

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

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## **LARGE CAPACITY AMMUNITION MAGAZINES**

### **(1) What is a large capacity ammunition magazine under New Jersey law?**

A: A large capacity ammunition magazine is defined under subsection y. of N.J.S.2C:39-1 as “a box, drum, tube or other container which is capable of holding more than 10 rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic firearm.” Under the new law, the definition no longer includes an attached tubular device which is capable of holding only .22 caliber rimfire ammunition.

Do not confuse the State law with the previous (1994-2004) Federal law. The former Federal so-called “Assault Weapons Ban,” which was automatically repealed by a “sunset” provision in 2004, prohibited magazines over 10 rounds, but “grandfathered” all previously existing magazines. State law has now placed the limit at 10 rounds; however, the State did **NOT** “grandfather” previously existing magazines.

### **(2) What is the penalty for possession of a large capacity ammunition magazine under New Jersey law?**

A: It is a crime of the 4th degree with a maximum jail time of 18 months and a maximum fine of \$10,000.

### **(3) Are there exemptions for possession of a large capacity ammunition magazine?**

A: Yes. An attached tubular device which is capable of holding only .22 caliber rimfire ammunition is exempted. Additionally, “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. (e.g. The Marlin Model 60, Remington Model 552, etc. are no longer prohibited.) However, any other type of semi-automatic rifle with a fixed magazine capacity exceeding 10 rounds is now defined as an “Assault Firearm” under New Jersey Law. Such firearms may be able to be registered.

Under the original law, N.J.S. 2C:39-3j., which remains in effect, possession of large capacity ammunition magazines is prohibited unless the possessor has a registered “assault firearm” (as per N.J.S. 2C:58-12) (this registration period expired in 1991) and “the magazine is maintained and used in connection with participation in competitive shooting matches sanctioned by the DCM.” Under N.J.S. 2C:39-3g., possession by armed forces or military personnel is exempt but only while actually on duty

or traveling to or from an authorized place of duty. The magazine must be duly authorized under regulation or orders as well.

In addition to the 1991 registration period, the new law allows any person who possesses a large capacity ammunition magazine to register a firearm with a fixed magazine capacity or detachable magazine capable of holding up to 15 rounds, subject to new registration requirements.

The new registration requirements demand that a person who legally owns, prior to the enactment of the new law; 1) a firearm with a fixed magazine capacity holding up to 15 rounds which is incapable of being modified to accommodate 10 or less rounds; OR 2) a firearm which only accepts a detachable magazine with a capacity of up to 15 rounds which is incapable of being modified to accommodate 10 or less rounds. One must register that firearm within one year from the new law's enactment. (Even though there is only 180 day "grace period" for newly prohibited magazines.)

In order to register such a firearm, the owner must:

- (1) complete a registration statement, in the form to be prescribed by the Superintendent of the State Police; and
- (2) produce for inspection a valid firearms purchaser identification card, permit to carry a handgun, or permit to purchase a handgun.

The information provided in the registration statement shall include, but not be limited to: the name and address of the registrant; the number or numbers on the registrant's firearms purchaser identification card, permit to carry a handgun, or permit to purchase a handgun; and the make, model, and serial number of the firearm being registered. Each registration statement shall be signed by the registrant, and the signature shall constitute a representation of the accuracy of the information contained in the registration statement.

The owner must register the firearm in the law enforcement agency of the municipality in which the applicant resides or, if the municipality does not have a municipal law enforcement agency, any State Police station.

Within 60 days of the new law, the Superintendent of State Police must create registration forms and must supply them to all full-time municipal police departments and each State Police station.

One copy of the completed registration statement shall be returned to the registrant, a second copy shall be sent to the superintendent, and, if the registration takes place at a municipal police department, a third copy shall be retained by that municipal police department.

**(4) Are registered firearms inheritable?**

A: No. The heir or estate of an owner of a firearm which has been registered pursuant to the above shall within 90 days after the owner's death, dispose of that firearm in accordance with the law.

**(5) Are law enforcement officers exempt for possession of large capacity ammunition magazines?**

A: Yes. Under N.J.S. 2C:39-3g. Law enforcement officers are exempt for possession of large capacity ammunition magazines provided that the officer is actually on duty or traveling to or from an authorized place of duty and that the large capacity ammunition magazines have been duly authorized by law, regulation, or law enforcement orders.

**(6) Are members of the U.S. Armed Forces or National Guard exempt for possession of large capacity ammunition magazines?**

A: Yes. Under N.J.S. 2C:39-3g. Members of the U.S. Armed Forces or National Guard are exempt for possession of large capacity ammunition magazines provided that the possession has been duly authorized by law, regulation, or military orders.

**(7) Are retired law enforcement officers exempt for possession of large capacity ammunition magazines?**

A: Yes, but only up to 15 rounds. A retired law enforcement officer who is authorized to possess and carry a handgun pursuant to subsection l. of N.J.S. 2C:39-6 (retired law enforcement carry) may possess and carry a large capacity ammunition magazine which is capable of holding up to 15 rounds of ammunition. However, see question (13) below.

**(8) Are retired or former members of the U.S. Armed Forces or National Guard exempt for possession of large capacity ammunition magazines?**

A: No.

**(9) Are *New Jersey Retail or Wholesale Dealers* exempt for possession of large capacity ammunition magazines?**

A: Yes. A licensed retail or wholesale firearms dealer may possess large capacity ammunition magazines at its licensed premises for sale or disposition to another licensed dealer, the Armed Forces of the United States or the National Guard, or to a law enforcement agency, provided that the seller maintains a record of any sale or disposition to a law enforcement agency. The record shall include the name of the purchasing agency, together with written authorization of the chief of police or highest-ranking official of the agency, the name and rank of the purchasing law enforcement officer, if applicable, and the date, time and amount of ammunition sold or otherwise disposed. A copy of this record shall be forwarded by the seller to the Superintendent of the Division of State Police within 48 hours of the sale or disposition.

**(10) Are motion picture, television, or video productions, exempt for possession of a large capacity ammunition magazine?**

A: Yes, as long as the possession of a large capacity ammunition magazine solely is used as a prop for a motion picture, television, or video production, provided the large capacity ammunition magazine has been reconfigured to fire blank ammunition and remains under the control of a federal firearms license holder.

**(11) Is there a “grace period” for possessors of large capacity ammunition magazines to take action?**

A: Yes. A person who legally owns a semi-automatic rifle with a fixed magazine capacity exceeding 10 rounds or a large capacity ammunition magazine as defined under subsection y. of N.J.S. 2C:39-1 which is capable of holding more than 10 rounds of ammunition on the effective date of the new law may retain possession of that rifle or magazine for a period not to exceed 180 days after the effective date of the new law. During this time period, the owner of the semi-automatic rifle or magazine shall:

- a. Transfer the semi-automatic rifle or magazine to any person or firm lawfully entitled to own or possess that firearm or magazine;
- b. Render the semi-automatic rifle or magazine inoperable or permanently modify a large capacity ammunition magazine to accept 10 rounds or less; or
- c. Voluntarily surrender the semi-automatic rifle or magazine pursuant to the provisions of N.J.S. 2C:39-12.

**(12) How is voluntarily surrender accomplished under New Jersey law?**

A: Voluntary surrender under N.J.S. 2C:39-12 is a highly technical procedure in which qualifying items may be surrendered to either the Superintendent or the Chief of Police of the municipality in which the surrenderer resides. In order to voluntarily surrender these items, one must:

- A. Give written notice including the proposed date and time of the surrender;
- B. Make the surrender to the Superintendent of State Police or the Chief of Police of the municipality in which the surrenderer resides;
- C. Have the written notice received by the Superintendent of State Police or the Chief of Police before any charges have been made or complaints filed against the surrenderer for unlawful possession of the items in question;
- D. Have the written notice received before any investigation has been commenced by any law enforcement agency concerning the unlawful possession.

**(13) Does voluntary surrender apply only to unlawful possession offenses?**

A: Yes. This procedure does not grant immunity from prosecution for any crime or offense except that of unlawful possession.

**(14) Is there financial compensation for items voluntarily surrendered to the authorities under this provision?**

A: No. They are forfeited to the State without any compensation.

**(15) Is it illegal to manufacture, cause to be manufactured, transport, ship, sell or dispose of a large capacity ammunition magazine under New Jersey law?**

A: Yes. Under N.J.S. 2C:39-9h., it is a crime of the fourth degree to unlawfully manufacture, cause to be manufactured, transport, ship, sell or dispose of a large capacity ammunition magazine intended for use for any purpose other than authorized military or law enforcement purposes. This law prohibiting “transport” directly conflicts with the possession/carry exemptions for registered owners, retired law enforcement and motion picture, television, or video productions because the exception only includes N.J.S. 2C:39-3 and fails to mention N.J.S. 2C:39-9h. This law also prohibits “dispose of” which directly conflicts with the Voluntary Surrender provision of N.J.S. 2C:39-12 and only gives immunity for “possession” and not for transportation or disposal. This is yet another example of our legislators not knowing the law or having any understanding what they are doing.

**(16) May a person lawfully possess a “blocked” large capacity ammunition magazine?**

A: Yes, as long as it was owned on the day the law was enacted and was permanently blocked during the six-month grace period. Temporarily blocked magazines are not lawful. (NJAC § 13:54-1.2 Definitions) A large capacity ammunition magazine must be permanently altered so that it is not capable of holding more than 10 rounds of ammunition. (e.g. riveted, welded, epoxied, etc.) It cannot be readily restorable. An ammunition magazine which has been temporarily blocked or modified from holding more than 15 rounds, as by a piece of wood or a pin, is still unlawful.

## ✂️ LOOPHOLES & 🎯 PITFALLS

*Hundreds of thousands of otherwise honest citizens have now been turned into potential criminals for possessing lawfully obtained magazines over 10 rounds. A conviction for unlawful possession of a large capacity magazine under NJ law is a “crime” which is the equivalent of a “felony conviction.” A person who is convicted loses their Second Amendment Rights and becomes prohibited throughout the entire United States for possession of a firearm.*

*New Jersey’s law banning large capacity ammunition magazines is as ill-conceived as most of New Jersey’s other infamous gun laws. Large capacity ammunition magazines that fit firearms other than semi-automatic firearms are legal. For example, we had a case in Camden County in which our client possessed a drum magazine for a machine gun that did not fit or function in any semi-automatic firearm. After filing our motion, the charges were dismissed, and the magazine returned because it was not prohibited under New Jersey law, which bans only large capacity ammunition magazines for semi-automatic firearms, not fully-automatic firearms.*

*Beware! Any magazine over 10 rounds that fits and functions in a semi-automatic firearm is prohibited. This includes magazines that fit and function in semi-automatic firearms that are not defined as “assault firearms.” For example, the Beretta Model 92 pistol is not banned as an “assault firearm.” However, its standard factory magazine holds 15 rounds. The magazine is now contraband.*

*.22 tube-fed semi-automatic rifles like the Marlin Model 60 and Remington Model 552 are no longer prohibited. After 28 years of prosecuting honest citizens for these type of rifles, the Democrats have finally admitted they were wrong. Think of the lives and families they have destroyed in the process. They still don’t really care, because they keep passing new laws creating new victims of New Jersey gun laws.*

*Of course, no real criminal is going to care about this law or obey it. Only law-abiding citizens will comply and be placed at a disadvantage defending themselves and their families. Governor Murphy and the Democrat controlled legislature has decided that you and your loved one’s lives aren’t worth more than 10 rounds.*