

ASSEMBLY, No. 5453

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MAY 23, 2019

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

SYNOPSIS

Establishes certain criminal penalties for possession and transfer of firearms and ammunition to disqualified person.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning unlawful trafficking and the purchase and sale of firearms, supplementing Title 2C of the New Jersey Statutes, and amending N.J.S.2C:39-1, and P.L.1979, c.179.

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

1. (New section) a. It shall be a crime for a person, other than a licensed manufacturer or retail dealer regulated pursuant to chapter 58 of Title 2C of the New Jersey Statutes, to knowingly:

(1) purchase or attempt to purchase a firearm at the request, order, or demand of another person, knowing or having reasonable cause to believe that, or in reckless disregard of whether, the other person is disqualified from purchasing or possessing a firearm under State or federal law or the laws of any other state;

(2) purchase or attempt to purchase a firearm for the purpose of selling or transferring the firearm to another person, knowing or having reasonable cause to believe that, or in reckless disregard of whether, the other person is disqualified from purchasing or possessing a firearm under State or federal law or the laws of any other state; or

(3) solicit, hire, engage, demand, or order another person to purchase, or attempt to purchase, any firearm for the purpose of selling or transferring it to any person, knowing or having reasonable cause to believe that, or in reckless disregard of whether, the person to whom the firearm is to be transferred is disqualified from purchasing or possessing a firearm under State or federal law or the laws of any other state.

b. In a prosecution for a violation of subsection a. of this section, the trier of fact may infer that the defendant had the requisite knowledge, belief, or recklessness if:

(1) the defendant or the person to whom the firearm was to be transferred was a member of a criminal street gang as defined by section 1 of P.L.2007, c.341, (C.2C:33-29);

(2) the defendant did not comply with the statutory or regulatory requirements for the sale of a firearm, including those established in N.J.S.2C:58-3 and the regulations promulgated thereunder;

(3) the transfer of the firearm took place or was planned to take place within 45 days of the defendant's purchase and receipt of the firearm, the defendant sold three or more firearms to the other person within a one-year period, or the defendant received compensation for the sale of the firearm to the other person that was substantially more than the fair market value of the firearm;

(4) the defendant and the person to whom the sale or transfer was made were introduced by or had made contact, or attempted to make contact, with each other through a third person who the defendant knew or reasonably believed was a member of a criminal street gang, as defined in section 1 of P.L.2007, c.341, (C.2C:33-29); or

(5) the defendant provided false information in the application or purchase process.

c. Except as otherwise provided in subsection d. of this section, a violation of subsection a. of this section shall be a crime of the second degree.

d. A violation of subsection a. of this section that involves a purchase or attempt to purchase more than one handgun, assault firearm, or machine gun or more than five long guns as defined by N.J.S.2C:39-1 shall be a crime of the first degree.

e. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court also may impose a fine not to exceed \$500,000 or five times the value of the firearms involved, whichever is greater.

2. (New section) a. A person commits a crime if the person possesses a firearm with the intent to sell or transfer it to another who the person knows or has reason to believe is not authorized under law to purchase or possess the firearm. A violation of this section shall be:

(1) a crime of the fourth degree if the offense involves one long gun as defined by N.J.S.2C:39-1;

(2) a crime of the third degree if the offense involves more than one but less than 10 long guns or one handgun. The presumption of nonimprisonment established pursuant to N.J.S.2C:44-1 shall not apply to a violation of this subparagraph and defendant shall be sentenced to a period of imprisonment, except as otherwise provided in this section; or

(3) a crime of the second degree if the offense involves ten or more long guns, two or more handguns, one or more assault firearms, or one or more machine guns.

b. A court that finds by clear and convincing evidence that extraordinary circumstances exist such that imposition of a sentence of imprisonment for the third degree crime pursuant to subsection a. of this section would be a serious injustice which overrides the need to deter such conduct in others may waive imposition of a term of imprisonment required by this section.

In making a finding pursuant to this subsection, the court shall state with specificity its reasons. The decision shall not become final for 10 days, in order to allow the prosecutor to appeal the decision.

3. (New section) a. A person, other than a licensed manufacturer or dealer regulated pursuant to chapter 58 of Title 2C of the New Jersey Statutes, commits the crime of selling a firearm to a convicted criminal or previously confined person if:

(1) the person sells or transfers, or attempts to sell or transfer, whether or not in exchange for value, a firearm to another person who he knows or reasonably believes has been convicted of a crime or confined for a mental disorder; and

(2) the recipient of the firearm has, in fact, been convicted of a crime or confined for a mental disorder and does not first exhibit a valid permit to purchase a handgun or a firearm purchaser identification card.

b. It shall be an affirmative defense to a violation under this section that the person to whom the firearm was to be transferred presented a permit to purchase a handgun or firearm purchaser identification card to the defendant that reasonably appeared to be valid, and defendant complied in a timely manner with all statutory and regulatory requirements regarding the sale of firearms, including but not limited to the requirements set forth in N.J.S.2C:58-3, and any regulations promulgated pursuant thereto.

c. In a prosecution under this section, the trier of fact may infer that the defendant had the requisite knowledge or belief:

(1) that the person to whom the firearm was to be transferred had a criminal conviction if the defendant or that person was a member of a criminal street gang as defined by section 1 of P.L.2007, c.341, (C.2C:33-29).

(2) required under this section if the defendant received compensation for the sale of the firearm to the other person that was more than twice the fair market value of the firearm; did not ask the person to produce a permit to purchase a handgun, a firearms identification card, or official proof of identification; and did not provide a receipt or other documentation regarding the sale to the other person; or

(3) required under this section if the defendant and the recipient or attempted recipient of the firearm had made or attempted to make contact with each other, or were introduced to each other, through a third person that the defendant knew was a member of a criminal street gang as defined in section 1 of P.L.2007, c.341, (C.2C:33-29) or who had a prior criminal conviction.

d. A violation of this section shall be a crime of the first degree if it involves five or more long guns, more than one handgun, or one or more assault weapons or machine guns; otherwise, it is a crime of the second degree.

4. (New section) a. A person who applies for a permit to purchase a handgun or a firearm purchaser identification card, and a person purchasing a firearm, including a handgun, firearm ammunition, or handgun ammunition shall be required to certify in a written document under penalty of perjury, on a form to be prescribed by the superintendent, whether the person intends to transfer a firearm or ammunition to a third party, and the name and address of that third party, if known.

b. The provisions of this section shall not apply to a temporary transfer of firearm in accordance with the provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1), section 1 of P.L.1997, c.375 (C.2C:58-3.2), or section 14 of P.L.1979, c.179 (C.2C:58-6.1), or to the transfer of ammunition for use in a lawfully transferred firearm pursuant to section 1 of P.L.1992, c.74 (C.2C:58-3.1), section 1 of P.L.1997, c.375 (C.2C:58-3.2), or section 14 of P.L.1979, c.179 (C.2C:58-6.1).

c. The superintendent may promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

5. 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, 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 of a caliber greater than 60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (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 not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.

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. A machine gun also shall include, without limitation, any firearm with a trigger crank attached.

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"

Armalite AR-180 type

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

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 10 rounds. "Assault firearm" shall not include a semi-automatic rifle which has an attached tubular device and which is capable of operating only with .22 caliber rimfire ammunition.

(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.

(6) A firearm with a bump stock attached.

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 10 rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic firearm. The term shall not include an attached tubular device which is capable of holding only .22 caliber rimfire ammunition.

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.

cc. "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.

ee. "Bump stock" means any device or instrument for a firearm that increases the rate of fire achievable with the firearm by using energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.

ff. "Trigger crank" means any device or instrument to be attached to a firearm that repeatedly activates the trigger of the firearm through the use of a lever or other part that is turned in a circular motion; provided, however, the term shall not include any weapon initially designed and manufactured to fire through the use of a crank or lever.

gg. "Armor piercing ammunition" means: (1) a projectile or projectile core which may be used in a handgun and is constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or (2) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile. "Armor piercing ammunition" shall not include shotgun shot required by federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the United States Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the United States Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil gas well perforating device.

hh. "Covert firearm" means any firearm that is constructed in a shape or configuration such that it does not resemble a handgun, rifle, shotgun, or machine gun including, but not limited to, a firearm that resembles a key-chain, pen, cigarette lighter, cigarette package, cellphone, smart phone, wallet, or cane.

ii. "Undetectable firearm" means a firearm that: (1) after removal of all parts other than major components, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or (2) includes a major component which, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, would not generate an image that accurately depicts the shape of the component. "Undetectable firearm" shall not be construed to include a firearm subject to the provisions of paragraphs (3) through (6) of subsection (p) of 18 U.S.C. s.922.

jj. "Major component" means the slide or cylinder or the frame or receiver of a firearm and, in the case of a rifle or shotgun, also includes the barrel.

kk. "Security Exemplar" means the Security Exemplar fabricated in accordance with subparagraph (C) of paragraph (2) of subsection (p) of 18 U.S.C. s.922.

ll. "Long gun" means a firearm as defined subsection f. of this section that does not constitute a handgun, assault firearm, or machine gun.

(cf: 2018, c.138, s.1)

6. Section 14 of P.L.1979, c.179 (C.2C:58-6.1) is amended to read as follows:

14. a. **[No]** A person under the age of 18 years shall not purchase, barter or otherwise acquire a firearm or ammunition and **[no]** a person under the age of 21 years shall not purchase, barter or otherwise acquire a handgun or handgun ammunition, unless the person is authorized to possess the handgun in connection with the performance of official duties under the provisions of N.J.S.2C:39-6.

b. **[No]** A person under the age of 18 years shall not possess, carry, fire or use a firearm or ammunition except as provided under paragraphs (1), (2), (3) and (4) of this subsection; and, unless authorized in connection with the performance of official duties under the provisions of N.J.S.2C:39-6, **[no]** a person under the age of 21 years shall not possess, carry, fire or use a handgun or handgun ammunition except under the following circumstances:

(1) In the actual presence or under the direct supervision of his father, mother or guardian, or some other person who holds a permit to carry a handgun or a firearms purchaser identification card, as the case may be; or

(2) For the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision; or

(3) For the purpose of competition, target practice, instruction, and training in and upon a firing range approved by the governing body of the municipality in which the range is located or the National Rifle Association and which is under competent supervision at the time of such supervision or target practice or instruction and training at any location; or

(4) For the purpose of hunting during the regularly designated hunting season, provided that he possesses a valid hunting license and has successfully completed a hunter's safety course taught by a qualified instructor or conservation officer and possesses a certificate indicating the successful completion of such a course.

c. A person who violates this section shall be guilty of a crime of the fourth degree. For purposes of this section the fact that the act would not constitute a crime if committed by an adult shall not be deemed to prohibit or require waiver of family court jurisdiction pursuant to N.J.S.2C:4-11 or to preclude a finding of delinquency under the "New Jersey Code of Juvenile Justice," P.L.1982, c.77 (C.2A:4A-20 et seq.), P.L.1982, c.79 (C.2A:4A-60 et seq.), P.L.1982, c.80 (C.2A:4A-76 et seq.) and P.L.1982, c.81 (C.2A:4A-70 et seq.).

(cf: P.L.2013, c.108, s.2)

7. This act shall take effect immediately, except that section 4 shall remain inoperative for 180 days following the effective date of this act, but the superintendent may take such anticipatory action as may be necessary to effectuate that provision of the act.

STATEMENT

This bill establishes certain criminal penalties for firearm trafficking, which is the diversion of firearms from lawful commerce into the illegal market. Specifically, the bill penalizes purchasing or possessing a firearm for the purpose of transferring it another person who is disqualified under State or federal law from receiving or possessing that firearm. In addition, the bill establishes criminal penalties for selling a firearm to another person who has been previously convicted of a crime of confined for a mental disorder. The bill also establishes a mandatory term of incarceration for persons convicted of operating as a leader of a firearms trafficking network.

Acting as a Firearm Straw Purchaser or Utilizing a Firearm Straw Purchaser

Under the bill, it would be crime to knowingly purchase, or attempt or conspire to purchase a firearm at the request, order, or demand of another person, knowing or having reasonable cause to believe that, or in reckless disregard of whether, the other person is disqualified from purchasing or possessing a firearm under State or federal law or the laws of any other state. It also would be a crime to knowingly purchase, or attempt to purchase a firearm for the purpose of selling or transferring the firearm to another person, knowing or reasonably believing or with reckless disregard of whether that the other person is disqualified from purchasing or possessing a firearm under State or federal law or the laws of any other state. The bill also establishes a crime of soliciting, hiring, engaging, demanding, or ordering another person to purchase, or attempt or purchase, any firearm for the purpose of selling or transferring it to him or to a third party, knowing or having reasonable cause to believe or with reckless disregard of whether the person to whom the firearm is to be transferred is disqualified from purchasing or possessing a firearm under State or federal law or the laws of any other state.

A person who commits these offenses would be guilty of a crime of the second degree. However, the bill provides that an offender would be guilty of a crime of first degree if the violation involves a purchase or attempt to purchase more than five long guns, or more than one handgun, assault weapon, or machine gun. The bill defines "long gun" as a firearm as defined by N.J.S.2C:39-1 that does not constitute a handgun, assault firearm, or machine gun. The bill also allows the court to impose a fine that would not exceed \$500,000 or five times the value of the firearms involved, whichever is greater.

The bill allows a trier of fact to infer that the defendant had the requisite knowledge or intent to commit or attempt to commit the crime if:

- (1) the defendant or the person to whom the firearm was to be transferred was a member of a criminal street gang;
- (2) the defendant did not comply with the statutory or regulatory requirements for the sale of a firearm;
- (3) the transfer of the firearm took place or was planned to take place within 45 days of the defendant's purchase and receipt of the firearm, the defendant sold three or more firearms to the other person within a one-year period, or the defendant received compensation for the sale of the firearm to the other person that was substantially more than the fair market value of the firearm;

(4) the defendant and the person to whom the sale or transfer was made were introduced by or had made contact, or attempted to make contact, with each other through a third person who the defendant knew or reasonably believed was a member of a criminal street gang; or

(5) the defendant provided false information in the application or purchase process.

Possessing a Firearm with the Intent to Unlawfully Transfer

The bill also establishes a crime of possessing a firearm with the intent to sell or transfer it to another who he knows or has reason to believe is not authorized under law to purchase or possess the firearm. A person would be guilty of a crime of the fourth degree if the offense involves one long gun. It would be a third degree crime if the offense involved more than one but less than 10 long guns or one handgun. It would be a crime of the second degree if the offense involves 10 or more long guns, two or more handguns, one or more assault firearms, or one or more machine guns.

Unlawfully Selling or Transferring a Firearm to a Disqualified Person

The bill establishes a crime of selling a firearm to a person who had previously been convicted of a crime or confined for a mental disorder. Under the bill, it is a crime to sell or transfer, or attempt to sell or transfer a firearm to another person who the transferor knows or reasonably believes has been convicted of a crime or confined for a mental disorder and the recipient of the firearm, in fact, has been convicted of a crime or confined for a mental disorder and does not first exhibit a valid permit to purchase a handgun or a firearms purchaser identification card.

The bill establishes an affirmative defense if person to whom the firearm was to be transferred presented a permit or firearms purchaser identification card to the defendant that reasonably appeared to be valid, and defendant complied in a timely manner with all statutory and regulatory requirements regarding the sale of firearms.

The bill allows a trier of fact to infer that the defendant defendant had the requisite knowledge or belief:

(1) that the person to whom the firearm was to be transferred had a criminal conviction if the defendant or that person was a member of a criminal street gang.

(2) if the defendant received compensation for the sale of the firearm to the other person that was more than twice the fair market value of the firearm; did not ask the person to produce a permit to purchase a handgun, a firearms identification card, or official proof of identification; and did not provide a receipt or other documentation regarding the sale to the other person; or

(3) if the defendant and the recipient or attempted recipient of the firearm had made or attempted to make contact with each other, or were introduced to each other, through a third person that the defendant knew was a member of a criminal street gang or who had a prior criminal conviction.

Under the bill, the crime of unlawfully transferring a firearm to a disqualified person would be a crime of the second degree. However, an unlawful transfer would be a crime of the first degree if the transfer involved five or more long guns, more than one handgun, or one or more assault weapons or machine guns.

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Third Party Disclosure Statement

The bill requires a person who applies for a permit to purchase a handgun or a firearms purchaser identification card, and a person purchasing a firearm or firearm ammunition to certify in a written document

under penalty of perjury, on a form to be prescribed by the superintendent, whether a firearm or ammunition to be purchased is intended to be transferred to a third party, and the name and address of that third party, if known. The written certification would not apply to temporary transfers of firearms or ammunition pursuant to section 1 of P.L.1992, c.74 (C.2C:58-3.1), section 1 of P.L.1997, c.375 (C.2C:58-3.2), or section 14 of P.L.1979, c.179 (C.2C:58-6.1).