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# FIREARMS LAW UPDATE

A NEWSLETTER FOR THE MASSACHUSETTS GUN OWNER

## LEGAL SERVICES WHICH ATTORNEY COHEN PROVIDES:

- Legal Services for Ranges & Dealers
- Thorough Preparation of Firearms License Application Packages, to maximize your chance of success and avoid the subtle but serious "traps" in the application process
- Skilled Negotiation and Advocacy on your behalf with the licensing authority (police department)
- Petitions for Judicial Review & Appeals of Firearms License Denials
- Criminal Defense
- Emergency Legal Services
- Defense in Use of Force cases
- Legal Advice & Consultation regarding State & Federal Firearms Laws
- Representation before the Firearms License Review Board
- Sealing & Expungement of Criminal Records
- Pardons & other Post Conviction Relief

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This free monthly publication is designed to educate and inform law abiding Firearms owners and enthusiasts about the complex firearms laws of the Commonwealth of Massachusetts.

If you have a firearms-related legal story or topic which you would like us to include in future issues, please e-mail Attorney Cohen.

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## AIRPORT SECURITY M.G.L. Ch. 269 sec. 12F. Airport secure areas; possession or placement of a cutting device or prohibited weapon; punishment





(a) For the purposes of this section, the following words shall have the following meanings: --

"Airplane", an aircraft operated by an air carrier holding a certificate issued under [49 U.S.C. 41101](#) or any aircraft ordinarily used to transport passengers or cargo for hire.

"Cutting device", any knife, cutlery, straight razor, box cutter or other device containing a fixed, folding or retractable blade, which is not included in the list of weapons set forth in paragraph (b) of section 10.

"Prohibited weapon", any infernal machine as defined in section 102A of chapter 266, any stun gun as defined in section 131J of chapter 140, any rifle, shotgun or firearm as defined in section 121 of chapter 140 or any weapon included in the list of weapons set forth in paragraph (b) of section 10.

"Secure area", any area of an airport to which access is restricted through security measures by the airport authority or a public agency and the area beyond a passenger or property screening checkpoint at an airport.



"Airplane cabin", any passenger or flight crew area within an airplane while the airplane is on the ground in the commonwealth or over the commonwealth.

(b) Whoever occupies, or attempts to enter or occupy, a secure area of an airport or the cabin of an airplane, knowingly having in his possession or in his control and knowingly concealing, a cutting device or a prohibited weapon, notwithstanding any license to possess such a weapon or device, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

The information contained in this document is offered for informational purposes only and is not legal advice. This information is not intended to create, and receipt of it does not constitute, an attorney-client relationship. Readers should not act upon this information

Attorney Cohen can assist you with the preparation of your License to Carry Firearms Application Package to maximize your chances of approval.





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(c) Whoever, with intent to commit a felony, occupies, or attempts to enter or occupy, a secure area of an airport or the cabin of an airplane knowingly having in his possession or in his control a cutting device or a prohibited weapon shall be punished by imprisonment in the house of correction for not more than 2 years or by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(d) Whoever, with intent to commit a felony, places, attempts to place or attempts to have placed within a secure area of an airport or the cabin of an airplane, a prohibited weapon or cutting device, notwithstanding any license to possess such a weapon or device, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(e) Whoever willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b), (c) or (d) shall be punished by imprisonment in the state prison for not more than 20 years or by a fine of not more than \$20,000, or by both such fine and imprisonment.

(f) This section shall not apply to:--

(1) any law enforcement officer of a state or political subdivision of a state, an officer or employee of the United States government or United States military personnel authorized to carry prohibited weapons or cutting devices in an official capacity;

(2) a duly licensed individual transporting an unloaded, lawful weapon or cutting device in baggage not accessible to a passenger in flight and, in the case of a lawful weapon, if the air carrier was informed of the presence of the weapon;

(3) a cutting device, which is otherwise lawfully possessed, ordinarily used in the course of the holder's employment, trade or occupation, while the holder is authorized to conduct such employment, trade or occupation within a secure area of an airport or airplane cabin.

## SILENCERS



### M.G.L. Chapter 269 § 10A. Selling, giving or using silencers; confiscation and destruction

Any person, other than a federally licensed firearms manufacturer, an authorized agent of the municipal police training committee, or a duly authorized sworn law enforcement officer while acting within the scope of official duties and under the direct authorization of the police chief or his designee, or the colonel of the state police, who sells or keeps for sale, or offers, or gives or disposes of by any means other than submitting to an authorized law enforcement agency, or uses or possesses any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm shall be punished by imprisonment for not more than five years in state prison or for not more than two and one-half years in a jail or house of correction. Nothing contained herein shall be construed to prohibit a federally licensed firearms manufacturer from selling such instrument, attachment, weapon or appliance to authorized law enforcement agencies for law enforcement purposes or to the municipal police training committee for law enforcement training. Upon conviction of a violation of this section, the instrument, attachment or other article shall be confiscated by the commonwealth and forwarded, by the authority of the written order of the court, to the colonel of the state police, who shall destroy said article.

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## Petitions for Judicial Review: Challenging Suspensions, Denials and Revocations of LTC's and FID's. (part 1 of a series)

**A Double Edged Sword: This can be used by licensing authority to show equal treatment of all applicants, or can be used by aggrieved petitioner to prove that decision was arbitrary, capricious, or an abuse of discretion.**

Application for license to carry firearms and application for firearm identification card are **public records** except to the extent that application forms require information as to criminal history of applicant which would be exempted from disclosure by c. 4, § 7 and by c. 6, § 172. Op.Atty.Gen., Nov. 10, 1975, p. 127.

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**Attorney Jesse C. Cohen specializes in Firearms Litigation and represents gun owners as well as those seeking Licenses to Carry Firearms in Massachusetts.**

**Visit his website at**

<http://www.attorneycohen.com>

Petitions for Judicial Review may be heard in Federal Court in conjunction with civil rights claims.

## Petitions for Judicial Review: Challenging Suspensions, Denials and Revocations of LTC's and FID's. (part 1 of a series) (continued)

### Being heard in Federal Court

Federal district court properly exercised its supplemental jurisdiction over purely state law firearms-license appeal, where applicant seeking judicial review of the denial of his license application had also asserted federal civil rights claims against the police chief who had denied his application, police chief had properly removed those claims to federal court, and those claims clearly concerned the denial of the application. [Rogers v. Pomeroy \(App. Div. 2004\) 2004 Mass.App.Div. 176](#), Unreported.



(Getty Images)

### Mass. has 88 percent drop in gun dealers

#### National study shows enforcement equals fewer firearms

*James O'Brien, [Jobrien@bostonnow.com](mailto:Jobrien@bostonnow.com)*

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A study released yesterday showed an 88 percent drop in federally licensed Massachusetts gun dealers.

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## **About Attorney Cohen & Associates**

### **FIREARMS LITIGATION & ADVOCACY**

Attorney Cohen and associate lawyers concentrate in the areas of firearms law, criminal defense, and civil litigation. Examples of their successes include:

- Obtaining Court Orders in District Court, ORDERING Chiefs of Police to issue Licenses to Carry
- Vacating offenses which are lifetime disqualifiers, so that clients can obtain LTCs
- Firearms Licensing Review Board Cases
- Preparing Convincing Application Packages resulting in the issuance of Class A Licenses to Carry Firearms for All Lawful Purposes
- Negotiating with Police Officials to obtain LTCs for clients without the need for hearings, even where the police department initially denied the client's application.



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### **REAL ESTATE**

The name you've come to trust for firearms legal services is also the name to trust for real estate brokerage.

In his real estate business, Attorney Cohen represents both buyers and sellers. Given his background in firearms law, he is sensitive to the needs of gun owners. He will research the firearms licensing policies of prospective cities and towns before you buy.

The decline over the past 13 years, according to the report by the Washington, D.C.-based Violence Policy Center, tracks with a 79 percent drop nationally.

Analyst Marty Langley called the reduction of gun dealerships a "little noticed" victory in the effort to curb firearms violence.

"So what [if] there are fewer federally licensed gun dealers?" said John Rosenthal of Massachusetts gun reform group Stop Handgun Violence. "If I'm a federally licensed gun dealer and I sell from a store and then I go to 5,000 gun shows a year and I'm competing against half a room of people who are private sellers, selling exactly the same product [for more money] without an ID or background check, why would I stay in business?"

Rosenthal said that Massachusetts restricts such sales at Commonwealth gunshops, so gun buyers and sellers simply drive north to unregulated shows in Maine, New Hampshire or Vermont.

According to the report, the drop is the result of license enforcement.

The report said increased licensing fees, rules and a crackdown on nontraditional sales squeezed out backroom gun dealers. By 1998, one quarter of them were gone.

"Fewer gun dealers reduces the potential number of sources for high-volume illegal gun trafficking," said Langley.

"I think more guns are sold illegally than ever," Rosenthal said. "A lot of the dealers that went out of business became private sellers for more money, at a much higher profit, because they are selling to people who can't pass a background check."

### **Mass. licensed dealers**

3,851

Number of Federal Firearms License holders in 1994

462

Number of Federal Firearms License holders in 2007

3,389

Number decrease

88%

Percent decrease

