

By Mr. Finneran of Boston, petition of Thomas M. Finneran and Kevin Poirier for legislation to provide further penalties for the use or carrying of firearms in the commission of drug related or violent crimes. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT PROVIDING FURTHER PENALTIES FOR THE USE OR CARRYING OF FIREARMS IN THE COMMISSION OF A DRUG RELATED OR VIOLENT CRIME.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Whoever, during and in relation to any crime, including a crime
2 of violence or drug trafficking crime, which provides for an
3 enhanced punishment if committed by the use of a dangerous or
4 deadly weapon or device, or uses or carries a firearm, shall, in
5 addition to the punishment provided for such crime of violence
6 or drug trafficking crime, be sentenced to imprisonment for five
7 years, and if the firearm is a machinegun or is equipped with a
8 firearm silencer or firearm muffler, to imprisonment for ten years.

9 In the case of this second or subsequent conviction under this
10 section: —

11 Such person shall be sentenced to imprisonment for ten years,
12 and if the firearm is a machinegun or is equipped with a firearm
13 silencer or firearm muffler, to imprisonment for twenty years.

14 Notwithstanding any other provision of law, the Court shall not
15 place on probation or suspend the sentence of any person
16 convicted of a violation of this subsection. Nor shall the term of
17 imprisonment imposed under this subsection run concurrently
18 with any other term of imprisonment including that imposed for
19 the crime of violence or drug trafficking crime in which a firearm
20 was used or carried. No person sentenced under this subsection
21 shall be eligible for parole during the time of imprisonment
22 imposed herein.

23 In the case of a person who violates section 1 of this act and

24 has three previous convictions by any court for a violent felony
25 or a serious drug offense or both, such person shall be fined not
26 more than \$25,000 and imprisoned not less than 15 years, and,
27 notwithstanding any other provision of the law, the Court shall
28 not suspend the sentence of or grant a probationary sentence to,
29 such person with respect to Section 1, and such person shall not
30 be eligible for parole with respect to the sentence imposed under
31 this subsection.

32 The term "Serious Drug Offense" means:

33 (1) An offense under the Federal Controlled Substance Act, the
34 Federal Controlled Substances Import and Export Act, or the first
35 section or Section Three of Federal Public Law 96-350, for which
36 a maximum term of imprisonment of ten years or more is
37 prescribed by law; or

38 (2) An offense under the General Laws of the Commonwealth
39 of Massachusetts, involving manufacturing, distributing, or
40 possessing with the intent to manufacture or distribute, a
41 Controlled Substance, for which a maximum term of imprison-
42 ment of ten years or more is prescribed by law; and . . .

43 The term "Violent Felony" means any crime punishable for a
44 term exceeding one year that: —

45 (1) Has as an element the use, attempted use, or threatened use
46 of physical force against the person of another; or

47 (2) Is burglary, arson or extortion, involves the use of
48 explosives, or otherwise involves conduct that presents a serious
49 potential risk of physical injury to another.