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meeting, or, in the case of an annual meeting, upon the official ballot to be used for the election of town officers: "Shall an act passed by the General Court in the year nineteen hundred and eighty, entitled 'An Act authorizing the Town of Stoughton to amend its charter by reducing the membership of the Board of Selectmen from seven to five', be accepted by the town?" If a majority of the votes cast in answer to said question is in the affirmative this act shall thereupon take effect, but not otherwise.

Approved July 9, 1980.

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**Chap. 436. AN ACT TO INCREASE THE PENALTIES FOR MANUFACTURE, DISTRIBUTION AND DISPENSING OF CLASS A AND CLASS B CONTROLLED SUBSTANCES, AND TO LIMIT PAROLE ELIGIBILITY FOR CERTAIN DRUG RELATED VIOLATIONS.**

Whereas, The deferred operation of this act would tend to defeat its purpose which is to immediately increase the penalties for the manufacture, distribution and dispensing of certain controlled substances, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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Be it enacted, etc., as follows:

SECTION 1. Class A of section 31 of chapter 94C of the General Laws, as most recently amended by chapter 824 of the acts of 1977, is hereby further amended by adding the following paragraph:-

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of:

- (1) Lysergic acid
- (2) Lysergic acid amide

SECTION 2. Paragraph (a) of Class C of said section 31 of said chapter 94C, as appearing in section one of chapter 1071 of the acts of 1971, is hereby amended by striking out clauses (1) and (9) inclusive, and inserting in place thereof the following seven clauses:-

- (1) Chorhexadol
- (2) Diazepam
- (3) Glutethimide
- (4) Methyprylon
- (5) Sulfondiethylmethane
- (6) Sulfonethylmethane
- (7) Sulfonmethane

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SECTION 3. Paragraph (e) of Class C of said section 31 of said chapter 94C, as most recently amended by chapter 824 of the acts of 1977, is hereby further amended by adding at the end thereof, the following:-

(18) Diazepam

(19) Chlordiazepoxide.

SECTION 4. Chapter 94C of the General Laws is hereby amended by striking out section 32, as so appearing, and inserting in place thereof the following nine sections:-

Section 32. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute or dispense a controlled substance in Class A of section thirty-one shall be punished by a term of imprisonment in the state prison for not less than one year and not more than ten years, or by a fine of not less than \$1,000 and not more than \$10,000, or both. Any person convicted of violating this subdivision shall be punished by a mandatory minimum one year term of imprisonment.

(b) A person convicted of violating this section after one or more prior convictions of this offense or of any offense of any other jurisdiction, federal, state or territorial, which is the same as or necessarily includes the elements of said section, shall, upon conviction of a violation of said section, be punished by a term of imprisonment in the state prison for not less than five years and not more than fifteen years. Any person convicted of violating this subdivision shall be punished by a mandatory minimum term of imprisonment of five years in the state prison. A fine of not less than \$2,500 and not more than \$25,000 may also be imposed, but not in lieu of the mandatory term of imprisonment, as authorized herein.

Section 32A. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute or dispense a controlled substance in Class B of section thirty-one shall be punished by imprisonment in the state prison for not less than one, not more than ten years, or by a fine of not less than \$1,000 and not more than \$10,000, or both.

(b) A person convicted of violating this section after one or more prior convictions of this offense or of any offense of any other jurisdiction, federal, state or territorial, which is the same as or necessarily includes the elements of said section, shall, upon conviction of a violation of said section, be punished by a mandatory minimum term of imprisonment in the state prison for three years. A fine of not less than \$2,500 and not more than \$25,000 may also be imposed, but not in lieu of the mandatory term of imprisonment, as authorized herein.

Section 32B. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to

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manufacture, distribute, or dispense a controlled substance in Class C of section thirty-one, shall be imprisoned for not less than one and one-half and not more than three years in the state prison, or by a fine of not less than \$500 and not more than \$5,000, or both.

(b) A person convicted of violating this section after one or more prior convictions of this offense or of any offense of any other jurisdiction, federal, state or territorial, which is the same as or necessarily includes the elements of said section, shall, upon conviction of a violation of said section, be punished by a mandatory minimum term of imprisonment in the state prison for two years. A fine of not less than \$1,000 and not more than \$10,000 may also be imposed, but not in lieu of a term of the mandatory minimum term of imprisonment, as authorized herein.

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 thirty-one shall be imprisoned for not less than one year and not more than two years in jail or house of correction, or by a fine of not less than \$500 and not more than \$5,000, or both.

(b) A person convicted of violating this section after one or more prior convictions of this offense or of any offense of any other jurisdiction, federal, state or territorial, which is the same as or necessarily includes the elements of said section, shall, upon conviction of a violation of said section, be punished by a term of imprisonment of two and one-half years in jail or house of correction, or by a fine of not less than \$1,000 and not more than \$10,000.

Section 32D. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute or dispense a controlled substance in Class E of section thirty-one shall be imprisoned for nine months or by a fine of not less than \$250 and not more than \$2,500, or both.

(b) Any person convicted of violating this section after one or more prior convictions of this offense or of any offense of any other jurisdiction, federal, state, or territorial, which is the same as or necessarily includes the elements of said section, shall be punished by a term of imprisonment in jail or the house of correction for one and one-half years or by a fine of not less than \$500 and not more than \$5,000.

Section 32E. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or cultivates, or possesses with intent to manufacture, distribute, dispense, or cultivate, or brings into this state in excess of fifty pounds of marihuana or any mixture containing marihuana, shall be guilty of trafficking in marihuana and shall be punished by imprisonment for not less

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than one and not more than ten years or by a fine of not less than \$2,500. If the quantity of marihuana involved is:

1. 50 pounds or more, but less than 100 pounds, such person shall be imprisoned for a mandatory term of one year in jail or the house of correction. A fine of not less than \$500 and not more than \$10,000 may also be imposed, but not in lieu of a mandatory term of imprisonment;

2. 100 pounds or more, but less than 2,000 pounds, such person shall be imprisoned for a mandatory term of three years in the state prison. A fine of not less than \$2,500 and not more than \$25,000 may also be imposed, but not in lieu of a mandatory term of imprisonment;

3. 2,000 pounds or more, but less than 10,000 pounds, such person shall be imprisoned for a mandatory term of five years in the state prison. A fine of not less than \$5,000 and not more than \$50,000 may also be imposed, but not in lieu of a term of a mandatory term of imprisonment;

4. 10,000 pounds or more, such person shall be imprisoned for a mandatory term of ten years in the state prison. A fine of not less than \$20,000 and not more than \$200,000 may also be imposed, but not in lieu of a mandatory term of imprisonment.

(b) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, dispense, or brings into this state 28 grams or more of cocaine or any mixture containing cocaine, shall be guilty of trafficking in cocaine and shall be imprisoned for not less than three years and not more than ten years in the state prison. If the quantity is:

1. 28 grams or more, but less than 100 grams, such person shall be imprisoned for a mandatory term of three years in the state prison. A fine of not less than \$2,500 and not more than \$25,000 may also be imposed but not in lieu of the mandatory term of imprisonment, as so authorized;

2. 100 grams or more, but less than 200 grams, such person shall be imprisoned for a mandatory term of five years in the state prison. A fine of not less than \$5,000 and not more than \$50,000 may also be imposed but not in lieu of the mandatory term of imprisonment, as so authorized;

3. 200 grams or more, such person shall be imprisoned for a mandatory term of ten years in the state prison. A fine of not less than \$2,500 and not more than \$200,000 may also be imposed but not in lieu of the mandatory term of imprisonment, as so authorized.

(c) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, dispense or brings into this state in excess of 28 grams of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, or 28 grams or more of any

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mixture containing any such substance, shall be guilty of trafficking in heroin and shall be imprisoned for not less than five years and not more than fifteen years in the state prison. If the quantity is:

1. 28 grams or more, but less than 100 grams, such person shall be imprisoned for a mandatory term of five years in the state prison. A fine of not less than \$5,000 and not more than \$50,000 may also be imposed, but not in lieu of the mandatory term of imprisonment, as so authorized;

2. 100 grams or more, but less than 200 grams, such person shall be imprisoned for a mandatory term of ten years in the state prison. A fine of not less than \$10,000 and not more than \$100,000 may also be imposed, but not in lieu of the mandatory term of imprisonment;

3. 200 grams or more, such person shall be imprisoned for a mandatory term of fifteen years in the state prison. A fine of not less than \$50,000 and not more than \$500,000 may also be imposed, but not in lieu of the mandatory term of imprisonment, as so authorized.

(d) A person convicted of a second or subsequent offense of violating the provisions of this section, shall upon said conviction, be subject to an additional term of not less than three and not more than five years to be served in addition and consecutive to the punishment prescribed for the crime of which he has been committed.

Section 32F. (a) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance in Class A of section thirty-one to a person under the age of eighteen years shall be imprisoned for a mandatory minimum term of five years in the state prison. A fine of not less than \$1,000 and not more than \$25,000 may also be imposed but not in lieu of the mandatory term of imprisonment, as so authorized.

(b) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance in Class B of section thirty-one to a person under the age of eighteen years shall be imprisoned for a mandatory minimum term of three years in the state prison. A fine of not less than \$1,000 and not more than \$25,000 may also be imposed but not in lieu of the mandatory term of imprisonment, as so authorized.

(c) Any person who knowingly or intentionally manufactures, distributes, dispenses, or possesses with intent to manufacture, distribute, or dispense a controlled substance in Class C of section thirty-one to a person under the age of eighteen years shall be imprisoned for a mandatory minimum term of two years in the state prison. A fine of not less than \$1,000 and not more than \$25,000 may also be imposed, but not in lieu of the mandatory term of imprisonment, as so authorized.

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Section 32G. Any person who knowingly or intentionally creates, distributes, dispenses or possesses with intent to distribute or dispense a counterfeit substance, knowing said substance to be counterfeit, shall be punished by imprisonment in jail or the house of correction for one year or by a fine of not less than \$250 and not more than \$2,500, or both.

Section 32H. A prosecution commenced under sections 32(b), 32A(b), 32B(b), 32D, 32E, or 32F shall not be placed on file or continued without a finding, nor shall any sentence of imprisonment imposed upon any person pursuant to said sections be suspended, reduced, or a term of probation served until the defendant shall have served the mandatory term of imprisonment as authorized in said sections.

A person convicted of violating the provisions of said sections shall not be eligible for parole, furlough, or work release; provided, however, that the commissioner of correction may, on the recommendation of warden, superintendent, or other person in charge of a correctional institution, grant to said offender a temporary release in the custody of an officer of such institution for the following purposes: to attend the funeral of next of kin or spouse; to visit a critically ill close relative or spouse; or to obtain emergency medical services unavailable at said institutions.

SECTION 5. Section 47 of chapter 123 of the General Laws, as most recently amended by sections 3 through 7, inclusive, of chapter 197 of the acts of 1975, is hereby further amended by adding the following sentence at the end thereof:-

The provisions of this section shall not apply to a person charged with violating sections 32 through 32G of chapter 94C of the General Laws.

Approved July 10, 1980.

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Chap. 437. AN ACT PROVIDING FOR THE FUNDING OF IMPROVEMENTS TO THE ASSABET RIVER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the funding of improvements to the Assabet river, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience. \_\_\_\_\_

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 798 of the acts of 1979 is hereby amended by inserting after item 2270-8805 the following item:-

2270-8806 For improvement to the Assabet river, including