

**July 2, 2019**

The meeting was called to order by President Pineo at 8:00 PM with the Pledge of Allegiance. The secretary report was read and accepted. Voted in as new members were Jeff Brooks, Michan Griffin, David Hodson, David Manley, Simeon Simeonov. There were applications for August

**BOARD OF DIRECTORS**

The Worcester County League Young Guns Shoot will be on Tuesday July 23, 7 -9PM you must register prior.

**FISH COMMITTEE**

**ANGLER OF THE MONTH**-Please continue to send information to Greg on member catches. Include species, weight and length, where caught, and any other interesting information. So far this year there has not been many submissions. Contact Greg at [gplaflamme@comcast.net](mailto:gplaflamme@comcast.net) with pictures or if you have questions.

**BIG STRIPER CONTEST**-We currently have 3 members registered for this contest. It is open to all members and is just \$10. The stripier must be caught from New England waters. You can submit the catch information to Greg at a meeting or at the above address online. You will be judged on the one largest fish caught, and you may substitute a later caught stripier if it is larger. GOOD LUCK! So far, we have one on the board. Peter Allaire brought in a 22 lb.m 39" stripier on June 26<sup>th</sup>.

MASS WILDLIFE asks us to report any fish kills we observe. "The vast majority of summer fish kills are natural events. Hot weather and the resulting low oxygen levels in lakes and ponds is to blame." When there is possible pollution as a cause MassWildlife will notify the Department of Environmental Protection to investigate. It is best to report any fish kills we come across. To report a fish, kill, contact the Environmental Police Radio Room at 1-800-632-8075.

You may subscribe online for the monthly newsletter of MassWildlife through Mass.gov

Submitted by Greg LaFlamme, Fish Committee Chairman

**WORCESTER COUNTY LEAGUE**

There were 27 clubs in attendance at the North Worcester Fox and Coon Club. The Big MOE will be held on in September

**GOAL**

Harry spoke about the gun license revocation laws. An exercept from their web site is included with this newsletter.

**There were no other committee reports.**

**LOBSTER AND CLAM BAKE**

**The Annual Lobster and Clam Baker will be held on Saturday August 17<sup>th</sup>  
Tickets will be sold at theAugust meeting, or by contacting  
Charlie Baker – [chuckrbaker@comcast.net](mailto:chuckrbaker@comcast.net)  
978-375-0799 to purchase**

The next meeting will be Tuesday August 6 at 8pm. Dinner will be served at 7pm prior to the meeting  
The Board of Directors meeting is the 3<sup>rd</sup> Tuesday of the month at 7pm

To rent the club, contact Charlie Baker 978-375-0799 [chuckrbaker@comcast.net](mailto:chuckrbaker@comcast.net)

**A REMINDER THAT ALL SUBMISSIONS FOR THE MONTHLY NEWSLETTER  
MUST SUBMIITED BY THE FRIDAY AFTER THE MEETING.**

# Guns Confiscation – Know Your Rights!

Because of our state's draconian gun laws, our office continually receives calls and emails from people who have had their guns confiscated. This is normally due to a number of reasons include restraining orders, criminal investigations, accusations, and now "red flag" orders.

The question we normally get is: "Now what do I do?" At this point any guns confiscated would most likely have been taken by law enforcement and transferred to one of the bonded warehouses established in Massachusetts. This is where most gun owners need to understand the law, and their rights, before their property leaves the front door!

First and foremost, a letter of revocation or suspension of a License to Carry (LTC) or Firearms Identification Card (FID) is NOT a search warrant. The law is very specific on what needs to happen if you receive such a notice: "*...the person whose application was so revoked, suspended or denied shall without delay deliver or surrender to the licensing authority...*" **There is nothing in Chapter 140, Section 129D that allows for search and seizure without a warrant.** Many people, and police, are under the false assumption that a revocation or suspension letter automatically gives law enforcement the authority to search your residence and confiscate your property. The law places the burden on the owner to "deliver or surrender" to the licensing authority. It in no way gives any government agency the authority to search and seize without a warrant. This opinion was decided by the Massachusetts Supreme Judicial Court in: (1996) ANTONIO A. PASQUALONE vs. JOSEPH GATELY

Gun seizures present licensed gun owners with two problems, the reason for the seizure, and retaining their property, or at least having the ability to recover the value of said property.

When your property is entered into the books of the bonded warehouse, they can, and will immediately begin charging fees. Once that happens you have no hope in recovering your property until those fees are paid.

Yet another problem arises when your property is entered into the books at the bonded warehouse. In order to return it to you, they must follow the same laws and regulations as a licensed retailer does. This means that things like the Approved Firearms Roster from the Executive Office of Public Safety and Security, the Massachusetts Attorney General's regulations on handgun transfers (940 CMR 16.00), and of course the dreaded 2016 actions of the Attorney General on so-called assault weapons come into play.

Any of these limitations may bar them from transferring your property back to you, even if you pay the fees. For instance, if one of the guns that is confiscated ends up on the books of a retailer or bonded warehouse, there is no way they can legally return it to you.

The state surrender laws were amended in 2014 to include some protections for gun owners, but you must be aware of them before your property leaves the front door. Here are some things you should be aware of to help you be proactive.

Chapter 140, Section 129D is the law regarding surrender and storage of property. Under the law, if your property is confiscated you have up to one year to notify the authorities who you want to safeguard your property. In return, they have ten days to comply with that request. Keep in mind that if the property is already with a storage facility, fees will likely already have been incurred. GOAL's recommendation is to have a signed, perhaps notarized, letter providing instructions on where your property is to be transferred (we recommend putting it in your safe, with your guns). We recommend transferring them to a friend who is properly licensed if possible. You can also transfer them to a

retailer who you may know and have done business with. Reminder, if it is a licensed retailer, transferring back your property may be an issue as previously stated. Whoever stores your property for you, will have to affirm they will not return it to you prior to any issues being resolved.

In the letter, you may also wish to express that you do not consent to pay any fees for storage nor be entered into any agreement for storage without your expressed written permission. Further, that any fees incurred without your consent shall be the liability of the confiscating agency. Whether this would hold up in court remains to be seen, but it is always best to have it writing that you were entered into an agreement without your consent.

**Two more critical things to know to protect your property rights.**

1. If a licensing authority has possession of your guns at the expiration of one year after confiscation/surrender, they may put them up for public auction. If this happens, all proceeds will be taken by the state.
2. If your property is being stored by a licensed retailer or bonded warehouse you must keep up to date with storage fee payments. If you behind in fees by more than 90 days, ownership then goes to the storage facility. They are then allowed to sell them to recover their fees and if any money is left over, the original owner will receive that. Quite often the fees will outweigh any value of the guns in storage.

“(i) the licensing authority at the expiration of one year following initial surrender or delivery to such licensing authority; or

(ii) the dealer then in possession, if the storage charges for such weapon have been in arrears for 90 days; provided, however, that in either case, title shall pass to the licensed dealer for the purpose of transferring ownership to the auctioneer; and provided further, that in either case, after deduction and payment for storage charges and all necessary costs associated with such surrender and transfer, all surplus proceeds, if any, shall be immediately returned to the owner of such weapon”

As a side note, State Representative Shawn Dooley has filed legislation to protect gun owners with some of these problems.

The bill is H2055 “An Act Relative to the Lawful Return of Property”. The short piece of legislation would accomplish a few things:

1. Require the return of property after matters have been resolved regardless of how, or with whom, it is stored.
2. Establish in law that the property owner is not responsible for any fees unless there had been expressed written permission.
3. Establish that any property taken in for repair, warranty or replacement can be transferred back to the owner.

**Chapter 140, Section 129D: Surrender of firearms and ammunition to licensing authority upon denial of application for, or revocation of, identification card or license; right to transfer; sale by colonel of state police; rules and regulations**

Section 129D. Upon revocation, suspension or denial of an application for a firearm identification card pursuant to section 129B or for any firearms license if the firearm identification card is not then in force or for any machine gun license, the person whose application was so revoked, suspended or denied shall without delay deliver or surrender to the licensing authority where the person resides all firearms, rifles, shotguns and machine guns and ammunition which the person then possesses unless an appeal of the revocation or suspension is pending. The person or the person's legal representative

shall have the right, at any time up to 1 year after the delivery or surrender, to transfer the firearms, rifles, shotguns and machine guns and ammunition to any licensed dealer or any other person legally permitted to purchase or take possession of the firearms, rifles, shotguns and machine guns and ammunition and, upon notification in writing by the purchaser or transferee and the former owner, the licensing authority shall within 10 days deliver the firearms, rifles, shotguns and machine guns and ammunition to the transferee or purchaser and the licensing authority shall observe due care in the receipt and holding of any such firearm, rifle, shotgun or machine gun and ammunition; provided, however, that the purchaser or transferee shall affirm in writing that the purchaser or transferee shall not in violation of section 129C transfer the firearms, rifles, shotguns or machine guns or ammunition to the former owner. The licensing authority shall at the time of delivery or surrender inform the person in writing of the authority's ability, within 1 year after delivery or surrender, to transfer the firearms, rifles, shotguns and machine guns and ammunition to any licensed dealer or other person legally permitted to purchase or take possession.

The licensing authority, after taking possession of any firearm, rifle, shotgun, machine gun or ammunition by any means, may transfer possession of such weapon for storage purposes to a federally and state licensed dealer of such weapons and ammunition who operates a bonded warehouse on the licensed premises that is equipped with a safe for the secure storage of firearms and a weapon box or similar container for the secure storage of other weapons and ammunition; provided, however, that the licensing authority shall not transfer to such dealer possession of any weapon that is or may be evidence in any current or pending criminal case concerning a violation of any general or special law, rule or regulation governing the use, possession or ownership of such weapon. Any such dealer that takes possession of a weapon under the provisions of this section shall: (i) inspect such weapon; (ii) issue to the owner a receipt indicating the make, model, caliber, serial number and condition of each weapon so received; and (iii) store and maintain all weapons so received in accordance with such regulations, rules or guidelines as the secretary of the executive office of public safety may establish under this section. The owner shall be liable to such dealer for reasonable storage charges and may dispose of any such weapon as provided under this section by transfer to a person lawfully permitted to purchase or take possession of such weapon.

Firearms, rifles, shotguns or machine guns and ammunition not disposed of after delivery or surrender according to the provisions of this section shall be sold at public auction by the colonel of the state police to the highest bidding person legally permitted to purchase and possess said firearms, rifles, shotguns or machine guns and ammunition and the proceeds shall be remitted to the state treasurer. Any such weapon that is stored and maintained by a licensed dealer as provided under this section may be so auctioned at the direction of: (i) the licensing authority at the expiration of one year following initial surrender or delivery to such licensing authority; or (ii) the dealer then in possession, if the storage charges for such weapon have been in arrears for 90 days; provided, however, that in either case, title shall pass to the licensed dealer for the purpose of transferring ownership to the auctioneer; and provided further, that in either case, after deduction and payment for storage charges and all necessary costs associated with such surrender and transfer, all surplus proceeds, if any, shall be immediately returned to the owner of such weapon; provided, however, that no firearm, rifle, shotgun or machine gun or ammunition classified as having been used to carry out a criminal act pursuant to section 131Q shall be sold at public auction pursuant to this section.

If the licensing authority cannot reasonably ascertain a lawful owner within 180 days of acquisition by the authority, the authority may, in its discretion, trade or dispose of surplus, donated, abandoned or junk firearms, rifles, shotguns or machine guns or ammunition to properly licensed distributors or firearms dealers. The proceeds of the sale or transfer shall be remitted or credited to the municipality in which the authority presides to purchase weapons, equipment or supplies or for violence reduction or suicide prevention; provided, however, that no firearm, rifle, shotgun or machine gun or

ammunition classified as having been used to carry out a criminal act pursuant to section 131Q shall be considered surplus, donated, abandoned or junk for the purposes of this section.

The secretary of the executive office of public safety may make and promulgate such rules and regulations as are necessary to carry out the provisions of this section.

**H2055 An Act relative to the lawful return of property – Rep. Shawn Dooley**

*Chapter 140 of the general laws is hereby amended by inserting after section 123 the following new section:-*

*“Section 123A. Notwithstanding any general or special law or regulation to the contrary, any person having temporarily stored a weapon with a private business including, but not limited to, a licensed retailer under section 123 or a bonded warehouse under section 129D shall be entitled to the return of their property.*

*If in the event that said property was transferred to and stored by a private business without the expressed written consent of the property owner, no fees may be charged as a requirement for the return of said property.*

*Notwithstanding any general or special law or regulation to the contrary, any person having temporarily transferred a weapon to a private business including, but not limited to, a licensed retailer under section 123 or a gunsmith for, but not limited to, repair, modification, warranty work, replacement or maintenance shall be entitled to the return of their property.”*