

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

David Paul Linsky

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 to Reduce Gun Violence and to Protect the Citizens of the Commonwealth.

PETITION OF:

NAME:

David Paul Linsky

DISTRICT/ADDRESS:

5th Middlesex

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to Reduce Gun Violence and to Protect the Citizens of the Commonwealth.

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1 SECTION 1: Section 131 of the Chapter 140 of the General Laws is hereby repealed and
2 replaced with the following:

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

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

15 The colonel of state police may, after an investigation, grant a Class A license to a club or
16 facility with an on-site shooting range or gallery, which club is incorporated under the laws of
17 the commonwealth for the possession, storage and use of assault weapons, large capacity
18 weapons, ammunition therefor and large capacity feeding devices for use with such weapons on
19 the premises of such club; provided, however, that not less than one shareholder of such club
20 shall be qualified and suitable to be issued such license; and provided further, that such large
21 capacity weapons and ammunition feeding devices may be used under such Class A club license
22 only by such members that possess a valid firearm identification card issued under section 129B
23 or a valid Class A or Class B license to carry firearms, or by such other persons that the club
24 permits while under the direct supervision of a certified firearms safety instructor or club
25 member who, in the case of a large capacity firearm, possesses a valid Class A license to carry
26 firearms or, in the case of a large capacity rifle or shotgun, possesses a valid Class A or Class B
27 license to carry firearms. Such club shall not permit shooting at targets that depict human figures,
28 human effigies, human silhouettes or any human images thereof, except by public safety
29 personnel performing in line with their official duties.

30 No large capacity weapon or large capacity feeding device shall be removed from the premises
31 except for the purposes of: (i) transferring such firearm or feeding device to a licensed dealer; (ii)
32 transporting such firearm or feeding device to a licensed gunsmith for repair; (iii) target, trap or
33 skeet shooting on the premises of another club incorporated under the laws of the commonwealth
34 and for transporting thereto; (iv) attending an exhibition or educational project or event that is
35 sponsored by, conducted under the supervision of or approved by a public law enforcement
36 agency or a nationally or state recognized entity that promotes proficiency in or education about
37 semiautomatic weapons and for transporting thereto and therefrom; or (v) surrendering such

38 firearm or feeding device under the provisions of section 129D. Any large capacity weapon or
39 large capacity feeding device kept on the premises of a lawfully incorporated shooting club shall,
40 when not in use, be secured in a locked container, and shall be unloaded during any lawful
41 transport. The clerk or other corporate officer of such club shall annually file a report with the
42 colonel of state police and the commissioner of the department of criminal justice information
43 services listing all large capacity weapons and large capacity feeding devices owned or
44 possessed under such license. The colonel of state police or his designee, shall have the right to
45 inspect all firearms owned or possessed by such club upon request during regular business hours
46 and said colonel may revoke or suspend a club license for a violation of any provision of this
47 chapter or chapter 269 relative to the ownership, use or possession of large capacity weapons or
48 large capacity feeding devices.

49 (b) A Class B license shall entitle a holder thereof to purchase, rent, lease, borrow, possess and
50 carry: (i) non-large capacity firearms and feeding devices and ammunition therefor, for all lawful
51 purposes, subject to such restrictions relative to the possession, use or carrying of such firearm as
52 the licensing authority deems proper; provided, however, that a Class B license shall not entitle
53 the holder thereof to carry or possess a loaded firearm in a concealed manner in any public way
54 or place; and provided further, that a Class B license shall not entitle the holder thereof to
55 possess a large capacity firearm, except under a Class A club license issued under this section or
56 under the direct supervision of a holder of a valid Class A license at an incorporated shooting
57 club or licensed shooting range; and (ii) rifles and shotguns, including ammunition therefor, for
58 all lawful purposes; provided, however, that the licensing authority may impose such restrictions
59 relative to the possession, use or carrying of firearms, rifles and shotguns as he deems proper. A
60 violation of a restriction provided under this paragraph, or a restriction imposed by the licensing

61 authority under the provisions of this paragraph, shall be cause for suspension or revocation and
62 shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than
63 \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to
64 such violation.

65 A Class B license shall not be a valid license for the purpose of complying with any provision
66 under this chapter governing the possession, purchase, sale, lease, rental or transfer of any
67 weapon or ammunition feeding device if such weapon is a large capacity firearm or if such
68 ammunition feeding device is a large capacity feeding device for use with a large capacity
69 firearm, both as defined in section 121.

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

75 (d) Any person residing or having a place of business within the jurisdiction of the licensing
76 authority or any law enforcement officer employed by the licensing authority or any person
77 residing in an area of exclusive federal jurisdiction located within a city or town may submit to
78 such licensing authority or the colonel of state police, an application for a Class A or Class B
79 license to carry firearms, or renewal of the same, which such licensing authority or said colonel
80 may issue if it appears that the applicant is a suitable person to be issued such license, and that
81 the applicant has good reason to fear injury to his person or property, or for any other reason,

82 including the carrying of firearms for use in sport or target practice only, subject to such
83 restrictions expressed or authorized under this section, unless the applicant:

84 (i) has ever as an adult in a court of the commonwealth or in any other state or federal
85 jurisdiction been convicted, or in a court of the commonwealth or in any other state or federal
86 jurisdiction been adjudicated a youthful offender or delinquent child, both as defined in section
87 52 of chapter 119, for the commission of: (a) a felony; (b) a misdemeanor punishable by
88 imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a
89 violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease,
90 rental, receipt or transportation of weapons or ammunition for which a term of imprisonment of
91 one year or more may be imposed; or (e) a violation of any law regulating the use, possession or
92 sale of controlled substances, as defined in section 1 of chapter 94C including, but not limited to,
93 a violation under said chapter 94C; or (f) knowingly filing a application for a firearms
94 identification card of license to carry firearms containing false information; provided, however,
95 that except for the commission of a violent crime or a crime involving the trafficking of
96 controlled substances or firearms, if the applicant has been so convicted or adjudicated or
97 released from confinement, probation or parole supervision for such conviction or adjudication,
98 whichever is last occurring, not less than five years immediately preceding such application,
99 such applicant's right or ability to possess a non-large capacity rifle or shotgun shall be deemed
100 restored in the commonwealth with respect to such conviction or adjudication and such
101 conviction or adjudication shall not disqualify such applicant for a firearm identification card;

102 (ii) has been confined to any hospital or institution for mental illness, unless the applicant
103 submits with his application an affidavit of a registered physician attesting that such physician is
104 familiar with the applicant's mental illness and that in such physician's opinion the applicant is

105 not disabled by such an illness in a manner that should prevent such applicant from possessing a
106 firearm;

107 (iii) is or has been under treatment for or confinement for drug addiction or habitual
108 drunkenness, unless such applicant is deemed to be cured of such condition by a licensed
109 physician, and such applicant may make application for such license after the expiration of five
110 years from the date of such confinement or treatment and upon presentment of an affidavit issued
111 by such physician stating that such physician knows the applicant's history of treatment and that
112 in such physician's opinion the applicant is deemed cured;

113 (iv) is at the time of the application less than 21 years of age;

114 (v) is an alien other than a lawful permanent resident alien;

115 (vi) is currently subject to: (A) an order for suspension or surrender issued pursuant to section 3B
116 or 3C of chapter 209A or a similar order issued by another jurisdiction; or (B) a permanent or
117 temporary protection order issued pursuant to chapter 209A or a similar order issued by another
118 jurisdiction; or

119 (vii) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction.

120 (e) Within seven days of the receipt of a completed application for a license to carry or possess
121 firearms, or renewal of same, the licensing authority shall forward one copy of the application
122 and one copy of the applicant's fingerprints to the colonel of state police, who shall within 30
123 days advise the licensing authority, in writing, of any disqualifying criminal record of the
124 applicant arising from within or without the commonwealth and whether there is reason to
125 believe that the applicant is disqualified for any of the foregoing reasons from possessing a

126 license to carry or possess firearms. In searching for any disqualifying history of the applicant,
127 the colonel shall utilize, or cause to be utilized, files maintained by the department of probation
128 and statewide and nationwide criminal justice, warrant and protection order information systems
129 and files including, but not limited to, the National Instant Criminal Background Check System.
130 The colonel shall inquire of the commissioner of the department of mental health relative to
131 whether the applicant is disqualified from being so licensed. If the information available to the
132 colonel does not indicate that the possession of a firearm or large capacity firearm by the
133 applicant would be in violation of state or federal law, he shall certify such fact, in writing, to the
134 licensing authority within said 30 day period.

135 The licensing authority may also make inquiries concerning the applicant to: (i) the
136 commissioner of the department of criminal justice information services relative to any
137 disqualifying condition and records of purchases, sales, rentals, leases and transfers of weapons
138 or ammunition concerning the applicant; (ii) the commissioner of probation relative to any
139 record contained within the department of probation or the statewide domestic violence record
140 keeping system concerning the applicant; and (iii) the commissioner of the department of mental
141 health relative to whether the applicant is a suitable person to possess firearms or is not a suitable
142 person to possess firearms. The director or commissioner to whom the licensing authority makes
143 such inquiry shall provide prompt and full cooperation for that purpose in any investigation of
144 the applicant. The licensing authority shall request copies of mental health records for the
145 applicant from all providers of mental health services that are disclosed on the application.

146 The licensing authority shall, within 40 days from the date of application, either approve the
147 application and issue the license or deny the application and notify the applicant of the reason for
148 such denial in writing; provided, however, that no such license shall be issued unless the colonel

149 has certified, in writing, that the information available to him does not indicate that the
150 possession of a firearm or large capacity firearm by the applicant would be in violation of state
151 or federal law.

152 (f) A license issued under this section shall be revoked or suspended by the licensing authority,
153 or his designee, upon the occurrence of any event that would have disqualified the holder from
154 being issued such license or from having such license renewed. A license may be revoked or
155 suspended by the licensing authority if it appears that the holder is no longer a suitable person to
156 possess such license. Any revocation or suspension of a license shall be in writing and shall state
157 the reasons therefor. Upon revocation or suspension, the licensing authority shall take possession
158 of such license and the person whose license is so revoked or suspended shall take all actions
159 required under the provisions of section 129D. No appeal or post-judgment motion shall operate
160 to stay such revocation or suspension. Notices of revocation and suspension shall be forwarded
161 to the commissioner of the department of criminal justice information services and the
162 commissioner of probation and shall be included in the criminal justice information system. A
163 revoked or suspended license may be reinstated only upon the termination of all disqualifying
164 conditions, if any.

165 Any applicant or holder aggrieved by a denial, revocation or suspension of a license, unless a
166 hearing has previously been held pursuant to chapter 209A, may, within either 90 days after
167 receiving notice of such denial, revocation or suspension or within 90 days after the expiration of
168 the time limit during which the licensing authority is required to respond to the applicant, file a
169 petition to obtain judicial review in the district court having jurisdiction in the city or town
170 wherein the applicant filed for, or was issued, such license. A justice of such court, after a
171 hearing, may direct that a license be issued or reinstated to the petitioner if such justice finds that

172 there was no reasonable ground for denying, suspending or revoking such license and that the
173 petitioner is not prohibited by law from possessing same.

174 (g) A license shall be in a standard form provided by the executive director of the criminal
175 history systems board in a size and shape equivalent to that of a license to operate motor vehicles
176 issued by the registry of motor vehicles pursuant to section 8 of chapter 90 and shall contain a
177 license number which shall clearly indicate whether such number identifies a Class A or Class B
178 license, the name, address, photograph, fingerprint, place and date of birth, height, weight, hair
179 color, eye color and signature of the licensee. Such license shall be marked "License to Carry
180 Firearms" and shall clearly indicate whether the license is Class A or Class B. The application for
181 such license shall be made in a standard form provided by the executive director of the criminal
182 history systems board, which form shall require the applicant to affirmatively state under the
183 pains and penalties of perjury that such applicant is not disqualified on any of the grounds
184 enumerated above from being issued such license.

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

189 (i) A license to carry or possess firearms shall be valid, unless revoked or suspended, for a period
190 of not more than 6 years from the date of issue and shall expire on the anniversary of the
191 licensee's date of birth occurring not less than 5 years but not more than 6 years from the date of
192 issue, except that if the licensee applied for renewal before the license expired, the license shall
193 remain valid for a period of 90 days beyond the stated expiration date on the license, unless the

194 application for renewal is denied if the licensee is on active duty with the armed forces of the
195 United States on the expiration date of his license, the license shall remain valid until the
196 licensee is released from active duty and for a period of not less than 90 days following such
197 release. Any renewal thereof shall expire on the anniversary of the licensee's date of birth
198 occurring not less than 5 years but not more than 6 years from the effective date of such license.
199 Any license issued to an applicant born on February 29 shall expire on March 1. The fee for the
200 application shall be \$100, which shall be payable to the licensing authority and shall not be
201 prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of
202 the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth and not less
203 than \$50,000 of the funds deposited into the General Fund shall be allocated to the Firearm
204 Licensing Review Board, established in section 130B, for its operations and that any funds not
205 expended by said board for its operations shall revert back to the General Fund; and \$25 of the
206 fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. For law
207 enforcement officials, or local, state, or federal government entities acting on their behalf, the fee
208 for the application shall be set at \$25, which shall be payable to the licensing authority and shall
209 not be prorated or refunded in case of revocation or denial. The licensing authority shall retain
210 \$12.50 of the fee, and \$12.50 of the fee shall be deposited into the general fund of the
211 commonwealth. Notwithstanding any general or special law to the contrary, licensing authorities
212 shall deposit such portion of the license application fee into the Firearms Record Keeping Fund
213 quarterly, not later than January 1, April 1, July 1 and October 1 of each year. Notwithstanding
214 any general or special law to the contrary, licensing authorities shall deposit quarterly such
215 portion of the license application fee as is to be deposited into the General Fund, not later than
216 January 1, April 1, July 1 and October 1 of each year. For the purposes of section 10 of chapter

217 269, an expired license to carry firearms shall be deemed to be valid for a period not to exceed
218 90 days beyond the stated date of expiration, unless such license to carry firearms has been
219 revoked.

220 Any person over the age of 70 and any law enforcement officer applying for a license to carry
221 firearms through his employing agency shall be exempt from the requirement of paying a
222 renewal fee for a Class A or Class B license to carry.

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

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

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

238 (l) The executive director of the criminal history systems board shall send electronically
239 or by first class mail to the holder of each such license to carry firearms, a notice of the
240 expiration of such license not less than 90 days prior to such expiration and shall enclose therein
241 a form for the renewal of such license. The taking of fingerprints shall not be required in issuing
242 the renewal of a license if the renewal applicant's fingerprints are on file with the department of
243 the state police. Any licensee shall notify, in writing, the licensing authority who issued said
244 license, the chief of police into whose jurisdiction the licensee moves and the executive director
245 of the criminal history systems board of any change of address. Such notification shall be made
246 by certified mail within 30 days of its occurrence. Failure to so notify shall be cause for
247 revocation or suspension of said license. The commissioner of criminal justice information
248 services shall provide electronic notice of expiration only upon the request of a cardholder. A
249 request for electronic notice of expiration shall be forwarded to the department on a form
250 furnished by the commissioner. Any electronic address maintained by the department for the
251 purpose of providing electronic notice of expiration shall be considered a firearms record and
252 shall not be disclosed except as provided in section 10 of chapter 66.

253 (m) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a
254 firearm, rifle or shotgun whose license issued under this section is invalid for the sole reason that
255 it has expired, meaning after 90 days beyond the stated expiration date on the license, but who
256 shall not be disqualified from renewal upon application therefor under this section, shall be
257 subject to a civil fine of not less than \$500 nor more than \$5,000 and the provisions of section 10
258 of chapter 269 shall not apply; provided, however, that the exemption from the provisions of said
259 section 10 of said chapter 269 provided herein shall not apply if: (i) such license has been
260 revoked or suspended, unless such revocation or suspension was caused by failure to give notice

261 of a change of address as required under this section; (ii) revocation or suspension of such
262 license is pending, unless such revocation or suspension was caused by failure to give notice of a
263 change of address as required under this section; or (iii) an application for renewal of such
264 license has been denied. Any law enforcement officer who discovers a person to be in possession
265 of a firearm, rifle or shotgun after such person's license has expired, meaning after 90 days
266 beyond the stated expiration date on the license, or has been revoked or suspended, solely for
267 failure to give notice of a change of address, shall confiscate such firearm, rifle or shotgun and
268 the expired or suspended license then in possession and such officer, shall forward such license
269 to the licensing authority by whom it was issued as soon as practicable. The officer shall, at the
270 time of confiscation, provide to the person whose firearm, rifle or shotgun has been confiscated,
271 a written inventory and receipt for all firearms, rifles or shotguns confiscated and the officer and
272 his employer shall exercise due care in the handling, holding and storage of these items. Any
273 confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such
274 expired or suspended license within one year of such confiscation or may be otherwise disposed
275 of in accordance with the provisions of section 129D. The provisions of this paragraph shall not
276 apply if such person has a valid license to carry firearms issued under section 131F.

277 (n) Upon issuance of a license to carry or possess firearms under this section, the licensing
278 authority shall forward a copy of such approved application and license to the executive director
279 of the criminal history systems board, who shall inform the licensing authority forthwith of the
280 existence of any disqualifying condition discovered or occurring subsequent to the issuance of a
281 license under this section.

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

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

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

289 (p) The executive director of the criminal history systems board shall promulgate regulations in
290 accordance with chapter 30A to establish criteria for persons who shall be classified as bona fide
291 collectors of firearms.

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

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

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

302 (t) An applicant for a license shall sign a waiver at the time of application allowing the licensing
303 authority access to any records that have a bearing on the mental health of the applicant. The
304 permit application form and the waiver form shall be prescribed by the Secretary of Public
305 Safety and shall be uniform throughout the Commonwealth. Said form shall require an applicant
306 to disclose all providers of mental health treatment or services for 20 years prior to the date of
307 application.

308 (u) A health care provider or public health authority shall disclose health information, including
309 protected health care information, relating to any individual's mental health history, to the
310 licensing authority in a timely manner in response to a request for the information from the
311 authority; provided that:

312 (i) the information shall be used only for the purpose of evaluating the individual's suitability for
313 a license under this section;

314 (ii) the individual has executed a waiver permitting release of the health information for the
315 purpose; And,

316 (iii) said health information shall be destroyed by the licensing authority within 30 days
317 following the issuing of a license or the outcome of any appeal.

318 (v) In making the determination if an applicant is a suitable person to be issued a license
319 pursuant to this section, the licensing authority shall consider the applicant's stated purpose and
320 intended use of said license, the applicant's experience, training and familiarity with firearms,
321 rifles and shotguns, the applicant's general mental and physical health, the applicant's age and
322 maturity, and any such factors as the licensing authority may deem relevant.

323 SECTION 2: Section 129B of Chapter 140 of the General Laws is hereby replaced with the
324 following: -

325 A firearm identification card shall be issued and possessed subject to the following conditions
326 and restrictions:

327 (1) Any person residing or having a place of business within the jurisdiction of the licensing
328 authority or any person residing in an area of exclusive federal jurisdiction located within a city
329 or town may submit to the licensing authority an application for a firearm identification card, or
330 renewal of the same, which the licensing authority may issue, if it appears that the applicant is a
331 suitable person to be issued such a license, unless the applicant:

332 (i) has ever as an adult in a court of the commonwealth or in any other state or federal
333 jurisdiction been convicted, or in a court of the commonwealth or in any other state or federal
334 jurisdiction been adjudicated a youthful offender or delinquent child, both as defined in section
335 52 of chapter 119, for the commission of: (a) a felony; (b) a misdemeanor punishable by
336 imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a
337 violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease,
338 rental, receipt or transportation of weapons or ammunition for which a term of imprisonment of
339 one year or more may be imposed; or (e) a violation of any law regulating the use, possession or
340 sale of controlled substances, as defined in section 1 of chapter 94C including, but not limited to,
341 a violation under said chapter 94C; or (f) knowingly filing a application for a firearms
342 identification card of license to carry firearms containing false information; provided, however,
343 that except for the commission of a violent crime or a crime involving the trafficking of
344 controlled substances or firearms, if the applicant has been so convicted or adjudicated or

345 released from confinement, probation or parole supervision for such conviction or adjudication,
346 whichever is last occurring, not less than five years immediately preceding such application,
347 such applicant's right or ability to possess a non-large capacity rifle or shotgun shall be deemed
348 restored in the commonwealth with respect to such conviction or adjudication and such
349 conviction or adjudication shall not disqualify such applicant for a firearm identification card;

350 (ii) has, in any other state or federal jurisdiction, been convicted or adjudicated a
351 youthful offender or delinquent child for the commission of: (a) a felony; (b) a misdemeanor
352 punishable by imprisonment for more than two years; (c) a violent crime as defined in section
353 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale,
354 lease, rental, receipt or transportation of weapons or ammunition for which a term of
355 imprisonment may be imposed; or (e) a violation of any law regulating the use, possession or
356 sale of controlled substances, as defined in section 1 of chapter 94C; provided, however, that,
357 except for the commission of a violent crime or a crime involving the trafficking of weapons or
358 controlled substances, if the applicant has been so convicted or adjudicated or released from
359 confinement, probation or parole supervision for such conviction or adjudication, whichever is
360 last occurring, not less than five years immediately preceding such application, and such
361 applicant's right or ability to possess a rifle or shotgun has been fully restored in the jurisdiction
362 wherein the subject conviction or adjudication was entered, such conviction or adjudication shall
363 not disqualify such applicant for a firearm identification card;

364 (iii) has been confined to any hospital or institution for mental illness, unless the
365 applicant submits with his application an affidavit of a registered physician attesting that such
366 physician is familiar with the applicant's mental illness and that in such physician's opinion the

367 applicant is not disabled by such an illness in a manner that should prevent the applicant from
368 possessing a firearm, rifle or shotgun;

369 (iv) is or has been under treatment for or confinement for drug addiction or
370 habitual drunkenness, unless such applicant is deemed to be cured of such condition by a
371 licensed physician, in which case he may make application for such card after the expiration of
372 five years from the date of such confinement or treatment and upon presentation of an affidavit
373 issued by such physician to the effect that such physician knows the applicant's history of
374 treatment and that in such physician's opinion the applicant is deemed cured;

375 (v) is at the time of the application less than 15 years of age;

376 (vi) is at the time of the application more than 15 but less than 18 years of age,
377 unless the applicant submits with his application a certificate of his parent or guardian granting
378 the applicant permission to apply for a card;

379 (vii) is an alien other than a lawful permanent resident alien;

380 (viii) is currently subject to: (a) an order for suspension or surrender issued
381 pursuant to section 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; or
382 (b) a permanent or temporary protection order issued pursuant to chapter 209A or a similar order
383 issued by another jurisdiction; or

384 (ix) is currently the subject of an outstanding arrest warrant in any state or federal
385 jurisdiction.

386 (2) Within seven days of the receipt of a completed application for a card, the licensing
387 authority shall forward one copy of the application and one copy of the applicant's fingerprints to

388 the colonel of state police, who shall, within 30 days, advise the licensing authority, in writing,
389 of any disqualifying criminal record of the applicant arising from within or without the
390 commonwealth and whether there is reason to believe that the applicant is disqualified for any of
391 the foregoing reasons from possessing a card; provided, however, that the taking of fingerprints
392 shall not be required in issuing the renewal of a card if the renewal applicant's fingerprints are on
393 file with the department of state police. In searching for any disqualifying history of the
394 applicant, the colonel shall utilize, or cause to be utilized, files maintained by the department of
395 mental health, department of probation and statewide and nationwide criminal justice, warrant
396 and protection order information systems and files including, but not limited to, the National
397 Instant Criminal Background Check System. If the information available to the colonel does not
398 indicate that the possession of a non-large capacity rifle or shotgun by the applicant would be in
399 violation of state or federal law, he shall certify such fact, in writing, to the licensing authority
400 within such 30 day period.

401 The licensing authority may also make inquiries concerning the applicant to: (i) the
402 commissioner of the department of criminal justice information services relative to any
403 disqualifying condition and records of purchases, sales, rentals, leases and transfers of weapons
404 or ammunition concerning the applicant; (ii) the commissioner of probation relative to any
405 record contained within the department of probation or the statewide domestic violence record
406 keeping system concerning the applicant; and (iii) the commissioner of the department of mental
407 health relative to whether the applicant is a suitable person to possess firearms or is not a suitable
408 person to possess firearms. The director or commissioner to whom the licensing authority makes
409 such inquiry shall provide prompt and full cooperation for that purpose in any investigation of

410 the applicant. The licensing authority shall request copies of mental health records for the
411 applicant from all providers of mental health services that are disclosed on the application.

412 (3) The licensing authority shall, within 40 days from the date of application, either
413 approve the application and issue the license or deny the application and notify the applicant of
414 the reason for such denial in writing; provided, however, that no such card shall be issued unless
415 the colonel has certified, in writing, that the information available to him does not indicate that
416 the possession of a rifle or shotgun by the applicant would be in violation of state or federal law.

417 (4) A firearm identification card shall be revoked or suspended by the licensing authority
418 or his designee upon the occurrence of any event that would have disqualified the holder from
419 being issued such card or from having such card renewed or for a violation of a restriction
420 provided under this section. Such card may be revoked or suspended by the licensing authority if
421 it appears that the holder is no longer a suitable person to possess such card. Any revocation or
422 suspension of a card shall be in writing and shall state the reasons therefor. Upon revocation or
423 suspension, the licensing authority shall take possession of such card and receipt for fee paid for
424 such card, and the person whose card is so revoked or suspended shall take all action required
425 under the provisions of section 129D. No appeal or post-judgment motion shall operate to stay
426 such revocation or suspension. Notices of revocation and suspension shall be forwarded to the
427 commissioner of the department of criminal justice information services and the commissioner of
428 probation and shall be included in the criminal justice information system. A revoked or
429 suspended card may be reinstated only upon the termination of all disqualifying conditions.

430 (5) Any applicant or holder aggrieved by a denial, revocation or suspension of a firearm
431 identification card, unless a hearing has previously been held pursuant to chapter 209A, may,

432 within either 90 days after receipt of notice of such denial, revocation or suspension or within 90
433 days after the expiration of the time limit in which the licensing authority is required to respond
434 to the applicant, file a petition to obtain judicial review in the district court having jurisdiction in
435 the city or town wherein the applicant filed for or was issued such card. A justice of such court,
436 after a hearing, may direct that a card be issued or reinstated to the petitioner if such justice finds
437 that there was no reasonable ground for denying, suspending or revoking such license and that
438 the petitioner is not prohibited by law from possessing same.

439 (6) A firearm identification card shall not entitle a holder thereof to possess: (i) a large
440 capacity firearm or large capacity feeding device therefor, except under a Class A license issued
441 to a shooting club as provided under section 131 or under the direct supervision of a holder of a
442 Class A license issued to an individual under section 131 at an incorporated shooting club or
443 licensed shooting range; or (ii) a non-large capacity firearm or large capacity rifle or shotgun or
444 large capacity feeding device therefor, except under a Class A license issued to a shooting club
445 as provided under section 131 or under the direct supervision of a holder of a Class A or Class B
446 license issued to an individual under section 131 at an incorporated shooting club or licensed
447 shooting range. A firearm identification card shall not entitle a holder thereof to possess any rifle
448 or shotgun that is, or in such manner that is, otherwise prohibited by law. A firearm identification
449 card shall be valid for the purpose of purchasing and possessing chemical mace, pepper spray or
450 other similarly propelled liquid, gas or powder designed to temporarily incapacitate. Except as
451 otherwise provided herein, a firearm identification card shall not be valid for the use, possession,
452 ownership, transfer, purchase, sale, lease, rental or transportation of a rifle or shotgun if such
453 rifle or shotgun is a large capacity weapon as defined in section 121.

454 (7) A firearm identification card shall be in a standard form provided by the
455 commissioner of the department of criminal justice information services in a size and shape
456 equivalent to that of a license to operate motor vehicles issued by the registry of motor vehicles
457 pursuant to section 8 of chapter 90 and shall contain an identification number, name, address,
458 photograph, fingerprint, place and date of birth, height, weight, hair color, eye color and
459 signature of the cardholder and shall be marked "Firearm Identification Card". If a firearm
460 identification card is issued for the sole purpose of purchasing or possessing chemical mace,
461 pepper spray or other similarly propelled liquid, gas or powder designed to temporarily
462 incapacitate, such card shall clearly state that such card is valid for such limited purpose only.
463 The application for such card shall be made in a standard form provided by the commissioner of
464 the department of criminal justice information services which shall require the applicant to
465 affirmatively state, under the pains and penalties of perjury, that he is not disqualified on any of
466 the grounds enumerated in clauses (i) to (ix), inclusive, from being issued such card.

467 (8) Any person who knowingly files an application containing false information shall be
468 punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less
469 than six months nor more than two years in a house of correction, or by not more than ten years
470 in state prison, or by both such fine and imprisonment.

471 (9) A firearm identification card shall be valid, unless revoked or suspended, for a period
472 of not more than 6 years from the date of issue, except that if the cardholder applied for renewal
473 before the card expired, the card shall remain valid for a period of 90 days after the stated
474 expiration date on the card, unless the application for renewal is denied; provided, however, that
475 if the cardholder is on active duty with the armed forces of the United States on the expiration
476 date of his card, the card shall remain valid until the cardholder is released from active duty and

477 for a period of not less than 90 days following such release. A card issued on February 29 shall
478 expire on March 1. The executive director of the criminal history systems board shall send
479 electronically or by first class mail to the holder of a firearm identification card, a notice of the
480 expiration of the card not less than 90 days before its expiration, and shall enclose with the notice
481 a form for the renewal of the card. The executive director of the criminal history systems board
482 shall include in the notice all pertinent information about the penalties that may be imposed if the
483 firearm identification card is not renewed within the 90 days before expiration. The
484 commissioner of criminal justice information services shall provide electronic notice of
485 expiration only upon the request of a cardholder. A request for electronic notice of expiration
486 shall be forwarded to the department on a form furnished by the commissioner. Any electronic
487 address maintained by the department for the purpose of providing electronic notice of expiration
488 shall be considered a firearms record and shall not be disclosed except as provided in section 10
489 of chapter 66.

490 (9A) Except as provided in clause (9B), the fee for an application for a firearm
491 identification card shall be \$100, which shall be payable to the licensing authority and shall not
492 be prorated or refunded in the case of revocation or denial. The licensing authority shall retain
493 \$25 of the fee; \$50 of the fee shall be deposited in the General Fund; and \$25 of the fee shall be
494 deposited in the Firearms Fingerprint Identity Verification Trust Fund. Notwithstanding any
495 general or special law to the contrary, licensing authorities shall deposit quarterly that portion of
496 the firearm identification card application fee which is to be deposited into the General Fund, not
497 later than January 1, April 1, July 1 and October 1 of each year.

498 (9B) The application fee for a firearm identification card issued for the sole purpose of
499 purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or

500 powder designed to temporarily incapacitate shall be \$25, which shall be payable to the licensing
501 authority and shall not be prorated or refunded in the case of revocation or denial. The licensing
502 authority shall retain 50 per cent of the fee and the remaining portion shall be deposited in the
503 General Fund. Notwithstanding any general or special law to the contrary, licensing authorities
504 shall deposit quarterly that portion of the firearm identification card application fee which is to
505 be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of
506 each year. There shall be no application fee for the renewal of a firearm identification card issued
507 under this clause.

508 A firearm identification card issued under this clause shall display, in clear and conspicuous
509 language, that the card shall be valid only for the purpose of purchasing or possessing chemical
510 mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily
511 incapacitate.

512 (9C) Except as provided in clause (9B), the fee for an application for a firearm
513 identification card for any person under the age of 18 shall be \$25, which shall be payable to the
514 licensing authority and shall not be prorated or refunded in the case of revocation or denial. The
515 licensing authority shall retain 50 per cent of the fee and the remaining portion shall be deposited
516 into the General Fund. Notwithstanding any general or special law to the contrary, licensing
517 authorities shall deposit quarterly that portion of the firearm identification card application fee
518 which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and
519 October 1 of each year.

520 (10) Any person over the age of 70 shall be exempt from the requirement of paying a
521 renewal fee for a firearm identification card.

522 (11) A cardholder shall notify, in writing, the licensing authority that issued such card,
523 the chief of police into whose jurisdiction such cardholder moves and the executive director of
524 the criminal history systems board of any change of address. Such notification shall be made by
525 certified mail within 30 days of its occurrence. Failure to so notify shall be cause for revocation
526 or suspension of such card.

527 (12) Notwithstanding the provisions of section 10 of chapter 269, any person in
528 possession of a non-large capacity rifle or shotgun whose firearm identification card issued under
529 this section is invalid for the sole reason that it has expired, meaning after 90 days beyond the
530 stated expiration date on the card, but who shall not be disqualified from renewal upon
531 application therefor under this section, shall be subject to a civil fine of not less than \$500 nor
532 more than \$5,000 and the provisions of said section 10 of said chapter 269 shall not apply;
533 provided, however, that the exemption from the provisions of said section 10 of said chapter 269
534 provided herein shall not apply if: (i) such firearm identification card has been revoked or
535 suspended, unless such revocation or suspension was caused by failure to give notice of a change
536 of address as required under this section; (ii) revocation or suspension of such firearm
537 identification card is pending, unless such revocation or suspension was caused by failure to give
538 notice of a change of address as required under this section; or (iii) an application for renewal of
539 such firearm identification card has been denied. Any law enforcement officer who discovers a
540 person to be in possession of a rifle or shotgun after such person's firearm identification card has
541 expired, meaning after 90 days beyond the stated expiration date on the card, or has been
542 revoked or suspended solely for failure to give notice of a change of address shall confiscate any
543 rifle or shotgun and such expired or suspended card then in possession, and such officer shall
544 forward such card to the licensing authority by whom it was issued as soon as practicable. Any

545 confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such
546 expired or suspended card within one year of such confiscation or such weapon may be
547 otherwise disposed of in accordance with the provisions of section 129D. Pending the issuance
548 or denial of a renewed firearm identification card, a receipt for the fee paid, after five days
549 following issuance, shall serve as a valid substitute and any rifle or shotgun so confiscated shall
550 be returned, unless the applicant is disqualified. The provisions of this paragraph shall not apply
551 if such person has a valid license to carry firearms issued under section 131 or 131F.

552 (13) Upon issuance of a firearm identification card under this section, the licensing
553 authority shall forward a copy of such approved application and card to the executive director of
554 the criminal history systems board, who shall inform the licensing authority forthwith of the
555 existence of any disqualifying condition discovered or occurring subsequent to the issuance of a
556 firearm identification card under this section.

557 (14) Nothing in this section shall authorize the purchase, possession or transfer of any weapon,
558 ammunition or feeding device that is, or in such manner that is, prohibited by state or federal
559 law.

560 (15) The secretary of the executive office of public safety, or his designee, may promulgate
561 regulations to carry out the purposes of this section.

562 (16) An applicant for a license shall sign a waiver at the time of application allowing the
563 licensing authority access to any records that have a bearing on the mental health of the
564 applicant. The permit application form and the waiver form shall be prescribed by the Secretary
565 of Public Safety and shall be uniform throughout the Commonwealth. Said form shall require an

566 applicant to disclose all providers of mental health treatment or services for 20 years prior to the
567 date of application.

568 (17) A health care provider or public health authority shall disclose health information, including
569 protected health care information, relating to any individual's mental health history, to the
570 licensing authority in a timely way in response to a request for the information from the
571 authority; provided that:

572 (a) the information shall be used only for the purpose of evaluating the individual's suitability for
573 a license under this section;

574 (b) the individual has executed a waiver permitting release of the health information for the
575 purpose; And,

576 (c) said health information shall be destroyed by the licensing authority within 30 days following
577 the issuing of a license or the outcome of any appeal.

578 (18) In making the determination if an applicant is a suitable person to be issued a firearms
579 identification card pursuant to this section, the licensing authority shall consider the applicant's
580 stated purpose and intended use of said license, the applicant's experience, training and
581 familiarity with firearms, rifles and shotguns, the applicant's general mental and physical health,
582 the applicant's age and maturity, and any such factors as the licensing authority may deem
583 relevant.

584 SECTION 3. Section 123 of chapter 140 of the General Laws, as so appearing, is hereby
585 amended by striking in clause 16 the words:- "that was not otherwise lawfully possessed on

586 September 13, 1994”, and inserting in place thereof the following:— “unless such sale, lease,
587 rent, transfer or delivery is made to a law enforcement agency.”

588 SECTION 4. Chapter 140 of the General Laws is hereby amended by adding the following
589 section:-

590 Section 207. (a) Whoever possess, carries, or owns a firearm, rifle or shotgun without a
591 liability policy or bond or deposit required by the provisions of this chapter which has not been
592 provided and maintained in accordance therewith shall be punished by a fine of not less than five
593 hundred nor more than five thousand dollars or by imprisonment for not more than one year in a
594 house of correction, or both such fine and imprisonment. This section shall not apply to a person
595 who possesses a firearm, rifle, or shotgun on a temporary basis while on the premises of a
596 licensed gun club.

597 (b) The commissioner of insurance shall promulgate regulations set forth for the
598 minimum terms of liability insurance policies which shall satisfy the requirements of this section.

599 SECTION 5:- Section 131P of the Chapter 140 of the General Laws is hereby repealed and
600 replaced with the following:-

601 Section 131P. (a) Any person making application for the issuance of a firearms identification
602 card under section 129B, a Class A or Class B license to carry firearms under section 131 or
603 131F or a permit to purchase under section 131A who was not licensed under the provisions of
604 this chapter on June 1, 1998 shall, in addition to the requirements set forth in said section 129B,
605 131, 131A or 131F, submit to the licensing authority a basic firearms safety certificate; and
606 provided further, that an applicant for a firearms identification card for the sole purpose of
607 purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or

608 powder designed to temporarily incapacitate shall not be required to complete a basic firearms
609 safety course as a prerequisite for receiving such card. Persons lawfully possessing a firearm
610 identification card or license to carry firearms on June 1, 1998 shall be exempt from the
611 provisions of this section upon expiration of such card or license and when applying for licensure
612 as required under this chapter. No application for the issuance of a firearm identification card or
613 license to carry shall be accepted or processed by the licensing authority without such certificate
614 attached thereto; provided, however, that the provisions of this section shall not apply to (i) any
615 member of the military or other service of any state or of the United States and any such member
616 having received an honorable discharge from such service; (ii) any duly authorized law
617 enforcement officer; and (iii) any officer, agent or employee of the commonwealth or any state
618 of the United States.; provided, however, that any such person described in clauses (i) to (iii),
619 inclusive, is authorized by a competent authority to carry or possess the weapon so carried or
620 possessed and is acting within the scope of his duties.

621 (b) The colonel of state police shall promulgate rules and regulations governing the issuance and
622 form of basic firearms safety certificates required by this section. Said colonel shall certify
623 certain persons as firearms safety instructors and shall certify safety course curriculum. Said
624 curriculum must include a minimum of at least five hours of live discharge of firearms, rifles and
625 shotguns at a licensed gun club, including the discharge of at least 50 rounds of ammunition.
626 Such certification shall be for a period of ten years, unless sooner revoked by reason of
627 unsuitability, in the discretion of said colonel. The department of state police may impose a fee
628 of \$50 for initial issuance of such certification to offset the cost of certifying instructors. The fee
629 for certification renewal shall be \$10. Firearms safety instructors shall be any person certified by
630 a nationally recognized organization that fosters safety in firearms, or any other person in the

631 discretion of said colonel, to be competent to give instruction in a basic firearms safety course.
632 Applicants for certification as instructors under the provisions of this section shall not be exempt
633 from the requirements of this chapter or any other law or regulation of the commonwealth or the
634 United States. Upon application to the colonel of state police, said colonel may, in his discretion,
635 certify as a firearms safety instructor any person who operates a firearms safety course or
636 program which provides in its curriculum: (a) the safe use, handling and storage of firearms; (b)
637 methods for securing and childproofing firearms; (c) the applicable laws relating to the
638 possession, transportation and storage of firearms; and (d) knowledge of operation, potential
639 dangers and basic competency in the ownership and usage of firearms.

640 (c) Any firearms safety instructor certified under the provisions of this section may, in his
641 discretion, issue a basic firearms safety certificate to any person who successfully completes the
642 requirements of a basic firearms safety course approved by the colonel. No firearms safety
643 instructor shall issue or cause to be issued any basic firearms safety certificate to any person who
644 fails to meet minimum requirements of the prescribed course of study including, but not limited
645 to, demonstrated competency in the use of firearms. Instructors certified under the provisions of
646 this section shall forward to the department of state police the names of those persons who have
647 received basic firearms safety certificates. Local licensing authorities, as defined in section 121,
648 shall, upon receipt of an application for a firearm identification card or a Class A or Class B
649 license to carry firearms, make inquiry to the department of state police to confirm the issuance
650 to the applicant of a basic firearms safety certificate.

651 (d) Any person applying for licensure under the provisions of this chapter who knowingly files
652 or submits a basic firearms safety certificate to a licensing authority which contains false
653 information shall be punished by a fine of not less than \$1,000 nor more than \$5,000 or by

654 imprisonment for not more than two years in a house of correction, or by both such fine and
655 imprisonment.

656 (e) Any firearms safety instructor who knowingly issues a basic firearms safety certificate to a
657 person who has not successfully completed a firearms safety course approved by the colonel
658 shall be punished by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for
659 not more than two years in a house of correction, or by both such fine and imprisonment.

660 SECTION 6. Chapter 64H of the General Laws shall be amended by adding the following new
661 section:-

662 Section 34. An excise is hereby imposed upon sales at retail in the commonwealth, by any
663 vendor, of ammunition, rifles, shotguns, firearms or parts thereof at the rate of 25 percent of the
664 gross receipts of the vendor from all such sales of such property. The excise shall be paid by the
665 vendor to the commissioner at the time provided for filing the return required by section sixteen
666 of chapter sixty-two C. Said receipts shall be deposited in a trust account called "Firearm Sales
667 Tax Trust Fund" which shall be set up on the books of the Commonwealth for the purposes of
668 firearms licensing, mental health services and victim's services, subject to appropriation.

669 SECTION 7. Section 167A of chapter 6 of the General Laws, as inserted by section 8 of chapter
670 256 of the acts of 2010, is hereby amended by inserting the following paragraph:-

671 (h) Notwithstanding any general or special law or court order, including an order of
672 impoundment, to the contrary, the department shall transmit to the Attorney General of the
673 United States any information in its control required or permitted under federal law to be
674 included in the National Instant Background Check System or any successor system maintained
675 for the purpose of conducting background checks for firearms sales or licensing. No more

676 information than is necessary for the purposes stated above shall be transmitted, and such
677 information shall not be considered a public record under section 7 of chapter 4.

678 SECTION 8. Section 35 of chapter 123 of the General Laws, as appearing in the 2008 Official
679 Edition, is hereby amended by inserting after the word “days.”, in line 38, the following words:-
680 The court in its order shall specify whether such commitment is based upon a finding that said
681 person is an alcoholic, a substance abuser, or both, and this information shall be entered in the
682 record to permit transmission to the department of criminal justice information services for the
683 purposes and under the conditions set forth in the second paragraph of section 36A.

684 SECTION 9. Section 36A of chapter 123, as so appearing, is hereby amended by inserting after
685 the first paragraph the following paragraph:-

686 Notwithstanding the foregoing, the administrative office of the trial court shall transmit
687 information contained in court records maintained under this section to the department of
688 criminal justice information services for the purposes of (a) providing licensing authorities as
689 defined under section 121 of chapter 140 with information required or permitted to be considered
690 under state or federal law for the purpose of conducting background checks for firearms sales or
691 licensing and (b) providing the Attorney General of the United States with information required
692 or permitted under federal law to be included in the National Instant Criminal Background Check
693 System or any successor system maintained for the purpose of conducting background checks for
694 firearms sales or licensing. The commissioner of the department of criminal justice information
695 services shall determine which court records shall be transmitted for said purposes, provided that
696 the commissioner shall require no more information than is necessary to be transmitted, and such
697 information shall not be considered a public record under section 7 of chapter 4.

698 SECTION 10. Section 129B of chapter 140 of the General Laws, as so appearing, is hereby
699 amended by striking out, in line 85, the words “department of mental health,”.

700 SECTION 11. Section 130B of chapter 140 of the General Laws, as so appearing, is hereby
701 amended by inserting the following subsection:-

702 (h) There shall be, within the firearm licensing review board, a relief from disabilities
703 subcommittee comprised of 3 members, designated from time to time, as follows: 1 member of
704 the firearm licensing review board designated by the chair, 1 person designated by the
705 commissioner of the department of mental health, and 1 person designated by the secretary of
706 public safety and security, who shall chair the subcommittee.

707 An applicant who has been formally adjudicated as mentally defective in the commonwealth or
708 committed involuntarily to a mental institution in the commonwealth, within the meaning of 18
709 U.S.C. § 922, may petition the subcommittee for relief from the firearms prohibitions or
710 disabilities imposed by federal law as the result of such adjudication or commitment.

711 The applicant shall have the opportunity to submit evidence to the subcommittee and to be heard
712 by the subcommittee in support of the application. All hearings shall be conducted in an
713 informal manner, but otherwise according to the rules of evidence, and all witnesses shall be
714 sworn by the subcommittee chair. If requested by the petitioner and payment for stenographic
715 services, as determined by the subcommittee, accompanies such request, the subcommittee shall
716 cause a verbatim transcript of the hearing to be made. The subcommittee’s decisions and
717 findings of facts shall be communicated in writing to the petitioner and to the licensing authority
718 to which the petitioner has applied or intends to apply within 60 days of rendering a decision.

719 The subcommittee shall maintain the records of its proceedings and of all materials submitted or

720 considered by the subcommittee for the purposes of judicial review for a minimum of 3 years
721 following the date of its decision. The records of the subcommittee shall not be considered a
722 public record under section 7 of chapter 4.

723 If the majority of the subcommittee determines that the applicant has shown by clear and
724 convincing evidence that the applicant will not be likely to act in a manner dangerous to public
725 safety and that granting relief will not be contrary to the public interest, the subcommittee may
726 grant relief and direct the department of criminal justice information services to notify the
727 Attorney General of the United States and to remove the record of the prohibition or disability
728 from any database that the department of criminal justice information services, the
729 commonwealth or the federal government maintains and makes available to the National Instant
730 Criminal Background Check System or any successor system maintained for the purpose of
731 conducting background checks for firearms sales or licensing.

732 In determining whether to grant relief, the subcommittee shall consider the circumstances
733 regarding the firearms disabilities imposed; the applicant's record, including the applicant's
734 mental health and criminal history records; and the applicant's reputation developed, at a
735 minimum, through character witness statements, testimony, or other character evidence. The
736 applicant shall have the burden to produce evidence concerning these matters and the burden of
737 persuading the subcommittee to grant relief. The subcommittee may promulgate regulations
738 governing the application process and the conduct of its hearings.

739 The decision of the subcommittee shall be a final decision. An applicant who is denied relief by
740 the subcommittee may, within 30 days of the receipt of the denial, seek review of the
741 subcommittee's decision by filing a complaint in the district court. The district court's review of

742 the subcommittee's decision shall be de novo, and the court may in its discretion receive
743 additional evidence necessary to conduct an adequate review.

744 The firearm licensing review board shall establish a fee to file an application for relief under this
745 section, which fees shall be retained by the department of criminal justice information services.

746 SECTION 12. Section 131 of chapter 140 of the General Laws, as so appearing, is hereby
747 amended by striking out, in lines 155-157, the words "The colonel shall inquire of the
748 commissioner of the department of mental health relative to whether the applicant is disqualified
749 from being so licensed."

750 SECTION 13. Chapter 265 of the General Laws is hereby amended by inserting after section
751 13M the following section:-

752 Section 13N. Upon entry of a conviction for any misdemeanor offense that has as an element the
753 use or attempted use of physical force, or the threatened use of a deadly weapon, the court shall
754 determine whether the victim or intended victim was a family or household member of the
755 defendant, as defined in section 1 of chapter 209A. If the victim or intended victim was a family
756 or household member of the defendant, the court shall enter the offense, the chapter, section and
757 subsection, if any, of the offense, and the relationship of the defendant to the victim upon the
758 record, and this entry shall be forwarded to the department of criminal justice information
759 services for inclusion in the criminal justice information system and for the purpose of providing
760 the Attorney General of the United States with information required or permitted under federal
761 law to be included in the National Instant Criminal Background Check System or any successor
762 system maintained for the purpose of conducting background checks for firearms sales or
763 licensing.

764 SECTION 14. Notwithstanding any general or special law or court order, including an order of
765 impoundment, to the contrary, the administrative office of the trial court shall transmit any order
766 of the probate court appointing a guardian or conservator for an incapacitated person under part 3
767 or part 4 of article V of the Massachusetts Uniform Probate Code on the ground that the person
768 lacks the mental capacity to contract or manage his or her own affairs, and any subsequent order
769 terminating or rescinding such appointment, to the department of criminal justice information
770 services for the purpose of providing the Attorney General of the United States with information
771 required or permitted under federal law to be included in the National Instant Criminal
772 Background Check System or any successor system maintained for the purpose of conducting
773 background checks for firearms sales or licensing. The department of criminal justice
774 information services shall transmit no more information than is necessary for the purpose stated
775 above, and such information shall not be considered a public record under section 7 of chapter 4.

776 SECTION 15. Notwithstanding section 36 of chapter 123 of the General Laws, and for the sole
777 purposes of providing licensing authorities as defined under section 121 of chapter 140 of the
778 General Laws with information required or permitted to be considered under state law for the
779 purpose of conducting background checks for firearms sales or licensing and of providing the
780 Attorney General of the United States with information required or permitted under federal law
781 to be included in the National Instant Criminal Background Check System or any successor
782 system maintained for the purpose of conducting background checks for firearms sales or
783 licensing:

784 (a) No later than 6 months from the effective date of this act, the department of mental health
785 shall transmit to the department of criminal justice information services sufficient information to
786 identify all persons known to the department of mental health who have been confined to any

787 hospital or institution for mental illness within 20 years of the effective date or who are so
788 confined at the time of transmission; and

789 (b) Thereafter, the department of mental health shall transmit such information to the department
790 of criminal justice information services on a quarterly basis concerning individuals who have
791 been so confined in the 3-month period preceding the date of each transmission.

792 Such information shall not be considered a public record under section 7 of chapter 4.

793 SECTION 16. Sections 4 and 6 shall take effect 6 months after the effective date of this act.

794 SECTION 17. Section 123 of chapter 140 of the General Laws, as so appearing, is hereby
795 amended by inserting after the first sentence in the third paragraph the following sentence:- No
796 person licensed under section 122 shall sell, rent or lease, to another person, other than to an
797 exempt person under subsection (c) of section 131E, more than 1 rifle, shotgun, firearm, machine
798 gun, large capacity weapon or large capacity feeding device in any 30-day period.

799

800 SECTION 18. Section 128A of chapter 140 of the General Laws, as so appearing, is hereby
801 amended by adding the following 2 sentences:- Any sale or transfer conducted under this section
802 shall comply with section 131E and shall take place at the location of a dealer licensed under
803 section 122, who shall transmit the information required by this section for the purchases and
804 sales by utilizing the electronic verification link established by the executive director of the
805 criminal history systems board. A licensed dealer may charge the seller a fee not to exceed \$25
806 for each sale or transfer electronically submitted on behalf of the seller to the criminal history
807 systems board.

808 SECTION 19. Section 129C of chapter 140, as so appearing, is hereby amended by inserting
809 after the word “purpose”, in line 84, the following words:- , provided, however, that nothing in
810 this subsection shall allow for the holding, handling, or firing of a machine gun by any person
811 other than a person licensed to possess a machine gun under section 131(o) or police personnel
812 receiving instruction from a firearm instructor certified by the municipal police training
813 committee or the colonel of the state police

814

815 SECTION 20. Section 129D of chapter 140 of the General Laws, as so appearing, is hereby
816 amended by inserting after the word “be”, in line 43, the following words:- destroyed by the
817 colonel of the state police or the licensing authority or

818

819 SECTION 21. Section 130 of chapter 140 of the General Laws, as so appearing, is hereby
820 amended by inserting after the word “shotgun”, in line 8, the following words:- or machine gun

821

822 SECTION 22. Section 130 is hereby further amended by inserting after the word “years”, in line
823 28, the following words:- ; and provided further, that nothing in this section shall allow for the
824 holding, handling, or firing of a machine gun by any person other than a person licensed to
825 possess a machine gun under section 131(o) or police personnel receiving instruction from a
826 firearm instructor certified by the municipal police training committee or the colonel of the state
827 police

828 SECTION 23. Section 131E of chapter 140 of the General Laws, as so appearing, is hereby
829 amended by inserting after subsection (b) the following subsection:-

830 (c) No person, other than an exempt person as defined in this subsection shall purchase, rent or
831 lease more than 1 rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity
832 feeding device in any 30-day period.

833 This subsection shall not apply to the following persons and uses:

- 834 - any law enforcement agency or authority;
- 835 - any branch of the United States military, including the National Guard;
- 836 - any persons in any branch of the United States military, police officers or other peace
837 officers who are acquiring firearms for the purposes of performing their official duties or when
838 duly authorized by their employer to purchase them;
- 839 - any licensed watch, guard or patrol agency or their licensed employees for the purposes of
840 performing duties in the course of employment under sections 22 and 25 of chapter 147;
- 841 - a federal, state or local historical society, museum or institutional collector open to the
842 public;
- 843 - any person who purchases, rents or leases a rifle, shotgun, firearm, machine gun, large
844 capacity weapon or large capacity feeding device and then exchanges it for another rifle,
845 shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device provided
846 by a licensed dealer within a 30-day period; and
- 847 - a firearms surrender program authorized by and in compliance with section 131O.

848 Upon receipt of a record of a sale, rental or lease of a rifle, shotgun, firearm, machine gun, large
849 capacity weapon or large capacity feeding device from a licensee as required under section 123
850 or a person without a license under section 128A, the executive director of the criminal history
851 systems board, or the executive director's agent, shall determine whether a person has purchased,
852 rented or leased more than 1 rifle, shotgun, firearm, machine gun, large capacity weapon or large
853 capacity feeding device in any 30-day period in violation of this subsection. If a person has
854 purchased, rented or leased in violation of this subsection, the executive director of the criminal
855 history systems board, or the executive director's agent, shall forward any records demonstrating
856 the relevant acquisition history to the colonel of the state police or the colonel's agent, the
857 prosecutor, and the chief of police in the city or town in which the person resides or where the
858 second rifle, shotgun, firearm, machine gun, large capacity weapon or large capacity feeding
859 device was obtained in violation of this subsection.

860 A non-exempt person who purchases, rents or leases more than 1 rifle, shotgun, firearm, machine
861 gun, large capacity weapon or large capacity feeding device in any 30-day period shall be
862 punished by a fine of not more than \$1,000, or by imprisonment for not more than 2 ½ years, or
863 both, for a first offense; and for any subsequent offense shall be punished by a fine of not less
864 than \$1,000 and not more than \$5,000, or by imprisonment for not more than 2 ½ years in a
865 house of correction or not more than 5 years in the state prison, or by both such fine and
866 imprisonment.

867 Any licensed dealer under section 122 or any other individual who sells, rents or leases a rifle,
868 shotgun, firearm, machine gun, large capacity weapon or large capacity feeding device to a non-
869 exempt person under this section, having sold, rented or leased a rifle, shotgun, firearm, machine
870 gun, large capacity weapon or large capacity feeding device to the person within the previous 30

871 days or with actual knowledge that the person has purchased, rented or leased a rifle, shotgun,
872 firearm, machine gun, large capacity weapon or large capacity feeding device within the
873 previous 30 days, shall be punished by a fine of not more than \$5,000, or by imprisonment of not
874 more than 2 ½ years, or both, for a first offense; and for any subsequent offense shall be
875 punished by a fine of not less than \$1,000 and not more than \$10,000, or by imprisonment for
876 not more than 2 ½ years in a house of correction or not more than 5 years in the state prison, or
877 by both such fine and imprisonment.

878 SECTION 24. Section one hundred and twenty one of chapter one hundred and forty is hereby
879 amended by deleting the definition of “ammunition” and replacing it with the following
880 definition: -

881

882 “Ammunition” shall mean a cartridge consisting of a cartridge case or hull, propellant powder,
883 primer, and bullet, shot or pellet as a single complete projectile load for any firearm, rifle,
884 shotgun or machine gun. The term ammunition shall also mean any projectile powder for use in
885 any firearm, rifle, shotgun or machine gun.

886 SECTION 25. Section 131 M of chapter one hundred and forty is hereby amended by deleting it
887 in its entirety and replacing it with the following: -

888 No person shall sell, offer for sale, transfer or possess an assault weapon or a large capacity
889 feeding device that was not otherwise lawfully possessed on September 13, 1994. Whoever not
890 being licensed under the provisions of section 122 violates the provisions of this section shall be
891 punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by
892 imprisonment for not less than one year nor more than ten years, or by both such fine and

893 imprisonment, and for a second offense, by a fine of not less than \$5,000 nor more than \$15,000
894 or by imprisonment for not less than five years nor more than 15 years, or by both such fine and
895 imprisonment.

896 The provisions of this section shall not apply to the possession of an assault weapon or large
897 capacity feeding device by a law enforcement officer, or a retired law enforcement officer
898 qualified under the Law Enforcement Officers Safety Act.

899 SECTION 26. Section (m) of Chapter 269 is hereby repealed and replaced with the following:-

900 (m) Notwithstanding the provisions of paragraph (a) or (h), any person not exempted by statute
901 who knowingly has in his possession, or knowingly has under his control in a vehicle, a large
902 capacity weapon or large capacity feeding device except as permitted or otherwise provided
903 under this section or chapter 140, shall be punished by imprisonment in a state prison for not less
904 than five years nor more than twenty years. The sentence imposed upon such person shall not be
905 reduced to less than five years, nor suspended, nor shall any person convicted under this
906 subsection be eligible for probation, parole, furlough, work release or receive any deduction from
907 his sentence for good conduct until he shall have served such minimum term of such sentence;
908 provided, however, that the commissioner of correction may, on the recommendation of the
909 warden, superintendent or other person in charge of a correctional institution or the administrator
910 of a county correctional institution, grant to such offender a temporary release in the custody of
911 an officer of such institution for the following purposes only: (i) to attend the funeral of a spouse
912 or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency
913 medical services unavailable at such institution. Prosecutions commenced under this subsection
914 shall neither be continued without a finding nor placed on file. The provisions of section 87 of

915 chapter 276 relative to the power of the court to place certain offenders on probation shall not
916 apply to any person 17 years of age or over charged with a violation of this section.

917 The provisions of this paragraph shall not apply to the possession of a large capacity weapon or
918 large capacity feeding device by (i) any officer, agent or employee of the commonwealth or any
919 other state or the United States, including any federal, state or local law enforcement personnel;
920 (ii) any member of the military or other service of any state or the United States; (iii) any duly
921 authorized law enforcement officer, agent or employee of any municipality of the
922 commonwealth; (iv) any federal, state or local historical society, museum or institutional
923 collection open to the public; provided, however, that any such person described in clauses (i) to
924 (iii), inclusive, is authorized by a competent authority to acquire, possess or carry a large
925 capacity semiautomatic weapon and is acting within the scope of his duties; (v) any gunsmith
926 duly licensed under the applicable federal law; or (vi) or a retired law enforcement officer
927 qualified under the Law Enforcement Officers Safety Act.

928 SECTION 27. Section 10(j) of chapter two hundred and sixty-nine is hereby amended by
929 deleting it in its entirety and replacing it with the following: -

930 (j) Whoever, not being a law enforcement officer, and notwithstanding any license obtained by
931 him under the provisions of chapter 140, knowingly has in his possession; or knowingly has
932 under his control in a vehicle; a firearm, rifle, shotgun, machine gun, assault weapon or
933 ammunition as defined in section 121 of chapter 140, in any building or on the grounds of any
934 elementary or secondary school, college or university without the written authorization of the
935 board or officer in charge of such elementary or secondary school, college or university shall be
936 punished by a fine of not more than one thousand dollars or by imprisonment for not more than

937 two years or by both such fine and imprisonment. A police officer or any person authorized to
938 serve criminal process may arrest a person whom the officer has probable cause to believe has
939 violated the provisions of this paragraph.

940 Whoever, not being a law enforcement officer, knowingly has in his possession; or knowingly
941 has under his control in a vehicle; a dangerous weapon, or an air gun, so-called BB gun, paintball
942 gun, air rifle or air pistol or other smoothbore arm capable of discharging a shot or pellet by
943 whatever means in any building or on the grounds of any elementary or secondary school,
944 college or university without the written authorization of the board or officer in charge of such
945 elementary or secondary school, college or university shall be punished by a fine of not more
946 than five hundred dollars or by imprisonment for not more than one year. A police officer or any
947 person authorized to serve criminal process may arrest a person whom the officer has probable
948 cause to believe has violated the provisions of this paragraph.

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

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

958 SECTION 28. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby
959 amended by inserting after the words “fifteen A”, in line 18, the following words:- , 15D(a),
960 15E(a)

961 SECTION 29. Section 26 of chapter 218 is hereby further amended by inserting after the words
962 “sixty-six,” in line 21, the following words:- section 10(p) of chapter 269

963 SECTION 30. Chapter 265 of the General Laws is hereby amended by inserting after section
964 13M the following section:-

965 Section 13N. Upon entry of a conviction for any misdemeanor offense that has as an element the
966 use or attempted use of physical force, or the threatened use of a deadly weapon, the court shall
967 determine whether the victim or intended victim was a family or household member of the
968 defendant, as defined in section 1 of chapter 209A. If the victim or intended victim was a family
969 or household member of the defendant, the court shall enter the offense, the chapter, section and
970 subsection, if any, of the offense, and the relationship of the defendant to the victim upon the
971 record, and this entry shall be forwarded to the department of criminal justice information
972 services for inclusion in the criminal justice information system and for the purpose of providing
973 the Attorney General of the United States with information required or permitted under federal
974 law to be included in the National Instant Criminal Background Check System or any successor
975 system maintained for the purpose of conducting background checks for firearms sales or
976 licensing.

977 SECTION 31. Chapter 265 of the General Laws, as so appearing, is hereby amended by
978 inserting after section 15C the following sections:-

979 Section 15D. (a) Whoever commits an assault and battery upon another by means of a firearm,
980 large capacity weapon, rifle, shotgun, sawed-off shotgun, machine gun or assault weapon as
981 defined in section 121 of chapter 140 shall be punished by imprisonment in the state prison for
982 not more than 15 years or by imprisonment in the house of correction for not more than 2½
983 years, or by a fine of not more than \$10,000, or by both such fine and imprisonment.

984 (b) Any person convicted of violating subsection (a) after 1 or more prior convictions under
985 subsection (a), section 15E, or a law of another jurisdiction that necessarily includes the elements
986 of subsection (a) or section 15E shall be punished by imprisonment in the state prison for not less
987 than 3 years nor more than 20 years. The sentence imposed shall not be reduced to less than a
988 term of 3 years imprisonment, nor suspended, nor shall a person sentenced under this subsection
989 be eligible for probation, parole, work release or furlough, or receive any deduction from the
990 sentence for good conduct, until having served 3 years of the sentence; provided, however, that
991 the commissioner of correction may, on the recommendation of the warden, superintendent, or
992 other person in charge of a correctional institution, grant to an offender committed under this
993 subsection a temporary release in the custody of an officer of such institution for the following
994 purposes only: to attend the funeral of a relative; to visit a critically ill relative; or to obtain
995 emergency medical or psychiatric service unavailable at said institution.

996 (c) Prosecutions commenced under this section shall not be suspended, continued without a
997 finding or placed on file. A sentence imposed under this section shall begin from and after the
998 expiration of any sentence imposed under section 10(a), 10(c), 10(d), 10(h), 10(m) or 10(n) of
999 chapter 269 arising out of the same incident.

1000 Section 15E. (a) Whoever commits an assault upon another by means of a firearm, large
1001 capacity weapon, rifle, shotgun, sawed-off shotgun, machine gun or assault weapon as defined in
1002 section 121 of chapter 140 shall be punished by imprisonment in the state prison for not more
1003 than 10 years or by imprisonment in the house of correction for not more than 2½ years, or by a
1004 fine of not more than \$5,000, or by both such fine and imprisonment.

1005 (b) Any person convicted of violating subsection (a) after 1 or more prior convictions under
1006 subsection (a), section 15D, or a law of another jurisdiction that necessarily includes the
1007 elements of subsection (a) or section 15D shall be punished by imprisonment in the state prison
1008 for not less than 2 years nor more than 15 years. The sentence imposed shall not be reduced to
1009 less than a term of 2 years imprisonment, nor suspended, nor shall a person sentenced under this
1010 subsection be eligible for probation, parole, work release or furlough, or receive any deduction
1011 from the sentence for good conduct, until having served 2 years of the sentence; provided,
1012 however, that the commissioner of correction may, on the recommendation of the warden,
1013 superintendent, or other person in charge of a correctional institution, grant to an offender
1014 committed under this subsection a temporary release in the custody of an officer of such
1015 institution for the following purposes only: to attend the funeral of a relative; to visit a critically
1016 ill relative; or to obtain emergency medical or psychiatric service unavailable at said institution.

1017 (c) Prosecutions commenced under this section shall not be suspended, continued without a
1018 finding or placed on file. A sentence imposed under this section shall begin from and after the
1019 expiration of any sentence imposed under section 10(a), 10(c), 10(d), 10(h), 10(m) or 10(n) of
1020 chapter 269 arising out of the same incident.

1021 SECTION 32. Chapter 265 of the General Laws, as so appearing, is hereby amended by
1022 inserting after section 18C the following section:-

1023 Section 18D. Whoever, while in the commission or attempted commission of a misdemeanor that
1024 has as an element the use, attempted use, or threatened use of physical force against the person of
1025 another, has in his possession or under his control a firearm, rifle, or shotgun, shall, in addition to
1026 the penalty for such offense, be punished by imprisonment in the state prison for not more than
1027 10 years, or in the house of correction for not more than 2 ½ years, or by a fine of not more than
1028 \$5,000, or by both such fine and imprisonment.

1029 SECTION 33. Section 10 of chapter 269 of the General Laws, as so appearing, is hereby
1030 amended by striking out, in lines 103-107, the words “seven years; for a third such offense, by
1031 imprisonment in the state prison for not less than seven years nor more than ten years; and for a
1032 fourth such offense, by imprisonment in the state prison for not less than ten years nor more than
1033 fifteen years”, and inserting in place thereof the following words:- 10 years; for a third such
1034 offense, by imprisonment in the state prison for not less than 10 years nor more than 15 years;
1035 and for a fourth such offense, by imprisonment in the state prison for not less than 15 years nor
1036 more than 20 years.