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SYNOPSIS

Criminalizes purchase, transfer, or possession of certain weapons and ammunition by persons convicted of certain crimes; establishes crime of transferring or possessing firearm without serial number.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 20, 2019.

AN ACT concerning purchase and possession of certain weapons and ammunition and amending various parts of statutory law.

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

1. Section 6 of P.L.1979, c.179 (C.2C:39-7) is amended to read as follows:

6. Certain Persons Not to Have Weapons or Ammunition.

a. Except as provided in subsection b. of this section, any person, having been convicted in this State or elsewhere of the crime, or an attempt or conspiracy to commit the crime, of aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault, bias intimidation in violation of N.J.S.2C:16-1, carjacking in violation of section 1 of P.L.1993, c.221 (C.2C:15-2),

gang criminality in violation of section 1 of P.L.2007, c.341 (C.2C:33-29), racketeering in violation of N.J.S.2C:41-2, terroristic threats in violation of N.J.S.2C:12-3, unlawful possession of a machine gun in violation of subsection a. of N.J.S.2C:39-5, unlawful possession of a handgun in violation of paragraph (1) of subsection b. of N.J.S.2C:39-5, unlawful possession of an assault firearm in violation of subsection f. of N.J.S.2C:39-5, ¹leader of firearms trafficking network in violation of section 1 of P.L.1995, c.405 (C.2C:39-16), ¹or endangering the welfare of a child pursuant to N.J.S.2C:24-4, whether or not armed with or having in [his] the person's possession any weapon enumerated in subsection r. of N.J.S.2C:39-1, or any person convicted of a crime, or an attempt or conspiracy to commit a crime, pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4 or N.J.S.2C:39-9, or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium unless [he] the person possesses a certificate of a medical doctor or psychiatrist licensed to practice in New Jersey or other satisfactory proof that [he] the person is no longer suffering from a mental disorder which interferes with or handicaps [him] the person in the handling of a firearm, or any person who has been convicted of [other than a disorderly persons or petty disorderly persons offense] an offense, or an attempt or conspiracy to commit an offense, for the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2, other than a disorderly persons or petty disorderly persons offense, who purchases, owns, possesses or controls any of the [said] specified weapons or any ammunition as defined in section 2 of P.L.2018, c.35 (C.2C:58-21) is guilty of a crime of the fourth degree.

b. (1) A person having been convicted in this State or elsewhere of the crime, or an attempt or conspiracy to commit the crime, of aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault, bias intimidation in violation of N.J.S.2C:16-1, carjacking in violation of section 1 of P.L.1993, c.221 (C.2C:15-2), gang criminality in violation of section 1 of P.L.2007, c.341 (C.2C:33-29), racketeering in violation of N.J.S.2C:41-2, terroristic threats in violation of N.J.S.2C:12-3, unlawful possession of a machine gun in violation of subsection a. of N.J.S.2C:39-5, unlawful possession of a handgun in violation of paragraph (1) of subsection b. of N.J.S.2C:39-5, unlawful possession of an assault firearm in violation of subsection f. of N.J.S.2C:39-5, ¹leader of firearms trafficking network in violation of section 1 of P.L.1995, c.405 (C.2C:39-16), ¹endangering the welfare of a child pursuant to N.J.S.2C:24-4, stalking pursuant to P.L.1992, c.209 (C.2C:12-10) or a crime, or an attempt or conspiracy to commit a crime, involving domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or not armed with or having in [his] the person's possession a weapon enumerated in subsection r. of N.J.S.2C:39-1, or a person having been convicted of a crime, or an attempt or conspiracy to commit a crime, pursuant to the provisions of N.J.S.2C:35-3 through N.J.S.2C:35-6, inclusive; section 1 of P.L.1987, c.101 (C.2C:35-7); N.J.S.2C:35-11; N.J.S.2C:39-3; N.J.S.2C:39-4; or N.J.S.2C:39-9 who purchases, owns, possesses or controls a firearm is guilty of a crime of the second degree and upon conviction thereof, the person shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term, which shall be fixed at five years, during which the defendant shall be ineligible for parole. If the defendant is sentenced to an extended term of imprisonment pursuant to N.J.S.2C:43-7, the extended term of imprisonment shall include the imposition of a minimum term, which shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or five years, whichever is greater, during which the defendant shall be ineligible for parole.

(2) A person having been convicted in this State or elsewhere of a disorderly persons offense involving domestic violence, whether or not armed with or having in **his** the person's possession a weapon enumerated in subsection r. of N.J.S.2C:39-1, who purchases, owns, possesses or controls a firearm or ammunition is guilty of a crime of the third degree.

(3) A person whose firearm is seized pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) and whose firearm has not been returned, or who is subject to a court order prohibiting the possession of firearms issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) who purchases, owns, possesses or controls a firearm or ammunition is guilty of a crime of the third degree, except that the provisions of this paragraph shall not apply to any law enforcement officer while actually on duty, or to any member of the Armed Forces of the United States or member of the National Guard while actually on duty or traveling to or from an authorized place of duty.

(4) A person who is subject to a court order prohibiting the custody, control, ownership, purchase, possession, or receipt of a firearm or ammunition issued pursuant to the "Extreme Risk Protective Order Act of 2018," P.L.2018, c.35 (C.2C:58-20 et al.) who purchases, acquires, owns, possesses, or controls a firearm or ammunition is guilty of a crime of the third degree.

c. Whenever any person shall have been convicted in another state, territory, commonwealth or other jurisdiction of the United States, or any country in the world, in a court of competent jurisdiction, of a crime, or an attempt or conspiracy to commit a crime, which in **said** the other jurisdiction or country is comparable to one of the crimes enumerated in subsection a. or b. of this section, then that person shall be subject to the provisions of this section.

(cf: P.L.2018, c.34, s.13)

2. 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) Nothing in paragraph (1) of subsection f. [(1) of this section] 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 paragraph (1) of subsection f. [(1) of this section] 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) Nothing in paragraph (1) of subsection f. [(1) of this section] 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. of this section 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.

m. Covert or undetectable firearms. Any person who knowingly possesses any covert firearm as defined in subsection hh. of N.J.S.2C:39-1, an undetectable firearm as defined in subsection ii. of N.J.S.2C:39-1, or a firearm enclosed in a container or covering that is designed or modified to allow the firearm to be fired while

so enclosed and that disguises or obscures the shape of the firearm such that it does not resemble a handgun, rifle, shotgun, or machine gun 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.

n. Firearms without a serial number. Any person who knowingly possesses a firearm manufactured or otherwise assembled using a firearm frame or firearm receiver as defined in subsection k. of N.J.S.2C:39-9 which is not imprinted with a serial number registered with a federally licensed manufacturer including, but not limited to, a firearm manufactured or otherwise assembled from parts purchased or otherwise obtained in violation of subsection k. of N.J.S.2C:39-9, is guilty of a crime of the third degree.

(cf: P.L.2018, c.161, s.1)

3. N.J.S.2C:39-9 is amended to read as follows:

2C:39-9. Manufacture, Transport, Disposition and Defacement of Weapons and Dangerous Instruments and Appliances.

a. Machine guns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any machine gun without being registered or licensed to do so as provided in chapter 58 of Title 2C of the New Jersey Statutes is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any sawed-off shotgun is guilty of a crime of the third degree.

c. Firearm silencers. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any firearm silencer is guilty of a crime of the fourth degree.

d. Weapons. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon, including gravity knives, switchblade knives, ballistic knives, daggers, dirks, stilettos, billies, blackjacks, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings, or, except as otherwise provided in subsection i. of this section, in the case of firearms if he is not licensed or registered to do so as provided in chapter 58 of Title 2C of the New Jersey Statutes, is guilty of a crime of the fourth degree. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon or other device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air, which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel or the device is for the purpose of personal self-defense, is pocket-sized and contains not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, or other than to be used by any person permitted to possess such weapon or device under the provisions of subsection d. of N.J.S.2C:39-5, which is intended for use by financial and other business institutions as part of an integrated

security system, placed at fixed locations, for the protection of money and property, by the duly authorized personnel of those institutions, is guilty of a crime of the fourth degree.

e. Defaced firearms. Any person who defaces any firearm is guilty of a crime of the third degree. Any person who knowingly buys, receives, disposes of or conceals a defaced firearm, except an antique firearm or an antique handgun, is guilty of a crime of the fourth degree.

f. (1) Any person who manufactures, causes to be manufactured, transports, ships, sell, or disposes of any armor piercing ammunition, as defined in subsection gg. of N.J.S.2C:39-1, which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel, is guilty of a crime of the fourth degree.

(2) Nothing in this subsection shall be construed to prevent a licensed collector of ammunition as defined in paragraph (2) of subsection f. of N.J.S.2C:39-3 from transporting the bullets defined in paragraph (1) of this subsection from (a) any licensed retail or wholesale firearms dealer's place of business to the collector's dwelling, premises, or other land owned or possessed by him, or (b) to or from the collector's dwelling, premises or other land owned or possessed by him to any gun show for the purposes of display, sale, trade, or transfer between collectors, or (c) to or from the collector's dwelling, premises or other land owned or possessed by him to any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice; provided that the club has filed a copy of its charter with the superintendent of the State Police and annually submits a list of its members to the superintendent, and provided further that the ammunition being transported shall be carried not loaded in any firearm and contained in a closed and fastened case, gun box, or locked in the trunk of the automobile in which it is being transported, and the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

g. Assault firearms. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of an assault firearm without being registered or licensed to do so pursuant to N.J.S.2C:58-1 et seq. is guilty of a crime of the third degree.

h. Large capacity ammunition magazines. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of a large capacity ammunition magazine which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel is guilty of a crime of the fourth degree.

i. Transporting firearms into this State for an unlawful sale or transfer. Any person who knowingly transports, ships or otherwise brings into this State any firearm for the purpose of unlawfully selling, transferring, giving, assigning or otherwise disposing of that firearm to another individual is guilty of a crime of the second degree. Any motor vehicle used by a person to transport, ship, or otherwise bring a firearm into this State for unlawful sale or transfer shall be subject to forfeiture in accordance with the provisions of N.J.S.2C:64-1 et seq.; provided however, this forfeiture provision shall not apply to innocent owners, nor shall it affect the rights of a holder of a valid lien.

The temporary transfer of a firearm shall not constitute a violation of this subsection if that firearm is transferred:

(1) while hunting or target shooting in accordance with the provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1);

(2) for shooting competitions sponsored by a licensed dealer, law enforcement agency, legally recognized military organization, or a rifle or pistol club which has filed a copy of its charter with the superintendent in accordance with the provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1); or

(3) for participation in a training course conducted by a certified instructor in accordance with the provisions of section 1 of P.L.1997, c.375 (C.2C:58-3.2).

The transfer of any firearm that uses air or carbon dioxide to expel a projectile; or the transfer of an antique firearm shall not constitute a violation of this subsection.

j. Any person who manufactures, causes to be manufactured, transports, ships, sells, or disposes of 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 is guilty of a crime of the third degree.

k. Purchasing firearm parts to manufacture a firearm without a serial number. In addition to any other criminal penalties provided under law, a person who, with the purpose to manufacture or otherwise assemble a firearm and without being registered or licensed do so as provided in chapter 58 of Title 2C of the New Jersey Statutes, purchases or otherwise obtains separately or as part of a kit a firearm frame or firearm receiver which is not imprinted with a serial number registered with a federally licensed manufacturer or any combination of parts from which a firearm without a serial number may be readily manufactured or otherwise assembled, but which does not have the capacity to function as a firearm unless manufactured or otherwise assembled is guilty of a crime of the third degree. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction under this subsection shall not merge with a conviction for any other criminal offense and the court shall impose separate sentences upon a violation of this subsection and any other criminal offense.

As used in this subsection, "firearm frame or firearm receiver" means the part of a firearm that provides housing for the firearm's internal components, such as the hammer, bolt or breechblock, action, and firing mechanism, and includes without limitation any object or part which is not a firearm frame or receiver in finished form but is designed or intended to be used for that purpose and which may readily be made into a firearm frame or receiver through milling or other means.

l. Manufacturing or facilitating the manufacture of a firearm using a three-dimensional printer. In addition to any other criminal penalties provided under law it is a third degree crime for:

(1) a person who is not registered or licensed to do so as a manufacturer as provided in chapter 58 of Title 2C of the New Jersey Statutes, to use a three-dimensional printer or similar device to manufacture or produce a firearm, firearm receiver, magazine, or firearm component; or

(2) a person to distribute by any means, including the Internet, to a person in New Jersey who is not registered or licensed as a manufacturer as provided in chapter 58 of Title 2C of the New Jersey Statutes, digital instructions in the form of computer-aided design files or other code or instructions stored and displayed in electronic format as a digital model that may be used to program a three-dimensional printer to manufacture or produce a firearm, firearm receiver, magazine, or firearm component.

As used in this subsection: "three-dimensional printer" means a computer or computer-driven machine or device capable of producing a three-dimensional object from a digital model; and "distribute" means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share, advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not, and includes an agreement or attempt to distribute.

m. Covert or undetectable firearms. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any covert firearm as defined in subsection hh. of N.J.S.2C:39-1 or any undetectable firearm as defined in subsection ii. of N.J.S.2C:39-1 is guilty of a crime of the third degree.

n. Transporting a manufactured firearm without a serial number. In addition to any other criminal penalties provided under law, a person who transports, ships, sells, or disposes of a firearm manufactured or otherwise assembled using a firearm frame or firearm receiver as defined in subsection k. of this section which is not imprinted with a serial number registered with a federally licensed manufacturer, including but not limited to a firearm manufactured or otherwise assembled from parts purchased or otherwise obtained in violation of subsection k. of this section, is guilty of a crime of the third degree.

(cf: P.L.2018, c.138, s.3)

4. This act shall take effect immediately.