

*Assault Firearms—Possession, Purchase and Illegal Use—N.J. Stat. Ann. §§ 2C:39-5, 10; N.J. Stat. Ann. §§ 2C:58-4, 5 (West 1990).*

L.1990, c.32 is an act concerning assault firearms. It amends various New Jersey statutes and supplements chapter 58 of Title 2C.<sup>1</sup>

Section 9 of the Act amends N.J. Stat. Ann. § 2C:58-5 (West 1978), which formerly concerned licenses to possess machine guns only, to include assault firearms, as defined by section 1 of the Act, within its scope.<sup>2</sup> A person desiring to possess an assault weapon must submit a written application and a \$75 fee to the superior court.<sup>3</sup> The application shall set forth the reasons for wanting to possess the weapon.<sup>4</sup> The court must refer the application to the county prosecutor for investigation.<sup>5</sup> The prosecutor's report and a notice of a hearing must be served upon the chief of police of every municipality in which the applicant intends to carry the assault firearm.<sup>6</sup>

No license will be issued unless the court finds that the public safety and welfare requires it.<sup>7</sup> Additionally, a license will not be issued unless the applicant is legally qualified to carry a handgun under N.J. Stat. Ann. § 2C:58-4 (West 1978).<sup>8</sup> Furthermore, the court may attach any limitations to the license that it deems in the public's best interest.<sup>9</sup>

The license expires after two years.<sup>10</sup> In order to renew the license, the holder of the weapon must repeat the original application procedures.<sup>11</sup>

Another amendment to N.J. Stat. Ann. § 2C:58-5 (West 1978) included in the Act, is a provision that holds the licensee civilly liable for any damages resulting from a crime involving the

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<sup>1</sup> N.J. STAT. ANN. §§ 2C:39-5, 10 (West 190); N.J. STAT. ANN. §§ 2C:58-4, 5 (West 1990).

<sup>2</sup> *Id.* § 9.

<sup>3</sup> *Id.* § 9a & f.

<sup>4</sup> *Id.* § 9a.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* § 9b.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* § 9d.

<sup>10</sup> *Id.* § 9g.

<sup>11</sup> *Id.*

assault weapon.<sup>12</sup> Such liability will not be imposed if the firearm was stolen, and the owner reported it stolen within 24 hours of discovering the theft.<sup>13</sup>

Section 11 of the Act provides an exception to the licensing requirements. If an assault firearm is on the Attorney General's list of firearms that are used for legitimate target-shooting purposes, then the owner must register the weapon with the local police department.<sup>14</sup> If the owner resides in a municipality that does not have a full-time police department, the registration must take place at a state police station.<sup>15</sup>

Section 2 of the Act amends N.J. Stat. Ann. § 2C:39-5 (West 1978) making one who knowingly possesses an assault firearm without a license, or knowingly possesses one which is not registered in accord with section 11 of the Act, or knowingly possesses one not rendered inoperable pursuant to section 12 of the Act, guilty of a third degree crime.<sup>16</sup> Section 10 of the Act makes the possession of a large capacity ammunition magazine a fourth degree crime unless the person has an assault firearm validly registered and the magazine is sanctioned by the Director of Civilian Marksmanship of the United States Department of the Army.<sup>17</sup>

N.J. Stat. Ann. § 2C:39-10 (West 1978) is also amended to make a person who knowingly violates a regulatory provision relating to licenses to procure an assault weapon guilty of a fourth degree crime.<sup>18</sup> The Act also criminalizes the giving of false information when applying for a license under section 9 of the Act, or when registering an assault weapon pursuant to section 11 of the Act.<sup>19</sup>

Furthermore, section 3 of the Act makes one who manufactures, or causes to manufacture, transports, ships, sells or disposes of an assault firearm or large capacity ammunition magazine without proper authorization, guilty of a third and fourth degree crime respectively.<sup>20</sup>

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<sup>12</sup> *Id.* § 9h.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* § 11a, b, & c.

<sup>15</sup> *Id.* § 11c.

<sup>16</sup> *Id.* § 2f.

<sup>17</sup> *Id.* § 10j.

<sup>18</sup> *Id.* § 4a.

<sup>19</sup> *Id.* § 4c & d.

<sup>20</sup> *Id.* § 3g & h.

Finally, the Act provides for mandatory sentencing for certain criminal offenses involving assault firearms.<sup>21</sup> Section 6 also contemplates extended sentences when the defendant has been previously convicted of an offense involving a firearm.<sup>22</sup>

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<sup>21</sup> *Id.* § 6.

<sup>22</sup> *Id.* § 6g.