SENATE DOCKET, NO. 1619 FILED ON: 1/18/2013

SENATE . . . . . No. 1126

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

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 firearms and firearms violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Cynthia S. Creem	*First Middlesex and Norfolk*
William N. Brownsberger	*Second Suffolk and Middlesex*
Ruth B. Balser	*12th Middlesex*
Kay Khan	*11th Middlesex*
Martha M. Walz	*8th Suffolk*
Karen E. Spilka	*Second Middlesex and Norfolk*
Katherine M. Clark	*Fifth Middlesex*
Denise Provost	*27th Middlesex*

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 1126) of Cynthia S. Creem, William N. Brownsberger, Ruth B. Balser, Kay Khan and other members of the General Court for legislation relative to firearms and firearms violence. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to firearms and firearms violence.

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. Chapter 29 of the General Laws is hereby amended by inserting after section 2EEEE, the following new section:-

2FFFF. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Firearms Violence Prevention Trust Fund. Amounts credited to such fund shall be available, without further appropriation, to the Secretary of the Executive Office of Public Safety and Homeland Security who shall utilize such funds to establish an annual municipal grant program to support municipal violence prevention programs. Provided that priority shall be given to programs that support the provision of school resource officers, programs to address youth exposure to actual and depicted violence, and training of police in handling incidents involving persons suffering from mental illness.

SECTION 2. Section 2 of Chapter 64H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following new paragraph:-

In addition to all other rates of tax provided herein, an additional surcharge of 4.75 percent shall be imposed on sales at retail of all ammunition, rifles, shotguns, firearms or parts thereof, as those terms are defined in section 121 of chapter 140, in the Commonwealth. All revenues received from such surcharge, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith, all as determined by the commissioner of revenue according to his best information and belief, shall be credited to the Firearms Violence Prevention Trust Fund established pursuant to section 2FFFF of chapter 29 of the General Laws.

21 SECTION 3. Section 2 of Chapter 64I of the General Laws, as so appearing, is hereby
22 amended by adding the following new paragraph:-

23 In addition to all other rates of tax provided herein, an additional surcharge of 4.75
24 percent shall be imposed on the storage, use or other consumption of ammunition, rifles,
25 shotguns, firearms or parts thereof, as those terms are defined in section 121 of chapter 140,
26 purchased from any vendor or manufactured, fabricated or assembled from materials acquired
27 either within or outside the commonwealth for storage, use or consumption within the
28 commonwealth. All revenues received from this surcharge, together with any penalties,
29 forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts
30 refunded or abated in connection therewith, all as determined by the commissioner of revenue
31 according to his best information and belief, shall be credited to the Firearms Violence
32 Prevention Trust Fund established pursuant to section 2FFFF of chapter 29 of the General Laws.

33 SECTION 4. Chapter 140 of the General Laws, as so appearing, is hereby amended by
34 inserting after section 122B the following section:-

35 Section 122C. (a) As used in this section, the following terms shall have the following
36 meanings:

37 "Dealer", a firearms dealer licensed under section 122 of chapter 140.

38 "Gun show", an event including participation by one or more dealers for the purpose of
39 selling, renting, leasing or transferring weapons and/or ammunition.

40 "Gun show organizer", any person, public or private entity, organization or association
41 that is primarily responsible for sponsoring, hosting or facilitating the organization of a gun
42 show.

43 (b) Not less than 60 days prior to a scheduled gun show, a gun show organizer shall
44 notify the commissioner of the department of criminal justice information services in writing of
45 the date, time, place, and the names and license numbers of dealers expected to attend the gun
46 show and shall submit a registration fee of $500 payable to the department of criminal justice
47 information services.

48 (c) A gun show organizer shall provide dealers with access to an electronic
49 communication link for the submission of records to the commissioner of the department of
50 criminal justice information services of all sales, rentals, leases and transfers of firearms by
51 dealers in accordance with section 123 of chapter 140.

52 (d) A gun show organizer who violates any provision of this section shall be subject to a
53 civil fine of not less than $1,000 nor more than $10,000.

54 (e) The commissioner of the department of criminal justice information services may
55 promulgate rules and regulations to carry out this section.

56 SECTION 5. Said chapter 140 is hereby amended by inserting after section 123, the
57 following new section:

58 Section 123A. Notwithstanding any other provision of this chapter, law or regulation to
59 the contrary, it shall be unlawful to sell, purchase, rent, lease or possess a .50 BMG rifle or .50
60 BMG cartridge. Any person violating this section shall be punished by a fine of not less than
61 $1,000 nor more than $10,000, or by imprisonment for not less than 1 year nor more than 10
62 years, or by both such fine and imprisonment. For purposes of this section the following words
63 shall have the following meanings:-

64 ".50 BMG cartridge" means a cartridge that is designed and intended to be fired from a
65 center fire rifle and that meets all of the following criteria:

66 (a) It has an overall length of 5.54 inches from the base to the tip of the bullet.

67 (b) The bullet diameter for the cartridge is from .510 to, and including, .511 inch.

68 (c) The case base diameter for the cartridge is from .800 inch to, and including, .804
69 inch.

70 (d) The cartridge case length is 3.91 inches.

71 ".50 BMG rifle" means a center fire rifle that can fire a .50 BMG cartridge and is not
72 already an assault weapon or a machinegun. It shall not include any antique firearm, nor any
73 curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

74 The provisions of this section shall not apply to (i) any officer, agent or employee of the
75 commonwealth or any state or the United States; (ii) any member of the military or other service
76 of any state or of the United States; (iii) any duly authorized law enforcement officer, agent or
77 employee of any municipality of the commonwealth; provided, however, that any such person
78 described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or
79 possess the weapon so carried or possessed and is acting within the scope of his duties.

80 SECTION 6. Section 128A of chapter 140 of the General Laws, as so appearing, is
81 hereby amended by adding the following 2 sentences:- Any sale or transfer conducted under this
82 section shall comply with section 131E and shall take place at the location of a dealer licensed
83 under section 122, who shall transmit the information required by this section for the purchases
84 and sales by utilizing the electronic verification link established by the commissioner of the
85 department of criminal justice information services. A licensed dealer may charge the seller a fee
86 not to exceed $25 for each sale or transfer electronically submitted on behalf of the seller to the
87 department of criminal justice information services.

88 SECTION 7. Section 129B of Chapter 140 of the General Laws, as appearing in the
89 2010 Official Edition is hereby amended by striking in lines 7 and 8 the words "shall issue,
90 unless the applicant:" and inserting in place thereof the following words:- "may issue if the
91 licensing authority determines the applicant is a suitable person, unless the applicant:"

92 SECTION 8. Said section 129B is hereby further amended in paragraph (12) by striking
93 in lines 229-230 the words "subject to a civil fine" and inserting in place thereof the following
94 words:- "guilty of a crime and subject to the issuance of a warrant for his arrest as well as a
95 warrant issued pursuant to chapter 276, and upon conviction thereof may be punished by a fine"

96 SECTION 9. Section 131 of the Chapter 140 of the General Laws is hereby amended by
97 striking paragraphs (a), (b) and (c) in lines 4 through 97 inclusive and inserting in place
98 thereof the following:-

99 All licenses to carry firearms shall be designated Class A or Class B, and the issuance
100 and possession of any such license shall be subject to the following conditions and restrictions:

101 (a) A Class A license shall entitle a holder thereof to purchase, rent, lease, borrow,
102 possess and carry: (i) firearms, including ammunition therefor, for all lawful purposes, subject to
103 such restrictions relative to the possession, use or carrying of firearms as the licensing authority
104 deems proper; and (ii) non-large capacity rifles and shotguns, including ammunition therefor, for
105 all lawful purposes; provided, however, that the licensing authority may impose such restrictions
106 relative to the possession, use or carrying of firearms, rifles and shotguns as it deems proper. A
107 violation of a restriction imposed by the licensing authority under the provisions of this
108 paragraph shall be cause for suspension or revocation and shall, unless otherwise provided, be
109 punished by a fine of not less than $1,000 nor more than $10,000; provided, however, that the
110 provisions of section 10 of chapter 269 shall not apply to such violation.

111 The colonel of state police may, after an investigation, grant a Class A license to a club or
112 facility with an on-site shooting range or gallery, which club is incorporated under the laws of
113 the commonwealth for the possession, storage and use of assault weapons, large capacity
114 weapons, ammunition therefor and large capacity feeding devices for use with such weapons on
115 the premises of such club; provided, however, that not less than one shareholder of such club
116 shall be qualified and suitable to be issued such license; and provided further, that such large
117 capacity weapons and ammunition feeding devices may be used under such Class A club license
118 only by such members that possess a valid firearm identification card issued under section 129B
119 or a valid Class A or Class B license to carry firearms, or by such other persons that the club
120 permits while under the direct supervision of a certified firearms safety instructor or club
121 member who, in the case of a large capacity firearm, possesses a valid Class A license to carry
122 firearms or, in the case of a large capacity rifle or shotgun, possesses a valid Class A or Class B
123 license to carry firearms. Such club shall not permit shooting at targets that depict human figures,

124 human effigies, human silhouettes or any human images thereof, except by public safety
125 personnel performing in line with their official duties.

126 No large capacity weapon or large capacity feeding device shall be removed from the
127 premises except for the purposes of: (i) transferring such firearm or feeding device to a licensed
128 dealer; (ii) transporting such firearm or feeding device to a licensed gunsmith for repair; (iii)
129 target, trap or skeet shooting on the premises of another club incorporated under the laws of the
130 commonwealth and for transporting thereto; (iv) attending an exhibition or educational project or
131 event that is sponsored by, conducted under the supervision of or approved by a public law
132 enforcement agency or a nationally or state recognized entity that promotes proficiency in or
133 education about semiautomatic weapons and for transporting thereto and therefrom; or (v)
134 surrendering such firearm or feeding device under the provisions of section 129D. Any large
135 capacity weapon or large capacity feeding device kept on the premises of a lawfully incorporated
136 shooting club shall, when not in use, be secured in a locked container, and shall be unloaded
137 during any lawful transport. The clerk or other corporate officer of such club shall annually file a
138 report with the colonel of state police and the commissioner of the department of criminal justice
139 information services listing all large capacity weapons and large capacity feeding devices owned
140 or possessed under such license. The colonel of state police or his designee, shall have the right
141 to inspect all firearms owned or possessed by such club upon request during regular business
142 hours and said colonel may revoke or suspend a club license for a violation of any provision of
143 this chapter or chapter 269 relative to the ownership, use or possession of large capacity weapons
144 or large capacity feeding devices.

145 (b) A Class B license shall entitle a holder thereof to purchase, rent, lease, borrow,
146 possess and carry: (i) non-large capacity firearms and feeding devices and ammunition therefor,
147 for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of
148 such firearm as the licensing authority deems proper; provided, however, that a Class B license
149 shall not entitle the holder thereof to carry or possess a loaded firearm in a concealed manner in
150 any public way or place; and provided further, that a Class B license shall not entitle the holder
151 thereof to possess a large capacity firearm, except under a Class A club license issued under this
152 section or under the direct supervision of a holder of a valid Class A license at an incorporated
153 shooting club or licensed shooting range; and (ii) rifles and shotguns, including ammunition
154 therefor, for all lawful purposes; provided, however, that the licensing authority may impose
155 such restrictions relative to the possession, use or carrying of firearms, rifles and shotguns as he
156 deems proper. A violation of a restriction provided under this paragraph, or a restriction imposed
157 by the licensing authority under the provisions of this paragraph, shall be cause for suspension or
158 revocation and shall, unless otherwise provided, be punished by a fine of not less than $1,000 nor
159 more than $10,000; provided, however, that the provisions of section 10 of chapter 269 shall not
160 apply to such violation.

161 A Class B license shall not be a valid license for the purpose of complying with any
162 provision under this chapter governing the possession, purchase, sale, lease, rental or transfer of

163 any weapon or ammunition feeding device if such weapon is a large capacity firearm or if such
164 ammunition feeding device is a large capacity feeding device for use with a large capacity
165 firearm, both as defined in section 121.

166 (c) Either a Class A or Class B license shall be valid for the purpose of owning,
167 possessing, purchasing and transferring non-large capacity rifles and shotguns, and for
168 purchasing and possessing chemical mace, pepper spray or other similarly propelled liquid, gas
169 or powder designed to temporarily incapacitate, consistent with the entitlements conferred by a
170 firearm identification card issued under section 129B.

171 SECTION 10. Section 131 of Chapter 140 of the General Laws, as so appearing, is
172 hereby amended in paragraph (m) by striking in line 313 the words "subject to a civil fine" and
173 inserting in place thereof the following words:- "guilty of a crime and subject to the issuance of a
174 warrant for his arrest as well as a warrant issued pursuant to chapter 276, and upon conviction
175 thereof may be punished by a fine"

176 SECTION 11. Said section 131 of chapter 140 of the General Laws is hereby further
177 amended by adding at the end there of the following new paragraph:-

178 (s) No license issued under this section shall permit the licensee to purchase, rent, lease,
179 borrow, posses or carry any assault weapon, large-capacity weapon, or large capacity feeding
180 device, as defined in Section 121 of Chapter 140, except while on the premises of a club or
181 facility with an on-site shooting range or gallery with a Class A license issued by the Colonel of
182 the State Police pursuant to paragraph (a).

183 SECTION 12. Section 10(j) of chapter 269 of the General Laws, as appearing in the 2010
184 Official Edition, is hereby amended by deleting it in its entirety and replacing it with the
185 following: - (j) Whoever, not being a law enforcement officer, and notwithstanding any license
186 obtained by him under the provisions of chapter 140, knowingly has in his possession; or
187 knowingly has under his control in a vehicle; a firearm, rifle, shotgun, machine gun, assault
188 weapon or ammunition as defined in section 121 of chapter 140, in any building or on the
189 grounds of any elementary or secondary school, college or university without the written
190 authorization of the board or officer in charge of such elementary or secondary school, college or
191 university shall be punished by a fine of not more than one thousand dollars or by imprisonment
192 for not more than two years or by both such fine and imprisonment, and may be arrested without
193 a warrant.

194 Whoever, not being a law enforcement officer, knowingly has in his possession; or
195 knowingly has under his control in a vehicle; a dangerous weapon, or an air gun, so-called BB
196 gun, paintball gun, air rifle or air pistol or other smoothbore arm capable of discharging a shot or
197 pellet by whatever means in any building or on the grounds of any elementary or secondary
198 school, college or university without the written authorization of the board or officer in charge of
199 such elementary or secondary school, college or university shall be punished by a fine of not

more than five hundred dollars or by imprisonment for not more than one year, and may be arrested without a warrant.

Whoever knowingly has in his possession; or knowingly has under his control in a vehicle an explosive or incendiary device in any building or on the grounds of any elementary or secondary school, college or university shall be punished by a fine of not more than $10,000 or by imprisonment in the state prison for not more than 10 years or by both such fine and imprisonment.

Any officer in charge of an elementary or secondary school, college or university or any faculty member or administrative officer of an elementary or secondary school, college or university failing to report violations of this sub section shall be guilty of a misdemeanor and punished by a fine of not more than five hundred dollars.