

ASSEMBLY, No. 2456

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 7, 1996

By Assemblymen O'TOOLE and WEINGARTEN

1 AN ACT concerning certain sales or transfers of firearms to persons  
2 under the age of 18 years and amending N.J.S.2C:2-6.

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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:2-6 is amended to read as follows:

8 2C:2-6. a. A person is guilty of an offense if it is committed by his  
9 own conduct or by the conduct of another person for which he is  
10 legally accountable, or both.

11 b. A person is legally accountable for the conduct of another  
12 person when:

13 (1) Acting with the kind of culpability that is sufficient for the  
14 commission of the offense, he causes an innocent or irresponsible  
15 person to engage in such conduct;

16 (2) He is made accountable for the conduct of such other person  
17 by the code or by the law defining the offense;

18 (3) He is an accomplice of such other person in the commission of  
19 an offense; [or]

20 (4) He is engaged in a conspiracy with such other person ; or

21 (5) He illegally sells, gives or transfers a firearm to a person under  
22 the age of 18 years who commits, or attempts to commit, a crime with  
23 that firearm.

24 c. A person is an accomplice of another person in the commission  
25 of an offense if:

26 (1) With the purpose of promoting or facilitating the commission  
27 of the offense; he

28 (a) Solicits such other person to commit it;

29 (b) Aids or agrees or attempts to aid such other person in planning  
30 or committing it; or

31 (c) Having a legal duty to prevent the commission of the offense,  
32 fails to make proper effort so to do; or

33 (2) His conduct is expressly declared by law to establish his  
34 complicity.

**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 d. A person who is legally incapable of committing a particular  
2 offense himself may be guilty thereof if it is committed by another  
3 person for whose conduct he is legally accountable, unless such  
4 liability is inconsistent with the purpose of the provision establishing  
5 his incapacity.

6 e. Unless otherwise provided by the code or by the law defining the  
7 offense, a person is not an accomplice in an offense committed by  
8 another person if:

9 (1) He is a victim of that offense;

10 (2) The offense is so defined that his conduct is inevitably incident  
11 to its commission; or

12 (3) He terminates his complicity under circumstances manifesting  
13 a complete and voluntary renunciation as defined in section 2C:5-1 d.  
14 prior to the commission of the offense. Termination by renunciation  
15 is an affirmative defense which the defendant must prove by a  
16 preponderance of evidence.

17 f. An accomplice may be convicted on proof of the commission of  
18 the offense and of his complicity therein, though the person claimed to  
19 have committed the offense has not been prosecuted or convicted or  
20 has been convicted of a different offense or degree of offense or has  
21 an immunity to prosecution or conviction or has been acquitted.

22 (cf: P.L.1978, c.95, s.2C:2-6)

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24 2. This act shall take effect immediately .

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#### STATEMENT

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29 This bill provides that a person who illegally sells or transfers a  
30 firearm to an individual under the age of 18 shall be held legally  
31 accountable if that juvenile commits, or attempts to commit, a crime  
32 with that firearm.

33 Under N.J.S.2C:39-10, a person who sells or transfers a firearm to  
34 a person under the age of 18 is guilty of a crime of the third degree  
35 and subject to a mandatory minimum term of imprisonment of three  
36 years, during which he is ineligible for parole.

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41 Assigns liability for illegal transfer of firearm when used in crime by a  
42 juvenile.