

[First Reprint]

**ASSEMBLY, No. 3748**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED FEBRUARY 7, 2013

**Sponsored by:**

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**District 31 (Hudson)**

**Assemblyman CHARLES MAINOR**

**District 31 (Hudson)**

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**District 27 (Essex and Morris)**

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**District 20 (Union)**

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**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywomen Watson Coleman, Spencer, Mosquera, Assemblymen  
Singleton, Eustace, Gusciora and Diegnan**

**SYNOPSIS**

Requires background check for private gun sales.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on February 14, 2013.



**(Sponsorship Updated As Of: 2/22/2013)**

1 AN ACT concerning certain firearms sales and transfers and  
2 amending N.J.S.2C:58-3.

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:58-3 is amended to read as follows:

8 2C:58-3. a. Permit to purchase a handgun.

9 (1) No person shall sell, give, transfer, assign or otherwise  
10 dispose of, nor receive, purchase, or otherwise acquire a handgun  
11 unless the purchaser, assignee, donee, receiver or holder is licensed  
12 as a dealer under this chapter or has first secured a permit to  
13 purchase a handgun as provided by this section.

14 (2) A person shall sell, give, transfer, assign, or otherwise  
15 dispose of, or receive, purchase or otherwise acquire a handgun  
16 pursuant to the provisions of this section only if the transaction is  
17 conducted by or through a retail dealer licensed under State law or a  
18 Federal Firearms Licensee. The provisions of this paragraph shall  
19 not apply if the transaction is:

20 (a) between members of an immediate family as defined in  
21 subsection m. of this section;

22 (b) between law enforcement officers;

23 (c) between collectors of firearms or ammunition as curios or  
24 relics as defined in Title 18, United States Code, section 921 (a)  
25 (13) who have in their possession a valid Collector of Curios and  
26 Relics License issued by the Bureau of Alcohol, Tobacco and  
27 Firearms; or

28 (d) a temporary transfer pursuant to section 1 of P.L.1992, c.74  
29 (C.2C:58-3.1)<sup>1</sup> and section 1 of P.L.1997, c.375 (C.2C:58-3.2)<sup>1</sup>.

30 (3) Before a transaction under this subsection is conducted, the  
31 licensee shall complete a National Instant Criminal Background  
32 Check of the person acquiring the handgun<sup>1</sup> [and] . In addition<sup>1</sup>:

33 (a) the licensee shall submit to the Superintendent of State  
34 Police, on a form approved by the superintendent, information  
35 identifying and confirming the background check<sup>1</sup> [.] ;<sup>1</sup>

36 (b) every licensee shall maintain a record of transactions  
37 conducted pursuant to this subsection, which shall be maintained at  
38 the address set forth on the licensee's license for inspection by a  
39 law enforcement officer during reasonable hours<sup>1</sup> [.] ;<sup>1</sup>

40 (c) a licensee may charge a fee for a transaction conducted  
41 pursuant to this subsection<sup>1</sup> [.] ; and<sup>1</sup>

42 (d) any record produced pursuant to this subsection shall not be  
43 considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et  
44 seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly floor amendments adopted February 14, 2013.

1 b. Firearms purchaser identification card.

2 (1) No person shall sell, give, transfer, assign or otherwise  
3 dispose of nor receive, purchase or otherwise acquire an antique  
4 cannon or a rifle or shotgun, other than an antique rifle or shotgun,  
5 unless the purchaser, assignee, donee, receiver or holder is licensed  
6 as a dealer under this chapter or possesses a valid firearms  
7 purchaser identification card, and first exhibits said card to the  
8 seller, donor, transferor or assignor, and unless the purchaser,  
9 assignee, donee, receiver or holder signs a written certification, on a  
10 form prescribed by the superintendent, which shall indicate that he  
11 presently complies with the requirements of subsection c. of this  
12 section and shall contain his name, address and firearms purchaser  
13 identification card number or dealer's registration number. The said  
14 certification shall be retained by the seller, as provided in paragraph  
15 (4) of subsection a. of N.J.S.2C:58-2, or, in the case of a person  
16 who is not a dealer, it may be filed with the chief of police of the  
17 municipality in which he resides or with the superintendent.

18 (2) A person shall sell, give, transfer, assign, or otherwise  
19 dispose of, or receive, purchase or otherwise acquire an antique  
20 cannon or a rifle or shotgun pursuant to the provisions of this  
21 subsection only if the transaction is conducted by or through a retail  
22 dealer licensed under State law or a Federal Firearms Licensee.  
23 The provisions of this paragraph shall not apply if the transaction is:

24 (a) between members of an immediate family as defined in  
25 subsection m. of this section;

26 (b) between law enforcement officers;

27 (c) between collectors of firearms or ammunition as curios or  
28 relics as defined in Title 18, United States Code, section 921 (a)  
29 (13) who have in their possession a valid Collector of Curios and  
30 Relics License issued by the Bureau of Alcohol, Tobacco and  
31 Firearms; or

32 (d) a temporary transfer pursuant to section 1 of P.L.1992, c.74  
33 (C.2C:58-3.1)<sup>1</sup> and section 1 of P.L.1997, c.375 (C.2C:58-3.2)<sup>1</sup>.

34 (3) Before a transaction under this subsection is conducted, the  
35 licensee shall complete a National Instant Criminal Background  
36 Check of the person acquiring the handgun<sup>1</sup> [and] . In addition<sup>1</sup>:

37 (a) the licensee shall submit to the Superintendent of State  
38 Police, on a form approved by the superintendent, information  
39 identifying and confirming the background check<sup>1</sup> [.] ;<sup>1</sup>

40 (b) every licensee shall maintain a record of transactions  
41 conducted pursuant to this section which shall be maintained at the  
42 address set forth on the licensee's license for inspection by a law  
43 enforcement officer during reasonable hours<sup>1</sup> [.] ;<sup>1</sup>

44 (c) a licensee may charge a fee for a transaction conducted  
45 pursuant to this subsection<sup>1</sup> [.] ; and<sup>1</sup>

1        (d) any record produced pursuant to this subsection shall not be  
2 considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et  
3 seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

4        c. Who may obtain. No person of good character and good  
5 repute in the community in which he lives, and who is not subject to  
6 any of the disabilities set forth in this section or other sections of  
7 this chapter, shall be denied a permit to purchase a handgun or a  
8 firearms purchaser identification card, except as hereinafter set  
9 forth. No handgun purchase permit or firearms purchaser  
10 identification card shall be issued:

11        (1) To any person who has been convicted of any crime, or a  
12 disorderly persons offense involving an act of domestic violence as  
13 defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or  
14 not armed with or possessing a weapon at the time of such offense;

15        (2) To any drug dependent person as defined in section 2 of  
16 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a  
17 mental disorder to a hospital, mental institution or sanitarium, or to  
18 any person who is presently an habitual drunkard;

19        (3) To any person who suffers from a physical defect or disease  
20 which would make it unsafe for him to handle firearms, to any  
21 person who has ever been confined for a mental disorder, or to any  
22 alcoholic unless any of the foregoing persons produces a certificate  
23 of a medical doctor or psychiatrist licensed in New Jersey, or other  
24 satisfactory proof, that he is no longer suffering from that particular  
25 disability in such a manner that would interfere with or handicap  
26 him in the handling of firearms; to any person who knowingly  
27 falsifies any information on the application form for a handgun  
28 purchase permit or firearms purchaser identification card;

29        (4) To any person under the age of 18 years for a firearms  
30 purchaser identification card and to any person under the age of 21  
31 years for a permit to purchase a handgun;

32        (5) To any person where the issuance would not be in the interest  
33 of the public health, safety or welfare;

34        (6) To any person who is subject to a restraining order issued  
35 pursuant to the "Prevention of Domestic Violence Act of 1991,"  
36 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from  
37 possessing any firearm;

38        (7) To any person who as a juvenile was adjudicated delinquent  
39 for an offense which, if committed by an adult, would constitute a  
40 crime and the offense involved the unlawful use or possession of a  
41 weapon, explosive or destructive device or is enumerated in  
42 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2); or

43        (8) To any person whose firearm is seized pursuant to the  
44 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
45 (C.2C:25-17 et seq.) and whose firearm has not been returned.

46        d. Issuance. The chief of police of an organized full-time police  
47 department of the municipality where the applicant resides or the  
48 superintendent, in all other cases, shall upon application, issue to

1 any person qualified under the provisions of subsection c. of this  
2 section a permit to purchase a handgun or a firearms purchaser  
3 identification card.

4 Any person aggrieved by the denial of a permit or identification  
5 card may request a hearing in the Superior Court of the county in  
6 which he resides if he is a resident of New Jersey or in the Superior  
7 Court of the county in which his application was filed if he is a  
8 nonresident. The request for a hearing shall be made in writing  
9 within 30 days of the denial of the application for a permit or  
10 identification card. The applicant shall serve a copy of his request  
11 for a hearing upon the chief of police of the municipality in which  
12 he resides, if he is a resident of New Jersey, and upon the  
13 superintendent in all cases. The hearing shall be held and a record  
14 made thereof within 30 days of the receipt of the application for  
15 such hearing by the judge of the Superior Court. No formal  
16 pleading and no filing fee shall be required as a preliminary to such  
17 hearing. Appeals from the results of such hearing shall be in  
18 accordance with law.

19 e. Applications. Applications for permits to purchase a handgun  
20 and for firearms purchaser identification cards shall be in the form  
21 prescribed by the superintendent and shall set forth the name,  
22 residence, place of business, age, date of birth, occupation, sex and  
23 physical description, including distinguishing physical  
24 characteristics, if any, of the applicant, and shall state whether the  
25 applicant is a citizen, whether he is an alcoholic, habitual drunkard,  
26 drug dependent person as defined in section 2 of P.L.1970, c.226  
27 (C.24:21-2), whether he has ever been confined or committed to a  
28 mental institution or hospital for treatment or observation of a  
29 mental or psychiatric condition on a temporary, interim or  
30 permanent basis, giving the name and location of the institution or  
31 hospital and the dates of such confinement or commitment, whether  
32 he has been attended, treated or observed by any doctor or  
33 psychiatrist or at any hospital or mental institution on an inpatient  
34 or outpatient basis for any mental or psychiatric condition, giving  
35 the name and location of the doctor, psychiatrist, hospital or  
36 institution and the dates of such occurrence, whether he presently or  
37 ever has been a member of any organization which advocates or  
38 approves the commission of acts of force and violence to overthrow  
39 the Government of the United States or of this State, or which seeks  
40 to deny others their rights under the Constitution of either the  
41 United States or the State of New Jersey, whether he has ever been  
42 convicted of a crime or disorderly persons offense, whether the  
43 person is subject to a restraining order issued pursuant to the  
44 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
45 (C.2C:25-17 et seq.) prohibiting the person from possessing any  
46 firearm, and such other information as the superintendent shall  
47 deem necessary for the proper enforcement of this chapter. For the  
48 purpose of complying with this subsection, the applicant shall

1 waive any statutory or other right of confidentiality relating to  
2 institutional confinement. The application shall be signed by the  
3 applicant and shall contain as references the names and addresses of  
4 two reputable citizens personally acquainted with him.

5 Application blanks shall be obtainable from the superintendent,  
6 from any other officer authorized to grant such permit or  
7 identification card, and from licensed retail dealers.

8 The chief police officer or the superintendent shall obtain the  
9 fingerprints of the applicant and shall have them compared with any  
10 and all records of fingerprints in the municipality and county in  
11 which the applicant resides and also the records of the State Bureau  
12 of Identification and the Federal Bureau of Investigation, provided  
13 that an applicant for a handgun purchase permit who possesses a  
14 valid firearms purchaser identification card, or who has previously  
15 obtained a handgun purchase permit from the same licensing  
16 authority for which he was previously fingerprinted, and who  
17 provides other reasonably satisfactory proof of his identity, need not  
18 be fingerprinted again; however, the chief police officer or the  
19 superintendent shall proceed to investigate the application to  
20 determine whether or not the applicant has become subject to any of  
21 the disabilities set forth in this chapter.

22 f. Granting of permit or identification card; fee; term; renewal;  
23 revocation. The application for the permit to purchase a handgun  
24 together with a fee of \$2, or the application for the firearms  
25 purchaser identification card together with a fee of \$5, shall be  
26 delivered or forwarded to the licensing authority who shall  
27 investigate the same and, unless good cause for the denial thereof  
28 appears, shall grant the permit or the identification card, or both, if  
29 application has been made therefor, within 30 days from the date of  
30 receipt of the application for residents of this State and within 45  
31 days for nonresident applicants. A permit to purchase a handgun  
32 shall be valid for a period of 90 days from the date of issuance and  
33 may be renewed by the issuing authority for good cause for an  
34 additional 90 days. A firearms purchaser identification card shall  
35 be valid until such time as the holder becomes subject to any of the  
36 disabilities set forth in subsection c. of this section, whereupon the  
37 card shall be void and shall be returned within five days by the  
38 holder to the superintendent, who shall then advise the licensing  
39 authority. Failure of the holder to return the firearms purchaser  
40 identification card to the superintendent within the said five days  
41 shall be an offense under subsection a. of N.J.S.2C:39-10. Any  
42 firearms purchaser identification card may be revoked by the  
43 Superior Court of the county wherein the card was issued, after  
44 hearing upon notice, upon a finding that the holder thereof no  
45 longer qualifies for the issuance of such permit. The county  
46 prosecutor of any county, the chief police officer of any  
47 municipality or any citizen may apply to such court at any time for  
48 the revocation of such card.

1       There shall be no conditions or requirements added to the form  
2 or content of the application, or required by the licensing authority  
3 for the issuance of a permit or identification card, other than those  
4 that are specifically set forth in this chapter.

5       g. Disposition of fees. All fees for permits shall be paid to the  
6 State Treasury if the permit is issued by the superintendent, to the  
7 municipality if issued by the chief of police, and to the county  
8 treasurer if issued by the judge of the Superior Court.

9       h. Form of permit; quadruplicate; disposition of copies. The  
10 permit shall be in the form prescribed by the superintendent and  
11 shall be issued to the applicant in quadruplicate. Prior to the time  
12 he receives the handgun from the seller, the applicant shall deliver  
13 to the seller the permit in quadruplicate and the seller shall  
14 complete all of the information required on the form. Within five  
15 days of the date of the sale, the seller shall forward the original  
16 copy to the superintendent and the second copy to the chief of  
17 police of the municipality in which the purchaser resides, except  
18 that in a municipality having no chief of police, such copy shall be  
19 forwarded to the superintendent. The third copy shall then be  
20 returned to the purchaser with the pistol or revolver and the fourth  
21 copy shall be kept by the seller as a permanent record.

22       i. Restriction on number of firearms person may purchase.  
23 Only one handgun shall be purchased or delivered on each permit  
24 and no more than one handgun shall be purchased within any 30-  
25 day period, but this limitation shall not apply to:

26       (1) a federal, State or local law enforcement officer or agency  
27 purchasing handguns for use by officers in the actual performance  
28 of their law enforcement duties;

29       (2) a collector of handguns as curios or relics as defined in Title  
30 18, United States Code, section 921 (a) (13) who has in his  
31 possession a valid Collector of Curios and Relics License issued by  
32 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

33       (3) transfers of handguns among licensed retail dealers,  
34 registered wholesale dealers and registered manufacturers;

35       (4) transfers of handguns from any person to a licensed retail  
36 dealer or a registered wholesale dealer or registered  
37 manufacturer[.];

38       (5) any transaction where the person has purchased a handgun  
39 from a licensed retail dealer and has returned that handgun to the  
40 dealer in exchange for another handgun within 30 days of the  
41 original transaction, provided the retail dealer reports the exchange  
42 transaction to the superintendent; or

43       (6) any transaction where the superintendent issues an exemption  
44 from the prohibition in this subsection pursuant to the provisions of  
45 section 4 of P.L.2009, c.186 (C.2C:58-3.4).

46       The provisions of this subsection shall not be construed to afford  
47 or authorize any other exemption from the regulatory provisions

1 governing firearms set forth in chapter 39 and chapter 58 of Title  
2 2C of the New Jersey Statutes;

3 A person shall not be restricted as to the number of rifles or  
4 shotguns he may purchase, provided he possesses a valid firearms  
5 purchaser identification card and provided further that he signs the  
6 certification required in subsection b. of this section for each  
7 transaction.

8 j. Firearms passing to heirs or legatees. Notwithstanding any  
9 other provision of this section concerning the transfer, receipt or  
10 acquisition of a firearm, a permit to purchase or a firearms  
11 purchaser identification card shall not be required for the passing of  
12 a firearm upon the death of an owner thereof to his heir or legatee,  
13 whether the same be by testamentary bequest or by the laws of  
14 intestacy. The person who shall so receive, or acquire said firearm  
15 shall, however, be subject to all other provisions of this chapter. If  
16 the heir or legatee of such firearm does not qualify to possess or  
17 carry it, he may retain ownership of the firearm for the purpose of  
18 sale for a period not exceeding 180 days, or for such further limited  
19 period as may be approved by the chief law enforcement officer of  
20 the municipality in which the heir or legatee resides or the  
21 superintendent, provided that such firearm is in the custody of the  
22 chief law enforcement officer of the municipality or the  
23 superintendent during such period.

24 k. Sawed-off shotguns. Nothing in this section shall be  
25 construed to authorize the purchase or possession of any sawed-off  
26 shotgun.

27 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to the  
28 sale or purchase of a visual distress signalling device approved by  
29 the United States Coast Guard, solely for possession on a private or  
30 commercial aircraft or any boat; provided, however, that no person  
31 under the age of 18 years shall purchase nor shall any person sell to  
32 a person under the age of 18 years such a visual distress signalling  
33 device.

34 m. For the purposes of this section, "immediate family" means a  
35 spouse, domestic partner<sup>1</sup>, child, or step-child as defined in  
36 section 3 of P.L.2003, c.246 (C.26:8A-3), partner in a civil union  
37 couple as defined in section 2 of P.L.2006, c.103 (C.37:1-29),  
38 parent, stepparent, grandparent, sibling, stepsibling, child, stepchild,  
39 and grandchild, as related by blood or by law<sup>1</sup>.

40 (cf: P.L.2009, c.186, s.2)

41

42 2. This act shall take effect on the first day of the fourth month  
43 following enactment.