

SENATE, No. 103

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Co-Sponsored by:

Senators Weinberg, Gopal and Turner

SYNOPSIS

Revises definition of destructive device to include certain weapons of 50 caliber or greater.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/15/2021)

S103 GILL, CODEY

2

1 AN ACT concerning destructive devices, amending N.J.S.2C:39-1
2 and supplementing chapter 39 of Title 2C of the New Jersey
3 Statutes.

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

7
8 1. N.J.S.2C:39-1 is amended to read as follows:

9 2C:39-1. Definitions. The following definitions apply to this
10 chapter and to chapter 58:

11 a. "Antique firearm" means any rifle or shotgun and "antique
12 cannon" means a destructive device defined in paragraph (3) of
13 subsection c. of this section, if the rifle, shotgun or destructive
14 device, or replica thereof, as the case may be, is incapable of being
15 fired or discharged, or which does not fire fixed ammunition,
16 regardless of date of manufacture, or was manufactured before 1898
17 for which cartridge ammunition is not commercially available, and
18 is possessed as a curiosity or ornament or for its historical
19 significance or value.

20 b. "Deface" means to remove, deface, cover, alter or destroy
21 the name of the maker, model designation, manufacturer's serial
22 number or any other distinguishing identification mark or number
23 on any firearm.

24 c. "Destructive device" means any device, instrument or object
25 designed to explode or produce uncontrolled combustion, including
26 (1) any explosive or incendiary bomb, mine or grenade; (2) any
27 rocket having a propellant charge of more than four ounces or any
28 missile having an explosive or incendiary charge of more than one-
29 quarter of an ounce; (3) any weapon capable of firing a [projectile]
30 center-fire cartridge of a caliber of 50 or greater [than 60 caliber,
31 except a shotgun or shotgun ammunition generally recognized as
32 suitable for sporting purposes], which shall include any metric
33 equivalent of 50 caliber or greater, that is capable of firing a
34 projectile that attains a muzzle energy of 12,000 foot-pounds or
35 greater in any combination of bullet, propellant, case, or primer. It
36 also shall include any copy or duplicate of any weapon that is
37 capable of firing a projectile that attains a muzzle energy of 12,000
38 foot-pounds or greater regardless of caliber. The provisions of this
39 paragraph shall not apply to a smooth bore shotgun or rifle barrel
40 shotgun or any shotgun ammunition generally recognized as
41 suitable for sporting purposes in this State; (4) any Molotov cocktail
42 or other device consisting of a breakable container containing
43 flammable liquid and having a wick or similar device capable of
44 being ignited. The term [does] shall not include any device

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 manufactured for the purpose of illumination, distress signaling,
2 line-throwing, safety, or similar purposes.
- 3 d. "Dispose of" means to give, give away, lease, loan, keep for
4 sale, offer, offer for sale, sell, transfer, or otherwise transfer
5 possession.
- 6 e. "Explosive" means any chemical compound or mixture that
7 is commonly used or is possessed for the purpose of producing an
8 explosion and which contains any oxidizing and combustible
9 materials or other ingredients in such proportions, quantities or
10 packing that an ignition by fire, by friction, by concussion or by
11 detonation of any part of the compound or mixture may cause such
12 a sudden generation of highly heated gases that the resultant
13 gaseous pressures are capable of producing destructive effects on
14 contiguous objects. The term shall not include small arms
15 ammunition, or explosives in the form prescribed by the official
16 United States Pharmacopoeia.
- 17 f. "Firearm" means any handgun, rifle, shotgun, machine gun,
18 automatic or semi-automatic rifle, or any gun, device or instrument
19 in the nature of a weapon from which may be fired or ejected any
20 solid projectable ball, slug, pellet, missile or bullet, or any gas,
21 vapor or other noxious thing, by means of a cartridge or shell or by
22 the action of an explosive or the igniting of flammable or explosive
23 substances. It shall also include, without limitation, any firearm
24 which is in the nature of an air gun, spring gun or pistol or other
25 weapon of a similar nature in which the propelling force is a spring,
26 elastic band, carbon dioxide, compressed or other gas or vapor, air
27 or compressed air, or is ignited by compressed air, and ejecting a
28 bullet or missile smaller than three-eighths of an inch in diameter,
29 with sufficient force to injure a person.
- 30 g. "Firearm silencer" means any instrument, attachment,
31 weapon or appliance for causing the firing of any gun, revolver,
32 pistol or other firearm to be silent, or intended to lessen or muffle
33 the noise of the firing of any gun, revolver, pistol or other firearm.
- 34 h. "Gravity knife" means any knife which has a blade which is
35 released from the handle or sheath thereof by the force of gravity or
36 the application of centrifugal force.
- 37 i. "Machine gun" means any firearm, mechanism or instrument
38 not requiring that the trigger be pressed for each shot and having a
39 reservoir, belt or other means of storing and carrying ammunition
40 which can be loaded into the firearm, mechanism or instrument and
41 fired therefrom.
- 42 j. "Manufacturer" means any person who receives or obtains
43 raw materials or parts and processes them into firearms or finished
44 parts of firearms, except a person who exclusively processes grips,
45 stocks and other nonmetal parts of firearms. The term does not
46 include a person who repairs existing firearms or receives new and
47 used raw materials or parts solely for the repair of existing firearms.

- 1 k. "Handgun" means any pistol, revolver or other firearm
2 originally designed or manufactured to be fired by the use of a
3 single hand.
- 4 l. "Retail dealer" means any person including a gunsmith,
5 except a manufacturer or a wholesale dealer, who sells, transfers or
6 assigns for a fee or profit any firearm or parts of firearms or
7 ammunition which he has purchased or obtained with the intention,
8 or for the purpose, of reselling or reassigning to persons who are
9 reasonably understood to be the ultimate consumers, and includes
10 any person who is engaged in the business of repairing firearms or
11 who sells any firearm to satisfy a debt secured by the pledge of a
12 firearm.
- 13 m. "Rifle" means any firearm designed to be fired from the
14 shoulder and using the energy of the explosive in a fixed metallic
15 cartridge to fire a single projectile through a rifled bore for each
16 single pull of the trigger.
- 17 n. "Shotgun" means any firearm designed to be fired from the
18 shoulder and using the energy of the explosive in a fixed shotgun
19 shell to fire through a smooth bore either a number of ball shots or a
20 single projectile for each pull of the trigger, or any firearm designed
21 to be fired from the shoulder which does not fire fixed ammunition.
- 22 o. "Sawed-off shotgun" means any shotgun having a barrel or
23 barrels of less than 18 inches in length measured from the breech to
24 the muzzle, or a rifle having a barrel or barrels of less than 16
25 inches in length measured from the breech to the muzzle, or any
26 firearm made from a rifle or a shotgun, whether by alteration, or
27 otherwise, if such firearm as modified has an overall length of less
28 than 26 inches.
- 29 p. "Switchblade knife" means any knife or similar device
30 which has a blade which opens automatically by hand pressure
31 applied to a button, spring or other device in the handle of the knife.
- 32 q. "Superintendent" means the Superintendent of the State
33 Police.
- 34 r. "Weapon" means anything readily capable of lethal use or of
35 inflicting serious bodily injury. The term includes, but is not
36 limited to, all (1) firearms, even though not loaded or lacking a clip
37 or other component to render them immediately operable; (2)
38 components which can be readily assembled into a weapon; (3)
39 gravity knives, switchblade knives, daggers, dirks, stilettos, or other
40 dangerous knives, billies, blackjacks, bludgeons, metal knuckles,
41 sandclubs, slingshots, cesti or similar leather bands studded with
42 metal filings or razor blades imbedded in wood; and (4) stun guns;
43 and any weapon or other device which projects, releases, or emits
44 tear gas or any other substance intended to produce temporary
45 physical discomfort or permanent injury through being vaporized or
46 otherwise dispensed in the air.
- 47 s. "Wholesale dealer" means any person, except a
48 manufacturer, who sells, transfers, or assigns firearms, or parts of

1 firearms, to persons who are reasonably understood not to be the
2 ultimate consumers, and includes persons who receive finished
3 parts of firearms and assemble them into completed or partially
4 completed firearms, in furtherance of such purpose, except that it
5 shall not include those persons dealing exclusively in grips, stocks
6 and other nonmetal parts of firearms.

7 t. "Stun gun" means any weapon or other device which emits
8 an electrical charge or current intended to temporarily or
9 permanently disable a person.

10 u. "Ballistic knife" means any weapon or other device capable
11 of lethal use and which can propel a knife blade.

12 v. "Imitation firearm" means an object or device reasonably
13 capable of being mistaken for a firearm.

14 w. "Assault firearm" means:

15 (1) The following firearms:

16 Algimec AGM1 type

17 Any shotgun with a revolving cylinder such as the "Street
18 Sweeper" or "Striker 12"

19 Armalite AR-180 type

20 Australian Automatic Arms SAR

21 Avtomat Kalashnikov type semi-automatic firearms

22 Beretta AR-70 and BM59 semi-automatic firearms

23 Bushmaster Assault Rifle

24 Calico M-900 Assault carbine and M-900

25 CETME G3

26 Chartered Industries of Singapore SR-88 type

27 Colt AR-15 and CAR-15 series

28 Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

29 Demro TAC-1 carbine type

30 Encom MP-9 and MP-45 carbine types

31 FAMAS MAS223 types

32 FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms

33 Franchi SPAS 12 and LAW 12 shotguns

34 G3SA type

35 Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1

36 Intratec TEC 9 and 22 semi-automatic firearms

37 M1 carbine type

38 M14S type

39 MAC 10, MAC 11, MAC 11-9mm carbine type firearms

40 PJK M-68 carbine type

41 Plainfield Machine Company Carbine

42 Ruger K-Mini-14/5F and Mini-14/5RF

43 SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types

44 SKS with detachable magazine type

45 Spectre Auto carbine type

46 Springfield Armory BM59 and SAR-48 type

47 Sterling MK-6, MK-7 and SAR types

48 Steyr A.U.G. semi-automatic firearms

- 1 USAS 12 semi-automatic type shotgun
2 Uzi type semi-automatic firearms
3 Valmet M62, M71S, M76, or M78 type semi-automatic firearms
4 Weaver Arm Nighthawk.
- 5 (2) Any firearm manufactured under any designation which is
6 substantially identical to any of the firearms listed above.
- 7 (3) A semi-automatic shotgun with either a magazine capacity
8 exceeding six rounds, a pistol grip, or a folding stock.
- 9 (4) A semi-automatic rifle with a fixed magazine capacity
10 exceeding 15 rounds.
- 11 (5) A part or combination of parts designed or intended to
12 convert a firearm into an assault firearm, or any combination of
13 parts from which an assault firearm may be readily assembled if
14 those parts are in the possession or under the control of the same
15 person.
- 16 x. "Semi-automatic" means a firearm which fires a single
17 projectile for each single pull of the trigger and is self-reloading or
18 automatically chambers a round, cartridge, or bullet.
- 19 y. "Large capacity ammunition magazine" means a box, drum,
20 tube or other container which is capable of holding more than 15
21 rounds of ammunition to be fed continuously and directly therefrom
22 into a semi-automatic firearm.
- 23 z. "Pistol grip" means a well-defined handle, similar to that
24 found on a handgun, that protrudes conspicuously beneath the
25 action of the weapon, and which permits the shotgun to be held and
26 fired with one hand.
- 27 aa. "Antique handgun" means a handgun manufactured before
28 1898, or a replica thereof, which is recognized as being historical in
29 nature or of historical significance and either (1) utilizes a match,
30 friction, flint, or percussion ignition, or which utilizes a pin-fire
31 cartridge in which the pin is part of the cartridge or (2) does not fire
32 fixed ammunition or for which cartridge ammunition is not
33 commercially available.
- 34 bb. "Trigger lock" means a commercially available device
35 approved by the Superintendent of State Police which is operated
36 with a key or combination lock that prevents a firearm from being
37 discharged while the device is attached to the firearm. It may
38 include, but need not be limited to, devices that obstruct the barrel
39 or cylinder of the firearm, as well as devices that immobilize the
40 trigger.
- 41 cc. "Trigger locking device" means a device that, if installed on
42 a firearm and secured by means of a key or mechanically,
43 electronically or electromechanically operated combination lock,
44 prevents the firearm from being discharged without first
45 deactivating or removing the device by means of a key or
46 mechanically, electronically or electromechanically operated
47 combination lock.

1 dd. "Personalized handgun" means a handgun which
2 incorporates within its design, and as part of its original
3 manufacture, technology which automatically limits its operational
4 use and which cannot be readily deactivated, so that it may only be
5 fired by an authorized or recognized user. The technology limiting
6 the handgun's operational use may include, but not be limited to:
7 radio frequency tagging, touch memory, remote control, fingerprint,
8 magnetic encoding and other automatic user identification systems
9 utilizing biometric, mechanical or electronic systems. No make or
10 model of a handgun shall be deemed to be a "personalized handgun"
11 unless the Attorney General has determined, through testing or
12 other reasonable means, that the handgun meets any reliability
13 standards that the manufacturer may require for its commercially
14 available handguns that are not personalized or, if the manufacturer
15 has no such reliability standards, the handgun meets the reliability
16 standards generally used in the industry for commercially available
17 handguns.
18 (cf: P.L.2002, c.130, s.5)

19

20 2. (New section) a. The owner of a .50 caliber or greater
21 weapon purchased or acquired before the weapon was prohibited
22 under the provisions of paragraph (3) of subsection c. of
23 N.J.S.2C:39-1 by the enactment of P.L. , c. (C.) (pending
24 before the Legislature as this bill) shall have one year in which to
25 register that weapon.

26 In order to register a prohibited weapon, the owner shall:

27 (1) Complete a registration statement, in the form to be
28 prescribed by the Superintendent of the State Police; and

29 (2) Pay a registration fee of \$50 for each prohibited weapon.

30 b. For an applicant who resides in a municipality with an
31 organized full-time police department, the registration shall take
32 place at the main office of the police department. For all other
33 applicants, the registration shall take place at any State Police
34 station.

35 c. Within 60 days of the effective date of P.L. , c. (C.)
36 (pending before the Legislature as this bill), the Superintendent
37 shall prepare the form of registration statement required under
38 subsection a. of this section and shall provide a suitable supply of
39 statements to each organized full-time municipal police department
40 and each State Police station.

41 d. One copy of the completed prohibited weapon registration
42 statement shall be returned to the registrant, a second copy shall be
43 sent to the Superintendent, and, if the registration takes place at a
44 municipal police department, a third copy shall be retained by that
45 municipal police department.

46 e. If the owner of a prohibited weapon that has been registered
47 pursuant to this section dies, the owner's heirs or estate shall have
48 90 days to dispose of that firearm in accordance with the provisions

1 of section 3 of P.L. , c. (C.)(pending before the Legislature
2 as this bill).

3 f. If a prohibited weapon registered pursuant to this section is
4 used in the commission of a crime, the registrant of that prohibited
5 weapon shall be civilly liable for any damages resulting from that
6 crime.

7 The liability imposed by this subsection shall not apply (1) if the
8 weapon used in the commission of that crime was stolen and the
9 registrant reported the theft of the weapon to law enforcement
10 authorities within 36 hours of the registrant's knowledge of the theft
11 or (2) prior to the commission of the crime, the registrant lawfully
12 transferred the weapon to another person.

13

14 3. (New section) a. A person who lawfully possesses a .50
15 caliber or greater weapon prohibited under the provisions of
16 paragraph (3) of subsection c. of N.J.S.2C:39-1 on the effective date
17 of P.L. , c. (pending before the Legislature as this bill) and does
18 not register it pursuant to section 2 of P.L. , c. (C.)(pending
19 before the Legislature as this bill) may retain possession of that
20 weapon for a period not to exceed one year from that effective date.
21 During that time period, the owner of the prohibited weapon shall
22 either:

23 (1) Transfer the prohibited weapon to a person or firm lawfully
24 entitled to own or possess such weapon;

25 (2) Render the prohibited weapon inoperable; or

26 (3) Voluntarily surrender the prohibited weapon pursuant to
27 N.J.S.2C:39-12.

28 b. If the owner of the prohibited weapon elects to render the
29 weapon inoperable, the owner shall file a certification on a form
30 prescribed by the Superintendent of State Police indicating the date
31 on which the weapon was rendered inoperable. This certification
32 shall be filed with either the chief law enforcement officer of the
33 municipality in which the owner resides or, in the case of an owner
34 who resides in a municipality which does not have a full-time police
35 department, with the Superintendent of State Police.

36 c. As used in this section, "inoperable" means that the weapon
37 is altered in such a manner that it cannot be immediately fired and
38 that the owner or possessor of the weapon does not possess or have
39 control over the parts necessary to make the weapon operable.

40

41 4. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill revises the definition of "destructive device" so that it
47 includes weapons of 50 caliber or greater. Under the bill and

1 subsection a. of N.J.S.2C:39-3, it would be unlawful to possess a
2 firearm having a caliber of 50 or greater.

3 Under the revised definition, a 50 caliber or greater weapon
4 includes any weapon capable of firing a center-fire cartridge of a
5 caliber of 50 or greater, including any metric equivalent of 50
6 caliber or greater, that is capable of firing a projectile that attains a
7 muzzle energy of 12,000 foot-pounds or greater in any combination
8 of bullet, propellant, case, or primer. The definition also includes
9 any copy or duplicate of any such weapon, regardless of the caliber,
10 which fires any projectile that attains a muzzle energy of 12,000
11 foot-pounds or greater. The prohibition on 50 caliber or greater
12 weapons will not apply to a smooth bore shotgun or rifle barrel
13 shotgun or any shotgun ammunition generally recognized as
14 suitable for sporting purposes in this State.

15 Under the provisions of the bill, a person who purchased or
16 acquired a weapon that has been prohibited with the enactment of
17 this bill may retain that weapon if he or she registers it with law
18 enforcement. The registration fee is \$50. A person who chooses
19 not to register his or her prohibited weapon has one year in which to
20 lawfully sell the weapon, render it inoperable, or voluntarily
21 surrender the weapon to law enforcement.

22 When a registrant dies, the heirs or estate are to dispose of the
23 weapon by either selling it, rendering it inoperable, or voluntarily
24 surrendering it.

25 The registrant of a prohibited weapon may be held civilly liable
26 if it is used in the commission of a crime.

27 This liability does not apply (1) if the weapon used in the crime
28 was stolen and the registrant reported the theft to law enforcement
29 within 36 hours of the registrant's knowledge of the theft or (2)
30 prior to the commission of the crime, the registrant lawfully
31 transferred the weapon to another person.