

ASSEMBLY, No. 2116

STATE OF NEW JERSEY 213th LEGISLATURE

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Sponsored by:
Assemblyman REED GUSCIORA
District 15 (Mercer)

SYNOPSIS

Revises definition of destructive device to include weapons of 50 caliber or greater.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning destructive devices, amending N.J.S.2C:39-1
2 and supplementing chapter 39 of Title 2C of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. N.J.S.2C:39-1 is amended to read as follows:

9 2C:39-1. Definitions. The following definitions apply to this
10 chapter and to chapter 58:

11 a. "Antique firearm" means any rifle or shotgun and "antique
12 cannon" means a destructive device defined in paragraph (3) of
13 subsection c. of this section, if the rifle, shotgun or destructive
14 device, as the case may be, is incapable of being fired or
15 discharged, or which does not fire fixed ammunition, regardless of
16 date of manufacture, or was manufactured before 1898 for which
17 cartridge ammunition is not commercially available, and is
18 possessed as a curiosity or ornament or for its historical
19 significance or value.

20 b. "Deface" means to remove, deface, cover, alter or destroy
21 the name of the maker, model designation, manufacturer's serial
22 number or any other distinguishing identification mark or number
23 on any firearm.

24 c. "Destructive device" means any device, instrument or object
25 designed to explode or produce uncontrolled combustion, including
26 (1) any explosive or incendiary bomb, mine or grenade; (2) any
27 rocket having a propellant charge of more than four ounces or any
28 missile having an explosive or incendiary charge of more than one-
29 quarter of an ounce; (3) any weapon capable of firing a projectile of
30 a caliber of 50 caliber or greater **[than 60 caliber]** or, in the case of
31 an antique firearm, antique handgun, traditional muzzleloader rifle,
32 or black powder muzzleloader having in-line ignition, a center
33 hammer or an under hammer which have been approved for hunting
34 in this State of a caliber greater than 60 caliber, except a shotgun or
35 shotgun ammunition generally recognized as suitable for sporting
36 purposes; (4) any Molotov cocktail or other device consisting of a
37 breakable container containing flammable liquid and having a wick
38 or similar device capable of being ignited. The term does not
39 include any device manufactured for the purpose of illumination,
40 distress signaling, line-throwing, safety or similar purposes.

41 d. "Dispose of" means to give, give away, lease, loan, keep for
42 sale, offer, offer for sale, sell, transfer, or otherwise transfer
43 possession.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 e. "Explosive" means any chemical compound or mixture that
2 is commonly used or is possessed for the purpose of producing an
3 explosion and which contains any oxidizing and combustible
4 materials or other ingredients in such proportions, quantities or
5 packing that an ignition by fire, by friction, by concussion or by
6 detonation of any part of the compound or mixture may cause such
7 a sudden generation of highly heated gases that the resultant
8 gaseous pressures are capable of producing destructive effects on
9 contiguous objects. The term shall not include small arms
10 ammunition, or explosives in the form prescribed by the official
11 United States Pharmacopoeia.

12 f. "Firearm" means any handgun, rifle, shotgun, machine gun,
13 automatic or semi-automatic rifle, or any gun, device or instrument
14 in the nature of a weapon from which may be fired or ejected any
15 solid projectable ball, slug, pellet, missile or bullet, or any gas,
16 vapor or other noxious thing, by means of a cartridge or shell or by
17 the action of an explosive or the igniting of flammable or explosive
18 substances. It shall also include, without limitation, any firearm
19 which is in the nature of an air gun, spring gun or pistol or other
20 weapon of a similar nature in which the propelling force is a spring,
21 elastic band, carbon dioxide, compressed or other gas or vapor, air
22 or compressed air, or is ignited by compressed air, and ejecting a
23 bullet or missile smaller than three-eighths of an inch in diameter,
24 with sufficient force to injure a person.

25 g. "Firearm silencer" means any instrument, attachment,
26 weapon or appliance for causing the firing of any gun, revolver,
27 pistol or other firearm to be silent, or intended to lessen or muffle
28 the noise of the firing of any gun, revolver, pistol or other firearm.

29 h. "Gravity knife" means any knife which has a blade which is
30 released from the handle or sheath thereof by the force of gravity or
31 the application of centrifugal force.

32 i. "Machine gun" means any firearm, mechanism or instrument
33 not requiring that the trigger be pressed for each shot and having a
34 reservoir, belt or other means of storing and carrying ammunition
35 which can be loaded into the firearm, mechanism or instrument and
36 fired therefrom.

37 j. "Manufacturer" means any person who receives or obtains
38 raw materials or parts and processes them into firearms or finished
39 parts of firearms, except a person who exclusively processes grips,
40 stocks and other nonmetal parts of firearms. The term does not
41 include a person who repairs existing firearms or receives new and
42 used raw materials or parts solely for the repair of existing firearms.

43 k. "Handgun" means any pistol, revolver or other firearm
44 originally designed or manufactured to be fired by the use of a
45 single hand.

46 l. "Retail dealer" means any person including a gunsmith,
47 except a manufacturer or a wholesale dealer, who sells, transfers or
48 assigns for a fee or profit any firearm or parts of firearms or

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1 ammunition which he has purchased or obtained with the intention,
2 or for the purpose, of reselling or reassigning to persons who are
3 reasonably understood to be the ultimate consumers, and includes
4 any person who is engaged in the business of repairing firearms or
5 who sells any firearm to satisfy a debt secured by the pledge of a
6 firearm.

7 m. "Rifle" means any firearm designed to be fired from the
8 shoulder and using the energy of the explosive in a fixed metallic
9 cartridge to fire a single projectile through a rifled bore for each
10 single pull of the trigger.

11 n. "Shotgun" means any firearm designed to be fired from the
12 shoulder and using the energy of the explosive in a fixed shotgun
13 shell to fire through a smooth bore either a number of ball shots or a
14 single projectile for each pull of the trigger, or any firearm designed
15 to be fired from the shoulder which does not fire fixed ammunition.

16 o. "Sawed-off shotgun" means any shotgun having a barrel or
17 barrels of less than 18 inches in length measured from the breech to
18 the muzzle, or a rifle having a barrel or barrels of less than 16
19 inches in length measured from the breech to the muzzle, or any
20 firearm made from a rifle or a shotgun, whether by alteration, or
21 otherwise, if such firearm as modified has an overall length of less
22 than 26 inches.

23 p. "Switchblade knife" means any knife or similar device
24 which has a blade which opens automatically by hand pressure
25 applied to a button, spring or other device in the handle of the knife.

26 q. "Superintendent" means the Superintendent of the State
27 Police.

28 r. "Weapon" means anything readily capable of lethal use or of
29 inflicting serious bodily injury. The term includes, but is not
30 limited to, all (1) firearms, even though not loaded or lacking a clip
31 or other component to render them immediately operable; (2)
32 components which can be readily assembled into a weapon; (3)
33 gravity knives, switchblade knives, daggers, dirks, stiletos, or other
34 dangerous knives, billies, blackjacks, bludgeons, metal knuckles,
35 sandclubs, slingshots, cesti or similar leather bands studded with
36 metal filings or razor blades imbedded in wood; and (4) stun guns;
37 and any weapon or other device which projects, releases, or emits
38 tear gas or any other substance intended to produce temporary
39 physical discomfort or permanent injury through being vaporized or
40 otherwise dispensed in the air.

41 s. "Wholesale dealer" means any person, except a
42 manufacturer, who sells, transfers, or assigns firearms, or parts of
43 firearms, to persons who are reasonably understood not to be the
44 ultimate consumers, and includes persons who receive finished
45 parts of firearms and assemble them into completed or partially
46 completed firearms, in furtherance of such purpose, except that it
47 shall not include those persons dealing exclusively in grips, stocks
48 and other nonmetal parts of firearms.

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- 1 t. "Stun gun" means any weapon or other device which emits
2 an electrical charge or current intended to temporarily or
3 permanently disable a person.
- 4 u. "Ballistic knife" means any weapon or other device capable
5 of lethal use and which can propel a knife blade.
- 6 v. "Imitation firearm" means an object or device reasonably
7 capable of being mistaken for a firearm.
- 8 w. "Assault firearm" means:
- 9 (1) The following firearms:
- 10 Algimec AGM1 type
11 Any shotgun with a revolving cylinder such as the "Street
12 Sweeper" or "Striker 12"
13 Armalite AR-180 type
14 Australian Automatic Arms SAR
15 Avtomat Kalashnikov type semi-automatic firearms
16 Beretta AR-70 and BM59 semi-automatic firearms
17 Bushmaster Assault Rifle
18 Calico M-900 Assault carbine and M-900
19 CETME G3
20 Chartered Industries of Singapore SR-88 type
21 Colt AR-15 and CAR-15 series
22 Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types
23 Demro TAC-1 carbine type
24 Encom MP-9 and MP-45 carbine types
25 FAMAS MAS223 types
26 FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms
27 Franchi SPAS 12 and LAW 12 shotguns
28 G3SA type
29 Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1
30 Intratec TEC 9 and 22 semi-automatic firearms
31 M1 carbine type
32 M14S type
33 MAC 10, MAC 11, MAC 11-9mm carbine type firearms
34 PJK M-68 carbine type
35 Plainfield Machine Company Carbine
36 Ruger K-Mini-14/5F and Mini-14/5RF
37 SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types
38 SKS with detachable magazine type
39 Spectre Auto carbine type
40 Springfield Armory BM59 and SAR-48 type
41 Sterling MK-6, MK-7 and SAR types
42 Steyr A.U.G. semi-automatic firearms
43 USAS 12 semi-automatic type shotgun
44 Uzi type semi-automatic firearms
45 Valmet M62, M71S, M76, or M78 type semi-automatic firearms
46 Weaver Arm Nighthawk.
- 47 (2) Any firearm manufactured under any designation which is
48 substantially identical to any of the firearms listed above.

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1 (3) A semi-automatic shotgun with either a magazine capacity
2 exceeding six rounds, a pistol grip, or a folding stock.

3 (4) A semi-automatic rifle with a fixed magazine capacity
4 exceeding 15 rounds.

5 (5) A part or combination of parts designed or intended to
6 convert a firearm into an assault firearm, or any combination of
7 parts from which an assault firearm may be readily assembled if
8 those parts are in the possession or under the control of the same
9 person.

10 x. "Semi-automatic" means a firearm which fires a single
11 projectile for each single pull of the trigger and is self-reloading or
12 automatically chambers a round, cartridge, or bullet.

13 y. "Large capacity ammunition magazine" means a box, drum,
14 tube or other container which is capable of holding more than 15
15 rounds of ammunition to be fed continuously and directly therefrom
16 into a semi-automatic firearm.

17 z. "Pistol grip" means a well-defined handle, similar to that
18 found on a handgun, that protrudes conspicuously beneath the
19 action of the weapon, and which permits the shotgun to be held and
20 fired with one hand.

21 aa. "Antique handgun" means a handgun manufactured before
22 1898, or a replica thereof, which is recognized as being historical in
23 nature or of historical significance and either (1) utilizes a match,
24 friction, flint, or percussion ignition, or which utilizes a pin-fire
25 cartridge in which the pin is part of the cartridge or (2) does not fire
26 fixed ammunition or for which cartridge ammunition is not
27 commercially available.

28 bb. "Trigger lock" means a commercially available device
29 approved by the Superintendent of State Police which is operated
30 with a key or combination lock that prevents a firearm from being
31 discharged while the device is attached to the firearm. It may
32 include, but need not be limited to, devices that obstruct the barrel
33 or cylinder of the firearm, as well as devices that immobilize the
34 trigger.

35 cc. "Trigger locking device" means a device that, if installed on
36 a firearm and secured by means of a key or mechanically,
37 electronically or electromechanically operated combination lock,
38 prevents the firearm from being discharged without first
39 deactivating or removing the device by means of a key or
40 mechanically, electronically or electromechanically operated
41 combination lock.

42 dd. "Personalized handgun" means a handgun which incorporates
43 within its design, and as part of its original manufacture, technology
44 which automatically limits its operational use and which cannot be
45 readily deactivated, so that it may only be fired by an authorized or
46 recognized user. The technology limiting the handgun's operational
47 use may include, but not be limited to: radio frequency tagging,
48 touch memory, remote control, fingerprint, magnetic encoding and

1 other automatic user identification systems utilizing biometric,
2 mechanical or electronic systems. No make or model of a handgun
3 shall be deemed to be a "personalized handgun" unless the Attorney
4 General has determined, through testing or other reasonable means,
5 that the handgun meets any reliability standards that the
6 manufacturer may require for its commercially available handguns
7 that are not personalized or, if the manufacturer has no such
8 reliability standards, the handgun meets the reliability standards
9 generally used in the industry for commercially available handguns.

10 ee. "Traditional muzzleloader rifle" means a single shot, single
11 barrel, side lock percussion or flintlock firearm with iron or peep
12 sights and a wooden stock.

13 (cf: P.L.2002, c.130, s.5)

14

15 2. (New section) The provisions of paragraph (3) of subsection
16 c. of N.J.S.2C:39-1 shall not apply to any person who lawfully
17 possessed a firearm of a caliber of 50 caliber or greater on or before
18 the effective date of this act.

19

20 3. This act shall take effect on the first day of the second month
21 following enactment.

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23

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STATEMENT

25

26 This bill amends N.J.S.2C:39-1 to revise the definition of
27 "destructive device" so that it includes weapons of 50 caliber or
28 greater.

29 Although it centers primarily on devices or instruments designed
30 to explode or produce uncontrolled combustion, the current
31 statutory definition of "destructive device" also includes weapons
32 which fire projectiles of greater than 60 caliber.

33 Under the bill, it would be unlawful to possess a firearm having a
34 caliber of 50 caliber or greater. A person violating this provision
35 would be guilty of a crime of the third degree. A crime of the third
36 degree is punishable by a fine of up to \$15,000, imprisonment for
37 three to five years, or both.

38 The bill does, however, provide exemptions for 1) antique
39 firearms; 2) antique handguns; 3) traditional muzzleloader rifles;
40 and 4) black powder muzzleloaders having in-line ignition, a center
41 hammer or an under hammer which have been approved for hunting
42 in this State. These firearms would continue to be governed by the
43 statute's current "greater than 60 caliber" restriction. Antique
44 firearms and handguns are defined in the statutes as firearms which:

45 (1) do not fire fixed ammunition or were manufactured before
46 1898 and for which fixed ammunition is not commercially
47 available; and

48 (2) are possessed as a curiosity or ornament or for their

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1 historical significance or value. The statutory definition of antique
2 handgun includes "replicas."

3 The bill defines a traditional muzzleloader rifle to mean a single
4 shot, single barrel, side lock percussion or flintlock firearm with
5 iron or peep sights and a wooden stock.

6 Finally, the bill affords an exemption to persons who lawfully
7 possessed a firearm of a caliber of 50 caliber or greater on or before
8 the effective date of the bill. This "grandfather" provision will
9 permit those persons to continue to possess lawfully their large
10 caliber firearms.