

HOUSE No.

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:
George N. Peterson, Jr.	9th Worcester
Richard T. Moore	

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 one hundred twenty-one of chapter one hundred and forty of the
2 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
3 following:-

4
5 Section 121. No county, municipality, township or other community entity within the
6 Commonwealth of Massachusetts may enact, pass or enforce any law, ordinance or regulation
7 concerning the lawful ownership, use, possession, transfer, purchase, receipt or transportation of
8 firearms, antique firearms, ammunition or ammunition components.

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

13

14 **SECTION 2.** Section one hundred twenty-one A of chapter one hundred and forty of the
15 General Laws is hereby repealed.

16 **SECTION 3.** Section one hundred twenty-two of chapter one hundred and forty of the
17 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
18 following:-

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

21 “Ammunition”, ammunition or cartridge cases, primers, bullets, or propellant powder
22 designed for use in any firearm.

23 “Antique Firearm”, shall mean

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

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

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

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

40 (1) any crime punishable by imprisonment for a term exceeding one year for which a
41 committed term of imprisonment has been served after sentencing has been carried
42 out;

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

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

49 “Firearm”, any weapon which will, or is designed to, or may readily be converted to, expel a
50 projectile by the action of a propellant; or the frame of any such weapon. Such term does not
51 include an antique firearm. This term shall be meant to include a rifle, shotgun or handgun.

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

54 “Imitation firearm”, any weapon which is designed, manufactured or altered in such a way as
55 to render it incapable of discharging a shot or bullet.

56 “Legal Alien”, any person who is not a citizen of the United States who is legally residing in
57 or visiting the United States.

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

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

63 “Machinegun”, any weapon which shoots, is designed to shoot, or can be readily restored to
64 shoot, automatically more than one shot, without manual reloading, by a single function of the
65 trigger. The term shall also include the frame or receiver of any such weapon, any part designed
66 and intended solely and exclusively, or combination of parts designed and intended, for use in
67 converting a weapon into a machinegun, and any combination of parts from which a machinegun
68 can be assembled if such parts are in the possession or under the control of a person.

69 “Non-resident”, any person being a citizen of the United States whose legal residence is
70 outside of the Commonwealth of Massachusetts.

71 “Prohibited Person”, any person who:

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

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

- 75 (3) has been convicted of a crime punishable by imprisonment for a term exceeding one
76 year that is not a crime of violence for which a committed term of imprisonment has
77 been served after sentencing has been carried out;
- 78 (4) has been convicted of a misdemeanor punishable by imprisonment for more than
79 two years that is not a crime of violence for which a committed term of imprisonment
80 has been served after sentencing has been carried out;
- 81 (5) is a fugitive from justice;
- 82 (6) is an unlawful user of or addicted to any controlled substance;
- 83 (7) has been adjudicated as a mental defective;
- 84 (8) has been involuntarily committed to any mental institution;
- 85 (9) is an illegal alien;
- 86 (10) has been discharged from the military under dishonorable conditions;
- 87 (11) has renounced his or her United States citizenship;
- 88 (12) is currently subject to a court order restraining the person from harassing, stalking,
89 or threatening an intimate partner or child of the intimate partner; no such order that
90 has expired for which there was no conviction of a violation of such order shall
91 considered a disqualifier; or
- 92 (13) has been convicted of a misdemeanor crime of domestic violence, as defined in 18
93 USC 921 (a)(33).

94 When determining the status of a prohibited person in regards to convictions, the
95 determination shall only be made using the penalties in place at the time of conviction.

96 “Rifle”, means a weapon intended to be fired from the shoulder and designed, redesigned,
97 made or remade to use the energy of a chemical propellant to fire only a single projectile through
98 a rifled bore for each single pull of the trigger.

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

102 “State Licensing Authority”, the Secretary of Public Safety, who shall be responsible for the
103 oversight of the issuance of Firearm Identification Cards and shall have direct authority over all
104 local licensing agents in regards to the issuance of cards and the application process therefore.

105

106 **SECTION 4..** Section one hundred twenty-two A of chapter one hundred and forty of the
107 General Laws is hereby repealed.

108

109 **SECTION 5.** Section one hundred twenty-two B of chapter one hundred and forty of the
110 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
111 following:-

112

113 Section 122B. Any applicant or holder aggrieved by a denial, revocation or suspension of a
114 firearm identification card, unless a hearing has previously been held pursuant to chapter 209A,
115 may, within either 90 days after receipt of notice of such denial, revocation or suspension or
116 within 90 days after the expiration of the time limit in which the local licensing agent is required
117 to respond to the applicant, file a petition to obtain judicial review in the district court having

118 jurisdiction in the city or town wherein the applicant filed for or was issued such card. A justice
119 of such court, after a hearing and a finding of the facts, shall determine if the petitioner is
120 presently eligible for a firearm identification card. If the justice finds in favor of the petitioner,
121 said justice shall order the local licensing agent to issue the firearms identification card to the
122 petitioner within 10 days. The local licensing agent shall have no right to appeal the decision of a
123 court order to issue said card. A refusal to issue said card by the local licensing agent shall place
124 the local licensing agent in contempt of court.

125

126 **SECTION 6.** Section one hundred twenty-three of chapter one hundred and forty of the
127 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
128 following:-

129

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

132 (1) Any person residing or having a place of business within the jurisdiction of the local
133 licensing agent or any person residing in an area of exclusive federal jurisdiction located within a
134 city or town may submit to the local licensing agent an application for a firearm identification
135 card, or renewal of the same, which the local licensing agent shall issue unless the applicant has
136 been deemed to be a prohibited person as defined in section 122.

137 (2) Upon receiving an application for a firearm identification card, the local licensing agent or
138 person accepting applications on behalf of the local licensing agent shall immediately issue a

139 receipt form for said application. Said form shall be made standard and supplied by the firearms
140 record bureau.

141 (3) Within seven days of the receipt of a completed application for a firearm identification
142 card, the local licensing agent shall forward one copy of the application and one copy of the
143 applicant's fingerprints to the Firearms Record Bureau. The taking of fingerprints shall not be
144 required in issuing the renewal of a card if the renewal applicant's fingerprints are on file with
145 the Firearms Record Bureau. The Firearms Record Bureau shall within 15 days advise the local
146 licensing agent, in writing, of the applicant's status as a prohibited person. If the information
147 from Firearms Record Bureau does not state in writing that the applicant is a prohibited person,
148 the local licensing agent shall, within 30 days from the date of application, issue the firearm
149 identification card.

150 (4) If the applicant is determined to be a prohibited person, the local licensing agent shall,
151 within 30 days from the date of application, issue the applicant a denial/revocation form. This
152 form shall be made standard in form and supplied by the Firearm Record Bureau. The
153 denial/revocation form shall include the applicant's personal information, date of denial, a copy
154 of their prohibited person file, prohibited person file number and the relevant information
155 regarding an appeal as a prohibited person under section 122B.

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

158 (6) A firearm identification card shall be revoked or suspended by the local licensing agent or
159 his designee upon receiving notice from the Firearms Record Bureau that the card holder has
160 become a prohibited person.

161 (7) Upon revocation of a Firearm Identification Card, the local licensing agent shall take
162 possession of such card and the person whose card is so revoked or suspended shall take all
163 action required under the provisions of section 125. No appeal or post-judgment motion shall
164 operate to stay such revocation. A revoked or suspended card may be reinstated when it is
165 determined by the Firearms Record Bureau that the card holder or applicant is no longer a
166 prohibited person.

167 **(9) A firearm identification card shall be valid for all lawful purposes subject to the**
168 **following age based restrictions:**

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

171 **(b) A firearm identification card holder aged 18 through 20 shall be entitled to**
172 **purchase, own, rent, lease, borrow, possess, carry, transfer or transport any rifle or**
173 **shotgun;**

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

177 (10) A firearm identification card shall be provided by the Firearm Record Bureau board and
178 shall be standard in a size and shape equivalent to that of a license to operate motor vehicles
179 issued by the registry of motor vehicles pursuant to section 8 of chapter 90 and shall contain an
180 identification number, name, address, photograph, place and date of birth, height, weight, hair
181 color, eye color and signature of the cardholder and shall be marked "Firearm Identification
182 Card".

183 (11) The application for such card shall be made in a standard form provided by the Firearm
184 Record Bureau. The application shall not require the applicant to divulge to any person not
185 directly involved with the licensing process under this section that they are applying for a firearm
186 identification card, nor shall the application require that the applicant supply any letters of
187 reference. Any applicant shall have the right to file an amended application if it is found that the
188 applicant did not correctly understand the questions being asked. No applicant shall be denied a
189 firearms identification card because of the need to submit an amended application. The local
190 licensing agent may not prescribe any other condition for the issuance of a firearm identification
191 card.

192 (12) Any person who knowingly files an application containing false information with the
193 expressed intent to deceive the local licensing agent shall be punished by a fine of not less than
194 \$500 nor more than \$5,000.

195 (13) A Firearm Identification Card shall be valid for a period of not less than 6 years from the
196 date of issue, except that if the cardholder applied for renewal before the card expired, the card
197 shall remain valid until revoked or renewed. A card issued on February 29 shall expire on March
198 1.

199 (14) The Firearms Record Bureau shall send by first class mail to the holder of a firearm
200 identification card, a notice of the expiration of the card not less than 120 days before its
201 expiration, and shall enclose with the notice a form for the renewal of the card. The Firearms
202 Record Bureau shall include in the notice all pertinent information about the penalties that may
203 be imposed if the firearm identification card is not renewed.

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

207 (16) Any person of the age of 70 upon filing for a renewal shall be exempt from the
208 requirement of paying a renewal fee for a firearm identification card. All fees for an application
209 for a renewal of a firearm identification card shall be prorated if it is determined that the
210 applicant will turn 70 years of age during the upcoming license term.

211 (17) A cardholder shall notify, in writing, the Firearms Record Bureau of any change of
212 address. Such notification shall be made by certified mail accompanied with a five dollar fee
213 within 30 days of its occurrence. Upon receipt of the notification and fee, the Firearms Record
214 Bureau shall send the card holder a new card reflecting the reported change of address. A
215 cardholder who fails to complete such notification shall be fined not more than \$100.

216 (18) Upon issuance of a firearm identification card under this section, the local licensing
217 agent shall forward a copy of such approved application and card to the Firearms Record Bureau,
218 who shall inform the local licensing agent forthwith of the existence of any disqualifying
219 condition discovered or occurring subsequent to the issuance of a firearm identification card
220 under this section.

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

223 (20) In the case of loss, theft or recovery of any firearm or machine gun, a written report shall
224 be made forthwith by the card holder to both the Firearms Record Bureau and the local licensing
225 agent in the city or town where the owner resides.

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

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

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

234 Section 123B. (a) Whoever, not being a prohibited person as defined in Section 122, except as
235 provided or exempted by statute, knowingly has in his possession; or knowingly has under his
236 control in a vehicle; a firearm, loaded or unloaded, as defined in Section 122 and whose firearm
237 identification card issued under section 124 is invalid for the sole reason that it has expired shall
238 be subject to a civil fine of not less than \$100 nor more than \$500. Such fine shall not be issued
239 if the card holder can produce evidence of a renewal is in process.

240 (b) Whoever, not being a prohibited person as defined in Section 122, except as provided or
241 exempted by statute, knowingly has in his possession, or knowingly has under his control in a
242 vehicle, a firearm, loaded or unloaded, as defined in Section 122 without either:

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

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

246 (iii) having complied with the provisions of sections one hundred and twenty-four, one
247 hundred twenty-eight or one hundred twenty-eight A;
248 shall be subject to a civil fine of not less than \$500 nor more than \$5000.

249 **SECTION 8.** Section one hundred twenty-four of chapter one hundred and forty of the
250 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
251 following:-

252 Section 124. No person, other than a federally licensed dealer or one who has been issued a
253 firearm identification card or an exempt person as hereinafter described, shall own or possess
254 any firearm or ammunition.

255 No person shall sell, give away, loan or otherwise transfer a firearm or ammunition other
256 than: (1) by operation of law; (2) to an exempt person as hereinafter described; (3) to a federally
257 licensed dealer; or (4) to a person who displays his firearm identification card.

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

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

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

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

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

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

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

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

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

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

283 (j) Any new resident moving into the commonwealth for a period of 180 days, or any resident
284 of the commonwealth upon being released from active service with any of the armed services of

285 the United States with respect to any firearm and any ammunition therefor then in his possession,
286 for no less than 180 days or such time as may be needed to complete the process for receiving a
287 firearm identification card after such release, return or entry into the commonwealth;

288 (k) Any person under the age of fifteen with respect to the use of a firearm by such person in
289 hunting, provided that such use is otherwise permitted by law and is under the immediate
290 supervision of a person holding a firearm identification card,

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

294 (m) The temporary holding, handling or firing of a firearm for examination, trial or
295 instruction in the presence of a holder of a firearm identification card, or a duly commissioned
296 officer, noncommissioned officer or enlisted member of the United States Army, Navy, Marine
297 Corps, Air Force or Coast Guard, or the National Guard or military service of the commonwealth
298 or reserve components thereof, while in the performance of his duty, or where such holding,
299 handling or firing is for a lawful purpose;

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

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

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

309 (q) The carrying or possession of conventional rifles, shotguns, and ammunition therefor by
310 nonresidents who meet the requirements for such carrying or possession in the state in which
311 they reside.

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

316 (s) Possession by federal, state and local historical societies, museums, and institutional
317 collections open to the public, provided such firearms, rifles or shotguns are unloaded, properly
318 housed and secured from unauthorized handling;

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

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

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

329 Any person who, while not being within the limits of his own property or residence, or such
330 person whose property or residence is under lawful search, and who is not exempt under this
331 section, shall on demand of a police officer or other law enforcement officer, exhibit his firearm
332 identification card or receipt for renewal application for such card, or exhibit a valid hunting
333 license issued to him which shall bear the number officially inscribed of such firearm
334 identification card if any. Upon failure to do so, such person may be required to surrender to
335 such officer said firearm which shall be taken into custody as under the provisions of section one
336 hundred and twenty-five, except that such firearm shall be returned forthwith upon presentation
337 within thirty days of said firearm identification card or receipt for fee paid for such card or
338 hunting license as hereinbefore described. Any person subject to the conditions of this paragraph
339 may, even though no firearm was surrendered, be required to produce within thirty days said
340 firearm identification card or receipt for fee paid for such card, or said hunting license, failing
341 which the conditions of section one hundred and twenty-five will apply. Nothing in this section
342 shall prevent any person from being prosecuted for any violation of this chapter.

343 **SECTION 9.** Section one hundred twenty-five of chapter one hundred and forty of the
344 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
345 following:-

346 Section 125. (a) Upon revocation or suspension of a firearm identification card, or of any
347 machine gun license, the person whose card was so revoked or suspended shall without delay
348 deliver or surrender to the local licensing agent, all firearms, machine guns and ammunition
349 which he then possesses.

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

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

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

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

364 The local licensing agent, after taking possession of any firearm, machine gun or ammunition
365 by any means, may transfer possession of such firearm or machine gun for storage purposes to a
366 federally licensed dealer. The local licensing agent shall be liable to such dealer for reasonable
367 storage charges. If the property is not transferred as described in this section within one year
368 after such delivery or surrender, the local licensing agent may dispose of any such firearm,
369 machine gun or ammunition as provided under this section. Any such dealer that takes
370 possession of a weapon under the provisions of this section shall: (i) inspect such firearm or
371 machine gun; (ii) issue to the owner a receipt indicating the make, model, caliber, serial number
372 and condition of each firearm or machine gun so received; and (iii) store and maintain all
373 firearms or machine guns so received in accordance with such regulations, rules or guidelines as
374 the secretary of the executive office of public safety may establish under this section.

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

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

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

386 **SECTION 10.** Section one hundred twenty-six of chapter one hundred and forty of the
387 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
388 following:-

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

393 **SECTION 11.** Section one hundred twenty-seven of chapter one hundred and forty of the
394 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
395 following:-

396 Section 127. No person carrying a loaded firearm under a Firearm Identification Card issued
397 under section 123 shall carry the same in a vehicle unless such firearm while carried therein is
398 under the direct control of such person. Whoever violates the provisions of this subsection shall
399 be punished by a fine of not less than \$50 nor more than \$500.

400 **SECTION 12.** Section one hundred twenty-eight of chapter one hundred and forty of the
401 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
402 following:-

403 Section 128. Any nonresident or any person not falling within the jurisdiction of a local
404 licensing agent, who is not a prohibited person as defined in section 122 of this chapter may
405 apply to the colonel of the state police for a Firearm Identification Card. Upon the determination
406 that the applicant is not a prohibited person, the colonel of state police, or persons authorized by

407 him, shall issue said card to the applicant. The fee for such card shall be \$40 and the card shall be
408 valid for not less than six years.

409 **SECTION 13.** Section one hundred twenty-eight A of chapter one hundred and forty of
410 the General laws is hereby amended by deleting the section in its entirety and replacing it with
411 the following:-

412 Section 128A. Any person who is not a resident of the commonwealth may carry a firearm in
413 or through the commonwealth for the purpose of taking part in a firearm competition or
414 attending any meeting or exhibition of any organized group of firearm collectors or for the
415 purpose of hunting; provided, that such person is a citizen of the United States and is lawfully
416 able to do so in their state of residence, district or territory of residence.

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

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

423 **SECTION 14.** Section one hundred twenty-eight B of chapter one hundred and forty of
424 the General Laws is hereby amended by deleting the section in its entirety and replacing it with
425 the following:-

426 Section 128B. No legal alien as defined in section 122 shall own or have in his possession or
427 under his control a firearm except as provided in this section. The colonel of the state police
428 may, after an investigation, issue a Firearm Identification Card to a legal alien legally residing or
429 visiting the commonwealth. The fee for the permit shall be \$100.

430 Upon issuing such card said colonel shall so notify, in writing, the chief of police or the board
431 or officer having control of the police in the city or town in which such alien resides. Each such
432 card shall clearly indicate the expiration date as determined by the colonel and shall be revocable
433 for cause by said colonel. In case of revocation, the fee for such permit shall not be prorated or
434 refunded. Whenever any such permit is revoked, said colonel shall give notification as
435 hereinbefore provided. The permit issued to an alien under this section shall be subject to
436 sections one hundred and twenty-three and one hundred and twenty-four except as otherwise
437 provided by this section.

438 Violation of any provision of this section shall be punished by a fine of not less than one
439 thousand nor more than five thousand dollars. If, in any prosecution for violation of this section,
440 the defendant alleges that he has been naturalized, or alleges that he is a citizen of the United
441 States, the burden of proving the same shall be upon him. Any firearm owned by an alien or in
442 his possession or under his control in violation of this section shall be forfeited to the
443 commonwealth. Any such firearm may be the subject of a search warrant as provided in chapter
444 two hundred and seventy-six.

445 The director of law enforcement of the department of fisheries, wildlife and environmental
446 law enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of
447 enforcement, environmental police officers and deputy environmental police officers, wardens as

448 defined in section one of chapter one hundred and thirty-one and members of the state police in
449 areas over which they have jurisdiction, and all officers qualified to serve criminal process shall
450 arrest, without a warrant, any person found with a firearm in his possession if they have reason to
451 believe that he is an alien and if he does not have in his possession a valid card as provided in
452 this section.

453 **SECTION 15.** Chapter 140 of the General Laws is hereby amended by inserting after
454 section 128B the following section:-

455 Section 128C:

456 (a) The colonel of the state police shall, after an investigation, issue a machine gun license
457 to a resident of the Commonwealth, who is the holder of a firearm identification card and who is
458 over 21 years of age, if such citizen has demonstrated that they are, or intend to be, a collector of
459 machine guns.

460 The term “collector of machine guns” shall refer to:

- 461 (i) Any person who is licensed pursuant to 18 U.S.C. Chapter 44, sections 921-929
462 and 27 CFR 178;
- 463 (ii) Any person who seeks to acquire machine guns for such lawful purposes as
464 historical significance, display, research, lecturing, demonstration, test firing,
465 investment or other like purpose; or
- 466 (iii) Any person currently lawfully in possession of a machine gun under federal law.

467 (b) The fee for the machine gun license shall be \$40, and it shall be valid for a term of six
468 years. The application shall be standard in form. Upon receiving an application, the colonel shall

469 either issue or deny the license within sixty days. Any such denial shall be in writing and shall
470 clearly state the reasons why the applicant was not considered a collector of machine guns or is a
471 prohibited person.

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

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

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

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

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

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

491

492 **SECTION 16.** Section one hundred twenty-nine of chapter one hundred and forty of the
493 General Laws is hereby amended by deleting the section in its entirety and replacing it with the
494 following:-

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

501

502 **SECTION 17.** Section one hundred twenty-nine B of chapter one hundred and forty of
503 the General Laws is hereby amended by deleting the section in its entirety and replacing it with
504 the following:-

505 Section 129B. Except as exempted or provided by law, no person shall carry on his person on
506 any public way a loaded rifle or shotgun having cartridges or shells in either an attached
507 magazine or chamber thereof. For purposes of this section, “loaded shotgun or loaded rifle” shall
508 mean any shotgun or rifle having ammunition in either an attached magazine or chamber thereof,
509 such ammunition including a live cartridge, primer (igniter), bullet or propellant powder
510 designed for use in any firearm and, in the case of a muzzle loading or black powder shotgun or
511 rifle, containing powder in the flash pan, a percussion cap and shot or ball; but the term “loaded

512 shotgun or loaded rifle” shall not include a shotgun or rifle loaded with a blank cartridge, which
513 contains no projectile within such blank or within the bore or chamber of such shotgun or rifle.

514 Whoever violates the provisions of this subsection shall be punished by a fine of not less than
515 \$100 nor more than \$1,000.

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

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

530

531 **SECTION 18.** Section one hundred twenty-nine C of chapter one hundred and forty of
532 the General Laws is hereby amended by deleting the section in its entirety and replacing it with
533 the following:-

534 Section 129C. Whoever discharges a firearm within five hundred feet of a dwelling or other
535 building in use, except with the consent of the owner or legal occupant thereof, shall be punished
536 by a fine of not less than fifty nor more than one hundred dollars.

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

545

546 **SECTION 19.** Section one hundred twenty-nine D of chapter one hundred and forty of
547 the General Laws is hereby amended by deleting the section in its entirety and replacing it with
548 the following:-

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

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SECTION 20. Sections one hundred and thirty through one hundred and thirty-one P of chapter one hundred and forty of the General Laws are hereby repealed.

SECTION 21. Section eighty-five U of chapter two-hundred thirty-one of the General Laws is hereby amended by striking the existing section and replacing it with the following:-

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

SECTION 22: Section eighteen B of chapter two hundred sixty-five of the General Laws is hereby amended by striking the existing language and replacing it with the following:

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

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

574 (B) has committed an offense which may be punished by imprisonment in the state
575 prison and had in his possession or under his control a firearm and who thereafter, while
576 in the commission or the attempted commission of a second or subsequent offense which
577 may be punished by imprisonment in the state prison, has in his possession or under his
578 control a firearm shall, in addition to the penalty for such offense, be punished by
579 imprisonment in the state prison for not less than 20 years; provided, however, that if
580 such person, while in the commission or attempted commission of such offense, has in
581 his possession or under his control a machine gun, such person shall be punished by
582 imprisonment in the state prison for not less than 25 years.

583 A sentence imposed under this section for a second or subsequent offense shall not be reduced
584 nor suspended, nor shall any person convicted under this section be eligible for probation, parole,
585 furlough or work release or receive any deduction from his sentence for good conduct until he
586 shall have served the minimum term of such additional sentence; provided, however, that the
587 commissioner of correction may, on the recommendation of the warden, superintendent or other
588 person in charge of a correctional institution or the administrator of a county correctional
589 institution, grant to such offender a temporary release in the custody of an officer of such
590 institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii)
591 to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services
592 unavailable at such institution. Prosecutions commenced under this section shall neither be
593 continued without a finding nor placed on file. The provisions of section 87 of chapter 276
594 relative to the power of the court to place certain offenders on probation shall not apply to any
595 person 17 years of age or over charged with a violation of this section.

596

597 **SECTION 23.** Chapter 265 of the General Laws is hereby amended by inserting after section

598 44 a new section:—

599

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

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

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

608

609 **SECTION 24.** Chapter 269 of the General Laws is hereby amended by inserting after

610 section 8 the following new section:-

611 Section 9A. Definitions

612 “Ammunition”, ammunition or cartridge cases, primers, bullets, or propellant powder
613 designed for use in any firearm.

614 “Conviction”, a finding or verdict of guilt or a plea of guilty, whether or not final sentence is
615 imposed. Any conviction which has been expunged, or set aside or for which a person has been
616 pardoned or has had civil rights restored shall not be considered a conviction for purposes of this

617 chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that
618 the person may not ship, transport, possess, or receive firearms.

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

624

625 (1) any crime punishable by imprisonment for a term exceeding one year for which a
626 committed term of imprisonment has been served after sentencing has been carried
627 out;

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

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

634 “Firearm”, any weapon which will, or is designed to, or may readily be converted to, expel a
635 projectile by the action of an explosive; or the frame of any such weapon. Such term does not
636 include an antique firearm. This term shall be meant to include a rifle, shotgun or handgun.

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

640 “Machine gun”, any weapon which shoots, is designed to shoot, or can be readily restored to
641 shoot, automatically more than one shot, without manual reloading, by a single function of the
642 trigger. The term shall also include the frame or receiver of any such weapon, any part designed
643 and intended solely and exclusively, or combination of parts designed and intended, for use in
644 converting a weapon into a machinegun, and any combination of parts from which a machinegun
645 can be assembled if such parts are in the possession or under the control of a person.

646 “Non-resident”, any person being a citizen of the United States whose legal residence is
647 outside of the Commonwealth of Massachusetts.

648 “Prohibited Person”, any person who:

- 649 (1) is under indictment in any court for a crime punishable by imprisonment for a term
650 exceeding one year;
- 651 (2) has been convicted of a crime of violence;
- 652 (3) has been convicted of a crime punishable by imprisonment for a term exceeding one
653 year that is not a crime of violence for which a committed term of imprisonment has
654 been served after sentencing has been carried out;
- 655 (4) has been convicted of a misdemeanor punishable by imprisonment for more than two
656 years that is not a crime of violence for which a committed term of imprisonment
657 has been served after sentencing has been carried out;
- 658 (5) is a fugitive from justice;

- 659 (6) is an unlawful user of or addicted to any controlled substance;
- 660 (7) has been adjudicated as a mental defective;
- 661 (8) has been involuntarily committed to any mental institution;
- 662 (9) is an illegal alien;
- 663 (10) has been discharged from the military under dishonorable conditions;
- 664 (11) has renounced his or her United States citizenship;
- 665 (12) is currently subject to a court order restraining the person from harassing, stalking,
- 666 or threatening an intimate partner or child of the intimate partner; no such order that
- 667 has expired for which there was no conviction of a violation of such order shall
- 668 considered a disqualifier; or
- 669 (13) has been convicted of a misdemeanor crime of domestic violence as defined in 18
- 670 USC 921 (a)(33);
- 671 (14) Any person under the age of 18,
- 672 (i) who is not lawfully engaged in hunting or shooting sports activity; or
- 673 (ii) acting under the direct supervision of an adult with a firearms
- 674 identification card.

675 “Sawed-off shotgun,” a shotgun having one or more barrels less than eighteen inches in

676 length and any weapon made from a shotgun (whether by alteration, modification or otherwise)

677 if such a weapon as modified has an overall length of less than twenty-six inches. The term

678 “sawed-off shogun” shall not apply to any firearm authorized by the Attorney General of the

679 United States under Title 18 U.S.C.

680

681

682 **SECTION 25.** Chapter 269 of the General Laws shall be amended by inserting after
683 section 9A the following section:-

684

685 Section 9B: State firearm crime

686 (a) Any crime of violence that involved the criminal use of a firearm shall be
687 considered a state firearm crime and shall be investigated by the Criminal Firearms
688 and Trafficking Division.

689 (b) Any case of unlawful intrastate firearms trafficking shall be considered a state crime
690 and shall be investigated by the Criminal Firearms and Trafficking Division.

691 (c) Any violation of section 18B or section 45 of chapter 265 or sections 9D through
692 12E of this chapter shall be considered a state firearm crime and shall be investigated
693 by the Criminal Firearms and Trafficking Division.

694

695 **SECTION 26.** Chapter 269 of the General Laws shall be amended by inserting after
696 section 9B the following section:-

697

698 Section 9C: Criminal Firearms and Trafficking Division

699 Any violent crime committed with the possession of a firearm or machine gun within the
700 commonwealth shall be considered a state crime. All such crimes shall become the jurisdiction
701 of the Criminal Firearms and Trafficking Division.

702 There shall be attached to the department of the attorney general a special unit of the state
703 police known as the Criminal Firearms and Trafficking Division, heretofore referred to as the
704 division. The division shall assist the office of the attorney general in prosecuting all crimes

705 involving the criminal use of a firearm during the commission of a crime of violence as defined
706 in Section 9A. The division shall investigate all cases of unlawful intrastate firearms trafficking.
707 The division shall investigate any criminal use of a firearm during the commission of a violent
708 crime as defined in Section 9A that has taken place within the commonwealth to establish the
709 following:

- 710 1. If the suspect would be considered a prohibited person as defined in Section 9A;
- 711 2. Determine if the suspect obtained the firearm illegally;
- 712 3. Determine the source from which the suspect illegally obtained the firearm;
- 713 4. Create a database of all firearms reported stolen or recovered as stolen property, said
714 database shall be made available to all federally licensed firearm dealers within the
715 commonwealth;
- 716 5. Create a database of all firearms used in such crimes within the commonwealth. The
717 database shall include the following:
 - 718 a. The make, model and serial number of the firearm;
 - 719 b. Any fingerprint evidence found on the firearm;
 - 720 c. Any ballistic evidence that can be retrieved from the crime scene;
 - 721 d. If the criminal use of the firearm was related to known gang activity;

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

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

727

728 **SECTION 27.** Chapter 269 of the General Laws shall be amended by inserting after

729 section 9C the following section:-

730

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

732 (A) Whoever being a prohibited person is in possession of a firearm shall be subject to a fine

733 of not less than \$500 nor more than \$5,000. A second or subsequent conviction shall be

734 punished by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for

735 not less than one year nor more than five years or by both such fine and imprisonment.

736 (B) Whoever being a prohibited person is in possession of a firearm while in possession of a

737 controlled substance as defined in section 1 of chapter 94C shall be punished by a fine of

738 not less than \$10,000 or by imprisonment for not less than two years nor more than ten

739 years or by both such fine and imprisonment.

740 (C) Whoever being a prohibited person is in possession of a firearm while engaged in the

741 trafficking of a controlled substance as defined in section 1 of chapter 94C shall be

742 punished by a fine of not less than \$10,000 or by imprisonment for not less than five

743 years nor more than ten years or by both such fine and imprisonment.

744 (D) Whoever being a prohibited person is in possession of a firearm during the commission

745 of a crime of violence shall be punished by a fine of not less than \$10,000 or by

746 imprisonment for not less than five years nor more than ten years or by both such fine

747 and imprisonment.

748

749 **SECTION 28.** Chapter 269 of the General Laws shall be amended by inserting after
750 section 9D the following section:-

751

752 Section 9E Unlawful transfer

753 (a) It shall be unlawful to provide a firearm to any alien who does not hold a firearms
754 identification card issued by the colonel under section 128B.

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

756 (c) It shall be unlawful to provide a firearm to any minor, except that nothing shall prevent a
757 parent or guardian from allowing any adult with a firearms identification card to supervise the
758 minor's use of a firearm for purposes of instruction, or participation in organized competition.
759 Nothing in this section shall be construed to prohibit an instructor from furnishing firearms or
760 ammunition therefor to pupils; provided, however, that said instructor has the consent of a parent
761 or guardian of a pupil under the age of eighteen years.

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

766

767 **SECTION 29.** Chapter 269 of the General Laws shall be amended by inserting after
768 section 9E the following section:-

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

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

779

780 **SECTION 30.** Chapter 269 of the General Laws shall be amended by inserting after
781 section 9F the following section:-

782

783 Section 9G. Unlawful intrastate commerce of firearms

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

787 (b) Whoever unlawfully transports firearms into the commonwealth with the intention to
788 unlawfully distribute, sell, or transfer possession of any quantity of firearms shall be punished by
789 a term of imprisonment of not less than five years nor more than ten years in the state prison.

790 (c) Whoever unlawfully transports firearms into the commonwealth with the intention to
791 unlawfully distribute, sell, or transfer possession of any quantity of firearms to a prohibited
792 person shall be punished by a term of imprisonment of not less than ten years nor more than
793 twenty years in the state prison.

794 (d) Whoever unlawfully transports a firearm into the commonwealth with the intention to
795 unlawfully distribute, sell, or transfer it to a prohibited person, and if such firearm is
796 subsequently used to cause the death of another, shall be punished by a term of not less than
797 twenty years in the state prison.

798

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

803

804 **SECTION 31.** Chapter 269 of the General Laws shall be amended by inserting after
805 section 9G the following section:-

806

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

808

809 (A) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel
810 or vehicle with the intent to steal a firearm shall be subject to a fine of not less

811 than \$5,000 nor more than \$10,000 or by imprisonment for not less than one year
812 nor more than five years or by both such fine and imprisonment.

813
814 (B) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel
815 or vehicle with the intent to steal a firearm to distribute to a prohibited person
816 shall be subject to a fine of not less than \$10,000 or by imprisonment for not less
817 than five years nor more than ten years or by both such fine and imprisonment.

818
819 (C) Whoever in the nighttime or the daytime breaks and enters a building, ship, vessel
820 or vehicle with the intent to steal a firearm and in the process causes injury of
821 another shall be subject to a fine of not less than \$10,000 or by imprisonment for
822 not less than five years nor more than ten years or by both such fine and
823 imprisonment.

824
825 Any motor vehicle lawfully owned or operated by any person convicted under this section
826 shall be forfeit in accordance with the provisions of section 24W of Chapter 90. All proceeds
827 from the auction of said vehicle(s) shall be utilized to fund the Criminal Firearms and
828 Trafficking Division.

829
830 **SECTION 32.** Section ten of chapter two-hundred sixty-nine is hereby amended by
831 deleting the section in its entirety and replacing it with the following:

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

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

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

847 (d) Whoever, being a prohibited person as defined in Section 9A, knowingly has in his
848 possession, or knowingly has under his control in a vehicle; a firearm, loaded or unloaded, as
849 defined in Section 9A, while in the possession of a controlled substance as defined in chapter
850 94C with intent to distribute shall be punished by imprisonment in the state prison for not less
851 than ten years nor more than twenty years.

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

857 (e) Whoever, except as provided by law, possesses a machine gun, as defined in said section
858 9A, or whoever owns, possesses or carries on his person, or carries on his person or under his
859 control in a vehicle, a sawed-off shotgun, as defined in said section 9A, shall be punished by
860 imprisonment in the state prison for life, or for any term of years provided that any sentence
861 imposed under the provisions of this paragraph shall be subject to the minimum requirements of
862 paragraph (c).

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

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

869 (h) Upon conviction of a violation of this section, the firearm or other article shall, unless
870 otherwise ordered by the court, be confiscated by the commonwealth. The firearm or article so
871 confiscated shall, by the authority of the written order of the court be forwarded by common
872 carrier to the colonel of the state police, who, upon receipt of the same, shall notify said court or

873 justice thereof. Said colonel shall sell by public auction all firearms which can be lawfully owned
874 in the commonwealth for which a lawful owner cannot be determined. Any proceeds received
875 from such auctions shall be utilized to fund the Criminal Firearms and Trafficking Division. Any
876 firearm which may not be lawfully sold in the commonwealth shall be destroyed. The colonel
877 shall keep a permanent record of all firearms destroyed.

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

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

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

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

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

896

897 **SECTION 33.** Section ten E of chapter two-hundred sixty-nine is hereby amended by
898 deleting the section in its entirety and replacing it with the following:-

899

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

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

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

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

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

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

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

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

942

943 **SECTION 34.** Chapter 269 of the General Laws shall be amended by inserting after
944 section 10E the following section:-

945 Section 10F. Carrying of dangerous weapons, punishment

946 Whoever, except as provided by law, carries on his person, or carries on his person or under his
947 control in a vehicle, any stiletto, dagger or a device or case which enables a knife with a locking
948 blade to be drawn at a locked position, any ballistic knife, or any knife with a detachable blade
949 capable of being propelled by any mechanism, dirk knife, any knife having a double-edged
950 blade, or a switch knife, or any knife having an automatic spring release device by which the
951 blade is released from the handle, having a blade of over one and one-half inches, or a slung
952 shot, blowgun, blackjack, metallic knuckles or knuckles of any substance which could be put to
953 the same use with the same or similar effect as metallic knuckles, nunchaku, zoo bow, also
954 known as klackers or kung fu sticks, or any similar weapon consisting of two sticks of wood,
955 plastic or metal connected at one end by a length of rope, chain, wire or leather, a shuriken or
956 any similar pointed starlike object intended to injure a person when thrown, or any armband,
957 made with leather which has metallic spikes, points or studs or any similar device made from any

958 other substance or a cestus or similar material weighted with metal or other substance and worn
959 on the hand, or a manrikigusari or similar length of chain having weighted ends; or whoever,
960 when arrested upon a warrant for an alleged crime, or when arrested while committing a breach
961 or disturbance of the public peace, is armed with or has on his person, or has on his person or
962 under his control in a vehicle, a billy or other dangerous weapon other than those herein
963 mentioned and those mentioned in paragraph (a), shall be punished by imprisonment for not less
964 than two and one-half years nor more than five years in the state prison, or for not less than six
965 months nor more than two and one-half years in a jail or house of correction, except that, if the
966 court finds that the defendant has not been previously convicted of a felony, he may be punished
967 by a fine of not more than fifty dollars or by imprisonment for not more than two and one-half
968 years in a jail or house of correction.

969

970 **SECTION 35.** Section eleven A of chapter two hundred sixty-nine of the General Laws
971 is hereby amended by deleting the section in its entirety and replacing it with the following:-

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

974 “Firearm”, any weapon which will or is designed to or may readily be converted to expel a
975 projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm
976 muffler or firearm silencer; or any destructive device. Such term does not include an antique
977 firearm. This term shall be meant to include a rifle, shotgun, handgun or machine gun.

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

980 “Identification number”, the number stamped or placed upon a firearm by the colonel of the
981 state police under authority of section eleven D.

982

983 **SECTION 36.** Section eleven E of chapter two-hundred sixty-nine is hereby amended by
984 deleting the section in its entirety and replacing it with the following:

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

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

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

998 **SECTION 37.** Section twelve E of chapter two-hundred and sixty-nine is hereby
999 amended by deleting the section in its entirety and replacing it with the following:-

1000 Section 12E. Prohibiting the confiscation of lawfully owned firearms.

1001 No government official or any person acting on behalf of the Commonwealth of
1002 Massachusetts shall order the confiscation of, or otherwise cause the confiscation of, any
1003 lawfully carried or lawfully owned firearm.

1004 No law enforcement officer, person acting as a law enforcement officer, or other public
1005 official shall confiscate or attempt to confiscate any lawfully carried or lawfully owned firearm.

1006 Whoever violates the provisions of this section shall be subject to a civil fine of not less than
1007 \$500 nor more than \$5,000 for each firearm unlawfully confiscated or by imprisonment in a state
1008 prison for not more than two and one-half years.

1009 Nothing in this section shall prohibit the confiscation of firearms from any person who;

- 1010 (a) Has been placed under arrest;
- 1011 (b) Who is the subject of a protection order issued under Chapter 209A;
- 1012 (c) Has had their Firearm Identification Card revoked or suspended; or
- 1013 (d) Who is or has become a prohibited person.

1014

1015 **SECTION 38.** Section eight A of chapter two hundred
1016 seventy-eight of the General Laws is hereby amended by
1017 striking the existing language and replacing it with the
1018 following:

1019 Section 8A. It shall be an act of lawful defense if a person, who is an occupant of a
1020 dwelling or in any place that they have a right to be, used deadly force, or less than deadly force,
1021 if he or she acted in the reasonable belief that an assailant was about to inflict great bodily injury
1022 or death upon themselves or upon another person who also had a right to be in the location.
1023 There shall be no duty on a person to retreat from any place that they have a right to be. An act

1024 of lawful defense as outlined in this section shall not be cause for arrest or prosecution. Further,
1025 an act of lawful defense under this section shall not be cause for the revocation of a firearm
1026 identification card issued under Chapter 140.