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ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1762, 1834 and 949

STATE OF NEW JERSEY

ADOPTED MAY 13, 1996

**Sponsored by Assemblyman HOLZAPFEL, Assemblywoman
HECK, Assemblymen WOLFE, FELICE, Assemblywoman
Crecco, Assemblymen Bucco, DiGaetano, Kelly, O'Toole,
Senators Girgenti and Kosco**

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:

6

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
15 officers and employees required to carry firearms in the performance
16 of their 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,

**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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted July 25, 1996.

² Senate floor amendments adopted October 24, 1996.

³ Assembly floor amendments adopted January 29, 1997.

1 assistant prosecutor, prosecutor's detective or investigator, deputy
2 attorney general or State investigator employed by the Division of
3 Criminal Justice of the Department of Law and Public Safety,
4 investigator employed by the State Commission of Investigation,
5 inspector of the Alcoholic Beverage Control Enforcement Bureau of
6 the Division of State Police in the Department of Law and Public
7 Safety authorized to carry such weapons by the Superintendent of
8 State Police, State park ranger, or State conservation officer;

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

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

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

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

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

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

1 administered by the Police Training Commission pursuant to P.L.1961,
2 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
3 revolver or similar weapon prior to being permitted to carry a firearm;

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (8) An employee of a public utilities corporation actually engaged
2 in the transportation of explosives;
- 3 (9) A railway policeman, except a transit police officer of the New
4 Jersey Transit Police Department, at all times while in the State of
5 New Jersey, provided that he has passed an approved police academy
6 training program consisting of at least 280 hours. The training
7 program shall include, but need not be limited to, the handling of
8 firearms, community relations, and juvenile relations;
- 9 (10) A campus police officer appointed under P.L.1970, c.211
10 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
11 firearm, a campus police officer shall take and successfully complete
12 a firearms training course administered by the Police Training
13 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
14 shall annually qualify in the use of a revolver or similar weapon prior
15 to being permitted to carry a firearm;
- 16 (11) A person who has not been convicted of a crime under the
17 laws of this State or under the laws of another state or the United
18 States, and who is employed as a full-time security guard for a nuclear
19 power plant under the license of the Nuclear Regulatory Commission,
20 while in the actual performance of his official duties;
- 21 (12) A transit police officer of the New Jersey Transit Police
22 Department, at all times while in the State of New Jersey, provided the
23 officer has satisfied the training requirements of the Police Training
24 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
25 (C.27:25-15.1);
- 26 (13) A parole officer employed by the Bureau of Parole in the
27 Department of Corrections at all times. Prior to being permitted to
28 carry a firearm, a parole officer shall take and successfully complete
29 a basic course for regular police officer training administered by the
30 Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66
31 et seq.), and shall annually qualify in the use of a revolver or similar
32 weapon prior to being permitted to carry a firearm;
- 33 (14) A Human Services police officer at all times while in the
34 State of New Jersey, as authorized by the Commissioner of Human
35 Services; or
- 36 (15) A person or employee of any person who, pursuant to and as
37 required by a contract with a governmental entity, supervises or
38 transports persons charged with or convicted of an offense.
- 39 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
40 antique firearms, provided that such antique firearms are unloaded or
41 are being fired for the purposes of exhibition or demonstration at an
42 authorized target range or in such other manner as has been approved
43 in writing by the chief law enforcement officer of the municipality in
44 which the exhibition or demonstration is held, or if not held on
45 property under the control of a particular municipality, the
46 superintendent.

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

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

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

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

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

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

45 (1) A member of any rifle or pistol club organized in accordance
46 with the rules prescribed by the National Board for the Promotion of

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

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

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

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

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

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

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

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

46 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to

1 prevent any employee of a public utility, as defined in R.S.48:2-13,
2 doing business in this State or any United States Postal Service
3 employee, while in the actual performance of duties which specifically
4 require regular and frequent visits to private premises, from
5 possessing, carrying or using any device which projects, releases or
6 emits any substance specified as being noninjurious to canines or other
7 animals by the Commissioner of Health and which immobilizes only on
8 a temporary basis and produces only temporary physical discomfort
9 through being vaporized or otherwise dispensed in the air for the sole
10 purpose of repelling canine or other animal attacks.

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

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

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

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

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

46 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to

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

6 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
7 prevent a law enforcement officer who retired in good standing ²,
8 including a retirement because of a disability pursuant to section 6 of
9 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
10 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
11 substantially similar statute governing the disability retirement of
12 federal law enforcement officers, provided the officer was a regularly
13 employed, full-time law enforcement officer for an aggregate of five
14 or more years prior to his disability retirement and further provided
15 that the disability which constituted the basis for the officer's
16 retirement ³ did not involve a certification that the officer was mentally
17 incapacitated for the performance of his usual law enforcement duties
18 and any other available duty in the department which his employer was
19 willing to assign to him or ³ does not subject that retired officer to any
20 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
21 would disqualify the retired officer from possessing or carrying a
22 firearm^{2 3}, who semi-annually qualifies in the use of the handgun he is
23 permitted to carry in accordance with the requirements and procedures
24 established by the Attorney General pursuant to subsection j. of this
25 section and pays the actual costs associated with those semi-annual
26 qualifications ³, who is less than 70 years of age, and who was
27 regularly employed as a full-time member of the State Police; a full-
28 time member of an interstate police force; a full-time member of a
29 county or municipal police department in this State; a full-time
30 member of a State law enforcement agency; a full-time sheriff,
31 undersheriff or sheriff's officer of a county of this State; ¹a full-time
32 State or county corrections officer; ³ a full-time county park police
33 officer; a full-time county prosecutor's detective or investigator ³; or
34 a¹ full-time federal law enforcement officer from carrying a handgun
35 in the same manner as law enforcement officers exempted under
36 paragraph (7) of subsection a. of this section under the conditions
37 provided herein:

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

42 (2) Upon receipt of the written application of the retired law
43 enforcement officer, the superintendent shall request a verification of
44 service from the chief law enforcement officer of the organization in
45 which the retired officer was last regularly employed as a full-time law
46 enforcement officer prior to retiring. The verification of service shall

1 include:

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

3 (b) The date that the retired officer was hired and the date that the
4 officer retired;

5 (c) A list of all handguns known to be registered to that officer;
6 and

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

10 (e) A statement that the officer retired in good standing.

11 (3) If the superintendent approves a retired officer's application or
12 reapplication to carry a handgun pursuant to the provisions of this
13 subsection, the superintendent shall notify in writing the chief law
14 enforcement officer of the municipality wherein that retired officer
15 resides. In the event the retired officer resides in a municipality which
16 has no chief law enforcement officer or law enforcement agency, the
17 superintendent shall maintain a record of the approval.

18 (4) The superintendent shall issue to an approved retired officer
19 an identification card permitting the retired officer to carry a handgun
20 pursuant to this subsection. This identification card shall be valid for
21 one year from the date of issuance and shall be valid throughout the
22 State. The identification card shall not be transferable to any other
23 person. The identification card shall be carried at all times on the
24 person of the retired officer while the retired officer is carrying a
25 handgun. The retired officer shall produce the identification card for
26 review on the demand of any law enforcement officer or authority.

27 (5) Any person aggrieved by the denial of the superintendent of
28 approval for a permit to carry a handgun pursuant to this subsection
29 may request a hearing in the Superior Court of New Jersey in the
30 county in which he resides by filing a written request for such a
31 hearing within 30 days of the denial. Copies of the request shall be
32 served upon the superintendent and the county prosecutor. The
33 hearing shall be held within 30 days of the filing of the request, and no
34 formal pleading or filing fee shall be required. Appeals from the
35 determination of such a hearing shall be in accordance with law and
36 the rules governing the courts of this State.

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

46 (7) The superintendent may charge a reasonable application fee to

1 retired officers to offset any costs associated with administering the
2 application process set forth in this subsection.

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

4

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

12

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

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19 _____
20 Permits certain retired law enforcement officers to carry handguns
under certain conditions.