HOUSE DOCKET, NO. 2992 FILED ON: 1/18/2013

HOUSE . . . . . No. 1210

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 adoption of the accompanying bill:

An Act relative to Class D controlled substances.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
John J. Binienda	*17th Worcester*	*1/18/2013*

HOUSE DOCKET, NO. 2992 FILED ON: 1/18/2013

HOUSE . . . . . No. 1210

By Mr. Binienda of Worcester, a petition (accompanied by bill, House, No. 1210) of John J. Binienda relative to the penalties for Class D controlled substance violations. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3138* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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 2010 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 subsection:— (a)

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

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

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

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

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

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