

HOUSE No. 1703

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Michael F. Rush

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 Illegal Firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael F. Rush	10th Suffolk
Michael Flaherty	Boston City Councilor
Matthew C. Patrick	3rd Barnstable
James R. Miceli	19th Middlesex
Martin J. Walsh	13th Suffolk
William N. Brownsberger	24th Middlesex
Demetrius J. Atsalis	Second Barnstable
Brian P. Wallace	4th Suffolk
Martha M. Walz	8th Suffolk
William Lantigua	16th Essex
Lida E. Harkins	13th Norfolk
Thomas M. Stanley	9th Middlesex
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Linda Dean Campbell	15th Essex
Paul McMurtry	11th Norfolk
Timothy J. Toomey, Jr.	26th Middlesex
John H. Rogers	12th Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 5019 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO ILLEGAL FIREARMS.

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. Possession of Firearms in a Place of Residence or at a Place of Business without*
2 *a License in the City of Boston.*

3 Notwithstanding any general or special law to the contrary, whoever, except as provided or exempted by
4 statute, knowingly has in his possession or knowingly has under his control in his place of residence or
5 place of business a firearm, loaded or unloaded, as defined in section one hundred twenty-one of chapter
6 one hundred forty of the General Laws of Massachusetts without (i) having in effect a license to carry
7 firearms issued under section one hundred thirty-one of chapter one hundred forty of the General Laws of
8 Massachusetts or (ii) having in effect a license to carry firearms issued under section one hundred thirty-
9 one F of chapter one hundred forty of the General Laws of Massachusetts or (iii) having complied with
10 the provisions of sections one hundred twenty-nine C and one hundred thirty-one G of chapter one
11 hundred forty of the General Laws of Massachusetts, shall be punished by imprisonment in the state
12 prison for not less than two and one-half years nor more than five years, or for not less than eighteen
13 months nor more than two and one-half years in a jail or house of correction. The sentence imposed on
14 such person shall not be reduced to less than eighteen months, nor suspended, nor shall any person
15 convicted under this act be eligible for probation, parole, work release, or furlough or receive any
16 deduction from his sentence for good conduct until he shall have served eighteen months of such
17 sentence; provided, however, that the commissioner of correction may on the recommendation of the
18 warden, superintendent, or other person in charge of a correctional institution, grant to an offender
19 committed under this subsection a temporary release in the custody of an officer of such institution for the
20 following purposes only: to attend the funeral of a relative, to visit a critically ill relative, or to obtain
21 emergency medical or psychiatric service unavailable at said institution. Prosecutions commenced under
22 this subsection shall neither be continued without a finding nor placed on file.

23 No person having in effect a license to carry firearms for any purpose, issued under section one hundred
24 thirty-one or section one hundred thirty-one F of chapter one hundred forty of the General Laws of
25 Massachusetts shall be deemed to be in violation of this section.

26 Whoever, after having been convicted of any of the offenses set forth in this act and/or section 10(a),
27 section 10(b), or section 10(c) of chapter two hundred sixty-nine of the General Laws of Massachusetts
28 commits a like offense or any other of the said offenses, shall be punished by imprisonment in the state
29 prison for not less than five years nor more than seven years; for a third such offense, by imprisonment in
30 the state prison for not less than seven years nor more than ten years; and for a fourth such offense, by
31 imprisonment in the state prison for not less than ten years nor more than fifteen years. The sentence
32 imposed upon a person, who after a conviction of an offense under said sections 10(a), 10(b), and 10(c)
33 commits the same or a like offense, shall not be suspended, nor shall any person so sentenced be eligible
34 for probation or receive any deduction from his sentence for good conduct.

35 Upon conviction of a violation of this act and/or section 10 of chapter two hundred sixty-nine of the
36 General Laws of Massachusetts, the firearm or other article shall, unless otherwise ordered by the court,
37 be confiscated by the commonwealth of Massachusetts. The firearm or article so confiscated shall, by the
38 authority of the written order of the court be forwarded by common carrier to the colonel of the state
39 police, who, upon receipt of the same, shall notify said court or justice thereof. Said colonel may sell or
40 destroy the same, except that any firearm which may not be lawfully sold in the commonwealth of
41 Massachusetts shall be destroyed, and in the case of a sale, after paying the cost of forwarding the article,
42 shall pay over the net proceeds to the commonwealth of Massachusetts.

43 The court shall, if the firearm or other article was lost by or stolen from the person lawfully in possession
44 of it, order its return to such person.

45 *Section 2. Severability.*

46 If any provision of this act or the application of such provision to any person or circumstance shall be
47 held invalid, the validity of the remainder of this act and the applicability of such provision to other
48 persons or circumstances shall not be affected thereby.

49 *Section 3. Implementation.*

50 The provisions of these sections shall be effective immediately upon