

SENATE No. 2407

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 adoption of the accompanying bill:

An Act requiring public pension fund divestment from ammunition and firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>3/15/2018</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/16/2018</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>3/19/2018</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>3/20/2018</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>3/21/2018</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/23/2018</i>

SENATE No. 2407

By Ms. Creem, a petition (accompanied by bill) (subject to Joint Rule 12) of Cynthia Stone Creem and Lori A. Ehrlich for legislation to require public pension fund divestment from ammunition and firearms. Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act requiring public pension fund divestment from ammunition and 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. As used in this act the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:-

3 “Ammunition”, ammunition as defined in section 121 of chapter 140 of the General
4 Laws, as amended by section 18 of the acts of 2017.

5 “Ammunition manufacturing company”, a company that derives more than 15 per cent of
6 its revenues from the manufacture of ammunition offered for sale for non-law enforcement or
7 non-military purposes.

8 “Ammunition retailing company”, a company that derives more than 15 per cent of its
9 revenues from the sale of ammunition for non-law enforcement or non-military purposes.

10 “Board”, the Pension Reserves Investment Management Board established in section 23
11 of chapter 32 of the General Laws.

12 “Company”, a sole proprietorship, organization, association, corporation, partnership,
13 joint venture, limited partnership, limited liability partnership, limited liability company or other
14 entity or business association, including all wholly-owned subsidiaries, majority-owned
15 subsidiaries, parent companies or affiliates of such entities or business associations that exist for
16 profit-making purposes.

17 “Direct holdings”, all securities of a company held directly by the public fund or in an
18 account or fund in which the public fund owns all shares or interests.

19 "Firearm", an assault weapon, firearm, large capacity weapon, machine gun, rifle, sawed-
20 off shotgun, or shotgun as defined by section 121 of chapter 140 of the General Laws, as
21 amended by section 18 of the acts of 2017.

22 “Firearm manufacturing company”, a company that derives more than 15 per cent of its
23 revenues from the manufacture of firearms offered for sale for non-law enforcement or non-
24 military purposes.

25 “Firearm retailing company”, a company that derives more than 15 per cent of its
26 revenues from the sale of firearms for non-law enforcement or non-military purposes.

27 “Firearm Accessory”, a bump stock, large capacity feeding device, or trigger crank as
28 defined in section 121 of chapter 140, as amended by section 18 of the acts of 2017.

29 “Firearm accessory manufacturing company”, a company that derives more than 15 per
30 cent of its revenues from the manufacture of firearm accessories for sale for non-law
31 enforcement or non-military purposes.

32 “Firearm accessory retailing company”, a company that derives more than 15 per cent of
33 its revenues from the sale of firearm accessories for non-law enforcement or non-military
34 purposes.

35 “Indirect holdings”, all securities of a company held in an account or fund, such as a
36 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
37 public fund owns shares or interests together with other investors not subject to this act.

38 “Public fund”, the Pension Reserves Investment Trust or the Pension Reserves
39 Investment Management Board charged with managing the pooled investment fund consisting of
40 the assets of the state employees’ and teachers’ retirement systems as well as the assets of local
41 retirement systems under the control of the board.

42 SECTION 2. Notwithstanding any general or special law to the contrary, within 30 days
43 of enactment, the public fund shall identify all ammunition, firearm or firearm accessory
44 manufacturing or retailing companies in which the fund owns direct or indirect holdings and
45 shall file a list of any such holdings with the attorney general and with the clerks of the senate
46 and the house of representatives.

47 SECTION 3. Notwithstanding any general or special law to the contrary, it shall be the
48 settled policy of the public fund and of the board of the public fund not to invest in any
49 ammunition, firearm or firearm accessory manufacturing or retailing companies. The public fund
50 shall sell, redeem, divest or withdraw all publicly-traded securities of each company identified
51 pursuant to section 2 of this act within 12 months of enactment. This section shall not apply to
52 indirect holdings in actively managed investment funds; provided, however, that the public fund
53 shall submit letters to the managers of any such investment funds that contain companies

54 identified pursuant to section 2 of this act, requesting that they remove such companies from the
55 investment fund or create a similar actively managed fund with indirect holdings devoid of such
56 companies.

57 SECTION 4. Notwithstanding any general or special law to the contrary, with respect to
58 actions taken in compliance with this act, the public fund shall be exempt from any conflicting
59 statutory or common law obligation, including any such obligations with respect to choice of
60 asset managers, investment funds or investments for the public fund's securities portfolios and
61 all good faith determinations regarding ammunition, firearm or firearm accessory manufacturing
62 or retailing companies.

63 SECTION 5. Notwithstanding any general or special law to the contrary, the public fund
64 shall be permitted to cease divesting from companies identified pursuant to section 2 of this act,
65 to reinvest in companies identified pursuant to section 2 of this act, or to continue to invest in
66 companies pursuant to section 2 of this act from which it has not yet divested upon clear and
67 convincing evidence showing that the value for all assets under management by the public fund
68 becomes equal to or less than 99.5 per cent (50 basis points) of the hypothetical value of all
69 assets under management by the public fund assuming no divestment for any company had
70 occurred under said subsection. Cessation of divestment, reinvestment or any subsequent
71 ongoing investment authorized by this section shall be strictly limited to the minimum steps
72 necessary to avoid the contingency set forth in the preceding sentence.

73 In advance of any cessation of divestment authorized by this subsection, the public fund
74 shall provide a written report to the attorney general, the senate and house committees on ways
75 and means and the joint committee on public service, updated annually thereafter as applicable,

76 setting forth the reasons and justification, supported by clear and convincing evidence, for its
77 decisions to cease divestment, to reinvest or to remain invested in companies identified pursuant
78 to section 2.

79 SECTION 6. Present, future and former board members of the public fund, jointly and
80 individually, state officers and employees, and investment managers under contract with the
81 public fund shall be indemnified from the General Fund and held harmless by the
82 Commonwealth from all claims, demands, suits, actions, damages, judgments, costs, charges and
83 expenses, including court costs and attorney's fees, and against all liability, losses, and damages
84 of any nature whatsoever that these present, future, or former board members, officers,
85 employees, or contract investment managers shall or may at any time sustain by reason of any
86 decision to restrict, reduce, or eliminate investments in ammunition, firearm, or firearm
87 accessory manufacturing or retailing companies.

88 SECTION 7. The public fund shall annually, as applicable, file a report with the attorney
89 general and with the clerks of the senate and the house of representatives, including: (i) all
90 investments sold, redeemed, divested or withdrawn in compliance with this act within the
91 preceding year; and (ii) all investments prohibited by this act from which the public fund has not
92 yet divested.