

ASSEMBLY, No. 1762

STATE OF NEW JERSEY

INTRODUCED MARCH 25, 1996

By Assemblymen HOLZAPFEL and WOLFE

1 AN ACT concerning firearms, amending N.J.S.2C:39-6 and
2 supplementing chapter 39 of Title 2C of the New Jersey Statutes.

3

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:39-6 is amended to read as follows:

8 2C:39-6. a. Provided a person complies with the requirements of
9 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

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

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

17 (3) Members of the State Police and, under conditions prescribed
18 by the superintendent, members of the Marine Law Enforcement
19 Bureau of the Division of State Police;

20 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
21 assistant prosecutor, prosecutor's detective or investigator, deputy
22 attorney general or State investigator employed by the Division of
23 Criminal Justice of the Department of Law and Public Safety,
24 investigator employed by the State Commission of Investigation,
25 inspector of the Alcoholic Beverage Control Enforcement Bureau of
26 the Division of State Police in the Department of Law and Public
27 Safety authorized to carry such weapons by the Superintendent of
28 State Police, State park ranger, or State conservation officer;

29 (5) A prison or jail warden of any penal institution in this State or
30 his deputies, or an employee of the Department of Corrections
31 engaged in the interstate transportation of convicted offenders, while
32 in the performance of his duties, and when required to possess the
33 weapon by his superior officer, or a correction officer or keeper of a
34 penal institution in this State at all times while in the State of New

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 Jersey, provided he annually passes an examination approved by the
2 superintendent testing his proficiency in the handling of firearms;

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

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

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

16 (c) An airport security officer or a special law enforcement officer
17 appointed by the governing body of any county or municipality, except
18 as provided in subsection b. of this section, or by the commission,
19 board or other body having control of a county park or airport or
20 boulevard police force, while engaged in the actual performance of his
21 official duties and when specifically authorized by the governing body
22 to carry weapons;

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

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

40 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

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

46 (2) A licensed dealer in firearms and his registered employees

1 during the course of their normal business while traveling to and from
2 their place of business and other places for the purpose of
3 demonstration, exhibition or delivery in connection with a sale,
4 provided, however, that the weapon is carried in the manner specified
5 in subsection g. of this section.

6 c. Provided a person complies with the requirements of subsection
7 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
8 to:

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

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

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

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

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

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

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

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

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

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

1 to being permitted to carry a firearm;

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

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

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

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

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

25 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
26 antique firearms, provided that such antique firearms are unloaded or
27 are being fired for the purposes of exhibition or demonstration at an
28 authorized target range or in such other manner as has been approved
29 in writing by the chief law enforcement officer of the municipality in
30 which the exhibition or demonstration is held, or if not held on
31 property under the control of a particular municipality, the
32 superintendent.

33 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of
34 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
35 being fired but that is unloaded and immobile, provided that the
36 antique cannon is possessed by (a) a scholastic institution, a museum,
37 a municipality, a county or the State, or (b) a person who obtained a
38 firearms purchaser identification card as specified in N.J.S.2C:58-3.

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

44 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
45 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
46 or fired by one eligible to possess an antique cannon, for purposes of

1 exhibition or demonstration at an authorized target range or in the
2 manner as has been approved in writing by the chief law enforcement
3 officer of the municipality in which the exhibition or demonstration is
4 held, or if not held on property under the control of a particular
5 municipality, the superintendent, provided that performer has given at
6 least 30 days' notice to the superintendent.

7 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
8 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
9 cannons directly to or from exhibitions or demonstrations authorized
10 under paragraph (4) of subsection d. of this section, provided that the
11 transportation is in compliance with safety regulations the
12 superintendent may promulgate. Nor do those subsections apply to
13 transportation directly to or from exhibitions or demonstrations
14 authorized under the law of another jurisdiction, provided that the
15 superintendent has been given 30 days' notice and that the
16 transportation is in compliance with safety regulations the
17 superintendent may promulgate.

18 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
19 construed to prevent a person keeping or carrying about his place of
20 business, residence, premises or other land owned or possessed by
21 him, any firearm, or from carrying the same, in the manner specified
22 in subsection g. of this section, from any place of purchase to his
23 residence or place of business, between his dwelling and his place of
24 business, between one place of business or residence and another when
25 moving, or between his dwelling or place of business and place where
26 such firearms are repaired, for the purpose of repair. For the purposes
27 of this section, a place of business shall be deemed to be a fixed
28 location.

29 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
30 construed to prevent:

31 (1) A member of any rifle or pistol club organized in accordance
32 with the rules prescribed by the National Board for the Promotion of
33 Rifle Practice, in going to or from a place of target practice, carrying
34 such firearms as are necessary for said target practice, provided that
35 the club has filed a copy of its charter with the superintendent and
36 annually submits a list of its members to the superintendent and
37 provided further that the firearms are carried in the manner specified
38 in subsection g. of this section;

39 (2) A person carrying a firearm or knife in the woods or fields or
40 upon the waters of this State for the purpose of hunting, target
41 practice or fishing, provided that the firearm or knife is legal and
42 appropriate for hunting or fishing purposes in this State and he has in
43 his possession a valid hunting license, or, with respect to fresh water
44 fishing, a valid fishing license;

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

46 (a) Directly to or from any place for the purpose of hunting or

1 fishing, provided the person has in his possession a valid hunting or
2 fishing license; or

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

10 (c) In the case of a firearm, directly to or from any exhibition or
11 display of firearms which is sponsored by any law enforcement agency,
12 any rifle or pistol club, or any firearms collectors club, for the purpose
13 of displaying the firearms to the public or to the members of the
14 organization or club, provided, however, that not less than 30 days
15 prior to the exhibition or display, notice of the exhibition or display
16 shall be given to the Superintendent of the State Police by the
17 sponsoring organization or club, and the sponsor has complied with
18 such reasonable safety regulations as the superintendent may
19 promulgate. Any firearms transported pursuant to this section shall be
20 transported in the manner specified in subsection g. of this section;

21 (4) A person from keeping or carrying about a private or
22 commercial aircraft or any boat, or from transporting to or from such
23 vessel for the purpose of installation or repair a visual distress
24 signaling device approved by the United States Coast Guard.

25 g. All weapons being transported under paragraph (2) of
26 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
27 this section shall be carried unloaded and contained in a closed and
28 fastened case, gunbox, securely tied package, or locked in the trunk of
29 the automobile in which it is being transported, and in the course of
30 travel shall include only such deviations as are reasonably necessary
31 under the circumstances.

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

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

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

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

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

19 Such exempt person shall not possess or carry a firearm until the
20 person has satisfactorily completed a firearms training course and shall
21 annually qualify in the use of a revolver or similar weapon. For
22 purposes of this subsection, a "firearms training course" means a
23 course of instruction in the safe use, maintenance and storage of
24 firearms which is approved by the Police Training Commission. The
25 commission shall approve a firearms training course if the
26 requirements of the course are substantially equivalent to the
27 requirements for firearms training provided by police training courses
28 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
29 A person who is specified in paragraph (1), (2), (3) or (6) of
30 subsection a. of this section shall be exempt from the requirements of
31 this subsection.

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

38 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
39 prevent a law enforcement officer who retired in good standing, and
40 who was regularly employed as a full-time member of the State Police,
41 or as a full-time member of an interstate police force, or as a full-time
42 member of a county or municipal police department in this State, or as
43 a full-time sheriff, undersheriff or sheriff's officer of a county of this
44 State, or as a full-time federal law enforcement officer from carrying
45 a handgun in the same manner as law enforcement officers exempted
46 under paragraph (7) of subsection a. of this section under the

1 conditions provided herein:

2 (1) The retired law enforcement officer, within six months after
3 retirement, shall make application in writing to the Superintendent of
4 State Police for approval to carry a handgun for one year. An
5 application for annual renewal shall be submitted in the same manner.

6 (2) Upon receipt of the written application of the retired law
7 enforcement officer, the superintendent shall request a verification of
8 service from the chief law enforcement officer of the organization in
9 which the retired officer was last regularly employed as a full-time law
10 enforcement officer prior to retiring. The verification of service shall
11 include:

12 (a) The name and address of the retired officer;

13 (b) The date that the retired officer was hired and the date that the
14 retired officer retired;

15 (c) A list of all handguns know to be registered to that officer; and

16 (d) A statement that, to the reasonable knowledge of the chief law
17 enforcement officer, the retired officer is not subject to any of the
18 restrictions set forth in subsection c. of N.J.S.2C:58-3.

19 (3) Whenever the superintendent shall approve a retired officer's
20 application or reapplication to carry a handgun, pursuant to the
21 provisions of this subsection, the superintendent shall notify in writing
22 the chief law enforcement officer of the municipality wherein that
23 retired officer resides. In the event the retired officer resides in a
24 municipality which has no chief law enforcement officer or law
25 enforcement agency, the superintendent shall maintain a record of the
26 approval.

27 (4) The superintendent shall issue to an approved retired officer an
28 identification card permitting the retired officer to carry a handgun
29 pursuant to this subsection. This identification card shall be valid for
30 one year from the date of issuance and shall be valid throughout the
31 State. The identification card shall not be transferable to any other
32 person. The identification card shall be carried at all times on the
33 person of the retired officer while the retired officer is carrying a
34 handgun. The retired officer shall produce the identification card for
35 review on the demand of any law enforcement officer or authority.

36 (5) A judge of the Superior Court may revoke a retired officer's
37 privilege to carry a handgun pursuant to this subsection for good cause
38 shown on the application of any interested person. A person who
39 becomes subject to any of the disabilities set forth in subsection c. of
40 N.J.S.2C:58-3 shall surrender his identification card issued under
41 paragraph (4) of this subsection to the chief law enforcement officer
42 of the municipality wherein he resides or the superintendent, as
43 prescribed by the superintendent, and shall be permanently disqualified
44 to carry a handgun under this subsection.

45 (6) The superintendent may charge a reasonable application fee to
46 retired officers to offset any costs associated with administering the

1 application process set forth in this subsection.

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

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4 2. (New section) Any retired law enforcement officer who meets
5 all of the requirements set forth in subsection 1. of N.J.S.2C:39-6, but
6 retired prior to the effective date of P.L. , c. (now pending before
7 the Legislature as this bill), may apply to carry a handgun. The
8 application shall be in the manner as provided in that subsection and
9 the applicant, if approved, shall be subject to all the requirements set
10 forth therein.

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12 3. This act shall take effect immediately, but section 2 shall expire
13 on the 365th day following enactment.

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STATEMENT

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18 This bill permits certain retired law enforcement officers to carry
19 handguns under certain conditions. The provisions of the bill apply to
20 retirees who retired in good standing after having served as full-time
21 State, county or municipal law enforcement officers; sheriffs,
22 undersheriffs or sheriff's officers; prosecutor's detectives or
23 prosecutor's investigators or as federal law enforcement officers.

24 To secure permission to carry a handgun, the retired officer must
25 make application to the Superintendent of State Police. The
26 application must be submitted within six months of the date of the
27 officer's retirement. The authority to carry a handgun must be
28 renewed annually. The reapplication procedure is the same as the
29 initial procedure.

30 In processing an officer's application, the superintendent must
31 request verification of the retiree's law enforcement service from the
32 law enforcement agency where he was last employed. The chief law
33 enforcement officer of agency must provide information concerning
34 the retiree's length of service, the number of registered handguns that
35 officer owns, and a statement that the officer is not subject to any of
36 the disqualifications set forth in subsection c. of N.J.S.2C:58-3 which
37 would prohibit him from legally possessing a firearm in this State. The
38 bill also authorizes the superintendent to charge a reasonable
39 application fee to cover processing and administrative costs.

40 Upon approval, the superintendent is to issue the retired officer a
41 identification card, indicating that the officer is permitted to carry a
42 handgun. The officer is required to have this identification card in his
43 possession whenever he is carrying a handgun. The retiree may be
44 required to produce the card for examination by any law enforcement
45 officer or authority.

46 The permission to carry a handgun would be revoked if the retiree

1 should become disqualified under the provisions of subsection c. of
2 N.J.S.2C:58-3 or by a judge of the Superior Court for good cause.

3 Finally, the bill provides a one year "window of opportunity" for
4 law enforcement officers who retired prior to the enactment of this
5 bill, but who are qualified and wish to apply for permission to carry a
6 handgun.

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11 _____
12 Permits certain retired law enforcement officers to carry handguns
under certain conditions.