

ASSEMBLY, No. 1349

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman STUHLTRAGER

1 AN ACT concerning the civil liability of owners of assault firearms and
2 amending N.J.S.2C:58-5 and P.L.1990, c.32.

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

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7 1. N.J.S.2C:58-5 is amended to read as follows:

8 2C:58-5. Licenses to Possess and Carry Machine Guns and Assault
9 Firearms.

10 a. Any person who desires to purchase, possess and carry a
11 machine gun or assault firearm in this State may apply for a license to
12 do so by filing in the Superior Court in the county in which he resides,
13 or conducts his business if a nonresident, a written application setting
14 forth in detail his reasons for desiring such a license. The Superior
15 Court shall refer the application to the county prosecutor for
16 investigation and recommendation. A copy of the prosecutor's report,
17 together with a copy of the notice of the hearing on the application,
18 shall be served upon the superintendent and the chief police officer of
19 every municipality in which the applicant intends to carry the machine
20 gun or assault firearm, unless, for good cause shown, the court orders
21 notice to be given wholly or in part by publication.

22 b. No license shall be issued to any person who would not qualify
23 for a permit to carry a handgun under section 2C:58-4, and no license
24 shall be issued unless the court finds that the public safety and welfare
25 so require. Any person aggrieved by the decision of the court in
26 granting or denying an application, including the applicant, the
27 prosecutor, or any law enforcement officer entitled to notice under
28 subsection a. who appeared in opposition to the application, may
29 appeal said decision in accordance with law and the rules governing
30 the courts of this State.

31 c. Upon the issuance of any license under this section, true copies
32 of such license shall be filed with the superintendent and the chief

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 police officer of the municipality where the licensee resides or has his
2 place of business.

3 d. In issuing any license under this section, the court shall attach
4 thereto such conditions and limitations as it deems to be in the public
5 interest. Unless otherwise provided by court order at the time of
6 issuance, each license shall expire 1 year from the date of issuance, and
7 may be renewed in the same manner and under the same conditions as
8 apply to original applications.

9 e. Any license may be revoked by the Superior Court, after a
10 hearing upon notice to the holder thereof, if the court finds that the
11 holder is no longer qualified for the issuance of such a license or that
12 revocation is necessary for the public safety and welfare. Any citizen
13 may apply to the court for revocation of a license issued under this
14 section.

15 f. A filing fee of \$75.00 shall be required for each application filed
16 pursuant to the provisions of this section. Of this filing fee, \$25.00
17 shall be forwarded to the State Treasury for deposit in the account
18 used by the Violent Crimes Compensation Board in satisfying claims
19 and for related administrative costs pursuant to the provisions of the
20 "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317
21 (C.52:4B-1 et seq.).

22 g. Any license granted pursuant to the provisions of this section
23 shall expire two years from the date of issuance and may be renewed
24 in the same manner and under the same conditions as apply to original
25 applications. If the holder of a license dies, the holder's heirs or estate
26 shall have 90 days to dispose of that firearm as provided in section 12
27 of P.L.1990, c.32 (C.2C:58-13).

28 h. If an assault firearm licensed pursuant to the provisions of this
29 section is used in the commission of a crime, the holder of the license
30 for that assault firearm **[shall] may** be civilly liable for any damages
31 resulting from that crime **if it is determined that the actions of the**
32 **holder of the license with regard to the firearm were negligent.** **[The**
33 **liability imposed by this subsection shall not apply if the assault firearm**
34 **used in the commission of the crime was stolen and the license holder**
35 **reported the theft of the firearm to law enforcement authorities within**
36 **24 hours of the license holder's knowledge of the theft.]**

37 i. Nothing in P.L.1990, c.32 (C.2C:58-12 et. al.) shall be construed
38 to abridge any exemptions provided under N.J.S.2C:39-6.
39 (cf: P.L.1990, c.32, s.9)

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41 2. Section 11 of P.L.1990, c.32 (C.2C:58-12) is amended to read
42 as follows:

43 11. a. Within 90 days of the effective date of P.L.1990, c.32
44 (C.2C:58-12 et. al.), the Attorney General shall promulgate a list by
45 trade name of any assault firearm which the Attorney General
46 determines is an assault firearm which is used for legitimate

1 target-shooting purposes. This list shall include, but need not be
2 limited to, the Colt AR-15 and any other assault firearm used in
3 competitive shooting matches sanctioned by the Director of Civilian
4 Marksmanship of the United States Department of the Army.

5 b. The owner of an assault firearm purchased on or before May 1,
6 1990 which is on the list of assault firearms determined by the
7 Attorney General to be legitimate for target-shooting purposes shall
8 have one year from the effective date of P.L.1990, c.32 (C.2C:58-12
9 et. al.) to register that firearm. In order to register an assault firearm,
10 the owner shall:

11 (1) Complete an assault firearm registration statement, in the form
12 to be prescribed by the Superintendent of the State Police;

13 (2) Pay a registration fee of \$50.00 per each assault firearm;

14 (3) Produce for inspection a valid firearms purchaser identification
15 card, a valid permit to carry handguns, or a copy of the permit to
16 purchase a handgun which was used to purchase the assault firearm
17 which is being registered; and

18 (4) Submit valid proof that the person is a member of a rifle or
19 pistol club in existence prior to the effective date of P.L.1990, c.32
20 (C.2C:58-12 et al.).

21 Membership in a rifle or pistol club shall not be considered valid
22 unless the person joined the club no later than 210 days after the
23 effective date of P.L.1990, c.32 (C.2C:58-12 et. al.) and unless the
24 rifle or pistol club files its charter with the Superintendent no later
25 than 180 days following the effective date of P.L.1990, c.32
26 (C.2C:58-12 et. al.). The rifle or pistol club charter shall contain the
27 name and address of the club's headquarters and the name of the club's
28 officers.

29 The information to be provided in the registration statement shall
30 include, but shall not be limited to: the name and address of the
31 registrant; the number or numbers on the registrant's firearms
32 purchaser identification card, permit to carry handguns, or permit to
33 purchase a handgun; the name, address, and telephone number of the
34 rifle or pistol club in which the registrant is a member; and the make,
35 model, and serial number of the assault firearm being registered. Each
36 registration statement shall be signed by the registrant, and the
37 signature shall constitute a representation of the accuracy of the
38 information contained in the registration statement.

39 c. For an applicant who resides in a municipality with an organized
40 full-time police department, the registration shall take place at the
41 main office of the police department. For all other applicants, the
42 registration shall take place at any State Police station.

43 d. Within 60 days of the effective date of P.L. 1990, c.32
44 (C.2C:58-12 et. al.), the Superintendent shall prepare the form of
45 registration statement as described in subsection b. of this section and
46 shall provide a suitable supply of statements to each organized

1 full-time municipal police department and each State Police station.

2 e. One copy of the completed assault firearms registration
3 statement shall be returned to the registrant, a second copy shall be
4 sent to the Superintendent, and, if the registration takes place at a
5 municipal police department, a third copy shall be retained by that
6 municipal police department.

7 f. If the owner of an assault firearm which has been registered
8 pursuant to this section dies, the owner's heirs or estate shall have 90
9 days to dispose of that firearm in accordance with section 12 of
10 P.L.1990, c.32 (C.2C:58-13).

11 g. If an assault firearm registered pursuant to the provisions of this
12 section is used in the commission of a crime, the registrant of that
13 assault firearm **[shall] may** be civilly liable for any damages resulting
14 from that crime **if it is determined that the actions of the registrant**
15 **with regard to the firearm were negligent.** [The liability imposed by
16 this subsection shall not apply if the assault firearm used in the
17 commission of the crime was stolen and the registrant reported the
18 theft of the firearm to law enforcement authorities within 24 hours of
19 the registrant's knowledge of the theft.]

20 h. Of the registration fee required pursuant to subsection b. of this
21 section, \$20.00 shall be forwarded to the State Treasury for deposit in
22 the account used by the Violent Crimes Compensation Board in
23 satisfying claims and for related administrative costs pursuant to the
24 provisions of the "Criminal Injuries Compensation Act of 1971,"
25 P.L.1971, c.317 (C.52:4B-1 et seq.).
26 (cf: P.L.1990, c.32, s.11)

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28 3. This act shall take effect immediately.

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STATEMENT

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33 Under the provisions of P.L.1990, c.32, persons who are licensed
34 to possess an assault firearm or who register an assault firearm are
35 strictly liable for any damages which may result if that firearm is used
36 in the commission of a crime. This bill would provide that owners of
37 assault firearms could be held civilly liable for damages resulting from
38 the use of that firearm in the commission of a crime only if it can be
39 shown that the owner's actions were negligent. The bill amends
40 subsection h. of N.J.S.2C:58-5 and subsection g. of section 11 of
41 P.L.1990, c.32 (C.2C:58-12).

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Modifies civil liability provisions of law governing assault firearms.