

# ASSEMBLY, No. 5453

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 23, 2019

**Sponsored by:**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblywoman Vainieri Huttle, Assemblyman Tully, Assemblywoman Swain, Assemblyman McKeon and Assemblywoman Pinkin**

**SYNOPSIS**

Establishes certain criminal penalties for possession and transfer of firearms and ammunition to disqualified person.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/21/2019)**

1 AN ACT concerning unlawful trafficking and the purchase and sale  
2 of firearms, supplementing Title 2C of the New Jersey Statutes,  
3 and amending N.J.S.2C:39-1, and P.L.1979, c.179.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) a. It shall be a crime for a person, other than a  
9 licensed manufacturer or retail dealer regulated pursuant to chapter  
10 58 of Title 2C of the New Jersey Statutes, to knowingly:

11 (1) purchase or attempt to purchase a firearm at the request,  
12 order, or demand of another person, knowing or having reasonable  
13 cause to believe that, or in reckless disregard of whether, the other  
14 person is disqualified from purchasing or possessing a firearm  
15 under State or federal law or the laws of any other state;

16 (2) purchase or attempt to purchase a firearm for the purpose of  
17 selling or transferring the firearm to another person, knowing or  
18 having reasonable cause to believe that, or in reckless disregard of  
19 whether, the other person is disqualified from purchasing or  
20 possessing a firearm under State or federal law or the laws of any  
21 other state; or

22 (3) solicit, hire, engage, demand, or order another person to  
23 purchase, or attempt to purchase, any firearm for the purpose of  
24 selling or transferring it to any person, knowing or having  
25 reasonable cause to believe that, or in reckless disregard of whether,  
26 the person to whom the firearm is to be transferred is disqualified  
27 from purchasing or possessing a firearm under State or federal law  
28 or the laws of any other state.

29 b. In a prosecution for a violation of subsection a. of this  
30 section, the trier of fact may infer that the defendant had the  
31 requisite knowledge, belief, or recklessness if:

32 (1) the defendant or the person to whom the firearm was to be  
33 transferred was a member of a criminal street gang as defined by  
34 section 1 of P.L.2007, c.341, (C.2C:33-29);

35 (2) the defendant did not comply with the statutory or regulatory  
36 requirements for the sale of a firearm, including those established in  
37 N.J.S.2C:58-3 and the regulations promulgated thereunder;

38 (3) the transfer of the firearm took place or was planned to take  
39 place within 45 days of the defendant's purchase and receipt of the  
40 firearm, the defendant sold three or more firearms to the other  
41 person within a one-year period, or the defendant received  
42 compensation for the sale of the firearm to the other person that was  
43 substantially more than the fair market value of the firearm;

44 (4) the defendant and the person to whom the sale or transfer  
45 was made were introduced by or had made contact, or attempted to

**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 make contact, with each other through a third person who the  
2 defendant knew or reasonably believed was a member of a criminal  
3 street gang, as defined in section 1 of P.L.2007, c.341, (C.2C:33-  
4 29); or

5 (5) the defendant provided false information in the application  
6 or purchase process.

7 c. Except as otherwise provided in subsection d. of this section,  
8 a violation of subsection a. of this section shall be a crime of the  
9 second degree.

10 d. A violation of subsection a. of this section that involves a  
11 purchase or attempt to purchase more than one handgun, assault  
12 firarm, or machine gun or more than five long guns as defined by  
13 N.J.S.2C:39-1 shall be a crime of the first degree.

14 e. Notwithstanding the provisions of subsection a. of  
15 N.J.S.2C:43-3, the court also may impose a fine not to exceed  
16 \$500,000 or five times the value of the firearms involved,  
17 whichever is greater.

18

19 2. (New section) a. A person commits a crime if the person  
20 possesses a firearm with the intent to sell or transfer it to another  
21 who the person knows or has reason to believe is not authorized  
22 under law to purchase or possess the firearm. A violation of this  
23 section shall be:

24 (1) a crime of the fourth degree if the offense involves one long  
25 gun as defined by N.J.S.2C:39-1;

26 (2) a crime of the third degree if the offense involves more than  
27 one but less than 10 long guns or one handgun. The presumption of  
28 nonimprisonment established pursuant to N.J.S.2C:44-1 shall not  
29 apply to a violation of this subparagraph and defendant shall be  
30 sentenced to a period of imprisonment, except as otherwise  
31 provided in this section; or

32 (3) a crime of the second degree if the offense involves ten or  
33 more long guns, two or more handguns, one or more assault  
34 firearms, or one or more machine guns.

35 b. A court that finds by clear and convincing evidence that  
36 extraordinary circumstances exist such that imposition of a sentence  
37 of imprisonment for the third degree crime pursuant to subsection a.  
38 of this section would be a serious injustice which overrides the need  
39 to deter such conduct in others may waive imposition of a term of  
40 imprisonment required by this section.

41 In making a finding pursuant to this subsection, the court shall  
42 state with specificity its reasons. The decision shall not become  
43 final for 10 days, in order to allow the prosecutor to appeal the  
44 decision.

1 3. (New section) a. A person, other than a licensed  
2 manufacturer or dealer regulated pursuant to chapter 58 of Title 2C  
3 of the New Jersey Statutes, commits the crime of selling a firearm  
4 to a convicted criminal or previously confined person if:

5 (1) the person sells or transfers, or attempts to sell or transfer,  
6 whether or not in exchange for value, a firearm to another person  
7 who he knows or reasonably believes has been convicted of a crime  
8 or confined for a mental disorder; and

9 (2) the recipient of the firearm has, in fact, been convicted of a  
10 crime or confined for a mental disorder and does not first exhibit a  
11 valid permit to purchase a handgun or a firearm purchaser  
12 identification card.

13 b. It shall be an affirmative defense to a violation under this  
14 section that the person to whom the firearm was to be transferred  
15 presented a permit to purchase a handgun or firearm purchaser  
16 identification card to the defendant that reasonably appeared to be  
17 valid, and defendant complied in a timely manner with all statutory  
18 and regulatory requirements regarding the sale of firearms,  
19 including but not limited to the requirements set forth in  
20 N.J.S.2C:58-3, and any regulations promulgated pursuant thereto.

21 c. In a prosecution under this section, the trier of fact may infer  
22 that the defendant had the requisite knowledge or belief:

23 (1) that the person to whom the firearm was to be transferred  
24 had a criminal conviction if the defendant or that person was a  
25 member of a criminal street gang as defined by section 1 of  
26 P.L.2007, c.341, (C.2C:33-29).

27 (2) required under this section if the defendant received  
28 compensation for the sale of the firearm to the other person that was  
29 more than twice the fair market value of the firearm; did not ask the  
30 person to produce a permit to purchase a handgun, a firearms  
31 identification card, or official proof of identification; and did not  
32 provide a receipt or other documentation regarding the sale to the  
33 other person; or

34 (3) required under this section if the defendant and the recipient  
35 or attempted recipient of the firearm had made or attempted to make  
36 contact with each other, or were introduced to each other, through a  
37 third person that the defendant knew was a member of a criminal  
38 street gang as defined in section 1 of P.L.2007, c.341, (C.2C:33-29)  
39 or who had a prior criminal conviction.

40 d. A violation of this section shall be a crime of the first degree  
41 if it involves five or more long guns, more than one handgun, or one  
42 or more assault weapons or machine guns; otherwise, it is a crime  
43 of the second degree.

44  
45 4. (New section) a. A person who applies for a permit to  
46 purchase a handgun or a firearm purchaser identification card, and a  
47 person purchasing a firearm, including a handgun, firearm  
48 ammunition, or handgun ammunition shall be required to certify in

1 a written document under penalty of perjury, on a form to be  
2 prescribed by the superintendent, whether the person intends to  
3 transfer a firearm or ammunition to a third party, and the name and  
4 address of that third party, if known.

5 b. The provisions of this section shall not apply to a temporary  
6 transfer of firearm in accordance with the provisions of section 1 of  
7 P.L.1992, c.74 (C.2C:58-3.1), section 1 of P.L.1997,  
8 c.375 (C.2C:58-3.2), or section 14 of P.L.1979, c.179 (C.2C:58-  
9 6.1), or to the transfer of ammunition for use in a lawfully  
10 transferred firearm pursuant to section 1 of P.L.1992,  
11 c.74 (C.2C:58-3.1), section 1 of P.L.1997, c.375 (C.2C:58-3.2), or  
12 section 14 of P.L.1979, c.179 (C.2C:58-6.1).

13 c. The superintendent may promulgate regulations pursuant to  
14 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
15 et seq.), necessary to effectuate the purposes of this act.

16

17 5. N.J.S.2C:39-1 is amended to read as follows:

18 2C:39-1. Definitions. The following definitions apply to this  
19 chapter and to chapter 58:

20 a. "Antique firearm" means any rifle or shotgun and "antique  
21 cannon" means a destructive device defined in paragraph (3) of  
22 subsection c. of this section, if the rifle, shotgun or destructive  
23 device, as the case may be, is incapable of being fired or  
24 discharged, or which does not fire fixed ammunition, regardless of  
25 date of manufacture, or was manufactured before 1898 for which  
26 cartridge ammunition is not commercially available, and is  
27 possessed as a curiosity or ornament or for its historical  
28 significance or value.

29 b. "Deface" means to remove, deface, cover, alter or destroy  
30 the name of the maker, model designation, manufacturer's serial  
31 number or any other distinguishing identification mark or number  
32 on any firearm.

33 c. "Destructive device" means any device, instrument or object  
34 designed to explode or produce uncontrolled combustion, including  
35 (1) any explosive or incendiary bomb, mine or grenade; (2) any  
36 rocket having a propellant charge of more than four ounces or any  
37 missile having an explosive or incendiary charge of more than one-  
38 quarter of an ounce; (3) any weapon capable of firing a projectile of  
39 a caliber greater than 60 caliber, except a shotgun or shotgun  
40 ammunition generally recognized as suitable for sporting purposes;  
41 (4) any Molotov cocktail or other device consisting of a breakable  
42 container containing flammable liquid and having a wick or similar  
43 device capable of being ignited. The term does not include any  
44 device manufactured for the purpose of illumination, distress  
45 signaling, line-throwing, safety or similar purposes.

46 d. "Dispose of" means to give, give away, lease, loan, keep for  
47 sale, offer, offer for sale, sell, transfer, or otherwise transfer  
48 possession.

1 e. "Explosive" means any chemical compound or mixture that  
2 is commonly used or is possessed for the purpose of producing an  
3 explosion and which contains any oxidizing and combustible  
4 materials or other ingredients in such proportions, quantities or  
5 packing that an ignition by fire, by friction, by concussion or by  
6 detonation of any part of the compound or mixture may cause such  
7 a sudden generation of highly heated gases that the resultant  
8 gaseous pressures are capable of producing destructive effects on  
9 contiguous objects. The term shall not include small arms  
10 ammunition, or explosives in the form prescribed by the official  
11 United States Pharmacopoeia.

12 f. "Firearm" means any handgun, rifle, shotgun, machine gun,  
13 automatic or semi-automatic rifle, or any gun, device or instrument  
14 in the nature of a weapon from which may be fired or ejected any  
15 solid projectable ball, slug, pellet, missile or bullet, or any gas,  
16 vapor or other noxious thing, by means of a cartridge or shell or by  
17 the action of an explosive or the igniting of flammable or explosive  
18 substances. It shall also include, without limitation, any firearm  
19 which is in the nature of an air gun, spring gun or pistol or other  
20 weapon of a similar nature in which the propelling force is a spring,  
21 elastic band, carbon dioxide, compressed or other gas or vapor, air  
22 or compressed air, or is ignited by compressed air, and ejecting a  
23 bullet or missile smaller than three-eighths of an inch in diameter,  
24 with sufficient force to injure a person.

25 g. "Firearm silencer" means any instrument, attachment,  
26 weapon or appliance for causing the firing of any gun, revolver,  
27 pistol or other firearm to be silent, or intended to lessen or muffle  
28 the noise of the firing of any gun, revolver, pistol or other firearm.

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

32 i. "Machine gun" means any firearm, mechanism or instrument  
33 not requiring that the trigger be pressed for each shot and having a  
34 reservoir, belt or other means of storing and carrying ammunition  
35 which can be loaded into the firearm, mechanism or instrument and  
36 fired therefrom. A machine gun also shall include, without  
37 limitation, any firearm with a trigger crank attached.

38 j. "Manufacturer" means any person who receives or obtains  
39 raw materials or parts and processes them into firearms or finished  
40 parts of firearms, except a person who exclusively processes grips,  
41 stocks and other nonmetal parts of firearms. The term does not  
42 include a person who repairs existing firearms or receives new and  
43 used raw materials or parts solely for the repair of existing firearms.

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

47 l. "Retail dealer" means any person including a gunsmith,  
48 except a manufacturer or a wholesale dealer, who sells, transfers or

1 assigns for a fee or profit any firearm or parts of firearms or  
2 ammunition which he has purchased or obtained with the intention,  
3 or for the purpose, of reselling or reassigning to persons who are  
4 reasonably understood to be the ultimate consumers, and includes  
5 any person who is engaged in the business of repairing firearms or  
6 who sells any firearm to satisfy a debt secured by the pledge of a  
7 firearm.

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

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

17 o. "Sawed-off shotgun" means any shotgun having a barrel or  
18 barrels of less than 18 inches in length measured from the breech to  
19 the muzzle, or a rifle having a barrel or barrels of less than 16  
20 inches in length measured from the breech to the muzzle, or any  
21 firearm made from a rifle or a shotgun, whether by alteration, or  
22 otherwise, if such firearm as modified has an overall length of less  
23 than 26 inches.

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

27 q. "Superintendent" means the Superintendent of the State  
28 Police.

29 r. "Weapon" means anything readily capable of lethal use or of  
30 inflicting serious bodily injury. The term includes, but is not  
31 limited to, all (1) firearms, even though not loaded or lacking a clip  
32 or other component to render them immediately operable; (2)  
33 components which can be readily assembled into a weapon; (3)  
34 gravity knives, switchblade knives, daggers, dirks, stilettos, or other  
35 dangerous knives, billies, blackjacks, bludgeons, metal knuckles,  
36 sandclubs, slingshots, cesti or similar leather bands studded with  
37 metal filings or razor blades imbedded in wood; and (4) stun guns;  
38 and any weapon or other device which projects, releases, or emits  
39 tear gas or any other substance intended to produce temporary  
40 physical discomfort or permanent injury through being vaporized or  
41 otherwise dispensed in the air.

42 s. "Wholesale dealer" means any person, except a  
43 manufacturer, who sells, transfers, or assigns firearms, or parts of  
44 firearms, to persons who are reasonably understood not to be the  
45 ultimate consumers, and includes persons who receive finished  
46 parts of firearms and assemble them into completed or partially  
47 completed firearms, in furtherance of such purpose, except that it

1 shall not include those persons dealing exclusively in grips, stocks  
2 and other nonmetal parts of firearms.

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

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

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

10 w. "Assault firearm" means:

11 (1) The following firearms:

12 Algimec AGM1 type

13 Any shotgun with a revolving cylinder such as the "Street  
14 Sweeper" or "Striker 12"

15 Armalite AR-180 type

16 Australian Automatic Arms SAR

17 Avtomat Kalashnikov type semi-automatic firearms

18 Beretta AR-70 and BM59 semi-automatic firearms

19 Bushmaster Assault Rifle

20 Calico M-900 Assault carbine and M-900

21 CETME G3

22 Chartered Industries of Singapore SR-88 type

23 Colt AR-15 and CAR-15 series

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

25 Demro TAC-1 carbine type

26 Encom MP-9 and MP-45 carbine types

27 FAMAS MAS223 types

28 FN-FAL, FN-LAR, or FN-FNC type semi-automatic  
29 firearms

30 Franchi SPAS 12 and LAW 12 shotguns

31 G3SA type

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

34 Intratec TEC 9 and 22 semi-automatic firearms

35 M1 carbine type

36 M14S type

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

38 PJK M-68 carbine type

39 Plainfield Machine Company Carbine

40 Ruger K-Mini-14/5F and Mini-14/5RF

41 SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types

42 SKS with detachable magazine type

43 Spectre Auto carbine type

44 Springfield Armory BM59 and SAR-48 type

45 Sterling MK-6, MK-7 and SAR types

46 Steyr A.U.G. semi-automatic firearms

47 USAS 12 semi-automatic type shotgun

48 Uzi type semi-automatic firearms



1 Valmet M62, M71S, M76, or M78 type semi-automatic  
2 firearms

3 Weaver Arm Nighthawk.

4 (2) Any firearm manufactured under any designation which is  
5 substantially identical to any of the firearms listed above.

6 (3) A semi-automatic shotgun with either a magazine capacity  
7 exceeding six rounds, a pistol grip, or a folding stock.

8 (4) A semi-automatic rifle with a fixed magazine capacity  
9 exceeding 10 rounds. "Assault firearm" shall not include a semi-  
10 automatic rifle which has an attached tubular device and which is  
11 capable of operating only with .22 caliber rimfire ammunition.

12 (5) A part or combination of parts designed or intended to  
13 convert a firearm into an assault firearm, or any combination of  
14 parts from which an assault firearm may be readily assembled if  
15 those parts are in the possession or under the control of the same  
16 person.

17 (6) A firearm with a bump stock attached.

18 x. "Semi-automatic" means a firearm which fires a single  
19 projectile for each single pull of the trigger and is self-reloading or  
20 automatically chambers a round, cartridge, or bullet.

21 y. "Large capacity ammunition magazine" means a box, drum,  
22 tube or other container which is capable of holding more than 10  
23 rounds of ammunition to be fed continuously and directly therefrom  
24 into a semi-automatic firearm. The term shall not include an  
25 attached tubular device which is capable of holding only .22 caliber  
26 rimfire ammunition.

27 z. "Pistol grip" means a well-defined handle, similar to that  
28 found on a handgun, that protrudes conspicuously beneath the  
29 action of the weapon, and which permits the shotgun to be held and  
30 fired with one hand.

31 aa. "Antique handgun" means a handgun manufactured before  
32 1898, or a replica thereof, which is recognized as being historical in  
33 nature or of historical significance and either (1) utilizes a match,  
34 friction, flint, or percussion ignition, or which utilizes a pin-fire  
35 cartridge in which the pin is part of the cartridge or (2) does not fire  
36 fixed ammunition or for which cartridge ammunition is not  
37 commercially available.

38 bb. "Trigger lock" means a commercially available device  
39 approved by the Superintendent of State Police which is operated  
40 with a key or combination lock that prevents a firearm from being  
41 discharged while the device is attached to the firearm. It may  
42 include, but need not be limited to, devices that obstruct the barrel  
43 or cylinder of the firearm, as well as devices that immobilize the  
44 trigger.

45 cc. "Trigger locking device" means a device that, if installed on  
46 a firearm and secured by means of a key or mechanically,  
47 electronically or electromechanically operated combination lock,  
48 prevents the firearm from being discharged without first

1 deactivating or removing the device by means of a key or  
2 mechanically, electronically or electromechanically operated  
3 combination lock.

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

21 ee. "Bump stock" means any device or instrument for a firearm  
22 that increases the rate of fire achievable with the firearm by using  
23 energy from the recoil of the firearm to generate a reciprocating  
24 action that facilitates repeated activation of the trigger.

25 ff. "Trigger crank" means any device or instrument to be  
26 attached to a firearm that repeatedly activates the trigger of the  
27 firearm through the use of a lever or other part that is turned in a  
28 circular motion; provided, however, the term shall not include any  
29 weapon initially designed and manufactured to fire through the use  
30 of a crank or lever.

31 gg. "Armor piercing ammunition" means: (1) a projectile or  
32 projectile core which may be used in a handgun and is constructed  
33 entirely, excluding the presence of traces of other substances, from  
34 one or a combination of tungsten alloys, steel, iron, brass, bronze,  
35 beryllium copper, or depleted uranium; or (2) a full jacketed  
36 projectile larger than .22 caliber designed and intended for use in a  
37 handgun and whose jacket has a weight of more than 25 percent of  
38 the total weight of the projectile. "Armor piercing ammunition"  
39 shall not include shotgun shot required by federal or State  
40 environmental or game regulations for hunting purposes, a frangible  
41 projectile designed for target shooting, a projectile which the United  
42 States Attorney General finds is primarily intended to be used for  
43 sporting purposes, or any other projectile or projectile core which  
44 the United States Attorney General finds is intended to be used for  
45 industrial purposes, including a charge used in an oil gas well  
46 perforating device.

47 hh. "Covert firearm" means any firearm that is constructed in a  
48 shape or configuration such that it does not resemble a handgun,

1 rifle, shotgun, or machine gun including, but not limited to, a  
2 firearm that resembles a key-chain, pen, cigarette lighter, cigarette  
3 package, cellphone, smart phone, wallet, or cane.

4 ii. "Undetectable firearm" means a firearm that: (1) after  
5 removal of all parts other than major components, is not as  
6 detectable as the Security Exemplar, by walk-through metal  
7 detectors calibrated and operated to detect the Security Exemplar;  
8 or (2) includes a major component which, if the firearm were  
9 subjected to inspection by the types of detection devices commonly  
10 used at airports for security screening, would not generate an image  
11 that accurately depicts the shape of the component. "Undetectable  
12 firearm" shall not be construed to include a firearm subject to the  
13 provisions of paragraphs (3) through (6) of subsection (p) of 18  
14 U.S.C. s.922.

15 jj. "Major component" means the slide or cylinder or the frame  
16 or receiver of a firearm and, in the case of a rifle or shotgun, also  
17 includes the barrel.

18 kk. "Security Exemplar" means the Security Exemplar fabricated  
19 in accordance with subparagraph (C) of paragraph (2) of subsection  
20 (p) of 18 U.S.C. s.922.

21 ll. "Long gun" means a firearm as defined subsection f. of this  
22 section that does not constitute a handgun, assault firearm, or  
23 machine gun.

24 (cf: P.L.2018, c.138, s.1)

25

26 6. Section 14 of P.L.1979, c.179 (C.2C:58-6.1) is amended to  
27 read as follows:

28 14. a. **[No]** A person under the age of 18 years shall not  
29 purchase, barter or otherwise acquire a firearm or ammunition and  
30 **[no]** a person under the age of 21 years shall not purchase, barter or  
31 otherwise acquire a handgun or handgun ammunition, unless the  
32 person is authorized to possess the handgun in connection with the  
33 performance of official duties under the provisions of N.J.S.2C:39-  
34 6.

35 b. **[No]** A person under the age of 18 years shall not possess,  
36 carry, fire or use a firearm or ammunition except as provided under  
37 paragraphs (1), (2), (3) and (4) of this subsection; and, unless  
38 authorized in connection with the performance of official duties  
39 under the provisions of N.J.S.2C:39-6, **[no]** a person under the age  
40 of 21 years shall not possess, carry, fire or use a handgun or  
41 handgun ammunition except under the following circumstances:

42 (1) In the actual presence or under the direct supervision of his  
43 father, mother or guardian, or some other person who holds a permit  
44 to carry a handgun or a firearms purchaser identification card, as the  
45 case may be; or

46 (2) For the purpose of military drill under the auspices of a  
47 legally recognized military organization and under competent  
48 supervision; or

1 (3) For the purpose of competition, target practice, instruction,  
2 and training in and upon a firing range approved by the governing  
3 body of the municipality in which the range is located or the  
4 National Rifle Association and which is under competent  
5 supervision at the time of such supervision or target practice or  
6 instruction and training at any location; or

7 (4) For the purpose of hunting during the regularly designated  
8 hunting season, provided that he possesses a valid hunting license  
9 and has successfully completed a hunter's safety course taught by a  
10 qualified instructor or conservation officer and possesses a  
11 certificate indicating the successful completion of such a course.

12 c. A person who violates this section shall be guilty of a crime  
13 of the fourth degree. For purposes of this section the fact that the  
14 act would not constitute a crime if committed by an adult shall not  
15 be deemed to prohibit or require waiver of family court jurisdiction  
16 pursuant to N.J.S.2C:4-11 or to preclude a finding of delinquency  
17 under the "New Jersey Code of Juvenile Justice," P.L.1982,  
18 c.77 (C.2A:4A-20 et seq.), P.L.1982, c.79 (C.2A:4A-60 et seq.),  
19 P.L.1982, c.80 (C.2A:4A-76 et seq.) and P.L.1982, c.81 (C.2A:4A-  
20 70 et seq.).

21 (cf: P.L.2013, c.108, s.2)

22  
23 7. This act shall take effect immediately, except that section 4  
24 shall remain inoperative for 180 days following the effective date of  
25 this act, but the superintendent may take such anticipatory action as  
26 may be necessary to effectuate that provision of the act.

## 27 28 29 STATEMENT

30  
31 This bill establishes certain criminal penalties for firearm  
32 trafficking, which is the diversion of firearms from lawful  
33 commerce into the illegal market. Specifically, the bill penalizes  
34 purchasing or possessing a firearm for the purpose of transferring it  
35 another person who is disqualified under State of federal law from  
36 receiving of possessing that firearm. In addition, the bill establishes  
37 criminal penalties for selling a firearm to another person who has  
38 been previously convicted of a crime of confined for a mental  
39 disorder. The bill also establishes a mandatory term of  
40 incarceration for persons convicted of operating as a leader of a  
41 firearms trafficking network.

### 42 43 Acting as a Firearm Straw Purchaser or Utilizing a Firearm Straw 44 Purchaser

45 Under the bill, it would be crime to knowingly purchase, or  
46 attempt or conspire to purchase a firearm at the request, order, or  
47 demand of another person, knowing or having reasonable cause to  
48 believe that, or in reckless disregard of whether, the other person is

1 disqualified from purchasing or possessing a firearm under State or  
2 federal law or the laws of any other state. It also would be a crime  
3 to knowingly purchase, or attempt to purchase a firearm for the  
4 purpose of selling or transferring the firearm to another person,  
5 knowing or reasonably believing or with reckless disregard of  
6 whether that the other person is disqualified from purchasing or  
7 possessing a firearm under State or federal law or the laws of any  
8 other state. The bill also establishes a crime of soliciting, hiring,  
9 engaging, demanding, or ordering another person to purchase, or  
10 attempt or purchase, any firearm for the purpose of selling or  
11 transferring it to him or to a third party, knowing or having  
12 reasonable cause to believe or with reckless disregard of whether  
13 the person to whom the firearm is to be transferred is disqualified  
14 from purchasing or possessing a firearm under State or federal law  
15 or the laws of any other state.

16 A person who commits these offenses would be guilty of a crime  
17 of the second degree. However, the bill provides that an offender  
18 would be guilty of a crime of first degree if the violation involves a  
19 purchase or attempt to purchase more than five long guns, or more  
20 than one handgun, assault weapon, or machine gun. The bill  
21 defines "long gun" as a firearm as defined by N.J.S.2C:39-1 that  
22 does not constitute a handgun, assault firearm, or machine gun.

23 The bill also allows the court to impose a fine that would not  
24 exceed \$500,000 or five times the value of the firearms involved,  
25 whichever is greater.

26 The bill allows a trier of fact to infer that the defendant had the  
27 requisite knowledge or intent to commit or attempt to commit the  
28 crime if:

29 (1) the defendant or the person to whom the firearm was to be  
30 transferred was a member of a criminal street gang;

31 (2) the defendant did not comply with the statutory or regulatory  
32 requirements for the sale of a firearm;

33 (3) the transfer of the firearm took place or was planned to take  
34 place within 45 days of the defendant's purchase and receipt of the  
35 firearm, the defendant sold three or more firearms to the other  
36 person within a one-year period, or the defendant received  
37 compensation for the sale of the firearm to the other person that was  
38 substantially more than the fair market value of the firearm;

39 (4) the defendant and the person to whom the sale or transfer  
40 was made were introduced by or had made contact, or attempted to  
41 make contact, with each other through a third person who the  
42 defendant knew or reasonably believed was a member of a criminal  
43 street gang; or

44 (5) the defendant provided false information in the application  
45 or purchase process.

1 Possessing a Firearm with the Intent to Unlawfully Transfer

2 The bill also establishes a crime of possessing a firearm with the  
3 intent to sell or transfer it to another who he knows or has reason to  
4 believe is not authorized under law to purchase or possess the  
5 firearm. A person would be guilty of a crime of the fourth degree if  
6 the offense involves one long gun. It would be a third degree crime  
7 if the offense involved more than one but less than 10 long guns or  
8 one handgun. It would be a crime of the second degree if the  
9 offense involves 10 or more long guns, two or more handguns, one  
10 or more assault firearms, or one or more machine guns.

11

12 Unlawfully Selling or Transferring a Firearm to a Disqualified  
13 Person

14 The bill establishes a crime of selling a firearm to a person who  
15 had previously been convicted of a crime or confined for a mental  
16 disorder. Under the bill, it is a crime to sell or transfer, or attempt  
17 to sell or transfer a firearm to another person who the transferor  
18 knows or reasonably believes has been convicted of a crime or  
19 confined for a mental disorder and the recipient of the firearm, in  
20 fact, has been convicted of a crime or confined for a mental disorder  
21 and does not first exhibit a valid permit to purchase a handgun or a  
22 firearms purchaser identification card.

23 The bill establishes an affirmative defense if person to whom the  
24 firearm was to be transferred presented a permit or firearms  
25 purchaser identification card to the defendant that reasonably  
26 appeared to be valid, and defendant complied in a timely manner  
27 with all statutory and regulatory requirements regarding the sale of  
28 firearms.

29 The bill allows a trier of fact to infer that the defendant  
30 defendant had the requisite knowledge or belief:

31 (1) that the person to whom the firearm was to be transferred  
32 had a criminal conviction if the defendant or that person was a  
33 member of a criminal street gang.

34 (2) if the defendant received compensation for the sale of the  
35 firearm to the other person that was more than twice the fair market  
36 value of the firearm; did not ask the person to produce a permit to  
37 purchase a handgun, a firearms identification card, or official proof  
38 of identification; and did not provide a receipt or other  
39 documentation regarding the sale to the other person; or

40 (3) if the defendant and the recipient or attempted recipient of  
41 the firearm had made or attempted to make contact with each other,  
42 or were introduced to each other, through a third person that the  
43 defendant knew was a member of a criminal street gang or who had  
44 a prior criminal conviction.

45 Under the bill, the crime of unlawfully transferring a firearm to a  
46 disqualified person would be a crime of the second degree.  
47 However, an unlawful transfer would be a crime of the first degree

1 if the transfer involved five or more long guns, more than one  
2 handgun, or one or more assault weapons or machine guns.

3

4 Third Party Disclosure Statement

5 The bill requires a person who applies for a permit to purchase a  
6 handgun or a firearms purchaser identification card, and a person  
7 purchasing a firearm or firearm ammunition to certify in a written  
8 document under penalty of perjury, on a form to be prescribed by  
9 the superintendent, whether a firearm or ammunition to be  
10 purchased is intended to be transferred to a third party, and the  
11 name and address of that third party, if known. The written  
12 certification would not apply to temporary transfers of firearms or  
13 ammunition pursuant to section 1 of P.L.1992, c.74 (C.2C:58-3.1),  
14 section 1 of P.L.1997, c.375 (C.2C:58-3.2), or section 14 of  
15 P.L.1979, c.179 (C.2C:58-6.1).