

ASSEMBLY, No. 800

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

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District 1 (Atlantic, Cape May and Cumberland)

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District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Revises qualifications for handgun permit, establishes crimes for certain handgun use; establishes annual fee of \$100.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning permits and penalties for use of certain
2 firearms and amending N.J.S.2C:39-4 and N.J.S.2C:58-4.

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:39-4 is amended to read as follows:

8 2C:39-4. Possession of weapons for unlawful purposes.

9 a. Firearms. (1) Any person who has in his possession any
10 firearm with a purpose to use it unlawfully against the person or
11 property of another is guilty of a crime of the second degree.

12 (2) Any person who possesses, receives or transfers a
13 community gun is guilty of a crime of the second degree and shall
14 be sentenced to a term of imprisonment by the court. The term of
15 imprisonment shall include the imposition of a minimum term. The
16 minimum term shall be fixed at one-half of the sentence imposed by
17 the court or three years, whichever is greater and during which the
18 defendant shall be ineligible for parole. As used in this paragraph,
19 "community gun" means a firearm that is transferred among,
20 between or within any association of two or more persons who,
21 while possessing that firearm, engage in criminal activity or use it
22 unlawfully against the person or property of another.

23 (3) Any person who unlawfully possesses a handgun, with the
24 purpose to use it unlawfully to commit a violent crime or
25 unlawfully possesses a handgun while committing a violent crime
26 against another, or unlawfully possesses a handgun during the
27 immediate flight from the commission of a violent crime, is guilty
28 of a crime of the first degree for which the person shall serve a
29 minimum term of 85% of the sentence imposed, during which the
30 defendant shall not be eligible for parole. "Violent crime" in this
31 paragraph means the following:

32 (i) N.J.S.2C:11-3, murder;

33 (ii) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;

34 (iii) subsection b. of N.J.S.2C:12-1, aggravated assault;

35 (iv) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),
36 disarming a law enforcement officer;

37 (v) N.J.S.2C:13-1, kidnapping;

38 (vi) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;

39 (vii) subsection b. of N.J.S.2C:14-2 and paragraph (1) of
40 subsection c. of N.J.S.2C:14-2, sexual assault;

41 (viii) N.J.S.2C:15-1, robbery;

42 (ix) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;

43 (x) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated
44 arson;

45 (xi) N.J.S.2C:18-2, burglary;

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 (xii) subsection a. of N.J.S.2C:20-5, extortion;
2 (xiii) N.J.S.2C:35-9, strict liability for drug induced deaths;
3 (xiv) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism; or
4 (xv) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or
5 possessing chemical weapons, biological agents or nuclear or
6 radiological devices.

7 Conviction of a crime under this paragraph shall not merge with
8 the conviction of any other crime.

9 b. Explosives. Any person who has in his possession or carries
10 any explosive substance with a purpose to use it unlawfully against
11 the person or property of another is guilty of a crime of the second
12 degree.

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

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

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

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

26
27 2. N.J.S.2C:58-4 is amended to read as follows:

28 2C:58-4. a. Scope and duration of authority. Any person who
29 holds a valid permit to carry a handgun issued pursuant to this
30 section shall be authorized to carry a handgun in all parts of this
31 State, except as prohibited by section 2C:39-5e. One permit shall
32 be sufficient for all handguns owned by the holder thereof, but the
33 permit shall apply only to a handgun carried by the actual and legal
34 holder of the permit.

35 All permits to carry handguns shall expire **[2 years]** one year
36 from the date of issuance or, in the case of an employee of an
37 armored car company, upon termination of his employment by the
38 company occurring prior thereto whichever is earlier in time, and
39 they may thereafter be renewed every **[2 years]** year in the same
40 manner and subject to the same conditions as in the case of original
41 applications, except as otherwise hereinafter provided.

42 b. Application forms. All applications for permits to carry
43 handguns, and all applications for renewal of such permits, shall be
44 made on the forms prescribed by the superintendent. Each
45 application shall set forth the full name, date of birth, sex,
46 residence, occupation, place of business or employment, and
47 physical description of the applicant, and such other information as
48 the superintendent may prescribe for the determination of the

1 applicant's eligibility for a permit and for the proper enforcement of
2 this chapter. The application shall be signed by the applicant under
3 oath, and shall be indorsed by three reputable persons who have
4 known the applicant for at least 3 years preceding the date of
5 application, and who shall certify thereon that the applicant is a
6 person of good moral character and behavior.

7 c. Investigation and approval. Each application shall in the
8 first instance be submitted to the chief police officer of the
9 municipality in which the applicant resides, or to the
10 superintendent, (1) if the applicant is an employee of an armored
11 car company, or (2) if there is no chief police officer in the
12 municipality where the applicant resides, or (3) if the applicant does
13 not reside in this State. The chief police officer, or the
14 superintendent, as the case may be, shall cause the fingerprints of
15 the applicant to be taken and compared with any and all records
16 maintained by the municipality, the county in which it is located,
17 the State Bureau of Identification and the Federal Bureau of
18 Identification. He shall also determine and record a complete
19 description of each handgun the applicant intends to carry.

20 No application shall be approved by the chief police officer or
21 the superintendent unless the applicant demonstrates that he is not
22 subject to any of the disabilities set forth in 2C:58-3c., and that he
23 is [thoroughly familiar with the safe handling and use of handguns,
24 and that he has a justifiable need] qualified to carry a handgun. For
25 the purposes of this paragraph, an applicant shall be deemed
26 qualified if: (1) a criminal history record background check reveals
27 no disqualifying information; (2) the applicant successfully
28 completes a course of instruction in the safe use, maintenance, and
29 storage of firearms which is approved by the Police Training
30 Commission; (3) the applicant demonstrates proficiency in the use
31 of, and qualifies with, a firearm of the type to be carried; and (4) the
32 applicant successfully completes a course in the lawful use of force
33 and the justifiable use of a firearm which is approved by the
34 superintendent. The applicant shall be responsible for all the costs
35 of meeting the requirements and qualifications set forth in this
36 paragraph. If the application is not approved by the chief police
37 officer or the superintendent within 60 days of filing, it shall be
38 deemed to have been approved, unless the applicant agrees to an
39 extension of time in writing.

40 d. Issuance by Superior Court; fee. If the application has been
41 approved by the chief police officer or the superintendent, as the
42 case may be, the applicant shall forthwith present it to the Superior
43 Court of the county in which the applicant resides, or to the
44 Superior Court in any county where he intends to carry a handgun,
45 in the case of a nonresident or employee of an armored car
46 company. The court shall issue the permit to the applicant if [but
47 only if,] it is satisfied that the applicant is a person of good
48 character who is not subject to any of the disabilities set forth in

1 section 2C:58-3c., that he is thoroughly familiar with the safe
2 handling and use of handguns, and that he has **【a justifiable need to**
3 **carry a handgun】** , in accordance with subsection c. of this section,
4 been deemed qualified to carry and his application has been
5 approved by the chief police officer or the superintendent, as the
6 case may be. The court may at its discretion issue a limited-type
7 permit which would restrict the applicant as to the types of
8 handguns he may carry and where and for what purposes such
9 handguns may be carried. At the time of issuance, the applicant
10 shall pay to the county clerk of the county where the permit was
11 issued a permit fee of **【\$20.00】** \$100 which shall be dispersed
12 pursuant to subsection h. of this section.

13 e. Appeals from denial of applications. Any person aggrieved
14 by the denial by the chief police officer or the superintendent of
15 approval for a permit to carry a handgun may request a hearing in
16 the Superior Court of the county in which he resides or in any
17 county in which he intends to carry a handgun, in the case of a
18 nonresident, by filing a written request for such a hearing within 30
19 days of the denial. Copies of the request shall be served upon the
20 superintendent, the county prosecutor and the chief police officer of
21 the municipality where the applicant resides, if he is a resident of
22 this State. The hearing shall be held within 30 days of the filing of
23 the request, and no formal pleading or filing fee shall be required.
24 Appeals from the determination at such a hearing shall be in
25 accordance with law and the rules governing the courts of this State.

26 If the superintendent or chief police officer approves an
27 application and the Superior Court denies the application and
28 refuses to issue a permit, the applicant may appeal such denial in
29 accordance with law and the rules governing the courts of this State.

30 f. Revocation of permits. Any permit issued under this section
31 shall be void at such time as the holder thereof becomes subject to
32 any of the disabilities set forth in **【section 2C:58-3c.】** subsection c.
33 of N.J.S.2C.58-3 or fails to qualify semi-annually in the use of his
34 handgun, and the holder of such a void permit shall immediately
35 surrender the permit to the superintendent who shall give notice to
36 the licensing authority.

37 The permit holder shall be responsible for the full cost of
38 qualifying in the use of his handgun.

39 Any permit may be revoked by the Superior Court, after hearing
40 upon notice to the holder, if the court finds that the holder is no
41 longer qualified for the issuance of such a permit. The county
42 prosecutor of any county, the chief police officer of any
43 municipality, the superintendent or any citizen may apply to the
44 court at any time for the revocation of any permit issued pursuant to
45 this section.

46 g. Permit renewals. In a manner and form prescribed by the
47 superintendent, a permit holder may apply each year to renew his
48 permit to carry a handgun. The qualifications and requirements for

1 renewal shall be the same as those set forth in subsection c. of this
2 section for applicants seeking an initial permit.

3 h. The \$100 annual fee for each permit shall be distributed as
4 follows: \$25 to the law enforcement agency that reviewed the
5 application; \$25 to the county clerk where the permit was issued;
6 and \$50 to the State Treasurer for deposit in the General Fund.

7 (cf: P.L.1981, c.135, s.1)

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9 3. Section 1 of this act shall take effect immediately and
10 section 2 of this act shall take effect on the first day of sixth month
11 following enactment and shall apply to all permits to carry a
12 handgun applied for and issued on or after that day.

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STATEMENT

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17 This bill establishes a crime of the first degree for a person to
18 plan or commit certain violent crimes while unlawfully in
19 possession of a handgun. The convicted person would serve would
20 serve a minimum term of 85% of the sentence imposed during
21 which the person shall not be eligible for parole. A crime of the
22 first degree is punishable by 10 to 20 years imprisonment, a fine of
23 up to \$200,000, or both. Under current law, the possession of a
24 firearm with the intent to use it unlawfully is a second degree crime.
25 A second degree crime is punishable by a prison term of 5 to 10
26 years, a fine of up to \$150,000, or both.

27 This bill also revises the law governing the issuing of permits to
28 carry handguns in the State of New Jersey.

29 Under the provisions of this bill, an applicant for a permit to
30 carry would no longer have to establish the court standard
31 “justifiable need.” An applicant only would instead need to show
32 that they are “qualified” to carry. An applicant is deemed qualified
33 under the bill if: (1) a criminal history record background check
34 reveals no disqualifying information; (2) the applicant successfully
35 completes a course of instruction in the safe use, maintenance, and
36 storage of firearms which is approved by the Police Training
37 Commission; (3) the applicant demonstrates proficiency in the use
38 of, and qualifies with, a firearm of the type to be carried; and (4) the
39 applicant successfully completes a course in the lawful use of force
40 and the justifiable use of a firearm which is approved by the
41 superintendent. The bill specifies that the applicant is responsible
42 for all the costs involved in meeting these requirements and
43 qualifications.

44 A permit to carry is valid for one year and is renewable. An
45 applicant for a permit renewal must meet the same requirements and
46 qualifications.

47 The annual fee for the permit is \$100. The permit fees are to be
48 allocated as follows: \$25 to the law enforcement agency that

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- 1 processes the application; \$25 to the county clerk of the county that
- 2 issues the permit; and \$50 to the State Treasurer for deposit in the
- 3 General Fund.

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