



Existing Massachusetts Laws Addressing the Illegal Flow, Possession and Use of Guns

For some time proponents of more gun control laws have been making statements that Massachusetts has no “tools” regarding the flow of illegal guns. Below is a brief outline of just some of the existing Massachusetts laws regarding this issue. It is by no means all of the gun laws, but rather a quick outline of the subject headings and brief description of punishments that already exist for criminal behavior.

As for the arguments surrounding the so-called “One Gun a Month” proposal, commonly referred to as the “Lawful Citizens Imprisonment Act”, special attention should be paid to Chapter 140: Section 131E & Chapter 269: Section 10E. These two existing laws already address the severe penalties for “straw purchases” and unlawful multiple sales/transfers. Violation of these can carry up to life in prison.

These two state laws are complimented by the Bureau of Alcohol Tobacco Firearm and Explosives (BATFE) that mandates that if more than one handgun is being purchased from a licensed dealer within a five day period the dealer is required to fill out BATFE Form 3310 and submit a copy to the BATFE and the state agency in charge of licensing before the close of business on the day of the second sale.

Chapter 140: Section 122 – Firearm Dealer Licensing *“Whoever knowingly issues a license in violation of this section shall be punished by imprisonment for not less than six months nor more than two years in a jail or house of correction.”*

Chapter 140: Section 123 – Conditions of Dealer Licenses and Sales

Chapter 140: Section 125 – Dealer License Revocation *“...he has violated or permitted a violation of any condition thereof or has violated any provision of this chapter, or has been convicted of a felony.”*

Chapter 140: Section 128B – Failure to Report Sale/Transfer Within Seven Days *“Whoever violates any provision of this section shall for the first offense be punished by a fine of not less than \$500 nor more than \$1,000 and for any subsequent offense by imprisonment in the state prison for not more than ten years.”*

Chapter 140: Section 129 – Providing Fictitious Name when Purchasing *“...shall for the first offense be punished by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than one year, or both; and for a second or subsequent offense, shall be punished by imprisonment for not less than two and one half years nor more than five years in the state prison.”*

Chapter 140: Section 130 – Sale or Furnishing Weapons or Ammunition to Certain Persons “...shall be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment in a state prison for not more than ten years or by imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment.”

Chapter 140: Section 131C – Unlawful Carrying of Firearms in a Vehicle “(a) Whoever violates the provisions of this subsection shall be punished by a fine of \$500. (b) Whoever violates the provisions of this subsection shall be punished by a fine of \$500. (c) Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000.

***Chapter 140: Section 131E – Purchasing of Firearms by Residents (Straw Purchase Violations) “Any person who uses said license to carry firearms or firearm identification card for the purpose of purchasing a firearm, rifle or shotgun for the unlawful use of another, or for resale to or giving to an unlicensed person, shall be punished by a fine of not less than one thousand nor more than fifty thousand dollars, or by imprisonment for not less than two and one-half years nor more than ten years in a state prison, or by both such fine and imprisonment. A conviction of a violation of this section shall be reported forthwith by the court to the licensing authority which issued the license or firearm identification card, which shall immediately revoke the license or firearm identification card of such person. No new license or firearm identification card under section one hundred and twenty-nine B or section one hundred and thirty-one shall be issued to any such person within two years after the date of said revocation.”

Chapter 140: Section 131H – Possession of Firearms by Aliens “Violation of any provision of this section shall be punished by a fine of not less than five hundred nor more than one thousand dollars, and by imprisonment for not more than six months in a jail or house of correction.”

Chapter 140: Section 131I – Falsifying a Firearm License or Identification Card “Whoever falsely makes, alters, forges or counterfeits or procures or assists another to falsely make, alter, forge or counterfeit a license to carry a firearm ... shall be punished by imprisonment in a state prison for not more than five years or in a jail or house of correction for not more than two years, or by a fine of not less than five hundred dollars, or both such fine and imprisonment.”

Chapter 140: Section 131L – Firearm Storage Violations “A violation of this section shall be punished, in the case of a firearm, rifle or shotgun that is not a large capacity weapon, by a fine of not less than \$500 nor more than \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment, and in the case of a large capacity weapon or machine gun, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment.”

Chapter 140: Section 131M – Unlawful Possession of Assault Weapons “...shall be punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and for a second offense, by a fine of not less than \$5,000 nor more than \$15,000 or by imprisonment for not less than five years nor more than 15 years, or by both such fine and imprisonment.”

Chapter 140: Section 131N – Possession of Covert Weapons “Whoever violates the provisions of this section shall be punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and for a second offense, by a fine of not less than \$5,000 nor more than \$15,000 or by imprisonment for not less than five years nor more than 15 years, or by both such fine and imprisonment.”

Chapter 269: Section 10 – Carrying Dangerous Weapons

(a) Whoever, except as provided or exempted by statute, knowingly has in his possession; or knowingly has under his control in a vehicle; a firearm, loaded or unloaded ... shall be punished by imprisonment in the state prison for not less than two and one-half years nor more than five years, or for not less than 18 months nor more than two and one-half years in a jail or house of correction.

(c) Whoever, except as provided by law, possesses a machine gun ... or whoever owns, possesses or carries on his person, or carries on his person or under his control in a vehicle, a sawed-off shotgun ... shall be punished by imprisonment in the state prison for life, or for any term of years provided that any sentence imposed under the provisions of this paragraph shall be subject to the minimum requirements of paragraph (a).

(d) Whoever, after having been convicted of any of the offenses set forth in paragraph (a), (b) or (c) commits a like offense or any other of the said offenses, shall be punished by imprisonment in the state prison for not less than five years nor more than seven years; for a third such offense, by imprisonment in the state prison for not less than seven years nor more than ten years; and for a fourth such offense, by imprisonment in the state prison for not less than ten years nor more than fifteen years ...

(g) Whoever, within this commonwealth, produces for sale, delivers or causes to be delivered, orders for delivery, sells or offers for sale, or fails to keep records regarding, any rifle or shotgun without complying with the requirement of a serial number, as provided in section one hundred and twenty-nine B of chapter one hundred and forty, shall for the first offense be punished by confinement in a jail or house of correction for not more than two and one-half years, or by a fine of not more than five hundred dollars.

(h)(1) Whoever owns, possesses or transfers a firearm, rifle, shotgun or ammunition without complying with the provisions of section 129C of chapter 140 shall be punished by imprisonment in a jail or house of correction for not more than 2 years or by a fine of not more than \$500. Whoever commits a second or subsequent violation of this paragraph shall be punished by imprisonment in a house of correction for not more than 2 years or by a fine of not more than \$1,000, or both. Any officer authorized to make arrests may arrest without a warrant any person whom the officer has probable cause to believe has violated this paragraph.

(2) Any person who leaves a firearm, rifle, shotgun or ammunition unattended with the intent to transfer possession of such firearm, rifle, shotgun or ammunition to any person not licensed under section 129C of chapter 140 or section 131 of chapter 140 for the purpose of committing a crime or concealing a crime shall be punished by imprisonment in a house of correction for not more than 2 1/2 years or in state prison for not more than 5 years.

(j) Whoever, not being a law enforcement officer, and notwithstanding any license obtained by him under the provisions of chapter one hundred and forty, carries on his person a firearm as hereinafter defined, loaded or unloaded or other dangerous weapon in any building or on the grounds of any elementary or secondary school, college or university without the written authorization of the board or officer in charge of such elementary or secondary school, college or university shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. For the purpose of this paragraph, “firearm” shall mean any pistol, revolver, rifle or smoothbore arm from

which a shot, bullet or pellet can be discharged by whatever means.

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

(m) Notwithstanding the provisions of paragraph (a) or (h), any person not exempted by statute who knowingly has in his possession, or knowingly has under his control in a vehicle, a large capacity weapon or large capacity feeding device therefor who does not possess a valid Class A or Class B license to carry firearms issued under section 131 or 131F of chapter 140, except as permitted or otherwise provided under this section or chapter 140, shall be punished by imprisonment in a state prison for not less than two and one-half years nor more than ten years...

(n) Whoever violates paragraph (a) or paragraph (c), by means of a loaded firearm, loaded sawed off shotgun or loaded machine gun shall be further punished by imprisonment in the house of correction for not more than 2 1/2 years, which sentence shall begin from and after the expiration of the sentence for the violation of paragraph (a) or paragraph (c).

****Chapter 269, Section 10E – Penalties for Unlawful Multiple Transfers/Sales Whoever, except as provided by law, in a single transaction or occurrence or in a series of transactions within a twelve month period, knowingly or intentionally distributes, sells, or transfers possession of a quantity of firearms, rifles, shotguns, machine guns, or any combination thereof, shall, if the quantity of firearms, rifles, shotguns, machine guns, or any combination thereof is:*

(1) Three or more, but less than ten, be punished by a term of imprisonment of not more than ten years in the state prison.

(2) Ten or more, but less than twenty, be punished by a term of imprisonment of not more than ten years in the state prison.

(3) Twenty or more, be punished by a term of imprisonment not less than ten years up to life imprisonment in the state prison.