HOUSE DOCKET, NO. 941 FILED ON: 1/19/2011

HOUSE . . . . . No. 665

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy J. Toomey, 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 firearms in the commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Timothy J. Toomey, Jr.	*26th Middlesex*

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HOUSE . . . . . No. 665

By Mr. Toomey of Cambridge, a petition (accompanied by bill, House, No. 665) of Timothy J. Toomey, Jr., relative to requiring certain insurance policies for persons with firearm licenses. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *2287* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to firearms in the commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 131 of Chapter 140 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following new paragraph after paragraph three:—

No license to carry shall be issued pursuant to this section unless and until the applicant for the license or for the renewal of an existing license presents to the licensing authority a complete list of every handgun owned by the applicant along with a certificate of insurance verifying that the applicant has a valid insurance policy insuring against any harm or damage that might arise out of the use of each weapon on said list. The applicant shall swear under the penalties of perjury that said list is a complete list of all handguns owned by the applicant. The insurance policy shall be in an amount of at least $250,000 and shall list the specific weapons

11 covered by the policy. The list presented to the licensing authority shall match the list on the
12 insurance policy or the license or renewal shall not issue. In the event that a holder of a license to
13 carry acquires a new handgun after the issuance of the license or the renewal of an existing
14 license, the holder shall register the weapon as required by law and shall forward to the licensing
15 authority a true copy of a certificate of insurance verifying the existence of insurance, as required
16 herein, for said new weapon or weapons within thirty days of acquisition. Such a policy of
17 insurance shall be available to satisfy any judgment for personal injuries or property damages
18 arising out of the unintentional, accidental or unlawful use of an insured weapon, provided that,
19 in the event of multiple judgments, judgments for medical bills shall have a priority in the order
20 that said judgments are satisfied and, provided further, that medical bills paid for by or owed to
21 the Commonwealth and any municipal or regional governmental entity shall have a super
22 priority and shall be satisfied first out of all such judgments for medical bills. In the event that a
23 judgment issues against the license holder for personal injuries or property damage that cannot
24 be satisfied by the required insurance policy due to the holder's failure to maintain said policy,
25 the license holder may be punished by imprisonment by not more than five years.

26 SECTION 2: Section 131 ½ of Chapter 140 of the General Laws, as so appearing, is
27 hereby amended by striking out the second sentence and inserting in place thereof the following
28 sentence:-

29 The board shall consist of nine individuals, one of whom shall be a member of the gun
30 owners action league, one of whom shall be a member of stop handgun violence, one of whom
31 shall be a police chief selected from a list of four selected by the police chiefs association, one of
32 whom shall be a district attorney selected from a list of three selected by the district attorney's

33 association, and one of whom shall be the director of the firearms records bureau within the
34 criminal history systems board.

35 SECTION 3: Section 129C of Chapter 140 of the General Laws, as so appearing, is
36 hereby amended by striking out in line 16 the words "shall be made" and inserting in that line
37 after the word "gun," the following:- "a seller or owner shall make".

38 SECTION 4: Section 131 subsection (d) of Chapter 140 of the General Laws, as so
39 appearing, is hereby amended by inserting thereafter the following sentence;-

40 (viii) has not successfully completed a firearms safety course of at least twenty hours,
41 including a minimum of four hours of practical shooting instruction at a firing range that has
42 been approved by the secretary of public safety or his designee.

43 SECTION 5: Section 123 of Chapter 140 of the General Laws, as so appearing, is
44 hereby amended by striking out, in line 64 the word "and", and by inserting after the word
45 "thirty-one" the following words:- ";and that no more than one firearm shall be sold to any
46 person in the Commonwealth who has purchased a firearm within the past 30 days."

47 SECTION 6: Section 131K of Chapter 140 of the General Laws, as so appearing, is
48 hereby amended by striking out the first sentence and inserting in place thereof the following
49 sentence:-

50 "All weapons as defined in section 121 including, but not limited to, firearms, large
51 capacity weapons, rifles and shotguns sold within the commonwealth without a safety device
52 designed to prevent the discharge of such weapon by unauthorized users and approved by the
53 colonel of the state police including, but no limited to, mechanical locks or devices designed to

54 recognize and authorize, or otherwise allow the firearm to be discharged by its owner or
55 authorized user, by solenoid use-limitation devices, key activated or combination trigger or
56 handle locks, radio frequency tags, automated fingerprint identification systems or voice
57 recognition, provided, that such device is commercially available, shall be defective and the sale
58 of such weapons shall constitute a breach of warranty under section 2-314 of chapter 106 and an
59 unfair and deceptive trade act or practice under section 2 of chapter 93A."

60 SECTION 7: Chapter 269 of the General Laws, as so appearing, is hereby amended by
61 striking out section 10E and inserting place thereof the following section:-

62 Section 10E. Whoever, except as provided by law, in a single transaction or occurrence
63 or in a series of transactions within a twelve month period, knowingly or intentionally
64 distributes, sells, or transfers possession of a quantity of firearms, rifles, shotguns, machine guns,
65 assault weapons or any combination thereof, shall, if the quantity of firearms, rifles, shotguns,
66 machine guns, assault weapons or any combination thereof is:

67 (1) Three or more, but less than ten, be punished by a term of imprisonment of not more
68 than ten years in the state prison. No sentence imposed under the provisions of this paragraph
69 shall be for less than a mandatory minimum term of imprisonment of five years and a fine of not
70 more than seventy-five thousand dollars may be imposed but not in lieu of the mandatory
71 minimum term of imprisonment, as established herein.

72 (2) Ten or more, but less than twenty, be punished by a term of imprisonment of not
73 more than ten years in the state prison. No sentence imposed under the provisions of this
74 paragraph shall be for less than a mandatory minimum term of imprisonment of seven years and

75 a fine of not more than one hundred and twenty-five thousand dollars may be imposed but not in
76 lieu of the mandatory minimum term of imprisonment, as established herein.

77 (3) Twenty or more, be punished by a term of imprisonment not less than ten years up to
78 life imprisonment in the state prison. No sentence imposed under the provisions of this paragraph
79 shall be for less than a mandatory minimum term of imprisonment of twelve years and a fine of
80 not more than one hundred and seventy-five thousand dollars may be imposed but not in lieu of
81 the mandatory minimum term of imprisonment, as established herein.

82 A prosecution commenced under this section shall not be placed on file or continued
83 without a finding, and the sentence imposed upon a person convicted of violating any provision
84 of said section shall not be reduced to less than the mandatory minimum term of imprisonment as
85 established in said section, nor shall any sentence of imprisonment imposed upon any person be
86 suspended or reduced until such person shall have served said mandatory minimum term of
87 imprisonment.

88 A person convicted of violating any provision of this section shall not, until he shall
89 have served the mandatory minimum term of imprisonment established herein, be eligible for
90 probation, parole, furlough, work release, or receive any deduction from his sentence for good
91 conduct under sections one hundred and twenty-nine, one hundred and twenty-nine C and one
92 hundred and twenty-nine D of chapter one hundred and twenty-seven; provided, however, that
93 the commissioner of corrections may, on the recommendation of the warden, superintendent, or
94 other person in charge of the correctional institution, grant to said offender a temporary release in
95 the custody of an officer of such institution for the following purposes: to attend the funeral of a
96 relative, to visit a critically ill relative, or to obtain emergency medical or psychiatric services

97 unavailable at said institution. The provisions of section eighty-seven of chapter two hundred and
98 seventy-six shall not apply to any person, seventeen years of age or over, charged with a
99 violation of said sections, or to any child between the age of fourteen and seventeen, so charged,
100 if the court is of the opinion that the interests of the public require that he shall be tried for such
101 offense instead of being dealt with as a child.