

ASSEMBLY, No. 1802

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblyman EDWARD H. THOMSON

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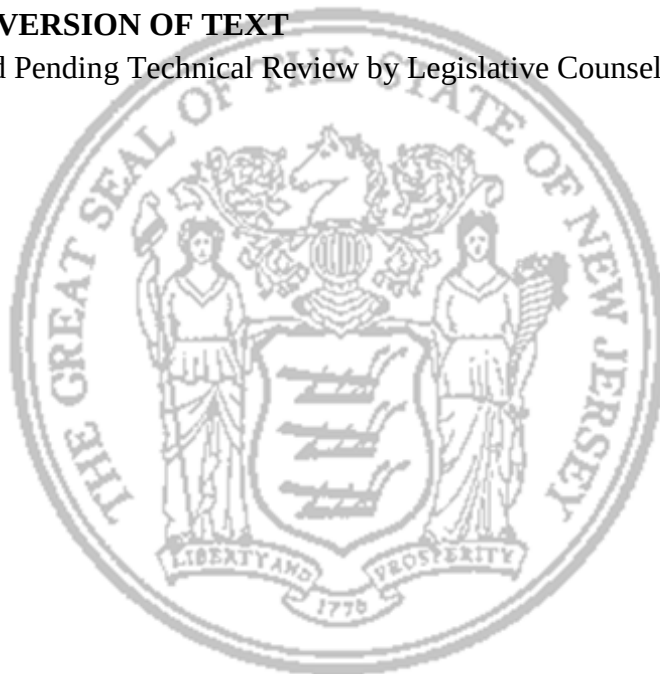
Assemblymen McGuckin, Space and Wirths

SYNOPSIS

Clarifies that chief of police or Superintendent of State Police has burden of proving applicant's disqualification for permit to purchase handgun or firearms purchaser identification card.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

2

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

5

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

7 2C:58-3. a. Permit to purchase a handgun. No person shall sell,
8 give, transfer, assign or otherwise dispose of, nor receive, purchase,
9 or otherwise acquire a handgun unless the purchaser, assignee,
10 donee, receiver or holder is licensed as a dealer under this chapter
11 or has first secured a permit to purchase a handgun as provided by
12 this section.

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

30 c. Who may obtain. No person of good character and good
31 repute in the community in which he lives, and who is not subject to
32 any of the disabilities set forth in this section or other sections of
33 this chapter, shall be denied a permit to purchase a handgun or a
34 firearms purchaser identification card, except as hereinafter set
35 forth. No handgun purchase permit or firearms purchaser
36 identification card shall be issued:

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

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

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 (3) To any person who suffers from a physical defect or disease
2 which would make it unsafe for him to handle firearms, to any
3 person who has ever been confined for a mental disorder, or to any
4 alcoholic unless any of the foregoing persons produces a certificate
5 of a medical doctor or psychiatrist licensed in New Jersey, or other
6 satisfactory proof, that he is no longer suffering from that particular
7 disability in such a manner that would interfere with or handicap
8 him in the handling of firearms; to any person who knowingly
9 falsifies any information on the application form for a handgun
10 purchase permit or firearms purchaser identification card;

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

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

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

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

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

28 (9) To any person named on the consolidated Terrorist
29 Watchlist maintained by Terrorist Screening Center administered by
30 the Federal Bureau of Investigation.

31 d. Issuance. The chief of police of an organized full-time
32 police department of the municipality where the applicant resides or
33 the superintendent, in all other cases, shall upon application, issue
34 to any person qualified under the provisions of subsection c. of this
35 section a permit to purchase a handgun or a firearms purchaser
36 identification card. If the application is denied, the chief of police
37 or the superintendent, as appropriate, shall have the burden of
38 proving that the applicant is subject to a disability as set forth in
39 subsection c. of this section, which would disqualify the applicant
40 from being issued a permit to purchase a handgun or a firearms
41 purchaser identification card. The chief of police or the
42 superintendent, as appropriate, shall, within ten days of the denial
43 of the application, provide the applicant with a written statement
44 specifying the reason and any proof relied upon for the denial of the
45 application.

46 Any person aggrieved by the denial of a permit or identification
47 card may request a hearing in the Superior Court of the county in
48 which he resides if he is a resident of New Jersey or in the Superior

1 Court of the county in which his application was filed if he is a
2 nonresident. The request for a hearing shall be made in writing
3 within 30 days of the denial of the application for a permit or
4 identification card. The applicant shall serve a copy of his request
5 for a hearing upon the chief of police of the municipality in which
6 he resides, if he is a resident of New Jersey, and upon the
7 superintendent in all cases. The hearing shall be held and a record
8 made thereof within 30 days of the receipt of the application for
9 such hearing by the judge of the Superior Court. No formal
10 pleading and no filing fee shall be required as a preliminary to such
11 hearing. Appeals from the results of such hearing shall be in
12 accordance with law.

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

1 Application blanks shall be obtainable from the superintendent,
2 from any other officer authorized to grant such permit or
3 identification card, and from licensed retail dealers.

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

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

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

1 g. Disposition of fees. All fees for permits shall be paid to the
2 State Treasury if the permit is issued by the superintendent, to the
3 municipality if issued by the chief of police, and to the county
4 treasurer if issued by the judge of the Superior Court.

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

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

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

25 (2) a collector of handguns as curios or relics as defined in Title
26 18, United States Code, section 921 (a) (13) who has in his
27 possession a valid Collector of Curios and Relics License issued by
28 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

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

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

33 (5) any transaction where the person has purchased a handgun
34 from a licensed retail dealer and has returned that handgun to the
35 dealer in exchange for another handgun within 30 days of the
36 original transaction, provided the retail dealer reports the exchange
37 transaction to the superintendent; or

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

41 The provisions of this subsection shall not be construed to afford
42 or authorize any other exemption from the regulatory provisions
43 governing firearms set forth in chapter 39 and chapter 58 of Title
44 2C of the New Jersey Statutes;

45 A person shall not be restricted as to the number of rifles or
46 shotguns he may purchase, provided he possesses a valid firearms
47 purchaser identification card and provided further that he signs the

1 certification required in subsection b. of this section for each
2 transaction.

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

19 k. Sawed-off shotguns. Nothing in this section shall be
20 construed to authorize the purchase or possession of any sawed-off
21 shotgun.

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

29 (cf: P.L.2013, c.114, s.1)

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31 2. This act shall take effect immediately.

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STATEMENT

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36 This bill clarifies that the chief of police or the Superintendent of
37 State Police has the burden of proving an applicant's
38 disqualification for a permit to purchase a handgun or a firearms
39 purchaser identification card.

40 Under current law, the issuance of a permit to purchase a
41 handgun or a firearms purchaser identification card may be denied
42 if the applicant is subject to certain disabilities that prohibit him or
43 her from obtaining a permit or identification card.

44 The provisions of this bill provide that if an application for a
45 permit to purchase a handgun or a firearms purchaser identification
46 card is denied, the chief of police in the municipality where the
47 applicant resides or the superintendent, as appropriate, has the
48 burden of proving that the applicant is subject to a disability which

1 would disqualify the applicant from being issued a permit or
2 identification card under current law.

3 In addition, under the provisions of this bill, within ten days of
4 the denial of an application, the chief of police or the
5 superintendent, as appropriate, is required to provide the applicant
6 with a written statement specifying the reason and any proof relied
7 upon for the denial of the application.