

HOUSE No. 2066

The Commonwealth of Massachusetts

PRESENTED BY:

Colleen M. Garry

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 electronic defensive devices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/7/2019</i>

HOUSE No. 2066

By Miss Garry of Dracut, a petition (accompanied by bill, House, No. 2066) of Colleen M. Garry relative to the defensive use of certain electronic devices. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to electronic defensive devices.

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 Section 4 of Chapter 123 of the Acts of 2018 is hereby repealed.

2 SECTION 2. The following definition of Chapter 123 of the Acts of 2018 is hereby
3 repealed.

4 “Stun gun”, a portable device or weapon, regardless of whether it passes an electrical
5 shock by means of a dart or projectile via a wire lead, from which an electrical current, impulse,
6 wave or beam that is designed to incapacitate temporarily, injure or kill may be directed.

7 SECTION 3. Section 8 of Chapter 123 of the Acts of 2018 is hereby repealed.

8 SECTION 4. Section 13 of Chapter 123 of the Acts of 2018 is hereby repealed.

9 SECTION 5. Section 14 of Chapter 123 of the Acts of 2018 is hereby repealed.

10 SECTION 6. Section 131J of Chapter 140 is hereby deleted in its entirety and replaced
11 with the following:

12 (a) For the purposes of this section the following terms shall have the following
13 meanings:

14 “Electronic Dart Gun” shall mean any electrical defensive device designed primarily to
15 momentarily stun, or temporarily immobilize, a person by passing an electrical shock to such
16 person by means of a dart or projectile via a wire lead; commonly referred to as a TASER.

17 “Electronic Stun Gun” shall mean any electrical handheld defensive device designed
18 primarily to momentarily stun, or temporarily immobilize a person, by passing an electrical
19 shock to such person. Such device is designed to make direct contact in order to deploy a shock.

20 “Prohibited Person” shall mean a person who:

21 (i) in a court of the commonwealth, has been convicted or adjudicated a youthful offender
22 or delinquent child as defined in section 52 of chapter 119 for the commission of: (A) a felony;
23 (B) a misdemeanor punishable by imprisonment for more than 2 years; (C) a violent crime as
24 defined in section 121; (D) a violation of a law regulating the use, possession, ownership,
25 transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for
26 which a term of imprisonment may be imposed; or (E) a violation of a law regulating the use,
27 possession or sale of a controlled substance as defined in section 1 of chapter 94C including, but
28 not limited to, a violation under said chapter 94C; provided, however, that except for the
29 commission of a violent crime or a crime involving the trafficking of controlled substances, if the
30 person has been so convicted or adjudicated or released from confinement, probation or parole
31 supervision for such conviction or adjudication, whichever occurs last, for 5 or more years
32 immediately preceding the purchase or possession, that person may purchase or possess an
33 electronic dart gun or electronic stun gun;

34 (ii) in another state or federal jurisdiction, has been convicted or adjudicated a youthful
35 offender or delinquent child for the commission of: (A) a felony; (B) a misdemeanor punishable
36 by imprisonment for more than 2 years; (C) a violent crime as defined in section 121; (D) a
37 violation of a law regulating the use, possession, ownership, transfer, purchase, sale, lease,
38 rental, receipt or transportation of weapons or ammunition for which a term of imprisonment
39 may be imposed; or (E) a violation of a law regulating the use, possession or sale of a controlled
40 substance as defined in section 1 of chapter 94C; provided, however, that, except for the
41 commission of a violent crime or a crime involving the trafficking of weapons or controlled
42 substances, if the person has been so convicted or adjudicated or released from confinement,
43 probation or parole supervision for such conviction or adjudication, whichever occurs last, for 5
44 or more years immediately preceding the purchase or possession and that applicant's right or
45 ability to possess a rifle or shotgun has been fully restored in the jurisdiction wherein the subject
46 conviction or adjudication was entered, then that person may purchase or possess an electronic
47 dart gun or electronic stun gun;

48 (iii) has been committed to any hospital or institution for mental illness unless the person
49 obtains, prior to purchase or possession, an affidavit of a licensed physician or clinical
50 psychologist attesting that such physician or psychologist is familiar with the applicant's mental
51 illness and that in the physician's or psychologist's opinion the applicant is not disabled by such
52 an illness in a manner that shall prevent the applicant from possessing an electronic dart gun or
53 electronic stun gun;

54 (iv) is or has been in recovery from or committed based upon a finding that the person is
55 a person with an alcohol use disorder or a substance use disorder or both unless a licensed
56 physician or clinical psychologist deems such person to be in recovery from such condition, in

57 which case, such person may purchase or possess an electronic dart gun or electronic stun gun
58 after 5 years from the date of such confinement or recovery; provided, however, that prior to
59 such purchase or possession of an electronic dart gun or electronic stun gun, the applicant shall
60 submit an affidavit issued by a licensed physician or clinical psychologist attesting that such
61 physician or psychologist knows the person's history of treatment and that in that physician's or
62 psychologist's opinion the applicant is in recovery;

63 (v) is an alien who does not maintain lawful permanent residency or is an alien not
64 residing under a visa pursuant to 8 U.S.C. ? 1101(a)(15)(U), or is an alien not residing under a
65 visa pursuant to 8 U.S.C. 1154(a)(1)(B)(ii)(I) or is an alien not residing under a visa pursuant to
66 8 U.S.C. 1101(a)(15)(T)(i)(I)?(IV);

67 (vi) is currently subject to: (1) an order for suspension or surrender issued pursuant to
68 section 3B or 3C of chapter 209A or section 7 of chapter 258E; or (2) a permanent or temporary
69 protection order issued pursuant to chapter 209A or section 7 of chapter 258E; or

70 (vii) is currently the subject of an outstanding arrest warrant in any state or federal
71 jurisdiction.

72 (b) It shall be lawful for any person aged 21 years or older, who is not a prohibited
73 person, to possess, purchase, carry, transfer, or otherwise utilize for defensive purposes an
74 electronic dart gun as defined in this section.

75 (c) It shall be lawful for any person aged 18 years or older, who is not a prohibited
76 person, to possess, purchase, carry, transfer, or otherwise utilize for defensive purposes an
77 electronic stun gun as defined in this section. No special permit, license or other conditions shall
78 be required.

79 (d) Whoever purchases or possesses an electronic dart gun or electronic stun gun in
80 violation of this section shall be punished by a fine of not more than \$1,000 or by imprisonment
81 in a house of correction for not more than 2 years or both such fine and imprisonment.

82 (e) Whoever, not being licensed as provided in section 122B, sells an electronic dart gun
83 or electronic stun gun shall be punished by a fine of not more than \$1,000 or by imprisonment in
84 a house of correction for not more than 2 years.

85 (f) Whoever sells an electronic dart gun or electronic stun gun to a person younger than
86 18 years of age shall be punished by a fine of not more than \$300.

87 (g) The following shall be exempt from this section (1) a federal, state or municipal law
88 enforcement officer, or member of a special reaction team in a state prison or designated special
89 operations or tactical team in a county correctional facility, acting in the discharge of his official
90 duties who has completed a training course approved by the secretary of public safety in the use
91 of such a device or weapon designed to incapacitate temporarily; or (2) a supplier of such devices
92 or weapons designed to incapacitate temporarily, if possession of the device or weapon is
93 necessary to the supply or sale of the device or weapon within the scope of such sale or supply
94 enterprise. A device or weapon sold under this paragraph shall include a mechanism for tracking
95 the number of times the device or weapon has been fired. The secretary of public safety shall
96 adopt regulations governing law enforcement training on the appropriate use of devices or
97 weapons issued under this paragraph.