



# Massachusetts law about marijuana possession

A compilation of laws, regulations, cases, and web sources on marijuana possession law.

## Massachusetts laws

[St.2017, c.55 \(H3818\)](#) An Act to ensure safe access to marijuana

This law outlines the ability of cities and towns to exercise local control to ban or limit the development of marijuana establishments, sets the special excise tax on adult use marijuana sales to 10.75%, and includes a local option for cities and towns to add a 3% tax on top of the combined 17% between sales and the marijuana specific excise tax.

[MGL c.10, §§76-77](#) Cannabis Control Board and Advisory Board

[MGL c.64N](#) Marijuana tax

[MGL c.94C](#) Controlled substances act.

Includes penalties for other drugs, trafficking or possession of larger quantities of marijuana.

[MGL c.94G](#). The regulation and taxation of marijuana act

Effective December 15, 2016, adults may possess and use marijuana. After required licensing procedures, retail marijuana stores will be permitted to open beginning in July 2018.

## Selected case law

[Comm. v. Cruz](#), 459 Mass. 459 (2011). "[T]here was no basis on which the police could order the defendant out of the vehicle without at least some other additional fact beyond the mere odor of burnt marijuana...

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in light of the enactment of [G. L. c. 94C, §§ 32L-32N](#) ,..., which decriminalized possession of less than one ounce of marijuana."

[Commonwealth v. Gerhardt](#), 477 Mass. 775 (2017)

"[T]here is as yet no scientific agreement on whether, and, if so, to what extent, [field sobriety] tests are indicative of marijuana intoxication...Neither a police officer nor a lay witness who has not been qualified as an expert may offer an opinion as to whether a driver was under the influence of marijuana." A police officer may testify, however, about his or her observations, including observations of the defendant's performance on requested behaviors. Includes new **Model Jury Instruction Regarding Roadside Assessments for Use in Prosecutions for Operating Under the Influence of Marijuana**.

[Comm. v. Keefner](#), 461 Mass. 507 (2012). The law which "decriminalized possession of one ounce or less of marijuana, did not repeal the offense of possession with intent to distribute marijuana, in violation of G. L. c.94C, § 32C (a), where the amount of marijuana possessed is one ounce or less."

[Comm. v. Rodriguez](#), 472 Mass. 767 (2015). The mere odor of burnt marijuana is insufficient cause to stop a motor vehicle.

## Web sources

[Frequently Asked Questions about Recreational Marijuana](#), Mass. State Treasurer.

Includes basic information about the Mass. recreational marijuana law, MGL c.94G.

[Sample Bylaw: Public Consumption of Marijuana or Tetrahydrocannabinol](#), Executive Office of Public Safety and Security

Provides a model bylaw that towns may choose to adopt

[State Legalization of Recreational Marijuana: Selected Legal Issues](#), Congressional Legal Service, 2013

Explores the apparent conflict between federal and state drug laws in light of legalization in Colorado and Washington for small amounts of recreational marijuana

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