

SENATE No. 1111

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 auxiliary police officers.

PETITION OF:

NAME:

Bruce E. Tarr

DISTRICT/ADDRESS:

First Essex and Middlesex

SENATE No. 1111

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1111) of Bruce E. Tarr for legislation relative to auxiliary police officers. Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to auxiliary police officers.

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

1 SECTION 1. Chapter 639 of the Acts of 1950 is hereby amended, in section 11 (a), by
2 striking out the words “Coats and other like garments issued hereunder to be worn as outer
3 clothing by auxiliary firemen shall bear on the back the letters C.D. five inches in height and
4 helmet so issued shall be in yellow. Every such fireman, unless wearing a coat or other like
5 garment and helmet issued as aforesaid, shall, while on duty as such, wear an arm band bearing
6 the letters C.D. Chapters thirty-one, thirty-two and one hundred fifty-two of the General Laws
7 shall not apply to persons appointed hereunder. Coats, shirts and other garments to be worn as
8 outer clothing by auxiliary police officers shall bear a shoulder patch with the words “Auxiliary
9 Police” in letters not less than one inch in height.”

10 SECTION 2. Chapter 639 of the Acts of 1950 is hereby further amended by inserting at
11 the end thereof the following new section:-

Section 23. (1) Whenever any qualified person is deputized or appointed by the proper authority as a reserve, reserve auxiliary or auxiliary sheriff or city law enforcement officer, a reserve deputy sheriff, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this commonwealth by that authority, whether compensated or uncompensated, the person is a law enforcement officer, if the person qualifies as set forth in paragraph (6). The authority of a person designated as a law enforcement officer pursuant to this paragraph includes the full powers and duties of a law enforcement officer as provided by MGL Chapter 41 §98 in the case of police officers or at common law and Chapter 37 §13 in the case of deputy sheriffs.

(2) Every person deputized or appointed, as described in paragraph (1), shall have the powers of a law enforcement officer only when the person is any of the following:

(i) A level I reserve law enforcement officer deputized or appointed pursuant to paragraph (1) and assigned to the prevention and detection of crime and the general enforcement of the laws of this state, whether or not working alone, and the person has completed a Police Academy or the Reserve / Intermittent Police Officer training for deputy sheriffs and law enforcement officers as prescribed by the MPTC and per 550 CMR 3.00, Massachusetts Police Recruit Training Requirements. For level I reserve law enforcement officers appointed prior to January 1, 2014, the basic training requirement for Police Academy or Reserve / Intermittent Police Officer shall be the course that was prescribed at the time of their appointment. Reserve law enforcement officers appointed pursuant to this paragraph shall satisfy the continuing professional training requirement prescribed by the MPTC.

(ii) A level II reserve officer assigned to the prevention and detection of crime and the general enforcement of the laws of this state who has completed training as prescribed by the MPTC and per 550 CMR 3.00, Massachusetts Police Recruit Training Requirements and any other training prescribed by the MPTC. Reserve law enforcement officers appointed pursuant to this paragraph shall satisfy the continuing professional training requirement prescribed by the MPTC.

(iii) Level III reserve law enforcement officers may be deployed and are authorized only to carry out limited support duties not requiring general law enforcement powers in their routine performance. Those limited duties shall include traffic control, security at parades and sporting events, report taking, evidence transportation, parking enforcement, and other duties that are not likely to result in physical arrests. Level III reserve law enforcement officers while assigned these duties shall be supervised in the accessible vicinity by a level I reserve law enforcement officer or a full-time, law enforcement officer employed by a law enforcement agency authorized to have reserve law enforcement officers.

(3) For purposes of this section, a reserve law enforcement officer who has previously satisfied the training requirements pursuant to this section, and has served as a level I or II reserve law enforcement officer shall comply with 550 CMR 3.04, Massachusetts Police Recruit Training Requirements upon an interruption in police service.

(4) In no case shall a reserve law enforcement officer provide services within a Massachusetts jurisdiction during any period in which the regular law enforcement agency of the jurisdiction is involved in a labor dispute.

(5) Notwithstanding paragraph (3), a person who is issued a Police Academy or Reserve / Intermittent Police Officer certificate before January 1, 2015, shall be considered a level 1 reserve law enforcement officer and have the full powers and duties of a law enforcement officer as provided by MGL Chapter 41 §98 in the case of police officers or at common law and Chapter 37 §13 in the case of deputy sheriffs, if so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, if the appointing authority determines the person is qualified to perform general law enforcement duties by reason of the person's training and experience. Persons who were qualified to be issued a Police Academy or Reserve / Intermittent Police Officer certificate before January 1, 2015, and who state in writing under penalty of perjury that they applied for but were not issued the certificate before January 1, 1995, may be issued the certificate before January 1, 2015. For purposes of this section, certificates so issued shall be deemed to have the full force and effect of any level I reserve law enforcement officer certificate issued prior to January 1, 2015.

(a) In carrying out this section, the MPTC:

(1) May require proficiency testing to satisfy reserve training standards.

(2) Shall provide for convenient training to remote areas in the state.

(c) Shall establish a professional certificate for reserve law enforcement officers as defined in paragraph (2)(i) and (2)(ii).

(d) Shall facilitate the voluntary transition of reserve officers to regular officers with no unnecessary redundancy between the training required for level I and level II reserve officers.

(6) Each class of reserve law enforcement officers declared by law to be law enforcement officers shall meet all of the following minimum standards:

(a) Be a citizen of the United States.

(b) Be at least 18 years of age.

(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test indicating high school graduation level, pass the Massachusetts High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this paragraph shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in the MPTC on International and Trans-Regional Accreditation (CITA), an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA).

(f) Be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a law enforcement officer.

(7) Each of the following persons is disqualified from holding office as a reserve law enforcement officer or being employed as a law enforcement officer of the state, county, city, city and county or other political subdivision, whether with or without compensation, and is disqualified from any office or employment by the state, county, city, city and county or other political subdivision, whether with or without compensation, which confers upon the holder or employee the powers and duties of a law enforcement officer:

(1) Any person who has been convicted of a felony.

(2) Any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in this state.

(3) Any person who, after January 1, 2000, has been convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony. This paragraph shall apply regardless of whether, the court declares the offense to be a misdemeanor or the offense becomes a misdemeanor by operation of law.

(4) Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent.

(5) Any person who has been found not guilty by reason of insanity of any felony.

(6) Any person who has been determined to be a mentally disordered sex offender.

(7) Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution.

118 (8) Nothing in this section shall be construed to limit or curtail the power or authority of
119 any board of police commissioners, chief of police, sheriff, mayor, or other appointing authority
120 to appoint, employ, or deputize any person as a law enforcement officer in time of disaster
121 caused by flood, fire, pestilence or similar public calamity, or to exercise any power conferred by
122 law to summon assistance in making arrests or preventing the commission of any criminal
123 offense.

124 (9) Reserve law enforcement officer standards shall be established by the MPTC.

125 (10) Any reserve law enforcement officer shall be afforded the rights under MGL
126 Chapter 258 for civil liability in cases of injury or loss of property or personal injury or death
127 when acting within the scope of their duties as a reserve law enforcement officer.