

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 preventing illegal trafficking of firearms.

PETITION OF:

NAME:

Cynthia Stone Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01383 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO PREVENTING ILLEGAL TRAFFICKING OF 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. Subclause (j) of clause twenty-sixth of section 7 of chapter 4 of the General Laws,
2 as appearing in the 1998 Official Edition, is hereby amended by inserting after the word “cards”,
3 in line 178, the following words: - , but such names and addresses shall be made available to law
4 enforcement or other investigative officials, including district attorneys, assistant district
5 attorneys, the attorney general and assistant attorneys general for purposes of enforcing
6 subsection (c) of section 131E of chapter 140.

7 SECTION 2. Subsection (d) of section 10 of chapter 66 of the General Laws, as so appearing,
8 is hereby amended by inserting after the word “six”, in line 60, the following words: - ,
9 including, but not limited to, such agencies enforcing subsection (c) of section 131E of chapter
10 140.

11 SECTION 3. Section 123 of chapter 140 of the General Laws, as so appearing, is hereby

12 amended by striking the striking the words “forthwith at” in the section beginning with “Fifth,”
13 and replacing it with the words: - within thirty minutes of.

14 SECTION 4. Section 123 of chapter 140 of the General Laws, as so appearing, is hereby
15 amended by inserting after the word “condition.”, in line 229, the following sentences: - Twenty-
16 second, That no licensee shall sell, rent or lease a firearm or large capacity weapon without first:
17 (i) obtaining a signed declaration from the purchaser, renter or lessee, on a form furnished by the
18 executive director of the criminal history systems board, that such individual has not purchased,
19 rented or leased, as those terms are used in section 121 and subsection (c) of section 131E of this
20 chapter, any firearm or large capacity weapon during the previous 30 days, or that such
21 individual is an exempt person as set forth under subsection (c) of section 131E of this chapter;
22 (ii) forwarding such declaration to the executive director of the criminal history systems board;
23 and (iii) receiving notification from the criminal history systems board that the purchaser, renter
24 or lessee has not purchased, rented or leased any firearm or large capacity weapon during the
25 previous 30 days, or that such individual is an exempt person as set forth under subsection (c) of
26 section 131E of this chapter. Such notification from the criminal history systems board shall be
27 valid for no more than two business days after the criminal history systems board issues the
28 notification, after which time the licensee must receive a new notification before completing a
29 sale, rental or lease of a firearm or large capacity weapon to such purchaser, renter or lessee.
30 Such declaration from the purchaser, renter or lessee shall not be a defense in any action brought
31 against a licensee.

32 SECTION 5. Section 128 of said chapter 140 of the General Laws, as so appearing, is hereby
33 amended by replacing “ or” after the word “twentieth” with “,” and inserting after the word
34 “twenty-first”, the words: - or twenty-second.

35 SECTION 6. Section 128A of said chapter 140 of the General Laws, as so appearing, is
36 hereby amended by striking, “reports within seven days, in writing to the executive director of
37 the criminal history systems board on forms furnished by said executive director, the names and
38 addresses of the seller and the purchaser of any such large capacity feeding device, firearm, rifle
39 or shotgun, together with a complete description of the firearm, rifle or shotgun, including its
40 designation as a large capacity weapon, if applicable, the calibre, make and serial number and the
41 purchaser’s license to carry firearms number, permit to purchase number and identifying number
42 of such documentation as is used to establish exempt person status in the case of a firearm or the
43 purchaser’s license to carry number or firearm identification card number or said document
44 identity number, in the case of a rifle or shotgun,” and inserting: - “shall complete all sales,
45 rentals and leases of firearms, rifles, shotguns, and large capacity feeding devices through a
46 person licensed pursuant to section 122 by delivering the firearm, rifle, shotgun, or large capacity
47 feeding device to the licensee who shall then deliver the firearm, rifle, shotgun, or large capacity
48 feeding device to the purchaser, renter or lessee, if the sale, rental, or lease is not prohibited, in
49 accordance with section 123 of this chapter as if the licensee was selling, renting or leasing the
50 firearm, rifle, shotgun, or large capacity feeding device directly to the purchaser, renter or
51 lessee. The dealer may require the purchaser, renter or lessee to pay a fee not to exceed ten
52 dollars (\$10) per firearm, rifle, shotgun, or large capacity feeding device.”

53 SECTION 7. Paragraph (1) of section 129B of said chapter 140, as so appearing, is hereby
54 amended by adding the following three clauses: -

55 (viii) is currently subject to: (a) an order for suspension or surrender issued pursuant to section
56 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; or (b) a permanent or
57 temporary protection order issued pursuant to chapter 209A or a similar order issued by another

58 jurisdiction;

59 (ix) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction;

60 or

61 (x) has been convicted of a violation of subsection (c) of section 131E of this chapter.”

62 SECTION 8. Paragraph (d) of section 131 of said chapter 140, as so appearing, is hereby
63 amended by the following three subparagraphs: -

64 (vi) is currently subject to: (A) an order for suspension or surrender issued pursuant to section
65 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; or (B) a permanent or
66 temporary protection order issued pursuant to chapter 209A or a similar order issued by another
67 jurisdiction;

68 (vii) is currently the subject of an outstanding arrest warrant in any state or federal
69 jurisdiction; or

70 (viii) has been convicted of a violation of subsection (c) of section 131E of this chapter.”

71 SECTION 9. Section 131A of said chapter 140 of the General Laws, as so appearing, is
72 hereby amended by inserting after the words “proper purpose”, in line 5, the following words: -
73 and does not violate the firearm or large capacity weapon purchase, rental or lease limitation in
74 subsection (c) of section 131E of this chapter.

75 SECTION 10. Section 131E of said chapter 140 of the General Laws, as so appearing, is
76 hereby amended by adding the following subsection: -

77 (c) no person, other than an exempt person hereinafter described, shall purchase, rent or lease
78 more than one firearm or large capacity weapon in any 30 day period. The term “rent or lease” as
79 used herein shall not apply to the rental or lease of a firearm or large capacity weapon for a
80 duration of less than 48 hours, provided, however that such firearm is rented or leased from a

81 licensee who is licensed under the provisions of section 122 and subject to the conditions
82 described in section 123.

83 The provisions of this subsection shall not apply to the following persons and uses:

84 (1) Any law enforcement agency or authority;

85 (2) Any branch of the United States military, including the national guard;

86 (3) Any persons in any branch of the United States military or police officers and other peace
87 officers who are acquiring firearms for the purposes of performing their official duties or when
88 duly authorized by their employer to purchase them;

89 (4) Any licensed watch, guard or patrol agency or their licensed employees in the course of
90 their employment under sections 22 and 25 of chapter 147;

91 (5) Any person who has been certified as a licensed collector by the criminal history systems
92 board;

93 (6) A federal, state or local historical society, museum or institutional collector open to the
94 public;

95 (7) Any exchange of a firearm or large capacity weapon for another firearm or large capacity
96 weapon purchased, rented or leased from the licensed dealer by the same person seeking the
97 exchange within 30 days immediately before the exchange;

98 (8) A firearms surrender program authorized by and in compliance with section 131O of this
99 chapter.

100 A non-exempt person who purchases, rents or leases more than one firearm or large capacity
101 weapon in any 30 day period shall be punished, for a first offense, by a fine of not more than
102 \$1,000, or by imprisonment for not more than six months, or by both such fine and
103 imprisonment; and for any subsequent offense shall be punished by a fine of not less than \$1,000

104 and not more than \$5,000, or by imprisonment for not more than two and one-half years, or by
105 both such fine and imprisonment. The punishments under this subsection shall be separate from
106 the procedures established for the denial, revocation or suspension of firearm identification
107 cards, licenses and permits provided under this chapter.

108 Any person or licensee who sells, rents or leases a firearm or large capacity weapon to a non-
109 exempt person under this section, with knowledge or reason to know that the person has
110 purchased, rented or leased a firearm or large capacity weapon within the previous thirty days
111 shall be punished, for a first offense, by a fine of not more than \$5,000 or by imprisonment of not
112 more than two and one-half years, or by both such fine and imprisonment; and for any
113 subsequent offense shall be punished by a fine of not less than \$1,000 and not more than \$10,000
114 or by imprisonment for not more than five years, or by both such fine and imprisonment. These
115 punishments shall be separate from the procedures established for the denial, revocation or
116 suspension of firearm identification cards, licenses and permits provided under this chapter.