

Garden State CLE Presents:



**“Eleven Client Questions
About New Jersey Gun Law
(with 11 correct answers!)”**

Instructor:



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Lesson Plan

1) My teenage son wants to purchase a replica air soft gun that shoots small balls made of plastic. (It is for sale at Dick's Sporting Goods). The gun is identical to a real pistol except for the yellow tip. Is this a firearm under New Jersey law?

N.J.S.A. 2C:39-1(f.) - "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

2) How and where can I legally transport my firearms in New Jersey?

N.J.S.A. 2C:39-6(g) - Any weapon being transported under paragraph (2) of subsection b., subsection e., or paragraph (1) or (3) of subsection f. of this section shall be carried unloaded and contained in a closed and fastened case, gun box, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel shall include only deviations as are reasonably necessary under the circumstances.

All firearms transported into the State of New Jersey:

- Shall be carried unloaded and contained in a closed and fastened case, gun box, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel, shall include only such deviations as are reasonably necessary under the circumstances.
- The firearm should not be directly accessible from the passenger compartment of the vehicle. If the vehicle does not have a compartment separate from the passenger compartment, the firearm and ammunition must be in a locked container other than the vehicle's glove compartment or console.

Repairs

Hunting

Between residence and work

Target range

See AG transport guidelines:

http://www.njdcj.org/agguide/transporting-firearms_guide.pdf

3) How and where can I legally carry my firearms in New Jersey without a permit to carry?

Home, property, and work exemptions

4) When I was 22 years old, I was convicted in municipal court of an act of domestic violence (harassment) from an incident involving my then girlfriend. I have since had then case expunged. Am I eligible to obtain a firearms ID card?

N.J.S.A. 2C:54-3(c) - 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 any crime, or a disorderly persons offense involving an act of domestic violence as defined in section 3 of P.L.1991, c. 261 (C.2C:25-19), whether or not armed with or possessing a weapon at the time of the 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 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 for a firearms purchaser identification card and to any person under the age of 21 years for a permit to purchase a handgun;

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare;

(6) To any person who is subject to a restraining order issued pursuant to the “Prevention of Domestic Violence Act of 1991,” P.L.1991, c. 261 (C.2C:25-17 et seq.) prohibiting the person from possessing any firearm;

(7) To any person who as a juvenile was adjudicated delinquent for an offense which, if committed by an adult, would constitute a crime and the offense involved the unlawful use or possession of a weapon, explosive or destructive device or is enumerated in subsection d. of section 2 of P.L.1997, c. 117 (C.2C:43-7.2);

(8) To any person whose firearm is seized pursuant to the “Prevention of Domestic Violence Act of 1991,” P.L.1991, c. 261 (C.2C:25-17 et seq.) and whose firearm has not been returned;

(9) To any person named on the consolidated Terrorist Watchlist maintained by the Terrorist Screening Center administered by the Federal Bureau of Investigation; or

(10) To any person who is subject to a court order prohibiting the custody, control, ownership, purchase, possession, or receipt of a firearm or ammunition issued pursuant to the “Extreme Risk Protective Order Act of 2018,” P.L.2018, c. 35 (C.2C:58-20 et al.).

5) The chief of police in my town turned down my application for a firearms ID card for no reason. Can I appeal?

N.J.S.A. 2C:58-3(d) - 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 a hearing by the judge of the Superior Court. No formal pleading and no filing fee shall be required as a preliminary to a hearing. Appeals from the results of a hearing shall be in accordance with law.

6) What is the difference between a permit to purchase and a firearms ID card?

N.J.S.A. 2C:58-3(i). Restriction on number of firearms person may purchase. Only one handgun shall be purchased or delivered on each permit and no more than one handgun shall be purchased within any 30-day period, but this limitation shall not apply to:

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.

7) When my husband died, I found a number of handguns he had acquired during his years as a police officer. I do not have a gun permit. What is my legal obligation?

N.J.S.A. 2C:58-3(i) - 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 the firearm shall, however, be subject to all other provisions of this chapter. If the heir or legatee of the 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 a 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 the firearm is in the custody of the chief law enforcement officer of the municipality or the superintendent during that period.

8) My son is now 16 years old and it is time for him to learn about firearms safety and hunting in New Jersey. Can I teach him how to shoot my shotgun and handle pistols safely?

N.J.S.A. 2C:58-3.1(a) a. Notwithstanding the provisions of N.J.S.A. 2C:39-9, N.J.S.A. 2C:58-2, N.J.S.A. 2C:58-3 or any other statute to the contrary concerning the transfer or disposition of firearms, the legal owner, or a dealer licensed under N.J.S.A. 2C:58-2, may temporarily transfer a handgun, rifle or shotgun to another person who is 18 years of age or older, whether or not the person receiving the firearm holds a firearms purchaser identification card or a permit to carry a handgun. The person to whom a handgun, rifle or shotgun is temporarily transferred by the legal owner of the firearm or a licensed dealer may receive, possess, carry and use that handgun, rifle or shotgun, if the transfer is made upon a firing range operated by a licensed dealer, by a law enforcement agency, a legally recognized military organization or a rifle or pistol club which has filed a copy of its charter with the superintendent and annually submits to the superintendent a list of its members and if the firearm is received, possessed, carried and used for the sole purpose of target practice, trap or skeet shooting, or competition upon that firing range or instruction and training at any location.

A transfer under this subsection shall be for not more than eight consecutive hours in any 24-hour period and may be made for a set fee or an hourly charge.

The firearm shall be handled and used by the person to whom it is temporarily transferred only in the actual presence or under the direct supervision of the legal owner of the firearm, the dealer who transferred the firearm or any other person competent to supervise the handling and use of firearms and authorized to act for that purpose by the legal owner or licensed dealer. The legal owner of the firearm or the licensed dealer shall be on the premises or the property of the firing range during the

entire time that the firearm is in the possession of the person to whom it is temporarily transferred.

The term “legal owner” as used in this subsection means a natural person and does not include an organization, commercial enterprise, or a licensed manufacturer, wholesaler, or dealer of firearms.

b. Notwithstanding the provisions of N.J.S.A. 2C:39-9, N.J.S.A. 2C:58-2, N.J.S.A. 2C:58-3 or any other statute to the contrary concerning the transfer and disposition of firearms, a legal owner of a shotgun or a rifle may temporarily transfer that firearm to another person who is 18 years of age or older, whether or not the person receiving the firearm holds a firearms purchaser identification card. The person to whom a shotgun or rifle is temporarily transferred by the legal owner may receive, possess, carry and use that shotgun or rifle in the woods or fields or upon the waters of this State for the purposes of hunting if the transfer is made in the woods or fields or upon the waters of this State, the shotgun or rifle is legal and appropriate for hunting and the person to whom the firearm is temporarily transferred possesses a valid license to hunt with a firearm, and a valid rifle permit if the firearm is a rifle, obtained in accordance with the provisions of chapter 3 of Title 23 of the Revised Statutes.

The transfer of a firearm under this subsection shall be for not more than eight consecutive hours in any 24-hour period and no fee shall be charged for the transfer.

The legal owner of the firearm which is temporarily transferred shall remain in the actual presence or in the vicinity of the person to whom it was transferred during the entire time that the firearm is in that person's possession.

N.J.S.A. 2C:58-6.1 - a. No person under the age of 18 years shall purchase, barter or otherwise acquire a firearm and no person under the age of 21 years shall purchase, barter or otherwise acquire a handgun,

unless the person is authorized to possess the handgun in connection with the performance of official duties under the provisions of N.J.S.A. 2C:39-6.

b. No person under the age of 18 years shall possess, carry, fire or use a firearm except as provided under paragraphs (1), (2), (3) and (4) of this subsection; and, unless authorized in connection with the performance of official duties under the provisions of N.J.S.A 2C:39-6, no person under the age of 21 years shall possess, carry, fire or use a handgun except under the following circumstances:

(1) In the actual presence or under the direct supervision of his father, mother or guardian, or some other person who holds a permit to carry a handgun or a firearms purchaser identification card, as the case may be; or

(2) For the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision; or

(3) For the purpose of competition, target practice, instruction, and training in and upon a firing range approved by the governing body of the municipality in which the range is located or the National Rifle Association and which is under competent supervision at the time of such supervision or target practice or instruction and training at any location; or

(4) For the purpose of hunting during the regularly designated hunting season, provided that he possesses a valid hunting license and has successfully completed a hunter's safety course taught by a qualified instructor or conservation police officer and possesses a certificate indicating the successful completion of such a course.

9) I have been a victim of domestic violence in the past and fear for my safety. How can I get a permit to carry a pistol for my own protection?

N.J.S.A. 2C:58-4(c) - c. Investigation and approval. Each application shall in the first instance be submitted to the chief police officer of the municipality in which the applicant resides, or to the superintendent, (1) if the applicant is an employee of an armored car company, or (2) if there is no chief police officer in the municipality where the applicant resides, or (3) if the applicant does not reside in this State. The chief police officer, or the superintendent, as the case may be, shall cause the fingerprints of the applicant to be taken and compared with any and all records maintained by the municipality, the county in which it is located, the State Bureau of Identification and the Federal Bureau of Identification. He shall also determine and record a complete description of each handgun the applicant intends to carry.

No application shall be approved by the chief police officer or the superintendent unless the applicant demonstrates that he is not subject to any of the disabilities set forth in subsection c. of [N.J.S.2C:58-3](#), that he is thoroughly familiar with the safe handling and use of handguns, and that he has a justifiable need to carry a handgun.

Each application form shall be accompanied by a written certification of justifiable need to carry a handgun, which shall be under oath and, in the case of a private citizen, shall specify in detail the urgent necessity for self-protection, as evidenced by specific threats or previous attacks which demonstrate a special danger to the applicant's life that cannot be avoided by means other than by issuance of a permit to carry a handgun. Where possible, the applicant shall corroborate the existence of any specific threats or previous attacks by reference to reports of the incidents to the appropriate law enforcement agencies.

If the application is not approved by the chief police officer or the superintendent within 60 days of filing, it shall be deemed to have been approved, unless the applicant agrees to an extension of time in writing.

d. Issuance by Superior Court; fee. If the application has been approved by the chief police officer or the superintendent, as the case may be, the applicant shall forthwith present it to the Superior Court of the county in which the applicant resides, or to the Superior Court in any county where he intends to carry a handgun, in the case of a nonresident or employee of an armored car company. The court shall issue the permit to the applicant if, but only if, it is satisfied that the applicant is a person of good character who is not subject to any of the disabilities set forth in subsection c. of N.J.S.A. 2C:58-3, that he is thoroughly familiar with the safe handling and use of handguns, and that he has a justifiable need to carry a handgun in accordance with the provisions of subsection c. of this section. The court may at its discretion issue a limited-type permit which would restrict the applicant as to the types of handguns he may carry and where and for what purposes the handguns may be carried. At the time of issuance, the applicant shall pay to the county clerk of the county where the permit was issued a permit fee of \$20.

e. Appeals from denial of applications. Any person aggrieved by the denial by the chief police officer or the superintendent of approval for a permit to carry a handgun may request a hearing in the Superior Court of the county in which he resides or in any county in which he intends to carry a handgun, in the case of a nonresident, by filing a written request for a hearing within 30 days of the denial. Copies of the request shall be served upon the superintendent, the county prosecutor, and the chief police officer of the municipality where the applicant resides, if he is a resident of this State. The hearing shall be held within 30 days of the filing of the request, and no formal pleading or filing fee shall be required. Appeals from the determination at the hearing shall be in accordance with law and the rules governing the courts of this State.

If the superintendent or chief police officer approves an application and the Superior Court denies the application and refuses to issue a permit, the applicant may appeal the denial in accordance with law and the rules governing the courts of this State.

10) I possess a WWII era M1-Garand rifle that my grandfather left me in his will. He used it during the war. I understand that assault weapons are still against the law in New Jersey. What is the definition of an assault weapon?

N.J.S.A. 2C:39-1(w) “Assault firearm” means:

(1) The following firearms:

Algimec AGM1 type

Any shotgun with a revolving cylinder such as the “Street Sweeper” or “Striker 12”

Armalite AR-180 type

Australian Automatic Arms SAR

Avtomat Kalashnikov type semi-automatic firearms

Beretta AR-70 and BM59 semi-automatic firearms

Bushmaster Assault Rifle

Calico M-900 Assault carbine and M-900

CETME G3

Chartered Industries of Singapore SR-88 type

Colt AR-15 and CAR-15 series

Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

Demro TAC-1 carbine type

Encom MP-9 and MP-45 carbine types

FAMAS MAS223 types

FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms

Franchi SPAS 12 and LAW 12 shotguns

G3SA type

Galil type Heckler and Koch HK91, HK93, HK94, MP5, PSG-1

Intratec TEC 9 and 22 semi-automatic firearms

M1 carbine type

M14S type

MAC 10, MAC 11, MAC 11-9mm carbine type firearms

PJK M-68 carbine type

Plainfield Machine Company Carbine

Ruger K-Mini-14/5F and Mini-14/5RF

SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types

SKS with detachable magazine type
Spectre Auto carbine type
Springfield Armory BM59 and SAR-48 type
Sterling MK-6, MK-7 and SAR types
Steyr A.U.G. semi-automatic firearms
USAS 12 semi-automatic type shotgun
Uzi type semi-automatic firearms
Valmet M62, M71S, M76, or M78 type semi-automatic firearms
Weaver Arm Nighthawk.

(2) Any firearm manufactured under any designation which is substantially identical to any of the firearms listed above.

(3) A semi-automatic shotgun with either a magazine capacity exceeding six rounds, a pistol grip, or a folding stock.

(4) A semi-automatic rifle with a fixed magazine capacity exceeding 10 rounds. "Assault firearm" shall not include a semi-automatic rifle which has an attached tubular device and which is capable of operating only with .22 caliber rimfire ammunition.

(5) A part or combination of parts designed or intended to convert a firearm into an assault firearm, or any combination of parts from which an assault firearm may be readily assembled if those parts are in the possession or under the control of the same person.

(6) A firearm with a bump stock attached.

x. "Semi-automatic" means a firearm which fires a single projectile for each single pull of the trigger and is self-reloading or automatically chambers a round, cartridge, or bullet.

y. "Large capacity ammunition magazine" means a box, drum, tube, or other container which is capable of holding more than 10 rounds of ammunition to be fed continuously and directly there from into a semi-

automatic firearm. The term shall not include an attached tubular device which is capable of holding only .22 caliber rimfire ammunition.

z. "Pistol grip" means a well-defined handle, similar to that found on a handgun, that protrudes conspicuously beneath the action of the weapon, and which permits the shotgun to be held and fired with one hand.

11) What will happen to me if I am a passenger in a car and the police find a handgun inside during a search that I knew nothing about?

NJSA 2C:39-2 Possession of firearms, weapons, destructive devices, silencers, or explosives in a vehicle. When a firearm, weapon, destructive device, silencer, or explosive described in this chapter is found in a vehicle, it is presumed to be in the possession of the occupant if there is but one. If there is more than one occupant in the vehicle, it shall be presumed to be in the possession of all, except under the following circumstances:

(1) When it is found upon the person of one of the occupants, it shall be presumed to be in the possession of that occupant alone;

(2) When the vehicle is not a stolen one and the weapon or other instrument is found out of view in a glove compartment, trunk or other enclosed customary depository, it shall be presumed to be in the possession of the occupant or occupants who own or have authority to operate the vehicle; and

(3) When the vehicle is a taxicab and a weapon or other instrument is found in the passenger's portion of the vehicle, it shall be presumed to be in the possession of all the passengers, if there are any, and if not, in the possession of the driver.