

**HOUSE . . . . . No. 03138**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*John J. Binienda*

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*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 class D controlled substances

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>

# HOUSE . . . . . No. 03138

By Mr. Binienda of Worcester, a petition (accompanied by bill, House, No. 3138) of Fresolo and Binienda relative to the penalties for Class D controlled substance violations Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ HOUSE  
□ , NO. 1279 OF 2009-2010.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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An Act relative to class D 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. Chapter 94C of the General Laws, as appearing in the 2008 Official  
2 Edition, is hereby amended by striking out section 32C, as appearing in the 2004 Official  
3 Edition, and inserting in place thereof the following section:— Section 32C. (a) Any  
4 person who knowingly or intentionally manufactures, distributes, dispenses or cultivates or  
5 possesses with intent to manufacture, distribute, dispense or cultivate a controlled substance in  
6 Class D of section 31 shall be punished by imprisonment in the state prison for not more than  
7 five years, or in a jail or house of correction for not more than two and one-half years, or by a  
8 fine of not less than \$1,000 nor more than \$10,000 or both such fine and imprisonment.

9 (b) Any person convicted of violating this section after one or more convictions of  
10 manufacturing, distributing, dispensing, cultivating or possessing with intent to manufacture,  
11 distribute, dispense or cultivate a controlled substance as defined in section 31 shall under this or  
12 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 the elements of said offense shall be  
14 punished by imprisonment in the state prison for not less than one nor more than five years, or in  
15 a jail or house of correction for not less than one nor more than two and one-half years, or by a  
16 fine of not less than \$1,000 nor more than \$10,000 or both such fine and imprisonment.

17 SECTION 2. Section 32E of said chapter 94C, as so appearing, is hereby amended by  
18 striking out subsection (a) and inserting in place thereof the following subsection:— (a)  
19 Any person who trafficks in marijuana by knowingly or intentionally manufacturing,  
20 distributing, dispensing or cultivating or possessing with intent to manufacture, distribute,  
21 dispense, or cultivate, or by bringing into the commonwealth a net weight of ten pounds or more  
22 of marijuana or a net weight of ten pounds or more of any mixture containing marijuana shall, if  
23 the net weight of marijuana or any mixture thereof is: (1) 10 pounds or more, but less than  
24 25 pounds, be punished by a term of imprisonment in the state prison for not less than two and  
25 one-half nor more than 15 years or by imprisonment in a jail or house of correction for not less  
26 than one nor more than two and one-half years. No sentence imposed under the provisions of this  
27 section shall be for less than a mandatory term of imprisonment of one year and a fine of not less  
28 than \$500 nor more than \$10,000 may be imposed but not in lieu of the mandatory minimum one  
29 year term of imprisonment, as established herein. (2) 25 pounds or more, but less than 50  
30 pounds, be punished for a term of imprisonment in the state prison for not less than three nor  
31 more than 15 years. No sentence imposed under the provisions of this section shall be for less

32 than a mandatory minimum term of imprisonment of three years and a fine of not less than  
33 \$2,500 nor more than \$25,000 may be imposed but not in lieu of the mandatory minimum term  
34 of imprisonment, as established herein. (3) 50 pounds or more, but less than 100 pounds,  
35 be punished by a term of imprisonment in the state prison for not less than five nor more than 15  
36 years. No sentence imposed under the provisions of this section shall be for less than a  
37 mandatory minimum term of imprisonment of five years and a fine of not less than \$5,000 nor  
38 more than \$50,000 may be imposed but not in lieu of the mandatory minimum term of  
39 imprisonment, as established herein. (4) 100 pounds or more, but less than 500 pounds, be  
40 punished by a term of imprisonment in the state prison for not less than 10 nor more than 15  
41 years. No sentence imposed under the provisions of this section shall be for less than a  
42 mandatory minimum term of imprisonment of 10 years and a fine of not less than \$20,000 nor  
43 more than \$200,000 may be imposed but not in lieu of the mandatory minimum term of  
44 imprisonment, as established herein. (5) 500 pounds or more, be punished by a term of  
45 imprisonment in the state prison for not less than 15 nor more than 20 years. No sentence  
46 imposed under the provisions of this section shall be for less than a mandatory minimum term of  
47 imprisonment of 15 years and a fine of not less than \$50,000 nor more than \$150,000 may be  
48 imposed but not in lieu of the mandatory minimum 15 year term of imprisonment, as established  
49 herein.