

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph R. Driscoll, Jr.

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 bill:

An Act relative to the controlled substance laws.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joseph R. Driscoll, Jr.	5th Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE CONTROLLED SUBSTANCE LAWS.

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 94 C of the General Laws is hereby amended by striking out section 32 C, as
2 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

3

4 Section 32 C. (a) Any person who knowingly or intentionally manufactures, distributes,
5 dispenses or cultivates, or possesses with intent to manufacture, distribute, dispense or cultivate a
6 controlled substance in Class D of section 31 shall be punished by imprisonment in the state prison for
7 not more than 5 years or in a jail or house of correction for not more than 2 ½ years or by a fine of not
8 less than \$1,000 nor more than \$10,000 or by both such fine and imprisonment.

9 (b) Any person convicted of violating this section after 1 or more prior
10 convictions of manufacturing, distributing, dispensing, cultivating or possessing with intent to
11 manufacture, distribute, dispense or cultivate a controlled substance as defined by section 31 under this
12 or any prior law of this jurisdiction or of any offense of any other jurisdiction, federal, state, or
13 territorial, which is the same as or necessarily includes elements of said offense shall be punished by a
14 term of imprisonment in the state prison for not less than 5 years nor more than 15 years. No sentence
15 imposed under the provisions of this section shall be for less than a mandatory minimum term of
16 imprisonment of 3 years and a fine of not less than \$1,500 nor more than \$25,000 may be imposed but
17 not in lieu of the mandatory minimum 3 year term of imprisonment as established herein.

18

19 **SECTION 2.** Section 32 E of said chapter 94 C is hereby amended by striking out subsection (a) and
20 inserting in place thereof the following section:-

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

(a) Any person who traffics in marihuana 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 1 pound or more of marihuana or a net weight of 1 pound or more of any mixture containing marihuana shall, of the net weight of marihuana or any mixture thereof is:

- (1) 1 pound or more, but less than 5 pounds, be punished by a term of imprisonment in the state prison for not less than 3 nor more than 15 years or by imprisonment in a jail or house of correction for not less than 2 nor more than 2 ½ years. No sentence imposed under the provisions of this section shall be for less than a mandatory minimum term of imprisonment of 2 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 1 year term of imprisonment, as established herein.
- (2) 5 pounds or more, but less than 10 pounds, be punished by a term of imprisonment in the state prison for not less than 5 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 5 years and a fine of not less than \$5,000 nor more than \$25,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.
- (3) 10 pounds or more, but less than 20 pounds, be punished by a term of imprisonment in the state prison for not less than 10 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 10 years and a fine of not less than \$10,000 nor more than \$100,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.
- (4) 30 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 \$500,000 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established herein.

SECTION 3. Section 32 F of said chapter 94 C, as appearing in the 2006 Official Edition, is hereby amended by adding at the end thereof the following:

Section 32 F. (e) 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 thirty-one to a person under the age of eighteen years shall be punished

65 by a term of imprisonment in the state prison for not less than five nor more than fifteen years. No
66 sentence imposed under the provisions of this section shall be for less than a mandatory minimum term
67 of imprisonment of five years and a fine of not less than one thousand nor more than twenty-five
68 thousand dollars may be imposed but not in lieu of the mandatory minimum term of imprisonment, as
69 established herein.

70