

ASSEMBLY, No. 3688

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JANUARY 14, 2013

Sponsored by:

Assemblyman CHARLES MAINOR

District 31 (Hudson)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

SYNOPSIS

Requires mental health evaluation and list of household members with mental illness to purchase firearm.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the purchase of firearms and amending
2 N.J.S.2C:58-3.

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:58-3 is amended to read as follows:

8 2C:58-3. a. Permit to purchase a handgun. No person shall sell,
9 give, transfer, assign or otherwise dispose of, nor receive, purchase,
10 or otherwise acquire a handgun unless the purchaser, assignee,
11 donee, receiver or holder is licensed as a dealer under this chapter
12 or has first secured a permit to purchase a handgun as provided by
13 this section.

14 b. Firearms purchaser identification card. No person shall sell,
15 give, transfer, assign or otherwise dispose of nor receive, purchase
16 or otherwise acquire an antique cannon or a rifle or shotgun, other
17 than an antique rifle or shotgun, unless the purchaser, assignee,
18 donee, receiver or holder is licensed as a dealer under this chapter
19 or possesses a valid firearms purchaser identification card, and first
20 exhibits said card to the seller, donor, transferor or assignor, and
21 unless the purchaser, assignee, donee, receiver or holder signs a
22 written certification, on a form prescribed by the superintendent,
23 which shall indicate that he presently complies with the
24 requirements of subsection c. of this section and shall contain his
25 name, address and firearms purchaser identification card number or
26 dealer's registration number. The said certification shall be retained
27 by the seller, as provided in paragraph (4) of subsection a. of
28 N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may
29 be filed with the chief of police of the municipality in which he
30 resides or with the superintendent.

31 c. Who may obtain. No person of good character and good
32 repute in the community in which he lives, and who is not subject to
33 any of the disabilities set forth in this section or other sections of
34 this chapter, shall be denied a permit to purchase a handgun or a
35 firearms purchaser identification card, except as hereinafter set
36 forth. No handgun purchase permit or firearms purchaser
37 identification card shall be issued:

38 (1) To any person who has been convicted of any crime, or a
39 disorderly persons offense involving an act of domestic violence as
40 defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or
41 not armed with or possessing a weapon at the time of such offense;

42 (2) To any drug dependent person as defined in section 2 of
43 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
44 mental disorder to a hospital, mental institution or sanitarium, or to
45 any person who is presently an habitual drunkard;

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 (3) To any person who suffers from a physical defect or disease
2 which would make it unsafe for him to handle firearms, to any
3 person who has ever been confined for a mental disorder, or to any
4 alcoholic unless any of the foregoing persons produces a certificate
5 of a medical doctor or psychiatrist licensed in New Jersey, or other
6 satisfactory proof, that he is no longer suffering from that particular
7 disability in such a manner that would interfere with or handicap
8 him in the handling of firearms; to any person who knowingly
9 falsifies any information on the application form for a handgun
10 purchase permit or firearms purchaser identification card;

11 (4) To any person under the age of 18 years for a firearms
12 purchaser identification card and to any person under the age of 21
13 years for a permit to purchase a handgun;

14 (5) To any person where the issuance would not be in the
15 interest of the public health, safety or welfare;

16 (6) To any person who is subject to a restraining order issued
17 pursuant to the "Prevention of Domestic Violence Act of 1991,"
18 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from
19 possessing any firearm;

20 (7) To any person who as a juvenile was adjudicated delinquent
21 for an offense which, if committed by an adult, would constitute a
22 crime and the offense involved the unlawful use or possession of a
23 weapon, explosive or destructive device or is enumerated in
24 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2); **[or]**

25 (8) To any person whose firearm is seized pursuant to the
26 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
27 (C.2C:25-17 et seq.) and whose firearm has not been returned;

28 (9) To any person who has not submitted the results of a mental
29 health examination administered by an appropriate mental health
30 care professional licensed in this State. The Superintendent of State
31 Police shall promulgate guidelines concerning the content of the
32 mental health examination, the qualifications necessary to
33 administer the mental health examination, maintaining
34 confidentiality of the subject of the examination, compliance with
35 federal law, and any other guidelines deemed necessary for the
36 successful implementation of this paragraph; or

37 (10) To any person who has not submitted a list of each
38 individual residing in the person's household and whether the
39 individual has a mental illness.

40 d. Issuance. The chief of police of an organized full-time
41 police department of the municipality where the applicant resides or
42 the superintendent, in all other cases, shall upon application, issue
43 to any person qualified under the provisions of subsection c. of this
44 section a permit to purchase a handgun or a firearms purchaser
45 identification card.

46 Any person aggrieved by the denial of a permit or identification
47 card may request a hearing in the Superior Court of the county in
48 which he resides if he is a resident of New Jersey or in the Superior
49 Court of the county in which his application was filed if he is a

1 nonresident. The request for a hearing shall be made in writing
2 within 30 days of the denial of the application for a permit or
3 identification card. The applicant shall serve a copy of his request
4 for a hearing upon the chief of police of the municipality in which
5 he resides, if he is a resident of New Jersey, and upon the
6 superintendent in all cases. The hearing shall be held and a record
7 made thereof within 30 days of the receipt of the application for
8 such hearing by the judge of the Superior Court. No formal
9 pleading and no filing fee shall be required as a preliminary to such
10 hearing. Appeals from the results of such hearing shall be in
11 accordance with law.

12 e. Applications. Applications for permits to purchase a
13 handgun and for firearms purchaser identification cards shall be in
14 the form prescribed by the superintendent and shall set forth the
15 name, residence, place of business, age, date of birth, occupation,
16 sex and physical description, including distinguishing physical
17 characteristics, if any, of the applicant, and shall state whether the
18 applicant is a citizen, whether he is an alcoholic, habitual drunkard,
19 drug dependent person as defined in section 2 of P.L.1970, c.226
20 (C.24:21-2), whether he has ever been confined or committed to a
21 mental institution or hospital for treatment or observation of a
22 mental or psychiatric condition on a temporary, interim or
23 permanent basis, giving the name and location of the institution or
24 hospital and the dates of such confinement or commitment, whether
25 he has been attended, treated or observed by any doctor or
26 psychiatrist or at any hospital or mental institution on an inpatient
27 or outpatient basis for any mental or psychiatric condition, giving
28 the name and location of the doctor, psychiatrist, hospital or
29 institution and the dates of such occurrence, whether he presently or
30 ever has been a member of any organization which advocates or
31 approves the commission of acts of force and violence to overthrow
32 the Government of the United States or of this State, or which seeks
33 to deny others their rights under the Constitution of either the
34 United States or the State of New Jersey, whether he has ever been
35 convicted of a crime or disorderly persons offense, whether the
36 person is subject to a restraining order issued pursuant to the
37 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
38 (C.2C:25-17 et seq.) prohibiting the person from possessing any
39 firearm, and such other information as the superintendent shall
40 deem necessary for the proper enforcement of this chapter. For the
41 purpose of complying with this subsection, the applicant shall
42 waive any statutory or other right of confidentiality relating to
43 institutional confinement. The application shall be signed by the
44 applicant and shall contain as references the names and addresses of
45 two reputable citizens personally acquainted with him.

46 Application blanks shall be obtainable from the superintendent,
47 from any other officer authorized to grant such permit or
48 identification card, and from licensed retail dealers.

1 The chief police officer or the superintendent shall obtain the
2 fingerprints of the applicant and shall have them compared with any
3 and all records of fingerprints in the municipality and county in
4 which the applicant resides and also the records of the State Bureau
5 of Identification and the Federal Bureau of Investigation, provided
6 that an applicant for a handgun purchase permit who possesses a
7 valid firearms purchaser identification card, or who has previously
8 obtained a handgun purchase permit from the same licensing
9 authority for which he was previously fingerprinted, and who
10 provides other reasonably satisfactory proof of his identity, need not
11 be fingerprinted again; however, the chief police officer or the
12 superintendent shall proceed to investigate the application to
13 determine whether or not the applicant has become subject to any of
14 the disabilities set forth in this chapter.

15 f. Granting of permit or identification card; fee; term; renewal;
16 revocation. The application for the permit to purchase a handgun
17 together with a fee of \$2, or the application for the firearms
18 purchaser identification card together with a fee of \$5, shall be
19 delivered or forwarded to the licensing authority who shall
20 investigate the same and, unless good cause for the denial thereof
21 appears, shall grant the permit or the identification card, or both, if
22 application has been made therefor, within 30 days from the date of
23 receipt of the application for residents of this State and within 45
24 days for nonresident applicants. A permit to purchase a handgun
25 shall be valid for a period of 90 days from the date of issuance and
26 may be renewed by the issuing authority for good cause for an
27 additional 90 days. A firearms purchaser identification card shall
28 be valid until such time as the holder becomes subject to any of the
29 disabilities set forth in subsection c. of this section, whereupon the
30 card shall be void and shall be returned within five days by the
31 holder to the superintendent, who shall then advise the licensing
32 authority. Failure of the holder to return the firearms purchaser
33 identification card to the superintendent within the said five days
34 shall be an offense under subsection a. of N.J.S.2C:39-10. Any
35 firearms purchaser identification card may be revoked by the
36 Superior Court of the county wherein the card was issued, after
37 hearing upon notice, upon a finding that the holder thereof no
38 longer qualifies for the issuance of such permit. The county
39 prosecutor of any county, the chief police officer of any
40 municipality or any citizen may apply to such court at any time for
41 the revocation of such card.

42 There shall be no conditions or requirements added to the form
43 or content of the application, or required by the licensing authority
44 for the issuance of a permit or identification card, other than those
45 that are specifically set forth in this chapter.

46 g. Disposition of fees. All fees for permits shall be paid to the
47 State Treasury if the permit is issued by the superintendent, to the
48 municipality if issued by the chief of police, and to the county
49 treasurer if issued by the judge of the Superior Court.

1 h. Form of permit; quadruplicate; disposition of copies. The
2 permit shall be in the form prescribed by the superintendent and
3 shall be issued to the applicant in quadruplicate. Prior to the time
4 he receives the handgun from the seller, the applicant shall deliver
5 to the seller the permit in quadruplicate and the seller shall
6 complete all of the information required on the form. Within five
7 days of the date of the sale, the seller shall forward the original
8 copy to the superintendent and the second copy to the chief of
9 police of the municipality in which the purchaser resides, except
10 that in a municipality having no chief of police, such copy shall be
11 forwarded to the superintendent. The third copy shall then be
12 returned to the purchaser with the pistol or revolver and the fourth
13 copy shall be kept by the seller as a permanent record.

14 i. Restriction on number of firearms person may purchase.
15 Only one handgun shall be purchased or delivered on each permit
16 and no more than one handgun shall be purchased within any 30-
17 day period, but this limitation shall not apply to:

18 (1) a federal, State or local law enforcement officer or agency
19 purchasing handguns for use by officers in the actual performance
20 of their law enforcement duties;

21 (2) a collector of handguns as curios or relics as defined in Title
22 18, United States Code, section 921 (a) (13) who has in his
23 possession a valid Collector of Curios and Relics License issued by
24 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

25 (3) transfers of handguns among licensed retail dealers,
26 registered wholesale dealers and registered manufacturers;

27 (4) transfers of handguns from any person to a licensed retail
28 dealer or a registered wholesale dealer or registered manufacturer.

29 (5) any transaction where the person has purchased a handgun
30 from a licensed retail dealer and has returned that handgun to the
31 dealer in exchange for another handgun within 30 days of the
32 original transaction, provided the retail dealer reports the exchange
33 transaction to the superintendent; or

34 (6) any transaction where the superintendent issues an
35 exemption from the prohibition in this subsection pursuant to the
36 provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).

37 The provisions of this subsection shall not be construed to afford
38 or authorize any other exemption from the regulatory provisions
39 governing firearms set forth in chapter 39 and chapter 58 of Title
40 2C of the New Jersey Statutes;

41 A person shall not be restricted as to the number of rifles or
42 shotguns he may purchase, provided he possesses a valid firearms
43 purchaser identification card and provided further that he signs the
44 certification required in subsection b. of this section for each
45 transaction.

46 j. Firearms passing to heirs or legatees. Notwithstanding any
47 other provision of this section concerning the transfer, receipt or
48 acquisition of a firearm, a permit to purchase or a firearms
49 purchaser identification card shall not be required for the passing of

1 a firearm upon the death of an owner thereof to his heir or legatee,
2 whether the same be by testamentary bequest or by the laws of
3 intestacy. The person who shall so receive, or acquire said firearm
4 shall, however, be subject to all other provisions of this chapter. If
5 the heir or legatee of such firearm does not qualify to possess or
6 carry it, he may retain ownership of the firearm for the purpose of
7 sale for a period not exceeding 180 days, or for such further limited
8 period as may be approved by the chief law enforcement officer of
9 the municipality in which the heir or legatee resides or the
10 superintendent, provided that such firearm is in the custody of the
11 chief law enforcement officer of the municipality or the
12 superintendent during such period.

13 k. Sawed-off shotguns. Nothing in this section shall be
14 construed to authorize the purchase or possession of any sawed-off
15 shotgun.

16 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
17 the sale or purchase of a visual distress signalling device approved
18 by the United States Coast Guard, solely for possession on a private
19 or commercial aircraft or any boat; provided, however, that no
20 person under the age of 18 years shall purchase nor shall any person
21 sell to a person under the age of 18 years such a visual distress
22 signalling device.

23 (cf: P.L.2009, c.186, s.2)

24

25 2. This act shall take effect on the first day of the fourth month
26 following enactment.

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28

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STATEMENT

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31 This bill would require any person applying for a firearms
32 purchaser identification card or handgun purchase permit to submit
33 the results of a mental health evaluation as a prerequisite for
34 issuance of the card or permit.

35 Under the bill, the Superintendent of State Police would be
36 responsible for issuing guidelines concerning the content of the
37 mental health examination, the qualifications necessary to
38 administer the mental health examination, maintaining
39 confidentiality of the subject of the examination, compliance with
40 federal law, and any other guideline the superintendent deems
41 necessary.

42 The bill also would require applicants to submit a list of the
43 names of every person residing in the applicant's household and
44 whether the person has a mental illness.

45 In light of the recent mass shooting at Sandy Hook Elementary
46 School in Newtown, Connecticut where 20 six- and seven-year old
47 students and six adults were killed by a gunman with a history of
48 mental illness, it is the sponsor's intent that any person in this State

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- 1 who wants to purchase a firearm must first meet a certain standard
- 2 of mental capacity to do so.