

**HOUSE . . . . . No. 01567**

The Commonwealth of Massachusetts

PRESENTED BY:

*George N. Peterson, Jr.*

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 passage of the accompanying bill:

An Act relative to the right to carry firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>
<i>Angelo D'Emilia</i>	<i>8th Plymouth</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Steven Howitt</i>	<i>4th Bristol</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>Ryan Fattman</i>	<i>18th Worcester</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>

<i>Nicholas Boldyga</i>	<i>3rd Hampden</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Kimberly Ferguson</i>	<i>1st Worcester</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Demetrius J. Atsalis</i>	<i>2nd Barnstable</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Daniel Winslow</i>	<i>9th Norfolk</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Matthew Beaton</i>	<i>11th Worcester</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>

# HOUSE . . . . . No. 01567

By Mr. George N. Peterson of Grafton, petition (accompanied by bill, House, No. 01567) of Richard Bastien and others relative to the right to carry firearms. Joint Committee on Public Safety and Homeland Security.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the right to carry firearms.

*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. Chapter 140 of the General Laws, as appearing in the 2008 Official Edition, is
- 2 hereby amended by striking section 131 and inserting in place thereof the following section:-
- 3 Section 131. All licenses to carry firearms shall be shall be subject to the following conditions:
- 4 (a) A license to carry firearms shall entitle a holder thereof to purchase, rent, lease, borrow,
- 5 possess and carry for all lawful purposes:
- 6 (i) firearms, including large capacity firearms, and feeding devices and ammunition therefor; and
- 7 (ii) rifles and shotguns, including large capacity weapons, and feeding devices and ammunition
- 8 therefor, for all lawful purposes;

9 (iii) chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to  
10 temporarily incapacitate, consistent with the entitlements conferred by a firearm identification  
11 card issued under section 129B.

12 (b) Any person residing or having a place of business within the jurisdiction of the licensing  
13 authority or any law enforcement officer employed by the licensing authority or any person  
14 residing in an area of exclusive federal jurisdiction located within a city or town may submit to  
15 such licensing authority or the colonel of state police, an application for a license to carry  
16 firearms, or renewal of the same, which such licensing authority or said colonel shall issue if the  
17 applicant is not a prohibited person as outlined in this section. The licensing authority may not  
18 prescribe any other condition for the issuance of a license to carry firearms.

19 (c) For the purposes of this section an applicant shall be deemed to be a prohibited person if the  
20 applicant

21 (1) is under indictment in any court for a crime punishable by imprisonment for a term  
22 exceeding one year;

23 (2) is at the time of application less than 18 years old;

24 (3) has been convicted of a crime punishable by imprisonment for a term exceeding one year  
25 that is not a crime of violence for which a committed term of imprisonment has been served after  
26 sentencing has been carried out;

27 (4) has been convicted of a misdemeanor punishable by imprisonment for more than two years  
28 that is not a crime of violence for which a committed term of imprisonment has been served after  
29 sentencing has been carried out;

30 (5) is a fugitive from justice;

31 (6) is an unlawful user of or addicted to any controlled substance;

32 (7) has been adjudicated as a mental defective;

33 (8) has been involuntarily committed to any mental institution;

34 (9) is an illegal alien;

35 (10) has been discharged from the military under dishonorable conditions;

36 (11) has renounced his or her United States citizenship;

37 (12) is currently subject to a court order restraining the person from harassing, stalking, or

38 threatening an intimate partner or child of the intimate partner; no such order that has expired for

39 which there was no conviction of a violation of such order shall be considered a disqualifier; or

40 (13) has been convicted of a misdemeanor crime of domestic violence, as defined in 18 USC

41 921 (a)(33).

42 (e) Within 7 days of the receipt of a completed application for a license to carry or possess

43 firearms, or renewal of same, the licensing authority shall forward one copy of the application

44 and one copy of the applicant's fingerprints to the colonel of state police, who shall within 30

45 days advise the licensing authority, in writing, of any disqualifying criminal record of the

46 applicant arising from within or without the commonwealth and whether there is reason to

47 believe that the applicant is a prohibited person for any of the foregoing reasons from possessing

48 a license to carry or possess firearms. In searching for any disqualifying history of the applicant,

49 the colonel shall utilize, or cause to be utilized, files maintained by the department of probation

50 and statewide and nationwide criminal justice, warrant and protection order information systems  
51 and files including, but not limited to, the National Instant Criminal Background Check System.  
52 The colonel shall inquire of the commissioner of the department of mental health relative to  
53 whether the applicant is a prohibited person with respect to parts (7) and (8) of paragraph (c). If  
54 the information available to the colonel does not indicate that the possession of a firearm or large  
55 capacity firearm by the applicant would be in violation of state or federal law, he shall certify  
56 such fact, in writing, to the licensing authority within said 30 day period.

57 The licensing authority may also make inquiries concerning the applicant to: (i) the  
58 commissioner of the department of criminal justice information services relative to any  
59 disqualifying condition and records of purchases, sales, rentals, leases and transfers of weapons  
60 or ammunition concerning the applicant; (ii) the commissioner of probation relative to any  
61 record contained within the department of probation or the statewide domestic violence record  
62 keeping system concerning the applicant; and (iii) the commissioner of the department of mental  
63 health relative to whether the applicant is a prohibited person. The director or commissioner to  
64 whom the licensing authority makes such inquiry shall provide prompt and full cooperation for  
65 that purpose in any investigation of the applicant.

66 The licensing authority shall, within 40 days from the date of application, either approve the  
67 application and issue the license or deny the application and notify the applicant of the reason for  
68 such denial in writing; provided, however, that no such license shall be issued unless the colonel  
69 has certified, in writing, that the information available to him does not indicate that the applicant  
70 is a prohibited person.

71 (f) A license issued under this section shall be revoked or suspended by the licensing authority,  
72 or his designee, upon the occurrence of any event that would categorize the license holder as a  
73 prohibited person. Any revocation or suspension of a license shall be in writing and shall state  
74 the specific reasons therefor. Upon revocation or suspension, the licensing authority shall take  
75 possession of such license and the person whose license is so revoked or suspended shall take all  
76 actions required under the provisions of section 129D. No appeal or post-judgment motion shall  
77 operate to stay such revocation or suspension. Notices of revocation and suspension shall be  
78 forwarded to the commissioner of the department of criminal justice information services and the  
79 commissioner of probation and shall be included in the criminal justice information system. A  
80 revoked or suspended license shall be reinstated if it is determined that the license holder is not a  
81 prohibited person.

82 Any applicant or holder aggrieved by a denial, revocation or suspension of a license, unless a  
83 hearing has previously been held pursuant to chapter 209A, may, within either 90 days after  
84 receiving notice of such denial, revocation or suspension or within 90 days after the expiration of  
85 the time limit during which the licensing authority is required to respond to the applicant, file a  
86 petition to obtain judicial review in the district court having jurisdiction in the city or town  
87 wherein the applicant filed for, or was issued, such license. A justice of such court, after a  
88 hearing and a finding of the facts, shall direct that a license be issued or reinstated to the  
89 petitioner if such justice finds that the applicant or holder is not a prohibited person.

90 (g) A license shall be in a standard form provided by the commissioner of the department of  
91 criminal justice information services in a size and shape equivalent to that of a license to operate  
92 motor vehicles issued by the registry of motor vehicles pursuant to section 8 of chapter 90 and  
93 shall contain a license number, the name, address, photograph, fingerprint, place and date of

94 birth, height, weight, hair color, eye color and signature of the licensee. Such license shall be  
95 marked "License to Carry Firearms". The application for such license shall be made in a standard  
96 form provided by the executive director of the criminal history systems board, which form shall  
97 require the applicant to affirmatively state under the pains and penalties of perjury that such  
98 applicant is not a prohibited person.

99 (h) Any person who knowingly files an application containing false information shall be  
100 punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less  
101 than six months nor more than two years in a house of correction, or by both such fine and  
102 imprisonment.

103 (i) A license to carry or possess firearms shall be valid, unless revoked or suspended, for a period  
104 of not more than 6 years from the date of issue and shall expire on the anniversary of the  
105 licensee's date of birth occurring not less than 5 years but not more than 6 years from the date of  
106 issue, except that if the licensee applied for renewal before the license expired, the license shall  
107 remain valid for a period of 90 days beyond the stated expiration date on the license, unless the  
108 application for renewal is denied. Any renewal thereof shall expire on the anniversary of the  
109 licensee's date of birth occurring not less than 5 years but not more than 6 years from the  
110 effective date of such license. Any license issued to an applicant born on February 29 shall  
111 expire on March 1.

112 The fee for the application shall be \$25, which shall be payable to the licensing authority and  
113 shall not be prorated or refunded in case of revocation or denial. The licensing authority shall  
114 retain \$25 of the fee. For the purposes of section 10 of chapter 269, an expired license to carry



115 firearms shall be deemed to be valid for a period not to exceed 90 days beyond the stated date of  
116 expiration, unless such license to carry firearms has been revoked.

117 Any person over the age of 70 and any law enforcement officer applying for a license to carry  
118 firearms through his employing agency shall be exempt from the requirement of paying a  
119 renewal fee for a license to carry firearms.

120 (j)(1) No license shall be required for the carrying or possession of a firearm known as a  
121 detonator and commonly used on vehicles as a signaling and marking device, when carried or  
122 possessed for such signaling or marking purposes.

123 (2) No license to carry shall be required for the possession of an unloaded large capacity rifle or  
124 shotgun or an unloaded feeding device therefor by a veteran's organization chartered by the  
125 Congress of the United States, chartered by the commonwealth or recognized as a nonprofit tax-  
126 exempt organization by the Internal Revenue Service, or by the members of any such  
127 organization when on official parade duty or during ceremonial occasions. For purposes of this  
128 subparagraph, an "unloaded large capacity rifle or shotgun" and an "unloaded feeding device  
129 therefor" shall include any large capacity rifle, shotgun or feeding device therefor loaded with a  
130 blank cartridge or blank cartridges, so-called, which contain no projectile within such blank or  
131 blanks or within the bore or chamber of such large capacity rifle or shotgun.

132 (k) Whoever knowingly issues or fails to issue a license in violation of this section shall be  
133 punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less  
134 than six months nor more than two years in a jail or house of correction, or by both such fine and  
135 imprisonment.

136 (l) The commissioner of the department of criminal justice information services shall send by  
137 first class mail to the holder of each such license to carry firearms, a notice of the expiration of  
138 such license not less than 90 days prior to such expiration and shall enclose therein a form for the  
139 renewal of such license. The taking of fingerprints shall not be required in issuing the renewal of  
140 a license if the renewal applicant's fingerprints are on file with the department of the state police.  
141 Any licensee shall notify, in writing, the licensing authority who issued said license, the chief of  
142 police into whose jurisdiction the licensee moves and the commissioner of the department of  
143 criminal justice information services of any change of address. Such notification shall be made  
144 by certified mail within 30 days of its occurrence. Failure to so notify shall be cause for  
145 revocation or suspension of said license.

146 (m) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a  
147 firearm, rifle or shotgun whose license issued under this section is invalid for the sole reason that  
148 it has expired, meaning after 90 days beyond the stated expiration date on the license, but who  
149 shall not be disqualified from renewal upon application therefor under this section, shall be  
150 subject to a civil fine of not less than \$500 nor more than \$5,000 and the provisions of section 10  
151 of chapter 269 shall not apply; provided, however, that the exemption from the provisions of said  
152 section 10 of said chapter 269 provided herein shall not apply if: (i) such license has been  
153 revoked or suspended, unless such revocation or suspension was caused by failure to give notice  
154 of a change of address as required under this section; (ii) revocation or suspension of such  
155 license is pending, unless such revocation or suspension was caused by failure to give notice of a  
156 change of address as required under this section; or (iii) an application for renewal of such  
157 license has been denied. Any law enforcement officer who discovers a person to be in possession  
158 of a firearm, rifle or shotgun after such person's license has expired, meaning after 90 days

159 beyond the stated expiration date on the license, has been revoked or suspended, solely for  
160 failure to give notice of a change of address, shall confiscate such firearm, rifle or shotgun and  
161 the expired or suspended license then in possession and such officer, shall forward such license  
162 to the licensing authority by whom it was issued as soon as practicable. The officer shall, at the  
163 time of confiscation, provide to the person whose firearm, rifle or shotgun has been confiscated,  
164 a written inventory and receipt for all firearms, rifles or shotguns confiscated and the officer and  
165 his employer shall exercise due care in the handling, holding and storage of these items. Any  
166 confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such  
167 expired or suspended license within one year of such confiscation or may be otherwise disposed  
168 of in accordance with the provisions of section 129D. The provisions of this paragraph shall not  
169 apply if such person has a valid license to carry firearms issued under section 131F.

170 (n) Upon issuance of a license to carry or possess firearms under this section, the licensing  
171 authority shall forward a copy of such approved application and license to the commissioner of  
172 the department of criminal justice information services, who shall inform the licensing authority  
173 forthwith of the existence of any disqualifying condition discovered or occurring subsequent to  
174 the issuance of a license under this section.

175 (o) No person shall be issued a license to carry or possess a machine gun in the commonwealth,  
176 except that a licensing authority or the colonel of state police may issue a machine gun license  
177 to:

178 (i) a firearm instructor certified by the municipal police training committee for the sole purpose  
179 of firearm instruction to police personnel;

180 (ii) a bona fide collector of firearms upon application or upon application for renewal of such  
181 license.

182 (p) The commissioner of the department of criminal justice information services shall  
183 promulgate regulations in accordance with chapter 30A to establish criteria for persons who shall  
184 be classified as bona fide collectors of firearms.

185 (q) Nothing in this section shall authorize the purchase, possession or transfer of any weapon,  
186 ammunition or feeding device that is, or in such manner that is, prohibited by state or federal  
187 law.

188 (r) The secretary of the executive office of public safety or his designee may promulgate  
189 regulations to carry out the purposes of this section.