

HOUSE No. 4102

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act recommending legislation relative to reducing firearms violence.

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 168 of chapter 6 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting the following paragraph:-

3 Notwithstanding any general or special law or court order, including an order of
4 impoundment, to the contrary, the board shall transmit to the Attorney General of the United
5 States any information in its control required or permitted under federal law to be included in the
6 National Instant Background Check System or any successor system maintained for the purpose
7 of conducting background checks for firearms sales or licensing. No more information than is
8 necessary for the purposes stated above shall be transmitted, and such information shall not be
9 considered a public record under section 7 of chapter 4.

10 SECTION 2. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby
11 amended by inserting after the word “request”, in line 62, the following words:- , but the
12 executive director of the criminal history systems board, or the executive director’s agent, may
13 disclose records pertaining to persons who own or possess rifles, shotguns, firearms, machine
14 guns, large capacity weapons or large capacity feeding devices, as defined in section 121 of

chapter 140, to licensees under section 122 of chapter 140 to comply with section 131E of chapter 140.

SECTION 3. Section 35 of chapter 123 of the General Laws, as so appearing, is hereby amended by inserting after the word “days.”, in line 38, the following words:- The court in its order shall specify whether such commitment is based upon a finding that said person is an alcoholic, a substance abuser, or both, and this information shall be entered in the record to permit transmission to the criminal history systems board for the purposes and under the conditions set forth in the second paragraph of section 36A.

SECTION 4. Section 36A of chapter 123 of the General Laws, as so appearing, is hereby amended by inserting the following paragraph:-

Notwithstanding the foregoing, the administrative office of the trial court shall transmit information contained in court records maintained under this section to the criminal history systems board for the purposes of (a) providing licensing authorities as defined under chapter 121 of chapter 140 with information required or permitted to be considered under state or federal law for the purpose of conducting background checks for firearms sales or licensing and (b) providing the Attorney General of the United States with information required or permitted under federal law to be included in the National Instant Criminal Background Check System or any successor system maintained for the purpose of conducting background checks for firearms sales or licensing. The executive director of the criminal history systems board shall determine which court records shall be transmitted for said purposes, provided that the executive director shall require no more information than is necessary to be transmitted, and such information shall not be considered a public record under section 7 of chapter 4.

SECTION 5. Section 121 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in line 39, the words “from which a shot or bullet can be discharged”, and inserting in place thereof the following words:- which will or is designed to or may readily be converted to expel a projectile by the action of an explosive

SECTION 6. Section 123 of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence in the third paragraph the following sentence:- No person licensed under section 122 shall sell, rent or lease, to another person, other than to an exempt person under subsection (c) of section 131E, more than 1 rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device in any 30-day period.

SECTION 7. Section 128A of chapter 140 of the General Laws, as so appearing, is hereby amended by adding the following 2 sentences:- Any sale or transfer conducted under this section shall comply with section 131E and shall take place at the location of a dealer licensed under section 122, who shall transmit the information required by this section for the purchases and sales by utilizing the electronic verification link established by the executive director of the criminal history systems board. A licensed dealer may charge the seller a fee not to exceed \$25 for each sale or transfer electronically submitted on behalf of the seller to the criminal history systems board.

SECTION 8. Section 129B is hereby further amended by striking out, in line 85, the words “department of mental health,”

SECTION 9. Section 129C of chapter 140, as so appearing, is hereby amended by inserting after the word “purpose”, in line 84, the following words:- , provided, however, that nothing in this subsection shall allow for the holding, handling, or firing of a machine gun by any

person other than a person licensed to possess a machine gun under section 131(o) or police personnel receiving instruction from a firearm instructor certified by the municipal police training committee or the colonel of the state police

SECTION 10. Section 129D of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the word “be”, in line 43, the following words:- destroyed by the colonel of the state police or the licensing authority or

SECTION 11. Section 130 of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the word “shotgun”, in line 8, the following words:- or machine gun

SECTION 12. Section 130 is hereby further amended by inserting after the word “years”, in line 28, the following words:- ; and provided further, that nothing in this section shall allow for the holding, handling, or firing of a machine gun by any person other than a person licensed to possess a machine gun under section 131(o) or police personnel receiving instruction from a firearm instructor certified by the municipal police training committee or the colonel of the state police

SECTION 13. Section 130B of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting at the end the following subsection:-

(h) There shall be, within the firearm licensing review board, a relief from disabilities subcommittee comprised of 3 members, designated from time to time, as follows: 1 member of the firearm licensing review board designated by the chair, 1 person designated by the commissioner of the department of mental health, and 1 person designated by the secretary of public safety and security, who shall chair the subcommittee.

81 An applicant who has been formally adjudicated as mentally defective in the
82 commonwealth or committed involuntarily to a mental institution in the commonwealth, within
83 the meaning of 18 U.S.C. § 922, may petition the subcommittee for relief from the firearms
84 prohibitions or disabilities imposed by federal law as the result of such adjudication or
85 commitment.

86 The applicant shall have the opportunity to submit evidence to the subcommittee and to
87 be heard by the subcommittee in support of the application. All hearings shall be conducted in
88 an informal manner, but otherwise according to the rules of evidence, and all witnesses shall be
89 sworn by the subcommittee chair. If requested by the petitioner and payment for stenographic
90 services, as determined by the subcommittee, accompanies such request, the subcommittee shall
91 cause a verbatim transcript of the hearing to be made. The subcommittee's decisions and
92 findings of facts shall be communicated in writing to the petitioner and to the licensing authority
93 to which the petitioner has applied or intends to apply within 60 days of rendering a decision.
94 The subcommittee shall maintain the records of its proceedings and of all materials submitted or
95 considered by the subcommittee for the purposes of judicial review for a minimum of 3 years
96 following the date of its decision. The records of the subcommittee shall not be considered a
97 public record under section 7 of chapter 4.

98 If the majority of the subcommittee determines that the applicant has shown by clear and
99 convincing evidence that the applicant will not be likely to act in a manner dangerous to public
100 safety and that granting relief will not be contrary to the public interest, the subcommittee may
101 grant relief and direct the criminal history systems board to notify the Attorney General of the
102 United States and to remove the record of the prohibition or disability from any database that the
103 criminal history systems board, the commonwealth or the federal government maintains and

104 makes available to the National Instant Criminal Background Check System or any successor
105 system maintained for the purpose of conducting background checks for firearms sales or
106 licensing.