

SENATE No. 1051

The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

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:

Liz Miranda

DISTRICT/ADDRESS:

Second Suffolk

SENATE No. 1051

By Ms. Miranda, a petition (accompanied by bill, Senate, No. 1051) of Liz Miranda 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.

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

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 32 of General Law Chapter 94C, as appearing in the 2020 Official Edition is
2 hereby amended as follows:

3 Paragraph (b) shall be stricken and replaced with the following: Any person convicted of
4 violating this section after one or more prior convictions of manufacturing, distributing,
5 dispensing or possessing with the intent to manufacture, distribute, or dispense a controlled
6 substance as defined by section thirty-one of this chapter under this or any prior law of this
7 jurisdiction or of any offense of any other jurisdiction, federal, state, or territorial, which is the
8 same as or necessarily includes the elements of said offense shall be punished by a term of

9 imprisonment in the state prison for not more than fifteen years or by imprisonment in a jail or
10 house of correction for not more than two and one-half years, or a fine of not less than two
11 thousand and five hundred nor more than twenty-five thousand dollars, or by both such fine and
12 imprisonment.

13 Paragraph (c) and its subparagraphs shall be stricken.

14 Section 32E of General Law Chapter 94C, as appearing in the 2020 Official Edition is
15 hereby amended as follows:

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

25 Paragraph (b) and its subparagraphs shall be stricken and replaced with the following: (b)
26 Any person who trafficks in a controlled substance defined in clause (4) of paragraph (a), clause
27 (2) of paragraph (c) or in clause (3) of paragraph (c) of Class B of section thirty-one by
28 knowingly or intentionally manufacturing, distributing or dispensing or possessing with intent to
29 manufacture, distribute or dispense or by bringing into the commonwealth a net weight of 18
30 grams or more of a controlled substance as so defined, or a net weight of 18 grams or more of

31 any mixture containing a controlled substance as so defined shall be punished by a term of
32 imprisonment in the state prison for not more than 15 years or by imprisonment in a jail or house
33 of correction for not more than two and one-half years, or a fine of not less two thousand five
34 hundred dollars nor more than five-hundred thousand dollars, or by both such fine and
35 imprisonment.

36 Paragraph (c) and its subparagraphs shall be stricken and replaced with the following: (c)
37 Any person who trafficks in heroin or any salt thereof, a controlled substance defined in
38 paragraph (d) of Class A of section 31, morphine or any salt thereof, opium or any derivative
39 thereof by knowingly or intentionally manufacturing, distributing or dispensing or possessing
40 with intent to manufacture, distribute, or dispense or by bringing into the commonwealth a net
41 weight of 18 grams or more of heroin or any salt thereof, a controlled substance defined in
42 paragraph (d) of Class A of section 31, morphine or any salt thereof, opium or any derivative
43 thereof or a net weight of 18 grams or more of any mixture containing heroin or any salt thereof,
44 a controlled substance defined in paragraph (d) of Class A of section 31, morphine or any salt
45 thereof, opium or any derivative thereof shall be punished by a term of imprisonment in the state
46 prison for not more than 15 years or by imprisonment in a jail or house of correction for not
47 more than two and one-half years, or a fine of not less two thousand five hundred dollars nor
48 more than five-hundred thousand dollars, or by both such fine and imprisonment.

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

50 Section 32H of General Law Chapter 94C, as appearing in the 2020 Official Edition is
51 hereby stricken.