

**SENATE . . . . . No. 1234**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Michael J. Barrett***

*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 military grade controlled property.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>

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By Mr. Barrett, a petition (accompanied by bill, Senate, No. 1234) of Michael J. Barrett, Mary S. Keefe, James B. Eldridge, Carmine L. Gentile and other members of the General Court for legislation relative to military grade controlled property. Public Safety and Homeland Security.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
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An Act relative to military grade controlled property.

*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 1 of chapter 29 of the General Laws, as amended by section 112 of  
2 chapter 165 of the Acts of 2012, is hereby amended by inserting after the twenty-second  
3 paragraph the following paragraph:-

4           “Federal agency”, any federal military, law enforcement or intelligence agency,  
5 department, or division.

6           SECTION 2. Section 1 of chapter 29 of the General Laws, as amended by section 112 of  
7 chapter 165 of the Acts of 2012, is hereby amended by inserting after the twenty-fifth paragraph  
8 the following paragraph:-

9           "Law enforcement agency", a police department, sheriff department, state or county  
10 correctional facility or lockup, regional law enforcement council, so-called, or cooperative or  
11 other joint task force or other entity with authority to enforce the laws of the Commonwealth.

12 SECTION 3. Section 1 of chapter 29 of the General Laws, as amended by section 112 of  
13 chapter 165 of the Acts of 2012, is hereby amended by inserting after the twenty-sixth paragraph  
14 the following paragraphs:-

15 "Local legislative body", the democratically-elected governing body that plays a  
16 deliberative, general policymaking role for a city or town, such as the city council, select board,  
17 or other similar entity.

18 "Military grade controlled property," equipment, articles, services and related technical  
19 data as enumerated in 22 Code of Federal Regulations, chapter 1, Part 121.1, pursuant to sections  
20 38 and 47(7) of the Arms Export Control Act, Title 22 United States Code, sections 2778 and  
21 2794(7), the "Department of State Munitions Control List" so-called; or in 15 Code of Federal  
22 Regulations, section 774, the "Department of Commerce Control List," so-called.

23 SECTION 4. Section 6B(a)(3) of chapter 29 of the General Laws, as amended by  
24 section 112 of chapter 165 of the Acts of 2012, is hereby amended by striking out in the last line  
25 of paragraph (ii), the word:

26 "and"

27 SECTION 5. Section 6B(a)(3) of chapter 29 of the General Laws, as amended by section  
28 112 of chapter 165 of the Acts of 2012, is hereby amended by inserting after the word  
29 "discontinued" in paragraph (iii), the following:

30 ; and

31 (iv) the projected annual maintenance costs of any military grade controlled property  
32 transferred or acquired from a federal agency

33 SECTION 6. Section 6B(a)(3) of chapter 29 of the General Laws, as amended by section  
34 112 of chapter 165 of the Acts of 2012, is hereby amended by inserting after subsection (j)(4),  
35 the following paragraph:

36 (k) The type and quantity of military grade controlled property for purchase with any  
37 federal grant funds or for acquisition by transfer, including but not limited to transfers by the  
38 United States Department of Defense pursuant to the 1033 Program, so-called, as authorized by  
39 Title 10, §2576a of the United States Code, from a federal agency to a state law enforcement  
40 agency, including but not limited to the Massachusetts State Police within the Executive Office  
41 of Public Safety and Security, shall be set out with particularity to the general court for its  
42 consideration of proposed appropriations and establishing state policies and priorities.

43 SECTION 7. Chapter 29 of the General Laws, as amended by section 112 of chapter 165  
44 of the Acts of 2012, is hereby amended by adding the following section:

45 Section 6B½. Transfers of military-grade controlled property

46 Section 6B½. (a) Any transfers, however made, of military grade controlled property or  
47 of federal funds or grant monies relating to military grade controlled property, including but not  
48 limited to transfers by the United States Department of Defense pursuant to the 1033 Program,  
49 so-called, as authorized by Title10, §2576a of the United States Code, from a federal agency to a  
50 local law enforcement agency within the commonwealth shall be subject to the following  
51 requirements:

52 (1) A local law enforcement agency seeking to apply for the transfer of military grade  
53 controlled property or related funds or grant monies from a federal agency shall provide notice to

54 the local legislative body of any intended application, including a detailed list of supplies and  
55 equipment sought to be acquired.

56 (2) The local legislative body shall hold a public hearing regarding the prospective  
57 application, due notice of which shall be advertised to the public, and shall allow the public the  
58 opportunity to testify and comment at the hearing.

59 (3) The local law enforcement agency shall respond in writing to any questions and  
60 matters raised by officials and residents at such public hearing.

61 (4) No local law enforcement agency shall apply for the transfer of military grade  
62 controlled property or related funds or grant monies from a federal agency without a prior public  
63 vote of approval by the local legislative body, which approval shall describe the supplies and  
64 equipment to be sought with particularity.

65 (5) All applications by local law enforcement agencies for the transfer of military grade  
66 controlled property or related funds or grant monies from a federal agency shall include  
67 documentation of such legislative approval.

68 (b) Any transfers, however made, of military grade controlled property or of federal  
69 funds or grant monies relating to military grade controlled property, including but not limited to  
70 transfers by the United States Department of Defense pursuant to the 1033 Program, so-called, as  
71 authorized by Title 10, §2576a of the United States Code, from a federal agency to a multi-  
72 jurisdictional law enforcement agency within the commonwealth shall be subject to the  
73 following requirements:

74 (1) A regional law enforcement council, so-called, or other multi-jurisdiction law  
75 enforcement agency constituted by entities or representatives from multiple agencies within the  
76 commonwealth seeking to apply for the transfer of military grade controlled property or related  
77 funds or grant monies from a federal agency shall provide notice to each of the local legislative  
78 bodies for the cities and towns participating in the regional or multi-jurisdiction law enforcement  
79 agency regarding any prospective application.

80 (2) Before applying for the transfer of military grade controlled property or related funds  
81 or grant monies, any such regional law enforcement council or multi-jurisdiction agency shall  
82 obtain approval from the Secretary of Public Safety and Security, who shall take into  
83 consideration any information, comments and recommendations from the local legislative bodies  
84 for the cities and towns participating in the regional or multi-jurisdiction law enforcement  
85 agency.

86 (3) All applications by such regional law enforcement councils or multi-jurisdiction  
87 agencies for the transfer of military grade controlled property or related funds or grant monies  
88 from a federal agency shall include documentation of the approval of the secretary.

89 (c) Any transfers, however made, of military grade controlled property or of federal funds  
90 or grant monies relating to military grade controlled property, including but not limited to  
91 transfers by the United States Department of Defense pursuant to the 1033 Program, so-called, as  
92 authorized by Title10, §2576a of the United States Code, from a federal agency to the  
93 department of state police within the commonwealth shall be subject to the following  
94 requirements:

95           (1) The department of state police shall obtain approval from the Secretary of Public  
96 Safety and Security before applying for the transfer of military grade controlled property or  
97 related funds or grant monies from a federal agency.

98           (2) All applications by the department of state police for the transfer of military grade  
99 controlled property or related funds or grant monies from a federal agency shall include  
100 documentation of such approval.