

ASSEMBLY, No. 3557

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Upgrades penalty for unlawful possession of certain firearms on grounds of an educational institution.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/16/2020)

1 AN ACT concerning firearms and amending N.J.S.2C:39-5.

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:39-5 is amended to read as follows:

7 2C:39-5. Unlawful possession of weapons. a. Machine guns.
8 Any person who knowingly has in his possession a machine gun or
9 any instrument or device adaptable for use as a machine gun,
10 without being licensed to do so as provided in N.J.S.2C:58-5, is
11 guilty of a crime of the second degree.

12 b. Handguns. (1) Any person who knowingly has in his
13 possession any handgun, including any antique handgun, without
14 first having obtained a permit to carry the same as provided in
15 N.J.S.2C:58-4, is guilty of a crime of the second degree. (2) If the
16 handgun is in the nature of an air gun, spring gun or pistol or other
17 weapon of a similar nature in which the propelling force is a spring,
18 elastic band, carbon dioxide, compressed or other gas or vapor, air
19 or compressed air, or is ignited by compressed air, and ejecting a
20 bullet or missile smaller than three-eighths of an inch in diameter,
21 with sufficient force to injure a person it is a crime of the third
22 degree.

23 c. Rifles and shotguns. (1) Any person who knowingly has in
24 his possession any rifle or shotgun without having first obtained a
25 firearms purchaser identification card in accordance with the
26 provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

27 (2) Unless otherwise permitted by law, any person who
28 knowingly has in his possession any loaded rifle or shotgun is
29 guilty of a crime of the third degree.

30 d. Other weapons. Any person who knowingly has in his
31 possession any other weapon under circumstances not manifestly
32 appropriate for such lawful uses as it may have is guilty of a crime
33 of the fourth degree.

34 e. Firearms or other weapons in educational institutions.

35 (1) Any person who knowingly has in his possession any
36 firearm in or upon any part of the buildings or grounds of any
37 school, college, university or other educational institution, without
38 the written authorization of the governing officer of the institution,
39 is guilty of a crime of third degree **[,]** if the firearm is in the nature
40 of an air gun, spring gun or pistol or other weapon of a similar
41 nature in which the propelling force is a spring, elastic band, carbon
42 dioxide, compressed or other gas or vapor, air or compressed air, or
43 is ignited by compressed air, and ejecting a bullet or missile smaller
44 than three-eighths of an inch in diameter, with sufficient force to
45 injure a person. Otherwise it is a crime of the second degree.

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 It is a crime under this subsection irrespective of whether he
2 possesses a valid permit to carry the firearm or a valid firearms
3 purchaser identification card.

4 (2) Any person who knowingly possesses any weapon
5 enumerated in paragraphs (3) and (4) of subsection r. of
6 N.J.S.2C:39-1 or any components which can readily be assembled
7 into a firearm or other weapon enumerated in subsection r. of
8 N.J.S.2C:39-1 or any other weapon under circumstances not
9 manifestly appropriate for such lawful use as it may have, while in
10 or upon any part of the buildings or grounds of any school, college,
11 university or other educational institution without the written
12 authorization of the governing officer of the institution is guilty of a
13 crime of the fourth degree.

14 (3) Any person who knowingly has in his possession any
15 imitation firearm in or upon any part of the buildings or grounds of
16 any school, college, university or other educational institution,
17 without the written authorization of the governing officer of the
18 institution, or while on any school bus is a disorderly person,
19 irrespective of whether he possesses a valid permit to carry a
20 firearm or a valid firearms purchaser identification card.

21 f. Assault firearms. Any person who knowingly has in his
22 possession an assault firearm is guilty of a crime of the second
23 degree except if the assault firearm is licensed pursuant to
24 N.J.S.2C:58-5; registered pursuant to section 11 of P.L.1990, c.32
25 (C.2C:58-12); or rendered inoperable pursuant to section 12 of
26 P.L.1990, c.32 (C.2C:58-13).

27 g. (1) The temporary possession of a handgun, rifle or shotgun
28 by a person receiving, possessing, carrying or using the handgun,
29 rifle, or shotgun under the provisions of section 1 of P.L.1992, c.74
30 (C.2C:58-3.1) shall not be considered unlawful possession under
31 the provisions of subsection b. or c. of this section.

32 (2) The temporary possession of a firearm by a person receiving,
33 possessing, carrying or using the firearm under the provisions of
34 section 1 of P.L.1997, c.375 (C.2C:58-3.2) shall not be considered
35 unlawful possession under the provisions of this section.

36 h. A person who is convicted of a crime under subsection a., b.,
37 f. or j. of this section shall be ineligible for participation in any
38 program of intensive supervision; provided, however, that this
39 provision shall not apply to a crime under subsection b. involving
40 only a handgun which is in the nature of an air gun, spring gun or
41 pistol or other weapon of a similar nature in which the propelling
42 force is a spring, elastic band, carbon dioxide, compressed or other
43 gas or vapor, air or compressed air, or is ignited by compressed air,
44 and ejecting a bullet or missile smaller than three-eighths of an inch
45 in diameter, with sufficient force to injure a person.

46 i. A person convicted of violating subsection a., b. or f. of this
47 section shall be sentenced by the court to a term of imprisonment,
48 which shall include the imposition of a minimum term during which

1 the defendant shall be ineligible for parole, if the court finds that
2 the aggravating circumstance set forth in paragraph (5) of
3 subsection a. of N.J.S.2C:44-1 applies. The minimum term of
4 parole ineligibility shall be fixed at five years. The sentencing
5 court shall make a finding on the record as to whether the
6 aggravating circumstance set forth in paragraph (5) of subsection a.
7 of N.J.S.2C:44-1 applies, and the court shall presume that there is a
8 substantial likelihood that the defendant is involved in organized
9 criminal activity if there is a substantial likelihood that the
10 defendant is a member of an organization or group that engages in
11 criminal activity. The prosecution at the sentencing hearing shall
12 have the initial burden of producing evidence or information
13 concerning the defendant's membership in such an organization or
14 group.

15 j. A violation of subsection a., b., c. or f. of this section by a
16 person who has a prior conviction of any of the crimes enumerated
17 in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2) is a
18 first degree crime.

19 (cf: P.L.2013, c.113, s.1)

20

21 2. This act shall take effect on the first day of the third month
22 following enactment.

23

24

25 STATEMENT

26

27 This bill upgrades the penalty for possessing a firearm in or upon
28 any part of the buildings or grounds of any school, college,
29 university or other educational institution without the written
30 authorization of the governing officer of the institution.

31 Under current law, the possession of a firearm in or upon the
32 buildings or grounds of any educational institution is a crime of the
33 third degree. A crime of the third degree is punishable by
34 imprisonment for a term of three to five years, a fine of up to
35 \$15,000, or both. There is a presumption of nonincarceration for
36 third degree crimes.

37 This bill would upgrade the penalty to a crime of the second
38 degree unless the firearm is an air gun, spring gun or pistol or other
39 weapon of a similar nature in which the propelling force is a spring,
40 elastic band, carbon dioxide, compressed or other gas or vapor, air
41 or compressed air, or is ignited by compressed air, and ejects a
42 bullet or missile smaller than three-eighths of an inch in diameter,
43 with sufficient force to injure a person. Under the bill, it would
44 continue to be a third degree crime to have a BB gun, air gun,
45 spring gun, pistol or similar weapon on the grounds of an
46 educational institution. Second degree crimes are punishable by a
47 term of imprisonment of five to 10 years, a fine of up to \$150,000,

1 or both. The presumption of nonincarceration does not apply to
2 second degree crimes.

3 Upgrading the penalty for this particular firearms violation
4 would bring it into conformance with the penalties currently
5 imposed for the possession of a firearm for an unlawful purpose
6 (subsection a. of N.J.S.2C:39-4) and the unlawful possession of a
7 handgun (subsection b. of N.J.S.2C:39-5).