

HOUSE No. 2591

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act requiring public pension fund divestment from ammunition and firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>1/19/2023</i>
<i>Deborah B. Goldberg (Treasurer and Receiver General)</i>	<i>Treasurer, Office of the State Treasurer and Receiver General</i>	<i>1/19/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/3/2023</i>

HOUSE No. 2591

By Representative Livingstone of Boston, a petition (accompanied by bill, House, No. 2591) of Jay D. Livingstone, Deborah B. Goldberg (Treasurer and Receiver General) and Lindsay N. Sabadosa relative to requiring public pension fund divestment from ammunition and firearms. Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act requiring public pension fund divestment from ammunition and 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. As used in this act the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:-

3 “Ammunition”, ammunition as defined in section 121 of chapter 140 of the General
4 Laws, as amended by section 18 of the acts of 2017.

5 “Ammunition manufacturing company”, a company that derives more than 15 per cent of
6 its revenues from the manufacture of ammunition offered for sale for non-law enforcement or
7 non-military purposes.

8 “Ammunition retailing company”, a company that derives more than 15 per cent of its
9 revenues from the sale of ammunition for non-law enforcement or non-military purposes.

10 “Board”, the Pension Reserves Investment Management Board established in section 23
11 of chapter 32 of the General Laws.

12 “Company”, a sole proprietorship, organization, association, corporation, partnership,
13 joint venture, limited partnership, limited liability partnership, limited liability company or other
14 entity or business association, including all wholly-owned subsidiaries, majority-owned
15 subsidiaries, parent companies or affiliates of such entities or business associations that exist for
16 profit-making purposes.

17 “Direct holdings”, all securities of a company held directly by the public fund or in an
18 account or fund in which the public fund owns all shares or interests.

19 "Firearm", an assault weapon, firearm, large capacity weapon, machine gun, rifle, sawed-
20 off shotgun, or shotgun as defined by section 121 of chapter 140 of the General Laws, as
21 amended by section 18 of the acts of 2017.

22 “Firearm manufacturing company”, a company that derives more than 15 per cent of its
23 revenues from the manufacture of firearms offered for sale for non-law enforcement or non-
24 military purposes.

25 “Firearm retailing company”, a company that derives more than 15 per cent of its
26 revenues from the sale of firearms for non-law enforcement or non-military purposes.

27 “Firearm Accessory”, a bump stock, large capacity feeding device, or trigger crank as
28 defined in section 121 of chapter 140, as amended by section 18 of the acts of 2017.

29 “Firearm accessory manufacturing company”, a company that derives more than 15 per
30 cent of its revenues from the manufacture of firearm accessories for sale for non-law
31 enforcement or non-military purposes.

32 “Firearm accessory retailing company”, a company that derives more than 15 per cent of
33 its revenues from the sale of firearm accessories for non-law enforcement or non-military
34 purposes.

35 “Indirect holdings”, all securities of a company held in an account or fund, such as a
36 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
37 public fund owns shares or interests together with other investors not subject to this act.

38 “Public fund”, the Pension Reserves Investment Trust or the Pension Reserves
39 Investment Management Board charged with managing the pooled investment fund consisting of
40 the assets of the state employees’ and teachers’ retirement systems as well as the assets of local
41 retirement systems under the control of the board.

42 “Scrutinized company,” any ammunition, firearm or firearm accessory manufacturing or
43 retailing companies.

44 SECTION 2. Notwithstanding any general or special law to the contrary, within 90 days
45 of enactment, the public fund shall make its best efforts to facilitate the identification of all
46 scrutinized companies in which the public fund has direct or indirect holdings. The identification
47 of scrutinized companies shall be performed by an independent, third-party research firm
48 selected by the public fund and based on the criteria set forth in this act.

49 By the first meeting of the public fund following the 90-day period, the public fund and
50 shall assemble all scrutinized companies in which it has direct or indirect holdings into a
51 scrutinized companies list. The public fund shall update the scrutinized companies list on a
52 quarterly basis based on evolving information from the independent, third-party research firm.

53 SECTION 3. Notwithstanding any general or special law to the contrary, it shall be the
54 settled policy of the public fund and of the board of the public fund not to invest in any
55 ammunition, firearm or firearm accessory manufacturing or retailing companies. The public fund
56 shall sell, redeem, divest or withdraw all publicly-traded securities of each company identified
57 pursuant to section 2 of this act within 12 months after the company's most recent appearance on
58 the scrutinized companies list. This section shall not apply to indirect holdings in actively
59 managed investment funds; provided, however, that the public fund shall submit letters to the
60 managers of any such investment funds that contain companies identified pursuant to section 2 of
61 this act, requesting that they remove such companies from the investment fund or create a similar
62 actively managed fund with indirect holdings devoid of such companies.

63 SECTION 4. Notwithstanding any general or special law to the contrary, with respect to
64 actions taken in compliance with this act, the public fund shall be exempt from any conflicting
65 statutory or common law obligation, including any such obligations with respect to choice of
66 asset managers, investment funds or investments for the public fund's securities portfolios and
67 all good faith determinations regarding companies identified pursuant to section 2 of this act.

68 SECTION 5. Notwithstanding any general or special law to the contrary, the public fund
69 shall be permitted to cease divesting from companies identified pursuant to section 2 of this act,
70 to reinvest in companies identified pursuant to section 2 of this act, or to continue to invest in
71 companies pursuant to section 2 of this act from which it has not yet divested upon clear and
72 convincing evidence showing that the value for all assets under management by the public fund
73 becomes equal to or less than 99.5 per cent (50 basis points) of the hypothetical value of all
74 assets under management by the public fund assuming no divestment for any company had
75 occurred under said subsection. Cessation of divestment, reinvestment or any subsequent

76 ongoing investment authorized by this section shall be strictly limited to the minimum steps
77 necessary to avoid the contingency set forth in the preceding sentence.

78 For any cessation of divestment, and in advance of any cessation of divestment
79 authorized by this subsection, the public fund shall provide a written report to the attorney
80 general, the senate and house committees on ways and means and the joint committee on public
81 service, updated annually thereafter as applicable, setting forth the reasons and justification,
82 supported by clear and convincing evidence, for its decisions to cease divestment, to reinvest or
83 to remain invested in companies identified pursuant to section 2.

84 SECTION 6. Present, future and former board members of the public fund, jointly and
85 individually, state officers and employees, and investment managers under contract with the
86 public fund shall be indemnified from the General Fund and held harmless by the
87 Commonwealth from all claims, demands, suits, actions, damages, judgments, costs, charges and
88 expenses, including court costs and attorney's fees, and against all liability, losses, and damages
89 of any nature whatsoever that these present, future, or former board members, officers,
90 employees, or contract investment managers shall or may at any time sustain by reason of any
91 decision to restrict, reduce, or eliminate investments in ammunition, firearm, or firearm
92 accessory manufacturing or retailing companies.

93 SECTION 7. The public fund shall file a copy of the scrutinized companies list with the
94 attorney general and with the clerks of the senate and the house of representatives within 30 days
95 after the list is prepared. Annually thereafter, the public fund shall file a report with the attorney
96 general and with the clerks of the senate and the house of representatives, that includes: (i) the
97 most recent scrutinized companies list; (ii) all investments sold, redeemed, divested or

98 withdrawn in compliance with this act within the preceding year; and (iii) all investments
99 prohibited by this act from which the public fund has not yet divested.

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