

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:
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/9/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/30/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2023</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/22/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>7/5/2023</i>

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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