

ASSEMBLY, No. 3693

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 13, 2018

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Prohibits possession of firearm by person convicted of animal cruelty.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/23/2018)

A3693 HOUGHTALING, BENSON

2

1 AN ACT concerning the possession of firearms and amending
2 P.L.1979, c.179 and 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. Section 6 of P.L.1979, c.179 (C.2C:39-7) is amended to read
8 as follows:

9 6. Certain Persons Not to Have Weapons.

10 a. Except as provided in subsection b. of this section, any
11 person, having been convicted in this State or elsewhere of the
12 crime of aggravated assault, arson, burglary, escape, extortion,
13 homicide, kidnapping, robbery, aggravated sexual assault, sexual
14 assault, bias intimidation in violation of N.J.S.2C:16-1 **or** ,
15 endangering the welfare of a child pursuant to N.J.S.2C:24-4, any
16 crime or offense constituting animal cruelty enumerated under
17 chapter 22 of Title 4 of the Revised Statutes, whether or not armed
18 with or having in his possession any weapon enumerated in
19 subsection r. of N.J.S.2C:39-1, or any person convicted of a crime
20 pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4 or
21 N.J.S.2C:39-9, or any person who has ever been committed for a
22 mental disorder to any hospital, mental institution or sanitarium
23 unless he possesses a certificate of a medical doctor or psychiatrist
24 licensed to practice in New Jersey or other satisfactory proof that he
25 is no longer suffering from a mental disorder which interferes with
26 or handicaps him in the handling of a firearm, or any person who
27 has been convicted of other than a disorderly persons or petty
28 disorderly persons offense for the unlawful use, possession or sale
29 of a controlled dangerous substance as defined in N.J.S.2C:35-2
30 who purchases, owns, possesses or controls any **of the said**
31 **weapons** weapon is guilty of a crime of the fourth degree.

32 b. (1) A person having been convicted in this State or elsewhere
33 of the crime of aggravated assault, arson, burglary, escape,
34 extortion, homicide, kidnapping, robbery, aggravated sexual assault,
35 sexual assault, bias intimidation in violation of N.J.S.2C:16-1,
36 endangering the welfare of a child pursuant to N.J.S.2C:24-4,
37 stalking pursuant to P.L.1992, c.209 (C.2C:12-10) or a crime
38 involving domestic violence as defined in section 3 of P.L.1991,
39 c.261 (C.2C:25-19), whether or not armed with or having in his
40 possession a weapon enumerated in subsection r. of N.J.S.2C:39-1,
41 or a person having been convicted of a crime pursuant to the
42 provisions of N.J.S.2C:35-3 through N.J.S.2C:35-6, inclusive;
43 section 1 of P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-11;
44 N.J.S.2C:39-3; N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases,
45 owns, possesses or controls a firearm is guilty of a crime of the

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 second degree and upon conviction thereof, the person shall be
2 sentenced to a term of imprisonment by the court. The term of
3 imprisonment shall include the imposition of a minimum term,
4 which shall be fixed at five years, during which the defendant shall
5 be ineligible for parole. If the defendant is sentenced to an
6 extended term of imprisonment pursuant to N.J.S.2C:43-7, the
7 extended term of imprisonment shall include the imposition of a
8 minimum term, which shall be fixed at, or between, one-third and
9 one-half of the sentence imposed by the court or five years,
10 whichever is greater, during which the defendant shall be ineligible
11 for parole.

12 (2) A person having been convicted in this State or elsewhere of
13 a disorderly persons offense involving domestic violence, whether
14 or not armed with or having in his possession a weapon enumerated
15 in subsection r. of N.J.S.2C:39-1, who purchases, owns, possesses
16 or controls a firearm is guilty of a crime of the third degree.

17 (3) A person whose firearm is seized pursuant to the "Prevention
18 of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et
19 seq.) and whose firearm has not been returned, or who is subject to
20 a court order prohibiting the possession of firearms issued pursuant
21 to the "Prevention of Domestic Violence Act of 1991," P.L.1991,
22 c.261 (C.2C:25-17 et seq.) who purchases, owns, possesses or
23 controls a firearm is guilty of a crime of the third degree, except
24 that the provisions of this paragraph shall not apply to any law
25 enforcement officer while actually on duty, or to any member of the
26 Armed Forces of the United States or member of the National
27 Guard while actually on duty or traveling to or from an authorized
28 place of duty.

29 c. Whenever any person shall have been convicted in another
30 state, territory, commonwealth or other jurisdiction of the United
31 States, or any country in the world, in a court of competent
32 jurisdiction, of a crime which in said other jurisdiction or country is
33 comparable to one of the crimes enumerated in subsection a. or b.
34 of this section, then that person shall be subject to the provisions of
35 this section.

36 (cf: P.L.2003, c.277, s.3)

37

38 2. N.J.S.2C:58-3 is amended to read as follows:

39 2C:58-3. a. Permit to purchase a handgun. **【No】** A person shall
40 not sell, give, transfer, assign or otherwise dispose of, **【nor】** or
41 receive, purchase, or otherwise acquire a handgun unless the
42 purchaser, assignee, donee, receiver₂ or holder is licensed as a
43 dealer under this chapter or has first secured a permit to purchase a
44 handgun as provided by this section.

45 b. Firearms purchaser identification card. **【No】** A person shall
46 not sell, give, transfer, assign₂ or otherwise dispose of **【nor】** , or
47 receive, purchase₂ or otherwise acquire an antique cannon or a rifle
48 or shotgun, other than an antique rifle or shotgun, unless the

1 purchaser, assignee, donee, receiver, or holder is licensed as a
2 dealer under this chapter or possesses a valid firearms purchaser
3 identification card, and first exhibits the card to the seller, donor,
4 transferor, or assignor, and unless the purchaser, assignee, donee,
5 receiver, or holder signs a written certification, on a form
6 prescribed by the superintendent, which shall indicate that **[he**
7 **presently]** the person currently complies with the requirements of
8 subsection c. of this section and shall contain **[his]** the person's
9 name, address, and firearms purchaser identification card number or
10 dealer's registration number. The certification shall be retained by
11 the seller, as provided in paragraph (4) of subsection a. of
12 N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may
13 be filed with the chief of police of the municipality in which **[he]**
14 the person resides or with the superintendent.

15 c. Who may obtain. **[No]** A person of good character and
16 good repute in the community in which **[he]** the person lives, and
17 who is not subject to any of the disabilities set forth in this section
18 or other sections of this chapter, shall not be denied a permit to
19 purchase a handgun or a firearms purchaser identification card,
20 except as hereinafter set forth. **[No]** A handgun purchase permit or
21 firearms purchaser identification card shall not be issued:

22 (1) To any person who has been convicted of any crime, or a
23 disorderly persons offense involving an act of domestic violence as
24 defined in section 3 of P.L.1991, c.261 (C.2C:25-19) or animal
25 cruelty enumerated under chapter 22 of Title 4 of the Revised
26 Statutes, whether or not armed with or possessing a weapon at the
27 time of the offense;

28 (2) To any drug dependent person as defined in section 2 of
29 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
30 mental disorder to a hospital, mental institution or sanitarium, or to
31 any alcoholic or alcohol dependent person **[who is presently an**
32 **habitual drunkard]**;

33 (3) To any person who suffers from a physical defect or disease
34 which would make it unsafe for **[him]** the person to handle
35 firearms, to any person who has ever been confined for a mental
36 disorder, or to any alcoholic unless any of the foregoing persons
37 produces a certificate of a medical doctor or psychiatrist licensed in
38 New Jersey, or other satisfactory proof, that **[he]** the person is no
39 longer suffering from that particular disability in a manner that
40 would interfere with or handicap **[him]** the person in the handling
41 of firearms; to any person who knowingly falsifies any information
42 on the application form for a handgun purchase permit or firearms
43 purchaser identification card;

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

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

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

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

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

15 (9) To any person named on the consolidated Terrorist Watchlist
16 maintained by the Terrorist Screening Center administered by the
17 Federal Bureau of Investigation.

18 d. Issuance. The chief of police of an organized full-time
19 police department of the municipality where the applicant resides or
20 the superintendent, in all other cases, shall upon application, issue
21 to any person qualified under the provisions of subsection c. of this
22 section a permit to purchase a handgun or a firearms purchaser
23 identification card.

24 Any person aggrieved by the denial of a permit or identification
25 card may request a hearing in the Superior Court of the county in
26 which **[he]** the person resides if **[he]** the person is a resident of
27 New Jersey or in the Superior Court of the county in which **[his]**
28 the person's application was filed if **[he]** the person is a
29 nonresident. The request for a hearing shall be made in writing
30 within 30 days of the denial of the application for a permit or
31 identification card. The applicant shall serve a copy of **[his]** this
32 request for a hearing upon the chief of police of the municipality in
33 which **[he]** the person resides, if **[he]** the person is a resident of
34 New Jersey, and upon the superintendent in all cases. The hearing
35 shall be held and a record made thereof within 30 days of the
36 receipt of the application for a hearing by the judge of the Superior
37 Court. **[No]** A formal pleading and **[no]** filing fee shall not be
38 required as a preliminary to a hearing. Appeals from the results of a
39 hearing shall be in accordance with law.

40 e. Applications. Applications for permits to purchase a
41 handgun and for firearms purchaser identification cards shall be in
42 the form prescribed by the superintendent and shall set forth the
43 name, residence, place of business, age, date of birth, occupation,
44 sex, and physical description, including distinguishing physical
45 characteristics, if any, of the applicant, and shall state whether the
46 applicant is a citizen, whether **[he]** the person is an alcoholic,
47 **[habitual drunkard]** alcohol dependent person, drug dependent

1 person as defined in section 2 of P.L.1970, c.226 (C.24:21-2),
2 whether **[he]** the person has ever been confined or committed to a
3 mental institution or hospital for treatment or observation of a
4 mental or psychiatric condition on a temporary, interim, or
5 permanent basis, giving the name and location of the institution or
6 hospital and the dates of confinement or commitment, whether **[he]**
7 the person has been attended, treated, or observed by any doctor or
8 psychiatrist or at any hospital or mental institution on an inpatient
9 or outpatient basis for any mental or psychiatric condition, giving
10 the name and location of the doctor, psychiatrist, hospital, or
11 institution and the dates of the occurrence, whether **[he]** the person
12 **[presently]** currently or ever has been a member of any
13 organization which advocates or approves the commission of acts of
14 force and violence to overthrow the Government of the United
15 States or of this State, or which seeks to deny others their rights
16 under the Constitution of either the United States or the State of
17 New Jersey, whether **[he]** the person has ever been convicted of a
18 crime or disorderly persons offense, whether the person has ever
19 been convicted of any crime or offense constituting animal cruelty
20 pursuant to chapter 22 of Title 4 of the Revised Statutes, whether
21 the person is subject to a restraining order issued pursuant to the
22 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
23 (C.2C:25-17 et seq.) prohibiting the person from possessing any
24 firearm, and other information as the superintendent shall deem
25 necessary for the proper enforcement of this chapter. For the
26 purpose of complying with this subsection, the applicant shall
27 waive any statutory or other right of confidentiality relating to
28 institutional confinement. The application shall be signed by the
29 applicant and shall contain as references the names and addresses of
30 two reputable citizens personally acquainted with **[him]** the
31 applicant.

32 Application blanks shall be obtainable from the superintendent,
33 from any other officer authorized to grant a permit or identification
34 card, and from licensed retail dealers.

35 The chief police officer or the superintendent shall obtain the
36 fingerprints of the applicant and shall have them compared with any
37 and all records of fingerprints in the municipality and county in
38 which the applicant resides and also the records of the State Bureau
39 of Identification and the Federal Bureau of Investigation, provided
40 that an applicant for a handgun purchase permit who possesses a
41 valid firearms purchaser identification card, or who has previously
42 obtained a handgun purchase permit from the same licensing
43 authority for which **[he]** the person was previously fingerprinted,
44 and who provides other reasonably satisfactory proof of **[his]** the
45 person's identity, need not be fingerprinted again; however, the
46 chief police officer or the superintendent shall proceed to
47 investigate the application to determine whether or not the applicant

1 has become subject to any of the disabilities set forth in this
2 chapter.

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

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

33 g. Disposition of fees. All fees for permits shall be paid to the
34 **[State]** Department of the Treasury if the permit is issued by the
35 superintendent, to the municipality if issued by the chief of police,
36 and to the county treasurer if issued by the judge of the Superior
37 Court.

38 h. Form of permit; quadruplicate; disposition of copies. The
39 permit shall be in the form prescribed by the superintendent and
40 shall be issued to the applicant in quadruplicate. Prior to the time
41 **[he]** the applicant receives the handgun from the seller, the
42 applicant shall deliver to the seller the permit in quadruplicate and
43 the seller shall complete all of the information required on the form.
44 Within five days of the date of the sale, the seller shall forward the
45 original copy to the superintendent and the second copy to the chief
46 of police of the municipality in which the purchaser resides, except
47 that in a municipality having no chief of police, the copy shall be
48 forwarded to the superintendent. The third copy shall then be

1 returned to the purchaser with the pistol or revolver and the fourth
2 copy shall be kept by the seller as a permanent record.

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

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

10 (2) a collector of handguns as curios or relics as defined in Title
11 18, United States Code, section 921 (a) (13) who **[has in his**
12 **possession]** possesses a valid Collector of Curios and Relics
13 License issued by the federal Bureau of Alcohol, Tobacco, Firearms
14 and Explosives;

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

17 (4) transfers of handguns from any person to a licensed retail
18 dealer or a registered wholesale dealer or registered manufacturer;

19 (5) any transaction where the person has purchased a handgun
20 from a licensed retail dealer and has returned that handgun to the
21 dealer in exchange for another handgun within 30 days of the
22 original transaction, provided the retail dealer reports the exchange
23 transaction to the superintendent; or

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

27 The provisions of this subsection shall not be construed to afford
28 or authorize any other exemption from the regulatory provisions
29 governing firearms set forth in chapter 39 and chapter 58 of Title
30 2C of the New Jersey Statutes;

31 A person shall not be restricted as to the number of rifles or
32 shotguns **[he]** the person may purchase, provided **[he]** the person
33 possesses a valid firearms purchaser identification card and
34 provided further that **[he]** the person signs the certification required
35 in subsection b. of this section for each transaction.

36 j. Firearms passing to heirs or legatees. Notwithstanding any
37 other provision of this section concerning the transfer, receipt or
38 acquisition of a firearm, a permit to purchase or a firearms
39 purchaser identification card shall not be required for the passing of
40 a firearm upon the death of an owner thereof to **[his]** the owner's
41 heir or legatee, whether the same be by testamentary bequest or by
42 the laws of intestacy. The person who shall **[so]** receive, or acquire
43 the firearm shall, however, be subject to all other provisions of this
44 chapter. If the heir or legatee of the firearm does not qualify to
45 possess or carry it, **[he]** the heir or legatee may retain ownership of
46 the firearm for the purpose of sale for a period not exceeding 180
47 days, or for a further limited period as may be approved by the chief

1 law enforcement officer of the municipality in which the heir or
2 legatee resides or the superintendent, provided that the firearm is in
3 the custody of the chief law enforcement officer of the municipality
4 or the superintendent during that period.

5 k. Sawed-off shotguns. Nothing in this section shall be
6 construed to authorize the purchase or possession of any sawed-off
7 shotgun.

8 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
9 the sale or purchase of a visual distress **[signalling]** signaling
10 device approved by the United States Coast Guard, solely for
11 possession on a private or commercial aircraft or any boat;
12 provided, however, that **[no]** a person under the age of 18 years
13 shall not purchase **[nor shall any]** , and a person shall not sell to a
14 person under the age of 18 years, a visual distress **[signalling]**
15 signaling device.

16 m. The provisions of subsections a. and b. of this section and
17 paragraphs (4) and (5) of subsection a. of N.J.S.2C:58-2 shall not
18 apply to the purchase of firearms by a law enforcement agency for
19 use by law enforcement officers in the actual performance of the
20 officers' official duties, which purchase may be made directly from
21 a manufacturer or from a licensed dealer located in this State or any
22 other state.

23 (cf: P.L.2016, c.74, s.1)

24

25 3. This act shall take effect immediately.

26

27

28

STATEMENT

29

30 This bill prohibits a person convicted of any crime or offense
31 constituting animal cruelty from possessing a firearm and from
32 being issued a firearms purchaser identification card or a permit to
33 purchase a handgun.

34 Current law provides that a person who is convicted of certain
35 crimes is prohibited from purchasing, owning, possessing, or
36 controlling a firearm. These offenses include, but are not limited
37 to, aggravated assault, arson, burglary, homicide, robbery,
38 aggravated sexual assault, and certain animal cruelty crimes, such
39 as dog fighting, harming or killing a law enforcement animal, and
40 harming or killing a service animal or guide dog. The bill provides
41 that a person who has been convicted of any animal cruelty offense
42 also would be prohibited from possessing a firearm. Under the bill,
43 an animal cruelty offense includes various acts constituting animal
44 cruelty such as animal abuse, as set forth in chapter 22 of Title 4 of
45 the Revised Statutes. A violation of the bill's provisions would be a
46 fourth degree crime. Fourth degree crimes are punishable by a term
47 of imprisonment of up to 18 months, a fine of up to \$10,000, or
48 both.

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- 1 Additionally, the bill disqualifies a person who has been
- 2 convicted of an animal cruelty offense from being issued a firearms
- 3 purchaser identification card or a permit to purchase a handgun.