

SENATE. No. 1096

By Mr. Keating, a petition (accompanied by bill, Senate, No. 1096) of William R. Keating for legislation relative to alien gun permits. Public Safety.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO ALIEN GUN PERMITS.

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. Section 121 of Chapter 140 of the General Laws
2 as appearing in the 1986 Official Edition is hereby amended in
3 line 2 by striking the words "thirty-one F" and inserting in place
4 thereof the words "thirty-one H."

1 SECTION 2 . The first paragraph of said section 121 of said
2 chapter 140 is hereby amended by adding the following sen-
3 tence: — The word alien shall mean an individual who is not a
4 citizen of the United States.

1 SECTION 3. Said section 121 of said chapter 140 is hereby fur-
2 ther amended by striking out, in line 36, the words "or cards" and
3 inserting in place thereof the following:— ",cards, or permits".

1 SECTION 4. Said section 121 of said chapter 140 is further
2 amended by striking out, in line 37, the words "or firearm identifi-
3 cation card" and inserting in place thereof the following: —
4 ", firearm identification card of alien permit".

1 SECTION 5. Chapter 140 of the General Laws, as so appear-
2 ing, is hereby amended by striking out section 131H and inserting
3 in place thereof the following section: —

4 Section 131H. No alien shall own or have in his possession or
5 under his control a firearm, except as provided in section one hun-
6 dred and thirty-one F or a rifle, shotgun or ammunition except as
7 provided in this section. The chief of police or the board or officer
8 having control of the police in a city or town, or persons autho-
9 rized by them, respectively, shall upon request from an alien resid-
10 ing within their respective jurisdiction who possesses an alien reg-
11 istration card or any alien residing in an area of exclusive federal
12 jurisdiction located within a city or town give an application for a
13 permit to own, possess or have under his control a rifle, shotgun
14 or ammunition. The burden of proving legal residence shall be
15 upon the alien. Said licensing authority shall, within seven days of
16 receipt of a completed application for such permit, forward the
17 alien's photograph, permit form, a copy of the completed applica-
18 tion and all other pertinent information that the commissioner of
19 public safety may require to said commissioner. Said commission-
20 er shall, within forty-five days, advise, in writing, the licensing
21 authority of the criminal record, if any, of the alien. The licensing
22 authority shall, when it has a reasonable belief that the alien may
23 have a history of mental, psychiatric or psychological illness
24 which may affect his suitability to own or possess a rifle, shotgun
25 or ammunition, also make an inquiry concerning the alien to the
26 department of mental health within seven days of receipt of a
27 completed application for such permit. The licensing authority
28 may make any inquiries he feels are necessary to ensure that the
29 alien is a proper person to be furnished a permit. The commission-
30 er of the department of mental health shall respond to a licensing
31 authority within thirty days of receipt of any inquiry stating that
32 based upon the information held by the department of mental
33 health that the alien is a suitable person to be permitted to own or
34 possess a rifle, shotgun or ammunition or is not suitable person to
35 be permitted to own or possess a rifle, shotgun or ammunition.

36 After such investigation has been completed and a personal
37 interview of the alien held, said licensing authority may subject to
38 such terms and conditions as said licensing authority may deem
39 proper, except for an alien who can not prove that they have been
40 lawfully in the United States for one calendar year and have been
41 a legal resident of the commonwealth for at least sixty days prior
42 to submitting his application or who has been convicted of a

43 felony for the unlawful use, possession or sale of a narcotic or
44 harmful drug, or has been under the treatment for or confinement
45 for drug addiction or habitual drunkenness or is at the time of the
46 application under the age of eighteen, issue to an alien residing
47 within their respective jurisdiction or residing in an area of exclu-
48 sive federal jurisdiction located within a city or town, a permit to
49 own, possess or have under his control a rifle, shotgun or ammu-
50 nition in the commonwealth if it appears that the alien is a suitable
51 person to be granted a permit.

52 An application for a permit under this section shall be designed
53 and provided by the commissioner of public safety to all licensing
54 authorities within the commonwealth. Said application shall be on
55 a standard form and any changes to the form must be approved, in
56 writing, by said commissioner.

57 An applicant for a permit or a renewal of a permit under this
58 section shall be notified by the licensing authority, in writing,
59 within sixty days of submitting said application, of either approval
60 or denial. Any alien denied a permit, a renewal of a permit, or a
61 suspension of a permit under this section may, within forty-five
62 days of receiving notification of denial or suspension, file a peti-
63 tion to obtain judicial review in the district court having jurisdic-
64 tion in the city or town wherein the alien filed for said permit; and
65 a justice of said court, after having heard all of the facts, may
66 direct that a permit be issued the alien if he finds that there was no
67 reasonable ground for refusing such permit and that the alien was
68 not prohibited by law from holding the same.

69 Any alien who files an application with any false answer to the
70 questions on the application shall be punished by a fine of not less
71 than five hundred nor more than one thousand dollars and by
72 imprisonment for not less than six months nor more than two
73 years in a jail or house of correction.

74 The commissioner of public safety is hereby directed to furnish
75 alien permit forms to all licensing authorities that shall contain
76 blank spaces for such information as the commissioner deems
77 necessary for proper identification of the alien including a
78 photograph.

79 The fee for such permit or a renewal of a permit shall be twenty
80 dollars and shall be payable in a manner prescribed by the licens-
81 ing authority and shall not be prorated or refunded in case of

82 denial or revocation. Each such permit shall expire annually on
83 the alien's date of birth and shall be revocable for cause by said
84 licensing authority. Whenever such permit is revoked, said licens-
85 ing authority shall give notification in writing and shall immedi-
86 ately take possession of said permit and any rifle, shotgun or
87 ammunition owned, possessed or under control of such alien per-
88 mit holder pending the outcome of any appeal rights such alien
89 may have. The licensing authority shall, if an appeal is denied dis-
90 pose of any such rifle, shotgun or ammunition under the proce-
91 dures set forth in section 129D of this chapter. Any such rifle,
92 shotgun or ammunition may be the subject of a search warrant as
93 provided in chapter two hundred seventy-six. The commissioner
94 of public safety shall send by first class mail to the holder of each
95 alien permit, a notice of the expiration of his license not less than
96 sixty days prior to such expiration. A personal interview with the
97 alien shall not be required in issuing the renewal of a permit but
98 may be held at the discretion of the licensing authority. Any alien
99 permit holder shall notify, in writing, the authority who issued
100 said permit, the chief of police into whose jurisdiction the alien
101 permit holder moves, and the commissioner of public safety of
102 any change in his address. Such notification shall be made by cer-
103 tified mail within ten days of its occurrence. Failure to so notify
104 shall be cause for revocation of said permit.

105 The director of law enforcement of the department of fisheries,
106 wildlife and environmental law enforcement, deputy directors of
107 enforcement, chiefs of enforcement, deputy chiefs of enforcement,
108 environmental police officers, deputy environmental police offi-
109 cers, wardens as defined in section one of chapter one hundred
110 thirty one, members of the state police, members of the metropoli-
111 tan district commission police in areas over which they have juris-
112 diction, and all officers qualified to serve criminal process shall
113 arrest, without a warrant, any person found with a rifle, shotgun or
114 ammunition in his possession if they have reason to believe that
115 he is an alien and if he does not have in his possession a valid per-
116 mit as provided in this section or section one hundred and thirty-
117 one H and ½ or any person with a firearm in his possession if they
118 have reason to believe that he is an alien and if he does not have
119 in his possession a valid permit as provided by section one hun-
120 dred and thirty-one F of this chapter.

121 A violation of this section by an alien shall be punishable by a
122 fine of not less than five hundred nor more than two thousand dol-
123 lars and by imprisonment for not less than six months nor more
124 than two and one-half years in the house of correction or a jail.

1 SECTION 6. Section one of this act shall take effect immedi-
2 ately upon passage of this act.

1 SECTION 7. All new applicants for a resident alien permit
2 under this act shall be required to apply to the licensing authority
3 where they reside or, in the case of non-resident aliens and aliens
4 in the commonwealth on a visa to the commissioner of public
5 safety, effective January 1, 1995.

1 SECTION 8. All renewals for an alien permit under this act
2 shall continue to be processed by the commissioner of public safe-
3 ty until December thirty-first, 1994. If the alien's date of birth is
4 between January first and June thirtieth, the permit shall expire on
5 the alien's date of birth in 1995; however, if the alien's date of
6 birth is between July first and December thirty-first, the permit
7 shall expire on the alien's date of birth in 1994.

