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LAW/KR

P.L.2013, CHAPTER 219, *approved January 17, 2014*
Senate, No. 2980

1 AN ACT concerning pepper spray and amending N.J.S.2C:39-6.

2

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

5

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

7 2C:39-6. a. Provided a person complies with the requirements of
8 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

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

13 (2) Federal law enforcement officers, and any other federal
14 officers and employees required to carry firearms in the
15 performance of their official duties;

16 (3) Members of the State Police and, under conditions
17 prescribed by the superintendent, members of the Marine Law
18 Enforcement Bureau of the Division of State Police;

19 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
20 assistant prosecutor, prosecutor's detective or investigator, deputy
21 attorney general or State investigator employed by the Division of
22 Criminal Justice of the Department of Law and Public Safety,
23 investigator employed by the State Commission of Investigation,
24 inspector of the Alcoholic Beverage Control Enforcement Bureau of
25 the Division of State Police in the Department of Law and Public
26 Safety authorized to carry such weapons by the Superintendent of
27 State Police, State park police officer, or State conservation officer;

28 (5) Except as hereinafter provided, a prison or jail warden of
29 any penal institution in this State or his deputies, or an employee of
30 the Department of Corrections engaged in the interstate
31 transportation of convicted offenders, while in the performance of
32 his duties, and when required to possess the weapon by his superior
33 officer, or a corrections officer or keeper of a penal institution in
34 this State at all times while in the State of New Jersey, provided he
35 annually passes an examination approved by the superintendent
36 testing his proficiency in the handling of firearms;

37 (6) A civilian employee of the United States Government under
38 the supervision of the commanding officer of any post, camp,
39 station, base or other military or naval installation located in this
40 State who is required, in the performance of his official duties, to
41 carry firearms, and who is authorized to carry such firearms by said

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 commanding officer, while in the actual performance of his official
2 duties;

3 (7) (a) A regularly employed member, including a detective, of
4 the police department of any county or municipality, or of any
5 State, interstate, municipal or county park police force or boulevard
6 police force, at all times while in the State of New Jersey;

7 (b) A special law enforcement officer authorized to carry a
8 weapon as provided in subsection b. of section 7 of P.L.1985, c.439
9 (C.40A:14-146.14);

10 (c) An airport security officer or a special law enforcement
11 officer appointed by the governing body of any county or
12 municipality, except as provided in subsection (b) of this section, or
13 by the commission, board or other body having control of a county
14 park or airport or boulevard police force, while engaged in the
15 actual performance of his official duties and when specifically
16 authorized by the governing body to carry weapons;

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

32 (9) A juvenile corrections officer in the employment of the
33 Juvenile Justice Commission established pursuant to section 2 of
34 P.L.1995, c.284 (C.52:17B-170) subject to the regulations
35 promulgated by the commission;

36 (10) A designated employee or designated licensed agent for a
37 nuclear power plant under license of the Nuclear Regulatory
38 Commission, while in the actual performance of his official duties,
39 if the federal licensee certifies that the designated employee or
40 designated licensed agent is assigned to perform site protection,
41 guard, armed response or armed escort duties and is appropriately
42 trained and qualified, as prescribed by federal regulation, to
43 perform those duties. Any firearm utilized by an employee or agent
44 for a nuclear power plant pursuant to this paragraph shall be
45 returned each day at the end of the employee's or agent's authorized
46 official duties to the employee's or agent's supervisor. All firearms
47 returned each day pursuant to this paragraph shall be stored in
48 locked containers located in a secure area;

1 (11) A county corrections officer at all times while in the State of
2 New Jersey, provided he annually passes an examination approved
3 by the superintendent testing his proficiency in the handling of
4 firearms.

5 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

6 (1) A law enforcement officer employed by a governmental
7 agency outside of the State of New Jersey while actually engaged in
8 his official duties, provided, however, that he has first notified the
9 superintendent or the chief law enforcement officer of the
10 municipality or the prosecutor of the county in which he is engaged;
11 or

12 (2) A licensed dealer in firearms and his registered employees
13 during the course of their normal business while traveling to and
14 from their place of business and other places for the purpose of
15 demonstration, exhibition or delivery in connection with a sale,
16 provided, however, that the weapon is carried in the manner
17 specified in subsection g. of this section.

18 c. Provided a person complies with the requirements of
19 subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5
20 do not apply to:

21 (1) A special agent of the Division of Taxation who has passed
22 an examination in an approved police training program testing
23 proficiency in the handling of any firearm which he may be
24 required to carry, while in the actual performance of his official
25 duties and while going to or from his place of duty, or any other
26 police officer, while in the actual performance of his official duties;

27 (2) A State deputy conservation officer or a full-time employee
28 of the Division of Parks and Forestry having the power of arrest and
29 authorized to carry weapons, while in the actual performance of his
30 official duties;

31 (3) (Deleted by amendment, P.L.1986, c.150.)

32 (4) A court attendant serving as such under appointment by the
33 sheriff of the county or by the judge of any municipal court or other
34 court of this State, while in the actual performance of his official
35 duties;

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

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

43 (7) A humane law enforcement officer of the New Jersey
44 Society for the Prevention of Cruelty to Animals or of a county
45 society for the prevention of cruelty to animals, while in the actual
46 performance of his duties;

47 (8) An employee of a public utilities corporation actually
48 engaged in the transportation of explosives;

- 1 (9) A railway policeman, except a transit police officer of the
2 New Jersey Transit Police Department, at all times while in the
3 State of New Jersey, provided that he has passed an approved police
4 academy training program consisting of at least 280 hours. The
5 training program shall include, but need not be limited to, the
6 handling of firearms, community relations, and juvenile relations;
- 7 (10) A campus police officer appointed under P.L.1970, c.211
8 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry
9 a firearm, a campus police officer shall take and successfully
10 complete a firearms training course administered by the Police
11 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
12 seq.), and shall annually qualify in the use of a revolver or similar
13 weapon prior to being permitted to carry a firearm;
- 14 (11) (Deleted by amendment, P.L.2003, c.168).
- 15 (12) A transit police officer of the New Jersey Transit Police
16 Department, at all times while in the State of New Jersey, provided
17 the officer has satisfied the training requirements of the Police
18 Training Commission, pursuant to subsection c. of section 2 of
19 P.L.1989, c.291 (C.27:25-15.1);
- 20 (13) A parole officer employed by the State Parole Board at all
21 times. Prior to being permitted to carry a firearm, a parole officer
22 shall take and successfully complete a basic course for regular
23 police officer training administered by the Police Training
24 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
25 shall annually qualify in the use of a revolver or similar weapon
26 prior to being permitted to carry a firearm;
- 27 (14) A Human Services police officer at all times while in the
28 State of New Jersey, as authorized by the Commissioner of Human
29 Services;
- 30 (15) A person or employee of any person who, pursuant to and as
31 required by a contract with a governmental entity, supervises or
32 transports persons charged with or convicted of an offense;
- 33 (16) A housing authority police officer appointed under
34 P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the
35 State of New Jersey; or
- 36 (17) A probation officer assigned to the "Probation Officer
37 Community Safety Unit" created by section 2 of P.L.2001, c.362
38 (C.2B:10A-2) while in the actual performance of the probation
39 officer's official duties. Prior to being permitted to carry a firearm,
40 a probation officer shall take and successfully complete a basic
41 course for regular police officer training administered by the Police
42 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
43 seq.), and shall annually qualify in the use of a revolver or similar
44 weapon prior to being permitted to carry a firearm.
- 45 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
46 antique firearms, provided that such antique firearms are unloaded
47 or are being fired for the purposes of exhibition or demonstration at
48 an authorized target range or in such other manner as has been

1 approved in writing by the chief law enforcement officer of the
2 municipality in which the exhibition or demonstration is held, or if
3 not held on property under the control of a particular municipality,
4 the superintendent.

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

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

17 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
18 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
19 or fired by one eligible to possess an antique cannon, for purposes
20 of exhibition or demonstration at an authorized target range or in
21 the manner as has been approved in writing by the chief law
22 enforcement officer of the municipality in which the exhibition or
23 demonstration is held, or if not held on property under the control
24 of a particular municipality, the superintendent, provided that
25 performer has given at least 30 days' notice to the superintendent.

26 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
27 N.J.S.2C:39-5 do not apply to the transportation of unloaded
28 antique cannons directly to or from exhibitions or demonstrations
29 authorized under paragraph (4) of subsection d. of this section,
30 provided that the transportation is in compliance with safety
31 regulations the superintendent may promulgate. Nor do those
32 subsections apply to transportation directly to or from exhibitions or
33 demonstrations authorized under the law of another jurisdiction,
34 provided that the superintendent has been given 30 days' notice and
35 that the transportation is in compliance with safety regulations the
36 superintendent may promulgate.

37 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
38 construed to prevent a person keeping or carrying about his place of
39 business, residence, premises or other land owned or possessed by
40 him, any firearm, or from carrying the same, in the manner
41 specified in subsection g. of this section, from any place of
42 purchase to his residence or place of business, between his dwelling
43 and his place of business, between one place of business or
44 residence and another when moving, or between his dwelling or
45 place of business and place where such firearms are repaired, for
46 the purpose of repair. For the purposes of this section, a place of
47 business shall be deemed to be a fixed location.

1 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
2 construed to prevent:

3 (1) A member of any rifle or pistol club organized in accordance
4 with the rules prescribed by the National Board for the Promotion
5 of Rifle Practice, in going to or from a place of target practice,
6 carrying such firearms as are necessary for said target practice,
7 provided that the club has filed a copy of its charter with the
8 superintendent and annually submits a list of its members to the
9 superintendent and provided further that the firearms are carried in
10 the manner specified in subsection g. of this section;

11 (2) A person carrying a firearm or knife in the woods or fields
12 or upon the waters of this State for the purpose of hunting, target
13 practice or fishing, provided that the firearm or knife is legal and
14 appropriate for hunting or fishing purposes in this State and he has
15 in his possession a valid hunting license, or, with respect to fresh
16 water fishing, a valid fishing license;

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

18 (a) Directly to or from any place for the purpose of hunting or
19 fishing, provided the person has in his possession a valid hunting or
20 fishing license; or

21 (b) Directly to or from any target range, or other authorized
22 place for the purpose of practice, match, target, trap or skeet
23 shooting exhibitions, provided in all cases that during the course of
24 the travel all firearms are carried in the manner specified in
25 subsection g. of this section and the person has complied with all
26 the provisions and requirements of Title 23 of the Revised Statutes
27 and any amendments thereto and all rules and regulations
28 promulgated thereunder; or

29 (c) In the case of a firearm, directly to or from any exhibition or
30 display of firearms which is sponsored by any law enforcement
31 agency, any rifle or pistol club, or any firearms collectors club, for
32 the purpose of displaying the firearms to the public or to the
33 members of the organization or club, provided, however, that not
34 less than 30 days prior to the exhibition or display, notice of the
35 exhibition or display shall be given to the Superintendent of the
36 State Police by the sponsoring organization or club, and the sponsor
37 has complied with such reasonable safety regulations as the
38 superintendent may promulgate. Any firearms transported pursuant
39 to this section shall be transported in the manner specified in
40 subsection g. of this section;

41 (4) A person from keeping or carrying about a private or
42 commercial aircraft or any boat, or from transporting to or from
43 such vessel for the purpose of installation or repair a visual distress
44 signaling device approved by the United States Coast Guard.

45 g. All weapons being transported under paragraph (2) of
46 subsection b., subsection e., or paragraph (1) or (3) of subsection f.
47 of this section shall be carried unloaded and contained in a closed
48 and fastened case, gunbox, securely tied package, or locked in the

1 trunk of the automobile in which it is being transported, and in the
2 course of travel shall include only such deviations as are reasonably
3 necessary under the circumstances.

4 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
5 to prevent any employee of a public utility, as defined in
6 R.S.48:2-13, doing business in this State or any United States Postal
7 Service employee, while in the actual performance of duties which
8 specifically require regular and frequent visits to private premises,
9 from possessing, carrying or using any device which projects,
10 releases or emits any substance specified as being noninjurious to
11 canines or other animals by the Commissioner of Health **and**
12 **Senior Services** and which immobilizes only on a temporary basis
13 and produces only temporary physical discomfort through being
14 vaporized or otherwise dispensed in the air for the sole purpose of
15 repelling canine or other animal attacks.

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

20 Any device used pursuant to this act shall be selected from a list
21 of products, which consist of active and inert ingredients, permitted
22 by the Commissioner of Health **and Senior Services**.

23 i. (1) Nothing in N.J.S.2C:39-5 shall be construed to prevent
24 any person who is 18 years of age or older and who has not been
25 convicted of a **felony** crime, from possession for the purpose of
26 personal self-defense of one pocket-sized device which contains and
27 releases not more than three-quarters of an ounce of chemical
28 substance not ordinarily capable of lethal use or of inflicting serious
29 bodily injury, but rather, is intended to produce temporary physical
30 discomfort or disability through being vaporized or otherwise
31 dispensed in the air. Any person in possession of any device in
32 violation of this subsection shall be deemed and adjudged to be a
33 disorderly person, and upon conviction thereof, shall be punished
34 by a fine of not less than **[\$100.00]** \$100.

35 (2) Notwithstanding the provisions of paragraph (1) of this
36 subsection, nothing in N.J.S.2C:39-5 shall be construed to prevent a
37 health inspector or investigator operating pursuant to the provisions
38 of section 7 of P.L.1977, c.443 (C.26:3A2-25) or a building
39 inspector from possessing a device which is capable of releasing
40 more than three-quarters of an ounce of a chemical substance, as
41 described in paragraph (1), while in the actual performance of the
42 inspector's or investigator's duties, provided that the device does
43 not exceed the size of those used by law enforcement.

44 j. A person shall qualify for an exemption from the provisions
45 of N.J.S.2C:39-5, as specified under subsections a. and c. of this
46 section, if the person has satisfactorily completed a firearms
47 training course approved by the Police Training Commission.

1 Such exempt person shall not possess or carry a firearm until the
2 person has satisfactorily completed a firearms training course and
3 shall annually qualify in the use of a revolver or similar weapon.
4 For purposes of this subsection, a "firearms training course" means
5 a course of instruction in the safe use, maintenance and storage of
6 firearms which is approved by the Police Training Commission.
7 The commission shall approve a firearms training course if the
8 requirements of the course are substantially equivalent to the
9 requirements for firearms training provided by police training
10 courses which are certified under section 6 of P.L.1961, c.56
11 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3)
12 or (6) of subsection a. of this section shall be exempt from the
13 requirements of this subsection.

14 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
15 to prevent any financial institution, or any duly authorized
16 personnel of the institution, from possessing, carrying or using for
17 the protection of money or property, any device which projects,
18 releases or emits tear gas or other substances intended to produce
19 temporary physical discomfort or temporary identification.

20 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed
21 to prevent a law enforcement officer who retired in good standing,
22 including a retirement because of a disability pursuant to section 6
23 of P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
24 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
25 substantially similar statute governing the disability retirement of
26 federal law enforcement officers, provided the officer was a
27 regularly employed, full-time law enforcement officer for an
28 aggregate of four or more years prior to his disability retirement and
29 further provided that the disability which constituted the basis for
30 the officer's retirement did not involve a certification that the officer
31 was mentally incapacitated for the performance of his usual law
32 enforcement duties and any other available duty in the department
33 which his employer was willing to assign to him or does not subject
34 that retired officer to any of the disabilities set forth in subsection c.
35 of N.J.S.2C:58-3 which would disqualify the retired officer from
36 possessing or carrying a firearm, who semi-annually qualifies in the
37 use of the handgun he is permitted to carry in accordance with the
38 requirements and procedures established by the Attorney General
39 pursuant to subsection j. of this section and pays the actual costs
40 associated with those semi-annual qualifications, who is 75 years of
41 age or younger, and who was regularly employed as a full-time
42 member of the State Police; a full-time member of an interstate
43 police force; a full-time member of a county or municipal police
44 department in this State; a full-time member of a State law
45 enforcement agency; a full-time sheriff, undersheriff or sheriff's
46 officer of a county of this State; a full-time State or county
47 corrections officer; a full-time county park police officer; a full-
48 time county prosecutor's detective or investigator; a full-time

1 federal law enforcement officer; or is a qualified retired law
2 enforcement officer, as used in the federal "Law Enforcement
3 Officers Safety Act of 2004," Pub.L. 108-277, domiciled in this
4 State from carrying a handgun in the same manner as law
5 enforcement officers exempted under paragraph (7) of subsection a.
6 of this section under the conditions provided herein:

7 (1) The retired law enforcement officer shall make application
8 in writing to the Superintendent of State Police for approval to carry
9 a handgun for one year. An application for annual renewal shall be
10 submitted in the same manner.

11 (2) Upon receipt of the written application of the retired law
12 enforcement officer, the superintendent shall request a verification
13 of service from the chief law enforcement officer of the
14 organization in which the retired officer was last regularly
15 employed as a full-time law enforcement officer prior to retiring.
16 The verification of service shall include:

17 (a) The name and address of the retired officer;

18 (b) The date that the retired officer was hired and the date that
19 the officer retired;

20 (c) A list of all handguns known to be registered to that officer;

21 (d) A statement that, to the reasonable knowledge of the chief
22 law enforcement officer, the retired officer is not subject to any of
23 the restrictions set forth in subsection c. of N.J.S.2C:58-3; and

24 (e) A statement that the officer retired in good standing.

25 (3) If the superintendent approves a retired officer's application
26 or reapplication to carry a handgun pursuant to the provisions of
27 this subsection, the superintendent shall notify in writing the chief
28 law enforcement officer of the municipality wherein that retired
29 officer resides. In the event the retired officer resides in a
30 municipality which has no chief law enforcement officer or law
31 enforcement agency, the superintendent shall maintain a record of
32 the approval.

33 (4) The superintendent shall issue to an approved retired officer
34 an identification card permitting the retired officer to carry a
35 handgun pursuant to this subsection. This identification card shall
36 be valid for one year from the date of issuance and shall be valid
37 throughout the State. The identification card shall not be
38 transferable to any other person. The identification card shall be
39 carried at all times on the person of the retired officer while the
40 retired officer is carrying a handgun. The retired officer shall
41 produce the identification card for review on the demand of any law
42 enforcement officer or authority.

43 (5) Any person aggrieved by the denial of the superintendent of
44 approval for a permit to carry a handgun pursuant to this subsection
45 may request a hearing in the Superior Court of New Jersey in the
46 county in which he resides by filing a written request for such a
47 hearing within 30 days of the denial. Copies of the request shall be
48 served upon the superintendent and the county prosecutor. The

1 hearing shall be held within 30 days of the filing of the request, and
2 no formal pleading or filing fee shall be required. Appeals from the
3 determination of such a hearing shall be in accordance with law and
4 the rules governing the courts of this State.

5 (6) A judge of the Superior Court may revoke a retired officer's
6 privilege to carry a handgun pursuant to this subsection for good
7 cause shown on the application of any interested person. A person
8 who becomes subject to any of the disabilities set forth in
9 subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the
10 superintendent, his identification card issued under paragraph (4) of
11 this subsection to the chief law enforcement officer of the
12 municipality wherein he resides or the superintendent, and shall be
13 permanently disqualified to carry a handgun under this subsection.

14 (7) The superintendent may charge a reasonable application fee
15 to retired officers to offset any costs associated with administering
16 the application process set forth in this subsection.

17 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
18 to prevent duly authorized personnel of the New Jersey Division of
19 Fish and Wildlife, while in the actual performance of duties, from
20 possessing, transporting or using any device that projects, releases
21 or emits any substance specified as being non-injurious to wildlife
22 by the Director of the Division of Animal Health in the Department
23 of Agriculture, and which may immobilize wildlife and produces
24 only temporary physical discomfort through being vaporized or
25 otherwise dispensed in the air for the purpose of repelling bear or
26 other animal attacks or for the aversive conditioning of wildlife.

27 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall
28 be construed to prevent duly authorized personnel of the New
29 Jersey Division of Fish and Wildlife, while in the actual
30 performance of duties, from possessing, transporting or using hand
31 held pistol-like devices, rifles or shotguns that launch pyrotechnic
32 missiles for the sole purpose of frightening, hazing or aversive
33 conditioning of nuisance or depredating wildlife; from possessing,
34 transporting or using rifles, pistols or similar devices for the sole
35 purpose of chemically immobilizing wild or non-domestic animals;
36 or, provided the duly authorized person complies with the
37 requirements of subsection j. of this section, from possessing,
38 transporting or using rifles or shotguns, upon completion of a Police
39 Training Commission approved training course, in order to dispatch
40 injured or dangerous animals or for non-lethal use for the purpose
41 of frightening, hazing or aversive conditioning of nuisance or
42 depredating wildlife.

43 (cf: P.L.2007, c.314, s.1)

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45 2. This act shall take effect immediately.

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STATEMENT

This bill provides that while on duty, local health inspectors and building inspectors may carry cans of pepper spray, or other types of similar chemical vapor devices used for self defense, of the size carried by law enforcement.

Current law provides that a person 18 years of age or older, who has not been convicted of a crime, may possess a small, pocket-sized device capable of spraying a non-lethal chemical substance which causes temporary physical discomfort. The law limits the size of the device to one which releases not more than three-quarters of an ounce. This bill would remove the size limitation on the device for local health inspectors and building inspectors when they are in the actual performance of their duties. The bill specifies that the devices may not be any larger than those typically used by law enforcement personnel.

Permits certain officials to possess pepper spray in quantity carried by law enforcement officers

SENATE, No. 2980

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED SEPTEMBER 30, 2013

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

SYNOPSIS

Permits certain officials to possess pepper spray in quantity carried by law enforcement officers

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/14/2014)

S2980 SACCO

2

1 AN ACT concerning pepper spray and amending N.J.S.2C:39-6.

2

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

5

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

7 2C:39-6. a. Provided a person complies with the requirements of
8 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

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

13 (2) Federal law enforcement officers, and any other federal
14 officers and employees required to carry firearms in the
15 performance of their official duties;

16 (3) Members of the State Police and, under conditions
17 prescribed by the superintendent, members of the Marine Law
18 Enforcement Bureau of the Division of State Police;

19 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
20 assistant prosecutor, prosecutor's detective or investigator, deputy
21 attorney general or State investigator employed by the Division of
22 Criminal Justice of the Department of Law and Public Safety,
23 investigator employed by the State Commission of Investigation,
24 inspector of the Alcoholic Beverage Control Enforcement Bureau of
25 the Division of State Police in the Department of Law and Public
26 Safety authorized to carry such weapons by the Superintendent of
27 State Police, State park police officer, or State conservation officer;

28 (5) Except as hereinafter provided, a prison or jail warden of
29 any penal institution in this State or his deputies, or an employee of
30 the Department of Corrections engaged in the interstate
31 transportation of convicted offenders, while in the performance of
32 his duties, and when required to possess the weapon by his superior
33 officer, or a corrections officer or keeper of a penal institution in
34 this State at all times while in the State of New Jersey, provided he
35 annually passes an examination approved by the superintendent
36 testing his proficiency in the handling of firearms;

37 (6) A civilian employee of the United States Government under
38 the supervision of the commanding officer of any post, camp,
39 station, base or other military or naval installation located in this
40 State who is required, in the performance of his official duties, to
41 carry firearms, and who is authorized to carry such firearms by said
42 commanding officer, while in the actual performance of his official
43 duties;

44 (7) (a) A regularly employed member, including a detective, of
45 the police department of any county or municipality, or of any

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.

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1 State, interstate, municipal or county park police force or boulevard
2 police force, at all times while in the State of New Jersey;

3 (b) A special law enforcement officer authorized to carry a
4 weapon as provided in subsection b. of section 7 of P.L.1985, c.439
5 (C.40A:14-146.14);

6 (c) An airport security officer or a special law enforcement
7 officer appointed by the governing body of any county or
8 municipality, except as provided in subsection (b) of this section, or
9 by the commission, board or other body having control of a county
10 park or airport or boulevard police force, while engaged in the
11 actual performance of his official duties and when specifically
12 authorized by the governing body to carry weapons;

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

28 (9) A juvenile corrections officer in the employment of the
29 Juvenile Justice Commission established pursuant to section 2 of
30 P.L.1995, c.284 (C.52:17B-170) subject to the regulations
31 promulgated by the commission;

32 (10) A designated employee or designated licensed agent for a
33 nuclear power plant under license of the Nuclear Regulatory
34 Commission, while in the actual performance of his official duties,
35 if the federal licensee certifies that the designated employee or
36 designated licensed agent is assigned to perform site protection,
37 guard, armed response or armed escort duties and is appropriately
38 trained and qualified, as prescribed by federal regulation, to
39 perform those duties. Any firearm utilized by an employee or agent
40 for a nuclear power plant pursuant to this paragraph shall be
41 returned each day at the end of the employee's or agent's authorized
42 official duties to the employee's or agent's supervisor. All firearms
43 returned each day pursuant to this paragraph shall be stored in
44 locked containers located in a secure area;

45 (11) A county corrections officer at all times while in the State of
46 New Jersey, provided he annually passes an examination approved
47 by the superintendent testing his proficiency in the handling of
48 firearms.

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1 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

2 (1) A law enforcement officer employed by a governmental
3 agency outside of the State of New Jersey while actually engaged in
4 his official duties, provided, however, that he has first notified the
5 superintendent or the chief law enforcement officer of the
6 municipality or the prosecutor of the county in which he is engaged;
7 or

8 (2) A licensed dealer in firearms and his registered employees
9 during the course of their normal business while traveling to and
10 from their place of business and other places for the purpose of
11 demonstration, exhibition or delivery in connection with a sale,
12 provided, however, that the weapon is carried in the manner
13 specified in subsection g. of this section.

14 c. Provided a person complies with the requirements of
15 subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5
16 do not apply to:

17 (1) A special agent of the Division of Taxation who has passed
18 an examination in an approved police training program testing
19 proficiency in the handling of any firearm which he may be
20 required to carry, while in the actual performance of his official
21 duties and while going to or from his place of duty, or any other
22 police officer, while in the actual performance of his official duties;

23 (2) A State deputy conservation officer or a full-time employee
24 of the Division of Parks and Forestry having the power of arrest and
25 authorized to carry weapons, while in the actual performance of his
26 official duties;

27 (3) (Deleted by amendment, P.L.1986, c.150.)

28 (4) A court attendant serving as such under appointment by the
29 sheriff of the county or by the judge of any municipal court or other
30 court of this State, while in the actual performance of his official
31 duties;

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

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

39 (7) A humane law enforcement officer of the New Jersey
40 Society for the Prevention of Cruelty to Animals or of a county
41 society for the prevention of cruelty to animals, while in the actual
42 performance of his duties;

43 (8) An employee of a public utilities corporation actually
44 engaged in the transportation of explosives;

45 (9) A railway policeman, except a transit police officer of the
46 New Jersey Transit Police Department, at all times while in the
47 State of New Jersey, provided that he has passed an approved police
48 academy training program consisting of at least 280 hours. The

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- 1 training program shall include, but need not be limited to, the
2 handling of firearms, community relations, and juvenile relations;
- 3 (10) A campus police officer appointed under P.L.1970, c.211
4 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry
5 a firearm, a campus police officer shall take and successfully
6 complete a firearms training course administered by the Police
7 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
8 seq.), and shall annually qualify in the use of a revolver or similar
9 weapon prior to being permitted to carry a firearm;
- 10 (11) (Deleted by amendment, P.L.2003, c.168).
- 11 (12) A transit police officer of the New Jersey Transit Police
12 Department, at all times while in the State of New Jersey, provided
13 the officer has satisfied the training requirements of the Police
14 Training Commission, pursuant to subsection c. of section 2 of
15 P.L.1989, c.291 (C.27:25-15.1);
- 16 (13) A parole officer employed by the State Parole Board at all
17 times. Prior to being permitted to carry a firearm, a parole officer
18 shall take and successfully complete a basic course for regular
19 police officer training administered by the Police Training
20 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
21 shall annually qualify in the use of a revolver or similar weapon
22 prior to being permitted to carry a firearm;
- 23 (14) A Human Services police officer at all times while in the
24 State of New Jersey, as authorized by the Commissioner of Human
25 Services;
- 26 (15) A person or employee of any person who, pursuant to and as
27 required by a contract with a governmental entity, supervises or
28 transports persons charged with or convicted of an offense;
- 29 (16) A housing authority police officer appointed under
30 P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the
31 State of New Jersey; or
- 32 (17) A probation officer assigned to the "Probation Officer
33 Community Safety Unit" created by section 2 of P.L.2001, c.362
34 (C.2B:10A-2) while in the actual performance of the probation
35 officer's official duties. Prior to being permitted to carry a firearm,
36 a probation officer shall take and successfully complete a basic
37 course for regular police officer training administered by the Police
38 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
39 seq.), and shall annually qualify in the use of a revolver or similar
40 weapon prior to being permitted to carry a firearm.
- 41 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
42 antique firearms, provided that such antique firearms are unloaded
43 or are being fired for the purposes of exhibition or demonstration at
44 an authorized target range or in such other manner as has been
45 approved in writing by the chief law enforcement officer of the
46 municipality in which the exhibition or demonstration is held, or if
47 not held on property under the control of a particular municipality,
48 the superintendent.

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

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

13 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
14 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
15 or fired by one eligible to possess an antique cannon, for purposes
16 of exhibition or demonstration at an authorized target range or in
17 the manner as has been approved in writing by the chief law
18 enforcement officer of the municipality in which the exhibition or
19 demonstration is held, or if not held on property under the control
20 of a particular municipality, the superintendent, provided that
21 performer has given at least 30 days' notice to the superintendent.

22 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
23 N.J.S.2C:39-5 do not apply to the transportation of unloaded
24 antique cannons directly to or from exhibitions or demonstrations
25 authorized under paragraph (4) of subsection d. of this section,
26 provided that the transportation is in compliance with safety
27 regulations the superintendent may promulgate. Nor do those
28 subsections apply to transportation directly to or from exhibitions or
29 demonstrations authorized under the law of another jurisdiction,
30 provided that the superintendent has been given 30 days' notice and
31 that the transportation is in compliance with safety regulations the
32 superintendent may promulgate.

33 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
34 construed to prevent a person keeping or carrying about his place of
35 business, residence, premises or other land owned or possessed by
36 him, any firearm, or from carrying the same, in the manner
37 specified in subsection g. of this section, from any place of
38 purchase to his residence or place of business, between his dwelling
39 and his place of business, between one place of business or
40 residence and another when moving, or between his dwelling or
41 place of business and place where such firearms are repaired, for
42 the purpose of repair. For the purposes of this section, a place of
43 business shall be deemed to be a fixed location.

44 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
45 construed to prevent:

46 (1) A member of any rifle or pistol club organized in accordance
47 with the rules prescribed by the National Board for the Promotion
48 of Rifle Practice, in going to or from a place of target practice,

1 carrying such firearms as are necessary for said target practice,
2 provided that the club has filed a copy of its charter with the
3 superintendent and annually submits a list of its members to the
4 superintendent and provided further that the firearms are carried in
5 the manner specified in subsection g. of this section;

6 (2) A person carrying a firearm or knife in the woods or fields
7 or upon the waters of this State for the purpose of hunting, target
8 practice or fishing, provided that the firearm or knife is legal and
9 appropriate for hunting or fishing purposes in this State and he has
10 in his possession a valid hunting license, or, with respect to fresh
11 water fishing, a valid fishing license;

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

13 (a) Directly to or from any place for the purpose of hunting or
14 fishing, provided the person has in his possession a valid hunting or
15 fishing license; or

16 (b) Directly to or from any target range, or other authorized
17 place for the purpose of practice, match, target, trap or skeet
18 shooting exhibitions, provided in all cases that during the course of
19 the travel all firearms are carried in the manner specified in
20 subsection g. of this section and the person has complied with all
21 the provisions and requirements of Title 23 of the Revised Statutes
22 and any amendments thereto and all rules and regulations
23 promulgated thereunder; or

24 (c) In the case of a firearm, directly to or from any exhibition or
25 display of firearms which is sponsored by any law enforcement
26 agency, any rifle or pistol club, or any firearms collectors club, for
27 the purpose of displaying the firearms to the public or to the
28 members of the organization or club, provided, however, that not
29 less than 30 days prior to the exhibition or display, notice of the
30 exhibition or display shall be given to the Superintendent of the
31 State Police by the sponsoring organization or club, and the sponsor
32 has complied with such reasonable safety regulations as the
33 superintendent may promulgate. Any firearms transported pursuant
34 to this section shall be transported in the manner specified in
35 subsection g. of this section;

36 (4) A person from keeping or carrying about a private or
37 commercial aircraft or any boat, or from transporting to or from
38 such vessel for the purpose of installation or repair a visual distress
39 signaling device approved by the United States Coast Guard.

40 g. All weapons being transported under paragraph (2) of
41 subsection b., subsection e., or paragraph (1) or (3) of subsection f.
42 of this section shall be carried unloaded and contained in a closed
43 and fastened case, gunbox, securely tied package, or locked in the
44 trunk of the automobile in which it is being transported, and in the
45 course of travel shall include only such deviations as are reasonably
46 necessary under the circumstances.

47 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
48 to prevent any employee of a public utility, as defined in

1 R.S.48:2-13, doing business in this State or any United States Postal
2 Service employee, while in the actual performance of duties which
3 specifically require regular and frequent visits to private premises,
4 from possessing, carrying or using any device which projects,
5 releases or emits any substance specified as being noninjurious to
6 canines or other animals by the Commissioner of Health [and
7 Senior Services] and which immobilizes only on a temporary basis
8 and produces only temporary physical discomfort through being
9 vaporized or otherwise dispensed in the air for the sole purpose of
10 repelling canine or other animal attacks.

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

15 Any device used pursuant to this act shall be selected from a list
16 of products, which consist of active and inert ingredients, permitted
17 by the Commissioner of Health [and Senior Services].

18 i. (1) Nothing in N.J.S.2C:39-5 shall be construed to prevent
19 any person who is 18 years of age or older and who has not been
20 convicted of a [felony] crime, from possession for the purpose of
21 personal self-defense of one pocket-sized device which contains and
22 releases not more than three-quarters of an ounce of chemical
23 substance not ordinarily capable of lethal use or of inflicting serious
24 bodily injury, but rather, is intended to produce temporary physical
25 discomfort or disability through being vaporized or otherwise
26 dispensed in the air. Any person in possession of any device in
27 violation of this subsection shall be deemed and adjudged to be a
28 disorderly person, and upon conviction thereof, shall be punished
29 by a fine of not less than [\$100.00] \$100.

30 (2) Notwithstanding the provisions of paragraph (1) of this
31 subsection, nothing in N.J.S.2C:39-5 shall be construed to prevent a
32 health inspector or investigator operating pursuant to the provisions
33 of section 7 of P.L.1977, c.443 (C.26:3A2-25) or a building
34 inspector from possessing a device which is capable of releasing
35 more than three-quarters of an ounce of a chemical substance, as
36 described in paragraph (1), while in the actual performance of the
37 inspector's or investigator's duties, provided that the device does
38 not exceed the size of those used by law enforcement.

39 j. A person shall qualify for an exemption from the provisions
40 of N.J.S.2C:39-5, as specified under subsections a. and c. of this
41 section, if the person has satisfactorily completed a firearms
42 training course approved by the Police Training Commission.

43 Such exempt person shall not possess or carry a firearm until the
44 person has satisfactorily completed a firearms training course and
45 shall annually qualify in the use of a revolver or similar weapon.
46 For purposes of this subsection, a "firearms training course" means
47 a course of instruction in the safe use, maintenance and storage of
48 firearms which is approved by the Police Training Commission.

1 The commission shall approve a firearms training course if the
2 requirements of the course are substantially equivalent to the
3 requirements for firearms training provided by police training
4 courses which are certified under section 6 of P.L.1961, c.56
5 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3)
6 or (6) of subsection a. of this section shall be exempt from the
7 requirements of this subsection.

8 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
9 to prevent any financial institution, or any duly authorized
10 personnel of the institution, from possessing, carrying or using for
11 the protection of money or property, any device which projects,
12 releases or emits tear gas or other substances intended to produce
13 temporary physical discomfort or temporary identification.

14 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed
15 to prevent a law enforcement officer who retired in good standing,
16 including a retirement because of a disability pursuant to section 6
17 of P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
18 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
19 substantially similar statute governing the disability retirement of
20 federal law enforcement officers, provided the officer was a
21 regularly employed, full-time law enforcement officer for an
22 aggregate of four or more years prior to his disability retirement and
23 further provided that the disability which constituted the basis for
24 the officer's retirement did not involve a certification that the officer
25 was mentally incapacitated for the performance of his usual law
26 enforcement duties and any other available duty in the department
27 which his employer was willing to assign to him or does not subject
28 that retired officer to any of the disabilities set forth in subsection c.
29 of N.J.S.2C:58-3 which would disqualify the retired officer from
30 possessing or carrying a firearm, who semi-annually qualifies in the
31 use of the handgun he is permitted to carry in accordance with the
32 requirements and procedures established by the Attorney General
33 pursuant to subsection j. of this section and pays the actual costs
34 associated with those semi-annual qualifications, who is 75 years of
35 age or younger, and who was regularly employed as a full-time
36 member of the State Police; a full-time member of an interstate
37 police force; a full-time member of a county or municipal police
38 department in this State; a full-time member of a State law
39 enforcement agency; a full-time sheriff, undersheriff or sheriff's
40 officer of a county of this State; a full-time State or county
41 corrections officer; a full-time county park police officer; a full-
42 time county prosecutor's detective or investigator; a full-time
43 federal law enforcement officer; or is a qualified retired law
44 enforcement officer, as used in the federal "Law Enforcement
45 Officers Safety Act of 2004," Pub.L. 108-277, domiciled in this
46 State from carrying a handgun in the same manner as law
47 enforcement officers exempted under paragraph (7) of subsection a.
48 of this section under the conditions provided herein:

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1 (1) The retired law enforcement officer shall make application
2 in writing to the Superintendent of State Police for approval to carry
3 a handgun for one year. An application for annual renewal shall be
4 submitted in the same manner.

5 (2) Upon receipt of the written application of the retired law
6 enforcement officer, the superintendent shall request a verification
7 of service from the chief law enforcement officer of the
8 organization in which the retired officer was last regularly
9 employed as a full-time law enforcement officer prior to retiring.
10 The verification of service shall include:

11 (a) The name and address of the retired officer;

12 (b) The date that the retired officer was hired and the date that
13 the officer retired;

14 (c) A list of all handguns known to be registered to that officer;

15 (d) A statement that, to the reasonable knowledge of the chief
16 law enforcement officer, the retired officer is not subject to any of
17 the restrictions set forth in subsection c. of N.J.S.2C:58-3; and

18 (e) A statement that the officer retired in good standing.

19 (3) If the superintendent approves a retired officer's application
20 or reapplication to carry a handgun pursuant to the provisions of
21 this subsection, the superintendent shall notify in writing the chief
22 law enforcement officer of the municipality wherein that retired
23 officer resides. In the event the retired officer resides in a
24 municipality which has no chief law enforcement officer or law
25 enforcement agency, the superintendent shall maintain a record of
26 the approval.

27 (4) The superintendent shall issue to an approved retired officer
28 an identification card permitting the retired officer to carry a
29 handgun pursuant to this subsection. This identification card shall
30 be valid for one year from the date of issuance and shall be valid
31 throughout the State. The identification card shall not be
32 transferable to any other person. The identification card shall be
33 carried at all times on the person of the retired officer while the
34 retired officer is carrying a handgun. The retired officer shall
35 produce the identification card for review on the demand of any law
36 enforcement officer or authority.

37 (5) Any person aggrieved by the denial of the superintendent of
38 approval for a permit to carry a handgun pursuant to this subsection
39 may request a hearing in the Superior Court of New Jersey in the
40 county in which he resides by filing a written request for such a
41 hearing within 30 days of the denial. Copies of the request shall be
42 served upon the superintendent and the county prosecutor. The
43 hearing shall be held within 30 days of the filing of the request, and
44 no formal pleading or filing fee shall be required. Appeals from the
45 determination of such a hearing shall be in accordance with law and
46 the rules governing the courts of this State.

47 (6) A judge of the Superior Court may revoke a retired officer's
48 privilege to carry a handgun pursuant to this subsection for good

1 cause shown on the application of any interested person. A person
2 who becomes subject to any of the disabilities set forth in
3 subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the
4 superintendent, his identification card issued under paragraph (4) of
5 this subsection to the chief law enforcement officer of the
6 municipality wherein he resides or the superintendent, and shall be
7 permanently disqualified to carry a handgun under this subsection.

8 (7) The superintendent may charge a reasonable application fee
9 to retired officers to offset any costs associated with administering
10 the application process set forth in this subsection.

11 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
12 to prevent duly authorized personnel of the New Jersey Division of
13 Fish and Wildlife, while in the actual performance of duties, from
14 possessing, transporting or using any device that projects, releases
15 or emits any substance specified as being non-injurious to wildlife
16 by the Director of the Division of Animal Health in the Department
17 of Agriculture, and which may immobilize wildlife and produces
18 only temporary physical discomfort through being vaporized or
19 otherwise dispensed in the air for the purpose of repelling bear or
20 other animal attacks or for the aversive conditioning of wildlife.

21 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall
22 be construed to prevent duly authorized personnel of the New
23 Jersey Division of Fish and Wildlife, while in the actual
24 performance of duties, from possessing, transporting or using hand
25 held pistol-like devices, rifles or shotguns that launch pyrotechnic
26 missiles for the sole purpose of frightening, hazing or aversive
27 conditioning of nuisance or depredating wildlife; from possessing,
28 transporting or using rifles, pistols or similar devices for the sole
29 purpose of chemically immobilizing wild or non-domestic animals;
30 or, provided the duly authorized person complies with the
31 requirements of subsection j. of this section, from possessing,
32 transporting or using rifles or shotguns, upon completion of a Police
33 Training Commission approved training course, in order to dispatch
34 injured or dangerous animals or for non-lethal use for the purpose
35 of frightening, hazing or aversive conditioning of nuisance or
36 depredating wildlife.

37 (cf: P.L.2007, c.314, s.1)

38

39 2. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill provides that while on duty, local health inspectors and
45 building inspectors may carry cans of pepper spray, or other types
46 of similar chemical vapor devices used for self defense, of the size
47 carried by law enforcement.

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12

1 Current law provides that a person 18 years of age or older, who
2 has not been convicted of a crime, may possess a small, pocket-
3 sized device capable of spraying a non-lethal chemical substance
4 which causes temporary physical discomfort. The law limits the
5 size of the device to one which releases not more than three-
6 quarters of an ounce. This bill would remove the size limitation on
7 the device for local health inspectors and building inspectors when
8 they are in the actual performance of their duties. The bill specifies
9 that the devices may not be any larger than those typically used by
10 law enforcement personnel.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 2980

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2013

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 2980.

This bill permits local health inspectors and building inspectors to carry cans of pepper spray or other types of similar chemical vapor devices used for self defense while on duty. The bill limits the size of the device to the size carried by law enforcement.

Under current law, a person 18 years of age or older, who has not been convicted of a crime, may possess a small, pocket-sized device capable of spraying a non-lethal chemical substance which causes temporary physical discomfort. The current law limits the size of the device to one which releases not more than three-quarters of an ounce.

This bill removes the size limitation on the device for local health inspectors and building inspectors when they are in the actual performance of their duties. The bill specifies that the devices may not be any larger than those typically used by law enforcement personnel.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

SENATE, No. 2980

STATE OF NEW JERSEY

DATED: JANUARY 9, 2014

The Assembly Budget Committee reports favorably Senate Bill No. 2980.

This bill permits local health inspectors and building inspectors to carry cans of pepper spray or other types of similar chemical vapor devices used for self defense while on duty. The bill limits the size of the device to the size carried by law enforcement.

Under current law, a person 18 years of age or older, who has not been convicted of a crime, may possess a small, pocket-sized device capable of spraying a non-lethal chemical substance which causes temporary physical discomfort. The current law limits the size of the device to one which releases not more than three-quarters of an ounce.

This bill removes the size limitation on the device for local health inspectors and building inspectors when they are in the actual performance of their duties. The bill specifies that the devices may not be any larger than those typically used by law enforcement personnel.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

ASSEMBLY, No. 4485

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED NOVEMBER 25, 2013

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

SYNOPSIS

Permits certain officials to possess pepper spray in quantity carried by law enforcement officers.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning pepper spray and amending N.J.S.2C:39-6.

2

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

5

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

7 2C:39-6. a. Provided a person complies with the requirements of
8 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

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

13 (2) Federal law enforcement officers, and any other federal
14 officers and employees required to carry firearms in the
15 performance of their official duties;

16 (3) Members of the State Police and, under conditions
17 prescribed by the superintendent, members of the Marine Law
18 Enforcement Bureau of the Division of State Police;

19 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
20 assistant prosecutor, prosecutor's detective or investigator, deputy
21 attorney general or State investigator employed by the Division of
22 Criminal Justice of the Department of Law and Public Safety,
23 investigator employed by the State Commission of Investigation,
24 inspector of the Alcoholic Beverage Control Enforcement Bureau of
25 the Division of State Police in the Department of Law and Public
26 Safety authorized to carry such weapons by the Superintendent of
27 State Police, State park police officer, or State conservation officer;

28 (5) Except as hereinafter provided, a prison or jail warden of
29 any penal institution in this State or his deputies, or an employee of
30 the Department of Corrections engaged in the interstate
31 transportation of convicted offenders, while in the performance of
32 his duties, and when required to possess the weapon by his superior
33 officer, or a corrections officer or keeper of a penal institution in
34 this State at all times while in the State of New Jersey, provided he
35 annually passes an examination approved by the superintendent
36 testing his proficiency in the handling of firearms;

37 (6) A civilian employee of the United States Government under
38 the supervision of the commanding officer of any post, camp,
39 station, base or other military or naval installation located in this
40 State who is required, in the performance of his official duties, to
41 carry firearms, and who is authorized to carry such firearms by said
42 commanding officer, while in the actual performance of his official
43 duties;

44 (7) (a) A regularly employed member, including a detective, of
45 the police department of any county or municipality, or of any

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 State, interstate, municipal or county park police force or boulevard
2 police force, at all times while in the State of New Jersey;

3 (b) A special law enforcement officer authorized to carry a
4 weapon as provided in subsection b. of section 7 of P.L.1985, c.439
5 (C.40A:14-146.14);

6 (c) An airport security officer or a special law enforcement
7 officer appointed by the governing body of any county or
8 municipality, except as provided in subsection (b) of this section, or
9 by the commission, board or other body having control of a county
10 park or airport or boulevard police force, while engaged in the
11 actual performance of his official duties and when specifically
12 authorized by the governing body to carry weapons;

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

28 (9) A juvenile corrections officer in the employment of the
29 Juvenile Justice Commission established pursuant to section 2 of
30 P.L.1995, c.284 (C.52:17B-170) subject to the regulations
31 promulgated by the commission;

32 (10) A designated employee or designated licensed agent for a
33 nuclear power plant under license of the Nuclear Regulatory
34 Commission, while in the actual performance of his official duties,
35 if the federal licensee certifies that the designated employee or
36 designated licensed agent is assigned to perform site protection,
37 guard, armed response or armed escort duties and is appropriately
38 trained and qualified, as prescribed by federal regulation, to
39 perform those duties. Any firearm utilized by an employee or agent
40 for a nuclear power plant pursuant to this paragraph shall be
41 returned each day at the end of the employee's or agent's authorized
42 official duties to the employee's or agent's supervisor. All firearms
43 returned each day pursuant to this paragraph shall be stored in
44 locked containers located in a secure area;

45 (11) A county corrections officer at all times while in the State of
46 New Jersey, provided he annually passes an examination approved
47 by the superintendent testing his proficiency in the handling of
48 firearms.

1 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

2 (1) A law enforcement officer employed by a governmental
3 agency outside of the State of New Jersey while actually engaged in
4 his official duties, provided, however, that he has first notified the
5 superintendent or the chief law enforcement officer of the
6 municipality or the prosecutor of the county in which he is engaged;
7 or

8 (2) A licensed dealer in firearms and his registered employees
9 during the course of their normal business while traveling to and
10 from their place of business and other places for the purpose of
11 demonstration, exhibition or delivery in connection with a sale,
12 provided, however, that the weapon is carried in the manner
13 specified in subsection g. of this section.

14 c. Provided a person complies with the requirements of
15 subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5
16 do not apply to:

17 (1) A special agent of the Division of Taxation who has passed
18 an examination in an approved police training program testing
19 proficiency in the handling of any firearm which he may be
20 required to carry, while in the actual performance of his official
21 duties and while going to or from his place of duty, or any other
22 police officer, while in the actual performance of his official duties;

23 (2) A State deputy conservation officer or a full-time employee
24 of the Division of Parks and Forestry having the power of arrest and
25 authorized to carry weapons, while in the actual performance of his
26 official duties;

27 (3) (Deleted by amendment, P.L.1986, c.150.)

28 (4) A court attendant serving as such under appointment by the
29 sheriff of the county or by the judge of any municipal court or other
30 court of this State, while in the actual performance of his official
31 duties;

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

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

39 (7) A humane law enforcement officer of the New Jersey
40 Society for the Prevention of Cruelty to Animals or of a county
41 society for the prevention of cruelty to animals, while in the actual
42 performance of his duties;

43 (8) An employee of a public utilities corporation actually
44 engaged in the transportation of explosives;

45 (9) A railway policeman, except a transit police officer of the
46 New Jersey Transit Police Department, at all times while in the
47 State of New Jersey, provided that he has passed an approved police
48 academy training program consisting of at least 280 hours. The

1 training program shall include, but need not be limited to, the
2 handling of firearms, community relations, and juvenile relations;

3 (10) A campus police officer appointed under P.L.1970, c.211
4 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry
5 a firearm, a campus police officer shall take and successfully
6 complete a firearms training course administered by the Police
7 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
8 seq.), and shall annually qualify in the use of a revolver or similar
9 weapon prior to being permitted to carry a firearm;

10 (11) (Deleted by amendment, P.L.2003, c.168).

11 (12) A transit police officer of the New Jersey Transit Police
12 Department, at all times while in the State of New Jersey, provided
13 the officer has satisfied the training requirements of the Police
14 Training Commission, pursuant to subsection c. of section 2 of
15 P.L.1989, c.291 (C.27:25-15.1);

16 (13) A parole officer employed by the State Parole Board at all
17 times. Prior to being permitted to carry a firearm, a parole officer
18 shall take and successfully complete a basic course for regular
19 police officer training administered by the Police Training
20 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
21 shall annually qualify in the use of a revolver or similar weapon
22 prior to being permitted to carry a firearm;

23 (14) A Human Services police officer at all times while in the
24 State of New Jersey, as authorized by the Commissioner of Human
25 Services;

26 (15) A person or employee of any person who, pursuant to and as
27 required by a contract with a governmental entity, supervises or
28 transports persons charged with or convicted of an offense;

29 (16) A housing authority police officer appointed under
30 P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the
31 State of New Jersey; or

32 (17) A probation officer assigned to the "Probation Officer
33 Community Safety Unit" created by section 2 of P.L.2001, c.362
34 (C.2B:10A-2) while in the actual performance of the probation
35 officer's official duties. Prior to being permitted to carry a firearm,
36 a probation officer shall take and successfully complete a basic
37 course for regular police officer training administered by the Police
38 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
39 seq.), and shall annually qualify in the use of a revolver or similar
40 weapon prior to being permitted to carry a firearm.

41 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
42 antique firearms, provided that such antique firearms are unloaded
43 or are being fired for the purposes of exhibition or demonstration at
44 an authorized target range or in such other manner as has been
45 approved in writing by the chief law enforcement officer of the
46 municipality in which the exhibition or demonstration is held, or if
47 not held on property under the control of a particular municipality,
48 the superintendent.

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

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

13 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
14 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
15 or fired by one eligible to possess an antique cannon, for purposes
16 of exhibition or demonstration at an authorized target range or in
17 the manner as has been approved in writing by the chief law
18 enforcement officer of the municipality in which the exhibition or
19 demonstration is held, or if not held on property under the control
20 of a particular municipality, the superintendent, provided that
21 performer has given at least 30 days' notice to the superintendent.

22 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
23 N.J.S.2C:39-5 do not apply to the transportation of unloaded
24 antique cannons directly to or from exhibitions or demonstrations
25 authorized under paragraph (4) of subsection d. of this section,
26 provided that the transportation is in compliance with safety
27 regulations the superintendent may promulgate. Nor do those
28 subsections apply to transportation directly to or from exhibitions or
29 demonstrations authorized under the law of another jurisdiction,
30 provided that the superintendent has been given 30 days' notice and
31 that the transportation is in compliance with safety regulations the
32 superintendent may promulgate.

33 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
34 construed to prevent a person keeping or carrying about his place of
35 business, residence, premises or other land owned or possessed by
36 him, any firearm, or from carrying the same, in the manner
37 specified in subsection g. of this section, from any place of
38 purchase to his residence or place of business, between his dwelling
39 and his place of business, between one place of business or
40 residence and another when moving, or between his dwelling or
41 place of business and place where such firearms are repaired, for
42 the purpose of repair. For the purposes of this section, a place of
43 business shall be deemed to be a fixed location.

44 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
45 construed to prevent:

46 (1) A member of any rifle or pistol club organized in accordance
47 with the rules prescribed by the National Board for the Promotion
48 of Rifle Practice, in going to or from a place of target practice,

1 carrying such firearms as are necessary for said target practice,
2 provided that the club has filed a copy of its charter with the
3 superintendent and annually submits a list of its members to the
4 superintendent and provided further that the firearms are carried in
5 the manner specified in subsection g. of this section;

6 (2) A person carrying a firearm or knife in the woods or fields
7 or upon the waters of this State for the purpose of hunting, target
8 practice or fishing, provided that the firearm or knife is legal and
9 appropriate for hunting or fishing purposes in this State and he has
10 in his possession a valid hunting license, or, with respect to fresh
11 water fishing, a valid fishing license;

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

13 (a) Directly to or from any place for the purpose of hunting or
14 fishing, provided the person has in his possession a valid hunting or
15 fishing license; or

16 (b) Directly to or from any target range, or other authorized
17 place for the purpose of practice, match, target, trap or skeet
18 shooting exhibitions, provided in all cases that during the course of
19 the travel all firearms are carried in the manner specified in
20 subsection g. of this section and the person has complied with all
21 the provisions and requirements of Title 23 of the Revised Statutes
22 and any amendments thereto and all rules and regulations
23 promulgated thereunder; or

24 (c) In the case of a firearm, directly to or from any exhibition or
25 display of firearms which is sponsored by any law enforcement
26 agency, any rifle or pistol club, or any firearms collectors club, for
27 the purpose of displaying the firearms to the public or to the
28 members of the organization or club, provided, however, that not
29 less than 30 days prior to the exhibition or display, notice of the
30 exhibition or display shall be given to the Superintendent of the
31 State Police by the sponsoring organization or club, and the sponsor
32 has complied with such reasonable safety regulations as the
33 superintendent may promulgate. Any firearms transported pursuant
34 to this section shall be transported in the manner specified in
35 subsection g. of this section;

36 (4) A person from keeping or carrying about a private or
37 commercial aircraft or any boat, or from transporting to or from
38 such vessel for the purpose of installation or repair a visual distress
39 signaling device approved by the United States Coast Guard.

40 g. All weapons being transported under paragraph (2) of
41 subsection b., subsection e., or paragraph (1) or (3) of subsection f.
42 of this section shall be carried unloaded and contained in a closed
43 and fastened case, gunbox, securely tied package, or locked in the
44 trunk of the automobile in which it is being transported, and in the
45 course of travel shall include only such deviations as are reasonably
46 necessary under the circumstances.

47 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
48 to prevent any employee of a public utility, as defined in

1 R.S.48:2-13, doing business in this State or any United States Postal
2 Service employee, while in the actual performance of duties which
3 specifically require regular and frequent visits to private premises,
4 from possessing, carrying or using any device which projects,
5 releases or emits any substance specified as being noninjurious to
6 canines or other animals by the Commissioner of Health [and
7 Senior Services] and which immobilizes only on a temporary basis
8 and produces only temporary physical discomfort through being
9 vaporized or otherwise dispensed in the air for the sole purpose of
10 repelling canine or other animal attacks.

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

15 Any device used pursuant to this act shall be selected from a list
16 of products, which consist of active and inert ingredients, permitted
17 by the Commissioner of Health [and Senior Services].

18 i. (1) Nothing in N.J.S.2C:39-5 shall be construed to prevent
19 any person who is 18 years of age or older and who has not been
20 convicted of a [felony] crime, from possession for the purpose of
21 personal self-defense of one pocket-sized device which contains and
22 releases not more than three-quarters of an ounce of chemical
23 substance not ordinarily capable of lethal use or of inflicting serious
24 bodily injury, but rather, is intended to produce temporary physical
25 discomfort or disability through being vaporized or otherwise
26 dispensed in the air. Any person in possession of any device in
27 violation of this subsection shall be deemed and adjudged to be a
28 disorderly person, and upon conviction thereof, shall be punished
29 by a fine of not less than [\$100.00] \$100.

30 (2) Notwithstanding the provisions of paragraph (1) of this
31 subsection, nothing in N.J.S.2C:39-5 shall be construed to prevent a
32 health inspector or investigator operating pursuant to the provisions
33 of section 7 of P.L.1977, c.443 (C.26:3A2-25) or a building
34 inspector from possessing a device which is capable of releasing
35 more than three-quarters of an ounce of a chemical substance, as
36 described in paragraph (1), while in the actual performance of the
37 inspector's or investigator's duties, provided that the device does
38 not exceed the size of those used by law enforcement.

39 j. A person shall qualify for an exemption from the provisions
40 of N.J.S.2C:39-5, as specified under subsections a. and c. of this
41 section, if the person has satisfactorily completed a firearms
42 training course approved by the Police Training Commission.

43 Such exempt person shall not possess or carry a firearm until the
44 person has satisfactorily completed a firearms training course and
45 shall annually qualify in the use of a revolver or similar weapon.
46 For purposes of this subsection, a "firearms training course" means
47 a course of instruction in the safe use, maintenance and storage of
48 firearms which is approved by the Police Training Commission.

1 The commission shall approve a firearms training course if the
2 requirements of the course are substantially equivalent to the
3 requirements for firearms training provided by police training
4 courses which are certified under section 6 of P.L.1961, c.56
5 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3)
6 or (6) of subsection a. of this section shall be exempt from the
7 requirements of this subsection.

8 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
9 to prevent any financial institution, or any duly authorized
10 personnel of the institution, from possessing, carrying or using for
11 the protection of money or property, any device which projects,
12 releases or emits tear gas or other substances intended to produce
13 temporary physical discomfort or temporary identification.

14 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed
15 to prevent a law enforcement officer who retired in good standing,
16 including a retirement because of a disability pursuant to section 6
17 of P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
18 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
19 substantially similar statute governing the disability retirement of
20 federal law enforcement officers, provided the officer was a
21 regularly employed, full-time law enforcement officer for an
22 aggregate of four or more years prior to his disability retirement and
23 further provided that the disability which constituted the basis for
24 the officer's retirement did not involve a certification that the officer
25 was mentally incapacitated for the performance of his usual law
26 enforcement duties and any other available duty in the department
27 which his employer was willing to assign to him or does not subject
28 that retired officer to any of the disabilities set forth in subsection c.
29 of N.J.S.2C:58-3 which would disqualify the retired officer from
30 possessing or carrying a firearm, who semi-annually qualifies in the
31 use of the handgun he is permitted to carry in accordance with the
32 requirements and procedures established by the Attorney General
33 pursuant to subsection j. of this section and pays the actual costs
34 associated with those semi-annual qualifications, who is 75 years of
35 age or younger, and who was regularly employed as a full-time
36 member of the State Police; a full-time member of an interstate
37 police force; a full-time member of a county or municipal police
38 department in this State; a full-time member of a State law
39 enforcement agency; a full-time sheriff, undersheriff or sheriff's
40 officer of a county of this State; a full-time State or county
41 corrections officer; a full-time county park police officer; a full-
42 time county prosecutor's detective or investigator; a full-time
43 federal law enforcement officer; or is a qualified retired law
44 enforcement officer, as used in the federal "Law Enforcement
45 Officers Safety Act of 2004," Pub.L. 108-277, domiciled in this
46 State from carrying a handgun in the same manner as law
47 enforcement officers exempted under paragraph (7) of subsection a.
48 of this section under the conditions provided herein:

1 (1) The retired law enforcement officer shall make application
2 in writing to the Superintendent of State Police for approval to carry
3 a handgun for one year. An application for annual renewal shall be
4 submitted in the same manner.

5 (2) Upon receipt of the written application of the retired law
6 enforcement officer, the superintendent shall request a verification
7 of service from the chief law enforcement officer of the
8 organization in which the retired officer was last regularly
9 employed as a full-time law enforcement officer prior to retiring.
10 The verification of service shall include:

11 (a) The name and address of the retired officer;

12 (b) The date that the retired officer was hired and the date that
13 the officer retired;

14 (c) A list of all handguns known to be registered to that officer;

15 (d) A statement that, to the reasonable knowledge of the chief
16 law enforcement officer, the retired officer is not subject to any of
17 the restrictions set forth in subsection c. of N.J.S.2C:58-3; and

18 (e) A statement that the officer retired in good standing.

19 (3) If the superintendent approves a retired officer's application
20 or reapplication to carry a handgun pursuant to the provisions of
21 this subsection, the superintendent shall notify in writing the chief
22 law enforcement officer of the municipality wherein that retired
23 officer resides. In the event the retired officer resides in a
24 municipality which has no chief law enforcement officer or law
25 enforcement agency, the superintendent shall maintain a record of
26 the approval.

27 (4) The superintendent shall issue to an approved retired officer
28 an identification card permitting the retired officer to carry a
29 handgun pursuant to this subsection. This identification card shall
30 be valid for one year from the date of issuance and shall be valid
31 throughout the State. The identification card shall not be
32 transferable to any other person. The identification card shall be
33 carried at all times on the person of the retired officer while the
34 retired officer is carrying a handgun. The retired officer shall
35 produce the identification card for review on the demand of any law
36 enforcement officer or authority.

37 (5) Any person aggrieved by the denial of the superintendent of
38 approval for a permit to carry a handgun pursuant to this subsection
39 may request a hearing in the Superior Court of New Jersey in the
40 county in which he resides by filing a written request for such a
41 hearing within 30 days of the denial. Copies of the request shall be
42 served upon the superintendent and the county prosecutor. The
43 hearing shall be held within 30 days of the filing of the request, and
44 no formal pleading or filing fee shall be required. Appeals from the
45 determination of such a hearing shall be in accordance with law and
46 the rules governing the courts of this State.

47 (6) A judge of the Superior Court may revoke a retired officer's
48 privilege to carry a handgun pursuant to this subsection for good

1 cause shown on the application of any interested person. A person
2 who becomes subject to any of the disabilities set forth in
3 subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the
4 superintendent, his identification card issued under paragraph (4) of
5 this subsection to the chief law enforcement officer of the
6 municipality wherein he resides or the superintendent, and shall be
7 permanently disqualified to carry a handgun under this subsection.

8 (7) The superintendent may charge a reasonable application fee
9 to retired officers to offset any costs associated with administering
10 the application process set forth in this subsection.

11 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
12 to prevent duly authorized personnel of the New Jersey Division of
13 Fish and Wildlife, while in the actual performance of duties, from
14 possessing, transporting or using any device that projects, releases
15 or emits any substance specified as being non-injurious to wildlife
16 by the Director of the Division of Animal Health in the Department
17 of Agriculture, and which may immobilize wildlife and produces
18 only temporary physical discomfort through being vaporized or
19 otherwise dispensed in the air for the purpose of repelling bear or
20 other animal attacks or for the aversive conditioning of wildlife.

21 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall
22 be construed to prevent duly authorized personnel of the New
23 Jersey Division of Fish and Wildlife, while in the actual
24 performance of duties, from possessing, transporting or using hand
25 held pistol-like devices, rifles or shotguns that launch pyrotechnic
26 missiles for the sole purpose of frightening, hazing or aversive
27 conditioning of nuisance or depredating wildlife; from possessing,
28 transporting or using rifles, pistols or similar devices for the sole
29 purpose of chemically immobilizing wild or non-domestic animals;
30 or, provided the duly authorized person complies with the
31 requirements of subsection j. of this section, from possessing,
32 transporting or using rifles or shotguns, upon completion of a Police
33 Training Commission approved training course, in order to dispatch
34 injured or dangerous animals or for non-lethal use for the purpose
35 of frightening, hazing or aversive conditioning of nuisance or
36 depredating wildlife.

37 (cf: P.L.2007, c.314, s.1)

38

39 2. This act shall take effect immediately.

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STATEMENT

43

44 This bill provides that while on duty, local health inspectors and
45 building inspectors may carry cans of pepper spray, or other types
46 of similar chemical vapor devices used for self defense, of the size
47 carried by law enforcement.

1 Current law provides that a person 18 years of age or older, who
2 has not been convicted of a crime, may possess a small, pocket-
3 sized device capable of spraying a non-lethal chemical substance
4 which causes temporary physical discomfort. The law limits the
5 size of the device to one which releases not more than three-
6 quarters of an ounce. This bill would remove the size limitation on
7 the device for local health inspectors and building inspectors when
8 they are in the actual performance of their duties. The bill specifies
9 that the devices may not be any larger than those typically used by
10 law enforcement personnel.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4485

STATE OF NEW JERSEY

DATED: JANUARY 9, 2014

The Assembly Budget Committee reports favorably Assembly Bill No. 4485.

This bill permits local health inspectors and building inspectors to carry cans of pepper spray or other types of similar chemical vapor devices used for self defense while on duty. The bill limits the size of the device to the size carried by law enforcement.

Under current law, a person 18 years of age or older, who has not been convicted of a crime, may possess a small, pocket-sized device capable of spraying a non-lethal chemical substance which causes temporary physical discomfort. The current law limits the size of the device to one which releases not more than three-quarters of an ounce.

This bill removes the size limitation on the device for local health inspectors and building inspectors when they are in the actual performance of their duties. The bill specifies that the devices may not be any larger than those typically used by law enforcement personnel.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.