

HOUSE No. 3253**The Commonwealth of Massachusetts**

PRESENTED BY:

David Paul Linsky

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 to reduce gun violence and to protect the citizens of the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/18/2013</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	
<i>Ellen Story</i>	<i>3rd Hampshire</i>	<i>1/29/2013</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/29/2013</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/24/2013</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	
<i>Denise Andrews</i>	<i>2nd Franklin</i>	<i>1/30/2013</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/29/2013</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Martha M. Walz</i>	<i>8th Suffolk</i>	
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>	
<i>Marcos A. Devers</i>	<i>16th Essex</i>	
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	
<i>John D. Keenan</i>	<i>7th Essex</i>	
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>	

<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	
<i>John J. Mahoney</i>	<i>13th Worcester</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>	
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>	
<i>Byron Rushing</i>	<i>9th Suffolk</i>	

HOUSE No. 3253

By Mr. Linsky of Natick, a petition (accompanied by bill, House, No. 3253) of David Paul Linsky and others relative to further regulating the licensing, sale and possession of firearms and increasing the tax on the sale of firearms and ammunition. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to reduce gun violence and to protect the citizens of 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:

1 SECTION 1: Section 131 of the Chapter 140 of the General Laws is hereby repealed
2 and replaced with the following:

3 All licenses to carry firearms shall be designated Class A or Class B, and the issuance
4 and possession of any such license shall be subject to the following conditions and restrictions:

5 (a) A Class A license shall entitle a holder thereof to purchase, rent, lease, borrow,
6 possess and carry: (i) firearms, including ammunition therefor, for all lawful purposes, subject to
7 such restrictions relative to the possession, use or carrying of firearms as the licensing authority
8 deems proper; and (ii) non-large capacity rifles and shotguns, including ammunition therefor, for
9 all lawful purposes; provided, however, that the licensing authority may impose such restrictions
10 relative to the possession, use or carrying of firearms, rifles and shotguns as it deems proper. A
11 violation of a restriction imposed by the licensing authority under the provisions of this
12 paragraph shall be cause for suspension or revocation and shall, unless otherwise provided, be
13 punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the
14 provisions of section 10 of chapter 269 shall not apply to such violation.

15 The colonel of state police may, after an investigation, grant a Class A license to a club or
16 facility with an on-site shooting range or gallery, which club is incorporated under the laws of
17 the commonwealth for the possession, storage and use of assault weapons, large capacity
18 weapons, ammunition therefor and large capacity feeding devices for use with such weapons on
19 the premises of such club; provided, however, that not less than one shareholder of such club

shall be qualified and suitable to be issued such license; and provided further, that such large capacity weapons and ammunition feeding devices may be used under such Class A club license only by such members that possess a valid firearm identification card issued under section 129B or a valid Class A or Class B license to carry firearms, or by such other persons that the club permits while under the direct supervision of a certified firearms safety instructor or club member who, in the case of a large capacity firearm, possesses a valid Class A license to carry firearms or, in the case of a large capacity rifle or shotgun, possesses a valid Class A or Class B license to carry firearms. Such club shall not permit shooting at targets that depict human figures, human effigies, human silhouettes or any human images thereof, except by public safety personnel performing in line with their official duties.

No large capacity weapon or large capacity feeding device shall be removed from the premises except for the purposes of: (i) transferring such firearm or feeding device to a licensed dealer; (ii) transporting such firearm or feeding device to a licensed gunsmith for repair; (iii) target, trap or skeet shooting on the premises of another club incorporated under the laws of the commonwealth and for transporting thereto; (iv) attending an exhibition or educational project or event that is sponsored by, conducted under the supervision of or approved by a public law enforcement agency or a nationally or state recognized entity that promotes proficiency in or education about semiautomatic weapons and for transporting thereto and therefrom; or (v) surrendering such firearm or feeding device under the provisions of section 129D. Any large capacity weapon or large capacity feeding device kept on the premises of a lawfully incorporated shooting club shall, when not in use, be secured in a locked container, and shall be unloaded during any lawful transport. The clerk or other corporate officer of such club shall annually file a report with the colonel of state police and the commissioner of the department of criminal justice information services listing all large capacity weapons and large capacity feeding devices owned or possessed under such license. The colonel of state police or his designee, shall have the right to inspect all firearms owned or possessed by such club upon request during regular business hours and said colonel may revoke or suspend a club license for a violation of any provision of this chapter or chapter 269 relative to the ownership, use or possession of large capacity weapons or large capacity feeding devices.

(b) A Class B license shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) non-large capacity firearms and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of such firearm as the licensing authority deems proper; provided, however, that a Class B license shall not entitle the holder thereof to carry or possess a loaded firearm in a concealed manner in any public way or place; and provided further, that a Class B license shall not entitle the holder thereof to possess a large capacity firearm, except under a Class A club license issued under this section or under the direct supervision of a holder of a valid Class A license at an incorporated shooting club or licensed shooting range; and (ii) rifles and shotguns, including ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose

such restrictions relative to the possession, use or carrying of firearms, rifles and shotguns as he deems proper. A violation of a restriction provided under this paragraph, or a restriction imposed by the licensing authority under the provisions of this paragraph, shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.

A Class B license shall not be a valid license for the purpose of complying with any provision under this chapter governing the possession, purchase, sale, lease, rental or transfer of any weapon or ammunition feeding device if such weapon is a large capacity firearm or if such ammunition feeding device is a large capacity feeding device for use with a large capacity firearm, both as defined in section 121.

(c) Either a Class A or Class B license shall be valid for the purpose of owning, possessing, purchasing and transferring non-large capacity rifles and shotguns, and for purchasing and possessing 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.

(d) 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 Class A or Class B license to carry firearms, or renewal of the same, which such licensing authority or said colonel may issue if it appears that the applicant is a suitable person to be issued such license, and that the applicant has good reason to fear injury to his person or property, or for any other reason, including the carrying of firearms for use in sport or target practice only, subject to such restrictions expressed or authorized under this section, unless the applicant:

(i) has ever as an adult in a court of the commonwealth or in any other state or federal jurisdiction been convicted, or in a court of the commonwealth or in any other state or federal jurisdiction been adjudicated a youthful offender or delinquent child, both as defined in section 52 of chapter 119, for the commission of: (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment of one year or more may be imposed; or (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of chapter 94C including, but not limited to, a violation under said chapter 94C; or (f) knowingly filing a application for a firearms identification card of license to carry firearms containing false information; provided, however, that except for the commission of a violent crime or a crime involving the trafficking of controlled substances or firearms, if the applicant has been so convicted or adjudicated or

released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than five years immediately preceding such application, such applicant's right or ability to possess a non-large capacity rifle or shotgun shall be deemed restored in the commonwealth with respect to such conviction or adjudication and such conviction or adjudication shall not disqualify such applicant for a firearm identification card;

(ii) has been confined to any hospital or institution for mental illness, unless the applicant submits with his application an affidavit of a registered physician attesting that such physician is familiar with the applicant's mental illness and that in such physician's opinion the applicant is not disabled by such an illness in a manner that should prevent such applicant from possessing a firearm;

(iii) is or has been under treatment for or confinement for drug addiction or habitual drunkenness, unless such applicant is deemed to be cured of such condition by a licensed physician, and such applicant may make application for such license after the expiration of five years from the date of such confinement or treatment and upon presentment of an affidavit issued by such physician stating that such physician knows the applicant's history of treatment and that in such physician's opinion the applicant is deemed cured;

(iv) is at the time of the application less than 21 years of age;

(v) is an alien other than a lawful permanent resident alien;

(vi) is currently subject to: (A) an order for suspension or surrender issued pursuant to section 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; or (B) a permanent or temporary protection order issued pursuant to chapter 209A or a similar order issued by another jurisdiction; or

(vii) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction.

(e) Within seven 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 disqualified 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 and statewide and nationwide criminal justice, warrant and protection order information systems and files including, but not limited to, the National Instant Criminal Background Check System. The colonel shall inquire of the commissioner of the department of mental health relative to whether the applicant is disqualified from being so licensed. If the information available to the

colonel does not indicate that the possession of a firearm or large capacity firearm by the applicant would be in violation of state or federal law, he shall certify such fact, in writing, to the licensing authority within said 30 day period.

The licensing authority may also make inquiries concerning the applicant to: (i) the commissioner of the department of criminal justice information services relative to any disqualifying condition and records of purchases, sales, rentals, leases and transfers of weapons or ammunition concerning the applicant; (ii) the commissioner of probation relative to any record contained within the department of probation or the statewide domestic violence record keeping system concerning the applicant; and (iii) the commissioner of the department of mental health relative to whether the applicant is a suitable person to possess firearms or is not a suitable person to possess firearms. The director or commissioner to whom the licensing authority makes such inquiry shall provide prompt and full cooperation for that purpose in any investigation of the applicant. The licensing authority shall request copies of mental health records for the applicant from all providers of mental health services that are disclosed on the application.

The licensing authority shall, within 40 days from the date of application, either approve the application and issue the license or deny the application and notify the applicant of the reason for such denial in writing; provided, however, that no such license shall be issued unless the colonel has certified, in writing, that the information available to him does not indicate that the possession of a firearm or large capacity firearm by the applicant would be in violation of state or federal law.

(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 have disqualified the holder from being issued such license or from having such license renewed. A license may be revoked or suspended by the licensing authority if it appears that the holder is no longer a suitable person to possess such license. Any revocation or suspension of a license shall be in writing and shall state the 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 may be reinstated only upon the termination of all disqualifying conditions, if any.

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, may direct that a license be issued or reinstated to the petitioner if such justice finds that there was no reasonable ground for denying, suspending or revoking such license and that the petitioner is not prohibited by law from possessing same.

(g) A license shall be in a standard form provided by the executive director of the criminal history systems board 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 which shall clearly indicate whether such number identifies a Class A or Class B license, 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" and shall clearly indicate whether the license is Class A or Class B. 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 disqualified on any of the grounds enumerated above from being issued such license.

(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 not more than ten years in state prison, 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 if the licensee is on active duty with the armed forces of the United States on the expiration date of his license, the license shall remain valid until the licensee is released from active duty and for a period of not less than 90 days following such release. 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 \$100, 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; \$50 of the fee shall be deposited into the general fund of the commonwealth and not less than \$50,000 of the funds deposited into the General Fund shall be allocated to the Firearm Licensing Review Board, established in section 130B, for its operations and that any funds not expended by said board for its operations shall revert back to the General Fund; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. For law enforcement officials, or local, state, or federal government entities acting on their behalf, the fee for the application shall be set at \$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 \$12.50 of the fee, and \$12.50 of the fee shall be deposited into the general fund of the commonwealth. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit such portion of the license application fee into the Firearms Record Keeping Fund quarterly, not later than January 1, April 1, July 1 and October 1 of each year. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly such portion of the license application fee as is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year. For the purposes of section 10 of chapter 269, an expired license to carry firearms shall be deemed to be valid for a period not to exceed 90 days beyond the stated date of expiration, unless such license to carry firearms has been revoked.

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

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

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

(k) Whoever knowingly issues a license in violation of this section 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 jail or house of correction, or by both such fine and imprisonment.

(l) The executive director of the criminal history systems board shall send electronically or 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

executive director of the criminal history systems board 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. The commissioner of criminal justice information services shall provide electronic notice of expiration only upon the request of a cardholder. A request for electronic notice of expiration shall be forwarded to the department on a form furnished by the commissioner. Any electronic address maintained by the department for the purpose of providing electronic notice of expiration shall be considered a firearms record and shall not be disclosed except as provided in section 10 of chapter 66.

(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, or 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 executive director of the criminal history systems board, 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;

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

(p) The executive director of the criminal history systems board shall promulgate regulations in accordance with chapter 30A to establish criteria for persons who shall be classified as bona fide collectors of firearms.

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

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

(s) No license issued under this section shall permit the licensee to purchase, rent, lease, borrow, possess or carry any assault weapon, large-capacity weapon, or large capacity feeding device, as defined in Section 121 of Chapter 140, except while on the premises of a club or facility with an on-site shooting range or gallery with a Class A license issued by the Colonel of the State Police pursuant to paragraph (a).

(t) An applicant for a license shall sign a waiver at the time of application allowing the licensing authority access to any records that have a bearing on the mental health of the applicant. The permit application form and the waiver form shall be prescribed by the Secretary of Public Safety and shall be uniform throughout the Commonwealth. Said form shall require an applicant to disclose all providers of mental health treatment or services for 20 years prior to the date of application.

(u) A health care provider or public health authority shall disclose health information, including protected health care information, relating to any individual's mental health history, to the licensing authority in a timely manner in response to a request for the information from the authority; provided that:

(i) the information shall be used only for the purpose of evaluating the individual's suitability for a license under this section;

(ii) the individual has executed a waiver permitting release of the health information for the purpose; And,

(iii) said health information shall be destroyed by the licensing authority within 30 days following the issuing of a license or the outcome of any appeal.

(v) In making the determination if an applicant is a suitable person to be issued a license pursuant to this section, the licensing authority shall consider the applicant's stated purpose and intended use of said license, the applicant's experience, training and familiarity with firearms, rifles and shotguns, the applicant's general mental and physical health, the applicant's age and maturity, and any such factors as the licensing authority may deem relevant.

SECTION 2: Section 129B of Chapter 140 of the General Laws is hereby replaced with the following: -

A firearm identification card shall be issued and possessed subject to the following conditions and restrictions:

(1) Any person residing or having a place of business within the jurisdiction of the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the licensing authority an application for a firearm identification card, or renewal of the same, which the licensing authority may issue, if it appears that the applicant is a suitable person to be issued such a license, unless the applicant:

(i) has ever as an adult in a court of the commonwealth or in any other state or federal jurisdiction been convicted, or in a court of the commonwealth or in any other state or federal jurisdiction been adjudicated a youthful offender or delinquent child, both as defined in section 52 of chapter 119, for the commission of: (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment of one year or more may be imposed; or (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of chapter 94C including, but not limited to, a violation under said chapter 94C; or (f) knowingly filing an application for a firearms identification card of license to carry firearms containing false information; provided, however, that except for the commission of a violent crime or a crime involving the trafficking of controlled substances or firearms, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than five years immediately preceding such application, such applicant's right or ability to possess a non-large capacity rifle or shotgun shall be deemed restored in the commonwealth with respect to such conviction or adjudication and such conviction or adjudication shall not disqualify such applicant for a firearm identification card;

(ii) has, in any other state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of: (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as

defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; or (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of chapter 94C; provided, however, that, except for the commission of a violent crime or a crime involving the trafficking of weapons or controlled substances, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than five years immediately preceding such application, and such applicant's right or ability to possess a rifle or shotgun has been fully restored in the jurisdiction wherein the subject conviction or adjudication was entered, such conviction or adjudication shall not disqualify such applicant for a firearm identification card;

(iii) has been confined to any hospital or institution for mental illness, unless the applicant submits with his application an affidavit of a registered physician attesting that such physician is familiar with the applicant's mental illness and that in such physician's opinion the applicant is not disabled by such an illness in a manner that should prevent the applicant from possessing a firearm, rifle or shotgun;

(iv) is or has been under treatment for or confinement for drug addiction or habitual drunkenness, unless such applicant is deemed to be cured of such condition by a licensed physician, in which case he may make application for such card after the expiration of five years from the date of such confinement or treatment and upon presentation of an affidavit issued by such physician to the effect that such physician knows the applicant's history of treatment and that in such physician's opinion the applicant is deemed cured;

(v) is at the time of the application less than 15 years of age;

(vi) is at the time of the application more than 15 but less than 18 years of age, unless the applicant submits with his application a certificate of his parent or guardian granting the applicant permission to apply for a card;

(vii) is an alien other than a lawful permanent resident alien;

(viii) is currently subject to: (a) an order for suspension or surrender issued pursuant to section 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; or (b) a permanent or temporary protection order issued pursuant to chapter 209A or a similar order issued by another jurisdiction; or

(ix) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction.

(2) Within seven days of the receipt of a completed application for a card, 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 disqualified for any of the foregoing reasons from possessing a card; provided, however, that the taking of fingerprints shall not be required in issuing the renewal of a card if the renewal applicant's fingerprints are on file with the department of state police. In searching for any disqualifying history of the applicant, the colonel shall utilize, or cause to be utilized, files maintained by the department of mental health, department of probation and statewide and nationwide criminal justice, warrant and protection order information systems and files including, but not limited to, the National Instant Criminal Background Check System. If the information available to the colonel does not indicate that the possession of a non-large capacity rifle or shotgun by the applicant would be in violation of state or federal law, he shall certify such fact, in writing, to the licensing authority within such 30 day period.

The licensing authority may also make inquiries concerning the applicant to: (i) the commissioner of the department of criminal justice information services relative to any disqualifying condition and records of purchases, sales, rentals, leases and transfers of weapons or ammunition concerning the applicant; (ii) the commissioner of probation relative to any record contained within the department of probation or the statewide domestic violence record keeping system concerning the applicant; and (iii) the commissioner of the department of mental health relative to whether the applicant is a suitable person to possess firearms or is not a suitable person to possess firearms. The director or commissioner to whom the licensing authority makes such inquiry shall provide prompt and full cooperation for that purpose in any investigation of the applicant. The licensing authority shall request copies of mental health records for the applicant from all providers of mental health services that are disclosed on the application.

(3) The licensing authority shall, within 40 days from the date of application, either approve the application and issue the license or deny the application and notify the applicant of the reason for such denial in writing; provided, however, that no such card shall be issued unless the colonel has certified, in writing, that the information available to him does not indicate that the possession of a rifle or shotgun by the applicant would be in violation of state or federal law.

(4) A firearm identification card shall be revoked or suspended by the licensing authority or his designee upon the occurrence of any event that would have disqualified the holder from being issued such card or from having such card renewed or for a violation of a restriction provided under this section. Such card may be revoked or suspended by the licensing authority if it appears that the holder is no longer a suitable person to possess such card. Any revocation or suspension of a card shall be in writing and shall state the reasons therefor. Upon revocation or suspension, the licensing authority shall take possession of such card and receipt for fee paid for such card, and the person whose card is so revoked or suspended shall take all action 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 card may be reinstated only upon the termination of all disqualifying conditions.

(5) Any applicant or holder aggrieved by a denial, revocation or suspension of a firearm identification card, unless a hearing has previously been held pursuant to chapter 209A, may, within either 90 days after receipt of notice of such denial, revocation or suspension or within 90 days after the expiration of the time limit in 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 card. A justice of such court, after a hearing, may direct that a card be issued or reinstated to the petitioner if such justice finds that there was no reasonable ground for denying, suspending or revoking such license and that the petitioner is not prohibited by law from possessing same.

(6) A firearm identification card shall not entitle a holder thereof to possess: (i) a large capacity firearm or large capacity feeding device therefor, except under a Class A license issued to a shooting club as provided under section 131 or under the direct supervision of a holder of a Class A license issued to an individual under section 131 at an incorporated shooting club or licensed shooting range; or (ii) a non-large capacity firearm or large capacity rifle or shotgun or large capacity feeding device therefor, except under a Class A license issued to a shooting club as provided under section 131 or under the direct supervision of a holder of a Class A or Class B license issued to an individual under section 131 at an incorporated shooting club or licensed shooting range. A firearm identification card shall not entitle a holder thereof to possess any rifle or shotgun that is, or in such manner that is, otherwise prohibited by law. A firearm identification card shall be valid for the purpose of purchasing and possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate. Except as otherwise provided herein, a firearm identification card shall not be valid for the use, possession, ownership, transfer, purchase, sale, lease, rental or transportation of a rifle or shotgun if such rifle or shotgun is a large capacity weapon as defined in section 121.

(7) A firearm identification card 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 an identification number, name, address, photograph, fingerprint, place and date of birth, height, weight, hair color, eye color and signature of the cardholder and shall be marked "Firearm Identification Card". If a firearm identification card is issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate, such card shall clearly state that such card is valid for such limited purpose only. The application for such card shall be made in a standard form provided by the commissioner of

the department of criminal justice information services which shall require the applicant to affirmatively state, under the pains and penalties of perjury, that he is not disqualified on any of the grounds enumerated in clauses (i) to (ix), inclusive, from being issued such card.

(8) 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 not more than ten years in state prison, or by both such fine and imprisonment.

(9) A firearm identification card shall be valid, unless revoked or suspended, for a period of not more than 6 years from the date of issue, except that if the cardholder applied for renewal before the card expired, the card shall remain valid for a period of 90 days after the stated expiration date on the card, unless the application for renewal is denied; provided, however, that if the cardholder is on active duty with the armed forces of the United States on the expiration date of his card, the card shall remain valid until the cardholder is released from active duty and for a period of not less than 90 days following such release. A card issued on February 29 shall expire on March 1. The executive director of the criminal history systems board shall send electronically or by first class mail to the holder of a firearm identification card, a notice of the expiration of the card not less than 90 days before its expiration, and shall enclose with the notice a form for the renewal of the card. The executive director of the criminal history systems board shall include in the notice all pertinent information about the penalties that may be imposed if the firearm identification card is not renewed within the 90 days before expiration. The commissioner of criminal justice information services shall provide electronic notice of expiration only upon the request of a cardholder. A request for electronic notice of expiration shall be forwarded to the department on a form furnished by the commissioner. Any electronic address maintained by the department for the purpose of providing electronic notice of expiration shall be considered a firearms record and shall not be disclosed except as provided in section 10 of chapter 66.

(9A) Except as provided in clause (9B), the fee for an application for a firearm identification card shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in the case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited in the General Fund; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly that portion of the firearm identification card application fee which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

(9B) The application fee for a firearm identification card issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall be \$25, which shall be payable to the licensing authority and shall not be prorated or refunded in the case of revocation or

denial. The licensing authority shall retain 50 per cent of the fee and the remaining portion shall be deposited in the General Fund. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly that portion of the firearm identification card application fee which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year. There shall be no application fee for the renewal of a firearm identification card issued under this clause.

A firearm identification card issued under this clause shall display, in clear and conspicuous language, that the card shall be valid only for the purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate.

(9C) Except as provided in clause (9B), the fee for an application for a firearm identification card for any person under the age of 18 shall be \$25, which shall be payable to the licensing authority and shall not be prorated or refunded in the case of revocation or denial. The licensing authority shall retain 50 per cent of the fee and the remaining portion shall be deposited into the General Fund. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly that portion of the firearm identification card application fee which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

(10) Any person over the age of 70 shall be exempt from the requirement of paying a renewal fee for a firearm identification card.

(11) A cardholder shall notify, in writing, the licensing authority that issued such card, the chief of police into whose jurisdiction such cardholder moves and the executive director of the criminal history systems board 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 such card.

(12) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a non-large capacity rifle or shotgun whose firearm identification card 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 card, 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 said section 10 of said 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 firearm identification card 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 firearm identification card 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 firearm identification card has been denied. Any law enforcement officer who discovers a person to be in possession of a rifle or shotgun after such person's firearm identification card has expired, meaning after 90 days beyond the stated expiration date on the card, or has been revoked or suspended solely for failure to give notice of a change of address shall confiscate any rifle or shotgun and such expired or suspended card then in possession, and such officer shall forward such card to the licensing authority by whom it was issued as soon as practicable. Any confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such expired or suspended card within one year of such confiscation or such weapon may be otherwise disposed of in accordance with the provisions of section 129D. Pending the issuance or denial of a renewed firearm identification card, a receipt for the fee paid, after five days following issuance, shall serve as a valid substitute and any rifle or shotgun so confiscated shall be returned, unless the applicant is disqualified. The provisions of this paragraph shall not apply if such person has a valid license to carry firearms issued under section 131 or 131F.

(13) Upon issuance of a firearm identification card under this section, the licensing authority shall forward a copy of such approved application and card to the executive director of the criminal history systems board, who shall inform the licensing authority forthwith of the existence of any disqualifying condition discovered or occurring subsequent to the issuance of a firearm identification card under this section.

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

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

(16) An applicant for a license shall sign a waiver at the time of application allowing the licensing authority access to any records that have a bearing on the mental health of the applicant. The permit application form and the waiver form shall be prescribed by the Secretary of Public Safety and shall be uniform throughout the Commonwealth. Said form shall require an applicant to disclose all providers of mental health treatment or services for 20 years prior to the date of application.

(17) A health care provider or public health authority shall disclose health information, including protected health care information, relating to any individual's mental health history, to the licensing authority in a timely way in response to a request for the information from the authority; provided that:

(a) the information shall be used only for the purpose of evaluating the individual's suitability for a license under this section;

(b) the individual has executed a waiver permitting release of the health information for the purpose; And,

(c) said health information shall be destroyed by the licensing authority within 30 days following the issuing of a license or the outcome of any appeal.

(18) In making the determination if an applicant is a suitable person to be issued a firearms identification card pursuant to this section, the licensing authority shall consider the applicant's stated purpose and intended use of said license, the applicant's experience, training and familiarity with firearms, rifles and shotguns, the applicant's general mental and physical health, the applicant's age and maturity, and any such factors as the licensing authority may deem relevant.

SECTION 3. Section 123 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking in clause 16 the words:- "that was not otherwise lawfully possessed on September 13, 1994", and inserting in place thereof the following:— "unless such sale, lease, rent, transfer or delivery is made to a law enforcement agency."

SECTION 4. Chapter 140 of the General Laws is hereby amended by adding the following section:-

Section 207. (a) Whoever possess, carries, or owns a firearm, rifle or shotgun without a liability policy or bond or deposit required by the provisions of this chapter which has not been provided and maintained in accordance therewith shall be punished by a fine of not less than five hundred nor more than five thousand dollars or by imprisonment for not more than one year in a house of correction, or both such fine and imprisonment. This section shall not apply to a person who possesses a firearm, rifle, or shotgun on a temporary basis while on the premises of a licensed gun club.

(b) The commissioner of insurance shall promulgate regulations set forth for the minimum terms of liability insurance policies which shall satisfy the requirements of this section.

SECTION 5:- Section 131P of the Chapter 140 of the General Laws is hereby repealed and replaced with the following:-

Section 131P. (a) Any person making application for the issuance of a firearms identification card under section 129B, a Class A or Class B license to carry firearms under section 131 or 131F or a permit to purchase under section 131A who was not licensed under the provisions of this chapter on June 1, 1998 shall, in addition to the requirements set forth in said section 129B, 131, 131A or 131F, submit to the licensing authority a basic firearms safety certificate; and provided further, that an applicant for a firearms identification card for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be required to complete a

614 basic firearms safety course as a prerequisite for receiving such card. Persons lawfully
615 possessing a firearm identification card or license to carry firearms on June 1, 1998 shall be
616 exempt from the provisions of this section upon expiration of such card or license and when
617 applying for licensure as required under this chapter. No application for the issuance of a firearm
618 identification card or license to carry shall be accepted or processed by the licensing authority
619 without such certificate attached thereto; provided, however, that the provisions of this section
620 shall not apply to (i) any member of the military or other service of any state or of the United
621 States and any such member having received an honorable discharge from such service; (ii) any
622 duly authorized law enforcement officer; and (iii) any officer, agent or employee of the
623 commonwealth or any state of the United States.; provided, however, that any such person
624 described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or
625 possess the weapon so carried or possessed and is acting within the scope of his duties.

626 (b) The colonel of state police shall promulgate rules and regulations governing the
627 issuance and form of basic firearms safety certificates required by this section. Said colonel shall
628 certify certain persons as firearms safety instructors and shall certify safety course curriculum.
629 Said curriculum must include a minimum of at least five hours of live discharge of firearms,
630 rifles and shotguns at a licensed gun club, including the discharge of at least 50 rounds of
631 ammunition. Such certification shall be for a period of ten years, unless sooner revoked by
632 reason of unsuitability, in the discretion of said colonel. The department of state police may
633 impose a fee of \$50 for initial issuance of such certification to offset the cost of certifying
634 instructors. The fee for certification renewal shall be \$10. Firearms safety instructors shall be any
635 person certified by a nationally recognized organization that fosters safety in firearms, or any
636 other person in the discretion of said colonel, to be competent to give instruction in a basic
637 firearms safety course. Applicants for certification as instructors under the provisions of this
638 section shall not be exempt from the requirements of this chapter or any other law or regulation
639 of the commonwealth or the United States. Upon application to the colonel of state police, said
640 colonel may, in his discretion, certify as a firearms safety instructor any person who operates a
641 firearms safety course or program which provides in its curriculum: (a) the safe use, handling
642 and storage of firearms; (b) methods for securing and childproofing firearms; (c) the applicable
643 laws relating to the possession, transportation and storage of firearms; and (d) knowledge of
644 operation, potential dangers and basic competency in the ownership and usage of firearms.

645 (c) Any firearms safety instructor certified under the provisions of this section may, in his
646 discretion, issue a basic firearms safety certificate to any person who successfully completes the
647 requirements of a basic firearms safety course approved by the colonel. No firearms safety
648 instructor shall issue or cause to be issued any basic firearms safety certificate to any person who
649 fails to meet minimum requirements of the prescribed course of study including, but not limited
650 to, demonstrated competency in the use of firearms. Instructors certified under the provisions of
651 this section shall forward to the department of state police the names of those persons who have
652 received basic firearms safety certificates. Local licensing authorities, as defined in section 121,

shall, upon receipt of an application for a firearm identification card or a Class A or Class B license to carry firearms, make inquiry to the department of state police to confirm the issuance to the applicant of a basic firearms safety certificate.

(d) Any person applying for licensure under the provisions of this chapter who knowingly files or submits a basic firearms safety certificate to a licensing authority which contains false information shall be punished by a fine of not less than \$1,000 nor more than \$5,000 or by imprisonment for not more than two years in a house of correction, or by both such fine and imprisonment.

(e) Any firearms safety instructor who knowingly issues a basic firearms safety certificate to a person who has not successfully completed a firearms safety course approved by the colonel shall be punished by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for not more than two years in a house of correction, or by both such fine and imprisonment.

SECTION 6. Chapter 64H of the General Laws shall be amended by adding the following new section:-

Section 34. An excise is hereby imposed upon sales at retail in the commonwealth, by any vendor, of ammunition, rifles, shotguns, firearms or parts thereof at the rate of 25 percent of the gross receipts of the vendor from all such sales of such property. The excise shall be paid by the vendor to the commissioner at the time provided for filing the return required by section sixteen of chapter sixty-two C. Said receipts shall be deposited in a trust account called "Firearm Sales Tax Trust Fund" which shall be set up on the books of the Commonwealth for the purposes of firearms licensing, mental health services and victim's services, subject to appropriation.

SECTION 7. Section 167A of chapter 6 of the General Laws, as inserted by section 8 of chapter 256 of the acts of 2010, is hereby amended by inserting the following paragraph:-

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

SECTION 8. Section 35 of chapter 123 of the General Laws, as appearing in the 2008 Official Edition, 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 department of criminal justice information services for the purposes and under the conditions set forth in the second paragraph of section 36A.

SECTION 9. Section 36A of chapter 123, as so appearing, is hereby amended by inserting after the first paragraph 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 department of criminal justice information services for the purposes of (a) providing licensing authorities as defined under section 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 commissioner of the department of criminal justice information services shall determine which court records shall be transmitted for said purposes, provided that the commissioner 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 10. Section 129B of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in line 85, the words “department of mental health,”.

SECTION 11. Section 130B of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting 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.

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

The applicant shall have the opportunity to submit evidence to the subcommittee and to be heard by the subcommittee in support of the application. All hearings shall be conducted in an informal manner, but otherwise according to the rules of evidence, and all witnesses shall be sworn by the subcommittee chair. If requested by the petitioner and payment for stenographic services, as determined by the subcommittee, accompanies such request, the subcommittee shall cause a verbatim transcript of the hearing to be made. The subcommittee’s decisions and findings of facts shall be communicated in writing to the petitioner and to the licensing authority to which the petitioner has applied or intends to apply within 60 days of rendering a decision. The subcommittee shall maintain the records of its proceedings and of all materials submitted or

726 considered by the subcommittee for the purposes of judicial review for a minimum of 3 years
727 following the date of its decision. The records of the subcommittee shall not be considered a
728 public record under section 7 of chapter 4.

729 If the majority of the subcommittee determines that the applicant has shown by clear and
730 convincing evidence that the applicant will not be likely to act in a manner dangerous to public
731 safety and that granting relief will not be contrary to the public interest, the subcommittee may
732 grant relief and direct the department of criminal justice information services to notify the
733 Attorney General of the United States and to remove the record of the prohibition or disability
734 from any database that the department of criminal justice information services, the
735 commonwealth or the federal government maintains and makes available to the National Instant
736 Criminal Background Check System or any successor system maintained for the purpose of
737 conducting background checks for firearms sales or licensing.

738 In determining whether to grant relief, the subcommittee shall consider the circumstances
739 regarding the firearms disabilities imposed; the applicant's record, including the applicant's
740 mental health and criminal history records; and the applicant's reputation developed, at a
741 minimum, through character witness statements, testimony, or other character evidence. The
742 applicant shall have the burden to produce evidence concerning these matters and the burden of
743 persuading the subcommittee to grant relief. The subcommittee may promulgate regulations
744 governing the application process and the conduct of its hearings.

745 The decision of the subcommittee shall be a final decision. An applicant who is denied
746 relief by the subcommittee may, within 30 days of the receipt of the denial, seek review of the
747 subcommittee's decision by filing a complaint in the district court. The district court's review of
748 the subcommittee's decision shall be de novo, and the court may in its discretion receive
749 additional evidence necessary to conduct an adequate review.

750 The firearm licensing review board shall establish a fee to file an application for relief
751 under this section, which fees shall be retained by the department of criminal justice information
752 services.

753 SECTION 12. Section 131 of chapter 140 of the General Laws, as so appearing, is
754 hereby amended by striking out, in lines 155-157, the words "The colonel shall inquire of the
755 commissioner of the department of mental health relative to whether the applicant is disqualified
756 from being so licensed."

757 SECTION 13. Chapter 265 of the General Laws is hereby amended by inserting after
758 section 13M the following section:-

759 Section 13N. Upon entry of a conviction for any misdemeanor offense that has as an
760 element the use or attempted use of physical force, or the threatened use of a deadly weapon, the
761 court shall determine whether the victim or intended victim was a family or household member

of the defendant, as defined in section 1 of chapter 209A. If the victim or intended victim was a family or household member of the defendant, the court shall enter the offense, the chapter, section and subsection, if any, of the offense, and the relationship of the defendant to the victim upon the record, and this entry shall be forwarded to the department of criminal justice information services for inclusion in the criminal justice information system and for the purpose of 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.

SECTION 14. Notwithstanding any general or special law or court order, including an order of impoundment, to the contrary, the administrative office of the trial court shall transmit any order of the probate court appointing a guardian or conservator for an incapacitated person under part 3 or part 4 of article V of the Massachusetts Uniform Probate Code on the ground that the person lacks the mental capacity to contract or manage his or her own affairs, and any subsequent order terminating or rescinding such appointment, to the department of criminal justice information services for the purpose of 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 department of criminal justice information services shall transmit no more information than is necessary for the purpose stated above, and such information shall not be considered a public record under section 7 of chapter 4.

SECTION 15. Notwithstanding section 36 of chapter 123 of the General Laws, and for the sole purposes of providing licensing authorities as defined under section 121 of chapter 140 of the General Laws with information required or permitted to be considered under state law for the purpose of conducting background checks for firearms sales or licensing and of 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:

(a) No later than 6 months from the effective date of this act, the department of mental health shall transmit to the department of criminal justice information services sufficient information to identify all persons known to the department of mental health who have been confined to any hospital or institution for mental illness within 20 years of the effective date or who are so confined at the time of transmission; and

(b) Thereafter, the department of mental health shall transmit such information to the department of criminal justice information services on a quarterly basis concerning individuals who have been so confined in the 3-month period preceding the date of each transmission.

Such information shall not be considered a public record under section 7 of chapter 4.

SECTION 16. Sections 4 and 6 shall take effect 6 months after the effective date of this act.

SECTION 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 23. Section 131E of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after subsection (b) the following subsection:-

(c) No person, other than an exempt person as defined in this subsection shall purchase, rent or lease more than 1 rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device in any 30-day period.

This subsection shall not apply to the following persons and uses:

- any law enforcement agency or authority;
- any branch of the United States military, including the National Guard;
- any persons in any branch of the United States military, police officers or other peace officers who are acquiring firearms for the purposes of performing their official duties or when duly authorized by their employer to purchase them;
- any licensed watch, guard or patrol agency or their licensed employees for the purposes of performing duties in the course of employment under sections 22 and 25 of chapter 147;
- a federal, state or local historical society, museum or institutional collector open to the public;
- any person who purchases, rents or leases a rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device and then exchanges it for another rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device provided by a licensed dealer within a 30-day period; and
- a firearms surrender program authorized by and in compliance with section 131O.

Upon receipt of a record of a sale, rental or lease of a rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device from a licensee as required under section 123 or a person without a license under section 128A, the executive director of the criminal history systems board, or the executive director’s agent, shall determine whether a person has purchased, rented or leased more than 1 rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device in any 30-day period in violation of this subsection. If a person has purchased, rented or leased in violation of this subsection, the

executive director of the criminal history systems board, or the executive director's agent, shall forward any records demonstrating the relevant acquisition history to the colonel of the state police or the colonel's agent, the prosecutor, and the chief of police in the city or town in which the person resides or where the second rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device was obtained in violation of this subsection.

A non-exempt person who purchases, rents or leases more than 1 rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device in any 30-day period shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 2 ½ years, or both, for a first offense; and for any subsequent offense shall be punished by a fine of not less than \$1,000 and not more than \$5,000, or by imprisonment for not more than 2 ½ years in a house of correction or not more than 5 years in the state prison, or by both such fine and imprisonment.

Any licensed dealer under section 122 or any other individual who sells, rents or leases a rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device to a non-exempt person under this section, having sold, rented or leased a rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device to the person within the previous 30 days or with actual knowledge that the person has purchased, rented or leased a rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device within the previous 30 days, shall be punished by a fine of not more than \$5,000, or by imprisonment of not more than 2 ½ years, or both, for a first offense; and for any subsequent offense shall be punished by a fine of not less than \$1,000 and not more than \$10,000, or by imprisonment for not more than 2 ½ years in a house of correction or not more than 5 years in the state prison, or by both such fine and imprisonment.

SECTION 24. Section one hundred and twenty one of chapter one hundred and forty is hereby amended by deleting the definition of "ammunition" and replacing it with the following definition: -

"Ammunition" shall mean a cartridge consisting of a cartridge case or hull, propellant powder, primer, and bullet, shot or pellet as a single complete projectile load for any firearm, rifle, shotgun or machine gun. The term ammunition shall also mean any projectile powder for use in any firearm, rifle, shotgun or machine gun.

SECTION 25. Section 131 M of chapter one hundred and forty is hereby amended by deleting it in its entirety and replacing it with the following: -

No person shall sell, offer for sale, transfer or possess an assault weapon or a large capacity feeding device that was not otherwise lawfully possessed on September 13, 1994. Whoever not being licensed under the provisions of section 122 violates the provisions of this

section shall be punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and for a second offense, by a fine of not less than \$5,000 nor more than \$15,000 or by imprisonment for not less than five years nor more than 15 years, or by both such fine and imprisonment.

The provisions of this section shall not apply to the possession of an assault weapon or large capacity feeding device by a law enforcement officer, or a retired law enforcement officer qualified under the Law Enforcement Officers Safety Act.

SECTION 26. Section (m) of Chapter 269 is hereby repealed and replaced with the following:-

(m) Notwithstanding the provisions of paragraph (a) or (h), any person not exempted by statute who knowingly has in his possession, or knowingly has under his control in a vehicle, a large capacity weapon or large capacity feeding device except as permitted or otherwise provided under this section or chapter 140, shall be punished by imprisonment in a state prison for not less than five years nor more than twenty years. The sentence imposed upon such person shall not be reduced to less than five years, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct until he shall have served such minimum term of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services unavailable at such institution. Prosecutions commenced under this subsection shall neither be continued without a finding nor placed on file. The provisions of section 87 of chapter 276 relative to the power of the court to place certain offenders on probation shall not apply to any person 17 years of age or over charged with a violation of this section.

The provisions of this paragraph shall not apply to the possession of a large capacity weapon or large capacity feeding device by (i) any officer, agent or employee of the commonwealth or any other state or the United States, including any federal, state or local law enforcement personnel; (ii) any member of the military or other service of any state or the United States; (iii) any duly authorized law enforcement officer, agent or employee of any municipality of the commonwealth; (iv) any federal, state or local historical society, museum or institutional collection open to the public; provided, however, that any such person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to acquire, possess or carry a large capacity semiautomatic weapon and is acting within the scope of his duties; (v) any gunsmith

duly licensed under the applicable federal law; or (vi) or a retired law enforcement officer qualified under the Law Enforcement Officers Safety Act.

SECTION 27. Section 10(j) of chapter two hundred and sixty-nine is hereby amended by deleting it in its entirety and replacing it with the following: -

(j) Whoever, not being a law enforcement officer, and notwithstanding any license obtained by him under the provisions of chapter 140, knowingly has in his possession; or knowingly has under his control in a vehicle; a firearm, rifle, shotgun, machine gun, assault weapon or ammunition as defined in section 121 of chapter 140, in any building or on the grounds of any elementary or secondary school, college or university without the written authorization of the board or officer in charge of such elementary or secondary school, college or university shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than two years or by both such fine and imprisonment. A police officer or any person authorized to serve criminal process may arrest a person whom the officer has probable cause to believe has violated the provisions of this paragraph.

Whoever, not being a law enforcement officer, knowingly has in his possession; or knowingly has under his control in a vehicle; a dangerous weapon, or an air gun, so-called BB gun, paintball gun, air rifle or air pistol or other smoothbore arm capable of discharging a shot or pellet by whatever means in any building or on the grounds of any elementary or secondary school, college or university without the written authorization of the board or officer in charge of such elementary or secondary school, college or university shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year. A police officer or any person authorized to serve criminal process may arrest a person whom the officer has probable cause to believe has violated the provisions of this paragraph.

Whoever knowingly has in his possession; or knowingly has under his control in a vehicle an explosive or incendiary device in any building or on the grounds of any elementary or secondary school, college or university shall be punished by a fine of not more than \$10,000 or by imprisonment in the state prison for not more than 10 years or by both such fine and imprisonment.

Any officer in charge of an elementary or secondary school, college or university or any faculty member or administrative officer of an elementary or secondary school, college or university failing to report violations of this sub section shall be guilty of a misdemeanor and punished by a fine of not more than five hundred dollars.

SECTION 28. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby amended by inserting after the words "fifteen A", in line 18, the following words:- , 15D(a), 15E(a)

SECTION 29. Section 26 of chapter 218 is hereby further amended by inserting after the words “sixty-six,” in line 21, the following words:- section 10(p) of chapter 269

SECTION 30. Chapter 265 of the General Laws is hereby amended by inserting after section 13M the following section:-

Section 13N. Upon entry of a conviction for any misdemeanor offense that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, the court shall determine whether the victim or intended victim was a family or household member of the defendant, as defined in section 1 of chapter 209A. If the victim or intended victim was a family or household member of the defendant, the court shall enter the offense, the chapter, section and subsection, if any, of the offense, and the relationship of the defendant to the victim upon the record, and this entry shall be forwarded to the department of criminal justice information services for inclusion in the criminal justice information system and for the purpose of 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.

SECTION 31. Chapter 265 of the General Laws, as so appearing, is hereby amended by inserting after section 15C the following sections:-

Section 15D. (a) Whoever commits an assault and battery upon another by means of a firearm, large capacity weapon, rifle, shotgun, sawed-off shotgun, machine gun or assault weapon as defined in section 121 of chapter 140 shall be punished by imprisonment in the state prison for not more than 15 years or by imprisonment in the house of correction for not more than 2½ years, or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(b) Any person convicted of violating subsection (a) after 1 or more prior convictions under subsection (a), section 15E, or a law of another jurisdiction that necessarily includes the elements of subsection (a) or section 15E shall be punished by imprisonment in the state prison for not less than 3 years nor more than 20 years. The sentence imposed shall not be reduced to less than a term of 3 years imprisonment, nor suspended, nor shall a person sentenced under this subsection be eligible for probation, parole, work release or furlough, or receive any deduction from the sentence for good conduct, until having served 3 years of the sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; or to obtain emergency medical or psychiatric service unavailable at said institution.

(c) Prosecutions commenced under this section shall not be suspended, continued without a finding or placed on file. A sentence imposed under this section shall begin from and after the

expiration of any sentence imposed under section 10(a), 10(c), 10(d), 10(h), 10(m) or 10(n) of chapter 269 arising out of the same incident.

Section 15E. (a) Whoever commits an assault upon another by means of a firearm, large capacity weapon, rifle, shotgun, sawed-off shotgun, machine gun or assault weapon as defined in section 121 of chapter 140 shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 2½ years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(b) Any person convicted of violating subsection (a) after 1 or more prior convictions under subsection (a), section 15D, or a law of another jurisdiction that necessarily includes the elements of subsection (a) or section 15D shall be punished by imprisonment in the state prison for not less than 2 years nor more than 15 years. The sentence imposed shall not be reduced to less than a term of 2 years imprisonment, nor suspended, nor shall a person sentenced under this subsection be eligible for probation, parole, work release or furlough, or receive any deduction from the sentence for good conduct, until having served 2 years of the sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; or to obtain emergency medical or psychiatric service unavailable at said institution.

(c) Prosecutions commenced under this section shall not be suspended, continued without a finding or placed on file. A sentence imposed under this section shall begin from and after the expiration of any sentence imposed under section 10(a), 10(c), 10(d), 10(h), 10(m) or 10(n) of chapter 269 arising out of the same incident.

SECTION 32. Chapter 265 of the General Laws, as so appearing, is hereby amended by inserting after section 18C the following section:-

Section 18D. Whoever, while in the commission or attempted commission of a misdemeanor that has as an element the use, attempted use, or threatened use of physical force against the person of another, has in his possession or under his control a firearm, rifle, or shotgun, shall, in addition to the penalty for such offense, be punished by imprisonment in the state prison for not more than 10 years, or in the house of correction for not more than 2 ½ years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.

SECTION 33. Section 10 of chapter 269 of the General Laws, as so appearing, is hereby amended by striking out, in lines 103-107, the words “seven years; for a third such offense, by imprisonment in the state prison for not less than seven years nor more than ten years; and for a fourth such offense, by imprisonment in the state prison for not less than ten years nor more than fifteen years”, and inserting in place thereof the following words:- 10 years; for a third such offense, by imprisonment in the state prison for not less than 10 years nor more than 15 years;

1049 and for a fourth such offense, by imprisonment in the state prison for not less than 15 years nor
1050 more than 20 years.