

# 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>

# SENATE . . . . . No. 1234

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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)  
\_\_\_\_\_

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.

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

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

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

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

“and”

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

; and

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

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

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

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

Section 6B½. Transfers of military-grade controlled property

Section 6B½. (a) Any transfers, however made, of military grade controlled property or of federal funds or grant monies relating to military grade controlled property, including but not limited to transfers by the United States Department of Defense pursuant to the 1033 Program, so-called, as authorized by Title 10, §2576a of the United States Code, from a federal agency to a local law enforcement agency within the commonwealth shall be subject to the following requirements:

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

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

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

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

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

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

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

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

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

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

(c) Any transfers, however made, of military grade controlled property or of federal funds or grant monies relating to military grade controlled property, including but not limited to transfers by the United States Department of Defense pursuant to the 1033 Program, so-called, as authorized by Title 10, §2576a of the United States Code, from a federal agency to the department of state police within the commonwealth shall be subject to the following 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.