

HOUSE No. 01568

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 bill:

An Act relative to civil rights and public safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Steven Howitt</i>	<i>4th Bristol</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Ryan Fattman</i>	<i>18th Worcester</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>
<i>Angelo D'Emilia</i>	<i>8th Plymouth</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>

<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Demetrius J. Atsalis</i>	<i>2nd Barnstable</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Matthew Beaton</i>	<i>11th Worcester</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>

HOUSE No. 01568

By Mr. George N. Peterson of Grafton, petition (accompanied by bill, House, No. 01568) of Richard Bastien and others for legislation to prohibit subdivisions of the Commonwealth from further restricting the use or possession of firearms. Joint Committee on Public Safety and Homeland Security.

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

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:

- 1 SECTION 1. Section 121 of chapter 140 of the General Laws, as appearing in the 2008 Official
- 2 Edition, is hereby amended by deleting the section in its entirety and replacing it with the
- 3 following:-
- 4 Section 121. No county, municipality, township or other community entity within the
- 5 Commonwealth of Massachusetts may enact, pass or enforce any law, ordinance or regulation
- 6 concerning the lawful ownership, use, possession, transfer, purchase, receipt or transportation of
- 7 firearms, antique firearms, ammunition or ammunition components.

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

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

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

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

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

19 “Antique Firearm”, shall mean;

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

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

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

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

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

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

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

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

42 “Non-resident”, any person lawfully residing within the United States whose legal residence
43 is outside of the Commonwealth of Massachusetts.

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

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

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

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

55 SECTION 5. Chapter 140 of the General Laws is hereby amended by striking out Section
56 122B, in its entirety, and inserting in place thereof the following section:-

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

71 SECTION 6. Chapter 140 of the General Laws is hereby amended by striking out Section
72 123, in its entirety, and inserting in place thereof the following section:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

133 (11) Any person who knowingly files an application containing false information with the
134 expressed intent to deceive the local licensing agent shall be punished by a fine of not less than
135 \$500 nor more than \$5,000.

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

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

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

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

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

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

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

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

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

167 Section 123B.

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

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

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

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

180 or

181 (iii) having complied with the provisions of one hundred twenty-eight or one hundred twenty-

182 eight A; or

183 (iv) being a federally licensed firearm dealer

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

256 SECTION 9. Chapter 140 of the General Laws is hereby amended by striking out Section
257 125, in its entirety, and inserting in place thereof the following section:-

258 Section 125

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

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

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

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

273 Any such person as described in paragraph (a) or (b), or his legal representative, having
274 delivered or surrendered any firearms, machine guns and ammunition to the local licensing agent
275 shall have the right to transfer his property to any federally licensed firearms dealer or any other
276 person legally permitted to take possession of such firearms, machine guns and ammunition.

277 Upon written notification by the owner, the local licensing agent shall within ten days deliver
278 such firearms, machine guns and ammunition to the transferee. Any such request for transfer of
279 such property must take place within one year of said delivery or surrender.

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

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

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

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

303 SECTION 10. Chapter 140 of the General Laws is hereby amended by striking out Section
304 126, in its entirety, and inserting in place thereof the following section:-

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

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

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

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

319 Section 128A. Any person who is not a resident of the commonwealth may carry a firearm in
320 or through the commonwealth for the purpose of taking part in a firearm competition, training or
321 attending any meeting or exhibition of any organized group of firearm collectors or for the

322 purpose of hunting; provided, that such person is lawfully able to do so in their state of
323 residence, district or territory of residence.

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

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

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

332 Section 128C:

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

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

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

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

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

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

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

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

362

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

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

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

373 Section 129B. Except as exempted or provided by law, no person shall carry on his person on
374 any public way a loaded rifle or shotgun having cartridges or shells in either an attached
375 magazine or chamber thereof. For purposes of this section, "loaded shotgun or loaded rifle" shall
376 mean any shotgun or rifle having ammunition in either an attached magazine or chamber thereof,
377 such ammunition designed for use in any firearm and, in the case of a muzzle loading or black
378 powder shotgun or rifle, containing powder in the flash pan, a percussion cap and shot or ball;
379 but the term "loaded shotgun or loaded rifle" shall not include a shotgun or rifle loaded with a
380 blank cartridge, which contains no projectile within such blank or within the bore or chamber of
381 such shotgun or rifle.

382 Whoever violates the provisions of this subsection shall be punished by a fine of Not less than
383 \$50 nor more than \$100.

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

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

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

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

403 The provisions of this section shall not apply to (a) the lawful defense of life and property; (b)
404 any law enforcement officer acting in the discharge of his duties; (c) persons using underground
405 or indoor target or test ranges with the consent of the owner or legal occupant thereof; (d)

406 persons using outdoor skeet, trap, target or test ranges with the consent of the owner or legal
407 occupant of the land on which the range is established; (e) persons using shooting galleries,
408 licensed and defined under the provisions of section fifty-six A of chapter one hundred and forty;
409 and (f) the discharge of blank cartridges for theatrical, athletic, ceremonial, firing squad, or other
410 purposes in accordance with section thirty-nine of chapter one hundred and forty-eight.

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

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

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

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

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

423 SECTION 20: Chapter 265 of the General Laws is hereby amended by striking out Section
424 18B, in its entirety, and inserting in place thereof the following section:-

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

427 (A) has in his possession or under his control a firearm as defined in section 9A of chapter
428 269, shall, in addition to the penalty for such offense, be punished by imprisonment in the state
429 prison for not less than five years; provided, however, if such person, while in the commission or
430 attempted commission of such offense, has in his possession or under his control a machine gun,
431 as defined in section 9A of chapter 269, such person shall be punished by imprisonment in the
432 state prison for not less than ten years.

433 (B) while in the commission or the attempted commission of a second or subsequent offense
434 which may be punished by imprisonment in the state prison, has in his possession or under his
435 control a firearm shall, in addition to the penalty for such offense, be punished by imprisonment
436 in the state prison for not less than 20 years; provided, however, that if such person, while in the
437 commission or attempted commission of such offense, has in his possession or under his control
438 a machine gun, such person shall be punished by imprisonment in the state prison for not less
439 than 25 years.

440 A sentence imposed under this section for a second or subsequent offense shall not be reduced
441 nor suspended, nor shall any person convicted under this section be eligible for probation, parole,
442 furlough or work release or receive any deduction from his sentence for good conduct until he
443 shall have served the minimum term of such additional sentence; provided, however, that the
444 commissioner of correction may, on the recommendation of the warden, superintendent or other
445 person in charge of a correctional institution or the administrator of a county correctional
446 institution, grant to such offender a temporary release in the custody of an officer of such
447 institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii)
448 to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services
449 unavailable at such institution. Prosecutions commenced under this section shall neither be

450 continued without a finding nor placed on file. The provisions of section 87 of chapter 276
451 relative to the power of the court to place certain offenders on probation shall not apply to any
452 person 17 years of age or over charged with a violation of this section.

453

454 SECTION 21. Chapter 265 of the General Laws is hereby amended by inserting after section
455 44, the following new section:—

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

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

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

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

466 Section 9A. Definitions

467 “Ammunition”, assembled cartridges or shells containing cases or hulls, primers, bullets or shot
468 and propellant powder designed for use in any firearm.

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

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

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

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

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

486 “Firearm”, any weapon which will, or is designed to, or may readily be converted to, expel a
487 projectile by the action of a propellant powder. Such term does not include an antique firearm.
488 This term shall be meant to include a rifle, shotgun or handgun. The term shall not include B.B.
489 guns or other air guns.

490 “Local Licensing Agent”, the chief of police or the board or officer having control of the
491 police in a city or town, or persons authorized by them accountable to the Secretary of Public
492 Safety for the lawful issue of firearm identification cards.

493 “Machine gun”, any firearm which shoots, is designed to shoot, or can be readily restored to
494 shoot, automatically more than one shot, without manual reloading, by a single function of the
495 trigger.

496 “Non-resident”, any person being lawfully residing within the United States whose legal
497 residence is outside of the Commonwealth of Massachusetts.

498 “Prohibited Person”, any person who:

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

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

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

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

508 (5) is a fugitive from justice;

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

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

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

512 (9) is an illegal alien;

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

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

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

518 (13) has been convicted of a misdemeanor crime of domestic violence as defined in 18 USC
519 921 (a)(33);

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

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

528 Section 9B. State Firearm Crime

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

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

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

538 Section 9C. Criminal Firearms and Trafficking Division

539 There shall be attached to the department of the attorney general a special unit of the state
540 police known as the Criminal Firearms and Trafficking Division, heretofore referred to as the
541 division. The division shall assist the office of the attorney general in investigating and
542 prosecuting all state firearm crimes. In its investigations the division shall compile data regarding
543 but not limited to the following:

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

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

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

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

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

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

551 b. Any fingerprint evidence found on the firearm;

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

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

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

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

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

560 (A) Whoever being a prohibited person is in possession of a firearm shall be subject to a fine of
561 not less than \$500 nor more than \$5,000 or by imprisonment for not less than one year nor more
562 than two years or by both such fine and imprisonment. A second or subsequent conviction shall
563 be punished by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for not
564 less than one year nor more than five years or by both such fine and imprisonment.

565 (B) Whoever being a prohibited person is in possession of a firearm while in possession of a
566 controlled substance as defined in section 1 of chapter 94C shall be punished by a fine of not less

567 than \$10,000 or by imprisonment for not less than two years nor more than ten years or by both
568 such fine and imprisonment.

569 (C) Whoever being a prohibited person is in possession of a firearm while engaged in the
570 trafficking of a controlled substance as defined in section 1 of chapter 94C shall be punished by a
571 fine of not less than \$10,000 or by imprisonment for not less than five years nor more than ten
572 years or by both such fine and imprisonment.

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

576 Section 9E. Unlawful transfer

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

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

585 Any person violating (a) or (b) above shall be punished by fine of not less than \$1,000 nor
586 more than \$10,000, or by imprisonment in a state prison for not more than ten years or by

587 imprisonment in a house of correction for not more than two and one-half years, or by both such
588 fine and imprisonment.

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

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

599 Section 9G. Unlawful intrastate commerce of firearms

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

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

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

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

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

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

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

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

626

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

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

633 Section 10. (a) Whoever knowingly has in his possession, or knowingly has under his control
634 in a vehicle; a firearm, loaded or unloaded, as defined in Section 9A during the commission of a
635 felony that is not an act of defense, shall be punished by imprisonment in the state prison for not
636 less than two and one-half years nor more than five years.

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

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

648 (d) Whoever, being a prohibited person as defined in Section 9A, knowingly has in his
649 possession, or knowingly has under his control in a vehicle; a firearm, loaded or unloaded, as
650 defined in Section 9A, while in the possession of a controlled substance as defined in chapter
651 94C with intent to distribute shall be punished by imprisonment in the state prison for not less
652 than ten years nor more than twenty years.

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

658 (e) Whoever, except as provided by law, possesses a machine gun, as defined in said section
659 9A, or whoever owns, possesses or carries on his person, or carries on his person or under his
660 control in a vehicle, a sawed-off shotgun, as defined in said section 9A, shall be punished by
661 imprisonment in the state prison for life, or for any term of years provided that any sentence
662 imposed under the provisions of this paragraph shall be subject to the minimum requirements of
663 paragraph (c).

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

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

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

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

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

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

690 (l) The provisions of this section shall be fully applicable to any person proceeded against
691 under section seventy-four of chapter one hundred and nineteen, provided, however, that nothing

692 contained in this section shall impair, impede, or affect the power granted any court by chapter
693 one hundred and nineteen to adjudicate a person a delinquent child, including the power so
694 granted under said chapter one hundred and nineteen.

695 (m) For purposes of this section, "loaded" shall mean that ammunition is contained in the
696 weapon or within a feeding device attached thereto.

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

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

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

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

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

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

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

727 A person convicted of violating any provision of this section shall not, until he shall have
728 served the mandatory minimum term of imprisonment established herein, be eligible for
729 probation, parole, furlough, work release, or receive any deduction from his sentence for good
730 conduct under sections one hundred and twenty-nine C and one hundred and twenty-nine D of
731 chapter one hundred and twenty-seven; provided, however, that the commissioner of corrections
732 may, on the recommendation of the warden, superintendent, or other person in charge of the
733 correctional institution, grant to said offender a temporary release in the custody of an officer of
734 such institution for the following purposes: to attend the funeral of a relative, to visit a critically

735 ill relative, or to obtain emergency medical or psychiatric services unavailable at said institution.
736 The provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to
737 any person, seventeen years of age or over, charged with a violation of said sections, or to any
738 child between the age of fourteen and seventeen, so charged, if the court is of the opinion that the
739 interests of the public require that he shall be tried for such offense instead of being dealt with as
740 a child.

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

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

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

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

752 (C) Whoever unlawfully obtains a firearm, rifle, shotgun, machinegun or ammunition by
753 means of breaking and entering, in the nighttime or the daytime, any building in which a firearm
754 retailer, wholesaler or manufacturer conducts business and who unlawfully distributes said
755 firearm, rifle, shotgun, machinegun or ammunition shall be subject to a fine of not less than

756 \$10,000 or by imprisonment for not less than ten years nor more than twenty years or by both
757 such fine and imprisonment.

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

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

762 “Firearm”, any device which will, or is designed to, or may readily be converted to, expel a
763 projectile by the action of a propellant powder. Such term does not include an antique firearm.
764 This term shall be meant to include a rifle, shotgun or handgun. The term shall not include B.B.
765 guns or other air guns.

766 “Serial number”, the number stamped or placed upon a firearm by the manufacturer in the
767 original process of manufacture.

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

770 Section 11E. All firearms of new manufacture, manufactured or delivered to any federally
771 licensed firearms dealer within the commonwealth shall bear serial numbers permanently
772 inscribed on a visible metal area of said firearm, and the manufacturer of said firearm, shall keep
773 records of said serial numbers and the dealer, distributor or person to whom the firearm was sold
774 or delivered.

775 No federally licensed firearms dealer shall order for delivery, cause to be delivered, offer for
776 sale or sell within the commonwealth any newly manufactured firearm received directly from a

777 manufacturer, wholesaler or distributor not so inscribed with a serial number nor shall any
778 federally licensed manufacturer or distributor of firearms deliver or cause to be delivered within
779 the commonwealth any firearm not complying with this section.

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

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

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

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

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

792 Whoever violates the provisions of this section shall be subject to a civil fine of not less than
793 \$500 nor more than \$5,000 for each firearm unlawfully confiscated or by imprisonment in a state
794 prison for not more than two and one-half years.

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

796 (a) Has been lawfully placed under arrest;

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

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

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

800

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

803 Section 8A. It shall be an act of lawful defense if a person, who is an occupant of a
804 dwelling or in any place that they have a right to be, used deadly force, or less than deadly force,
805 if he or she acted in the reasonable belief that an assailant was about to inflict great bodily injury
806 or death upon themselves or upon another person who also had a right to be in the location.

807 There shall be no duty on a person to retreat from any place that they have a right to be. An act
808 of lawful defense as outlined in this section shall not be cause for arrest or prosecution. Further,
809 an act of lawful defense under this section shall not be cause for the revocation of a firearm
810 identification card issued under Chapter 140.