



# Drug Crimes Not Subject to Departure from Mandatory Minimum Sentencing under Proposed Legislation

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Section of Chapter 94C	Offense <sup>1</sup>
s. 34	Marijuana, Possess
s. 34	Drug, Possess Class E
s. 32C(a)	Drug, Distribute Or Possess With Intent, Class D
s. 32D(a)	Drug, Distribute Or Possess With Intent, Class E
s. 32G	Counterfeit Drug, Distribute Or Possess With Intent
s. 32I(a)	Drug Paraphernalia, Distribute Or Possess With Intent
s. 33(a)	Drug, False Regis Number For
s. 33(b)	Prescription, Utter False
s. 33(b)	Drug, Obtain By Fraud
s. 34	Drug, Possess Class A
s. 34	Drug, Possess Class B
s. 34	Drug, Possess Class C
s. 34	Drug, Possess Class D
s. 34	Heroin, Possess
s. 34	Marijuana, Possess, Subsq. Off.
s. 35	Heroin, Being Present Where Kept
s. 32C(b)	Drug, Distribute Or Possess With Intent, Class D, Subsq. Off.
s. 32D(b)	Drug, Distribute Or Possess With Intent, Class E, Subsq. Off.
s. 32I(b)	Drug Paraphernalia, Sell To Minor
s. 33(a)	Drug, False Regis Number For, Subsq. Off.
s. 33(b)	Prescription, Utter False, Subsq. Off.
s. 33(b)	Drug, Obtain By Fraud, Subsq. Off.
s. 34	Drug, Possess Class A, Subsq. Off.
s. 34	Drug, Possess Class B, Subsq. Off.
s. 34	Drug, Possess Class C, Subsq. Off.
s. 34	Drug, Possess Class D, Subsq. Off.
s. 34	Heroin, Possess, Subsq. Off.
s. 37	Drug, Larceny of
s. 40	Conspiracy To Violate Drug Law

**Notes:**

<sup>1</sup> These descriptions are taken from the Master Drug List. (M.G.L. Ch. 94C, s. 31, <http://www.mass.gov/legis/laws/mgl/94c-31.htm>) The classes of drugs are generally as follows: Class A includes opiates and opium derivatives including morphine and heroin; Class B includes opium, cocaine, methamphetamine, phenmetrazine, phencyclidine and assorted opiates including methadone; Class C includes depressants and drugs with limited quantities of narcotics; Class D include marijuana and barbiturates; and Class E includes drugs with limited quantities of narcotics. Note that opium is often included with Class A drugs in the context of trafficking.

Penalty Type	Serious. Level	Length of Sentence			# of 2003 Commits <sup>2</sup>	Model <sup>3</sup>						
		Mand. Min.	County HOC	State Prison		SD. 897 <sup>4</sup>	HD. 857 <sup>5</sup>	HD. 856 <sup>6</sup>	HD. 3326 <sup>7</sup>	HD. 3324 <sup>8</sup>	HD. 3325 <sup>9</sup>	SD. 580 <sup>10</sup>
Misd.	1	--	<1/2	--	--	--	--	--	--	--	--	--
Misd.	1	--	<1/2	--	3	--	--	--	--	--	--	--
Misd.	2	--	<2	--	5	--	--	--	--	--	--	--
Misd.	2	--	<3/4	--	--	--	--	--	--	--	--	--
Misd.	2	--	<1	--	1	--	--	--	--	--	--	--
Misd.	2	--	1 – 2	--	--	--	--	--	--	--	--	--
Felony	2	--	<2 1/2	<4	--	--	--	--	--	--	--	--
Felony	2	--	<2 1/2	<4	--	--	--	--	--	--	--	--
Felony	2	--	<2 1/2	<4	--	--	--	--	--	--	--	--
Misd.	2	--	<1	--	6	--	--	--	--	--	--	--
Misd.	2	--	<1	--	2	--	--	--	--	--	--	--
Misd.	2	--	<1	--	--	--	--	--	--	--	--	--
Misd.	2	--	<1	--	--	--	--	--	--	--	--	--
Misd.	2	--	<2	--	--	--	--	--	--	--	--	--
Misd.	2	--	<2	--	--	--	--	--	--	--	--	--
Misd.	2	--	<1	--	4	--	--	--	--	--	--	--
Misd.	3	--	1 – 2 1/2	--	--	--	--	--	--	--	--	--
Misd.	3	--	<1 1/2	--	--	--	--	--	--	--	--	--
Felony	3	--	--	3 – 5	--	--	--	--	--	--	--	--
Felony	3	--	<2 1/2	<8	--	--	--	--	--	--	--	--
Felony	3	--	<2 1/2	<8	--	--	--	--	--	--	--	--
Felony	3	--	<2 1/2	<8	--	--	--	--	--	--	--	--
Misd.	3	--	<2	--	--	--	--	--	--	--	--	--
Misd.	3	--	<2	--	--	--	--	--	--	--	--	--
Misd.	3	--	<2	--	--	--	--	--	--	--	--	--
Misd.	3	--	<2	--	--	--	--	--	--	--	--	--
Felony	3	--	<2 1/2	2 1/2 – 5	--	--	--	--	--	--	--	--
Felony	4	--	<2 1/2	<10	--	--	--	--	--	--	--	--
Felony	Contingent	--	--	--	16	--	--	--	--	--	--	--

## Notes:

- <sup>2</sup> These data are taken from 2003 Court Commitments to the Massachusetts, Mass. Department of Correction, Sep. 2004. (<http://www.mass.gov/doc/pdfs/commit03.pdf>) These commitments are only to the Department of Correction facilities and do not include County House of Correction facilities.
- <sup>3</sup> Sentencing Guidelines Bill recommended by Mass. Sentencing Commission in 1996.
- <sup>4</sup> This bill represents a refile of S. 219. The primary sponsor of this bill is Sen. Marian Walsh (Suffolk/Norfolk). (SD. = Senate Docket).
- <sup>5</sup> This bill represents a refile of the '03-'04 Sentencing Guidelines bill (H. 2750) proposed by legislators. The primary sponsor of this bill is Rep. A. Stephen Tobin (Quincy).
- <sup>6</sup> The primary sponsor of this bill is Rep. A. Stephen Tobin (Quincy).
- <sup>7</sup> '05-'06 legislative task force bill introduced by Rep. Michael Festa (Melrose). (HD. = House Docket).
- <sup>8</sup> The primary sponsor of these bills is Rep. Michael Festa (Melrose). (HD. = House Docket).
- <sup>9</sup> The primary sponsor of these bills is Rep. Michael Festa (Melrose). (HD. = House Docket). Differs from HD3324 in that it provides retroactive relief to those already serving sentences for drug offenses considered.
- <sup>10</sup> The primary sponsor of this bill is Sen. Cynthia Creem (Newton). (SD. = Senate Docket).