

A-4769 Firearms Law Update

Summary of legislation (Updated 01/11/23)

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Summary of Law

On December 22, 2022, Bill A-4769 was signed by Governor Murphy marking major changes to existing firearms statutes in New Jersey. The Bill was in response to the “Bruen”¹ decision from June of 2022. The US Supreme Court ruled that the “Justifiable Need” clause of New York was deemed to be unconstitutional. Although New Jersey was not named in the legal action, the US Supreme Court likened New Jersey’s requirements for permits to carry to New York’s and deemed it also unconstitutional.

Governor Murphy and other law makers immediately announced they would pass legislation to amend New Jersey Firearms Statutes to limit where and under what circumstances a person could carry a firearm in New Jersey. Bill A-4769 was the solution that law makers presented for the Governor, who signed it immediately.

The changes were set into two separate timelines. Changes to the application process, carry permit process, and a list of prohibited places to carry were enacted immediately. Changes to exemptions for possession of a weapon, requirements and restrictions on carry, and liability insurance mandates were set to be enacted in seven months.

Before the Governor’s ink was dry, a Civil Suit was filed in the United States District Court for the District of New Jersey. The suit calls for a Temporary Restraining Order to continue the rights as granted between June of 2022 (Bruen decision) and December 22, 2022 (signing of A4769).

¹ NY State Rifle & Pistol Association v. Bruen 142 S. Ct. 2111 (2022)

Immediate Changes:

- 2C:58-3
- 2C:58-4
- Prohibited Places

2C:58-3 -Purchase of Firearms

- The primary changes made to this Statutes were changes in language to make a clear text reading. They added language to deny applicants on the Terrorist Watch List, subjects of ERPO, subjects of orders under Sexual Assault Survivor Protection Act, outstanding warrants in any state, and fugitives.
- Applicants are now required to show proof of satisfactory completion of a course of instruction into the safe handling and storage of a firearm.
- Active and retired LEO, US Armed Forces / National Guard are exempt from the training requirement if they received substantially equivalent training.
- Initial FID card applicants must certify that they completed an online safety training
- FID cards are required to show a photo and will be valid for 10 years before needing to be renewed. Applications for permits or address changes restart the 10-year clock. FID Cards issued prior to the new law will not expire.
- Purchase Permits must have a certification of who the lawful owner will be.
- Fees increase for FID from \$5 to \$50
- Fees increase for permits from \$2 to \$25
- Any person moving into New Jersey from another state after 12/22/22, who owns weapons lawfully in that state, MUST apply for an FID card within 60 days of becoming a resident of New Jersey. A handgun registration form must also be submitted to the municipality in which the person is residing, naming the handguns being registered. A person who fails to comply will be granted 30 days to become compliant or face charges.
- The chief may delegate the responsibilities named in this statute

2C:58-4 -Permits to Carry Handguns

- Amended to mandate a holster for *concealed* carry
- Bans open carry (exception being incidental exposure)
- Increases fee to \$200 (\$150 for processing agency and \$50 to State)
- Previously printed people can do SBI check in lieu of new prints
- Applicant and References SHALL be interviewed
- May require access to applicants' online information
- Mandated training requirement for qualification and proficiency

Prohibited Places

- a place owned, leased, or under the control of State, county or municipal government used for the purpose of government administration, including but not limited to police stations;
- a courthouse, courtroom, or any other premises used to conduct judicial or court administrative proceedings or functions;
- a State, county, or municipal correctional or juvenile justice facility, jail and any other place maintained by or for a governmental entity for the detention of criminal suspects or offenders;
- a State-contracted half-way house;
- a location being used as a polling place during the conduct of an election and places used for the storage or tabulation of ballots;
- within 100 feet of a place where a public gathering, demonstration or event is held for which a government permit is required, during the conduct of such gathering, demonstration or event;
- a school, college, university or other educational institution, and on any school bus;
- a child care facility, including a day care center;
- a nursery school, pre-school, zoo, or summer camp;
- a park, beach, recreation facility or area or playground owned or controlled by a State, county or local government unit, or any part of such a place, which is designated as a gun free zone by the governing authority based on considerations of public safety;
- youth sports events, as defined in N.J.S.5:17-1, during and immediately preceding and following the conduct of the event, except that this provision shall not apply to participants of a youth sports event which is a firearm shooting competition to which paragraph (3) of subsection b. of section 14 of P.L.1979, c.179 (C.2C:58-6.1) applies;
- ~~a publicly owned or leased library or museum;~~²
- a shelter for the homeless, emergency shelter for the homeless, basic center shelter program, shelter for homeless or runaway youth, children's shelter, child care shelter, shelter for victims of domestic violence, or any shelter licensed by or under the control of the Juvenile Justice Commission or the Department of Children and Families;
- a community residence for persons with developmental disabilities, head injuries, or terminal illnesses, or any other residential setting licensed by the Department of Human Services or Department of Health;
- ~~a bar or restaurant where alcohol is served, and any other site or facility where alcohol is sold for consumption on the premises~~²

- a Class 5 Cannabis retailer or medical cannabis dispensary, including any consumption areas licensed or permitted by the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24);
- ~~a privately or publicly owned and operated entertainment facility within this State, including but not limited to a theater, stadium, museum, arena, racetrack or other place where performances, concerts, exhibits, games or contests are held;²~~
- a casino and related facilities, including but not limited to appurtenant hotels, retail premises, restaurant and bar facilities, and entertainment and recreational venues located within the casino property;
- a plant or operation that produces, converts, distributes or stores energy or converts one form of energy to another;
- an airport or public transportation hub;
- a health care facility, including but not limited to a general hospital, special hospital, psychiatric hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, assisted living center, home health care agency, residential treatment facility, residential health care facility, medical office, or ambulatory care facility;
- a facility licensed or regulated by the Department of Human Services, Department of Children and Families, or Department of Health, other than a health care facility, that provides addiction or mental health treatment or support services;
- a public location being used for making motion picture or television images for theatrical, commercial or educational purposes, during the time such location is being used for that purpose;
- ~~private property, including but not limited to residential, commercial, industrial, agricultural, institutional or undeveloped property, unless the owner has provided express consent or has posted a sign indicating that it is permissible to carry on the premises a concealed handgun with a valid and lawfully issued permit under N.J.S.2C:58-4, provided that nothing in this paragraph shall be construed to affect the authority to keep or carry a firearm established under subsection e. of N.J.S.2C:39-6; and²~~
- any other place in which the carrying of a firearm is prohibited by statute or rule or regulation promulgated by a federal or State agency.
- ~~Can not carry in a vehicle. Gun must be unloaded and secured for transport, separate from ammo.²~~

² US District Court Judge Renee Marie Bumb order in Koons, et al, v. William Reynolds, et al 01/09/2023

7 Month Changes

- 2C:39-6
- Requirements and Restrictions for Carry
- Liability Insurance
- Safe Carry Requirements

2C:39-6 Exemptions to Unlawful Possession of a Weapon

- A complete list of Federal, State, County, and Local employees that are exempt from the applicability of 2C:39-5.
- Allows for hunters and target shooters to transport lawfully and possess while actively engaged in activities.
- Allows for .75 ounces of pepper spray by persons over 18
- RPO carry permits extended to two years from one
- Allows for RPO / LEO carry under LEOSA

Requirement and restrictions for Carry

- Persons permitted to carry SHALL carry their permit and proof of liability insurance
- Persons SHALL NOT carry a handgun openly

Liability Insurance

- Every private citizen carrying a handgun in public shall maintain \$300,000 liability insurance
- Shall produce proof within reasonable amount of time following injury, death, or property damage alleged against the person carrying.

Safe Carry Requirements

- Permit holders SHALL NOT use or consume alcohol, cannabis, or CDS while carrying
- Permit holders SHALL NOT be under the influence of alcohol, cannabis, or CDS while carrying
- Permit holders SHALL NOT carry a handgun outside of a holster
- Permit holders SHALL NOT carry more than two firearms at one time
- Permit holders SHALL NOT engage in an unjustified display of the handgun
- Permit holder SHALL immediately disclose to LEO that they are carrying and display their permit
- Permit holder SHALL surrender the weapon to LEO upon request for inspection. (When lawful under search and seizure)

Civil Action

- TRO filed in Federal court to stop new law from taking effect
- Returns NJ back to laws as applied after Bruen decision
- Argues that people have the right to leave their home armed for self defense
- Argues against the 25 prohibited locations individually
- Relies heavily on the Supreme Courts wording in defending Bruen
- Argues against the default rule for private property
- Government can only rule on State owned property
- January 9, 2023: US District Judge Renee Marie Bumb granted TRO relief of certain prohibited places
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