

# SENATE NO. 1011

## **AN ACT** TO IMPOSE A CIVIL FINE FOR THE POSSESSION OF MARIHUANA AND FOR DISPOSITION OF FINES COLLECTED

*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 fourth sentence of the first paragraph of section thirty-four of chapter ninety-  
2 four C of the General Laws as appearing in the 2004 Official Edition, is hereby amended by  
3 striking the words:— marihuana or.

4 SECTION 2. The first paragraph of section thirty-four of chapter ninety-four C of the General  
5 Laws as appearing in the 2004 Official Edition, is hereby further amended inserting after the  
6 third sentence thereof the following:—

7 A violation of this section by possession of marihuana shall, the first clause of section seventy C  
8 of chapter two hundred and seventy-seven notwithstanding, be treated as a civil infraction and  
9 disposed of in accordance with the provisions of said section and the court shall impose a civil  
10 fine of not less than \$100 nor more than \$500 for the first such violation and of not less than  
11 \$200 nor more than \$1,000 for a second or subsequent violation. In lieu of paying the civil fine  
12 a person complained of for violation of this section by means of possession of marihuana may  
13 be ordered to perform community service. An adjudication of responsibility shall neither be  
14 used as the basis for denial or revocation of any license granted by the Commonwealth of

15 Massachusetts, nor deemed a conviction for purposes of any disqualification or for any other  
16 purpose, nor used in the calculation of second and subsequent offense except that of possessing  
17 marihuana.

18 SECTION 3. Section thirty-four of chapter ninety-four C of the General Laws as appearing in  
19 the 2004 Official Edition, is hereby further amended inserting after the second paragraph  
20 thereof the following:—

21 A complaint of possession of marijuana shall be commenced by the issuance of a citation in the  
22 form provided for by section one of chapter ninety-C. If the violator is under the age of  
23 eighteen the citation shall be delivered to a parent or the legal guardian of said person, or to the  
24 clerk of the district court having jurisdiction who shall see to its delivery at the time the person  
25 is brought before a judge due to the unavailability of a parent or legal guardian. The procedures  
26 as set forth in the fifth paragraph of section two of chapter 90C for the delivery of a citation  
27 alleging one or more criminal automobile law violations to the clerk-magistrate of the district  
28 court where the violation occurred shall be followed. Except as provided herein the provision  
29 for the processing of citations set forth in sections three (B)(2) and three(C) of chapter ninety C,  
30 shall apply. Notwithstanding the provisions of section thirty-five A of chapter two hundred and  
31 eighteen a person complained of for a violation of this section by means of possession of  
32 marihuana shall not be given an opportunity to be heard personally or by counsel in opposition  
33 to the issuance of any process based on such complaint. If a defendant has retained counsel and  
34 wishes to be excused from appearing in court on the return day, counsel shall, prior to the  
35 scheduled return day, enter an appearance on behalf of the defendant and counsel may enter a  
36 plea of responsible on behalf of the client and the Court may impose a civil fine in the absence  
37 of the client, who may thereafter pay the imposed assessment by mail within thirty days.

38 SECTION 4. Section forty-one of chapter ninety-four C of the General Laws as appearing in the  
39 2004 Official Edition, is hereby amended by adding at the end of clause (a) the following:—  
40 , except for violation of the provisions of section thirty-four involving marihuana by a person  
41 eighteen years of age or older;.

42 SECTION 5. Section forty-one of chapter ninety-four C of the General Laws as appearing in the  
43 2004 Official Edition, is hereby further amended by inserting in clause (c) after the words,  
44 “thirty-four” the following:—  
45 , except for violation involving marihuana by a person eighteen years of age or older.

46 SECTION 6. Section two of chapter two hundred and eighty C of the General Laws as  
47 appearing in the 2004 Official Edition, is hereby amended by inserting at the end of the second  
48 paragraph the following:—  
49 Fifty percent of the fines imposed under the provisions of section thirty -four of chapter ninety-  
50 four C, for the violation of said section by means of possession of marihuana shall be paid over  
51 to the treasury of the city or town wherein the offense was committed and the remaining fifty  
52 percent shall be paid over to the state treasurer.