

SENATE, No. 813

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator MICHAEL L. TESTA, JR.

District 1 (Atlantic, Cape May and Cumberland)

Senator HOLLY T. SCHEPISI

District 39 (Bergen and Passaic)

SYNOPSIS

Requires chief law enforcement officer or Superintendent of State Police to notify federal immigration authorities when non-citizen applies for firearms purchaser identification card or handgun purchase permit.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/25/2021)

1 **AN ACT** concerning firearms and immigration 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】** A person shall not sell, give, transfer, assign or
10 otherwise dispose of, nor receive, purchase, or otherwise acquire a
11 handgun unless the purchaser, assignee, donee, receiver or holder is
12 licensed as a dealer under this chapter or has first secured a permit
13 to 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;

22 (b) between law enforcement officers;

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

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

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

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

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

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

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

1 b. Firearms purchaser identification card.

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

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

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

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

28 (b) between law enforcement officers;

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

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

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

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

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

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

- 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 c. Who may obtain. **【No】** A person of good character and
5 good repute in the community in which **【he】** the person lives, and
6 who is not subject to any of the disabilities set forth in this section
7 or other sections of this chapter, shall not be denied a permit to
8 purchase a handgun or a firearms purchaser identification card,
9 except as hereinafter set forth. **【No】** A handgun purchase permit or
10 firearms purchaser identification card shall not be issued:
- 11 (1) To any person who has been convicted of any crime, or a
12 disorderly persons offense involving an act of domestic violence as
13 defined in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or
14 not armed with or possessing a weapon at the time of the offense;
- 15 (2) To any drug dependent person as defined in section 2 of
16 P.L.1970, c.226 (C.24:21-2), to any person who is confined for a
17 mental disorder to a hospital, mental institution or sanitarium, or to
18 any person who is presently an habitual drunkard;
- 19 (3) To any person who suffers from a physical defect or disease
20 which would make it unsafe for **【him】** the person to handle
21 firearms, to any person who has ever been confined for a mental
22 disorder, or to any alcoholic unless any of the foregoing persons
23 produces a certificate of a medical doctor or psychiatrist licensed in
24 New Jersey, or other satisfactory proof, that **【he】** the person is no
25 longer suffering from that particular disability in a manner that
26 would interfere with or handicap **【him】** the person in the handling
27 of firearms; to any person who knowingly falsifies any information
28 on the application form for a handgun purchase permit or firearms
29 purchaser identification card;
- 30 (4) To any person under the age of 18 years for a firearms
31 purchaser identification card and to any person under the age of 21
32 years for a permit to purchase a handgun;
- 33 (5) To any person where the issuance would not be in the
34 interest of the public health, safety or welfare;
- 35 (6) To any person who is subject to a restraining order issued
36 pursuant to the "Prevention of Domestic Violence Act of 1991,"
37 P.L.1991, c.261 (C.2C:25-17 et seq.) prohibiting the person from
38 possessing any firearm;
- 39 (7) To any person who as a juvenile was adjudicated delinquent
40 for an offense which, if committed by an adult, would constitute a
41 crime and the offense involved the unlawful use or possession of a
42 weapon, explosive or destructive device or is enumerated in
43 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);
- 44 (8) To any person whose firearm is seized pursuant to the
45 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
46 (C.2C:25-17 et seq.) and whose firearm has not been returned; or

1 (9) To any person named on the consolidated Terrorist Watchlist
2 maintained by the Terrorist Screening Center administered by the
3 Federal Bureau of Investigation; **【or】**

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

9 (11) To any non-citizen who is unlawfully present in the United
10 States and to whom the sale, transfer, or disposition of a firearm is
11 prohibited pursuant to 18 U.S.C. §922(d)(5) on the basis of the non-
12 citizen's immigration status.

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

19 Any person aggrieved by the denial of a permit or identification
20 card may request a hearing in the Superior Court of the county in
21 which **【he】** the person resides if **【he】** the person is a resident of
22 New Jersey or in the Superior Court of the county in which **【his】**
23 the person's application was filed if **【he】** the person is a
24 nonresident. The request for a hearing shall be made in writing
25 within 30 days of the denial of the application for a permit or
26 identification card. The applicant shall serve a copy of **【his】** this
27 request for a hearing upon the chief of police of the municipality in
28 which **【he】** the person resides, if **【he】** the person is a resident of
29 New Jersey, and upon the superintendent in all cases. The hearing
30 shall be held and a record made thereof within 30 days of the
31 receipt of the application for a hearing by the judge of the Superior
32 Court. **【No】** A formal pleading and **【no】** a filing fee shall not be
33 required as a preliminary to a hearing. Appeals from the results of a
34 hearing shall be in accordance with law.

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

1 or observed by any doctor or psychiatrist or at any hospital or
2 mental institution on an inpatient or outpatient basis for any mental
3 or psychiatric condition, giving the name and location of the doctor,
4 psychiatrist, hospital or institution and the dates of the occurrence,
5 whether **【he presently】** the person currently or ever has been a
6 member of any organization which advocates or approves the
7 commission of acts of force and violence to overthrow the
8 Government of the United States or of this State, or which seeks to
9 deny others their rights under the Constitution of either the United
10 States or the State of New Jersey, whether **【he】** the person has ever
11 been convicted of a crime or disorderly persons offense, whether
12 the person is subject to a restraining order issued pursuant to the
13 "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
14 (C.2C:25-17 et seq.) prohibiting the person from possessing any
15 firearm, whether the person is subject to a protective order issued
16 pursuant to the "Extreme Risk Protective Order Act of 2018,"
17 P.L.2018, c.35 (C.2C:58-20 et al.) prohibiting the person from
18 possessing any firearm, whether the person is lawfully present in
19 the United States and eligible to purchase a firearm pursuant to 18
20 U.S.C. s.922(d)(5), and other information as the superintendent
21 shall deem necessary for the proper enforcement of this chapter.
22 For the purpose of complying with this subsection, the applicant
23 shall waive any statutory or other right of confidentiality relating to
24 institutional confinement. The application shall be signed by the
25 applicant and shall contain as references the names and addresses of
26 two reputable citizens personally acquainted with **【him】** the
27 applicant.

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

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

46 Upon determining that an applicant is a noncitizen who is
47 unlawfully present in the United States in violation of paragraph
48 (11) of subsection c. of this section, the chief police officer or

1 superintendent shall notify the appropriate federal immigration
2 authority as defined in subsection n. of this section and cooperate
3 with any immigration enforcement initiated by the federal
4 immigration authority.

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

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

35 g. Disposition of fees. All fees for permits shall be paid to the
36 **【State】** Department of the Treasury if the permit is issued by the
37 superintendent, to the municipality if issued by the chief of police,
38 and to the county treasurer if issued by the judge of the Superior
39 Court.

40 h. Form of permit; quadruplicate; disposition of copies. The
41 permit shall be in the form prescribed by the superintendent and
42 shall be issued to the applicant in quadruplicate. Prior to the time
43 **【he】** the applicant receives the handgun from the seller, the
44 applicant shall deliver to the seller the permit in quadruplicate and
45 the seller shall complete all of the information required on the form.
46 Within five days of the date of the sale, the seller shall forward the
47 original copy to the superintendent and the second copy to the chief
48 of police of the municipality in which the purchaser resides, except
49 that in a municipality having no chief of police, the copy shall be

1 forwarded to the superintendent. The third copy shall then be
2 returned to the purchaser with the pistol or revolver and the fourth
3 copy shall be kept by the seller as a permanent record.

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

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

11 (2) a collector of handguns as curios or relics as defined in Title
12 18, United States Code, section 921 (a) (13) who **【has in his**
13 **possession】** possesses a valid Collector of Curios and Relics
14 License issued by the federal Bureau of Alcohol, Tobacco, Firearms
15 and Explosives;

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

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

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

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

28 The provisions of this subsection shall not be construed to afford
29 or authorize any other exemption from the regulatory provisions
30 governing firearms set forth in chapter 39 and chapter 58 of Title
31 2C of the New Jersey Statutes;

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

37 j. Firearms passing to heirs or legatees. Notwithstanding any
38 other provision of this section concerning the transfer, receipt or
39 acquisition of a firearm, a permit to purchase or a firearms
40 purchaser identification card shall not be required for the passing of
41 a firearm upon the death of an owner thereof to **【his】** the owner's
42 heir or legatee, whether the same be by testamentary bequest or by
43 the laws of intestacy. The person who shall **【so】** receive, or acquire
44 the firearm shall, however, be subject to all other provisions of this
45 chapter. If the heir or legatee of the firearm does not qualify to
46 possess or carry it, **【he】** the heir or legatee may retain ownership of
47 the firearm for the purpose of sale for a period not exceeding 180
48 days, or for a further limited period as may be approved by the chief

1 law enforcement officer of the municipality in which the heir or
2 legatee resides or the superintendent, provided that the firearm is in
3 the custody of the chief law enforcement officer of the municipality
4 or the superintendent during that period.

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

8 l. Nothing in this section and in N.J.S.2C:58-2 shall apply to
9 the sale or purchase of a visual distress ~~【signalling】~~ signaling
10 device approved by the United States Coast Guard, solely for
11 possession on a private or commercial aircraft or any boat;
12 provided, however, that ~~【no】~~ a person under the age of 18 years
13 shall not purchase ~~【nor shall any】~~ , and a person shall not sell to a
14 person under the age of 18 years a visual distress ~~【signalling】~~
15 signaling device.

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

23 n. For the purposes of this section ~~【,"immediate】~~ :

24 “Appropriate federal immigration authority” means agencies of
25 the United States government responsible for implementing and
26 enforcing federal immigration law, including but not limited to the
27 United States Immigration and Customs Enforcement, United States
28 Customs and Border Protection, and United States Citizenship and
29 Immigration Services within the Department of Homeland Security.

30 “Immediate family” means a spouse, domestic partner as defined
31 in section 3 of P.L.2003, c.246 (C.26:8A-3), partner in a civil union
32 couple as defined in section 2 of P.L.2006, c.103 (C.37:1-29),
33 parent, stepparent, grandparent, sibling, stepsibling, child, stepchild,
34 and grandchild, as related by blood or by law.

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

36
37 2. This act shall take effect immediately.

38 39 STATEMENT

40
41 This bill requires a chief law enforcement officer or
42 Superintendent of State Police to notify federal immigration
43 authorities when a non-citizen who is unlawfully present in the
44 United States applies for a firearms purchaser identification card
45 (FPIC) or permit to purchase a handgun (PPH).

46 Under current law, a person who purchases a rifle or shotgun is
47 required to obtain a FPIC; handgun purchasers are required to obtain
48 a PPH. An applicant for a FPIC or PPH is required submit to the chief

1 law enforcement officer or the superintendent, as appropriate, a written
2 application, consent for a mental health records search, and two sets of
3 fingerprints for a criminal history records background check. Federal
4 law prohibits selling or transferring a firearm to a non-citizen who
5 is unlawfully present in the United States pursuant to 18 U.S.C.
6 s.922(d)(5).

7 This bill incorporates the federal standard governing the sale or
8 transfer of firearms to a non-citizen. In addition, the bill requires a
9 chief law enforcement officer or the superintendent to notify and
10 cooperate with federal immigration authorities when the officer or
11 superintendent determines that an applicant for a FPIC or PPH is a
12 non-citizen who is unlawfully present in the United States.