SENATE DOCKET, NO. 1220 FILED ON: 1/18/2013

SENATE . . . . . No. 1120

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to preventing illegal trafficking of firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Cynthia S. Creem	*First Middlesex and Norfolk*
William N. Brownsberger	*Second Suffolk and Middlesex*
Ruth B. Balser	*12th Middlesex*
Kay Khan	*11th Middlesex*

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SENATE . . . . . No. 1120

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1120) of Cynthia S. Creem, William N. Brownsberger, Ruth B. Balser and Kay Khan for legislation to prevent illegal trafficking of firearms. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1202* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to preventing illegal trafficking of firearms.

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

SECTION 1. Subclause (j) of clause twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word "cards", in line 182, the following words: - , but such names and addresses shall be made available to law enforcement or other investigative officials, including district attorneys, assistant district attorneys, the attorney general and assistant attorneys general for purposes of enforcing subsection (c) of section 131E of chapter 140.

SECTION 2. Subsection (d) of section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by inserting after the word "six", in line 60, the following words: - , including, but not limited to, such agencies enforcing subsection (c) of section 131E of chapter 140.

SECTION 3. Section 123 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking the striking the words "forthwith at" in the section beginning with "Fifth," and replacing it with the words: - within thirty minutes of.

SECTION 4. Section 123 of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the word "condition.", in line 229, the following sentences: - Twenty-second, That no licensee shall sell, rent or lease a firearm or large capacity weapon

17 without first: (i) obtaining a signed declaration from the purchaser, renter or lessee, on a form
18 furnished by the executive director of the criminal history systems board, that such individual
19 has not purchased, rented or leased, as those terms are used in section 121 and subsection (c) of
20 section 131E of this chapter, any firearm or large capacity weapon during the previous 30 days,
21 or that such individual is an exempt person as set forth under subsection (c) of section 131E of
22 this chapter; (ii) forwarding such declaration to the executive director of the criminal history
23 systems board; and (iii) receiving notification from the criminal history systems board that the
24 purchaser, renter or lessee has not purchased, rented or leased any firearm or large capacity
25 weapon during the previous 30 days, or that such individual is an exempt person as set forth
26 under subsection (c) of section 131E of this chapter. Such notification from the criminal history
27 systems board shall be valid for no more than two business days after the criminal history
28 systems board issues the notification, after which time the licensee must receive a new
29 notification before completing a sale, rental or lease of a firearm or large capacity weapon to
30 such purchaser, renter or lessee. Such declaration from the purchaser, renter or lessee shall not
31 be a defense in any action brought against a licensee.

32 SECTION 5. Section 128 of said chapter 140 of the General Laws, as so
33 appearing, is hereby amended by replacing "or" after the word "twentieth" with "," and inserting
34 after the word "twenty-first", the words: - or twenty-second.

35 SECTION 6. Section 128A of said chapter 140 of the General Laws, as so
36 appearing, is hereby amended by striking, "reports within seven days, in writing to the
37 commissioner of the department of criminal justice information services on forms furnished by
38 said executive director, the names and addresses of the seller and the purchaser of any such large
39 capacity feeding device, firearm, rifle or shotgun, together with a complete description of the
40 firearm, rifle or shotgun, including its designation as a large capacity weapon, if applicable, the
41 calibre, make and serial number and the purchaser's license to carry firearms number, permit to
42 purchase number and identifying number of such documentation as is used to establish exempt
43 person status in the case of a firearm or the purchaser's license to carry number or firearm
44 identification card number or said document identity number, in the case of a rifle or shotgun"
45 and inserting: - "shall complete all sales, rentals and leases of firearms, rifles, shotguns, and large
46 capacity feeding devices through a person licensed pursuant to section 122 by delivering the
47 firearm, rifle, shotgun, or large capacity feeding device to the licensee who shall then deliver the
48 firearm, rifle , shotgun, or large capacity feeding device to the purchaser, renter or lessee, if the
49 sale, rental, or lease is not prohibited, in accordance with section 123 of this chapter as if the
50 licensee was selling, renting or leasing the firearm, rifle, shotgun, or large capacity feeding
51 device directly to the purchaser, renter or lessee. The dealer may require the purchaser, renter or
52 lessee to pay a fee not to exceed ten dollars ($10) per firearm, rifle, shotgun, or large capacity
53 feeding device."

SECTION 7. Paragraph (1) of section 129B of said chapter 140, as so appearing, is hereby amended by striking clause (ix) and inserting in place thereof following two clauses: -

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

(x) has been convicted of a violation of subsection (c) of section 131E of this chapter.

SECTION 8. Paragraph (d) of section 131 of said chapter 140, as so appearing, is hereby amended by striking clause (ix) and inserting in place thereof following two clause: -

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

(viii) has been convicted of a violation of subsection (c) of section 131E of this chapter.

SECTION 9. Section 131A of said chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the words “proper purpose”, in line 5, the following words: - and does not violate the firearm or large capacity weapon purchase, rental or lease limitation in subsection (c) of section 131E of this chapter.

SECTION 10. Section 131E of said chapter 140 of the General Laws, as so appearing, is hereby amended by adding the following subsection: -

(c) no person, other than an exempt person hereinafter described, shall purchase, rent or lease more than one firearm or large capacity weapon in any 30 day period. The term “rent or lease” as used herein shall not apply to the rental or lease of a firearm or large capacity weapon for a duration of less than 48 hours, provided, however that such firearm is rented or leased from a licensee who is licensed under the provisions of section 122 and subject to the conditions described in section 123.

The provisions of this subsection shall not apply to the following persons and uses:

(1) Any law enforcement agency or authority;

(2) Any branch of the United States military, including the national guard;

(3) Any persons in any branch of the United States military or police officers and 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;

(4) Any licensed watch, guard or patrol agency or their licensed employees in the course of their employment under sections 22 and 25 of chapter 147;

(5) Any person who has been certified as a licensed collector by the criminal history systems board;

(6) A federal, state or local historical society, museum or institutional collector open to the public;

(7) Any exchange of a firearm or large capacity weapon for another firearm or large capacity weapon purchased, rented or leased from the licensed dealer by the same person seeking the exchange within 30 days immediately before the exchange;

(8) A firearms surrender program authorized by and in compliance with section 131O of this chapter.

A non-exempt person who purchases, rents or leases more than one firearm or large capacity weapon in any 30 day period shall be punished, for a first offense, by a fine of not more than $1,000, or by imprisonment for not more than six months, or by both such tine and imprisonment; 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 two and one-half years, or by both such fine and imprisonment. The punishments under this subsection shall be separate from the procedures established for the denial, revocation or suspension of firearm identification cards, licenses and permits provided under this chapter.

Any person or licensee who sells, rents or leases a firearm or large capacity weapon to a non-exempt person under this section, with knowledge or reason to know that the person has purchased, rented or leased a firearm or large capacity weapon within the previous thirty days shall be punished, for a first offense, by a fine of not more than $5,000 or by imprisonment of not more than two and one-half years, or by both such fine and imprisonment; and for any subsequent offense shall be punished by a tine of not less than $1,000 and not more than $10,000 or by imprisonment for not more than five years, or by both such fine and imprisonment. These punishments shall be separate from the procedures established for the denial, revocation or suspension of firearm identification cards, licenses and permits provided under this chapter.