

By Mr. Flynn of Hanover, petition of William J. Flynn, Jr., relative to the penalty for distribution of controlled substances. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT FURTHER REGULATING THE DISTRIBUTION OF 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:

1 SECTION 1. Section 32 of chapter 94C of the General Laws,
2 as most recently amended by section 6 of chapter 650 of the
3 acts of 1982, is hereby further amended by striking out para-
4 graph (b) and inserting in place thereof the following para-
5 graph: —

6 (b) Any person convicted of violating this section after
7 one or more prior convictions of manufacturing, distributing,
8 dispensing or possessing with the intent to manufacture, dis-
9 tribute, or dispense a controlled substance as defined by sec-
10 tion thirty-one of this chapter under this or any prior law of
11 this jurisdiction or of any offense of any other jurisdiction,
12 federal, state, or territorial, which is the same as or neces-
13 sarily includes the elements of said offense shall be punished
14 by a term of imprisonment in the state prison for not less
15 than five nor more than fifteen years. No sentence imposed
16 under the provisions of this section shall be for less than a
17 mandatory minimum term of imprisonment of five years and
18 a fine of not less than two thousand and five hundred nor
19 more than twenty-five thousand dollars may be imposed but
20 not in lieu of the mandatory minimum five year term of im-
21 prisonment, as established herein.

1 SECTION 2. Section 32A of said chapter 94C, as most re-

2 cently amended by section 7 of chapter 650 of the acts of
3 1982, is hereby amended by striking out paragraph (b) and
4 inserting in place thereof the following paragraph: —

5 (b) Any person convicted of violating this section after
6 one or more prior convictions of manufacturing, distributing,
7 dispensing, or possessing with the intent to manufacture, dis-
8 tribute or dispense a controlled substance as defined by sec-
9 tion thirty-one of this chapter under this or any other prior
10 law of this jurisdiction or of any offense of any other juris-
11 diction, federal, state, or territorial, which is the same as
12 or necessarily includes the elements of said offense shall be
13 punished by a term of imprisonment in the state prison for
14 not less than three nor more than ten years. No sentence
15 imposed under the provisions of this section shall be for less
16 than a mandatory minimum term of imprisonment of three
17 years and a fine of not less than two thousand and five hun-
18 dred nor more than twenty-five thousand dollars may be im-
19 posed but not in lieu of the mandatory minimum term of im-
20 prisonment, as established herein.

1 SECTION 3. Said chapter 94C, as most recently amended
2 by chapter 650 of the acts of 1982, is hereby further amend-
3 ed by striking out section 32E and inserting in place thereof
4 the following section: —

5 *Section 32E.* (a) Any person who trafficks in marihuana
6 by knowingly or intentionally manufacturing, distributing,
7 dispensing, or cultivating or possessing with intent to manu-
8 facture, distribute, dispense, or cultivate, or by bringing into
9 the commonwealth a net weight of fifty pounds or more of
10 marihuana or a net weight of fifty pounds or more of any mix-
11 ture containing marihuana shall, if the net weight of mari-
12 huana or any mixture thereof is: —

13 (1) Fifty pounds or more, but less than one hundred
14 pounds, be punished by a term of imprisonment in the state
15 prison for not less than two and one-half nor more than fif-
16 teen years or by imprisonment in a jail or house of correction
17 for not less than one nor more than two and one-half years.
18 No sentence imposed under the provisions of this section shall
19 be for less than a mandatory minimum term of imprison-

20 ment of one year and a fine of not less than five hundred nor
21 more than ten thousand dollars may be imposed but not in
22 lieu of the mandatory minimum one year term of imprison-
23 ment, as established herein.

24 (2) One hundred pounds or more, but less than two thou-
25 sand pounds, be punished by a term of imprisonment in the
26 state prison for not less than three nor more than fifteen
27 years. No sentence imposed under the provisions of this sec-
28 tion shall be for less than a mandatory minimum term of im-
29 prisonment of three years and a fine of not less than two
30 thousand and five hundred nor more than twenty-five thou-
31 sand dollars may be imposed but not in lieu of the mandatory
32 minimum term of imprisonment, as established herein.

33 (3) Two thousand pounds or more, but less than ten thou-
34 sand pounds, be punished by a term of imprisonment in the
35 state prison for not less than five nor more than fifteen years.
36 No sentence imposed under the provisions of this section shall
37 be for less than a mandatory minimum term of imprisonment
38 of five years and a fine of not less than five thousand nor
39 more than fifty thousand dollars may be imposed but not in
40 lieu of the mandatory minimum term of imprisonment, as
41 established herein.

42 (4) Ten thousand pounds or more, be punished by a term
43 of imprisonment in the state prison for not less than ten nor
44 more than fifteen years. No sentence imposed under the pro-
45 visions of this section shall be for less than a mandatory
46 minimum term of imprisonment of ten years and a fine of
47 not less than twenty thousand nor more than two hundred
48 thousand dollars may be imposed but not in lieu of the man-
49 datory minimum term of imprisonment, as established here-
50 in.

51 (b) Any person who trafficks in cocaine or any salt there-
52 of by knowingly or intentionally manufacturing, distribut-
53 ing, or dispensing or possessing with intent to manufacture,
54 distribute, or dispense or by bringing into the commonwealth
55 a net weight of twenty-eight grams or more of cocaine or any
56 salt thereof or a net weight of twenty-eight grams or more
57 of any mixture containing cocaine or any salt thereof shall,

58 if the net weight of cocaine or any salt thereof or any mix-
59 ture thereof is: —

60 (1) Twenty-eight grams or more, but less than one hun-
61 dred grams, be punished by a term of imprisonment in the
62 state prison for not less than three nor more than fifteen
63 years. No sentence imposed under the provisions of this sec-
64 tion shall be for less than a mandatory minimum term of im-
65 prisonment of three years and a fine of not less than two
66 thousand and five hundred nor more than twenty-five thou-
67 sand dollars may be imposed but not in lieu of the mandatory
68 minimum term of imprisonment, as established herein.

69 (2) One hundred grams or more, but less than two hun-
70 dred grams, be punished by a term of imprisonment in the
71 state prison for not less than five nor more than fifteen years.
72 No sentence imposed under the provisions of this section shall
73 be for less than a mandatory minimum term of imprisonment
74 of five years and a fine of not less than five thousand nor
75 more than fifty thousand dollars may be imposed but not in
76 lieu of the mandatory minimum term of imprisonment, as
77 established herein.

78 (3) Two hundred grams or more, be punished by a term
79 of imprisonment in the state prison for not less than ten nor
80 more than fifteen years. No sentence imposed under the pro-
81 visions of this section shall be for less than a mandatory
82 minimum term of imprisonment of ten years and a fine of
83 not less than twenty thousand nor more than two hundred
84 thousand dollars may be imposed but not in lieu of the man-
85 datory minimum term of imprisonment, as established here-
86 in.

87 (c) Any person who trafficks in heroin or any salt there-
88 of, morphine or any salt thereof, opium or any derivative
89 thereof by knowingly or intentionally manufacturing, distrib-
90 uting or dispensing or possessing with intent to manufacture,
91 distribute, or dispense or by bringing into the commonwealth
92 a net weight of twenty-eight grams or more of heroin or any
93 salt thereof, morphine or any salt thereof, opium or any de-
94 rivative thereof or a net weight of twenty-eight grams or
95 more of any mixture containing heroin or any salt thereof,

96 morphine or any salt thereof, opium or any derivative there-
97 of shall, if the net weight of heroin or any salt thereof, mor-
98 phine or any salt thereof, opium or any derivative thereof or
99 any mixture thereof is: —

100 (1) Twenty-eight grams or more, but less than one hun-
101 dred grams, be punished by a term of imprisonment in the
102 state prison for not less than five nor more than twenty
103 years. No sentence imposed under the provisions of this sec-
104 tion shall be for less than a mandatory minimum term of im-
105 prisonment of five years and a fine of not less than five thou-
106 sand nor more than fifty thousand dollars may be imposed
107 but not in lieu of the mandatory minimum term of imprisonment,
108 as established herein.

109 (2) One hundred grams or more, but less than two hun-
110 dred grams, be punished by a term of imprisonment in the
111 state prison for not less than ten nor more than twenty years.
112 No sentence imposed under the provisions of this section shall
113 be for less than a mandatory minimum term of imprison-
114 ment of ten years and a fine of not less than ten thousand
115 nor more than one hundred thousand dollars may be imposed
116 but not in lieu of the mandatory minimum term of imprison-
117 ment, as established herein.

118 (3) Two hundred grams or more, be punished by a term of
119 imprisonment in the state prison for not less than fifteen
120 nor more than twenty years. No sentence imposed under the
121 provisions of this section shall be for less than a mandatory
122 minimum term of imprisonment of fifteen years and a fine
123 of not less than fifty thousand nor more than five hundred
124 thousand may be imposed but not in lieu of the mandatory
125 minimum term of imprisonment, as established herein.

1 SECTION 4. Said chapter 94C, as most recently amended by
2 chapter 650 of the acts of 1982, is hereby further amended
3 by striking out section 32F and inserting in place thereof the
4 following section: —

5 *Section 32F.* (a) Any person who knowingly or intention-
6 ally manufactures, distributes, dispenses, or possesses with
7 intent to manufacture, distribute, or dispense a controlled

8 substance in Class A of section thirty-one to a person under
9 the age of eighteen years shall be punished by a term of im-
10 prisonment in the state prison for not less than five nor more
11 than fifteen years. No sentence imposed under the provisions
12 of this section shall be for less than a mandatory minimum
13 term of imprisonment of five years and a fine of not less than
14 one thousand nor more than twenty-five thousand dollars may
15 be imposed but not in lieu of the mandatory minimum term
16 of imprisonment, as established herein.

17 (b) Any person who knowingly or intentionally manufac-
18 tures, distributes, dispenses, or possesses with intent to manu-
19 facture, distribute, or dispense a controlled substance in Class
20 B of section thirty-one to a person under the age of eighteen
21 years shall be punished by a term of imprisonment in the
22 state prison for not less than three nor more than fifteen
23 years. No sentence imposed under the provisions of this sec-
24 tion shall be for less than a mandatory minimum term of im-
25 prisonment of three years and a fine of not less than one
26 thousand nor more than twenty-five thousand dollars may be
27 imposed but not in lieu of the mandatory minimum term of
28 imprisonment, as established herein.

29 (c) Any person who knowingly or intentionally manufac-
30 tures, distributes, dispenses, or possesses with intent to manu-
31 facture, distribute, or dispense a controlled substance in Class
32 C of section thirty-one to a person under the age of eighteen
33 years shall be punished by a term of imprisonment in the
34 state prison for not less than two and one-half nor more than
35 fifteen years or in a jail or house of correction for not less
36 than two nor more than two and one-half years. No sentence
37 imposed under the provisions of this section shall be for less
38 than a mandatory minimum term of imprisonment of two
39 years and a fine of not less than one thousand nor more than
40 twenty-five thousand dollars may be imposed but not in lieu
41 of the mandatory minimum two year term of imprisonment,
42 as established herein.

