

2C:39-1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:39-1, 2C:39-4 (Imitation firearms-- prohibit certain)

LAWS OF: 1989 **CHAPTER:** 120

BILL NO: S841

SPONSOR(S): Graves & Bubba

Date Introduced: _____

Committee: **Assembly:** Law, Public Safety and Corrections
Senate: Law, Public Safety and Defense

Amended during passage: Yes

Date of Passage: **Assembly:** May 15, 1989
Senate: February 2, 1988

Date of Approval: June 30, 1989

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

See newspaper clippings-- attached:
"Kean signs law forcing fines..." 7-1-89 Trenton Times.

RDV

[FIRST REPRINT]

SENATE, No. 841

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senators GRAVES and BUBBA

1 AN ACT concerning imitation firearms and amending N.J.S.
2C:39-1 and ¹[N.J.S. 2C:39-5] N.J.S. 2C:39-4¹.

3

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

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

7 2C:39-1. Definitions. The following definitions apply to this
chapter and to chapter 58:

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

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

c. "Destructive device" means any device, instrument or
23 object designed to explode or produce uncontrolled combustion,
including (1) any explosive or incendiary bomb, mine or grenade;
25 (2) any rocket having a propellant charge of more than four
ounces or any missile having an explosive or incendiary charge
27 of more than one-quarter of an ounce; (3) any weapon capable of
firing a projectile of a caliber greater than 60 caliber, except a
29 shotgun or shotgun ammunition generally recognized as suitable
for sporting purposes; (4) any Molotov cocktail or other device
31 consisting of a breakable container containing flammable liquid
and having a wick or similar device capable of being ignited.

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:
1 Senate SLP committee amendments adopted January 28, 1988.

1 The term does not include any device manufactured for the
purpose of illumination, distress signaling, line-throwing, safety
3 or similar purposes.

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

7 e. "Explosive" means any chemical compound or mixture that
is commonly used or is possessed for the purpose of producing an
9 explosion and which contains any oxidizing and combustible
materials or other ingredients in such proportions, quantities or
11 packing that an ignition by fire, by friction, by concussion or by
detonation of any part of the compound or mixture may cause
13 such a sudden generation of highly heated gases that the
resultant gaseous pressures are capable of producing destructive
15 effects on contiguous objects. The term shall not include small
arms ammunition, or explosives in the form prescribed by the
17 official United States Pharmacopoeia.

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

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

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

1 i. "Machine gun" means any firearm, mechanism or
instrument not requiring that the trigger be pressed for each
3 shot and having a reservoir, belt or other means of storing and
carrying ammunition which can be loaded into the firearms,
5 mechanism or instrument and fired therefrom.

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

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

l. "Retail dealer" means any person including a gunsmith,
17 except a manufacturer or a wholesale dealer, who sells,
transfers or assigns for a fee or profit any firearm or parts of
19 firearms or ammunition which he has purchased or obtained with
the intention, or for the purpose, of reselling or reassigning to
21 persons who are reasonably understood to be the ultimate
consumers, and includes any person who is engaged in the
23 business of repairing firearms or who sells any firearm to satisfy
a debt secured by the pledge of a firearm.

25 m. "Rifle" means any firearm designed to be fired from the
shoulder and using the energy of the explosive in a fixed
27 metallic cartridge to fire a single projectile through a rifled
bore for each single pull of the trigger.

29 n. "Shotgun" means any firearm designed to be fired from the
shoulder and using the energy of the explosive in a fixed shotgun
31 shell to fire through a smooth bore either a number of ball shots
or a single projectile for each pull of the trigger, or any firearm
33 designed to be fired from the shoulder which does not fire fixed
ammunition.

35 o. "Sawed-off shotgun" means any shotgun having a barrel or
barrels of less than 18 inches in length measured from the
37 breech to the muzzle, or a rifle having a barrel or barrels of less
than 16 inches in length measured from the breech to the
39 muzzle, or any firearm made from a rifle or a shotgun, whether

1 by alteration, or otherwise, if such firearm as modified has all
overall length of less than 26 inches.

3 p. "Switchblade knife" means any knife or similar device
which has a blade which opens automatically by hand pressure
5 applied to a button, spring or other device in the handle of the
knife.

7 q. "Superintendent" means the Superintendent of the State
Police.

9 r. "Weapon" means anything readily capable of lethal use or
of inflicting serious bodily injury. The term includes, but is not
11 limited to, all (1) firearms, even though not loaded or lacking a
clip or other component to render them immediately operable;
13 (2) components which can be readily assembled into a weapon;
(3) gravity knives, switchable knives, daggers, dirks, stilettos, or
15 other dangerous knives, billies, blackjacks, bludgeons, metal
knuckles, sandclubs, slingshots, cesti or similar leather bands
17 studded with metal filings or razor blades imbedded in wood; and
(4) stun guns; and any weapon or other device which projects,
19 releases, or emits tear gas or any other substance intended to
produce temporary physical discomfort or permanent injury
21 through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a
23 manufacturer, who sells, transfers, or assigns firearms, or parts
of firearms, to persons who are reasonably understood not to be
25 ultimate consumers, and includes persons who receive finished
parts of firearms and assemble them into completed or partially
27 completed firearms, in furtherance of such purpose, except that
it shall not include those persons dealing exclusively in grips,
29 stocks and other nonmetal parts of firearms.

t. "Stun gun" means any weapon or other device which emits
31 an electrical charge or current intended to temporarily or
permanently disable a person.

33 u. "Ballistic knife" means any weapon or other device
capable of lethal use and which can propel a knife blade.

35 v. "Imitation firearm" means an object or device reasonably
capable of being mistaken for a firearm.

37 (cf: P.L. 1987, c. 228, s. 1)

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

39 2C:39-5. Unlawful Possession of Weapons. a. Machine guns.

1 Any person who knowingly has in his possession a machine gun or
any instrument or device adaptable for use as a machine gun,
3 without being licensed to do so as provided in section 2C:58-5, is
guilty of a crime of the third degree.

5 b. Handguns. Any person who knowingly has in his possession
any handgun, including any antique handgun without first having
7 obtained a permit to carry the same as provided in section
2C:58-4, is guilty of a crime of the third degree.

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

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

17 d. Other weapons. Any person who knowingly has in his
possession any other weapon or an imitation firearm under
19 circumstances not manifestly appropriate for such lawful uses as
it may have is guilty of a crime of the fourth degree.

21 e. Firearms in educational institutions. Any person who
knowingly has in his possession any firearm in or upon any part
23 of the buildings or grounds of any school, college, university or
other educational institution, without the written authorization
25 of the governing officer of the institution, is guilty of a crime of
the third degree, irrespective of whether he possesses a valid
27 permit to carry the firearm or a valid firearms purchaser
identification card.

29 (cf: P.L.1979, c.179, s.4)]

N.J.S. 2C:39-4 is amended to read as follows:

31 2C:39-4. Possession of weapons for unlawful purposes

a. Firearms. Any person who has in his possession any
33 firearm with a purpose to use it unlawfully against the person or
property of another is guilty of a crime of the second degree.

35 b. Explosives. Any person who has in his possession or carries
any explosive substance with a purpose to use it unlawfully
37 against the person or property of another is guilty of a crime of
the second degree.

1 c. Destructive devices. Any person who has in his possession
any destructive device with a purpose to use it unlawfully
3 against the person or property of another is guilty of a crime of
the second degree.

5 d. Other weapons. Any person who has in his possession any
weapon, except a firearm, with a purpose to use it unlawfully
7 against the person or property of another is guilty of a crime of
the third degree.

9 e. Imitation Firearms. Any person who has in his possession
an imitation firearm under circumstances that would lead an
11 observer to reasonably believe that it is possessed for an
unlawful purpose is guilty of a crime of the fourth degree.
13 (cf: P.L.1979, c.179, s.3)¹

15 3. This act shall take effect on the first day of the second
month after enactment.

17

PUBLIC SAFETY

19

Weapons

21 Prohibits possession of imitation firearms under certain
circumstances.

1 without being licensed to do so as provided in section 2C:58-5, is
 2 guilty of a crime of the third degree.

3 b. Handguns. Any person who knowingly has in his possession
 4 any handgun, including any antique handgun without first having
 5 obtained a permit to carry the same as provided in section
 6 2C:58-4, is guilty of a crime of the third degree.

7 c. Rifles and shotguns. (1) Any person who knowingly has in
 8 his possession any rifle or shotgun without having first obtained
 9 a firearms purchaser identification card in accordance with the
 10 provisions of section 2C:58-3, is guilty of a crime of the third
 11 degree.

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

15 d. Other weapons. Any person who knowingly has in his
 16 possession any other weapon or an imitation firearm under
 17 circumstances not manifestly appropriate for such lawful uses as
 18 it may have is guilty of a crime of the fourth degree.

19 e. Firearms in educational institutions. Any person who
 20 knowingly has in his possession any firearm in or upon any part
 21 of the buildings or grounds of any school, college, university or
 22 other educational institution, without the written authorization
 23 of the governing officer of the institution, is guilty of a crime of
 24 the third degree, irrespective of whether he possesses a valid
 25 permit to carry the firearm or a valid firearms purchaser
 26 identification card.

27 3. This act shall take effect on the first day of the second
 28 month after enactment.

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 31 *SPONSORS'* STATEMENT

32 This bill prohibits as a crime of the fourth degree the knowing
 33 possession of an imitation firearm under circumstances not
 34 manifestly appropriate for such lawful uses as it may have by a
 35 person of any age. "Imitation firearm" is defined by the bill as
 36 an object or device reasonably capable of being mistaken for a
 37 firearm.

584/
 (1988)

ASSEMBLY LAW, PUBLIC SAFETY AND CORRECTIONS
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 841

STATE OF NEW JERSEY

DATED: APRIL 25, 1988

The Assembly Law, Public Safety and Corrections Committee favorably reports Senate Bill No. 841 1R.

Senate Bill No. 841 1R amends N.J.S. 2C:39-1 and N.J.S. 2C:39-4 to make it unlawful for a person to possess an imitation firearm if, under the circumstances of that possession, an observer would be led to reasonably believe that the possession of that imitation firearm was for some unlawful purpose. A person who possesses an imitation firearm under such circumstances would be guilty of a crime of the fourth degree.

An imitation firearm is defined as any object or device that is reasonably capable of being mistaken for being a firearm.

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 841

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 1988

Senate Bill 841, as amended, prohibits as a crime of the fourth degree under N.J.S. 2C:39-4 the possession of an imitation firearm under circumstances that would lead an observer to reasonably believe that it is possessed for an unlawful purpose. "Imitation firearm" is defined by the bill as an object or device reasonably capable of being mistaken for a firearm.

Prior to being amended, the bill prohibited the possession of an imitation firearm under N.J.S. 2C:39-5 in circumstances not manifestly appropriate for such uses as it may have.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.