

HOUSE No. 1570

By Mr. Linsky of Natick, petition of David Paul Linsky and others for legislation to prevent the illegal trafficking of firearms. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

David Paul Linsky
Mark C. Montigny
Ruth B. Balsler
Alice Hanlon Peisch
Michael F. Rush
Matthew C. Patrick

J. James Marzilli, Jr.
Theodore C. Speliotis
Michael E. Festa
Gloria L. Fox
Denise Provost
Antonio F. D. Cabral

In the Year Two Thousand and Seven.

AN ACT TO PREVENT BULK PURCHASING AND ILLEGAL TRAFFICKING OF FIREARMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subclause (j) of clause twenty-sixth of section 7
2 of chapter 4 of the General Laws, as appearing in the 1998
3 “cards”, in line 178, the following words:— , but such names and
4 addresses shall be made available to law enforcement or other
5 investigative officials, including district attorneys, assistant dis-
6 trict attorneys, the attorney general and assistant attorneys general
7 for purposes of enforcing subsection (c) of section 131E of
8 chapter 140.

1 SECTION 2. Subsection (d) of section 10 of chapter 66 of the
2 General Laws, as so appearing, is hereby amended by inserting
3 after the word “six”, in line 60, the following words:—
4 , including, but not limited to, such agencies enforcing
5 subsection (c) of section 131E of chapter 140.

1 SECTION 3. Section 123 of chapter 140 of the General Laws,
2 as so appearing, is hereby amended by striking the striking the
3 words “forthwith at” in the section beginning with “Fifth,” and
4 replacing it with the words:— within thirty minutes of.

1 SECTION 4. Section 123 of chapter 140 of the General Laws,
2 as so appearing, is hereby amended by inserting after the word
3 “condition.”, in line 229, the following sentences:— Twenty-
4 second, That no licensee shall sell, rent or lease a firearm or large
5 capacity weapon without first: (i) obtaining a signed declaration
6 from the purchaser, renter or lessee, on a form furnished by the
7 executive director of the criminal history systems board, that such
8 individual has not purchased, rented or leased, as those terms are
9 used in section 121 and subsection (c) of section 131E of this
10 chapter, any firearm or large capacity weapon during the previous
11 30 days, or that such individual is an exempt person as set forth
12 under subsection (c) of section 131E of this chapter; (ii) for-
13 warding such declaration to the executive director of the criminal
14 history systems board; and (iii) receiving notification from the
15 criminal history systems board that the purchaser, renter or lessee
16 has not purchased, rented or leased any firearm or large capacity
17 weapon during the previous 30 days, or that such individual is an
18 exempt person as set forth under subsection (c) of section 131E of
19 this chapter. Such notification from the criminal history systems
20 board shall be valid for no more than two business days after the
21 criminal history systems board issues the notification, after which
22 time the licensee must receive a new notification before com-
23 pleting a sale, rental or lease of a firearm or large capacity weapon
24 to such purchaser, renter or lessee. Such declaration from the pur-
25 chaser, renter or lessee shall not be a defense in any action
26 brought against a licensee.

1 SECTION 5. Section 128 of said chapter 140 of the General
2 Laws, as so appearing, is hereby amended by replacing “ or” after
3 the word “twentieth” with “,” and inserting after the word
4 “twenty-first”, the words: — or twenty-second.

1 SECTION 6. Section 128A of said chapter 140 of the General
2 Laws, as so appearing, is hereby amended by striking, “reports

3 within seven days, in writing to the executive director of the crim-
4 inal history systems board on forms furnished by said executive
5 director, the names and addresses of the seller and the purchaser
6 of any such large capacity feeding device, firearm, rifle or
7 shotgun, together with a complete description of the firearm, rifle
8 or shotgun, including its designation as a large capacity weapon, if
9 applicable, the calibre, make and serial number and the pur-
10 chaser's license to carry firearms number, permit to purchase
11 number and identifying number of such documentation as is used
12 to establish exempt person status in the case of a firearm or the
13 purchaser's license to carry number or firearm identification card
14 number or said document identity number, in the case of a rifle or
15 shotgun," and inserting:— "shall complete all sales, rentals and
16 leases of firearms, rifles, shotguns, and large capacity feeding
17 devices through a person licensed pursuant to section 122 by
18 delivering the firearm, rifle, shotgun, or large capacity feeding
19 device to the licensee who shall then deliver the firearm, rifle,
20 shotgun, or large capacity feeding device to the purchaser, renter
21 or lessee, if the sale, rental, or lease is not prohibited, in accor-
22 dance with section 123 of this chapter as if the licensee was
23 selling, renting or leasing the firearm, rifle, shotgun, or large
24 capacity feeding device directly to the purchaser, renter or lessee.
25 The dealer may require the purchaser, renter or lessee to pay a fee
26 not to exceed ten dollars (\$10) per firearm, rifle, shotgun, or large
27 capacity feeding device."

1 SECTION 7. Paragraph (1) of section 129B of said chapter 140,
2 as so appearing, is hereby amended by adding the following three
3 clauses:—

4 (viii) is currently subject to: (a) an order for suspension or sur-
5 render issued pursuant to section 3B or 3C of chapter 209A or a
6 similar order issued by another jurisdiction; or (b) a permanent or
7 temporary protection order issued pursuant to chapter 209A or a
8 similar order issued by another jurisdiction;

9 (ix) is currently the subject of an outstanding arrest warrant in
10 any state or federal jurisdiction; or

11 (x) has been convicted of a violation of subsection (c) of
12 section 131E of this chapter."

1 SECTION 8. Paragraph (d) of section 131 of said chapter 140,
2 as so appearing, is hereby amended by the following three sub-
3 paragraphs:—

4 (vi) is currently subject to: (A) an order for suspension or sur-
5 render issued pursuant to section 3B or 3C of chapter 209A or a
6 similar order issued by another jurisdiction; or (B) a permanent or
7 temporary protection order issued pursuant to chapter 209A or a
8 similar order issued by another jurisdiction;

9 (vii) is currently the subject of an outstanding arrest warrant in
10 any state or federal jurisdiction; or

11 (viii) has been convicted of a violation of subsection (c) of
12 section 131E of this chapter.”

1 SECTION 9. Section 131A of said chapter 140 of the General
2 Laws, as so appearing, is hereby amended by inserting after the
3 words “proper purpose”, in line 5, the following words:— and
4 does not violate the firearm or large capacity weapon purchase,
5 rental or lease limitation in subsection (c) of section 131E of this
6 chapter.

1 SECTION 10. Section 131E of said chapter 140 of the General
2 Laws, as so appearing, is hereby amended by adding the following
3 subsection: —

4 (c) no person, other than an exempt person hereinafter
5 described, shall purchase, rent or lease more than one firearm or
6 large capacity weapon in any 30 day period. The term “rent or
7 lease” as used herein shall not apply to the rental or lease of a
8 firearm or large capacity weapon for a duration of less than 48
9 hours, provided, however that such firearm is rented or leased
10 from a licensee who is licensed under the provisions of
11 section 122 and subject to the conditions described in section 123.

12 The provisions of this subsection shall not apply to the
13 following persons and uses:

14 (1) Any law enforcement agency or authority;

15 (2) Any branch of the United States military, including the
16 national guard;

17 (3) Any persons in any branch of the United States military or
18 police officers and other peace officers who are acquiring firearms
19 for the purposes of performing their official duties or when duly
20 authorized by their employer to purchase them;

21 (4) Any licensed watch, guard or patrol agency or their licensed
22 employees in the course of their employment under sections 22
23 and 25 of chapter 147;

24 (5) Any person who has been certified as a licensed collector
25 by the criminal history systems board;

26 (6) A federal, state or local historical society, museum or insti-
27 tutional collector open to the public;

28 (7) Any exchange of a firearm or large capacity weapon for
29 another firearm or large capacity weapon purchased, rented or
30 leased from the licensed dealer by the same person seeking the
31 exchange within 30 days immediately before the exchange;

32 (8) A firearms surrender program authorized by and in compli-
33 ance with section 131O of this chapter.

34 A non-exempt person who purchases, rents or leases more than
35 one firearm or large capacity weapon in any 30 day period shall
36 be punished, for a first offense, by a fine of not more than \$1,000,
37 or by imprisonment for not more than six months, or by both such
38 fine and imprisonment; and for any subsequent offense shall be
39 punished by a fine of not less than \$1,000 and not more than
40 \$5,000, or by imprisonment for not more than two and one-half
41 years, or by both such fine and imprisonment. The punishments
42 under this subsection shall be separate from the procedures estab-
43 lished for the denial, revocation or suspension of firearm identifi-
44 cation cards, licenses and permits provided under this chapter.

45 Any person or licensee who sells, rents or leases a firearm or
46 large capacity weapon to a non-exempt person under this section,
47 with knowledge or reason to know that the person has purchased,
48 rented or leased a firearm or large capacity weapon within the pre-
49 vious thirty days shall be punished, for a first offense, by a fine of
50 not more than \$5,000 or by imprisonment of not more than two
51 and one-half years, or by both such fine and imprisonment; and
52 for any subsequent offense shall be punished by a fine of not less
53 than \$1,000 and not more than \$10,000 or by imprisonment for
54 not more than five years, or by both such fine and imprisonment.
55 These punishments shall be separate from the procedures estab-
56 lished for the denial, revocation or suspension of firearm identifi-
57 cation cards, licenses and permits provided under this chapter.