SENATE DOCKET, NO. 1157 FILED ON: 1/19/2017

SENATE . . . . . No. 1322

The Commonwealth of Massachusetts

PRESENTED BY:

Donald F. Humason, Jr.

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 the lawful sale of handguns.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Donald F. Humason, Jr.	*Second Hampden and Hampshire*	
Steven S. Howitt	*4th Bristol*	*2/3/2017*
Todd M. Smola	*1st Hampden*	*2/3/2017*
James R. Miceli	*19th Middlesex*	*2/3/2017*
Joseph D. McKenna	*18th Worcester*	*2/3/2017*
Susan Williams Gifford	*2nd Plymouth*	*2/3/2017*
Sheila C. Harrington	*1st Middlesex*	*2/3/2017*
Ryan C. Fattman	*Worcester and Norfolk*	*2/3/2017*
Paul K. Frost	*7th Worcester*	*2/3/2017*
John C. Velis	*4th Hampden*	*2/3/2017*
Keiko M. Orrall	*12th Bristol*	*2/21/2017*
William L. Crocker, Jr.	*2nd Barnstable*	*2/21/2017*
David K. Muradian, Jr.	*9th Worcester*	*2/27/2017*
David F. DeCoste	*5th Plymouth*	*2/27/2017*

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SENATE . . . . . No. 1322

By Mr. Humason, a petition (accompanied by bill, Senate, No. 1322) of Donald F. Humason, Jr., Steven S. Howitt, Todd M. Smola, James R. Miceli and other members of the General Court for legislation relative to the lawful sale of handguns. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1272* OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act relative to the lawful sale of handguns.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 2 of Chapter 93A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, in line 11, after the word "chapter" the following words: provided that such rules and regulations shall not govern, limit, or otherwise relate to weapons as defined in Section 121 of Chapter 140, the manufacture of weapons or the sale of weapons. Further, that any such rule or regulations having previously being promulgated are hereby repealed.

SECTION 2. Section 123 of chapter 140 shall be stricken in its entirety and replaced with the following;

Section 123. A license granted under section one hundred and twenty-two shall be expressed to be and shall be subject to the following conditions:—

First, That the provisions in regard to the nature of the license and the building in which the business may be carried on under it shall be strictly adhered to.

Second, That the license or a copy thereof, certified by the official issuing the same, shall be displayed on the premises in a position where it can easily be read.

Third, That the licensee shall submit a record of all sales, rentals and leases forthwith at the time of such sale, rental or lease via electronic communication link to the commissioner of the department of criminal justice information services.

Fourth, That every firearm, rifle or shotgun shall be unloaded when delivered.

Fifth, That no weapon shall be sold, rented or leased to a minor or a person who has not a permit then in force to purchase, rent or lease the same.

Sixth, That upon the sale, rental or lease of a firearm, subject to a permit to purchase issued under the provisions of section one hundred and thirty-one A, the licensee under section one hundred and twenty-two shall take up such permit to purchase and shall endorse upon it the date and place of said sale, rental or lease, and shall transmit the same to the executive director of the criminal history systems board; and that upon the sale, rental or lease of a machine gun shall endorse upon the license to possess the same the date and place of said sale, rental or lease, and shall within seven days transmit a notice thereof to said executive director. In case of a sale under the provisions of section one hundred and thirty-one E the licensee under section one hundred and twenty-two shall write in the sales record book the number of the license to carry

firearms issued the purchaser under the provisions of section one hundred and thirty-one, or the number of the firearm identification card issued the purchaser under the provisions of section one hundred and twenty-nine B, whichever is applicable under the provisions of condition Eighth of this section.

Seventh, That this license shall be subject to forfeiture as provided in section one hundred and twenty-five for breach of any of its conditions, and that, if the licensee hereunder is convicted of a violation of any such conditions, this license shall thereupon become void.

Eighth, That the third condition shall not apply to a gunsmith with regard to repair or remodeling or servicing of firearms, rifles or shotguns unless said gunsmith has manufactured a firearm, rifle or shotgun for the purchaser, but said gunsmith shall keep records of the work done by him together with the names and addresses of his customers. Such records shall be kept open for inspection by the police at all times.

Ninth, That any licensee shall keep records of each sale, rental or lease of a rifle or shotgun, specifying the description of said rifle or shotgun, together with the name and address of the purchaser, renter or lessee, and the date of such transaction.

Tenth, That the current validity of any firearm identification card, license to carry firearms or permit to purchase, rent or lease firearms presented, and that the person presenting said card, license or permit is the lawful holder thereof, shall be verified by the licensee prior to any sale, rental or lease of a weapon.

Eleventh, That the licensee shall conspicuously post at each purchase counter the following warning in bold type not less than one inch in height: “IT IS UNLAWFUL TO STORE OR KEEP A FIREARM, RIFLE, SHOTGUN OR MACHINE GUN IN ANY PLACE

UNLESS THAT WEAPON IS EQUIPPED WITH A TAMPER-RESISTANT SAFETY DEVICE OR IS STORED OR KEPT IN A SECURELY LOCKED CONTAINER.", and that such licensee shall provide said warning, in writing, to the purchaser or transferee of any firearm, rifle, shotgun or machine gun in bold type not less than one-quarter inch in height.

Twelfth, That all licensees shall maintain a permanent place of business wherein all transactions described in this section shall be conducted and wherein all records required to be kept under this section shall be so kept.

Thirteenth, That any licensee from whom a rifle, shotgun, firearm or machine gun is lost or stolen shall report such loss or theft to the licensing authority and the executive director of the firearms record bureau forthwith. Such report shall include a complete description of the weapon, including the make, model, serial number and caliber and whether such weapon is a large capacity weapon.

Fourteenth, That no licensee shall sell, rent, lease, transfer or deliver or offer for sale, lease, transfer or delivery, any firearm to any purchaser in the commonwealth unless such sale is to a business entity that is primarily a firearm wholesaler, and the sale, by its terms, prohibits the purchaser from reselling such firearm to a firearm retailer or consumer in the commonwealth if such firearm is prone to: (i) firing more than once per pull of the trigger; or (ii) explosion during firing.

No person licensed under the provisions of section 122 or section 122B shall sell, rent, lease, transfer or deliver any rifle, shotgun or firearm or ammunition or ammunition feeding device contrary to the provisions of section 130 or section 131E; and no such licensee shall sell, rent, lease, transfer or deliver any rifle, shotgun or firearm or ammunition or ammunition feeding

device to any person who does not have in his possession the required firearm identification card or proof of exemption therefrom, license to carry firearms or permit to purchase, rent or lease firearms and who does not present such card, proof, license or permit to the licensee in person at the time of purchase, rental or lease.

No person licensed under the provisions of section 122 or section 122B shall fill an order for such weapon, ammunition or ammunition feeding device that was received by mail, facsimile, telephone or other telecommunication unless such transaction or transfer includes the in-person presentation of the required card, proof, license or permit as required herein prior to any sale, delivery or any form of transfer of possession of the subject weapon, ammunition or ammunition feeding device. Transactions between persons licensed under section 122 or between federally licensed dealers shall be exempt from the provisions of this paragraph.

The licensing authority shall enter, one time per calendar year, during regular business hours, the commercial premises owned or leased by any licensee, wherein such records required to be maintained under this section are stored or maintained, and inspect, in a reasonable manner, such records and inventory for the purpose of enforcing the provisions of this section. If such records and inventory contain evidence of violations of this section, the inspecting officer shall produce and take possession of copies of such records and, in the event that the licensee subject to inspection does not possess copying equipment, the inspecting officer shall arrange to have copied, in a reasonable time and manner, such records that contain evidence of such violations and the costs for such copying shall be assessed against the owner of such records. Licensees found to be in violation of this section shall be subject to the suspension or permanent revocation of such license issued under section 122 and to the provisions of section 128. Nothing herein

shall prohibit the licensing authority or the department of state police from conducting such inspections pursuant to a valid search warrant issued by a court of competent jurisdiction.

Notwithstanding the provisions of this section, a person licensed under the provisions of section one hundred and twenty-two, or section one hundred and twenty-two B, may sell or transfer firearms, rifles, shotguns, machine guns or ammunition at any regular meeting of an incorporated collectors club or at a gun show open to the general public; provided, however, that all other provisions of this section are complied with and that such sale or transfer is in conformity with federal law or regulations applicable to the transfer or sale of firearms, rifles, shotguns, machine guns or ammunition, including the restrictions imposed upon firearm identification cards issued under section 129B, licenses to carry firearms issued under section 131 and permits to purchase, lease or rent firearms issued under section 131A.