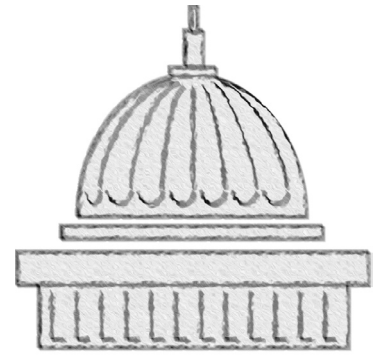


NRA / ILA Firearms Laws for

MASSACHUSETTS

(As of December, 2003)



Compiled by:
NRA-Institute for Legislative Action
11250 Waples Mill Road
Fairfax, Virginia 22030
(800) 392-8683
www.nraila.org

A SYNOPSIS OF STATE LAWS ON PURCHASE, POSSESSION AND CARRYING OF FIREARMS.

QUICK REFERENCE CHART

	Rifles and Shotguns	Handguns
Permit to Purchase	FID Required	YES
Registration of Firearm*	NO	NO
Licensing of Owner	YES	YES
Permit to Carry	FID Required	YES

*Police recordation made of transfers.

STATE CONSTITUTIONAL PROVISION

“The people have a right to keep and bear arms for the common defense. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature, and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.” Declaration of Rights, Article 17.

PURCHASE

A complex procedure is set out for the purchase of rifles, shotguns, handguns, their related feeding devices, ammunition, “large capacity firearms” and “large capacity feeding devices.” Care must be taken to have the correct card or license for a particular purchase. It is unlawful to sell or transfer any firearm, firearm feeding device, or ammunition to a person without the proper card, license, or permit. See possession for how to acquire a card, license, or permit.

An alien or non-resident class A or class B temporary license to carry a firearm shall not be valid for the purpose of purchasing handguns, ammunition or ammunition feeding devices.

Persons over 70 shall be exempt from all renewal license fees.

A private individual is permitted to sell not more than four firearms (rifles, shotguns, or handguns) per year unless sold directly to a licensed gun dealer. He must be properly licensed to possess these firearms and the purchaser must be

properly licensed to buy them. The seller must file a report of the sale with the Executive Director of the Criminal History Systems Board within seven days of the sale. This report must be on the proper forms provided by the Executive Director and give all required details regarding the seller, purchaser and the firearm being transferred, including the caliber, make and serial number, and the FID, license or permit number of the buyer.

It is unlawful to sell, transfer, or possess “any assault weapon or a large capacity ammunition feeding device that was not otherwise lawfully possessed on September 13, 1994.”

Dealers are forbidden to sell or transfer in any way a handgun that is composed of metal with a melting temperature of less than 900° F, tensile strength of less than 55,000 lbs. per square inch, or having a density of less than 7.5 grams per cubic centimeter, unless the handgun passes a performance test; an unsafe handgun; or handgun with a barrel less than 3 inches without a written notice of its accuracy.

Gun dealers are required to post a sign advising that “It is unlawful to store or keep a firearm, rifle, shotgun or machine gun in any place unless that weapon is equipped with tamper-resistant safety device or is stored or kept in a securely locked container.” The written warning must be provided to a purchaser or transferee.

POSSESSION

Firearms and feeding devices for firearms are divided into classes. Depending on the class, a firearm identification card (FID or “card”), class A license or class B license is required to possess, purchase, or carry a firearm, ammunition therefor, or firearm feeding device, or “large capacity feeding device.”¹ One’s home or place of business is not exempt from the FID or class A or B license requirements.

A FID² authorizes a person to possess, purchase, or carry only a non large capacity rifle or shotgun and feeding devices and ammunition therefor. The card “shall be issued” by the police chief to a person residing or having a place of business within his jurisdiction, unless the applicant has a disqualifying conviction or juvenile adjudication; been confined for mental

illness or confined or treated for drug addiction or drunkenness; is a fugitive; is subject to a domestic protective order; is an alien; is under 15 or is more than 15 and less than 18 and does not have parental or guardian permission. The licensing authority may not prescribe any other condition for the issuance of the card. The colonel of state police is the issuing authority where a local issuing authority does not exist. The card shall be issued or denied within 30 days of application. A card holder may possess any large capacity firearm (handgun, rifle, or shotgun) at a gun club to which a class A license has been issued or under the direct supervision of a class A license holder at an incorporated shooting club or licensed shooting range. A card holder may also possess a non-large capacity handgun or a large capacity rifle or shotgun at a gun club to which a class A license has been issued or under the direct supervision of a class A or B license holder at an incorporated shooting club or licensed shooting range.

Class A carry license is required to possess, purchase, or carry any large capacity firearm (handgun, rifle, or shotgun), large capacity ammunition feeding devices therefor, and ammunition therefor. The license "may" be issued by the same issuing authority as for a card to a person at least 21 who is eligible for a card and demonstrates he is a "suitable person" and "has good reason to fear injury to his person or property, or for any other reason, including...sport or target practice only." Restrictions may be placed on the license.

Class B carry license entitles the licensee to possess, purchase or carry any non-large capacity handgun, and any large or non-large capacity rifle or shotgun, and feeding devices and ammunition therefor. A class B carry license also entitles the licensee to possess a large-capacity handgun under a class A club license or the direct supervision of a class A license holder at an incorporated shooting club or licensed shooting range. The requirements for the license are the same as for a class A license. Restrictions may be placed on the license. As in a class A license, the class B license shall be issued or denied within 40 days of application.

Either a class A or B license shall be valid to possess, purchase, or transfer non-large capacity rifles and shotguns.

Applicants for a card or license must be fingerprinted. An applicant who did not have a card or license on June 1, 1998, must submit a basic firearms safety certificate approved by the colonel of state police. The card or license is valid for not more than 4 years; the fee and renewal fee is \$25; notification of a change of address must be made by certified mail within 30 days of its occurrence to the licensing authority, police chief at the new address, and the executive director of the criminal history systems board. An applicant for or holder of a card or license may obtain judicial review by filing in district court within 90 days of a denial, revocation, suspension, or failure to act.

The colonel of state police "may" issue a class A or B temporary license to a resident, a nonresident, or an alien for purposes of competition and subject to terms and conditions placed on the license. The license is valid for 1 year and the fee is \$50.

Any person who inherits a rifle, shotgun or handgun is required to obtain a FID or license to carry within 180 days if he intends to retain possession of the firearm.

Exemptions from the FID and licensing requirements:

1. The temporary holding or firing of a handgun under the supervision of a person with a license to carry, or the holding or firing of a rifle or shotgun under the supervision of a person with a FID or "where such holding or firing is for a lawful purpose".
2. The use of a rifle or shotgun for hunting or target shooting by a minor under the age of 15, provided he is under the immediate supervision of a person holding a FID or a license to carry.
3. Possession by a chartered veterans organization and possession by their members when on ceremonial duties.
4. Possession by museums, historical societies and institutional collections open to the public, provided such firearms are unloaded and secured.
5. Possession by federally-licensed manufacturers and dealers and their employees when necessary for manufacture, display, storage or testing.
6. Possession by new residents of Massachusetts, residents returning after absences of less than 180 consecutive days, or residents being released from active duty in the armed forces, for sixty days after release, return or entry. However, this exception applies only to firearms in the individual's possession at the time of release, return or entry. A person may possess but not carry during this 60 day period.

CARRY

A Class A license authorizes carrying of handguns, including large capacity handguns, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of handguns as the licensing authority deems proper, and carrying of rifles and shotguns, including large capacity rifles and shotguns, for all lawful purposes, subject to restrictions imposed by the licensing authority. A class A license holder may carry a loaded handgun in a vehicle, if it is under his direct control. However, this does not apply to large capacity rifles or shotguns. Such firearms must be carried unloaded, in the locked trunk or in a locked case or other secure container.

A Class B license authorizes carrying of non-large capacity handguns for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of such handguns as the licensing authority deems proper, and carrying of rifles and shotguns, including large capacity rifles and shotguns, for all lawful purposes, subject to restrictions imposed by the licensing authority. However, a class B license does NOT entitle the holder to carry or possess a loaded firearm in a concealed manner in a public way or place. A class B license holder may not carry a loaded firearm of any type in his vehicle; all firearms must be carried unloaded, in the locked trunk or in a locked case or other secure container.

A firearm identification card authorizes its holder to carry non-large capacity rifles and shotguns.

Unlawfully carrying a firearm in a vehicle, or in one's possession outside one's residence or place of business, without the required license or card, subjects a person to a mandatory minimum sentence of 1 year in jail, or 2 1/2 years in prison. This mandatory sentence does not apply to a person holding a valid card but not the required license.

Rifles and shotguns must be carried unloaded and enclosed in a case on any public way unless engaged in lawful hunting.

It is unlawful for any person licensed to carry a handgun to leave the firearm in a vehicle unattended.

It is unlawful for a person with a license to carry on the person or in a vehicle a loaded handgun while under the influence of alcohol or a controlled substance.

NON-RESIDENTS

A non-resident may possess a rifle or shotgun in Massachusetts:

1. While hunting and in possession of a valid hunting license.
2. While on a firing or shooting range.
3. While traveling in or through Massachusetts if the rifle or shotgun is unloaded and enclosed in a case.
4. While at a firearms show organized by a "regularly existing gun collector's club or association."
5. If he or she has a license or permit to possess any firearm in his or her home state, if its licensing requirements are as stringent as those of Massachusetts, as indicated by a published list of such states promulgated by the colonel of state police.

The colonel of state police may issue a temporary license to carry a handgun to a non-resident, alien, or resident who does not live within the jurisdiction of a local licensing authority. A temporary license must clearly indicate whether it is a class A or B license. The fee for a temporary license is \$50. Temporary licenses are good for one year, and renewable at the discretion of the colonel of state police. Unlike regular class A and B licenses, temporary licenses may not be used to purchase firearms.

A non-resident United States citizen with a license to carry a handgun issued by his home state may carry a handgun in Massachusetts for the purpose of taking part in a competition or exhibition of an organized group of firearms collectors, or for hunting provided he has a valid hunting license issued by Massachusetts or the state of his destination.

ANTIQUES AND REPLICAS

An antique firearm is defined as any handgun, rifle or shotgun manufactured in or before 1899, or any replica thereof which is not designed for firing fixed ammunition or which uses fixed ammunition no longer manufactured in the United States and no longer readily available commercially.

A FID card is not required to possess antique and replica firearms in the home or place of business. A license to carry is required when antique and replica handguns are being carried outside the home or place of business.

MACHINE GUNS

A machine gun "is a weapon of any description . . . from which a number of shots or bullets may be rapidly or automatically discharged by one continuous activation of the trigger, and includes a submachine gun."

It is unlawful to possess a machine gun without a license. Application is made to the local licensing authority or colonel of state police who, in his discretion, may issue a license to any applicant who is a firearm instructor certified by the criminal justice training council for instructing police personnel or is a bona fide collector of firearms.

MISCELLANEOUS PROVISIONS

Although persons in the military and other peace officers are exempt from the above requirements, this exemption is applicable only when they are performing their official duties or when duly authorized to possess weapons. It is not applicable for any private or sporting use of such rifles, shotguns or handguns.

Air guns and BB guns are regulated by the above provisions.

It is unlawful to possess, sell, or transfer any firearm whose shape does not resemble a handgun or short-barreled rifle or shotgun, or that is not detectable by x-ray or metal detector.

It is unlawful to remove, deface or alter in any manner the serial or identification number of a firearm, or knowingly to receive such a firearm. Possession of a firearm with an altered or defaced number creates a legal presumption that the possessor committed the offense.

Discharge of any firearm within 500 feet of a building in use is prohibited, except with the consent of the owner or legal occupant, in defense of life and property, or at licensed shooting galleries, target, test, trap or skeet ranges with the permission of the owner or legal occupant.

In the event of theft, loss or recovery of any firearm, the owner is required to notify the executive director of the Criminal History Systems Board, and the licensing authority in the city or town where the owner resides.

Any person in possession of any firearm is required to exhibit his FID, receipt for FID card fee, license to carry, or hunting license to a law enforcement officer upon demand. If the person fails to display the appropriate document, he may be required to surrender his firearm, although he may recover it if he produces the license within 30 days.

The governor shall appoint a 7 member gun control advisory board. Their duties include compiling and publishing a roster of large capacity rifles, shotguns, handguns, and feeding devices.

Any handgun or large capacity firearm sold without a safety

device approved by the colonel of state police “shall be defective and the sale of such weapon shall constitute a breach of warranty ... and an unfair or deceptive trade act or practice.” This creates a civil cause of action.

All firearms must be stored or kept secured in a locked container or equipped with a lock or other safety device. A firearm is not considered stored or kept if carried by or under the control of the owner or other lawfully authorized user. A violation of this provision is evidence of wanton or reckless conduct in any criminal or civil proceeding if a person under 18 gains access to a firearm. A violation of this provision is also criminally punishable by a fine of up to \$10,000 and/or imprisonment up to 10 years.

In a domestic relations restraining order the court shall also order the defendant to surrender any firearm, ammunition, and cards and licenses therefor if it makes a determination that the defendant presents a likelihood of abuse to the plaintiff.

ADDITIONAL PROVISIONS FOR BOSTON

In Boston under a vague law it is unlawful to possess, display, transfer, or receive, without a license granted by the Boston Police Commissioner: any shotgun with a revolving cylinder and/or a capacity exceeding 6 rounds; a semiautomatic rifle with a fixed magazine capacity exceeding 10 rounds; any SKS, AK47, UZI, AR-15, Steyr AUG, FN-FAL, and FN-FNC rifle; any semiautomatic pistol which is a modification of a proscribed rifle or shotgun with a shorter barrel or no stock, and any magazine or belt which holds more than 10 rounds. An “assault weapons roster board” may add additional firearms to the list of so-called “assault weapons.” Such firearms must have been registered with the Boston Police Commissioner within 90 days of the effective date of the law (12/9/89), or they are unlawful. An owner of a firearm added to the roster of assault weapons must obtain a license to possess it within 90 days of its addition, or it becomes unlawful.

The provision does not apply to possession by non-residents of Boston at a sporting or shooting club by persons who possess the requisite state license to carry. It also does not apply to persons taking part in competition or at a collectors’ exhibit or meeting or traveling to or from such event or while in transit through Boston for the purpose of hunting by licensed hunter, provided that in all cases the “assault weapon” is unloaded and packaged and the person has a Massachusetts FID card or has a license or permit to carry or possess firearms issued by another state.

CITATION: Mass. Statutes relating to firearms are: Part I, Chap. 140, §§121 to 131 I; Part II, Chap. 269, §§10 to 12 E.

NOTE: In this summary, the term “firearm” has been used in its general sense, i.e., any rifle, shotgun or handgun. However, readers of the Massachusetts law should be aware that the term “firearm,” when it appears in the text of the statutes, has a special meaning, being defined as any pistol, revolver or other firearm with a barrel of less than 16 inches or a shotgun with a barrel length less than 18 inches.

Notes

1 “Large capacity weapon” is any firearm that is semiautomatic with a fixed large capacity feeding device, or capable or readily modifiable to accept such a detachable feeding device, or employs a rotating cylinder capable of accepting more than 5 shotgun shells or more than 10 rounds of other ammunition, or that is an “assault weapon.” “Assault weapon” has the same meaning as federal law. “Large capacity feeding device” is a magazine or similar device holding more than 5 rounds of shotgun ammunition or more than 10 rounds of other ammunition.

2 Regarding current holders of lifetime cards, the card expires in 1999 (if birthday is between July 1 and Dec. 31) or 2000 (birthday is between Jan. 1 and June 30). Any card holder on the effective date of the present law who lawfully possesses a large capacity rifle or shotgun shall be deemed to have a class B license for purposes of possession and must timely apply for the proper license, and any license holder lawfully possessing a large capacity handgun shall be deemed to have a class A license and must timely apply for the proper license. Any person who acquires ownership or possession of any firearm, firearm feeding device, or ammunition must apply for the appropriate card or license. See possession for how to acquire a card, license, or permit.

CAUTION: Firearm laws are subject to frequent change and court interpretation. This summary is not intended as legal advice or restatement of law. This summary does not include federal or local laws, ordinances or regulations. For any particular situation, a licensed local attorney must be consulted for an accurate interpretation. **YOU MUST ABIDE WITH ALL LAWS: STATE, FEDERAL AND LOCAL.**

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