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ASSEMBLY, No. 3659

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED JANUARY 14, 2013

Sponsored by:

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the Senate on May 13, 2013.



(Sponsorship Updated As Of: 6/25/2013)

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 1[projectile] center-fire cartridge¹ of a caliber of 50 or greater
31 [than 60 caliber] ¹[, except a shotgun or shotgun ammunition
32 generally recognized as suitable for sporting purposes], which shall
33 include 3[a 12.7 mm] any metric³ equivalent of 50 caliber or
34 greater 3[or any other metric equivalent, or a copy or duplicate of
35 any such weapon regardless of caliber]³ ², ² that is capable of firing
36 a projectile that attains a muzzle energy of 12,000 foot-pounds or
37 greater in any combination of bullet, propellant, case, or primer. ³It
38 also shall include any copy or duplicate of any such weapon that is
39 capable of firing a projectile that attains a muzzle energy of 12,000
40 foot-pounds or greater regardless of caliber.³ The provisions of this
41 paragraph shall not apply to a smooth bore shotgun or rifle barrel
42 shotgun or any shotgun ammunition generally recognized as

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.

³Senate SBA committee amendments adopted May 9, 2013.

⁴Senate floor amendments adopted May 13, 2013.

1 suitable for sporting purposes in this State¹; (4) any Molotov
2 cocktail or other device consisting of a breakable container
3 containing flammable liquid and having a wick or similar device
4 capable of being ignited. The term does shall not include any
5 device manufactured for the purpose of illumination, distress
6 signaling, line-throwing, safety or similar purposes.

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

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

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

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

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

48 h. "Gravity knife" means any knife which has a blade which is

1 released from the handle or sheath thereof by the force of gravity or
2 the application of centrifugal force.

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

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

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

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

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

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

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

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

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

47 r. "Weapon" means anything readily capable of lethal use or of
48 inflicting serious bodily injury. The term includes, but is not

1 limited to, all (1) firearms, even though not loaded or lacking a clip
2 or other component to render them immediately operable; (2)
3 components which can be readily assembled into a weapon; (3)
4 gravity knives, switchblade knives, daggers, dirks, stilettos, or other
5 dangerous knives, billies, blackjack, bludgeons, metal knuckles,
6 sandclubs, slingshots, cesti or similar leather bands studded with
7 metal filings or razor blades imbedded in wood; and (4) stun guns;
8 and any weapon or other device which projects, releases, or emits
9 tear gas or any other substance intended to produce temporary
10 physical discomfort or permanent injury through being vaporized or
11 otherwise dispensed in the air.

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

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

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

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

27 w. "Assault firearm" means:

28 (1) The following firearms:

29 Algimec AGM1 type

30 Any shotgun with a revolving cylinder such as the "Street
31 Sweeper" or "Striker 12"

32 Armalite AR-180 type

33 Australian Automatic Arms SAR

34 Avtomat Kalashnikov type semi-automatic firearms

35 Beretta AR-70 and BM59 semi-automatic firearms

36 Bushmaster Assault Rifle

37 Calico M-900 Assault carbine and M-900

38 CETME G3

39 Chartered Industries of Singapore SR-88 type

40 Colt AR-15 and CAR-15 series

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

42 Demro TAC-1 carbine type

43 Encom MP-9 and MP-45 carbine types

44 FAMAS MAS223 types

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

46 Franchi SPAS 12 and LAW 12 shotguns

47 G3SA type

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

1 Intratec TEC 9 and 22 semi-automatic firearms
2 M1 carbine type
3 M14S type
4 MAC 10, MAC 11, MAC 11-9mm carbine type firearms
5 PJK M-68 carbine type
6 Plainfield Machine Company Carbine
7 Ruger K-Mini-14/5F and Mini-14/5RF
8 SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types
9 SKS with detachable magazine type
10 Spectre Auto carbine type
11 Springfield Armory BM59 and SAR-48 type
12 Sterling MK-6, MK-7 and SAR types
13 Steyr A.U.G. semi-automatic firearms
14 USAS 12 semi-automatic type shotgun
15 Uzi type semi-automatic firearms
16 Valmet M62, M71S, M76, or M78 type semi-automatic firearms
17 Weaver Arm Nighthawk.
18 (2) Any firearm manufactured under any designation which is
19 substantially identical to any of the firearms listed above.
20 (3) A semi-automatic shotgun with either a magazine capacity
21 exceeding six rounds, a pistol grip, or a folding stock.
22 (4) A semi-automatic rifle with a fixed magazine capacity
23 exceeding 15 rounds.
24 (5) A part or combination of parts designed or intended to
25 convert a firearm into an assault firearm, or any combination of
26 parts from which an assault firearm may be readily assembled if
27 those parts are in the possession or under the control of the same
28 person.
29 x. "Semi-automatic" means a firearm which fires a single
30 projectile for each single pull of the trigger and is self-reloading or
31 automatically chambers a round, cartridge, or bullet.
32 y. "Large capacity ammunition magazine" means a box, drum,
33 tube or other container which is capable of holding more than 15
34 rounds of ammunition to be fed continuously and directly therefrom
35 into a semi-automatic firearm.
36 z. "Pistol grip" means a well-defined handle, similar to that
37 found on a handgun, that protrudes conspicuously beneath the
38 action of the weapon, and which permits the shotgun to be held and
39 fired with one hand.
40 aa. "Antique handgun" means a handgun manufactured before
41 1898, or a replica thereof, which is recognized as being historical in
42 nature or of historical significance and either (1) utilizes a match,
43 friction, flint, or percussion ignition, or which utilizes a pin-fire
44 cartridge in which the pin is part of the cartridge or (2) does not fire
45 fixed ammunition or for which cartridge ammunition is not
46 commercially available.
47 bb. "Trigger lock" means a commercially available device
48 approved by the Superintendent of State Police which is operated

1 with a key or combination lock that prevents a firearm from being
2 discharged while the device is attached to the firearm. It may
3 include, but need not be limited to, devices that obstruct the barrel
4 or cylinder of the firearm, as well as devices that immobilize the
5 trigger.

6 cc. "Trigger locking device" means a device that, if installed on
7 a firearm and secured by means of a key or mechanically,
8 electronically or electromechanically operated combination lock,
9 prevents the firearm from being discharged without first
10 deactivating or removing the device by means of a key or
11 mechanically, electronically or electromechanically operated
12 combination lock.

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

30 ~~1Lee. "Muzzleloader rifle" means a single shot, single barrel,
31 side lock percussion or flintlock firearm with iron or peep sights, or
32 with a fiber optic sight or scope, and a stock made of wood or any
33 synthetic material.]¹~~

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

35

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

43 b. From the effective date of P.L. , c. (pending before the
44 Legislature as this bill) until the implementation of the buyback
45 program established pursuant to subsection a. of this section, no
46 person shall be convicted of an offense under chapter 39 of Title 2C
47 of the New Jersey Statutes for unlawfully possessing a firearm
48 prohibited under the provisions of paragraph (3) of subsection c. of

1 N.J.S.2C:39-1. Thereafter no person shall be convicted of an
2 offense under chapter 39 of Title 2C of the New Jersey Statutes for
3 unlawfully possessing or transporting a firearm prohibited under the
4 provisions of paragraph (3) of subsection c. of N.J.S.2C:39-1 for
5 any action associated with participation in the buyback program
6 established pursuant to this section, provided those participatory
7 actions are consistent with guidelines promulgated by the Attorney
8 General, in consultation with the superintendent.

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

15

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

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

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

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

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

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

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

42 e. If the owner of a prohibited weapon that has been registered
43 pursuant to this section dies, the owner's heirs or estate shall have
44 90 days to dispose of that firearm in accordance with the provisions
45 of section 3 of P.L. , c. (C.)(pending before the Legislature
46 as this bill).

47 f. If a prohibited weapon registered pursuant to this section is
48 used in the commission of a crime, the registrant of that prohibited

1 weapon shall be civilly liable for any damages resulting from that
2 crime.

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

9

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

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

18 (2) Render the prohibited firearm inoperable; or

19 (3) Voluntarily surrender the prohibited firearm through
20 participation in the buyback program established pursuant to section
21 2 of P.L. , c. (C.) (pending before the Legislature as this
22 bill).

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

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

35

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

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

47 (2) Render the prohibited weapon inoperable; or

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

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

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

15

16 4. This act shall take effect ⁴on the first day of the second
17 month following enactmentimmediately⁴.