

2C:39-1 et al.
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2018 **CHAPTER:** 138

NJSA: 2C:39-1 et al. (Establishes crimes of purchasing firearm parts to unlawfully manufacture firearms without a serial number, manufacturing or possessing covert or undetectable firearms, and manufacturing or facilitating the manufacture of firearms using a three-dimensional printer)

BILL NO: S2465 (Substituted for A3129)

SPONSOR(S) Cryan and others

DATE INTRODUCED: 4/12/2018

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Law & Public Safety
Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 10/29/2018

SENATE: 10/29/2018

DATE OF APPROVAL: 11/8/2018

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third Reprint enacted) Yes

S2465

SPONSOR'S STATEMENT: (Begins on page 5 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Judiciary
SENATE: Yes Law & Public Safety
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

A3129

SPONSOR'S STATEMENT: (Begins on page 5 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

(continued)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"'Ghost guns,' 3-D guns and other new-age firearms now illegal in NJ," northjersey.com, November 8, 2018

"'Ghost guns' now illegal in NJ amid push for safety," The Record, November 9, 2018

"New law puts ban on untraceable firearms Guns," The Times, November 9, 2018

"New law puts ban on untraceable firearms Ban Murphy's signing of bill comes on heels of nation's latest mass shooting," The South Jersey Times, November 9, 2018

"New law puts ban on untraceable firearms Guns," The Star-Ledger, November 9, 2018

"Murphy signs bill barring 'ghost guns' into law in NJ," Associated Press State Wire: New Jersey, November 8, 2018

RH/CL

P.L. 2018, CHAPTER 138, *approved November 8, 2018*
Senate, No. 2465 (*Third Reprint*)

1 AN ACT concerning ¹**[untraceable]**¹ firearms and amending
2 ²**[N.J.S.2C:39-9]** various parts of the statutory law².
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
6

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

8 2C:39-1. Definitions. The following definitions apply to this
9 chapter and to chapter 58:

10 a. "Antique firearm" means any rifle or shotgun and "antique
11 cannon" means a destructive device defined in paragraph (3) of
12 subsection c. of this section, if the rifle, shotgun or destructive device,
13 as the case may be, is incapable of being fired or discharged, or which
14 does not fire fixed ammunition, regardless of date of manufacture, or
15 was manufactured before 1898 for which cartridge ammunition is not
16 commercially available, and is possessed as a curiosity or ornament or
17 for its historical significance or value.

18 b. "Deface" means to remove, deface, cover, alter or destroy the
19 name of the maker, model designation, manufacturer's serial number
20 or any other distinguishing identification mark or number on any
21 firearm.

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

35 d. "Dispose of" means to give, give away, lease, loan, keep for
36 sale, offer, offer for sale, sell, transfer, or otherwise transfer
37 possession.

38 e. "Explosive" means any chemical compound or mixture that is
39 commonly used or is possessed for the purpose of producing an
40 explosion and which contains any oxidizing and combustible materials

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLP committee amendments adopted April 16, 2018.

²Assembly AJU committee amendments adopted September 17, 2018.

³Assembly floor amendments adopted September 27, 2018.

1 or other ingredients in such proportions, quantities or packing that an
2 ignition by fire, by friction, by concussion or by detonation of any part
3 of the compound or mixture may cause such a sudden generation of
4 highly heated gases that the resultant gaseous pressures are capable of
5 producing destructive effects on contiguous objects. The term shall not
6 include small arms ammunition, or explosives in the form prescribed
7 by the official United States Pharmacopoeia.

8 f. "Firearm" means any handgun, rifle, shotgun, machine gun,
9 automatic or semi-automatic rifle, or any gun, device or instrument in
10 the nature of a weapon from which may be fired or ejected any solid
11 projectable ball, slug, pellet, missile or bullet, or any gas, vapor or
12 other noxious thing, by means of a cartridge or shell or by the action of
13 an explosive or the igniting of flammable or explosive substances. It
14 shall also include, without limitation, any firearm which is in the
15 nature of an air gun, spring gun or pistol or other weapon of a similar
16 nature in which the propelling force is a spring, elastic band, carbon
17 dioxide, compressed or other gas or vapor, air or compressed air, or is
18 ignited by compressed air, and ejecting a bullet or missile smaller than
19 three-eighths of an inch in diameter, with sufficient force to injure a
20 person.

21 g. "Firearm silencer" means any instrument, attachment, weapon
22 or appliance for causing the firing of any gun, revolver, pistol or other
23 firearm to be silent, or intended to lessen or muffle the noise of the
24 firing of any gun, revolver, pistol or other firearm.

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

28 i. "Machine gun" means any firearm, mechanism or instrument
29 not requiring that the trigger be pressed for each shot and having a
30 reservoir, belt or other means of storing and carrying ammunition
31 which can be loaded into the firearm, mechanism or instrument and
32 fired therefrom. A machine gun also shall include, without limitation,
33 any firearm with a trigger crank attached.

34 j. "Manufacturer" means any person who receives or obtains raw
35 materials or parts and processes them into firearms or finished parts of
36 firearms, except a person who exclusively processes grips, stocks and
37 other nonmetal parts of firearms. The term does not include a person
38 who repairs existing firearms or receives new and used raw materials
39 or parts solely for the repair of existing firearms.

40 k. "Handgun" means any pistol, revolver or other firearm
41 originally designed or manufactured to be fired by the use of a single
42 hand.

43 l. "Retail dealer" means any person including a gunsmith, except
44 a manufacturer or a wholesale dealer, who sells, transfers or assigns
45 for a fee or profit any firearm or parts of firearms or ammunition
46 which he has purchased or obtained with the intention, or for the
47 purpose, of reselling or reassigning to persons who are reasonably
48 understood to be the ultimate consumers, and includes any person who

- 1 is engaged in the business of repairing firearms or who sells any
2 firearm to satisfy a debt secured by the pledge of a firearm.
- 3 m. "Rifle" means any firearm designed to be fired from the
4 shoulder and using the energy of the explosive in a fixed metallic
5 cartridge to fire a single projectile through a rifled bore for each single
6 pull of the trigger.
- 7 n. "Shotgun" means any firearm designed to be fired from the
8 shoulder and using the energy of the explosive in a fixed shotgun shell
9 to fire through a smooth bore either a number of ball shots or a single
10 projectile for each pull of the trigger, or any firearm designed to be
11 fired from the shoulder which does not fire fixed ammunition.
- 12 o. "Sawed-off shotgun" means any shotgun having a barrel or
13 barrels of less than 18 inches in length measured from the breech to
14 the muzzle, or a rifle having a barrel or barrels of less than 16 inches in
15 length measured from the breech to the muzzle, or any firearm made
16 from a rifle or a shotgun, whether by alteration, or otherwise, if such
17 firearm as modified has an overall length of less than 26 inches.
- 18 p. "Switchblade knife" means any knife or similar device which
19 has a blade which opens automatically by hand pressure applied to a
20 button, spring or other device in the handle of the knife.
- 21 q. "Superintendent" means the Superintendent of the State Police.
- 22 r. "Weapon" means anything readily capable of lethal use or of
23 inflicting serious bodily injury. The term includes, but is not limited
24 to, all (1) firearms, even though not loaded or lacking a clip or other
25 component to render them immediately operable; (2) components
26 which can be readily assembled into a weapon; (3) gravity knives,
27 switchblade knives, daggers, dirks, stilettos, or other dangerous knives,
28 billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots,
29 cesti or similar leather bands studded with metal filings or razor blades
30 imbedded in wood; and (4) stun guns; and any weapon or other device
31 which projects, releases, or emits tear gas or any other substance
32 intended to produce temporary physical discomfort or permanent
33 injury through being vaporized or otherwise dispensed in the air.
- 34 s. "Wholesale dealer" means any person, except a manufacturer,
35 who sells, transfers, or assigns firearms, or parts of firearms, to
36 persons who are reasonably understood not to be the ultimate
37 consumers, and includes persons who receive finished parts of
38 firearms and assemble them into completed or partially completed
39 firearms, in furtherance of such purpose, except that it shall not
40 include those persons dealing exclusively in grips, stocks and other
41 nonmetal parts of firearms.
- 42 t. "Stun gun" means any weapon or other device which emits an
43 electrical charge or current intended to temporarily or permanently
44 disable a person.
- 45 u. "Ballistic knife" means any weapon or other device capable of
46 lethal use and which can propel a knife blade.
- 47 v. "Imitation firearm" means an object or device reasonably
48 capable of being mistaken for a firearm.
- 49 w. "Assault firearm" means:

- 1 (1) The following firearms:
- 2 Algimec AGM1 type
- 3 Any shotgun with a revolving cylinder such as the "Street
- 4 Sweeper" or "Striker 12"
- 5 Armalite AR-180 type
- 6 Australian Automatic Arms SAR
- 7 Avtomat Kalashnikov type semi-automatic firearms
- 8 Beretta AR-70 and BM59 semi-automatic firearms
- 9 Bushmaster Assault Rifle
- 10 Calico M-900 Assault carbine and M-900
- 11 CETME G3
- 12 Chartered Industries of Singapore SR-88 type
- 13 Colt AR-15 and CAR-15 series
- 14 Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types
- 15 Demro TAC-1 carbine type
- 16 Encom MP-9 and MP-45 carbine types
- 17 FAMAS MAS223 types
- 18 FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms
- 19 Franchi SPAS 12 and LAW 12 shotguns
- 20 G3SA type
- 21 Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1
- 22 Intratec TEC 9 and 22 semi-automatic firearms
- 23 M1 carbine type
- 24 M14S type
- 25 MAC 10, MAC 11, MAC 11-9mm carbine type firearms
- 26 PJK M-68 carbine type
- 27 Plainfield Machine Company Carbine
- 28 Ruger K-Mini-14/5F and Mini-14/5RF
- 29 SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types
- 30 SKS with detachable magazine type
- 31 Spectre Auto carbine type
- 32 Springfield Armory BM59 and SAR-48 type
- 33 Sterling MK-6, MK-7 and SAR types
- 34 Steyr A.U.G. semi-automatic firearms
- 35 USAS 12 semi-automatic type shotgun
- 36 Uzi type semi-automatic firearms
- 37 Valmet M62, M71S, M76, or M78 type semi-automatic firearms
- 38 Weaver Arm Nighthawk.
- 39 (2) Any firearm manufactured under any designation which is
- 40 substantially identical to any of the firearms listed above.
- 41 (3) A semi-automatic shotgun with either a magazine capacity
- 42 exceeding six rounds, a pistol grip, or a folding stock.
- 43 (4) A semi-automatic rifle with a fixed magazine capacity
- 44 exceeding 10 rounds. "Assault firearm" shall not include a semi-
- 45 automatic rifle which has an attached tubular device and which is
- 46 capable of operating only with .22 caliber rimfire ammunition.
- 47 (5) A part or combination of parts designed or intended to convert
- 48 a firearm into an assault firearm, or any combination of parts from

1 which an assault firearm may be readily assembled if those parts are in
2 the possession or under the control of the same person.

3 (6) A firearm with a bump stock attached.

4 x. "Semi-automatic" means a firearm which fires a single
5 projectile for each single pull of the trigger and is self-reloading or
6 automatically chambers a round, cartridge, or bullet.

7 y. "Large capacity ammunition magazine" means a box, drum,
8 tube or other container which is capable of holding more than 10
9 rounds of ammunition to be fed continuously and directly therefrom
10 into a semi-automatic firearm. The term shall not include an attached
11 tubular device which is capable of holding only .22 caliber rimfire
12 ammunition.

13 z. "Pistol grip" means a well-defined handle, similar to that found
14 on a handgun, that protrudes conspicuously beneath the action of the
15 weapon, and which permits the shotgun to be held and fired with one
16 hand.

17 aa. "Antique handgun" means a handgun manufactured before
18 1898, or a replica thereof, which is recognized as being historical in
19 nature or of historical significance and either (1) utilizes a match,
20 friction, flint, or percussion ignition, or which utilizes a pin-fire
21 cartridge in which the pin is part of the cartridge or (2) does not fire
22 fixed ammunition or for which cartridge ammunition is not
23 commercially available.

24 bb. "Trigger lock" means a commercially available device
25 approved by the Superintendent of State Police which is operated with
26 a key or combination lock that prevents a firearm from being
27 discharged while the device is attached to the firearm. It may include,
28 but need not be limited to, devices that obstruct the barrel or cylinder
29 of the firearm, as well as devices that immobilize the trigger.

30 cc. "Trigger locking device" means a device that, if installed on a
31 firearm and secured by means of a key or mechanically, electronically
32 or electromechanically operated combination lock, prevents the
33 firearm from being discharged without first deactivating or removing
34 the device by means of a key or mechanically, electronically or
35 electromechanically operated combination lock.

36 dd. "Personalized handgun" means a handgun which incorporates
37 within its design, and as part of its original manufacture, technology
38 which automatically limits its operational use and which cannot be
39 readily deactivated, so that it may only be fired by an authorized or
40 recognized user. The technology limiting the handgun's operational
41 use may include, but not be limited to: radio frequency tagging, touch
42 memory, remote control, fingerprint, magnetic encoding and other
43 automatic user identification systems utilizing biometric, mechanical
44 or electronic systems. No make or model of a handgun shall be
45 deemed to be a "personalized handgun" unless the Attorney General
46 has determined, through testing or other reasonable means, that the
47 handgun meets any reliability standards that the manufacturer may
48 require for its commercially available handguns that are not
49 personalized or, if the manufacturer has no such reliability standards,

1 the handgun meets the reliability standards generally used in the
2 industry for commercially available handguns.

3 ee. "Bump stock" means any device or instrument for a firearm
4 that increases the rate of fire achievable with the firearm by using
5 energy from the recoil of the firearm to generate a reciprocating action
6 that facilitates repeated activation of the trigger.

7 ff. "Trigger crank" means any device or instrument to be attached
8 to a firearm that repeatedly activates the trigger of the firearm through
9 the use of a lever or other part that is turned in a circular motion;
10 provided, however, the term shall not include any weapon initially
11 designed and manufactured to fire through the use of a crank or lever.

12 gg. "Armor piercing ammunition" means: (1) a projectile or
13 projectile core which may be used in a handgun and is constructed
14 entirely, excluding the presence of traces of other substances, from one
15 or a combination of tungsten alloys, steel, iron, brass, bronze,
16 beryllium copper, or depleted uranium; or (2) a full jacketed projectile
17 larger than .22 caliber designed and intended for use in a handgun and
18 whose jacket has a weight of more than 25 percent of the total weight
19 of the projectile. "Armor piercing ammunition" shall not include
20 shotgun shot required by federal or State environmental or game
21 regulations for hunting purposes, a frangible projectile designed for
22 target shooting, a projectile which the United States Attorney General
23 finds is primarily intended to be used for sporting purposes, or any
24 other projectile or projectile core which the United States Attorney
25 General finds is intended to be used for industrial purposes, including
26 a charge used in an oil gas well perforating device.

27 hh. "Covert firearm" means any firearm that is constructed in a
28 shape or configuration such that it does not resemble a handgun, rifle,
29 shotgun, or machine gun including, but not limited to, a firearm that
30 resembles a key-chain, pen, cigarette lighter, cigarette package,
31 cellphone, smart phone, wallet, or cane.

32 ii. "Undetectable firearm" means a firearm³ [constructed entirely
33 of non-metal substances, or a firearm that does not include at least one
34 major component, such as the barrel, slide, cylinder, frame or receiver
35 of the firearm, that is made entirely of metal such that,] that: (1) after
36 removal of all parts other than major components, is not as detectable
37 as the Security Exemplar, by walk-through metal detectors calibrated
38 and operated to detect the Security Exemplar; or (2) includes a major
39 component which,³ if the firearm were subjected to inspection by the
40 types of detection devices commonly used at airports for security
41 screening, ³[it]³ would not generate an image that accurately depicts
42 the shape of the component.² ³"Undetectable firearm" shall not be
43 construed to include a firearm subject to the provisions of paragraphs
44 (3) through (6) of subsection (p) of 18 U.S.C. s.922.

45 jj. "Major component" means the slide or cylinder or the frame or
46 receiver of a firearm and, in the case of a rifle or shotgun, also includes
47 the barrel.

1 kk. “Security Exemplar” means the Security Exemplar fabricated
2 in accordance with subparagraph (C) of paragraph (2) of subsection (p)
3 of 18 U.S.C. s.922.³
4 (cf: P.L.2018, c.39, s.1)

5
6 ²2. N.J.S.2C:39-3 is amended to read as follows:

7 2C:39-3. Prohibited Weapons and Devices.

8 a. Destructive devices. Any person who knowingly has in his
9 possession any destructive device is guilty of a crime of the third
10 degree.

11 b. Sawed-off shotguns. Any person who knowingly has in his
12 possession any sawed-off shotgun is guilty of a crime of the third
13 degree.

14 c. Silencers. Any person who knowingly has in his possession
15 any firearm silencer is guilty of a crime of the fourth degree.

16 d. Defaced firearms. Any person who knowingly has in his
17 possession any firearm which has been defaced, except an antique
18 firearm or an antique handgun, is guilty of a crime of the fourth
19 degree.

20 e. Certain weapons. Any person who knowingly has in his
21 possession any gravity knife, switchblade knife, dagger, dirk,
22 stiletto, billy, blackjack, metal knuckle, sandclub, slingshot, cestus
23 or similar leather band studded with metal filings or razor blades
24 imbedded in wood, ballistic knife, without any explainable lawful
25 purpose, is guilty of a crime of the fourth degree.

26 f. Dum-dum or armor piercing ammunition. (1) Any person,
27 other than a law enforcement officer or persons engaged in
28 activities pursuant to subsection f. of N.J.S.2C:39-6, who
29 knowingly has in his possession any hollow nose or dum-dum
30 bullet, or (2) any person, other than a collector of firearms or
31 ammunition as curios or relics as defined in Title 18, United States
32 Code, section 921 (a) (13) and has in his possession a valid
33 Collector of Curios and Relics License issued by the Bureau of
34 Alcohol, Tobacco, Firearms, and Explosives, who knowingly has in
35 his possession any armor piercing ammunition as defined in
36 subsection gg. of N.J.S.2C:39-1 is guilty of a crime of the fourth
37 degree. For purposes of this section, a collector may possess not
38 more than three examples of each distinctive variation of the
39 ammunition described above. A distinctive variation includes a
40 different head stamp, composition, design, or color.

41 g. Exceptions. (1) Nothing in subsection a., b., c., d., e., f., j.
42 or k. of this section shall apply to any member of the Armed Forces
43 of the United States or the National Guard, or except as otherwise
44 provided, to any law enforcement officer while actually on duty or
45 traveling to or from an authorized place of duty, provided that his
46 possession of the prohibited weapon or device has been duly
47 authorized under the applicable laws, regulations or military or law
48 enforcement orders.

1 Nothing in subsection h. of this section shall apply to any law
2 enforcement officer who is exempted from the provisions of that
3 subsection by the Attorney General. Nothing in this section shall
4 apply to the possession of any weapon or device by a law
5 enforcement officer who has confiscated, seized or otherwise taken
6 possession of said weapon or device as evidence of the commission
7 of a crime or because he believed it to be possessed illegally by the
8 person from whom it was taken, provided that said law enforcement
9 officer promptly notifies his superiors of his possession of such
10 prohibited weapon or device.

11 (2) a. Nothing in subsection f. (1) shall be construed to prevent a
12 pers from keeping such ammunition at his dwelling, premises or
13 other land owned or possessed by him, or from carrying such
14 ammunition from the place of purchase to said dwelling or land, nor
15 shall subsection f. (1) be construed to prevent any licensed retail or
16 wholesale firearms dealer from possessing such ammunition at its
17 licensed premises, provided that the seller of any such ammunition
18 shall maintain a record of the name, age and place of residence of
19 any purchaser who is not a licensed dealer, together with the date of
20 sale and quantity of ammunition sold.

21 b. Nothing in subsection f.(1) shall be construed to prevent a
22 designated employee or designated licensed agent for a nuclear
23 power plant under the license of the Nuclear Regulatory
24 Commission from possessing hollow nose ammunition while in the
25 actual performance of his official duties, if the federal licensee
26 certifies that the designated employee or designated licensed agent
27 is assigned to perform site protection, guard, armed response or
28 armed escort duties and is appropriately trained and qualified, as
29 prescribed by federal regulation, to perform those duties.

30 (3) Nothing in paragraph (2) of subsection f. or in subsection j.
31 shall be construed to prevent any licensed retail or wholesale
32 firearms dealer from possessing that ammunition or large capacity
33 ammunition magazine at its licensed premises for sale or disposition
34 to another licensed dealer, the Armed Forces of the United States or
35 the National Guard, or to a law enforcement agency, provided that
36 the seller maintains a record of any sale or disposition to a law
37 enforcement agency. The record shall include the name of the
38 purchasing agency, together with written authorization of the chief
39 of police or highest ranking official of the agency, the name and
40 rank of the purchasing law enforcement officer, if applicable, and
41 the date, time and amount of ammunition sold or otherwise
42 disposed. A copy of this record shall be forwarded by the seller to
43 the Superintendent of the Division of State Police within 48 hours
44 of the sale or disposition.

45 (4) Nothing in subsection a. of this section shall be construed to
46 apply to antique cannons as exempted in subsection d. of
47 N.J.S.2C:39-6.

48 (5) Nothing in subsection c. of this section shall be construed to
49 apply to any person who is specifically identified in a special deer

1 management permit issued by the Division of Fish and Wildlife to
2 utilize a firearm silencer as part of an alternative deer control
3 method implemented in accordance with a special deer management
4 permit issued pursuant to section 4 of P.L.2000, c.46 (C.23:4-42.6),
5 while the person is in the actual performance of the permitted
6 alternative deer control method and while going to and from the
7 place where the permitted alternative deer control method is being
8 utilized. This exception shall not, however, otherwise apply to any
9 person to authorize the purchase or possession of a firearm silencer.

10 h. Stun guns. Any person who knowingly has in his possession
11 any stun gun is guilty of a crime of the fourth degree.

12 i. Nothing in subsection e. of this section shall be construed to
13 prevent any guard in the employ of a private security company, who
14 is licensed to carry a firearm, from the possession of a nightstick
15 when in the actual performance of his official duties, provided that
16 he has satisfactorily completed a training course approved by the
17 Police Training Commission in the use of a nightstick.

18 j. Any person who knowingly has in his possession a large
19 capacity ammunition magazine is guilty of a crime of the fourth
20 degree unless the person has registered: (1) an assault firearm
21 pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the
22 magazine is maintained and used in connection with participation in
23 competitive shooting matches sanctioned by the Director of Civilian
24 Marksmanship of the United States Department of the Army ; or

25 (2) a firearm with a fixed magazine capacity or detachable
26 magazine capable of holding up to 15 rounds pursuant to section 7
27 of P.L.2018, c.39 (C.2C:39-20).

28 k. Handcuffs. Any person who knowingly has in his
29 possession handcuffs as defined in P.L.1991, c.437 (C.2C:39-9.2),
30 under circumstances not manifestly appropriate for such lawful uses
31 as handcuffs may have, is guilty of a disorderly persons offense. A
32 law enforcement officer shall confiscate handcuffs possessed in
33 violation of the law.

34 l. Bump stock or trigger crank. Any person who knowingly
35 possesses a bump stock as defined in subsection ee. of N.J.S.2C:39-
36 1 or a trigger crank as defined in subsection ff. of N.J.S.2C:39-1,
37 regardless of whether the person is in possession of a firearm, is
38 guilty of a crime of the third degree.

39 Notwithstanding the provisions of N.J.S.2C:1-8 or any other
40 provision of law, a conviction arising out of this subsection shall
41 not merge with a conviction for possessing an assault firearm in
42 violation of subsection f. of N.J.S.2C:39-5 or a machine gun in
43 violation of subsection a. of N.J.S.2C:39-5 and a separate sentence
44 shall be imposed upon each conviction. Notwithstanding the
45 provisions of N.J.S.2C:44-5 or any other provisions of law, the
46 sentence imposed pursuant to this subsection shall be served
47 consecutively to that imposed for unlawfully possessing an assault
48 firearm in violation of subsection f. of N.J.S.2C:39-5.

1 m. Covert or undetectable firearms. Any person who
2 knowingly possesses any covert firearm as defined in subsection hh.
3 of N.J.S.2C:39-1, an undetectable firearm as defined in subsection
4 ii. of N.J.S.2C:39-1, or a firearm enclosed in a container or covering
5 that is designed or modified to allow the firearm to be fired while so
6 enclosed and that disguises or obscures the shape of the firearm
7 such that it does not resemble a handgun, rifle, shotgun, or machine
8 gun is guilty a crime of the third degree.²
9 (cf: P.L.2018, c.39, s.2).

10
11 ²[1.] 3.² N.J.S.2C:39-9 is amended to read as follows:

12 2C:39-9. Manufacture, Transport, Disposition and Defacement
13 of Weapons and Dangerous Instruments and Appliances. a.
14 Machine guns. Any person who manufactures, causes to be
15 manufactured, transports, ships, sells or disposes of any machine
16 gun without being registered or licensed to do so as provided in
17 chapter 58 ²of Title 2C of the New Jersey Statutes² is guilty of a
18 crime of the third degree.

19 b. Sawed-off shotguns. Any person who manufactures, causes
20 to be manufactured, transports, ships, sells or disposes of any
21 sawed-off shotgun is guilty of a crime of the third degree.

22 c. Firearm silencers. Any person who manufactures, causes to
23 be manufactured, transports, ships, sells or disposes of any firearm
24 silencer is guilty of a crime of the fourth degree.

25 d. Weapons. Any person who manufactures, causes to be
26 manufactured, transports, ships, sells or disposes of any weapon,
27 including gravity knives, switchblade knives, ballistic knives,
28 daggers, dirks, stilettos, billies, blackjacks, metal knuckles,
29 sandclubs, slingshots, cesti or similar leather bands studded with
30 metal filings, or, except as otherwise provided in subsection i. of
31 this section, in the case of firearms if he is not licensed or registered
32 to do so as provided in chapter 58 ²of Title 2C of the New Jersey
33 Statutes², is guilty of a crime of the fourth degree. Any person who
34 manufactures, causes to be manufactured, transports, ships, sells or
35 disposes of any weapon or other device which projects, releases or
36 emits tear gas or other substances intended to produce temporary
37 physical discomfort or permanent injury through being vaporized or
38 otherwise dispensed in the air, which is intended to be used for any
39 purpose other than for authorized military or law enforcement
40 purposes by duly authorized military or law enforcement personnel
41 or the device is for the purpose of personal self-defense, is pocket-
42 sized and contains not more than three-quarters of an ounce of
43 chemical substance not ordinarily capable of lethal use or of
44 inflicting serious bodily injury, or other than to be used by any
45 person permitted to possess such weapon or device under the
46 provisions of subsection d. of N.J.S.2C:39-5, which is intended for
47 use by financial and other business institutions as part of an
48 integrated security system, placed at fixed locations, for the

1 protection of money and property, by the duly authorized personnel
2 of those institutions, is guilty of a crime of the fourth degree.

3 e. Defaced firearms. Any person who defaces any firearm is
4 guilty of a crime of the third degree. Any person who knowingly
5 buys, receives, disposes of or conceals a defaced firearm, except an
6 antique firearm or an antique handgun, is guilty of a crime of the
7 fourth degree.

8 f. (1) Any person who manufactures, causes to be
9 manufactured, transports, ships, sell, or disposes of any ²bullet,
10 which is primarily designed for use in a handgun, and which is
11 comprised of a bullet whose core or jacket, if the jacket is thicker
12 than .025 of an inch, is made of tungsten carbide, or hard bronze, or
13 other material which is harder than a rating of 72 or greater on the
14 Rockwell B. Hardness Scale, and is therefore capable of breaching
15 or penetrating body armor and armor piercing ammunition as
16 defined in subsection gg. of N.J.S.2C:39-1² which is intended to be
17 used for any purpose other than for authorized military or law
18 enforcement purposes by duly authorized military or law
19 enforcement personnel, is guilty of a crime of the fourth degree.

20 (2) Nothing in this subsection shall be construed to prevent a
21 licensed collector of ammunition as defined in paragraph (2) of
22 subsection f. of N.J.S.2C:39-3 from transporting the bullets defined
23 in paragraph (1) of this subsection from (a) any licensed retail or
24 wholesale firearms dealer's place of business to the collector's
25 dwelling, premises, or other land owned or possessed by him, or (b)
26 to or from the collector's dwelling, premises or other land owned or
27 possessed by him to any gun show for the purposes of display, sale,
28 trade, or transfer between collectors, or (c) to or from the collector's
29 dwelling, premises or other land owned or possessed by him to any
30 rifle or pistol club organized in accordance with the rules prescribed
31 by the National Board for the Promotion of Rifle Practice; provided
32 that the club has filed a copy of its charter with the superintendent
33 of the State Police and annually submits a list of its members to the
34 superintendent, and provided further that the ammunition being
35 transported shall be carried not loaded in any firearm and contained
36 in a closed and fastened case, gun box, or locked in the trunk of the
37 automobile in which it is being transported, and the course of travel
38 shall include only such deviations as are reasonably necessary under
39 the circumstances.

40 g. Assault firearms. Any person who manufactures, causes to
41 be manufactured, transports, ships, sells or disposes of an assault
42 firearm without being registered or licensed to do so pursuant to
43 N.J.S.2C:58-1 et seq. is guilty of a crime of the third degree.

44 h. Large capacity ammunition magazines. Any person who
45 manufactures, causes to be manufactured, transports, ships, sells or
46 disposes of a large capacity ammunition magazine which is
47 intended to be used for any purpose other than for authorized
48 military or law enforcement purposes by duly authorized military or
49 law enforcement personnel is guilty of a crime of the fourth degree.

1 i. Transporting firearms into this State for an unlawful sale or
2 transfer. Any person who knowingly transports, ships or otherwise
3 brings into this State any firearm for the purpose of unlawfully
4 selling, transferring, giving, assigning or otherwise disposing of that
5 firearm to another individual is guilty of a crime of the second
6 degree. Any motor vehicle used by a person to transport, ship, or
7 otherwise bring a firearm into this State for unlawful sale or transfer
8 shall be subject to forfeiture in accordance with the provisions of
9 N.J.S.2C:64-1 et seq.; provided however, this forfeiture provision
10 shall not apply to innocent owners, nor shall it affect the rights of a
11 holder of a valid lien.

12 The temporary transfer of a firearm shall not constitute a
13 violation of this subsection if that firearm is transferred:

14 (1) while hunting or target shooting in accordance with the
15 provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1);

16 (2) for shooting competitions sponsored by a licensed dealer,
17 law enforcement agency, legally recognized military organization,
18 or a rifle or pistol club which has filed a copy of its charter with the
19 superintendent in accordance with the provisions of section 1 of
20 P.L.1992, c.74 (C.2C:58-3.1); or

21 (3) for participation in a training course conducted by a certified
22 instructor in accordance with the provisions of section 1 of
23 P.L.1997, c.375 (C.2C:58-3.2).

24 The transfer of any firearm that uses air or carbon dioxide to
25 expel a projectile; or the transfer of an antique firearm shall not
26 constitute a violation of this subsection.

27 j. Any person who manufactures, causes to be manufactured,
28 transports, ships, sells, or disposes of a bump stock as defined in
29 subsection ee. of N.J.S.2C:39-1 or a trigger crank as defined in
30 subsection ff. of N.J.S.2C:39-1 is guilty of a crime of the third
31 degree.

32 k. Purchasing firearm parts to manufacture ¹[untraceable] a¹
33 firearm ¹without a serial number¹. In addition to any other
34 ¹[penalty imposed] criminal penalties provided¹ under ¹[current]¹
35 law, a person who ¹, with the purpose to manufacture ²or otherwise
36 assemble² a firearm and without being registered or licensed do so
37 as provided in chapter 58 of Title 2C of the New Jersey Statutes,¹
38 purchases ¹or otherwise obtains¹ separately or as ¹part of¹ a kit ¹a
39 firearm frame or firearm receiver which is not imprinted with a
40 serial number registered with a federally licensed manufacturer or¹
41 any combination of parts from which a firearm ¹without a serial
42 number¹ may be readily ¹[assembled with the purpose to
43 manufacture an untraceable firearm] manufactured ²or otherwise
44 assembled², but which does not have the capacity to function as a
45 firearm unless manufactured¹ ²or otherwise assembled² is guilty of
46 a crime of the third degree. Notwithstanding the provisions of
47 N.J.S.2C:1-8 or any other law, a conviction under this subsection
48 shall not merge with a conviction for any other criminal offense and

1 the court shall impose separate sentences upon a violation of this
2 subsection and any other criminal offense.

3 As used in this subsection, ¹["untraceable firearm" means an
4 unlawfully manufactured firearm for which the sale or distribution
5 chain from a licensed retailer to the point of its first retail sale
6 cannot be traced by law enforcement officials] "firearm frame or
7 firearm receiver" means the part of a firearm that provides housing
8 for the firearm's internal components, such as the hammer, bolt or
9 breechblock, action, and firing mechanism^{1 2}, and includes without
10 limitation any object or part which is not a firearm frame or receiver
11 in finished form but is designed or intended to be used for that
12 purpose and which may readily be made into a firearm frame or
13 receiver through milling or other means².

14 ²1. Manufacturing or facilitating the manufacture of a firearm
15 using a three-dimensional printer. In addition to any other criminal
16 penalties provided under law it is a third degree crime for:

17 (1) a person who is not registered or licensed to do so as a
18 manufacturer as provided in chapter 58 of Title 2C of the New
19 Jersey Statutes, to use a three-dimensional printer or similar device
20 to manufacture or produce a firearm, firearm receiver, magazine, or
21 firearm component; or

22 (2) a person to distribute by any means, including the Internet,
23 to a person in New Jersey who is not registered or licensed as a
24 manufacturer as provided in chapter 58 of Title 2C of the New
25 Jersey Statutes, digital instructions in the form of computer-aided
26 design files or other code or instructions stored and displayed in
27 electronic format as a digital model that may be used to program a
28 three-dimensional printer to manufacture or produce a firearm,
29 firearm receiver, magazine, or firearm component.

30 As used in this subsection: "three-dimensional printer" means a
31 computer or computer-driven machine or device capable of
32 producing a three-dimensional object from a digital model; and
33 "distribute" means to sell, or to manufacture, give, provide, lend,
34 trade, mail, deliver, publish, circulate, disseminate, present, exhibit,
35 display, share, advertise, offer, or make available via the Internet or
36 by any other means, whether for pecuniary gain or not, and includes
37 an agreement or attempt to distribute.

38 m. Covert or undetectable firearms. Any person who
39 manufactures, causes to be manufactured, transports, ships, sells or
40 disposes of any covert firearm as defined in subsection hh. of
41 N.J.S.2C:39-1 or any undetectable firearm as defined in subsection
42 ii. of N.J.S.2C:39-1 is guilty of a crime of the third degree.²

43 (cf: P.L.2018, c.38, s.3)

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45 ²[2.] 4.² This act shall take effect immediately.

S2465 [3R]

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Establishes crimes of purchasing firearm parts to unlawfully manufacture firearms without a serial number, manufacturing or possessing covert or undetectable firearms, and manufacturing or facilitating the manufacture of firearms using a three-dimensional printer.

SENATE, No. 2465

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED APRIL 12, 2018

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Establishes crime of purchasing components to unlawfully manufacture untraceable firearms.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning untraceable firearms and amending
2 N.J.S.2C:39-9.

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:39-9 is amended to read as follows:

8 2C:39-9. Manufacture, Transport, Disposition and Defacement of
9 Weapons and Dangerous Instruments and Appliances. a. Machine
10 guns. Any person who manufactures, causes to be manufactured,
11 transports, ships, sells or disposes of any machine gun without
12 being registered or licensed to do so as provided in chapter 58 is
13 guilty of a crime of the third degree.

14 b. Sawed-off shotguns. Any person who manufactures, causes
15 to be manufactured, transports, ships, sells or disposes of any
16 sawed-off shotgun is guilty of a crime of the third degree.

17 c. Firearm silencers. Any person who manufactures, causes to
18 be manufactured, transports, ships, sells or disposes of any firearm
19 silencer is guilty of a crime of the fourth degree.

20 d. Weapons. Any person who manufactures, causes to be
21 manufactured, transports, ships, sells or disposes of any weapon,
22 including gravity knives, switchblade knives, ballistic knives,
23 daggers, dirks, stilettos, billies, blackjacks, metal knuckles,
24 sandclubs, slingshots, cesti or similar leather bands studded with
25 metal filings, or, except as otherwise provided in subsection i. of
26 this section, in the case of firearms if he is not licensed or registered
27 to do so as provided in chapter 58, is guilty of a crime of the fourth
28 degree. Any person who manufactures, causes to be manufactured,
29 transports, ships, sells or disposes of any weapon or other device
30 which projects, releases or emits tear gas or other substances
31 intended to produce temporary physical discomfort or permanent
32 injury through being vaporized or otherwise dispensed in the air,
33 which is intended to be used for any purpose other than for
34 authorized military or law enforcement purposes by duly authorized
35 military or law enforcement personnel or the device is for the
36 purpose of personal self-defense, is pocket-sized and contains not
37 more than three-quarters of an ounce of chemical substance not
38 ordinarily capable of lethal use or of inflicting serious bodily injury,
39 or other than to be used by any person permitted to possess such
40 weapon or device under the provisions of subsection d. of
41 N.J.S.2C:39-5, which is intended for use by financial and other
42 business institutions as part of an integrated security system, placed
43 at fixed locations, for the protection of money and property, by the
44 duly authorized personnel of those institutions, is guilty of a crime
45 of the fourth degree.

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 e. Defaced firearms. Any person who defaces any firearm is
2 guilty of a crime of the third degree. Any person who knowingly
3 buys, receives, disposes of or conceals a defaced firearm, except an
4 antique firearm or an antique handgun, is guilty of a crime of the
5 fourth degree.

6 f. (1) Any person who manufactures, causes to be
7 manufactured, transports, ships, sells, or disposes of any bullet,
8 which is primarily designed for use in a handgun, and which is
9 comprised of a bullet whose core or jacket, if the jacket is thicker
10 than .025 of an inch, is made of tungsten carbide, or hard bronze, or
11 other material which is harder than a rating of 72 or greater on the
12 Rockwell B. Hardness Scale, and is therefore capable of breaching
13 or penetrating body armor and which is intended to be used for any
14 purpose other than for authorized military or law enforcement
15 purposes by duly authorized military or law enforcement personnel,
16 is guilty of a crime of the fourth degree.

17 (2) Nothing in this subsection shall be construed to prevent a
18 licensed collector of ammunition as defined in paragraph (2) of
19 subsection f. of N.J.S.2C:39-3 from transporting the bullets defined
20 in paragraph (1) of this subsection from (a) any licensed retail or
21 wholesale firearms dealer's place of business to the collector's
22 dwelling, premises, or other land owned or possessed by him, or (b)
23 to or from the collector's dwelling, premises or other land owned or
24 possessed by him to any gun show for the purposes of display, sale,
25 trade, or transfer between collectors, or (c) to or from the collector's
26 dwelling, premises or other land owned or possessed by him to any
27 rifle or pistol club organized in accordance with the rules prescribed
28 by the National Board for the Promotion of Rifle Practice; provided
29 that the club has filed a copy of its charter with the superintendent
30 of the State Police and annually submits a list of its members to the
31 superintendent, and provided further that the ammunition being
32 transported shall be carried not loaded in any firearm and contained
33 in a closed and fastened case, gun box, or locked in the trunk of the
34 automobile in which it is being transported, and the course of travel
35 shall include only such deviations as are reasonably necessary under
36 the circumstances.

37 g. Assault firearms. Any person who manufactures, causes to
38 be manufactured, transports, ships, sells or disposes of an assault
39 firearm without being registered or licensed to do so pursuant to
40 N.J.S.2C:58-1 et seq. is guilty of a crime of the third degree.

41 h. Large capacity ammunition magazines. Any person who
42 manufactures, causes to be manufactured, transports, ships, sells or
43 disposes of a large capacity ammunition magazine which is
44 intended to be used for any purpose other than for authorized
45 military or law enforcement purposes by duly authorized military or
46 law enforcement personnel is guilty of a crime of the fourth degree.

47 i. Transporting firearms into this State for an unlawful sale or
48 transfer. Any person who knowingly transports, ships or otherwise

1 brings into this State any firearm for the purpose of unlawfully
2 selling, transferring, giving, assigning or otherwise disposing of that
3 firearm to another individual is guilty of a crime of the second
4 degree. Any motor vehicle used by a person to transport, ship, or
5 otherwise bring a firearm into this State for unlawful sale or transfer
6 shall be subject to forfeiture in accordance with the provisions of
7 N.J.S.2C:64-1 et seq.; provided however, this forfeiture provision
8 shall not apply to innocent owners, nor shall it affect the rights of a
9 holder of a valid lien.

10 The temporary transfer of a firearm shall not constitute a
11 violation of this subsection if that firearm is transferred:

12 (1) while hunting or target shooting in accordance with the
13 provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1);

14 (2) for shooting competitions sponsored by a licensed dealer,
15 law enforcement agency, legally recognized military organization,
16 or a rifle or pistol club which has filed a copy of its charter with the
17 superintendent in accordance with the provisions of section 1 of
18 P.L.1992, c.74 (C.2C:58-3.1); or

19 (3) for participation in a training course conducted by a certified
20 instructor in accordance with the provisions of section 1 of
21 P.L.1997, c.375 (C.2C:58-3.2).

22 The transfer of any firearm that uses air or carbon dioxide to
23 expel a projectile; or the transfer of an antique firearm shall not
24 constitute a violation of this subsection.

25 j. Any person who manufactures, causes to be manufactured,
26 transports, ships, sells, or disposes of a bump stock as defined in
27 subsection ee. of N.J.S.2C:39-1 or a trigger crank as defined in
28 subsection ff. of N.J.S.2C:39-1 is guilty of a crime of the third
29 degree.

30 k. Purchasing firearm parts to manufacture untraceable firearm.
31 In addition to any other penalty imposed under current law, a
32 person who purchases separately or as a kit any combination of parts
33 from which a firearm may be readily assembled with the purpose to
34 manufacture an untraceable firearm is guilty of a crime of the third
35 degree. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
36 law, a conviction under this subsection shall not merge with a
37 conviction for any other criminal offense and the court shall impose
38 separate sentences upon a violation of this subsection and any other
39 criminal offense.

40 As used in this subsection, "untraceable firearm" means an
41 unlawfully manufactured firearm for which the sale or distribution
42 chain from a licensed retailer to the point of its first retail sale cannot
43 be traced by law enforcement officials.

44 (cf: P.L.2017, c.323, s.3)

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46 2. This act shall take effect immediately.

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STATEMENT

This bill establishes a criminal penalty of purchasing firearm parts to illegally manufacture an untraceable firearm, also known as a “ghost gun.” Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth degree crime. The manufacture of a machine gun, sawed off shotgun, or assault firearm is a crime of the third degree.

This bill establishes a separate third degree crime of purchasing separately or as a kit any combination of parts from which an untraceable firearm may be readily assembled. The bill defines untraceable firearm as an unlawfully manufactured firearm for which the sale or distribution chain from a licensed retailer to the point of its first retail sale cannot be traced by law enforcement officials. A violation of the bill’s provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill’s provisions and any other criminal offense.

A crime of the third degree is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2465

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 2018

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2465 (1R).

This bill, as amended, would establish the following crimes: (1) purchasing firearm parts to unlawfully manufacture firearms without a serial number; (2) manufacturing or possessing covert or undetectable firearms; and (3) manufacturing or facilitating the manufacture of firearms using a three-dimensional printer.

COVERT AND UNDETECTABLE FIREARMS (SECTIONS 1, 2 AND 3 OF THE BILL)

This bill, as amended, makes it a crime of the third degree to: (1) manufacture, cause to be manufactured, transport, ship, sell, or dispose of any covert or undetectable firearm; (2) possess any covert or undetectable firearm; or (3) possess a firearm enclosed in a container or covering that is designed or modified to allow the firearm to be fired while so enclosed and that disguises or obscures the shape of the firearm such that it does not resemble a handgun, rifle, shotgun, or machine gun.

The bill defines “covert firearm” as any firearm that is constructed in a shape or configuration such that it does not resemble a handgun, rifle, shotgun, or machine gun including, but not limited to, a firearm that resembles a key-chain, pen, cigarette lighter, cigarette package, cellphone, smart phone, wallet, or cane. The bill defines “undetectable firearm” as a firearm constructed entirely of non-metal substances, or a firearm that does not include at least one major component, such as the barrel, slide, cylinder, frame or receiver of the firearm, that is made entirely of metal such that, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, it would not generate an image that accurately depicts the shape of the component.

FIREARMS WITHOUT SERIAL NUMBERS (SECTION 3 OF THE BILL)

This bill, as amended, makes it a crime of the third degree to purchase firearm parts to illegally manufacture a firearm without a serial number, also known as a “ghost gun.” Specifically, the bill

prohibits a person who, with purpose to manufacture or otherwise assemble a firearm and without being registered or licensed to do so, from purchasing or otherwise obtaining separately or as part of a kit: (1) a firearm frame or firearm receiver which is not imprinted with a serial number that is registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be readily manufactured or otherwise assembled, but which does not have the capacity to function as a firearm unless manufactured or otherwise assembled.

Under the bill, “firearm frame or firearm receiver” is defined as the part of a firearm that provides housing for the firearm’s internal components, such as the hammer, bolt or breechblock, action, and firing mechanism, and includes without limitation any object or part which is not a firearm frame or receiver in finished form but is designed or intended to be used for that purpose and which may readily be made into a firearm frame or receiver through milling or other means.

Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth degree crime. The manufacture of a machine gun, sawed-off shotgun, or assault firearm without a license to do so is a crime of the third degree.

A violation of the bill’s provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill’s provisions and any other criminal offense.

THREE-DIMENSIONAL PRINTING (SECTION 3 OF THE BILL)

The bill, as amended, makes it a crime of the third degree to manufacture or facilitate the manufacture of a firearm using a three-dimensional printer. More specifically it would be a crime for: (1) a person who is not registered or licensed to do so as a manufacturer as provided in chapter 58 of Title 2C of the New Jersey Statutes, to use a three-dimensional printer or similar device to manufacture or produce a firearm, firearm receiver, magazine, or firearm component; or (2) a person to distribute by any means, including the Internet, to a person in New Jersey who is not registered or licensed as a manufacturer as provided in chapter 58 of Title 2C of the New Jersey Statutes, digital instructions in the form of computer-aided design files or other code or instructions stored and displayed in electronic format as a digital model that may be used to program a three-dimensional printer to manufacture or produce a firearm, firearm receiver, magazine, or firearm component.

The bill defines “three-dimensional printer” as a computer or computer-driven machine or device capable of producing a three-dimensional object from a digital model; and “distribute” means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share, advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not, and includes an agreement or attempt to distribute.

A crime of the third degree is punishable by a term of incarceration of three to five years, a fine of up to \$15,000, or both.

The committee made technical amendments to the bill to conform the statute to the provisions of a recent enactment, P.L.2018, c.38, concerning armor piercing ammunition.

As reported by the committee, this bill is identical to Assembly Bill No. 3129 (1R) which was also reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments:

1. Insert new section 1 amending N.J.S.2C:39-1 to add definitions of “covert firearm” and “undetectable firearm.”

2. Insert new section 2 amending N.J.S.2C:39-3 making it a crime of the third degree to possess any covert firearm, undetectable firearm, or firearm enclosed in a container or covering that is designed or modified to allow the firearm to be fired while so enclosed and that disguises or obscures the shape of the firearm such that it does not resemble a handgun, rifle, shotgun, or machine gun.

3. Amend section 3 (amends N.J.S.2C:39-9) as follows:

(a) Change the term “untraceable firearm” to “firearm without a serial number.”

(b) Make it a crime of third degree if a person, with the purpose to manufacture or otherwise assemble a firearm and without being registered or licensed under current law, purchases or otherwise obtains separately or as part of a kit: (1) a firearm frame or firearm receiver which is not imprinted with a serial number registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be manufactured or otherwise assembled, but which does not have the capacity to function as a firearm unless manufactured or otherwise assembled. As introduced, the bill had made it a crime of the third degree if a person purchased separately or as a kit any combination of parts from which a firearm may be readily assembled with the purpose to manufacture an untraceable firearm.

(c) Remove the definition of “untraceable firearm” and add the definition of “firearm frame or firearm receiver.”

(d) Create a new third degree crime of manufacturing or facilitating the manufacture of a firearm using a three-dimensional printer and defines three-dimensional printer.

(e) Make it a crime of the third degree to manufacture, cause to be manufactured, transport, ship, sell, or dispose of any covert firearm or undetectable firearm.

4. Renumber the effective date as section 4 of the bill.

5. Replace the title and synopsis to reflect the amendments.

6. Make technical amendments to the bill to conform N.J.S.2C:39-9 to P.L.2018, c.38.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 2465

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 16, 2018

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 2465

As amended and reported by the committee, this bill establishes a criminal penalty of purchasing firearm parts to illegally manufacture a firearm without a serial number, also known as a “ghost gun.” Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth degree crime. The manufacture of a machine gun, sawed off shotgun, or assault firearm is a crime of the third degree.

The amended bill establishes a separate third degree crime of purchasing or obtaining separately or as part of a kit: (1) a firearm frame or firearm receiver which is not imprinted with a serial number that is registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be readily manufactured, but which does not have the capacity to function as a firearm unless manufactured.

Under the amended bill, “firearm frame or firearm receiver” is defined as the part of a firearm that provides housing for the firearm’s internal components, such as the hammer, bolt or breechblock, action, and firing mechanism.

A violation of the bill’s provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill’s provisions and any other criminal offense.

A crime of the third degree is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) change the term “untraceable firearm” to a “firearm without a serial number;”

2) make a person guilty of a third degree crime if the person, with the purpose to manufacture a firearm and without being registered or licensed under current law, purchases or otherwise obtains separately or as part of a kit: 1) a firearm frame or firearm receiver which is not imprinted with a serial number registered with a federally licensed manufacturer, or 2) any combination of parts from which a firearm

without a serial number may be manufactured, but which does not have the capacity to function as a firearm unless manufactured; as introduced, a person was guilty of a third degree crime if the person purchased separately or as a kit any combination of parts from which a firearm may be readily assembled with the purpose to manufacture an untraceable firearm;

3) remove the definition of “untraceable firearm” and add the definition of “firearm frame or firearm receiver;” and

4) make other clarifying changes.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2465

STATE OF NEW JERSEY

DATED: MAY 21, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2465 (1R).

This bill establishes a criminal offense of purchasing firearm parts to illegally manufacture a firearm without a serial number, also known as a “ghost gun.” Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth degree crime. The manufacture of a machine gun, sawed off shotgun, or assault firearm is a crime of the third degree.

The bill establishes a separate third degree crime of purchasing or obtaining separately or as part of a kit: (1) a firearm frame or firearm receiver which is not imprinted with a serial number that is registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be readily manufactured, but which does not have the capacity to function as a firearm unless manufactured.

Under the bill, “firearm frame or firearm receiver” is defined as the part of a firearm that provides housing for the firearm’s internal components, such as the hammer, bolt or breechblock, action, and firing mechanism.

A violation of the bill’s provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill’s provisions and any other criminal offense.

A crime of the third degree is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both.

FISCAL IMPACT:

The OLS states that since the bill establishes a new offense of purchasing firearm parts to illegally manufacture a firearm without a serial number, there is no information available with which to determine the number of people who would be convicted of this offense or the costs incurred by the Judiciary to conduct court proceedings. As a result it is not possible to determine the fiscal impact of the bill. The OLS also notes that those convicted under this bill are guilty of a crime of the third degree. Since there is a presumption of non-incarceration for those individuals convicted of

third degree crimes, there would be no additional cost to the Department of Corrections to house these offenders.

STATEMENT TO
[Second Reprint]
SENATE, No. 2465

with Assembly Floor Amendments
(Proposed by Assemblyman MORIARTY)

ADOPTED: SEPTEMBER 27, 2018

Senate Bill No. 2465 (2R) would establish the following crimes: (1) purchasing firearm parts to unlawfully manufacture firearms without a serial number; (2) manufacturing or possessing covert or undetectable firearms; and (3) manufacturing or facilitating the manufacture of firearms using a three-dimensional printer.

These Senate amendments adopt a definition of “undetectable firearm” that is consistent with the federal definition of this term. Under these amendments, “undetectable firearm” means a firearm that: (1) after removal of all parts other than major components, is not as detectable as the Security Exemplar by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or (2) includes a major component which, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, would not generate an image that accurately depicts the shape of the component. “Major component” is defined to mean the slide or cylinder or the frame or receiver of a firearm and, in the case of a rifle or shotgun, also includes the barrel. “Security Exemplar” is defined to mean the Security Exemplar fabricated in accordance with subparagraph (C) of paragraph (2) of subsection (p) of 18 U.S.C. s.922.

These amendments further provide that the definition of undetectable firearm is not to include a firearm that is subject to the provisions of paragraphs (3) through (6) of subsection (p) of 18 U.S.C. s.922. Accordingly, this definition does not include: the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer for the purpose of examining and testing a firearm; the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of the firearm would violate federal law; a firearm that has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; a firearm manufactured for and sold exclusively to military or intelligence agencies of the United States; or a firearm that was manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

As introduced, “undetectable firearm” was defined as a firearm constructed entirely of non-metal substances, or a firearm that does not include at least one major component, such as the barrel, slide, cylinder, frame or receiver of the firearm, that is made entirely of metal such that, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, it would not generate an image that accurately depicts the shape of the component.

As amended, Senate Bill No. 2465 (2R) is identical to Assembly Bill No. 3129 (1R), which also was amended and reported by the Assembly on this date.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2465 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MAY 7, 2018

SUMMARY

- Synopsis:** Establishes crime of purchasing components to unlawfully manufacture firearm without serial number.
- Type of Impact:** General Fund expenditure.
- Agencies Affected:** Judiciary.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		Indeterminate	

- The Office of Legislative Services (OLS) states that since this is a new offense there is no information available with which to determine the number of people who would be convicted of this offense or the costs incurred by the Judiciary to conduct court proceedings. As a result it is not possible to determine the fiscal impact of the bill.
- The OLS also notes that those convicted under this bill are guilty of a crime of the third degree. Since there is a presumption of non-incarceration for those individuals convicted of third degree crimes, there would be no additional cost to the Department of Corrections to house these offenders.
- The bill establishes a criminal offense of purchasing firearm parts to illegally manufacture a firearm without a serial number, also known as a “ghost gun.”

BILL DESCRIPTION

The bill establishes a criminal offense of purchasing firearm parts to illegally manufacture a firearm without a serial number, also known as a “ghost gun.” Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth

degree crime. The manufacture of a machine gun, sawed off shotgun, or assault firearm is a crime of the third degree.

The bill establishes a separate third degree crime of purchasing or obtaining separately or as part of a kit: (1) a firearm frame or firearm receiver which is not imprinted with a serial number that is registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be readily manufactured, but which does not have the capacity to function as a firearm unless manufactured.

Under the bill, “firearm frame or firearm receiver” is defined as the part of a firearm that provides housing for the firearm’s internal components, such as the hammer, bolt or breechblock, action, and firing mechanism.

A violation of the bill’s provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill’s provisions and any other criminal offense.

A crime of the third degree is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS states that since this is a new offense there is no information available with which to determine the number of people who would be convicted of this offense or the costs incurred by the Judiciary to conduct court proceedings. As a result it is not possible to determine the fiscal impact of the bill. The OLS also notes that those convicted under this bill are guilty of a crime of the third degree. Since there is a presumption of non-incarceration for those individuals convicted of third degree crimes, there would be no additional cost to the Department of Corrections to house these offenders.

Section: Judiciary

*Analyst: Raughley, Anne C.
Principal Fiscal Analyst*

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

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

ASSEMBLY, No. 3129

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

Sponsored by:

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Co-Sponsored by:

Assemblyman Holley, Assemblywoman Swain and Assemblyman Tully

SYNOPSIS

Establishes crime of purchasing components to unlawfully manufacture untraceable firearms.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2018)

A3129 EUSTACE, MORIARTY

2

1 AN ACT concerning untraceable firearms and amending
2 N.J.S.2C:39-9.

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:39-9 is amended to read as follows:

8 2C:39-9. Manufacture, Transport, Disposition and Defacement
9 of Weapons and Dangerous Instruments and Appliances. a. Machine
10 guns. Any person who manufactures, causes to be manufactured,
11 transports, ships, sells or disposes of any machine gun without
12 being registered or licensed to do so as provided in chapter 58 is
13 guilty of a crime of the third degree.

14 b. Sawed-off shotguns. Any person who manufactures, causes
15 to be manufactured, transports, ships, sells or disposes of any
16 sawed-off shotgun is guilty of a crime of the third degree.

17 c. Firearm silencers. Any person who manufactures, causes to
18 be manufactured, transports, ships, sells or disposes of any firearm
19 silencer is guilty of a crime of the fourth degree.

20 d. Weapons. Any person who manufactures, causes to be
21 manufactured, transports, ships, sells or disposes of any weapon,
22 including gravity knives, switchblade knives, ballistic knives,
23 daggers, dirks, stilettos, billies, blackjacks, metal knuckles,
24 sandclubs, slingshots, cesti or similar leather bands studded with
25 metal filings, or, except as otherwise provided in subsection i. of
26 this section, in the case of firearms if he is not licensed or registered
27 to do so as provided in chapter 58, is guilty of a crime of the fourth
28 degree.

29 Any person who manufactures, causes to be manufactured,
30 transports, ships, sells or disposes of any weapon or other device
31 which projects, releases or emits tear gas or other substances
32 intended to produce temporary physical discomfort or permanent
33 injury through being vaporized or otherwise dispensed in the air,
34 which is intended to be used for any purpose other than for
35 authorized military or law enforcement purposes by duly authorized
36 military or law enforcement personnel or the device is for the
37 purpose of personal self-defense, is pocket-sized and contains not
38 more than three-quarters of an ounce of chemical substance not
39 ordinarily capable of lethal use or of inflicting serious bodily injury,
40 or other than to be used by any person permitted to possess such
41 weapon or device under the provisions of subsection d. of
42 N.J.S.2C:39-5, which is intended for use by financial and other
43 business institutions as part of an integrated security system, placed
44 at fixed locations, for the protection of money and property, by the

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 duly authorized personnel of those institutions, is guilty of a crime
2 of the fourth degree.

3 e. Defaced firearms. Any person who defaces any firearm is
4 guilty of a crime of the third degree. Any person who knowingly
5 buys, receives, disposes of or conceals a defaced firearm, except an
6 antique firearm or an antique handgun, is guilty of a crime of the
7 fourth degree.

8 f. (1) Any person who manufactures, causes to be
9 manufactured, transports, ships, sells, or disposes of any bullet,
10 which is primarily designed for use in a handgun, and which is
11 comprised of a bullet whose core or jacket, if the jacket is thicker
12 than .025 of an inch, is made of tungsten carbide, or hard bronze, or
13 other material which is harder than a rating of 72 or greater on the
14 Rockwell B. Hardness Scale, and is therefore capable of breaching
15 or penetrating body armor and which is intended to be used for any
16 purpose other than for authorized military or law enforcement
17 purposes by duly authorized military or law enforcement personnel,
18 is guilty of a crime of the fourth degree.

19 (2) Nothing in this subsection shall be construed to prevent a
20 licensed collector of ammunition as defined in paragraph (2) of
21 subsection f. of N.J.S.2C:39-3 from transporting the bullets defined
22 in paragraph (1) of this subsection from (a) any licensed retail or
23 wholesale firearms dealer's place of business to the collector's
24 dwelling, premises, or other land owned or possessed by him, or (b)
25 to or from the collector's dwelling, premises or other land owned or
26 possessed by him to any gun show for the purposes of display, sale,
27 trade, or transfer between collectors, or (c) to or from the collector's
28 dwelling, premises or other land owned or possessed by him to any
29 rifle or pistol club organized in accordance with the rules prescribed
30 by the National Board for the Promotion of Rifle Practice; provided
31 that the club has filed a copy of its charter with the superintendent
32 of the State Police and annually submits a list of its members to the
33 superintendent, and provided further that the ammunition being
34 transported shall be carried not loaded in any firearm and contained
35 in a closed and fastened case, gun box, or locked in the trunk of the
36 automobile in which it is being transported, and the course of travel
37 shall include only such deviations as are reasonably necessary under
38 the circumstances.

39 g. Assault firearms. Any person who manufactures, causes to
40 be manufactured, transports, ships, sells or disposes of an assault
41 firearm without being registered or licensed to do so pursuant to
42 N.J.S.2C:58-1 et seq. is guilty of a crime of the third degree.

43 h. Large capacity ammunition magazines. Any person who
44 manufactures, causes to be manufactured, transports, ships, sells or
45 disposes of a large capacity ammunition magazine which is
46 intended to be used for any purpose other than for authorized
47 military or law enforcement purposes by duly authorized military or
48 law enforcement personnel is guilty of a crime of the fourth degree.

1 i. Transporting firearms into this State for an unlawful sale or
2 transfer. Any person who knowingly transports, ships or otherwise
3 brings into this State any firearm for the purpose of unlawfully
4 selling, transferring, giving, assigning or otherwise disposing of that
5 firearm to another individual is guilty of a crime of the second
6 degree. Any motor vehicle used by a person to transport, ship, or
7 otherwise bring a firearm into this State for unlawful sale or transfer
8 shall be subject to forfeiture in accordance with the provisions of
9 N.J.S.2C:64-1 et seq.; provided however, this forfeiture provision
10 shall not apply to innocent owners, nor shall it affect the rights of a
11 holder of a valid lien.

12 The temporary transfer of a firearm shall not constitute a
13 violation of this subsection if that firearm is transferred:

14 (1) while hunting or target shooting in accordance with the
15 provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1);

16 (2) for shooting competitions sponsored by a licensed dealer,
17 law enforcement agency, legally recognized military organization,
18 or a rifle or pistol club which has filed a copy of its charter with the
19 superintendent in accordance with the provisions of section 1 of
20 P.L.1992, c.74 (C.2C:58-3.1); or

21 (3) for participation in a training course conducted by a certified
22 instructor in accordance with the provisions of section 1 of
23 P.L.1997, c.375 (C.2C:58-3.2).

24 The transfer of any firearm that uses air or carbon dioxide to
25 expel a projectile; or the transfer of an antique firearm shall not
26 constitute a violation of this subsection.

27 j. Purchasing firearm parts to manufacture untraceable firearm.
28 In addition to any other penalty imposed under current law, a
29 person who purchases separately or as a kit any combination of parts
30 from which a firearm may be readily assembled with the purpose to
31 manufacture an untraceable firearm is guilty of a crime of the third
32 degree. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
33 law, a conviction under this subsection shall not merge with a
34 conviction for any other criminal offense and the court shall impose
35 separate sentences upon a violation of this subsection and any other
36 criminal offense.

37 As used in this subsection, “untraceable firearm” means an
38 unlawfully manufactured firearm for which the sale or distribution
39 chain from a licensed retailer to the point of its first retail sale cannot
40 be traced by law enforcement officials.

41 (cf: P.L.2013, c.111, s.1)

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44 2. This act shall take effect immediately.

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STATEMENT

This bill establishes a criminal penalty of purchasing firearm parts to illegally manufacture an untraceable firearm, also known as a “ghost gun.” Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth degree crime. The manufacture of a machine gun, sawed off shotgun, or assault firearm is a crime of the third degree.

This bill establishes a separate third degree crime of purchasing separately or as a kit any combination of parts from which an untraceable firearm may be readily assembled. The bill defines untraceable firearm as an unlawfully manufactured firearm for which the sale or distribution chain from a licensed retailer to the point of its first retail sale cannot be traced by law enforcement officials. A violation of the bill’s provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill’s provisions and any other criminal offense.

A crime of the third degree is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3129

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 2018

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3129.

This bill, as amended, would establish the following crimes: (1) purchasing firearm parts to unlawfully manufacture firearms without a serial number; (2) manufacturing or possessing covert or undetectable firearms; and (3) manufacturing or facilitating the manufacture of firearms using a three-dimensional printer.

COVERT AND UNDETECTABLE FIREARMS (SECTIONS 1, 2 AND 3 OF THE BILL)

This bill, as amended, makes it a crime of the third degree to: (1) manufacture, cause to be manufactured, transport, ship, sell, or dispose of any covert or undetectable firearm; (2) possess any covert or undetectable firearm; or (3) possess a firearm enclosed in a container or covering that is designed or modified to allow the firearm to be fired while so enclosed and that disguises or obscures the shape of the firearm such that it does not resemble a handgun, rifle, shotgun, or machine gun.

The bill defines “covert firearm” as any firearm that is constructed in a shape or configuration such that it does not resemble a handgun, rifle, shotgun, or machine gun including, but not limited to, a firearm that resembles a key-chain, pen, cigarette lighter, cigarette package, cellphone, smart phone, wallet, or cane. The bill defines “undetectable firearm” as a firearm constructed entirely of non-metal substances, or a firearm that does not include at least one major component, such as the barrel, slide, cylinder, frame or receiver of the firearm, that is made entirely of metal such that, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, it would not generate an image that accurately depicts the shape of the component.

FIREARMS WITHOUT SERIAL NUMBERS (SECTION 3 OF THE BILL)

This bill, as amended, makes it a crime of the third degree to purchase firearm parts to illegally manufacture a firearm without a serial number, also known as a “ghost gun.” Specifically, the bill prohibits a person who, with purpose to manufacture or otherwise assemble a firearm and without being registered or licensed to do so, from purchasing or otherwise obtaining separately or as part of a kit:

(1) a firearm frame or firearm receiver which is not imprinted with a serial number that is registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be readily manufactured or otherwise assembled, but which does not have the capacity to function as a firearm unless manufactured or otherwise assembled.

Under the bill, “firearm frame or firearm receiver” is defined as the part of a firearm that provides housing for the firearm’s internal components, such as the hammer, bolt or breechblock, action, and firing mechanism, and includes without limitation any object or part which is not a firearm frame or receiver in finished form but is designed or intended to be used for that purpose and which may readily be made into a firearm frame or receiver through milling or other means.

Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth degree crime. The manufacture of a machine gun, sawed-off shotgun, or assault firearm without a license to do so is a crime of the third degree.

A violation of the bill’s provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill’s provisions and any other criminal offense.

THREE-DIMENSIONAL PRINTING (SECTION 3 OF THE BILL)

The bill, as amended, makes it a crime of the third degree to manufacture or facilitate the manufacture of a firearm using a three-dimensional printer. More specifically it would be a crime for: (1) a person who is not registered or licensed to do so as a manufacturer as provided in chapter 58 of Title 2C of the New Jersey Statutes, to use a three-dimensional printer or similar device to manufacture or produce a firearm, firearm receiver, magazine, or firearm component; or (2) a person to distribute by any means, including the Internet, to a person in New Jersey who is not registered or licensed as a manufacturer as provided in chapter 58 of Title 2C of the New Jersey Statutes, digital instructions in the form of computer-aided design files or other code or instructions stored and displayed in electronic format as a digital model that may be used to program a three-dimensional printer to manufacture or produce a firearm, firearm receiver, magazine, or firearm component.

The bill defines “three-dimensional printer” as a computer or computer-driven machine or device capable of producing a three-dimensional object from a digital model; and “distribute” means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share, advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not, and includes an agreement or attempt to distribute.

A crime of the third degree is punishable by a term of incarceration of three to five years, a fine of up to \$15,000, or both.

The committee made technical amendments to the bill to conform the statute to the provisions of two recent enactments: P.L.2017, c.323 concerning bump stocks and P.L.2018, c.38 concerning armor piercing ammunition.

As reported by the committee, this bill is identical to Senate Bill No. 2465 (2R) which was also reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments:

1. Insert new section 1 amending N.J.S.2C:39-1 to add definitions of “covert firearm” and “undetectable firearm.”

2. Insert new section 2 amending N.J.S.2C:39-3 making it a crime of the third degree to possess any covert firearm, undetectable firearm, or firearm enclosed in a container or covering that is designed or modified to allow the firearm to be fired while so enclosed and that disguises or obscures the shape of the firearm such that it does not resemble a handgun, rifle, shotgun, or machine gun.

3. Amend section 3 (amends N.J.S.2C:39-9) as follows:

(a) Change the term “untraceable firearm” to “firearm without a serial number.”

(b) Make it a crime of third degree if a person, with the purpose to manufacture or otherwise assemble a firearm and without being registered or licensed under current law, purchases or otherwise obtains separately or as part of a kit: (1) a firearm frame or firearm receiver which is not imprinted with a serial number registered with a federally licensed manufacturer, or (2) any combination of parts from which a firearm without a serial number may be manufactured or otherwise assembled, but which does not have the capacity to function as a firearm unless manufactured or otherwise assembled. As introduced, the bill had made it a crime of the third degree if a person purchased separately or as a kit any combination of parts from which a firearm may be readily assembled with the purpose to manufacture an untraceable firearm.

(c) Remove the definition of “untraceable firearm” and add the definition of “firearm frame or firearm receiver.”

(d) Create a new third degree crime of manufacturing or facilitating the manufacture of a firearm using a three-dimensional printer and define three-dimensional printer.

(e) Make it a crime of the third degree to manufacture, cause to be manufactured, transport, ship, sell, or dispose of any covert firearm or undetectable firearm.

4. Renumber the effective date as section 4 of the bill.

5. Replace the title and synopsis to reflect the amendments.

6. Make technical amendments to the bill to conform N.J.S.2C:39-9 to P.L.2017, c.323 and P.L.2018, c.38.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3129

with Assembly Floor Amendments
(Proposed by Assemblyman MORIARTY)

ADOPTED: SEPTEMBER 27, 2018

Assembly Bill No. 3129 1R would establish the following crimes: (1) purchasing firearm parts to unlawfully manufacture firearms without a serial number; (2) manufacturing or possessing covert or undetectable firearms; and (3) manufacturing or facilitating the manufacture of firearms using a three-dimensional printer.

These Assembly amendments adopt a definition of “undetectable firearm” that is consistent with the federal definition of this term. Under these amendments, “undetectable firearm” means a firearm that: (1) after removal of all parts other than major components, is not as detectable as the Security Exemplar by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or (2) includes a major component which, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, would not generate an image that accurately depicts the shape of the component. “Major component” is defined to mean the slide or cylinder or the frame or receiver of a firearm and, in the case of a rifle or shotgun, also includes the barrel. “Security Exemplar” is defined to mean the Security Exemplar fabricated in accordance with subparagraph (C) of paragraph (2) of subsection (p) of 18 U.S.C. s.922.

These amendments further provide that the definition of undetectable firearm is not to include a firearm that is subject to the provisions of paragraphs (3) through (6) of subsection (p) of 18 U.S.C. s.922. Accordingly, this definition does not include: the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing a firearm; the conditional importation of a firearm by a licensed importer or licensed manufacturer for examination and testing to determine whether or not the unconditional importation of the firearm would violate federal law; a firearm that has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; a firearm manufactured for and sold exclusively to military or intelligence agencies of the United States; or a firearm that was manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

As introduced, “undetectable firearm” was defined as a firearm constructed entirely of non-metal substances, or a firearm that does not include at least one major component, such as the barrel, slide, cylinder, frame or receiver of the firearm, that is made entirely of metal such that, if the firearm were subjected to inspection by the types of detection devices commonly used at airports for security screening, it would not generate an image that accurately depicts the shape of the component.

As amended, Assembly Bill No. 3129 1R is identical to Senate Bill No. 2465 2R, which also was amended and reported by the Assembly on this date.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3129
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: MAY 7, 2018

SUMMARY

Synopsis: Establishes crime of purchasing components to unlawfully manufacture untraceable firearms.

Type of Impact: General Fund expenditure.

Agencies Affected: Judiciary.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		Indeterminate	

- The Office of Legislative Services (OLS) states that since this is a new offense there is no information available with which to determine the number of people who would be convicted of this offense or the costs incurred by the Judiciary to conduct court proceedings. As a result it is not possible to determine the fiscal impact of the bill.
- The OLS also notes that those convicted under this bill are guilty of a crime of the third degree. Since there is a presumption of non-incarceration for those individuals convicted of third degree crimes, there would be no additional cost to the Department of Corrections to house these offenders.
- The bill establishes a criminal offense of purchasing firearm parts to illegally manufacture a firearm without a serial number, also known as a “ghost gun.”

BILL DESCRIPTION

This bill establishes a criminal offense of purchasing firearm parts to illegally manufacture an untraceable firearm, also known as a “ghost gun.” Under current law, a person who manufactures a handgun, rifle, or shotgun without being licensed to do so is guilty of a fourth degree crime. The manufacture of a machine gun, sawed off shotgun, or assault firearm is a crime of the third degree.

This bill establishes a separate third degree crime of purchasing separately or as a kit any combination of parts from which an untraceable firearm may be readily assembled. The bill defines untraceable firearm as an unlawfully manufactured firearm for which the sale or distribution chain from a licensed retailer to the point of its first retail sale cannot be traced by law enforcement officials. A violation of the bill's provisions is not to merge with any other criminal conviction and a court is to impose separate sentences for a violation of the bill's provisions and any other criminal offense.

A crime of the third degree is punishable by a three-to-five year term of incarceration, a fine of up to \$15,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS states that since this is a new offense there is no information available with which to determine the number of people who would be convicted of this offense or the costs incurred by the Judiciary to conduct court proceedings. As a result it is not possible to determine the fiscal impact of the bill. The OLS also notes that those convicted under this bill are guilty of a crime of the third degree. Since there is a presumption of non-incarceration for those individuals convicted of third degree crimes, there would be no additional cost to the Department of Corrections to house these offenders.

Section: Judiciary

*Analyst: Raughley, Anne C.
Principal Fiscal Analyst*

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

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



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Newark, N.J.

Governor Murphy Signs Legislation Making “Ghost Guns” Illegal in New Jersey

11/8/2018

The guns can be 3-D printed and are untraceable by law enforcement

TRENTON- Governor Phil Murphy today signed legislation making it illegal in New Jersey to purchase parts to manufacture or distribute information to print “ghost guns,” homemade or 3D printed firearms that are untraceable by law enforcement. The Governor was joined by Attorney General Gurbir Grewal and bill sponsor Senator Joe Cryan. The bill was also sponsored by Senator Nick Scutari, Assemblymen Paul Moriarty and Gary Schaer, and Assemblywoman Annette Quijano.

“Last night, there was a shooting in Thousand Oaks, California that claimed 12 lives, including a police officer who reported to the scene,” **said Governor Murphy.** “These instances are far too common and we cannot allow any instance of this kind of violence to go unnoticed. My thoughts and prayers are with the victims and their families. But it is through action that we can make definitive changes to end these kinds of deadly mass shootings. New Jersey is committed to being a leader in ending gun violence to make sure that future generations don’t continue to face this kind of fear.

“Today, I am proud to sign a bill into law that will continue making our communities, families, and brave men and women of law enforcement safer,” **Governor Murphy continued.** “Ghost guns can be created by anyone with a computer and access to a 3D printer, giving the public at large the ability to build their own unregistered, unsafe, and untraceable firearm. Now, thanks to the Legislative sponsors who worked to quickly make this bill a reality, kits to assemble ghost guns will no longer be allowed in New Jersey.”

In June, Attorney General Grewal issued a cease and desist letter to companies that produce blueprints for ghost guns and joined like-minded Attorneys General from around the country in the successful effort to block the release of those blueprints.

“Printable guns and ghost guns put the safety of our residents and our law enforcement officers at risk, because they give anyone—even terrorists, felons, or domestic abusers—access to an untraceable gun,” **said Attorney General Grewal.** “I took a stand this summer against individuals attempting both to post codes for 3D printable guns online and sell ghost guns into our state. That’s why as New Jersey’s chief law enforcement officer, I’m proud to stand with Governor Murphy and the Legislature as they give law enforcement additional tools to rid our streets of these dangerous weapons.”

The ghost gun bill passed the Legislature by a significant margin, with only five members from either chamber opposing the measure.

“These so-called ‘ghost guns’ are the byproduct of the dark side of new technologies that allow people to make firearms that are hidden from detection and made to be untraceable,” **said Senator Cryan,** who previously served as Sheriff of Union County. “They are deadly weapons that are especially dangerous because they can literally be

made at home with plastic parts and by using new 3-D printers. These homemade weapons can be a path to gun ownership for people who are a danger to themselves or others, including felons, people with mental illnesses, those convicted of domestic violence and others who are not supposed to be armed with deadly firearms. They pose a serious threat, which is why we are enacting the strongest ghost gun law in the country.”

“Instead of making it harder for criminals to obtain weapons, new technology and mail-order kits are only making it easier for criminals to manufacture firearms at home,” **said Assemblyman Moriarty**. “Our only recourse is to arm our court system with additional penalties for those who choose to skirt the law, avoid licensure and manufacture these types of firearms to keep or even to sell. We’re saying no to ghost guns, and no to 3-D firearms. Not in New Jersey.”

Since taking office earlier this year, Governor Murphy has made tackling the epidemic of gun violence a major priority. On June 13, Governor Murphy signed six gun safety bills into law. Those laws mandated background checks for private firearm sales, reduced magazine capacity to 10 rounds, changed handgun permit regulations, and created a system for law enforcement to confiscate firearms from individuals who pose a threat to themselves or to others. The Governor has also worked with other states to create the States for Gun Safety Coalition, signed an executive order to publish regular reports on gun data, established a Gun Violence Research Center at Rutgers University, and appointed Bill Castner as the Governor’s Senior Advisor on Firearms.

Following the deadly shooting at a Pittsburgh synagogue in late October, Governor Murphy vowed to sign legislation that would address the following critical areas: anti-gun trafficking, investing in smart gun technology, regulating ammunition, and promoting violence intervention for at-risk individuals.

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