

SENATE No. 1358

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:

Michael J. Barrett

DISTRICT/ADDRESS:

Third Middlesex

SENATE No. 1358

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 1358) of Michael J. Barrett for legislation relative to military grade controlled property. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1277 OF 2017-2018.]

The Commonwealth of Massachusetts

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

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 2016
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.

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

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

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

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

“and”

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

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

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

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

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

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

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

Section 6B½. Transfers of military-grade controlled property

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

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

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

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

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

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

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

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

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

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

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

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

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

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