

P.L. 1997, CHAPTER 393, *approved January 19, 1998*
Senate, No. 2007 (*First Reprint*)

1 AN ACT concerning the use of weapons in wildlife control and
2 research and amending N.J.S.2C:39-6.

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

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 SJU committee amendments adopted May 8, 1997.

1 in the performance of his duties, and when required to possess the
2 weapon by his superior officer, or a correction officer or keeper of a
3 penal institution in this State at all times while in the State of New
4 Jersey, provided he annually passes an examination approved by the
5 superintendent testing his proficiency in the handling of firearms;

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

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

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

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

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

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

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

44 (1) A law enforcement officer employed by a governmental agency
45 outside of the State of New Jersey while actually engaged in his
46 official duties, provided, however, that he has first notified the

1 superintendent or the chief law enforcement officer of the municipality
2 or the prosecutor of the county in which he is engaged; or

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

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

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

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

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

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

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

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

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

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

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

44 (10) A campus police officer appointed under P.L.1970, c.211
45 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
46 firearm, a campus police officer shall take and successfully complete

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 fishing, a valid fishing license;

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

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

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

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

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

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

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

46 The device shall be used solely to repel only those canine or other

1 animal attacks when the canines or other animals are not restrained in
2 a fashion sufficient to allow the employee to properly perform his
3 duties.

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

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

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

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

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

41 l.¹Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
42 prevent a law enforcement officer who retired in good standing,
43 including a retirement because of a disability pursuant to section 6 of
44 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
45 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
46 substantially similar statute governing the disability retirement of

1 federal law enforcement officers, provided the officer was a regularly
2 employed, full-time law enforcement officer for an aggregate of five
3 or more years prior to his disability retirement and further provided
4 that the disability which constituted the basis for the officer's
5 retirement did not involve a certification that the officer was mentally
6 incapacitated for the performance of his usual law enforcement duties
7 and any other available duty in the department which his employer was
8 willing to assign to him or does not subject that retired officer to any
9 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
10 would disqualify the retired officer from possessing or carrying a
11 firearm, who semi-annually qualifies in the use of the handgun he is
12 permitted to carry in accordance with the requirements and procedures
13 established by the Attorney General pursuant to subsection j. of this
14 section and pays the actual costs associated with those semi-annual
15 qualifications, who is less than 70 years of age, and who was regularly
16 employed as a full-time member of the State Police; a full-time
17 member of an interstate police force; a full-time member of a county
18 or municipal police department in this State; a full-time member of a
19 State law enforcement agency; a full-time sheriff, undersheriff or
20 sheriff's officer of a county of this State; a full-time State or county
21 corrections officer; a full-time county park police officer; a full-time
22 county prosecutor's detective or investigator; or a full-time federal law
23 enforcement officer from carrying a handgun in the same manner as
24 law enforcement officers exempted under paragraph (7) of subsection
25 a. of this section under the conditions provided herein:

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

30 (2) Upon receipt of the written application of the retired law
31 enforcement officer, the superintendent shall request a verification of
32 service from the chief law enforcement officer of the organization in
33 which the retired officer was last regularly employed as a full-time law
34 enforcement officer prior to retiring. The verification of service shall
35 include:

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

37 (b) The date that the retired officer was hired and the date that the
38 officer retired;

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

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

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

45 (3) If the superintendent approves a retired officer's application or
46 reapplication to carry a handgun pursuant to the provisions of this

1 subsection, the superintendent shall notify in writing the chief law
2 enforcement officer of the municipality wherein that retired officer
3 resides. In the event the retired officer resides in a municipality which
4 has no chief law enforcement officer or law enforcement agency, the
5 superintendent shall maintain a record of the approval.

6 (4) The superintendent shall issue to an approved retired officer an
7 identification card permitting the retired officer to carry a handgun
8 pursuant to this subsection. This identification card shall be valid for
9 one year from the date of issuance and shall be valid throughout the
10 State. The identification card shall not be transferable to any other
11 person. The identification card shall be carried at all times on the
12 person of the retired officer while the retired officer is carrying a
13 handgun. The retired officer shall produce the identification card for
14 review on the demand of any law enforcement officer or authority.

15 (5) Any person aggrieved by the denial of the superintendent of
16 approval for a permit to carry a handgun pursuant to this subsection
17 may request a hearing in the Superior Court of New Jersey in the
18 county in which he resides by filing a written request for such a
19 hearing within 30 days of the denial. Copies of the request shall be
20 served upon the superintendent and the county prosecutor. The
21 hearing shall be held within 30 days of the filing of the request, and no
22 formal pleading or filing fee shall be required. Appeals from the
23 determination of such a hearing shall be in accordance with law and
24 the rules governing the courts of this State.

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

34 (7) The superintendent may charge a reasonable application fee to
35 retired officers to offset any costs associated with administering the
36 application process set forth in this subsection.

37 . m.¹ Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
38 to prevent duly authorized personnel of the New Jersey Division of
39 Fish, Game and Wildlife¹, while in the actual performance of duties,¹
40 from possessing, transporting or using any device that projects,
41 releases or emits any substance specified as being non-injurious to
42 wildlife by the Director of the Division of Animal Health in the
43 Department of Agriculture, and which may immobilize wildlife and
44 produces only temporary physical discomfort through being vaporized
45 or otherwise dispensed in the air for the purpose of repelling bear or
46 other animal attacks or for the aversive conditioning of wildlife.

1 ¹[m.] n.¹ Nothing in subsections b., c., d. or e. of N.J.S.2C:39-5
2 shall be construed to prevent duly authorized personnel of the New
3 Jersey Division of Fish ¹[and], ¹ Game and Wildlife ¹ while in the
4 actual performance of duties,¹ from possessing, transporting or using
5 hand held pistol-like devices, rifles or shotguns that launch pyrotechnic
6 missiles for the sole purpose of frightening, hazing or aversive
7 conditioning of nuisance or depredating wildlife; from possessing,
8 transporting or using rifles, pistols or similar devices for the sole
9 purpose of chemically immobilizing wild or non-domestic animals; or
10 ¹ provided the duly authorized person complies with the requirements
11 of subsection j. of this section,¹ from possessing, transporting or using
12 rifles or shotguns, upon completion of a Police Training Commission
13 approved training course, in order to dispatch injured or dangerous
14 animals or for non-lethal use for the purpose of frightening, hazing or
15 aversive conditioning of nuisance or depredating wildlife.
16 (cf: P.L.1997, c.67, s.1)

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18 2. This act shall take effect immediately.

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23 Authorizes Division of Fish, Game and Wildlife personnel to use
24 certain weapons when controlling or conducting research on wildlife.