

ASSEMBLY, No. 347

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

SYNOPSIS

Disqualifies person named on federal Terrorist Watchlist from obtaining firearms identification card or permit to purchase handgun.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning firearms and amending N.J.S.2C:58-3.

2

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

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

7 2C:58-3. a. Permit to purchase a handgun. No person shall
8 sell, give, transfer, assign or otherwise dispose of, nor receive,
9 purchase, or otherwise acquire a handgun unless the purchaser,
10 assignee, donee, receiver or holder is licensed as a dealer under this
11 chapter or has first secured a permit to purchase a handgun as
12 provided by this section.

13 b. Firearms purchaser identification card. No person shall sell,
14 give, transfer, assign or otherwise dispose of nor receive, purchase
15 or otherwise acquire an antique cannon or a rifle or shotgun, other
16 than an antique rifle or shotgun, unless the purchaser, assignee,
17 donee, receiver or holder is licensed as a dealer under this chapter
18 or possesses a valid firearms purchaser identification card, and first
19 exhibits said card to the seller, donor, transferor or assignor, and
20 unless the purchaser, assignee, donee, receiver or holder signs a
21 written certification, on a form prescribed by the superintendent,
22 which shall indicate that he presently complies with the
23 requirements of subsection c. of this section and shall contain his
24 name, address and firearms purchaser identification card number or
25 dealer's registration number. The said certification shall be retained
26 by the seller, as provided in paragraph (4) of subsection a. of
27 N.J.S.2C:58-2, or, in the case of a person who is not a dealer, it may
28 be filed with the chief of police of the municipality in which he
29 resides or with the superintendent.

30 c. Who may obtain. No person of good character and good
31 repute in the community in which he lives, and who is not subject to
32 any of the disabilities set forth in this section or other sections of
33 this chapter, shall be denied a permit to purchase a handgun or a
34 firearms purchaser identification card, except as hereinafter set
35 forth. No handgun purchase permit or firearms purchaser
36 identification card shall be issued:

37 (1) To any person who has been convicted of any crime, or a
38 disorderly persons offense involving an act of domestic violence as
39 defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or
40 not armed with or possessing a weapon at the time of such offense;

41 (2) To any drug dependent person as defined in section 2 of
42 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
43 mental disorder to a hospital, mental institution or sanitarium, or to
44 any person who is presently an habitual drunkard;

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 (3) To any person who suffers from a physical defect or disease
2 which would make it unsafe for him to handle firearms, to any
3 person who has ever been confined for a mental disorder, or to any
4 alcoholic unless any of the foregoing persons produces a certificate
5 of a medical doctor or psychiatrist licensed in New Jersey, or other
6 satisfactory proof, that he is no longer suffering from that particular
7 disability in such a manner that would interfere with or handicap
8 him in the handling of firearms; to any person who knowingly
9 falsifies any information on the application form for a handgun
10 purchase permit or firearms purchaser identification card;

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

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

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

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

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

29 (9) To any person named on the consolidated Terrorist Watchlist
30 maintained by the Terrorist Screening Center as administered by the
31 Federal Bureau of Investigation. The chief of police or
32 superintendent shall inform the person of a denial of a permit or
33 identification card pursuant to this paragraph.

34 d. Issuance. The chief of police of an organized full-time
35 police department of the municipality where the applicant resides or
36 the superintendent, in all other cases, shall upon application, issue
37 to any person qualified under the provisions of subsection c. of this
38 section a permit to purchase a handgun or a firearms purchaser
39 identification card.

40 Any person aggrieved by the denial of a permit or identification
41 card may request a hearing in the Superior Court of the county in
42 which he resides if he is a resident of New Jersey or in the Superior
43 Court of the county in which his application was filed if he is a
44 nonresident. The request for a hearing shall be made in writing
45 within 30 days of the denial of the application for a permit or
46 identification card. The applicant shall serve a copy of his request
47 for a hearing upon the chief of police of the municipality in which
48 he resides, if he is a resident of New Jersey, and upon the

1 superintendent in all cases. The hearing shall be held and a record
2 made thereof within 30 days of the receipt of the application for
3 such hearing by the judge of the Superior Court. No formal
4 pleading and no filing fee shall be required as a preliminary to such
5 hearing. Appeals from the results of such hearing shall be in
6 accordance with law.

7 In the case of a person who was denied a permit or identification
8 card pursuant to paragraph (9) of subsection c. of this section, the
9 person shall be authorized to present evidence during the hearing
10 that the person is not the same person named on the Terrorist
11 Watchlist. The chief of police or superintendant shall establish by a
12 preponderance of the evidence that the person who applied for the
13 permit or identification card is the same person named on the
14 Terrorist Watchlist.

15 e. Applications. Applications for permits to purchase a
16 handgun and for firearms purchaser identification cards shall be in
17 the form prescribed by the superintendent and shall set forth the
18 name, residence, place of business, age, date of birth, occupation,
19 sex and physical description, including distinguishing physical
20 characteristics, if any, of the applicant, and shall state whether the
21 applicant is a citizen, whether he is an alcoholic, habitual drunkard,
22 drug dependent person as defined in section 2 of P.L.1970,
23 c.226 (C.24:21-2), whether he has ever been confined or committed
24 to a mental institution or hospital for treatment or observation of a
25 mental or psychiatric condition on a temporary, interim or
26 permanent basis, giving the name and location of the institution or
27 hospital and the dates of such confinement or commitment, whether
28 he has been attended, treated or observed by any doctor or
29 psychiatrist or at any hospital or mental institution on an inpatient
30 or outpatient basis for any mental or psychiatric condition, giving
31 the name and location of the doctor, psychiatrist, hospital or
32 institution and the dates of such occurrence, whether he presently or
33 ever has been a member of any organization which advocates or
34 approves the commission of acts of force and violence to overthrow
35 the Government of the United States or of this State, or which seeks
36 to deny others their rights under the Constitution of either the
37 United States or the State of New Jersey, whether he has ever been
38 convicted of a crime or disorderly persons offense, whether the
39 person is subject to a restraining order issued pursuant to the
40 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
41 (C.2C:25-17 et seq.) prohibiting the person from possessing any
42 firearm, and such other information as the superintendent shall
43 deem necessary for the proper enforcement of this chapter. For the
44 purpose of complying with this subsection, the applicant shall
45 waive any statutory or other right of confidentiality relating to
46 institutional confinement. The application shall be signed by the
47 applicant and shall contain as references the names and addresses of
48 two reputable citizens personally acquainted with him.

1 Application blanks shall be obtainable from the superintendent,
2 from any other officer authorized to grant such permit or
3 identification card, and from licensed retail dealers.

4 The chief police officer or the superintendent shall obtain the
5 fingerprints of the applicant and shall have them compared with any
6 and all records of fingerprints in the municipality and county in
7 which the applicant resides and also the records of the State Bureau
8 of Identification and the Federal Bureau of Investigation, provided
9 that an applicant for a handgun purchase permit who possesses a
10 valid firearms purchaser identification card, or who has previously
11 obtained a handgun purchase permit from the same licensing
12 authority for which he was previously fingerprinted, and who
13 provides other reasonably satisfactory proof of his identity, need not
14 be fingerprinted again; however, the chief police officer or the
15 superintendent shall proceed to investigate the application to
16 determine whether or not the applicant has become subject to any of
17 the disabilities set forth in this chapter.

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

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

1 g. Disposition of fees. All fees for permits shall be paid to the
2 State Treasury if the permit is issued by the superintendent, to the
3 municipality if issued by the chief of police, and to the county
4 treasurer if issued by the judge of the Superior Court.

5 h. Form of permit; quadruplicate; disposition of copies. The
6 permit shall be in the form prescribed by the superintendent and
7 shall be issued to the applicant in quadruplicate. Prior to the time
8 he receives the handgun from the seller, the applicant shall deliver
9 to the seller the permit in quadruplicate and the seller shall
10 complete all of the information required on the form. Within five
11 days of the date of the sale, the seller shall forward the original
12 copy to the superintendent and the second copy to the chief of
13 police of the municipality in which the purchaser resides, except
14 that in a municipality having no chief of police, such copy shall be
15 forwarded to the superintendent. The third copy shall then be
16 returned to the purchaser with the pistol or revolver and the fourth
17 copy shall be kept by the seller as a permanent record.

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

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

25 (2) a collector of handguns as curios or relics as defined in Title
26 18, United States Code, section 921 (a) (13) who has in his
27 possession a valid Collector of Curios and Relics License issued by
28 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

29 (3) transfers of handguns among licensed retail dealers,
30 registered wholesale dealers and registered manufacturers

31 (4) transfers of handguns from any person to a licensed retail
32 dealer or a registered wholesale dealer or registered manufacturer.

33 (5) any transaction where the person has purchased a handgun
34 from a licensed retail dealer and has returned that handgun to the
35 dealer in exchange for another handgun within 30 days of the
36 original transaction, provided the retail dealer reports the exchange
37 transaction to the superintendent; or

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

41 The provisions of this subsection shall not be construed to afford
42 or authorize any other exemption from the regulatory provisions
43 governing firearms set forth in chapter 39 and chapter 58 of Title
44 2C of the New Jersey Statutes;

45 A person shall not be restricted as to the number of rifles or
46 shotguns he may purchase, provided he possesses a valid firearms
47 purchaser identification card and provided further that he signs the

1 certification required in subsection b. of this section for each
2 transaction.

3 j. Firearms passing to heirs or legatees. Notwithstanding any
4 other provision of this section concerning the transfer, receipt or
5 acquisition of a firearm, a permit to purchase or a firearms
6 purchaser identification card shall not be required for the passing of
7 a firearm upon the death of an owner thereof to his heir or legatee,
8 whether the same be by testamentary bequest or by the laws of
9 intestacy. The person who shall so receive, or acquire said firearm
10 shall, however, be subject to all other provisions of this chapter. If
11 the heir or legatee of such firearm does not qualify to possess or
12 carry it, he may retain ownership of the firearm for the purpose of
13 sale for a period not exceeding 180 days, or for such further limited
14 period as may be approved by the chief law enforcement officer of
15 the municipality in which the heir or legatee resides or the
16 superintendent, provided that such firearm is in the custody of the
17 chief law enforcement officer of the municipality or the
18 superintendent during such period.

19 k. Sawed-off shotguns. Nothing in this section shall be
20 construed to authorize the purchase or possession of any sawed-off
21 shotgun.

22 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
23 the sale or purchase of a visual distress signalling device approved
24 by the United States Coast Guard, solely for possession on a private
25 or commercial aircraft or any boat; provided, however, that no
26 person under the age of 18 years shall purchase nor shall any person
27 sell to a person under the age of 18 years such a visual distress
28 signalling device.

29 (cf: P.L.2009, c.186, s.2)

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31 2. This act shall take effect immediately.

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STATEMENT

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36 This bill disqualifies a person named on the consolidated
37 Terrorist Watchlist maintained by the Federal Bureau of
38 Investigation's Terrorist Screening Center from being issued either
39 a firearm's identification card or a permit to purchase a handgun.

40 Under the bill, the chief of police or the Superintendent of State
41 Police is required to inform an applicant when he or she is denied
42 an identification card or permit based on being named on the
43 Terrorist Watchlist. An applicant who challenges such a denial in
44 Superior Court is authorized to present evidence during the hearing
45 that the person is not the same person named on the Terrorist
46 Watchlist. The chief of police or superintendant must establish by a
47 preponderance of the evidence that the applicant is the same person
48 named on the Terrorist Watchlist.

1 Under current law, the issuance of a firearms identification card
2 or a permit to purchase a handgun may be denied to any person if it
3 “would not be in the interest of the public health, safety or welfare.”
4 While this provision should provide grounds for denying a person
5 named on the Terrorist Watchlist from being issued either a
6 firearms identification card or a permit to purchase a handgun, the
7 inclusion of a person on the Terrorist Watchlist is of such a serious
8 and potentially threatening nature that it warrants a separate
9 statutory provision denying that person’s capability to lawfully
10 obtain a firearm in this State.