.” *Commonwealth v. Boe*, 456 Mass. 337, 338 n.2 (2010) (citation and internal quotes omitted). See *Police Comm’r of Boston v. 138 Municipal Court of the Dorchester Dist.*, 374 Mass. 640, 648, 374 N.E.2d 272, 277 (1978).

- (iii) probation or parole;
- (iv) community service;
- (v) any other sentence involving restrictions upon liberty;
- (vi) any monetary penalty;

(vii) court costs, probation fees, public defender fees or other fees directly related to the administration of justice; or

(viii) for any offense in which cannabis, in any form, or paraphernalia for the consumption of cannabis is a necessary element of the offense shall have his or her term for the specific offense commuted to such length of time he or she has already served or, have the outstanding balance for any penalties or fees directly related to the offense reduced to zero (0).

(b) Notwithstanding relief granted under paragraph (a), any person participating in any court-ordered drug treatment, victim restitution or victim reconciliation program for an offense that is now lawful under this Act may voluntarily continue in such program under the same or more lenient terms.

(c) Voluntary continuation in a program under paragraph (b) shall not constitute an admission or evidence of guilt or liability in any criminal or civil proceeding or impair eligibility for any relief or benefit under this Act.

(d) The Commissioners of the Departments of Corrections and Probation shall be authorized to and shall promulgate such regulations and policies as necessary to implement paragraphs (a) and (b) of this Section 3 no more than thirty (30) days from the effective date of this Act. Regulations and policies promulgated under this Section 3 shall be deemed emergency regulations and policies under the Administrative Procedures Act of this State and shall take immediate effect.

(e) Any person who, as of the effective date of this Act, owes a monetary penalty or court costs for the specific offenses listed in paragraph (a) shall be eligible for forgiveness of such monies. Relief under paragraphs (a) or (e) shall not apply to attorney's fees.

(f) The Administrative Office of the Trial Court shall, within one hundred-eighty (180) days of the effective date of this Act, issue a form that may be filed by any person in the District Court where they reside, or in the jurisdiction in which they were charged and paid fines or associated court fees, to seek relief under paragraph (e). Any form issued under paragraph (f) and any Rules of Court for the use of such a form shall be easily understood and completed by a person of ordinary intelligence and shall be issued in the five (5) most common languages of this State. No filing fees or other court fees shall be required to seek relief under paragraph (e).

(g) Monies to be issued under paragraph (e) shall not be unduly delayed for failure by persons to comply with procedural Rules issued under paragraph (f) or other Rules of the Court that do not directly relate to the substantive merits of a person's claim to relief under paragraph (e).

(h) Any person aggrieved by the failure of any administrative agency or the Administrative Office of the Trial Court to implement this Section 3 in a reasonable and timely manner may seek a writ of mandamus or other similar order from the superior court where he or she resides.

(i) Any person aggrieved by a violation of this Section 3 may seek injunctive or other relief from the superior court where he or she resides or is otherwise housed, incarcerated, or sentenced.

(j) The failure of any body or person to be established or to undertake any action required by this Act shall not prevent or delay the effectiveness of this Section 3. Any person directly aggrieved by a violation of any part of this Section 3 may seek direct judicial relief if no other forum for relief is available due to a delay in the implementation of this Act.

(k) Notwithstanding any contrary provision of this Section 3, no relief under this Section 3 shall apply to any offense directly related to the sale or other distribution of cannabis to a minor, endangerment or neglect of a minor, or operating a motor vehicle while impaired by cannabis.<sup>9</sup>

#### **Section 4 Sentencing Enhancements and Offender Classifications and Restrictions.**

(a) No court, board or administrative body may use any past offense that is no longer subject to criminal or civil penalties under this Act as the basis for a sentencing enhancement, classification as a career criminal, as evidence of a likelihood to reoffend for the same or different criminal offense.

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<sup>9</sup> This provision should be tailored to reflect those state public safety and federal Cole Memorandum (August 29, 2013) priorities that advocates find essential and legislators find non-negotiable. Cole Memorandum priorities include preventing: the distribution of marijuana to minors; revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; the diversion of marijuana from states where it is legal under state law in some form to other states; state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; violence and the use of firearms in the cultivation and distribution of marijuana; drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; marijuana possession or use on federal property.

(b) No court, board or administrative body may use any past offense that is no longer subject to criminal or civil penalties under this Act as a basis for the non-issuance, denial, non-renewal, suspension, or revocation of any privileged license or certification.

## **Section 5 Criminal Records.**

(a) Any person convicted of an offense or charged with an offense that was dismissed for want of prosecution, dismissed at the request of the State, nol prossed (nolle prosequi), or subject to an Alford plea, and whose offense is no longer subject to criminal or civil penalties under this Act shall be eligible for the expungement that conviction, offense, and related findings of fact from his or her adult or juvenile Criminal Record. Any juvenile Criminal Record eligible for expungement under this paragraph (a) shall be expunged automatically if no action is taken on that Criminal Record within two (2) years of the effective date of this Act.

(b) The Commissioner of Probation shall issue, within one hundred-eighty (180) days of the effective date of this Act, a form for persons seeking relief under paragraph (a) above. The form shall permit expungement of offenses from his or her record under paragraph (a) and persons seeking such relief shall be entitled to a presumption of eligibility. The form shall be understandable by a person of ordinary intelligence and translated into the same languages into which ballots are translated in this State.

(c) Upon issuance of an expungement under paragraph (a), the Commissioner of Probation shall communicate that expungement to those state and federal agencies entitled to access a person's Criminal Record.

(d) In all cases, the Commissioner of Probation shall ensure that an expungement of a person's Criminal Record under paragraph (a) shall be communicated promptly to the Federal Bureau of Investigation's Criminal Justice Information Services (the "CJIS") and to all State or local agency entitled to receive notice of an expungement. The Commissioner of Probation shall ensure that the entire CJIS Identity History Summary relevant to the expunged offense is deleted. The Commissioner of Probation shall ensure that any State or local agency entitled to receive notice of an expungement removes the expunged offense from their records.

(e) Relief or the exercise of rights under this Section 5 shall not preempt or otherwise prohibit other bases for correcting, sealing, or expunging a person's Criminal Record available under other provisions of law.

(f) No court fees or fees to the Commissioner of Probation shall be charged to the person for relief or the exercise of any right conferred under this Section 5.

(g) All persons who have applied for and received criminal offense expungement shall also be provided with an updated official criminal history report from the Office of the Commissioner of Probation.

## Section 6 Employment Practices.

(a) No employer may establish any policy or practice that prohibits any cannabis-related activity made lawful under this Act when employees are not on-duty or acting as agents of their employer, regardless of location. Any employment policy regarding unlawful cultivation, possession, use, or transaction related to cannabis when employees are off-duty may not impose any restrictions or burdens greater than those for the unlawful use of alcohol when employees are off-duty.

(b) Any provision of any contract for employment that requires an employee to abstain from any type of noncommercial cannabis-related activity lawful under this Act as a condition of hire or continued employment shall be deemed void and contrary to the public interest.

(c) No employer may establish policies or practices that are more restrictive for on-the-job use of or intoxication due to cannabis than those for on-the-job use of or intoxication due to alcohol. No employer may restrict the smoking of cannabis by employees on or near a work site in a manner more restrictive than that for the smoking of tobacco by employees, except that an employer may restrict on-the-job use of or intoxication due to cannabis in a manner consistent with this paragraph (c).

(d) Requests for individual modifications of or exemptions from employment policies or practices related to the use of cannabis for religious or medical reasons shall be deemed to be requests for reasonable accommodation on the basis of religion or disability. No employer may establish policies or practices for responding to requests for religious or disability accommodation related to cannabis use that are more restrictive or burdensome than policies or practices for responding to other requests for reasonable accommodation.

(e) No employer may discriminate in the setting of salaries, work schedules or work locations or in the provision of benefits on the basis of cannabis-related activity that is lawful under this Act.

(f) No employer may require a job applicant to disclose lawful noncommercial cannabis-related activity on an initial job application. No employer may make any inquiry into cannabis-related activity on an initial job application when the applicant is a minor. No employer may make any inquiry of any adult job applicant regarding cannabis-related activity when the applicant was a minor.

(g) No employer may require a job applicant to disclose arrests or convictions for cannabis-related offenses on an initial job application.

(h) No employer may refuse to hire a qualified employee on the basis of any noncommercial cannabis-related activity made lawful under this Act.

(i) Except as expressly permitted under this Act and the regulations promulgated thereunder, no law, regulation, or municipal ordinance may restrict the

operation of any business, the practice of any profession, employment in any occupation or the issuance of any occupational, technical or privileged license on the basis of prior arrests or convictions for any offense for which cannabis or cannabis-related paraphernalia was a necessary element.

(j) Provisions of state law and regulations that permit the testing of persons for drug use by employers or prospective employers shall be deemed inapplicable to the testing for cannabis use, except when such testing is necessary for the safe operation of vehicles or machinery, the care of vulnerable individuals, the use of firearms, or other reasons of public safety or public health.

## **Section 7 Commissioner of Workforce Development; Disparate Impact Studies.**

(a) Periodically and in intervals not to exceed every three (3) years from the effective date of this Act, the Commissioner of Workforce Development shall conduct a state-wide study to assess whether and to what extent there is a disparate impact and disparate burden on the basis of race, gender, religion, sexual orientation, or country of origin faced by persons with prior cannabis-related convictions and persons involved in the lawful cultivation, possession, and use of cannabis in the area of employment. The results of such studies shall be made public.

(b) The Commissioner of Workforce Development shall periodically make recommendations to the Governor of policies to remedy the disparate impacts and burdens identified in the studies conducted under paragraph (a) above.

## **Section 8 Housing.**

(a) It shall be unlawful to:

(i) refuse to rent, lease, license, sell, or otherwise make unavailable any unit of housing on the basis of a person's use of cannabis or prior history of civil or criminal charges, offenses, or convictions for cannabis-related offenses;

(ii) make any inquiry into a prospective tenant, licensee, or purchaser's use of cannabis or prior history of civil or criminal charges, offenses, or convictions for cannabis-related offenses ; and

(iii) discriminate in the terms, conditions, or privileges of the sale or rental of any dwelling on the basis of a person's use of cannabis or history of civil or criminal charges, offenses, or convictions related to cannabis.

(b) Homeless shelters, respite homes, nursing homes, and other long-term care facilities shall not be exempt from the provisions of paragraph (a) above.

(c) The provisions of paragraph (a) shall not apply to sober living houses or other housing intended to provide a therapeutic or rehabilitative environment related to

drug or alcohol use or to temporary lodgings, including hotels, motels, camps, and private homes rented for brief stays.<sup>10</sup>

**Section 9 Qualifying Public Housing (Housing Governed by the Quality Housing and Work and Responsibility Act of 1998).**

(a) This Section 9 shall apply to any housing governed by the federal Quality Housing and Work and Responsibility Act of 1998 or any housing governed by any other provisions of federal law that grant persons or entities that own or manage federally-assisted housing the discretion to deny persons housing to or evict persons from housing on the basis of drug-related offenses.<sup>11</sup>

(b) It shall be unlawful to refuse to rent, lease, license, or otherwise make unavailable any unit of housing covered by this Section 9 on the basis of a person's charge or arrest for a cannabis-related offense, without conviction or other substantial independent and relevant evidence based on actual conduct.<sup>12</sup>

(c) All persons or entities that own, manage, or otherwise regulate housing covered under paragraph (a) above shall provide written notification of any denial of housing or any eviction on the basis of the lawful cultivation, possession, or use of cannabis or other cannabis-related offense to the Cannabis Control and Licensure Commission, the Cannabis Advisory Board, and the Office of Justice Reinvestment. Such written notice shall provide, with specificity, the name and address of the affected person, the race and ethnicity of the affected person, the gender of the affected person, the persons with knowledge and decision-making authority regarding the denial or eviction, the specific circumstances of the denial or eviction, and the specific reasons, facts, and evidence for the denial or eviction. Notice shall be issued to the Office of the Attorney General of the State no more than seven (7) days after the denial or issuance of a notice of eviction.

(d) The State Office of Attorney General shall conduct periodic disparate racial impact reviews of denials and evictions for cannabis-related reasons under Title VI of the

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<sup>10</sup> Incorporation of the particular State's Fair Housing Law exclusions & inclusions may be appropriate here.

<sup>11</sup> This discretion is established in federal law. See U.S. Department of Housing and Urban Development Helen R. Kanovsky, Memorandum of January 20, 2011, Medical Use of Marijuana and Reasonable Accommodation in Federal Public and Assisted Housing. Also, Figgs v. Boston Housing Authority, 469 Mass. 354 (2014), affirming federally-funded housing authority's discretion to evict on the basis of drug possession, despite state decriminalization. This section seeks to prevent abuse of such discretion without contravening the federal grant of discretion.

<sup>12</sup> This codifies HUD guidance stating that an arrest is not evidence of criminal activity that can support an adverse admission, termination, or eviction decision. PIH 2015-19, Issued Nov. 2, 2015. HUD guidance also states, however, that "although a record of arrest(s) may not be used to deny a housing opportunity, [Public Housing Authorities] and owners may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicated that the individual is not suitable for tenancy and the PHA or owner has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions." PIH 2015-19 at p. 4.

federal Civil Rights Act of 1964, at its discretion, but not less than once every two (2) years.

(e) Should any Title VI review identify any pattern of disparate racial impact or intentional discrimination in the provision or retention of federally-assisted housing on the basis of lawful cannabis activity, the State Office of the Attorney General shall promptly undertake, upon the recommendation of the Cannabis Control and Licensure Commission or on its own initiative, such remedial and corrective measures as it deems reasonable, including seeking equitable and injunctive relief and imposing civil penalties not to exceed one hundred thousand United States dollars (\$100,000.00) for each instance of a policy or practice that creates a disparate racial impact in the provision or retention of housing covered by this Section 9.

#### **Section 10 Places of Public Accommodation and Public Assembly.**

(a) No public or private person or entity that owns, manages, controls, or otherwise regulates a place commonly used as a place of outdoor public assembly may impose rules or policies for the use of cannabis in that place that are more restrictive than rules or policies for the use of tobacco in that same place.

(b) No public or private person or entity that owns, manages, controls, or otherwise regulates a place of indoor public accommodation may impose rules or policies for the possession and use of cannabis that are more restrictive than rules or policies for the use of tobacco in that same place.

(c) This Section 10 shall not apply to federal lands or buildings or lands or buildings under the exclusive jurisdiction and management of the federal government.<sup>13</sup>

#### **Section 11 Credit and Business Transactions.**

(a) No entity that conducts business in this State shall discriminate in any of the terms and conditions of lending, credit reporting, determinations of creditworthiness, financial transactions, or any related services on the basis of an arrest or conviction for any offense that is no longer subject to criminal or civil penalties under this Act or for any juvenile offense related to cannabis.

(b) No entity that conducts business in this State shall refuse to conduct business with any individual on the basis that the individual has a history of arrest or

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<sup>13</sup> Department of Justice Ogden Memorandum, October 19, 2009 specifically references the “Department’s [unaltered] authority to enforce federal law, including laws prohibiting the manufacture, production, distribution, possession, or use of marijuana on federal land” P. 2.

conviction for any offense that is no longer subject to criminal or civil penalties under this Act or for any juvenile offense related to cannabis.

(c) Any entity that maintains a credit report on any current or former resident of this State and that conduct or intends to conduct business in this State shall, within one hundred-eighty (180) days of the effective date of this Act, permanently remove any record of any arrest or conviction for any offense that is no longer subject to criminal or civil penalties this Act or for any juvenile offense related to cannabis.

## **Section 12 Business and Economic Development.<sup>14</sup>**

(a) The State Office for Economic Development and its subordinate agencies shall establish, as a goal, racial, ethnic, and gender diversity in the cannabis-related businesses subject to its jurisdiction. In all its activities related to the regulation, licensing, or promotion of cannabis-related businesses in this State and in relationship to other States where cannabis-related businesses are lawfully conducted, the Office, in coordination with the CCLC, shall promulgate, adopt, and implement policies that ensure:

(i) that diverse groups are afforded equal opportunity in all licensing and permitting process;

(ii) that regulated entities and licensees promote the participation of diverse groups in their operations by affording equal access to employment opportunities;

(iii) that regulated entities and licensees establish, as a part of any application for a permit or license or as a condition of ongoing permitting or licensing, business policies that encourage diverse groups for contracting or professional services opportunities; and

(iv) that no recipient of public funds for the provision of business or economic development services or job training engages in adverse discrimination against cannabis-related businesses, jobs, trainees, or job applicants.

(b) The State Office for Economic Development shall, through its departments, facilitate participation by diverse groups in cannabis-related businesses by:

(i) conducting outreach including, consulting with other State agencies to identify diverse groups who may benefit from participation in cannabis-related businesses and providing education and training opportunities to persons and communities disproportionately affected by cannabis prohibition;

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<sup>14</sup> Adopted from the Pennsylvania Medical Marijuana Act of Apr. 17, 2016, P.L. 84, No. 16, Cl. 35, Section 615 (Diversity Goals).

(ii) providing sufficient and continuous notice of the participation opportunities afforded under this Section by publishing notice on the Office's publicly accessible website; and

(iii) raising funds to provide start-up capital or business loans for economically disadvantaged persons or entities and persons or communities disproportionately affected by cannabis prohibition.

(c) Within two (2) years from the effective date of this Act, and every year thereafter, the State Office for Economic Development shall submit a public report to the Governor and Legislature summarizing the participation and utilization of diverse groups in State's cannabis-related economic sector. The report shall be available on the Office's publicly available website and include:

(i) the participation level, by percentage, of diverse groups in the State's cannabis-related economic sector including regulatory positions and positions at companies ancillary to the cannabis-related economic sector;

(ii) a summary of how diverse groups are utilized by entities regulated or licensed by the Office, including in the provision of goods or services; and

(iii) any other information the Office deems appropriate.

### **Section 13 Business Certification.<sup>15</sup>**

(a) Within one hundred-eighty (180) days of the effective date of this Act, the State Office for Economic Development shall promulgate regulations or policies to ensure that qualified cannabis-related businesses shall be eligible for:

(i) state business certification as a minority-owned, women-owned, minority women-owned, and gay, lesbian, bisexual, and transgender-owned businesses, or as a disadvantaged business as may be applicable;

(ii) state procurement and contracting opportunities directed at, set-aside for; or

(iii) otherwise intended to promote businesses certified under paragraph (a)(i) shall be open to eligible cannabis-related businesses.

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<sup>15</sup> The August 29, 2013 Cole memoranda Guidance Regarding Marijuana Enforcement, relaxes the federal attitude toward commerce in marijuana: "in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above." P. 3. This is a change from the prior 2011 Memorandum in which size and commercial nature were considered indicia of illegality.

## **Section 14    Diversification of Zoning and Land Use.**

(a) No public or private body entrusted with zoning or the regulation of land use shall establish any ordinance, regulation or policy that has the effect of substantially prohibiting the reasonable operation of cannabis-related businesses as a class of entities.<sup>16</sup>

(b) No public or private entity entrusted with zoning or the regulation of land shall place any burden on a cannabis-related business with regard to zoning or land use compliance, requirements, or variances that is substantially greater than any burden place on a similar lawful non-cannabis business. Jurisdictions that have banned the cultivation or retail sale of marijuana or marijuana products shall not be entitled to any local government grants issued through marijuana tax revenue.<sup>17</sup>

## **Section 15    Family and Children.**

(a) Neither the presence of cannabinoid components or metabolites in a person’s bodily fluids, nor possession of cannabis-related paraphernalia, nor conduct related to the use of cannabis or the participation in cannabis-related activities lawful under this Act by a custodial or noncustodial parent, grandparent, pregnant woman, legal guardian, or other person charged with the well-being of a child, shall form the sole or primary basis or a supporting basis for any action or proceeding by a child welfare agency or in a family or juvenile court. This subsection shall apply only to conduct in compliance with this Act.<sup>18</sup>

(b) Neither the presence of cannabinoid components or metabolites in a person’s bodily fluids, nor conduct related to the use of cannabis lawful under this Act may be the basis of any adverse finding, adverse evidence, or restriction of any right of privilege in a proceeding related to adoption, fostering, or a person’s fitness to adopt or foster.

(c) Neither the presence of cannabinoid components or metabolites in a person’s bodily fluids, nor conduct related to the use of cannabis lawful under this Act may be the basis of any adverse finding, adverse evidence, or restriction of any right of privilege in a proceeding related to guardianship, conservatorship, trusteeship, the execution of a will, or the management of an estate.

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<sup>16</sup> Depending on the expectations of particular jurisdictions, advocates may want to more strictly define “cannabis-related business” in order to preserve a higher degree of local control over zoning.

<sup>17</sup> Depending on the state, this provision regarding the distribution of marijuana tax revenue and other tax-related parts of this Model Bill may have to be addressed by separate amendments to the state tax code.

<sup>18</sup> Adapted from model language provided by the Family Law and Cannabis Alliance. <http://flcalliance.org/resources/parent-protective-model-language/> February 19, 2015 site last updated. The phrase “or as a supporting basis” has been added.

## **Section 16 Educational Institutions, Financial Aid, and Student Loans.**

(a) Any educational institution receiving public funds or subject to State regulations (“**school**”) shall revise and implement student disciplinary policies to conform to the criteria in this Section 16. The Departments of Elementary and Secondary Education and Department of Higher Education, in consultation with the Advisory Board, shall promulgate regulations and policies for the implementation of this Section 16. Such regulations shall include but not be limited to regulations for collecting information regarding student disciplinary actions related to cannabis and to undertake remedial measures to correct discriminatory conduct, disparate impacts, and improper implementation of this Section by any school covered by this paragraph (a). Each school shall file a detailed report, consistent with regulations and policies issued under this paragraph (a), with the relevant regulatory agency for each disciplinary action related to cannabis.

(b) Any student found unlawfully in possession of cannabis on the premises of his or her school or while engaged in school activities, including off-premises activities such as field trips, athletic competitions, or science fairs may receive or be subject to counseling, drug-related education, or community service related to the school, or any combination of such actions programs as may be appropriate for the individual student’s educational and social needs. Such disciplinary action must not be more severe than equivalent school penalties for the underage use of alcohol.

(c) Any school may elect to establish a restorative justice program for addressing matters related to cannabis, other controlled substances, alcohol or tobacco. Any such restorative justice program shall include, but not be limited to, an education curriculum and counseling that may be reasonably tailored to the needs and circumstances of individual students.

(d) Any school may elect to establish a cannabis diversion program or other substance abuse diversion program, as part of a school drug policy. Any such diversion program shall include, but not be limited to, counseling, support, and education regarding cannabis abuse and other substance abuse.

(e) No student found unlawfully in possession of cannabis on school premises or while engaged in school activities off-premises such as field trips, athletic competitions, or science fairs, may be subject to out-of-school suspension or expulsion.

(f) No school disciplinary policy shall be construed to prohibit the involvement of student or school in a criminal investigation reasonably related to the unlawful possession or distribution of cannabis on school premises or in the course of school activities. In any investigation or other proceeding where a student subject to school discipline for possession of cannabis may reasonably be expected to be a witness or to be subject to arrest, the student shall have a right to independent counsel free of charge. Any student entitled to counsel under this paragraph (f) or any other provision of this Act or

under State or Federal law shall be promptly informed of his or her right to counsel and be granted the means to request counsel by the school.

(g) No beneficiary of financial aid or student loans shall have his or her eligibility, rights, privileges or options revoked, restricted, or otherwise adversely changed on the basis of cannabis-related activity lawful under this Act. Any contractual provision or policy contrary to this paragraph (g) shall be deemed void and against public policy.

(h) No person lawfully dwelling in student housing shall be subject to discipline, termination of residency, eviction, or any other housing-related sanction for cannabis-related activity lawful under this Act or school discipline for cannabis-related activity, where permitted under this Section 16, that does not substantially involve housing-related misconduct. Any contractual provision or policy contrary to this paragraph (h) shall be deemed void and against public policy.

(i) Violation of any part of this Section 16 shall give rise to a private right of action by any student subject to school discipline under this Section or any legal parent or guardian or such a student. Such an action may be filed in the district court in the city or county of the school.

## **Section 17 Office of Justice Reinvestment<sup>19</sup> .**

(a) An Office of Justice Reinvestment (OJR) is hereby created as an independent public agency reporting to the Governor and administered by the CLCC. The purpose of the OJR shall be to:

(i) foster a diverse lawful cannabis economic sector, invest in communities that have been historically harmed by cannabis prohibition, remedy the cumulative harms of disparities in the criminal justice system and of social stigmatization related to cannabis prohibition;

(ii) ensure that the specified portion of State revenue derived from the lawful cannabis sector is directed effectively toward minority communities that have disproportionately experienced harm from cannabis prohibition;

(iii) ensure that applications for licensure in cannabis-related business are encouraged from minority communities, other communities adversely affected by cannabis prohibition, and entities that qualify as minority-owned, women-owned or LGBT-owned business enterprises; and

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<sup>19</sup> This Section is designed from a combination of concepts from California Proposition 64 (2016) regarding legalization and early drafting stages of the Massachusetts legalization ballot measure (Question 4 in 2016).

(iv) work with a diverse range of public and private agencies, organizations and groups to publicize the availability of economic opportunities under this Act.<sup>20</sup>

(b) Within one hundred-eighty (180) days from the effective date of this Act, the Governor shall appoint a Commission for Justice Reinvestment (“**Commission**”) that shall consist of a group of individuals who represent the diverse residents of the State with the following backgrounds: two (2) State senate representatives, one (1) State house representative, three (3) representatives from national organizations representing people of color, one (1) representative from the CLCC, three (3) representatives from neighborhood associations, and one (1) representative from law enforcement.

(c) The Commission shall have executive authority to carry out the purposes of the OJR as described in paragraph (a) above and to employ such persons, delegate such duties, create such departments, promulgate such regulations and policies, establish such programs, and expend such allocated funds as it deems necessary to carry out the functions of the OJR.

(d) The State Department of Revenue shall, each fiscal year, direct the first five percent (5%) of State revenue derived from all taxes and fees directly related to commerce in cannabis, including sales taxes, corporate income taxes, licensing fees, permitting fees, and sales of state or municipal property from the preceding fiscal year before administrative costs, and additionally fifteen percent (15%) after administrative costs, to the OJR.

(e) Using such funds allocated under paragraph (d) above, the Commission shall promulgate, establish, and implement such regulations, policies, grants, loans, programs, and technical assistance as it deems necessary to carry out its duties under this Section 17 and to support such activities as specifically authorized or required under any provision of this Act.

(f) The Commission shall designate one (1) or more Justice Reinvestment Officers who shall have such authority as the Commission deems necessary to carry out the following tasks:

(i) lead outreach, training, and education efforts related to the purposes of the OJR as described in paragraph (a) or any other purpose or goal of this Act;

(ii) maintain records and evaluate the effectiveness of such outreach, training, and education efforts;

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<sup>20</sup> This language was recommended, but not ultimately incorporated, as part of the drafting of Massachusetts’ legalization ballot measure Question 4 in 2016.

(iii) measure the performance of entities and individuals regulated or licensed under any part of this Act relative to the purposes of the OJR;

(iv) investigate entities or persons regulated under any provision of this Act for compliance with any regulation, policy, or remedial purpose of this Act;

(v) issue subpoenas for documents, witnesses, or any evidence relevant to an investigation; issue written determinations of probable cause that an entity or person is in violation of any provision of this Act;

(vi) seek injunctive or other relief, for any violation of any provision of this Act on behalf of the State;

(vii) seek injunctive or other relief for any violation of any provision of this Act on behalf of any natural or legal person or class of natural or legal or persons;

(viii) provide training and education regarding this Act to police departments, prosecutors and public defenders, parole departments, police oversight boards, the judiciary, and any other law enforcement or judicial entity;

(ix) provide implicit-bias training and education to law enforcement and judicial bodies and public and charter schools; and

(x) provide technical, investigative, and legal assistance to police oversight bodies.

(g) In cooperation with other agencies of the State or its municipalities, the Commission shall ensure that, in any license or permit issued by any State or municipal agency for the specific purpose of the cultivation, sale, manufacture, testing, study or use of cannabis or cannabis-related goods or services, the license or permit application shall require an express plan to reinvest a portion of resources generated by the licensee or permittee into communities disproportionately harmed by cannabis prohibition, through projects including but not limited to community infrastructure development, job creation programs, scholarships, business loans, and funding for indigent criminal defense services. The Commission shall ensure that such a plan is a factor in the evaluation of the application. However, no portion of the revenue generated under this Section 17 may be provided to law enforcement agencies.

(h) The Commission shall be authorized to suspend or revoke any license or permit whose holder fails to substantially comply, after four (4) years of operation, with the reinvestment plan proposed in its application.

(i) The Commission shall keep records on the race, gender, income or other indicator of economic status, and city of residence of each applicant for a license or permit

issued by any State or municipal agency for the specific purpose of the cultivation, sale, manufacture, testing, study or use of cannabis or cannabis-related goods or services.

(j) For every license or permit holder subject to this paragraph (j) and employing more than one (1) person, the Commission shall require the holder to annually submit a report summarizing the number of the holder's minority and women owners, directors, and employees.

(k) The Commission may promulgate such regulations or establish such programs that provide financial or other incentives for license or permit holders who meet or exceed the goals of their reinvestment plans as it finds necessary to carry out the remedial purposes of this Act.

(l) This Section shall be adequately funded by an emergency appropriation, within one hundred-eighty (180) days of the effective date of this Act, from the General Operating Budget of the State for the first two (2) years and funded thereafter by a line item in the Annual Budget of the State.

## **Section 18 Cannabis Control and Licensure Commission.**

(a) A Cannabis Control and Licensure Commission (the "CCLC") is hereby created and given authority to:

(i) promulgate regulations and policies and issue licenses related to the cultivation, processing, manufacture, transport, distribution, testing, restudy, advertising, and sale of cannabis, cannabis plants, and the provision of cannabis-related products and services;

(ii) promulgate regulations and policies and to take enforcement actions as reasonably necessary and consistent with the remedial purposes of this Act and the other provisions herein, to ensure consumer safety and public health related to the cultivation, processing, manufacture, transport, distribution, testing, study, advertising, and sale of cannabis, cannabis plants, and cannabis-related products and services; and

(iii) promulgate regulations and policies to ensure that the lawful cannabis industry and ancillary industries are economically competitive, inclusive of racial minorities and women, inclusive of persons and communities who have been adversely affected by cannabis prohibition, and accessible to low-income persons seeking to start new businesses.

(b) The CCLC shall consist of one (1) Commissioner and four (4) Associate Commissioners. The Commissioner and two (2) Associate Commissioners shall be appointed by the Governor. The remaining two (2) Associate Commissioners shall be appointed by the State Treasurer. All appointments to the CCLC shall be made within ninety (90) days of the effective date of this Act. Appointments to the CCLC shall require

that the appointed person demonstrate expertise in one (1) or more of the following areas: (i) public health, (ii) law enforcement, (iii) social justice/social service, (iv) the regulation of consumer commodities and (v) cannabis operations. The overall composition of the CCLC shall reflect a breadth of expertise. The Commissioner shall serve as the chair and shall preside over all official activities of the CCLC.

(c) The CCLC shall be funded for the first two (2) years by an emergency appropriation from the General Operating Budget of the State and funded by a line item appropriation in the State Budget every year thereafter, to be repaid after implementation of this Act.

(d) The CCLC shall be an independent public agency reporting to the Office of the Governor. The Governor may remove any member for neglect of duty, misconduct or malfeasance in office, after providing the member with a written statement of the charges and an opportunity to be heard.

(e) Three (3) members shall constitute a quorum for conducting the business of the CCLC. A vacancy shall not impair the right of the remaining members to exercise the powers of the CCLC.

(f) The CCLC may expend for such staff, consultants, investigators, administrators, counsel, and other assistants as may be necessary for the performance of its duties.

(g) Any party aggrieved by a final action of the CCLC may seek review of that action in Superior Court or other Court of competent jurisdiction pursuant to section 4-183 of the general statutes.

(h) The CCLC shall issue such regulations and policies, establish such fees and financial requirements, establish such investigative and enforcement mechanisms, and establish and issue such civil penalties and fines as it deems reasonably necessary to fulfill its duties under this Act, provided that:

(i) no regulation or policy promulgated by the CCLC sets any limit on the number of applicants who may apply for any license related to the use, cultivation, production, testing, study or sale of cannabis plants or cannabis-like substances;

(ii) no regulation or policy promulgated by the CCLC sets any limits on the number of licenses that may be issued related to the use, cultivation, production, testing, study or sale of cannabis plants or cannabis-like substances;

(iii) no regulation or policy promulgated by the CCLC sets any geographic restrictions on licensing related to the use, cultivation, production, testing, study or sale of cannabis plants or cannabis-like substances;

(iv) the CCLC may not prohibit the hiring, application for a license, licensing, or participation in full or partial business ownership of any individual with a record of criminal arrest or conviction in the State based on a misdemeanor drug offense or felony drug offense;

(v) the implementation of any regulation and policy related to licensing and the promotion of cannabis-related businesses and employment shall be subject to review for disparate racial impact or burden on minorities in the State and for conformity with Title VI of the 1964 Civil Rights Act every two (2) years. Upon a finding of disparate racial impact or burden the CCLC shall, within one (1) year of the finding, amend such regulation or policy or provide such mitigation measures so as to substantially reduce the disparate impact or burden. Any part of this paragraph (h)(iv) shall be enforceable through a private right of action by any aggrieved person, including, but not limited to the violation of Title VI;

(vi) in any licensure process under the jurisdiction of the CCLC in which a fee of any kind may be collected by any Department or Agency of the State, the CCLC shall give every municipality the option of administering the process locally and collecting the fees directly and for the benefit of the administering municipality. However, the CCLC shall, at all times, supervise and maintain oversight over such locally administered licensure and may revoke such local authority for good cause, which may include, but not be limited to, violations of any provisions of this Act, misappropriation of fees, and the inability to issue licenses in a fair or timely manner;

(vii) no fees under this Act shall exceed the actual program implementation and administration costs for which fee is collected;

(viii) any person directly aggrieved by a regulation or policy promulgated in violation of any of the restrictions enumerated above may seek injunctive relief in any court of competent jurisdiction; and

(ix) any authority under this Act delegated by the CCLC to a municipality or other public or private entity, shall be subject to all the restrictions enumerated above. Any person aggrieved by any entity acting pursuant to authority delegated to it by the CCLC shall have the same right to relief as if the action had been undertaken by the CCLC.

## **Section 19 Cannabis Advisory Board.**

(a) There shall be a Cannabis Advisory Board (“**Advisory Board**” or “**Board**”) to study and make recommendations regarding the regulation of cannabis and any activity related to cannabis. The Advisory Board shall consist of fifteen (15) members appointed by the Governor and shall consist of:

- (i) one (1) expert in cannabis cultivation;
- (ii) one (1) expert in cannabis retailing;
- (iii) one (1) expert in cannabis product manufacturing;
- (iv) one (1) expert in cannabis testing;

(v) one (1) physician licensed to practice in the State with demonstrated recent expertise in the medical uses of cannabis, through active clinical practice, clinical or other medical research, or a combination of both, and who shall, during his term on the Board, remain up to date on cannabis-related clinical and medical research and provide this Board with such medical expertise;

(vi) one (1) registered medical cannabis patient;

(vii) one (1) individual who represents cannabis retail consumers;

(viii) two (2) experts in public health who have substantial expertise through practice, research or a combination of practice and research, in the medical uses and physiological effects of cannabis;

(ix) two (2) experts in law enforcement;

(x) two (2) experts in social welfare or social justice, and

(xi) two (2) attorneys with experience providing legal services to cannabis businesses, cannabis consumers or medical cannabis patients the State or in other relevant jurisdiction in which the medical or recreational use of cannabis is permitted.

(b) Members of the Board shall serve renewable terms of two (2) years, but shall not serve more than a total of eight (8) years. Members of the Board shall serve with reasonable compensation to be set by the Governor and shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. Members of the Board shall be subject to State conflict-of-interest laws and policies. The Governor shall fill any vacancies through appointment to the Board within no more than ninety (90) days of the vacancy.

(c) The Board shall be an independent public agency reporting to Governor and funded by an annual appropriation to be determined by the General Assembly.

(d) The Board shall meet at its discretion but no less than monthly. A majority of the members of the board present and voting shall constitute a quorum.

(e) The Board shall have the power to hire such staff, consultants, and other such persons as it deems necessary to carry out its duties.

(f) The Board shall have standing to seek judicial review of any action taken by the CCLC or its delegate that it reasonably believes to violate any provision of Section 1(h) of this Act.

(g) The Board shall:

(i) advise the CCLC, the Governor, and the Legislature on cannabis consumption, venues for consumption, cultivation, processing, manufacture, transport, distribution, testing, research, and sale, with emphasis on ensuring that the lawful cannabis industry remedies past racial discrimination in the application and enforcement of local, state, and federal drug laws and that the lawful cannabis industry encourages employment of and investment in persons and communities of color, including persons and communities adversely affected by cannabis prohibition and other drug laws;

(ii) consider all matters submitted to it by the CCLC, the Governor, and the leadership of the Legislature;

(iii) on its own initiative, recommend to the CCLC, the Governor, or the Legislature guidelines, rules and regulations and any changes to guidelines, rules and regulations that the board considers important or necessary; and

(iv) advise on the preparation of regulations and policies under this Act.

(h) The Board may, at its sole discretion, consider, investigate, and render an advisory opinion on any matter submitted to it by any person or entity not named in this Section 19. The Board may also, on its own initiative, undertake such investigations or studies and issue such advisory opinions as it deems reasonable and consistent with the purposes of the Board under this Act.

## **Section 20 Cannabis Sales and Business Income Taxes.**

(a) A marijuana sales tax of ten percent (10%) is hereby levied upon any the total sales price from any retail commerce in or substantially related to cannabis plants or cannabis-related substances. Any city or town may impose an additional optional local two percent (2%) tax.

(b) Every four (4) years, the CCLC shall, in consultation with the Advisory Board, the Office of Justice Reinvestment, and State Department of Revenue, set the cannabis business tax rates for the next year. Any tax rates set under this Section shall, in general principle, tax higher gross incomes at a higher rate.

(c) The gross revenue of the cannabis business tax shall be directed in the following manner: five percent (5%) of revenue shall provide for the administrative operations of the Office of Justice Reinvestment. Thereafter, the remaining funds shall be allocated in the following proportions:

- (i) thirty percent (30%) shall go to educational funding;
- (ii) fifteen percent (15%) shall go to the Office of Justice Reinvestment for its programs;
- (iii) ten percent (10%) shall go to environmental sustainability programs;
- (iv) ten percent (10%) shall go to law enforcement training for no more than five (5) years after the effective date of this Act and thereafter to state or local infrastructure;
- (v) ten percent (10%) public health & wellness infrastructure;
- (vi) ten percent (10%) affordable housing for households at or below the bottom tier of state annual median incomes; and
- (vii) fifteen percent (15%) shall be allocated as discretionary funds within the general operating budget of the State.

(d) No provision of this Section 20 shall be construed to prevent the reallocation of cannabis business tax revenue to municipalities, public-private partnerships, or other agencies by the Office of Justice Reinvestment, the Advisory Board or the CCLC as they deem necessary to achieve the purposes of this Act.

(e) The cannabis business tax under this Section 20 shall not relieve or be the basis for relief for any person or entity of any other tax obligation, liens, or garnishments.

## **Section 21 Implementation Through Local Delegation and Control.**

(a) Should any part of this Act regarding the licensing of cannabis-related businesses fail to be implemented within the timetables specified in the Act, any municipality may issue such temporary ordinances, regulations, and licenses that it deems reasonable for the operation and encouragement of cannabis-related business. However, any such temporary ordinances, regulations, or licenses that conflict with regulations and policies issued by CCLC or that contravene any remedial or protective part of this Act shall be deemed void.

(b) Any temporary ordinances, regulations, or licenses, or any other municipal activity authorized and conducted under this Section 21 must conform to the restrictions and requirement for regulations and policies promulgated by the CCLC as specified in this Act. Lawful conformity under this paragraph b shall be subject to judicial review by any

aggrieved party. Any aggrieved party shall have a private right of action for the enforcement of any temporary ordinance, regulation, or license process issued under this Section 21.

(c) Any temporary ordinances, regulations, or licenses issued under this Section 21 shall be preempted by any subsequent lawful State law, regulation, or licensure process regarding the same or equivalent subject matter, type of cannabis-related business, or cannabis-related business practice. However, no right, benefit, or privilege conferred to a person or business under this Section 21 by a municipality shall be revoked or terminated pursuant to this paragraph (c) without the opportunity to secure a comparable right, benefit, or privilege through a State administrative process in a timely manner. Any such administrative process shall include the opportunity to apply for a financial hardship waiver of fees and costs.

## **Section 22      Severability.**

(a) If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.