ASSEMBLY, No. 2022

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED FEBRUARY 7, 2000

Sponsored by:
Assemblyman REED GUSCIORA
District 15 (Mercer)

SYNOPSIS

Requires the storage of firearms in a locked container or with a trigger lock or blocking device; requires handguns to be sold with trigger locks or trigger blocking devices.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the purchase of handguns and safe storage of firearms, amending N.J.S.2C:39-10 and N.J.S.2C:58-3 and supplementing chapter 58 of Title 2C of the New Jersey Statutes.

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

1. (New section) A person who possesses and stores a firearm at his place of business, residence, or on premises or land owned or possessed by him, shall store the firearm in a securely locked case, gunbox, container, or other facility, or shall secure the firearm with a trigger lock mechanism or trigger blocking device properly fitted and secured into place, when the person knows or should reasonably know that a person under 18 years of age may obtain possession of the firearm without the direct supervision of the minor's parent or legal guardian or without the direct supervision of a person who holds a valid permit to carry a handgun or a firearms purchaser identification card. A firearm shall be stored in this manner unless it is being carried on the person or is within such close proximity that it can be retrieved as easily and as quickly as if it was being carried on the person. If a minor obtains possession of a firearm and causes personal injury or death to himself or another person with that firearm, the person who failed to store the firearm as required by this section shall be subject to the penalty provided in N.J.S.2C:39-10.

For the purposes of this section, a "trigger lock mechanism" or a "trigger blocking device" means a mechanism or device which is installed or removed with a key or a tool.

A person shall not be subject to the penalty in N.J.S.2C:39-10 if a minor obtains possession of a firearm without the knowledge of the person who stored the firearm and through the intervention of a third person who is at or over 18 years of age or if a minor obtains possession of a firearm as a result of an unlawful entry by the minor or any other person into the place of business or residence or onto the premises or land where the firearm is stored. This section shall not apply to the storage of firearms on State or federal military property nor shall it concern injuries or death caused during the performance of official duties by a minor who is a member of the military.

2. N.J.S.2C:39-10 is amended to read as follows:

2C:39-10. Violation of the Regulatory Provisions Relating to Firearms; False Representation in Applications.

a. (1) Except as otherwise provided in paragraph (2) of this subsection, any person who knowingly violates the regulatory

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

provisions relating to manufacturing or wholesaling of firearms (section 2C:58-1), retailing of firearms (section 2C:58-2), permits to purchase certain firearms (section 2C:58-3), permits to carry certain firearms (section 2C:58-4), licenses to procure machine guns or assault firearms (section 2C:58-5), **[**or**]** incendiary or tracer ammunition (section 2C:58-10), or storage of firearms (section 1 of P.L. ,c. (C.) (now pending before the Legislature as this bill), except acts which are punishable under section 2C:39-5 or section 2C:39-9, is guilty of a crime of the fourth degree.

(2) A licensed dealer who knowingly violates the provisions of subparagraph (d) of paragraph (5) of subsection a. of N.J.S.2C:58-2 is a disorderly person.

b. Any person who knowingly violates the regulatory provisions relating to notifying the authorities of possessing certain items of explosives (section 2C:58-7), or of certain wounds (section 2C:58-8) is a disorderly person.

c. Any person who gives or causes to be given any false information, or signs a fictitious name or address, in applying for a firearms purchaser identification card, a permit to purchase a handgun, a permit to carry a handgun, a permit to possess a machine gun, a permit to possess an assault firearm, or in completing the certificate or any other instrument required by law in purchasing or otherwise acquiring delivery of any rifle, shotgun, handgun, machine gun, or assault firearm or any other firearm, is guilty of a crime of the third degree.

d. Any person who gives or causes to be given any false information in registering an assault firearm pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) or in certifying that an assault firearm was rendered inoperable pursuant to section 12 of P.L.1990, c.32 (C.2C:58-13) commits a crime of the fourth degree.

e. Any person who knowingly sells, gives, transfers, assigns or otherwise disposes of a firearm to a person who is under the age of 18 years, except as permitted in section 14 of P.L.1979, c.179 (C.2C:58-6.1), is guilty of a crime of the third degree. Notwithstanding any other provision of law to the contrary, the sentence imposed for a conviction under this subsection shall include a mandatory minimum three-year term of imprisonment, during which the defendant shall be ineligible for parole.

(cf: P.L.1999, c.233, s.4)

3. N.J.S.2C:58-3 is amended to read as follows:

2C:58-3. Purchase of Firearms.

a. Permit to purchase a handgun. No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase, or otherwise acquire a handgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first

secured a permit to purchase a handgun as provided by this section and the receipt, purchase, or acquisition of a handgun also includes the receipt, purchase or acquisition of a trigger lock mechanism, or a trigger blocking device, which must be installed and removed with a key or a tool for that handgun.

b. Firearms purchaser identification card. No person shall sell, give, transfer, assign or otherwise dispose of nor receive, purchase or otherwise acquire an antique cannon or a rifle or shotgun, other than an antique rifle or shotgun, unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or possesses a valid firearms purchaser identification card, and first exhibits said card to the seller, donor, transferor or assignor, and unless the purchaser, assignee, donee, receiver or holder signs a written certification, on a form prescribed by the superintendent, which shall indicate that he presently complies with the requirements of subsection c. of this section and shall contain his name, address and firearms purchaser identification card number or dealer's registration number. The said certification shall be retained by the seller, as provided in section 2C:58-2a., or, in the case of a person who is not a dealer, it may be filed with the chief of police of the municipality in which he resides or with the superintendent.

c. Who may obtain. No person of good character and good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase a handgun or a firearms purchaser identification card, except as hereinafter set forth. No handgun purchase permit or firearms purchaser identification card shall be issued:

(1) To any person who has been convicted of a crime, whether or not armed with or possessing a weapon at the time of such offense;

(2) To any drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), to any person who is confined for a mental disorder to a hospital, mental institution or sanitarium, or to any person who is presently an habitual drunkard;

(3) To any person who suffers from a physical defect or disease which would make it unsafe for him to handle firearms, to any person who has ever been confined for a mental disorder, or to any alcoholic unless any of the foregoing persons produces a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that he is no longer suffering from that particular disability in such a manner that would interfere with or handicap him in the handling of firearms; to any person who knowingly falsifies any information on the application form for a handgun purchase permit or firearms purchaser identification card;

(4) To any person under the age of 18 years;

(5) To any person where the issuance would not be in the interest

of the public health, safety or welfare; or

(6) To any person who is subject to a court order issued pursuant to section 13 of P.L.1991, c.261 (C.2C:25-29) prohibiting the person from possessing any firearm.

d. Issuance. The chief of police of an organized full-time police department of the municipality where the applicant resides or the superintendent, in all other cases, shall upon application, issue to any person qualified under the provisions of subsection c. of this section a permit to purchase a handgun or a firearms purchaser identification card.

Any person aggrieved by the denial of a permit or identification card may request a hearing in the Superior Court of the county in which he resides if he is a resident of New Jersey or in the Superior Court of the county in which his application was filed if he is a nonresident. The request for a hearing shall be made in writing within 30 days of the denial of the application for a permit or identification card. The applicant shall serve a copy of his request for a hearing upon the chief of police of the municipality in which he resides, if he is a resident of New Jersey, and upon the superintendent in all cases. The hearing shall be held and a record made thereof within 30 days of the receipt of the application for such hearing by the judge of the Superior Court. No formal pleading and no filing fee shall be required as a preliminary to such hearing. Appeals from the results of such hearing shall be in accordance with law.

e. Applications. Applications for permits to purchase a handgun and for firearms purchaser identification cards shall be in the form prescribed by the superintendent and shall set forth the name, residence, place of business, age, date of birth, occupation, sex and physical description, including distinguishing physical characteristics, if any, of the applicant, and shall state whether the applicant is a citizen, whether he is an alcoholic, habitual drunkard, drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2), whether he has ever been confined or committed to a mental institution or hospital for treatment or observation of a mental or psychiatric condition on a temporary, interim or permanent basis, giving the name and location of the institution or hospital and the dates of such confinement or commitment, whether he has been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an inpatient or outpatient basis for any mental or psychiatric condition, giving the name and location of the doctor, psychiatrist, hospital or institution and the dates of such occurrence, whether he presently or ever has been a member of any organization which advocates or approves the commission of acts of force and violence to overthrow the Government of the United States or of this State, or which seeks to deny others their rights under the Constitution of either the United States or the State of New Jersey, whether he has

ever been convicted of a crime or disorderly persons offense, whether the person is subject to a court order issued pursuant to section 13 of P.L.1991, c.261 (C.2C:25-29) prohibiting the person from possessing any firearm, and such other information as the superintendent shall deem necessary for the proper enforcement of this chapter. For the purpose of complying with this subsection, the applicant shall waive any statutory or other right of confidentiality relating to institutional confinement. The application shall be signed by the applicant and shall contain as references the names and addresses of two reputable citizens personally acquainted with him.

Application blanks shall be obtainable from the superintendent, from any other officer authorized to grant such permit or identification card, and from licensed retail dealers.

The chief police officer or the superintendent shall obtain the fingerprints of the applicant and shall have them compared with any and all records of fingerprints in the municipality and county in which the applicant resides and also the records of the State Bureau of Identification and the Federal Bureau of Investigation, provided that an applicant for a handgun purchase permit who possesses a valid firearms purchaser identification card, or who has previously obtained a handgun purchase permit from the same licensing authority for which he was previously fingerprinted, and who provides other reasonably satisfactory proof of his identity, need not be fingerprinted again; however, the chief police officer or the superintendent shall proceed to investigate the application to determine whether or not the applicant has become subject to any of the disabilities set forth in this chapter.

f. Granting of permit or identification card; fee; term; renewal; revocation. The application for the permit to purchase a handgun together with a fee of $2.00, or the application for the firearms purchaser identification card together with a fee of $5.00, shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, within 30 days from the date of receipt of the application for residents of this State and within 45 days for nonresident applicants. A permit to purchase a handgun shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days. <u>A permit to purchase a handgun shall include the requirement that the permit holder purchase or otherwise acquire a trigger lock mechanism, or a trigger blocking device, which must be installed and removed with a key or a tool for that handgun at the time of the handgun purchase.</u> A firearms purchaser identification card shall be valid until such time as the holder becomes subject to any of the disabilities set forth in subsection c. of this section, whereupon the card shall be void and shall be returned within five days by the holder to the superintendent,

who shall then advise the licensing authority. Failure of the holder to return the firearms purchaser identification card to the superintendent within the said five days shall be an offense under section 2C:39-10a. Any firearms purchaser identification card may be revoked by the Superior Court of the county wherein the card was issued, after hearing upon notice, upon a finding that the holder thereof no longer qualifies for the issuance of such permit. The county prosecutor of any county, the chief police officer of any municipality or any citizen may apply to such court at any time for the revocation of such card.

There shall be no conditions or requirements added to the form or content of the application, or required by the licensing authority for the issuance of a permit or identification card, other than those that are specifically set forth in this chapter.

g. Disposition of fees. All fees for permits shall be paid to the State Treasury if the permit is issued by the superintendent, to the municipality if issued by the chief of police, and to the county treasurer if issued by the judge of the Superior Court.

h. Form of permit; quadruplicate; disposition of copies. The permit shall be in the form prescribed by the superintendent and shall be issued to the applicant in quadruplicate. Prior to the time he receives the handgun from the seller, the applicant shall deliver to the seller the permit in quadruplicate and the seller shall complete all of the information required on the form. Within five days of the date of the sale, the seller shall forward the original copy to the superintendent and the second copy to the chief of police of the municipality in which the purchaser resides, except that in a municipality having no chief of police, such copy shall be forwarded to the superintendent. The third copy shall then be returned to the purchaser with the pistol or revolver and the fourth copy shall be kept by the seller as a permanent record.

i. Restriction on number of firearms person may purchase. Only one handgun shall be purchased or delivered on each permit, but a person shall not be restricted as to the number of rifles or shotguns he may purchase, provided he possesses a valid firearms purchaser identification card and provided further that he signs the certification required in subsection b. of this section for each transaction.

j. Firearms passing to heirs or legatees. Notwithstanding any other provision of this section concerning the transfer, receipt or acquisition of a firearm, a permit to purchase or a firearms purchaser identification card shall not be required for the passing of a firearm upon the death of an owner thereof to his heir or legatee, whether the same be by testamentary bequest or by the laws of intestacy. The person who shall so receive, or acquire said firearm shall, however, be subject to all other provisions of this chapter. If the heir or legatee of such firearm does not qualify to possess or carry it, he may retain ownership of the firearm for the purpose of sale for a period not exceeding 180 days, or for such further limited period as may be approved by the

chief law enforcement officer of the municipality in which the heir or legatee resides or the superintendent, provided that such firearm is in the custody of the chief law enforcement officer of the municipality or the superintendent during such period.

k. Sawed-off shotguns. Nothing in this section shall be construed to authorize the purchase or possession of any sawed-off shotgun.

l. Nothing in this section and in N.J.S.2C:58-2 shall apply to the sale or purchase of a visual distress signalling device approved by the United States Coast Guard, solely for possession on a private or commercial aircraft or any boat; provided, however, that no person under the age of 18 years shall purchase nor shall any person sell to a person under the age of 18 years such a visual distress signalling device.

(cf: P.L.1991, c.261, s.19)

4. This act shall take effect immediately.

STATEMENT

This bill requires a person who possesses and stores a firearm at his place of business, residence or other property possessed or owned by him to store that firearm in a locked case, gunbox, container or other facility, or with a properly fitted trigger lock or blocking mechanism, when the person knows or should reasonably know that a minor (a person under 18 years of age) could gain access to the firearm without the direct supervision of the minor's parent or legal guardian or the direct supervision of a person holding a valid permit to carry a handgun or a firearms purchaser identification card. If a minor obtains possession of a firearm because it was not stored in the required manner and the minor causes personal injury or death to himself or another person, the person who failed to store the firearm in the required manner will be guilty of a crime of the fourth degree.

In addition, this bill amends N.J.S.2C:58-3 to require all sales and purchases of handguns to include a separate trigger lock or blocking mechanism.

The purpose of this bill is to prevent the accidental injury or death of children by firearms which may fall into their hands because the firearms were irresponsibly stored within their easy reach. The careless storage of firearms encourages tragic accidents and, therefore, storage should be regulated for the safety of our children. Adults would continue to be able to purchase, keep and use firearms; however, they would have to give more thought to safe storage when the firearms were not in use.