

By Mr. Tarr of Gloucester, petition of Bruce E. Tarr and other members of the House relative to the penalty for use of firearms during the commission of a felony. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT RELATIVE TO THE USE OF FIREARMS WHILE COMMITTING A FELONY.

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

1 Section 18B of Chapter 265 of the General Laws as appearing
2 in the 1992 Official Edition is hereby amended by striking out
3 lines 1-18 and inserting in place thereof the following: Whoever
4 while committing an offense which may be punished by
5 imprisonment in the state prison uses or carries a firearm, rifle
6 or shotgun shall, in addition to the penalty for such offense, be
7 punished by imprisonment in the state prison for not less than
8 five years nor more than ten years. Whoever has committed an
9 offense which may be punished by imprisonment in the state
10 prison and used or carried therein a firearm, rifle or shotgun and
11 who thereafter commits a second or subsequent offense which may
12 be punished by imprisonment in the state prison and uses or
13 carries a firearm, rifle or shotgun therein shall, in addition to the
14 penalty for such offense, be punished by imprisonment in the state
15 prison for ten years.

16 Whoever while committing an offense which may be punished
17 by imprisonment in the state prison uses or carries a machine gun
18 shall, in addition to the penalty for such offense be punished by
19 imprisonment in a state prison for not less than ten years, nor
20 more than fifteen years. Whoever has committed an offense which
21 may be punished by imprisonment in the state prison and used
22 or carried therein a machine gun and who thereafter commits a
23 second or subsequent offense which may be punished by
24 imprisonment in the state prison or uses or carries a machine gun

25 therein shall, in addition to the penalty for such offense, be
26 punished by imprisonment in the state prison for not less than
27 fifteen years, nor more than twenty years.

28 This section shall not apply in the case of any felony in which
29 the offense consists in whole or in part of using a dangerous
30 weapon.

31 Sentences imposed under this section shall not be reduced, nor
32 suspended, nor shall any person convicted under this section be
33 eligible for probation, or furlough or receive any deduction from
34 his sentence for good conduct, nor shall such person be paroled
35 prior to the expiration of such additional sentence, nor shall the
36 term of imprisonment imposed under this section run concur-
37 rently with the term of imprisonment imposed for the underlying
38 felony in which the firearm, rifle, shotgun, or machine gun was
39 used or carried, excepting that a judge may impose concurrent
40 sentences in accordance with Section 8 of Chapter 279 of the
41 General Laws provided that the sentencing judge includes in the
42 record findings relative thereto.