

HOUSE No. 1319

By Mr. Binienda of Worcester, petition of John J. Binienda and others relative to the penalties for Class D controlled substance violations. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

John J. Binienda
Christopher G. Fallon

John P. Fresolo

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO CLASS D CONTROLLED SUBSTANCES.

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. Chapter 94C of the General Laws is hereby
2 amended by striking out section 32C, as appearing in the 2004
3 Official Edition, and inserting in place thereof the following
4 section:—

5 Section 32C. (a) Any person who knowingly or intentionally
6 manufactures, distributes, dispenses or cultivates or possesses
7 with intent to manufacture, distribute, dispense or cultivate a con-
8 trolled substance in Class D of section 31 shall be punished by
9 imprisonment in the state prison for not more than five years, or
10 in a jail or house of correction for not more than two and one-half
11 years, or by a fine of not less than \$1,000 nor more than \$10,000
12 or both such fine and imprisonment.

13 (b) Any person convicted of violating this section after one or
14 more convictions of manufacturing, distributing, dispensing, culti-
15 vating or possessing with intent to manufacture, distribute, dis-
16 pense or cultivate a controlled substance as defined in section 31
17 shall under this or any prior law of this jurisdiction or of any
18 offense of any other jurisdiction, federal, state or territorial, which
19 is the same as or necessarily includes the elements of said offense

20 shall be punished by imprisonment in the state prison for not less
21 than one nor more than five years, or in a jail or house of correc-
22 tion for not less than one nor more than two and one-half years, or
23 by a fine of not less than \$1,000 nor more than \$10,000 or both
24 such fine and imprisonment.

1 SECTION 2. Section 32E of said chapter 94C, as so appearing,
2 is hereby amended by striking out subsection (a) and inserting in
3 place thereof the following subsection:—

4 (a) Any person who trafficks in marijuana by knowingly or
5 intentionally manufacturing, distributing, dispensing or cultivating
6 or possessing with intent to manufacture, distribute, dispense, or
7 cultivate, or by bringing into the commonwealth a net weight of
8 ten pounds or more of marijuana or a net weight of ten pounds or
9 more of any mixture containing marijuana shall, if the net weight
10 of marijuana or any mixture thereof is:

11 (1) 10 pounds or more, but less than 25 pounds, be punished by
12 a term of imprisonment in the state prison for not less than two
13 and one-half nor more than 15 years or by imprisonment in a jail
14 or house of correction for not less than one nor more than two and
15 one-half years. No sentence imposed under the provisions of this
16 section shall be for less than a mandatory term of imprisonment of
17 one year and a fine of not less than \$500 nor more than \$10,000
18 may be imposed but not in lieu of the mandatory minimum one
19 year term of imprisonment, as established herein.

20 (2) 25 pounds or more, but less than 50 pounds, be punished for
21 a term of imprisonment in the state prison for not less than three
22 nor more than 15 years. No sentence imposed under the provisions
23 of this section shall be for less than a mandatory minimum term of
24 imprisonment of three years and a fine of not less than \$2,500 nor
25 more than \$25,000 may be imposed but not in lieu of the manda-
26 tory minimum term of imprisonment, as established herein.

27 (3) 50 pounds or more, but less than 100 pounds, be punished
28 by a term of imprisonment in the state prison for not less than five
29 nor more than 15 years. No sentence imposed under the provisions
30 of this section shall be for less than a mandatory minimum term of
31 imprisonment of five years and a fine of not less than \$5,000 nor
32 more than \$50,000 may be imposed but not in lieu of the manda-
33 tory minimum term of imprisonment, as established herein.

34 (4) 100 pounds or more, but less than 500 pounds, be punished
35 by a term of imprisonment in the state prison for not less than 10
36 nor more than 15 years. No sentence imposed under the provisions
37 of this section shall be for less than a mandatory minimum term of
38 imprisonment of 10 years and a fine of not less than \$20,000 nor
39 more than \$200,000 may be imposed but not in lieu of the manda-
40 tory minimum term of imprisonment, as established herein.

41 (5) 500 pounds or more, be punished by a term of imprisonment
42 in the state prison for not less than 15 nor more than 20 years. No
43 sentence imposed under the provisions of this section shall be for
44 less than a mandatory minimum term of imprisonment of 15 years
45 and a fine of not less than \$50,000 nor more than \$150,000 may
46 be imposed but not in lieu of the mandatory minimum 15 year
47 term of imprisonment, as established herein.