

SUMMARY OF 1998 MASSACHUSETTS GUN CONTROL LEGISLATION

PURPOSE OF THE PERMIT LAWS:

The Massachusetts Courts have noted that the goal of the state's firearms control legislation is to limit access to deadly weapons by irresponsible people.

FIREARMS IDENTIFICATION CARDS (FID):

In Massachusetts any person who is a resident or has a place of business within the Commonwealth or resides in an area of exclusive federal jurisdiction (military base) may apply for the issuance or renewal of a FID card from the local licensing authority. Under 1998 legislation, FID Cards are valid for 6 years, unless revoked or suspended.

A holder of a FID card is not entitled to possess (i) a large capacity firearm or feeding device therefore, (ii) a non-large capacity firearm or (iii) a large capacity rifle or shotgun or large capacity feeding device therefore. Exceptions exist for the possession of such firearms and large capacity weapons while under the direct supervision of the holder of a Class A or Class B License to Carry as the case may be at a shooting club or range.

An FID Card is valid for possession of a non-large capacity rifle or shotgun and ammunition therefore and for the purchase and possession of Chemical Mace and similar incapacitating gases or powders. A **RESTRICTED FID CARD** is solely for the purchase and possession of mace and similar pepper sprays. Person (s) licensed under this card do not need to complete a basic firearm safety course.

No person under the age of 15 may be issued an FID Card. No person who is fifteen but less than eighteen may obtain an FID Card without parental permission.

In Massachusetts mace and other similar pepper sprays are considered to be ammunition.

Any person applying for an FID Card is required to provide as part of the application package, a basic firearm safety certificate or a certificate issued by the Division of Fisheries and Wildlife evidencing satisfactory completion of a hunting safety course. Exempted are those persons licensed before June 1, 1998.

DISQUALIFICATIONS – FID:

The following disqualifications are lifted five years from the date of conviction or release from confinement or supervision, whichever occurs last unless otherwise noted. **

Ever been convicted of:

Ever been adjudicated a youthful offender or delinquent child of:

- a. felony ** permanent disqualification if it is for felonies constituting violent crime or trafficking in drugs
- b. misdemeanor punishable by imprisonment for more than two years. **except violent crime and trafficking in drugs
- c. violent crime permanent (see definition)

- d. a violation of any law relating to weapons or ammunition for which a term of imprisonment may be imposed is lifted in five years unless a violent crime
- e. a violation of any law relating to controlled substances lifted in five years unless trafficking or violent crime
- f. has been confined to a hospital or institution for mental illness unless applicant has a letter from a physician stating he/she is not disabled by such illness
- g. is or has been under treatment for drug addiction or habitual drunkenness, unless applicant is deemed cured by a physician in which case the disqualification is for five years from the date of treatment or confinement
- h. is at the time of the application under 15
- i. is an alien
- j. is currently subject to a temporary or permanent restraining order
- k. is the subject of an outstanding arrest warrant in any state or federal jurisdiction

RIGHT TO APPEAL:

Any person who has had his FID application denied, FID card or LTC revoked or suspended, may within 90 days of that adverse action file an appeal in the District Court for a review of that action.

CHANGE OF ADDRESS: FID CARD – LTC

A cardholder shall send written notice by certified mail of any changes in address to the licensing authority who issued the card, the Police Chief in the new jurisdiction and the Criminal History Systems Board. Notice shall be within 30 days and failure to notify shall be cause for revocation and suspension.

A non-resident who chooses to become a Massachusetts resident has 60 days in which to comply with the Massachusetts firearm laws.

LICENSE TO CARRY:

No person under the age of twenty-one may be issued a Class A or Class B LTC. A License to Carry Permit and FID Card are renewable every six years.

As a result of the 1998 amendments to Mass Gun Laws there are now two classes of Licenses to Carry Firearms:

CLASS A:

A holder of a Class A LTC is entitled to purchase, possess and carry firearms, rifles and shotguns, including large capacity weapons and feeding devices and ammunition. A person must obtain a Class A LTC to carry or possess any loaded firearm in a concealed manner in any public way or place.

CLASS B:

The holder of a Class B LTC is entitled to purchase, possess and carry non-large capacity firearms and feeding devices and ammunition thereof and rifles and shotguns, including large capacity rifles, shotguns, feeding devices and ammunition. Large capacity firearms ONLY under a Class A club license or under the direct supervision of a holder of a Class A license at a shooting club or range.

Both Class A and Class B are subject to restrictions relative to possession, use or carrying imposed by the licensing authority.

An application is submitted to the Chief of Police where the applicant resides or has a place of business. The licensing authority may issue a Class A or Class B if they are not disqualified and it appears that they are a suitable person and has good reason to fear injury to his person or property, or for any other reason, including the carrying of a firearm for use in sport or target practice only.

The licensing authority must submit to the Colonel of State Police a copy of the application and the applicant's fingerprints. The Colonel has 30 days to certify in writing that the license may or may not be issued if in violation of state or federal law.

DISQUALIFICATIONS – LTC:

The licensing authority may not issue a Class A or Class B if the applicant has ever been convicted or adjudicated a youthful offender or a delinquent child of:

- a. A felony
- b. A misdemeanor punishable by imprisonment for more than two years
- c. A violent crime as defined in Section 121
- d. A violation of any law relating to weapons or ammunition for which a term of imprisonment may be imposed
- e. A violation of any law relating to controlled substances
- f. Has been confined to a hospital or institution for mental illness, unless applicant has affidavit from a physician stating he is not disabled by such illness.
- g. Is or has been under treatment or confinement for drug addiction or habitual drunkenness, unless applicant is deemed cured by a physician in which case the disqualification is for 5 years from the date of treatment.
- h. Is at the time of the application under 21 years of age
- i. Is an alien
- j. Is currently subject to permanent or temporary restraining order
- k. Is the subject of an outstanding arrest warrant in any state or federal jurisdiction

SURRENDER OF FIREARMS AND AMMUNITION:

Any time an FID card, LTC or machine gun license is suspended, revoked or denied, the licensee must immediately deliver or surrender all firearms, rifles, shotguns, machine guns or ammunition which he possesses to the licensing authority where he resides.

After taking possession, a chief may transfer them for storage purposes only, to a state and federal licensed gun dealer who operates a bonded warehouse on the licensed premises. A licensee or his legal representative shall have the right at any time up to one year after such surrender to transfer ownership of those items. He must only transfer to a licensed dealer or other person who is legally permitted to purchase or take possession.

OWNERSHIP OR POSSESSION OF FIREARMS BY ALIEN:

The Colonel of the State Police may, after an investigation issue a permit to an alien to own or have in his possession or under his control a rifle or shotgun, subject to such conditions and terms as said Colonel may deem proper.

PERMITS EXPIRE ON BIRTHDAY EVERY SIX YEARS – 90 DAY GRACE PERIOD IF ONE APPLIES BEFORE THE DATE OF EXPIRATION.

IF YOU ENACT A FIREARMS SALE/RENTAL/LEASE YOU MUST OBTAIN THE FA-10 FORM AND MAIL IT TO THE FIREARMS RECORD BUREAU WITHIN SEVEN DAYS OF THE TRANSFER.

TRANSPORTING WEAPONS

CLASS "A" LTC: Allows the holder to transport a loaded or unloaded handgun on his person or in a motor vehicle if the handgun is under their direct control. It does not have to be in a locked case or container. **Note:** Reason issued must be for Restrictions: none to carry concealed

CLASS "B" LTC: Allows the holder to transport a **NON-LARGE CAPACITY HANDGUN, MUST BE UNLOADED AND SECURED IN A LOCKED TRUNK, LOCKED CONTAINER OR SECURE CONTAINER.**

ALL RIFLES AND SHOTGUNS MUST BE UNLOADED WHEN TRANSPORTING THEM IN A MOTOR VEHICLE.

LARGE CAPACITY RIFLES AND SHOTGUNS: No person possessing a Large Capacity Rifle or Shotgun under a Class "A" or Class "B" permit, shall possess the Rifle or Shotgun in a motor vehicle unless it is unloaded and contained within the locked trunk or in a locked case or other secure container. **NOTE: ONLY LARGE CAPACITY RIFLES AND SHOTGUNS NEED TO BE SECURE IN A MOTOR VEHICLE AS MENTIONED ABOVE. NO LARGE CAPACITY RIFLES AND SHOTGUNS (SEE DEFINITION), PUMPS, BOLT ACTION, SINGLE SHOT, LEVER ACTION, OVER AND UNDERS, DOUBLE-BARRELS AND MUZZLELOADERS DO NOT HAVE TO HAVE A TRIGGER LOCK ATTACHED OR BE IN A LOCKED CASE OR SECURE CONTAINER, THEY CAN BE IN OPEN VIEW, BUT THEY MUST BE UNLOADED.**

CARRYING RIFLES AND SHOTGUNS UPON PUBLIC WAYS WHILE HUNTING

You can carry a loaded or unloaded Rifle or Shotgun upon or across a public way if you are engaged in hunting and are the holder of a valid hunting license. You do not have to have a trigger lock attached to the Rifle or Shotgun as long as you are engaged in hunting with a valid hunting license. **NOTE: YOU SHALL NOT POSSESS A LOADED HANDGUN, RIFLE, and SHOTGUN OR DISCHARGE SAME WITHIN 500 FEET OF A BUILDING OR DWELLING IN USE WITHOUT THE OWNERS OR OCCUPANTS PERMISSION. ALSO, YOU SHALL NOT DISCHARGE SAME UPON OR ACROSS ANY STATE OR HARD SURFACE HIGHWAY OR WITHIN 150 FEET OF ANY SUCH HIGHWAY.**

STORING WEAPONS

All handguns, rifles and shotguns, large capacity weapons and machine guns must be stored in a locked container or equipped with a tamper-resistant mechanical lock or other safety device. Such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

NON-RESIDENTS

May possess and carry **NON-LARGE CAPACITY** Rifles and Shotguns for hunting as long as they have a valid non-resident hunting license and that they are legally authorized to possess and carry same in their state of origin. **ALL SHOTGUNS AND RIFLES MUST BE UNLOADED AND ENCASED.** For Handguns and Large Capacity Rifles and Shotguns contact the Department of Public Safety.

ALIENS

Permit required to possess/carry Handguns, Rifles and Shotguns. Apply to the Department of Public Safety.

THIS INFORMATION WAS PROVIDED BY THE MASSACHUSETTS STATE ENVIRONMENTAL POLICE AS A PUBLIC SERVICE. NO ATTEMPT IS MADE TO RENDER LEGAL ADVICE. THE ENVIRONMENTAL POLICE ARE NOT LIABLE FOR ERRORS. CONSULT LEGAL COUNSEL FOR CURRENT AND UP TO DATE LAWS PERTAINING TO CHAPTER 180 AND CHAPTER 358, (GUN CONTROL ACT OF 1998). INFORMATION PROVIDED AS OF 10-19-98.

SECTION 8:

This section rewrites the definitions section for the weapons provisions of C140 setting forth new definitions for the following terms: Assault Weapons, Large Capacity Feeding Device, Large Capacity Weapon, Semiautomatic, Violent Crime and Weapon. In addition, this section excludes from the definition of "firearm" covert weapons that do not resemble a handgun, rifle, shotgun or that are not detectable as a weapon by x-rays or metal detectors. The new definitions are:

Assault Weapons: a semiautomatic assault weapon as defined under federal law, including, but not limited to copies or duplicates of 8 named weapons (e.g. AK, all models). Seven types of weapons were excluded from the definition of assault weapons, including those weapons specifically exempted under federal law, and weapons operated by a manual bolt, pump lever or slide action.

Large Capacity Feeding Device: magazine, box, bolt or drum capable of accepting or readily converted to accept more than 10 rounds of ammunition or more than 5 shotgun shells, or a large capacity ammunition feeding device as defined under federal law.

Large Capacity Weapon: any firearm, rifle or shotgun (i) that is semiautomatic with a fixed large capacity feeding device; (ii) that is semiautomatic and capable of accepting or readily modifiable to accept, any detachable large capacity feeding device; (iii) employs a rotating cylinder capable of accepting more than ten rounds of ammunition in a rifle or shotgun or five shotgun shells; or (iv) that is an assault weapon.

Excluded: any weapon manufactured prior to 1899, that operates by manual bolt pump, lever or slide action; that is single shot weapon; has been modified to be permanently inoperable; or an antique, relic, prop or other weapon not intended for use as a functional weapon.

Violent Crime: Any crime punishable by imprisonment for a term of more than one year that:

- (i) has as an element the use, attempted use or threatened use of physical force or deadly weapon against another
- (ii) is burglary, extortion, arson or kidnapping
- (iii) involves the use of explosives or
- (iv) otherwise involves conduct that presents a serious risk of physical injury to another

Any act of juvenile delinquency involving the use of/ possession of a deadly weapon that would be punishable by imprisonment of more than one year if committed by an adult that:

- (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against another
- (ii) is burglary, extortion, arson or kidnapping
- (iii) involves the use of explosives or
- (iv) otherwise involves the conduct that presents a serious risk of physical injury to another

Weapon: Any rifle, shotgun or firearm