

HOUSE No. 1670

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy R. Whelan

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 to increase penalties for heroin distribution.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-------------------------------|-----------------------------|------------------|
| <i>Timothy R. Whelan</i> | <i>1st Barnstable</i> | <i>1/14/2015</i> |
| <i>David K. Muradian, Jr.</i> | <i>9th Worcester</i> | <i>2/4/2015</i> |
| <i>David F. DeCoste</i> | <i>5th Plymouth</i> | <i>2/4/2015</i> |
| <i>Angelo L. D'Emilia</i> | <i>8th Plymouth</i> | <i>2/4/2015</i> |
| <i>Shawn Dooley</i> | <i>9th Norfolk</i> | <i>1/22/2015</i> |
| <i>Kevin J. Kuros</i> | <i>8th Worcester</i> | <i>2/2/2015</i> |
| <i>James J. Lyons, Jr.</i> | <i>18th Essex</i> | <i>1/26/2015</i> |
| <i>Joseph D. McKenna</i> | <i>18th Worcester</i> | <i>2/4/2015</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>1/23/2015</i> |
| <i>Shaunna L. O'Connell</i> | <i>3rd Bristol</i> | <i>1/31/2015</i> |
| <i>Elizabeth A. Poirier</i> | <i>14th Bristol</i> | <i>1/16/2015</i> |
| <i>Todd M. Smola</i> | <i>1st Hampden</i> | <i>1/22/2015</i> |
| <i>Susannah M. Whipps Lee</i> | <i>2nd Franklin</i> | <i>1/16/2015</i> |
| <i>Robert L. Hedlund</i> | <i>Plymouth and Norfolk</i> | <i>2/4/2015</i> |
| <i>James J. Dwyer</i> | <i>30th Middlesex</i> | <i>9/26/2019</i> |
| <i>Leonard Mirra</i> | <i>2nd Essex</i> | <i>9/26/2019</i> |

HOUSE No. 1670

By Mr. Whelan of Brewster, a petition (accompanied by bill, House, No. 1670) of Timothy R. Whelan and others for legislation to increase the penalties for the distribution of heroin. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to increase penalties for heroin distribution.

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. Section 32 of Chapter 94C of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking subsection (c) and inserting in place thereof the
3 following;

4 (c) Any person who knowingly or intentionally manufactures, distributes, dispenses, or
5 possesses with intent to manufacture, distribute or dispense a controlled substance in Class A of
6 section thirty-one shall be punished by a term of imprisonment in the state prison for not less
7 than two and one-half nor more than ten years or by imprisonment in a jail or house of correction
8 for not less than one nor more than two and one-half years. No sentence imposed under the
9 provisions of this subsection shall be for less than a mandatory minimum term of imprisonment
10 of 2 ½ years and a fine of not more than \$10,000 may be imposed but not in lieu of the
11 mandatory minimum term of imprisonment, as established herein.

12 SECTION 2. Section 32 of Chapter 94C of the General Laws, as so appearing, is hereby
13 amended by adding the following as subsection (d).

14 (d) (c) Any person serving a mandatory minimum sentence for violating any provision of
15 this section shall be eligible for parole after serving one-half of the maximum term of the
16 sentence if the sentence is to the house of correction, except that such person shall not be eligible
17 for parole upon a finding of any 1 of the following aggravating circumstances:

18 (i) the defendant used violence or threats of violence or possessed a firearm, rifle,
19 shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or
20 induced another participant to do so, during the commission of the offense;

21 (ii) the defendant engaged in a course of conduct whereby he directed the activities of
22 another who committed any felony in violation of chapter 94C; or

23 (iii) the offense was committed during the commission or attempted commission of a
24 violation of section 32F or section 32K of chapter 94C.

25 A condition of such parole may be enhanced supervision; provided, however, that such
26 enhanced supervision may, at the discretion of the parole board, include, but shall not be limited
27 to, the wearing of a global positioning satellite tracking device or any comparable device, which
28 shall be administered by the board at all times for the length of the parole.