

**HOUSE . . . . . No. 3609**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Daniel Cullinane*

*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 imitation firearms.

PETITION OF:

| NAME:                      | DISTRICT/ADDRESS:     | DATE ADDED:      |
|----------------------------|-----------------------|------------------|
| <i>Daniel Cullinane</i>    | <i>12th Suffolk</i>   | <i>1/19/2017</i> |
| <i>Daniel M. Donahue</i>   | <i>16th Worcester</i> |                  |
| <i>David M. Rogers</i>     | <i>24th Middlesex</i> |                  |
| <i>Michael J. Finn</i>     | <i>6th Hampden</i>    |                  |
| <i>Marjorie C. Decker</i>  | <i>25th Middlesex</i> |                  |
| <i>Evandro C. Carvalho</i> | <i>5th Suffolk</i>    |                  |
| <i>Daniel J. Hunt</i>      | <i>13th Suffolk</i>   |                  |
| <i>Linda Dorcena Forry</i> | <i>First Suffolk</i>  |                  |
| <i>Paul Tucker</i>         | <i>7th Essex</i>      |                  |
| <i>Daniel J. Ryan</i>      | <i>2nd Suffolk</i>    |                  |

**HOUSE . . . . . No. 3609**

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By Mr. Cullinane of Boston, a petition (accompanied by bill, House, No. 3609) of Daniel Cullinane and others relative to imitation firearms. Public Safety and Homeland Security.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

An Act relative to imitation firearms.

*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 121 of chapter 140 of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by striking out the figure “131Q”, , and inserting in place  
3 thereof the following figure:— 131R.

4           SECTION 2. Said section 121 of said chapter 140, as so appearing is hereby amended by  
5 striking out the definition of “Imitation firearm”, , and inserting in place thereof the following  
6 definition:-

7           “Imitation firearm,” any air rifle, or air hand gun, or pellet gun, or bb-gun, or any device  
8 or object made of plastic, wood, metal, or any material which substantially duplicates or can  
9 reasonably be perceived to be an actual firearm, rifle, shotgun, or hand gun, unless such air rifle,  
10 or air hand gun, or pellet gun, or bb-gun, or device or object is marked with a non-removable  
11 orange stripe which is at least 1 inch in width and runs the entire length of the barrel on each side  
12 and the front end of the barrel and runs the length of the handle on each side and the underside of

13 the handle. "Imitation firearm" does not include any non-firing replica of an antique firearm, the  
14 original of which was designed, manufactured, and produced prior to 1898 or that is for  
15 permanent display or temporary exhibit in a Massachusetts Museum provided that said firearms  
16 are rendered inoperable.

17 SECTION 3. Said chapter 140 is hereby amended by inserting after section 131Q, as so  
18 appearing, the following section:-

19 Section 131R. (a) No person shall import, manufacture, sell, hold for sale or distribute  
20 within the state any imitation firearm unless such device is imported, manufactured, sold, held  
21 for sale and distributed: (i) solely for subsequent transportation in interstate commerce; or (ii)  
22 solely for lawful use in a theatrical production, including a motion picture, television or stage  
23 production or for permanent display or temporary exhibit in a Massachusetts Museum.

24 (b) A violation of subsection (a) shall constitute an unfair or deceptive trade act or  
25 practice under section 2 of chapter 93A. Whenever the attorney general shall believe from  
26 evidence satisfactory to the attorney general that any person, firm, corporation, or association, or  
27 agent, or employee thereof has violated subsection (a), the attorney general may bring an action  
28 or special proceeding in the superior court for a judgement enjoining the continuance of such  
29 violation and for a civil penalty of not more than \$5,000 for each imitation firearm that is  
30 imported, manufactured, sold, held for sale or distributed in violation of subsection (a). If it shall  
31 appear to the satisfaction of the court or justice that the defendant has violated any provision of  
32 this section, no proof shall be required that any person has been injured thereby, nor that the  
33 defendant knowingly or intentionally violated such provision. In connection with any such

34 proposed application, the attorney general is authorized to take proof, issue subpoenas, and  
35 administer oaths.

36 (c) A law enforcement officer may confiscate any imitation firearm from a person in  
37 possession thereof unless the person is possessing the imitation firearm:(i) solely for subsequent  
38 transportation in interstate commerce; or (ii) solely for lawful use in a theatrical production,  
39 including a motion picture, television or stage production or for permanent display or temporary  
40 exhibit in a Massachusetts Museum.

41 SECTION 4. Any imitation firearm, as defined in section 121 of chapter 140 of the  
42 General Laws, legally purchased prior to the effective date of this act may only be used: (1) on  
43 private property, including at existing paintball and air soft recreational facilities, provided that  
44 the private property is not in public view or in view from a public way, or (2) for a purpose  
45 specifically authorized pursuant to clauses (i) to (iii) of subsection (a) of section 131R of said  
46 chapter.

47 SECTION 5. Licensed recreational paintball and air-soft ranges or facilities existing as of  
48 the effective date of this act shall be allowed to rent, for on-site use only, any rental air guns and  
49 or paintball guns owned by the business as of the effective date of this act, even if such guns are  
50 considered imitation firearms as that term is defined in section 121 of chapter 140 of the General  
51 Laws.