

2C:39-15

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:39-15

(Machine guns and semi-automatic rifles-newspaper ads for sale-include notice of license requirements)

LAWS OF: 1983

CHAPTER: 515

Bill No: A1442

Sponsor(s): Kern and Herman

Date Introduced: May 17, 1982

Committee: **Assembly:** Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: Yes Amendments denoted by asterisks

Date of Passage: **Assembly:** September 30, 1982. Re-enacted 12-8-83

Senate: July 11, 1982. Re-enacted 1-9-84

Date of Approval: January 17, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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1-17-84

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ASSEMBLY, No. 1442

STATE OF NEW JERSEY

INTRODUCED MAY 17, 1982

By Assemblymen KERN and HERMAN

AN ACT making the offering for sale of a machine gun or semi-automatic rifle by means of ***[a]*** **certain** newspaper ***[advertisement]*** **advertisements** a disorderly persons offense.

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

1 1. Any person who offers to sell a machine gun or semi-automatic
2 rifle by means of an advertisement published in a newspaper
3 circulating within this State*, *which advertisement does not specify*
4 *that the purchaser shall hold a valid **[permit]** **license** to*
5 *purchase and possess a machine gun or ***a valid firearms identi-*
6 *fication card to purchase and possess an automatic or*** semi-*
7 *automatic rifle,** is a disorderly person.

1 2. This act shall take effect immediately.

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:

*—Assembly committee amendments adopted September 20, 1982.

**—Senate committee amendment adopted June 20, 1983.

***—Assembly amendment adopted in accordance with Governor's recommendations November 21, 1983.

ASSEMBLY, No. 1442

STATE OF NEW JERSEY

INTRODUCED MAY 17, 1982

By Assemblymen KERN and HERMAN

AN ACT making the offering for sale of a machine gun or semi-automatic rifle by means of a newspaper advertisement a disorderly persons offense.

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

1 1. Any person who offers to sell a machine gun or semi-automatic
2 rifle by means of an advertisement published in a newspaper
3 circulating within this State is a disorderly person.

1 2. This act shall take effect immediately.

STATEMENT

Persons may be licensed to possess and carry machine guns if they are authorized to do so by the Superior Court pursuant to 2C:58-5. However, some firearm dealers advertise the sale of machine guns and semi-automatic weapons as if they were available to the general public, and the tone of their advertisement appears calculated to create a desire in the reader to possess such dangerous weapons. For example, advertising the Mark 45 semi-automatic as "A Copy of the Thompson at a fraction of the price. Made famous in the trenches of World War I and the streets of gangland Chicago"; or the Uzzi semi-automatic as "the modern sword of the Israeli armed forces and special teams." The purpose of this bill is to discourage such advertising by making the advertiser a disorderly person. Firearm dealers would still be allowed to promote the sale of their products through the mail, most likely directed at law enforcement agencies that have a legitimate need for such products.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1442

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 1982

Persons may be licensed to possess and carry machine guns if they are authorized to do so by the Superior Court. However, some firearm dealers advertise the sale of machine guns and semi-automatic weapons as if they were available to the general public, and the tone of their advertisement appears calculated to create a desire in the reader to possess such dangerous weapons. For example, advertising the Mark 45 semi-automatic as "A copy of the Thompson at a fraction of the price. Made famous in the trenches of World War I and the streets of gangland Chicago"; or the Uzzi semi-automatic as "the modern sword of the Israeli armed forces and special teams." As originally drafted, the bill would have made such advertising a disorderly persons offense.

However, the committee amended the bill in consideration of the United States Supreme Court of *Virginia State Board of Pharmacy, et al. v. Virginia Citizens Consumer Council, Inc., et al.*, 425 U.S. 748 (1976) which stated that although commercial speech may be constitutionally protected, it could also be regulated to the extent "that additional information, warnings and disclaimers, as are necessary to prevent its being deceptive."

As amended, the bill would classify the advertising of machine guns as a disorderly persons offense unless such advertising also clearly includes such additional information regarding the weapon licensing requirements which must be met before possession is possible.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1442

STATE OF NEW JERSEY

DATED: JUNE 20, 1983

Presently, under the provisions of N. J. S. 2C:58-5, a person wishing to purchase, possess or carry a machine gun must obtain a license from the Superior Court. Possession of machine guns without being licensed is punishable as a crime of the third degree. Assembly Bill No. 1442 would provide that any person who offers to sell machine guns or semi-automatic rifles by means of a newspaper advertisement is guilty of a disorderly persons offense unless the advertisement specifies that the purchaser must hold a valid permit to purchase and possess a machine gun or semi-automatic rifle permit. Disorderly persons offenses are punishable by imprisonment for up to six months and a fine of up to \$1,000.00. The committee adopted an amendment to this bill changing the word "permit" to the word "license". As noted above, in order to purchase a machine gun, a "license" is required.

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EXECUTIVE DEPARTMENT

November 21, 1983

ASSEMBLY BILL NO. 1442 (2 OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Bill No. 1442 (2 OCR) with my objections, for reconsideration.

The purpose of this bill is to make it a disorderly persons offense for a weapons dealer to advertise in a newspaper the sale of machine guns or semi-automatic rifles unless the advertisement specifies that the purchaser must hold a valid license to purchase and possess such a weapon.

This bill is technically deficient. As released from the Assembly committee, any advertisement for the sale of machine guns or semi-automatic rifles was required to include a statement that the purchaser must possess a valid "permit" to purchase and possess a machine gun or semi-automatic rifle. The Senate committee amended the bill by substituting the word "license" for the word "permit".

The Senate committee's statement is correct in citing the current law with regard to machine guns; however, it overlooks the current law regarding semi-automatic rifles. Under neither federal law nor state law is a semi-automatic rifle considered a machine gun, and there are different requirements for the purchase of each. N.J.S. 2C:39-5 provides that the possession of a machine gun without a license is a crime of the third degree, and the Senate committee is correct that N.J.S. 2C:58-5 provides that if a person wishes to possess a machine gun, the purchaser must first obtain a "license". This, however, is not the case for semi-automatic rifles. N.J.S. 2C:58-3b. provides that "no person shall sell...nor receive, purchase or otherwise acquire a rifle...unless the purchaser...possesses a valid firearms purchaser identification card..." Under current New Jersey law, a purchaser of a semi-automatic rifle is only required to possess a valid firearms purchaser identification card and not a license while a purchaser of a machine gun is required to possess a license. To require sellers of machine guns and semi-automatic rifles to include in

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their advertisements a statement that the purchaser shall hold a valid license to purchase or possess a machine gun or semi-automatic rifle is a misstatement of current law and technically incorrect.

If the Legislature intended a purchaser of a semi-automatic rifle to possess a license, then A-1442 is unclear. If the Legislature intended such a purchaser to possess a license, then other sections of the New Jersey Statutes, such as N.J.S. 2C:58-5 and N.J.S. 2C:58-3b, need to be amended also. In addition, the bill is totally silent regarding automatic rifles. Need a purchaser of automatic rifles obtain a license? Under current law he does not. I do not believe the Legislature intended to have this bill cover semi-automatic rifles but not automatic rifles. N.J.S. 2C:39-1 f. defines "Firearm" as "any...machine gun, automatic or semi-automatic rifle..." Clearly, the statute makes a distinction between these three different types of firearms.

If the Legislature intends purchasers of automatic or semi-automatic rifles to obtain a license, then this bill is unclear and further sections of the New Jersey Statutes need be amended. If the Legislature did not intend to change current law, but only require a person who offers to sell a weapon to advertise that a purchaser must have a license or firearms identification card depending on the type of weapon purchased, then accordingly, I herewith return Assembly Bill No. 1442 for reconsideration and recommend that it be amended as follows:

Page 1, Section 1, Line 5: After "or", INSERT "a valid firearms identification card to purchase and possess an automatic or"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

Chief Counsel