

## GOAL's response to Chairman Day's "Summary" on HD.4420

*This response by no means represents the entirety of the concerns of Gun Owners' Action League or the Second Amendment community. It is simply a response to the incredibly vague and dishonest "summary" provided to the legislature by leadership.*

*GOAL's comments and clarifications are in red font.*

### **Licensing of Firearms**

*Sections 4, 6, 14, 25, 26, 27, 29, 31, 33-37, 39, 40, 43, 46-48, 52-56, 57 (technical updates in sections 53, 54, 56, 61-63, 67-70)*

Consolidates and reorganizes current firearms licensing sections into a single unified process with consistent standards and procedures for all firearms licensing, including licenses to sell. Removes semi-automatic rifles or shotguns from the newly created long gun permit for 18- to 21-year-olds while still preserving their rights to own and possess rifles and shotguns. Increases penalties for failure to report firearm loss or theft. Moves dealer inspection responsibilities and oversight to the Massachusetts State Police to ensure uniformity of inspections. Clarifies and standardizes rules on firearm transport and carry to comport with constitutional requirements and allows carry on recreational vehicles. Removes contradictory, confusing, duplicative and unconstitutional language from definitions and references, nonresident and temporary licenses, self-defense spray permits and exemptions.

### **The truth:**

- It is unconscionable that junior shooters would not be allowed to possess, or use, semi-automatic rifles and shotguns. These types of firearms have been used in junior shooting sports since their invention. They offer much reduced recoil making it more comfortable to learn about and safely use firearms.
- Why are we increasing penalties for loss or theft? Are the current laws actually being used against suspected criminal activity? Where is the data?
- The bill, in no way clarifies rules on transport and carry to "comport with constitutional requirements", it actually does just the opposite.
- This bill actually doubles down on the unconstitutional current laws by adding a tremendous volume of new unconstitutional sections of law. It represents a blatant violation of the Supreme Court decision – Bruen.

### **The truth:**

SECTION 31 of the bill (New Definition)

"Feeding device", any magazine, belt, strip, drum or similar device that holds ammunition for a firearm, whether fixed or detachable from a firearm.

"Fixed magazine", an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

- This is an incredibly broad definition that will bring in an immense number of devices, perhaps in the millions just in Massachusetts.
- It even includes “Fixed Magazines”. Why would we need to serialize any feeding device, let alone one that is permanently attached?

SECTION 43 of the bill (Safe Storage Definition):

"Secured in a locked container", at a minimum the container must be capable of being unlocked only by means of a key, combination or similar means and it must be able to deter all but the most persistent from gaining access. A room or a store even if capable of being locked and surveilled is insufficient.

- Who is to determine what that new definition of “most persistent” actually means? How does one quantify “persistence”?
- Why would a secured room (vault) not comply with safe storage?
- Retailers must comply with safe storage laws.

SECTION 55 of the bill (Retailers)

- Must be a licensed retailer to sell any/all feeding devices.
- Retailers are required to confiscate any expired license presented to them.
  - Forward them to the local licensing authority.
  - Notify Criminal Justice Information Services.
  - Issue a receipt to the license holder for their confiscated expired permit.
  - Notify the license holder of their responsibility to surrender their firearms and ammunition.
- Retailers must keep a record book and record all firearm, feeding device and ammunition sales, transfers and rentals. To include the customer’s name, sex, address and occupation.
- Retailers will now be inspected once a year by the State Police instead of the local licensing authority.
- State Police can develop the rules for inspections.

SECTION 57 of the bill:

- Persons can voluntarily surrender firearms (new definition) or ammunition to a licensing authority.
- Professional photographers or writers are exempt from long gun permits during the course of their work.
- Common carrier employees would have to possess a license to carry firearms in the Commonwealth in order to transport firearms, feeding devices, barrels, frames, receivers and ammunition.
- Potentially every employee in a common carrier facility would have to possess a license to carry.
- Common carrier facilities would have to have a storage area that meets the new definitions.
- Common carriers (UPS, FedEx) must comply with storage and transportation requirements, not possible.
  - This would essentially mean that interstate and intrastate commerce of lawful products would cease.
  - This would eventually mean that all licensed retailers would go out of business, leaving no legal means of obtaining products in Massachusetts.
- Anyone under 15 is banned from handling any handgun, semi-automatic rifle, or semi-automatic shotgun. All of which are in common use throughout the junior shooting sports world.
- Bans anyone under 15 from taking part in sanctioned shooting sports and training.

## Violence Prevention Commission

### Section 232

Creates special legislative commission to examine the existing government funding structure for violence prevention services in the commonwealth, including funding sources, initiatives and programs utilized, specific services funded, and communities served, and submit a report of its findings and recommendations.

### The truth:

- This section essentially creates an unfunded commission full of political appointees and local activists.
- There are no criminal experts, firearm experts, or law enforcement mentioned by name.
- Yet another commission that will eventually file a report that will likely be ignored.
- **Even the lay person understands that violent crime will never be properly addressed until local District Attorneys push for tough criminal convictions and the courts follow through.**

## Assault-Style Firearms & Large Capacity Magazines

### Sections 26, 32, 60

Updates General Laws to reflect Attorney General's opinion regarding look-alike assault weapons, updates definition with contemporary categorization tests and list of firearms, restricts use and transfer of pre-ban large capacity magazines

### The truth:

#### SECTION 60 of the bill: (New Assault Weapons Section)

- There are no more exemptions (grandfathering) for any "Assault-style Firearm" legally possessed after September 13, 1994.
- The new definition would drastically broaden the list of prohibited guns that were previously perfectly legal to purchase within the Commonwealth, even under the Attorney General's 2016 Assault Weapons edict.
- New Assault Weapon definition now has a single feature test.
- New restrictions on where you can possess a pre-ban so-called Assault Weapon.
- New restrictions on transferring large capacity feeding devices.
  - Even if the feeding device is pre-September 14, 1994 it can only be possessed under the following conditions:
    - on private property owned or legally controlled by the person
    - on private property that is not open to the public with the express permission of the person who owns or controls such property
    - while on the premises of a licensed firearms dealer or gunsmith for the purpose of lawful repair
    - at a licensed firing range or sports shooting competition venue; or while traveling to and from these locations
    - the large capacity feeding device is stored unloaded and secured in a locked container
- Mandatory reporting of the transfer of a large capacity feeding device.
- The office of the attorney general shall promulgate rules and regulations for this section which shall include public notice and an outreach campaign to promote awareness of the provisions of this section.
- Bans the possession of any "automatic part".

## **Firearm Control Advisory Board; Rosters**

*Sections 58, 59*

Adds appointees from Attorney General, Speaker, Senate President, House and Senate Minority leaders, Massachusetts State Police. Adds assault-style firearms roster and tasks board with conducting regular reviews. Requires EOPSS to update rosters for large capacity firearms, large capacity feeding devices, assault-style firearms and firearms approved for sale and use in the commonwealth at least 3 times a year.

### **The truth:**

These changes remove most experts from the Board and transforms it into a political entity. It is clear from the changes that the Board will be turned into an anti-civil rights task force.

## **Prohibited Spaces**

*Section 173*

Prohibits all firearm possession in government administration buildings, polling locations, educational institutions and on all private property without the consent of the property owner.

### **The truth:**

SECTION 173 of the bill:

Ban on possessing any firearm, barrel, frame, receiver, feeding device (loaded or unloaded), or ammunition including ammunition components in a “prohibited area”.

- “prohibited area” shall mean any of the following, including in or upon any part of the buildings, grounds, or parking areas of:
  - a place owned, leased, or under the control of state, county or municipal government used for the purpose of government administration, judicial or court administrative proceedings, or correctional services
  - a location in use as a polling place or used for the storage or tabulation of ballots
  - an elementary school, secondary school, college, university or other educational institution including transport used for students of said institution and places where persons are assembled for educational purposes
  - any private property, including but not limited to residential, commercial, industrial, agricultural, institutional or undeveloped property, unless the owner has provided express consent or has posted a sign indicating that it is permissible to carry on the premises a firearm with a valid and lawfully issued firearm license or permit under Chapter 140
  - A law enforcement officer may arrest without a warrant and detain a person found in violation of this section
  - These restrictions shall not apply to a law enforcement officer while in the performance of their official duties, or a security guard employed by the prohibited area while at the location of their employment and during the course of their employment

## **Firearm Data Reports**

*Sections 2, 11, 50*

Expands data compilation and reporting requirements for the Department of Criminal Justice Information Services and creates a publicly accessible online dashboard of anonymized aggregate firearm data to further firearms research and transparency.

- No good can come from supplying the general public this type of data. Releasing to the general public the private information of lawful citizens is dangerous at the very least.
- In the 2014 law (Chapter 284 of the Act of 2014) GOAL created the Criminal Firearms and Trafficking Division of the State Police to assist the Attorney General and local District Attorneys with violent crime involving illegal use of firearms and data gathering. To our knowledge this division was quickly disbanded after about a year.
- What is the actual purpose of gathering all this data? The problems with reducing violent crime is obvious to even the average citizen. There are enough criminal gun laws (GOAL wrote many of them) on the books to put most violent offenders away for decades.

## **Serialization & Ban of Untraceable “Ghost Guns”**

*Sections 25, 30, 37, 39, 45, 26, 31, 44, 49, 202, 203, 204, 205, 206, 207, 208, 209, 210, 29, 30, 45, 60*

Expands the definition of “firearm” to include its frame (or receiver) and its barrel in order to monitor and penalize the illegal purchase and manufacture of firearms. Requires the serialization of all firearms including any privately made firearms. Criminalizes the possession, creation and transfer of all untraceable firearms. Updates and expands definitions of undetectable and covert firearms.

- How is the state going to “monitor” criminal behavior? If that is possible, why aren’t they already in jail?
- Defining different parts of a firearm as a firearm creates the same quagmire that the 1998 law created, when it defined any ammunition component to be ammunition. It only served to be problematic to lawful gun owners and did nothing to reduce crime.
- How is the state going to pay for the massive infrastructure and staff that will be required to comply with this effort? Are there any estimates on what it would cost and where the funding is coming from?
- This is especially important because if the bill becomes law, the state will lose untold millions in revenue through massive reduction in lawful commerce and licensing.
- The online web portal for the Firearms Record Bureau would have to be completely retooled at great expense.
- Under the new definitions, a complete firearm may have an entire series of different serial numbers on its parts. As legal firearms are upgraded or repaired, it will cause tremendous confusion.

## **Registration, Reporting and Tracing**

*Sections 48, 51, 53,47*

Updates existing registration requirements for firearms and firearm transactions into one state database maintained by the Department of Criminal Justice Information Services, including all privately made firearms and firearms imported by new residents of the Commonwealth. Criminalizes any failure to register firearms. Requires law enforcement to upload crime gun data to the state database which will automatically populate the Federal ATF system for interstate tracing purposes. Clarifies process around surrendering a firearm to law enforcement

## **The truth:**

SECTION 48 of the bill:

- Mandatory registration of all individual firearms, receivers, frames, barrels and feeding devices.
- Must have prior permission from the state to build or modify any firearm, receiver, frame, barrels and feeding devices. Even simply replacing a set of grips on a competition handgun will require previous permission and potential re-registration.
- Privately made guns must be registered within 7 days.
- Mentions a new term “Expiration date for registrant” – what does this mean?
- Requires providing to the state an itemized list of parts if modifying or building a gun.
- Feeding devices are now included in rental reports.
- Subsection (e) of this section implies there are no exemptions from registration for those traveling through the state in direct violation of federal law.

## SECTION 53. Licensing

- Delinquent child is now a prohibited person permanently.
- A license holder must present their license to law enforcement, on demand, even if they do not currently possess or, even, own a firearm. This is essentially “stop and frisk” for the Second Amendment community.
  - The penalty for not immediately producing said license could lead to suspension or revocation of the license subject to the discretion of the local licensing authority.

## **Training**

### *Section 56*

Updates the minimum training curriculum required for a license to carry to include injury prevention and harm reduction education, active shooter and emergency response training, applicable laws relating to the use of force, and de-escalation and disengagement tactics. Requires all applicants for a license to carry to complete live firearm training and pass a uniform written exam created by the State Police. Requires local licensing authorities attend trainings on their licensing and reporting responsibilities created by EOPSS.

## **The truth:**

### SECTION 56 of the bill (New Training Mandates):

- Written Exam of unknown content.
- injury prevention and harm reduction education.
- active shooter and emergency response training when lawful gun owners are not allowed to carry in most places under this bill.
- applicable laws relating to the use of force.
- de-escalation and disengagement tactics.
- live firearms training – to be determined by the State Police.
- Students must meet new established minimum requirements.
- Criminal Justice Information Services will issue certificate rather than the instructor.
- This is essentially SWAT training for everyone 15 years of age and over.
- No such certified training courses currently exist to meet these standards. Such a course, if it did exist, would likely take a week to teach at a cost of thousands of dollars.
  - This would eliminate people from being able to afford to exercise their civil rights.

Licensing Authority Training shall participate in training seminars on the following:

- current laws, regulations and rules relating to this chapter;
  - licensing responsibilities;
  - record keeping obligations;
  - firearm surrender, registration and tracing policies;
  - electronic database use.
- Regulations prescribed by the Executive Office of Public Safety and Security shall include penalties for non-compliance which may include review by the Massachusetts Peace Officers Standards and Training (POST) Commission.
- Mandated training for retailers.
  - The curriculum for the online dealer training program shall include information on requirements and conditions expressed in sections 122 to 130, inclusive, and other relevant General Laws and shall further include (i) uniform standards of security for business premises; and (ii) employee background check and training requirements.
  - Retailer inspections now conducted by State Police, under this proposal, will add additional cost and burdens to state law enforcement.

### **Harassment Prevention Order (HPO) and Extreme Risk Protective Order (ERPO) Enhancements**

*Sections 71, 72, 73, 39, 64, 65, 66*

Updates HPO's under c. 258E to be consistent with abuse prevention orders under 209A and allow courts to order dispossession of licenses, permits and firearms contemporaneously with the issuance of an HPO. Enables family members, law enforcement, school administrators, healthcare providers and employers to petition courts for an ERPO. Clarifies due process issuance of warrants to assist law enforcement in the collection of a respondent's firearms upon the issuance of an ERPO.

- The so-called "Red Flag Laws" are a blatant violation of the Constitution. Any citizen can make a complaint and before the accused can even respond, their rights and property are taken from them.
- To make matters even worse, the Red Flag Laws are supposed to prevent suicide and potentially identify a mass murderer. Yet, when the original debate took place in the legislature, GOAL's amendments to create a professional mental health commission and a Massachusetts suicide hotline were blocked by the law's supporters.
- When asked about the potential mass murderer, GOAL asked what the plan was to handle that person. The only answer we received was to take away their guns and license and send them home. So, wait, you just identified a killer, and the courts agree, and that is all you are going to do?
- It ultimately shows that the Red Flag Law supporters have no real interest in public safety and will never have any credibility on the subject of suicide prevention.
- This new language only makes a bad law worse and does nothing to help those who may be suicidal or homicidal.

## **Emerging Technology**

### *Section 231*

Establishes a special legislative commission to study emerging firearm technology, including smart gun and microstamping technologies, and to submit a report with its findings and recommendations.

### **The truth:**

- This type of technology has already been widely rejected by virtually every law enforcement agency in the nation.
- If it was worth even studying, why isn't the Secret Service, FBI, and all law enforcement using it.
- Guns already work the way they are supposed to. The problem is our government's failure to prosecute violent offenders.

## **Modifications**

### *Sections 26, 45, 60*

Criminalizes both the act of turning any firearm into an automatic firearm as well as the possession of parts which facilitate such a modification. Updates already banned trigger modifications.

### **The truth:**

SECTION 25 of the bill: (New Definition)

"Additive manufacturing", a process in which material is added to produce a product, including, but not limited to 3-dimensional printing.

- Incredibly vague definition and a potential First Amendment violation

SECTION 45 of the bill: (New Definition)

"Untraceable firearm", a firearm that has not been serialized by a government entity or a firearm on which a serial or other identification number has been removed, defaced, altered, obliterated or mutilated in any manner

- According to this section, firearms can only be serialized by a "government entity". As required by federal law, every new gun manufactured since 1968 has been serialized by the manufacturer.
- Currently, firearms manufactured on or before 1898 (federal law) are not required to have serial numbers.
- Is Massachusetts going to build an agency capable of machining serial numbers into firearms, and firearm parts?
- Currently, manufacturers create a list of serial numbers that the BATFE then approves. The numbers are then machined into the firearm by the manufacturer.
- The new definition of "Firearm" would legally consider these parts to be a firearm:
  - Barrel
  - Receiver
  - Frame
- This would mean that each part would have to be serialized in Massachusetts before assembly. This could really complicate tracing matters as a given gun could have many different serial numbers on it.
- When was the last time in Massachusetts that a crime was solved, that led to a conviction, as a result of tracing a gun?



- Many collectible/historic firearms and feeding devices are extremely valuable. Serializing them would destroy their value.

### **Punishments for Negligent Firearm Discharge**

*Sections 213, 216*

Updates and strengthens criminalization of discharge of a firearm within 500 feet of a dwelling without the consent of owner. Criminalizes intentional discharge of a firearm which strikes a dwelling or building in use.

### **The truth:**

- We understand that this language is supposed to address criminal activity such as drive by shootings. It is pretty clear that there are enough laws on the books to put these types of criminals away for decades.
- There is also the concern of accidental discharges. While they are rare in the Second Amendment community, they can happen, even with law enforcement.
- There has also been minor problems when new construction happens adjacent to traditional hunting areas and shooting ranges.

### **Intoxicated Firearm Carry**

*Sections 21, 22, 195*

Aligns standards for intoxication while hunting and carrying a firearm with OUI (0.08% BAC standard). Increases and aligns penalties for both crimes.

- This is potentially one of the few intelligent parts of the legislation.