

2C:39-1

LEGISLATIVE HISTORY CHECKLIST

NJSA 2C:39-1: 2C:58-3 ("Antique firearm"--clarify definition in weapons law)

LAWS 1981 CHAPTER 363

Bill No. A996

Sponsor(s) Herman and others

Date Introduced Feb. 21, 1980

Committee: Assembly Judiciary, Law, Public Safety & Defense

Senate Law, Public Safety & Defense

Amended during passage Yes No

Date of Passage: Assembly April 17, 1980

Senate Nov. 12, 1981

Date of approval Dec. 30, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes ~~No~~

Following were printed:

Reports Yes No

Hearings Yes No

6/22/81

NOV 1982

ASSEMBLY, No. 996

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 21, 1980

By Assemblymen HERMAN, STEWART, DALTON and RILEY

Referred to Committee on Judiciary, Law, Public Safety and Defense

AN ACT concerning antique firearms and amending N. J. S. 2C:39-1
and N. J. S. 2C:58-3.

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

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

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

4 a. "Antique firearm" means any firearm which is incapable of
5 being fired or discharged, or which does not fire fixed ammunition
6 *regardless of date of manufacture*, or which was manufactured
7 before 1898 for which cartridge ammunition is not commercially
8 available, and is possessed as a curiosity or ornament or for its
9 historical significance or value.

10 b. "Deface" means to remove, deface, cover, alter or destroy
11 the name of the maker, model designation, manufacturer's serial
12 number or any other distinguishing identification mark or number
13 on any firearm.

14 c. "Destructive device" means any device, instrument or object
15 designed to explode or produce uncontrolled combustion, including
16 (1) any explosive or incendiary bomb, mine or grenade; (2) any
17 rocket having a propellant charge of more than four ounces or any
18 missile having an explosive or incendiary charge of more than one
19 quarter of an ounce; (3) any weapon capable of firing a projectile
20 of a caliber greater than .60 caliber, except a shotgun or shotgun
21 ammunition generally recognized as suitable for sporting purposes;
22 (4) any Molotov cocktail or other device consisting of a breakable
23 container containing flammable liquid and having a wick or similar
24 device capable of being ignited. The term does not include any
25 device manufactured for the purpose of illumination, distress sig-
26 naling, line-throwing, safety or similar purposes.

27 d. "Dispose of" means to give, give away, lease, loan, keep for

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

28 sale, offer, offer for sale, sell, transfer, or otherwise transfer
29 possession.

30 e. "Explosive" means any chemical compound or mixture that
31 is commonly used or is possessed for the purpose of producing
32 an explosion and which contains any oxidizing and combustible
33 materials or other ingredients in such proportions, quantities or
34 packing that an ignition by fire, by friction, by concussion or by
35 detonation or any part of the compound or mixture may cause
36 such a sudden generalization of highly heated gases that the
37 resultant gaseous pressures are capable of producing destructive
38 effects on contiguous objects. The term shall not include small
39 arms ammunition, or explosives in the form prescribed by the
40 official United States Pharmacopœia.

41 f. "Firearm" means any hand gun, rifle, shotgun, machine gun,
42 automatic or semi-automatic rifle, or any gun, device or instrument
43 in the nature of a weapon from which may be fired or ejected any
44 solid projectible ball, slug, pellet, missile or bullet, or any gas,
45 vapor or other noxious thing, by means of a cartridge or shell or
46 by the action of an explosive or the igniting of flammable or explo-
47 sive substances. It shall also include, without limitation, any fire-
48 arm which is in the nature of an air gun, spring gun or pistol or
49 other weapon of a similar nature in which the propelling force is a
50 spring, elastic band, carbon dioxide, compressed or other gas or
51 vapor, air or compressed air, or is ignited by compressed air, and
52 ejecting a bullet or missile smaller than three-eighths of an inch
53 in diameter, with sufficient force to injure a person.

54 g. "Firearm silencer" means any instrument, attachment, wea-
55 pon or appliance for causing the firing of any gun, revolver, pistol
56 or other firearm to be silent, or intended to lessen or muffle the noise
57 of the firing of any gun, revolver, pistol or other firearm.

58 h. "Gravity knife" means any knife which has a blade which is
59 released from the handle or sheath thereof by the force of gravity
60 or the application of centrifugal force.

61 i. "Machine gun" means any firearm, mechanism or instrument
62 not requiring that the trigger be pressed for each shot and having
63 a reservoir, belt or other means of storing and carrying ammunition
64 which can be loaded into the firearm, mechanism or instrument and
65 fired therefrom.

66 j. "Manufacturer" means any person who receives or obtains
67 raw materials or parts and processes them into firearms or finished
68 parts of firearms, except a person who exclusively processes grips,
69 stocks and other nonmetal parts of firearms. The term does not
70 include a person who repairs existing firearms or receives new and

71 used raw materials or parts solely for the repair of existing fire-
72 arms.

73 k. "Hand gun" means any pistol, revolver or other firearm
74 originally designed or manufactured to be fired by the use of a
75 single hand.

76 l. "Retail dealer" means any person including a gunsmith,
77 except a manufacturer or a wholesale dealer, who sells, transfers
78 or assigns for a fee or profit any firearm or parts of firearms or
79 ammunition which he has purchased or obtained with the intention,
80 or for the purpose, of reselling or reassigning to persons who are
81 reasonably understood to be the ultimate consumer, and includes
82 any person who is engaged in the business of repairing firearms or
83 who sell any firearm to satisfy a debt secured by the pledge of a
84 firearm.

85 m. "Rifle" means any firearm designed to be fired from the
86 shoulder and using the energy of the explosive in a fixed metallic
87 cartridge to fire a single projectile through a rifled bore for each
88 single pull of the trigger.

89 n. "Shotgun" means any firearm designed to be fired from the
90 shoulder and using the energy of the explosive in a fixed shotgun
91 shell to fire through a smooth bore either a number of ball shot
92 or a single projectile for each pull of the trigger, or any firearm
93 designed to be fired from the shoulder which does not fire fixed
94 ammunition.

95 o. "Sawed-off shotgun" means any shotgun having a barrel or
96 barrels of less than 18 inches in length measured from the breech
97 to the muzzle, or a rifle having a barrel or barrels of less than 16
98 inches in length measured from the breech to the muzzle, or any
99 firearm made from a rifle or a shotgun, whether by alteration, or
100 otherwise, if such firearm as modified has an overall length of less
101 than 26 inches.

102 p. "Switchblade knife" means any knife or similar device which
103 has a blade which opens automatically by hand pressure applied
104 to a button, spring or other device in the handle of the knife.

105 q. "Superintendent" means the Superintendent of the State
106 Police.

107 r. "Weapon" means anything readily capable of lethal use or of
108 inflicting serious bodily injury. The term includes, but is not
109 limited to, all (1) firearms, even though not loaded or lacking a
110 clip or other component to render them immediately operable; (2)
111 components which can be readily assembled into a weapon; and
112 (3) gravity knives, switchblade knives, daggers, dirks, stiletos, or
113 other dangerous knives, billies, blackjacks, bludgeons, metal
114 knuckles, sandclubs, slingshots, cestus or similar leather bands

115 studded with metal filings or razor blades imbedded in wood; and
 116 any weapon or other device which projects, releases, or emits tear
 117 gas or any other substance intended to produce temporary physical
 118 discomfort or permanent injury through being vaporized or other-
 119 wise dispensed in the air.

120 s. "Wholesale dealer" means any person, except a manufacturer,
 121 who sells, transfers, or assigns firearms, or parts of firearms, to
 122 persons who are reasonably understood not to be the ultimate
 123 consumer, and includes persons who receive finished parts of fire-
 124 arms and assemble them into completed or partially completed
 125 firearms, in furtherance of such purpose, except that it shall not
 126 include those persons dealing exclusively in grips, stocks and other
 127 nonmetal parts of firearms.

1 2. N. J. S. 2C:58-3 is amended to read as follows:

2 2C:58-3. Purchase of Firearms. a. Permit to **【Purchase a Hand-】**
 3 *purchase a handgun*. No person shall sell, give, transfer, assign or
 4 otherwise dispose of, nor receive, purchase, or otherwise acquire a
 5 handgun unless the purchaser, assignee, donee, receiver or holder
 6 is licensed as a dealer under this chapter or has first secured a
 7 permit to purchase a handgun as provided by this section.

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

24 c. Who may obtain. No person of good character and good
 25 repute in the community in which he lives, and who is not subject
 26 to any of the disabilities set forth in this section or other sections
 27 of this chapter, shall be denied a permit to purchase a handgun
 28 or a firearms purchaser identification card, except as hereinafter
 29 set forth. No handgun purchase permit or firearms purchaser
 30 identification card shall be issued:

31 (1) To any person who has been convicted of a crime, whether
32 or not armed with or possessing a weapon at the time of such
33 offense;

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

38 (3) To any person who suffers from a physical defect or disease
39 which would make it unsafe for him to handle firearms, to any
40 person who has ever been confined for a mental disorder, or to any
41 alcoholic unless any of the foregoing persons produce a certificate
42 of a medical doctor or [psychiatrist] *psychiatrist* licensed in New
43 Jersey, or other satisfactory proof, that he is no longer suffering
44 from that particular disability in such a manner that would inter-
45 fere with or handicap him in the handling of firearms; to any
46 person who knowingly falsifies any information on the application
47 forms for a handgun purchase permit or firearms purchaser
48 identification card.

49 (4) To any person under the age of 18 years; or

50 (5) To any person where the issuance would not be in the
51 interest of the public health, safety or welfare.

52 d. Issuance. The chief of police of an organized full-time police
53 department of the municipality where the applicant resides or the
54 superintendent, in all other cases, shall upon application, issue to
55 any person qualified under the provisions of subsection c. of this
56 section a permit to purchase a handgun or a firearms purchaser
57 identification card.

58 Any person aggrieved by the denial of a permit or identification
59 card may request a hearing in the Superior Court of the county in
60 which he resides if he is a resident of New Jersey or in the Superior
61 Court of the county in which his application was filed if he is a
62 nonresident. The request for a hearing shall be made in writing
63 within 30 days of the denial of the application for a permit or
64 identification card. The applicant shall serve a copy of his request
65 for a hearing upon the chief of police of the municipality in which
66 he resides, if he is a resident of New Jersey, and upon the super-
67 intendent in all cases. The hearing shall be held and a record made
68 thereof within 30 days of the receipt of the application for such
69 hearing by the judge of the Superior Court. No formal pleading
70 and no filing fee shall be required as a preliminary to such hearing.
71 Appeals from the results of such hearing shall be in accordance
72 with law.

73 e. Applications. Applications for permits to purchase a handgun
74 and for firearms purchaser identification cards shall be in the form
75 prescribed by the superintendent and shall set forth the name,
76 residence, place of business, age, date of birth, occupation, sex and
77 physical description, including distinguishing physical character-
78 istics, if any, of the applicant, and shall state whether the applicant
79 is a citizen, whether he is an alcoholic, habitual drunkard, drug
80 dependent person as defined in P. L. 1970, c. 226 (C. 24:21-2)
81 whether he has ever been confined or committed to a mental insti-
82 tution or hospital for treatment or observation of a mental or
83 psychiatric condition on a temporary, interim or permanent basis,
84 giving the name and location of the institution or hospital and the
85 dates of such confinement or commitment, whether he has been
86 attended, treated or observed by any doctor or psychiatrist or at
87 any hospital or mental institution on an inpatient or outpatient
88 basis for any mental or psychiatric condition giving the name and
89 location of the doctor, psychiatrist, hospital or institution and the
90 dates of such occurrence, whether he presently or ever has been a
91 member of any organization which advocates or approves the com-
92 mission of acts of force and violence to overthrow the Government
93 of the United States or of this State, or which seeks to deny others
94 their rights under the Constitution of either the United States or
95 the State of New Jersey, whether he has ever been convicted of
96 a crime or disorderly persons offense, and such other information
97 as the superintendent shall deem necessary for the proper enforce-
98 ment of this chapter. For the purpose of complying with this sub-
99 section, the applicant shall waive any statutory or other right of
100 confidentiality relating to institutional confinement. The application
101 shall be signed by the applicant and shall contain as reference the
102 names and addresses of two reputable citizens personally
103 acquainted with him.

104 Application blanks shall be obtainable from the superintendent,
105 from any other officer authorized to grant such permit or identi-
106 fication card, and from licensed retail dealers.

107 The chief police officer or the superintendent shall obtain the
108 fingerprints of the applicant and shall have them compared with
109 any and all records of fingerprints in the municipality and county
110 in which the applicant resides and also the records of the State
111 Bureau of Identification and the Federal Bureau of Investigation,
112 provided that an applicant for a handgun purchase permit who
113 possesses a valid firearms purchaser identification card, or who
114 has previously obtained a handgun purchase permit from the same
115 licensing authority for which he was previously fingerprinted, and
116 who provides other reasonably satisfactory proof of his identity,

117 need not be fingerprinted again; however, the chief police officer
118 or the superintendent shall proceed to investigate the application
119 to determine whether or not the applicant has become subject to any
120 of the disabilities set forth in this chapter.

121 f. Granting of permit or identification card; fee; term; renewal;
122 revocation. The application for the permit to purchase a handgun
123 together with a fee of \$2.00, or the application for the firearms
124 purchaser identification card together with a fee of \$5.00, shall be
125 delivered or forwarded to the licensing authority who shall investi-
126 gate the same and, unless good cause for the denial thereof appears,
127 shall grant the permit or the identification card, or both, if applica-
128 tion has been made therefor, within 30 days from the date of receipt
129 of the application for residents of this State and within 45 days for
130 nonresident applicant. A permit to purchase a handgun shall be
131 valid for a period of 90 days from the date of issuance and may be
132 renewed by the issuing authority for good cause for an additional
133 90 days. A firearms purchaser identification card shall be valid
134 until such time as the holder becomes subject to any of the dis-
135 abilities set forth in subsection c. of this section, whereupon the
136 card shall be void and shall be returned within 5 days by the holder
137 to the superintendent, who shall then advise the licensing authority.
138 Failure of the holder to return the firearms purchaser identification
139 card to the superintendent within the said 5 days shall be an offense
140 under section 2C:39-10 a. Any firearms purchaser identification
141 card may be revoked by the Superior Court of the county wherein
142 the card was issued, after hearing upon notice, upon a finding
143 that the holder thereof no longer qualifies for the issuance of
144 such permit. The county prosecutor of any county, the chief police
145 officer of any municipality or any citizen may apply to such court
146 at any time for the revocation of such card.

147-148 There shall be no conditions or requirements added to the form
149 or content of the application, or required by the licensing authority
150 for the issuance of a permit or identification card, other than those
151 that are specifically set forth in this chapter.

152 g. Disposition of fees. All fees for permits shall be paid to the
153 State Treasury if the permit is issued by the superintendent to the
154 municipality if issued by the chief of police, and to the county
155 treasurer if issued by the judge of the county court.

156 h. Form of permit; quadruplicate; disposition of copies. The
157 permit shall be in the form prescribed by the superintendent and
158 shall be issued to the applicant in quadruplicate. Prior to the time
159 he receives the handgun from the seller, the applicant shall deliver
160 to the seller the permit in quadruplicate and the seller shall com-
161 plete all of the information required on the form. Within 5 days of

162 the date of the sale, the seller shall forward the original copy of
 163 the superintendent and the second copy to the chief of police of
 164 the municipality in which the purchaser resides, except that in a
 165 municipality having no chief of police, such copy shall be forwarded
 166 to the superintendent. The third copy shall then be returned to
 167 the purchaser with the pistol or revolver and the fourth copy shall
 168 be kept by the seller as a permanent record.

169 i. Restriction on number of firearms person may purchase. Only
 170 one handgun shall be purchased or delivered on each permit, but a
 171 person shall not be restricted as to the number of rifles or shotguns
 172 he may purchase, provided he possesses a valid firearms purchaser
 173 identification card and provided further that he signs the certifica-
 174 tion required in subsection b. of this section for each transaction.

175 j. Firearms passing to heirs or legatees. Notwithstanding any
 176 other provision of this section concerning the transfer, receipt or
 177 acquisition of a firearm, a permit to purchase or a firearms pur-
 178 chaser identification card shall not be required for the passing of a
 179 firearm upon the death of an owner thereof to his heir or legatee,
 180 whether the same be by testamentary bequest or by the laws of
 181 intestacy. The person who shall so receive, or acquire said firearm
 182 shall, however, be subject to all other provisions of this chapter.
 183 If the heir or legatee of such firearm does not qualify to possess
 184 or carry it, he may retain ownership of the firearm for the purpose
 185 of sale for a period not exceeding 180 days, or for such further
 186 limited period as may be approved by the chief law enforcement
 187 officer of the municipality in which the heir or legatee resides or
 188 the superintendent, provided that such firearm is in the custody of
 189 the chief law enforcement officer of the municipality or the super-
 190 intendent during such period.

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

1 3. This act shall take effect immediately.

STATEMENT

The effect of this bill is to clarify the definition of "antique firearm" contained in N. J. S. 2C:39-1(a) by including all muzzle-loading firearms regardless of the date of manufacture. When the New Jersey Criminal Code was enacted, it was the intention of the Legislature to exempt muzzle-loading rifles and shotguns from certain requirements of Chapter 58, thereby facilitating possession of such historical pieces by collectors. The Attorney General's office has now suggested that the within change is required to bring all sections in conformity with the legislative purpose.

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 186 limited period as may be approved by the chief law enforcement
 187 officer of the municipality in which the heir or legatee resides or
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Sponsor's _____
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A996(1981)

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

DECEMBER 31, 1981

DAVE DE MAIO

Governor Brendan Byrne today signed into law the following bills:

S-3192, sponsored by Senator Francis E. Rodgers (D-Hudson), striking the requirement in the Optional County Charter Law that county clerks file an annual compilation of county ordinances with each municipality in the county.

The measure is expected to cut administrative costs. Clerks will still be under the obligation to forward annual compilations if requested to do so by a county or an individual.

SJR-3016, sponsored by Senator John M. Skeyin (D-Bergen), designating the Route 46 State Bridge over the Hackensack River connecting Ridgefield Park with Little Ferry as the "Vietnam Veterans Memorial Bridge."

SJR-3017, also sponsored Senator Skeyin, designating the week of January 24-30, 1982, as "Red Ribbon Week" in New Jersey, honoring the 2,528 persons reported missing in action from the Vietnam War.

A-190, sponsored by Assemblyman William J. Maguire (R-Union), increasing the penalty for the transportation of unstamped cigarettes destined for sale or use in New Jersey -- commonly known as "buttlegging." Buttlegging is currently a disorderly persons offense, punishable by fines up to \$500 or six months in prison, or both. This bill imposes an additional fine equal to the amount of delinquent tax on the cigarettes.

A-792, sponsored by Assemblyman Vincent Ozzie Pellechia (D-Passaic), requiring that any person filing to change his legal name state whether or not he has been convicted of criminal offenses or if any charges are pending. Failure to comply with this law is a disorderly persons offense.

A-995, sponsored by Assemblyman Martin A. Herman (D-Salem), amending the New Jersey Criminal Code's definition of "antique firearm" to include all weapons loaded from the muzzle, regardless of the date of manufacture. Under current law, purchasers of antique long arms -- those manufactured before the turn of the century -- are not required to obtain a permit-to-purchase. This bill extends the exemption to antique arms of later manufacture.