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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.
A3659 [2R] P.BARNES, III, JOHNSON

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

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

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

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

c. "Destructive device" means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-quarter of an ounce; (3) any weapon capable of firing a projectile center-fire cartridge of a caliber of 50 or greater (less 60 caliber) except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes, which shall include a 12.7 mm equivalent of 50 caliber or greater or any other metric equivalent, or a copy or duplicate of any such weapon regardless of caliber, that is capable of firing a projectile that attains a muzzle energy of 12,000 foot-pounds or greater in any combination of bullet, propellant, case, or primer. The provisions of this paragraph shall not apply to a smooth bore shotgun or rifle barrel shotgun or any shotgun ammunition generally recognized as suitable for sporting purposes in this State; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term [does] shall not include any 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.
signaling, line-throwing, safety or similar purposes. 

"Notwithstanding the provisions of paragraph (3) of this subsection, the term shall not include any of the following weapons capable of firing a projectile of a caliber of 50 or greater, but not exceeding a caliber of 60: antique firearm; antique handgun; muzzleloader rifle; or black powder muzzleloader having in-line ignition, a center hammer or an under hammer which has been, or subsequently is, approved for hunting in this State. The term also shall not include any firearm with a bore diameter greater than 60 caliber whose principle means of ignition are traditional flintlock or caplock and whose principle propellant is black powder.

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

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

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

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

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

i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition
which can be loaded into the firearm, mechanism or instrument and fired therefrom.

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

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

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

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

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

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

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

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

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles,
sandclubs, slingshots, cesti or similar leather bands studded with  
metal filings or razor blades imbedded in wood; and (4) stun guns;  
and any weapon or other device which projects, releases, or emits  
tear gas or any other substance intended to produce temporary  
physical discomfort or permanent injury through being vaporized or  
otherwise dispensed in the air.

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

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

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

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

w. "Assault firearm" means:

(1) The following firearms:

- Algimec AGM1 type
- Any shotgun with a revolving cylinder such as the "Street  
  Sweeper" or "Striker 12"  
- Australian Automatic Arms SAR  
- Avtomat Kalashnikov type semi-automatic firearms  
- Beretta AR-70 and BM59 semi-automatic firearms  
- Bushmaster Assault Rifle  
- Calico M-900 Assault carbine and M-900  
- CETME G3  
- Chartered Industries of Singapore SR-88 type  
- Colt AR-15 and CAR-15 series  
- Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types  
- Demro TAC-1 carbine type  
- Encom MP-9 and MP-45 carbine types  
- FAMAS MAS223 types  
- FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms  
- Franchi SPAS 12 and LAW 12 shotguns  
- G3SA type  
- Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1  
- Intratec TEC 9 and 22 semi-automatic firearms  
- M1 carbine type  
- M14S type  
- MAC 10, MAC 11, MAC 11-9mm carbine type firearms  
- PJK M-68 carbine type
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Plainfield Machine Company Carbine
Ruger K-Mini-14/5F and Mini-14/5RF
SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types
SKS with detachable magazine type
Spectre Auto carbine type
Springfield Armory BM59 and SAR-48 type
Sterling MK-6, MK-7 and SAR types
Steyr A.U.G. semi-automatic firearms
USAS 12 semi-automatic type shotgun
Uzi type semi-automatic firearms
Valmet M62, M71S, M76, or M78 type semi-automatic firearms
Weaver Arm Nighthawk.

(2) Any firearm manufactured under any designation which is substantially identical to any of the firearms listed above.

(3) A semi-automatic shotgun with either a magazine capacity exceeding six rounds, a pistol grip, or a folding stock.

(4) A semi-automatic rifle with a fixed magazine capacity exceeding 15 rounds.

(5) A part or combination of parts designed or intended to convert a firearm into an assault firearm, or any combination of parts from which an assault firearm may be readily assembled if those parts are in the possession or under the control of the same person.

x. "Semi-automatic" means a firearm which fires a single projectile for each single pull of the trigger and is self-reloading or automatically chambers a round, cartridge, or bullet.

y. "Large capacity ammunition magazine" means a box, drum, tube or other container which is capable of holding more than 15 rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic firearm.

z. "Pistol grip" means a well-defined handle, similar to that found on a handgun, that protrudes conspicuously beneath the action of the weapon, and which permits the shotgun to be held and fired with one hand.

aa. "Antique handgun" means a handgun manufactured before 1898, or a replica thereof, which is recognized as being historical in nature or of historical significance and either (1) utilizes a match, friction, flint, or percussion ignition, or which utilizes a pin-fire cartridge in which the pin is part of the cartridge or (2) does not fire fixed ammunition or for which cartridge ammunition is not commercially available.

bb. "Trigger lock" means a commercially available device approved by the Superintendent of State Police which is operated with a key or combination lock that prevents a firearm from being discharged while the device is attached to the firearm. It may include, but need not be limited to, devices that obstruct the barrel or cylinder of the firearm, as well as devices that immobilize the trigger.
"Trigger locking device" means a device that, if installed on a firearm and secured by means of a key or mechanically, electronically or electromechanically operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically or electromechanically operated combination lock.

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

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

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

b. From the effective date of P.L. , c. (pending before the Legislature as this bill) until the implementation of the buyback program established pursuant to subsection a. of this section, no person shall be convicted of an offense under chapter 39 of Title 2C of the New Jersey Statutes for unlawfully possessing a firearm prohibited under the provisions of paragraph (3) of subsection c. of N.J.S. 2C:39-1. Thereafter no person shall be convicted of an offense under chapter 39 of Title 2C of the New Jersey Statutes for unlawfully possessing or transporting a firearm prohibited under the provisions of paragraph (3) of subsection c. of N.J.S. 2C:39-1 for any action associated with participation in the buyback program.
established pursuant to this section, provided those participatory
actions are consistent with guidelines promulgated by the Attorney
General, in consultation with the superintendent.

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

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

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

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

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

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

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

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

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

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

The liability imposed by this subsection shall not apply (1) if the
weapon used in the commission of that crime was stolen and the
registrant reported the theft of the weapon to law enforcement
authorities within 36 hours of the registrant’s knowledge of the theft or (2) prior to the commission of the crime, the registrant lawfully transferred the weapon to another person.  

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

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

(2) Render the prohibited firearm inoperable; or

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

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

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

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

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

(2) Render the prohibited weapon inoperable; or

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

b. If the owner of the prohibited weapon elects to render the weapon inoperable, the owner shall file a certification on a form prescribed by the Superintendent of State Police indicating the date on which the weapon was rendered inoperable. This certification
shall be filed with either the chief law enforcement officer of the
municipality in which the owner resides or, in the case of an owner
who resides in a municipality which does not have a full-time police
department, with the Superintendent of State Police.

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

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