

SENATE No. 657

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen M. Brewer

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 adoption of the accompanying bill:

An Act protecting police officers while making a lawful arrest..

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Stephen M. Brewer

Worcester, Hampden, Hampshire, Franklin

Anne M. Gobi

5th Worcester

SENATE No. 657

By Mr. Brewer, a petition (accompanied by bill, Senate, No. 657) of Stephen M. Brewer and Anne M. Gobi for legislation to protect police officers while making a lawful arrest. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1572 OF 2009-2010.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
—————

An Act protecting police officers while making a lawful arrest..

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. Chapter 268 of the General Laws, as appearing in the 2006 Official
2 Edition, is hereby amended by inserting after Section 32B, the following section:

3 Section 32C (a) Every person who, during the commission of any offense described in
4 Section 32B, removes or takes any weapon, other than a firearm, from the actual or constructive
5 possession of a police officer, shall be punished by imprisonment in a jail or house of correction
6 for not more than two and one-half years or a fine of not more than five hundred dollars, or both.

7 (b) Every person who, during the commission of any offense described in Section 32B,
8 removes or takes a firearm from the actual or constructive possession of a police officer, shall be
9 punished by imprisonment in the state prison for not more than five years or by a fine of not

10 more than one thousand dollars or by imprisonment in jail for not more than two and one-half
11 years, or by both such fine and imprisonment in jail.

12 (c) Every person who, during the commission of any offense described in Section 32B,
13 attempts to remove or take a firearm from the actual or constructive possession of a police
14 officer, shall be punished by imprisonment in a jail or house of correction for not more than two
15 and one-half years or a fine of not more than five hundred dollars, or both.

16 In order to prove a violation of this subdivision (c), the prosecution must establish that
17 the defendant had the specific intent to remove or take the firearm by demonstrating that any of
18 the following direct, but ineffectual, acts occurred:

19 (1) The officer's holster strap was unfastened by the defendant.

20 (2) The firearm was partially removed from the officer's holster by the defendant.

21 (3) The firearm safety was released by the defendant.

22 (4) An independent witness corroborates that the defendant stated that he or she intended
23 to remove the firearm and the defendant actually touched the firearm.

24 (5) An independent witness corroborates that the defendant actually had his or her hand
25 on the firearm and tried to take the firearm away from the officer who was holding it.

26 (6) The defendant's fingerprints were found on the firearm or holster.

27 (7) Physical evidence authenticated by a scientifically verifiable procedure established
28 that the defendant touched the firearm.

29 (8) In the course of any struggle, the officer's firearm fell and the defendant attempted to
30 pick it up.

31 (d) As used in this section the term "police officer" shall have the same meaning as that
32 term has in Section 32B of this Chapter.