

HD 4420

An Act Modernizing Firearms Laws

Massachusetts Chiefs of Police Association

Summary Report

July 7, 2023

MCOPA Executive Director Leahy and President Fowler,

We are submitting this summary report to you based upon your request for the Firearms Committee to review the recently released House Bill HD-4420 entitled “An Act Modernizing Firearms Laws.” In the review process, I requested and received comments from MCOPA Firearms Committee Members, who are all Chiefs of Police, both current and retired. I also received telephone calls and comments from a number of Police Officers of various ranks from different Massachusetts Police Departments who expressed concerns about the Bill.

For the purposes of this Report, we will focus primarily on provisions which either directly, or indirectly affect Law Enforcement Organizations and personnel. I did speak with Senior Staff of the Massachusetts Gun Owners Action League (GOAL), regarding their review of this Bill. They stated they would be addressing their concerns as an organization. Many of their concerns echo ours. They are more than willing to maintain open channels of communication, and work with us to support the Law Enforcement Community and Organizations.

This Bill has many complicated and detailed provisions that deal with lawfully licensed firearms owners, firearms possession, carry, transfer and sales, as well as dealer and manufacturer regulations. Many sections directly affect Law Enforcement Practices, Agencies, Safety, Operations, Budgets and Personnel. It must be noted that the overwhelming majority of MA Law Enforcement Personnel also possess Licenses to Carry Firearms (LTC) and own private firearms for protection, recreation, competition, and sport, and are directly impacted by the provisions of this Bill outside the scope of their Law Enforcement Employment.

To respond to every section of this Bill that is problematic, would require an extensive detailed study and response beyond the scope of this summary. In this writing, we shall highlight the most egregious sections of the Bill that were noted by every Chief in their review of this proposed Legislation.

SECTION 173: PROHIBITED AREAS

This proposed section was the foremost significant concern of all Chiefs who reviewed this Bill. Creating “Gun Free” zones beyond the scope of courthouses, prisons, and schools, has been proven to be a practice that does not prevent crime, and, in fact, encourages criminals to seek out these areas as soft targets of opportunity, where their chances of meeting resistance will be minimal. Criminals do not follow rules. The significant majority of mass shooters have demonstrated that when they meet armed resistance, they either take their own life, or perish in armed encounters, both with the police and in some cases legally permitted civilians. There is almost always a social media component as well by the

shooter, and others are aware of the event before it occurs, and take no action, or react too late. Mass shooters rarely surrender.

All Chiefs and Officers noted a significant threat to Officer safety in proposed Section 173 (5) stating:

“This section shall not apply to a Law Enforcement Officer while in the performance of their Official Duties, or a Security Guard employed by the prohibited area while at the location of their employment and during the course of their employment.”

This Section **PROHIBITS** legally licensed off-duty and Retired Police Officers, Corrections Officers, Court Personnel, Private Security Bodyguard Personnel, and other Federal and State personnel who carry a firearm for personal protection due to the nature of their profession and the associated risk and threat to their safety. This Bill, in effect, eliminates the nation-wide, time-tested common term and practice “OFF-DUTY Firearm.” This Section is a direct threat to the safety of Police Officers and the noted similar groups. It also eliminates a huge pool of potential immediate First Responders to a violent shooting threat or event. This Section will show NO impact on preventing crime, as it in fact HOBBLIES Law Enforcement and First Responders, and EMPOWERS those with violent criminal intent. The “Law” selects their targets for them.

Section 173 (2) (iv) also calls for property owners to post a sign on their premises indicating that it **IS** “permissible” to carry a firearm on their premises. We feel this practice would lead to additional calls for Police Service at locations that do not have this “sign” as they would be targeted by criminals. This Section is also harmful to merchants and commerce, and will create anxiety and panic, as well as potential economic loss. Many Chiefs noted that the creation of prohibited area gun free zones outside of the current school/secure facility restriction creates a potential Constitutional Rights infringement, and is in direct conflict with the recent United States Supreme Court Decision *NYSRPA vs. Bruen*, which affirmed the Rights of Citizens to carry firearms for personal protection under the 2nd Amendment of the U.S. Constitution.

BUDGETARY, ADMINISTRATIVE, and STAFFING CONCERNS:

Numerous provisions in this Bill will place a severe strain on Law Enforcement Agencies, both Municipal, and our partner Agencies within State Government such as the Massachusetts State Police and the State Firearms Records Bureau. We will not speak for our fellow State Agencies, but address concerns of Municipal Departments and our organization.

This Bill, as reviewed, appears to have no funding stream for Police Agencies to finance additional personnel, both sworn and administrative, that will be needed to meet many of the Bill’s requirements. Examples would include the additional mandatory training requirements for Department Licensing Officers, and increased Records keeping. Additional i will be required for follow-up investigations to enforcing the newly created Prohibited Firearms list and Feeding Device registrations.

Currently the majority of Massachusetts Law Enforcement Agencies are understaffed, or at minimum staffing levels. Departments have difficulty in recruiting qualified candidates from a diminishing e. Civil Service Departments in particular face a long and tedious process in recruiting, replacing, and training officers. Police Academies have limited sessions. Some provisions in this Bill create a new host of crimes and activities that Officers must respond to. This will divert Officers from pursuing investigations into other traditional activities. Some provisions of this Bill will create a new host of felons who are not criminals (who would never engage in traditional criminal activity) are currently legally licensed firearms

owners, yet would become “criminals” if the Bill is passed and new regulations not known or misunderstood, or they possess a newly prohibited item.

In addition, many Massachusetts Police Officers are not always familiar with the complexities of the current Massachusetts Firearms Laws. To introduce a tremendous number of NEW firearms Laws will become a training and enforcement nightmare for Law Enforcement Agencies. Department Training Budgets are already stretched thin by the recent POST mandatory training requirements, which were also unfunded mandates.

Also of strong concern, Section 126 (a) (iv) TRAINING: LOCAL LICENSING AUTHORITIES AND FIREARMS DEALERS

“Regulations prescribed by the Executive Office of Public Safety and Security shall include penalties for non-compliance which may include review by the Massachusetts Peace Officers Standards and Training (POST) Commission”

This language is interpreted as threatening to Police Departments and personnel and should be struck.

ESTABLISHMENT OF NEW SPECIAL BOARDS AND COMMITTEES:

This Bill proposes two new Special Boards and Committees. We have concerns on Massachusetts Chiefs of Police representation on these new groups.

Section 58 C140 Section 128: FIREARMS CONTROL ADVISORY BOARD

It appears this new Section eliminates and replaces the current “Gun Control Advisory Board.”

We have significant concerns over the membership component of this new Board. In the language stating who will be a member of this Board, the MCOPA representative is defined as:

“One of whom shall be a Police Chief selected from a list of four (4) Chiefs provided by the Massachusetts Chiefs of Police Association.”

Why is there a “list” and a “choice” of Police Chiefs? Who makes this choice?

This has the appearance of “Chief Shopping” with political overtones.

As in numerous other Boards and Committees, MCOPA members voluntarily serve on, it should be the choice of the Massachusetts Chiefs of Police leadership which Chief is chosen as their representative.

The “*selected from a list of four (4) Chiefs provided by...*” language should be struck.

SECTION 231 (b):

“There shall be an established, pursuant to Section 2A if Chapter 4 of the General Laws, a special legislative commission to study and investigate emerging firearms technology.”

(c) The special legislative commission shall consist of thirteen (13) members ...”

There is no inclusion written for a representative of the Massachusetts Chiefs of Police Association, or any City/Municipal Law Enforcement Agency except for one (1) representative from the Massachusetts State Police (Colonel or a designee.) We feel that MCOPA should be included in this critical board.

HD 4420: Overview by Chief Ronald Glidden (Ret.)

In this section, we have included within the text of this report, a separate overview of this Bill by Chief Ronald Glidden (Ret.). Chief Glidden was asked separately by the Executive Office of Public Safety to review this Bill. Chief Glidden is currently Chair of the Massachusetts Gun Control Advisory Board, and is also a member of the Massachusetts Chiefs of Police Association Firearms Committee. More importantly, Chief Glidden is universally considered by Massachusetts Law Enforcement Agencies and personnel as the most knowledgeable and credible authority for Law Enforcement training regarding Massachusetts Firearms Law. Thousands of Massachusetts Police Officers have, and regularly attend Chief Glidden's "Firearms Legal Update" courses. Chief Glidden's observations and comments in his included, separate overview were mirrored in almost ALL comments received from numerous other Chiefs.

HD 4420

Overview by Chief Ronald Glidden (Ret.)

7/1/23

The following overview of the proposed bill is an assessment derived from over 23 years of working with current Massachusetts firearms law. I did not include every change that I would suggest, but focused on the areas that I thought were the most obvious problem areas for licensing, voluntary compliance by residents, and enforcement by police where appropriate. Those sections in italics represent language from the bill unless otherwise specified. In some cases, I provided specific language suggestions, and in other cases I provided a general recommendation with no specific language.

While there are many more changes I could suggest, one change I would strongly encourage is to remove all mention in the bill of (non-large capacity) feeding devices including their serialization and registration. While it is one thing to regulate prohibited post-ban large capacity feeding devices, it is another to try to regulate, serialize and register non-large capacity feeding devices. These feeding devices are a functional part of every semiautomatic firearm being purchased, owned, or possessed. There is currently no method of serialization (to my knowledge) being used by manufacturers. So, to require this would essentially prohibit the import into Massachusetts of all feeding devices (including non-large capacity feeding devices). By logical extension, it might prohibit the sale or possession of semiautomatic firearms that contain un-serialized feeding devices.

One needs to go no further than the various district attorneys' offices to try to ascertain how many times anyone has been charged let alone convicted since 1998 for having a prohibited large capacity feeding device. Now we are proposing adding non-large capacity feeding devices to the mix by requiring a license to own a common 7-round magazine, and then penalizing a person if that magazine is not serialized and registered.

Please keep in mind that all large capacity magazines produced between 1994-2004 were required by federal law to be stamped "Restricted to Military/LE 9/13/94". And even with those stamping requirements, ATF reported almost zero enforcement. The proposed feeding device language will cause only confusion without improving safety. If the guns are traceable, law enforcement does not need feeding devices to be serialized and registered.

Listed on the following pages are some additional observations.

Sec. 26. Assault weapon definition.

Part of the old (now expired) federal definition which is still part of the current MA definition by virtue of reference to the old federal law, defined assault weapon in several ways including:

a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—
(i) a folding or telescoping stock; (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon; (iii) a bayonet mount; (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and (v) a grenade launcher;

The bill proposes an assault weapon be defined as:

(a) A semiautomatic rifle with the capacity to accept a detachable feeding device and

includes any of the following features: (i) a folding, telescopic, thumbhole or detachable stock or a stock that is otherwise foldable or adjustable in a manner that operates to reduce the length, size and other dimension, or otherwise enhances the concealability of the weapon; (ii) a pistol grip, forward grip or second handgrip or protruding grip that can be held by the non-trigger hand; (iii) a threaded barrel or (iv) a barrel shroud.

There are rifles that may have one of those features (i.e., a pistol grip or thumbhole stock) that clearly should not be defined as assault weapons.

(d) The semiautomatic version of any fully automatic firearm.

There are early rifles such as the M14 and M1 Carbine that are specifically excluded from being an assault rifle now that would become assault rifles under this change.

(f) All of the following rifles:

Despite this being a long list, no list will ever include all of the possible assault rifle model names and numbers. The so-called features test in the original federal law (and current MA law) is still the best way to identify current and future assault weapons and leaves the least room for interpretation and would cause much less confusion – even if the features contained in that section were expanded.

(ii) All AR types.

This would include semiautomatic rifles that were legal under the old federal ban and believed to be legal at least until 2016 under MA law because they were considered “Massachusetts Compliant” which simply means they did not have two or more of the aforementioned features. Even the current AG’s guidance says if you own one of those in July 2016, no enforcement action will be taken. This immediately creates a large group of felons out of currently lawful gun owners.

“a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of the following—(i) a folding or telescoping stock or a stock that is otherwise foldable or adjustable in a manner that operates to reduce the length, size and other dimension, or otherwise enhances the concealability of the weapon; (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon; (iii)

forward grip or second handgrip or protruding grip that can be held by the non-trigger hand (iv) a flash suppressor or threaded barrel; (v) a barrel shroud; and (vi) a bayonet mount.”

This should encompass every assault rifle included on the list (without the need for a list). A similar features description could be used for pistols and shotguns to determine which of those weapons are shotguns. Having a “list” of designated weapons plus a features test, plus a similarity and interchangeability test complicates both enforcement and voluntary compliance. There should be just one definition based on characteristics observable and easy to understand for both law enforcement and the owner.

Section 32 Definition Large Capacity Feeding Device

It is good that they added a tubular magazine on a lever action rifle. I suggest also adding a tubular magazine on a pump shotgun. Since a manually operated weapon cannot be a large capacity weapon, it makes no sense to have a tubular magazine on a pump shotgun that may hold more than 5 rounds under the heading of large capacity. There is enough of an issue (as there was in 1998) with some semiautomatic sporting shotguns that have the ability to add an extension tube holding more than 5 rounds. Would these sporting shotguns be prohibited just because extension tubes are available (sometimes used by police) even if the tube is not fitted to the semiautomatic sporting shotgun? Again, this was an issue in 1998, and legislators at that time actually said it would not impact sporting shotguns – but that’s not really what the law says.

Section 43 definition Secured Locked Container

*“Secured in a locked container”, at a minimum the container must be capable of being unlocked only by means of a key, combination or similar means **and it must be able to deter all but the most persistent from gaining access.** A room or a store even if capable of being locked and surveilled is insufficient.*

The idea is not bad except for the highlighted part. If I purchase a locked box and someone gains access, who is going to determine if it deters all but the most persistent from gaining access? Trigger locks do not provide this guarantee. Neither do any of the glass front but locked furniture style gun cabinets. At the minimum, I would delete the highlighted section.

UNOCCUPIED VEHICLE. When a MV is unoccupied, the secure storage law rather than the “transport” statute should apply. The question has long been raised as to whether a locked trunk, a locked console, or locked glove box would meet the criteria for secure storage. While locking the car itself should not meet the criteria, clarification on this issue would be helpful to those going into a prohibited area who need to leave their firearm behind in an unoccupied vehicle. Consider the following wording.

“Secured in a locked container”, at a minimum the container must be capable of being unlocked only by means of a key, combination or similar means. In an unoccupied motor vehicle, a locked trunk not accessible from the passenger compartment, a locked console or locked glovebox shall be considered a secure container.”

Sec. 47

(a) The application for any license or permit issued under sections 124 to 125B, inclusive, shall be made in a standard form provided by the commissioner of the department of criminal justice information services, which shall require the applicant, or parent or guardian of a minor, to affirmatively state, under the pains and penalties of perjury, that they are not disqualified on any of the grounds enumerated in section 123 of this chapter from being issued such license or permit.

There has been a problem in some communities where licensing authorities have created their own applications with additional requirements not specified by statute including character reference letters, doctor’s notes, and similar requirements. This should be addressed in this section using wording such as:

“(a) The application for any license or permit issued under sections 124 to 125B, inclusive, shall be made in a standard form provided by the commissioner of the department of criminal justice information services, which shall require the applicant, or parent or guardian of a minor, to affirmatively state, under the pains and penalties of perjury, that they are not disqualified on any of the grounds enumerated in section 123 of this chapter from being issued such license or permit.” The licensing authority shall not add any requirements to the application not listed on the standard application form or otherwise specified in this chapter.

(b) A licensing authority, shall record in books, forms or electronic files kept for that purpose on the business premises, and on an electronic portal provided by the department, when produced or received, all: (i) firearms licensing applications, receipts, fees, affidavits and training certificates; (ii) issued licenses and permits, and denials, revocations and suspensions of the same; (iii) decisions of the firearm licensing review board; and (iv) firearm transfers including deliveries, seizures, surrenders, loss or theft or disposals. The department shall ensure automatic notification to the licensing authority of the existence of any disqualifying condition discovered or occurring subsequent to the issuance of said license or permit.

This is very confusing. There are no books for the licensing authority to record anything on. But if you are going to have record keeping mentioned in the statute, maybe it should allow the PD to maintain the application on an electronic file rather than file folders for every applicant. It might help also to mention that only the most recent application need be maintained.

Sec. 48 Registration of firearms and feeding devices.

(a) All firearms and feeding devices possessed in the commonwealth must be registered

in accordance with this section.

Big Problem. **How does one register a feeding device?** They do not come with serial numbers. Some have no manufacturer's identification. This doesn't even specify large capacity; it says all feeding devices. I'm assuming most gun owners are like me and have no idea where or when they acquired their feeding devices. Plus if the feeding device came with the gun, do I register it separately? I get the intent to register all firearms, which is what we do now for MA residents. The only change in that regard is requiring new residents to register. I'm assuming people who have guns now not registered could do so without penalty. But every mention of feeding devices should be deleted from this section. I don't even need a license to own a non-large capacity feeding device (at this moment) so why should it be registered?

*(c) Any sale, rental, lease, loan, surrender, disposal, or other transfer of a firearm or feeding device within the commonwealth must be reported via a real time electronic system, developed and maintained by the department of criminal justice information services within 7 days of sale, rental, lease, surrender, disposal or transfer; provided, however, **that no report is required for a loan of a firearm or feeding device to a duly licensed or exempted person for a period of less than 7 days.***

Under the current chapter 140, section 129D, a person whose LTC/FID was suspended could (except for a 209A) request the guns be transferred to another licensee and the PD was required to facilitate that transfer. There has been debate for over 20 years as to whether that transfer of possession (not ownership) required a formal transfer (old FA10 or current web portal). I've maintained no formal state paperwork was required because ownership was not transferred. This bill puts a cap of 7 days on that belief. That means that virtually everyone who transfers their guns after suspension will be required to transfer them on the state's web portal. The problem is that they are prohibited by law from transferring more than 4 guns a year without being a dealer. That means every suspended person with more than 4 guns to transfer has to go through a dealer (and pay) instead of doing the transfer with another licensee as the law currently allows under section 129D. You could make this work, even for the suspended people, but I would use something other than 7 days. Maybe 90 days to either get their license back or make other permanent arrangements.

Section 49 Serialization

*(a) All firearms and **feeding devices** manufactured, assembled, possessed, purchased or*

otherwise transferred or acquired in the commonwealth or imported into the commonwealth shall be serialized as defined in section 121 and in accordance with this section.

The idea of serializing feeding devices is ludicrous. Even during the federal large capacity feeding device ban they were not individually serialized. This would ultimately stop the import into MA of all feeding devices, including non-large capacity feeding devices, and potentially stop the import of any semiautomatic pistol that contains a feeding device. Remove mention of feeding devices! Paragraph (b) – same thing.

Section 53.

Prohibited persons. Long Gun Suitability

It mentions the requirement of a court petition as does the current law, but it does not say the suspension or denial is effective immediately which is also the current law. The final court disposition could take months. A suspension or denial for a long gun permit should take effect immediately pending the court's final decision.

Firearms licensing; fees; renewals; expiration; penalty

Paragraph (g). Civil fine for expired license. This has been an issue since 1998. You cannot get a civil fine on a criminal complaint in district court which means this section is and always has been unenforceable. So if a person knows he is not eligible for a license, he doesn't apply. If not denied or suspended, he cannot be charged with a 269.10 violation. He can only be charged with a civil fine that the PD cannot get into court. Either a mechanism for dealing with civil fines in district court needs to be added (similar to Chapter 90) or remove the words "civil fine" and make it a misdemeanor with a \$100-\$5000 penalty.

Surrender of firearms

The licensing authority will be required to notify DCJIS of the surrender of firearms, feeding devices and ammunition. The web portal is going to report back that the firearms and feeding device are serialized. This could be a significant workload in a case of a surrender for a suspended license even when no crime was involved. It doesn't make a lot of sense unless the information was needed for some purpose. But even then, feeding devices and ammunition reported on the portal? Plus the PD has to notify the AG for refusal to surrender. Is the AG going to take some type of enforcement action separate from the PD? Don't make extra work for the police that serves no purpose.

Temporary license to carry; permit to purchase firearms.

(d) The colonel may permit a licensee under this section to possess a large capacity firearm, and large capacity feeding device; provided, however, that this entitlement shall be clearly indicated on the license and conform with the requirements of section 128B.

This is language from the current law. FRB has never had that wording on a nonresident LTC. If it's not going to be done, the paragraph should be deleted.

Sec 55. License to sell firearms; records; sales and deliveries; punishment.

being presented with an expired, suspended or revoked license or permit said

licensee shall: (i) notify the department of criminal justice information services as prescribed below; 1170 (ii) take possession of such card or license and immediately forward the same to the local licensing authority;

The provision regarding a dealer confiscating an expired license is in the current law. It is dangerous for the dealer, and it has likely been complied with few times (if any) since written into the law in 1998. The above highlighted section should be deleted for the safety of the dealers. Make a report maybe, but do not confiscate their customer's license.

License to sell firearms; records; sales and deliveries.

*(c) The licensee shall make and keep a **sales record book** furnished by the commissioner*

of the department of criminal justice services and said book shall be open at all times to the

inspection of the police. Before transfer or delivery of any sold, rented, leased or otherwise transferred firearm or feeding device or ammunition, a legible entry in a sales record book must

be made and kept specifying:

This is the current language. FRB says there is no "book" and that the FA10 forms and MIRCS takes the place of a book. Municipal or State police do not have access to the federal bound book (which is now often on computer anyway). It is accessible only to ATF. This needs to be re-worded to reduce confusion during dealer inspections. What can the inspecting officer actually look at for records? If by "book" you mean FA10's or MIRCS computer records, the law should state that is what police have access to and not a book that does not exist.

(c) The licensee shall make and keep a sales record book furnished by the commissioner

of the department of criminal justice services and said book shall be open at all times to the inspection of the police. Before transfer or delivery of any sold, rented, leased or otherwise transferred firearm or feeding device or ammunition, a legible entry in a sales record book must be made and kept specifying:

*(i) the complete description of the firearm, **feeding device and ammunition**, including the make, serial number, type of firearm and designation as a large capacity firearm, if applicable; (ii) whether the firearm, feeding device or ammunition has been sold, rented or leased and the date of such transaction;*

Dealers would have to record the sale of every feeding device including no large capacity feeding devices including those feeding devices that came with the semiautomatic pistol being sold AND would have to record the sales of all ammunition. Makes little sense.

*(i) The department of **state police** shall enter, up to 1 time per calendar year, during regular business hours, the business premises of any licensee, and make inquiries and inspect the*

licensee's records, inventory, policies and procedures for the purpose of enforcing the provisions of the General Laws.

The local licensing authority still has to license dealers, but the state police will do the annual inspection to make sure they are in compliance with the law. Seems like the local license authority should either do the inspections, or the state should take over licensing of the dealers. It makes little sense to have two different law enforcement agencies responsible for state dealer licensing and compliance.

Club licenses; sale of ammunition; large capacity firearms

I'm not aware of anyone getting a club license since 1998. The reason is the prohibition on shooting at certain targets which clubs have determined include practical pistol shooting targets. This whole club section should be deleted. If a section is not going to be used, there is no sense confusing people.

License to sell firearms; transfers restricted to firearm wholesalers.

Dealer conditions regarding handgun testing, rosters, etc.

(f) This section shall not apply to (i) a firearm lawfully owned or possessed under a license issued under this chapter on or before October 21, 1998; (ii) a stun gun as defined in section 121; or (iii) a firearm designated by the secretary of public safety, with the advice of the firearm control advisory board, established pursuant to section 128, as a firearm solely designed and sold for formal target shooting competition or for Olympic shooting competition and listed on the rosters therefor.

Since it exempts guns on the Formal Target Shooting Roster and Olympic shooting Roster, it would make sense to add the Approved Firearms Roster to the statutory language so guns already on the current roster will not need to be re-tested. And as a way to put a stop to 20+ years of confusion between the EOPS rosters and AG consumer protection regulations there should be some statutory language to the effect of:

"Any firearm listed on the Approved Firearms Roster, the Formal Target Shooting Roster, or the Olympic Shooting Roster shall be deemed to have met all requirements for retail sale by a licensee."

Sec 56. Basic firearms safety certificate

EXEMPTION: *Persons lawfully possessing a firearm identification card or license to carry firearms on June 1, 1998, shall be exempt from the provisions of this section upon expiration of such card or license and when applying for licensure as required under this chapter.*

This is the language from current law. It should be changed to say,

"Persons lawfully possessing a firearms identification card or license to carry firearms on the effective date of this act shall be exempt from the provisions of this section upon expiration of such card or license and when applying for licensure under this chapter."

RENEWALS: There has also been an intermittent problem over the years with some licensing authorities requiring safety certificates for renewals. We tried to clear that up with a CMR but it still occurs so should be addressed in this section. The following might help.

"Applicants who are renewing a firearms license or permit issued under this chapter shall not be required to submit a basic firearms safety certificate with their application."

To further help clarify that safety certificates are not required for renewals, the following language should be changed.

Local licensing authorities shall require a copy of such certificate to be provided concurrently with an application for a firearms license or permit and may make inquiry to the department of

criminal justice information services to confirm the issuance to the applicant of a basic firearms safety certificate.

“Local licensing authorities shall require a copy of such certificate to be provided concurrently with a first application for a firearms license or permit and may make inquiry to the department of criminal justice information services to confirm the issuance to the applicant of a basic firearms safety certificate. No safety certificate shall be required for renewals.”

LAW ENFORCEMENT AND MILITARY EXEMPTION: The **exemption** in the current law has always been unclear and has caused problems for police. This bill uses the same language.

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

It always seemed police were only exempt if acting within the scope of their duties for which they didn't need an LTC in the first place. This is why the MPTC recruit firearms course is listed as an Approved BFS course. This rewording would help the police as well as keep the current military exemption which seems to be missing from this bill.

“provided, however, that the provisions of this section shall not apply to a current member of the United States Military or the Massachusetts National Guard, or any LEOSA qualified law enforcement officer who is not prohibited under this chapter from owning a firearm.”

TRAINING CRITERIA

(a) the safe use, handling and storage of firearms; (b) methods for securing and childproofing firearms; (c) the applicable laws relating to the possession, transportation and storage of firearms; (d) knowledge of operation, potential dangers and basic competency in the ownership and use of firearms; (e) injury prevention and harm reduction education; (f) active shooter and emergency response training; (g) applicable laws relating to the use of force; (h) de-escalation and disengagement tactics; and (i) live firearms training.

While I understand the desire to have a live-fire requirement, and include a suicide prevention component, should a **basic** firearms safety instructor be teaching active shooter, emergency response, use of force and de-escalation? These are not things generally taught even at the instructor level for non-law enforcement instructors. And I'm not sure every sportsman or hunter (or minor who wants a long gun permit) wants, needs, or even should have this advanced training. Responding to an active shooter is far more than *basic safety training*. I recommend deleting those additional sections I have underlined.

Training; local licensing authorities and firearms dealers

(a) Licensing authorities shall participate in training seminars as prescribed by the executive office of public safety and security which are not limited to but may provide instruction on (i) current laws, regulations and rules relating to this chapter; (ii) licensing responsibilities; (iii) record keeping obligations; (iv) firearm surrender, registration and tracing; and (v) electronic database use. Regulations prescribed by the executive office of public safety and security shall include penalties for non-compliance which may include review by the Massachusetts Peace Officers Standards and Training (POST) Commission.

This section is confusing. Licensing authorities have to participate. Just the chief or anyone doing licensing? Just once or annually? Having provided this training for 23 years, I can state that getting someone from most departments once or even twice a year has never been a problem. The problem has always been when the attendee goes back to the PD and is prevented by the chief from making the changes necessary to comply with the law, or desires to make up his or her own additional requirements. Going to the training and applying what was taught are clearly two different things and cannot be addressed by requiring training.

If this requirement remains, I just recommend that *as prescribed by the executive office of public safety and security* be either understood or further clarified to NOT limit the training provider to MPTC or FRB. Any training provider that teaches the curriculum listed in the statute or subsequently required by EOPS should be allowed to provide such training.

Firearm transport; vehicles; exceptions; punishment

(b) No person shall possess a large capacity firearm or machine gun under a license or permit issued under sections 124 to 125B, inclusive, or through an exemption under sections 127 or 127A, in a vehicle unless it is unloaded and secured in a locked container. Whoever violates this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000.

Big problem here. The current law requires you to store a large capacity rifle or shotgun unloaded in a secured and locked container or the locked trunk of the vehicle. This bill says that is required of all large capacity firearms. A large capacity firearm could be a semiautomatic handgun carried for personal protection that has a non large capacity feeding device but is capable of accepting a large capacity feeding device. That would require people to have certain handguns unloaded and in a locked container which eliminates their use for personal protection. There are many handguns listed on the EOPS Approved Firearms Roster that are capable of accepting LC feeding devices which make them large capacity firearms and would require those handguns to be unloaded and locked in a secure container while in a vehicle.

In addition, the “locked truck” provision was eliminated in the bill. A locked trunk is more secure than many commercially available “locked containers.” Please change the wording to large capacity rifles and shotguns and include locked trunks as an option.

WHEN DOES THIS SECTION APPLY?

There has been debate, and court cases surrounding when this section regarding “transport in vehicles” applies. Wording should be added to clarify that it applies when the firearm owner, or any occupants are within the vehicle. When the vehicle is unoccupied, the standard “secure storage” statute should apply and not this “transport” statute. Wording should be added to clarify that issue.

Exemptions from Licensing

(iv) a person in the presence of a holder of a license to carry for firearms or long gun permit for common long guns for the purpose of examination, trial or instruction.

The current law exempts a person for the temporary holding of a firearm, rifle or shotgun for trial or instruction. This new exemption only exempts a person for instruction if they are holding a “common long gun”. **How does a person complete a basic firearms safety course if they cannot legally handle a handgun for instruction?**

Non-resident Exemptions

(d) Police officers and other peace officers of any state, territory or jurisdiction within the United States duly authorized to possess firearms by the laws thereof shall, for the purposes of this section, be deemed to have a permit or license to carry non large capacity firearms as described in this section.

This means that nonresident police officers cannot carry their standard service pistol if it could be considered large capacity. While not exempt under this section, it is unclear if they would still be allowed to carry a large capacity firearm under LEOSA. The non-large capacity restriction should be removed from this section. If the concern is nonresident officers with assault rifles, then specify assault rifles for nonresident officers are not authorized under this section.

Firearm purchases, sales or transfers by non-dealers; reporting

- Sales to people with a Permit to Purchase should only be authorized to dealers not individuals.

(c) An heir or legatee upon the death of the firearm owner, a person in the military, police officers and other peace officers, a veteran’s organization and historical society, museums and institutional collections open to the public may:

(i) sell or transfer firearms, feeding devices, and ammunition therefor, to a federally licensed firearms dealer, or a federal, state or local historical society, museum or institutional collection open to the public; and may:

(ii) sell or transfer no more than 4 firearms with feeding device and ammunition therefor per calendar year to: (A) a person with a license to carry under section 124; (B) a person with a permit to purchase under section 124B; (C) an exempted person under section 127 or 127A; or (D) to a person with a long gun permit under section 124; provided, however, that for transfers and purchases of firearms that are not common long guns, the transferee must also have a valid

permit to purchase under section 124B.

I think this may be a clerical error. If not, it does not make sense. Not sure why the military or police would need special statutory authority to sell to an FFL. Not sure what the intent is here but it is a problem as written.

Sec 59 Rosters

- Why does it mention feeding devices in the roster language? There is no roster for feeding devices.
- Since there will be an AG designee on the new Board, if unable to otherwise eliminate the confusion with conflict between the AGs CMR and the statutory roster requirement, I recommend writing something in this section that requires the AGs designee to determine which firearms on the roster meet the AGs requirements.

Sec 173 Prohibited Area

(2)(iv) any private property, including but not limited to residential, commercial, industrial,

*agricultural, institutional or undeveloped property, unless the owner has provided express consent or **has posted a sign indicating that it is permissible to carry on the premises a firearm with a valid and lawfully issued firearm license or permit under Chapter 140;***

(3) A law enforcement officer may arrest without a warrant and detain a person found in violation of this section.

So, a resident lawfully carrying with a license or any qualified off-duty officer carrying under LEOSA walks into a business that does not have a sign saying they CAN carry is subject to arrest? Whether or not this stands constitutional challenge, this is a major headache for law enforcement that must respond to these cases – especially if and when “open carry” becomes more common and reports to police of persons with guns becomes more frequent. While most of the prohibited areas are not new and are at least understood, this new provision will be a major problem area.

Sec 213 Discharge within 500’ of building (269.12E)

This section shall not apply to a dwelling or building on the same property as (a) persons using underground or indoor target or test ranges with the consent of the owner or legal occupant thereof; (b) persons using outdoor skeet, trap, target or test ranges with the consent of the owner or legal occupant of the land on which the range is established;

This is the current language, and I’m not sure there is an easy fix, but it is a frequent problem in some parts of the state where a neighbor is shooting in his back yard within 500’ of a neighbor’s home. The aggrieved neighbor calls the police out of safety concerns. The shooter claims this exemption because he has a “range” in his back yard. There is no requirement regarding what constitutes a “range” or what is a safe distance from another’s home. There are numerous cases that police have responded to where a person was shooting into a pile of dirt in the back yard and calling it a range (within 500’ of a neighbor).

Conclusion:

With the current trend nation-wide in violence by individuals utilizing firearms, it is understandable that legislators want to look closely at Massachusetts Firearms Laws. As Law Enforcement Leaders and Agencies, so do we, and we have been looking, every day in the course of our duties. As the “Boots on the Ground” in response to crime, and efforts to both prevent, solve, and analyze it, Law Enforcement personnel know what works, and what does not work. It is imperative that Law Enforcement personnel and Agencies are included as integral, equal partners in any governmental, legislative, or societal steps and plans regarding this subject. This Bill was a surprise to all Chiefs and Police Officers who have read it. It appears to be a “hot button” for both Law Enforcement personnel and legally licensed firearms owners.

Legislators have an opportunity to partner with Law Enforcement, legally licensed firearms owners, Gun Rights and Sportsman Groups, the Firearms Industry, retail, service, training, and manufacturing groups, as well as the mental health field to take a closer look at the Massachusetts Firearms Law, together.

Massachusetts currently has some of the strongest Firearms Laws in the country. We are often considered a “model” State nationally for many of our Laws. We also have some Firearms Laws that need work. Particularly in the areas of clarification, modernization, and simplification. Rather than disassemble the entire system, as this Bill attempts to do, it is more prudent to keep the good Laws we have and review, fix those parts that need it, and add meaningful, practical new sections when needed.

Any new firearms legislation must be fair, practical, constitutional, and enforceable. This Bill is problematic in those categories.

An everyday common term used in the media and by both Government and Civilian officials is “GUN VIOLENCE.” The “gun” is always blamed in any horrific act. We lose sight of the fact the “gun” is the tool of the person who committed the violent crime. This Bill does little to address THAT PERSON, and focuses on the “gun,” and in many cases the legally licensed citizens that own, possess, sell, manufacture, and carry firearms. The overwhelming number of these persons and entities have never, and will never, commit a crime. This Bill focuses on the above group. This focus will be the duty of Law Enforcement to direct attention to, and divert time, resources, funding, staff, and support agencies away from combatting true crime and criminals because THEY are the ones responsible for the violent trend.

We know through statistics that most violent crime is committed by a 10% segment of individuals. Of this segment, the majority are repeat offenders. This group is marginally mentioned in this Bill. Most do not have legally licensed firearms, or Firearms permits. We also know that many individuals, including mass shooters, who use a firearm in the commission of a crime suffer from mental health issues. We already have a start with addressing this issue with our current Red Flag Law, and this Bill does in fact touch upon that. Any new legislation should focus on career criminals and violent repeat offenders, with solid, enforced penalties and funding sources for Law Enforcement and the Criminal Justice / Corrections System. Additional focus should be directed towards persons with mental health issues who are at risk to commit a violent crime. Partnerships with the healthcare and Human Services Fields are critical.

Regarding Firearms Safety, Massachusetts is consistently ranked among the lowest states for firearms accidents. In 2021, there were 0 reported firearms accidental deaths. The yearly rate in MA averages at

two (2) per year. This demonstrates that our current Firearms Safety Laws, to include safe storage and safety training ARE working. While an addition of a live fire component is ideal, it is impractical at this time.

Due to the encroachment of land development on existing firearms ranges, and the soaring Massachusetts real estate market, firing range space and availability in the State are at a critical shortage. Even Law Enforcement Agencies must limit at times, or postpone In-Service Range Training for Police Officers due to lack of available facilities. Mandatory live-fire training would grind the firearms licensing process to a halt. The infrastructure to support it simply does not exist within the Commonwealth.

We applaud the crafters of this Bill for their zeal in attempting to do something about the trend of violence we are seeing by persons illegally using firearms. We know their intentions are good. Their goals noble. However, the scope of HD 4420 is so widespread and far reaching that many of the proposed sections simply cannot be accomplished, or in many cases, enforced. We need to focus on legislation, cooperatively developed by the noted key players, that will truly have a real-world impact on those who use firearms to commit crimes and acts of violence. After considerable review, we find that HD 4420 is too problematic as written to realistically accomplish this goal at this time.

Recommendation:

It is strongly recommended that the Massachusetts Chiefs of Police Association **NOT** Support HD 4420 as written.

Respectfully,

Chief Vincent C. Alfano (Ret.)
Chair
Massachusetts Chiefs of Police Association
Firearms Committee