

**SENATE . . . . . No. 1011**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Patrick M. O'Connor*

*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 setting proportionate penalties for the distribution of heroin, fentanyl, and carfentanil.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>1/24/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/29/2019</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>1/30/2019</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/31/2019</i>

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By Mr. O'Connor, a petition (accompanied by bill, Senate, No. 1011) of Patrick M. O'Connor, David Allen Robertson, David F. DeCoste, Ryan C. Fattman and others for legislation to set proportionate penalties for the distribution of heroin, fentanyl, and carfentanil. The Judiciary.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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An Act relative to setting proportionate penalties for the distribution of heroin, fentanyl, and carfentanil.

*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 32E of chapter 94C, as amended by chapter 69 of the Acts of 2018,  
2 is hereby amended by striking subsection (c) and replacing it with the following:-

3           (c) Any person who trafficks in heroin or any salt thereof, morphine or any salt thereof,  
4 opium or any derivative thereof by knowingly or intentionally manufacturing, distributing or  
5 dispensing or possessing with intent to manufacture, distribute, or dispense or by bringing into  
6 the commonwealth a net weight of 18 grams or more of heroin or any salt thereof, morphine or  
7 any salt thereof, opium or any derivative thereof or a net weight of 18 grams or more of any  
8 mixture containing heroin or any salt thereof, morphine or any salt thereof, opium or any  
9 derivative thereof shall, if the net weight of heroin or any salt thereof, morphine or any salt  
10 thereof, opium or any derivative thereof or any mixture thereof is:--

11 (1) Eighteen grams or more but less than 36 grams, be punished by a term of  
12 imprisonment in the state prison for not less than 5 nor more than 35 years. No sentence imposed  
13 under this clause shall be for less than a mandatory minimum term of imprisonment of 5 years,  
14 and a fine of not less than \$5,000 nor more than \$50,000 may be imposed but not in lieu of the  
15 mandatory minimum term of imprisonment, as established herein.

16 (2) Thirty-six grams or more but less than 100 grams, be punished by a term of  
17 imprisonment in the state prison for not less than 10 nor more than 40 years. No sentence  
18 imposed under this clause shall be for less than a mandatory minimum term of imprisonment of  
19 10 years, and a fine of not less than \$5,000 nor more than \$50,000 may be imposed, but not in  
20 lieu of the mandatory minimum term of imprisonment, as established herein.

21 (3) One hundred grams or more but less than two hundred grams, be punished by a term  
22 of imprisonment in the state prison for not less than 25 years and up to any term of years. No  
23 sentence imposed under the provisions of this clause shall be for less than the mandatory  
24 minimum term of imprisonment of 25 years, and a fine of not less than ten thousand nor more  
25 than one hundred thousand dollars may be imposed but not in lieu of the mandatory minimum  
26 term of imprisonment, as established therein.

27 (4) Two hundred grams or more, be punished by a term of imprisonment in the state  
28 prison for life. No sentence imposed under the provisions of this clause shall be for less than a  
29 mandatory minimum term of imprisonment of a life sentence nor more than five hundred  
30 thousand dollars may be imposed but not in lieu of the mandatory minimum term of  
31 imprisonment, as established therein.

32 SECTION 2. Said section 32E of chapter 94C, as amended by chapter 69 of the Acts of  
33 2018, is hereby amended by striking subsection (c1/2) and replacing it with the following:-

34 (c $\frac{1}{2}$ ) Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or  
35 intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture,  
36 distribute or dispense or by bringing into the commonwealth shall, if the net weight of the  
37 fentanyl in pure form is:-

38 (1) 4 grams or more but less than 9 grams, be punished by a term of imprisonment in the  
39 state prison for not less than 5 nor more than 35 years. No sentence imposed under this clause  
40 shall be for less than a mandatory minimum term of imprisonment of 5 years, and a fine of not  
41 less than \$5,000 nor more than \$50,000 may be imposed but not in lieu of the mandatory  
42 minimum term of imprisonment, as established herein.

43 (2) 9 grams or more but less than 20 grams, be punished by a term of imprisonment in the  
44 state prison for not less than 10 nor more than 40 years. No sentence imposed under this clause  
45 shall be for less than a mandatory minimum term of imprisonment of 10 years, and a fine of not  
46 less than \$5,000 nor more than \$50,000 may be imposed, but not in lieu of the mandatory  
47 minimum term of imprisonment, as established herein.

48 (3) 20 grams or more but less than 40 grams, be punished by a term of imprisonment in  
49 the state prison for not less than 25 years and up to any term of years. No sentence imposed  
50 under the provisions of this clause shall be for less than the mandatory minimum term of  
51 imprisonment of 25 years, and a fine of not less than ten thousand nor more than one hundred  
52 thousand dollars may be imposed but not in lieu of the mandatory minimum term of  
53 imprisonment, as established therein.

54 (4) 40 grams or more, be punished by a term of imprisonment in the state prison for life.  
55 No sentence imposed under the provisions of this clause shall be for less than a mandatory  
56 minimum term of imprisonment of a life sentence nor more than five hundred thousand dollars  
57 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established  
58 therein.

59 SECTION 3. Said section 32E of chapter 94C, as amended by chapter 69 of the Acts of  
60 2018, is hereby amended by striking subsection (c3/4) and replacing it with the following:-

61 (c<sup>3/4</sup>) Any person who trafficks in carfentanil by knowingly or intentionally  
62 manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or  
63 dispense shall, if the net weight of the carfentanil in pure form is:-

64 (1) one-third of a gram or more but less than 2 grams, be punished by a term of  
65 imprisonment in the state prison for not less than 5 nor more than 35 years. No sentence imposed  
66 under this clause shall be for less than a mandatory minimum term of imprisonment of 5 years,  
67 and a fine of not less than \$5,000 nor more than \$50,000 may be imposed but not in lieu of the  
68 mandatory minimum term of imprisonment, as established herein.

69 (2) 2 grams or more but less than 4 grams, be punished by a term of imprisonment in the  
70 state prison for not less than 10 nor more than 40 years. No sentence imposed under this clause  
71 shall be for less than a mandatory minimum term of imprisonment of 10 years, and a fine of not  
72 less than \$5,000 nor more than \$50,000 may be imposed, but not in lieu of the mandatory  
73 minimum term of imprisonment, as established herein.

74 (3) 4 grams or more but less than 8 grams, be punished by a term of imprisonment in the  
75 state prison for not less than 25 years and up to any term of years. No sentence imposed under

76 the provisions of this clause shall be for less than the mandatory minimum term of imprisonment  
77 of 25 years, and a fine of not less than ten thousand nor more than one hundred thousand dollars  
78 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established  
79 therein.

80 (4) 8 grams or more, be punished by a term of imprisonment in the state prison for life.  
81 No sentence imposed under the provisions of this clause shall be for less than a mandatory  
82 minimum term of imprisonment of a life sentence nor more than five hundred thousand dollars  
83 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established  
84 therein.

85 SECTION 4. This act shall go into effect immediately upon its passage.