

[Third Reprint]

**SENATE, No. 2178**

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**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

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INTRODUCED SEPTEMBER 20, 2012

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator BARBARA BUONO**

**District 18 (Middlesex)**

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**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As amended by the Senate on May 13, 2013.



**(Sponsorship Updated As Of: 4/26/2013)**

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, or replica thereof, as the case may be, is incapable of being  
 15 fired or discharged, or which does not fire fixed ammunition,  
 16 regardless of date of manufacture, or was manufactured before 1898  
 17 for which cartridge ammunition is not commercially available, and  
 18 is 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  
 30 <sup>1</sup>**[projectile] center-fire cartridge<sup>1</sup>** of a caliber of 50 or greater  
 31 **[than 60 caliber] <sup>1</sup>[**, except a shotgun or shotgun ammunition  
 32 generally recognized as suitable for sporting purposes**]**, which shall  
 33 include <sup>2</sup>[a 12.7 mm] any metric<sup>2</sup> equivalent of 50 caliber or  
 34 greater <sup>2</sup>[or any other metric equivalent]<sup>2</sup>, <sup>2</sup>[or a copy or duplicate  
 35 of any such weapon regardless of caliber,]<sup>2</sup> that is capable of firing  
 36 a projectile that attains a muzzle energy of 12,000 foot-pounds or  
 37 greater in any combination of bullet, propellant, case, or primer. <sup>2</sup>It  
 38 also shall include any copy or duplicate of any such weapon that is  
 39 capable of firing a projectile that attains a muzzle energy of 12,000  
 40 foot-pounds or greater regardless of caliber.<sup>2</sup> The provisions of this  
 41 paragraph shall not apply to a smooth bore shotgun or rifle barrel  
 42 shotgun or any shotgun ammunition generally recognized as  
 43 suitable for sporting purposes in this State<sup>1</sup>; (4) any Molotov  
 44 cocktail or other device consisting of a breakable container

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLP committee amendments adopted May 9, 2013.

<sup>2</sup>Senate SBA committee amendments adopted May 9, 2013.

<sup>3</sup>Senate floor amendments adopted May 13, 2013.

1 containing flammable liquid and having a wick or similar device  
2 capable of being ignited. The term **[does]** shall not include any  
3 device manufactured for the purpose of illumination, distress  
4 signaling, line-throwing, safety or similar purposes.  
5 <sup>1</sup>[Notwithstanding the provisions of paragraph (3) of this  
6 subsection, the term shall not include any of the following weapons  
7 capable of firing a projectile of a caliber of 50 or greater, but not  
8 exceeding a caliber of 60: antique firearm; antique handgun;  
9 muzzleloader rifle; or black powder muzzleloader having in-line  
10 ignition, a center hammer or an under hammer which has been, or  
11 subsequently is, approved for hunting in this State. The term also  
12 shall not include any firearm with a bore diameter greater than 60  
13 caliber whose principle means of ignition are traditional flintlock or  
14 caplock and whose principle propellant is black powder.]<sup>1</sup>

15 d. "Dispose of" means to give, give away, lease, loan, keep for  
16 sale, offer, offer for sale, sell, transfer, or otherwise transfer  
17 possession.

18 e. "Explosive" means any chemical compound or mixture that  
19 is commonly used or is possessed for the purpose of producing an  
20 explosion and which contains any oxidizing and combustible  
21 materials or other ingredients in such proportions, quantities or  
22 packing that an ignition by fire, by friction, by concussion or by  
23 detonation of any part of the compound or mixture may cause such  
24 a sudden generation of highly heated gases that the resultant  
25 gaseous pressures are capable of producing destructive effects on  
26 contiguous objects. The term shall not include small arms  
27 ammunition, or explosives in the form prescribed by the official  
28 United States Pharmacopoeia.

29 f. "Firearm" means any handgun, rifle, shotgun, machine gun,  
30 automatic or semi-automatic rifle, or any gun, device or instrument  
31 in the nature of a weapon from which may be fired or ejected any  
32 solid projectable ball, slug, pellet, missile or bullet, or any gas,  
33 vapor or other noxious thing, by means of a cartridge or shell or by  
34 the action of an explosive or the igniting of flammable or explosive  
35 substances. It shall also include, without limitation, any firearm  
36 which is in the nature of an air gun, spring gun or pistol or other  
37 weapon of a similar nature in which the propelling force is a spring,  
38 elastic band, carbon dioxide, compressed or other gas or vapor, air  
39 or compressed air, or is ignited by compressed air, and ejecting a  
40 bullet or missile smaller than three-eighths of an inch in diameter,  
41 with sufficient force to injure a person.

42 g. "Firearm silencer" means any instrument, attachment,  
43 weapon or appliance for causing the firing of any gun, revolver,  
44 pistol or other firearm to be silent, or intended to lessen or muffle  
45 the noise of the firing of any gun, revolver, pistol or other firearm.

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

49 i. "Machine gun" means any firearm, mechanism or instrument

1 not requiring that the trigger be pressed for each shot and having a  
2 reservoir, belt or other means of storing and carrying ammunition  
3 which can be loaded into the firearm, mechanism or instrument and  
4 fired therefrom.

5 j. "Manufacturer" means any person who receives or obtains  
6 raw materials or parts and processes them into firearms or finished  
7 parts of firearms, except a person who exclusively processes grips,  
8 stocks and other nonmetal parts of firearms. The term does not  
9 include a person who repairs existing firearms or receives new and  
10 used raw materials or parts solely for the repair of existing firearms.

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

14 l. "Retail dealer" means any person including a gunsmith,  
15 except a manufacturer or a wholesale dealer, who sells, transfers or  
16 assigns for a fee or profit any firearm or parts of firearms or  
17 ammunition which he has purchased or obtained with the intention,  
18 or for the purpose, of reselling or reassigning to persons who are  
19 reasonably understood to be the ultimate consumers, and includes  
20 any person who is engaged in the business of repairing firearms or  
21 who sells any firearm to satisfy a debt secured by the pledge of a  
22 firearm.

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

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

32 o. "Sawed-off shotgun" means any shotgun having a barrel or  
33 barrels of less than 18 inches in length measured from the breech to  
34 the muzzle, or a rifle having a barrel or barrels of less than 16  
35 inches in length measured from the breech to the muzzle, or any  
36 firearm made from a rifle or a shotgun, whether by alteration, or  
37 otherwise, if such firearm as modified has an overall length of less  
38 than 26 inches.

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

42 q. "Superintendent" means the Superintendent of the State  
43 Police.

44 r. "Weapon" means anything readily capable of lethal use or of  
45 inflicting serious bodily injury. The term includes, but is not  
46 limited to, all (1) firearms, even though not loaded or lacking a clip  
47 or other component to render them immediately operable; (2)  
48 components which can be readily assembled into a weapon; (3)  
49 gravity knives, switchblade knives, daggers, dirks, stilettos, or other

1 dangerous knives, billies, blackjacks, bludgeons, metal knuckles,  
2 sandclubs, slingshots, cesti or similar leather bands studded with  
3 metal filings or razor blades imbedded in wood; and (4) stun guns;  
4 and any weapon or other device which projects, releases, or emits  
5 tear gas or any other substance intended to produce temporary  
6 physical discomfort or permanent injury through being vaporized or  
7 otherwise dispensed in the air.

8 s. "Wholesale dealer" means any person, except a  
9 manufacturer, who sells, transfers, or assigns firearms, or parts of  
10 firearms, to persons who are reasonably understood not to be the  
11 ultimate consumers, and includes persons who receive finished  
12 parts of firearms and assemble them into completed or partially  
13 completed firearms, in furtherance of such purpose, except that it  
14 shall not include those persons dealing exclusively in grips, stocks  
15 and other nonmetal parts of firearms.

16 t. "Stun gun" means any weapon or other device which emits  
17 an electrical charge or current intended to temporarily or  
18 permanently disable a person.

19 u. "Ballistic knife" means any weapon or other device capable  
20 of lethal use and which can propel a knife blade.

21 v. "Imitation firearm" means an object or device reasonably  
22 capable of being mistaken for a firearm.

23 w. "Assault firearm" means:

24 (1) The following firearms:

25 Algimec AGM1 type

26 Any shotgun with a revolving cylinder such as the "Street  
27 Sweeper" or "Striker 12"

28 Armalite AR-180 type

29 Australian Automatic Arms SAR

30 Avtomat Kalashnikov type semi-automatic firearms

31 Beretta AR-70 and BM59 semi-automatic firearms

32 Bushmaster Assault Rifle

33 Calico M-900 Assault carbine and M-900

34 CETME G3

35 Chartered Industries of Singapore SR-88 type

36 Colt AR-15 and CAR-15 series

37 Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

38 Demro TAC-1 carbine type

39 Encom MP-9 and MP-45 carbine types

40 FAMAS MAS223 types

41 FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms

42 Franchi SPAS 12 and LAW 12 shotguns

43 G3SA type

44 Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1

45 Intratec TEC 9 and 22 semi-automatic firearms

46 M1 carbine type

47 M14S type

48 MAC 10, MAC 11, MAC 11-9mm carbine type firearms

49 PJK M-68 carbine type

- 1 Plainfield Machine Company Carbine
- 2 Ruger K-Mini-14/5F and Mini-14/5RF
- 3 SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types
- 4 SKS with detachable magazine type
- 5 Spectre Auto carbine type
- 6 Springfield Armory BM59 and SAR-48 type
- 7 Sterling MK-6, MK-7 and SAR types
- 8 Steyr A.U.G. semi-automatic firearms
- 9 USAS 12 semi-automatic type shotgun
- 10 Uzi type semi-automatic firearms
- 11 Valmet M62, M71S, M76, or M78 type semi-automatic firearms
- 12 Weaver Arm Nighthawk.
- 13 (2) Any firearm manufactured under any designation which is
- 14 substantially identical to any of the firearms listed above.
- 15 (3) A semi-automatic shotgun with either a magazine capacity
- 16 exceeding six rounds, a pistol grip, or a folding stock.
- 17 (4) A semi-automatic rifle with a fixed magazine capacity
- 18 exceeding 15 rounds.
- 19 (5) A part or combination of parts designed or intended to
- 20 convert a firearm into an assault firearm, or any combination of
- 21 parts from which an assault firearm may be readily assembled if
- 22 those parts are in the possession or under the control of the same
- 23 person.
- 24 x. "Semi-automatic" means a firearm which fires a single
- 25 projectile for each single pull of the trigger and is self-reloading or
- 26 automatically chambers a round, cartridge, or bullet.
- 27 y. "Large capacity ammunition magazine" means a box, drum,
- 28 tube or other container which is capable of holding more than 15
- 29 rounds of ammunition to be fed continuously and directly therefrom
- 30 into a semi-automatic firearm.
- 31 z. "Pistol grip" means a well-defined handle, similar to that
- 32 found on a handgun, that protrudes conspicuously beneath the
- 33 action of the weapon, and which permits the shotgun to be held and
- 34 fired with one hand.
- 35 aa. "Antique handgun" means a handgun manufactured before
- 36 1898, or a replica thereof, which is recognized as being historical in
- 37 nature or of historical significance and either (1) utilizes a match,
- 38 friction, flint, or percussion ignition, or which utilizes a pin-fire
- 39 cartridge in which the pin is part of the cartridge or (2) does not fire
- 40 fixed ammunition or for which cartridge ammunition is not
- 41 commercially available.
- 42 bb. "Trigger lock" means a commercially available device
- 43 approved by the Superintendent of State Police which is operated
- 44 with a key or combination lock that prevents a firearm from being
- 45 discharged while the device is attached to the firearm. It may
- 46 include, but need not be limited to, devices that obstruct the barrel
- 47 or cylinder of the firearm, as well as devices that immobilize the
- 48 trigger.
- 49 cc. "Trigger locking device" means a device that, if installed on

1 a firearm and secured by means of a key or mechanically,  
2 electronically or electromechanically operated combination lock,  
3 prevents the firearm from being discharged without first  
4 deactivating or removing the device by means of a key or  
5 mechanically, electronically or electromechanically operated  
6 combination lock.

7 dd. "Personalized handgun" means a handgun which  
8 incorporates within its design, and as part of its original  
9 manufacture, technology which automatically limits its operational  
10 use and which cannot be readily deactivated, so that it may only be  
11 fired by an authorized or recognized user. The technology limiting  
12 the handgun's operational use may include, but not be limited to:  
13 radio frequency tagging, touch memory, remote control, fingerprint,  
14 magnetic encoding and other automatic user identification systems  
15 utilizing biometric, mechanical or electronic systems. No make or  
16 model of a handgun shall be deemed to be a "personalized handgun"  
17 unless the Attorney General has determined, through testing or  
18 other reasonable means, that the handgun meets any reliability  
19 standards that the manufacturer may require for its commercially  
20 available handguns that are not personalized or, if the manufacturer  
21 has no such reliability standards, the handgun meets the reliability  
22 standards generally used in the industry for commercially available  
23 handguns.

24 <sup>1</sup>See. "Muzzleloader rifle" means a single shot, single barrel,  
25 side lock percussion or flintlock firearm with iron or peep sights, or  
26 with a fiber optic sight or scope, and a stock made of wood or any  
27 synthetic material.】<sup>1</sup>

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

29

30 <sup>1</sup>2.(New section) a. The Superintendent of State Police shall  
31 establish a buyback program for firearms prohibited under the  
32 provisions of paragraph (3) of subsection c. of N.J.S.2C:39-1.  
33 Funding for the buyback program established pursuant to this  
34 section shall be provided by the Attorney General from the proceeds  
35 resulting from the forfeiture of any money or property seized  
36 pursuant to chapter 64 of Title 2C of the New Jersey Statutes.

37 b. From the effective date of P.L. , c. (pending before the  
38 Legislature as this bill) until the implementation of the buyback  
39 program established pursuant to subsection a. of this section, no  
40 person shall be convicted of an offense under chapter 39 of Title 2C  
41 of the New Jersey Statues for unlawfully possessing a firearm  
42 prohibited under the provisions of paragraph (3) of subsection c. of  
43 N.J.S.2C:39-1. Thereafter no person shall be convicted of an  
44 offense under chapter 39 of Title 2C of the New Jersey Statutes for  
45 unlawfully possessing or transporting a firearm prohibited under the  
46 provisions of paragraph (3) of subsection c. of N.J.S.2C:39-1 for  
47 any action associated with participation in the buyback program  
48 established pursuant to this section, provided those participatory

1 actions are consistent with guidelines promulgated by the Attorney  
2 General, in consultation with the superintendent.

3 c. The immunity afforded under subsection b. of this section  
4 shall apply only to the possession and transport of a firearm  
5 surrendered as part of the buyback program established pursuant to  
6 subsection a. of this section, and shall not be construed as granting  
7 immunity from prosecution for any other crime or offense under  
8 chapter 39 or chapter 58 of Title 2C of the New Jersey Statutes.】<sup>1</sup>

9

10 <sup>1</sup>2. (New section) a. The owner of a .50 caliber or greater  
11 weapon purchased or acquired before the it was prohibited under  
12 the provisions of paragraph (3) of subsection c. of N.J.S.2C:39-1 by  
13 the enactment of P.L. , c. (C. ) (pending before the  
14 Legislature as this bill) shall have one year in which to register that  
15 weapon.

16 In order to register a prohibited weapon, the owner shall:

17 (1) Complete a registration statement, in the form to be  
18 prescribed by the Superintendent of the State Police; and

19 (2) Pay a registration fee of \$50 for each prohibited weapon.

20 b. For an applicant who resides in a municipality with an  
21 organized full-time police department, the registration shall take  
22 place at the main office of the police department. For all other  
23 applicants, the registration shall take place at any State Police  
24 station.

25 c. Within 60 days of the effective date of P.L. , c. (C. )  
26 (pending before the Legislature as this bill), the Superintendent  
27 shall prepare the form of registration statement required under  
28 subsection a. of this section and shall provide a suitable supply of  
29 statements to each organized full-time municipal police department  
30 and each State Police station.

31 d. One copy of the completed prohibited weapon registration  
32 statement shall be returned to the registrant, a second copy shall be  
33 sent to the Superintendent, and, if the registration takes place at a  
34 municipal police department, a third copy shall be retained by that  
35 municipal police department.

36 e. If the owner of a prohibited weapon that has been registered  
37 pursuant to this section dies, the owner's heirs or estate shall have  
38 90 days to dispose of that firearm in accordance with the provisions  
39 of section 3 of P.L. , c. (C. )(pending before the Legislature  
40 as this bill).

41 f. If a prohibited weapon registered pursuant to this section is  
42 used in the commission of a crime, the registrant of that prohibited  
43 weapon shall be civilly liable for any damages resulting from that  
44 crime.

45 The liability imposed by this subsection shall not apply (1) if the  
46 weapon used in the commission of that crime was stolen and the  
47 registrant reported the theft of the weapon to law enforcement  
48 authorities within 36 hours of the registrant's knowledge of the theft



1 or (2) prior to the commission of the crime, the registrant lawfully  
2 transferred the weapon to another person.<sup>1</sup>

3

4 <sup>1</sup>3.(New section) a. A person who lawfully possesses a firearm  
5 prohibited under the provisions of paragraph (3) of subsection c. of  
6 N.J.S.2C:39-1 on the effective date of P.L. , c. (pending before  
7 the Legislature as this bill) may retain possession of that firearm for  
8 a period not to exceed one year from that effective date. During  
9 that time period, the owner of the prohibited firearm shall either:

10 (1) Transfer the prohibited firearm to a person or firm lawfully  
11 entitled to own or possess such firearm;

12 (2) Render the prohibited firearm inoperable; or

13 (3) Voluntarily surrender the prohibited firearm through  
14 participation in the buyback program established pursuant to section  
15 2 of P.L. , c. (C. ) (pending before the Legislature as this  
16 bill).

17 b. If the owner of the prohibited firearm elects to render the  
18 firearm inoperable, the owner shall file a certification on a form  
19 prescribed by the Superintendent of State Police indicating the date  
20 on which the firearm was rendered inoperable. This certification  
21 shall be filed with either the chief law enforcement officer of the  
22 municipality in which the owner resides or, in the case of an owner  
23 who resides outside this State but stores or possesses an assault  
24 firearm in this State, with the Superintendent of State Police.

25 c. As used in this section, "inoperable" means that the firearm  
26 is altered in such a manner that it cannot be immediately fired and  
27 that the owner or possessor of the firearm does not possess or have  
28 control over the parts necessary to make the firearm operable.】<sup>1</sup>

29

30 <sup>1</sup>3. (New section) a. A person who lawfully possesses a .50  
31 caliber or greater weapon prohibited under the provisions of  
32 paragraph (3) of subsection c. of N.J.S.2C:39-1 on the effective date  
33 of P.L. , c. (pending before the Legislature as this bill) and does  
34 not register it pursuant to section 2 of P.L. , c. (C. )(pending  
35 before the Legislature as this bill) may retain possession of that  
36 weapon for a period not to exceed one year from that effective date.  
37 During that time period, the owner of the prohibited weapon shall  
38 either:

39 (1) Transfer the prohibited weapon to a person or firm lawfully  
40 entitled to own or possess such weapon;

41 (2) Render the prohibited weapon inoperable; or

42 (3) Voluntarily surrender the prohibited weapon pursuant to  
43 N.J.S.2C:39-12.

44 b. If the owner of the prohibited weapon elects to render the  
45 weapon inoperable, the owner shall file a certification on a form  
46 prescribed by the Superintendent of State Police indicating the date  
47 on which the weapon was rendered inoperable. This certification  
48 shall be filed with either the chief law enforcement officer of the

1 municipality in which the owner resides or, in the case of an owner  
2 who resides in a municipality which does not have a full-time police  
3 department, with the Superintendent of State Police.  
4 c. As used in this section, "inoperable" means that the weapon  
5 is altered in such a manner that it cannot be immediately fired and  
6 that the owner or possessor of the weapon does not possess or have  
7 control over the parts necessary to make the weapon operable.<sup>1</sup>  
8  
9 4. This act shall take effect <sup>3</sup>**【**on the first day of the second  
10 month following enactment**】** immediately<sup>3</sup>.