

SENATE, No. 2846

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JULY 23, 2018

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

Concerns law enforcement officers' ability to possess and carry certain ammunition magazines.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning firearms and amending N.J.S.2C:39-3.

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

1. N.J.S.2C:39-3 is amended to read as follows:

2C:39-3. Prohibited Weapons and Devices.

a. Destructive devices. Any person who knowingly has in his possession any destructive device is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who knowingly has in his possession any sawed-off shotgun is guilty of a crime of the third degree.

c. Silencers. Any person who knowingly has in his possession any firearm silencer is guilty of a crime of the fourth degree.

d. Defaced firearms. Any person who knowingly has in his possession any firearm which has been defaced, except an antique firearm or an antique handgun, is guilty of a crime of the fourth degree.

e. Certain weapons. Any person who knowingly has in his possession any gravity knife, switchblade knife, dagger, dirk, stiletto, billy, blackjack, metal knuckle, sandclub, slingshot, cestus or similar leather band

studded with metal filings or razor blades imbedded in wood, ballistic knife, without any explainable lawful purpose, is guilty of a crime of the fourth degree.

f. Dum-dum or armor piercing ammunition. (1) Any person, other than a law enforcement officer or persons engaged in activities pursuant to subsection f. of N.J.S.2C:39-6, who knowingly has in his possession any hollow nose or dum-dum bullet, or (2) any person, other than a collector of firearms or ammunition as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) and has in his possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, who knowingly has in his possession any armor piercing ammunition as defined in subsection gg. of N.J.S.2C:39-1 is guilty of a crime of the fourth degree. For purposes of this section, a collector may possess not more than three examples of each distinctive variation of the ammunition described above. A distinctive variation includes a different head stamp, composition, design, or color.

g. Exceptions. (1) (a) Nothing in subsection a., b., c., d., e., f., j. or k. of this section shall apply to any member of the Armed Forces of the United States or the National Guard, or except as otherwise provided, to any law enforcement officer while actually on duty or traveling to or from an authorized place of duty, provided that his possession of the prohibited weapon or device has been duly authorized under the applicable laws, regulations or military or law enforcement orders.

(b) Nothing in subsection j. of this section shall apply to a law enforcement officer who possesses and carries while off-duty a large capacity ammunition magazine capable of holding not more than 17 rounds of ammunition that can be fed continuously and directly into a semi-automatic firearm.

(c) Notwithstanding subparagraph (b) of this paragraph, subsection j. of this section shall not apply to a law enforcement officer who possesses and carries while off-duty a large capacity ammunition magazine capable of holding more than 17 rounds of ammunition that can be fed continuously and directly into a semi-automatic firearm provided the large capacity ammunition magazine is used with a service firearm issued to the officer by the officer's employer for use in the officer's official duties.

(d) Nothing in subsection h. of this section shall apply to any law enforcement officer who is exempted from the provisions of that subsection by the Attorney General. Nothing in this section shall apply to the possession of any weapon or device by a law enforcement officer who has confiscated, seized or otherwise taken possession of said weapon or device as evidence of the commission of a crime or because he believed it to be possessed illegally by the person from whom it was taken, provided that said law enforcement officer promptly notifies his superiors of his possession of such prohibited weapon or device.

(2) **[a.]** (a) Nothing in subsection f. (1) shall be construed to prevent a person from keeping such ammunition at his dwelling, premises or other land owned or possessed by him, or from carrying such ammunition from the place of purchase to said dwelling or land, nor shall subsection f. (1) be construed to prevent any licensed retail or wholesale firearms dealer from possessing such ammunition at its licensed premises, provided that the seller of any such ammunition shall maintain a record of the name, age and place of residence of any purchaser who is not a licensed dealer, together with the date of sale and quantity of ammunition sold.

[b.] (b) Nothing in subsection f.(1) shall be construed to prevent a designated employee or designated licensed agent for a nuclear power plant under the license of the Nuclear Regulatory Commission from possessing hollow nose ammunition while in the actual performance of his official duties, if the federal

licensee certifies that the designated employee or designated licensed agent is assigned to perform site protection, guard, armed response or armed escort duties and is appropriately trained and qualified, as prescribed by federal regulation, to perform those duties.

(3) Nothing in paragraph (2) of subsection f. or in subsection j. shall be construed to prevent any licensed retail or wholesale firearms dealer from possessing that ammunition or large capacity ammunition magazine at its licensed premises for sale or disposition to another licensed dealer, the Armed Forces of the United States or the National Guard, or to a law enforcement agency, provided that the seller maintains a record of any sale or disposition to a law enforcement agency. The record shall include the name of the purchasing agency, together with written authorization of the chief of police or highest ranking official of the agency, the name and rank of the purchasing law enforcement officer, if applicable, and the date, time and amount of ammunition sold or otherwise disposed. A copy of this record shall be forwarded by the seller to the Superintendent of the Division of State Police within 48 hours of the sale or disposition.

(4) Nothing in subsection a. of this section shall be construed to apply to antique cannons as exempted in subsection d. of N.J.S.2C:39-6.

(5) Nothing in subsection c. of this section shall be construed to apply to any person who is specifically identified in a special deer management permit issued by the Division of Fish and Wildlife to utilize a firearm silencer as part of an alternative deer control method implemented in accordance with a special deer management permit issued pursuant to section 4 of P.L.2000, c.46 (C.23:4-42.6), while the person is in the actual performance of the permitted alternative deer control method and while going to and from the place where the permitted alternative deer control method is being utilized. This exception shall not, however, otherwise apply to any person to authorize the purchase or possession of a firearm silencer.

h. Stun guns. Any person who knowingly has in his possession any stun gun is guilty of a crime of the fourth degree.

i. Nothing in subsection e. of this section shall be construed to prevent any guard in the employ of a private security company, who is licensed to carry a firearm, from the possession of a nightstick when in the actual performance of his official duties, provided that he has satisfactorily completed a training course approved by the Police Training Commission in the use of a nightstick.

j. Any person who knowingly has in his possession a large capacity ammunition magazine is guilty of a crime of the fourth degree unless the person has registered:

(1) an assault firearm pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the magazine is maintained and used in connection with participation in competitive shooting matches sanctioned by the Director of Civilian Marksmanship of the United States Department of the Army ; or

(2) a firearm with a fixed magazine capacity or detachable magazine capable of holding up to 15 rounds pursuant to section 7 of P.L.2018, c.39 (C.2C:39-20).

k. Handcuffs. Any person who knowingly has in his possession handcuffs as defined in P.L.1991, c.437 (C.2C:39-9.2), under circumstances not manifestly appropriate for such lawful uses as handcuffs may have, is guilty of a disorderly persons offense. A law enforcement officer shall confiscate handcuffs possessed in violation of the law.

l. Bump stock or trigger crank. Any person who knowingly possesses a bump stock as defined in subsection ee. of N.J.S.2C:39-1 or a trigger crank as defined in subsection ff. of N.J.S.2C:39-1, regardless of

whether the person is in possession of a firearm, is guilty of a crime of the third degree.

Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction arising out of this subsection shall not merge with a conviction for possessing an assault firearm in violation of subsection f. of N.J.S.2C:39-5 or a machine gun in violation of subsection a. of N.J.S.2C:39-5 and a separate sentence shall be imposed upon each conviction. Notwithstanding the provisions of N.J.S.2C:44-5 or any other provisions of law, the sentence imposed pursuant to this subsection shall be served consecutively to that imposed for unlawfully possessing an assault firearm in violation of subsection f. of N.J.S.2C:39-5.

(cf: P.L.2018, c.39, s.2)

2. This act shall take effect immediately.

STATEMENT

Under N.J.S.2C:39-1, a large capacity ammunition magazine is defined as a box, drum, tube or other container which is capable of holding more than 10 rounds of ammunition. A law enforcement officer is permitted to carry a large capacity ammunition magazine while actually on duty or traveling to or from an authorized place of duty.

This bill allows a law enforcement officer to possess and carry while off-duty a large capacity ammunition magazine capable of holding 17 rounds of ammunition or less. In addition, the bill allows an off-duty law enforcement officer to possess and carry a large capacity ammunition magazine capable of holding more than 17 rounds, provided it is used with the officer's service firearm issued by the officer's employer.