

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CHRISTOPHER DAVIS; WILLIAM J.	)	
THOMPSON, JR.; WILSON LOBAO; ROBERT	)	
CAPONE; and COMMONWEALTH SECOND	)	
AMENDMENT, INC.,	)	
	)	
Plaintiffs,	)	
	)	
-against-	)	
	)	CIVIL ACTION NO.
RICHARD C. GRIMES, in his Official Capacity as	)	
Chief of the Weymouth Police Department; and	)	1:13-cv-10246
ROBERT ST. PIERRE, in his Official Capacity as	)	
Chief of the Peabody Police Department,	)	
	)	
Defendants,	)	
	)	
-and-	)	
	)	
COMMONWEALTH OF MASSACHUSETTS,	)	
	)	
Intervenor.	)	

**PLAINTIFFS’ REPLY IN SUPPORT OF LEAVE TO AMEND**

Although they tacitly concede that Plaintiffs’ proposed amendment can be achieved expeditiously, Defendants assert that *any* delay resulting from amendment would be “undue” and would justify denying leave. However, an undue delay is one that results from a party’s lack of diligence – and is not present here, as the Plaintiffs acted immediately when subsequent developments made this amendment necessary. Defendants’ remaining objections are misplaced and no basis for denying leave.

**(I) THERE IS NO UNDUE DELAY**

Plaintiffs’ moving papers invoke the well established rule that courts should grant leave to amend unless there is “undue delay, bad faith or dilatory motive on the part of the movant,

repeated failure to cure deficiencies by amendments previously allowed, [or] undue prejudice to the opposing party.” Plaintiffs’ Br. p. 3 (quoting Foman v. Davis, 371 U.S. 178, 182 (1978)).

Defendants respond by arguing (pp. 2-3) that undue delay justifies denying Plaintiffs’ motion. However, the only basis for undue delay that Defendants cite is their claim that some of the new plaintiffs’ applications may be different from those of the prior plaintiffs. While this is not in fact the case, irrespectively, it is no basis for undue delay.

The undue delay “standard focuses on the diligence (or lack thereof) of the moving party more than it does on any prejudice to the party-opponent.” See Stockfood Am., Inc. v. Pearson Educ., Inc., no. 2:12-cv-124-JAW, 2012 U.S. Dist. LEXIS 169503, \*3 (D. Mass. Nov. 29, 2012) (quoting Steir v. Girl Scouts of the USA, 383 F.3d 3, 12 (1st Cir. 2004)). “[I]n assessing whether delay is undue, a court will take account of what the movant knew or should have known and what he did or should have done.” Zullo v. Lombardo, 755 F.3d 1, 3-4 (1st Cir. 2014) (quotations omitted). Thus, there is a very substantial distinction between amendments that address recent factual developments and those that seek “to devise new theories of liability based on the same facts pled in the [original] complaint.” See Nikitine v. Wilmington Tr. Co., 715 F.3d 388, 391 (1st Cir. 2013) (quotation and alteration omitted); see also Hayes v. New England Millwork Distribs., Inc., 602 F.2d 15, 20 (1st Cir. 1979) (distinguishing “previously unknown facts which alter[ ] the shape of [a] case” from a plaintiff who “simply allow[s] his case to lie fallow”). Plaintiffs’ obligation is to show “some valid reason” for seeking leave at the present time, rather than earlier. Hayes, 602 F.2d at 20 (1st Cir. 1979) (quotation omitted).

And Plaintiffs have met this burden and shown just such a valid reason: Defendant Chief Griffin’s July 30, 2014 decision to grant Plaintiff Robert Capone an unrestricted license, with the result that there is now no remaining individual Plaintiff with standing against Chief Griffin. Cf.

id. at 20 (“This is not a situation in which the delay in moving to amend can be attributed, even in part, to either [the opposing party] or the court.”). Defendants submit selected pages from an August 25, 2014 internet posting that sought to locate interested individuals with restricted licenses – but this shows only that the Plaintiffs acted diligently after this development, rather than delaying unduly.<sup>1</sup>

**(II) THE FACTS SURROUNDING THE NEW PLAINTIFFS ARE MATERIALLY THE SAME – AND IN ANY EVENT, THERE IS NO UNDUE PREJUDICE**

**A. The Facts are Not Materially Different**

Both of the individuals included in Plaintiffs’ summary judgment motion who applied to Defendant Chief Grimes did so by submitting a handwritten paper application to the Chief’s delegate. This delegate then prepared an electronic application form using the state “MIRCS” computer system, and each of these MIRCS-generated forms indicated (among other things) that the applicant sought a license for “Target & Hunting” purposes. However, each of these Plaintiffs had in fact requested an unrestricted license for self-defense purposes on their own application forms and in separate correspondence or discussions with the licensing officer. Both of these Plaintiffs signed these MIRCS-generated forms unaware that their stated “reason(s) for requesting” a license had been changed to “Target & Hunting” during the application process. See Joint Statement of Facts (Doc. No. 34) ¶¶ 7, 11, 13-15, 17; Joint Exhibits (Doc. No. 35 & attachments) M-P, V; Dec. of C. Davis (Doc. No. 39) ¶¶ 6-7, 9-10, 13 & exs. 2-4, 6; Dec. of W. Thompson (Doc. No. 40) ¶¶ 5-7, 11-12 & ex. 1.

In this light, Defendants’ claim that the applications of the new individual plaintiffs are different (based on documentation that is available to them, but which they have not provided to

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<sup>1</sup> While Defendants seem to suggest that this internet posting shows the absence of any “groundswell of discontentment,” they miss the basic fact that in this locality of under 52,000, it took little effort and a little over a day to locate additional individuals who were not content with the licenses Chief Griffin had issued to them.

Plaintiffs<sup>2</sup>) lacks basis. First, Defendants' objection (pp. 2-3) that proposed new plaintiffs Ken Trudell and Mary Learning applied to Defendant Chief Grimes and apparently signed MIRCS-generated forms stating that their "reason(s) for issuance" was "Target & Hunting" does *not* state a basis for material distinction – as Plaintiffs Chris Davis and William Thompson also did just this. (Not insignificantly, this Defendant concedes (p. 3 n.3) that it does not have these individuals' original, handwritten applications, which would reflect their actual intent.)

Defendants' objection (p. 3) to the addition of Matthew Wolff and Nathan Cook is somewhat unclear. Defendants assert that the "reason(s) for issuance" lines of their application forms were left "blank," but they do not identify which application form(s), nor do they address the import of any documents or communications with these individuals.

More important, but ignored by Defendants, is that the facts pleaded in their proposed amendment make it clear that each of these individuals did indeed request unrestricted licenses that would allow self-defense outside the home – on their applications and/or in conversations they had with each Defendants' delegates at the time of applying, as well as later. See Proposed Second Amended Complaint (Doc. No. 86-1) ¶¶ 33, 35-36, 38-39, 41, 43. Thus, the facts surrounding the new plaintiffs' applications are not materially different from those of the original Plaintiffs – a fact that should not be surprising, given that Defendants continue to maintain the same policies.

#### **B. Any Prejudice is Not Undue**

Defendants contend (p. 3) that even if this matter is resolved in an expedited fashion, such as that proposed by Plaintiffs in their moving papers, "such a process will [still]

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<sup>2</sup> Prior to filing this motion, and in connection with their LR 7.1(a)(2) attempt to resolve or narrow this motion, Plaintiffs had requested that Defendants provide copies of their files for the new plaintiffs.

unnecessarily delay this action.” However, Defendants make no claim that this will cause *undue* prejudice, and indeed, their brief does not address “prejudice” at all.

Contrary to Defendants’ suggestion, the prejudice attendant to “the adverse party’s burden of undertaking discovery, standing alone, does not suffice to warrant denial of a motion to amend a pleading.” United States v. Cont’l Ill. Ins. Co., 889 F.2d 1248, 1255 (2d Cir. 1989). This is because “the burden of undertaking discovery, which [a defendant] would have shouldered had the proposed amendment been incorporated in the complaint as originally filed, hardly amounts to prejudice.” S.S. Silberblatt, Inc. v. E. Harlem Pilot Block, 608 F.2d 28, 43 (2d Cir. 1979). Indeed, in a recent decision (addressing the essentially analogous issue of leave to amend a counter-claim) this Court itself observed that just because an amendment may require “some discovery” and thus may cause “some prejudice” does not mean that the amendment causes undue prejudice. See Bern Unlimited, Inc. v. Burton Corp., no. 11-12278-FDS, 2014 U.S. Dist. LEXIS 80017, \*35 (D. Mass. Jun. 12, 2014). Rather, any prejudice “must be balanced against” the fact that “it would be a waste of resources for both the judicial system and the litigants to require defendants to file new actions to pursue their false-advertising claims.” See id. at \*35-36; see also Picker Int’l, Inc. v. Leavitt, 128 F.R.D. 3, 8 (D. Mass. 1989) (“judicial economy and fairness also militate against requiring Picker to amend its complaint in Pittsburgh or to file a separate lawsuit”).

These considerations are equally applicable here and counsel in favor of granting Plaintiffs’ motion. Any prejudice that results from the need to take further discovery is not undue and would have existed even if these plaintiffs had been included from the outset of the case. Moreover, the burden involved in adding parties to the present case can be minimized, and it is plainly much less than the burden that would be involved in initiating a new civil action.

**(III) PLAINTIFFS NEED NOT EXHAUST STATE REMEDIES**

Defendants' claim (p. 4) that "notions of judicial comity suggest that the Court refrain from ruling" until Plaintiff Chris Davis has exhausted further remedies that may be available to him in state court is meritless. It is well established that "exhaustion is not a prerequisite to an action under § 1983." Patsy v. Bd. of Regents, 457 U.S. 496, 501 (1983). And considerations of "comity" are likewise inapplicable. See New Orleans Pub. Serv., Inc. v. Council of New Orleans, 491 U.S. 350, 367-68 (1989) ("Although our concern for comity and federalism has led us to expand the protection of Younger beyond state criminal prosecutions, . . . it has never been suggested that Younger requires abstention in deference to a state judicial proceeding reviewing legislative or executive action. Such a broad abstention requirement would make a mockery of the rule that only exceptional circumstances justify a federal court's refusal to decide a case in deference to the States.").

**(IV) THE CHAPTER 284 AMENDMENTS ARE IMMATERIAL**

There is no basis for Defendants' claim (p. 3 n.3) that amendments contained in sections 48 and 51 of Chapter 284 of the 2014 Session Laws will make it "incumbent upon the individual chiefs of police statewide to file an action in District Court in those instances in which an individual police chief seeks to add a restriction. . . ." To the contrary, these amendments do not make any material change to the power of police chiefs to impose restrictions, nor to the availability of (and procedures for) judicial review of restrictions in state court.

Specifically, section 48 amends the background requirements (21 years of age, no felony convictions, etc.) set forth in M.G.L. c. 140, § 131(d) – which must be met regardless and independent of whether a police chief decides to impose a restriction. Section 48 further amends § 131(d) to disqualify "unsuitable" persons from licensure and to require a police chief suspending or denying a license on this basis to provide notice and an opportunity for judicial

review – again, regardless and independent of whether a police chief chooses to impose a restriction.<sup>3</sup> A person who does not pass muster under these provisions cannot be issued *any* license, restricted or not, and these changes are irrelevant to this action.

Finally, while section 51 amends the judicial review provisions of § 131(f) to expressly provide that a person may seek judicial review of a license restriction, this amendment is insubstantial as it merely codifies preexisting caselaw that already permitted individuals to challenge restrictions under § 131(f). See Ruggiero v. Police Comm’r of Boston, 464 N.E.2d 104, 105-07, 18 Mass. App. Ct. 256, 257-59 (App. Ct. 1984) (allowing appeal of decision to restrict license and applying the “no reasonable ground” standard set forth in § 131).

For the convenience of the Court, Plaintiffs attach a “redline” document that shows the pertinent changes that Chapter 284 made to § 131.

#### CONCLUSION

Plaintiffs sought this amendment promptly – indeed, before Defendants had even notified the Court of the decision to remove Mr. Capone’s restriction. Plaintiffs have not delayed, and they certainly have not delayed unduly. There is no basis for denying the leave that, per the Rule, should be freely given.

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<sup>3</sup> The prior version of § 131(d), in contrast, had required individuals to be “suitable,” but it had not defined the term, nor did it require notice or expressly provide for judicial review.

Respectfully submitted,

THE PLAINTIFFS,  
By their attorneys,

/s/ David D. Jensen

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Dated: October 1, 2014

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on 1 October 2014.

/s/ David D. Jensen

David D. Jensen

1 | Section 131. The issuance and possession of a license to carry firearms. shall be subject to the following  
 2 | conditions and restrictions:

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4 | a). A license shall entitle a holder thereof of a license to purchase, rent, lease, borrow, possess and carry: (i)  
 5 | firearms, including large capacity firearms, and feeding devices and ammunition therefor, for all lawful  
 6 | purposes, subject to such restrictions relative to the possession, use or carrying of firearms as the licensing  
 7 | authority considers proper; and (ii) rifles and shotguns, including large capacity weapons, and feeding  
 8 | devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority  
 9 | may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns  
 10 | as it considers proper. A violation of a restriction imposed by the licensing authority under this paragraph  
 11 | shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of  
 12 | not less than \$1,000 nor more than \$10,000; provided, however, that section 10 of chapter 269 shall not  
 13 | apply to a violation of this paragraph.

14 |

15 | (b) The colonel of state police may, after an investigation, grant a license to a club or facility with an on-  
 16 | site shooting range or gallery, which club is incorporated under the laws of the commonwealth for the  
 17 | possession, storage and use of large capacity weapons, ammunition therefor and large capacity feeding  
 18 | devices for use with such weapons on the premises of the club; provided, however, that not less than a  
 19 | shareholder of the club shall be qualified and suitable to be issued a license; and provided further, that such  
 20 | large capacity weapons and ammunition feeding devices may be used under the club license only by a  
 21 | member that possesses a valid firearm identification card issued pursuant to section 129B or a valid license  
 22 | to carry firearms, or by such other person that the club permits while under the direct supervision of a  
 23 | certified firearms safety instructor or club member who, in the case of a large capacity firearm, possesses a  
 24 | valid license to carry firearms or, in the case of a large capacity rifle or shotgun, possesses a valid license to  
 25 | carry firearms. The club shall not permit shooting at targets that depict human figures, human effigies,  
 26 | human silhouettes or any human images thereof, except by public safety personnel performing in line with  
 27 | their official duties.

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29 | No large capacity weapon or large capacity feeding device shall be removed from the premises except to:  
 30 | (i) transfer the firearm or feeding device to a licensed dealer; (ii) transport the firearm or feeding device to a  
 31 | licensed gunsmith for repair; (iii) target, trap or skeet shoot, on the premises of another club incorporated  
 32 | under the laws of the commonwealth and to transport thereto; (iv) attend an exhibition or educational  
 33 | project or event that is sponsored by, conducted under the supervision of or approved by a public law  
 34 | enforcement agency or a nationally or state recognized entity that promotes proficiency in or education  
 35 | about semiautomatic weapons and to transport thereto and therefrom; (v) hunt pursuant to chapter 131; or  
 36 | (vi) surrender the firearm or feeding device pursuant to section 129D. Any large capacity weapon or large  
 37 | capacity feeding device kept on the premises of a lawfully incorporated shooting club shall, when not in  
 38 | use, be secured in a locked container, and shall be unloaded during any lawful transport. The clerk or other  
 39 | corporate officer of the club shall annually file a report with the colonel of state police and the  
 40 | commissioner of criminal justice information services listing all large capacity weapons and large capacity  
 41 | feeding devices owned or possessed under the license. The colonel or a designee may inspect all firearms  
 42 | owned or possessed by the club upon request during regular business hours and the colonel may revoke or  
 43 | suspend a club license for a violation of this chapter or chapter 269 relative to the ownership, use or  
 44 | possession of large capacity weapons or large capacity feeding devices.

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46 | (c) A license to carry firearms shall be valid to own, possess, purchase and transfer non-large capacity rifles  
 47 | and shotguns, consistent with the entitlements conferred by a firearm identification card issued under  
 48 | section 129B.

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**Deleted:** (b) A Class B license shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) non-large capacity firearms and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of such firearm as the licensing authority deems proper; provided, however, that a Class B license shall not entitle the holder thereof to carry or possess a loaded firearm in a concealed manner in any public way or place; and provided further, that a Class B license shall not entitle the holder thereof to possess a large capacity firearm, except under a Class A club license issued under this section or under the direct supervision of a holder of a valid Class A license at an incorporated shooting club or licensed shooting range; and (ii) rifles and shotguns, including large capacity rifles and shotguns, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as he deems proper. A violation of a restriction provided under this paragraph, or a restriction imposed by the licensing authority under the provisions of this paragraph, shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation. \* ... [5]

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(d) A person residing or having a place of business within the jurisdiction of the licensing authority or any law enforcement officer employed by the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the licensing authority or the colonel of state police, an application for a license to carry firearms, or renewal of the same, which the licensing authority or the colonel may issue if it appears that the applicant is not a prohibited person as set forth in this section to be issued a license, and that the applicant has good reason to fear injury to the applicant or the applicant's property, or for any other reason, including the carrying of firearms for use in sport or target practice only, subject to the restrictions expressed or authorized under this section.

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A prohibited person shall be a person who:

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(i) has, in a court of the commonwealth, been convicted or adjudicated a youthful offender or delinquent child, both as defined in section 52 of chapter 119, for the commission of (A) a felony; (B) a misdemeanor punishable by imprisonment for more than 2 years; (C) a violent crime as defined in section 121; (D) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; (E) a violation of any law regulating the use, possession or sale of a controlled substance as defined in section 1 of chapter 94C including, but not limited to, a violation of said chapter 94C; or (F) a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(a)(33);

(ii) has, in any other state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of (A) a felony; (B) a misdemeanor punishable by imprisonment for more than 2 years; (C) a violent crime as defined in section 121; (D) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; (E) a violation of any law regulating the use, possession or sale of a controlled substance, as defined in said section 1 of said chapter 94C, including, but not limited to, a violation of said chapter 94C; or (F) a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(a)(33);

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(iii) is or has been (A) committed to a hospital or institution for mental illness, alcohol or substance abuse, except a commitment pursuant to sections 35 or 36C of chapter 123, unless after 5 years from the date of the confinement, the applicant submits with the application an affidavit of a licensed physician or clinical psychologist attesting that such physician or psychologist is familiar with the applicant's mental illness, alcohol or substance abuse and that in the physician's or psychologist's opinion, the applicant is not disabled by a mental illness, alcohol or substance abuse in a manner that shall prevent the applicant from possessing a firearm, rifle or shotgun; (B) committed by a court order to a hospital or institution for mental illness, unless the applicant was granted a petition for relief of the court order pursuant to said section 36C of said chapter 123 and submits a copy of the court order with the application; (C) subject to an order of the probate court appointing a guardian or conservator for an incapacitated person on the grounds that the applicant lacks the mental capacity to contract or manage the applicant's affairs, unless the applicant was granted a petition for relief of the order of the probate court pursuant to section 56C of chapter 215 and submits a copy of the order of the probate court with the application; or (D) found to be a person with an alcohol use disorder or substance use disorder or both and committed pursuant to said section 35 of said chapter 123, unless the applicant was granted a petition for relief of the court order pursuant to said section 35 and submits a copy of the court order with the application;

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281 (iv) is younger than 21 years of age at the time of the application;

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283 (v) is an alien who does not maintain lawful permanent residency;

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285 (vi) is currently subject to: (A) an order for suspension or surrender issued pursuant to sections 3B or 3C of  
286 chapter 209A or a similar order issued by another jurisdiction; or (B) a permanent or temporary protection  
287 order issued pursuant to said chapter 209A or a similar order issued by another jurisdiction, including any  
288 order described in 18 U.S.C. 922(g)(8);

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290 (vii) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction;

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292 (viii) has been discharged from the armed forces of the United States under dishonorable conditions;

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294 (ix) is a fugitive from justice; or

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296 (x) having been a citizen of the United States, has renounced that citizenship.

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298 The licensing authority may deny the application or renewal of a license to carry, or suspend or revoke a  
299 license issued under this section if, in a reasonable exercise of discretion, the licensing authority determines  
300 that the applicant or licensee is unsuitable to be issued or to continue to hold a license to carry. A  
301 determination of unsuitability shall be based on: (i) reliable and credible information that the applicant or  
302 licensee has exhibited or engaged in behavior that suggests that, if issued a license, the applicant or licensee  
303 may create a risk to public safety; or (ii) existing factors that suggest that, if issued a license, the applicant  
304 or licensee may create a risk to public safety. Upon denial of an application or renewal of a license based  
305 on a determination of unsuitability, the licensing authority shall notify the applicant in writing setting forth  
306 the specific reasons for the determination in accordance with paragraph (e). Upon revoking or suspending a  
307 license based on a determination of unsuitability, the licensing authority shall notify the holder of a license  
308 in writing setting forth the specific reasons for the determination in accordance with paragraph (f). The  
309 determination of unsuitability shall be subject to judicial review under said paragraph (f).

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311 (e) Within seven days of the receipt of a completed application for a license to carry or possess firearms, or  
312 renewal of same, the licensing authority shall forward one copy of the application and one copy of the  
313 applicant's fingerprints to the colonel of state police, who shall within 30 days advise the licensing  
314 authority, in writing, of any disqualifying criminal record of the applicant arising from within or without  
315 the commonwealth and whether there is reason to believe that the applicant is disqualified for any of the  
316 foregoing reasons from possessing a license to carry or possess firearms. In searching for any disqualifying  
317 history of the applicant, the colonel shall utilize, or cause to be utilized, files maintained by the department  
318 of probation and statewide and nationwide criminal justice, warrant and protection order information  
319 systems and files including, but not limited to, the National Instant Criminal Background Check System.  
320 The colonel shall inquire of the commissioner of the department of mental health relative to whether the

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324 applicant is disqualified from being so licensed. If the information available to the colonel does not indicate  
 325 that the possession of a firearm or large capacity firearm by the applicant would be in violation of state or  
 326 federal law, he shall certify such fact, in writing, to the licensing authority within said 30 day period.

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328 The licensing authority may also make inquiries concerning the applicant to: (i) the commissioner of the  
 329 department of criminal justice information services relative to any disqualifying condition and records of  
 330 purchases, sales, rentals, leases and transfers of weapons or ammunition concerning the applicant; (ii) the  
 331 commissioner of probation relative to any record contained within the department of probation or the  
 332 statewide domestic violence record keeping system concerning the applicant; and (iii) the commissioner of  
 333 the department of mental health relative to whether the applicant is a suitable person to possess firearms or  
 334 is not a suitable person to possess firearms. The director or commissioner to whom the licensing authority  
 335 makes such inquiry shall provide prompt and full cooperation for that purpose in any investigation of the  
 336 applicant.

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338 The licensing authority shall, within 40 days from the date of application, either approve the application  
 339 and issue the license or deny the application and notify the applicant of the reason for such denial in  
 340 writing; provided, however, that no such license shall be issued unless the colonel has certified, in writing,  
 341 that the information available to him does not indicate that the possession of a firearm or large capacity  
 342 firearm by the applicant would be in violation of state or federal law.

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344 The licensing authority shall provide to the applicant a receipt indicating that it received the application.  
 345 The receipt shall be provided to the applicant within 7 days by mail if the application was received by mail  
 346 or immediately if the application was made in person; provided, however, that the receipt shall include the  
 347 applicant's name and address; current license number and license expiration date, if any; the date the  
 348 licensing authority received the application; the name, address and telephone number of the licensing  
 349 authority; the agent of the licensing authority that received the application; the type of application; and  
 350 whether the application is for a new license or a renewal of an existing license. The licensing authority shall  
 351 keep a copy of the receipt for not less than 1 year and shall furnish a copy to the applicant if requested by  
 352 the applicant.

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354 (f) A license issued under this section shall be revoked or suspended by the licensing authority, or his  
 355 designee, upon the occurrence of any event that would have disqualified the holder from being issued such  
 356 license or from having such license renewed. A license may be revoked or suspended by the licensing  
 357 authority if it appears that the holder is no longer a suitable person to possess such license. Any revocation  
 358 or suspension of a license shall be in writing and shall state the reasons therefor. Upon revocation or  
 359 suspension, the licensing authority shall take possession of such license and the person whose license is so  
 360 revoked or suspended shall take all actions required under the provisions of section 129D. No appeal or  
 361 post-judgment motion shall operate to stay such revocation or suspension. Notices of revocation and  
 362 suspension shall be forwarded to the commissioner of the department of criminal justice information  
 363 services and the commissioner of probation and shall be included in the criminal justice information  
 364 system. A revoked or suspended license may be reinstated only upon the termination of all disqualifying  
 365 conditions, if any.

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367 Any applicant or holder aggrieved by a denial, revocation, suspension or restriction placed on a license,  
 368 unless a hearing has previously been held pursuant to chapter 209A, may, within either 90 days after  
 369 receiving notice of the denial, revocation or suspension or within 90 days after the expiration of the time  
 370 limit during which the licensing authority shall respond to the applicant or, in the case of a restriction, any

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375 [time after a restriction is placed on the license pursuant to this section](#), file a petition to obtain judicial  
 376 review in the district court having jurisdiction in the city or town [in which the applicant filed the](#)  
 377 [application or in which the license was issued](#). [If after a hearing, a justice of the court finds that there was](#)  
 378 [no reasonable ground for denying, suspending, revoking or restricting the license and that the petitioner is](#)  
 379 [not prohibited by law from possessing a license, the justice may order a license to be issued or reinstated to](#)  
 380 [the petitioner or may order the licensing authority to remove certain restrictions placed on the license.](#)

381

382 (g) A license shall be in a standard form provided by the [commissioner of criminal justice information](#)  
 383 [services](#) in a size and shape equivalent to that of a license to operate motor vehicles issued by the registry  
 384 of motor vehicles pursuant to section 8 of chapter 90 and shall contain a license number which shall clearly  
 385 indicate the name, address, photograph, fingerprint, place and date of birth, height, weight, hair color, eye  
 386 color and signature of the licensee. [The license shall be clearly marked "License to Carry Firearms". The](#)  
 387 [license shall provide in a legible font size and style the phone numbers for the National Suicide Prevention](#)  
 388 [Lifeline and the Samaritans Statewide Helpline.](#) The application for such license shall be made in a  
 389 standard form provided by the executive director of the criminal history systems board, which form shall  
 390 require the applicant to affirmatively state under the pains and penalties of perjury that such applicant is not  
 391 disqualified on any of the grounds enumerated above from being issued such license.

392

393 (h) Any person who knowingly files an application containing false information shall be punished by a fine  
 394 of not less than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than  
 395 two years in a house of correction, or by both such fine and imprisonment.

396

397 (i) A license to carry or possess firearms shall be valid, unless revoked or suspended, for a period of not  
 398 more than 6 years from the date of issue and shall expire on the anniversary of the licensee's date of birth  
 399 occurring not less than 5 years [nor](#) more than 6 years from the date of issue; [provided, however, that, if the](#)  
 400 [licensee applied for renewal before the license expired, the license shall remain valid after its expiration](#)  
 401 [date for all lawful purposes until the application for renewal is approved or denied.](#) [If a licensee is on active](#)  
 402 [duty with the armed forces of the United States on the expiration date of the license, the license shall](#)  
 403 [remain valid until the licensee is released from active duty and for a period not less than 180 days following](#)  
 404 [the release; provided, however, that, if the licensee applied for renewal prior to the end of that period, the](#)  
 405 [license shall remain valid after its expiration date for all lawful purposes until the application for renewal is](#)  
 406 [approved or denied.](#) Any renewal thereof shall expire on the anniversary of the licensee's date of birth  
 407 occurring not less than 5 years but not more than 6 years from the effective date of such license. Any  
 408 license issued to an applicant born on February 29 shall expire on March 1. The fee for the application shall  
 409 be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of  
 410 revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited  
 411 into the general fund of the commonwealth and not less than \$50,000 of the funds deposited into the  
 412 General Fund shall be allocated to the Firearm Licensing Review Board, established in section 130B, for its  
 413 operations and that any funds not expended by said board for its operations shall revert back to the General  
 414 Fund; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.  
 415 For [active and retired](#) law enforcement officials, or local, state, or federal government entities acting on  
 416 their behalf, the fee for the application shall be set at \$25, which shall be payable to the licensing authority  
 417 and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain  
 418 \$12.50 of the fee, and \$12.50 of the fee shall be deposited into the general fund of the commonwealth.  
 419 Notwithstanding any general or special law to the contrary, licensing authorities shall deposit such portion  
 420 of the license application fee into the Firearms Record Keeping Fund quarterly, not later than January 1,  
 421 April 1, July 1 and October 1 of each year. Notwithstanding any general or special law to the contrary,  
 422 licensing authorities shall deposit quarterly such portion of the license application fee as is to be deposited  
 423 into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year. For the purposes  
 424 of section 10 of chapter 269, an expired license to carry firearms shall be deemed to be valid for a period

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457 not to exceed 90 days beyond the stated date of expiration, unless such license to carry firearms has been  
 458 revoked.

459

460 Any person over the age of 70 and any law enforcement officer applying for a license to carry firearms  
 461 through his employing agency shall be exempt from the requirement of paying a renewal fee for a Class A  
 462 or Class B license to carry.

463

464 (j)(1) No license shall be required for the carrying or possession of a firearm known as a detonator and  
 465 commonly used on vehicles as a signaling and marking device, when carried or possessed for such  
 466 signaling or marking purposes.

467

468 (2) No license to carry shall be required for the possession of an unloaded large capacity rifle or shotgun or  
 469 an unloaded feeding device therefor by a veteran’s organization chartered by the Congress of the United  
 470 States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by the  
 471 Internal Revenue Service, or by the members of any such organization when on official parade duty or  
 472 during ceremonial occasions. For purposes of this subparagraph, an “unloaded large capacity rifle or  
 473 shotgun” and an “unloaded feeding device therefor” shall include any large capacity rifle, shotgun or  
 474 feeding device therefor loaded with a blank cartridge or blank cartridges, so-called, which contain no  
 475 projectile within such blank or blanks or within the bore or chamber of such large capacity rifle or shotgun.

476

477 (k) Whoever knowingly issues a license in violation of this section shall be punished by a fine of not less  
 478 than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than two years  
 479 in a jail or house of correction, or by both such fine and imprisonment.

480

481 (l) The executive director of the criminal history systems board shall send electronically or by first class  
 482 mail to the holder of each such license to carry firearms, a notice of the expiration of such license not less  
 483 than 90 days prior to such expiration and shall enclose therein a form for the renewal of such license. The  
 484 form for renewal shall include an affidavit in which the applicant shall verify that the applicant has not lost  
 485 any firearms or had any firearms stolen from the applicant’s since the date of the applicant’s last renewal or  
 486 issuance. The taking of fingerprints shall not be required in issuing the renewal of a license if the renewal  
 487 applicant’s fingerprints are on file with the department of the state police. Any licensee shall notify, in  
 488 writing, the licensing authority who issued said license, the chief of police into whose jurisdiction the  
 489 licensee moves and the executive director of the criminal history systems board of any change of address.  
 490 Such notification shall be made by certified mail within 30 days of its occurrence. Failure to so notify shall  
 491 be cause for revocation or suspension of said license. The commissioner of criminal justice information  
 492 services shall provide electronic notice of expiration only upon the request of a cardholder. A request for  
 493 electronic notice of expiration shall be forwarded to the department on a form furnished by the  
 494 commissioner. Any electronic address maintained by the department for the purpose of providing electronic  
 495 notice of expiration shall be considered a firearms record and shall not be disclosed except as provided in  
 496 section 10 of chapter 66.

497

498 (m) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a firearm,  
 499 rifle or shotgun whose license issued under this section is invalid for the sole reason that it has expired, not  
 500 including licenses that remain valid under paragraph (i) because the licensee applied for renewal before the  
 501 license expired, but who shall not be disqualified from renewal upon application therefor pursuant to this

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505 | section, shall be subject to a civil fine of not less than \$1,000 nor more than \$5,000 and the provisions of  
506 section 10 of chapter 269 shall not apply; provided, however, that the exemption from the provisions of  
507 said section 10 of said chapter 269 provided herein shall not apply if: (i) such license has been revoked or  
508 suspended, unless such revocation or suspension was caused by failure to give notice of a change of  
509 address as required under this section; (ii) revocation or suspension of such license is pending, unless such  
510 revocation or suspension was caused by failure to give notice of a change of address as required under this  
511 section; or (iii) an application for renewal of such license has been denied. Any law enforcement officer  
512 who discovers a person to be in possession of a firearm, rifle or shotgun after such person's license has  
513 expired, meaning after 90 days beyond the stated expiration date on the license, has been revoked or  
514 suspended, solely for failure to give notice of a change of address, shall confiscate such firearm, rifle or  
515 shotgun and the expired or suspended license then in possession and such officer, shall forward such  
516 license to the licensing authority by whom it was issued as soon as practicable. The officer shall, at the time  
517 of confiscation, provide to the person whose firearm, rifle or shotgun has been confiscated, a written  
518 inventory and receipt for all firearms, rifles or shotguns confiscated and the officer and his employer shall  
519 exercise due care in the handling, holding and storage of these items. Any confiscated weapon shall be  
520 returned to the owner upon the renewal or reinstatement of such expired or suspended license within one  
521 year of such confiscation or may be otherwise disposed of in accordance with the provisions of section  
522 129D. The provisions of this paragraph shall not apply if such person has a valid license to carry firearms  
523 issued under section 131F.

524

525 (n) Upon issuance of a license to carry or possess firearms under this section, the licensing authority shall  
526 forward a copy of such approved application and license to the executive director of the criminal history  
527 systems board, who shall inform the licensing authority forthwith of the existence of any disqualifying  
528 condition discovered or occurring subsequent to the issuance of a license under this section.

529

530 (o) No person shall be issued a license to carry or possess a machine gun in the commonwealth, except that  
531 a licensing authority or the colonel of state police may issue a machine gun license to:

532

533 (i) a firearm instructor certified by the municipal police training committee for the sole purpose of firearm  
534 instruction to police personnel;

535

536 (ii) a bona fide collector of firearms upon application or upon application for renewal of such license.

537

538 (p) The executive director of the criminal history systems board shall promulgate regulations in accordance  
539 with chapter 30A to establish criteria for persons who shall be classified as bona fide collectors of firearms.

540

541 (q) Nothing in this section shall authorize the purchase, possession or transfer of any weapon, ammunition  
542 or feeding device that is, or in such manner that is, prohibited by state or federal law.

543

544 (r) The secretary of the executive office of public safety or his designee may promulgate regulations to  
545 carry out the purposes of this section.

546