

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1016

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1016.

This bill establishes a Personalized Handgun Authorization Commission which would be responsible for establishing performance standards for personalized handguns, also known as “smart guns” and “child-proof guns.” As amended by the committee, the commission also would be responsible for maintaining a roster of personalized handguns approved by the commission as meeting the personalized handgun performance standards and qualifying criteria.

In addition, this bill repeals certain sections of the current law. Under P.L.2002, c.130 (C.2C:58-2.2 et al.), three years after personalized handguns are available for retail purposes, it will be illegal for a firearms manufacturer or dealer to sell or transfer a handgun unless that handgun is a personalized handgun. This bill repeals certain sections of P.L.2002, c.130 (C.2C:58-2.2 et al.) and, as amended, requires firearm retailers to have available for purchase at least one personalized handgun approved by the commission and listed on the roster as eligible for sale.

The Personalized Handgun Authorization Commission is to consist of seven members, including the Attorney General, Superintendent of State Police, the Commissioner of Health, or their respective designees all serving ex-officio. As amended, the remaining four members are to be appointed by the Governor as follows: (1) one member of the American Academy of Pediatrics; (2) one licensed firearms wholesaler, manufacturer, or retail dealer, or a representative of a New Jersey chapter of an organization that advocates for Second Amendment rights; (3) one representative of an organization that advocates against handgun violence; and (4) one member with substantial experience in radio frequency identification or biometric reading technology.

The bill requires the commission’s appointments to be made within six months of the bill’s effective date. The commission members are to serve a term of four years from the date of their appointment and until their successors are appointed. The commission is to meet monthly during the first year following its establishment; thereafter, the commission is to meet once every six months or at the call of the

chairman or a majority of the commission members. As amended, the bill requires the commission to maintain a roster of all personalized handguns approved by the commission as meeting the personalized handgun performance standards and the established qualifying criteria. The roster of approved personalized handguns is to be published on a website maintained by the New Jersey State Police and updated as necessary. A copy of the roster is to be made available every six months to licensed firearms retail dealers in this State.

As amended, the bill requires the commission, within one year of organizing, to establish personalized handgun performance standards and qualifying criteria for placement on the personalized handgun roster. A manufacturer or other entity seeking to include a handgun on the approved personalized handgun roster may apply to the commission for a determination of whether the make and model of a handgun proposed by the applicant would meet the bill's personalized handgun performance standards. As amended, the bill provides that the commission's determination would be based upon testing conducted by an independent laboratory proposed by the applicant which has been accredited for the testing of firearms by the National Voluntary Accreditation or other national certifying body approved by the commission or, if the applicant does not propose an independent laboratory or if one is not approved or available, by the Division of State Police.

As amended, the bill provides that the commission would approve an independent laboratory proposed by an applicant to perform the determination if the commission is clearly convinced that the laboratory is capable of performing the determination and will be sufficiently objective making the determination, provided that the laboratory is not owned or operated by a handgun manufacturer or any other organization that seeks to promote or restrict handgun ownership. If approved, a laboratory would utilize testing methods established by the commission to determine whether a handgun meets the performance standards and qualifying criteria. The tests are to be conducted at the expense of the manufacturer or other entity seeking to include the handgun on the approved roster. As amended, the bill provides that at the conclusion of the tests, the laboratory or Division of State Police, as the case may be, is to issue to the commission a final test report stating whether the handgun met the performance standards and qualifying criteria.

The bill requires the commission to review the final test report and, within 45 days, make a final determination by majority vote as to whether the handgun should be included on the roster. As amended, the bill provides that the commission is to notify the handgun applicant, in writing, as to whether the handgun has been approved or denied for inclusion on the roster. A denial notification is required to provide a written description of the reasons for which the handgun failed to meet the commission's performance standards and qualifying

criteria. As amended, the bill provides that any alteration to the design of a make and model of a handgun that has been approved for addition on the roster requires a determination that the handgun continues to meet the performance standards and qualifying criteria established by the commission in order to include the altered design model of the handgun on the roster.

As amended, the bill provides that within 60 days of the first personalized handgun being included on the roster, each firearms retail dealer would be required to have available for purchase at least one personalized handgun approved by the commission and listed on the roster as eligible for sale. In addition, the amended bill requires retail dealers to display in a conspicuous manner copies of the personalized handgun roster and a sign that includes a clear and conspicuous statement disclosing the features of personalized handguns that are not officered by traditional handguns and advises customers that such firearms may be purchased through the licensed retail dealer. In addition, the amended bill would require each licensed firearms retail dealer to accept and process orders to enable customers to purchase through the licensed retail dealer any of the personalized handguns included on the roster.

The bill as amended also requires a retail dealer to place an order for at least one personalized handgun within 21 days after its personalized handgun inventory is depleted. The retail dealer would be required to maintain the written records of the business's efforts to place an order for additional personalized handguns. The retail dealer also would be required to post a sign on the premises indicating that personalized handguns are routinely sold on the retail dealer's premises and will soon be available for purchase.

The bill requires the Superintendent of State Police to designate law enforcement officers to inspect the personalized handgun inventory and records of licensed firearms retailers. The inspections are to be conducted at least once every two years at any time during the normal business hours of the firearm retailer's business.

Finally, as amended, the bill imposes penalties for retail dealers who fail to maintain a personalized handgun. Under the bill, a retail dealer is subject to a \$500 fine for a first offense and a \$1,000 fine for a second offense. For a third or subsequent offense, the retail dealer would be subject to a six month license suspension following notice and an opportunity to be heard. The amended bill also makes it a disorderly persons offense for a person, without license or privilege to do so, tampers or attempts to tamper with a personalized handgun by intentionally interfering with the user-authorized functionality of the personalized technology. A disorderly persons offense is punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

The amendments are to the current version of the statute. The text has been updated to reflect the enactment of P.L.2017, c.323, P.L.2018, c.38, P.L.2018, c.39, and P.L.2018, c.138.

COMMITTEE AMENDMENTS:

(1) Provide that the member of the Personalized Handgun Authorization Commission with substantial experience in radio frequency identification or biometric reading technology is not required to be an engineer.

(2) Define the term “authorized user” to mean the lawful owner of a personalized handgun or person to whom the owner has given consent to use the personalized handgun.

(3) Provide that the Personalized Handgun Authorization Commission shall maintain a roster of all personalized handguns approved by the commission as meeting the personalized handgun performance standards and the established qualifying criteria.

(4) Provide that the roster of approved personalized handguns would be published on a website maintained by the New Jersey State Police and shall be updated as necessary, instead of every six months.

(5) Provide that that a manufacturer or other entity seeking to include a handgun on the approved personalized handgun roster may apply to the commission for a determination of whether the make and model of a handgun proposed by the applicant would meet the personalized handgun performance standards, instead of the commission identifying and approving a list of independent laboratories which would be used to determine whether handguns comply with the personalized handgun performance standards.

(6) Remove the requirement that at least one independent laboratory would be identified and included on the list of approved laboratories within one year of the commission’s organization.

(7) Provide that the commission’s determination would be based upon testing conducted by an independent laboratory proposed by the applicant which has been accredited for the testing of firearms by the National Voluntary Accreditation or other national certifying body approved by the commission or, if the applicant does not propose an independent laboratory or if one is not approved or available, by the Division of State Police.

(8) Provide that the commission would approve an independent laboratory proposed by an applicant to perform the determination if the commission is clearly convinced that the laboratory is capable of performing the determination and will be sufficiently objective making the determination, provided that the laboratory is not owned or operated by a handgun manufacturer or any other organization that seeks to promote or restrict handgun ownership.

(9) Remove the provision that an independent laboratory may apply to the commission for inclusion on the list of approved laboratories.

(10) Provide that the independent laboratory or Division of State Police, as the case may be, would test a handgun within a reasonable amount of time following approval of the application by the commission and would issue a final test report to the commission at the conclusion of the test.

(11) Provide that any alteration to the design of a make and model of a handgun that has been approved for addition on the roster requires a determination that the handgun continues to meet the performance standards and qualifying criteria established by the commission in order to include the altered design model of the handgun on the roster.

(12) Provide that within 60 days of the first personalized handgun being included on the roster, each licensed firearms retail dealer is required to make available for purchase at least one personalized handgun approved by the commission and listed on the roster as eligible for sale; post in at least one location in the dealer's place or places of business in a conspicuous manner: copies of the personalized handgun roster and a sign that includes a clear and conspicuous statement disclosing the features of the personalized handguns that are not officered by traditional handguns and advises customers that such firearms may be purchased through the licensed retail dealer; and accept and process orders to enable customers to purchase through the licensed retail dealer any of the personalized handguns included on the roster.

(13) Remove section 5 of the bill, which requires the Superintendent of State Police to issue an exemption certificate to any firearms retail dealer who demonstrates undue hardship

(14) Make several clarifications to language in the bill.