

SENATE No. 1298

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

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 relative to firearms and firearms violence.

PETITION OF:

NAME:

Cynthia S. Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

SENATE No. 1298

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1298) of Cynthia S. Creem for legislation relative to firearms and firearms violence. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1247 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to firearms and firearms violence.

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

1 SECTION 1. Chapter 29 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 2QQQQ, the following new section:-

3 2RRRR. There is hereby established and set up on the books of the commonwealth a
4 separate fund to be known as the Firearms Violence Prevention Trust Fund. Amounts credited to
5 such fund shall be available, without further appropriation, to the Secretary of the Executive
6 Office of Public Safety and Homeland Security who shall utilize such funds to establish an
7 annual municipal grant program to support municipal violence prevention programs. Provided
8 that priority shall be given to programs that support the provision of school resource officers,
9 programs to address youth exposure to actual and depicted violence, and training of police in
10 handling incidents involving persons suffering from mental illness.

11 SECTION 2. Section 2 of Chapter 64H of the General Laws, as so appearing, is hereby
12 amended by adding the following new paragraph:-

13 In addition to all other rates of tax provided herein, an additional surcharge of 4.75
14 percent shall be imposed on sales at retail of all ammunition, rifles, shotguns, firearms or parts
15 thereof, as those terms are defined in section 121 of chapter 140, in the Commonwealth. All
16 revenues received from such surcharge, together with any penalties, forfeitures, interest, costs of
17 suits and fines collected in connection therewith, less all amounts refunded or abated in
18 connection therewith, all as determined by the commissioner of revenue according to his best
19 information and belief, shall be credited to the Firearms Violence Prevention Trust Fund
20 established pursuant to section 2RRRR of chapter 29 of the General Laws.

21 SECTION 3. Section 2 of Chapter 64I of the General Laws, as so appearing, is hereby
22 amended by adding the following new paragraph:-

23 In addition to all other rates of tax provided herein, an additional surcharge of 4.75
24 percent shall be imposed on the storage, use or other consumption of ammunition, rifles,
25 shotguns, firearms or parts thereof, as those terms are defined in section 121 of chapter 140,
26 purchased from any vendor or manufactured, fabricated or assembled from materials acquired
27 either within or outside the commonwealth for storage, use or consumption within the
28 commonwealth. All revenues received from this surcharge, together with any penalties,
29 forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts
30 refunded or abated in connection therewith, all as determined by the commissioner of revenue
31 according to his best information and belief, shall be credited to the Firearms Violence

32 Prevention Trust Fund established pursuant to section 2RRRR of chapter 29 of the General
33 Laws.

34 SECTION 4. Section 121 of chapter 140 of the General Laws, as appearing in the 2014
35 official edition, is hereby amended by inserting the following new definitions:

36 “Authorized user” means the owner of a firearm or large capacity weapon equipped with
37 personalized firearm technology or a person to whom the owner has given consent to use the
38 firearm or large capacity weapon equipped with personalized firearm technology.

39 “Personalized firearm technology” means any firearm or large capacity weapon which
40 incorporates within its manufacturing design a permanent programmable feature, including but
41 not limited to radio frequency tags, solenoid use-limitation devices, automated fingerprint
42 identification systems or voice recognition, that cannot be deactivated and renders the firearm or
43 large capacity weapon reasonably resistant to being fired except when activated by the lawful
44 owner or other authorized user. Personalized firearm technology standards shall include, but not
45 be limited, to the following: (1) the firearm or large capacity weapon shall be reasonably
46 resistant to being fired by anyone other than the device’s authorized user; (2) the personalized
47 firearm technology shall be incorporated into the design of the firearm or large capacity weapon
48 and shall be a permanent, irremovable part of the firearm or large capacity weapon and any
49 device or object necessary for the authorized user to fire the handgun; (3) the firearm or large
50 capacity weapon shall not be manufactured so as to permit the personalized firearm technology
51 of the firearm or large capacity weapon to be readily deactivated; and (4) firearms and large
52 capacity weapons equipped with personalized firearm technology shall meet any other reliability

53 standards generally used in the industry for other commercially available firearms and large
54 capacity weapons.

55 SECTION 5. Chapter 140 of the general laws, as so appearing is hereby amended by
56 inserting after section 123, the following new section:

57 Section 123A. Notwithstanding any other provision of this chapter, law or regulation to
58 the contrary, it shall be unlawful to sell, purchase, rent, lease or possess a .50 BMG rifle or .50
59 BMG cartridge. Any person violating this section shall be punished by a fine of not less than
60 \$1,000 nor more than \$10,000, or by imprisonment for not less than 1 year nor more than 10
61 years, or by both such fine and imprisonment. For purposes of this section the following words
62 shall have the following meanings:-

63 ".50 BMG cartridge" means a cartridge that is designed and intended to be fired from a
64 center fire rifle and that meets all of the following criteria:

- 65 (a) It has an overall length of 5.54 inches from the base to the tip of the bullet.
- 66 (b) The bullet diameter for the cartridge is from .510 to, and including, .511 inch.
- 67 (c) The case base diameter for the cartridge is from .800 inch to, and including, .804 inch.
- 68 (d) The cartridge case length is 3.91 inches.

69 ".50 BMG rifle" means a center fire rifle that can fire a .50 BMG cartridge and is not
70 already an assault weapon or a machinegun. It shall not include any antique firearm, nor any
71 curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

72 The provisions of this section shall not apply to (i) any officer, agent or employee of the
73 commonwealth or any state or the United States; (ii) any member of the military or other service
74 of any state or of the United States; (iii) any duly authorized law enforcement officer, agent or
75 employee of any municipality of the commonwealth; provided, however, that any such person
76 described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or
77 possess the weapon so carried or possessed and is acting within the scope of his duties.

78 SECTION 6. Section 128A of chapter 140 of the General Laws, as so appearing, is
79 hereby amended by striking the following 2 sentences:- “Any sale or transfer conducted pursuant
80 to this section shall comply with section 131E and shall, prior to or at the point of sale, be
81 conducted over a real time web portal developed by the department of criminal justice
82 information services. The department of criminal justice information services shall require each
83 person selling or transferring a firearm, shotgun or rifle pursuant to this section to electronically
84 provide, though the portal, such information as is determined to be necessary to verify the
85 identification of the seller and purchaser and ensure that the sale or transfer complies with this
86 section.” and inserting in place thereof the following 2 sentences:- “Any sale or transfer
87 conducted under this section shall comply with section 131E and shall take place at the location
88 of a dealer licensed under section 122, who shall transmit the information required by this
89 section for the purchases and sales by utilizing the electronic verification link established by the
90 commissioner of the department of criminal justice information services. A licensed dealer may
91 charge the seller a fee not to exceed \$25 for each sale or transfer electronically submitted on
92 behalf of the seller to the department of criminal justice information services.”

93 SECTION 7. Section 129B of said chapter 140, as appearing in the 2012 official edition
94 and as amended by chapter 284 of the acts of 2014, shall be further amended by adding in line
95 408, after the words “shall not apply” the following:

96 “provided however, that any person in possession of a non-large capacity rifle or shotgun
97 whose firearm identification card issued under this section is invalid for the sole reason that it
98 has expired not including licenses that remain valid under paragraph (9) because the licensee
99 applied for renewal before the license expired, but who shall not be disqualified from renewal
100 upon application therefor pursuant to this section, shall if such license has been expired for a
101 period of time exceeding 90 days be guilty of a crime and subject to the issuance of a warrant for
102 his arrest as well as a warrant issued pursuant to chapter 276, and upon conviction thereof shall
103 be punished by a fine of not less than \$1,000 nor more than \$5,000 and the provisions of said
104 section 10 of said chapter 269 shall not apply;”

105 SECTION 8. Section 131 of said chapter 140, as amended by section 47 of chapter 284 of
106 the acts of 2014, is hereby further amended in paragraph (b) by adding after the words “or by
107 such other person” the following words:- “over the age of 16”.

108 SECTION 9. Section 131 of Chapter 140 of the General Laws, as so appearing, is hereby
109 amended in paragraph (m) by adding after the words “shall not apply” in line 560, the
110 following:- provided however, that any person in possession of a firearm, rifle or shotgun whose
111 license issued under this section is invalid for the sole reason that it has expired not including
112 licenses that remain valid under paragraph (i) because the licensee applied for renewal before the
113 license expired, but who shall not be disqualified from renewal upon application therefor
114 pursuant to this section, shall if such license has been expired for a period of time exceeding 90

115 days be guilty of a crime and subject to the issuance of a warrant for his arrest as well as a
116 warrant issued pursuant to chapter 276, and upon conviction thereof shall be punished by a fine
117 of not less than \$1,000 nor more than \$5,000 and the provisions of said section 10 of said chapter
118 269 shall not apply;”

119 SECTION 10. Section 131½ of chapter 140 of the General Laws, as appearing in the
120 2014 official edition, is hereby amended by inserting, after the words “police chiefs association”
121 the following new language:

122 “, one of whom shall be the attorney general or a designee”

123 SECTION 11. Section 131¾ of chapter 140 of the General Laws is hereby amended by
124 inserting, after the words “renewal of the same” in line 13 the following new paragraph:

125 Provided, however, that six months from the commercial availability of firearms or large
126 capacity weapons equipped with personalized firearm technology, such roster shall not include
127 any newly manufactured firearms or large capacity weapons unless such firearm or large
128 capacity weapon is equipped with personalized firearm technology and meets all personalized
129 firearm performance standards.

130 SECTION 12. Chapter 140 of the general laws, as so appearing is hereby amended by
131 inserting after section 131¾ , the following new section:

132 Section 131¾A. The attorney general shall annually review and determine the
133 commercial availability of personalized firearm technology, including: (i) the number and variety
134 of models and calibers of firearms and large capacity weapons with personalized firearm
135 technology that are commercially available; (ii) studies, analysis and other evaluations of

136 personalized firearms and large capacity weapons conducted by the National institute of Justice;
137 a federal, state, or local law enforcement laboratory; or any other entity with expertise in
138 handgun technology; and (iii) any other information the attorney general considers relevant.

139 The attorney general shall file a report containing its findings with the Gun Control
140 Advisory Board, the secretary of the executive office of public safety and security, clerks of the
141 senate and house of representatives, and the chairs of the joint committee on public safety and
142 homeland security.