

ASSEMBLY, No. 4883

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 26, 2020

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

SYNOPSIS

Requires firearm transfer between members of immediate family be conducted through licensed retail firearm dealer.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/29/2020)

1 AN ACT concerning the disposition of firearms and amending
2 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 to this section shall
17 conduct 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;】** (Deleted by amendment, P.L. __, c. __)
22 (pending before the Legislature as this bill)

23 (b) between law enforcement officers;

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

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

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

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

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

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

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 (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 b. Firearms purchaser identification card.

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

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

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

28 (a) **【between members of an immediate family as defined in**
29 **subsection n. of this section;】** (Deleted by amendment, P.L. , c.)
30 (pending before the Legislature as this bill)

31 (b) between law enforcement officers;

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

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

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

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

46 (b) every retail dealer shall maintain a record of transactions
47 conducted pursuant to this section which shall be maintained at the

1 address set forth on the retail dealer's license for inspection by a law
2 enforcement officer during reasonable hours;

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

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

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

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

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

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

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

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

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

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

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

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

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

11 d. Issuance. The chief of police of an organized full-time
12 police department of the municipality where the applicant resides or
13 the superintendent, in all other cases, shall upon application, issue
14 to any person qualified under the provisions of subsection c. of this
15 section a permit to purchase a handgun or a firearms purchaser
16 identification card.

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

32 e. Applications. Applications for permits to purchase a
33 handgun and for firearms purchaser identification cards shall be in
34 the form prescribed by the superintendent and shall set forth the
35 name, residence, place of business, age, date of birth, occupation,
36 sex and physical description, including distinguishing physical
37 characteristics, if any, of the applicant, and shall state whether the
38 applicant is a citizen, whether he is an alcoholic, habitual drunkard,
39 drug dependent person as defined in section 2 of P.L.1970, c.226
40 (C.24:21-2), whether he has ever been confined or committed to a
41 mental institution or hospital for treatment or observation of a
42 mental or psychiatric condition on a temporary, interim or
43 permanent basis, giving the name and location of the institution or
44 hospital and the dates of confinement or commitment, whether he
45 has been attended, treated or observed by any doctor or psychiatrist
46 or at any hospital or mental institution on an inpatient or outpatient
47 basis for any mental or psychiatric condition, giving the name and
48 location of the doctor, psychiatrist, hospital or institution and the

1 dates of the occurrence, whether he presently or ever has been a
2 member of any organization which advocates or approves the
3 commission of acts of force and violence to overthrow the
4 Government of the United States or of this State, or which seeks to
5 deny others their rights under the Constitution of either the United
6 States or the State of New Jersey, whether he has ever been
7 convicted of a crime or disorderly persons offense, whether the
8 person is subject to a restraining order issued pursuant to the
9 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
10 (C.2C:25-17 et seq.) prohibiting the person from possessing any
11 firearm, whether the person is subject to a protective order issued
12 pursuant to the "Extreme Risk Protective Order Act of 2018,"
13 P.L.2018, c.35 (C.2C:58-20 et al.) prohibiting the person from
14 possessing any firearm, and other information as the superintendent
15 shall deem necessary for the proper enforcement of this chapter.
16 For the purpose of complying with this subsection, the applicant
17 shall waive any statutory or other right of confidentiality relating to
18 institutional confinement. The application shall be signed by the
19 applicant and shall contain as references the names and addresses of
20 two reputable citizens personally acquainted with him.

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

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

38 f. Granting of permit or identification card; fee; term; renewal;
39 revocation. The application for the permit to purchase a handgun
40 together with a fee of \$2, or the application for the firearms
41 purchaser identification card together with a fee of \$5, shall be
42 delivered or forwarded to the licensing authority who shall
43 investigate the same and, unless good cause for the denial thereof
44 appears, shall grant the permit or the identification card, or both, if
45 application has been made therefor, within 30 days from the date of
46 receipt of the application for residents of this State and within 45
47 days for nonresident applicants. A permit to purchase a handgun
48 shall be valid for a period of 90 days from the date of issuance and

1 may be renewed by the issuing authority for good cause for an
2 additional 90 days. A firearms purchaser identification card shall
3 be valid until such time as the holder becomes subject to any of the
4 disabilities set forth in subsection c. of this section, whereupon the
5 card shall be void and shall be returned within five days by the
6 holder to the superintendent, who shall then advise the licensing
7 authority. Failure of the holder to return the firearms purchaser
8 identification card to the superintendent within the five days shall
9 be an offense under subsection a. of N.J.S.2C:39-10. Any firearms
10 purchaser identification card may be revoked by the Superior Court
11 of the county wherein the card was issued, after hearing upon
12 notice, upon a finding that the holder thereof no longer qualifies for
13 the issuance of the permit. The county prosecutor of any county,
14 the chief police officer of any municipality or any citizen may apply
15 to the court at any time for the revocation of the card.

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

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

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

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

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

44 (2) a collector of handguns as curios or relics as defined in Title
45 18, United States Code, section 921 (a) (13) who has in his
46 possession a valid Collector of Curios and Relics License issued by
47 the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

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

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

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

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

13 The provisions of this subsection shall not be construed to afford
14 or authorize any other exemption from the regulatory provisions
15 governing firearms set forth in chapter 39 and chapter 58 of Title
16 2C of the New Jersey Statutes;

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

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

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

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

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

8 n. **【**For the purposes of this section, "immediate family" means
9 a spouse, domestic partner as defined in section 3 of P.L.2003,
10 c.246 (C.26:8A-3), partner in a civil union couple as defined in
11 section 2 of P.L.2006, c.103 (C.37:1-29), parent, stepparent,
12 grandparent, sibling, stepsibling, child, stepchild, and grandchild, as
13 related by blood or by law.**】** (Deleted by amendment, P.L. _____,
14 c. _____)(pending before the Legislature as this bill)
15 (cf: P.L.2018, c.36, s.1)
16

17 2. This act shall take effect immediately.
18
19

20 STATEMENT

21
22 This bill requires that a firearm transfer between immediate
23 family members be conducted through a licensed retail firearms
24 dealer.

25 Under current law, a person who is not a licensed retail dealer
26 and who sells, gives, transfers, assigns, or otherwise disposes of, or
27 receives, purchases, or otherwise acquires a handgun, antique
28 cannon, shotgun, or rifle is required to conduct the transaction
29 through a licensed retail dealer. However, the law provides an
30 exception for transfers that occur between immediate family
31 members. The law defines "immediate family" as a spouse,
32 domestic partner, partner in a civil union couple, parent, stepparent,
33 grandparent, sibling, stepsibling, child, stepchild, and grandchild, as
34 related by blood or by law.

35 Under the provisions of this bill, there would be no exception for
36 immediate family members. Firearm transfers between members of
37 an immediate family would be required to be conducted through a
38 licensed retail dealer. Failure to conduct transfers through a
39 licensed retail dealer would be unlawful disposition of a firearm,
40 which is a fourth degree crime. Fourth degree crimes are punishable
41 by up to 18 months' imprisonment, a fine of up to \$10,000, or both.