ASSEMBLY, No. 4054

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:
Assemblyman PARKER SPACE
District 24 (Morris, Sussex and Warren)
Assemblyman JAY WEBBER
District 26 (Essex, Morris and Passaic)
Assemblyman HAROLD "HAL" J. WIRTHS
District 24 (Morris, Sussex and Warren)

SYNOPSIS

Allows county sheriffs to issue firearms identification cards and permits to purchase handguns; authorizes county sheriffs to accept applications for permits to carry handguns.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/15/2020)

AN ACT concerning firearms identification cards and permits to purchase and carry handguns and amending N.J.S.2C:58-3 and N.J.S.2C:58-4.

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

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

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

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

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

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

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

(b) between law enforcement officers;

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

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

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

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

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

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

(d) any record produced pursuant to this subsection shall not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et 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 <u>thus</u> is new matter.

b. Firearms purchaser identification card.

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

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

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

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

(b) between law enforcement officers;

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

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

(3) Prior to a transaction conducted pursuant to this subsection, the retail dealer shall complete a National Instant Criminal Background Check of the person acquiring an antique cannon or a rifle or shotgun. In addition:

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) To any person named on the consolidated Terrorist Watchlist maintained by the Terrorist Screening Center administered by the Federal Bureau of Investigation; or

(10) To any person who is subject to a court order prohibiting the custody, control, ownership, purchase, possession, or receipt of a firearm or ammunition issued pursuant to the "Extreme Risk Protective Order Act of 2018," P.L.2018, c.35 (C.2C:58-20 et al.).

d. Issuance. The chief of police of an organized full-time police department of the municipality **[**where**]** in which the applicant resides, the county sheriff of the county in which the applicant resides or the superintendent, in all other cases, shall upon application, issue to any person qualified under the provisions of subsection c. of this section a permit to purchase a handgun or a firearms purchaser identification card.

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

e. Applications. Applications for permits to purchase a handgun and for firearms purchaser identification cards shall be in the form prescribed by the superintendent and shall set forth the name, residence, place of business, age, date of birth, occupation, sex and physical description, including distinguishing physical characteristics, if any, of the applicant, and shall state whether the applicant is a citizen, whether he is an alcoholic, habitual drunkard, drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), whether he has ever been confined or committed to a mental institution or hospital for treatment or observation of a mental or psychiatric condition on a temporary, interim or permanent basis, giving the name and location of the institution or hospital and the dates of confinement or commitment, whether he has been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an inpatient or outpatient basis for any mental or psychiatric condition, giving the name and location of the doctor, psychiatrist, hospital or institution and the dates of the occurrence, whether he presently or ever has been a member of any organization which advocates or approves the commission of acts of force and violence to overthrow the Government of the United States or of this State, or which seeks to

deny others their rights under the Constitution of either the United States or the State of New Jersey, whether he has ever been convicted of a crime or disorderly persons offense, whether the person is subject to a restraining order issued pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from possessing any firearm, whether the person is subject to a protective order issued pursuant to the "Extreme Risk Protective Order Act of 2018," P.L.2018, c.35 (C.2C:58-20 et al.) prohibiting the person from possessing any firearm, and other information as the superintendent shall deem necessary for the proper enforcement of this chapter. For the purpose of complying with this subsection, the applicant shall waive any statutory or other right of confidentiality relating to institutional confinement. The application shall be signed by the applicant and shall contain as references the names and addresses of two reputable citizens personally acquainted with him.

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

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

f. Granting of permit or identification card; fee; term; renewal; revocation. The application for the permit to purchase a handgun together with a fee of $2, or the application for the firearms purchaser identification card together with a fee of $5, shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, within 30 days from the date of receipt of the application for residents of this State and within 45 days for nonresident applicants. A permit to purchase a handgun shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days. A firearms purchaser identification card shall be valid until such time as the holder becomes subject to any of the

disabilities set forth in subsection c. of this section, whereupon the card shall be void and shall be returned within five days by the holder to the superintendent, who shall then advise the licensing authority. Failure of the holder to return the firearms purchaser identification card to the superintendent within the five days shall be an offense under subsection a. of N.J.S.2C:39-10. Any firearms purchaser identification card may be revoked by the Superior Court of the county wherein the card was issued, after hearing upon notice, upon a finding that the holder thereof no longer qualifies for the issuance of the permit. The county prosecutor or county sheriff of any county, the chief police officer of any municipality or any citizen may apply to the court at any time for the revocation of the card.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

m. The provisions of subsections a. and b. of this section and paragraphs (4) and (5) of subsection a. of N.J.S.2C:58-2 shall not

apply to the purchase of firearms by a law enforcement agency for use by law enforcement officers in the actual performance of the officers' official duties, which purchase may be made directly from a manufacturer or from a licensed dealer located in this State or any other state.

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

(cf: P.L.2018, c.36, s.1)

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

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

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

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

c. Investigation and approval. Each application shall in the first instance be submitted to the chief police officer of the municipality in which the applicant resides <u>or to the county sheriff of the county in which the applicant resides</u>, or to the superintendent, (1) if the applicant is an employee of an armored car company, or (2) if there is no chief police officer in the municipality where the applicant resides, or (3) if the applicant does

not reside in this State. The chief police officer, the county sheriff, or the superintendent, as the case may be, shall cause the fingerprints of the applicant to be taken and compared with any and all records maintained by the municipality, the county in which it is located, the State Bureau of Identification and the Federal Bureau of Identification. He shall also determine and record a complete description of each handgun the applicant intends to carry.

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

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

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

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

e. Appeals from denial of applications. Any person aggrieved by the denial by the chief police officer, the county sheriff or the superintendent of approval for a permit to carry a handgun may

request a hearing in the Superior Court of the county in which he resides or in any county in which he intends to carry a handgun, in the case of a nonresident, by filing a written request for a hearing within 30 days of the denial. Copies of the request shall be served upon the superintendent, the county prosecutor, and the chief police officer of the municipality or the county sheriff of the county where the applicant resides, as the case may be, if he is a resident of this State. The hearing shall be held within 30 days of the filing of the request, and no formal pleading or filing fee shall be required. Appeals from the determination at the hearing shall be in accordance with law and the rules governing the courts of this State.

If the superintendent, county sheriff or chief police officer approves an application and the Superior Court denies the application and refuses to issue a permit, the applicant may appeal the denial in accordance with law and the rules governing the courts of this State.

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

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

(cf: P.L.2018, c.37, s.1)

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

STATEMENT

This bill provides county sheriffs with the authority to issue firearms purchaser identification cards and permits to purchase handguns, and provides them with authority to accept applications for permits to carry handguns.

Under current law, a State resident applying for a firearms purchaser identification card or a permit to purchase a handgun must make such application to the chief law enforcement officer of an organized full-time police department of the municipality where the applicant resides or the Superintendent of State Police if the municipality does not have a full-time police force. Out-of-State residents must make application to the superintendent. The chief

law enforcement officer, or superintendent, as the case may be, is tasked with taking fingerprints and initiating a criminal history records check on the applicant. Upon completion of the background investigation, the applicant is issued the identification card or permit by the chief law enforcement officer or superintendent. Under the provisions of this bill, county sheriffs are granted the same authority for State residents.

In the instance of an application for a permit to carry a handgun, the initial application process is similar under current law. An applicant must make application to the chief law enforcement officer of an organized full-time police department of the municipality where the applicant resides or the Superintendent of State Police if the municipality does not have a full-time police force. Out-of-State residents and employees of armored trucks must make application to the superintendent. Upon approval of the application by the chief law enforcement officer, or superintendent, the Superior Court issues the permit. The bill provides county sheriffs with the authority to accept, investigate and approve or deny permit to carry applications for State residents.