

SENATE, No. 2374

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Turner

SYNOPSIS

Requires background check for private gun sales.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/13/2018)

1 AN ACT concerning certain firearms sales and transfers and
2 amending N.J.S.2C:58-3.

3

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

6

7 1. N.J.S.2C:58-3 is amended to read as follows:

8 2C:58-3. a. Permit to purchase a handgun.

9 (1) No person shall sell, give, transfer, assign or otherwise
10 dispose of, nor receive, purchase, or otherwise acquire a handgun
11 unless the purchaser, assignee, donee, receiver or holder is licensed
12 as a dealer under this chapter or has first secured a permit to
13 purchase a handgun as provided by this section.

14 (2) A person who is not a licensed retail dealer and sells, gives,
15 transfers, assigns, or otherwise disposes of, or receives, purchases
16 or otherwise acquires a handgun pursuant this section shall conduct
17 the transaction through a licensed retail dealer.

18 The provisions of this paragraph shall not apply if the transaction
19 is:

20 (a) between members of an immediate family as defined in
21 subsection n. of this section;

22 (b) between law enforcement officers;

23 (c) between collectors of firearms or ammunition as curios or
24 relics as defined in Title 18, U.S.C. section 921 (a) (13) who have
25 in their possession a valid Collector of Curios and Relics License
26 issued by the Bureau of Alcohol, Tobacco, Firearms, and
27 Explosives; or

28 (d) a temporary transfer pursuant to section 1 of P.L.1992, c.74
29 (C.2C:58-3.1) or section 1 of P.L.1997, c.375 (C.2C:58-3.2).

30 (3) Prior to a transaction conducted pursuant to this subsection,
31 the retail dealer shall complete a National Instant Criminal
32 Background Check of the person acquiring the handgun. In
33 addition:

34 (a) the retail dealer shall submit to the Superintendent of State
35 Police, on a form approved by the superintendent, information
36 identifying and confirming the background check;

37 (b) every retail dealer shall maintain a record of transactions
38 conducted pursuant to this subsection, which shall be maintained at
39 the address displayed on the retail dealer's license for inspection by
40 a law enforcement officer during reasonable hours;

41 (c) a retail dealer may charge a fee for a transaction conducted
42 pursuant to this subsection; and

43 (d) any record produced pursuant to this subsection shall not be
44 considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et
45 seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

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 b. Firearms purchaser identification card.

2 (1) No person shall sell, give, transfer, assign or otherwise
3 dispose of nor receive, purchase or otherwise acquire an antique
4 cannon or a rifle or shotgun, other than an antique rifle or shotgun,
5 unless the purchaser, assignee, donee, receiver or holder is licensed
6 as a dealer under this chapter or possesses a valid firearms
7 purchaser identification card, and first exhibits the card to the seller,
8 donor, transferor or assignor, and unless the purchaser, assignee,
9 donee, receiver or holder signs a written certification, on a form
10 prescribed by the superintendent, which shall indicate that he
11 presently complies with the requirements of subsection c. of this
12 section and shall contain his name, address and firearms purchaser
13 identification card number or dealer's registration number. The
14 certification shall be retained by the seller, as provided in paragraph
15 (4) of subsection a. of N.J.S.2C:58-2, or, in the case of a person
16 who is not a dealer, it may be filed with the chief of police of the
17 municipality in which he resides or with the superintendent.

18 (2) A person who is not a licensed retail dealer and sells, gives,
19 transfers, assigns, or otherwise disposes of, or receives, purchases
20 or otherwise acquires an antique cannon or a rifle or shotgun
21 pursuant to this section shall conduct the transaction through a
22 licensed retail dealer.

23 The provisions of this paragraph shall not apply if the transaction
24 is:

25 (a) between members of an immediate family as defined in
26 subsection n. of this section;

27 (b) between law enforcement officers;

28 (c) between collectors of firearms or ammunition as curios or
29 relics as defined in Title 18, U.S.C. section 921 (a) (13) who have
30 in their possession a valid Collector of Curios and Relics License
31 issued by the Bureau of Alcohol, Tobacco, Firearms, and
32 Explosives; or

33 (d) a temporary transfer pursuant to section 1 of P.L.1992, c.74
34 (C.2C:58-3.1) and section 1 of P.L.1997, c.375 (C.2C:58-3.2).

35 (3) Prior to a transaction conducted pursuant to this subsection,
36 the retail dealer shall complete a National Instant Criminal
37 Background Check of the person acquiring the handgun. In
38 addition:

39 (a) the retail dealer shall submit to the Superintendent of State
40 Police, on a form approved by the superintendent, information
41 identifying and confirming the background check;

42 (b) every retail dealer shall maintain a record of transactions
43 conducted pursuant to this section which shall be maintained at the
44 address set forth on the retail dealer's license for inspection by a
45 law enforcement officer during reasonable hours;

46 (c) a retail dealer may charge a fee for a transaction conducted
47 pursuant to this subsection; and

1 (d) any record produced pursuant to this subsection shall not be
2 considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et
3 seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

4 c. Who may obtain. No person of good character and good
5 repute in the community in which he lives, and who is not subject to
6 any of the disabilities set forth in this section or other sections of
7 this chapter, shall be denied a permit to purchase a handgun or a
8 firearms purchaser identification card, except as hereinafter set
9 forth. No handgun purchase permit or firearms purchaser
10 identification card shall be issued:

11 (1) To any person who has been convicted of any crime, or a
12 disorderly persons offense involving an act of domestic violence as
13 defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or
14 not armed with or possessing a weapon at the time of the offense;

15 (2) To any drug dependent person as defined in section 2 of
16 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
17 mental disorder to a hospital, mental institution or sanitarium, or to
18 any person who is presently an habitual drunkard;

19 (3) To any person who suffers from a physical defect or disease
20 which would make it unsafe for him to handle firearms, to any
21 person who has ever been confined for a mental disorder, or to any
22 alcoholic unless any of the foregoing persons produces a certificate
23 of a medical doctor or psychiatrist licensed in New Jersey, or other
24 satisfactory proof, that he is no longer suffering from that particular
25 disability in a manner that would interfere with or handicap him in
26 the handling of firearms; to any person who knowingly falsifies any
27 information on the application form for a handgun purchase permit
28 or firearms purchaser identification card;

29 (4) To any person under the age of 18 years for a firearms
30 purchaser identification card and to any person under the age of 21
31 years for a permit to purchase a handgun;

32 (5) To any person where the issuance would not be in the
33 interest of the public health, safety or welfare;

34 (6) To any person who is subject to a restraining order issued
35 pursuant to the "Prevention of Domestic Violence Act of 1991,"
36 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from
37 possessing any firearm;

38 (7) To any person who as a juvenile was adjudicated delinquent
39 for an offense which, if committed by an adult, would constitute a
40 crime and the offense involved the unlawful use or possession of a
41 weapon, explosive or destructive device or is enumerated in
42 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);

43 (8) To any person whose firearm is seized pursuant to the
44 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
45 (C.2C:25-17 et seq.) and whose firearm has not been returned; or

46 (9) To any person named on the consolidated Terrorist Watchlist
47 maintained by the Terrorist Screening Center administered by the
48 Federal Bureau of Investigation.

1 d. Issuance. The chief of police of an organized full-time
2 police department of the municipality where the applicant resides or
3 the superintendent, in all other cases, shall upon application, issue
4 to any person qualified under the provisions of subsection c. of this
5 section a permit to purchase a handgun or a firearms purchaser
6 identification card.

7 Any person aggrieved by the denial of a permit or identification
8 card may request a hearing in the Superior Court of the county in
9 which he resides if he is a resident of New Jersey or in the Superior
10 Court of the county in which his application was filed if he is a
11 nonresident. The request for a hearing shall be made in writing
12 within 30 days of the denial of the application for a permit or
13 identification card. The applicant shall serve a copy of his request
14 for a hearing upon the chief of police of the municipality in which
15 he resides, if he is a resident of New Jersey, and upon the
16 superintendent in all cases. The hearing shall be held and a record
17 made thereof within 30 days of the receipt of the application for a
18 hearing by the judge of the Superior Court. No formal pleading and
19 no filing fee shall be required as a preliminary to a hearing.
20 Appeals from the results of a hearing shall be in accordance with
21 law.

22 e. Applications. Applications for permits to purchase a
23 handgun and for firearms purchaser identification cards shall be in
24 the form prescribed by the superintendent and shall set forth the
25 name, residence, place of business, age, date of birth, occupation,
26 sex and physical description, including distinguishing physical
27 characteristics, if any, of the applicant, and shall state whether the
28 applicant is a citizen, whether he is an alcoholic, habitual drunkard,
29 drug dependent person as defined in section 2 of P.L.1970, c.226
30 (C.24:21-2), whether he has ever been confined or committed to a
31 mental institution or hospital for treatment or observation of a
32 mental or psychiatric condition on a temporary, interim or
33 permanent basis, giving the name and location of the institution or
34 hospital and the dates of confinement or commitment, whether he
35 has been attended, treated or observed by any doctor or psychiatrist
36 or at any hospital or mental institution on an inpatient or outpatient
37 basis for any mental or psychiatric condition, giving the name and
38 location of the doctor, psychiatrist, hospital or institution and the
39 dates of the occurrence, whether he presently or ever has been a
40 member of any organization which advocates or approves the
41 commission of acts of force and violence to overthrow the
42 Government of the United States or of this State, or which seeks to
43 deny others their rights under the Constitution of either the United
44 States or the State of New Jersey, whether he has ever been
45 convicted of a crime or disorderly persons offense, whether the
46 person is subject to a restraining order issued pursuant to the
47 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
48 (C.2C:25-17 et seq.) prohibiting the person from possessing any

1 firearm, and other information as the superintendent shall deem
2 necessary for the proper enforcement of this chapter. For the
3 purpose of complying with this subsection, the applicant shall
4 waive any statutory or other right of confidentiality relating to
5 institutional confinement. The application shall be signed by the
6 applicant and shall contain as references the names and addresses of
7 two reputable citizens personally acquainted with him.

8 Application blanks shall be obtainable from the superintendent,
9 from any other officer authorized to grant a permit or identification
10 card, and from licensed retail dealers.

11 The chief police officer or the superintendent shall obtain the
12 fingerprints of the applicant and shall have them compared with any
13 and all records of fingerprints in the municipality and county in
14 which the applicant resides and also the records of the State Bureau
15 of Identification and the Federal Bureau of Investigation, provided
16 that an applicant for a handgun purchase permit who possesses a
17 valid firearms purchaser identification card, or who has previously
18 obtained a handgun purchase permit from the same licensing
19 authority for which he was previously fingerprinted, and who
20 provides other reasonably satisfactory proof of his identity, need not
21 be fingerprinted again; however, the chief police officer or the
22 superintendent shall proceed to investigate the application to
23 determine whether or not the applicant has become subject to any of
24 the disabilities set forth in this chapter.

25 f. Granting of permit or identification card; fee; term; renewal;
26 revocation. The application for the permit to purchase a handgun
27 together with a fee of \$2, or the application for the firearms
28 purchaser identification card together with a fee of \$5, shall be
29 delivered or forwarded to the licensing authority who shall
30 investigate the same and, unless good cause for the denial thereof
31 appears, shall grant the permit or the identification card, or both, if
32 application has been made therefor, within 30 days from the date of
33 receipt of the application for residents of this State and within 45
34 days for nonresident applicants. A permit to purchase a handgun
35 shall be valid for a period of 90 days from the date of issuance and
36 may be renewed by the issuing authority for good cause for an
37 additional 90 days. A firearms purchaser identification card shall
38 be valid until such time as the holder becomes subject to any of the
39 disabilities set forth in subsection c. of this section, whereupon the
40 card shall be void and shall be returned within five days by the
41 holder to the superintendent, who shall then advise the licensing
42 authority. Failure of the holder to return the firearms purchaser
43 identification card to the superintendent within the five days shall
44 be an offense under subsection a. of N.J.S.2C:39-10. Any firearms
45 purchaser identification card may be revoked by the Superior Court
46 of the county wherein the card was issued, after hearing upon
47 notice, upon a finding that the holder thereof no longer qualifies for
48 the issuance of the permit. The county prosecutor of any county,

1 the chief police officer of any municipality or any citizen may apply
2 to the court at any time for the revocation of the card.

3 There shall be no conditions or requirements added to the form
4 or content of the application, or required by the licensing authority
5 for the issuance of a permit or identification card, other than those
6 that are specifically set forth in this chapter.

7 g. Disposition of fees. All fees for permits shall be paid to the
8 State Treasury if the permit is issued by the superintendent, to the
9 municipality if issued by the chief of police, and to the county
10 treasurer if issued by the judge of the Superior Court.

11 h. Form of permit; quadruplicate; disposition of copies. The
12 permit shall be in the form prescribed by the superintendent and
13 shall be issued to the applicant in quadruplicate. Prior to the time
14 he receives the handgun from the seller, the applicant shall deliver
15 to the seller the permit in quadruplicate and the seller shall
16 complete all of the information required on the form. Within five
17 days of the date of the sale, the seller shall forward the original
18 copy to the superintendent and the second copy to the chief of
19 police of the municipality in which the purchaser resides, except
20 that in a municipality having no chief of police, the copy shall be
21 forwarded to the superintendent. The third copy shall then be
22 returned to the purchaser with the pistol or revolver and the fourth
23 copy shall be kept by the seller as a permanent record.

24 i. Restriction on number of firearms person may purchase.
25 Only one handgun shall be purchased or delivered on each permit
26 and no more than one handgun shall be purchased within any 30-
27 day period, but this limitation shall not apply to:

28 (1) a federal, State, or local law enforcement officer or agency
29 purchasing handguns for use by officers in the actual performance
30 of their law enforcement duties;

31 (2) a collector of handguns as curios or relics as defined in Title
32 18, United States Code, section 921 (a) (13) who has in his
33 possession a valid Collector of Curios and Relics License issued by
34 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

35 (3) transfers of handguns among licensed retail dealers,
36 registered wholesale dealers and registered manufacturers;

37 (4) transfers of handguns from any person to a licensed retail
38 dealer or a registered wholesale dealer or registered manufacturer;

39 (5) any transaction where the person has purchased a handgun
40 from a licensed retail dealer and has returned that handgun to the
41 dealer in exchange for another handgun within 30 days of the
42 original transaction, provided the retail dealer reports the exchange
43 transaction to the superintendent; or

44 (6) any transaction where the superintendent issues an
45 exemption from the prohibition in this subsection pursuant to the
46 provisions of section 4 of P.L.2009, c.186 (C.2C:58-3.4).

47 The provisions of this subsection shall not be construed to afford
48 or authorize any other exemption from the regulatory provisions

1 governing firearms set forth in chapter 39 and chapter 58 of Title
2 2C of the New Jersey Statutes;

3 A person shall not be restricted as to the number of rifles or
4 shotguns he may purchase, provided he possesses a valid firearms
5 purchaser identification card and provided further that he signs the
6 certification required in subsection b. of this section for each
7 transaction.

8 j. Firearms passing to heirs or legatees. Notwithstanding any
9 other provision of this section concerning the transfer, receipt or
10 acquisition of a firearm, a permit to purchase or a firearms
11 purchaser identification card shall not be required for the passing of
12 a firearm upon the death of an owner thereof to his heir or legatee,
13 whether the same be by testamentary bequest or by the laws of
14 intestacy. The person who shall so receive, or acquire the firearm
15 shall, however, be subject to all other provisions of this chapter. If
16 the heir or legatee of the firearm does not qualify to possess or carry
17 it, he may retain ownership of the firearm for the purpose of sale for
18 a period not exceeding 180 days, or for a further limited period as
19 may be approved by the chief law enforcement officer of the
20 municipality in which the heir or legatee resides or the
21 superintendent, provided that the firearm is in the custody of the
22 chief law enforcement officer of the municipality or the
23 superintendent during that period.

24 k. Sawed-off shotguns. Nothing in this section shall be
25 construed to authorize the purchase or possession of any sawed-off
26 shotgun.

27 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
28 the sale or purchase of a visual distress signalling device approved
29 by the United States Coast Guard, solely for possession on a private
30 or commercial aircraft or any boat; provided, however, that no
31 person under the age of 18 years shall purchase nor shall any person
32 sell to a person under the age of 18 years a visual distress signalling
33 device.

34 m. The provisions of subsections a. and b. of this section and
35 paragraphs (4) and (5) of subsection a. of N.J.S.2C:58-2 shall not
36 apply to the purchase of firearms by a law enforcement agency for
37 use by law enforcement officers in the actual performance of the
38 officers' official duties, which purchase may be made directly from
39 a manufacturer or from a licensed dealer located in this State or any
40 other state.

41 n. For the purposes of this section, "immediate family" means a
42 spouse, domestic partner as defined in section 3 of P.L.2003, c.246
43 (C.26:8A-3), partner in a civil union couple as defined in section 2
44 of P.L.2006, c.103 (C.37:1-29), parent, stepparent, grandparent,
45 sibling, stepsibling, child, stepchild, and grandchild, as related by
46 blood or by law.

47 (cf: P.L.2016, c.74, s.1)

1 2. This act shall take effect on the first day of the fourth month
2 next following enactment.

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4

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STATEMENT

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7 This bill requires all sales or other transfers of a handgun, rifle,
8 or shotgun to be conducted through a retail dealer licensed under
9 State law or a Federal Firearms Licensee. The licensee would be
10 required to complete a National Instant Criminal Background Check
11 (NICS) on the recipient of the handgun, rifle or shotgun. Exceptions
12 under the bill include transactions between members of an
13 immediate family, between law enforcement officers, between
14 licensed collectors of firearms or ammunition as curios or relics,
15 and temporary transfers to participate in certain training courses.