

# **NEW JERSEY GUN LAW** **FREE BOOK UPDATE**

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## **SALE OF FIREARMS**

**(1) How are firearms (not including “assault firearms”) lawfully acquired under New Jersey law?**

A: Under N.J.S. 2C:58-3, to buy a handgun in the State of New Jersey, the buyer must have a valid New Jersey Permit to Purchase a Handgun or be a licensed retail firearms dealer. To buy a rifle, shotgun or antique cannon in the State of New Jersey, the buyer must have a New Jersey Firearms Purchaser Identification Card or be a licensed retail firearms dealer.

For a handgun, the buyer’s New Jersey Permit to Purchase a Handgun, which is a four (4) part form, must be completed by the seller and mailed to the appropriate agencies as indicated on the permit. For a rifle, shotgun or antique cannon, the buyer must sign a Certificate of Eligibility form after exhibiting his or her New Jersey Firearms Purchaser Identification Card to the seller.

**(2) Are private sales of handguns allowed under New Jersey law?**

A: **No.** Under Governor Murphy’s recently passed gun transfer law, a person who is not a licensed retail dealer and sells or transfers, or receives or purchases, a handgun, must go through a licensed retail dealer.

Prior to a transaction, the retail dealer must complete a National Instant Criminal Background Check (NICS) of the person acquiring the handgun. In addition:

- (a) the retail dealer must submit to the Superintendent of State Police, on a form approved by the superintendent, information identifying and confirming the background check;
- (b) every retail dealer shall maintain a record of transactions conducted pursuant to this subsection, which shall be maintained at the address displayed on the retail dealer’s license for inspection by a law enforcement officer during reasonable hours;
- (c) a retail dealer may charge a fee, and
- (d) any record produced pursuant to this subsection shall not be considered a public record.

**(3) Are there any exceptions that allow for the private sales of handguns under New Jersey law?**

A: Yes. However a valid New Jersey Permit to Purchase a Handgun is still required, but the transaction does not have to go through a licensed dealer. The exceptions are as follows:

- (a) between members of an immediate family which includes a spouse, domestic partner, partner in a civil union couple, parent, stepparent, grandparent, sibling, stepsibling, child, stepchild, and grandchild, as related by blood or by law.
- (b) between law enforcement officers;
- (c) between collectors of firearms or ammunition as curios or relics as defined in Title 18, U.S.C. section 921 (a) (13) who have in their possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

**(4) Is there a limit as to how many handguns may be sold to one person?**

A: Yes. In 2009, the Legislature enacted the "one gun a month" limit. No more than one handgun shall be purchased within any 30-day period. (N.J.S. 2C:58-3i.) This limitation does not apply to federal, state or local law enforcement officers or agencies purchasing handguns for use by officers in the actual performance of their duties, or a collector of handguns as curios or relics, who has in his possession a valid Collector of Curios and Relics license issued by the BATFE. But see our WARNING under the Collecting Firearms section. This section also does not apply to transfer of handguns between licensed dealers. There is no limit (yet) on how many rifles or shotguns may be purchased in any given time period. In addition, dealers are prohibited from knowingly delivering more than one handgun to any person within any 30-day period.

**(5) Are private sales of rifles, shotguns or antique cannons allowed under New Jersey law?**

A: No. Under Governor Murphy's recently passed gun transfer law, a person who is not a licensed retail dealer and sells or transfers, or receives or purchases, a rifle, shotgun or antique cannon must go through a licensed retail dealer.

Prior to a transaction the retail dealer must complete a National Instant Criminal Background Check (NICS) of the person acquiring the firearm. In addition:

- (a) the retail dealer must submit to the Superintendent of State Police, on a form approved by the superintendent, information identifying and confirming the background check;
- (b) every retail dealer shall maintain a record of transactions conducted pursuant to this subsection, which shall be maintained at the address displayed on the retail dealer's license for inspection by a law enforcement officer during reasonable hours;
- (c) a retail dealer may charge a fee, and
- (d) any record produced pursuant to this subsection shall not be considered a public record.

**(6) Are there any exceptions that allow for the private sales of rifles, shotguns or antique cannons under New Jersey law?**

A: Yes. However a valid Jersey Firearms Purchaser Identification Card and Certificate of Eligibility are still required for the transaction, but it does not have to go through a licensed dealer. The exceptions are as follows:

- (a) between members of an immediate family which includes a spouse, domestic partner, partner in a civil union couple, parent, stepparent, grandparent, sibling, stepsibling, child, stepchild, and grandchild, as related by blood or by law.
- (b) between law enforcement officers;
- (c) between collectors of firearms or ammunition as curios or relics as defined in Title 18, U.S.C. section 921 (a) (13) who have in their possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

**(7) Is a NICS check required for an exempted private (non-dealer) sale of firearms?**

A: No. A NICS check is required only for firearms transferred by licensed dealers. NICS does not apply to private sales of firearms.

**(8) If a person is not careful regarding firearm transfers, may a person receive a sentence of imprisonment?**

A: Yes. Under N.J.S. 2C:39-16, a person who occupies a position of authority over another person who unlawfully sells, ships, disposes, manufactures or transports firearms may be prosecuted as a “leader of a firearms trafficking network,” which is a crime of the first degree.

Conviction of this crime could lead to life in prison and a fine not to exceed \$500,000 or five times the value of the firearms involved (whichever is greater). It is not a defense to this section that no profit was made nor that the firearms were brought into or transported in this State solely for ultimate distribution in another jurisdiction.

This law applies to any sale or disposal of a firearm by a person who is under the authority of another. For example, if Joe Gun Owner tells his wife and son to sell his friend, Harry, his two shotguns for \$375, this would be an unlawful sale under N.J.S. 2C:58-3 — and since Joe Gun Owner occupied a position of authority over the other persons (his wife and son), he is technically guilty of this offense, and faces a first degree criminal charge and a fine of up to \$500,000.

## ✂️ LOOPHOLES & 🎯 PITFALLS

*Governor Murphy's recently passed gun transfer law takes effect on the first day of the fourth month next following enactment. It was enacted on June 13, 2018.*

*Temporary transfers under N.J.S.2C:58-3.1 & 3.2 are still allowed.*

*New Jersey was the last state that needed to end private sales and require dealer transfers. Every transfer already required a permit and/or paperwork. This law will accomplish nothing, except help gun dealers stay in business and make a profit. They will be selling a lot more guns and ammunition and of course, signing folks up for the NRA and ANJRPC and encouraging these "forced" customers to vote.*