HOUSE DOCKET, NO. 1721 FILED ON: 1/20/2011

HOUSE . . . . . No. 1568

The Commonwealth of Massachusetts

PRESENTED BY:

George N. Peterson, Jr.

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:

An Act relative to civil rights and public safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
George N. Peterson, Jr.	*9th Worcester*
F. Jay Barrows	*1st Bristol*
Steven S. Howitt	*4th Bristol*
Kevin J. Kuros	*8th Worcester*
John J. Binienda	*17th Worcester*
Ryan C. Fattman	*18th Worcester*
Donald F. Humason, Jr.	*4th Hampden*
Shaunna O'Connell	*3rd Bristol*
Angelo J. Puppolo, Jr.	*12th Hampden*
Cleon H. Turner	*1st Barnstable*
Elizabeth A. Poirier	*14th Bristol*
Thomas A. Golden, Jr.	*16th Middlesex*
David B. Sullivan	*6th Bristol*
James J. Dwyer	*30th Middlesex*
Stephen R. Canessa	*12th Bristol*
Angelo L. D'Emilia	*8th Plymouth*
Marc T. Lombardo	*22nd Middlesex*
Todd M. Smola	*1st Hampden*

Anne M. Gobi	*5th Worcester*
Viriato Manuel deMacedo	*1st Plymouth*
Demetrius J. Atsalis	*2nd Barnstable*
George T. Ross	*2nd Bristol*
James E. Timilty	☐ *[District]* ☐
Stephen Kulik	*1st Franklin*
Bradley H. Jones, Jr.	*20th Middlesex*
Christine E. Canavan	*10th Plymouth*
Bradford Hill	*4th Essex*
Matthew A. Beaton	*11th Worcester*
Richard Bastien	*2nd Worcester*

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HOUSE . . . . . No. 1568

By Mr. Peterson of Grafton, a petition (accompanied by bill, House, No. 1568) of George N. Peterson, Jr. and others for legislation to prohibit subdivisions of the Commonwealth from further restricting the use or possession of firearms. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *2259* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to civil rights and public safety.

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

SECTION 1. Section 121 of chapter 140 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by deleting the section in its entirety and replacing it with the following:-

Section 121. No county, municipality, township or other community entity within the Commonwealth of Massachusetts may enact, pass or enforce any law, ordinance or regulation concerning the lawful ownership, use, possession, transfer, purchase, receipt or transportation of firearms, antique firearms, ammunition or ammunition components.

The right to keep and bear arms as an individual civil right shall be presumed to exist in all matters regarding the ownership, use, possession, transfer, purchase, receipt or transportation of firearms, antique firearms, ammunition or ammunition components unless expressly prohibited by the laws of this Commonwealth.

SECTION 2. Section 121A of chapter 140 of the General Laws is hereby repealed.

SECTION 3. Chapter 140 of the General Laws is hereby amended by striking out Section 122, in its entirety, and inserting in place thereof the following section:-

16 Section 122. As used in sections 122 to 129D inclusive, the following words shall, unless
17 the context clearly requires otherwise, have the following meanings:-

18 "Ammunition", assembled cartridges or shells containing cases or hulls, primers, bullets
19 or shot and propellant powder designed for use in any firearm.

20 "Antique Firearm", shall mean;

21 (A) any firearm manufactured in or prior to the year 1899;

22 (B) any replica of any firearm described in clause (A) if such replica: (i) is not designed
23 or redesigned for using rimfire or conventional centerfire cartridges; or (ii) uses rimfire or
24 conventional centerfire cartridges which are no longer manufactured in the United States and
25 which are not readily available in the ordinary channels of commercial trade.

26 "Firearm", any device which will, or is designed to, or may readily be converted to,
27 expel a projectile by the action of a propellant powder. Such term does not include an antique
28 firearm. This term shall be meant to include a rifle, shotgun or handgun. The term shall not
29 include B.B. guns or other air guns.

30 "Handgun", a firearm which has a short stock and is designed to be held and fired by
31 the use of a single hand.

32 "Imitation firearm", a replica firearm which is designed, manufactured or altered in
33 such a way as to render it incapable of discharging a shot, bullet, or any other sort of chemical
34 propelled projectile

35 "Length of barrel" or "barrel length", the portion of a firearm, rifle, shotgun or
36 machine gun through which a shot or bullet is driven, guided or stabilized and shall include the
37 chamber.

38 "Local Licensing Agent", the chief of police or the board or officer having control of
39 the police in a city or town, or persons authorized by them and shall be accountable to the
40 Secretary of Public Safety for the lawful issuance of firearm identification cards.

41 "Machinegun", any firearm which shoots, is designed to shoot, or can be readily
42 restored to shoot, automatically more than one shot, without manual reloading, by a single
43 function of the trigger.

44 "Non-resident", any person lawfully residing within the United States whose legal
45 residence is outside of the Commonwealth of Massachusetts.

46 "Rifle", a firearm intended to be fired from the shoulder and designed, redesigned,
47 made or remade to use the energy of a propellant powder to fire only a single projectile through a
48 rifled bore for each single pull of the trigger.

49 “Shotgun”, a firearm intended to be fired from the shoulder and designed, redesigned,
50 made or remade to use the energy of a propellant powder to fire through a smooth bore either a
51 number of ball shot or a single projectile for each single pull of the trigger.

52 “State Licensing Authority”, the Secretary of Public Safety, who shall be
53 responsible for the oversight of the issuance of Firearm Identification Cards and machine gun
54 licenses and shall have direct authority over all local licensing agents in regards to the issuance
55 of cards and the application process therefore.

56 SECTION 4. Section 122A of chapter 140 of the General Laws is hereby
57 repealed.

58 SECTION 5. Chapter 140 of the General Laws is hereby amended by striking out
59 Section 122B, in its entirety, and inserting in place thereof the following section:-

60 Section 122B. Any applicant or holder aggrieved by a denial, revocation or suspension
61 of a firearm identification card, unless a hearing has previously been held pursuant to chapter
62 209A, may, within either 90 days after receipt of notice of such denial, revocation or suspension
63 or within 90 days after the expiration of the time limit in which the local licensing agent is
64 required to respond to the applicant, file a petition to obtain judicial review in the district court
65 having jurisdiction in the city or town wherein the applicant filed for or was issued such card. A
66 justice of such court, after a hearing and a finding of the facts, shall determine if the petitioner is
67 presently eligible for a firearm identification card. In said hearing, the burden of evidence shall
68 be on the entity denying the card. The presumption of innocence in regard to the person seeking
69 a card shall exist. If the justice finds in favor of the petitioner, said justice shall order the local
70 licensing agent to issue the firearms identification card to the petitioner within 10 days. The local
71 licensing agent shall have no right to appeal the decision of a court order to issue said card. A
72 refusal to issue said card by the local licensing agent shall place the local licensing agent in
73 contempt of court.

74 SECTION 6. Chapter 140 of the General Laws is hereby amended by striking out
75 Section 123, in its entirety, and inserting in place thereof the following section:-

76 Section 123. A firearm identification card shall be issued and possessed subject to
77 the following conditions and restrictions:

78 (1) Any person legally residing or having a place of business within the jurisdiction of
79 the local licensing agent or any person residing in an area of exclusive federal jurisdiction
80 located within a city or town may submit to the local licensing agent an application for a firearm
81 identification card, or renewal of the same, which the local licensing agent shall issue unless the
82 applicant has been deemed to be a prohibited person Section 9A of Chapter 269.

83 (2) Upon receiving an application for a firearm identification card, the local licensing
84 agent or person accepting applications on behalf of the local licensing agent shall immediately
85 issue a receipt form for said application. Said form shall be made standard and supplied by the
86 Secretary of Public Safety.

87 (3) Within seven days of the receipt of a completed application for a firearm
88 identification card, the local licensing agent shall forward one copy of the application and one
89 copy of the applicant's fingerprints to the Secretary of Public Safety. The taking of fingerprints
90 shall not be required in issuing the renewal of a card if the renewal applicant's fingerprints are on
91 file with the Secretary of Public Safety. The Secretary of Public Safety shall within 15 days
92 advise the local licensing agent, in writing, of the applicant's status as a prohibited person. If the
93 information from Secretary of Public Safety does not state in writing that the applicant is a
94 prohibited person, the local licensing agent shall, within 30 days from the date of application,
95 issue the firearm identification card.

96 (4) If the applicant is determined to be a prohibited person, the local licensing agent
97 shall, within 30 days from the date of application, issue the applicant a denial/revocation form.
98 This form shall be made standard in form and supplied by the Secretary of Public Safety. The
99 denial/revocation form shall include the applicant's personal information, date of denial, a copy
100 of their prohibited person file, prohibited person file number and the relevant information
101 regarding an appeal as a prohibited person under section 122B.

102 (5) The local licensing agent, or any government entity, may not prescribe any other
103 condition for the issuance of a firearm identification card not specified within this section.

104 (6) A firearm identification card shall be revoked or suspended by the local licensing
105 agent or his designee upon receiving notice from the Secretary of Public Safety that the card
106 holder has become a prohibited person.

107 (7) Upon revocation of a Firearm Identification Card, the local licensing agent shall
108 take possession of such card and the person whose card is so revoked or suspended shall take all
109 action required under the provisions of section 125. No appeal or post-judgment motion shall
110 operate to stay such revocation. A revoked or suspended card shall be reinstated when it is
111 determined by the Secretary of Public Safety that the card holder or applicant is no longer a
112 prohibited person.

113 (8) A firearm identification card shall be valid for all lawful purposes subject to the
114 following age based conditions:

115 (a) A firearm identification card holder aged 15 through 17 shall be entitled to borrow,
116 possess, carry, or transport any rifle or shotgun;

117 (b) A firearm identification card holder aged 18 and older shall be entitled to purchase,
118 own, rent, lease, borrow, possess, carry, transfer or transport any rifle or shotgun;

119 (c) A firearm identification card holder aged 21 and over shall be entitled to purchase,
120 own, rent, lease, borrow, possess, transport, carry, transfer or carry concealed any firearm;

121 (9) A firearm identification card shall be provided by the Secretary of Public Safety
122 board and shall be standard in a size and shape equivalent to that of a license to operate motor
123 vehicles issued by the registry of motor vehicles pursuant to section 8 of chapter 90 and shall
124 contain an identification number, name, address, photograph, place and date of birth, height,
125 weight, hair color, eye color and signature of the cardholder and shall be marked "Firearm
126 Identification Card".

127 (10) The application for such card shall be made in a standard form provided by the
128 Secretary of Public Safety. The application shall not require the applicant to divulge to any
129 person not directly involved with the licensing process under this section that they are applying
130 for a firearm identification card, nor shall the application require that the applicant supply any
131 letters of reference. Any applicant shall have the right to file an amended application if it is
132 found that the applicant did not correctly understand the questions being asked. No applicant
133 shall be denied a firearms identification card because of the need to submit an amended
134 application. The local licensing agent may not prescribe any other condition for the issuance of a
135 firearm identification card.

136 (11) Any person who knowingly files an application containing false information with
137 the expressed intent to deceive the local licensing agent shall be punished by a fine of not less
138 than $500 nor more than $5,000.

139 (12) A Firearm Identification Card shall be valid for a period of not less than 6 years
140 from the date of issue, except that if the cardholder applied for renewal before the card expired,
141 the card shall remain valid until revoked or renewed. A card issued on February 29 shall expire
142 on March 1.

143 (13) The Secretary of Public Safety shall send by first class mail to the holder of a
144 firearm identification card, a notice of the expiration of the card not less than 120 days before its
145 expiration, and shall enclose with the notice a form for the renewal of the card. The Secretary of
146 Public Safety shall include in the notice all pertinent information about the penalties that may be
147 imposed if the firearm identification card is not renewed.

148 (14) The fee for an application for a firearm identification card shall be $40, which
149 shall be payable to the city or town of the local licensing agent and shall not be prorated or
150 refunded in the case of revocation or denial.

151 (15) Any person of the age of 70 or older or under the age of 18 upon filing for such
152 card or renewal shall be exempt from the requirement of paying a fee for a firearm identification
153 card. All fees for an application for a firearm identification card shall be prorated if it is
154 determined that the applicant will turn 70 years of age during the upcoming license term.

155 (16) Upon issuance of a firearm identification card under this section, the local
156 licensing agent shall forward a copy of such approved application and card to the Secretary of
157 Public Safety, who shall inform the local licensing agent forthwith of the existence of any
158 disqualifying condition discovered or occurring subsequent to the issuance of a firearm
159 identification card under this section.

160 (17) Nothing in this section shall authorize the purchase, possession or transfer of any
161 firearm or ammunition that is prohibited by state or federal law.

162 (18) Transition. Any license to carry a firearm or firearms identification card that is
163 not expired, suspended or revoked at the time of passage of this act shall be deemed to be a
164 firearms identification card as described in this section. All licenses to carry a firearm shall be
165 deemed to have no restrictions, upon passage of this act.

166 (19) The secretary of the executive office of public safety, or his designee, may
167 promulgate regulations to carry out the purposes of this section.

168 SECTION 7. Chapter 140 of the General Laws is hereby amended by inserting
169 after section 123 the following section:-

170 Section 123B.

171 (a) Whoever, not being a prohibited person as defined in Section 9A of Chapter 269
172 except as provided or exempted by statute, knowingly has in his possession or knowingly has
173 under his control in a vehicle a firearm, loaded or unloaded, as defined in Section 122 and whose
174 firearm identification card issued under section 123 is invalid for the sole reason that it has
175 expired shall be subject to a civil fine of not less than $100 nor more than $500. Such fine shall
176 not be issued if the card holder can produce evidence that a renewal of said card is in process.

177 (b) Whoever, not being a prohibited person as defined in Section 9A of Chapter
178 269, except as provided or exempted by statute, knowingly has in his possession, or knowingly
179 has under his control in a vehicle, a firearm as defined in Section 122, loaded or unloaded,
180 without either:

181 (i) being present in or on his legal residence or place of business; or

182 (ii) having in effect a firearm identification card issued under section one hundred
183 twenty-three; or

184 (iii) having complied with the provisions of one hundred twenty-eight or one hundred
185 twenty-eight A; or

186 (iv) being a federally licensed firearm dealer

187 shall be subject to a civil fine of not less than $500 nor more than $5000.

188 The provisions of this section shall not apply to the following exempted persons and
189 uses:

190 (a) Any device used exclusively for signaling or distress use and required or
191 recommended by the United States Coast Guard or the Interstate Commerce Commission, or for
192 the firing of stud cartridges, explosive rivets or similar industrial ammunition;

193 (b) Federally licensed firearms manufacturers or wholesale dealers, or persons
194 employed by them or by licensed dealers, or on their behalf, when possession of firearms is
195 necessary for manufacture, display, storage, transport, installation, inspection or testing;

196 (c) To a person voluntarily surrendering a firearm and ammunition therefor to a local
197 licensing agent, the colonel of the state police or his designee if prior written notice has been
198 given by said person to the local licensing agent or the colonel of the state police, stating the
199 place and approximate time of said surrender;

200 (d) The regular and ordinary transport of firearms as merchandise by any common
201 carrier;

202 (e) Possession by retail customers for the purpose of firing at duly licensed target
203 concessions at amusement parks, piers and similar locations, provided that the firearms to be so
204 used are firmly chained or affixed to the counter and that the proprietor is in possession of a
205 firearm identification card;

206 (f) Possession of firearms and ammunition therefor by nonresident hunters with valid
207 nonresident hunting licenses during hunting season;

208 (g) Possession of firearms and ammunition therefor by nonresidents while on a firing
209 or shooting range;

210 (h) Possession of firearms and ammunition therefor by nonresidents traveling in or
211 through the commonwealth, providing that any firearms are unloaded and enclosed in a locked
212 case or trunk;

213 (i) Possession of firearms by nonresidents while at a firearm showing or display
214 organized by a regularly existing gun collectors' club or association;

215 (j) Any new resident moving into the commonwealth for a period of 180 days, or any
216 resident of the commonwealth upon being released from active service with any of the armed
217 services of the United States with respect to any firearm and any ammunition therefor then in his
218 possession, for no less than180 days or such time as may be needed to complete the process for
219 receiving a firearm identification card after such release, return or entry into the commonwealth;

220 (k) Any person with respect to the use of a firearm by such person in hunting,
221 provided that such use is otherwise permitted by law and is under the immediate supervision of a
222 person holding a firearm identification card,

223 (l) A non-profit corporation, organized for educational purposes, may possess
224 firearms, provided that any such possession, or utilization of those firearms, is under the
225 immediate supervision of a holder of a firearm identification card;

226 (m) The temporary holding, handling or firing of a firearm for examination, trial or
227 instruction of the following but not limited to hunting, target shooting, safety training in the
228 presence of a holder of a firearm identification card, or a duly commissioned officer,
229 noncommissioned officer or enlisted member of the United States Army, Navy, Marine Corps,
230 Air Force or Coast Guard, or the National Guard or military service of the commonwealth or
231 reserve components thereof, while in the performance of his duty, or where such holding,
232 handling or firing is for a lawful purpose;

233 (n) A person acting as an executor of an estate containing firearms, or any person
234 inheriting firearms, shall obtain a Firearm Identification Card within 180 days or such time as
235 may be needed to complete the process to obtain a firearms identification card. The executor, or
236 person inheriting firearms, may transfer said firearms to a federally licensed dealer;

237 (o) Persons in the military or other service of any state or of the United States, and
238 police officers and other peace officers of any jurisdiction, in the performance of their official
239 duty or when duly authorized to possess them;

240 (p) Carrying or possession by residents or nonresidents of an antique firearm as
241 defined in section 122.

242 (q) The carrying or possession of firearms, and ammunition therefor by nonresidents
243 who meet the requirements for such carrying or possession in the state in which they reside.

244 (r) Possession by a veteran's organization chartered by the Congress of the United
245 States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by
246 the Internal Revenue Service and possession by the members of any such organization when on
247 official parade duty or ceremonial occasions.

248 (s) Possession by federal, state and local historical societies, museums, and
249 institutional collections open to the public, provided such firearms are unloaded and secured
250 from unauthorized handling;

251 (t) The possession of firearms, machine guns and ammunition, by banks or
252 institutional lenders, or their agents, servants or employees, when the same are possessed as
253 collateral for a secured commercial transaction or as a result of a default under a secured
254 commercial transaction.

255 (u) Any nonresident who is eighteen years of age or older at the time of acquiring a
256 rifle or shotgun from a federally licensed firearms dealer; provided however, that such
257 nonresident must meet the licensing or possession requirements, if any, of their state of
258 residence.

259 Nothing in this section shall permit the sale of any rifle or shotgun therefor to a minor
260 under the age of eighteen nor may any handgun be sold to a person under the age of twenty-one
261 nor to any person who does not possess a valid firearm identification card.

262 SECTION 9. Chapter 140 of the General Laws is hereby amended by striking out
263 Section 125, in its entirety, and inserting in place thereof the following section:-

264 Section 125

265 (a) Upon revocation or suspension of a firearm identification card, or of any machine
266 gun license, the person whose card was so revoked or suspended shall without delay deliver or
267 surrender to the local licensing agent, all firearms, machine guns and ammunition which he then
268 possesses.

269 (b) Unless a person is arrested for a crime or proven guilty of committing a violent
270 crime, no entity shall revoke or suspend a firearm identification card unless the entity has
271 obtained a court order.

272 (c) Upon denial of an application for a firearm identification card, or of any machine
273 gun license, the person whose application was so denied shall without delay deliver or surrender
274 to the local licensing agent, all firearms, machine guns and ammunition which he then possesses.

275 Upon such delivery or surrender as described in paragraph (a) or (b) the local
276 licensing agent shall issue an itemized receipt of said property to the owner, or their legal
277 representative, at the time of said delivery or surrender. Due care shall be observed by the local
278 licensing agent in the receipt and holding of any such firearm, rifle, shotgun or machine gun and
279 ammunition.

280 Any such person as described in paragraph (a) or (b), or his legal representative,
281 having delivered or surrendered any firearms, machine guns and ammunition to the local

282 licensing agent shall have the right to transfer his property to any federally licensed firearms
283 dealer or any other person legally permitted to take possession of such firearms, machine guns
284 and ammunition. Upon written notification by the owner, the local licensing agent shall within
285 ten days deliver such firearms, machine guns and ammunition to the transferee. Any such request
286 for transfer of such property must take place within one year of said delivery or surrender.

287 The local licensing agent, after taking possession of any firearm, machine gun or
288 ammunition by any means, may transfer possession of such firearm or machine gun for storage
289 purposes to a federally licensed dealer. However, no entity may enter a citizen into a contract for
290 the storage of guns without that citizens written consent. The local licensing agent shall be liable
291 to such dealer for reasonable storage charges. If the property is not transferred as described in
292 this section within one year after such delivery or surrender, the local licensing agent may
293 dispose of any such firearm, machine gun or ammunition as provided under this section. Any
294 such dealer that takes possession of a weapon under the provisions of this section shall: (i)
295 inspect such firearm or machine gun; (ii) issue to the owner a receipt indicating the make, model,
296 caliber, serial number and condition of each firearm or machine gun so received; and (iii) store
297 and maintain all firearms or machine guns so received in accordance with such regulations, rules
298 or guidelines as the secretary of the executive office of public safety may establish under this
299 section.

300 The local licensing agent shall not transfer any firearm or machine gun that was used
301 or was suspected of being used in the commission of a crime and is evidence in any current or
302 pending criminal case.

303 Firearms, machine guns and ammunition not transferred at the request of the owner
304 within one year after delivery or surrender according to the provisions of this section shall be
305 sold at public auction by the colonel of the state police to the highest bidding person legally
306 permitted to purchase and possess said firearms, machine guns and ammunition and the proceeds
307 shall be remitted to the state treasurer. Any funds derived from such auction shall be used to fund
308 the Criminal Firearms and Trafficking Division as described in Section 9C of Chapter 269.

309 The secretary of the executive office of public safety may make and promulgate such
310 rules and regulations as are necessary to carry out the provisions of this section.

311 SECTION 10. Chapter 140 of the General Laws is hereby amended by striking out
312 Section 126, in its entirety, and inserting in place thereof the following section:-

313 Section 126. Any government agency, building or facility that restricts access to a
314 citizen lawfully carrying a firearm shall provide, free of charge, a means for securely storing any
315 firearm(s) possessed by a holder of a firearms identification card who wishes to enter the
316 building or facility.

317 SECTION 11. Chapter 140 of the General Laws is hereby amended by striking
318 out Section 128, in its entirety, and inserting in place thereof the following section:-

319 Section 128. Any nonresident or any person not falling within the jurisdiction of a
320 local licensing agent, who is not a prohibited person as defined in section 9A of Chapter 269 may
321 apply to the colonel of the state police for a Firearm Identification Card. Upon the determination
322 that the applicant is not a prohibited person, the colonel of state police, or persons authorized by
323 him, shall issue said card to the applicant. The fee for such card shall be $40 and the card shall be
324 valid for not less than six years.

325 SECTION 12. Chapter 140 of the General Laws is hereby amended by striking
326 out Section 128A, in its entirety, and inserting in place thereof the following section:-

327 Section 128A. Any person who is not a resident of the commonwealth may carry a
328 firearm in or through the commonwealth for the purpose of taking part in a firearm competition,
329 training or attending any meeting or exhibition of any organized group of firearm collectors or
330 for the purpose of hunting; provided, that such person is lawfully able to do so in their state of
331 residence, district or territory of residence.

332 Notwithstanding any general or special law to the contrary, any lawful citizen may
333 transport or carry firearms through the Commonwealth in accordance with federal law.

334 Law enforcement officers and other peace officers, who are not a prohibited person, of
335 any state, territory or jurisdiction within the United States duly authorized to possess firearms by
336 the laws thereof shall, for the purposes of this section, be deemed to have a Firearm
337 Identification Card.

338 SECTION 13. Chapter 140 of the General Laws is hereby amended by inserting
339 after section 128B the following section:-

340 Section 128C:

341 (a) The colonel of the state police shall, after an investigation, issue a machine gun
342 license to a resident of the Commonwealth, who is the holder of a firearm identification card and
343 who is over 21 years of age or older.

344 (b) The fee for the machine gun license shall be $40, and it shall be valid for a term of
345 six years. The application shall be standard in form. The licensing authority shall retain $39 of
346 the fee; and $1 of the fee shall be payable to the Gun Owners' Action League to assist in the
347 funding to provide the general public with firearm safety programs. Upon receiving an
348 application, the colonel shall either issue or deny the license within sixty days. Any such denial
349 shall be in writing and shall clearly state the reasons why the applicant was not considered a
350 collector of machine guns or is a prohibited person.

351 Upon issuing such license, the colonel shall notify in writing the local licensing agent.
352 A machine gun license shall be revocable for cause by the colonel. In case of revocation, the fee
353 for such license shall not be prorated or refunded.

354 (c) A machine gun license shall entitle a person to purchase, possess, transport,
355 transfer, store and fire a machine gun in accordance with federal law.

356 (d) No person shall own or have in his possession or under his control a machine gun,
357 except as provided in this section. It shall be lawful for:

358 (i) A person aged 18 years or over to temporarily hold, handle or fire a machine gun
359 for examination, trial or instruction while under the direct/immediate supervision of a holder of a
360 machine gun license.

361 (ii) A duly commissioned officer, noncommissioned officer or enlisted member of the
362 United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard or
363 military service of the commonwealth or reserve components to handle, hold or fire a machine
364 gun, while in the performance of his duty.

365 (iii) A person aged 21 years or over who is a resident of another state to transport a
366 machine gun through the commonwealth, provided that such person lawfully possesses such
367 machine gun under federal law and under the laws of their state of residence, and provided,
368 further, that said machine gun is unloaded and locked in a trunk or case while the machine gun is
369 being transported.

370

371 SECTION 14. Chapter 140 of the General Laws is hereby amended by striking
372 out Section 129, in its entirety, and inserting in place thereof the following section:-

373 Section 129. Notwithstanding the provisions of paragraph (a) of section ten of chapter
374 two hundred and sixty-nine or any other law to the contrary, the carrying or possession of a
375 firearms and blank ammunition therefor, during the course of any television, movie, stage or
376 other similar theatrical production, by a person within such production, shall be authorized;
377 provided, however, that said firearm shall be made permanently disabled from firing
378 conventional cartridges that discharge a projectile.

379 SECTION 15. Chapter 140 of the General Laws is hereby amended by striking
380 out Section 129B, in its entirety, and inserting in place thereof the following section:-

381 Section 129B. Except as exempted or provided by law, no person shall carry on his
382 person on any public way a loaded rifle or shotgun having cartridges or shells in either an
383 attached magazine or chamber thereof. For purposes of this section, “loaded shotgun or loaded
384 rifle” shall mean any shotgun or rifle having ammunition in either an attached magazine or

385 chamber thereof, such ammunition designed for use in any firearm and, in the case of a muzzle
386 loading or black powder shotgun or rifle, containing powder in the flash pan, a percussion cap
387 and shot or ball; but the term "loaded shotgun or loaded rifle" shall not include a shotgun or rifle
388 loaded with a blank cartridge, which contains no projectile within such blank or within the bore
389 or chamber of such shotgun or rifle.

390 Whoever violates the provisions of this subsection shall be punished by a fine of Not
391 less than $50 nor more than $100.

392 This section shall not apply to drills, parades, military reenactments or other
393 commemorative ceremonies, color guards or memorial service firing squads, so-called, as
394 permitted by law.

395 The provisions of this section shall not apply to the carrying of a loaded rifle or
396 shotgun on a public way by (i) any officer, agent or employee of the commonwealth or any other
397 state or the United States, including any federal, state or local law enforcement personnel; (ii)
398 any member of the military or other service of any state or the United States, including members
399 of the national guard, reserves and junior reserve officer training corps; (iii) any duly authorized
400 law enforcement officer, agent or employee of any municipality of the commonwealth; provided,
401 however, that any such person described in clauses (i) to (iii), inclusive, shall be authorized by a
402 competent authority to so carry a loaded or unloaded rifle or shotgun on a public way and such
403 person is acting within the scope of his duties or training; or (iv) a person who is lawfully
404 engaged in hunting and is the holder of a valid hunting or sporting license issued pursuant to
405 chapter 131. This section shall not apply to the operation of a shooting gallery, licensed and
406 defined under the provisions of section 56A, nor to persons using the same.

407 SECTION 16. Chapter 140 of the General Laws is hereby amended by striking
408 out Section 129C, in its entirety, and inserting in place thereof the following section:-

409 Section 129C. Whoever discharges a firearm within five hundred feet of a dwelling or
410 other building in use, except with the consent of the owner or legal occupant thereof, shall be
411 punished by a fine of not less than $50 nor more than $100 dollars.

412 The provisions of this section shall not apply to (a) the lawful defense of life and
413 property; (b) any law enforcement officer acting in the discharge of his duties; (c) persons using
414 underground or indoor target or test ranges with the consent of the owner or legal occupant
415 thereof; (d) persons using outdoor skeet, trap, target or test ranges with the consent of the owner
416 or legal occupant of the land on which the range is established; (e) persons using shooting
417 galleries, licensed and defined under the provisions of section fifty-six A of chapter one hundred
418 and forty; and (f) the discharge of blank cartridges for theatrical, athletic, ceremonial, firing
419 squad, or other purposes in accordance with section thirty-nine of chapter one hundred and forty-
420 eight.

421 SECTION 17. Chapter 140 of the General Laws is hereby amended by striking
422 out Section 129D, in its entirety, and inserting in place thereof the following section:-

423 Section 129D. Any fines collected as a result of any civil violations in section 122
424 through 129C shall be utilized to fund the Criminal Firearms and Trafficking Division as defined
425 in Section 9C of chapter 269.

426 SECTION 18. Sections 130 through 131P of chapter 140 of the General Laws are
427 hereby repealed.

428 SECTION 19. Chapter 231 of the General Laws is hereby amended by striking
429 out Section 85U, in its entirety, and inserting in place thereof the following section:-

430 Section 85U. No person who has committed an act of lawful defense as outlined
431 in section 8A of chapter 278 shall be held liable in an action for damages for death or injuries to
432 an assailant.

433 SECTION 20: Chapter 265 of the General Laws is hereby amended by striking out
434 Section 18B, in its entirety, and inserting in place thereof the following section:-

435 Section 18B. Whoever, while in the commission of or the attempted commission of an
436 offense which may be punished by imprisonment in the state prison,

437 (A) has in his possession or under his control a firearm as defined in section 9A of
438 chapter 269, shall, in addition to the penalty for such offense, be punished by imprisonment in
439 the state prison for not less than five years; provided, however, if such person, while in the
440 commission or attempted commission of such offense, has in his possession or under his control
441 a machine gun, as defined in section 9A of chapter 269, such person shall be punished by
442 imprisonment in the state prison for not less than ten years.

443 (B) while in the commission or the attempted commission of a second or subsequent
444 offense which may be punished by imprisonment in the state prison, has in his possession or
445 under his control a firearm shall, in addition to the penalty for such offense, be punished by
446 imprisonment in the state prison for not less than 20 years; provided, however, that if such
447 person, while in the commission or attempted commission of such offense, has in his possession
448 or under his control a machine gun, such person shall be punished by imprisonment in the state
449 prison for not less than 25 years.

450 A sentence imposed under this section for a second or subsequent offense shall not be
451 reduced nor suspended, nor shall any person convicted under this section be eligible for
452 probation, parole, furlough or work release or receive any deduction from his sentence for good
453 conduct until he shall have served the minimum term of such additional sentence; provided,
454 however, that the commissioner of correction may, on the recommendation of the warden,
455 superintendent or other person in charge of a correctional institution or the administrator of a

456 county correctional institution, grant to such offender a temporary release in the custody of an
457 officer of such institution for the following purposes only: (i) to attend the funeral of a spouse or
458 next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency
459 medical services unavailable at such institution. Prosecutions commenced under this section shall
460 neither be continued without a finding nor placed on file. The provisions of section 87 of chapter
461 276 relative to the power of the court to place certain offenders on probation shall not apply to
462 any person 17 years of age or over charged with a violation of this section.

463

464 SECTION 21. Chapter 265 of the General Laws is hereby amended by inserting after
465 section 44, the following new section:—

466 Section 45. Crimes committed with a deceptive weapon device:

467 "Deceptive Weapon Device" shall mean any device or item used in the commission of
468 a crime that is intended to convey the presence of a weapon, as defined in this section, to a
469 potential victim or law enforcement officer. Such devices or items shall include, but not be
470 limited to, common air guns, toy guns, or substances carved or fashioned to resemble a weapon.

471 Any person, who is in possession of a deceptive weapon device as defined in this
472 section, during the commission of a violent crime as defined in Section 9A of Chapter 269 shall
473 be deemed to be armed and shall be punishable by penalties set forth in this chapter.

474 SECTION 22. Chapter 269 of the General Laws is hereby amended by inserting
475 after section 8, the following new sections:-

476 Section 9A. Definitions

477 "Ammunition", assembled cartridges or shells containing cases or hulls, primers, bullets
478 or shot and propellant powder designed for use in any firearm.

479 "Conviction", a finding or verdict of guilt or a plea of guilty, whether or not final
480 sentence is imposed. Any conviction which has been expunged, or set aside or for which a
481 person has been pardoned or has had civil rights restored shall not be considered a conviction for
482 purposes of this chapter, unless such pardon, expungement, or restoration of civil rights
483 expressly provides that the person may not ship, transport, possess, or receive firearms.

484 "Crime of Violence" shall mean any conviction listed within this definition that:
485 (i) has as an element the use, attempted use or threatened use of physical force or a deadly
486 weapon against the person of another; (ii) is a home invasion, extortion, arson or kidnapping;
487 (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk
488 of physical injury to another.

489 (1) any felony punishable by imprisonment for a term exceeding one year for which a
490 committed term of imprisonment has been served after sentencing has been carried out;

491 (2) any misdemeanor punishable by imprisonment for more than two years for which a
492 committed term of imprisonment has been served after sentencing has been carried out; or

493 (3) any act of juvenile delinquency involving the use or possession of a deadly weapon
494 that resulted in the bodily harm of another and would be considered a felony punishable by
495 imprisonment for more than one year for such term if committed by an adult.

496 "Firearm", any weapon which will, or is designed to, or may readily be converted to,
497 expel a projectile by the action of a propellant powder. Such term does not include an antique
498 firearm. This term shall be meant to include a rifle, shotgun or handgun. The term shall not
499 include B.B. guns or other air guns.

500 "Local Licensing Agent", the chief of police or the board or officer having control of
501 the police in a city or town, or persons authorized by them accountable to the Secretary of Public
502 Safety for the lawful issue of firearm identification cards.

503 "Machine gun", any firearm which shoots, is designed to shoot, or can be readily
504 restored to shoot, automatically more than one shot, without manual reloading, by a single
505 function of the trigger.

506 "Non-resident", any person being lawfully residing within the United States whose
507 legal residence is outside of the Commonwealth of Massachusetts.

508 "Prohibited Person", any person who:

509 (1) is under indictment in any court for a crime punishable by imprisonment for a term
510 exceeding one year;

511 (2) has been convicted of a crime of violence;

512 (3) has been convicted of a felony punishable by imprisonment for a term exceeding one
513 year that is not a crime of violence for which a committed term of imprisonment has been served
514 after sentencing has been carried out;

515 (4) has been convicted of a misdemeanor punishable by imprisonment for more than two
516 years that is not a crime of violence for which a committed term of imprisonment has been
517 served after sentencing has been carried out;

518 (5) is a fugitive from justice;

519 (6) is an unlawful user of or addicted to any controlled substance;

520 (7) has been adjudicated as a mental defective;

521 (8) has been involuntarily committed to any mental institution;

522 (9) is an illegal alien;

523 (10) has been discharged from the military under dishonorable conditions;

524 (11) has renounced his or her United States citizenship;

525 (12) is currently subject to a court order restraining the person from harassing, stalking,
526 or threatening an intimate partner or child of the intimate partner; no such order that has expired
527 for which there was no conviction of a violation of such order shall considered a disqualifier; or

528 (13) has been convicted of a misdemeanor crime of domestic violence as defined in 18
529 USC 921 (a)(33);

530 When determining the status of a prohibited person in regards to convictions, the
531 determination shall only be made using the penalties and sentences in place at the time of
532 conviction.

533 "Sawed-off shotgun," a shotgun having one or more barrels less than eighteen inches in
534 length and any device made from a shotgun (whether by alteration, modification or otherwise) if
535 such a device as modified has an overall length of less than twenty-six inches. The term "sawed-
536 off shotgun" shall not apply to any firearm authorized by the Attorney General of the United
537 States under Title 18 U.S.C.

538 Section 9B. State Firearm Crime

539 (a) Any crime of violence that involved the criminal use of a firearm or machine gun
540 shall be considered a state firearm crime and shall be under the jurisdiction of the Criminal
541 Firearms and Trafficking Division.

542 (b) Any case of unlawful intrastate trafficking of firearms or machine guns shall be
543 considered a state firearm crime and shall be under the jurisdiction of by the Criminal Firearms
544 and Trafficking Division.

545 (c) Any violation of section 18B or section 45 of chapter 265 or sections 9D through
546 12E of this chapter shall be considered a state firearm crime and shall be under the jurisdiction of
547 the Criminal Firearms and Trafficking Division.

548 Section 9C. Criminal Firearms and Trafficking Division

549 There shall be attached to the department of the attorney general a special unit of
550 the state police known as the Criminal Firearms and Trafficking Division, heretofore referred to
551 as the division. The division shall assist the office of the attorney general in investigating and

552 prosecuting all state firearm crimes. In its investigations the division shall compile data regarding
553 but not limited to the following:

554 (1) If the suspect would be considered a prohibited person as defined in Section 9A;

555 (2) Determine if the suspect obtained the firearm illegally;

556 (3) Determine the source from which the suspect illegally obtained the firearm;

557 (4) Create a database of all firearms recovered as stolen property;

558 (5) Create a database of all firearms used in state firearm crimes within the
559 commonwealth. The database shall include the following:

560 a. The make, model and serial number of the firearm;

561 b. Any fingerprint evidence found on the firearm;

562 c. Any ballistic evidence that can be retrieved from the crime scene;

563 d. If the criminal use of the firearm was related to known gang activity;

564 The division shall make an annual report to the Joint Committee on Public Safety and
565 Homeland Security concerning all of the information that it has gathered during each calendar
566 year concerning the criminal use and criminal trafficking of firearms.

567 Any fines collected as a result of any convictions in sections 9D through 10F,
568 inclusive, of this chapter shall be utilized to fund the Criminal Firearms and Trafficking
569 Division.

570 Section 9D. Prohibited Person in possession of a firearm.

571 (A) Whoever being a prohibited person is in possession of a firearm shall be subject to a
572 fine of not less than $500 nor more than $5,000 or by imprisonment for not less than one year
573 nor more than two years or by both such fine and imprisonment. A second or subsequent
574 conviction shall be punished by a fine of not less than $5,000 nor more than $10,000 or by
575 imprisonment for not less than one year nor more than five years or by both such fine and
576 imprisonment.

577 (B) Whoever being a prohibited person is in possession of a firearm while in possession
578 of a controlled substance as defined in section 1 of chapter 94C shall be punished by a fine of not
579 less than $10,000 or by imprisonment for not less than two years nor more than ten years or by
580 both such fine and imprisonment.

581 (C) Whoever being a prohibited person is in possession of a firearm while engaged in the
582 trafficking of a controlled substance as defined in section 1 of chapter 94C shall be punished by a

583 fine of not less than $10,000 or by imprisonment for not less than five years nor more than ten
584 years or by both such fine and imprisonment.

585 (D) Whoever being a prohibited person is in possession of a firearm during the
586 commission of a crime of violence shall be punished by a fine of not less than $10,000 or by
587 imprisonment for not less than five years nor more than ten years or by both such fine and
588 imprisonment.

589 Section 9E. Unlawful transfer

590 (a) It shall be unlawful to provide a firearm to a person known to be a prohibited person.

591 (b) It shall be unlawful to provide a firearm to any minor who is not a lawful holder of a
592 firearms identification card, except that nothing shall prevent a parent or guardian from allowing
593 any adult with a firearms identification card to supervise the minor's use of a firearm for
594 purposes of hunting, recreation, instruction, or participation in organized shooting competition.
595 Nothing in this section shall be construed to prohibit an instructor from furnishing firearms or
596 ammunition therefor to pupils; provided, however, that said instructor has the consent of a parent
597 or guardian of a pupil under the age of eighteen years.

598 Any person violating (a) or (b) above shall be punished by fine of not less than $1,000
599 nor more than $10,000, or by imprisonment in a state prison for not more than ten years or by
600 imprisonment in a house of correction for not more than two and one-half years, or by both such
601 fine and imprisonment.

602 Section 9F. (A) Whoever falsely makes, alters, forges or counterfeits or procures or
603 assists another to falsely make, alter, forge or counterfeit a firearm identification card, or
604 whoever forges or without authority uses the signature, facsimile of the signature, or validating
605 signature stamp of the local licensing agent or its designee, or whoever possesses, utters,
606 publishes as true or in any way makes use of a falsely made, altered, forged or counterfeited a
607 firearm identification card, shall be punished by imprisonment in a state prison for not more than
608 two years, or by a fine of not less than five hundred dollars, or both such fine and imprisonment.

609 (B)Whoever knowingly manufactures for sale, offers for sale or sells a falsely made,
610 altered, forged or counterfeit firearm identification card as described in paragraph (A) shall be
611 punished by imprisonment in a state prison for not less than two years nor more than five years.

612 Section 9G. Unlawful intrastate commerce of firearms

613 (a) Whoever unlawfully transports firearms into the commonwealth to use said firearm
614 for the commission of criminal activity shall be punished by a term of imprisonment of not less
615 than five years nor more than ten years in the state prison.

616 (b) Whoever unlawfully transports firearms into the commonwealth to unlawfully
617 distribute, sell, or transfer possession of any quantity of firearms to a prohibited person shall be
618 punished by a term of imprisonment of not less than ten years nor more than twenty years in the
619 state prison.

620 (c) Whoever unlawfully transports a firearm into the commonwealth to unlawfully
621 distribute, sell, or transfer it to a prohibited person, and if such firearm is subsequently used to
622 cause the death of another, shall be punished by a term of not less than twenty years in the state
623 prison.

624 Any motor vehicle lawfully owned or operated by any person convicted under this
625 section shall be forfeit in accordance with the provisions of section 24W of Chapter 90. All
626 proceeds from the auction of said vehicle(s) shall be utilized to fund the Criminal Firearms and
627 Trafficking Division.

628 Section 9H. Theft of a firearm, breaking and entering

629 (A) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel
630 or vehicle to steal a firearm shall be subject to a fine of not less than $5,000 nor more than
631 $10,000 or by imprisonment for not less than one year nor more than five years or by both such
632 fine and imprisonment.

633 (B) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel
634 or vehicle to steal a firearm to distribute to a prohibited person shall be subject to a fine of not
635 less than $10,000 or by imprisonment for not less than five years nor more than ten years or by
636 both such fine and imprisonment.

637 (C) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel
638 or vehicle to steal a firearm and in the process causes injury of another shall be subject to a fine
639 of not less than $10,000 or by imprisonment for not less than five years nor more than ten years
640 or by both such fine and imprisonment.

641

642 Any motor vehicle lawfully owned or operated by any person convicted under this
643 section shall be forfeit in accordance with the provisions of section 24W of Chapter 90. All
644 proceeds from the auction of said vehicle(s) shall be utilized to fund the Criminal Firearms and
645 Trafficking Division.

646 SECTION 23. Chapter 269 of the General Laws is hereby amended by striking out
647 Section 10, in its entirety, and inserting in place thereof the following section:-

648 Section 10. (a) Whoever knowingly has in his possession, or knowingly has under his
649 control in a vehicle; a firearm, loaded or unloaded, as defined in Section 9A during the

650 commission of a felony that is not an act of defense, shall be punished by imprisonment in the
651 state prison for not less than two and one-half years nor more than five years.

652 (b) Whoever, being a prohibited person as defined in Section 9A, knowingly has in his
653 possession, or knowingly has under his control in a vehicle; a firearm, loaded or unloaded, as
654 defined in Section 9A during the commission of a felony, by shall be punished by imprisonment
655 in the state prison for not less than five years nor more than ten years. The punishment for a
656 second or subsequent offense shall be punished by imprisonment in the state prison for not less
657 than ten years nor more than twenty years.

658 (c) Whoever, being a prohibited person as defined in Section 9A, and who is not
659 legally within the United States, knowingly has in his possession, or knowingly has under his
660 control in a vehicle; a firearm, loaded or unloaded, as defined in Section 9A during the
661 commission of a felony, by shall be punished by imprisonment in the state prison for not less
662 than ten years nor more than twenty years.

663 (d) Whoever, being a prohibited person as defined in Section 9A, knowingly has in his
664 possession, or knowingly has under his control in a vehicle; a firearm, loaded or unloaded, as
665 defined in Section 9A, while in the possession of a controlled substance as defined in chapter
666 94C with intent to distribute shall be punished by imprisonment in the state prison for not less
667 than ten years nor more than twenty years.

668 The provisions of section eighty-seven of chapter two hundred and seventy-six shall
669 not apply to any person seventeen years of age or older, charged with a violation of this
670 subsection, or to any child between ages fourteen and seventeen so charged, if the court is of the
671 opinion that the interests of the public require that he should be tried as an adult for such offense
672 instead of being dealt with as a child.

673 (e) Whoever, except as provided by law, possesses a machine gun, as defined in said
674 section 9A,or whoever owns, possesses or carries on his person, or carries on his person or under
675 his control in a vehicle, a sawed-off shotgun, as defined in said section 9A, shall be punished by
676 imprisonment in the state prison for life, or for any term of years provided that any sentence
677 imposed under the provisions of this paragraph shall be subject to the minimum requirements of
678 paragraph (c).

679 (f) Any person convicted under paragraphs (b), (c) (d) and (e) shall not be suspended,
680 nor shall any person so sentenced be eligible for probation or receive any deduction from his
681 sentence for good conduct.

682 (g) Any person convicted under paragraphs (b), (c), (d) and (e) having been found to
683 have been in the possession of a firearm that has been reported stolen shall be punished by an
684 additional imprisonment in the state prison for not less five years to be served consecutively.

685 (h) Upon conviction of a violation of this section, the firearm or other article shall,
686 unless otherwise ordered by the court, be confiscated by the commonwealth. The firearm or
687 article so confiscated shall, by the authority of the written order of the court be forwarded by
688 common carrier to the colonel of the state police, who, upon receipt of the same, shall notify said
689 court or justice thereof. Said colonel shall sell by public auction all firearms which can be
690 lawfully owned in the commonwealth for which a lawful owner cannot be determined. Any
691 proceeds received from such auctions shall be utilized to fund the Criminal Firearms and
692 Trafficking Division. Any firearm which may not be lawfully sold in the commonwealth shall be
693 destroyed. The colonel shall keep a permanent record of all firearms destroyed.

694 (i) The court shall, if the firearm or other article was lost by or stolen from the person
695 lawfully in possession of it, order its return to such person.

696 (j) Any person who leaves a firearm unattended with the intent to transfer possession
697 of such firearm to any prohibited person for the purpose of committing a crime or concealing a
698 crime shall be punished by imprisonment in a house of correction for not more than two and one
699 half years or in state prison for not more than five years.

700 (k) Whoever knowingly fails to deliver or surrender a revoked firearm identification
701 card or a firearm or machine gun, as provided in section one hundred and twenty-five of chapter
702 one hundred and forty, unless an appeal is pending, shall be punished by imprisonment in a jail
703 or house of correction for not more than two and one-half years or by a fine of not more than one
704 thousand dollars.

705 (l) The provisions of this section shall be fully applicable to any person proceeded
706 against under section seventy-four of chapter one hundred and nineteen, provided, however, that
707 nothing contained in this section shall impair, impede, or affect the power granted any court by
708 chapter one hundred and nineteen to adjudicate a person a delinquent child, including the power
709 so granted under said chapter one hundred and nineteen.

710 (m) For purposes of this section, “loaded” shall mean that ammunition is contained in
711 the weapon or within a feeding device attached thereto.

712 SECTION 24. Chapter 269 of the General Laws is hereby amended by striking
713 out Section 10E, in its entirety, and inserting in place thereof the following section:-

714 Section 10E. Whoever, except as provided by law, in a single transaction or
715 occurrence or in a series of transactions within a twelve month period, knowingly or
716 intentionally distributes, sells, or transfers possession of a quantity of firearms, machine guns, or
717 any combination thereof, shall, if the quantity of firearms, machine guns, or any combination
718 thereof is:

719 (1) Three or more, but less than ten, be punished by a term of imprisonment of not
720 more than ten years in the state prison. No sentence imposed under the provisions of this
721 paragraph shall be for less than a mandatory minimum term of imprisonment of three years and a
722 fine of not more than fifty thousand dollars may be imposed but not in lieu of the mandatory
723 minimum term of imprisonment, as established herein.

724 (2) Ten or more, but less than twenty, be punished by a term of imprisonment of not
725 more than ten years in the state prison. No sentence imposed under the provisions of this
726 paragraph shall be for less than a mandatory minimum term of imprisonment of five years and a
727 fine of not more than one hundred thousand dollars may be imposed but not in lieu of the
728 mandatory minimum term of imprisonment, as established herein.

729 (3) Twenty or more, be punished by a term of imprisonment not less than ten years up
730 to life imprisonment in the state prison. No sentence imposed under the provisions of this
731 paragraph shall be for less than a mandatory minimum term of imprisonment of ten years and a
732 fine of not more than one hundred and fifty thousand dollars may be imposed but not in lieu of
733 the mandatory minimum term of imprisonment, as established herein.

734 (4) Any person convicted under paragraphs (1), (2) or (3) having been found to have
735 been in the possession of a firearm that has been reported stolen shall be punished by an
736 additional imprisonment in the state prison for not less five years to be served consecutively.

737 A prosecution commenced under this section shall not be placed on file or continued
738 without a finding, and the sentence imposed upon a person convicted of violating any provision
739 of said section shall not be reduced to less than the mandatory minimum term of imprisonment as
740 established in said section, nor shall any sentence of imprisonment imposed upon any person be
741 suspended or reduced until such person shall have served said mandatory minimum term of
742 imprisonment.

743 A person convicted of violating any provision of this section shall not, until he shall
744 have served the mandatory minimum term of imprisonment established herein, be eligible for
745 probation, parole, furlough, work release, or receive any deduction from his sentence for good
746 conduct under sections one hundred and twenty-nine C and one hundred and twenty-nine D of
747 chapter one hundred and twenty-seven; provided, however, that the commissioner of corrections
748 may, on the recommendation of the warden, superintendent, or other person in charge of the
749 correctional institution, grant to said offender a temporary release in the custody of an officer of
750 such institution for the following purposes: to attend the funeral of a relative, to visit a critically
751 ill relative, or to obtain emergency medical or psychiatric services unavailable at said institution.
752 The provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to
753 any person, seventeen years of age or over, charged with a violation of said sections, or to any
754 child between the age of fourteen and seventeen, so charged, if the court is of the opinion that the

755 interests of the public require that he shall be tried for such offense instead of being dealt with as
756 a child.

757 SECTION 25. Chapter 269 shall be amended by inserting the following section:

758 Section 10G. Breaking and Entering of a Firearm Retailer, Wholesaler or Manufacturer

759 (A) Whoever in the nighttime or the daytime breaks and enters any building in which
760 a firearm retailer, wholesaler or manufacturer conducts business shall be subject to a fine of not
761 less than $5,000 nor more than $10,000 or by imprisonment for not less than five years nor more
762 than ten years or by both such fine and imprisonment.

763 (B) Whoever in the nighttime or the daytime breaks and enters any building in which
764 a firearm retailer, wholesaler or manufacturer conducts business with the intent to unlawfully
765 obtain a firearm, rifle, shotgun, machinegun or ammunition shall be subject to a fine of not less
766 than $5,000 nor more than $10,000 or by imprisonment for not less than five years nor more than
767 ten years or by both such fine and imprisonment.

768 (C) Whoever unlawfully obtains a firearm, rifle, shotgun, machinegun or ammunition
769 by means of breaking and entering, in the nighttime or the daytime, any building in which a
770 firearm retailer, wholesaler or manufacturer conducts business and who unlawfully distributes
771 said firearm, rifle, shotgun, machinegun or ammunition shall be subject to a fine of not less than
772 $10,000 or by imprisonment for not less than ten years nor more than twenty years or by both
773 such fine and imprisonment.

774 SECTION 26. Chapter 269 of the General Laws is hereby amended by striking out
775 Section 11A, in its entirety, and inserting in place thereof the following section:-

776 Section 11A. For the purposes of this section and sections eleven B, eleven C and
777 eleven E, the following words shall have the following meanings:—

778 "Firearm", any device which will, or is designed to, or may readily be converted to,
779 expel a projectile by the action of a propellant powder. Such term does not include an antique
780 firearm. This term shall be meant to include a rifle, shotgun or handgun. The term shall not
781 include B.B. guns or other air guns.

782 "Serial number", the number stamped or placed upon a firearm by the manufacturer in
783 the original process of manufacture.

784 SECTION 27. Chapter 269 of the General Laws is hereby amended by striking out
785 Section 11E, in its entirety, and inserting in place thereof the following section:-

786 Section 11E. All firearms of new manufacture, manufactured or delivered to any
787 federally licensed firearms dealer within the commonwealth shall bear serial numbers
788 permanently inscribed on a visible metal area of said firearm, and the manufacturer of said

789 firearm, shall keep records of said serial numbers and the dealer, distributor or person to whom
790 the firearm was sold or delivered.

791 No federally licensed firearms dealer shall order for delivery, cause to be delivered,
792 offer for sale or sell within the commonwealth any newly manufactured firearm received directly
793 from a manufacturer, wholesaler or distributor not so inscribed with a serial number nor shall any
794 federally licensed manufacturer or distributor of firearms deliver or cause to be delivered within
795 the commonwealth any firearm not complying with this section.

796 No federally licensed manufacturer within the commonwealth shall produce for sale
797 within the United States, its territories or possessions any firearm not complying with paragraph
798 one of this section. Whoever violates this section shall be punished by a fine of five hundred
799 dollars. Each such violation shall constitute a separate offense.

800 SECTION 28. Chapter 269 of the General Laws is hereby amended by striking out
801 Section 12E, in its entirety, and inserting in place thereof the following section:-

802 Section 12E. Prohibiting the confiscation of lawfully owned firearms.

803 No government official or any person acting on behalf of the Commonwealth of
804 Massachusetts shall order the confiscation of, or otherwise cause the confiscation of, any
805 lawfully carried or lawfully owned firearm.

806 No law enforcement officer, person acting as a law enforcement officer, or other
807 public official shall confiscate or attempt to confiscate any lawfully carried or lawfully owned
808 firearm.

809 Whoever violates the provisions of this section shall be subject to a civil fine of not
810 less than $500 nor more than $5,000 for each firearm unlawfully confiscated or by imprisonment
811 in a state prison for not more than two and one-half years.

812 Nothing in this section shall prohibit the confiscation of firearms from any person
813 who;

814 (a) Has been lawfully placed under arrest;

815 (b) Who is the subject of a protection order issued under Chapter 209A;

816 (c) Has had their Firearm Identification Card revoked or suspended; or

817 (d) Who is or has become a prohibited person.

818

819 SECTION 29. Chapter 278 of the General Laws is hereby amended by striking out
820 Section 8A, in its entirety, and inserting in place thereof the following section:-

821 Section 8A. It shall be an act of lawful defense if a person, who is an occupant of
822 a dwelling or in any place that they have a right to be, used deadly force, or less than deadly
823 force, if he or she acted in the reasonable belief that an assailant was about to inflict great bodily
824 injury or death upon themselves or upon another person who also had a right to be in the
825 location. There shall be no duty on a person to retreat from any place that they have a right to be.
826 An act of lawful defense as outlined in this section shall not be cause for arrest or prosecution.
827 Further, an act of lawful defense under this section shall not be cause for the revocation of a
828 firearm identification card issued under Chapter 140.