

HOUSE.....No. 47

Presented by: Deval Patrick, Governor

Comments:

A. Magazine Capacity Limitations

1. “[I]t is not clear how often the outcomes of gun attacks depend on the ability of offenders to fire more than ten shots (the current magazine capacity limit) without reloading.”
Source: An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003 Report to the National Institute of Justice, United States Department of Justice: Koper, Christopher S.
2. In 1999, five years into the Federal Assault Weapons Ban, the Columbine High School massacre occurred. One of the perpetrators, Eric Harris, was armed with a ban-compliant, semi-auto Hi-Point 995. Undeterred by the ten-round capacity of his magazines, Harris simply brought more of them: thirteen magazines would be found in the massacre's aftermath. Harris fired 96 rounds before killing himself. If limited to 7 round magazines, he would have just needed to carry one more, for a total of 14.
3. In the horrific Newtown, CT massacre, Adam Lanza fired 150 rounds in the 20 minutes before police arrived, which is 7.5 shots per minute—or about twice the rate of the training standard for militiamen in the Revolutionary War. In short, he could have been using almost any firearm made in the last 150 years and maintained that pace. Moreover, several of the magazines he used were discarded without being empty, so the ultimate capacity seemed not to be important in any event.
4. Hand guns are used for personal defense by law abiding citizens. In a home invasion, the difference between the design capacity of most semi-auto handguns (the preferred type) of 13-15 rounds and the proposed 7 round limit could be the difference between life and death if multiple assailants are involved. The current 10 round restriction poses a similar, but not as severe a risk.

According to the Dept. of Justice 2008 Study Personal Crimes of Violence (Table 48), there were 896,080 multiple-offender victimizations in the country, implying that somewhere in the U.S. everyday there are almost 2,500 incidents where a victim is accosted by multiple offenders. Earlier, during the 1980's, law-enforcement entities recognized this trend as they converted the carry firearms of agents and officers from six-shot revolvers to seventeen-shot standard capacity semi-automatic pistols. Nowadays, the only small capacity firearms carried by law enforcement officers are referred to a “back-up guns” with the implication that if that gun is needed then all primary protective measures have failed and the situation is dire in the extreme. (The reason some officers refer to small-capacity back-up guns as “Alamo guns” is self-evident.) No highly-trained individual would willingly choose to outfit himself with a limited-

capacity defensive weapon as the primary line of defense. (Of note, according to the very detailed 2011 NYPD firearms discharge report, 30% of the time, when officers shot dogs they fired two shots or more, and 2% of the time, six shots were fired. Coincidentally, 30% of the time NYPD officers subdued individual human assailants; six or more shots were discharged.)

Recently, we in New England have witnessed home invasions by multiple offenders with horrific results. In one, a Connecticut doctor's family was raped and murdered and in a nearby New Hampshire town, four assailants butchered a mother to death and mutilated her school-age daughter. Most recently, four assailants in upstate New York invaded a home and killed both occupants. While a seven-shot magazine would be helpful in a situation like these, it would hardly be conclusive—which is exactly the level of protection a law-abiding homeowner wants in an *extremis* situation.

5. MA law, *among the three toughest in the USA*, already restricts newly purchased, semi- auto handguns to a maximum of 10 rounds. Further restriction to seven rounds will not reduce gun violence because criminals do not comply with capacity restrictions in effect now and will not do so in the future.

There is no overall data available on the capacity of magazines gathered by any Massachusetts or New England law enforcement agency when handguns are collected during arrests or found at crime scenes; Hence, we have no idea whatsoever of any correlation between magazine size and criminal activity.

The only data extant, according to a Washington Post report in 1/23/11 was collected by Virginia and it suggested that 22% of the handguns seized by police in crimes had high-capacity magazines and that that percent had grown since the 2004 expiration of the federal assault weapons ban, which restricted magazines with capacity of 11 or larger. Since this data is isolated and frustratingly incomplete, its usefulness is limited. One potential conclusion could be that since 78% of the handguns seized had reduced-capacity magazines, criminals were not arming themselves with current handguns with large-capacity magazines which were legally sold with virtually every semi-automatic handgun in Virginia, North Carolina, Pennsylvania and other of Virginia's neighbors after the 2004 expiration of the federal assault weapons ban. This further suggests that the criminals were not acquiring these guns from straw purchasers, who often buy several guns at once for illicit resale to criminals. If they were, those guns would have come from the factory with high capacity magazines. (I mention this partly because HB 47, HB 3253, SB 1116 and SB 1120 would limit gun purchases by vetted and approved lawful buyers in Massachusetts to one per month, ostensibly to combat straw purchasing—which is another restriction that cannot be supported by the current facts about this sort of crime in our state.)

6. Requiring lawful gun owners to carefully count rounds in order to stay within a capricious charge limit of 7 rounds in a 10 round magazine adds another distraction to the owner's gun handling protocol and thereby could interfere with good safety practices.

7. Many lawfully armed citizens carry a semi-auto pistol without a round in the chamber as an added safety precaution (one that we endorse). A limit of 7 rounds in the magazine will have a number of lawful owners rethinking their position on this protocol and carrying with “one up the pipe” to offset the diminished magazine capacity. This does not further gun safety.
8. An innocent failure to count correctly could expose the gun owner to criminal sanctions way out of proportion to the risk to society.

Recommendation:

1. Leave the existing large capacity magazine restrictions as they presently exist in MA statutes, Chapter 140 section 121. With no further reduction in capacity. Help the innocent, responsible gun owner protect herself/himself.
2. Continue the provision that magazines with greater than 10 rounds may be lawfully possessed if they were lawfully possessed (manufactured) prior to September 13 1994.

B. Purchase Limitations

1. The proposed legislation assumes that the source of straw purchased guns are bulk transactions in which individuals who are able to pass a background check and duly licensed by the Commonwealth, visit dealers, purchase quantities of guns and conduct brisk commerce from the trunk of their automobiles. The fact of the matter is that straw purchases are mostly consummated one gun at a time by persons known to one another (friends, relatives). Commercial scale transactions of the type the legislation envisions are possible only if the spread between buy price from the dealer and street sell price to the criminal purchaser is sufficient to make such transactions lucrative and worth the risk. Anecdotal evidence suggests that such is not the case likely because the street price is discounted by the presence of quantities of stolen firearms whose buy price to the criminal seller was zero.
2. A compromise position might be to restrict annual purchases of firearms only (not magazines) to 15 per year as proposed in SR1116, although we doubt that this restriction is needed.
3. The use of the language “rent or lease” suggests that a person who goes to a firing range and rents a firearm for use on the premises would be able to do so only one time per month. Firearms are not typically rented for extended off- premises uses like cars or televisions.
4. The inclusion of high capacity magazines is unenforceable as long as these devices can be purchased out of state with no identification or record keeping whatsoever.
5. The entire purchase limit scheme will add significant administrative costs, especially if high capacity magazines are included, without demonstrable benefits at a time when the state’s

budget is under pressure.

6. Massachusetts is home to several successful gun manufacturers and dozens of gun shops who together employ thousands of tax paying voters who are all engaged in selling legal products to legitimate purchasers whose livelihoods could be endangered by capricious sales limits.

Recommendation:

Any bill proposing a monthly or equivalent period quantity limitation on the purchase, rental or lease of firearms or high capacity magazines should be amended to remove such requirement.

C. Dealer Involvement in All transfers

1. The proposed legislation involves more cost to the transferring parties, requires a trip to a dealer's premises for a transaction that is a nuisance to the dealer with no improvement over the current computerized system.
2. The use of the language "rent or lease" suggests that a person who goes to a firing range and rents a firearm for use on the premises would be able to do so only one time per month. Firearms are not typically rented for extended off-premises uses like cars or televisions.
3. The inclusion of high capacity magazines is unenforceable as long as these devices can be purchased out of state with no identification or record keeping whatsoever.
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Recommendation:

Any bill proposing a monthly or equivalent period quantity limitation on the purchase, rental or lease of firearms or high capacity magazines should be amended to remove such requirement.

D. Machine Guns

The bill contains language that prohibits the "holding, handling or firing of a machine gun by any person other than a person licensed to possess a machine gun" This provision is arbitrary and capricious and should be amended to allow a person to undertake all of these acts if in the presence of and under the supervision of the license holder and said person is over 18 years of age.

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HOUSE.....No. 3235

Presented by: Representative Christine Canavan

Comments:

This bill is a well-crafted piece of legislation that targets a major source of illegal guns and should be enacted.

HOUSE.....No. 3236

Presented by: Representative Antonio F.D. Cabral

Comments:

1. 18 U.S.C. Section 922 Appendix A contains a comprehensive list of firearms that were excluded from the Federal Assault weapons ban. MA has adopted the language of the Federal ban including this list of excluded firearms. The proposed legislation would in essence *ban all rifles* both rim fire and center fire, semi auto as well as bolt action, lever action, single shot and pump action leaving shotguns as the only long firearms available for unrestricted legal ownership by MA residents. This is an unreasonable proposal and likely unconstitutional. It must not pass

HOUSE.....No. 3250

Presented by: Representative Russell Holmes et al

Comments:

A. Gun Registration

1. This legislation creates another level of expensive bureaucratic involvement in gun control with no evidence that it will reduce gun violence in the Commonwealth. In this respect the Canadian gun registration program is instructive. Beginning in 1998, Canadians were required to register their long guns with the government. The gun registry quickly rose to 600 employees and consumed \$2 billion in trying to register the country's firearms. In 2011, after discovering that few if any homicides were solved based on the data from the gun registry, the government abandoned the effort to register long guns.
2. This scheme will burden law-abiding citizens only since criminals will not comply with registration requirements. Law enforcement gains no actionable information with which to prevent criminal activity or solve crimes from a gun registry. If a gun is used in the commission of a crime the only data to be gleaned from a gun registry is exactly that already available through ATF; the name and address of the first buyer. If the gun is stolen, the registry is useless. If a gun is purchased in MA, the Commonwealth already has the information, whether the purchase is from an FFL (e.g., gun store) or from a private party where such sales are filed with the MA Firearms Record Bureau.
3. Some argue that registration will force gun owners to be more responsible in how they store guns to avoid having them stolen and having to explain the circumstances of the theft. HB 3250 contains a mandatory reporting requirement for stolen guns with stiff penalties for non-compliance. C. 140 § 131L makes it a felony to store large capacity firearms improperly with penalties up to 10 years in prison. The said provision in HR 3250 should be enacted and existing laws strictly enforced thus obviating the need for registration.
4. SB 1116 calls for sharing private transfer data with federal authorities. Despite the statutory bar in 18 U.S.C. 926 (a) prohibiting ATF from establishing a national gun registry, such registry is well under way at ATF with more than 100 million registration records in a searchable data base. These records list the name and address of the first purchaser of a firearm or the name and address of a subsequent purchaser if the firearm was sold through a dealer. Through the e-Trace system, ATF has helpfully made this data base and search software available to more than 30 countries including such bastions of ethical government and human rights as Mexico, El Salvador and Columbia. It's chilling to think that Mexican police can discover the names and addresses of lawful US gun owners without a legitimate purpose or application to US authorities. MA should not participate in this system.
5. As gun registration schemes proliferate beyond the current MA Firearms Record Bureau, so does the possibility of inadvertent or malicious disclosure of gun owners' names, addresses and their firearms inventories. Such disclosures can have grave consequences including home

invasion, dismissal from employment, social ostracism and denial of commercial credit, the latter three on misguided ideological grounds.

6. Gun owners often perceive gun registration as a prelude to gun confiscation. While this view may be unduly alarmist, there is ample historical precedent for such concern; Germany under the Nazis, England and Australia all pushed for national registration and then followed with confiscation. In the US, one only has to recall the appalling scenes in New Orleans in the aftermath of hurricane Katrina with National Guardsmen going door to door to confiscate legally owned firearms. Fear of registration as a precursor to confiscation is one of the major causes of breakdown in communication between those who favor effective gun control legislation and gun owners' advocacy groups.
7. As one of America's "Liberal Lions," Hubert Humphrey, once said: "Certainly one of the chief guarantees of freedom under any government, no matter how popular and respected, is the right of citizens to keep and bear arms. This is not to say that firearms should not be very carefully used and that definite safety rules of precaution should not be taught and enforced. But the right of citizens to bear arms is just one more guarantee against arbitrary government, one more safeguard against a tyranny which now appears remote in America, but which historically has proved to be always possible." Sen. Hubert Humphrey's statement, Know Your Lawmakers, Guns, Feb. 1960, p. 4 (1960):

Recommendation:

Gun registration should not be passed into law in any form in the Commonwealth.

B. Liability Insurance

1. This legislation would require gun owners to purchase insurance for risks normally covered by homeowners or renters liability policies. These policies pay out when a person is injured by some unintentional or even arguably negligent act of the policy holder, such as the discharge of a firearm, whether the insured used his own gun or another's in an incident.
2. Criminal acts by the policy holders of these types of insurance are never covered. Moreover, criminals would not comply with the dictum to purchase liability insurance and, if they were to do so, their criminal actions would not result in a payout to the victim.
3. Insurance sources state that no underwriter would likely provide coverage if the conditions included the language "*without regard to negligence or gross negligence or fault of any kind*". Moreover, these same sources indicated that most insurance companies would not be interested in providing this type of coverage anyway.
4. Establishing mandatory firearms insurance program would require that the state expend additional administrative costs to manage the program at a time when the Commonwealth faces budgetary pressures. Clearly, the expense of such administrative oversight is not justified by the benefits.

5. The requirement to purchase insurance raises the cost of firearms ownership. This increased cost disproportionately affects law abiding citizens of modest means, elderly, retired and minorities who have a greater need for firearms for self-defense. Therefore such a requirement is discriminatory and racist.
6. The requirement for the insured to declare all lawfully owned firearms is merely gun registration by a different name. We believe that mandatory gun registration serves no purpose in the reduction of gun violence or as an aid to criminal investigation (see Canada's experience) and has historically been a prelude to confiscation. Moreover, one insurance source revealed that they would not require such an inventory or wish be in receipt of it unless it was for property insurance purposes.
7. Generating a data base of lawfully owned firearms by insurers would place highly sensitive information in the files of the private sector with an increased risk of inadvertent or deliberate malicious disclosure. Such disclosure then puts the policy holder at risk for theft of his/her firearms. In addition, insurance companies routinely share information about policy holders through centralized databases. It's conceivable that an individual's firearms inventory could become part of these shared files and used for purposes well beyond liability policy underwriting. Underwriters may arbitrarily conclude that an increased premium on life or medical insurance is justified because the insured owns firearms.
8. Even if the proposed insurance were judged to be of benefit (which it is not), that benefit could be realized without an invasive inventory of all lawfully owned firearms.

Recommendation:

1. The requirement to purchase specialized liability insurance serves no purpose in reducing gun violence nor does it make the citizens of the Commonwealth safer. Gun safety is achieved by better quality of training for potential licensees. Some useful training concepts are embodied in HB3253.
2. Any bill proposing mandatory insurance should be amended to remove such requirement.

C. Microstamping

1. This legislation relies on unproven technology. CA has had a micro-stamping statute on the books since 2011 and has been unable to implement it because it is neither feasible nor practical. In addition, the owner of this patented technology is unwilling to license it on terms agreeable to the state. NY State also has side stepped micro-stamping in its budget for 2012 for similar reasons.
2. Micro stamping assumes that the firearm will reliably produce the requisite legend on the cartridge casing indefinitely. The breech facing and firing pin, when subjected to the friction

and high pressures (20,000-50,000psi) inherent in the firing of a gun, will change over time thus rendering the etchings thereon unusable.

3. Several independent tests have shown that micro-stamping devices can be removed with household abrasive tools and materials. In addition, firing pins are easily replaceable.
4. Criminals can easily defeat micro-stamping by merely removing their spent casings from the crime scene, investing \$25 for commercially available brass catchers or fashioning their own from a coat hanger and a plastic bag. Another option is to coat the primer cap with a bit of nail polish that won't impede the cartridge from firing but will render the micro-stamped image unreadable. Moreover, according to ATF, the most popular firearm used in violent crime is the .38 S&W revolver from which no casings are automatically ejected and which are not included in this proposed legislation.
5. The case for micro-stamping as a crime fighting tool relies on the assumption that once the serial number of the gun used in a crime is known, the gun can be traced to its owner and an arrest made. Unfortunately, according to DOJ statistics 15% of the guns used in crimes were purchased in a store with a resultant 4473 form on file allowing a direct trace. The remaining 85% were stolen. The fact is that knowing the serial number by its presence on the casing can only identify the *gun* that fired it and *not* the shooter.
6. One of the more dangerous aspects of micro-stamping is that criminals could impede an investigation by presenting the police with a "red herring". They need only collect spent casings from a firing range used by law abiding citizens and "salt" the crime scene with them. Such a maneuver would delay an investigation and in the worst cases, lead to the arrest and wrongful conviction of an innocent person.
7. The alternative method proposed in HB3250 that relies on comparing a casing retrieved at the crime scene against a specimen obtained when the gun is shipped from the manufacturer has also proved ineffective. Extractors and firing pins wear out and need periodic replacement. Maryland has had a "data base" of retained spent casings since 2009 and has never used it solve a crime.

Recommendation:

1. Micro-stamping provisions should be removed from legislative consideration as a tool for reducing gun violence.
2. The alternative method of identifying the gun by impressions left by the firing pin and the extractor should also be dropped from consideration as impractical.

D. Blood Alcohol Level

This bill contains language that specifies .08 weight percent as the threshold for intoxication while in possession of a firearm. This provision should be enacted.

E. Validity Periods for FID cards and LTCs

This bill proposes to reduce the validity period for FID cards and LTCs from 6 years to 2 years and from 6 years to 5 years respectively. This change accomplishes nothing in the reduction of gun violence, increases bureaucratic work load and likely will cost the State more in lost efficiencies than can be recovered in fees. Moreover, at present several municipalities have legal action pending against them for not being able to meet current new license and renewal demands in a timely fashion.

F. Sting Operation Targeting FFL's

This bill proposes to spend \$150,000 for sting operations to see if illegal purchases of firearms can be made from the States licensed FFLs. This is a waste of taxpayer money that would be better spent in hiring more law enforcement officers or prosecuting existing gun crimes.

HOUSE.....No. 3253

Presented by: Representative David Linsky

Comments:

A. Possession and Storage at Gun Clubs

1. The wholesale removal of lawfully owned, commonly used firearms from the possession of properly licensed individuals is tantamount to confiscation and will no doubt, if such legislation were passed, bring a court challenge on constitutional grounds.
2. Semi-automatic hand guns are the configuration most used for personal defense and recreation by law abiding citizens. The proposed legislation would remove all such firearms from the possession of license holders.
3. The legislation relies on the flawed assumption that individual gun clubs would be willing to assume the responsibility for the storage of thousands of member-owned firearms on club premises and could afford to make the significant financial investment to provide secure storage therefor.
4. This legislation assumes that the owners of these firearms are incapable of using and possessing them in a responsible way even though said owners are in possession of a Class A license having been carefully vetted by multiple agencies to obtain said license. Moreover, the legislation assumes that the license holders are unwilling to comply with C140 § 131L that requires secure storage to prevent unauthorized access. Violations under this statute involving large capacity firearms are felonies with sanctions of up to 10 years imprisonment.
5. The proposed legislation would create enormous aggregations of large capacity firearms in gun clubs. A club with a thousand members could easily require storage for 2000-4000 guns. Few if any of these premises are structurally sound enough to be used as armories. In addition, gun clubs are often located in remote areas, infrequently visited by police patrols and with prolonged police response times to an alarm (if such is installed) because of their remoteness. Stolen guns are used in a statistically significant number of violent crimes. Felons seeking to steal wholesale quantities of large capacity firearms need only to drive a heavy vehicle through the wall of a wooden frame club house and break into or drag the locked storage cabinets filled with members' guns away.
6. The legislation as drafted would have the perverse effect of leaving enormous quantities of large capacity firearms, concentrated in a few locations, less securely stored than in the widely distributed lockers and gun safes of responsible owners in their private homes. Such degradation in storage security makes it more likely that these firearms would end up in the hands of criminals.

Recommendation:

1. Expand and enforce the existing storage provisions of C140 § 131L. Such expansion could incorporate some of the language of H 3257
 - (a) (1) *“It shall be unlawful to store more than 5 firearms, rifles, shotguns, machine guns or any combination of such weapons unless such weapons are secured in a locked tamper resistant cabinet, safe or vault. It shall be unlawful to store more than 20 firearms, rifles, shotguns, machine guns or any combination of such weapons unless such weapons are secured in a locked safe or vault (Author’s language changes from proposed bill in italics.)”*
2. The concept of gun club storage of large capacity firearms is deeply flawed, tramples on gun owners’ rights and does nothing to reduce gun violence or to protect the citizens of the Commonwealth. On the contrary, it leaves only felons in possession of large capacity firearms and exposes the citizens to the risk of increased violence from thousands of easily stolen guns. Bills containing these provisions should not pass.

B. Class A and B Licenses, FID Cards

1. Contains language drawing a painful distinction between Class A and Class B Licenses. These are distinctions without a difference and only serve to muddy the licensing process water. Police Chiefs have generally taken the view that the application process should have a binary outcome: either the applicant is a suitable person to possess Class A license or no license should be issued. The Commonwealth should move to eliminate Class B Licenses.
2. Under the proposed legislation FID cards would become a “may issue” document instead of the current “shall issue”. Such a change represents a step backwards for rights of law abiding citizens.

C. Liability Insurance

1. This legislation would require gun owners to purchase insurance for risks normally covered by homeowners or renters liability policies. These policies pay out when a person is injured by some unintentional or even arguably negligent act of the policy holder, such as the discharge of a firearm, whether the insured used his own gun or another’s in an incident.
2. Criminal acts by the policy holders of these types of insurance are never covered. Moreover, criminals would not comply with the dictum to purchase liability insurance and, if they were to do so, their criminal actions would not result in a payout to the victim.
3. Insurance sources state that no underwriter would likely provide coverage if the conditions included the language *“without regard to negligence or gross negligence or fault of any kind”*. Moreover, these same sources indicated that most insurance companies would not be interested in providing this type of coverage anyway.

4. Establishing mandatory firearms insurance program would require that the state expend additional administrative costs to manage the program at a time when the Commonwealth faces budgetary pressures. Clearly, the expense of such administrative oversight is not justified by the benefits.
5. The requirement to purchase insurance raises the cost of firearms ownership. This increased cost disproportionately affects law abiding citizens of modest means, elderly, retired and minorities who have a greater need for firearms for self-defense. Therefore such a requirement is discriminatory and racist.

Recommendation:

1. The requirement to purchase specialized liability insurance serves no purpose in reducing gun violence nor does it make the citizens of the Commonwealth safer. Gun safety is achieved by better quality of training for potential licensees. Some useful training concepts are embodied in HB3253.
2. Any bill proposing mandatory insurance should be amended to remove such requirement.

D. Training

1. The bill provides for a significant increase in the amount of training necessary to obtain a basic firearms safety certificate. This initiative is positive but needs to be amended to remove the requirement that range training be conducted at a "licensed gun club".
2. The duration of the training (5 hours of live practice) and the number of rounds to be fired (50 rounds) are unduly prescriptive and say nothing about the competency of the student. A performance-based criteria such as specified in the NRA Basic Pistol Shooting Course: "successfully place three 5 shot groups within a 9 inch diameter circle from 15 feet away is a better approach.

E. Taxes

The proposed 25% tax on firearms, ammunition and parts is unenforceable. Purchasers will merely buy out of state to circumvent the tax. Moreover these kinds of punitive tax measures disproportionately affect minorities and less affluent gun owners and are therefore racist, discriminatory and confiscatory.

F. Purchase Limits

1. The proposed legislation assumes that the source of straw purchased guns are bulk transactions in which individuals who are able to pass a background check and duly licensed by the Commonwealth, visit dealers, purchase quantities of guns and conduct brisk commerce from the trunk of their automobiles. The fact of the matter is that straw purchases are mostly consummated one gun at a time by persons known to one another (friends, relatives). Commercial scale transactions of the type the legislation envisions are possible only if the spread between buy price from the dealer and street sell price to the criminal purchaser is

sufficient to make such transactions lucrative and worth the risk. Anecdotal evidence suggests that such is not the case likely because the street price is discounted by the presence of quantities of stolen firearms whose buy price to the criminal seller was zero.

2. A compromise position might be to restrict annual purchases of firearms only (not magazines) to 15 per year as proposed in SB1116, although we doubt that this restriction is needed. However, a specific exemption should be made for bona fide collectors and certified firearms instructors both of whom have legitimate business purposes for multiple firearms purchases.
3. The use of the language “rent or lease” suggests that a person who goes to a firing range and rents a firearm for use on the premises would be able to do so only one time per month. Firearms are not typically rented for extended off-premises uses like cars or televisions.
4. The inclusion of high capacity magazines is unenforceable as long as these devices can be purchased out of state with no identification or record keeping whatsoever.
5. The entire purchase limit scheme will add significant administrative costs, especially if high capacity magazines are included, without demonstrable benefits at a time when the state’s budget is under pressure.
6. Massachusetts is home to several successful gun manufacturers and dozens of gun shops who together employ thousands of tax paying voters who are all engaged in selling legal products to legitimate purchasers whose livelihoods could be endangered by capricious sales limits.

Recommendation:

Any bill proposing a monthly or equivalent period quantity limitation on the purchase, rental or lease of firearms or high capacity magazines should be amended to remove such requirement.

G. Machine Guns

This bill contains language that prohibits the “holding, handling or firing of a machine gun by any person other than a person licensed to possess a machine gun” This provision is arbitrary and capricious and should be amended to allow a person to undertake all of these acts if in the presence of and under the supervision of the license holder and said person is over 18 years of age.

H. Dealer Involvement In All Transfers

The proposed legislation involves more cost to the transferring parties, requires a trip to a dealer’s premises for a transaction that is a nuisance to the dealer with no improvement over the current computerized system.

HOUSE.....No. 3257

Presented by: Representative Kevin Murphy

1. This legislation has value in that it addresses one of the sources of illegal guns, theft from residences.
2. The legislation could be strengthened by requiring any locked storage cabinet be made of sheet metal and reasonably resistant to prying, cutting and impact (no glass front cabinets, for example).
3. The inclusion of a monitored alarm system is unnecessary, especially if the firearms are stored in a safe or vault with sufficient capacity to accommodate 20 or more guns that is attached in a tamper resistant manner to the adjacent structure. Safes with a 20 gun capacity typically weigh 400-500 pounds and cannot be removed from a residence without special equipment. Safes with capacities of 40 guns and greater typically weigh more than 1000 pounds. In addition, such safes are constructed to resist prying, drilling and cutting. It's highly unlikely that any residential burglar is going to come equipped with the necessary tools (acetylene cutting equipment and dollies) to access or remove such a safe, especially if it is lag bolted from the interior of the safe to the adjacent structure.
4. It is not always feasible to install intrusion alarm systems especially in rented property. Moreover the on-going expense of monitoring, given paragraph 3 above, provides only the thinnest of margin of additional security and unnecessarily burdens the gun owner.
5. "Fireproof" is a meaningless term. Fire rated or fire resistant is more precise.. *Moreover, the fire rating of a gun safe is completely irrelevant in this context and provides no information about its resistance to being opened by force.* Fire resistance is typically achieved by layers of non-structural, high temperature insulation between the outer shell and the inner liner of the safe. In contrast, resistance to being opened by force is provided by thickness and joinery of the outer shell, door geometry including the number and position of the locking bolts and the locking mechanism. Information concerning such resistance can be found in UL listings for residential security containers (RSC-8M10) and UL listings for locking mechanisms.
6. The declaration of the number of firearms stored upon license renewal is invasive and doesn't contribute to the cause of reducing theft of firearms from residences. It merely provides another record that may be subject to inadvertent or malicious disclosure putting the gun owner at risk of an armed home invasion to steal his/her firearms. Such disclosure provides no actionable information to law enforcement unless confiscation at a later date is the motive therefor.
7. A simple certification that all guns are stored lawfully at the time of license renewal would suffice as a reminder and assist in prosecution of those failing to comply.

Recommendation:

1. Amend the bill by eliminating the requirement for an intrusion alarm system.
2. Require that the safe either be UL listed under RSC 8M10 or have substantially equivalent resistance to tampering and that the locking device be UL listed or have substantially equivalent performance. Do not specify that the safe or vault be “fireproof” or require specific fire resistance ratings.
3. Eliminate the requirement for disclosure of the quantity of firearms stored and replace it with a simple certification, which certification if false, subjects the license holder to the penalties associated with false statements in a firearms licensing application.

HOUSE.....No. 3282

Presented by: Representative Timothy Toomey, Jr.

A. Gun Registration

1. This legislation creates another level of expensive bureaucratic involvement in gun control with no evidence that it will reduce gun violence in the Commonwealth. In this respect the Canadian gun registration program is instructive. Beginning in 1998, Canadians were required to register their long guns with the government. The gun registry quickly rose to 600 employees and consumed \$2 billion in trying to register the country's firearms. In 2011, after discovering that few if any homicides were solved based on the data from the gun registry, the government abandoned the effort to register long guns.
2. This scheme will burden law-abiding citizens only since criminals will not comply with registration requirements. Law enforcement gains no actionable information with which to prevent criminal activity or solve crimes from a gun registry. If a gun is used in the commission of a crime the only data to be gleaned from a gun registry is exactly that already available through ATF; the name and address of the first buyer. If the gun is stolen, the registry is useless. If a gun is purchased in MA, the Commonwealth already has the information, whether the purchase is from an FFL (e.g., gun store) or from a private party where such sales are filed with the MA Firearms Record Bureau.
3. Some argue that registration will force gun owners to be more responsible in how they store guns to avoid having them stolen and having to explain the circumstances of the theft. HR 3250 contains a mandatory reporting requirement for stolen guns with stiff penalties for non-compliance. C. 140 § 131L makes it a felony to store large capacity firearms improperly with penalties up to 10 years in prison. The said provision in HB 3250 should be enacted and existing laws strictly enforced thus obviating the need for registration.
4. SB 1116 calls for sharing private transfer data with federal authorities. Despite the statutory bar in 18 U.S.C. 926 (a) prohibiting ATF from establishing a national gun registry, such registry is well under way at ATF with more than 100 million registration records in a searchable data base. These records list the name and address of the first purchaser of a firearm or the name and address of a subsequent purchaser if the firearm was sold through a dealer. Through the e-Trace system, ATF has helpfully made this data base and search software available to more than 30 countries including such bastions of ethical government and human rights as Mexico, El Salvador and Columbia. It's chilling to think that Mexican police can discover the names and addresses of lawful US gun owners without a legitimate purpose or application to US authorities. MA should not participate in this system.
5. As gun registration schemes proliferate beyond the current MA Firearms Record Bureau, so does the possibility of inadvertent or malicious disclosure of gun owners' names, addresses and their firearms inventories. Such disclosures can have grave consequences including home invasion, dismissal from employment, social ostracism and denial of commercial credit, the latter three on misguided ideological grounds.

6. Gun owners often perceive gun registration as a prelude to gun confiscation. While this view may be unduly alarmist, there is ample historical precedent for such concern; Germany under the Nazis, England and Australia all pushed for national registration and then followed with confiscation. In the US, one only has to recall the appalling scenes in New Orleans in the aftermath of hurricane Katrina with National Guardsmen going door to door to confiscate legally owned firearms. Fear of registration as a precursor to confiscation is one of the major causes of breakdown in communication between those who favor effective gun control legislation and gun owners' advocacy groups.
7. As one of America's "Liberal Lions," Hubert Humphrey, once said: "Certainly one of the chief guarantees of freedom under any government, no matter how popular and respected, is the right of citizens to keep and bear arms. This is not to say that firearms should not be very carefully used and that definite safety rules of precaution should not be taught and enforced. But the right of citizens to bear arms is just one more guarantee against arbitrary government, one more safeguard against a tyranny which now appears remote in America, but which historically has proved to be always possible." Sen. Hubert Humphrey's statement, Know Your Lawmakers, Guns, Feb. 1960, p. 4 (1960):

Recommendation:

Gun registration should not be passed into law in any form in the Commonwealth.

B. Liability Insurance

1. This legislation would require gun owners to purchase insurance for risks normally covered by homeowners or renters liability policies. These policies pay out when a person is injured by some unintentional or even arguably negligent act of the policy holder, such as the discharge of a firearm, whether the insured used his own gun or another's in an incident.
2. Criminal acts by the policy holders of these types of insurance are never covered. Moreover, criminals would not comply with the dictum to purchase liability insurance and, if they were to do so, their criminal actions would not result in a payout to the victim.
3. Insurance sources state that no underwriter would likely provide coverage if the conditions included the language "*without regard to negligence or gross negligence or fault of any kind*". Moreover, these same sources indicated that most insurance companies would not be interested in providing this type of coverage anyway.
4. Establishing mandatory firearms insurance program would require that the state expend additional administrative costs to manage the program at a time when the Commonwealth faces budgetary pressures. Clearly, the expense of such administrative oversight is not justified by the benefits.
5. The requirement to purchase insurance raises the cost of firearms ownership. This increased cost disproportionately affects law abiding citizens of modest means, elderly,

retired and minorities who have a greater need for firearms for self-defense. Therefore such a requirement is discriminatory and racist.

6. The requirement for the insured to declare all lawfully owned firearms is merely gun registration by a different name. We believe that mandatory gun registration serves no purpose in the reduction of gun violence or as an aid to criminal investigation (see Canada's experience) and has historically been a prelude to confiscation. Moreover, one insurance source revealed that they would not require such an inventory or wish to be in receipt of it unless it was for property insurance purposes.
7. Generating a data base of lawfully owned firearms by insurers would place highly sensitive information in the files of the private sector with an increased risk of inadvertent or deliberate malicious disclosure. Such disclosure then puts the policy holder at risk for theft of his/her firearms. In addition, insurance companies routinely share information about policy holders through centralized databases. It's conceivable that an individual's firearms inventory could become part of these shared files and used for purposes well beyond liability policy underwriting. Underwriters may arbitrarily conclude that an increased premium on life or medical insurance is justified because the insured owns firearms.
8. Even if the proposed insurance were judged to be of benefit (which it is not), that benefit could be realized without an invasive inventory of all lawfully owned firearms.

Recommendation:

1. The requirement to purchase specialized liability insurance serves no purpose in reducing gun violence nor does it make the citizens of the Commonwealth safer. Gun safety is achieved by better quality of training for potential licensees. Some useful training concepts are embodied in HR3253.
2. Any bill proposing mandatory insurance should be amended to remove such requirement.

SENATE.....No. 1116

Presented by: Senator Sonia Chang-Diaz

A. Purchase Limits

1. The proposed legislation assumes that the source of straw purchased guns are bulk transactions in which individuals who are able to pass a background check and duly licensed by the Commonwealth, visit dealers, purchase quantities of guns and conduct brisk commerce from the trunk of their automobiles. The fact of the matter is that straw purchases are mostly consummated one gun at a time by persons known to one another (friends, relatives). Commercial scale transactions of the type the legislation envisions are possible only if the spread between buy price from the dealer and street sell price to the criminal purchaser is sufficient to make such transactions lucrative and worth the risk. Anecdotal evidence suggests that such is not the case likely because the street price is discounted by the presence of quantities of stolen firearms whose buy price to the criminal seller was zero.
2. A compromise position might be to restrict annual purchases of firearms only (not magazines) to 15 per year as proposed in SB1116, although we doubt that this restriction is needed. However, a specific exemption should be made for bona fide collectors and certified firearms instructors both of whom have legitimate business purposes for multiple firearms purchases.
3. The use of the language “rent or lease” suggests that a person who goes to a firing range and rents a firearm for use on the premises would be able to do so only one time per month. Firearms are not typically rented for extended off-premises uses like cars or televisions.
4. The inclusion of high capacity magazines is unenforceable as long as these devices can be purchased out of state with no identification or record keeping whatsoever.
5. The entire purchase limit scheme will add significant administrative costs, especially if high capacity magazines are included, without demonstrable benefits at a time when the state’s budget is under pressure.

Recommendation:

Any bill proposing a monthly or equivalent period quantity limitation on the purchase, rental or lease of firearms or high capacity magazines should be amended to remove such requirement.

B. Alcohol

This bill contains language that specifies .08 weight percent as the threshold for intoxication while in possession of a firearm. This provision should be enacted. However, the bill would eliminate the exception to this limit when one is in one's home or place of business. This provision is unduly restrictive, invasive and attempts to regulate adult behavior in the privacy of one's home or business.

C. Gun Theft Reporting

The proposed legislation states that anyone who fails to report a firearm as stolen within *24 hours*, if they have knowledge of the theft, is subject to fines and imprisonment. This is an unreasonable interval. A person may be unable to make the report or the authorities may not be available to receive and acknowledge the report. The person could be injured and in hospital if the firearm was stolen during an armed robbery or home invasion. This requirement should be changed to 30 days.

SENATE.....No. 1120

Presented by: Senator Cynthia Creem

A. Purchase Limits

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5. The entire purchase limit scheme will add significant administrative costs, especially if high capacity magazines are included, without demonstrable benefits at a time when the state's budget is under pressure.

Recommendation:

Any bill proposing a monthly or equivalent period quantity limitation on the purchase, rental or lease of firearms or high capacity magazines should be amended to remove such requirement.

B. Special Reporting on High Capacity Feeding Device Sales

The bill proposes special reporting requirements on the sale of large capacity feeding devices. Such a requirement simply adds more bureaucratic record keeping and expense with no

demonstrable reduction in gun violence. This provision would be also unenforceable since large capacity feeding devices can be readily purchased out of state or via mail order.

SENATE.....No. 1126

Presented by: Senator Cynthia Creem

A. Possession And Storage At Gun Clubs

1. The wholesale removal of lawfully owned, commonly used firearms from the possession of properly licensed individuals is tantamount to confiscation and will no doubt, if such legislation were passed, bring a court challenge on constitutional grounds.
2. Semi-automatic hand guns are the configuration most used for personal defense and recreation by law abiding citizens. The proposed legislation would remove all such firearms from the possession of license holders.
3. The legislation relies on the flawed assumption that individual gun clubs would be willing to assume the responsibility for the storage of thousands of member- owned firearms on club premises and could afford to make the significant financial investment to provide secure storage therefor.
4. This legislation assumes that the owners of these firearms are incapable of using and possessing them in a responsible way even though said owners are in possession of a Class A license having been carefully vetted by multiple agencies to obtain said license. Moreover, the legislation assumes that the license holders are unwilling to comply with C140 § 131L that requires secure storage to prevent unauthorized access. Violations under this statute involving large capacity firearms are felonies with sanctions of up to 10 years imprisonment.
5. The proposed legislation would create enormous aggregations of large capacity firearms in gun clubs. A club with a thousand members could easily require storage for 3000-4000 guns. Few if any of these premises are structurally sound enough to be used as armories. In addition, gun clubs are often located in remote areas, infrequently visited by police patrols and with prolonged police response times to an alarm (if such is installed) because of their remoteness. Stolen guns are used in a statistically significant number of violent crimes. Felons seeking to steal wholesale quantities of large capacity firearms need only to drive a heavy vehicle through the wall of a wooden frame club house and break into or drag the locked storage cabinets filled with members' guns away.
6. The legislation as drafted would have the perverse effect of leaving enormous quantities of large capacity firearms, concentrated in a few locations, less securely stored than in the widely distributed lockers and gun safes of responsible owners in their private homes. Such degradation in storage security makes it more likely that these firearms would end up in the hands of criminals

Recommendation:

1. Expand and enforce the existing storage provisions of C140 § 131L. Such expansion could incorporate some of the language of HB 3257:

(a) *“It shall be unlawful to store more than 5 firearms, rifles, shotguns, machine guns or any combination of such weapons unless such weapons are secured in a locked tamper resistant cabinet, safe or vault. It shall be unlawful to store more than 20 firearms, rifles, shotguns, machine guns or any combination of such weapons unless such weapons are secured in a locked safe or vault (Author’s language changes from proposed bill in italics.)”*

2. The concept of gun club storage of large capacity firearms is deeply flawed, tramples on gun owners’ rights and does nothing to reduce gun violence or to protect the citizens of the Commonwealth. On the contrary, it leaves only felons in possession of large capacity firearms and exposes the citizens to the risk of increased violence from thousands of easily stolen guns. Bills containing these provisions must not pass.

B. Dealer Involvement in All Transfers

The proposed legislation involves more cost to the transferring parties, requires a trip to a dealer’s premises for a transaction that is a nuisance to the dealer with no improvement over the current computerized system.

Recommendation:

Make no changes to the existing computerized transfer system.

SENATE.....No. 1157

Presented by: Senator Richard Moore

Confiscation of Lawfully Owned Firearms During an Emergency

This bill prohibits the confiscation of legally owned firearms during a state of emergency. The LA riots, hurricane Katrina, the London riots and hurricane Sandy have proven that police are unable to protect citizens during a civil insurrection or a natural disaster. Unarmed and defenseless citizens are at the mercy of roving gangs of criminals, looters and opportunistic predators. Moreover such legislation would go a long way to building trust and improving the tone of the dialog between gun owners and those legislators seeking to enact reasonable gun control measures. It should be noted that a recent poll showed, by a 5:1 margin, that citizens, during the Marathon bombing fugitive chase, wished they owned a firearm.

Recommendation

This bill should be passed.

SENATE.....No. 1162

Presented by: Senator Anthony Petrucci

A. Micro-stamping

1. This legislation relies on unproven technology. CA has had a micro-stamping statute on the books since 2011 and has been unable to implement it because it is neither feasible nor practical. In addition, the owner of this patented technology is unwilling to license it on terms agreeable to the state. NY State also has side stepped micro-stamping in its budget for 2012 for similar reasons.
2. Micro stamping assumes that the firearm will reliably produce the requisite legend on the cartridge casing indefinitely. The breech facing and firing pin when subjected to the friction and high pressures (20,000-50,000psi) inherent in the firing of a gun will change over time thus rendering the etchings thereon unusable.
3. Several independent tests have shown that micro-stamping devices can be removed with household abrasive tools and materials. In addition firing pins are easily replaceable.
4. Criminals can easily defeat micro-stamping by merely removing their spent casings from the crime scene, investing \$25 for commercially available brass catchers or fashioning their own from a coat hanger and a plastic bag. Another option is to coat the primer cap with a bit of nail polish that won't impede the cartridge from firing but will render the micro-stamped image unreadable. Moreover, according to ATF, the most popular firearm used in violent crime is the .38 S&W revolver from which no casings are automatically ejected and which are not included in this proposed legislation.
5. The case for micro-stamping as a crime fighting tool relies on the assumption that once the serial number of the gun used in a crime is known, the gun can be traced to its owner and an arrest made. Unfortunately, according to DOJ statistics 15% of the guns used in crimes were purchased in a store with a resultant 4473 form on file allowing a direct trace. The remaining 85% were stolen. The fact is that knowing the serial number by its presence on the casing can only identify the *gun* that fired it and *not* the shooter.
6. One of the more dangerous aspects of micro-stamping is that criminals could impede an investigation by presenting the police with a "red herring". They need only collect spent casings from a firing range used by law abiding citizens and "salt" the crime scene with them. Such a maneuver would delay an investigation and in the worst cases, lead to the arrest and wrongful conviction of an innocent person.

B. Alternative Method

The alternative method proposed in HB3250 that relies on comparing a casing retrieved at the crime scene against a specimen obtained when the gun is shipped from the manufacturer has

also proved ineffective. Extractors and firing pins wear out and need periodic replacement. Maryland has had a “data base” of retained spent casings since 2003 and has never used it solve a crime.

Recommendation:

1. Micro-stamping provisions should be removed from legislative consideration as a tool for reducing gun violence.
2. The alternative method of identifying the gun by impressions left by the firing pin and the extractor should also be dropped from consideration as impractical.

C. Record Keeping on Sales of Ammunition

This bill proposes to impose the same record keeping requirements for ammunition as are currently in force for firearms. This is another expensive bureaucratic measure that does nothing to reduce gun violence. A requirement that the purchaser show a valid FID card or LTC when purchasing ammunition should be sufficient to prevent its sale to ineligible persons.

SENATE.....No. 1163

Presented by: Senator Anthony Petrucci

GPS Locators

This bill proposes to study the feasibility of GPS locators installed in firearms. This technology doesn't yet exist and even if it were proven, it would likely be impractical to retrofit existing firearms. Moreover the connection between being able to track the physical location of a lawfully owned firearm and reducing gun violence is unclear. Moreover such tracking devices, by pin pointing their location, could present a danger to law abiding citizens in possession of their firearms. Therefore it could be more intrusive and potentially dangerous than gun registration. Besides, criminals are unlikely to install or enable such devices in their illegal guns. This is a waste of tax payer money.