

ASSEMBLY, No. 2758

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

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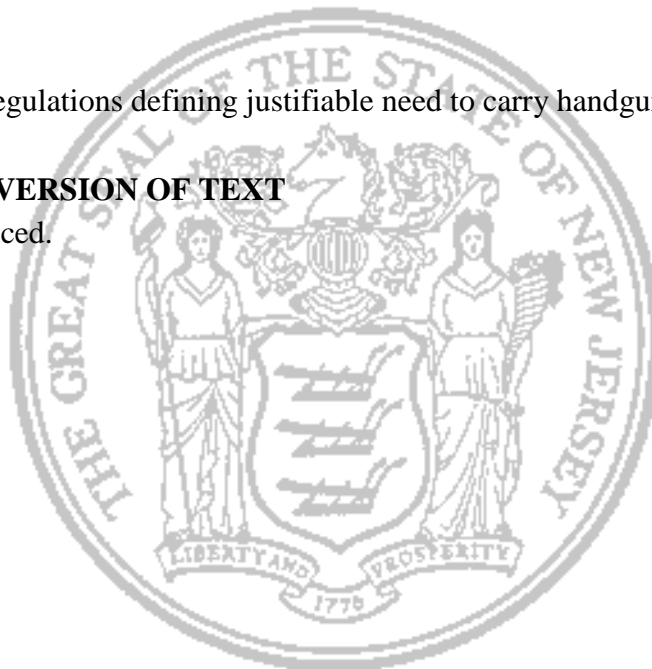
Assemblyman Caputo, Assemblywomen Vainieri Huttie, Downey, Assemblymen Houghtaling, Benson, Assemblywomen Murphy, Jasey, McKnight, Lampitt, Assemblyman Chiaravalloti, Assemblywoman Mosquera, Assemblyman Gusciora, Assemblywoman Pinkin and Senator Turner

SYNOPSIS

Codifies regulations defining justifiable need to carry handgun.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/8/2018)

A2758 GREENWALD, HOLLEY

2

1 AN ACT concerning handgun carry permits and amending
2 N.J.S.2C:58-4.

3

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

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7 1. N.J.S.2C:58-4 is amended to read as follows:

8 2C:58-4. a. Scope and duration of authority. Any person
9 who holds a valid permit to carry a handgun issued pursuant to this
10 section shall be authorized to carry a handgun in all parts of this
11 State, except as prohibited by **[section 2C:39-5e]** subsection e. of
12 N.J.S.2C:39-5. One permit shall be sufficient for all handguns
13 owned by the holder thereof, but the permit shall apply only to a
14 handgun carried by the actual and legal holder of the permit.

15 All permits to carry handguns shall expire **[2]** two years from
16 the date of issuance or, in the case of an employee of an armored
17 car company, upon termination of his employment by the company
18 occurring prior thereto whichever is earlier in time, and they may
19 thereafter be renewed every **[2]** two years in the same manner and
20 subject to the same conditions as in the case of original
21 applications.

22 b. Application forms. All applications for permits to carry
23 handguns, and all applications for renewal of **[such]** permits, shall
24 be made on the forms prescribed by the superintendent. Each
25 application shall set forth the full name, date of birth, sex,
26 residence, occupation, place of business or employment, and
27 physical description of the applicant, and **[such]** any other
28 information **[as]** the superintendent may prescribe for the
29 determination of the applicant's eligibility for a permit and for the
30 proper enforcement of this chapter. The application shall be signed
31 by the applicant under oath, and shall be indorsed by three reputable
32 persons who have known the applicant for at least **[3]** three years
33 preceding the date of application, and who shall certify thereon that
34 the applicant is a person of good moral character and behavior.

35 c. Investigation and approval. Each application shall in the
36 first instance be submitted to the chief police officer of the
37 municipality in which the applicant resides, or to the
38 superintendent, (1) if the applicant is an employee of an armored
39 car company, or (2) if there is no chief police officer in the
40 municipality where the applicant resides, or (3) if the applicant does
41 not reside in this State. The chief police officer, or the
42 superintendent, as the case may be, shall cause the fingerprints of
43 the applicant to be taken and compared with any and all records
44 maintained by the municipality, the county in which it is located,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 the State Bureau of Identification and the Federal Bureau of
2 Identification. He shall also determine and record a complete
3 description of each handgun the applicant intends to carry.

4 No application shall be approved by the chief police officer or
5 the superintendent unless the applicant demonstrates that he is not
6 subject to any of the disabilities set forth in **[2C:58-3c.]** subsection
7 c. of N.J.S.2C:58-3, that he is thoroughly familiar with the safe
8 handling and use of handguns, and that he has a justifiable need to
9 carry a handgun.

10 Each application form shall be accompanied by a written
11 certification of justifiable need to carry a handgun, which shall be
12 under oath and, in the case of a private citizen, shall specify in
13 detail the urgent necessity for self-protection, as evidenced by
14 specific threats or previous attacks which demonstrate a special
15 danger to the applicant's life that cannot be avoided by means other
16 than by issuance of a permit to carry a handgun. Where possible,
17 the applicant shall corroborate the existence of any specific threats
18 or previous attacks by reference to reports of the incidents to the
19 appropriate law enforcement agencies.

20 If the application is not approved by the chief police officer or
21 the superintendent within 60 days of filing, it shall be deemed to
22 have been approved, unless the applicant agrees to an extension of
23 time in writing.

24 d. Issuance by Superior Court; fee. If the application has been
25 approved by the chief police officer or the superintendent, as the
26 case may be, the applicant shall forthwith present it to the Superior
27 Court of the county in which the applicant resides, or to the
28 Superior Court in any county where he intends to carry a handgun,
29 in the case of a nonresident or employee of an armored car
30 company. The court shall issue the permit to the applicant if, but
31 only if, it is satisfied that the applicant is a person of good character
32 who is not subject to any of the disabilities set forth in **[section**
33 **2C:58-3c.]** subsection c. of N.J.S.2C:58-3, that he is thoroughly
34 familiar with the safe handling and use of handguns, and that he has
35 a justifiable need to carry a handgun in accordance with the
36 provisions of subsection c. of this section. The court may at its
37 discretion issue a limited-type permit which would restrict the
38 applicant as to the types of handguns he may carry and where and
39 for what purposes **[such]** the handguns may be carried. At the time
40 of issuance, the applicant shall pay to the county clerk of the county
41 where the permit was issued a permit fee of **[\$20.00]** \$20.

42 e. Appeals from denial of applications. Any person aggrieved
43 by the denial by the chief police officer or the superintendent of
44 approval for a permit to carry a handgun may request a hearing in
45 the Superior Court of the county in which he resides or in any
46 county in which he intends to carry a handgun, in the case of a
47 nonresident, by filing a written request for **[such]** a hearing within

1 30 days of the denial. Copies of the request shall be served upon
2 the superintendent, the county prosecutor, and the chief police
3 officer of the municipality where the applicant resides, if he is a
4 resident of this State. The hearing shall be held within 30 days of
5 the filing of the request, and no formal pleading or filing fee shall
6 be required. Appeals from the determination at **such** **a** the
7 hearing shall be in accordance with law and the rules governing the
8 courts of this State.

9 If the superintendent or chief police officer approves an
10 application and the Superior Court denies the application and
11 refuses to issue a permit, the applicant may appeal **such** the
12 denial in accordance with law and the rules governing the courts of
13 this State.

14 f. Revocation of permits. Any permit issued under this section
15 shall be void at **such** the time **as** the holder thereof becomes
16 subject to any of the disabilities set forth in **section 2C:58-3c.**
17 subsection c. of N.J.S.2C:58-3, and the holder of **such** a void
18 permit shall immediately surrender the permit to the superintendent
19 who shall give notice to the licensing authority.

20 Any permit may be revoked by the Superior Court, after hearing
21 upon notice to the holder, if the court finds that the holder is no
22 longer qualified for the issuance of **such** a permit. The county
23 prosecutor of any county, the chief police officer of any
24 municipality, the superintendent, or any citizen may apply to the
25 court at any time for the revocation of any permit issued pursuant to
26 this section.

27 (cf: P.L.1981, c.135, s.1)

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29 2. This act shall take effect immediately.

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STATEMENT

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34 This bill codifies the definition of justifiable need to carry a
35 handgun as set forth in the New Jersey Administrative Code.

36 Under current law, in order to lawfully carry a handgun in
37 public, it is necessary for a private citizen to obtain a permit to
38 carry a handgun. Applicants for a permit to carry a handgun need
39 the approval of the chief of police in the municipality where they
40 reside and the approval of a Superior Court judge in the county
41 where they reside. Approval is contingent upon a person
42 submitting, with an application, a written certification establishing
43 justifiable need.

44 Under current regulations (N.J.A.C.13:54-2.4), justifiable need is
45 defined as the urgent necessity for self-protection, as evidenced by
46 specific threats or previous attacks which demonstrate a special
47 danger to the applicant's life that cannot be avoided by means other

1 than by issuance of a permit to carry. This bill codifies this
2 definition in statute.

3 The Department of Law and Public Safety has adopted an
4 amendment to N.J.A.C.13:54-2.4 that added “serious threats” to the
5 circumstances that could demonstrate a special danger to the
6 applicant’s life that could be specified in the written certification of
7 justifiable need. In addition, the revised regulation also specifies
8 that a permit to carry a handgun can be issued based on a special
9 danger to the applicant’s life that cannot be avoided by other
10 “reasonable” means.

11 According to the sponsor, current law and judicial interpretations
12 of the justifiable need standard clearly require demonstration of an
13 urgent necessity for protection from a specific threat to one’s life
14 rather than a mere generalized fear or concern. Therefore, the
15 revision to N.J.A.C.13:54-2.4, which expands the scope of the right
16 to carry well beyond that authorized under current law and judicial
17 interpretation, is inconsistent with the Legislature’s intent to strictly
18 limit who carries a handgun outside the home in this State. If
19 enacted, the bill would negate this regulation.