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L. 1930, c. 218

ASSEMBLY, No. 327

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 4, 1930

By Miss JONES

Referred to Committee on Miscellaneous Business

AN ACT regulating the sale, possession and use of certain firearms, silencers and noxious gases, and prescribing penalties, and rules of evidence with reference thereto.

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

1. The word "pistol" as used in this act shall include any pistol or revolver, and any shotgun, rifle or other firearm with over-all length less than twenty-six inches.

The term "machine gun or automatic rifle," as used in this act, shall be construed to mean any weapon, mechanism or instrument not requiring that the trigger be pressed for each shot, and having a reservoir, belt or other means of storing and carrying ammunition, which can be loaded into the said weapon, mechanism or instrument, and fired therefrom at a rate of five or more shots to the second.

The word "person" shall include a firm, association or corporation, partnerships and partnership association.

The phrase "crime of violence" shall include any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, rape, mayhem, assault to do great bodily harm, robbery, larceny, burglary, breaking and entering.

The word "selling" shall include letting on hire, giving, lending and transferring, and the word "purchasing" shall include hiring, accepting and borrowing, and the expressions "seller" and "purchaser" shall be construed accordingly.

2. If any person shall commit or attempt to commit a crime of violence when armed with, or having available, any firearm, he shall, in addition to the punishment provided for the crime, be punished by imprisonment for not less than three, nor more than five years; upon a second conviction for a crime of violence so committed, by imprisonment for an additional period of not less than five nor more than ten years; in the case of a third conviction for a crime of violence so committed, by imprisonment for an additional period of not less than ten nor more than fifteen years; in the case of a fourth or subsequent conviction for a crime of violence so committed, by imprisonment for life, or for an additional period of not less than twenty years.

3. In the trial of a person for committing or attempting to commit a crime of violence, the fact that he was armed with or had available a pistol without license to carry the same, or was armed with or had available a machine gun, shall be prima facie evidence of his intention to commit said crime of violence.

The presence of a firearm in a vehicle is presumptive evidence of possession by all persons occupying or using the vehicle at the time.

4. No person who has been convicted in this State or elsewhere of a crime of violence shall purchase, own, or have in his possession or under his control, a pistol. Violation of this section shall be punished by imprisonment for not less than one nor more than five years.

5. Every person who manufactures, or who sells at wholesale, pistols or machine guns, shall be registered with the Secretary of State and shall furnish to the Secretary of State such particulars as may be prescribed by law for such registration; *provided*, that if the Secretary of State is satisfied that any applicant for such registration cannot be permitted to carry on business as a manufacturer or wholesale dealer in pistols or machine guns without danger to the public safety, he may refuse to register that person.

The Secretary of State shall furnish to every person who is registered under this section, a certificate of registration.

If any person desires to have his name removed from registration, or if the Secretary of State is satisfied that any person whose name is registered is no longer carrying on business as such manufacturer or wholesale dealer, or has ceased

to have a place of business within the State, or cannot longer be permitted to carry on business as such manufacturer or wholesale dealer without danger to the public safety, he shall, after giving reasonable notice to such manufacturer or wholesale dealer, cause the name of such person to be removed from registration. Any person aggrieved by the refusal of such State official to register him as such manufacturer or wholesale dealer, or by the removal of his name from registration, shall have a right of appeal to the Supreme Court of the State.

Every manufacturer and wholesale dealer shall keep a detailed record of each pistol and machine gun sold by him. Such record shall include date of sale, name of purchaser, description of arm, and serial number thereof. The information contained in such record shall be available to police and other public officials in the performance of their official duties.

6. No retail dealer shall sell or expose for sale, or have in his possession with intent to sell, a pistol or machine gun without being licensed as hereinafter provided.

The Common Pleas judge of any court in this State, may, in his discretion, grant licenses in form prescribed by the Secretary of State, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city or town or political subdivision, pistols, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building or buildings designated in the license.

2. The license or a copy thereof certified by the issuing authority shall be displayed in a conspicuous place on the premises where it can be easily read.

3. No pistol, machine gun or imitation thereof, or placard advertising the sale thereof, shall be placed in any window or in any part of said premises where it can be readily seen from the outside.

4. No pistol shall be delivered (a) unless the purchaser shall have obtained a permit to purchase under the provisions of section nine; (b) until seven days shall have elapsed after the application for the permit; (c) unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; (d) unless the pistol shall be unloaded and securely wrapped.

5. A true record of every pistol sold shall be made in a book kept for the purpose, the form of which shall be prescribed by the Secretary of State and shall be personally signed by the person effecting the sale, and shall contain the date of the sale, the calibre, make, model, and manufacturer's number of the weapon, and the name, address and permit number of the purchaser.

No license to sell at retail shall be granted except as provided in this section.

Violation of any of the provisions of the license shall be deemed a misdemeanor and shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment for not less than three months, nor more than one year, or both.

7. Any person who shall knowingly sell to a minor under the age of eighteen years, or to a person not of sound mind, or to a drug addict, or to a person who has been convicted of a crime of violence with a pistol, shall be deemed guilty of misdemeanor and shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment for not more than one year, or both.

8. Any person who loans money secured by mortgage, deposit or pledge of a pistol shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both.

9. No person shall sell a pistol to another person unless the purchaser has first secured a permit to purchase a pistol. No person of good character and who is of good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in other sections of this act, shall be denied a permit to purchase a pistol. The justice of a court or a trial justice, the sheriff of a county or the chief of police of a city, town or municipality shall upon application issue to any person qualified under the provisions of this section a permit to purchase a pistol, and the Secretary of State shall have concurrent jurisdiction to issue such permit in any case, notwithstanding it has been refused by any other licensing official, if in his opinion the applicant is qualified.

Applications for such permits shall be in form as prescribed by the Secretary of State and shall set forth the name, residence, place of business, age, occupation, sex, color, and physical description of the applicant, and shall state whether the

applicant is a citizen, and whether he has ever been convicted of a crime of violence as defined in this act. Such application shall be signed by the applicant and shall contain as reference the names and addresses of two reputable citizens personally acquainted with him.

Application blanks shall be obtainable from the Secretary of State and from any other officers authorized to grant such permit, and may be obtained from licensed retail dealers. The application, together with a fee of fifty cents, shall be delivered or forwarded to the licensing authority who shall investigate the same, and unless good cause for the denial thereof shall appear, shall grant said permit within seven days from the date of the receipt of the application. The permit shall be in form prescribed by the Secretary of State and shall be issued to the applicant in triplicate. The applicant shall deliver to the seller the permit in triplicate and the seller shall indorse on the back of each copy the make, model, calibre and serial number of the pistol sold under the permit. One copy shall then be returned to the purchaser with the pistol, one copy shall be kept by the seller as a permanent record, and the third copy shall be forwarded by the seller within three days to the Secretary of State. If the permit is not granted, the fee shall be returned to the applicant.

All fees for permits shall be paid into the general fund of the State.

A person shall not be restricted as to the number of pistols he may purchase, if he applies for and obtains permits to purchase the same, but only one pistol shall be purchased or delivered on each permit.

10. The judge of the Court of Common Pleas or chief of police of cities of the first class or the sheriff of a county, shall, upon the application of any person having a bona fide residence or place of business within the jurisdiction of said licensing authority, or upon the application of any person having a bona fide residence or place of business within the United States and a license to carry a pistol issued by the authorities of any State or subdivision of the United States, issue a license to such person to carry a pistol within this State for not more than one year from date of issue, if it appears that the applicant is a suitable person to be so licensed, and that he has good reason to fear an injury to his person or property or has any other proper reason for carrying a pistol. The license shall be in tripli-

cate, in form to be prescribed by the Secretary of State, and shall bear the name, address, physical description, signature, and fingerprints of the licensee, and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the Secretary of State and the triplicate shall be preserved by the authority issuing said license. The fee for each license originally issued under the provisions of this section shall be two dollars, and for each renewal thereof one dollar, to be paid to the official issuing the permit. Fees so collected shall be paid into the general fund of the State.

11. No person shall, without a license therefor issued as provided in the preceding section, carry a pistol in any vehicle or concealed on or about his person, except in his dwelling house or place of business or on land possessed by him.

12. The United States marshal or his deputies, the sheriff or undersheriffs of any county, the prison or jail wardens or their deputies, the regularly employed police members of any municipality of this State, any special policeman appointed by the governing body of any municipality during the successive terms of his appointment, the prosecutor or assistant prosecutors of any county or the prosecutor's detectives or guards while in the employ of any banking or building and loan institution of this State, any court attendant engaged in attending the Circuit Court, Court of Oyer and Terminer, Court of Common Pleas, or General Court of Quarter Sessions of the Peace, the members of the Army, Navy, or Marine Corps of the United States or of the National Guard when on duty, constables, salaried fish and game wardens, railway police, canal police and steamboat police, are excepted from the provisions of this act.

13. Any person who shall give or cause to be given false information in applying for a permit to purchase or a license to carry a pistol, or in purchasing or otherwise acquiring delivery of a pistol, shall be deemed to be guilty of a misdemeanor and shall be subject to the same penalty as is provided for the crime of misdemeanor in this State.

14. It shall be unlawful within this State to manufacture, sell, purchase or possess, except for military or police purposes, any muffler, silencer or device for

deadening or muffling the sound of a firearm when discharged. Any violation of this section shall be a misdemeanor.

15. Any person, except a duly appointed law enforcement officer, or a member of the Army, Navy, or Marine Corps of the United States or of the National Guard or organized reserves when on duty, who possesses, or carries on or about his person or in a vehicle, a bomb or bomb shell, except for blasting or other commercial use, or who, with intent to use the same unlawfully against the person or property of another, possesses or carries any explosive substance, or any noxious liquid, gas or substance, shall be guilty of a high misdemeanor.

16. No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number, or other mark of identification of any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same. Any violation of this section shall be a misdemeanor.

17. It shall be unlawful to sell or deliver or offer or expose for sale, or have in possession for the purpose of sale, any book, pamphlet, circular, magazine, newspaper or other form of written or printed matter, offering to sell or deliver, or containing an offer to sell or deliver within this State any pistol or machine gun in any other manner than as prescribed in this act.

18. No property right shall exist in any firearms unlawfully possessed, carried or used, and all such firearms are hereby declared to be nuisances and forfeited to the State. When such forfeited firearms shall be taken from any person, they shall be surrendered to the sheriff of the county in which taken or to the head of the police department in cities. The officer to whom they are surrendered shall, except upon a certificate of a judge of a court of record or district attorney that the non-destruction thereof is necessary or proper to the ends of justice, proceed to destroy all such firearms at stated intervals of not more than one year. *Provided, however*, that if any such firearms shall be found to be the property of an innocent owner, it shall be returned to such owner, or, and when no longer needed for evidential purposes.

19. In the case of the conviction under this act of a person who is not a citizen of the United States, it shall be the duty of the clerk of the court in which such conviction is secured to certify the fact of such conviction to the proper officer of the United States Government having supervision of the deportation of aliens.

20. This act shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

21. All licenses heretofore issued within this State permitting the sale, purchase, or carrying of pistols shall expire ninety days after the passage of this act. Notice of the passage of the act shall be sent by the licensing authorities to all holders of such licenses.

22. Any person violating any provision of this act for which no penalty is specifically provided herein shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not exceeding two years, or both.

23. If any part of this act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this act.

24. All acts or parts of acts inconsistent herewith are hereby repealed, and the provisions of this act shall be effective and controlling throughout the State, notwithstanding the provision of any local law or ordinance.

25. This act shall take effect thirty days after its passage.

STATEMENT

This bill is the one drawn up by the special committee on firearms regulation of the National Crime Commission. Prominent jurists, criminologists and lawyers and prosecutors from all over the country were consulted in the drawing up of this measure.

[OFFICIAL COPY REPRINT.]

COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 327

(*L.* 1927, *Ch.* 321)

STATE OF NEW JERSEY

ADOPTED MARCH 24, 1930

AN AMENDMENT to "A further supplement to an act entitled 'An act for the punishment of crimes' (Revision of 1898), approved June fourteenth, one thousand eight hundred and ninety-eight," being chapter three hundred and twenty-one of the laws of one thousand nine hundred and twenty-seven.

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

1. Section five of said act is hereby amended to read as follows:

5. Every person who manufactures, or who sells at wholesale, any of the firearms or instruments enumerated in section one hereof shall be registered with the Secretary of State and shall furnish to the Secretary of State such particulars as may be prescribed by law for such registration: *provided*, that if the Secretary of State is satisfied that any applicant for such registration cannot be permitted to carry on business as a manufacturer or wholesale dealer in the firearms or instruments enumerated in section one hereof without danger to the public safety, he may refuse to register that person.

The Secretary of State shall furnish to every person who is registered under this section a certificate of registration.

If any person desires to have his name removed from registration, or if the Secretary of State is satisfied that any person whose name is registered is no longer carrying on business as such manufacturer or wholesale dealer, or has ceased to have a place of business within the State, or cannot longer be permitted to carry on business as such manufacturer or wholesale dealer without danger to the public safety, he shall, after giving reasonable notice to such manufacturer or wholesale dealer and hearing thereon, cause the name of such person to be removed from registration.

Any person aggrieved by the refusal of such State official to register him as such manufacturer or wholesale dealer, or by the removal of his name from registration, shall have a right of appeal to the Supreme Court of the State.

Every manufacturer and wholesale dealer shall keep a detailed record of each firearm or instrument sold by him. Such record shall include date of sale, name of purchaser, description of arm, and serial number thereof. The information contained in such record shall be available to police and other public officials in the performance of their official duties.

Violation of any of the provisions of this section shall be a misdemeanor.

2. Section nine of said act is hereby amended to read as follows:

9. No person shall sell a pistol or revolver to another person unless the purchaser has first secured a permit to purchase or carry a pistol or revolver. No person of good character and who is of good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in other sections of this act, shall be denied a permit to purchase a pistol or revolver. The judge of any court within this State (except, however, justices of the peace), the sheriff of a county or the chief of police of a city, town or municipality shall upon application issue to any person qualified under the provisions of this section a permit to purchase a pistol or revolver, and the Secretary of State shall have concurrent jurisdiction to issue such permit in any case, notwithstanding it has been refused by any other licensing official, if in his opinion the applicant is qualified.

Applications for such permits shall be in form as prescribed by the Secretary of State and shall set forth the name, residence, place of business, age, occupation, sex, color and physical description of the applicant, and shall state whether the applicant is a citizen, and whether he has ever been convicted of any of the crimes enumerated in section two hereof as defined in this act. Such application shall be signed by the applicant and shall contain as reference the names and addresses of two reputable citizens personally acquainted with him.

Application blanks shall be obtainable from the Secretary of State and from any other officers authorized to grant such permit, and may be obtained from licensed retail dealers. The application, together with a fee of fifty cents shall be delivered or forwarded to the licensing authority who shall investigate the same, and unless good

cause for the denial thereof shall appear, shall grant said permit within seven days from the date of the receipt of the application. The permit shall be in form prescribed by the Secretary of State and shall be issued to the applicant in triplicate. The applicant shall deliver to the seller the permit in triplicate and the seller shall endorse on the back of each copy the make, model, calibre and serial number of the pistol or revolver sold under the permit. One copy shall then be returned to the purchaser with the pistol or revolver, one copy shall be kept by the seller as a permanent record, and the third copy shall be forwarded by the seller within three days to the Secretary of State. If the permit is not granted, the fee shall be returned to the applicant.

All fees for permits shall be paid into the general fund of the State if the permit is issued by the Secretary of State; to the municipality if the permit be issued by a municipal officer; in all other instances to the general fund of the county wherein the officer acts or the licensee resides or does business.

A person shall not be restricted as to the number of pistols or revolvers he may purchase, if he applies for and obtains permits to purchase the same, but only one pistol or revolver shall be purchased or delivered on each permit.

Violation of any of the provisions of this section shall be a misdemeanor.

3. This act shall take effect immediately.