

SENATE, No. 916

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1996

By Senators GIRGENTI, KOSCO, Rice and Cafiero

1 AN ACT concerning the carrying the handguns in certain cases and
2 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. Exemptions a. Provided a person complies with the
9 requirements of subsection j. of this section, N.J.S.2C:39-5 does not
10 apply to:

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

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

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

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

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

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 penal institution in this State at all times while in the State of New
2 Jersey, provided he annually passes an examination approved by the
3 superintendent testing his proficiency in the handling of firearms;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall annually qualify in the use of a revolver or similar weapon prior
2 to being permitted to carry a firearm;

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

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

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

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

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

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

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

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

45 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
46 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 duties.

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

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

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

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

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

39 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
40 prevent a police officer who retired in good standing, is not over 70
41 years of age and who was regularly employed for an aggregate of 25
42 or more years as a full-time member of a county or municipal police
43 department in this State or a full-time member of the State Police
44 from carrying a handgun under the conditions provided herein. The
45 retired officer, within six months after retirement, shall make
46 application in writing to and may receive approval to carry the

1 handgun for one year by the chief of police of the municipality or
2 county wherein he was last regularly employed as a full-time police
3 officer prior to his retirement or, in the case of a retired member of the
4 State Police, to the superintendent. An application for annual renewal
5 shall be submitted in the same manner to the chief of police of that
6 municipality or county, or to the superintendent, as appropriate.

7 Whenever a chief of police or the superintendent shall approve a
8 retired police officer's application or reapplication to carry a handgun
9 pursuant to the provisions of this section, he shall forthwith so notify
10 in writing the chief of police of the municipality wherein that retired
11 police officer resides. In the event the retired police officer resides in
12 a municipality having no chief of police, the notice shall be filed with
13 the superintendent.

14 A person approved to carry a handgun under this subsection shall
15 annually qualify in the use of the handgun he is permitted to carry.
16 The annual qualification, which shall be in accordance with the
17 procedures established by the Attorney General pursuant to subsection
18 j. of this section, shall be conducted in the municipality wherein the
19 retired police officer was last regularly employed as a full-time officer
20 prior to his retirement or, in the case of a retired member of the State
21 Police, at a place designated by the superintendent.

22 In addition, a retired police officer approved to carry a handgun
23 under this subsection shall provide proof of either a bond or insurance
24 sufficient to protect and absolve the municipality of any and all claims
25 arising or which may arise from his carrying that handgun. A person
26 who fails to so qualify in any year or becomes subject to any of the
27 disabilities set forth in subsection c. of N.J.S.2C:58-3 shall be
28 permanently disqualified to carry a handgun under this section.

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

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31 2. (New section) Any police officer who meets all the
32 qualifications set forth in subsection 1. of N.J.S.2C:39-6, but retired
33 prior to the enactment of this amendatory act, may apply and receive
34 approval to carry a handgun. Any such application shall be in the
35 manner as provided in subsection 1. of N.J.S.2C:39-6 and any such
36 retired police officer whose application is approved pursuant thereto
37 shall be subject to all the restrictions, qualifications and requirements
38 set forth therein.

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40 3. This act shall take effect immediately, but section 2 shall expire
41 on the 60th day following enactment.

42 STATEMENT

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45 This bill permits a State, county or municipal police officer who
46 retires in good standing with an aggregate of 25 or more years of

1 service to carry a handgun under certain conditions.

2 To secure permission to carry a handgun under the provisions of
3 this bill, a retired police officer must apply, in writing, to the chief of
4 police of the municipality or county wherein he was last regularly
5 employed as a full-time officer. In the case of a retired member of the
6 State Police, the written application for permission to carry a handgun
7 must be submitted to the superintendent. The application must be
8 submitted within six months of the police officer's date of retirement.
9 The same procedure is to be followed for the annual renewals: retired
10 municipal and county police officers are to submit their renewal
11 applications to the police chief of the department from which they
12 retired; retired members of the State Police, to the superintendent.

13 The bill further provides that whenever a retired officer is granted
14 permission to carry a handgun, the chief of police of the municipality
15 where he resides is to be notified of that fact. The notice is to be
16 provided by the chief of police or the superintendent, whoever
17 approved the retired officer's application. In the event the retired
18 police officer resides in a municipality that does not have a chief of
19 police, the notice is to be forwarded to the superintendent.

20 In addition, the bill sets forth two requirements for a retired police
21 officer who has been given approval to carry a handgun. First, the
22 retired police officer must annually qualify with the handgun he is
23 permitted to carry in the municipality where he was last regularly
24 employed as a police officer prior to his retirement and in accordance
25 with the procedures established by the Attorney General. Second, the
26 retired police officer must provide proof of either a bond or insurance
27 to absolve the municipality of any liability which may arise from the
28 retired police officer's carrying that handgun.

29 The authorization granted under this bill to carry a handgun would
30 be revoked if the retired officer fails to qualify annually in the use of
31 the weapon or becomes subject to any of the other disqualifications set
32 forth in N.J.S.2C:58-3c.

33 Finally, the bill provides a 60 day "window of opportunity" for
34 police officers who retired prior to enactment. Under this provision,
35 any retired police officer who meets the other requirements of the bill
36 may apply for permission to carry a handgun.

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42 Permits certain retired police officers to carry handguns under certain
conditions.