

**SENATE CONCURRENT  
RESOLUTION No. 117**

**STATE OF NEW JERSEY  
217th LEGISLATURE**

INTRODUCED SEPTEMBER 8, 2016

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**SYNOPSIS**

Prohibits adoption of State Police proposed rule expanding justifiable need standard for issuing handgun carry permits.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/20/2016)**

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1 **A CONCURRENT RESOLUTION** concerning legislative review of  
2 rules and regulations pursuant to Article V, Section IV,  
3 paragraph 6 of the Constitution of the State of New Jersey and  
4 prohibiting the adoption of certain proposed Division of State  
5 Police rules and regulations.

6  
7 **WHEREAS**, Pursuant to Article V, Section IV, paragraph 6 of the  
8 Constitution of the State of New Jersey, the Legislature may review  
9 any rule or regulation adopted or proposed by an administrative  
10 agency to determine if it is consistent with the intent of the  
11 Legislature, and invalidate an adopted rule or regulation or prohibit  
12 the adoption of a proposed rule or regulation if it finds that the rule  
13 or regulation is not consistent with legislative intent; and

14 **WHEREAS**, Upon finding that a rule or regulation, either proposed or  
15 adopted, is not consistent with legislative intent, Article V, Section  
16 IV, paragraph 6 provides that the Legislature shall transmit its  
17 findings in the form of a concurrent resolution to the Governor and  
18 the head of the Executive Branch agency which promulgated, or  
19 plans to promulgate, the rule or regulation, and the agency shall  
20 have 30 days from the time the concurrent resolution is transmitted  
21 to amend or withdraw the rule or regulation; and

22 **WHEREAS**, If the agency does not amend or withdraw the existing or  
23 proposed rule or regulation, Article V, Section IV, paragraph 6  
24 provides that the Legislature may invalidate or prohibit the adoption  
25 of the proposed rule or regulation, following a public hearing held  
26 by either House on the invalidation or prohibition, the placement of  
27 a transcript of the public hearing on the desks of the members of  
28 each House of the Legislature in open meeting followed by the  
29 passage of at least 20 calendar days, and a vote of a majority of the  
30 authorized membership of each House in favor of a concurrent  
31 resolution invalidating or prohibiting the adoption of the rule or  
32 regulation; and

33 **WHEREAS**, On March 7, 2016, the Division of State Police in the  
34 Department of Law and Public Safety proposed for public comment  
35 in the New Jersey Register a rule proposal concerning the  
36 Application for a Permit to Carry a Handgun pursuant to  
37 N.J.A.C.13:54-2.4; the rule proposal expands the circumstances  
38 under which justifiable need to carry a handgun can be based to  
39 include “serious threats,” in addition to specific threats and  
40 previous attacks, which cannot be avoided by “reasonable” means  
41 other than by issuance of a permit; and

42 **WHEREAS**, This notice of proposal cites N.J.S.2C:39-1 et seq. and  
43 N.J.S.2C:58-1 et seq. as the statutory authority for the rule  
44 proposal; and

45 **WHEREAS**, Senate Concurrent Resolution No. 101 (1R) and Assembly  
46 Resolution No. 175 declared that the proposal by the Division of  
47 State Police, published for public comment in the New Jersey  
48 Register on March 7, 2016 (48 N.J.R.377(a)), to revise the rule

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1 concerning Application for a Permit to Carry a Handgun,  
2 N.J.A.C.13:54-2.4, is not consistent with legislative intent; and

3 **WHEREAS**, On June 16, 2016, Senate Concurrent Resolution No. 101  
4 (1R) received final approval by the Legislature and was transmitted  
5 to the Governor, the Attorney General, and the Superintendent of  
6 State Police in the form of a concurrent resolution filed on June 16,  
7 2016 with the Secretary of State and published on the Legislature's  
8 public website, and again on July 5, 2016 through a letter mailed by  
9 the Clerk of the General Assembly to the Governor, the Attorney  
10 General, and the Superintendent of State Police; and

11 **WHEREAS**, Senate Concurrent Resolution No. 101 (1R) expressed the  
12 Legislature's finding that the proposal by the Division of State  
13 Police on March 7, 2016 was not consistent with legislative intent  
14 and informed the Governor, the Attorney General, and the  
15 Superintendent of State Police, pursuant to Article V, Section IV,  
16 paragraph 6 of the Constitution of the State of New Jersey, that the  
17 superintendent shall have 30 days following transmittal of that  
18 concurrent resolution to amend or withdraw the proposed rules and  
19 regulations or the Legislature may, by passage of another  
20 concurrent resolution, exercise its authority under the Constitution  
21 to prohibit the adoption of the proposed rules and regulations in  
22 whole or in part; and

23 **WHEREAS**, The Division of State Police has failed to amend or  
24 withdraw, or provide any notification to the Legislature of its  
25 intention to amend or withdraw, the proposed regulations within 30  
26 days after Senate Concurrent Resolution No. 101 (1R) was  
27 transmitted to the Governor, the Attorney General, and the  
28 Superintendent of State Police; and

29 **WHEREAS**, Prior to voting on a concurrent resolution to invalidate an  
30 adopted rule or regulation or prohibit the adoption of a proposed  
31 rule or regulation, a public hearing shall be held on invalidating or  
32 prohibiting the adoption of the proposed rule and the transcript of  
33 that hearing shall be placed on the desk of each member of the  
34 Senate and each member of the General Assembly; now, therefore,  
35

36 **BE IT RESOLVED** *by the Senate of the State of New Jersey (the*  
37 *General Assembly concurring):*  
38

39 1. The Legislature prohibits adoption of the proposed rules and  
40 regulations published by the Division of State Police for public  
41 comment in the New Jersey Register on March 7, 2016 (48  
42 N.J.R.377(a)), to expand the justifiable need standard for carrying a  
43 handgun pursuant to N.J.A.C.13:54-2.4 to include "serious threats"  
44 in addition to specific threats and previous attacks, which cannot be  
45 avoided by "reasonable" means other than by issuance of a permit.  
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47 2. Copies of this concurrent resolution, as filed with the  
48 Secretary of State, shall be transmitted by the Clerk of the General

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1 Assembly or the Secretary of the Senate to the Governor, the  
2 Attorney General, the Superintendent of State Police, and the Office  
3 of Administrative Law.

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5 3. This concurrent resolution shall take effect immediately.

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STATEMENT

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10 Pursuant to Article V, Section IV, paragraph 6 of the  
11 Constitution of the State of New Jersey, this concurrent resolution  
12 prohibits adoption of the rules and regulations proposed by the  
13 Division of State Police for public comment in the New Jersey  
14 Register on March 7, 2016 to expand the circumstances in  
15 N.J.A.C.13:54-2.4 (Application for a Permit to Carry a Handgun)  
16 under which justifiable need to carry a handgun can be based to  
17 include “serious threats” in addition to specific threats and previous  
18 attacks, which cannot be avoided by “reasonable” means other than  
19 by issuance of a permit.

20 As required by the Constitution, the Legislature previously  
21 informed the Governor, the Attorney General, and the Division of  
22 State Police, through Senate Concurrent Resolution No. 101 (1R) of  
23 2016, of the Legislature’s finding that this rule proposal is not  
24 consistent with legislative intent.