

SENATE, No. 363

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators MATHEUSSEN and CODEY

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 used for school
32 purposes, without the written authorization of the governing officer of

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 the institution and irrespective of the fact that he possesses a valid
2 permit to carry the firearm, or if a permit is not required by law, the
3 appropriate valid firearms purchaser identification card or valid permit
4 to purchase a handgun, is guilty of a crime of the third degree[,
5 irrespective of whether he possesses a valid permit to carry the firearm
6 or a valid firearms purchaser identification card].

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

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

25 (4) Any person who (a) knowingly has in his possession any
26 firearm while in or within 1,000 feet from the outermost boundaries of
27 buildings or grounds owned or leased by any school, college,
28 university or other educational institution and used for school
29 purposes, or while on any school bus, and (b) possesses the firearm in
30 violation of any law of this State is guilty of a crime of the second
31 degree.

32 (5) It shall not be a defense to a prosecution for a violation of this
33 subsection that the actor was unaware that the prohibited possession
34 took place while in or upon any part of the buildings of any school,
35 college, university or other educational institution or within 1,000 feet
36 from school property. It shall not be a defense to a prosecution under
37 this subsection that no juveniles or students were present on the school
38 property at the time of the offense or that the school was not in
39 session.

40 (6) In a prosecution under this subsection, a map produced or
41 reproduced by any municipal or county engineer for the purpose of
42 depicting the location and boundaries of the buildings or grounds
43 owned by or leased to any school, school board, college, university or
44 other educational institution and used for school purposes, or within
45 1,000 feet from the outermost boundaries of those buildings or
46 grounds, or a true copy of such a map, shall be admissible upon proper

1 authentication, and shall constitute prima facie evidence of the location
2 and boundaries of those areas, provided that the governing body of the
3 municipality or county has adopted a resolution or ordinance
4 approving the map as the official finding and record of the location and
5 boundaries of those areas. Any map approved pursuant to this section
6 may be changed from time to time by the governing body of the
7 municipality or county. The original of every map approved or revised
8 pursuant to this section, or a true copy thereof, shall be filed with the
9 clerk of the municipality or county, and shall be maintained as an
10 official record of the municipality or county. Nothing in this
11 subsection shall be construed to preclude the prosecution from
12 introducing or relying upon any other evidence or testimony to
13 establish any element of this offense; nor shall this section be
14 construed to preclude the use or admissibility of any map or diagram
15 other than one which has been approved by the governing body of a
16 municipality or county, provided that the map or diagram is otherwise
17 admissible pursuant to the Rules of Evidence.

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

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

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

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

32 2C:39-6. a. Provided a person complies with the requirements of
33 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

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

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

41 (3) Members of the State Police and, under conditions prescribed
42 by the superintendent, members of the Marine Law Enforcement
43 Bureau of the Division of State Police;

44 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
45 assistant prosecutor, prosecutor's detective or investigator, deputy
46 attorney general or State investigator employed by the Division of

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

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

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

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

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

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

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

1 revolver or similar weapon prior to being permitted to carry a firearm.

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

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

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

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

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

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

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

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

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

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

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

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

44 (9) A railway policeman, except a transit police officer of the New
45 Jersey Transit Police Department, at all times while in the State of
46 New Jersey, provided that he has passed an approved police academy

1 training program consisting of at least 280 hours. The training
2 program shall include, but need not be limited to, the handling of
3 firearms, community relations, and juvenile relations; [or]

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

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

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

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

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

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

43 (3) 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 unloaded antique cannon that is being transported by one eligible to
46 possess it, in compliance with regulations the superintendent may

1 promulgate, between its permanent location and place of purchase or
2 repair.

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

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

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

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

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

45 (2) A person carrying a firearm or knife in the woods or fields or
46 upon the waters of this State for the purpose of hunting, target

1 practice or fishing, provided that the firearm or knife is legal and
2 appropriate for hunting or fishing purposes in this State and he has in
3 his possession a valid hunting license, or, with respect to fresh water
4 fishing, a valid fishing license;

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

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

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

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

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

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

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

1 through being vaporized or otherwise dispensed in the air for the sole
2 purpose of repelling canine or other animal attacks.

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

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

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

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

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

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

44 (cf: P.L.1993, c.246, s.2)

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46 3. This act shall take effect immediately.

STATEMENT

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3 This bill would increase the penalties for possession of a firearm or
4 handgun in educational institutions under certain circumstances.
5 Specifically, the bill makes it a crime of the third degree for any person
6 to knowingly possess a firearm in or upon any school property without
7 the written authorization of the institution and irrespective of the fact
8 that the person possesses a valid permit or a valid identification card
9 to carry a firearm or valid permit to purchase a handgun. The current
10 provision of the law which makes it a crime of the fourth degree to
11 knowingly possess any weapons on school property would remain
12 unchanged.

13 In addition, the bill would make it a crime of the second degree for
14 any person to possess any firearm on school property without the
15 written authorization of the school and without possessing a valid
16 permit or valid purchaser identification card to carry a firearm or a
17 valid permit to purchase a handgun. The bill would also make it a
18 crime of the second degree for any person to knowingly possess any
19 firearm while on or within 1,000 feet of a school or while on any
20 school bus and to possess the firearm in violation of any law. It would
21 not be a defense to a prosecution for a violation of this section if the
22 actor was unaware that he was on school property.

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

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31 Creates "gun free" school zones.