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RWH/CL

P.L. 2019, CHAPTER 166, *approved July 16, 2019*
Assembly, No. 4449

1 AN ACT concerning firearms and amending N.J.S.2C:39-10.

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:39-10 is amended to read as follows:

7 2C:39-10. Violation of the regulatory provisions relating to
8 firearms; false representation in applications.

9 a. (1) Except as otherwise provided in paragraph (2) and
10 paragraph (4) of this subsection, any person who knowingly violates
11 the regulatory provisions relating to manufacturing or wholesaling
12 of firearms N.J.S.2C:58-1, retailing of firearms N.J.S.2C:58-2,
13 permits to purchase certain firearms N.J.S.2C:58-3, permits to carry
14 certain firearms N.J.S.2C:58-4, licenses to procure machine guns or
15 assault firearms N.J.S.2C:58-5, or incendiary or tracer ammunition
16 N.J.S.2C:58-10, except acts which are punishable under section
17 N.J.S.2C:58-5 or section N.J.S.2C:58-2, is guilty of a crime of the
18 fourth degree.

19 (2) A licensed dealer who knowingly violates the provisions of
20 subparagraph (d) of paragraph (5) of subsection a. of N.J.S.2C:58-2
21 is a disorderly person.

22 (3) If, upon review, a law enforcement agency determines that a
23 licensed dealer has sold, transferred, assigned, or otherwise
24 disposed of an inordinate number of firearms and that licensed
25 dealer knew, or should have known, that the firearms would be used
26 in the commission of a crime or would be transferred to a person in
27 order for the firearms to be used for an unlawful purpose, that
28 dealer's license shall, after a hearing, be permanently revoked.

29 (4) A licensed dealer who sells or transfers a firearm to a person
30 knowing that person intends to sell, transfer, assign, or otherwise
31 dispose of that firearm to a person who is disqualified from
32 possessing a firearm under State or federal law is guilty of a crime
33 of the second degree. Notwithstanding any other provisions of law
34 to the contrary, the sentence imposed for a conviction under this
35 subsection shall include a mandatory minimum term of
36 imprisonment of 18 months, during which the defendant shall be
37 ineligible for parole; provided however, if the firearm was used in
38 the commission of a crime, the sentence imposed under this
39 subsection shall include a mandatory minimum term of
40 imprisonment of three years, during which the defendant shall be
41 ineligible for parole. Further, a person convicted under this

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 subsection shall be permanently disqualified from holding a retail
2 license under N.J.S.2C:58-2.

3 (5) A person who is disqualified from possessing a firearm
4 under State or federal law who knowingly solicits, persuades,
5 encourages, or entices a licensed dealer or other person to sell, give,
6 transfer, or assign a firearm to the disqualified person under
7 circumstances which the disqualified person knows would violate
8 State or federal law is guilty of a crime of the third degree.
9 Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a
10 conviction under this subsection shall not merge with a conviction
11 for any other criminal offense and the court shall impose separate
12 sentences upon a violation of this subsection and any other criminal
13 offense.

14 b. Any person who knowingly violates the regulatory
15 provisions relating to notifying the authorities of possessing certain
16 items of explosives N.J.S.2C:58-7, or of certain wounds
17 N.J.S.2C:58-8 is a disorderly person.

18 c. Any person who gives or causes to be given any false
19 information, or signs a fictitious name or address, in applying for a
20 firearms purchaser identification card, a permit to purchase a
21 handgun, a permit to carry a handgun, a permit to possess a machine
22 gun, a permit to possess an assault firearm, or in completing the
23 certificate or any other instrument required by law in purchasing or
24 otherwise acquiring delivery of any rifle, shotgun, handgun,
25 machine gun, or assault firearm or any other firearm, is guilty of a
26 crime of the third degree.

27 d. Any person who gives or causes to be given any false
28 information in registering an assault firearm pursuant to section 11
29 of P.L.1990, c.32 (C.2C:58-12) or in certifying that an assault
30 firearm was rendered inoperable pursuant to section 12 of P.L.1990,
31 c.32 (C.2C:58-13) commits a crime of the fourth degree.

32 e. Any person who knowingly sells, gives, transfers, assigns or
33 otherwise disposes of a firearm to a person who is under the age of
34 18 years, except as permitted in section 14 of P.L.1979, c.179
35 (C.2C:58-6.1), is guilty of a crime of the second degree.
36 Notwithstanding any other provision of law to the contrary, the
37 sentence imposed for a conviction under this subsection shall
38 include a mandatory minimum five-year term of imprisonment,
39 during which the defendant shall be ineligible for parole.

40 f. Unless the recipient is authorized to possess the handgun in
41 connection with the performance of official duties under the
42 provisions of N.J.S.2C:39-6, any person who knowingly sells,
43 gives, transfers, assigns or otherwise disposes of a handgun to a
44 person who is under the age of 21 years, except as permitted in
45 section 14 of P.L.1979, c.179 (C.2C:58-6.1), is guilty of a crime of
46 the third degree.

47 g. Any person who knowingly gives or causes to be given any
48 false information or knowingly engages in any other fraudulent

1 conduct in applying for an exemption to purchase more than one
2 handgun in a 30-day period in violation of the provisions of section
3 4 of P.L.2009, c.186 (C.2C:58-3.4) shall be guilty of a crime of the
4 third degree. The presumption of nonimprisonment set forth in
5 N.J.S.2C:44-1 shall not apply to persons convicted under the
6 provisions of this subsection.
7 (cf: P.L.2013, c.111, s.2)

8

9 2. This act shall take effect immediately.

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11

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STATEMENT

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14 This bill prohibits a person who is disqualified from possessing a
15 firearm from knowingly soliciting, persuading, encouraging, or
16 enticing a licensed dealer or other person to sell, give, transfer, or
17 assign a firearm to the disqualified person under circumstances that
18 would violate State or federal law. Under the bill, the disqualified
19 person would be guilty of a crime of the third degree, which is
20 punishable by a three-to-five year term of incarceration, a fine of up
21 to \$15,000, or both. The penalty established by the bill would not
22 merge with any other penalty under current law.

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26

27 Establishes crime of soliciting transfer of firearm by disqualified
28 person.

ASSEMBLY, No. 4449

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED SEPTEMBER 17, 2018

Sponsored by:

Assemblyman P. CHRISTOPHER TULLY

District 38 (Bergen and Passaic)

Assemblywoman LISA SWAIN

District 38 (Bergen and Passaic)

Senator TROY SINGLETON

District 7 (Burlington)

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Co-Sponsored by:

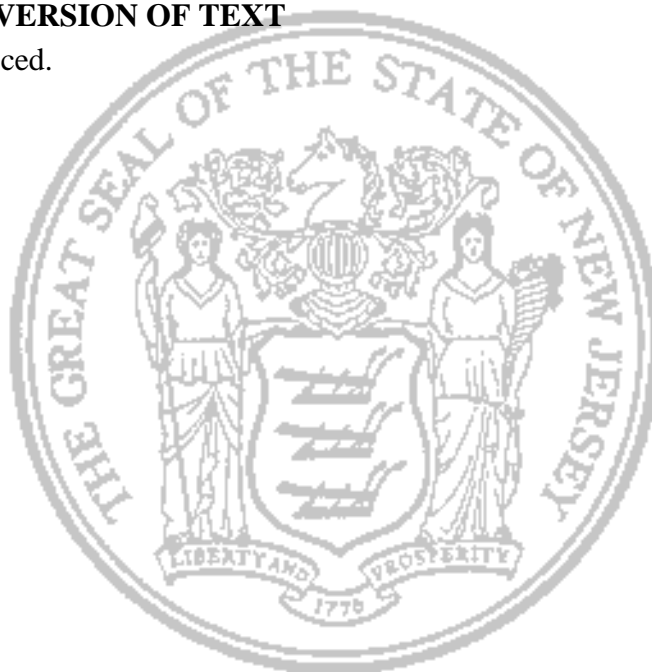
Assemblywoman Pinkin and Senator Ruiz

SYNOPSIS

Establishes crime of soliciting transfer of firearm by disqualified person.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning firearms and amending N.J.S.2C:39-10.

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:39-10 is amended to read as follows:

7 2C:39-10. Violation of the regulatory provisions relating to
8 firearms; false representation in applications.

9 a. (1) Except as otherwise provided in paragraph (2) and
10 paragraph (4) of this subsection, any person who knowingly violates
11 the regulatory provisions relating to manufacturing or wholesaling
12 of firearms N.J.S.2C:58-1, retailing of firearms N.J.S.2C:58-2,
13 permits to purchase certain firearms N.J.S.2C:58-3, permits to carry
14 certain firearms N.J.S.2C:58-4, licenses to procure machine guns or
15 assault firearms N.J.S.2C:58-5, or incendiary or tracer ammunition
16 N.J.S.2C:58-10, except acts which are punishable under section
17 N.J.S.2C:58-5 or section N.J.S.2C:58-2, is guilty of a crime of the
18 fourth degree.

19 (2) A licensed dealer who knowingly violates the provisions of
20 subparagraph (d) of paragraph (5) of subsection a. of N.J.S.2C:58-2
21 is a disorderly person.

22 (3) If, upon review, a law enforcement agency determines that a
23 licensed dealer has sold, transferred, assigned, or otherwise
24 disposed of an inordinate number of firearms and that licensed
25 dealer knew, or should have known, that the firearms would be used
26 in the commission of a crime or would be transferred to a person in
27 order for the firearms to be used for an unlawful purpose, that
28 dealer's license shall, after a hearing, be permanently revoked.

29 (4) A licensed dealer who sells or transfers a firearm to a person
30 knowing that person intends to sell, transfer, assign, or otherwise
31 dispose of that firearm to a person who is disqualified from
32 possessing a firearm under State or federal law is guilty of a crime
33 of the second degree. Notwithstanding any other provisions of law
34 to the contrary, the sentence imposed for a conviction under this
35 subsection shall include a mandatory minimum term of
36 imprisonment of 18 months, during which the defendant shall be
37 ineligible for parole; provided however, if the firearm was used in
38 the commission of a crime, the sentence imposed under this
39 subsection shall include a mandatory minimum term of
40 imprisonment of three years, during which the defendant shall be
41 ineligible for parole. Further, a person convicted under this
42 subsection shall be permanently disqualified from holding a retail
43 license under N.J.S.2C:58-2.

44 (5) A person who is disqualified from possessing a firearm
45 under State or federal law who knowingly solicits, persuades,

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 encourages, or entices a licensed dealer or other person to sell, give,
2 transfer, or assign a firearm to the disqualified person under
3 circumstances which the disqualified person knows would violate
4 State or federal law is guilty of a crime of the third degree.
5 Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a
6 conviction under this subsection shall not merge with a conviction
7 for any other criminal offense and the court shall impose separate
8 sentences upon a violation of this subsection and any other criminal
9 offense.

10 b. Any person who knowingly violates the regulatory
11 provisions relating to notifying the authorities of possessing certain
12 items of explosives N.J.S.2C:58-7, or of certain wounds
13 N.J.S.2C:58-8 is a disorderly person.

14 c. Any person who gives or causes to be given any false
15 information, or signs a fictitious name or address, in applying for a
16 firearms purchaser identification card, a permit to purchase a
17 handgun, a permit to carry a handgun, a permit to possess a machine
18 gun, a permit to possess an assault firearm, or in completing the
19 certificate or any other instrument required by law in purchasing or
20 otherwise acquiring delivery of any rifle, shotgun, handgun,
21 machine gun, or assault firearm or any other firearm, is guilty of a
22 crime of the third degree.

23 d. Any person who gives or causes to be given any false
24 information in registering an assault firearm pursuant to section 11
25 of P.L.1990, c.32 (C.2C:58-12) or in certifying that an assault
26 firearm was rendered inoperable pursuant to section 12 of P.L.1990,
27 c.32 (C.2C:58-13) commits a crime of the fourth degree.

28 e. Any person who knowingly sells, gives, transfers, assigns or
29 otherwise disposes of a firearm to a person who is under the age of
30 18 years, except as permitted in section 14 of P.L.1979, c.179
31 (C.2C:58-6.1), is guilty of a crime of the second degree.
32 Notwithstanding any other provision of law to the contrary, the
33 sentence imposed for a conviction under this subsection shall
34 include a mandatory minimum five-year term of imprisonment,
35 during which the defendant shall be ineligible for parole.

36 f. Unless the recipient is authorized to possess the handgun in
37 connection with the performance of official duties under the
38 provisions of N.J.S.2C:39-6, any person who knowingly sells,
39 gives, transfers, assigns or otherwise disposes of a handgun to a
40 person who is under the age of 21 years, except as permitted in
41 section 14 of P.L.1979, c.179 (C.2C:58-6.1), is guilty of a crime of
42 the third degree.

43 g. Any person who knowingly gives or causes to be given any
44 false information or knowingly engages in any other fraudulent
45 conduct in applying for an exemption to purchase more than one
46 handgun in a 30-day period in violation of the provisions of section
47 4 of P.L.2009, c.186 (C.2C:58-3.4) shall be guilty of a crime of the
48 third degree. The presumption of nonimprisonment set forth in

1 N.J.S.2C:44-1 shall not apply to persons convicted under the
2 provisions of this subsection.

3 (cf: P.L.2013, c.111, s.2)

4

5 2. This act shall take effect immediately.

6

7

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STATEMENT

9

10 This bill prohibits a person who is disqualified from possessing a
11 firearm from knowingly soliciting, persuading, encouraging, or
12 enticing a licensed dealer or other person to sell, give, transfer, or
13 assign a firearm to the disqualified person under circumstances that
14 would violate State or federal law. Under the bill, the disqualified
15 person would be guilty of a crime of the third degree, which is
16 punishable by a three-to-five year term of incarceration, a fine of up
17 to \$15,000, or both. The penalty established by the bill would not
18 merge with any other penalty under current law.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4449

STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4449.

This bill prohibits a person who is disqualified from possessing a firearm from knowingly soliciting, persuading, encouraging, or enticing a licensed dealer or other person to sell, give, transfer, or assign a firearm to the disqualified person under circumstances that would violate State or federal law. Under the bill, the disqualified person would be guilty of a crime of the third degree, which is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both. The penalty established by the bill would not merge with any other penalty under current law.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4449

STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4449.

Assembly Bill No. 4449 prohibits a person who is disqualified from possessing a firearm from knowingly soliciting, persuading, encouraging, or enticing a licensed dealer or other person to sell, give, transfer, or assign a firearm to the disqualified person under circumstances that would violate State or federal law. Under the bill, the disqualified person would be guilty of a crime of the third degree, which is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both. The penalty established by the bill would not merge with any other penalty under current law.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the bill is likely to increase State and local expenditures that arise from the investigation and prosecution of criminal behavior, and State correctional system expenditures, by indeterminate amounts. Increased State revenue from monetary penalties imposed upon conviction may also result. The OLS lacks pertinent data on the frequency of criminal behavior that would give rise to this fiscal impact, and thus has no basis for quantifying the bill's fiscal impact.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4449
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JUNE 25, 2019

SUMMARY

Synopsis: Establishes crime of soliciting transfer of firearm by disqualified person.

Type of Impact: Annual State expenditure and revenue increases; General Fund.

Agencies Affected: Department of Corrections; Department of Law and Public Safety; the Judiciary; Municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State and Local Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will result in indeterminate annual State and local expenditure increases by creating a new offense and making it a crime of the third degree for a disqualified person to knowingly solicit transfer and receive a firearm. The new offense may result in increased expenditures that may arise from the investigation and prosecution of criminal behavior, and State correctional system expenditures, by indeterminate amounts. The OLS lacks pertinent data on the frequency of criminal behavior to evaluate the fiscal impact, and thus has no basis for quantifying the bill's fiscal impact.
- The OLS estimates that the bill will also increase annual State revenue collections by an indeterminate amount from the imposition of increased criminal fines by the courts as well as the mandatory civil fines found under this bill. A crime of the third degree is punishable by a term of imprisonment of 3 to 5 years, a fine of up to \$15,000, or both. The OLS notes that these fines often go unpaid because of the financial constraints of those convicted.

BILL DESCRIPTION

This bill prohibits a person who is disqualified from owning a firearm from knowingly soliciting, persuading, encouraging, or enticing a licensed dealer or other person to sell, give, transfer, or assign a firearm to the disqualified person under circumstances that would violate

State or federal law. Under the bill, the disqualified person would be guilty of a crime of the third degree, which is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both. The penalty established by the bill would not merge with any other penalty under current law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will result in indeterminate annual State and local expenditure increases by creating a new offense and making it a crime of the third degree to knowingly transfer a firearm to a disqualified person. The new offense may result in increased expenditures that may arise from the investigation and prosecution of criminal behavior, and State correctional system expenditures, by indeterminate amounts. The OLS lacks pertinent data on the frequency of criminal behavior to evaluate the fiscal impact, and thus has no basis for quantifying the bill's fiscal impact.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the Department of Corrections (DOC) to potentially incarcerate repeat violators of the new offense and possibly to the Department of Law and Public Safety (DLPS) and the Judiciary from the additional workload created when persons are charged with crimes of the third degree.

The OLS cannot project the number of future prosecutions, trials, and incarcerations related to the crime established by the bill. According to information obtained from the DOC, the average annual per capita cost to house an inmate in a State prison facility during FY 2019 totals \$50,191. However, the OLS notes that because the DOC is currently experiencing a reduction in the State sentenced prison population, the department should be able to house these additional inmates within its current institutional facilities, incurring a much lower marginal cost of \$8.60 per day or \$3,139 annually per inmate, for food, wages, and clothing.

Revenue Increases: Additional indeterminate annual State revenue may accrue from fines and penalty payments from convicted violators of the new statutory provisions. The OLS cannot determine the number of convictions under the bill's newly created crime and, by extension, the total of any subsequent fine or penalty assessment collections. The OLS additionally notes that due to financial constraints, many fines and penalties go unpaid by those persons convicted of crimes.

Section: Law and Public Safety

Analyst: Kristin Brunner Santos
Senior Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2808

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 27, 2018

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Co-Sponsored by:

Senator Ruiz

SYNOPSIS

Establishes crime of soliciting transfer of firearm by disqualified person.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning firearms and amending N.J.S.2C:39-10.

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:39-10 is amended to read as follows:

7 2C:39-10. Violation of the regulatory provisions relating to
8 firearms; false representation in applications.

9 a. (1) Except as otherwise provided in paragraph (2) and
10 paragraph (4) of this subsection, any person who knowingly violates
11 the regulatory provisions relating to manufacturing or wholesaling
12 of firearms N.J.S.2C:58-1, retailing of firearms N.J.S.2C:58-2,
13 permits to purchase certain firearms N.J.S.2C:58-3, permits to carry
14 certain firearms N.J.S.2C:58-4, licenses to procure machine guns or
15 assault firearms N.J.S.2C:58-5, or incendiary or tracer ammunition
16 N.J.S.2C:58-10, except acts which are punishable under section
17 N.J.S.2C:58-5 or section N.J.S.2C:58-2, is guilty of a crime of the
18 fourth degree.

19 (2) A licensed dealer who knowingly violates the provisions of
20 subparagraph (d) of paragraph (5) of subsection a. of N.J.S.2C:58-2
21 is a disorderly person.

22 (3) If, upon review, a law enforcement agency determines that a
23 licensed dealer has sold, transferred, assigned, or otherwise
24 disposed of an inordinate number of firearms and that licensed
25 dealer knew, or should have known, that the firearms would be used
26 in the commission of a crime or would be transferred to a person in
27 order for the firearms to be used for an unlawful purpose, that
28 dealer's license shall, after a hearing, be permanently revoked.

29 (4) A licensed dealer who sells or transfers a firearm to a person
30 knowing that person intends to sell, transfer, assign, or otherwise
31 dispose of that firearm to a person who is disqualified from
32 possessing a firearm under State or federal law is guilty of a crime
33 of the second degree. Notwithstanding any other provisions of law
34 to the contrary, the sentence imposed for a conviction under this
35 subsection shall include a mandatory minimum term of
36 imprisonment of 18 months, during which the defendant shall be
37 ineligible for parole; provided however, if the firearm was used in
38 the commission of a crime, the sentence imposed under this
39 subsection shall include a mandatory minimum term of
40 imprisonment of three years, during which the defendant shall be
41 ineligible for parole. Further, a person convicted under this
42 subsection shall be permanently disqualified from holding a retail
43 license under N.J.S.2C:58-2.

44 (5) A person who is disqualified from possessing a firearm under
45 State or federal law who knowingly solicits, persuades, encourages,

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 or entices a licensed dealer or other person to sell, give, transfer, or
2 assign a firearm to the disqualified person under circumstances
3 which the disqualified person knows would violate State or federal
4 law is guilty of a crime of the third degree. Notwithstanding the
5 provisions of N.J.S.2C:1-8 or any other law, a conviction under this
6 subsection shall not merge with a conviction for any other criminal
7 offense and the court shall impose separate sentences upon a
8 violation of this subsection and any other criminal offense.

9 b. Any person who knowingly violates the regulatory
10 provisions relating to notifying the authorities of possessing certain
11 items of explosives N.J.S.2C:58-7, or of certain wounds
12 N.J.S.2C:58-8 is a disorderly person.

13 c. Any person who gives or causes to be given any false
14 information, or signs a fictitious name or address, in applying for a
15 firearms purchaser identification card, a permit to purchase a
16 handgun, a permit to carry a handgun, a permit to possess a machine
17 gun, a permit to possess an assault firearm, or in completing the
18 certificate or any other instrument required by law in purchasing or
19 otherwise acquiring delivery of any rifle, shotgun, handgun,
20 machine gun, or assault firearm or any other firearm, is guilty of a
21 crime of the third degree.

22 d. Any person who gives or causes to be given any false
23 information in registering an assault firearm pursuant to section 11
24 of P.L.1990, c.32 (C.2C:58-12) or in certifying that an assault
25 firearm was rendered inoperable pursuant to section 12 of P.L.1990,
26 c.32 (C.2C:58-13) commits a crime of the fourth degree.

27 e. Any person who knowingly sells, gives, transfers, assigns or
28 otherwise disposes of a firearm to a person who is under the age of
29 18 years, except as permitted in section 14 of P.L.1979, c.179
30 (C.2C:58-6.1), is guilty of a crime of the second degree.
31 Notwithstanding any other provision of law to the contrary, the
32 sentence imposed for a conviction under this subsection shall
33 include a mandatory minimum five-year term of imprisonment,
34 during which the defendant shall be ineligible for parole.

35 f. Unless the recipient is authorized to possess the handgun in
36 connection with the performance of official duties under the
37 provisions of N.J.S.2C:39-6, any person who knowingly sells,
38 gives, transfers, assigns or otherwise disposes of a handgun to a
39 person who is under the age of 21 years, except as permitted in
40 section 14 of P.L.1979, c.179 (C.2C:58-6.1), is guilty of a crime of
41 the third degree.

42 g. Any person who knowingly gives or causes to be given any
43 false information or knowingly engages in any other fraudulent
44 conduct in applying for an exemption to purchase more than one
45 handgun in a 30-day period in violation of the provisions of section
46 4 of P.L.2009, c.186 (C.2C:58-3.4) shall be guilty of a crime of the
47 third degree. The presumption of nonimprisonment set forth in

1 N.J.S.2C:44-1 shall not apply to persons convicted under the
2 provisions of this subsection.

3 (cf: P.L.2013, c.111, s.2)

4

5

6 2. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill prohibits a person who is disqualified from owning a
12 firearm from knowingly soliciting, persuading, encouraging, or
13 enticing a licensed dealer or other person to sell, give, transfer, or
14 assign a firearm to the disqualified person under circumstances that
15 would violate State or federal law. Under the bill, the disqualified
16 person would be guilty of a crime of the third degree, which is
17 punishable by a three-to-five year term of incarceration, a fine of up
18 to \$15,000, or both. The penalty established by the bill would not
19 merge with any other penalty under current law.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2808
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JUNE 26, 2019

SUMMARY

Synopsis: Establishes crime of soliciting transfer of firearm by disqualified person.

Type of Impact: Annual State expenditure and revenue increases; General Fund.

Agencies Affected: Department of Corrections; Department of Law and Public Safety; the Judiciary; Municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State and Local Expenditure Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will result in indeterminate annual State and local expenditure increases by creating a new offense and making it a crime of the third degree for a disqualified person to knowingly solicit transfer and receive a firearm. The new offense may result in increased expenditures that may arise from the investigation and prosecution of criminal behavior, and State correctional system expenditures, by indeterminate amounts. The OLS lacks pertinent data on the frequency of criminal behavior to evaluate the fiscal impact, and thus has no basis for quantifying the bill's fiscal impact.
- The OLS estimates that the bill will also increase annual State revenue collections by an indeterminate amount from the imposition of increased criminal fines by the courts as well as the mandatory civil fines found under this bill. A crime of the third degree is punishable by a term of imprisonment of 3 to 5 years, a fine of up to \$15,000, or both. The OLS notes that these fines often go unpaid because of the financial constraints of those convicted.

BILL DESCRIPTION

This bill prohibits a person who is disqualified from owning a firearm from knowingly soliciting, persuading, encouraging, or enticing a licensed dealer or other person to sell, give, transfer, or assign a firearm to the disqualified person under circumstances that would violate

State or federal law. Under the bill, the disqualified person would be guilty of a crime of the third degree, which is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both. The penalty established by the bill would not merge with any other penalty under current law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will result in indeterminate annual State and local expenditure increases by creating a new offense and making it a crime of the third degree for a disqualified person to knowingly solicit transfer and receive a firearm. The new offense may result in increased expenditures that may arise from the investigation and prosecution of criminal behavior, and State correctional system expenditures, by indeterminate amounts. The OLS lacks pertinent data on the frequency of criminal behavior to evaluate the fiscal impact, and thus has no basis for quantifying the bill's fiscal impact.

Expenditure Increases: The OLS estimates that the bill's provisions will produce indeterminate annual expenditure increases to the Department of Corrections (DOC) to potentially incarcerate repeat violators of the new offense and possibly to the Department of Law and Public Safety (DLPS) and the Judiciary from the additional workload created when persons are charged with crimes of the third degree.

The OLS cannot project the number of future prosecutions, trials, and incarcerations related to the crime established by the bill. According to information obtained from the DOC, the average annual per capita cost to house an inmate in a State prison facility during FY 2019 totals \$50,191. However, the OLS notes that because the DOC is currently experiencing a reduction in the State sentenced prison population, the department should be able to house these additional inmates within its current institutional facilities, incurring a much lower marginal cost of \$8.60 per day or \$3,139 annually per inmate, for food, wages, and clothing.

Revenue Increases: Additional indeterminate annual State revenue may accrue from fines and penalty payments from convicted violators of the new statutory provisions. The OLS cannot determine the number of convictions under the bill's newly created crime and, by extension, the total of any subsequent fine or penalty assessment collections. The OLS additionally notes that due to financial constraints, many fines and penalties go unpaid by those persons convicted of crimes.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Strengthens New Jersey's Gun Laws by Signing Safety Measures to Protect Residents

07/16/2019

BERKELEY HEIGHTS – Governor Phil Murphy today signed a package of commonsense gun safety bills that reaffirm New Jersey's commitment to institute the strongest gun laws in the nation. The bills, which are part of Gun Safety Package 2.0, follow a series of comprehensive gun safety laws signed by Governor Murphy in 2018. The four bills signed today will promote smart gun technology, expand the list of crimes that disqualify a person from gun ownership, strengthen anti-gun trafficking laws, and support suicide prevention efforts.

Governor Murphy also highlighted the importance of comprehensive ammunition reform and reinforced his support for a bill requiring identification to buy ammunition and registering sales with the State Police. The bill, which has already passed the Assembly, has yet to be advanced for a vote in the Senate.

"The scourge of gun violence is a pervasive problem that affects our entire nation," **said Governor Murphy**. "I am proud to work with our legislators to implement some of the toughest gun laws in the country to protect our residents and make our communities safer for all. We see the results of our work by having among the lowest rates of gun-related deaths nationwide. With every step, New Jersey is proving that commonsense gun safety laws work."

"The bills that Governor Murphy signed into law today give our law enforcement officers new tools to keep firearms out of the hands of criminals and to combat illegal firearms trafficking," **said Attorney General Gurbir Grewal**. "As New Jersey's chief law enforcement officer, I am committed to using these laws to protect the public and law enforcement from the continuing epidemic of gun violence. Our message to gun traffickers, distributors, and even manufacturers has been clear from day one: we will hold you accountable when you violate our laws."

The Governor signed the following four bills into law:

- **S101 (Weinberg, Codey/Johnson, Vainieri Huttie, Wimberly)** - Establishes commission to approve personalized handguns; requires firearm retailers to sell personalized handguns.
- **S3897 (Weinberg, Greenstein/Greenwald, Reynolds-Jackson)** - Criminalizes purchase, transfer, or possession of certain weapons and ammunition by persons convicted of certain crimes; establishes crime of transferring or possessing firearm without serial number.
- **A4449 (Tully, Swain/Singleton, O'Scanlon)** - Establishes crime of soliciting transfer of firearm by disqualified person.
- **A3896 (Downey, Houghtaling, Schaer/Cryan)** - Requires AG and Commissioner of Health to establish suicide prevention training course and informational materials for firearm retail dealers.

"I am glad to have joined Governor Murphy and Assembly Majority Leader Lou Greenwald in combatting the gun violence crisis in our state and in our country," **said Senate Majority Leader Loretta Weinberg**. "We can't wait around for national action, we have to do what we can now to make our communities safer. This is why we created this responsible gun safety legislation and why we will continue to fight for even greater measures in the future."

"We know that access to lethal means of suicide – especially firearms – result in higher rates of death, especially among young people," **said Senator Joe Cryan**. "Almost 60 percent of all violent deaths are by suicide and the most common method is by self-inflicted gunshot. This tragic loss of life can and must be addressed with actions that focus on prevention. This new law will develop suicide prevention materials that will be put into the hands of gun dealers and those who operate shooting ranges and used to create training courses that promote safety. This is a proactive way to save lives."

"If someone has been banned from owning a firearm, it is for a legitimate reason – they could be a danger to themselves or others if they were to be armed," **said Senator Troy Singleton**. "This new law will further discourage dangerous individuals from attempting to obtain a firearm unlawfully."

"New Jersey has done a lot to address the national epidemic of gun violence," **said Senator Richard Codey**. "Technology will now allow us to sell personalized handguns that will only shoot if they are in the hands of the owner. This is a major achievement that will enable us to do more to curb gun violence in New Jersey. We should use

this technology to help keep citizens safe from the dangers of handguns in the hands of those who are a threat to themselves or others. I applaud the governor for signing this into law.”

“We must do everything we can to crack down on the illegal gun market and the possession of unmarked guns,” **said Senator Linda Greenstein**. “This legislation will ensure we are not only punishing the individuals manufacturing unmarked guns but also those facilitating their distribution or purchasing them.”

“Balancing gun rights and reasonable, effective restrictions is a goal we must strive to attain,” **said Senator Declan O'Scanlon**. “This new law will serve as a deterrent that will prevent people who are disqualified from owning or purchasing a firearm in New Jersey from trying to circumvent our state's stringent permitting and background check processes.”

“We've seen far too many senseless deaths because of handguns accidentally getting in the hands of children. The technology exists to curb this possibility,” **said Assemblyman Gordon Johnson**. “Current law is intended to encourage the development of smart gun technology, but the prohibition on other handguns has, in effect, restricted consumer access to personalized handguns. This legislation will help our state to create a reasonable approach to improving gun safety, especially for children.”

“Smart gun technology was created to increase the safety of our children and others when someone's firearm falls into the wrong hands,” **said Assemblywoman Valerie Vainieri Huttle**. “This legislation gets New Jersey ready for the increased development and availability of childproof handguns. It ensures handgun owners have access to personalized firearm options that would be available in other states.”

“Personalized handguns mean improved gun safety for owners and their families,” **said Assemblyman Benjie Wimberly**. “We can reduce unnecessary gun violence involving children with smart steps such as preparing for this new technology.”

“Since the tragedy in Sandy Hook, we have revised our laws in New Jersey, restricting large capacity weapons and ghost guns from getting into the wrong hands, to reduce the scourge of gun violence plaguing our cities,” **said Assembly Majority Leader Lou Greenwald**. “To address the mental health aspect of gun violence, we engaged our community and hospital partners to help victims and their families work through their trauma and break the cycle of violence. These new bills will ensure that law enforcement, state entities, and gun store owners will work together to reduce gun crimes and gun trafficking in our communities.”

“More than a thousand New Jersey residents are shot every year,” **said Assemblywoman Verlina Reynolds-Jackson**. “By requiring gun owners to have firearm IDs, we will be able to find out how these guns are getting into the hands of criminals by tracking each gun and all ammo to the point of sale.”

“Guns move far too easily between states through gun trafficking and unlawful straw purchases,” **said Assemblyman Chris Tully**. “No one should purchase a firearm to sell to an individual who is unqualified for a gun license.”

“Gun violence in our communities has claimed too many lives,” **said Assemblywoman Lisa Swain**. “Stronger regulations on straw purchasing in New Jersey can help keep firearms out of the wrong hands. This bill along with the other gun violence prevention measures which cleared the Assembly will work together to end this practice.”

“In 2016, over one third of all gun deaths in New Jersey were suicides,” **said Assemblywoman Joann Downey**. “That's an incredibly alarming number, and it's time for us to take action. Educating firearm dealers on suicide prevention and distributing informational materials at gun ranges and firearm retail stores will hopefully raise awareness and prevent future crises.”

“As we work to combat suicide in our state, it's important that we encourage firearm retailers to recognize the signs of someone in trouble,” **said Assemblyman Eric Houghtaling**. “It may be enough to save someone's life, and help them get the assistance they need.”

“Providing suicide prevention training to firearm retailers creates the opportunity for intervention before these preventable tragedies occur,” **said Assemblyman Gary Schaer**. “In 2016, almost 200 people used a firearm to take their own lives in New Jersey. If this training is able to help just one person, it will be an unqualified success for the people of New Jersey.”

“Under Governor Murphy, New Jersey once again is strengthening our gun violence prevention laws and, unlike Washington, is committed to advancing real reforms to confront this crisis,” **said Bill Castner, Senior Advisor to the Governor on Gun Safety**.

New Jersey has long been a leader in gun violence prevention, and today is no different,” **said Brett Sabo, volunteer with the New Jersey chapter of Moms Demand Action for Gun Sense in America**. “We applaud Governor Murphy and the legislature for their ongoing commitment to reduce gun violence in all its complex forms.”

