

2C:39-6

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:39-6; 40A:14-7.1

(Firemen--permit carrying firearms under certain circumstances)

LAWS OF: 1985

CHAPTER: 150

Bill No: S1480

Sponsor(s): Orechio

Date Introduced: April 30, 1984

Committee: Assembly: Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: Yes according to Governor's recommendations

Amendments denoted by asterisks

Date of Passage: Assembly: November 19, 1984 Re-enacted 4-15-85

Senate: June 28, 1984 Re-enacted 3-7-85

Date of Approval: April 25, 1985

Following statements are attached if available:

Sponsor statement:		Yes	Attached: Senate floor amendments, adopted 6-25-84 (with statement)
Committee statement:	Assembly	Yes	
	Senate	No	
Fiscal Note:		No	
Veto Message:		Yes	
Message on Signing:		No	
Following were printed:			
Reports:		No	
Hearings:		No	

150 4-25-85 85
[FOURTH OFFICIAL COPY REPRINT]

SENATE, No. 1480

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1984

By Senator ORECHIO

Referred to Committee on Judiciary

AN ACT concerning ****[the carrying of firearms by]**** firemen who serve as arson investigators ***[on a part-time basis]*** and amending N. J. S. 2C:39-6 ****and P. L. 1981, c. 409****.

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

1 1. N. J. S. 2C:39-6 is amended to read as follows:

2 2C:39-6. Exemptions. a. Section 2C:39-5 does not apply to:

3 (1) Members of the Armed Forces of the United States or of the
4 National Guard while actually on duty, or while traveling between
5 places of duty and carrying authorized weapons in the manner
6 prescribed by the appropriate military authorities;

7 (2) Federal law enforcement officers, and any other federal offi-
8 cers and employees required to carry firearms in the performance
9 of their official duties;

10 (3) Members of the State Police ***[a motor vehicle inspector]***;

11 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
12 assistant prosecutor, prosecutor's detective or investigator, deputy
13 attorney general or State investigator employed by the Division
14 of Criminal Justice of the Department of Law and Public Safety,
15 investigator employed by the State Commission of Investigation,
16 inspectors and investigators of the Division of Alcoholic Beverage
17 Control in the Department of Law and Public Safety, State park
18 ranger, or State conservation officer;

19 (5) A prison or jail warden of any penal institution in this State
20 or his deputies, or an employee of the Department of Corrections
21 engaged in the interstate transportation of convicted offenders,

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted May 21, 1984.**

****—Senate amendments adopted June 25, 1984.**

*****—Assembly committee amendment adopted September 20, 1984.**

******—Senate amendments adopted in accordance with Governor's recommendations March 7, 1985.**

22 while in the performance of his duties, and when required to possess
 23 ****[such a]** ****the**** weapon by his superior officer, or a correction
 24 officer or keeper of a penal institution in this State at all times while
 25 in the State of New Jersey, provided he annually passes an examina-
 26 tion approved by the superintendent testing his proficiency in the
 27 handling of firearms;

28 (6) A civilian employee of the United States Government under
 29 the supervision of the commanding officer of any post, camp, sta-
 30 tion, base or other military or naval installation located in this
 31 State who is required, in the performance of his official duties, to
 32 carry firearms, and who is authorized to carry such firearms by
 33 said commanding officer, while in the actual performance of his
 34 official duties; ******[**or**]******

35 (7) A regularly employed member, including a detective, of the
 36 police department of any county or municipality, or of any State,
 37 interstate, municipal or county park police force or boulevard police
 38 force ******[**or a paid member of a paid or part-paid fire depart-**
 39 **ment or force of any municipality who is assigned full-time or part-**
 40 **time to an arson investigation unit created pursuant to section 1 of**
 41 **P. L. 1981, c. 409 (C. 40A:14-7.1)* ****and who has satisfactorily**
 42 **completed an approved police training program on the safe use and**
 42A **handling of firearms****]** ********, at all times while in the State of
 42B New Jersey, or any special policeman authorized to carry a re-
 43 volver or other similar weapons while off duty within the munici-
 44 pality where he is employed, as provided in N. J. S. 40A:14-146, or
 45 a special policeman or airport security officer appointed by the gov-
 46 erning body of any county or municipality, except as provided in
 47 this paragraph, or by the commission, board or other body having
 47A control of a county park or airport or boulevard police force, while
 47B engaged in the actual performance of his official duties and when
 47C specifically authorized by the governing body to carry weap-
 47D ons ****[; or]** **** ****[**.*]**** ****; or******

48 ***[(8) A paid member of a paid or part-paid fire department or**
 49 **force of any municipality who is assigned full-time or part-time**
 50 **to an arson investigation unit created pursuant to section 1 of**
 51 **P. L. 1981, c. 409 (C. 40A:14-7.1), while engaged in the actual**
 52 **performance of [arson investigation duties] his duties either as an**
 53 **arson investigator or as a fireman and when specifically authorized**
 54 **by the governing body to carry weapons.]***

54A ****** (8) A full-time, paid member of a paid or part-paid fire**
 54B **department or force of any municipality who is assigned full-time**
 54C **or part-time to an arson investigation unit created pursuant to**
 54D **section 1 of P. L. 1981, c. 409 (C. 40A:14-7.1) or to the county arson**

54E investigation unit in the county prosecutor's office, while either
 54F engaged in the actual performance of arson investigation duties or
 54G while actually on call to perform arson investigation duties and
 54H when specifically authorized by the governing body or the county
 54I prosecutor, as the case may be, to carry weapons. Prior to being
 54J permitted to carry a firearm, such a member shall take and success-
 54K fully complete a firearms training course administered by the Police
 54L Training Commission, pursuant to P. L. 1961, c. 56 (C. 52:17B-66
 54M et seq.), and shall annually qualify in the use of a revolver or
 54N similar weapon prior to being permitted to carry a firearm.****

55 b. Subsections a., b. and c. of ****[section]**** ****N. J. S.**** 2C:39-5
 55A do not apply to:

56 (1) A law enforcement officer employed by a governmental
 57 agency outside of the State of New Jersey while actually engaged
 58 in his official duties, provided, however, that he has first notified
 59 the superintendent or the chief law enforcement officer of the mu-
 60 nicipality or the prosecutor of the county in which he is engaged; or

61 (2) A licensed dealer in firearms and his registered employees
 62 during the course of their normal business while traveling to and
 63 from their place of business and other places for the purpose of
 64 demonstration, exhibition or delivery in connection with a sale,
 65 provided, however, that ****[any such]**** ****the**** weapon is carried
 66 in the manner specified in subsection g. of this section.

67 c. Subsections b. and c. of ****[section]**** ****N. J. S.**** 2C:39-5
 67A do not apply to:

68 (1) A special agent of the Division of Taxation who has passed
 69 an examination in an approved police training program testing
 70 proficiency in the handling of any firearm which he may be required
 71 to carry, while in the actual performance of his official duties and
 72 while going to or from his place of duty, a campus police officer
 73 appointed pursuant to P. L. 1970, c. 211 (C. 18A :6-4.2 et seq.) or
 74 any other police officer, while in the actual performance of his
 75 official duties;

76 (2) A State deputy conservation officer or a full-time employee
 77 of the Division of Parks and Forestry having the powers of arrest
 78 and authorized to carry weapons, while in the actual performance
 79 of his official duties;

80 (3) A full-time member of the marine patrol force or a special
 81 marine patrolman authorized to carry ****[such a]**** ****the**** weapon
 82 by the Commissioner of Environmental Protection, while in the
 83 actual performance of his official duties;

84 (4) A court attendant serving as such under appointment by the
 85 sheriff of the county or by the judge of any municipal court or

86 other court of this State, while in the actual performance of his
87 official duties;

88 (5) A guard in the employ of any railway express company,
89 banking or building and loan or savings and loan institution of this
90 State, while in the actual performance of his official duties;

91 (6) A member of a legally recognized military organization while
92 actually under orders or while going to or from the prescribed
93 place of meeting and carrying the weapons prescribed for drill,
94 exercise or parade;

95 (7) An officer of the Society for the Prevention of Cruelty to
96 Animals, while in the actual performance of his duties;

97 (8) An employee of a public utilities corporation actually en-
98 gaged in the transportation of explosives; or

99 (9) A railway policeman, at all times while in the State of New
100 Jersey, provided that he has passed an approved police academy
101 training program consisting of at least 280 hours. The training
102 program shall include, but need not be limited to, the handling of
103 firearms, community relations, and juvenile relations.

104 d. (1) Subsections c. and d. of ****[section]**** ****N. J. S.****
105 2C:39-5 do not apply to antique firearms, provided that such
106 antique firearms are unloaded or are being fired for the purposes of
107 exhibition or demonstration at an authorized target range or in
108 such other manner as has been approved in writing by the chief law
109 enforcement officer of the municipality in which the exhibition or
110 demonstration is held, or if not held on property under the control
111 of a particular municipality, the superintendent.

112 (2) Subsection a. of N. J. S. 2C:39-3 and subsection d. of N. J. S.
113 2C:39-5 do not apply to an antique canon that is capable of being
114 fired but that is unloaded and immobile, provided that the antique
115 cannon is possessed by (a) a scholastic institution, a museum, a
116 municipality, a county or the State, or (b) a person who obtained
117 a firearms purchaser identification card as specified in N. J. S.
118 2C:58-3.

119 (3) Subsection a. of N. J. S. 2C:39-3 and subsection d. of N. J. S.
120 2C:39-5 do not apply to an unloaded antique cannon that is being
121 transported by one eligible to possess it, in compliance with regu-
122 lations the superintendent may promulgate, between its permanent
123 location and place of purchase or repair.

124 (4) Subsection a. of N. J. S. 2C:39-3 and subsection d. of N. J. S.
125 2C:39-5 do not apply to antique cannons that are being loaded or
126 fired by one eligible to possess an antique cannon, for purposes of
127 exhibition or demonstration at an authorized target range or in the
128 manner as has been approved in writing by the chief law enforce-

129 ment officer of the municipality in which the exhibition or demon-
 130 stration is held, or if not held on property under the control of a
 131 particular municipality, the superintendent, provided that per-
 132 former has given at least 30 **[days]** *days'* notice ****[of such]**** to
 133 the superintendent.

134 (5) Subsection a. of N. J. S. 2C:39-3 and subsection d. of N. J. S.
 135 2C:39-5 do not apply to the ****[transportation]**** *transporta-*
 136 *tion******* of unloaded antique cannons directly to or from exhibitions
 137 or demonstrations authorized under paragraph (4) of subsection
 138 d. of this section, provided that the transportation is in compliance
 139 with safety regulations the superintendent may promulgate. Nor
 140 do those subsections apply to transportation directly to or from
 141 exhibitions or demonstrations authorized under the law of another
 142 jurisdiction, provided that the superintendent has been given 30
 143 **[days]** *days'* notice ****[of such]**** and that the transportation is in
 144 compliance with safety regulations the superintendent may
 144A promulgate.

145 e. Nothing in subsections b., c. and d. of ****[section]**** *N. J. S.*
 146 2C:39-5 shall be construed to prevent a person keeping or carrying
 147 about his place of business, residence, premises or other land owned
 148 or possessed by him, any firearm, or from carrying the same, in the
 149 manner specified in subsection g. of this section, from any place of
 150 purchase to his residence or place of business, between his dwelling
 151 and his place of business, between one place of business or residence
 152 and another when moving, or between his dwelling or place of
 153 business and place where such firearms are repaired, for the
 154 purpose of repair. For the purposes of this section, a place of
 155 business shall be deemed to be a fixed location.

156 f. Nothing in subsections b., c. and d. of ****[section]****
 157 *N. J. S.* 2C:39-5 shall be construed to prevent:

158 (1) A member of any rifle or pistol club organized in accordance
 159 with the rules prescribed by the National Board for the Promotion
 160 of Rifle Practice, in going to or from a place of target practice,
 160A carrying such firearms as are necessary for said target practice
 161 provided that the club has filed a copy of its charter with the su-
 162 perintendent and annually submits a list of its members to the
 163 superintendent and provided further that the firearms are carried
 164 in the manner specified in subsection g. of this section;

165 (2) A person carrying a firearm or knife in the woods or fields
 166 or upon the waters of this State for the purpose of hunting, target
 167 practice or fishing, provided that the firearm or knife is legal and
 168 appropriate for hunting or fishing purposes in this State and he
 169 has in his possession a valid hunting license, or, with respect to
 170 fresh water fishing, a valid fishing license;

171 (3) A person transporting any firearm or knife while traveling:

172 (a) Directly to or from any place for the purpose of hunting or
 173 fishing, provided ****[such]**** ***the*** person has in his possession a
 174 valid hunting or fishing license; or

175 (b) Directly to or from any target range, or other authorized
 176 place for the purpose of practice, match, target, trap or skeet shoot-
 177 ing exhibitions, provided in all cases that during the course of
 178 ****[such]**** ***the*** travel all firearms are carried in the manner
 179 specified in subsection g. of this section and the person has complied
 180 with all the provisions and requirements of Title 23 of the Revised
 181 Statutes and any amendments thereto and all rules and regulations
 182 promulgated thereunder; or

183 (c) In the case of a firearm, directly to or from any exhibition
 184 or display of firearms which is sponsored by any law enforcement
 185 agency, any rifle or pistol club, or any firearms collectors club,
 186 for the purpose of displaying ****[of]**** the firearms to the public
 187 or to the members of ****[such]**** ***the*** organization or club, pro-
 188 vided, however, that not less than 30 days prior to ****[such]****
 188A ***the*** exhibition or display, notice of ****[such]**** ***the***
 189 exhibition or display shall be given to the Superintendent of the
 190 State Police by the sponsoring organization or club, and the spon-
 191 sor has complied with such reasonable safety regulations as the
 192 superintendent may promulgate. Any firearms transported pur-
 193 suant to this section shall be transported in the manner specified
 194 in subsection g. of this section;

195 (4) A person from keeping or carrying about a private or com-
 196 mercial aircraft or any boat, or from transporting to or from such
 197 vessel for the purpose of installation or repair a visual distress
 198 signalling device approved by the United States Coast Guard.

199 g. All weapons being transported under **[subsection]** ****[sub-**
 200 *section b. (2), e. or f. (1) or (3)]*** ***paragraph (2) of subsection*
 201 *b., subsection e., or paragraphs (1) or (3) of subsection f.*** of this
 202 section shall be carried unloaded and contained in a closed and
 203 fastened case, gunbox, securely tied package, or locked in the trunk
 204 of the automobile in which it is being transported, and the course
 204A of travel shall include only such deviations as are reasonably
 204B necessary under the circumstances.

205 h. Nothing in subsection d. of ****[section]**** ***N. J. S.*** 2C:39-5
 206 shall be construed to prevent any employee of a public utility, as
 207 defined in R. S. 48:2-13, doing business in this State or any United
 208 States Postal Service employee, while in the actual performance of
 209 duties which specifically require regular and frequent visits to
 210 private premises, from possessing, carrying or using any device

211 which projects, releases or emits any substance specified as being
212 noninjurious to canines or other animals by the Commissioner of
213 Health and which immobilizes only on a temporary basis and pro-
214 duces only temporary physical discomfort through being vaporized
215 or otherwise dispensed in the air for the sole purpose of repelling
216 canine or other animal attacks.

217 The device shall be used solely to repel only those canine or other
218 animal attacks when the canines or other animals are not restrained
219 in a fashion sufficient to allow the employee to properly perform
220 his duties.

221 Any device used pursuant to this act shall be selected from a list
222 of products, which consist of active and inert ingredients, per-
223 mitted by the Commissioner of Health.

224 i. Nothing in subsection d. of ***N. J. S.*** 2C:39-5 shall be con-
225 strued to prevent any person who is 18 years of age or older and
226 who has not been convicted of a felony, from possession for the
227 purpose of personal self-defense of one pocket-sized device which
228 contains and releases not more than three-quarters of an ounce of
229 chemical substance not ordinarily capable of lethal use or of in-
230 flicting serious bodily injury, but rather, is intended to produce
231 temporary physical discomfort or disability through being vapor-
232 ized or otherwise dispensed in the air. Any person in possession of
233 any device in violation of this subsection shall be deemed and
234 adjudged to be a disorderly person, and upon conviction thereof,
235 shall be punished by a fine of not less than \$100.00.

1 **2. Section 1 of P. L. 1981, c. 409 (C. 40A:14-7.1) is amended
2 to read as follows:

3 1. a. The governing body of any municipality which has estab-
4 lished a paid or part-paid fire department or force may, by ordi-
5 nance, create an arson investigation unit within the fire department
6 or force and provide for the maintenance, regulation and control
7 thereof. The arson investigation unit shall be responsible for con-
8 ducting investigations of arson, suspicious fires or explosions
9 within the municipality.

10 b. Only *****full-time,***** paid members of a paid or part-paid
11 fire department or force may be assigned to an arson investigation
12 unit created pursuant to this section. Before any member shall be
13 assigned to an arson investigation unit, he shall have successfully
14 completed an appropriate course of training approved by the Police
15 Training Commission and an arson investigation training course
16 approved by the Department of Law and Public Safety.

17 c. Any member of a fire department or force who is assigned to
18 an arson investigation unit pursuant to this section shall attend

19 and successfully complete in-service training programs as required
20 by the Division of Criminal Justice.

21 d. Any *****full-time, paid***** member of a fire department or
22 force who is assigned full-time *or part-time* to an arson investiga-
23 tion unit pursuant to this section shall have the same powers and
24 authority of police officers within the municipality **【**while engaged
25 in the actual performance of arson investigation duties**】** *****while*
25A *engaged in the actual performance of arson investigation*
25B *duties*****.

26 e. *No more than one member of a fire department of a munici-*
27 *pality having a population of 50,000 or less according to the latest*
28 *federal decennial census may be assigned to an arson investigation*
29 *unit on a part-time basis.***

1 ****[2.]** **3.**** This act shall take effect immediately.

STATEMENT

Presently, a fireman who is assigned as an arson investigator is permitted to carry a firearm without a license while in the performance of his duties as an arson investigator if authorized by the municipal governing body. This bill would permit a fireman who is assigned on a part-time basis to act as an arson investigator to carry a firearm without a license when performing his duties either as an arson investigator or as a fireman if authorized by the municipal governing body.

51480(1985)

ASSEMBLY LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 1480

[2nd OFFICIAL COPY REPRINT]

with Assembly committee amendment

STATE OF NEW JERSEY

DATED: SEPTEMBER 20, 1984

As amended by the Assembly Law, Public Safety and Defense Committee, Senate Bill No. 1480 allows a paid member of a paid or part-paid fire department of any municipality who is assigned full time or part-time to an arson investigation unit to carry a weapon without a permit at all times within this State provided that the member has satisfactorily completed an approved police training program on the safe use and handling of firearms. In addition, the bill states that no more than one member of a fire department in a municipality with a population of \$50,000 or less may be assigned to an arson investigation unit on a part-time basis.

Under present law, a paid member of a fire department assigned full time to an arson investigation unit may carry a weapon without a permit while in the actual performance of his duties if specifically authorized by the governing body to do so.

adopted
6-25-84

Senate floor amendments to

Senate Bill No. 1480 OCR

Amend:

by: Senator Orlich
(6/25/84)

Page	Sec.	Line
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STATEMENT

S-1480 would allow firemen assigned on either a full or part-time basis to an arson investigation unit to carry firearms both on and off duty. To insure that firearms are on being carried by those firemen actively engaged as arson investigators, this amendment would provide that no more than one member of a fire department of a municipality with a population of 50,000 or less may be assigned to an arson investigation unit on a part-time basis.

This amendment would also clarify that firemen assigned to an arson investigation unit on a part-time basis have the same authority as municipal police officers.

This amendment also makes technical changes to references in the bill.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 31, 1985

SENATE BILL NO. 1480 (3rd OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Senate Bill No. 1480 (3rd OCR) with my objections, for reconsideration.

The purpose of this bill is to expand the weapon carrying privileges of paid members of a paid or part-paid fire department or force of any municipality who are assigned full-time or part-time to an arson investigation unit and who have satisfactorily completed an approved police training program on the safe use and handling of firearms.

Firemen who serve as arson investigators provide a valuable service to the State. Their duties include determining the cause and origin of fires. In some areas of the State, their duties go further to actually investigating fires of suspicious origin. Arson investigators exercise full police powers in their jurisdictions. At present, N.J.S.A. 2C:39-6(a)(8) authorizes paid members of a paid or part-paid fire department or force to carry weapons only when they have satisfied a two-pronged test: (1) they must be engaged in the actual performance of arson investigation duties and (2) be specifically authorized by their governing body to carry weapons. This bill, however, would eliminate these two requirements and allow full-time or part-time arson investigators to carry weapons without a permit at all times while within the State of New Jersey regardless of whether the carrying of the weapon is job related or whether the local governing body approves if they have taken a course on the safe use and handling of firearms. The only additional limitation retained is the parallel requirement of N.J.S.A. 40A:14-7.1 that arson investigators receive a course of training approved by the Police Training Commission and an arson investigation course approved by the Department of Law and Public Safety. Currently, arson investigators receive only segments of the police training course amounting to about 140 hours and an additional 80 hours of arson related training. The average number of hours which police trainees currently receive however is about 495 hours, although 280 hours is the mandated number. The 220 hours of training and the firearms course which arson investigators receive together do not even approximate the training police officers receive. In addition, there is no requirement that arson investigators be annually recertified in the use of firearms.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

I propose amending this bill to limit it to full-time, paid firemen who are assigned arson investigation duties, whether in a full-paid or part-paid fire department, limiting the firearm carrying privilege to while in actual performance of arson investigation duties or while actually on call to perform such duties, requiring Police Training Commission certified firearms training and annual recertification, and expanding the firearm carrying privilege to county arson investigators if approved by the county prosecutor. Finally, since they do not receive the same training as police officers, any police powers which arson investigators exercise should be limited to only while they are actually performing arson investigation duties.

Accordingly, I herewith return Senate Bill No. 1480 (3rd OCR) for reconsideration and recommend that it be amended as follows:

Page 2, Section 1, Line 34: DELETE "or"

Page 2, Section 1, Lines 38-42A:

On line 38 after "force" DELETE remainder of line; DELETE lines 39-42 in their entirety; on line 42A DELETE "handling of firearms"

Page 2, Section 1, Line 47D:

DELETE "." INSERT ; or

Page 2, Section 1, After line 54:

INSERT "(8) A full-time, paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time or part-time to an arson investigation unit created pursuant to section 1 of P.L. 1981, c. 409 (C. 40A:14-7.1) or to the county arson investigation unit in the county prosecutor's office, while either engaged in the actual performance of arson investigation duties or while actually on call to perform arson investigation duties and when specifically authorized by the governing body or the county prosecutor, as the case may be, to carry weapons. Prior to being permitted to carry a firearm, such a member shall take and successfully complete a firearms training course administered by the Police Training Commission, pursuant to P.L. 1961, c. 56 (C. 52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm."

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

3

Page 7, Section 2, Line 10:

After "Only" INSERT "full-time,"

Page 7, Section 2, Line 21:

After "Any" INSERT "full-time, paid"

Page 7, Section 2, Line 25:

Before "." INSERT "while engaged in the actual performance of arson
investigation duties"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

(Seal)

Attest:

/s/W. Cary Edwards
Chief Counsel to the Governor