

ASSEMBLY, No. 170

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1996

By Assemblymen RUSSO, DeSOPO, Gregg and
Assemblywoman Heck

1 AN ACT concerning certain crimes committed with firearms and
2 amending N.J.S.2C:39-5 and N.J.S.2C:39-6.

3

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

6

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

8 2C:39-5. Unlawful Possession of Weapons.

9 a. Machine guns. Any person who knowingly has in his possession
10 a machine gun or any instrument or device adaptable for use as a
11 machine gun, without being licensed to do so as provided in
12 N.J.S.2C:58-5, is guilty of a crime of the third degree.

13 b. Handguns. Any person who knowingly has in his possession any
14 handgun, including any antique handgun without first having obtained
15 a permit to carry the same as provided in N.J.S.2C:58-4, is guilty of
16 a crime of the third degree.

17 c. Rifles and shotguns. (1) Any person who knowingly has in his
18 possession any rifle or shotgun without having first obtained a firearms
19 purchaser identification card in accordance with the provisions of
20 N.J.S.2C:58-3, is guilty of a crime of the third degree.

21 (2) Unless otherwise permitted by law, any person who knowingly
22 has in his possession any loaded rifle or shotgun is guilty of a crime of
23 the third degree.

24 d. Other weapons. Any person who knowingly has in his
25 possession any other weapon under circumstances not manifestly
26 appropriate for such lawful uses as it may have is guilty of a crime of
27 the fourth degree.

28 e. Firearms or other weapons in educational institutions.

29 (1) Any person who knowingly has in his possession any firearm
30 while in or upon any part of the buildings or grounds of any school,
31 college, university or other educational institution used for school
32 purposes, without the written authorization of the governing officer of
33 the institution and irrespective of the fact that he possesses a valid

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 permit to carry the firearm, or if a permit is not required by law, the
2 appropriate valid firearms purchaser identification card or valid permit
3 to purchase a handgun, is guilty of a crime of the third degree[,,
4 irrespective of whether he possesses a valid permit to carry the firearm
5 or a valid firearms purchaser identification card].

6 (2) Any person who knowingly possesses any weapon enumerated
7 in paragraphs (3) and (4) of subsection r. of N.J.S.2C:39-1 or any
8 components which can readily be assembled into a firearm or other
9 weapon enumerated in subsection r. of N.J.S.2C:39-1 or any other
10 weapon under circumstances not manifestly appropriate for such
11 lawful use as it may have, while in or upon any part of the buildings or
12 grounds of any school, college, university or other educational
13 institution without the written authorization of the governing officer
14 of the institution is guilty of a crime of the fourth degree.

15 (3) Any person who knowingly has in his possession any firearm
16 while in or upon any part of the building or grounds owned or leased
17 by an school, college, university or other educational institution and
18 used for school purposes, without the written authorization of the
19 governing officer of the institution and without possessing a valid
20 permit to carry the firearm or, if a permit to carry is not required by
21 law, the appropriate valid firearms purchaser identification card or
22 valid permit to purchase a handgun, is guilty of a crime of the second
23 degree.

24 (4) Any person who (a) knowingly has in his possession any
25 firearm while in or within 1,000 feet from the outermost boundaries of
26 buildings or grounds owned or leased by any school, college,
27 university or other educational institution and used for school
28 purposes, or while on any school bus, and (b) possesses the firearm in
29 violation of any law of this State is guilty of a crime of the second
30 degree.

31 (5) It shall not be a defense to a prosecution for a violation of this
32 subsection that the actor was unaware that the prohibited possession
33 took place while in or upon any part of the buildings of any school,
34 college, university or other educational institution or within 1,000 feet
35 from school property. It shall not be a defense to a prosecution under
36 this subsection that no juveniles or students were present on the school
37 property at the time of the offense or that the school was not in
38 session.

39 (6) In a prosecution under this subsection, a map produced or
40 reproduced by any municipal or county engineer for the purpose of
41 depicting the location and boundaries of the buildings or grounds
42 owned by or leased to any school, school board, college, university or
43 other educational institution and used for school purposes, or within
44 1,000 feet from the outermost boundaries of those buildings or
45 grounds, or a true copy of such a map, shall be admissible upon proper
46 authentication, and shall constitute prima facie evidence of the location

1 and boundaries of those areas, provided that the governing body of the
2 municipality or county has adopted a resolution or ordinance
3 approving the map as the official finding and record of the location and
4 boundaries of those areas. Any map approved pursuant to this section
5 may be changed from time to time by the governing body of the
6 municipality or county. The original of every map approved or revised
7 pursuant to this section, or a true copy thereof, shall be filed with the
8 clerk of the municipality or county, and shall be maintained as an
9 official record of the municipality or county. Nothing in this
10 subsection shall be construed to preclude the prosecution from
11 introducing or relying upon any other evidence or testimony to
12 establish any element of this offense; nor shall this section be
13 construed to preclude the use or admissibility of any map or diagram
14 other than one which has been approved by the governing body of a
15 municipality or county, provided that the map or diagram is otherwise
16 admissible pursuant to the Rules of Evidence.

17 f. Assault firearms. Any person who knowingly has in his
18 possession an assault firearm is guilty of a crime of the third degree
19 except if the assault firearm is licensed pursuant to N.J.S.2C:58-5;
20 registered pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) or
21 rendered inoperable pursuant to section 12 of P.L.1990, c.32
22 (C.2C:58-13).

23 g. The temporary possession of a handgun, rifle or shotgun by a
24 person receiving, possessing, carrying or using the handgun, rifle, or
25 shotgun under the provisions of section 1 of P.L.1992, c.74
26 (C.2C:58-3.1) shall not be considered unlawful possession under the
27 provisions of subsection b. or c. of this section.

28 (cf: P.L.1992, c.94, s.1)

29

30 2. N.J.S.2C:39-6 is amended to read as follows:

31 2C:39-6. a. Provided a person complies with the requirements of
32 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

33 (1) Members of the Armed Forces of the United States or of the
34 National Guard while actually on duty, or while traveling between
35 places of duty and carrying authorized weapons in the manner
36 prescribed by the appropriate military authorities;

37 (2) Federal law enforcement officers, and any other federal officers
38 and employees required to carry firearms in the performance of their
39 official duties;

40 (3) Members of the State Police and, under conditions prescribed
41 by the superintendent, members of the Marine Law Enforcement
42 Bureau of the Division of State Police;

43 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
44 assistant prosecutor, prosecutor's detective or investigator, deputy
45 attorney general or State investigator employed by the Division of
46 Criminal Justice of the Department of Law and Public Safety,

1 investigator employed by the State Commission of Investigation,
2 inspector of the Alcoholic Beverage Control Enforcement Bureau of
3 the Division of State Police in the Department of Law and Public
4 Safety authorized to carry such weapons by the Superintendent of
5 State Police, State park ranger, or State conservation officer;

6 (5) A prison or jail warden of any penal institution in this State or
7 his deputies, or an employee of the Department of Corrections
8 engaged in the interstate transportation of convicted offenders, while
9 in the performance of his duties, and when required to possess the
10 weapon by his superior officer, or a correction officer or keeper of a
11 penal institution in this State at all times while in the State of New
12 Jersey, provided he annually passes an examination approved by the
13 superintendent testing his proficiency in the handling of firearms;

14 (6) A civilian employee of the United States Government under the
15 supervision of the commanding officer of any post, camp, station, base
16 or other military or naval installation located in this State who is
17 required, in the performance of his official duties, to carry firearms,
18 and who is authorized to carry such firearms by said commanding
19 officer, while in the actual performance of his official duties;

20 (7) (a) A regularly employed member, including a detective, of the
21 police department of any county or municipality, or of any State,
22 interstate, municipal or county park police force or boulevard police
23 force, at all times while in the State of New Jersey;

24 (b) A special law enforcement officer authorized to carry a weapon
25 as provided in subsection b. of section 7 of P.L.1985, c.439
26 (C.40A:14-146.14);

27 (c) An airport security officer or a special law enforcement officer
28 appointed by the governing body of any county or municipality, except
29 as provided in subsection b. of this section, or by the commission,
30 board or other body having control of a county park or airport or
31 boulevard police force, while engaged in the actual performance of his
32 official duties and when specifically authorized by the governing body
33 to carry weapons; or

34 (8) A full-time, paid member of a paid or part-paid fire department
35 or force of any municipality who is assigned full-time or part-time to
36 an arson investigation unit created pursuant to section 1 of P.L.1981,
37 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
38 county prosecutor's office, while either engaged in the actual
39 performance of arson investigation duties or while actually on call to
40 perform arson investigation duties and when specifically authorized by
41 the governing body or the county prosecutor, as the case may be, to
42 carry weapons. Prior to being permitted to carry a firearm, such a
43 member shall take and successfully complete a firearms training course
44 administered by the Police Training Commission pursuant to P.L.1961,
45 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
46 revolver or similar weapon prior to being permitted to carry a firearm;

1 (9) A juvenile corrections officer in the employment of the
2 Juvenile Justice Commission established pursuant to section 2 of P.L.
3 1995, c. 284 (C.52:17B-170) subject to the regulations promulgated
4 by the commission.

5 b. Subsections a., b. and c., and paragraph (4) of subsection e. of
6 N.J.S.2C:39-5 do not apply to:

7 (1) A law enforcement officer employed by a governmental agency
8 outside of the State of New Jersey while actually engaged in his
9 official duties, provided, however, that he has first notified the
10 superintendent or the chief law enforcement officer of the municipality
11 or the prosecutor of the county in which he is engaged; or

12 (2) A licensed dealer in firearms and his registered employees
13 during the course of their normal business while traveling to and from
14 their place of business and other places for the purpose of
15 demonstration, exhibition or delivery in connection with a sale,
16 provided, however, that the weapon is carried in the manner specified
17 in subsection g. of this section.

18 c. Provided a person complies with the requirements of subsection
19 j. of this section, subsections b. and c., and paragraph (4) of subsection
20 e. of N.J.S.2C:39-5 do not apply to:

21 (1) A special agent of the Division of Taxation who has passed an
22 examination in an approved police training program testing proficiency
23 in the handling of any firearm which he may be required to carry, while
24 in the actual performance of his official duties and while going to or
25 from his place of duty, or any other police officer, while in the actual
26 performance of his official duties;

27 (2) A State deputy conservation officer or a full-time employee of
28 the Division of Parks and Forestry having the power of arrest and
29 authorized to carry weapons, while in the actual performance of his
30 official duties;

31 (3) (Deleted by amendment, P.L.1986, c.150.)

32 (4) A court attendant serving as such under appointment by the
33 sheriff of the county or by the judge of any municipal court or other
34 court of this State, while in the actual performance of his official
35 duties;

36 (5) A guard in the employ of any railway express company,
37 banking or building and loan or savings and loan institution of this
38 State, while in the actual performance of his official duties;

39 (6) A member of a legally recognized military organization while
40 actually under orders or while going to or from the prescribed place
41 of meeting and carrying the weapons prescribed for drill, exercise or
42 parade;

43 (7) An officer of the Society for the Prevention of Cruelty to
44 Animals, while in the actual performance of his duties;

45 (8) An employee of a public utilities corporation actually engaged
46 in the transportation of explosives;

1 (9) A railway policeman, except a transit police officer of the New
2 Jersey Transit Police Department, at all times while in the State of
3 New Jersey, provided that he has passed an approved police academy
4 training program consisting of at least 280 hours. The training
5 program shall include, but need not be limited to, the handling of
6 firearms, community relations, and juvenile relations;

7 (10) A campus police officer appointed under P.L.1970, c.211
8 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
9 firearm, a campus police officer shall take and successfully complete
10 a firearms training course administered by the Police Training
11 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
12 shall annually qualify in the use of a revolver or similar weapon prior
13 to being permitted to carry a firearm;

14 (11) A person who has not been convicted of a crime under the
15 laws of this State or under the laws of another state or the United
16 States, and who is employed as a full-time security guard for a nuclear
17 power plant under the license of the Nuclear Regulatory Commission,
18 while in the actual performance of his official duties;

19 (12) A transit police officer of the New Jersey Transit Police
20 Department, at all times while in the State of New Jersey, provided the
21 officer has satisfied the training requirements of the Police Training
22 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
23 (C.27:25-15.1);

24 (13) A parole officer employed by the Bureau of Parole in the
25 Department of Corrections at all times. Prior to being permitted to
26 carry a firearm, a parole officer shall take and successfully complete
27 a basic course for regular police officer training administered by the
28 Police Training Commission, pursuant to P.L. 1961, c.56
29 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
30 revolver or similar weapon prior to being permitted to carry a firearm;

31 (14) A Human Services police officer at all times while in the State
32 of New Jersey, as authorized by the Commissioner of Human
33 Services; or

34 (15) A person or employee of any person who, pursuant to and as
35 required by a contract with a governmental entity, supervises or
36 transports person charged with or convicted of an offense.

37 d. (1) Subsections c. and d., and paragraph (4) of subsection e. of
38 N.J.S.2C:39-5 do not apply to antique firearms, provided that such
39 antique firearms are unloaded or are being fired for the purposes of
40 exhibition or demonstration at an authorized target range or in such
41 other manner as has been approved in writing by the chief law
42 enforcement officer of the municipality in which the exhibition or
43 demonstration is held, or if not held on property under the control of
44 a particular municipality, the superintendent.

45 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. and
46 paragraph (4) of subsection e. of N.J.S.2C:39-5 do not apply to an

1 antique cannon that is capable of being fired but that is unloaded and
2 immobile, provided that the antique cannon is possessed by (a) a
3 scholastic institution, a museum, a municipality, a county or the State,
4 or (b) a person who obtained a firearms purchaser identification card
5 as specified in N.J.S.2C:58-3.

6 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. and
7 paragraph (4) of subsection e. of N.J.S.2C:39-5 do not apply to an
8 unloaded antique cannon that is being transported by one eligible to
9 possess it, in compliance with regulations the superintendent may
10 promulgate, between its permanent location and place of purchase or
11 repair.

12 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. and
13 paragraph (4) of subsection e. of N.J.S.2C:39-5 do not apply to
14 antique cannons that are being loaded or fired by one eligible to
15 possess an antique cannon, for purposes of exhibition or
16 demonstration at an authorized target range or in the manner as has
17 been approved in writing by the chief law enforcement officer of the
18 municipality in which the exhibition or demonstration is held, or if not
19 held on property under the control of a particular municipality, the
20 superintendent, provided that performer has given at least 30 days'
21 notice to the superintendent.

22 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. and
23 paragraph (4) of subsection e. of N.J.S.2C:39-5 do not apply to the
24 transportation of unloaded antique cannons directly to or from
25 exhibitions or demonstrations authorized under paragraph (4) of
26 subsection d. of this section, provided that the transportation is in
27 compliance with safety regulations the superintendent may promulgate.
28 Nor do those subsections apply to transportation directly to or from
29 exhibitions or demonstrations authorized under the law of another
30 jurisdiction, provided that the superintendent has been given 30 days'
31 notice and that the transportation is in compliance with safety
32 regulations the superintendent may promulgate.

33 e. Nothing in subsections b., c. and d. and paragraph (4) of
34 subsection e. of N.J.S.2C:39-5 shall be construed to prevent a person
35 keeping or carrying about his place of business, residence, premises
36 or other land owned or possessed by him, any firearm, or from
37 carrying the same, in the manner specified in subsection g. of this
38 section, from any place of purchase to his residence or place of
39 business, between his dwelling and his place of business, between one
40 place of business or residence and another when moving, or between
41 his dwelling or place of business and place where such firearms are
42 repaired, for the purpose of repair. For the purposes of this section,
43 a place of business shall be deemed to be a fixed location.

44 f. Nothing in subsections b., c. and d. and paragraph (4) of
45 subsection e. of N.J.S.2C:39-5 shall be construed to prevent:

46 (1) A member of any rifle or pistol club organized in accordance

1 with the rules prescribed by the National Board for the Promotion of
2 Rifle Practice, in going to or from a place of target practice, carrying
3 such firearms as are necessary for said target practice, provided that
4 the club has filed a copy of its charter with the superintendent and
5 annually submits a list of its members to the superintendent and
6 provided further that the firearms are carried in the manner specified
7 in subsection g. of this section;

8 (2) A person carrying a firearm or knife in the woods or fields or
9 upon the waters of this State for the purpose of hunting, target
10 practice or fishing, provided that the firearm or knife is legal and
11 appropriate for hunting or fishing purposes in this State and he has in
12 his possession a valid hunting license, or, with respect to fresh water
13 fishing, a valid fishing license;

14 (3) A person transporting any firearm or knife while traveling:

15 (a) Directly to or from any place for the purpose of hunting or
16 fishing, provided the person has in his possession a valid hunting or
17 fishing license; or

18 (b) Directly to or from any target range, or other authorized place
19 for the purpose of practice, match, target, trap or skeet shooting
20 exhibitions, provided in all cases that during the course of the travel
21 all firearms are carried in the manner specified in subsection g. of this
22 section and the person has complied with all the provisions and
23 requirements of Title 23 of the Revised Statutes and any amendments
24 thereto and all rules and regulations promulgated thereunder; or

25 (c) In the case of a firearm, directly to or from any exhibition or
26 display of firearms which is sponsored by any law enforcement agency,
27 any rifle or pistol club, or any firearms collectors club, for the purpose
28 of displaying the firearms to the public or to the members of the
29 organization or club, provided, however, that not less than 30 days
30 prior to the exhibition or display, notice of the exhibition or display
31 shall be given to the Superintendent of the State Police by the
32 sponsoring organization or club, and the sponsor has complied with
33 such reasonable safety regulations as the superintendent may
34 promulgate. Any firearms transported pursuant to this section shall be
35 transported in the manner specified in subsection g. of this section;

36 (4) A person from keeping or carrying about a private or
37 commercial aircraft or any boat, or from transporting to or from such
38 vessel for the purpose of installation or repair a visual distress
39 signalling device approved by the United States Coast Guard.

40 g. All weapons being transported under paragraph (2) of
41 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
42 this section shall be carried unloaded and contained in a closed and
43 fastened case, gunbox, securely tied package, or locked in the trunk of
44 the automobile in which it is being transported, and in the course of
45 travel shall include only such deviations as are reasonably necessary
46 under the circumstances.

1 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
2 prevent any employee of a public utility, as defined in R.S.48:2-13,
3 doing business in this State or any United States Postal Service
4 employee, while in the actual performance of duties which specifically
5 require regular and frequent visits to private premises, from
6 possessing, carrying or using any device which projects, releases or
7 emits any substance specified as being noninjurious to canines or other
8 animals by the Commissioner of Health and which immobilizes only on
9 a temporary basis and produces only temporary physical discomfort
10 through being vaporized or otherwise dispensed in the air for the sole
11 purpose of repelling canine or other animal attacks.

12 The device shall be used solely to repel only those canine or other
13 animal attacks when the canines or other animals are not restrained in
14 a fashion sufficient to allow the employee to properly perform his
15 duties.

16 Any device used pursuant to this act shall be selected from a list of
17 products, which consist of active and inert ingredients, permitted by
18 the Commissioner of Health.

19 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
20 person who is 18 years of age or older and who has not been convicted
21 of a felony, from possession for the purpose of personal self-defense
22 of one pocket-sized device which contains and releases not more than
23 three-quarters of an ounce of chemical substance not ordinarily
24 capable of lethal use or of inflicting serious bodily injury, but rather,
25 is intended to produce temporary physical discomfort or disability
26 through being vaporized or otherwise dispensed in the air. Any person
27 in possession of any device in violation of this subsection shall be
28 deemed and adjudged to be a disorderly person, and upon conviction
29 thereof, shall be punished by a fine of not less than \$100.00.

30 j. A person shall qualify for an exemption from the provisions of
31 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
32 if the person has satisfactorily completed a firearms training course
33 approved by the Police Training Commission.

34 Such exempt person shall not possess or carry a firearm until the
35 person has satisfactorily completed a firearms training course and shall
36 annually qualify in the use of a revolver or similar weapon. For
37 purposes of this subsection, a "firearms training course" means a
38 course of instruction in the safe use, maintenance and storage of
39 firearms which is approved by the Police Training Commission. The
40 commission shall approve a firearms training course if the
41 requirements of the course are substantially equivalent to the
42 requirements for firearms training provided by police training courses
43 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
44 A person who is specified in paragraph (1), (2), (3) or (6) of
45 subsection a. of this section shall be exempt from the requirements of
46 this subsection.

1 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
2 prevent any financial institution, or any duly authorized personnel of
3 the institution, from possessing, carrying or using for the protection of
4 money or property, any device which projects, releases or emits tear
5 gas or other substances intended to produce temporary physical
6 discomfort or temporary identification.

7 (cf: P.L.1995, c.280, s.21)

8
9 3. This act shall take effect immediately.

10
11
12 STATEMENT

13
14 This bill would increase the penalties for possession of a firearm or
15 handgun in educational institutions under certain circumstances.
16 Specifically, the bill makes it a crime of the third degree for any person
17 to knowingly possess a firearm in or upon any part of the buildings or
18 grounds of any school, college, university or other educational
19 institution used for school purposes without the written authorization
20 of the governing officer of the institution and irrespective of the fact
21 that the person possesses a valid permit to carry a firearm, or a valid
22 firearms purchaser identification card if a permit is not required, or a
23 valid permit to purchase a handgun. The current provision of the law
24 which makes it a crime of the fourth degree to knowingly possess any
25 weapons on school property would remain unchanged.

26 In addition, the bill would make it a crime of the second degree for
27 any person to knowingly possess any firearm on any part of the
28 buildings or grounds owned or leased by any school, college,
29 university or other educational institution and used for school
30 purposes, without the written authorization of the governing officer
31 of the institution and without possessing a valid permit to carry, or
32 valid a purchaser identification card if a permit is not required, or a
33 valid permit to purchase a handgun. The bill would also make it a
34 crime of the second degree for any person to knowingly possess any
35 firearm while in or within 1,000 feet from the outermost boundaries of
36 buildings or grounds owned or leased by any school, college,
37 university or other educational, institution and used for school
38 purposes, or while on any school bus and to possess the firearm in
39 violation of any law. It would not be a defense to a prosecution for a
40 violation of this section if the actor was unaware that he was on any
41 part of the buildings of any school, college, university or other
42 educational institution or within 1,000 feet from school property.

43 In addition, the bill would amend N.J.S.2C:39-6 to clarify that a
44 person who is currently exempt from the provisions of N.J.S.2C:39-5,
45 those who lawfully possess a firearm, would also be exempt under the
46 "gun free" school area law.

- 1 _____
- 2
- 3 Creates "gun free" school areas.