

SENATE No. 1539

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>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/22/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/22/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/26/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/26/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>3/8/2021</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>11/1/2021</i>

SENATE No. 1539

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 1539) of Michael J. Barrett, Jack Patrick Lewis, Lindsay N. Sabadosa, James B. Eldridge and other members of the General Court for legislation relative to military grade controlled property. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1358 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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 so appearing, is hereby
2 amended by inserting after the definition of “Direct debt” the following definition:-

3 “Federal agency”, a federal military, law enforcement or intelligence agency, department,
4 or division.

5 SECTION 2. Said section 1 of said chapter 29, as so appearing, is hereby further
6 amended by inserting after the definition of “Fund” the following definition:-

7 "Law enforcement agency", a police department, sheriff department, harbormaster, state
8 or county correctional facility or lockup, regional law enforcement council, so-called, or

9 cooperative or other joint task force or other entity with authority to enforce the laws of the
10 commonwealth.

11 SECTION 3. Said section 1 of said chapter 29, as so appearing, is hereby further
12 amended by inserting after the definition of “Line-item” the following 2 definitions:-

13 “Local legislative body”, the town meeting for the purposes of a town system, the city
14 council subject to the provisions of its charter in a city system, the district meeting in a district
15 system, the county commissioners in a county system, and the governing body of the authority in
16 an authority system.

17 "Military grade controlled property”, equipment, articles, services and related technical
18 data as enumerated in the United State munitions list under 22 C.F.R. 121.1 or the department of
19 commerce control list under 15 C.F.R. 774.

20 SECTION 4. Clause (3) of subsection (a) of section 6B of said chapter 29, as so
21 appearing, is hereby amended by striking out subclauses (ii) and (iii) and inserting in place
22 thereof the following 3 subclauses:-

23 (ii) the estimated amount of cash match, in-kind match or other monies to be supplied by
24 the state and any other source from which such match will be required, and a description of the
25 federal allocation formula and matching requirements including whether the grant is distributed
26 to the commonwealth on the basis of a federally specified formula or on the basis of the federal
27 grantor's discretion and a description of the federal constraints placed on the agency's discretion
28 to use the grant;

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

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

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

40 SECTION 6. Said section 6B of said chapter 29, as so appearing, is hereby further
41 amended by adding the following 2 subsections:-

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

50 (1) The department of state police, the office of law enforcement within the executive
51 office of environmental affairs or the Massachusetts bay transportation authority police force
52 shall not apply for or receive military grade controlled property or funds for the acquisition or
53 transfer of military grade controlled property from a federal agency unless the department of
54 state police, the office of law enforcement within the executive office of environmental affairs or
55 the Massachusetts bay transportation authority police force obtains approval from the secretary
56 of public safety and security, secretary of energy and environmental affairs or the secretary of
57 transportation, respectively.

58 SECTION 7. Said chapter 29 is hereby further amended by inserting after section 6B the
59 following section:-

60 Section 6B½. (a) A local law enforcement agency shall not apply for or receive military
61 grade controlled property or funds for the acquisition or transfer of military grade controlled
62 property from a federal agency unless: (i) the local law enforcement agency provides notice to
63 the local legislative body of any intended application or transfer, including a detailed list of
64 supplies and equipment sought to be acquired or transferred; (ii) the local legislative body
65 advertises and holds a public hearing, due notice of which shall be advertised to the public,
66 regarding the prospective application or transfer, during which the public shall be allowed the
67 opportunity to testify and comment; (iii) the local law enforcement agency has responded in
68 writing to any questions and matters raised by the local legislative body or residents at such
69 public hearing; and (iv) the local legislative body votes to approve the intended application or
70 transfer, including the particular supplies and equipment sought to be acquired. The local law
71 enforcement agency shall include documentation of the local legislative body's approval in its
72 application or acknowledgement of receipt.

73 (b) A regional law enforcement council or other multi-jurisdictional law enforcement
74 agency, including but not limited to those made up of entities or representatives of multiple
75 agencies and those administered by non-profits, shall not apply for or receive military grade
76 controlled property or funds for the acquisition or transfer of military grade controlled property
77 from a federal agency unless it has: (i) provided notice to each of the local legislative bodies for
78 the cities and towns participating in the regional or multi-jurisdiction law enforcement agency
79 regarding any prospective application or transfer; and (ii) obtained approval from the secretary of
80 public safety and security, who shall take into consideration any information, comments and
81 recommendations from the local legislative bodies for the cities and towns participating in the
82 regional or multi-jurisdiction law enforcement agency. The regional law enforcement council or
83 multi-jurisdiction agency shall include documentation of the approval of the secretary of public
84 safety and security in its application or acknowledgement of receipt. Notwithstanding any such
85 approval, a local legislative body for a city or town participating in the regional or multi-
86 jurisdiction law enforcement agency may vote to restrict or deny the use of the subject military
87 grade controlled property within its locality.

88 (c) The department of state police shall not apply for or receive military grade controlled
89 property or funds for the acquisition or transfer of military grade controlled property from a
90 federal agency unless it has obtained approval from the secretary of public safety and security.
91 The department of state police shall include documentation of the approval of the secretary of
92 public safety and security in its application or acknowledgement of receipt.

93 (d) A sheriff's department shall not apply for or receive military grade controlled
94 property or funds for the acquisition or transfer of military grade controlled property from a
95 federal agency unless it has obtained approval from the secretary of public safety and security.

- 96 The sheriff's department shall include documentation of the approval of the secretary of public
97 safety and security in its application or acknowledgement of receipt.