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LAW/RWH

SENATE, No. 1304

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 21, 2008

Sponsored by:

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

Co-Sponsored by:

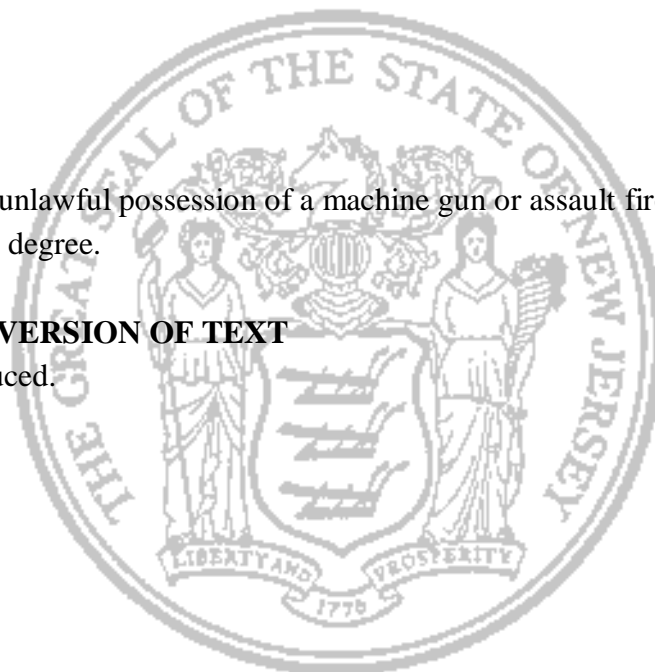
Senators Gordon, Stack, Assemblywomen Wagner and Greenstein

SYNOPSIS

Upgrades unlawful possession of a machine gun or assault firearm to a crime of the second degree.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/16/2008)

S1304 GIRGENTI, TURNER

2

1 AN ACT concerning machine guns and assault firearms and
2 amending N.J.S.2C:39-5.

3

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

6

7 1. N.J.S.2C:39-5 is amended to read as follows:

8 2C:39-5. a. Machine guns. Any person who knowingly has in
9 his possession a machine gun or any instrument or device adaptable
10 for use as a machine gun, without being licensed to do so as
11 provided in N.J.S.2C:58-5, is guilty of a crime of the **[third]** second
12 degree.

13 b. Handguns. Any person who knowingly has in his possession
14 any handgun, including any antique handgun, without first having
15 obtained a permit to carry the same as provided in N.J.S.2C:58-4, is
16 guilty of a crime of the third degree if the handgun is in the nature
17 of an air gun, spring gun or pistol or other weapon of a similar
18 nature in which the propelling force is a spring, elastic band, carbon
19 dioxide, compressed or other gas or vapor, air or compressed air, or
20 is ignited by compressed air, and ejecting a bullet or missile smaller
21 than three-eighths of an inch in diameter, with sufficient force to
22 injure a person. Otherwise it is a crime of the second degree.

23 c. Rifles and shotguns. (1) Any person who knowingly has in
24 his possession any rifle or shotgun without having first obtained a
25 firearms purchaser identification card in accordance with the
26 provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

27 (2) Unless otherwise permitted by law, any person who
28 knowingly has in his possession any loaded rifle or shotgun is
29 guilty of a crime of the third degree.

30 d. Other weapons. Any person who knowingly has in his
31 possession any other weapon under circumstances not manifestly
32 appropriate for such lawful uses as it may have is guilty of a crime
33 of the fourth degree.

34 e. Firearms or other weapons in educational institutions.

35 (1) Any person who knowingly has in his possession any
36 firearm in or upon any part of the buildings or grounds of any
37 school, college, university or other educational institution, without
38 the written authorization of the governing officer of the institution,
39 is guilty of a crime of the third degree, irrespective of whether he
40 possesses a valid permit to carry the firearm or a valid firearms
41 purchaser identification card.

42 (2) Any person who knowingly possesses any weapon
43 enumerated in paragraphs (3) and (4) of subsection r. of
44 N.J.S.2C:39-1 or any components which can readily be assembled
45 into a firearm or other weapon enumerated in subsection r. of

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 N.J.S.2C:39-1 or any other weapon under circumstances not
2 manifestly appropriate for such lawful use as it may have, while in
3 or upon any part of the buildings or grounds of any school, college,
4 university or other educational institution without the written
5 authorization of the governing officer of the institution is guilty of a
6 crime of the fourth degree.

7 (3) Any person who knowingly has in his possession any
8 imitation firearm in or upon any part of the buildings or grounds of
9 any school, college, university or other educational institution,
10 without the written authorization of the governing officer of the
11 institution, or while on any school bus is a disorderly person,
12 irrespective of whether he possesses a valid permit to carry a
13 firearm or a valid firearms purchaser identification card.

14 f. Assault firearms. Any person who knowingly has in his
15 possession an assault firearm is guilty of a crime of the **[third]**
16 second degree except if the assault firearm is licensed pursuant to
17 N.J.S.2C:58-5; registered pursuant to section 11 of P.L.1990, c.32
18 (C.2C:58-12); or rendered inoperable pursuant to section 12 of
19 P.L.1990, c.32 (C.2C:58-13).

20 g. (1) The temporary possession of a handgun, rifle or shotgun
21 by a person receiving, possessing, carrying or using the handgun,
22 rifle, or shotgun under the provisions of section 1 of P.L.1992, c.74
23 (C.2C:58-3.1) shall not be considered unlawful possession under
24 the provisions of subsection b. or c. of this section.

25 (2) The temporary possession of a firearm by a person receiving,
26 possessing, carrying or using the firearm under the provisions of
27 section 1 of P.L.1997, c.375 (C.2C:58-3.2) shall not be considered
28 unlawful possession under the provisions of this section.

29 h. A person who is convicted of a crime under subsection a., b.
30 or f. of this section shall be ineligible for participation in any
31 program of intensive supervision; provided, however, that this
32 provision shall not apply to a crime under subsection b. involving
33 only a handgun which is in the nature of an air gun, spring gun or
34 pistol or other weapon of a similar nature in which the propelling
35 force is a spring, elastic band, carbon dioxide, compressed or other
36 gas or vapor, air or compressed air, or is ignited by compressed air,
37 and ejecting a bullet or missile smaller than three-eighths of an inch
38 in diameter, with sufficient force to injure a person.

39 i. A person convicted of violating subsection a., b. or f. of this
40 section shall be sentenced by the court to a term of imprisonment,
41 which shall include the imposition of a minimum term during which
42 the defendant shall be ineligible for parole, if the court finds that
43 the aggravating circumstance set forth in paragraph (5) of
44 subsection a. of N.J.S.2C:44-1 applies. The minimum term of
45 parole ineligibility shall be fixed at five years. The sentencing
46 court shall make a finding on the record as to whether the
47 aggravating circumstance set forth in paragraph (5) of subsection a.
48 of N.J.S.2C:44-1 applies, and the court shall presume that there is a

1 substantial likelihood that the defendant is involved in organized
2 criminal activity if there is a substantial likelihood that the
3 defendant is a member of an organization or group that engages in
4 criminal activity. The prosecution at the sentencing hearing shall
5 have the initial burden of producing evidence or information
6 concerning the defendant's membership in such an organization or
7 group.

8 (cf: P.L.2007, c.284, s.1)

9

10 2. This act shall take effect immediately.

11

12

13

STATEMENT

14

15 Under current law, any person who knowingly possesses a
16 machine gun without being licensed to do so is guilty of a crime of
17 the third degree. A crime of the third degree is punishable by three
18 to five years imprisonment, a fine of up to \$15,000, or both. Under
19 the provisions of this bill, the person would be guilty of a crime of
20 the second degree. A crime of the second degree is punishable by
21 five to 10 years imprisonment, a fine of up to \$150,000, or both.

22 Similarly, under current law a person who knowingly possesses
23 an assault firearm that is not licensed, registered or rendered
24 inoperable is guilty of a crime of the third degree. Under the
25 provisions of this bill, the person would be guilty of a crime of the
26 second degree.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1304

STATE OF NEW JERSEY

DATED: MARCH 6, 2008

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably Senate Bill No. 1304.

Under current law, any person who knowingly possesses a machine gun without being licensed to do so is guilty of a crime of the third degree. A crime of the third degree is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. Under the provisions of this bill, the person would be guilty of a crime of the second degree. A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Similarly, under current law a person who knowingly possesses an assault firearm that is not licensed, registered or rendered inoperable is guilty of a crime of the third degree. Under the provisions of this bill, the person would be guilty of a crime of the second degree.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1304

STATE OF NEW JERSEY

DATED: OCTOBER 23, 2008

The Assembly Law and Public Safety Committee reports favorably Senate Bill No. 1304.

Under current law, any person who knowingly possesses a machine gun without being licensed to do so is guilty of a crime of the third degree. A crime of the third degree is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. Under the provisions of this bill, the person would be guilty of a crime of the second degree. A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Similarly, under current law a person who knowingly possesses an assault firearm that is not licensed, registered or rendered inoperable is guilty of a crime of the third degree. Under the provisions of this bill, the person would be guilty of a crime of the second degree.

As reported by the committee, this bill is identical to Assembly Bill No. 3276, also reported by the committee on this same date.

ASSEMBLY, No. 3276

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED OCTOBER 6, 2008

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

Co-Sponsored by:

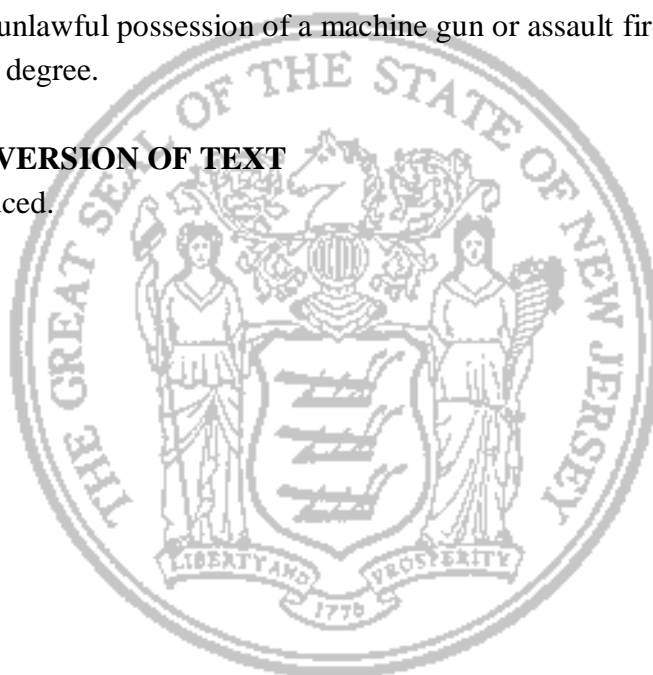
Assemblywomen Wagner, Greenstein and Rodriguez

SYNOPSIS

Upgrades unlawful possession of a machine gun or assault firearm to a crime of the second degree.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/27/2009)

A3276 VAINIERI HUTTLE, JOHNSON

2

1 AN ACT concerning machine guns and assault firearms and
2 amending N.J.S.2C:39-5.

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5 of New Jersey:

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11 provided in N.J.S.2C:58-5, is guilty of a crime of the **[third]** second
12 degree.

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14 any handgun, including any antique handgun, without first having
15 obtained a permit to carry the same as provided in N.J.S.2C:58-4, is
16 guilty of a crime of the third degree if the handgun is in the nature
17 of an air gun, spring gun or pistol or other weapon of a similar
18 nature in which the propelling force is a spring, elastic band, carbon
19 dioxide, compressed or other gas or vapor, air or compressed air, or
20 is ignited by compressed air, and ejecting a bullet or missile smaller
21 than three-eighths of an inch in diameter, with sufficient force to
22 injure a person. Otherwise it is a crime of the second degree.

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24 his possession any rifle or shotgun without having first obtained a
25 firearms purchaser identification card in accordance with the
26 provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

27 (2) Unless otherwise permitted by law, any person who
28 knowingly has in his possession any loaded rifle or shotgun is
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30 d. Other weapons. Any person who knowingly has in his
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34 e. Firearms or other weapons in educational institutions.

35 (1) Any person who knowingly has in his possession any
36 firearm in or upon any part of the buildings or grounds of any
37 school, college, university or other educational institution, without
38 the written authorization of the governing officer of the institution,
39 is guilty of a crime of the third degree, irrespective of whether he
40 possesses a valid permit to carry the firearm or a valid firearms
41 purchaser identification card.

42 (2) Any person who knowingly possesses any weapon
43 enumerated in paragraphs (3) and (4) of subsection r. of
44 N.J.S.2C:39-1 or any components which can readily be assembled

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 into a firearm or other weapon enumerated in subsection r. of
2 N.J.S.2C:39-1 or any other weapon under circumstances not
3 manifestly appropriate for such lawful use as it may have, while in
4 or upon any part of the buildings or grounds of any school, college,
5 university or other educational institution without the written
6 authorization of the governing officer of the institution is guilty of a
7 crime of the fourth degree.

8 (3) Any person who knowingly has in his possession any
9 imitation firearm in or upon any part of the buildings or grounds of
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12 institution, or while on any school bus is a disorderly person,
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14 firearm or a valid firearms purchaser identification card.

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16 possession an assault firearm is guilty of a crime of the **[third]**
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9 (cf: P.L.2007, c.284, s.1)

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STATEMENT

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27 second degree.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3276

STATE OF NEW JERSEY

DATED: OCTOBER 23, 2008

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 3276.

Under current law, any person who knowingly possesses a machine gun without being licensed to do so is guilty of a crime of the third degree. A crime of the third degree is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. Under the provisions of this bill, the person would be guilty of a crime of the second degree. A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

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As reported by the committee, this bill is identical to Senate Bill No. 1304, also reported by the committee on this same date.