

**SENATE . . . . . No. 1451**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Patrick M. O'Connor*

*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 to prevent the illegal possession and illegal sale of firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>1/24/2019</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>2/1/2019</i>

**SENATE . . . . . No. 1451**

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By Mr. O'Connor, a petition (accompanied by bill, Senate, No. 1451) of Patrick M. O'Connor, David Allen Robertson and Donald F. Humason, Jr. for legislation to prevent the illegal possession and illegal sale of firearms. Public Safety and Homeland Security.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

An Act to prevent the illegal possession and illegal sale 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. Section 10 of Chapter 269 is hereby amended by striking out the first  
2 paragraph of subsection (a)(6) and inserting the following paragraph:-

3 “(6) having complied as to possession of an air rifle or BB gun with the requirements  
4 imposed by section twelve B; shall be punished by imprisonment in the state prison for not less  
5 than four years nor more than ten years, or for not less than 3 nor more than five years in a jail or  
6 house of correction. No person convicted under this subsection shall be eligible for probation,  
7 parole, work release, or furlough or receive any deduction from his sentence for good conduct  
8 until he shall have served three years of such sentence; provided, however, that the commissioner  
9 of correction may on the recommendation of the warden, superintendent, or other person in  
10 charge of a correctional institution, grant to an offender committed under this subsection a  
11 temporary release in the custody of an officer of such institution for the following purposes only:  
12 to attend the funeral of a relative; to visit a critically ill relative; or to obtain emergency medical

13 or psychiatric service unavailable at said institution. Prosecutions commenced under this  
14 subsection shall neither be continued without a finding nor placed on file.”

15 SECTION 2. Section 10 of chapter 269 is hereby further amended by striking out, in line  
16 96, the clause “shall be punished in the state prison for life, or for any term of years provided that  
17 any sentence imposed under the provisions of this paragraph shall be subject to the minimum  
18 requirements of paragraph (a)” and inserting in place thereof the following:-

19 “shall be punished by a imprisonment in the state prison for life, or for any term of years,  
20 but in no event less than the mandatory minimum term of imprisonment in the state prison for  
21 not less than 5 years and up to any term of years. The sentence imposed on such person shall not  
22 be reduced to less than 5 years, nor suspended, nor shall any person convicted under this  
23 subsection be eligible for probation, parole, work release, or furlough or receive any deduction  
24 from his sentence for good conduct until he shall have served 5 years of such a sentence;  
25 provided, however, that the commissioner of correction may on the recommendation of the  
26 warden, superintendent, or other person in charge of a correctional institution, grant to an  
27 offender committed under this subsection a temporary release in the custody of an officer of such  
28 institution for the following purposes only: to attend the funeral of a relative; to visit a critically  
29 ill relative; or to obtain emergency medical or psychiatric service unavailable at said institution.  
30 Prosecutions commenced under this section shall not be continued without a finding nor placed  
31 on file.”

32 SECTION 3. Said section 10 is hereby further amended by striking out paragraph (d) in  
33 its entirety, as appearing in the 2010 Official Edition, and inserting in place thereof the following  
34 paragraph:-

35           “(d) Whoever, after having been convicted of any of the offenses set forth in paragraph  
36 (a), (b), (c), (h) or (m) of section 10, or sections 131M or 131N of chapter 140 commits a like  
37 offense or any other of the said offenses, shall be punished by imprisonment in the state prison  
38 for not less than 10 years and up to any term of years; for a third such offense, by imprisonment  
39 in the state prison for not less than 20 years and up to any term of years; and for a fourth such  
40 offense, by imprisonment in the state prison for life. The sentence imposed upon a person, who  
41 after a conviction of an offense under paragraph (a), (b), (c), (h) or (m) of section 10, or sections  
42 131M or 131N of chapter 140 commits the same or a like offense, shall not be suspended, nor  
43 shall any person so sentenced be eligible for probation or receive any deduction from his  
44 sentence for good conduct.”

45           SECTION 4. Said section 10 is hereby further amended by striking out paragraph (h)(1)  
46 in its entirety, as appearing in the 2010 Official Edition, and inserting in place thereof the  
47 following paragraph:-

48           “(h)(1) Whoever owns, possesses or transfers a firearm, rifle, shotgun or ammunition  
49 without complying with the provisions of section 129c of chapter 140 shall be punished by  
50 imprisonment in the state prison or jail or house of correction for not more than 5 years. In  
51 addition, a fine of not more \$1000 may be imposed. Whoever commits a second or subsequent  
52 violation of this paragraph shall be punished by imprisonment in the state prison or jail or house  
53 of correction for not less than 7 years and not more than 10 years. The sentence imposed on such  
54 person shall not be continued without a finding or placed on file. Any officer authorized to make  
55 arrests may arrest without a warrant any person whom the officer has probable cause to believe  
56 has violated this paragraph.”

57 SECTION 5. Section 10G of chapter 269 is hereby amended by striking paragraphs (a),  
58 (b), and (c) and inserting the following paragraphs:-

59 “(a) Whoever, having been previously convicted of a violent crime or of a serious drug  
60 offense, both as defined herein, violates the provisions of paragraph (a), (c), (h) or (m) of section  
61 10, or sections 131M or 131N of chapter 140, shall be punished by imprisonment in the state  
62 prison for not less than five years nor more than 15 years.

63 (b) Whoever, having been previously convicted of two violent crimes, or two serious  
64 drug offenses or one violent crime and one serious drug offense, arising from separate  
65 incidences, violates the provisions of paragraph (a), (c), (h) or (m) of section 10, or sections  
66 131M or 131N of chapter 140, shall be punished by imprisonment in the state prison for not less  
67 than 12 years nor more than 20 years.

68 (c) Whoever, having been previously convicted of three violent crimes or three serious  
69 drug offenses, or any combination thereof totaling three, arising from separate incidences,  
70 violates the provisions of paragraph (a), (c), (h) or (m) of section 10, or sections 131M or 131N  
71 of chapter 140, shall be punished by imprisonment in the state prison for life.”

72 SECTION 6. Section 128B of Chapter 140 is hereby amended by striking the last  
73 sentence and inserting the following sentence:-

74 “Whoever violates any provision of this section shall for the first offense be punished by  
75 a fine of not less than \$1000 nor more than \$2000 and for any subsequent offense by  
76 imprisonment in a state prison for not less than three years nor more than ten years.”

77 SECTION 7. Section 131M of Chapter 140 is hereby amended by striking out the last  
78 sentence of the first paragraph and inserting the following sentence:-

79 “Whoever not being licensed under the provisions of section 122 violates the provisions  
80 of this section shall be punished, for a first offense, by a fine of not less than \$2,000 nor more  
81 than \$12,000 or by imprisonment for not less than two years nor more than ten years, or by both  
82 such fine and imprisonment, and for a second offense, by imprisonment for not less than seven  
83 years nor more than 20 years.”

84 SECTION 8. Section 10 of chapter 269 is hereby further amended by striking subsection  
85 (j) in its entirety and replacing it with the following:-

86 (j) For the purposes of this paragraph, "firearm" shall mean any pistol, revolver, rifle or  
87 smoothbore arm from which a shot, bullet or pellet can be discharged.

88 Whoever, not being a law enforcement officer and notwithstanding any license obtained  
89 by the person pursuant to chapter 140, carries on the person a firearm, loaded or unloaded, or  
90 other dangerous weapon in any building or on the grounds of any elementary or secondary  
91 school, college or university without the written authorization of the board or officer in charge of  
92 the elementary or secondary school, college or university shall be punished by a fine of not more  
93 than \$5,000 or by imprisonment for no less than one and one half years nor more than 15 years  
94 or by both such fine and imprisonment. A law enforcement officer may arrest without a warrant  
95 and detain a person found carrying a firearm in violation of this paragraph.

96 Any officer in charge of an elementary or secondary school, college or university or any  
97 faculty member or administrative officer of an elementary or secondary school, college or

98 university that fails to report a violation of this paragraph shall be guilty of a misdemeanor and  
99 punished by a fine of not more than \$2000.