

SENATE, No. 3965

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 15, 2023

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

SYNOPSIS

Authorizes possession of bear deterrent spray.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning possession of bear spray and amending
2 N.J.S.2C:39-6.

3

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

6

7 1. N.J.S.2C:39-6 is amended to read as follows:

8 2C:39-6. a. Provided a person complies with the requirements
9 of subsection j. of this section, N.J.S.2C:39-5 does not apply to:

10 (1) Members of the Armed Forces of the United States or of the
11 National Guard while actually on duty, or while traveling between
12 places of duty and carrying authorized weapons in the manner
13 prescribed by the appropriate military authorities;

14 (2) Federal law enforcement officers, and any other federal
15 officers and employees required to carry firearms in the
16 performance of their official duties;

17 (3) Members of the State Police and, under conditions prescribed
18 by the superintendent, members of the Marine Law Enforcement
19 Bureau of the Division of State Police;

20 (4) A sheriff, undersheriff, sheriff's officer, prosecutor's detective
21 or investigator, State investigator employed by the Division of
22 Criminal Justice of the Department of Law and Public Safety,
23 investigator employed by the State Commission of Investigation,
24 inspector of the Alcoholic Beverage Control Enforcement Bureau of
25 the Division of State Police in the Department of Law and Public
26 Safety authorized to carry weapons by the Superintendent of State
27 Police, State park police officer, or State conservation police
28 officer;

29 (5) Except as hereinafter provided, a State correctional police
30 officer, or a prison or jail warden of any penal institution in this
31 State or the warden's deputies, or an employee of the Department of
32 Corrections engaged in the interstate transportation of convicted
33 offenders, while in the performance of the employee's duties, and
34 when required to possess the weapon by a superior officer, or a
35 correctional police officer or keeper of a penal institution in this
36 State at all times while in the State of New Jersey, provided the
37 person annually passes an examination approved by the
38 superintendent testing the person's proficiency in the handling of
39 firearms;

40 (6) A civilian employee of the United States Government under
41 the supervision of the commanding officer of any post, camp,
42 station, base or other military or naval installation located in this
43 State who is required, in the performance of the employee's official
44 duties, to carry firearms, and who is authorized to carry firearms by

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.

1 the commanding officer, while in the actual performance of the
2 employee's official duties;

3 (7) (a) A regularly employed member, including a detective, of
4 the police department of any county or municipality, or of any
5 State, interstate, municipal or county park police force or boulevard
6 police force, at all times while in the State of New Jersey;

7 (b) A special law enforcement officer authorized to carry a
8 weapon as provided in subsection b. of section 7 of P.L.1985, c.439
9 (C.40A:14-146.14);

10 (c) An airport security officer or a special law enforcement
11 officer appointed by the governing body of any county or
12 municipality, except as provided in subparagraph (b) of this
13 paragraph, or by the commission, board or other body having
14 control of a county park or airport or boulevard police force, while
15 engaged in the actual performance of the officer's official duties and
16 when specifically authorized by the governing body to carry
17 weapons;

18 (8) A full-time, paid member of a paid or part-paid fire
19 department or force of any municipality who is assigned full-time
20 or part-time to an arson investigation unit created pursuant to
21 section 1 of P.L.1981, c.409 (C.40A:14-7.1) or to the county arson
22 investigation unit in the county prosecutor's office, while either
23 engaged in the actual performance of arson investigation duties or
24 while actually on call to perform arson investigation duties and
25 when specifically authorized by the governing body or the county
26 prosecutor, as the case may be, to carry weapons. Prior to being
27 permitted to carry a firearm, a member shall take and successfully
28 complete a firearms training course administered by the Police
29 Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et
30 seq.), and shall annually qualify in the use of a revolver or similar
31 weapon prior to being permitted to carry a firearm;

32 (9) A juvenile correctional police officer in the employment of
33 the Juvenile Justice Commission established pursuant to section 2
34 of P.L.1995, c.284 (C.52:17B-170) subject to the regulations
35 promulgated by the commission;

36 (10) A designated employee or designated licensed agent for a
37 nuclear power plant under license of the Nuclear Regulatory
38 Commission, while in the actual performance of the person's
39 official duties, if the federal licensee certifies that the designated
40 employee or designated licensed agent is assigned to perform site
41 protection, guard, armed response or armed escort duties and is
42 appropriately trained and qualified, as prescribed by federal
43 regulation, to perform those duties. Any firearm utilized by an
44 employee or agent for a nuclear power plant pursuant to this
45 paragraph shall be returned each day at the end of the employee's or
46 agent's authorized official duties to the employee's or agent's
47 supervisor. All firearms returned each day pursuant to this

1 paragraph shall be stored in locked containers located in a secure
2 area;

3 (11) A county correctional police officer at all times while in the
4 State of New Jersey, provided the officer annually passes an
5 examination approved by the superintendent testing the officer's
6 proficiency in the handling of firearms;

7 (12) A county prosecutor, assistant prosecutor, federal
8 prosecutor, municipal prosecutor, Attorney General, assistant
9 attorney general, deputy attorney general and federal, State, county,
10 or municipal court judge, including a judge of the Tax Court and
11 any other court of limited jurisdiction established, altered, or
12 abolished by law, a judge of the Office of Administrative Law, a
13 judge of the Division of Workers' Compensation at all times while
14 in this State. Prior to being permitted to carry a firearm, a person
15 subject to this paragraph shall take and successfully complete a
16 firearms training course administered by the Police Training
17 Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
18 shall annually qualify in the use of a handgun or similar weapon
19 prior to being permitted to carry a firearm. The superintendent may
20 issue identification cards indicating that such a person is permitted
21 to carry a handgun pursuant to this paragraph.

22 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

23 (1) A law enforcement officer employed by a governmental
24 agency outside of the State of New Jersey while actually engaged in
25 the officer's official duties, provided, however, that the officer has
26 first notified the superintendent or the chief law enforcement officer
27 of the municipality or the prosecutor of the county in which the
28 officer is engaged; or

29 (2) A licensed dealer in firearms and the dealer's registered
30 employees during the course of their normal business while
31 traveling to and from their place of business and other places for the
32 purpose of demonstration, exhibition or delivery in connection with
33 a sale, provided, however, that the weapon is carried in the manner
34 specified in subsection g. of this section.

35 c. Provided a person complies with the requirements of
36 subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5
37 do not apply to:

38 (1) A special agent of the Division of Taxation who has passed
39 an examination in an approved police training program testing
40 proficiency in the handling of any firearm which the agent may be
41 required to carry, while in the actual performance of the agent's
42 official duties and while going to or from the agent's place of duty,
43 or any other police officer, while in the actual performance of the
44 officer's official duties;

45 (2) A State deputy conservation police officer or a full-time
46 employee of the Division of Parks and Forestry having the power of
47 arrest and authorized to carry weapons, while in the actual
48 performance of the officer's official duties;

- 1 (3) (Deleted by amendment, P.L.1986, c.150.)
- 2 (4) A court attendant appointed by the sheriff of the county or by
3 the judge of any municipal court or other court of this State, while
4 in the actual performance of the attendant's official duties;
- 5 (5) A guard employed by any railway express company, banking
6 or building and loan or savings and loan institution of this State,
7 while in the actual performance of the guard's official duties;
- 8 (6) A member of a legally recognized military organization while
9 actually under orders or while going to or from the prescribed place
10 of meeting and carrying the weapons prescribed for drill, exercise
11 or parade;
- 12 (7) A municipal humane law enforcement officer, authorized
13 pursuant to subsection d. of section 25 of P.L.2017, c.331 (C.4:22-
14 14.1), or humane law enforcement officer of a county society for
15 the prevention of cruelty to animals authorized pursuant to
16 subsection c. of section 29 of P.L.2017, c.331 (C.4:22-14.5), while
17 in the actual performance of the officer's duties;
- 18 (8) An employee of a public utilities corporation actually
19 engaged in the transportation of explosives;
- 20 (9) A railway policeman, except a transit police officer of the
21 New Jersey Transit Police Department, at all times while in the
22 State of New Jersey, provided that the person has passed an
23 approved police academy training program consisting of at least
24 280 hours. The training program shall include, but need not be
25 limited to, the handling of firearms, community relations, and
26 juvenile relations;
- 27 (10) A campus police officer appointed under P.L.1970, c.211
28 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry
29 a firearm, a campus police officer shall take and successfully
30 complete a firearms training course administered by the Police
31 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
32 seq.), and shall annually qualify in the use of a revolver or similar
33 weapon prior to being permitted to carry a firearm;
- 34 (11) (Deleted by amendment, P.L.2003, c.168).
- 35 (12) A transit police officer of the New Jersey Transit Police
36 Department, at all times while in the State of New Jersey, provided
37 the officer has satisfied the training requirements of the Police
38 Training Commission, pursuant to subsection c. of section 2 of
39 P.L.1989, c.291 (C.27:25-15.1);
- 40 (13) A parole officer employed by the State Parole Board at all
41 times. Prior to being permitted to carry a firearm, a parole officer
42 shall take and successfully complete a basic course for regular
43 police officer training administered by the Police Training
44 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
45 shall annually qualify in the use of a revolver or similar weapon
46 prior to being permitted to carry a firearm;

1 (14) A Human Services police officer at all times while in the
2 State of New Jersey, as authorized by the Commissioner of Human
3 Services;

4 (15) A person or employee of any person who, pursuant to and as
5 required by a contract with a governmental entity, supervises or
6 transports persons charged with or convicted of an offense;

7 (16) A housing authority police officer appointed under
8 P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the
9 State of New Jersey; or

10 (17) A probation officer assigned to the "Probation Officer
11 Community Safety Unit" created by section 2 of P.L.2001, c.362
12 (C.2B:10A-2) while in the actual performance of the probation
13 officer's official duties. Prior to being permitted to carry a firearm,
14 a probation officer shall take and successfully complete a basic
15 course for regular police officer training administered by the Police
16 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et
17 seq.), and shall annually qualify in the use of a revolver or similar
18 weapon prior to being permitted to carry a firearm.

19 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
20 antique firearms, provided that the antique firearms are unloaded or
21 are being fired for the purposes of exhibition or demonstration at an
22 authorized target range or in another manner approved in writing by
23 the chief law enforcement officer of the municipality in which the
24 exhibition or demonstration is held, or if not held on property under
25 the control of a particular municipality, the superintendent.

26 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of
27 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
28 being fired but that is unloaded and immobile, provided that the
29 antique cannon is possessed by (a) a scholastic institution, a
30 museum, a municipality, a county or the State, or (b) a person who
31 obtained a firearms purchaser identification card as specified in
32 N.J.S.2C:58-3.

33 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
34 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
35 being transported by one eligible to possess it, in compliance with
36 regulations the superintendent may promulgate, between its
37 permanent location and place of purchase or repair.

38 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
39 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
40 or fired by one eligible to possess an antique cannon, for purposes
41 of exhibition or demonstration at an authorized target range or in
42 the manner as has been approved in writing by the chief law
43 enforcement officer of the municipality in which the exhibition or
44 demonstration is held, or if not held on property under the control
45 of a particular municipality, the superintendent, provided that
46 performer has given at least 30 days' notice to the superintendent.

47 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
48 N.J.S.2C:39-5 do not apply to the transportation of unloaded

1 antique cannons directly to or from exhibitions or demonstrations
2 authorized under paragraph (4) of subsection d. of this section,
3 provided that the transportation is in compliance with safety
4 regulations the superintendent may promulgate. Those subsections
5 shall not apply to transportation directly to or from exhibitions or
6 demonstrations authorized under the law of another jurisdiction,
7 provided that the superintendent has been given 30 days' notice and
8 that the transportation is in compliance with safety regulations the
9 superintendent may promulgate.

10 e. Nothing in subsections b., c., and d. of N.J.S.2C:39-5 shall
11 be construed to prevent a person keeping or carrying about the
12 person's place of business, residence, premises or other land owned
13 or possessed by the person, any firearm, or from carrying the same,
14 in the manner specified in subsection g. of this section, from any
15 place of purchase to the person's residence or place of business,
16 between the person's dwelling and place of business, between one
17 place of business or residence and another when moving, or
18 between the person's dwelling or place of business and place where
19 the firearms are repaired, for the purpose of repair. For the
20 purposes of this section, a place of business shall be deemed to be a
21 fixed location.

22 f. Nothing in subsections b., c., and d. of N.J.S.2C:39-5 shall
23 be construed to prevent:

24 (1) A member of any rifle or pistol club organized in accordance
25 with the rules prescribed by the National Board for the Promotion
26 of Rifle Practice, in going to or from a place of target practice,
27 carrying firearms necessary for target practice, provided that the
28 club has filed a copy of its charter with the superintendent and
29 annually submits a list of its members to the superintendent and
30 provided further that the firearms are carried in the manner
31 specified in subsection g. of this section;

32 (2) A person carrying a firearm or knife in the woods or fields or
33 upon the waters of this State for the purpose of hunting, target
34 practice or fishing, provided that the firearm or knife is legal and
35 appropriate for hunting or fishing purposes in this State and the
36 person has in the person's possession a valid hunting license, or,
37 with respect to fresh water fishing, a valid fishing license;

38 (3) A person transporting any firearm or knife while traveling:

39 (a) Directly to or from any place for the purpose of hunting or
40 fishing, provided the person has in the person's possession a valid
41 hunting or fishing license; or

42 (b) Directly to or from any target range, or other authorized place
43 for the purpose of practice, match, target, trap or skeet shooting
44 exhibitions, provided in all cases that during the course of the travel
45 all firearms are carried in the manner specified in subsection g. of
46 this section and the person has complied with all the provisions and
47 requirements of Title 23 of the Revised Statutes and any

1 amendments thereto and all rules and regulations promulgated
2 thereunder; or

3 (c) In the case of a firearm, directly to or from any exhibition or
4 display of firearms which is sponsored by any law enforcement
5 agency, any rifle or pistol club, or any firearms collectors club, for
6 the purpose of displaying the firearms to the public or to the
7 members of the organization or club, provided, however, that not
8 less than 30 days prior to the exhibition or display, notice of the
9 exhibition or display shall be given to the Superintendent of the
10 State Police by the sponsoring organization or club, and the sponsor
11 has complied with any reasonable safety regulations the
12 superintendent may promulgate. Any firearms transported pursuant
13 to this section shall be transported in the manner specified in
14 subsection g. of this section;

15 (4) A person from keeping or carrying about a private or
16 commercial aircraft or any boat, or from transporting to or from the
17 aircraft or boat for the purpose of installation or repair of a visual
18 distress signaling device approved by the United States Coast
19 Guard.

20 g. Any weapon being transported under paragraph (2) of
21 subsection b., subsection e., or paragraph (1) or (3) of subsection f.
22 of this section shall be carried unloaded and contained in a closed
23 and fastened case, gunbox, securely tied package, or locked in the
24 trunk of the automobile in which it is being transported, and in the
25 course of travel shall include only deviations as are reasonably
26 necessary under the circumstances.

27 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
28 to prevent any employee of a public utility, as defined in R.S.48:2-
29 13, doing business in this State or any United States Postal Service
30 employee, while in the actual performance of duties which
31 specifically require regular and frequent visits to private premises,
32 from possessing, carrying or using any device which projects,
33 releases or emits any substance specified as being noninjurious to
34 canines or other animals by the Commissioner of Health and which
35 immobilizes only on a temporary basis and produces only
36 temporary physical discomfort through being vaporized or
37 otherwise dispensed in the air for the sole purpose of repelling
38 canine or other animal attacks.

39 The device shall be used solely to repel only those canine or
40 other animal attacks when the canines or other animals are not
41 restrained in a fashion sufficient to allow the employee to properly
42 perform the employee's duties.

43 Any device used pursuant to this **[act]** subsection shall be
44 selected from a list of products, which consist of active and inert
45 ingredients, permitted by the Commissioner of Health.

46 i. (1) Nothing in N.J.S.2C:39-5 shall be construed to prevent any
47 person who is 18 years of age or older and who has not been
48 convicted of a crime, from possession for the purpose of personal

1 self-defense of one pocket-sized device which contains and releases
2 not more than three-quarters of an ounce of chemical substance not
3 ordinarily capable of lethal use or of inflicting serious bodily injury,
4 but rather, is intended to produce temporary physical discomfort or
5 disability through being vaporized or otherwise dispensed in the air.
6 Any person in possession of any device in violation of this
7 subsection shall be deemed and adjudged to be a disorderly person,
8 and upon conviction thereof, shall be punished by a fine of not less
9 than \$100.

10 Nothing in this paragraph shall be deemed to prohibit possession
11 of a device or product registered with and approved by the United
12 States Environmental Protection Agency as a bear deterrent spray,
13 which device or product is in its original container and clearly
14 indicates on its label that it is to deter attacks by bears on humans,
15 provided that the possession of the device or spray shall otherwise
16 be subject to all applicable State and federal laws, including but not
17 limited to N.J.S.2C:39-5.

18 (2) Notwithstanding the provisions of paragraph (1) of this
19 subsection, nothing in N.J.S.2C:39-5 shall be construed to prevent a
20 health inspector or investigator operating pursuant to the provisions
21 of section 7 of P.L.1977, c.443 (C.26:3A2-25) or a building
22 inspector from possessing a device which is capable of releasing
23 more than three-quarters of an ounce of a chemical substance, as
24 described in paragraph (1) of this subsection, while in the actual
25 performance of the inspector's or investigator's duties, provided that
26 the device does not exceed the size of those used by law
27 enforcement.

28 j. A person shall qualify for an exemption from the provisions
29 of N.J.S.2C:39-5, as specified under subsections a. and c. of this
30 section, if the person has satisfactorily completed a firearms
31 training course approved by the Police Training Commission.

32 The exempt person shall not possess or carry a firearm until the
33 person has satisfactorily completed a firearms training course and
34 shall annually qualify in the use of a revolver or similar weapon.
35 For purposes of this subsection, a "firearms training course" means
36 a course of instruction in the safe use, maintenance and storage of
37 firearms which is approved by the Police Training Commission.
38 The commission shall approve a firearms training course if the
39 requirements of the course are substantially equivalent to the
40 requirements for firearms training provided by police training
41 courses which are certified under section 6 of P.L.1961, c.56
42 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3),
43 or (6) of subsection a. of this section shall be exempt from the
44 requirements of this subsection.

45 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
46 to prevent any financial institution, or any duly authorized
47 personnel of the institution, from possessing, carrying or using for
48 the protection of money or property, any device which projects,

1 releases or emits tear gas or other substances intended to produce
2 temporary physical discomfort or temporary identification.

3 1. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed
4 to prevent a law enforcement officer who retired in good standing,
5 including a retirement because of a disability pursuant to section 6
6 of P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
7 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1), or any
8 substantially similar statute governing the disability retirement of
9 federal law enforcement officers, provided the officer was a
10 regularly employed, full-time law enforcement officer for an
11 aggregate of four or more years prior to the officer's disability
12 retirement and further provided that the disability which constituted
13 the basis for the officer's retirement did not involve a certification
14 that the officer was mentally incapacitated for the performance of
15 the officer's usual law enforcement duties and any other available
16 duty in the department which the officer's employer was willing to
17 assign to the officer or does not subject that retired officer to any of
18 the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
19 would disqualify the retired officer from possessing or carrying a
20 firearm, who semi-annually qualifies in the use of the handgun the
21 officer is permitted to carry in accordance with the requirements
22 and procedures established by the Attorney General pursuant to
23 subsection j. of this section and pays the actual costs associated
24 with those semi-annual qualifications, who is 75 years of age or
25 younger, and who was regularly employed as a full-time member of
26 the State Police; a full-time member of an interstate police force; a
27 full-time member of a county or municipal police department in this
28 State; a full-time member of a State law enforcement agency; a full-
29 time sheriff, undersheriff or sheriff's officer of a county of this
30 State; a full-time State or county correctional police officer; a full-
31 time State correctional police officer or county correctional police
32 officer; a full-time State or county park police officer; a full-time
33 special agent of the Division of Taxation; a full-time Human
34 Services police officer; a full-time transit police officer of the New
35 Jersey Transit Police Department; a full-time campus police officer
36 exempted pursuant to paragraph (10) of subsection c. of this
37 section; a full-time State conservation police officer exempted
38 pursuant to paragraph (4) of subsection a. of this section; a full-time
39 Palisades Interstate Park officer appointed pursuant to R.S.32:14-
40 21; a full-time Burlington County Bridge police officer appointed
41 pursuant to section 1 of P.L.1960, c.168 (C.27:19-36.3); a full-time
42 housing authority police officer exempted pursuant to paragraph
43 (16) of subsection c. of this section; a full-time juvenile correctional
44 police officer exempted pursuant to paragraph (9) of subsection a.
45 of this section; a full-time parole officer exempted pursuant to
46 paragraph (13) of subsection c. of this section; a full-time railway
47 policeman exempted pursuant to paragraph (9) of subsection c. of
48 this section; a full-time county prosecutor's detective or

1 investigator; a full-time federal law enforcement officer; or is a
2 qualified retired law enforcement officer, as used in the federal
3 "Law Enforcement Officers Safety Act of 2004," Pub.L. 108-277,
4 domiciled in this State from carrying a handgun in the same manner
5 as law enforcement officers exempted under paragraph (7) of
6 subsection a. of this section. A retired law enforcement officer
7 shall be entitled to carry a handgun pursuant to this subsection
8 under the following conditions:

9 (1) The retired law enforcement officer shall make application in
10 writing to the Superintendent of State Police for approval to carry a
11 handgun every two years. A renewal application shall be submitted
12 in the same manner.

13 (2) Upon receipt of the written application of the retired law
14 enforcement officer, the superintendent shall request a verification
15 of service from the chief law enforcement officer of the
16 organization in which the retired officer was last regularly
17 employed as a full-time law enforcement officer prior to retiring.
18 The verification of service shall include:

19 (a) The name and address of the retired officer;

20 (b) The date that the retired officer was hired and the date that
21 the officer retired;

22 (c) A list of all handguns known to be registered to that officer;

23 (d) A statement that, to the reasonable knowledge of the chief
24 law enforcement officer, the retired officer is not subject to any of
25 the restrictions set forth in subsection c. of N.J.S.2C:58-3; and

26 (e) A statement that the officer retired in good standing.

27 (3) If the superintendent approves a retired officer's application
28 or reapplication to carry a handgun pursuant to the provisions of
29 this subsection, the superintendent shall notify in writing the chief
30 law enforcement officer of the municipality wherein that retired
31 officer resides. In the event the retired officer resides in a
32 municipality which has no chief law enforcement officer or law
33 enforcement agency, the superintendent shall maintain a record of
34 the approval.

35 (4) The superintendent shall issue to an approved retired officer
36 an identification card permitting the retired officer to carry a
37 handgun pursuant to this subsection. This identification card shall
38 be valid for two years from the date of issuance and shall be valid
39 throughout the State. The identification card shall not be
40 transferable to any other person. The identification card shall be
41 carried at all times on the person of the retired officer while the
42 retired officer is carrying a handgun. The retired officer shall
43 produce the identification card for review on the demand of any law
44 enforcement officer or authority.

45 (5) Any person aggrieved by the denial of the superintendent of
46 approval for a permit to carry a handgun pursuant to this subsection
47 may request a hearing in the Superior Court of New Jersey in the
48 county in which the person resides by filing a written request for a

1 hearing within 30 days of the denial. Copies of the request shall be
2 served upon the superintendent and the county prosecutor. The
3 hearing shall be held within 30 days of the filing of the request, and
4 no formal pleading or filing fee shall be required. Appeals from the
5 determination of the hearing shall be in accordance with law and the
6 rules governing the courts of this State.

7 (6) A judge of the Superior Court may revoke a retired officer's
8 privilege to carry a handgun pursuant to this subsection for good
9 cause shown on the application of any interested person. A person
10 who becomes subject to any of the disabilities set forth in
11 subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the
12 superintendent, the person's identification card issued under
13 paragraph (4) of this subsection to the chief law enforcement officer
14 of the municipality wherein the person resides or the
15 superintendent, and shall be permanently disqualified to carry a
16 handgun under this subsection.

17 (7) The superintendent may charge a reasonable application fee
18 to retired officers to offset any costs associated with administering
19 the application process set forth in this subsection.

20 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
21 to prevent duly authorized personnel of the New Jersey Division of
22 Fish and Wildlife, while in the actual performance of duties, from
23 possessing, transporting or using any device that projects, releases
24 or emits any substance specified as being non-injurious to wildlife
25 by the Director of the Division of Animal Health in the Department
26 of Agriculture, and which may immobilize wildlife and produces
27 only temporary physical discomfort through being vaporized or
28 otherwise dispensed in the air for the purpose of repelling bear or
29 other animal attacks or for the aversive conditioning of wildlife.

30 n. Nothing in subsection b., c., d., or e. of N.J.S.2C:39-5 shall
31 be construed to prevent duly authorized personnel of the New
32 Jersey Division of Fish and Wildlife, while in the actual
33 performance of duties, from possessing, transporting or using hand
34 held pistol-like devices, rifles or shotguns that launch pyrotechnic
35 missiles for the sole purpose of frightening, hazing or aversive
36 conditioning of nuisance or depredating wildlife; from possessing,
37 transporting or using rifles, pistols or similar devices for the sole
38 purpose of chemically immobilizing wild or non-domestic animals;
39 or, provided the duly authorized person complies with the
40 requirements of subsection j. of this section, from possessing,
41 transporting or using rifles or shotguns, upon completion of a Police
42 Training Commission approved training course, in order to dispatch
43 injured or dangerous animals or for non-lethal use for the purpose
44 of frightening, hazing or aversive conditioning of nuisance or
45 depredating wildlife.

46 (cf: P.L.2022, c.131, s.8)

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48 2. This act shall take effect immediately.

STATEMENT

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This bill would amend current law to allow a person to possess a device or product registered with and approved by the United States Environmental Protection Agency as a bear deterrent spray, provided that the device or product is in its original container and clearly indicates on its label that it is to deter attacks by bears on humans. The possession of such a spray would be subject to all applicable State and federal laws, including but not limited to N.J.S.2C:39-5.

Under current law, a person 18 years of age or older, who has not been convicted of a crime, may possess a small, pocket-sized device capable of spraying a non-lethal chemical substance which causes temporary physical discomfort, also known as pepper spray or mace. The law limits the size of the device to one which contains and releases not more than three-quarters of an ounce of spray. A person possessing a larger quantity would be guilty of a disorderly persons offense and subject to a fine of at least \$100.

The EPA regulates bear spray as a “pesticide” under federal law, and manufacturers of bear spray must register their products with, and receive approval from, the EPA. Bear spray products approved by the EPA have been shown to be an effective, non-lethal deterrent capable of stopping aggressive behavior in bears. To be approved by the EPA, a bear spray device must, among other things, contain a minimum content of 7.6 ounces, which is significantly larger than the maximum content of three-quarters of an ounce allowed under State law. The labels on bear sprays approved by the EPA show the EPA registration and EPA establishment number for the product. However, because bear spray devices contain much more than three-quarters of an ounce of a chemical substance, current State law effectively prohibits the possession of bear spray in New Jersey. Personal defense sprays do not contain the correct active ingredients or have the amount necessary to divert or stop a charging or attacking bear.