HOUSE DOCKET, NO. 2607 FILED ON: 1/20/2011

HOUSE . . . . . No. 3138

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Binienda

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:

An Act relative to class D controlled substances.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John J. Binienda	*17th Worcester*
John P. Fresolo	*16th Worcester*

HOUSE DOCKET, NO. 2607 FILED ON: 1/20/2011

HOUSE . . . . . No. 3138

By Mr. Binienda of Worcester, a petition (accompanied by bill, House, No. 3138) of John J. Binienda and John P. Fresolo relative to the penalties for Class D controlled substance violations. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1279* OF 2009-2010.]

The Commonwealth of Massachusetts

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:

SECTION 1. Chapter 94C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 32C, as appearing in the 2004 Official Edition, and inserting in place thereof the following section:— Section 32C. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses or cultivates or possesses with intent to manufacture, distribute, dispense or cultivate a controlled substance in Class D of section 31 shall be punished by imprisonment in the state prison for not more than five years, or in a jail or house of correction for not more than two and one-half years, or by a fine of not less than $1,000 nor more than $10,000 or both such fine and imprisonment. (b) Any person convicted of violating this section after one or more convictions of manufacturing, distributing, dispensing, cultivating or possessing with intent to manufacture, distribute, dispense or cultivate a controlled substance as defined in section 31 shall under this or any prior law of this jurisdiction or of any offense of any other jurisdiction, federal, state or territorial, which is the same as or necessarily includes the elements of said offense shall be punished by imprisonment in the state prison for not less than one nor more than five years, or in a jail or house of correction for not less than one nor more than two and one-half years, or by a fine of not less than $1,000 nor more than $10,000 or both such fine and imprisonment.

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

19 subsection:— (a) Any person who trafficks in marijuana by knowingly or intentionally
20 manufacturing, distributing, dispensing or cultivating or possessing with intent to manufacture,
21 distribute, dispense, or cultivate, or by bringing into the commonwealth a net weight of ten
22 pounds or more of marijuana or a net weight of ten pounds or more of any mixture containing
23 marijuana shall, if the net weight of marijuana or any mixture thereof is: (1) 10 pounds or
24 more, but less than 25 pounds, be punished by a term of imprisonment in the state prison for not
25 less than two and one-half nor more than 15 years or by imprisonment in a jail or house of
26 correction for not less than one nor more than two and one-half years. No sentence imposed
27 under the provisions of this section shall be for less than a mandatory term of imprisonment of
28 one year and a fine of not less than $500 nor more than $10,000 may be imposed but not in lieu
29 of the mandatory minimum one year term of imprisonment, as established herein. (2) 25
30 pounds or more, but less than 50 pounds, be punished for a term of imprisonment in the state
31 prison for not less than three nor more than 15 years. No sentence imposed under the provisions
32 of this section shall be for less than a mandatory minimum term of imprisonment of three years
33 and a fine of not less than $2,500 nor more than $25,000 may be imposed but not in lieu of the
34 mandatory minimum term of imprisonment, as established herein. (3) 50 pounds or more,
35 but less than 100 pounds, be punished by a term of imprisonment in the state prison for not less
36 than five nor more than 15 years. No sentence imposed under the provisions of this section shall
37 be for less than a mandatory minimum term of imprisonment of five years and a fine of not less
38 than $5,000 nor more than $50,000 may be imposed but not in lieu of the mandatory minimum
39 term of imprisonment, as established herein. (4) 100 pounds or more, but less than 500
40 pounds, be punished by a term of imprisonment in the state prison for not less than 10 nor more
41 than 15 years. No sentence imposed under the provisions of this section shall be for less than a
42 mandatory minimum term of imprisonment of 10 years and a fine of not less than $20,000 nor
43 more than $200,000 may be imposed but not in lieu of the mandatory minimum term of
44 imprisonment, as established herein. (5) 500 pounds or more, be punished by a term of
45 imprisonment in the state prison for not less than 15 nor more than 20 years. No sentence
46 imposed under the provisions of this section shall be for less than a mandatory minimum term of
47 imprisonment of 15 years and a fine of not less than $50,000 nor more than $150,000 may be
48 imposed but not in lieu of the mandatory minimum 15 year term of imprisonment, as established
49 herein.

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