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[Fourth Reprint]

## **ASSEMBLY, No. 3659**

# **STATE OF NEW JERSEY**

## **215th LEGISLATURE**

INTRODUCED JANUARY 14, 2013

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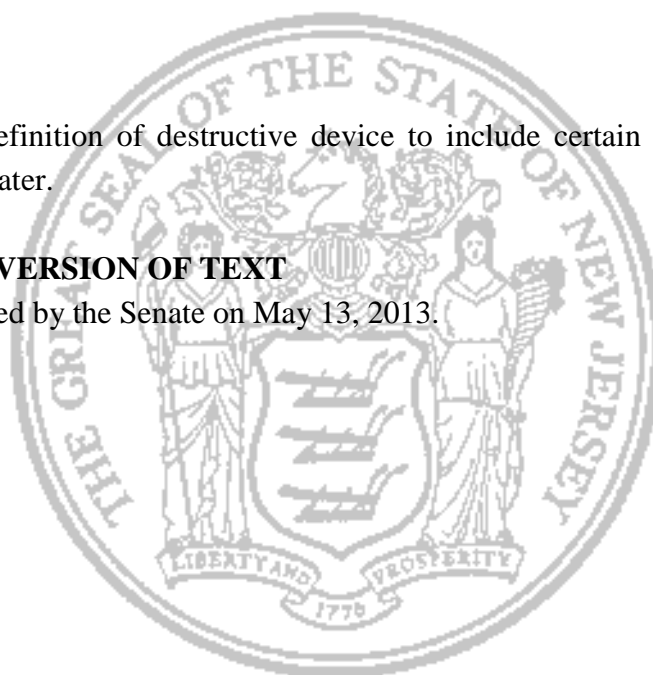
**Assemblywoman Spencer, Assemblyman Giblin, Assemblywoman Mosquera, Assemblyman Schaer, Senators Lesniak, Buono, Gill and Assemblyman Conaway**

**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 <sup>1</sup>**[projectile] center-fire cartridge<sup>1</sup>** of a caliber of 50 or greater  
31 **[than 60 caliber] <sup>1</sup>**, except a shotgun or shotgun ammunition  
32 generally recognized as suitable for sporting purposes**], which shall**  
33 include <sup>3</sup>**[a 12.7 mm] any metric<sup>3</sup>** equivalent of 50 caliber or  
34 greater <sup>3</sup>**[or any other metric equivalent, or a copy or duplicate of**  
35 any such weapon regardless of caliber]<sup>3 2, 2</sup> 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. <sup>3</sup>It  
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.<sup>3</sup> 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:

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

<sup>2</sup>Senate SLP committee amendments adopted May 9, 2013.

<sup>3</sup>Senate SBA committee amendments adopted May 9, 2013.

<sup>4</sup>Senate floor amendments adopted May 13, 2013.

1 suitable for sporting purposes in this State<sup>1</sup>; (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 <sup>1</sup>【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.】<sup>1</sup>

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, blackjacks, 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 <sup>1</sup>["ee. "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.]"<sup>1</sup>

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

35  
36 <sup>2</sup>[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 Statues 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.】<sup>2</sup>

15  
16 <sup>2</sup>2. (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.<sup>2</sup>

9  
10 <sup>2</sup>3.(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.】<sup>2</sup>

35  
36 <sup>2</sup>3. (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.<sup>2</sup>

15  
16       4. This act shall take effect <sup>4</sup>on the first day of the second  
17 month following enactment <sup>4</sup>immediately.