

HOUSE No. 1800

The Commonwealth of Massachusetts

PRESENTED BY:

Erika Uytterhoeven

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 restoring judicial discretion in controlled substance cases.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>1/20/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/10/2023</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>2/16/2023</i>

HOUSE No. 1800

By Representative Uyterhoeven of Somerville, a petition (accompanied by bill, House, No. 1800) of Erika Uyterhoeven, Lindsay N. Sabadosa and Danillo A. Sena for legislation to restore judicial discretion in controlled substance cases. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act restoring judicial discretion in controlled substance cases.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 1. Whereas, the deferred operation of this act would tend to defeat its purpose, which is to
2 forthwith make certain changes in laws relative to the administration of justice in the
3 Commonwealth, to permit fair sentencing of non-violent drug offenders, to reduce the rate of
4 incarceration in the Commonwealth occasioned, in large part, by minimum mandatory drug laws,
5 to prevent the application of equally severe penalties for both the more and the less culpable
6 offenders, and to eliminate the disproportionate impact minimum mandatory drug laws have on
7 minority communities, therefore, it is hereby declared to be an emergency law, retroactive in
8 application, as necessary for the immediate preservation of the public convenience.

9 2. Be it enacted by the Senate and House of Representatives in General Court assembled,
10 and by the authority of the same, as follows:

11 a) Section 32 of General Law Chapter 94C, as appearing in the 2020 Official Edition is
12 hereby amended as follows:

13 i. Paragraph (b) shall be stricken and replaced with the following: Any person convicted
14 of violating this section after one or more prior convictions of manufacturing, distributing,
15 dispensing or possessing with the intent to manufacture, distribute, or dispense a controlled
16 substance as defined by section thirty-one of this chapter under this or any prior law of this
17 jurisdiction or of any offense of any other jurisdiction, federal, state, or territorial, which is the
18 same as or necessarily includes the elements of said offense shall be punished by a term of
19 imprisonment in the state prison for not more than fifteen years or by imprisonment in a jail or
20 house of correction for not more than two and one-half years, or a fine of not less than two
21 thousand and five hundred nor more than twenty-five thousand dollars, or by both such fine and
22 imprisonment.

23 ii. Paragraph (c) and its subparagraphs shall be stricken.

24 b) Section 32E of General Law Chapter 94C, as appearing in the 2020 Official Edition is
25 hereby amended as follows:

26 i. Paragraph (a) and its subparagraphs shall be stricken and replaced with the following:
27 (a) Any person who trafficks in marijuana by knowingly or intentionally manufacturing,
28 distributing, dispensing, or cultivating or possessing with intent to manufacture, distribute,
29 dispense, or cultivate, or by bringing into the commonwealth a net weight of fifty pounds or
30 more of marijuana or a net weight of fifty pounds or more of any mixture containing marijuana
31 shall be punished by a term of imprisonment in the state prison for not more than fifteen years or
32 by imprisonment in a jail or house of correction for not more than two and one-half years, or a
33 fine of not less than five hundred nor more than two hundred thousand dollars, or by both such
34 fine and imprisonment.

35 ii. Paragraph (b) and its subparagraphs shall be stricken and replaced with the following:

36 (b) Any person who trafficks in a controlled substance defined in clause (4) of paragraph (a),
37 clause (2) of paragraph (c) or in clause (3) of paragraph (c) of Class B of section thirty-one by
38 knowingly or intentionally manufacturing, distributing or dispensing or possessing with intent to
39 manufacture, distribute or dispense or by bringing into the commonwealth a net weight of 18
40 grams or more of a controlled substance as so defined, or a net weight of 18 grams or more of
41 any mixture containing a controlled substance as so defined shall be punished by a term of
42 imprisonment in the state prison for not more than 15 years or by imprisonment in a jail or house
43 of correction for not more than two and one-half years, or a fine of not less two thousand five
44 hundred dollars nor more than five-hundred thousand dollars, or by both such fine and
45 imprisonment.

46 iii. Paragraph (c) and its subparagraphs shall be stricken and replaced with the following:

47 (c) Any person who trafficks in heroin or any salt thereof, a controlled substance defined in
48 paragraph (d) of Class A of section 31, morphine or any salt thereof, opium or any derivative
49 thereof by knowingly or intentionally manufacturing, distributing or dispensing or possessing
50 with intent to manufacture, distribute, or dispense or by bringing into the commonwealth a net
51 weight of 18 grams or more of heroin or any salt thereof, a controlled substance defined in
52 paragraph (d) of Class A of section 31, morphine or any salt thereof, opium or any derivative
53 thereof or a net weight of 18 grams or more of any mixture containing heroin or any salt thereof,
54 a controlled substance defined in paragraph (d) of Class A of section 31, morphine or any salt
55 thereof, opium or any derivative thereof shall be punished by a term of imprisonment in the state
56 prison for not more than 15 years or by imprisonment in a jail or house of correction for not

57 more than two and one-half years, or a fine of not less two thousand five hundred dollars nor
58 more than five-hundred thousand dollars, or by both such fine and imprisonment.

59 iv. Paragraphs (c^{1/2}), (c^{3/4}), and (d) and its subparagraphs shall be stricken.

60 c) Section 32H of General Law Chapter 94C, as appearing in the 2020 Official Edition is
61 hereby stricken.