

**HOUSE . . . . . No. 4402**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Lori A. Ehrlich and Cynthia Stone 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 requiring public pension fund divestment from ammunition and firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>3/15/2018</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>3/15/2018</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>3/15/2018</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/16/2018</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>3/17/2018</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>3/16/2018</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>3/19/2018</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>	<i>3/19/2018</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>3/19/2018</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>3/19/2018</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>3/20/2018</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/19/2018</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/20/2018</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>3/21/2018</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>3/21/2018</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/22/2018</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>3/21/2018</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>3/19/2018</i>

<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>3/20/2018</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>3/19/2018</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>3/23/2018</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>	<i>3/20/2018</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>3/20/2018</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>3/19/2018</i>

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By Representative Ehrlich of Marblehead and Senator Creem, a joint petition (subject to Joint Rule 12) of Lori A. Ehrlich, Cynthia Stone Creem and others for legislation to require the public pension fund to divest from ammunition and firearms. Public Service.

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**The Commonwealth of Massachusetts**

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

An Act requiring public pension fund divestment from ammunition and 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. As used in this act the following words shall, unless the context clearly  
2 requires otherwise, have the following meanings:-

3 “Ammunition”, ammunition as defined in section 121 of chapter 140 of the General  
4 Laws, as amended by section 18 of the acts of 2017.

5 “Ammunition manufacturing company”, a company that derives more than 15 per cent of  
6 its revenues from the manufacture of ammunition offered for sale for non-law enforcement or  
7 non-military purposes.

8 “Ammunition retailing company”, a company that derives more than 15 per cent of its  
9 revenues from the sale of ammunition for non-law enforcement or non-military purposes.

10 “Board”, the Pension Reserves Investment Management Board established in section 23  
11 of chapter 32 of the General Laws.

12           “Company”, a sole proprietorship, organization, association, corporation, partnership,  
13 joint venture, limited partnership, limited liability partnership, limited liability company or other  
14 entity or business association, including all wholly-owned subsidiaries, majority-owned  
15 subsidiaries, parent companies or affiliates of such entities or business associations that exist for  
16 profit-making purposes.

17           “Direct holdings”, all securities of a company held directly by the public fund or in an  
18 account or fund in which the public fund owns all shares or interests.

19           "Firearm", an assault weapon, firearm, large capacity weapon, machine gun, rifle, sawed-  
20 off shotgun, or shotgun as defined by section 121 of chapter 140 of the General Laws, as  
21 amended by section 18 of the acts of 2017.

22           “Firearm manufacturing company”, a company that derives more than 15 per cent of its  
23 revenues from the manufacture of firearms offered for sale for non-law enforcement or non-  
24 military purposes.

25           “Firearm retailing company”, a company that derives more than 15 per cent of its  
26 revenues from the sale of firearms for non-law enforcement or non-military purposes.

27           “Firearm Accessory”, a bump stock, large capacity feeding device, or trigger crank as  
28 defined in section 121 of chapter 140, as amended by section 18 of the acts of 2017.

29           “Firearm accessory manufacturing company”, a company that derives more than 15 per  
30 cent of its revenues from the manufacture of firearm accessories for sale for non-law  
31 enforcement or non-military purposes.

32           “Firearm accessory retailing company”, a company that derives more than 15 per cent of  
33 its revenues from the sale of firearm accessories for non-law enforcement or non-military  
34 purposes.

35           “Indirect holdings”, all securities of a company held in an account or fund, such as a  
36 mutual fund, managed by 1 or more persons not employed by the public fund, in which the  
37 public fund owns shares or interests together with other investors not subject to this act.

38           “Public fund”, the Pension Reserves Investment Trust or the Pension Reserves  
39 Investment Management Board charged with managing the pooled investment fund consisting of  
40 the assets of the state employees’ and teachers’ retirement systems as well as the assets of local  
41 retirement systems under the control of the board.

42           SECTION 2. Notwithstanding any general or special law to the contrary, within 30 days  
43 of enactment, the public fund shall identify all ammunition, firearm or firearm accessory  
44 manufacturing or retailing companies in which the fund owns direct or indirect holdings and  
45 shall file a list of any such holdings with the attorney general and with the clerks of the senate  
46 and the house of representatives.

47           SECTION 3. Notwithstanding any general or special law to the contrary, it shall be the  
48 settled policy of the public fund and of the board of the public fund not to invest in any  
49 ammunition, firearm or firearm accessory manufacturing or retailing companies. The public fund  
50 shall sell, redeem, divest or withdraw all publicly-traded securities of each company identified  
51 pursuant to section 2 of this act within 12 months of enactment. This section shall not apply to  
52 indirect holdings in actively managed investment funds; provided, however, that the public fund  
53 shall submit letters to the managers of any such investment funds that contain companies

54 identified pursuant to section 2 of this act, requesting that they remove such companies from the  
55 investment fund or create a similar actively managed fund with indirect holdings devoid of such  
56 companies.

57 SECTION 4. Notwithstanding any general or special law to the contrary, with respect to  
58 actions taken in compliance with this act, the public fund shall be exempt from any conflicting  
59 statutory or common law obligation, including any such obligations with respect to choice of  
60 asset managers, investment funds or investments for the public fund's securities portfolios and  
61 all good faith determinations regarding ammunition, firearm or firearm accessory manufacturing  
62 or retailing companies.

63 SECTION 5. Notwithstanding any general or special law to the contrary, the public fund  
64 shall be permitted to cease divesting from companies identified pursuant to section 2 of this act,  
65 to reinvest in companies identified pursuant to section 2 of this act, or to continue to invest in  
66 companies pursuant to section 2 of this act from which it has not yet divested upon clear and  
67 convincing evidence showing that the value for all assets under management by the public fund  
68 becomes equal to or less than 99.5 per cent (50 basis points) of the hypothetical value of all  
69 assets under management by the public fund assuming no divestment for any company had  
70 occurred under said subsection. Cessation of divestment, reinvestment or any subsequent  
71 ongoing investment authorized by this section shall be strictly limited to the minimum steps  
72 necessary to avoid the contingency set forth in the preceding sentence.

73 In advance of any cessation of divestment authorized by this subsection, the public fund  
74 shall provide a written report to the attorney general, the senate and house committees on ways  
75 and means and the joint committee on public service, updated annually thereafter as applicable,

76 setting forth the reasons and justification, supported by clear and convincing evidence, for its  
77 decisions to cease divestment, to reinvest or to remain invested in companies identified pursuant  
78 to section 2.

79 SECTION 6. Present, future and former board members of the public fund, jointly and  
80 individually, state officers and employees, and investment managers under contract with the  
81 public fund shall be indemnified from the General Fund and held harmless by the  
82 Commonwealth from all claims, demands, suits, actions, damages, judgments, costs, charges and  
83 expenses, including court costs and attorney's fees, and against all liability, losses, and damages  
84 of any nature whatsoever that these present, future, or former board members, officers,  
85 employees, or contract investment managers shall or may at any time sustain by reason of any  
86 decision to restrict, reduce, or eliminate investments in ammunition, firearm, or firearm  
87 accessory manufacturing or retailing companies.

88 SECTION 7. The public fund shall annually, as applicable, file a report with the attorney  
89 general and with the clerks of the senate and the house of representatives, including: (i) all  
90 investments sold, redeemed, divested or withdrawn in compliance with this act within the  
91 preceding year; and (ii) all investments prohibited by this act from which the public fund has not  
92 yet divested.