

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act clarifying ambiguities relative to Question 2.

PETITION OF:

NAME:

James E. Timilty

DISTRICT/ADDRESS:

Bristol and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT CLARIFYING AMBIGUITIES RELATIVE TO QUESTION 2.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The definition of “tetrahydrocannabinol” in Section 1 of Chapter 94C as appearing
2 in the Official 2004 Edition is hereby amended by striking out the following words:-

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4 “except when it has been established that the concentration of delta-9 tetrahydrocannabinol in
5 said marihuana exceeds two and one-half per cent”

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7 SECTION 2. Section 32L of Chapter 94C is hereby amended by inserting after the first sentence
8 the following new sentence:-

9
10 “Nothing contained in this Section or any other law will alter or restrict police officers from
11 conducting searches based on probable cause that marihuana or tetrahydrocannabinol is present
12 in a motor vehicle, in a container, or on a person.”

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14 SECTION 3. Section 32L of Chapter 94C is hereby amended by inserting at the end of the first
15 sentence after the word “marihuana” the following:-

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17 “Except that a licensing authority considering an application for a license to carry a firearm may
18 consider an applicant’s history of vehicle operation or other criminal or dangerous conduct while
19 under the influence of any controlled substance, as well as such person’s drug use or possession,
20 including but not limited to the personal use, sale, distribution or possession of any amount of
21 marihuana or tetrahydrocannabinol, in determining such person’s suitability to carry a firearm.”

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23 SECTION 4. Section 32L of Chapter 94C is hereby amended by inserting in the last sentence
24 after the word, “Commonwealth” the following:-

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26 “or any governmental employer from adopting, modifying and enforcing a drug testing policy or
27 from promulgating a restriction or making employment and licensing decisions affecting
28 applicants or employees based on the use or possession of marihuana or tetrahydrocannabinol, or
29 from”

30

31 SECTION 5. Section 32L of Chapter 94C is hereby amended by inserting after the last
32 paragraph the following new paragraph:-

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34 “Any person in possession of a identification card, license or other form of identification issued
35 by the Commonwealth or any state, city or town, or any college or university, who fails to
36 produce the same upon request of a police officer who informs the person that he or she has been
37 found in possession of what appears to the officer to be an ounce or less of marihuana or
38 tetrahydrocannabinol, or any person without any of such forms of identification that fails or
39 refuses to truthfully provide his or her name, address, and date of birth to a police officer who
40 has informed such person that the officer intends to provide such individual with a citation for
41 possession of an ounce or less of marihuana or tetrahydrocannabinol may be arrested.”

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43 SECTION 6. Section 32N of Chapter 94C is hereby amended by inserting after the last
44 paragraph the following new paragraph:-

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46 “At a hearing held before a clerk-magistrate or assistant clerk-magistrate concerning a citation
47 issued for possession of marihuana or tetrahydrocannabinol, since this is a non-criminal
48 proceeding, a standard of a preponderance of the evidence, not proof beyond a reasonable doubt,
49 will apply. The officer issuing the citation need not appear in person at such hearing, so long as a
50 copy of the police report is provided to the alleged offender.”

51

52 SECTION 7. Section 34 of Chapter 94C is hereby amended by inserting in line 15 after the
53 words “more than one ounce of marihuana” the following:-

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55 “or any amount of marihuana in the case of a person who fails to pay the civil penalty of one

56 hundred dollars prescribed in section 32L,”

57

58 SECTION 8. Section 41 of Chapter 94C is hereby amended by adding the following paragraph:-

59 d. any person who fails or refuses to truthfully provide his or her name, address, and

60 date of birth to a police officer who has informed such person that the officer intends to issue

61 such individual a citation for possession of one ounce or less of marihuana or

62 tetrahydrocannabinol.

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