

SENATE No. 1011

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick M. O'Connor

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 relative to setting proportionate penalties for the distribution of heroin, fentanyl, and carfentanil.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>1/24/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/29/2019</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>1/30/2019</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/31/2019</i>

SENATE No. 1011

By Mr. O'Connor, a petition (accompanied by bill, Senate, No. 1011) of Patrick M. O'Connor, David Allen Robertson, David F. DeCoste, Ryan C. Fattman and others for legislation to set proportionate penalties for the distribution of heroin, fentanyl, and carfentanil. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to setting proportionate penalties for the distribution of heroin, fentanyl, and carfentanil.

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 32E of chapter 94C, as amended by chapter 69 of the Acts of 2018,
2 is hereby amended by striking subsection (c) and replacing it with the following:-

3 (c) Any person who trafficks in heroin or any salt thereof, morphine or any salt thereof,
4 opium or any derivative thereof by knowingly or intentionally manufacturing, distributing or
5 dispensing or possessing with intent to manufacture, distribute, or dispense or by bringing into
6 the commonwealth a net weight of 18 grams or more of heroin or any salt thereof, morphine or
7 any salt thereof, opium or any derivative thereof or a net weight of 18 grams or more of any
8 mixture containing heroin or any salt thereof, morphine or any salt thereof, opium or any
9 derivative thereof shall, if the net weight of heroin or any salt thereof, morphine or any salt
10 thereof, opium or any derivative thereof or any mixture thereof is:--

11 (1) Eighteen grams or more but less than 36 grams, be punished by a term of
12 imprisonment in the state prison for not less than 5 nor more than 35 years. No sentence imposed
13 under this clause shall be for less than a mandatory minimum term of imprisonment of 5 years,
14 and a fine of not less than \$5,000 nor more than \$50,000 may be imposed but not in lieu of the
15 mandatory minimum term of imprisonment, as established herein.

16 (2) Thirty-six grams or more but less than 100 grams, be punished by a term of
17 imprisonment in the state prison for not less than 10 nor more than 40 years. No sentence
18 imposed under this clause shall be for less than a mandatory minimum term of imprisonment of
19 10 years, and a fine of not less than \$5,000 nor more than \$50,000 may be imposed, but not in
20 lieu of the mandatory minimum term of imprisonment, as established herein.

21 (3) One hundred grams or more but less than two hundred grams, be punished by a term
22 of imprisonment in the state prison for not less than 25 years and up to any term of years. No
23 sentence imposed under the provisions of this clause shall be for less than the mandatory
24 minimum term of imprisonment of 25 years, and a fine of not less than ten thousand nor more
25 than one hundred thousand dollars may be imposed but not in lieu of the mandatory minimum
26 term of imprisonment, as established therein.

27 (4) Two hundred grams or more, be punished by a term of imprisonment in the state
28 prison for life. No sentence imposed under the provisions of this clause shall be for less than a
29 mandatory minimum term of imprisonment of a life sentence nor more than five hundred
30 thousand dollars may be imposed but not in lieu of the mandatory minimum term of
31 imprisonment, as established therein.

32 SECTION 2. Said section 32E of chapter 94C, as amended by chapter 69 of the Acts of
33 2018, is hereby amended by striking subsection (c1/2) and replacing it with the following:-

34 (c $\frac{1}{2}$) Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or
35 intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture,
36 distribute or dispense or by bringing into the commonwealth shall, if the net weight of the
37 fentanyl in pure form is:-

38 (1) 4 grams or more but less than 9 grams, be punished by a term of imprisonment in the
39 state prison for not less than 5 nor more than 35 years. No sentence imposed under this clause
40 shall be for less than a mandatory minimum term of imprisonment of 5 years, and a fine of not
41 less than \$5,000 nor more than \$50,000 may be imposed but not in lieu of the mandatory
42 minimum term of imprisonment, as established herein.

43 (2) 9 grams or more but less than 20 grams, be punished by a term of imprisonment in the
44 state prison for not less than 10 nor more than 40 years. No sentence imposed under this clause
45 shall be for less than a mandatory minimum term of imprisonment of 10 years, and a fine of not
46 less than \$5,000 nor more than \$50,000 may be imposed, but not in lieu of the mandatory
47 minimum term of imprisonment, as established herein.

48 (3) 20 grams or more but less than 40 grams, be punished by a term of imprisonment in
49 the state prison for not less than 25 years and up to any term of years. No sentence imposed
50 under the provisions of this clause shall be for less than the mandatory minimum term of
51 imprisonment of 25 years, and a fine of not less than ten thousand nor more than one hundred
52 thousand dollars may be imposed but not in lieu of the mandatory minimum term of
53 imprisonment, as established therein.

54 (4) 40 grams or more, be punished by a term of imprisonment in the state prison for life.
55 No sentence imposed under the provisions of this clause shall be for less than a mandatory
56 minimum term of imprisonment of a life sentence nor more than five hundred thousand dollars
57 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established
58 therein.

59 SECTION 3. Said section 32E of chapter 94C, as amended by chapter 69 of the Acts of
60 2018, is hereby amended by striking subsection (c3/4) and replacing it with the following:-

61 (c^{3/4}) Any person who trafficks in carfentanil by knowingly or intentionally
62 manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or
63 dispense shall, if the net weight of the carfentanil in pure form is:-

64 (1) one-third of a gram or more but less than 2 grams, be punished by a term of
65 imprisonment in the state prison for not less than 5 nor more than 35 years. No sentence imposed
66 under this clause shall be for less than a mandatory minimum term of imprisonment of 5 years,
67 and a fine of not less than \$5,000 nor more than \$50,000 may be imposed but not in lieu of the
68 mandatory minimum term of imprisonment, as established herein.

69 (2) 2 grams or more but less than 4 grams, be punished by a term of imprisonment in the
70 state prison for not less than 10 nor more than 40 years. No sentence imposed under this clause
71 shall be for less than a mandatory minimum term of imprisonment of 10 years, and a fine of not
72 less than \$5,000 nor more than \$50,000 may be imposed, but not in lieu of the mandatory
73 minimum term of imprisonment, as established herein.

74 (3) 4 grams or more but less than 8 grams, be punished by a term of imprisonment in the
75 state prison for not less than 25 years and up to any term of years. No sentence imposed under

76 the provisions of this clause shall be for less than the mandatory minimum term of imprisonment
77 of 25 years, and a fine of not less than ten thousand nor more than one hundred thousand dollars
78 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established
79 therein.

80 (4) 8 grams or more, be punished by a term of imprisonment in the state prison for life.
81 No sentence imposed under the provisions of this clause shall be for less than a mandatory
82 minimum term of imprisonment of a life sentence nor more than five hundred thousand dollars
83 may be imposed but not in lieu of the mandatory minimum term of imprisonment, as established
84 therein.

85 SECTION 4. This act shall go into effect immediately upon its passage.