



Legal Update

August 13, 2014

An Act relative to the reduction of gun violence

Chapter 284 of the Acts of 2014

On August 13, 2014, Governor Patrick signed into law “An Act relative to the reduction of gun violence.” Key portions of the law are listed below:

Criminal Law Issues

- **Creates the following new offenses and/or penalties:**
 - Creates 3 offenses under c. 140, § 122C: 1. Unlicensed sale of self-defense spray (chemical mace, pepper spray, etc.), punishable by H/C (house of correction) for NMT (not more than) 2 years or fine of NMT \$1,000; 2. Selling self-defense spray to person under 18 who does not have FID card, punishable by fine of NMT \$300; 3. Minor in possession of self-defense spray without FID card punishable by fine of NMT \$300. (Section 22)
 - Creates offense under c. 140, § 122D for the purchase or possession of self-defense spray by disqualified individuals (lists disqualifications), punishable by H/C for NMT 2 years, fine of NMT \$1,000, or both. (Section 22)
 - Adds to the list of violations punishable under c. 140, § 128, the failure of a licensee to sell firearms to report immediately any lost or stolen firearms to the licensing authority and Executive Director of CJIS. (Section 27) (effective January 1, 2015)
 - Increases penalties for violations of c. 140, § 129C (failure to report a lost or stolen firearm) and creates new offense of a 3rd or subsequent offense, punishable by a fine of NLT (not less than) \$7,500 and NMT \$10,000, imprisonment NLT 1 year NMT 5 years, or both. (Section 40) (effective January 1, 2015)
 - Adds § 130 ½ to c. 140 providing that it is lawful to furnish a weapon to a minor for hunting, recreation, instruction and participation in shooting sports while under the supervision of a holder of a valid FID card or license to carry, as long as the minor has his/her parent’s permission. (Section 45) (effective January 1, 2015)

- Deletes paragraph (b) of c. 140, § 131C (offense of carrying firearm under Class B in a vehicle unless weapon unloaded and contained in locked case/trunk). (Section 58)(effective January 1, 2021)
- Increases penalties for violation of 140, § 131L (improper storage of firearms). (Section 64) (effective January 1, 2015)
- Increases penalty for carjacking while armed with a firearm (c. 265, § 21A) from imprisonment from 5 years to imprisonment from 7 years. (Section 84) (effective January 1, 2015)
- Adds to c. 265, § 13D (assault and battery upon public employees) that whoever commits an offense under this section and which includes the attempt to disarm a police officer in the performance of his duties, shall be punished by state prison NMT 10 years, or a fine of NMT \$10,000 and H/C NMT 2 ½ years. (Section 75) (effective January 1, 2015)
- Creates c. 265, § 15E – assault and battery by discharging a firearm, punishable by state prison NMT 20 years or H/C NMT 2 ½ years, fine of NMT \$10,000, or both. (Section 80) (effective January 1, 2015)
- Creates c. 265, § 15F – attempt to commit assault and battery by means of discharging a firearm, punishable by state prison NMT 15 years or H/C NMT 2 ½ years, fine of NMT \$10,000, or both. (Section 80) (effective January 1, 2015)
- Adds § 58 to c. 265 providing that anyone in possession of a “deceptive weapon device” (defined in c. 140, § 121 as a weapon intended to convey the presence of a firearm, used in the commission of a violent crime and presenting an objective threat of immediate death or serious bodily harm to a person of reasonable and average sensibility) shall be deemed to be armed. (Section 21 (effective immediately) and Section 87 (effective January 1, 2015))
- Increases penalty for while armed, entering without breaking at night/B&E in daytime, person in fear, (c. 266, § 17) to state prison NLT 7 years or H/C NLT 2 years NMT 2 ½ years. (Section 87) (effective January 1, 2015)
- Increases penalty for entering dwelling house at night without breaking/B&E daytime and no fear but when armed with a firearm (c. 266, § 18) to state prison NLT 7 years or H/C NLT 2 years NMT 2 ½ years. (Section 88) (effective January 1, 2015)
- Increases penalty for carrying a weapon on school grounds without written authorization (c. 269, § 10) to imprisonment NMT 2 years, fine of NMT \$1,000, or both. (Section 90) (effective January 1, 2015)
- Replacement of c. 269, § 10E (illegal firearms sales): 1. Illegal sale of 1 to less than 3 firearms, punishable by state prison NMT 10 years, fine of NMT \$5,000, or both; 2. 3 but less than 10, punishable by state prison NMT 20 years with 5 year mandatory minimum, and fine of NMT \$100,000; 10 or more, punishable by up to life imprisonment with mandatory minimum of 10 years, and fine of NMT \$150,000. No eligibility for probation, parole or release until mandatory minimums are served. (Section 93)
- Creates c. 269, § 10I (transporting a firearm into the Commonwealth): 1. To use in commission of a crime, punishable by state prison for NLT 5 years NMT 10 years; 2. To unlawfully sell/distribute to a prohibited person, punishable by state prison for NLT 10 years NMT 20 years; and 3. To unlawfully sell/distribute to prohibited person

- and subsequently used to cause death of another, punishable by state prison NLT 20 years. (Section 96) (effective January 1, 2015)
- Creates c. 269, § 10J (B&E to steal a firearm): 1. Simple offense, punishable by state prison NMT 5 years or H/C NMT 2 ½ years, fine of \$10,000, or both; 2. So as to distribute to a prohibited person, punishable by state prison NMT 10 years or H/C NMT 2 ½ years, fine of NMT \$10,000, or both; 3. Causing injury to another while in the process, punishable by state prison NMT 10 years or H/C NMT 2 ½ years, fine of \$10,000, or both. Also provides that any motor vehicle lawfully owned or operated by any person convicted of § 10J be forfeited pursuant to c. 90, §24W with the proceeds to go to the Public Safety Training Fund. (Section 96) (effective January 1, 2015)
 - Creates c. 269, § 10K (B&E of a building where a firearms retailer, wholesaler or manufacturer conducts business): 1. Simple offense, punishable by state prison NMT 10 years or H/C NMT 2 ½ years, fine of \$10,000, or both; 2. With intent to obtain firearm/ammunition, punishable by state prison NMT 10 years or H/C NMT 2 ½ years, or both; 3. And unlawfully obtaining firearm/ammunition, punishable by state prison NMT 20 years or H/C NMT 2 ½ years, fine of NMT \$10,000, or both. (Section 96). (effective January 1, 2015)
- **Updates language in the following criminal statutes to reflect the change in juvenile jurisdiction:**
 - C. 258E, § 2 (Section 74), c. 265, § 15A (Sections 77-78), c. 265, § 15B (Section 79), c. 265, § 18 (Section 81), c. 265, § 18B (Section 82), c. 265, § 19 (Section 83), c. 265, § 43 (Section 85), c. 269, § 10 (Sections 89 and 92), c. 269, § 10E (Section 93), c. 265, § 10F (Section 94), and c. 265, § 10G (Section 95).
 - **Other criminal/police-related matters:**
 - Law enforcement authorized to make warrantless arrest and to detain person in violation of carrying a weapon on school grounds without written authorization (c. 269, § 10). (Section 90) (effective January 1, 2015)
 - Adds the following to the list of offenses for which the Commonwealth can move for dangerousness under c. 276, § 58A: Being arrested and charged with a second or subsequent offense of felony possession of a weapon or machine gun as defined in section 121 of Chapter 140 after having been convicted of a violent crime for which a term of imprisonment was served. (Section 97) (effective January 1, 2015)
 - Creates new statute requiring the court to determine, upon entry of a conviction for any misdemeanor having an element of the use/attempted use of physical force or threatened use of a deadly weapon, if the victim/intended victim was a family or household member as defined in c. 209A. If so, court required to forward certain information to CJIS for entry into CJIS and transmittal to the U.S. Attorney General for inclusion in the National Instant Criminal Background Check System. (Section 76) (effective January 1, 2015)
 - Requires the Secretary of Public Safety to report statistics related to firearms crimes and arrests/prosecutions of firearms-related offenses. (Section 4)
 - Provides that the Commonwealth Fusion Center shall assist the Attorney General and District Attorneys in investigating and prosecuting state firearms crimes.

- Colonel of State Police may also establish the “Firearms and Trafficking Unit” to provide such assistance. (Section 5) (effective January 1, 2015)
- Requires the licensing authority in whose jurisdiction a criminal act occurs to trace and report certain enumerated information as to any firearm used in a crime. (Section 70) (effective January 1, 2015)

Other items of interest

- **Changes language for issuance of FID card inasmuch as licensing authority shall issue an FID card if it appears the applicant is not a “prohibited person” (as defined). Outlines procedure if licensing authority petitions district court for an order denying an applicant’s request for issuance or renewal of the FID card, or to suspend or revoke the card.** (Section 30) (effective January 1, 2015)
- **FID cards no longer required for self-defense spray (chemical mace, pepper spray, etc.), except for those who, at the time of submitting an application, are at least 15 but younger than 18 years of age and have a parent’s written permission.** (Sections 22, 32, 33 (effective January 1, 2021), 34 (effective January 1, 2015), 35, 35A-35B (effective January 1, 2021), 66)
- **Brings Massachusetts into compliance with the National Instant Background Check System for conducting background checks for firearms sales or licensing/requires certain information be forwarded to the Department of Criminal Justice Information Services for purposes of conducting background checks** (Sections 1 (effective January 1, 2015), 2, 3 (effective January 1, 2015), 15-17 (effective January 1, 2015), 27 (effective January 1, 2015), 28-29, 72-73 (effective January 1, 2015), 76 (effective January 1, 2015), 98)
- **Eliminates distinction between Class A and Class B licenses to carry** (Sections 23-24 (effective January 1, 2021), 33 (effective January 1, 2021), 41 (effective January 1, 2021), 46-47 (effective January 1, 2021), 48 (effective January 1, 2015), 49 (effective January 1, 2021), 52 (effective January 1, 2021), 53 (effective January 1, 2015), 54 (effective January 1, 2021), 58-60 (effective January 1, 2021), 71 (effective January 1, 2021), 91 (effective January 1, 2021), 101)
- **Licensing authority may issue license to carry if it appears the applicant is not a “prohibited person” (as defined) and the applicant has good reason to fear injury to his person or property, or for any other good reason. Outlines procedure if application is denied or a restriction is placed thereon.** (Sections 48 (effective January 1, 2015) and 51 (effective January 1, 2015))

Effective Date

- This legislation is effective immediately (unless otherwise noted).

A copy of Chapter 284 of the Acts of 2014 and a section-by-section summary are attached.

Please see the section-by-section summary for more details.