

HOUSE No. 152

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC SAFETY

1010 COMMONWEALTH AVENUE, BOSTON 02215, OCTOBER 26, 1971.

Honorable John F. X. Davoren, *Secretary of the Commonwealth*, State House,
Boston, Massachusetts.

DEAR MR. SECRETARY: – In accordance with the provisions of sections 33 and 33A of chapter 30 of the General Laws, a copy of the recommendations of the Department of Public Safety is submitted herewith, together with drafts of bills embodying the legislation recommended. The drafts of legislation have been submitted to the Counsel to the House as required by law.

Respectfully submitted,

JOHN F. KEHOE, JR.,
Commissioner.

RECOMMENDATIONS

The Department is recommending legislation this year for the following purposes:

1. AN ACT MAKING CERTAIN CHANGES IN THE LAW RELATIVE TO THE PURCHASE, SALE AND POSSESSION OF FIREARMS, RIFLES AND SHOTGUNS.

The first amendment of General Laws, chapter 140, section 129B, proposed in section 1 of this bill, seeks to clarify the present language of the statute relative to the ineligibility of a person to be issued a firearm identification card if such person, within a five-year period has been released from a state prison or penitentiary where such person was serving a sentence for a felony conviction. This change is deemed desirable, inasmuch as some sentences for felony convictions are served in a house of correction.

The second amendment of said section 129B, also proposed in section 1 of this bill, would preclude the issuance of a firearm identification card to an alien. Section 131H of said chapter 140 requires an alien to obtain a permit to possess a rifle or shotgun from the Commissioner of Public Safety. The same section prohibits the possession of firearms (pistols or revolvers) by aliens. It has come to the attention of this Department that aliens are applying for and being issued firearms identification cards which are of no legal value to such aliens since such cards do not authorize their possession of rifles or shotguns in accordance with the provisions of said section 131H. In addition, some aliens who are wrongfully holders of a firearm identification card believe that such card authorizes the possession of a firearm (pistol or revolver).

The third amendment of said section 129B, proposed in section 2 of this bill, involves a procedural change designed to facilitate the administration, processing and updating of approximately 250,000 records in the Firearm Records Section of this Department. It would provide for the issuance of a firearm identification card until revoked or suspended and would eliminate the payment of a renewal fee of two dollars, as is presently the case at the

expiration of a five-year period. The existing firearms law requires the automatic renewal of such card without any further investigation of the applicant, and allows the revocation or suspension upon the occurrence of any condition which would have disqualified the holder from being issued such card. These built-in safeguards would not be negated or compromised in any manner. The time and effort presently expended in processing such records could then be devoted to greater advantage in more important areas of concern and responsibility, such as tracing weapons used in crimes, stolen weapons, etc., and would compensate for any loss of revenue resulting from this amendment which unquestionably will meet with the approval of gun enthusiasts.

The amendment of section 129C of said chapter 140, proposed in section 3 of this bill, would require the immediate report of any loss, theft or recovery of a firearm, rifle or shotgun to the Commissioner of Public Safety and the licensing authority in the city or town where the owner resides. The present statute requires such reporting within fourteen days of the discovery by the owner, of any such loss or theft. Statistics indicate that the favorite method presently utilized by the criminal element to obtain weapons is the housebreak. Adoption of this amendment would provide law enforcement agencies with an immediate rather delayed report of such loss or theft.

The amendment of section 131A of said chapter 140, proposed in section 4 of this bill would allow the purchase of rifles and shotguns by military personnel who are licensed under the provisions of section 131F of said chapter 140. Such personnel, under Federal Law, for the purpose of making such purchases, are considered residents of the state in which they are stationed.

The amendment of section 10 of chapter 269 of the General Laws, proposed in section 5 of this bill, is a corrective change, designed to provide consistency with the provisions of chapter 456 of the acts of 1971, relative to the purchase and possession of ammunition as defined in section 122B of said chapter 140.

2. AN ACT LOWERING THE PRIMA FACIE LEVEL OF PRESUMPTION OF OPERATING UNDER THE INFLUENCE OF INTOXICATING LIQUOR TO TEN ONE HUNDREDTHS OF THE PERCENTAGE, BY WEIGHT, OF ALCOHOL IN THE DEFENDANT'S BLOOD.

This proposed legislation would lower the prima facie level of presumption of operating a motor vehicle under the influence of intoxicating liquor from fifteen one hundredths to ten one hundredths of the percentage, by weight, of alcohol in the defendant's blood, to conform with recommended Federal Standards of Highway Safety with which the states must comply, or eventually sustain a loss in Federal Aid Highway Funds. It would assist in the prosecution of drivers operating under the influence of alcohol in excess of such recommended percentage.

3. AN ACT AUTHORIZING A CHEMIST OF THE DEPARTMENT OF PUBLIC SAFETY TO ISSUE A CERTIFICATE WHICH SHALL BE PRIMA FACIE EVIDENCE OF THE RESULT OF ANALYSIS MADE BY HIM OF THE PRESENCE OF A SPERM CELL OR CELLS OR SEMINAL FLUID ON OR IN ANY MATERIAL OR SUBSTANCE.

The object of this proposed legislation is to reduce the amount of time consumed in court appearances by chemists of this Department, particularly when such appearances involve relatively non-controversial analyses. Its enactment would result in reduced cost to the Commonwealth and would permit such chemists to devote more time in the performance of their duties relative to an ever-increasing work load.

4. AN ACT AUTHORIZING A CHEMIST OF THE DEPARTMENT OF PUBLIC SAFETY TO ISSUE A CERTIFICATE WHICH SHALL BE PRIMA FACIE EVIDENCE OF RESULTS OF ANALYSIS BY HIM OF THE PERCENTAGE OF ALCOHOL IN BLOOD.

The object of this proposed legislation is identical to that of the preceding bill.

5. AN ACT REQUIRING ANALYSIS OF BLOOD SAMPLES IN CASES OF MOTOR VEHICLE FATALITIES.

The object of this legislative proposal is to assist in determining the condition of decedents in highway fatalities, particularly in regard to criminal and civil actions before the courts of the Commonwealth.

6. AN ACT INCREASING THE AMOUNT OF ANNUAL PENSION PAYABLE TO CERTAIN PERSONS RETIRED FOR PHYSICAL OR MENTAL DISABILITY CAUSED BY ILLNESS OR INJURY INCURRED IN PERFORMANCE OF DUTY.

This proposal is submitted in order to correct an inequity resulting from the enactment of section 1 of chapter 644 of the acts of 1970 which increased from two-thirds to seventy-two percent, the pension received by persons retired in accordance with the provisions of section 7 of chapter 32 of the General Laws.

Inasmuch as members of the Uniformed Branch of the Division of State Police are retired for disability in accordance with the provisions of subdivision (2) of section 26 of chapter 32 of the General Laws, the provisions of subdivision (1) of section 7, and subdivision (4) of said section 26 of said chapter 32 precluded the granting of such increase to the said members of the Uniformed Branch.

7. AN ACT AUTHORIZING THE COMMISSIONER OF PUBLIC SAFETY TO MAKE RULES AND REGULATIONS RELATIVE TO THE WEAPONS AND EQUIPMENT WHICH MAY BE CARRIED BY PERSONS ENGAGED IN THE BUSINESS OF PRIVATE DETECTIVES AND INVESTIGATORS AND WATCH, GUARD OR PATROL AGENCIES.

The third sentence of section 29 of chapter 147 of the General Laws provides as follows: — "A licensee or his employee or agent shall carry only such weapons and equipment as are authorized by the commissioner." This section, however, does not specifically authorize the Commissioner to establish rules and regulations regarding such weapons and equipment, therefore, necessitating such authorization on an individual basis. In view of the large number of licensees, employees and agents engaged in the business of Private Detectives and Investigators and Watch, Guard or Patrol Agencies, enactment of this recommendation would provide greater effectiveness in the administration and enforcement of the provisions of this section. Section 2 of the bill would provide a penalty for violation of any such rule or regulation.

8. AN ACT AUTHORIZING THE DEPARTMENT OF PUBLIC SAFETY TO MAKE AN EXAMINATION OF CERTAIN ITEMS FOR THE PURPOSE OF IDENTIFICATION AS A FIREARM AND TO ISSUE CERTIFICATES WHICH SHALL BE PRIMA FACIE EVIDENCE OF THE RESULT OF SUCH EXAMINATION.

The object of this legislative proposal is to effect a reduction in time consumed in court appearances by officers of the Division of State Police assigned to the Firearms Identification Section of this Department. Of the officers so-assigned, three qualify as experts in the courts of the Commonwealth in matters relating to the field of ballistics, and it is not unusual for such officers to be called upon to appear in two or three courts on the same day, regarding cases which are being tried simultaneously. Enactment of this bill would reduce the case continuances which often result from such situations, and in addition, would permit such personnel to devote more time to essential laboratory testing of weapons and ammunition used in the commission of crimes.

9. AN ACT DEFINING THE TERMS "BOILER" AND "PRESSURE VESSEL" UNDER THE LAW REGULATING BOILERS.

The absence of a statutory definition of the term "Boiler" and the term "Pressure Vessel" under the law regulating boilers, has for years been the cause of considerable confusion in many court cases. This Department deems such statutory definitions to be both necessary and desirable for the purpose of clarification of the law in any future litigation.

10. AN ACT RELATIVE TO THE INSPECTION OF BOILERS AND PRESSURE VESSELS.

The object of this recommendation is to enable owners of small business establishments and apartment dwellings to have their insurance written in a package policy which is more efficient and economical.

THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW YORK
IN SENATE, January 14, 1914.

REPORT
OF THE
COMMISSIONERS OF THE LAND OFFICE
IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE
MAY 17, 1912.

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