

# ASSEMBLY, No. 2758

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblyman JAMEL C. HOLLEY**

**District 20 (Union)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblyman Caputo, Assemblywomen Vainieri Huttle, Downey,  
Assemblymen Houghtaling, Benson and Assemblywoman Murphy**

**SYNOPSIS**

Codifies regulations defining justifiable need to carry handgun.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/23/2018)**

A2758 GREENWALD, HOLLEY

2

1 AN ACT concerning handgun carry permits and amending  
2 N.J.S.2C:58-4.

3

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

6

7 1. N.J.S.2C:58-4 is amended to read as follows:

8 2C:58-4. a. Scope and duration of authority. Any person  
9 who holds a valid permit to carry a handgun issued pursuant to this  
10 section shall be authorized to carry a handgun in all parts of this  
11 State, except as prohibited by **[section 2C:39-5e]** subsection e. of  
12 N.J.S.2C:39-5. One permit shall be sufficient for all handguns  
13 owned by the holder thereof, but the permit shall apply only to a  
14 handgun carried by the actual and legal holder of the permit.

15 All permits to carry handguns shall expire **[2]** two years from  
16 the date of issuance or, in the case of an employee of an armored  
17 car company, upon termination of his employment by the company  
18 occurring prior thereto whichever is earlier in time, and they may  
19 thereafter be renewed every **[2]** two years in the same manner and  
20 subject to the same conditions as in the case of original  
21 applications.

22 b. Application forms. All applications for permits to carry  
23 handguns, and all applications for renewal of **[such]** permits, shall  
24 be made on the forms prescribed by the superintendent. Each  
25 application shall set forth the full name, date of birth, sex,  
26 residence, occupation, place of business or employment, and  
27 physical description of the applicant, and **[such]** any other  
28 information **[as]** the superintendent may prescribe for the  
29 determination of the applicant's eligibility for a permit and for the  
30 proper enforcement of this chapter. The application shall be signed  
31 by the applicant under oath, and shall be indorsed by three reputable  
32 persons who have known the applicant for at least **[3]** three years  
33 preceding the date of application, and who shall certify thereon that  
34 the applicant is a person of good moral character and behavior.

35 c. Investigation and approval. Each application shall in the  
36 first instance be submitted to the chief police officer of the  
37 municipality in which the applicant resides, or to the  
38 superintendent, (1) if the applicant is an employee of an armored  
39 car company, or (2) if there is no chief police officer in the  
40 municipality where the applicant resides, or (3) if the applicant does  
41 not reside in this State. The chief police officer, or the  
42 superintendent, as the case may be, shall cause the fingerprints of  
43 the applicant to be taken and compared with any and all records  
44 maintained by the municipality, the county in which it is located,

**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.**

1 the State Bureau of Identification and the Federal Bureau of  
2 Identification. He shall also determine and record a complete  
3 description of each handgun the applicant intends to carry.

4 No application shall be approved by the chief police officer or  
5 the superintendent unless the applicant demonstrates that he is not  
6 subject to any of the disabilities set forth in ~~2C:58-3c.~~ subsection  
7 c. of N.J.S.2C:58-3, that he is thoroughly familiar with the safe  
8 handling and use of handguns, and that he has a justifiable need to  
9 carry a handgun.

10 Each application form shall be accompanied by a written  
11 certification of justifiable need to carry a handgun, which shall be  
12 under oath and, in the case of a private citizen, shall specify in  
13 detail the urgent necessity for self-protection, as evidenced by  
14 specific threats or previous attacks which demonstrate a special  
15 danger to the applicant's life that cannot be avoided by means other  
16 than by issuance of a permit to carry a handgun. Where possible,  
17 the applicant shall corroborate the existence of any specific threats  
18 or previous attacks by reference to reports of the incidents to the  
19 appropriate law enforcement agencies.

20 If the application is not approved by the chief police officer or  
21 the superintendent within 60 days of filing, it shall be deemed to  
22 have been approved, unless the applicant agrees to an extension of  
23 time in writing.

24 d. Issuance by Superior Court; fee. If the application has been  
25 approved by the chief police officer or the superintendent, as the  
26 case may be, the applicant shall forthwith present it to the Superior  
27 Court of the county in which the applicant resides, or to the  
28 Superior Court in any county where he intends to carry a handgun,  
29 in the case of a nonresident or employee of an armored car  
30 company. The court shall issue the permit to the applicant if, but  
31 only if, it is satisfied that the applicant is a person of good character  
32 who is not subject to any of the disabilities set forth in ~~section~~  
33 ~~2C:58-3c.~~ subsection c. of N.J.S.2C:58-3, that he is thoroughly  
34 familiar with the safe handling and use of handguns, and that he has  
35 a justifiable need to carry a handgun in accordance with the  
36 provisions of subsection c. of this section. The court may at its  
37 discretion issue a limited-type permit which would restrict the  
38 applicant as to the types of handguns he may carry and where and  
39 for what purposes ~~such~~ the handguns may be carried. At the time  
40 of issuance, the applicant shall pay to the county clerk of the county  
41 where the permit was issued a permit fee of ~~[\$20.00]~~ \$20.

42 e. Appeals from denial of applications. Any person aggrieved  
43 by the denial by the chief police officer or the superintendent of  
44 approval for a permit to carry a handgun may request a hearing in  
45 the Superior Court of the county in which he resides or in any  
46 county in which he intends to carry a handgun, in the case of a  
47 nonresident, by filing a written request for ~~such~~ a hearing within

1 30 days of the denial. Copies of the request shall be served upon  
2 the superintendent, the county prosecutor, and the chief police  
3 officer of the municipality where the applicant resides, if he is a  
4 resident of this State. The hearing shall be held within 30 days of  
5 the filing of the request, and no formal pleading or filing fee shall  
6 be required. Appeals from the determination at **【such】** **【a】** the  
7 hearing shall be in accordance with law and the rules governing the  
8 courts of this State.

9 If the superintendent or chief police officer approves an  
10 application and the Superior Court denies the application and  
11 refuses to issue a permit, the applicant may appeal **【such】** the  
12 denial in accordance with law and the rules governing the courts of  
13 this State.

14 f. Revocation of permits. Any permit issued under this section  
15 shall be void at **【such】** the time **【as】** the holder thereof becomes  
16 subject to any of the disabilities set forth in **【section 2C:58-3c.】**  
17 subsection c. of N.J.S.2C:58-3, and the holder of **【such】** a void  
18 permit shall immediately surrender the permit to the superintendent  
19 who shall give notice to the licensing authority.

20 Any permit may be revoked by the Superior Court, after hearing  
21 upon notice to the holder, if the court finds that the holder is no  
22 longer qualified for the issuance of **【such】** a permit. The county  
23 prosecutor of any county, the chief police officer of any  
24 municipality, the superintendent, or any citizen may apply to the  
25 court at any time for the revocation of any permit issued pursuant to  
26 this section.

27 (cf: P.L.1981, c.135, s.1)

28

29 2. This act shall take effect immediately.

30

31

32

#### STATEMENT

33

34 This bill codifies the definition of justifiable need to carry a  
35 handgun as set forth in the New Jersey Administrative Code.

36 Under current law, in order to lawfully carry a handgun in  
37 public, it is necessary for a private citizen to obtain a permit to  
38 carry a handgun. Applicants for a permit to carry a handgun need  
39 the approval of the chief of police in the municipality where they  
40 reside and the approval of a Superior Court judge in the county  
41 where they reside. Approval is contingent upon a person  
42 submitting, with an application, a written certification establishing  
43 justifiable need.

44 Under current regulations (N.J.A.C.13:54-2.4), justifiable need is  
45 defined as the urgent necessity for self-protection, as evidenced by  
46 specific threats or previous attacks which demonstrate a special  
47 danger to the applicant's life that cannot be avoided by means other

1 than by issuance of a permit to carry. This bill codifies this  
2 definition in statute.

3 The Department of Law and Public Safety has adopted an  
4 amendment to N.J.A.C.13:54-2.4 that added “serious threats” to the  
5 circumstances that could demonstrate a special danger to the  
6 applicant’s life that could be specified in the written certification of  
7 justifiable need. In addition, the revised regulation also specifies  
8 that a permit to carry a handgun can be issued based on a special  
9 danger to the applicant’s life that cannot be avoided by other  
10 “reasonable” means.

11 According to the sponsor, current law and judicial interpretations  
12 of the justifiable need standard clearly require demonstration of an  
13 urgent necessity for protection from a specific threat to one’s life  
14 rather than a mere generalized fear or concern. Therefore, the  
15 revision to N.J.A.C.13:54-2.4, which expands the scope of the right  
16 to carry well beyond that authorized under current law and judicial  
17 interpretation, is inconsistent with the Legislature’s intent to strictly  
18 limit who carries a handgun outside the home in this State. If  
19 enacted, the bill would negate this regulation.