

HOUSE No. 1567**The Commonwealth of Massachusetts**

PRESENTED BY:

George N. Peterson, Jr.

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 relative to the right to carry firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>	<i>1/20/2011</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>2/1/2011</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>	<i>2/3/2011</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>2/3/2011</i>
<i>Michael R. Knapik</i>		<i>2/3/2011</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>	<i>2/3/2011</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>	<i>2/3/2011</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>	<i>2/3/2011</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>2/3/2011</i>
<i>James E. Timilty</i>		<i>2/3/2011</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>2/3/2011</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>2/4/2011</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>	<i>2/4/2011</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>	<i>2/4/2011</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>	<i>2/4/2011</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>	<i>2/4/2011</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>2/4/2011</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	<i>2/4/2011</i>

<i>Cleon H. Turner</i>	<i>1st Barnstable</i>	<i>2/4/2011</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>2/4/2011</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>2/4/2011</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>2/4/2011</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>2/4/2011</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>2/4/2011</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>	<i>1/25/2011</i>
<i>Michael O. Moore</i>		<i>1/26/2011</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>	<i>1/26/2011</i>
<i>Demetrius J. Atsalis</i>	<i>2nd Barnstable</i>	<i>2/1/2011</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>	<i>2/1/2011</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>2/1/2011</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>	<i>2/1/2011</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>	<i>2/1/2011</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>	<i>2/3/2011</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>	<i>2/4/2011</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>	<i>2/4/2011</i>

HOUSE No. 1567

By Mr. Peterson of Grafton, a petition (accompanied by bill, House, No. 1567) of George N. Peterson, Jr. and others relative to the right to carry firearms. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the right to carry 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. Chapter 140 of the General Laws, as appearing in the 2008 Official Edition,
2 is hereby amended by striking section 131 and inserting in place thereof the following section:-

3 Section 131. All licenses to carry firearms shall be shall be subject to the following
4 conditions:

5 (a) A license to carry firearms shall entitle a holder thereof to purchase, rent, lease,
6 borrow, possess and carry for all lawful purposes:

7 (i) firearms, including large capacity firearms, and feeding devices and ammunition
8 therefor; and

9 (ii) rifles and shotguns, including large capacity weapons, and feeding devices and
10 ammunition therefor, for all lawful purposes;

(iii) chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate, consistent with the entitlements conferred by a firearm identification card issued under section 129B.

(b) Any person residing or having a place of business within the jurisdiction of the licensing authority or any law enforcement officer employed by the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to such licensing authority or the colonel of state police, an application for a license to carry firearms, or renewal of the same, which such licensing authority or said colonel shall issue if the applicant is not a prohibited person as outlined in this section. The licensing authority may not prescribe any other condition for the issuance of a license to carry firearms.

(c) For the purposes of this section an applicant shall be deemed to be a prohibited person if the applicant

(1) is under indictment in any court for a crime punishable by imprisonment for a term exceeding one year;

(2) is at the time of application less than 18 years old;

(3) has been convicted of a crime punishable by imprisonment for a term exceeding one year that is not a crime of violence for which a committed term of imprisonment has been served after sentencing has been carried out;

(4) has been convicted of a misdemeanor punishable by imprisonment for more than two years that is not a crime of violence for which a committed term of imprisonment has been served after sentencing has been carried out;

(5) is a fugitive from justice;

(6) is an unlawful user of or addicted to any controlled substance;

(7) has been adjudicated as a mental defective;

(8) has been involuntarily committed to any mental institution;

(9) is an illegal alien;

(10) has been discharged from the military under dishonorable conditions;

(11) has renounced his or her United States citizenship;

(12) is currently subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; no such order that has expired for which there was no conviction of a violation of such order shall be considered a disqualifier; or

(13) has been convicted of a misdemeanor crime of domestic violence, as defined in 18 USC 921 (a)(33).

(e) Within 7 days of the receipt of a completed application for a license to carry or possess firearms, or renewal of same, the licensing authority shall forward one copy of the application and one copy of the applicant's fingerprints to the colonel of state police, who shall within 30 days advise the licensing authority, in writing, of any disqualifying criminal record of the applicant arising from within or without the commonwealth and whether there is reason to believe that the applicant is a prohibited person for any of the foregoing reasons from possessing a license to carry or possess firearms. In searching for any disqualifying history of the applicant, the colonel shall utilize, or cause to be utilized, files maintained by the department of probation

52 and statewide and nationwide criminal justice, warrant and protection order information systems
53 and files including, but not limited to, the National Instant Criminal Background Check System.
54 The colonel shall inquire of the commissioner of the department of mental health relative to
55 whether the applicant is a prohibited person with respect to parts (7) and (8) of paragraph (c). If
56 the information available to the colonel does not indicate that the possession of a firearm or large
57 capacity firearm by the applicant would be in violation of state or federal law, he shall certify
58 such fact, in writing, to the licensing authority within said 30 day period.

59 The licensing authority may also make inquiries concerning the applicant to: (i) the
60 commissioner of the department of criminal justice information services relative to any
61 disqualifying condition and records of purchases, sales, rentals, leases and transfers of weapons
62 or ammunition concerning the applicant; (ii) the commissioner of probation relative to any
63 record contained within the department of probation or the statewide domestic violence record
64 keeping system concerning the applicant; and (iii) the commissioner of the department of mental
65 health relative to whether the applicant is a prohibited person. The director or commissioner to
66 whom the licensing authority makes such inquiry shall provide prompt and full cooperation for
67 that purpose in any investigation of the applicant.

68 The licensing authority shall, within 40 days from the date of application, either approve
69 the application and issue the license or deny the application and notify the applicant of the reason
70 for such denial in writing; provided, however, that no such license shall be issued unless the
71 colonel has certified, in writing, that the information available to him does not indicate that the
72 applicant is a prohibited person.

(f) A license issued under this section shall be revoked or suspended by the licensing authority, or his designee, upon the occurrence of any event that would categorize the license holder as a prohibited person. Any revocation or suspension of a license shall be in writing and shall state the specific reasons therefor. Upon revocation or suspension, the licensing authority shall take possession of such license and the person whose license is so revoked or suspended shall take all actions required under the provisions of section 129D. No appeal or post-judgment motion shall operate to stay such revocation or suspension. Notices of revocation and suspension shall be forwarded to the commissioner of the department of criminal justice information services and the commissioner of probation and shall be included in the criminal justice information system. A revoked or suspended license shall be reinstated if it is determined that the license holder is not a prohibited person.

Any applicant or holder aggrieved by a denial, revocation or suspension of a license, unless a hearing has previously been held pursuant to chapter 209A, may, within either 90 days after receiving notice of such denial, revocation or suspension or within 90 days after the expiration of the time limit during which the licensing authority is required to respond to the applicant, file a petition to obtain judicial review in the district court having jurisdiction in the city or town wherein the applicant filed for, or was issued, such license. A justice of such court, after a hearing and a finding of the facts, shall direct that a license be issued or reinstated to the petitioner if such justice finds that the applicant or holder is not a prohibited person.

(g) A license shall be in a standard form provided by the commissioner of the department of criminal justice information services in a size and shape equivalent to that of a license to operate motor vehicles issued by the registry of motor vehicles pursuant to section 8 of chapter 90 and shall contain a license number, the name, address, photograph, fingerprint, place and date

of birth, height, weight, hair color, eye color and signature of the licensee. Such license shall be marked "License to Carry Firearms". The application for such license shall be made in a standard form provided by the executive director of the criminal history systems board, which form shall require the applicant to affirmatively state under the pains and penalties of perjury that such applicant is not a prohibited person.

(h) Any person who knowingly files an application containing false information shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than two years in a house of correction, or by both such fine and imprisonment.

(i) A license to carry or possess firearms shall be valid, unless revoked or suspended, for a period of not more than 6 years from the date of issue and shall expire on the anniversary of the licensee's date of birth occurring not less than 5 years but not more than 6 years from the date of issue, except that if the licensee applied for renewal before the license expired, the license shall remain valid for a period of 90 days beyond the stated expiration date on the license, unless the application for renewal is denied. Any renewal thereof shall expire on the anniversary of the licensee's date of birth occurring not less than 5 years but not more than 6 years from the effective date of such license. Any license issued to an applicant born on February 29 shall expire on March 1.

The fee for the application shall be \$25, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee. For the purposes of section 10 of chapter 269, an expired license to

117 carry firearms shall be deemed to be valid for a period not to exceed 90 days beyond the stated
118 date of expiration, unless such license to carry firearms has been revoked.

119 Any person over the age of 70 and any law enforcement officer applying for a license to
120 carry firearms through his employing agency shall be exempt from the requirement of paying a
121 renewal fee for a license to carry firearms.

122 (j)(1) No license shall be required for the carrying or possession of a firearm known as a
123 detonator and commonly used on vehicles as a signaling and marking device, when carried or
124 possessed for such signaling or marking purposes.

125 (2) No license to carry shall be required for the possession of an unloaded large capacity
126 rifle or shotgun or an unloaded feeding device therefor by a veteran's organization chartered by
127 the Congress of the United States, chartered by the commonwealth or recognized as a nonprofit
128 tax-exempt organization by the Internal Revenue Service, or by the members of any such
129 organization when on official parade duty or during ceremonial occasions. For purposes of this
130 subparagraph, an "unloaded large capacity rifle or shotgun" and an "unloaded feeding device
131 therefor" shall include any large capacity rifle, shotgun or feeding device therefor loaded with a
132 blank cartridge or blank cartridges, so-called, which contain no projectile within such blank or
133 blanks or within the bore or chamber of such large capacity rifle or shotgun.

134 (k) Whoever knowingly issues or fails to issue a license in violation of this section shall
135 be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less
136 than six months nor more than two years in a jail or house of correction, or by both such fine and
137 imprisonment.

(l) The commissioner of the department of criminal justice information services shall send by first class mail to the holder of each such license to carry firearms, a notice of the expiration of such license not less than 90 days prior to such expiration and shall enclose therein a form for the renewal of such license. The taking of fingerprints shall not be required in issuing the renewal of a license if the renewal applicant's fingerprints are on file with the department of the state police. Any licensee shall notify, in writing, the licensing authority who issued said license, the chief of police into whose jurisdiction the licensee moves and the commissioner of the department of criminal justice information services of any change of address. Such notification shall be made by certified mail within 30 days of its occurrence. Failure to so notify shall be cause for revocation or suspension of said license.

(m) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a firearm, rifle or shotgun whose license issued under this section is invalid for the sole reason that it has expired, meaning after 90 days beyond the stated expiration date on the license, but who shall not be disqualified from renewal upon application therefor under this section, shall be subject to a civil fine of not less than \$500 nor more than \$5,000 and the provisions of section 10 of chapter 269 shall not apply; provided, however, that the exemption from the provisions of said section 10 of said chapter 269 provided herein shall not apply if: (i) such license has been revoked or suspended, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; (ii) revocation or suspension of such license is pending, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; or (iii) an application for renewal of such license has been denied. Any law enforcement officer who discovers a person to be in possession of a firearm, rifle or shotgun after such person's license has expired,

meaning after 90 days beyond the stated expiration date on the license, has been revoked or suspended, solely for failure to give notice of a change of address, shall confiscate such firearm, rifle or shotgun and the expired or suspended license then in possession and such officer, shall forward such license to the licensing authority by whom it was issued as soon as practicable. The officer shall, at the time of confiscation, provide to the person whose firearm, rifle or shotgun has been confiscated, a written inventory and receipt for all firearms, rifles or shotguns confiscated and the officer and his employer shall exercise due care in the handling, holding and storage of these items. Any confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such expired or suspended license within one year of such confiscation or may be otherwise disposed of in accordance with the provisions of section 129D. The provisions of this paragraph shall not apply if such person has a valid license to carry firearms issued under section 131F.

(n) Upon issuance of a license to carry or possess firearms under this section, the licensing authority shall forward a copy of such approved application and license to the commissioner of the department of criminal justice information services, who shall inform the licensing authority forthwith of the existence of any disqualifying condition discovered or occurring subsequent to the issuance of a license under this section.

(o) No person shall be issued a license to carry or possess a machine gun in the commonwealth, except that a licensing authority or the colonel of state police may issue a machine gun license to:

(i) a firearm instructor certified by the municipal police training committee for the sole purpose of firearm instruction to police personnel;

183 (ii) a bona fide collector of firearms upon application or upon application for renewal of
184 such license.

185 (p) The commissioner of the department of criminal justice information services shall
186 promulgate regulations in accordance with chapter 30A to establish criteria for persons who shall
187 be classified as bona fide collectors of firearms.

188 (q) Nothing in this section shall authorize the purchase, possession or transfer of any
189 weapon, ammunition or feeding device that is, or in such manner that is, prohibited by state or
190 federal law.

191 (r) The secretary of the executive office of public safety or his designee may promulgate
192 regulations to carry out the purposes of this section.