

ASSEMBLY, No. 6068

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 15, 2021

Sponsored by:

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Assemblyman BRIAN BERGEN

District 25 (Morris and Somerset)

SYNOPSIS

Allows possession of bear spray under certain conditions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/2/2021)

1 AN ACT concerning possession of bear spray under certain
2 conditions and amending P.L.1993, c.211 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. Section 1 of P.L.1993, c.211 (C.2A:62A-20) is amended to
8 read as follows:

9 1. Notwithstanding any provisions of law to the contrary, a
10 person who possesses a chemical substance for the purpose of
11 personal self-defense in accordance with subsection i. of
12 N.J.S.2C:39-6 or repelling an aggressive bear in accordance with
13 subsection o. of N.J.S.2C:39-6 and who releases or discharges that
14 chemical substance upon or toward another person shall not be
15 liable in any civil action for damages resulting from that release or
16 discharge when the actor reasonably believes that the releasing or
17 discharging of that chemical substance is immediately necessary for
18 the purpose of personal self-defense. Nothing in this section shall
19 be deemed to grant immunity to any person causing any damage by
20 **【his】** the willful, wanton, or grossly negligent unlawful releasing
21 or discharging of such a chemical substance upon or toward another
22 person.

23 (cf: P.L.1993, c.211, s.1)

24
25 2. N.J.S.2C:39-6 is amended to read as follows:

26 2C:39-6. a. Provided a person complies with the requirements
27 of subsection j. of this section, N.J.S.2C:39-5 does not apply to:

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

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

35 (3) Members of the State Police and, under conditions
36 prescribed by the superintendent, members of the Marine Law
37 Enforcement Bureau of the Division of State Police;

38 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
39 assistant prosecutor, prosecutor's detective or investigator, deputy
40 attorney general or State investigator employed by the Division of
41 Criminal Justice of the Department of Law and Public Safety,
42 investigator employed by the State Commission of Investigation,
43 inspector of the Alcoholic Beverage Control Enforcement Bureau of
44 the Division of State Police in the Department of Law and Public
45 Safety authorized to carry weapons by the Superintendent of State

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Police, State park police officer, or State conservation police
2 officer;

3 (5) Except as hereinafter provided, a State correctional police
4 officer, or a prison or jail warden of any penal institution in this
5 State or the warden's deputies, or an employee of the Department of
6 Corrections engaged in the interstate transportation of convicted
7 offenders, while in the performance of the employee's duties, and
8 when required to possess the weapon by a superior officer, or a
9 correctional police officer or keeper of a penal institution in this
10 State at all times while in the State of New Jersey, provided the
11 person annually passes an examination approved by the
12 superintendent testing the person's proficiency in the handling of
13 firearms;

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

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

25 (b) A special law enforcement officer authorized to carry a
26 weapon 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
29 officer appointed by the governing body of any county or
30 municipality, except as provided in subparagraph (b) of this
31 paragraph, or by the commission, board or other body having
32 control of a county park or airport or boulevard police force, while
33 engaged in the actual performance of the officer's official duties and
34 when specifically authorized by the governing body to carry
35 weapons;

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

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

3 (9) A juvenile correctional police officer in the employment of
4 the Juvenile Justice Commission established pursuant to section 2
5 of P.L.1995, c.284 (C.52:17B-170) subject to the regulations
6 promulgated by the commission;

7 (10) A designated employee or designated licensed agent for a
8 nuclear power plant under license of the Nuclear Regulatory
9 Commission, while in the actual performance of the person's
10 official duties, if the federal licensee certifies that the designated
11 employee or designated licensed agent is assigned to perform site
12 protection, guard, armed response or armed escort duties and is
13 appropriately trained and qualified, as prescribed by federal
14 regulation, to perform those duties. Any firearm utilized by an
15 employee or agent for a nuclear power plant pursuant to this
16 paragraph shall be returned each day at the end of the employee's or
17 agent's authorized official duties to the employee's or agent's
18 supervisor. All firearms returned each day pursuant to this
19 paragraph shall be stored in locked containers located in a secure
20 area;

21 (11) A county correctional police officer at all times while in the
22 State of New Jersey, provided the officer annually passes an
23 examination approved by the superintendent testing the officer's
24 proficiency in the handling of firearms.

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

26 (1) A law enforcement officer employed by a governmental
27 agency outside of the State of New Jersey while actually engaged in
28 the officer's official duties, provided, however, that the officer has
29 first notified the superintendent or the chief law enforcement officer
30 of the municipality or the prosecutor of the county in which the
31 officer is engaged; or

32 (2) A licensed dealer in firearms and the dealer's registered
33 employees during the course of their normal business while
34 traveling to and from their place of business and other places for the
35 purpose of demonstration, exhibition or delivery in connection with
36 a sale, provided, however, that the weapon is carried in the manner
37 specified in subsection g. of this section.

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

41 (1) A special agent of the Division of Taxation who has passed
42 an examination in an approved police training program testing
43 proficiency in the handling of any firearm which the agent may be
44 required to carry, while in the actual performance of the agent's
45 official duties and while going to or from the agent's place of duty,
46 or any other police officer, while in the actual performance of the
47 officer's official duties;

- 1 (2) A State deputy conservation police officer or a full-time
2 employee of the Division of Parks and Forestry having the power of
3 arrest and authorized to carry weapons, while in the actual
4 performance of the officer's official duties;
- 5 (3) (Deleted by amendment, P.L.1986, c.150.)
- 6 (4) A court attendant appointed by the sheriff of the county or
7 by the judge of any municipal court or other court of this State,
8 while in the actual performance of the attendant's official duties;
- 9 (5) A guard employed by any railway express company, banking
10 or building and loan or savings and loan institution of this State,
11 while in the actual performance of the guard's official duties;
- 12 (6) A member of a legally recognized military organization
13 while actually under orders or while going to or from the prescribed
14 place of meeting and carrying the weapons prescribed for drill,
15 exercise or parade;
- 16 (7) A municipal humane law enforcement officer, authorized
17 pursuant to subsection d. of section 25 of P.L.2017, c.331 (C.4:22-
18 14.1), or humane law enforcement officer of a county society for
19 the prevention of cruelty to animals authorized pursuant to
20 subsection c. of section 29 of P.L.2017, c.331 (C.4:22-14.5), while
21 in the actual performance of the officer's duties;
- 22 (8) An employee of a public utilities corporation actually
23 engaged in the transportation of explosives;
- 24 (9) A railway policeman, except a transit police officer of the
25 New Jersey Transit Police Department, at all times while in the
26 State of New Jersey, provided that the person has passed an
27 approved police academy training program consisting of at least
28 280 hours. The training program shall include, but need not be
29 limited to, the handling of firearms, community relations, and
30 juvenile relations;
- 31 (10) A campus police officer appointed under P.L.1970, c.211
32 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry
33 a firearm, a campus police officer shall take and successfully
34 complete a firearms training course administered by the Police
35 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
36 seq.), and shall annually qualify in the use of a revolver or similar
37 weapon prior to being permitted to carry a firearm;
- 38 (11) (Deleted by amendment, P.L.2003, c.168).
- 39 (12) A transit police officer of the New Jersey Transit Police
40 Department, at all times while in the State of New Jersey, provided
41 the officer has satisfied the training requirements of the Police
42 Training Commission, pursuant to subsection c. of section 2 of
43 P.L.1989, c.291 (C.27:25-15.1);
- 44 (13) A parole officer employed by the State Parole Board at all
45 times. Prior to being permitted to carry a firearm, a parole officer
46 shall take and successfully complete a basic course for regular
47 police officer training administered by the Police Training
48 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
2 prior to being permitted to carry a firearm;

3 (14) A Human Services police officer at all times while in the
4 State of New Jersey, as authorized by the Commissioner of Human
5 Services;

6 (15) A person or employee of any person who, pursuant to and as
7 required by a contract with a governmental entity, supervises or
8 transports persons charged with or convicted of an offense;

9 (16) A housing authority police officer appointed under
10 P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the
11 State of New Jersey; or

12 (17) A probation officer assigned to the "Probation Officer
13 Community Safety Unit" created by section 2 of P.L.2001, c.362
14 (C.2B:10A-2) while in the actual performance of the probation
15 officer's official duties. Prior to being permitted to carry a firearm,
16 a probation officer shall take and successfully complete a basic
17 course for regular police officer training administered by the Police
18 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
19 seq.), and shall annually qualify in the use of a revolver or similar
20 weapon prior to being permitted to carry a firearm.

21 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
22 antique firearms, provided that the antique firearms are unloaded or
23 are being fired for the purposes of exhibition or demonstration at an
24 authorized target range or in another manner approved in writing by
25 the chief law enforcement officer of the municipality in which the
26 exhibition or demonstration is held, or if not held on property under
27 the control of a particular municipality, the superintendent.

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

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

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

1 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
2 N.J.S.2C:39-5 do not apply to the transportation of unloaded
3 antique cannons directly to or from exhibitions or demonstrations
4 authorized under paragraph (4) of subsection d. of this section,
5 provided that the transportation is in compliance with safety
6 regulations the superintendent may promulgate. Those subsections
7 shall not apply to transportation directly to or from exhibitions or
8 demonstrations authorized under the law of another jurisdiction,
9 provided that the superintendent has been given 30 days' notice and
10 that the transportation is in compliance with safety regulations the
11 superintendent may promulgate.

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

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

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

34 (2) A person carrying a firearm or knife in the woods or fields
35 or upon the waters of this State for the purpose of hunting, target
36 practice or fishing, provided that the firearm or knife is legal and
37 appropriate for hunting or fishing purposes in this State and the
38 person has in his possession a valid hunting license, or, with respect
39 to fresh water fishing, a valid fishing license;

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

41 (a) Directly to or from any place for the purpose of hunting or
42 fishing, provided the person has in possession a valid hunting or
43 fishing license; or

44 (b) Directly to or from any target range, or other authorized
45 place for the purpose of practice, match, target, trap or skeet
46 shooting exhibitions, provided in all cases that during the course of
47 the travel all firearms are carried in the manner specified in
48 subsection g. of this section and the person has complied with all

1 the provisions and requirements of Title 23 of the Revised Statutes
2 and any amendments thereto and all rules and regulations
3 promulgated thereunder; or

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

16 (4) A person from keeping or carrying about a private or
17 commercial aircraft or any boat, or from transporting to or from the
18 aircraft or boat for the purpose of installation or repair of a visual
19 distress signaling device approved by the United States Coast
20 Guard.

21 g. Any weapon being transported under paragraph (2) of
22 subsection b., subsection e., or paragraph (1) or (3) of subsection f.
23 of this section shall be carried unloaded and contained in a closed
24 and fastened case, gunbox, securely tied package, or locked in the
25 trunk of the automobile in which it is being transported, and in the
26 course of travel shall include only deviations as are reasonably
27 necessary under the circumstances.

28 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
29 to prevent any employee of a public utility, as defined in R.S.48:2-
30 13, doing business in this State or any United States Postal Service
31 employee, while in the actual performance of duties which
32 specifically require regular and frequent visits to private premises,
33 from possessing, carrying or using any device which projects,
34 releases or emits any substance specified as being noninjurious to
35 canines or other animals by the Commissioner of Health and which
36 immobilizes only on a temporary basis and produces only
37 temporary physical discomfort through being vaporized or
38 otherwise dispensed in the air for the sole purpose of repelling
39 canine or other animal attacks.

40 The device shall be used solely to repel only those canine or
41 other animal attacks when the canines or other animals are not
42 restrained in a fashion sufficient to allow the employee to properly
43 perform the employee's duties.

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

47 i. (1) Nothing in N.J.S.2C:39-5 shall be construed to prevent any
48 person who is 18 years of age or older and who has not been

1 convicted of a crime, from possession for the purpose of personal
2 self-defense of one pocket-sized device which contains and releases
3 not more than three-quarters of an ounce of chemical substance not
4 ordinarily capable of lethal use or of inflicting serious bodily injury,
5 but rather, is intended to produce temporary physical discomfort or
6 disability through being vaporized or otherwise dispensed in the air.
7 Any person in possession of any device in violation of this
8 subsection shall be deemed and adjudged to be a disorderly person,
9 and upon conviction thereof, shall be punished by a fine of not less
10 than \$100.

11 (2) Notwithstanding the provisions of paragraph (1) of this
12 subsection, nothing in N.J.S.2C:39-5 shall be construed to prevent a
13 health inspector or investigator operating pursuant to the provisions
14 of section 7 of P.L.1977, c.443 (C.26:3A2-25) or a building
15 inspector from possessing a device which is capable of releasing
16 more than three-quarters of an ounce of a chemical substance, as
17 described in paragraph (1) of this subsection, while in the actual
18 performance of the inspector's or investigator's duties, provided that
19 the device does not exceed the size of those used by law
20 enforcement.

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

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

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

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

1 substantially similar statute governing the disability retirement of
2 federal law enforcement officers, provided the officer was a
3 regularly employed, full-time law enforcement officer for an
4 aggregate of four or more years prior to the officer's disability
5 retirement and further provided that the disability which constituted
6 the basis for the officer's retirement did not involve a certification
7 that the officer was mentally incapacitated for the performance of
8 the officer's usual law enforcement duties and any other available
9 duty in the department which the officer's employer was willing to
10 assign to the officer or does not subject that retired officer to any of
11 the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
12 would disqualify the retired officer from possessing or carrying a
13 firearm, who semi-annually qualifies in the use of the handgun the
14 officer is permitted to carry in accordance with the requirements
15 and procedures established by the Attorney General pursuant to
16 subsection j. of this section and pays the actual costs associated
17 with those semi-annual qualifications, who is 75 years of age or
18 younger, and who was regularly employed as a full-time member of
19 the State Police; a full-time member of an interstate police force; a
20 full-time member of a county or municipal police department in this
21 State; a full-time member of a State law enforcement agency; a full-
22 time sheriff, undersheriff or sheriff's officer of a county of this
23 State; a full-time State or county correctional police officer; a full-
24 time State correctional police officer or county correctional police
25 officer; a full-time State or county park police officer; a full-time
26 special agent of the Division of Taxation; a full-time Human
27 Services police officer; a full-time transit police officer of the New
28 Jersey Transit Police Department; a full-time campus police officer
29 exempted pursuant to paragraph (10) of subsection c. of this
30 section; a full-time State conservation police officer exempted
31 pursuant to paragraph (4) of subsection a. of this section; a full-time
32 Palisades Interstate Park officer appointed pursuant to R.S.32:14-
33 21; a full-time Burlington County Bridge police officer appointed
34 pursuant to section 1 of P.L.1960, c.168 (C.27:19-36.3); a full-time
35 housing authority police officer exempted pursuant to paragraph
36 (16) of subsection c. of this section; a full-time juvenile correctional
37 police officer exempted pursuant to paragraph (9) of subsection a.
38 of this section; a full-time parole officer exempted pursuant to
39 paragraph (13) of subsection c. of this section; a full-time railway
40 policeman exempted pursuant to paragraph (9) of subsection c. of
41 this section; a full-time county prosecutor's detective or
42 investigator; a full-time federal law enforcement officer; or is a
43 qualified retired law enforcement officer, as used in the federal
44 "Law Enforcement Officers Safety Act of 2004," Pub.L. 108-277,
45 domiciled in this State from carrying a handgun in the same manner
46 as law enforcement officers exempted under paragraph (7) of
47 subsection a. of this section under the conditions provided herein:

1 (1) The retired law enforcement officer shall make application
2 in writing to the Superintendent of State Police for approval to carry
3 a handgun for one year. An application for annual renewal shall be
4 submitted in the same manner.

5 (2) Upon receipt of the written application of the retired law
6 enforcement officer, the superintendent shall request a verification
7 of service from the chief law enforcement officer of the
8 organization in which the retired officer was last regularly
9 employed as a full-time law enforcement officer prior to retiring.
10 The verification of service shall include:

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

12 (b) The date that the retired officer was hired and the date that
13 the officer retired;

14 (c) A list of all handguns known to be registered to that officer;

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

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

19 (3) If the superintendent approves a retired officer's application
20 or reapplication to carry a handgun pursuant to the provisions of
21 this subsection, the superintendent shall notify in writing the chief
22 law enforcement officer of the municipality wherein that retired
23 officer resides. In the event the retired officer resides in a
24 municipality which has no chief law enforcement officer or law
25 enforcement agency, the superintendent shall maintain a record of
26 the approval.

27 (4) The superintendent shall issue to an approved retired officer
28 an identification card permitting the retired officer to carry a
29 handgun pursuant to this subsection. This identification card shall
30 be valid for one year from the date of issuance and shall be valid
31 throughout the State. The identification card shall not be
32 transferable to any other person. The identification card shall be
33 carried at all times on the person of the retired officer while the
34 retired officer is carrying a handgun. The retired officer shall
35 produce the identification card for review on the demand of any law
36 enforcement officer or authority.

37 (5) Any person aggrieved by the denial of the superintendent of
38 approval for a permit to carry a handgun pursuant to this subsection
39 may request a hearing in the Superior Court of New Jersey in the
40 county in which the person resides by filing a written request for a
41 hearing within 30 days of the denial. Copies of the request shall be
42 served upon the superintendent and the county prosecutor. The
43 hearing shall be held within 30 days of the filing of the request, and
44 no formal pleading or filing fee shall be required. Appeals from the
45 determination of the hearing shall be in accordance with law and the
46 rules governing the courts of this State.

47 (6) A judge of the Superior Court may revoke a retired officer's
48 privilege to carry a handgun pursuant to this subsection for good

1 cause shown on the application of any interested person. A person
2 who becomes subject to any of the disabilities set forth in
3 subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the
4 superintendent, the person's identification card issued under
5 paragraph (4) of this subsection to the chief law enforcement officer
6 of the municipality wherein the person resides or the
7 superintendent, and shall be permanently disqualified to carry a
8 handgun under this subsection.

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

12 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
13 to prevent duly authorized personnel of the New Jersey Division of
14 Fish and Wildlife, while in the actual performance of duties, from
15 possessing, transporting or using any device that projects, releases
16 or emits any substance specified as being non-injurious to wildlife
17 by the Director of the Division of Animal Health in the Department
18 of Agriculture, and which may immobilize wildlife and produces
19 only temporary physical discomfort through being vaporized or
20 otherwise dispensed in the air for the purpose of repelling bear or
21 other animal attacks or for the aversive conditioning of wildlife.

22 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall
23 be construed to prevent duly authorized personnel of the New
24 Jersey Division of Fish and Wildlife, while in the actual
25 performance of duties, from possessing, transporting or using hand
26 held pistol-like devices, rifles or shotguns that launch pyrotechnic
27 missiles for the sole purpose of frightening, hazing or aversive
28 conditioning of nuisance or depredating wildlife; from possessing,
29 transporting or using rifles, pistols or similar devices for the sole
30 purpose of chemically immobilizing wild or non-domestic animals;
31 or, provided the duly authorized person complies with the
32 requirements of subsection j. of this section, from possessing,
33 transporting or using rifles or shotguns, upon completion of a Police
34 Training Commission approved training course, in order to dispatch
35 injured or dangerous animals or for non-lethal use for the purpose
36 of frightening, hazing or aversive conditioning of nuisance or
37 depredating wildlife.

38 o. Nothing in subsection i. of this section shall be construed to
39 prevent a person who is 18 years of age or older from possessing,
40 for the sole purpose of repelling an aggressive bear while hiking,
41 biking, or engaging in any other outdoor recreational activity, a bear
42 deterrent or bear spray product approved and registered by the
43 United States Environmental Protection Agency and clearly
44 identified as such on the product label.

45 (cf: P.L.2019, c.407, s.2)

46
47 3. This act shall take effect immediately.

STATEMENT

This bill would allow individuals 18 years of age or older to possess, under certain conditions, bear spray for the purpose of repelling an aggressive bear.

Under current law, a person 18 years of age or older, who has not been convicted of a crime, may possess a small, pocket-sized device capable of spraying a non-lethal chemical substance which causes temporary physical discomfort, also known as pepper spray. The law limits the size of the device to one which contains and releases not more than three-quarters of an ounce of pepper spray. A person possessing a larger quantity would be guilty of a disorderly persons offense and subject to a fine of at least \$100. However, because bear spray devices contain much more than three-quarters of an ounce of a chemical substance, current law effectively prohibits the possession of bear spray.

This bill would allow any person who is 18 years of age or older to possess, for the sole purpose of repelling an aggressive bear while hiking, biking, or engaging in any other outdoor recreational activity, a bear deterrent or bear spray product approved and registered by the United States Environmental Protection Agency (EPA) and clearly identified as such on the product label. The EPA regulates bear spray as a “pesticide” under federal law, and manufacturers of bear spray must register their products with, and receive approval from, the EPA. To be approved by the EPA, a bear spray device must, among other things, contain a minimum content of 7.6 ounces, which is significantly larger than the maximum content of three-quarters of an ounce allowed under State law. The labels on bear sprays approved by the EPA show the EPA registration and EPA establishment number for the product.

In addition, the bill provides that a person who uses bear spray upon or toward another person would not be liable in any civil action for damages resulting from that release or discharge when the actor reasonably believes that the releasing or discharging of the bear spray is immediately necessary for the purpose of personal self-defense. However, nothing in the bill would be deemed to grant immunity to any person causing any damage by the willful, wanton, or grossly negligent unlawful releasing or discharging of bear spray upon or toward another person. A person who knowingly possesses and uses bear spray in a manner contrary to the provisions of the bill would be guilty of a crime of the fourth degree in accordance with the penalty in current law.

Bear spray products approved by the EPA have been shown to be an effective, non-lethal deterrent capable of stopping aggressive behavior in bears. Personal defense sprays do not contain the correct active ingredients or have the amount necessary to divert or stop a charging or attacking bear.