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ASSEMBLY, No. 3659

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JANUARY 14, 2013

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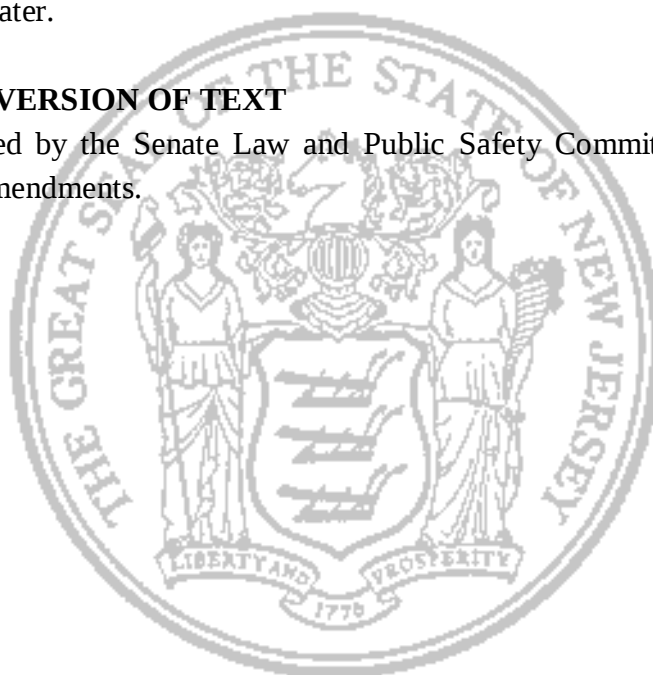
**Assemblywoman Spencer, Assemblyman Giblin, Assemblywoman
Mosquera and Assemblyman Schaer**

SYNOPSIS

Revises definition of destructive device to include certain weapons of 50 caliber or greater.

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety Committee on May 9, 2013, with amendments.



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

1 AN ACT concerning destructive devices, amending N.J.S.2C:39-1
2 and supplementing chapter 39 of Title 2C of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. N.J.S.2C:39-1 is amended to read as follows:

9 2C:39-1. Definitions. The following definitions apply to this
10 chapter and to chapter 58:

11 a. "Antique firearm" means any rifle or shotgun and "antique
12 cannon" means a destructive device defined in paragraph (3) of
13 subsection c. of this section, if the rifle, shotgun or destructive
14 device, or replica thereof, as the case may be, is incapable of being
15 fired or discharged, or which does not fire fixed ammunition,
16 regardless of date of manufacture, or was manufactured before 1898
17 for which cartridge ammunition is not commercially available, and
18 is possessed as a curiosity or ornament or for its historical
19 significance or value.

20 b. "Deface" means to remove, deface, cover, alter or destroy
21 the name of the maker, model designation, manufacturer's serial
22 number or any other distinguishing identification mark or number
23 on any firearm.

24 c. "Destructive device" means any device, instrument or object
25 designed to explode or produce uncontrolled combustion, including
26 (1) any explosive or incendiary bomb, mine or grenade; (2) any
27 rocket having a propellant charge of more than four ounces or any
28 missile having an explosive or incendiary charge of more than one-
29 quarter of an ounce; (3) any weapon capable of firing a
30 '[projectile] center-fire cartridge'¹ of a caliber of 50 or greater
31 [than 60 caliber]'², except a shotgun or shotgun ammunition
32 generally recognized as suitable for sporting purposes, which shall
33 include a 12.7 mm equivalent of 50 caliber or greater or any other
34 metric equivalent, or a copy or duplicate of any such weapon
35 regardless of caliber², that is capable of firing a projectile that
36 attains a muzzle energy of 12,000 foot-pounds or greater in any
37 combination of bullet, propellant, case, or primer. The provisions
38 of this paragraph shall not apply to a smooth bore shotgun or rifle
39 barrel shotgun or any shotgun ammunition generally recognized as
40 suitable for sporting purposes in this State¹; (4) any Molotov
41 cocktail or other device consisting of a breakable container
42 containing flammable liquid and having a wick or similar device
43 capable of being ignited. The term **[does]** shall not include any
44 device manufactured for the purpose of illumination, distress

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:

¹Assembly floor amendments adopted February 14, 2013.

²Senate SLP committee amendments adopted May 9, 2013.

1 signaling, line-throwing, safety or similar purposes.
2 '[Notwithstanding the provisions of paragraph (3) of this
3 subsection, the term shall not include any of the following weapons
4 capable of firing a projectile of a caliber of 50 or greater, but not
5 exceeding a caliber of 60: antique firearm; antique handgun;
6 muzzleloader rifle; or black powder muzzleloader having in-line
7 ignition, a center hammer or an under hammer which has been, or
8 subsequently is, approved for hunting in this State. The term also
9 shall not include any firearm with a bore diameter greater than 60
10 caliber whose principle means of ignition are traditional flintlock or
11 caplock and whose principle propellant is black powder.]'

12 d. "Dispose of" means to give, give away, lease, loan, keep for
13 sale, offer, offer for sale, sell, transfer, or otherwise transfer
14 possession.

15 e. "Explosive" means any chemical compound or mixture that
16 is commonly used or is possessed for the purpose of producing an
17 explosion and which contains any oxidizing and combustible
18 materials or other ingredients in such proportions, quantities or
19 packing that an ignition by fire, by friction, by concussion or by
20 detonation of any part of the compound or mixture may cause such
21 a sudden generation of highly heated gases that the resultant
22 gaseous pressures are capable of producing destructive effects on
23 contiguous objects. The term shall not include small arms
24 ammunition, or explosives in the form prescribed by the official
25 United States Pharmacopoeia.

26 f. "Firearm" means any handgun, rifle, shotgun, machine gun,
27 automatic or semi-automatic rifle, or any gun, device or instrument
28 in the nature of a weapon from which may be fired or ejected any
29 solid projectable ball, slug, pellet, missile or bullet, or any gas,
30 vapor or other noxious thing, by means of a cartridge or shell or by
31 the action of an explosive or the igniting of flammable or explosive
32 substances. It shall also include, without limitation, any firearm
33 which is in the nature of an air gun, spring gun or pistol or other
34 weapon of a similar nature in which the propelling force is a spring,
35 elastic band, carbon dioxide, compressed or other gas or vapor, air
36 or compressed air, or is ignited by compressed air, and ejecting a
37 bullet or missile smaller than three-eighths of an inch in diameter,
38 with sufficient force to injure a person.

39 g. "Firearm silencer" means any instrument, attachment,
40 weapon or appliance for causing the firing of any gun, revolver,
41 pistol or other firearm to be silent, or intended to lessen or muffle
42 the noise of the firing of any gun, revolver, pistol or other firearm.

43 h. "Gravity knife" means any knife which has a blade which is
44 released from the handle or sheath thereof by the force of gravity or
45 the application of centrifugal force.

46 i. "Machine gun" means any firearm, mechanism or instrument
47 not requiring that the trigger be pressed for each shot and having a
48 reservoir, belt or other means of storing and carrying ammunition

1 which can be loaded into the firearm, mechanism or instrument and
2 fired therefrom.

3 j. "Manufacturer" means any person who receives or obtains
4 raw materials or parts and processes them into firearms or finished
5 parts of firearms, except a person who exclusively processes grips,
6 stocks and other nonmetal parts of firearms. The term does not
7 include a person who repairs existing firearms or receives new and
8 used raw materials or parts solely for the repair of existing firearms.

9 k. "Handgun" means any pistol, revolver or other firearm
10 originally designed or manufactured to be fired by the use of a
11 single hand.

12 l. "Retail dealer" means any person including a gunsmith,
13 except a manufacturer or a wholesale dealer, who sells, transfers or
14 assigns for a fee or profit any firearm or parts of firearms or
15 ammunition which he has purchased or obtained with the intention,
16 or for the purpose, of reselling or reassigning to persons who are
17 reasonably understood to be the ultimate consumers, and includes
18 any person who is engaged in the business of repairing firearms or
19 who sells any firearm to satisfy a debt secured by the pledge of a
20 firearm.

21 m. "Rifle" means any firearm designed to be fired from the
22 shoulder and using the energy of the explosive in a fixed metallic
23 cartridge to fire a single projectile through a rifled bore for each
24 single pull of the trigger.

25 n. "Shotgun" means any firearm designed to be fired from the
26 shoulder and using the energy of the explosive in a fixed shotgun
27 shell to fire through a smooth bore either a number of ball shots or a
28 single projectile for each pull of the trigger, or any firearm designed
29 to be fired from the shoulder which does not fire fixed ammunition.

30 o. "Sawed-off shotgun" means any shotgun having a barrel or
31 barrels of less than 18 inches in length measured from the breech to
32 the muzzle, or a rifle having a barrel or barrels of less than 16
33 inches in length measured from the breech to the muzzle, or any
34 firearm made from a rifle or a shotgun, whether by alteration, or
35 otherwise, if such firearm as modified has an overall length of less
36 than 26 inches.

37 p. "Switchblade knife" means any knife or similar device
38 which has a blade which opens automatically by hand pressure
39 applied to a button, spring or other device in the handle of the knife.

40 q. "Superintendent" means the Superintendent of the State
41 Police.

42 r. "Weapon" means anything readily capable of lethal use or of
43 inflicting serious bodily injury. The term includes, but is not
44 limited to, all (1) firearms, even though not loaded or lacking a clip
45 or other component to render them immediately operable; (2)
46 components which can be readily assembled into a weapon; (3)
47 gravity knives, switchblade knives, daggers, dirks, stilettos, or other
48 dangerous knives, billies, blackjacks, bludgeons, metal knuckles,

1 sandclubs, slingshots, cesti or similar leather bands studded with
2 metal filings or razor blades imbedded in wood; and (4) stun guns;
3 and any weapon or other device which projects, releases, or emits
4 tear gas or any other substance intended to produce temporary
5 physical discomfort or permanent injury through being vaporized or
6 otherwise dispensed in the air.

7 s. "Wholesale dealer" means any person, except a
8 manufacturer, who sells, transfers, or assigns firearms, or parts of
9 firearms, to persons who are reasonably understood not to be the
10 ultimate consumers, and includes persons who receive finished
11 parts of firearms and assemble them into completed or partially
12 completed firearms, in furtherance of such purpose, except that it
13 shall not include those persons dealing exclusively in grips, stocks
14 and other nonmetal parts of firearms.

15 t. "Stun gun" means any weapon or other device which emits
16 an electrical charge or current intended to temporarily or
17 permanently disable a person.

18 u. "Ballistic knife" means any weapon or other device capable
19 of lethal use and which can propel a knife blade.

20 v. "Imitation firearm" means an object or device reasonably
21 capable of being mistaken for a firearm.

22 w. "Assault firearm" means:

23 (1) The following firearms:

24 Algimec AGM1 type

25 Any shotgun with a revolving cylinder such as the "Street
26 Sweeper" or "Striker 12"

27 Armalite AR-180 type

28 Australian Automatic Arms SAR

29 Avtomat Kalashnikov type semi-automatic firearms

30 Beretta AR-70 and BM59 semi-automatic firearms

31 Bushmaster Assault Rifle

32 Calico M-900 Assault carbine and M-900

33 CETME G3

34 Chartered Industries of Singapore SR-88 type

35 Colt AR-15 and CAR-15 series

36 Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

37 Demro TAC-1 carbine type

38 Encom MP-9 and MP-45 carbine types

39 FAMAS MAS223 types

40 FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms

41 Franchi SPAS 12 and LAW 12 shotguns

42 G3SA type

43 Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1

44 Intratec TEC 9 and 22 semi-automatic firearms

45 M1 carbine type

46 M14S type

47 MAC 10, MAC 11, MAC 11-9mm carbine type firearms

48 PJK M-68 carbine type

- 1 Plainfield Machine Company Carbine
- 2 Ruger K-Mini-14/5F and Mini-14/5RF
- 3 SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types
- 4 SKS with detachable magazine type
- 5 Spectre Auto carbine type
- 6 Springfield Armory BM59 and SAR-48 type
- 7 Sterling MK-6, MK-7 and SAR types
- 8 Steyr A.U.G. semi-automatic firearms
- 9 USAS 12 semi-automatic type shotgun
- 10 Uzi type semi-automatic firearms
- 11 Valmet M62, M71S, M76, or M78 type semi-automatic firearms
- 12 Weaver Arm Nighthawk.
- 13 (2) Any firearm manufactured under any designation which is
- 14 substantially identical to any of the firearms listed above.
- 15 (3) A semi-automatic shotgun with either a magazine capacity
- 16 exceeding six rounds, a pistol grip, or a folding stock.
- 17 (4) A semi-automatic rifle with a fixed magazine capacity
- 18 exceeding 15 rounds.
- 19 (5) A part or combination of parts designed or intended to
- 20 convert a firearm into an assault firearm, or any combination of
- 21 parts from which an assault firearm may be readily assembled if
- 22 those parts are in the possession or under the control of the same
- 23 person.
- 24 x. "Semi-automatic" means a firearm which fires a single
- 25 projectile for each single pull of the trigger and is self-reloading or
- 26 automatically chambers a round, cartridge, or bullet.
- 27 y. "Large capacity ammunition magazine" means a box, drum,
- 28 tube or other container which is capable of holding more than 15
- 29 rounds of ammunition to be fed continuously and directly therefrom
- 30 into a semi-automatic firearm.
- 31 z. "Pistol grip" means a well-defined handle, similar to that
- 32 found on a handgun, that protrudes conspicuously beneath the
- 33 action of the weapon, and which permits the shotgun to be held and
- 34 fired with one hand.
- 35 aa. "Antique handgun" means a handgun manufactured before
- 36 1898, or a replica thereof, which is recognized as being historical in
- 37 nature or of historical significance and either (1) utilizes a match,
- 38 friction, flint, or percussion ignition, or which utilizes a pin-fire
- 39 cartridge in which the pin is part of the cartridge or (2) does not fire
- 40 fixed ammunition or for which cartridge ammunition is not
- 41 commercially available.
- 42 bb. "Trigger lock" means a commercially available device
- 43 approved by the Superintendent of State Police which is operated
- 44 with a key or combination lock that prevents a firearm from being
- 45 discharged while the device is attached to the firearm. It may
- 46 include, but need not be limited to, devices that obstruct the barrel
- 47 or cylinder of the firearm, as well as devices that immobilize the
- 48 trigger.

1 cc. "Trigger locking device" means a device that, if installed on
2 a firearm and secured by means of a key or mechanically,
3 electronically or electromechanically operated combination lock,
4 prevents the firearm from being discharged without first
5 deactivating or removing the device by means of a key or
6 mechanically, electronically or electromechanically operated
7 combination lock.

8 dd. "Personalized handgun" means a handgun which
9 incorporates within its design, and as part of its original
10 manufacture, technology which automatically limits its operational
11 use and which cannot be readily deactivated, so that it may only be
12 fired by an authorized or recognized user. The technology limiting
13 the handgun's operational use may include, but not be limited to:
14 radio frequency tagging, touch memory, remote control, fingerprint,
15 magnetic encoding and other automatic user identification systems
16 utilizing biometric, mechanical or electronic systems. No make or
17 model of a handgun shall be deemed to be a "personalized handgun"
18 unless the Attorney General has determined, through testing or
19 other reasonable means, that the handgun meets any reliability
20 standards that the manufacturer may require for its commercially
21 available handguns that are not personalized or, if the manufacturer
22 has no such reliability standards, the handgun meets the reliability
23 standards generally used in the industry for commercially available
24 handguns.

25 ¹[ee. "Muzzleloader rifle" means a single shot, single barrel,
26 side lock percussion or flintlock firearm with iron or peep sights, or
27 with a fiber optic sight or scope, and a stock made of wood or any
28 synthetic material.]¹

29 (cf: P.L.2002, c.130, s.5)

30

31 ²[2.(New section) a. The Superintendent of State Police shall
32 establish a buyback program for firearms prohibited under the
33 provisions of paragraph (3) of subsection c. of N.J.S.2C:39-1.
34 Funding for the buyback program established pursuant to this
35 section shall be provided by the Attorney General from the proceeds
36 resulting from the forfeiture of any money or property seized
37 pursuant to chapter 64 of Title 2C of the New Jersey Statutes.

38 b. From the effective date of P.L. , c. (pending before the
39 Legislature as this bill) until the implementation of the buyback
40 program established pursuant to subsection a. of this section, no
41 person shall be convicted of an offense under chapter 39 of Title 2C
42 of the New Jersey Statutes for unlawfully possessing a firearm
43 prohibited under the provisions of paragraph (3) of subsection c. of
44 N.J.S.2C:39-1. Thereafter no person shall be convicted of an
45 offense under chapter 39 of Title 2C of the New Jersey Statutes for
46 unlawfully possessing or transporting a firearm prohibited under the
47 provisions of paragraph (3) of subsection c. of N.J.S.2C:39-1 for
48 any action associated with participation in the buyback program

1 established pursuant to this section, provided those participatory
2 actions are consistent with guidelines promulgated by the Attorney
3 General, in consultation with the superintendent.

4 c. The immunity afforded under subsection b. of this section
5 shall apply only to the possession and transport of a firearm
6 surrendered as part of the buyback program established pursuant to
7 subsection a. of this section, and shall not be construed as granting
8 immunity from prosecution for any other crime or offense under
9 chapter 39 or chapter 58 of Title 2C of the New Jersey Statutes.】²

10
11 ²2. (New section) a. The owner of a .50 caliber or greater
12 weapon purchased or acquired before the it was prohibited under
13 the provisions of paragraph (3) of subsection c. of N.J.S.2C:39-1 by
14 the enactment of P.L. , c. (C.) (pending before the
15 Legislature as this bill) shall have one year in which to register that
16 weapon.

17 In order to register a prohibited weapon, the owner shall:

18 (1) Complete a registration statement, in the form to be
19 prescribed by the Superintendent of the State Police; and

20 (2) Pay a registration fee of \$50 for each prohibited weapon.

21 b. For an applicant who resides in a municipality with an
22 organized full-time police department, the registration shall take
23 place at the main office of the police department. For all other
24 applicants, the registration shall take place at any State Police
25 station.

26 c. Within 60 days of the effective date of P.L. , c. (C.)
27 (pending before the Legislature as this bill), the Superintendent
28 shall prepare the form of registration statement required under
29 subsection a. of this section and shall provide a suitable supply of
30 statements to each organized full-time municipal police department
31 and each State Police station.

32 d. One copy of the completed prohibited weapon registration
33 statement shall be returned to the registrant, a second copy shall be
34 sent to the Superintendent, and, if the registration takes place at a
35 municipal police department, a third copy shall be retained by that
36 municipal police department.

37 e. If the owner of a prohibited weapon that has been registered
38 pursuant to this section dies, the owner's heirs or estate shall have
39 90 days to dispose of that firearm in accordance with the provisions
40 of section 3 of P.L. , c. (C.)(pending before the Legislature
41 as this bill).

42 f. If a prohibited weapon registered pursuant to this section is
43 used in the commission of a crime, the registrant of that prohibited
44 weapon shall be civilly liable for any damages resulting from that
45 crime.

46 The liability imposed by this subsection shall not apply (1) if the
47 weapon used in the commission of that crime was stolen and the
48 registrant reported the theft of the weapon to law enforcement

1 authorities within 36 hours of the registrant's knowledge of the theft
2 or (2) prior to the commission of the crime, the registrant lawfully
3 transferred the weapon to another person.²

4
5 ²[3.(New section) a. A person who lawfully possesses a firearm
6 prohibited under the provisions of paragraph (3) of subsection c. of
7 N.J.S.2C:39-1 on the effective date of P.L. , c. (pending before
8 the Legislature as this bill) may retain possession of that firearm for
9 a period not to exceed one year from that effective date. During
10 that time period, the owner of the prohibited firearm shall either:

11 (1) Transfer the prohibited firearm to a person or firm lawfully
12 entitled to own or possess such firearm;

13 (2) Render the prohibited firearm inoperable; or

14 (3) Voluntarily surrender the prohibited firearm through
15 participation in the buyback program established pursuant to section
16 2 of P.L. , c. (C.) (pending before the Legislature as this
17 bill).

18 b. If the owner of the prohibited firearm elects to render the
19 firearm inoperable, the owner shall file a certification on a form
20 prescribed by the Superintendent of State Police indicating the date
21 on which the firearm was rendered inoperable. This certification
22 shall be filed with either the chief law enforcement officer of the
23 municipality in which the owner resides or, in the case of an owner
24 who resides outside this State but stores or possesses an assault
25 firearm in this State, with the Superintendent of State Police.

26 c. As used in this section, "inoperable" means that the firearm
27 is altered in such a manner that it cannot be immediately fired and
28 that the owner or possessor of the firearm does not possess or have
29 control over the parts necessary to make the firearm operable.]²

30
31 ²3. (New section) a. A person who lawfully possesses a .50
32 caliber or greater weapon prohibited under the provisions of
33 paragraph (3) of subsection c. of N.J.S.2C:39-1 on the effective date
34 of P.L. , c. (pending before the Legislature as this bill) and does
35 not register it pursuant to section 2 of P.L. , c. (C.)(pending
36 before the Legislature as this bill) may retain possession of that
37 weapon for a period not to exceed one year from that effective date.
38 During that time period, the owner of the prohibited weapon shall
39 either:

40 (1) Transfer the prohibited weapon to a person or firm lawfully
41 entitled to own or possess such weapon;

42 (2) Render the prohibited weapon inoperable; or

43 (3) Voluntarily surrender the prohibited weapon pursuant to
44 N.J.S.2C:39-12.

45 b. If the owner of the prohibited weapon elects to render the
46 weapon inoperable, the owner shall file a certification on a form
47 prescribed by the Superintendent of State Police indicating the date
48 on which the weapon was rendered inoperable. This certification

1 shall be filed with either the chief law enforcement officer of the
2 municipality in which the owner resides or, in the case of an owner
3 who resides in a municipality which does not have a full-time police
4 department, with the Superintendent of State Police.

5 c. As used in this section, "inoperable" means that the weapon
6 is altered in such a manner that it cannot be immediately fired and
7 that the owner or possessor of the weapon does not possess or have
8 control over the parts necessary to make the weapon operable.²

9

10 4. This act shall take effect on the first day of the second month
11 following enactment.