

CHAPTER 148

AN ACT concerning unlawful trafficking of firearms and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:39-16.1 Short title.

1. This act shall be known and may be cited as the “Real Accountability for Consequences of Unlawful Trafficking of Firearms Act.”

C.2C:39-16.2 Firearm trafficking violation, definition; liability.

2. a. As used in this act, “firearm trafficking violation” means:

(1) A violation of paragraph (1) of subsection a. of N.J.S.2C:39-10 by selling, giving, transferring, assigning, or otherwise disposing of a handgun to a purchaser, assignee, donee, receiver, or holder who the defendant knows is not licensed as a dealer or has not secured a permit to purchase a handgun pursuant to subsection a. of N.J.S.2C:58-3;

(2) A violation of paragraph (1) of subsection a. of N.J.S.2C:39-10 by selling, giving, transferring, assigning, or otherwise disposing of a rifle or shotgun to a purchaser, assignee, donee, receiver, or holder who the defendant knows is not licensed as a dealer or does not possess a valid firearms purchaser identification card and has not complied with the requirements of paragraph (1) of subsection b. of N.J.S.2C:58-3;

(3) A violation of paragraph (4) of subsection a. of N.J.S.2C:39-10 by selling or transferring a firearm knowing that the recipient intends to sell, transfer, assign, or otherwise dispose of that firearm to another person who is disqualified from possessing a firearm under State or federal law;

(4) A violation of subsection i. of N.J.S.2C:39-9 by transporting, shipping, or otherwise bringing into this State, or conspiring to transport, ship, or otherwise bring into this State, any firearm for the purpose of unlawfully selling, transferring, giving, assigning, or otherwise disposing of that firearm to another individual;

(5) A violation of subsection e. of N.J.S.2C:39-10 by selling, giving, transferring, assigning or otherwise disposing of a firearm to a person who is under the age of 18 years, except as permitted in section 14 of P.L.1979, c.179 (C.2C:58-6.1); or

(6) A violation of subsections (a), (b), (c), (d), (h), (i), (j), (n), (u), or (x) of Title 18 U.S.C. s.922 or subparagraph (A) of subsection (a)(1) of Title 18 U.S.C. s.924.

b. (1) A person who purposely commits any firearm trafficking violation enumerated in subsection a. of this section shall be strictly liable for a death that results from the discharge of the illegally trafficked firearm used in the course of committing a crime and shall be guilty of a crime of the first degree.

(2) A person who purposely commits any firearm trafficking violation enumerated in subsection a. of this section is strictly liable for a serious bodily injury or significant bodily injury as defined by N.J.S.2C:11-1 that results from the discharge of the illegally trafficked firearm while used in the course of committing a crime and shall be guilty of a crime of the second degree.

(3) For purposes of paragraphs (1) and (2) of this subsection, an act shall be deemed to be in the course of committing a crime if the act occurs during or as part of an attempt to commit a crime or the commission of a crime or in the immediate flight after the attempt to commit or the commission of a crime.

c. The act of selling, giving, transferring, assigning, or otherwise disposing of a firearm shall be deemed a cause of death, serious bodily injury, or significant bodily injury when:

(1) the act is an antecedent but for which the death, serious bodily injury, or significant bodily injury would not have occurred;

(2) the death, serious bodily injury, or significant bodily injury occurred not more than three years from the person's act; and

(3) the death, serious bodily injury, or significant bodily injury was not dependent upon the conduct of another person which was so unrelated to the use of the firearm it did not have a just bearing on the actor's liability.

C.2C:39-16.3 Trier of fact, defendant, requisite mental state, commit, firearm trafficking, conditions.

3. a. In a prosecution under section 2 of P.L.2023, c.148 (C.2C:39-16.2), the trier of fact may infer that the defendant had the requisite mental state to commit a firearm trafficking violation if the defendant:

(1) transferred or planned to transfer the firearm within 45 days of the defendant's purchase and receipt of the firearm;

(2) sold three or more firearms to the other person within a one-year period;

(3) received compensation for the sale of the firearm to another person that was significantly above the fair market value of the firearm;

(4) did not conduct the transaction through a licensed retail dealer pursuant to paragraph (2) of subsection a. or paragraph (2) of subsection b. of N.J.S.2C:58-3; or

(5) did not abide by the requirements of paragraph (3) of subsection a. or paragraph (3) of subsection b. of N.J.S.2C:58-3 and did not provide a receipt or other documentation regarding the sale to the other person.

b. The provisions of N.J.S.2C:2-3 governing the causal relationship between conduct and result shall not apply in a prosecution under section 2 of P.L.2023, c.148 (C.2C:39-16.2).

c. In a prosecution under section 2 of P.L.2023, c.148 (C.2C:39-16.2), the defendant's actions outside of this State shall be sufficient for prosecution if the defendant knew or should have known that the recipient of the firearm intended to possess, transfer, dispose, sell, or otherwise transport the firearm in this State.

d. It shall not be a defense to a prosecution under section 2 of P.L.2023, c.148 (C.2C:39-16.2) that:

(1) the death or serious or significant bodily injury took place in a jurisdiction other than this State; or

(2) the decedent or victim contributed to their own death or serious bodily injury.

e. Nothing in this section shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for any other offense.

4. This act shall take effect immediately.

Approved August 23, 2023.