

SENATE No. 1300

By Mr. Zarod, a petition (accompanied by bill, Senate, No. 1300) of the Massachusetts Sportsmen's Council, Inc., by Victor M. Anop, legislative counsel, John P. Burke, Robert D. Wetmore, Robert A. Hall and Stanley J. Zarod for legislation to further regulate sale, possession, and carrying of air guns. Public Safety.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT FURTHER REGULATING SALE, POSSESSION, AND CARRYING OF
AIR GUNS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate the sale, possession or carrying of air guns, BB guns and pellet guns, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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 1. The first paragraph of section 121 of chapter
2 140 of the General Laws, as most recently amended by sec-
3 tion 1 of chapter 892 of the acts of 1973, is hereby further
4 amended by striking out the first sentence and inserting in
5 place thereof the following sentence: — In sections one hun-
6 dred and twenty-two to one hundred and thirty-one F, inclu-
7 sive, "firearm" shall mean a pistol, revolver or other weapon
8 of any description loaded or unloaded, from which a shot or
9 bullet can be discharged and of which the length of barrel is
10 less than sixteen inches or eighteen inches in the case of a
11 shotgun, and the term "length of barrel" shall mean that por-
12 tion of a firearm, rifle, shotgun or machine gun through
13 which a shot or bullet is driven, guided or stabilized, and shall
14 include the chamber, except that for the purposes of regula-
15 tion under section one hundred twenty-two to one hundred
16 thirty-one G, inclusive, any air gun, BB gun, pellet gun or
17 similar weapons of any description, regardless of barrel length,

18 from which a shot or pellet can be discharged by means of
19 compressed air or gas shall be treated as a rifle.

1 SECTION 2. Section 10 of chapter 269 of the General Laws
2 is hereby amended by striking out subsection(a) as most re-
3 cently amended by section 1 of chapter 175 of the acts of
4 1978, and inserting in place thereof the following subsec-
5 tion: —

6 (a) Whoever, except as provided by law, carries on his
7 person, or under his control in a vehicle, a firearm, loaded or
8 unloaded, as defined in section one hundred and twenty-one of
9 chapter one hundred and forty without either: —

10 (1) having in effect a license to carry firearms issued under
11 section one hundred and thirty-one of chapter one hundred
12 and forty; or

13 (2) having in effect a license to carry firearms issued under
14 section one hundred and thirty-one of chapter one hundred
15 and forty; or

16 (3) complying with the provisions of section one hundred
17 and twenty-nine C and one hundred and thirty-one G of chap-
18 ter one hundred and forty; and whoever carries on his person
19 or carries on his person, or under his control in a vehicle a
20 rifle or shotgun, loaded or unloaded, without either: —

21 (1) having in effect a license to carry firearms issued under
22 section one hundred and thirty-one of chapter one hundred
23 and forty; or

24 (2) having in effect a license to carry firearms issued under
25 section one hundred and thirty-one F of chapter one hundred
26 and forty; or

27 (3) having in effect a firearm identification card issued un-
28 der section one hundred and twenty-nine B of chapter one
29 hundred and forty; or

30 (4) having complied as to carrying, with the requirements
31 imposed by section one hundred and twenty-nine C of chapter
32 one hundred and forty upon ownership or possession of rifles
33 and shotguns shall be punished by imprisonment in the state
34 prison for not less than two and one-half nor more than five
35 years, or for not less than one year nor more than two and
36 one-half years in a jail or house of correction. The sentence
37 imposed upon such person shall not be reduced to less than

38 one year, not suspended, nor shall any person convicted under
39 this subsection (a) be eligible for probation, parole, work re-
40 lease, or furlough or receive any deduction from his sentence
41 for good conduct until he shall have served one year of such
42 sentence. Provided, however, that the commissioner of cor-
43 rection may on the recommendation of the warden, superin-
44 tendent, or other person in charge of a correctional institu-
45 tion, or the administrator of a county correctional institution
46 grant to an offender committed under this subsection a tem-
47 porary release in the custody of an officer of such institution
48 for the following purposes only: to attend the funeral of a
49 relative; to visit a critically ill relative; or to obtain emer-
50 gency medical or psychiatric services unavailable at said in-
51 stitution.

52 Prosecutions commenced under this section shall neither be
53 continued without a finding nor placed on file, except that any
54 person who unlawfully carries or possesses any air gun, BB
55 gun, pellet gun, or similar weapon as described in section one
56 hundred and twenty-one of chapter one hundred and forty,
57 shall be prosecuted under the provisions of this subsection
58 only when such weapon is carried or possessed during the
59 commission of a felony, otherwise unlawfully carrying or pos-
60 sessed such a weapon shall be prosecuted under the provi-
61 sions of subsection (h) of this section, and shall be subject
62 only to the penalties set forth in said subsection.

1 SECTION 3. Section twelve A of said chapter two hundred
2 and sixty-nine is hereby repealed.

1 SECTION 4. Said chapter 269 is hereby further amended by
2 striking out section 12B, as most recently amended by sec-
3 tion 16 of chapter 737 of the acts of 1968, and inserting in
4 place thereof the following section: —

5 *Section 12B.* No person shall discharge a BB shot, pellet or
6 other object from an air rifle or so-called BB gun into, from
7 or across any street, alley, public way or railroad right of
8 way.

9 Whoever violates this section shall be punished by a fine of
10 not more than one hundred dollars, and the air rifle or BB
11 gun or other weapon shall be confiscated.

12 Upon conviction of a violation of this section the air rifle

13 or BB gun or other weapon shall, by the written authority
14 of the court, be forwarded to the commissioner of public
15 safety, who may dispose of said article in the same manner as
16 prescribed in section ten.

1 SECTION 5. Section 130 of said chapter 140, as most re-
2 cently amended by chapter 161 of the acts of 1973, is hereby
3 further amended by striking out the last sentence and insert-
4 ing in place thereof the following sentence: — Nothing in this
5 section or section 131E shall be construed to prohibit a parent
6 or guardian from allowing his child or ward, who has not at-
7 tained age fifteen, the supervised use of a rifle, shotgun, or
8 any air gun, pellet gun or similar weapons as described in sec-
9 tion one hundred and twenty-one, or ammunition therefor,
10 according to the provisions of section one hundred and twenty-
11 nine C nor from furnishing his child or ward, who has at-
12 tained age fifteen, with a rifle, shotgun, or any air gun, BB
13 gun, pellet gun or similar weapons as described in section one
14 hundred and twenty-one or ammunition therefor, provided
15 said child or ward, being fifteen years of age or older, has a
16 valid firearms identification card, issued to him, nor shall it
17 be construed as prohibiting an instructor from furnishing
18 rifles, shotguns, or any air gun, BB gun, pellet gun or similar
19 weapons as described in section one hundred and twenty-one
20 or ammunition therefor to pupils, provided said instructor has
21 the consent of the parent or guardian of the minor.

1 SECTION 6. Section 12E of said chapter 269, as amended by
2 chapter 261 of the acts of 1972, is hereby further amended by
3 striking out, in line 16, the word "and", — and by adding the
4 following clause: — and (g) to the discharge of an air gun,
5 BB gun, pellet gun or similar weapons as described in section
6 121 of chapter 140 provided that such discharge shall not be
7 into or across the property of another without the consent of
8 the legal owner or occupant thereof.

1 SECTION 7. Nothing contained in this act shall be construed
2 to authorize the sale, possession or carrying of any air ma-
3 chine gun, BB machine gun or pellet machine gun without a
4 machine gun license issued under section 131 of Chapter 140.