

SENATE No. 1277

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>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/25/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/30/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/30/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/3/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>10/3/2017</i>

SENATE No. 1277

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 1277) of Michael J. Barrett, Jay R. Kaufman, Marjorie C. Decker, Jason M. Lewis and other members of the General Court for legislation relative to military grade controlled property. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

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

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 appearing in the 2014
2 Official Edition, is hereby amended by inserting after the word “sources” in line 67, the
3 following paragraph:-

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

6 SECTION 2. Section 1 of said chapter 29 of the General Laws is hereby amended by
7 inserting after the word “purposes” in line 85, the following paragraph:-

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

11 SECTION 3. Section 1 of said chapter 29 of the General Laws is hereby amended by
12 inserting after the word “amount” in line 88, the following paragraphs:-

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

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

21 SECTION 4. Section 6B(a)(3)(ii) of said chapter 29 of the General Laws, is hereby
22 amended by striking out in line 20, the word:

23 “and”

24 SECTION 5. Section 6B(a)(3) of said chapter 29 of the General Laws is hereby amended
25 by striking clause (iii) and inserting in place thereof:

26 (iii) the duration of the grant, the number of fiscal years the agency has been receiving
27 assistance and the number of fiscal years in which assistance can be expected to continue under
28 the program and a statement as to the priority of the program alongside other state or federally
29 funded programs, including whether the agency would request that all or part of the program be
30 funded out of the General Fund in the event federal funds are reduced or discontinued.

31 To avoid any inconsistency or duplication in review, notices given under this section
32 shall be coordinated with other notice requirements for project or plan proposals in connection
33 with federal aid including those required under Circular A-95 of the United States Office of
34 Management and Budget; and

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

37 SECTION 6. Section 6B(a)(3) of said chapter 29 of the General Laws is hereby amended
38 by inserting after subsection (j)(4), the following paragraph:

39 (k) The type and quantity of military grade controlled property for purchase with any
40 federal grant funds or for acquisition by transfer, including but not limited to transfers by the
41 United States Department of Defense pursuant to the 1033 Program, so-called, as authorized by
42 Title 10, section 2576a of the United States Code, from a federal agency to a state law
43 enforcement agency, including but not limited to the Massachusetts state police within the
44 executive office of public safety and security, shall be set out with particularity to the general
45 court for its consideration of proposed appropriations and establishing state policies and
46 priorities.

47 SECTION 7. Said chapter 29 of the General Laws is hereby amended by adding the
48 following section:

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

50 Section 6B½. (a) Any transfers, however made, of military grade controlled property or
51 of federal funds or grant monies relating to military grade controlled property, including but not

52 limited to transfers by the United States Department of Defense pursuant to the 1033 Program,
53 so-called, as authorized by Title 10, section 2576a of the United States Code, from a federal
54 agency to a local law enforcement agency within the commonwealth shall be subject to the
55 following requirements:

56 (1) A local law enforcement agency seeking to apply for the transfer of military grade
57 controlled property or related funds or grant monies from a federal agency shall provide notice to
58 the local legislative body of any intended application, including a detailed list of supplies and
59 equipment sought to be acquired.

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

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

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

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

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

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

84 (2) Before applying for the transfer of military grade controlled property or related funds
85 or grant monies, any such regional law enforcement council or multi-jurisdiction agency shall
86 obtain approval from the secretary of public safety and security, who shall take into
87 consideration any information, comments and recommendations from the local legislative bodies
88 for the cities and towns participating in the regional or multi-jurisdiction law enforcement
89 agency.

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

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

99 (1) The department of state police shall obtain approval from the secretary of public
100 safety and security before applying for the transfer of military grade controlled property or
101 related funds or grant monies from a federal agency.

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