

2C:39-16

LEGISLATIVE HISTORY CHECKLIST  
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(Firearms trafficking)

NJSA: 2C:39-16

LAWS OF: 1995 CHAPTER: 405

BILL NO: A221

SPONSOR(S): Solomon

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Judiciary

SENATE: Law and Public Safety

AMENDED DURING PASSAGE: Yes Amendments during passage  
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: February 27, 1995

SENATE: January 9, 1996

DATE OF APPROVAL: January 10, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

[SECOND REPRINT]

ASSEMBLY, No. 221

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen SOLOMON, COHEN and Assemblywoman Buono

1 AN ACT concerning the crime of leader of firearms trafficking  
2 network and supplementing Title 2C of the New Jersey  
3 Statutes.

4

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

7 1. A person is a leader of a firearms trafficking network if he  
8 conspires with others as an organizer, supervisor, financier or  
9 manager, to engage for profit in a scheme or course of conduct to  
10 unlawfully manufacture, transport, ship, sell or dispose of any  
11 firearm. Leader of firearms trafficking network is a crime of the  
12 first degree <sup>1</sup>[and upon conviction thereof a person shall be  
13 sentenced to an ordinary term of life imprisonment during which  
14 the person must serve 25 years before being eligible for parole]<sup>1</sup>.

15 <sup>2</sup>As used in this section: "leader of a firearms trafficking  
16 network" means a person who occupies a position of authority or  
17 control over other persons in a scheme or organization of illegal  
18 firearms manufacturing, transporting, shipping or selling and who  
19 exercises that authority or control over others involved in the  
20 scheme or organization.<sup>2</sup>

21 Notwithstanding the provisions of subsection a. of  
22 N.J.S.2C:43-3, the court may also impose a fine not to exceed  
23 \$500,000.00 or five times the value of the firearms involved,  
24 whichever is greater.

25 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of  
26 leader of firearms trafficking network shall not merge with the  
27 conviction for any offense which is the object of the conspiracy.  
28 Nothing contained in this section shall prohibit the court from  
29 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall  
30 this section be construed in any way to preclude or limit the  
31 prosecution or conviction of any person for conspiracy under  
32 N.J.S.2C:5-2, or any prosecution or conviction for weapons  
33 offenses under the provisions of chapter 39 of Title 2C of the  
34 New Jersey Statutes, N.J.S.2C:41-2 (racketeering activities) or  
35 subsection g. of N.J.S.2C:5-2 (leader of organized crime).

36 It shall not be necessary in any prosecution under this section  
37 for the State to prove that any intended profit was actually  
38 realized. The trier of fact may infer that a particular scheme or  
39 course of conduct was undertaken for profit from all of the  
40 attendant circumstances, including but not limited to the number  
41 of persons involved in the scheme or course of conduct, the  
42 actor's net worth and his expenditures in relation to his

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:

<sup>1</sup> Assembly AJL committee amendments adopted January 19, 1995.

<sup>2</sup> Assembly floor amendments adopted February 6, 1995.

1 legitimate sources of income, the amount of firearms involved, or  
2 the amount of cash or currency involved.

3 It shall not be a defense to a prosecution under this section  
4 that the firearms were brought into or transported in this State  
5 solely for ultimate distribution or dispensing in another  
6 jurisdiction; nor shall it be a defense that any profit was intended  
7 to be made in another jurisdiction.

8 2. This act shall take effect immediately.

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Creates the crime of leader of firearms trafficking network.

## STATEMENT

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This bill creates the crime of leader of firearms trafficking network. A person is a leader of a firearms trafficking network if he conspires with others as an organizer, supervisor, financier or manager, to engage for profit in a scheme or course of conduct to unlawfully manufacture, transport, ship, sell or dispose of any firearm. This would be a crime of the first degree and upon conviction a person shall be sentenced to an ordinary term of life imprisonment during which the person must serve 25 years before being eligible for parole. The court may also impose a fine not to exceed \$500,000.00 or five times the value of the firearms involved, whichever is greater.

The bill provides that the conviction of leader of firearms trafficking network shall not merge with the conviction for any offense which is the object of the conspiracy. The bill also provides that nothing shall prohibit the court from imposing an extended term pursuant to N.J.S.2C:43-7; nor shall the bill preclude or limit the prosecution or conviction of any person for conspiracy, or any prosecution or conviction for weapons offenses under the provisions of chapter 39 of Title 2C of the New Jersey Statutes, racketeering activities or leader of organized crime.

The trier of fact may infer that a particular scheme or course of conduct was undertaken for profit from all of the attendant circumstances. It shall not be a defense under this bill that the firearms were brought into or transported in this State solely for ultimate distribution or dispensing in another jurisdiction; nor shall it be a defense that any profit was intended to be made in another jurisdiction.

This bill is modeled on the provisions of the leader of narcotics trafficking network statute at N.J.S.2C:35-3.

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Creates the crime of leader of firearms trafficking network.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 221**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 19, 1995

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 221.

This bill creates the crime of leader of firearms trafficking network. A person is a leader of a firearms trafficking network if he conspires with others as an organizer, supervisor, financier or manager, to engage for profit in a scheme or course of conduct to unlawfully manufacture, transport, ship, sell or dispose of any firearm. This would be a crime of the first degree. The committee amended the bill to omit the mandatory term of imprisonment provision. The court may also impose a fine not to exceed \$500,000.00 or five times the value of the firearms involved, whichever is greater.

The bill provides that the conviction of leader of firearms trafficking network shall not merge with the conviction for any offense which is the object of the conspiracy. The bill also provides that nothing shall prohibit the court from imposing an extended term pursuant to N.J.S.2C:43-7; nor shall the bill preclude or limit the prosecution or conviction of any person for conspiracy, or any prosecution or conviction for weapons offenses under the provisions of chapter 39 of Title 2C of the New Jersey Statutes, racketeering activities or leader of organized crime.

The trier of fact may infer that a particular scheme or course of conduct was undertaken for profit from all of the attendant circumstances. It shall not be a defense under this bill that the firearms were brought into or transported in this State solely for ultimate distribution or dispensing in another jurisdiction; nor shall it be a defense that any profit was intended to be made in another jurisdiction.

This bill is modeled on the provisions of the leader of narcotics trafficking network statute found at N.J.S.2C:35-3.

This bill was prefiled for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[SECOND REPRINT]

ASSEMBLY, No. 221

STATE OF NEW JERSEY

DATED: JUNE 1, 1995

The Senate Law and Public Safety Committee favorably reports Assembly Bill No. 221 (2R).

This bill creates the crime of leader of a firearms trafficking network. A person is a leader of a firearms trafficking network if he conspires with others as an organizer, supervisor, financier or manager to engage for profit in a scheme or course of conduct to unlawfully manufacture, transport, ship, sell or dispose of any firearm.

As used in the bill, leader of a firearms trafficking network means a person who occupies a position of authority or control over other persons in a scheme or organization of illegal firearms manufacturing, transporting, shipping or selling and who exercises that authority or control over others involved in the scheme or organization. This definition includes the status or position of the defendant as a material element of the crime. This provision of the bill conforms to the New Jersey Supreme Court decision in State v. Alexander, 136 N.J.563 (1994) concerning the drug kingpin statute (N.J.S.2C:35-3). The court held that the status or position of the defendant should be a material element of the crime. This bill is modeled on the provisions of that statute.

Under the provisions of the bill, being the leader of a firearms trafficking network would be a crime of the first degree. The court may also impose a fine not to exceed \$500,000 or five times the value of the firearms involved, whichever is greater, in addition to the fines and restitution that may be imposed under current law.

The bill provides that the conviction of leader of a firearms trafficking network would not merge with the conviction for any offense which is the object of the conspiracy. The bill would not prohibit the court from imposing an extended term pursuant to N.J.S.2C:43-7; nor would the bill preclude or limit the prosecution or conviction of any person for conspiracy, or any prosecution or conviction for weapons offenses under the provisions of chapter 39 of Title 2C of the New Jersey Statutes, racketeering activities or leader of organized crime.

Under the provisions of the bill, the trier of fact may infer that a particular scheme or course of conduct was undertaken for profit from all of the attendant circumstances. It would not be a defense that the firearms were brought into or transported in this State solely for ultimate distribution or dispensing in another jurisdiction; nor would it be a defense that any profit was intended to be made in another jurisdiction.