HOUSE DOCKET, NO. 2614 FILED ON: 1/19/2023

HOUSE . . . . . No. 2348

The Commonwealth of Massachusetts

PRESENTED BY:

Mary S. Keefe

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:	DATE ADDED:
Mary S. Keefe	*15th Worcester*	*1/19/2023*
David Henry Argosky LeBoeuf	*17th Worcester*	*1/30/2023*
Jack Patrick Lewis	*7th Middlesex*	*1/31/2023*
Erika Uyterhoeven	*27th Middlesex*	*2/22/2023*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*7/5/2023*

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HOUSE . . . . . No. 2348

By Representative Keefe of Worcester, a petition (accompanied by bill, House, No. 2348) of Mary S. Keefe and others relative to military grade controlled property. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *2479* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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:

SECTION 1. Section 1 of chapter 29 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after the definition of "Direct debt" the following definition:-

"Federal agency", a federal military, law enforcement or intelligence agency, department, or division.

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

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

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

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

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

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

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

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

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

(k) The type and quantity of military grade controlled property available for purchase with any federal grant funds or available 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 so that it might consider proposed appropriations and the establishment of state policies and priorities.

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

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

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

(b) A regional law enforcement council or other multi-jurisdictional law enforcement agency, including but not limited to those made up of entities or representatives of multiple agencies and those administered by non-profits, shall not apply for or receive military grade controlled property or funds for the acquisition or transfer of military grade controlled property from a federal agency unless it has: (i) provided 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 or transfer; and (ii) obtained 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. The regional law enforcement council or multi-jurisdiction agency shall include documentation of the approval of the secretary of public safety and security in its application or acknowledgment of receipt. Notwithstanding any such approval, a local legislative body for a city or town participating in the regional or multi-jurisdiction law enforcement agency may vote to restrict or deny the use of the subject military grade controlled property within its locality.

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

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

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