

[Passed Both Houses]

[First Reprint]

SENATE, No. 2007

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1997

By Senator LITTELL, Assemblymen Gregg and Lance

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:

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 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
46 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is

1 being transported by one eligible to possess it, in compliance with
2 regulations the superintendent may promulgate, between its permanent
3 location and place of purchase or repair.

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

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

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

35 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
36 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 1. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
45 prevent a law enforcement officer who retired in good standing,
46 including a retirement because of a disability pursuant to section 6 of

1 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
2 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
3 substantially similar statute governing the disability retirement of
4 federal law enforcement officers, provided the officer was a regularly
5 employed, full-time law enforcement officer for an aggregate of five
6 or more years prior to his disability retirement and further provided
7 that the disability which constituted the basis for the officer's
8 retirement did not involve a certification that the officer was mentally
9 incapacitated for the performance of his usual law enforcement duties
10 and any other available duty in the department which his employer was
11 willing to assign to him or does not subject that retired officer to any
12 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
13 would disqualify the retired officer from possessing or carrying a
14 firearm, who semi-annually qualifies in the use of the handgun he is
15 permitted to carry in accordance with the requirements and procedures
16 established by the Attorney General pursuant to subsection j. of this
17 section and pays the actual costs associated with those semi-annual
18 qualifications, who is less than 70 years of age, and who was regularly
19 employed as a full-time member of the State Police; a full-time
20 member of an interstate police force; a full-time member of a county
21 or municipal police department in this State; a full-time member of a
22 State law enforcement agency; a full-time sheriff, undersheriff or
23 sheriff's officer of a county of this State; a full-time State or county
24 corrections officer; a full-time county park police officer; a full-time
25 county prosecutor's detective or investigator; or a full-time federal law
26 enforcement officer from carrying a handgun in the same manner as
27 law enforcement officers exempted under paragraph (7) of subsection
28 a. of this section under the conditions provided herein:

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

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

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

40 (b) The date that the retired officer was hired and the date that the
41 officer retired;

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

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

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

2 (3) If the superintendent approves a retired officer's application or
3 reapplication to carry a handgun pursuant to the provisions of this
4 subsection, the superintendent shall notify in writing the chief law
5 enforcement officer of the municipality wherein that retired officer
6 resides. In the event the retired officer resides in a municipality which
7 has no chief law enforcement officer or law enforcement agency, the
8 superintendent shall maintain a record of the approval.

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

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

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

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

40 m.¹ Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
41 to prevent duly authorized personnel of the New Jersey Division of
42 Fish, Game and Wildlife¹, while in the actual performance of duties,¹
43 from possessing, transporting or using any device that projects,
44 releases or emits any substance specified as being non-injurious to
45 wildlife by the Director of the Division of Animal Health in the
46 Department of Agriculture, and which may immobilize wildlife and

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

20

21 2. This act shall take effect immediately.

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