

ASSEMBLY, No. 1498

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

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SYNOPSIS

Permits possession of certain types of ammunition.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 3/22/2013)

1 AN ACT concerning firearms and amending N.J.S.2C:39-2,
2 N.J.S.2C:39-3 and N.J.S.2C:39-4.

3

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

6

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

8 2C:39-2. a. Possession of firearms, weapons, destructive
9 devices, silencers, or explosives in a vehicle. When a firearm,
10 weapon, destructive device, silencer, or explosive described in this
11 chapter is found in a vehicle, it is presumed to be in the possession
12 of the occupant if there is but one. If there is more than one
13 occupant in the vehicle, it shall be presumed to be in the possession
14 of all, except under the following circumstances:

15 (1) When it is found upon the person of one of the occupants, it
16 shall be presumed to be in the possession of that occupant alone;

17 (2) When the vehicle is not a stolen one and the weapon or other
18 instrument is found out of view in a glove compartment, trunk or
19 other enclosed customary depository, it shall be presumed to be in
20 the possession of the occupant or occupants who own or have
21 authority to operate the vehicle; and

22 (3) When the vehicle is a taxicab and a weapon or other
23 instrument is found in the passenger's portion of the vehicle, it shall
24 be presumed to be in the possession of all the passengers, if there
25 are any, and if not, in the possession of the driver.

26 b. **【Licenses and permits.** When the legality of a person's
27 conduct under this chapter depends on his possession of a license
28 or permit or on his having registered with or given notice to a
29 particular person or agency, it shall be presumed that he does not
30 possess such a license or permit or has not registered or given the
31 required notice, until he establishes the contrary.】 (Deleted by
32 amendment, PL. , c.)(now pending before the Legislature as this
33 bill).

34 (cf: P.L.1979, c.179, s.1)

35

36 2. N.J.S.2C:39-3 is amended to read as follows:

37 2C:39-3. Prohibited Weapons and Devices.

38 a. Destructive devices. Any person who knowingly has in his
39 possession any destructive device is guilty of a crime of the third
40 degree.

41 b. Sawed-off shotguns. Any person who knowingly has in his
42 possession any sawed-off shotgun is guilty of a crime of the third
43 degree.

44 c. Silencers. Any person who knowingly has in his possession
45 any firearm silencer is guilty of a crime of the fourth degree.

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 d. Defaced firearms. Any person who knowingly has in his
2 possession any firearm which has been defaced, except an antique
3 firearm or an antique handgun, is guilty of a crime of the fourth
4 degree.

5 e. Certain weapons. Any person who knowingly has in his
6 possession any gravity knife, switchblade knife, dagger, dirk,
7 stiletto, billy, blackjack, metal knuckle, sandclub, slingshot, cestus
8 or similar leather band studded with metal filings or razor blades
9 imbedded in wood, ballistic knife, without any explainable lawful
10 purpose, is guilty of a crime of the fourth degree.

11 f. **【Dum-dum or body】** Body armor penetrating bullets. (1)
12 **【Any person, other than a law enforcement officer or persons**
13 **engaged in activities pursuant to subsection f. of N.J.S.2C:39-6,**
14 **who knowingly has in his possession any hollow nose or dum-dum**
15 **bullet, or】** (Deleted by amendment, PL. _____, c. _____)(now pending
16 before the Legislature as this bill). (2) any person, other than a
17 collector of firearms or ammunition as curios or relics as defined in
18 Title 18, United States Code, section 921 (a) (13) and has in his
19 possession a valid Collector of Curios and Relics License issued by
20 the Bureau of Alcohol, Tobacco and Firearms, who knowingly has
21 in his possession any body armor breaching or penetrating
22 ammunition, which means: (a) ammunition primarily designed for
23 use in a handgun, and (b) which is comprised of a bullet whose core
24 or jacket, if the jacket is thicker than .025 of an inch, is made of
25 tungsten carbide, or hard bronze, or other material which is harder
26 than a rating of 72 or greater on the Rockwell B. Hardness Scale,
27 and (c) is therefore capable of breaching or penetrating body armor,
28 is guilty of a crime of the fourth degree. For purposes of this
29 section, a collector may possess not more than three examples of
30 each distinctive variation of the ammunition described above. A
31 distinctive variation includes a different head stamp, composition,
32 design, or color.

33 g. Exceptions. (1) Nothing in subsection a., b., c., d., e., f., j.
34 or k. of this section shall apply to any member of the Armed Forces
35 of the United States or the National Guard, or except as otherwise
36 provided, to any law enforcement officer while actually on duty or
37 traveling to or from an authorized place of duty, provided that his
38 possession of the prohibited weapon or device has been duly
39 authorized under the applicable laws, regulations or military or law
40 enforcement orders. Nothing in subsection h. of this section shall
41 apply to any law enforcement officer who is exempted from the
42 provisions of that subsection by the Attorney General. Nothing in
43 this section shall apply to the possession of any weapon or device
44 by a law enforcement officer who has confiscated, seized or
45 otherwise taken possession of said weapon or device as evidence of
46 the commission of a crime or because he believed it to be possessed
47 illegally by the person from whom it was taken, provided that said

1 law enforcement officer promptly notifies his superiors of his
2 possession of such prohibited weapon or device.

3 (2) a. **Nothing in subsection f. (1) shall be construed to prevent**
4 **a person from keeping such ammunition at his dwelling, premises**
5 **or other land owned or possessed by him, or from carrying such**
6 **ammunition from the place of purchase to said dwelling or land, nor**
7 **shall subsection f. (1) be construed to prevent any licensed retail or**
8 **wholesale firearms dealer from possessing such ammunition at its**
9 **licensed premises, provided that the seller of any such ammunition**
10 **shall maintain a record of the name, age and place of residence of**
11 **any purchaser who is not a licensed dealer, together with the date of**
12 **sale and quantity of ammunition sold.** (Deleted by amendment,
13 PL. , c.)(now pending before the Legislature as this bill).

14 b. Nothing in subsection f.(1) shall be construed to prevent a
15 designated employee or designated licensed agent for a nuclear
16 power plant under the license of the Nuclear Regulatory
17 Commission from possessing hollow nose ammunition while in the
18 actual performance of his official duties, if the federal licensee
19 certifies that the designated employee or designated licensed agent
20 is assigned to perform site protection, guard, armed response or
21 armed escort duties and is appropriately trained and qualified, as
22 prescribed by federal regulation, to perform those duties.

23 (3) Nothing in paragraph (2) of subsection f. or in subsection j.
24 shall be construed to prevent any licensed retail or wholesale
25 firearms dealer from possessing that ammunition or large capacity
26 ammunition magazine at its licensed premises for sale or disposition
27 to another licensed dealer, the Armed Forces of the United States or
28 the National Guard, or to a law enforcement agency, provided that
29 the seller maintains a record of any sale or disposition to a law
30 enforcement agency. The record shall include the name of the
31 purchasing agency, together with written authorization of the chief
32 of police or highest ranking official of the agency, the name and
33 rank of the purchasing law enforcement officer, if applicable, and
34 the date, time and amount of ammunition sold or otherwise
35 disposed. A copy of this record shall be forwarded by the seller to
36 the Superintendent of the Division of State Police within 48 hours
37 of the sale or disposition.

38 (4) Nothing in subsection a. of this section shall be construed to
39 apply to antique cannons as exempted in subsection d. of
40 N.J.S.2C:39-6.

41 (5) Nothing in subsection c. of this section shall be construed to
42 apply to any person who is specifically identified in a special deer
43 management permit issued by the Division of Fish and Wildlife to
44 utilize a firearm silencer as part of an alternative deer control
45 method implemented in accordance with a special deer management
46 permit issued pursuant to section 4 of P.L.2000, c.46 (C.23:4-42.6),
47 while the person is in the actual performance of the permitted

1 alternative deer control method and while going to and from the
2 place where the permitted alternative deer control method is being
3 utilized. This exception shall not, however, otherwise apply to any
4 person to authorize the purchase or possession of a firearm silencer.

5 h. Stun guns. Any person who knowingly has in his possession
6 any stun gun is guilty of a crime of the fourth degree.

7 i. Nothing in subsection e. of this section shall be construed to
8 prevent any guard in the employ of a private security company, who
9 is licensed to carry a firearm, from the possession of a nightstick
10 when in the actual performance of his official duties, provided that
11 he has satisfactorily completed a training course approved by the
12 Police Training Commission in the use of a nightstick.

13 j. Any person who knowingly has in his possession a large
14 capacity ammunition magazine is guilty of a crime of the fourth
15 degree unless the person has registered an assault firearm pursuant
16 to section 11 of P.L.1990, c.32 (C.2C:58-12) and the magazine is
17 maintained and used in connection with participation in competitive
18 shooting matches sanctioned by the Director of Civilian
19 Marksmanship of the United States Department of the Army.

20 k. Handcuffs. Any person who knowingly has in his
21 possession handcuffs as defined in P.L.1991, c.437 (C.2C:39-9.2),
22 under circumstances not manifestly appropriate for such lawful uses
23 as handcuffs may have, is guilty of a disorderly persons offense. A
24 law enforcement officer shall confiscate handcuffs possessed in
25 violation of the law.

26 (cf: P.L. 2003, c.168. s.1)

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28 3. N.J.S.2C:39-4 is amended to read as follows:

29 2C:39-4. Possession of weapons for unlawful purposes.

30 a. Firearms. (1) Any person who has in his possession any
31 firearm and ammunition with a purpose to use **[it]** them unlawfully
32 against the person or property of another is guilty of a crime of the
33 second degree.

34 (2) Any person who possesses, receives or transfers a
35 community gun is guilty of a crime of the second degree and shall
36 be sentenced to a term of imprisonment by the court. The term of
37 imprisonment shall include the imposition of a minimum term. The
38 minimum term shall be fixed at one-half of the sentence imposed by
39 the court or three years, whichever is greater and during which the
40 defendant shall be ineligible for parole. As used in this paragraph,
41 "community gun" means a firearm that is transferred among,
42 between or within any association of two or more persons who,
43 while possessing that firearm, engage in criminal activity or use it
44 unlawfully against the person or property of another.

45 b. Explosives. Any person who has in his possession or carries
46 any explosive substance with a purpose to use it unlawfully against

1 the person or property of another is guilty of a crime of the second
2 degree.

3 c. Destructive devices. Any person who has in his possession
4 any destructive device with a purpose to use it unlawfully against
5 the person or property of another is guilty of a crime of the second
6 degree.

7 d. Other weapons. Any person who has in his possession any
8 weapon, except a firearm, with a purpose to use it unlawfully against
9 the person or property of another is guilty of a crime of the third
10 degree.

11 e. Imitation firearms. Any person who has in his possession an
12 imitation firearm under circumstances that would lead an observer
13 to reasonably believe that it is possessed for an unlawful purpose is
14 guilty of a crime of the fourth degree.

15 (cf: P.L.2007, c.24, s.1)

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17 4. This act shall take effect immediately.

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STATEMENT

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22 New Jersey's laws regulating the possession of firearms and
23 ammunition by otherwise law-abiding persons are confusing to
24 most citizens and law enforcement officers. This bill is intended to
25 remove some of this confusion. The bill eliminates the statutory
26 prohibition against the possession of "hollow point" and "dum-
27 dum" ammunition. New Jersey's current prohibition includes an
28 exemption so that a person may purchase this ammunition and
29 transport it to his dwelling. This exemption is confusing to law
30 enforcement officers and the public alike. While many people have
31 been arrested and prosecuted for the mere possession of "hollow
32 point" ammunition in New Jersey, such ammunition is unrestricted
33 in virtually all other states.

34 Many common types of hunting, target and self defense
35 ammunition have a "hollow point" or "nose." In the case of self
36 defense ammunition, this hollow "nose," which causes the bullet to
37 expand upon impact, makes for a safer projectile since the
38 likelihood of a ricochet is minimized. Hollow nosed target
39 ammunition is generally considered more accurate at long ranges
40 than other types of ammunition.

41 Under the provisions of this bill, individuals would be permitted
42 to possess "hollow point" and "dum-dum" ammunition for lawful
43 purposes.

44 The bill establishes enhanced penalties for individuals who
45 possess ammunition for an unlawful purpose. At present, the
46 possession of "hollow point" or "dum-dum" ammunition outside of
47 certain narrow parameters is a crime of the fourth degree. This bill

A1498 CARROLL, MCHOSE

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1 provides that an individual who possesses ammunition for an
2 unlawful purpose would be guilty of a crime of the second degree.

3 Finally, the bill deletes subsection b. of N.J.S.2C:39-2 which
4 provided that with regard to any firearm permit or license, an
5 individual was deemed in violation of the law "until he establishes
6 the contrary." This approach is inconsistent with traditional
7 American legal jurisprudence and, consequently, should be ended.