

HOUSE No. 1680

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act creating separate criminal offenses for assault committed with a firearm..

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 265 of the General Laws, as appearing in the 2004 Official
2 Edition, is hereby amended by inserting after section 15B the following new sections:-

3 Section 15C: Assault and Battery by means of a firearm; penalties.

4 (a) Whoever commits an assault and battery upon another by discharging a
5 firearm, large capacity weapon, rifle, shotgun, sawed-off shotgun, or machine gun as defined by
6 G.L. c. 140 §121 shall be punished.

7 (b) A person found guilty of section (a) above, shall be sentenced to the state prison
8 for a maximum penalty of life or no less than ten (10) years. The sentence imposed on such
9 person shall not be reduced to less than ten (10) years, nor suspended, nor shall any person
10 convicted under this subsection be eligible for probation, parole, work release, or furlough or
11 receive any deduction from his sentence for good conduct until he shall have served ten (10)
12 years of such sentence; provided, however, that the commissioner of correction may on the
13 recommendation of the warden, superintendent, or other person in charge of a correctional

14 institution, grant to an offender committed under this subsection a temporary release in the
15 custody of an officer of such institution for the following purposes only: to attend the funeral of a
16 relative; to visit a critically ill relative; or to obtain emergency medical or psychiatric service
17 unavailable at said institution. Prosecutions commenced under this subsection shall neither be
18 continued without a finding nor placed on file.

19 Section 15D: Attempted Assault and Battery by means of a firearm; penalties.

20 (a) Whoever attempts to commit an assault and battery upon another by means of
21 discharging a firearm, large capacity weapon, rifle, shotgun, sawed-off shotgun, or machine gun
22 as defined by G.L. c. 140 §121 shall be punished.

23 (b) A person found guilty of section (a) above, shall be sentenced to the state prison
24 for a maximum penalty of twenty (20) years but no less than seven (7) years. The sentence
25 imposed on such person shall not be reduced to less than seven years, nor suspended, nor shall
26 any person convicted under this subsection be eligible for probation, parole, work release, or
27 furlough or receive any deduction from his sentence for good conduct until he shall have served
28 seven years of such sentence; provided, however, that the commissioner of correction may on the
29 recommendation of the warden, superintendent, or other person in charge of a correctional
30 institution, grant to an offender committed under this subsection a temporary release in the
31 custody of an officer of such institution for the following purposes only: to attend the funeral of a
32 relative; to visit a critically ill relative; or to obtain emergency medical or psychiatric service
33 unavailable at said institution. Prosecutions commenced under this subsection shall neither be
34 continued without a finding nor placed on file.