

SENATE, No. 3150

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Establishes strict liability criminal penalties for firearm trafficking that results in injury or death.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning unlawful trafficking of firearms and
2 supplementing Title 2C of the New Jersey Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “Real
8 Accountability for Consequences of Unlawful Trafficking of
9 Firearms Act.”

10

11 2. a. As used in this act, “firearm trafficking violation” means:

12 (1) A violation of paragraph (1) subsection a. of N.J.S.2C:39-10
13 by selling, giving, transferring, assigning, or otherwise disposing of
14 a handgun to a purchaser, assignee, donee, receiver, or holder who
15 the defendant knows is not licensed as a dealer or has not secured a
16 permit to purchase a handgun pursuant to subsection a. of
17 N.J.S.2C:58-3;

18 (2) A violation of paragraph (1) subsection a. of N.J.S.2C:39-10
19 by selling, giving, transferring, assigning, or otherwise disposing of
20 a rifle or shotgun to a purchaser, assignee, donee, receiver or holder
21 who the defendant knows is not licensed as a dealer or does not
22 possess a valid firearms purchaser identification card and complied
23 with the requirements of paragraph (1) of subsection b. of
24 N.J.S.2C:58-3;

25 (3) A violation of paragraph (4) of subsection a. of N.J.S.2C:39-
26 10 by selling or transferring a firearm knowing that the recipient
27 intends to sell, transfer, assign, or otherwise dispose of that firearm
28 to another person who is disqualified from possessing a firearm
29 under State or federal law;

30 (4) A violation of subsection i. of N.J.S.2C:39-9 by
31 transporting, shipping, or otherwise bringing into this State, or
32 conspiring to transport, ship, or otherwise bring into this State, any
33 firearm for the purpose of unlawfully selling, transferring, giving,
34 assigning, or otherwise disposing of that firearm to another
35 individual;

36 (5) A violation of subsection e. of N.J.S.2C:39-10 by selling,
37 giving, transferring, assigning or otherwise disposing of a firearm to
38 a person who is under the age of 18 years, except as permitted in
39 section 14 of P.L.1979, c. 179 (C.2C:58-6.1); or

40 (6) A violation of subsections (a), (b), (c), (d), (h), (i), (j), (n),
41 (u), or (x) of Title 18 U.S.C. s.922 or subparagraph (A) of
42 subsection (a)(1) of Title 18 U.S.C. s.924.

43 b. (1) A person who purposely commits any firearm
44 trafficking violation enumerated in subsection a. of this section
45 shall be strictly liable for a death that results from the discharge of
46 the illegally trafficked firearm used in the course of committing the
47 crime and shall be guilty of a crime of the first degree.

1 (2) A person who purposely commits any firearm trafficking
2 violation enumerated in subsection a. of this section is strictly liable
3 for a serious bodily injury or significant bodily injury as defined by
4 N.J.S.2C:11-1 that results from the discharge of the illegally
5 trafficked firearm while used in the course of committing the crime
6 and shall be guilty of a crime of the second degree.

7 (3) For purposes of paragraphs (1) and (2) of this subsection, an
8 act shall be deemed to be in the course of committing a crime if the
9 act occurs during or as part of an attempt to commit a crime or the
10 commission of a crime or in the immediate flight after the attempt
11 to commit or the commission of a crime.

12 c. The act of selling, giving, transferring, assigning, or
13 otherwise disposing of a firearm shall be deemed a cause of death,
14 serious bodily injury, or significant bodily injury when:

15 (1) the act is an antecedent but for which the death, serious
16 bodily injury, or significant bodily injury would not have occurred;

17 (2) the death, serious bodily injury, or significant bodily injury
18 occurred was not more than three years from the person's act; and

19 (3) the death, serious bodily injury, or significant bodily injury
20 was not dependent upon conduct of another person which was so
21 unrelated to the use of the firearm it did not have a just bearing on
22 the actor's liability.

23

24 3. a. In a prosecution under section 1 of P.L. , c. (C.)
25 (pending before the Legislature as this bill), the trier of fact may
26 infer that the defendant had the requisite mental state to commit a
27 firearm trafficking violation if the defendant:

28 (1) transferred or planned to transfer the firearm within 45 days
29 of the defendant's purchase and receipt of the firearm;

30 (2) sold three or more firearms to the other person within a one-
31 year period;

32 (3) received compensation for the sale of the firearm to another
33 person that was significantly above the fair market value of the
34 firearm;

35 (4) did not conduct the transaction through a licensed retail
36 dealer pursuant to paragraph (2) of subsection a. or paragraph (2) of
37 subsection b. of N.J.S.2C:58-3; or

38 (5) did not abide by the requirements of paragraph (3) of
39 subsection a. or paragraph (3) of subsection b. of N.J.S.2C:58-3 and
40 did not provide a receipt or other documentation regarding the sale
41 to the other person.

42 b. The provisions of N.J.S.2C:2-3 governing the causal
43 relationship between conduct and result shall not apply in a
44 prosecution under this section.

45 c. In a prosecution under section 1 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), the defendant's actions
47 outside of this State shall be sufficient for prosecution if the
48 defendant knew or should have known that the recipient of the

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1 firearm intended to possess, transfer, dispose, sell, or otherwise
2 transport the firearm in this State.

3 d. It shall not be a defense to a prosecution under section 1 of
4 P.L. , c. (C.) (pending before the Legislature as this bill)
5 that:

6 (1) the death or serious or significant bodily injury took place in
7 a jurisdiction other than this State; or

8 (2) the decedent or victim contributed to their own death or
9 serious bodily injury.

10 e. Nothing in this section shall be deemed to preclude, if the
11 evidence so warrants, an indictment and conviction for any other
12 offense.

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14 4. This act shall take effect immediately.

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STATEMENT

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19 This bill establishes strict liability criminal penalties for firearm
20 trafficking that results in bodily injury or death from the discharge
21 of an illegally trafficked firearm used in the course of committing a
22 crime. Under the bill, a person who commits a firearm trafficking
23 violation resulting in a death would be guilty of a first degree crime.
24 The bill also establishes a second degree crime of strict liability
25 firearm trafficking that results in serious bodily injury or significant
26 bodily injury. A crime of the first degree is punishable by 10 to 20
27 years imprisonment, a fine of up to \$200,000, or both. Second
28 degree crimes are punishable by five to 10 years imprisonment, a
29 fine of up to \$150,000, or both.

30 Under the bill, a firearm trafficking violation is defined as
31 unlawfully transferring a handgun, rifle, or shotgun to any person
32 who is not a licensed dealer or does not possess the requisite
33 firearms purchaser identification card or permit to purchase a
34 handgun. A firearm trafficking violation also includes unlawfully
35 transferring a firearm to someone the transferor knows is
36 disqualified from possessing a firearm under current law or is under
37 the age of 18. Transporting a firearm into this State for the purpose
38 of unlawfully transferring it or committing various federal firearm
39 trafficking offenses also would be included as a firearm trafficking
40 violation under the bill.

41 Under the bill, the act of selling, giving, transferring, assigning,
42 or otherwise disposing of a firearm would be deemed a cause of
43 death or serious or significant bodily injury when the:

- 44 • act is an antecedent but for which the death or serious or
45 significant bodily injury would not have occurred;
- 46 • death or serious or significant bodily injury was not more
47 than three years after the person's act; and

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- 1 • death or serious or significant bodily injury was not
2 dependent upon the conduct of another person which was so
3 unrelated to the use of the firearm it did not have a just
4 bearing on the actor's liability.

5 The bill also addresses the prosecution of strict liability for
6 firearm trafficking violations. Under the bill, a trier of fact may
7 infer that the defendant had the requisite mental state to commit a
8 firearm trafficking violation if the defendant:

- 9 • transferred or planned to transfer the firearm within 45 days
10 of the defendant's purchase and receipt of the firearm;
11 • sold three or more firearms to the other person within a one-
12 year period;
13 • received compensation for the sale of the firearm to the other
14 person that was significantly above the fair market value of
15 the firearm;
16 • did not conduct the transaction through a licensed retail
17 dealer pursuant; or
18 • did not abide by the criminal history record background
19 check requirements under current law and did not provide a
20 receipt or other documentation regarding the sale to the
21 other person.

22 The bill provides that a defendant's actions outside of this State
23 are sufficient for prosecution under the bill if the defendant knew or
24 should have known that the recipient of the firearm intended to
25 possess, transfer, dispose, sell, or otherwise transport the firearm in
26 this State.

27 Under the bill, it would not be a defense to a prosecution that the
28 death or serious or significant bodily injury took place in a
29 jurisdiction other than this State. It also would not be a defense if
30 the decedent or victim contributed to their own death or serious
31 bodily injury.