

ASSEMBLY, No. 1469

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Assemblymen PASCRELL, STEELE and T. Smith

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] school zone used
32 for school purposes, without the written authorization of the
33 governing officer of the institution and irrespective of the fact that he
34 possesses a valid permit to carry the firearm, or if a permit is not

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 required by law, the appropriate valid firearms purchaser identification
2 card or valid permit to purchase a handgun, is guilty of a crime of the
3 third degree[, irrespective of whether he possesses a valid permit to
4 carry the firearm or a valid firearms purchaser identification card].

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

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

22 (4) Any person who (a) knowingly has in his possession any
23 firearm while in or within 1,000 feet from the outermost boundaries of
24 a school zone used for school purposes, or while on any school bus,
25 and (b) possesses the firearm in violation of any law of this State is
26 guilty of a crime of the second degree.

27 (5) It shall not be a defense to a prosecution for a violation of this
28 subsection that the actor was unaware that the prohibited possession
29 took place while in or upon any school zone or within 1,000 feet from
30 a school zone. It shall not be a defense to a prosecution under this
31 subsection that no juveniles or students were present on the school
32 property at the time of the offense or that the school was not in
33 session.

34 (6) In a prosecution under this subsection, a map produced or
35 reproduced by any municipal or county engineer for the purpose of
36 depicting the location and boundaries of a school zone used for school
37 purposes, or within 1,000 feet from the outermost boundaries of a
38 school zone, or a true copy of such a map, shall be admissible upon
39 proper authentication, and shall constitute prima facie evidence of the
40 location and boundaries of those areas, provided that the governing
41 body of the municipality or county has adopted a resolution or
42 ordinance approving the map as the official finding and record of the
43 location and boundaries of those areas. Any map approved pursuant
44 to this section may be changed from time to time by the governing
45 body of the municipality or county. The original of every map
46 approved or revised pursuant to this section, or a true copy thereof,

1 shall be filed with the clerk of the municipality or county, and shall be
2 maintained as an official record of the municipality or county. Nothing
3 in this subsection shall be construed to preclude the prosecution from
4 introducing or relying upon any other evidence or testimony to
5 establish any element of this offense; nor shall this section be
6 construed to preclude the use or admissibility of any map or diagram
7 other than one which has been approved by the governing body of a
8 municipality or county, provided that the map or diagram is otherwise
9 admissible pursuant to the Rules of Evidence.

10 (7) As used in this subsection:

11 "School" means an educational institution that provides elementary,
12 secondary or higher education.

13 "School zone" means any part of the buildings or grounds of any
14 public, parochial or private school.

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

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

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

27

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

29 2C:39-6. a. Provided a person complies with the requirements of
30 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

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

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

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

41 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
42 assistant prosecutor, prosecutor's detective or investigator, deputy
43 attorney general or State investigator employed by the Division of
44 Criminal Justice of the Department of Law and Public Safety,
45 investigator employed by the State Commission of Investigation,
46 inspector of the Alcoholic Beverage Control Enforcement Bureau of

1 the Division of State Police in the Department of Law and Public
2 Safety authorized to carry such weapons by the Superintendent of
3 State Police, State park ranger, or State conservation officer;

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

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

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

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

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

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

45 (9) A juvenile corrections officer in the employment of the
46 Juvenile Justice Commission established pursuant to section 2 of

1 P.L.1995, c.284 (C.52:17B-170) subject to the regulations
2 promulgated by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

45 (9) A railway policeman, except a transit police officer of the New
46 Jersey Transit Police Department, at all times while in the State of

1 New Jersey, provided that he has passed an approved police academy
2 training program consisting of at least 280 hours. The training
3 program shall include, but need not be limited to, the handling of
4 firearms, community relations, and juvenile relations;

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

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

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

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

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

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

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

43 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. and
44 paragraph (4) of subsection e. of N.J.S.2C:39-5 do not apply to an
45 antique cannon that is capable of being fired but that is unloaded and
46 immobile, provided that the antique cannon is possessed by (a) a

1 scholastic institution, a museum, a municipality, a county or the State,
2 or (b) a person who obtained a firearms purchaser identification card
3 as specified in N.J.S.2C:58-3.

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

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

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

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

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

44 (1) A member of any rifle or pistol club organized in accordance
45 with the rules prescribed by the National Board for the Promotion of
46 Rifle Practice, in going to or from a place of target practice, carrying

1 such firearms as are necessary for said target practice, provided that
2 the club has filed a copy of its charter with the superintendent and
3 annually submits a list of its members to the superintendent and
4 provided further that the firearms are carried in the manner specified
5 in subsection g. of this section;

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

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

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

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

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

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

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

45 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
46 prevent any employee of a public utility, as defined in R.S.48:2-13,

1 doing business in this State or any United States Postal Service
2 employee, while in the actual performance of duties which specifically
3 require regular and frequent visits to private premises, from
4 possessing, carrying or using any device which projects, releases or
5 emits any substance specified as being noninjurious to canines or other
6 animals by the Commissioner of Health and which immobilizes only on
7 a temporary basis and produces only temporary physical discomfort
8 through being vaporized or otherwise dispensed in the air for the sole
9 purpose of repelling canine or other animal attacks.

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

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

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

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

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

45 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
46 prevent any financial institution, or any duly authorized personnel of

1 the institution, from possessing, carrying or using for the protection of
2 money or property, any device which projects, releases or emits tear
3 gas or other substances intended to produce temporary physical
4 discomfort or temporary identification.

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

6
7 3. This act shall take effect immediately.

8
9
10 STATEMENT

11
12 This bill would increase the penalties for possession of a firearm or
13 handgun in educational institutions under certain circumstances.
14 Specifically, the bill makes it a crime of the third degree for any person
15 to knowingly possess a firearm in or upon any school zone used for
16 school purposes without the written authorization of the governing
17 officer of the institution and irrespective of the fact that the person
18 possesses a valid permit to carry a firearm, or a valid firearms
19 purchaser identification card if a permit is not required, or a valid
20 permit to purchase a handgun. The current provision of the law which
21 makes it a crime of the fourth degree to knowingly possess any
22 weapons on school property would remain unchanged.

23 In addition, the bill would make it a crime of the second degree for
24 any person to knowingly possess any firearm on any school zone
25 without the written authorization of the governing officer of the
26 institution and without possessing a valid permit to carry, or valid a
27 purchaser identification card if a permit is not required, or a valid
28 permit to purchase a handgun. The bill would also make it a crime of
29 the second degree for any person to knowingly possess any firearm
30 while in or within 1,000 feet from the outermost boundaries of a
31 school zone or while on any school bus and to possess the firearm in
32 violation of any law. It would not be a defense to a prosecution for a
33 violation of this section if the actor was unaware that he was on any
34 school zone.

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

39
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41 _____
42
43 Creates "gun free" school zones.