

SUBCHAPTER 3. PERSONAL NEEDS ALLOWANCE

10:123-3.4 Amount

(a) The owner or operator of each residential health care facility or boarding home shall reserve to each Supplemental Security Income (SSI) recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each Work First New Jersey/General Assistance recipient residing therein, a personal needs allowance in the amount of at least [\$110.00] **\$112.00** per month, set according to (b) below, and noticed in the New Jersey Register and otherwise publicized, in accordance with (c) below. No owner or operator, or agency thereof, shall interfere with the recipient’s retention, use, or control of the personal needs allowance.

(b)-(c) (No change.)

LABOR AND WORKFORCE DEVELOPMENT

(a)

DIVISION OF WAGE AND HOUR COMPLIANCE

Notice of Administrative Changes

Minimum Wage

N.J.A.C. 12:56-3.1

Take notice that the Department of Labor and Workforce Development has requested, and the Office of Administrative Law has agreed to permit, an administrative change to N.J.A.C. 12:56-3.1(a). In pertinent part, that subsection states that “except as provided in N.J.A.C. 12:56-3.2, every employee shall, effective January 1, 2018, be paid not less than \$8.60 per hour, the minimum hourly wage rate set by section 6(a)(1) of the Federal ‘Fair Labor Standards Act of 1938’ (29 U.S.C. §206(a)(1)), or the rate provided under N.J.S.A. 34:11-56a4, whichever is greatest.” Pursuant to N.J.A.C. 12:56-3.1(b), on an annual basis, on or about September 30, the Department shall revise the minimum hourly wage rate, “based on any percentage increase during the one-year period of August of the prior year through August of the current year of the consumer price index (CPI) for all urban wage earners and clerical workers (CPI-W, U.S. City Average), as released by the United States Department of Labor, Bureau of Labor Statistics.” N.J.A.C. 12:56-3.1 indicates further that the Department shall annually, (1) through a public notice published in the New Jersey Register, provide the new CPI-adjusted minimum hourly wage rate, and (2) no later than September 30 of each year, publish the aforementioned public notice on the Department’s website. The percent increase in the CPI-W, U.S. City Average, for the one-year period, August 2017 through August 2018, is 2.88 percent. That is, the CPI-W, U.S. City Average, in August 2017 was 239.448, and in August 2018 it was 246.336. Consequently, the change in the index over the one-year period equals 6.888, or an increase of 2.88 percent (6.888/239.448x100). Using as a base for the calculation the current New Jersey minimum hourly wage rate of \$8.60 (since as of this date, \$8.60 is greater than both the minimum hourly wage rate set by section 6(a)(1) of the Federal Fair Labor Standards Act and the rate provided under N.J.S.A. 34:11-56a4), a 2.88 percent increase (rounded to the nearest penny) is \$0.25, yielding an adjusted State minimum hourly wage rate, effective January 1, 2019, of \$8.85. Therefore, pursuant to Article 1, Paragraph 23, of the New Jersey Constitution, and N.J.A.C. 12:56-3.1(b), the State minimum hourly wage rate, effective January 1, 2019, must be changed from \$8.60 to \$8.85. This requires making two administrative changes to N.J.A.C. 12:56-3.1(a): (1) the date, January 1, 2018, must be replaced by the date, January 1, 2019; and (2) the amount, \$8.60, must be replaced by the amount, \$8.85.

Full text of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 3. MINIMUM WAGE RATES

12:56-3.1 Statutory minimum wage rates for specific years

(a) Except as provided in N.J.A.C. 12:56-3.2, every employee shall, effective January 1, [2018] **2019**, be paid not less than [\$8.60] **\$8.85** per hour, the minimum hourly wage rate set by section 6(a)(1) of the Federal “Fair Labor Standards Act of 1938” (29 U.S.C. § 206(a)(1)), or the rate provided under N.J.S.A. 34:11-56a4, whichever is greatest.

(b)-(c) (No change.)

LAW AND PUBLIC SAFETY

(b)

DIVISION OF STATE POLICE

Firearms and Weapons

Definitions; State of New Jersey Firearms

Identification Card or Permit to Purchase a

Handgun and Form of Register Required;

Prohibition on Sale of Certain Weapons;

Application for a Permit to Carry a Handgun

Adopted Amendments: N.J.A.C. 13:54-1.2, 1.3, and 2.4

Proposed: June 18, 2018, at 50 N.J.R. 1424(a).

Adopted: September 13, 2018, by Patrick J. Callahan, Office of the Superintendent, Division of State Police, with the approval of Gurbir S. Grewal, Attorney General.

Filed: October 4, 2018, as R.2018 d.192, **without change**.

Authority: N.J.S.A. 2C:39-1 et seq., and 2C:58-1 et seq.

Effective Date: November 5, 2018.

Expiration Date: May 12, 2022.

Summary of Public Comments and Agency Responses:

The official 60-day comment period ended on August 17, 2018. The Division of State Police (Division) received electronic comments from the following individuals:

1. John J. Petrolino III

2. Anonymous (jj@XXXXX.net) (e-mail redacted for privacy)

1. COMMENT: The commenters generally objected to the proposed amendment to N.J.A.C. 13:54-2.4, Application for a Permit to Carry a Handgun. Each cited the United States Supreme Court decision in *District of Columbia et al v. Heller*, No. 07-290 478 *F.3d* 370 (2008), as evidence of this notice of proposal’s unconstitutionality. The commenters stated in *Heller*, the Supreme Court affirmed the right to carry a firearm for “all lawful purposes” and “self-defense” cannot be determined on a case-by-case basis and should be permitted both inside and outside the home. Furthermore, the commenters requested the standard of establishing “justifiable need” to warrant the approval of a permit to carry a handgun be removed in its entirety as it is directly in violation of the 2nd Amendment. Finally, both commenters reject the use of *Siccardi v. State*, 59 *N.J.* 545 (1971) and *In re Preis*, 118 *N.J.* 564 (1990), as justification for the overall limitations prescribed by New Jersey firearms laws and advocate for them to be revised to be aligned with Federal standards and those of other states to allow the citizens of New Jersey to carry handguns outside the home for lawful, self-defense purposes.

RESPONSE: After a review of the precedent in *Siccardi* and *In re Preis*, *supra*, it has been determined that the inclusion of “serious threats” is not necessary to convey the “justifiable need” standard of requiring demonstration of an urgent necessity for protection from a specific threat in order to issue a permit to carry a handgun. Therefore, a private citizen who applies for a permit to carry a handgun must provide written certification of specific threats or previous attacks that demonstrate a special danger to the applicant’s life. By removing the reference to “serious threats” from this provision, the Division has restored the prior language contained in the rules for submitting an application for a permit to carry a handgun under N.J.S.A. 2C:58-4. Furthermore, the Division

rejects the suggestion of removing the standard of establishing justifiable need from the rules, as this would be contrary to the public safety purpose the rule is intended to serve.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments do not exceed Federal standards, and are not adopted under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under State statutes that incorporate or refer to Federal law, Federal standards, or Federal requirements.

Full text of the adoption follows:

SUBCHAPTER 1. FIREARMS PURCHASER IDENTIFICATION CARD AND PERMIT TO PURCHASE A HANDGUN

13:54-1.2 Definitions

The words and terms used in this chapter shall have the following meanings:

...

“Assault firearms” means:

1.-3. (No change.)

4. A semi-automatic rifle with a fixed magazine capacity exceeding 15 rounds;

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; or

6. A firearm with a bump stock attached.

...

“Bump stock” means any device or instrument for a firearm that increases the rate of fire achievable with the firearm by using energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.

...

“Machine gun” means any firearm, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt, or other means of storing and carrying ammunition that can be loaded into the firearm, mechanism, or instrument and fired therefrom. A machine gun shall also include, without limitation, any firearm with a trigger crank attached.

...

“Trigger crank” means any device or instrument to be attached to a firearm that repeatedly activates the trigger of the firearm through the use of a lever or other part that is turned in a circular motion; provided, however, the term shall not include any weapon initially designed and manufactured to fire through the use of a crank or lever.

...

13:54-1.3 State of New Jersey firearms identification card or permit to purchase a handgun and form of register required; prohibition on sale of certain weapons

(a)-(b) (No change.)

(c) The provisions of (a) and (b) above shall not apply to the Armed Forces of the United States, the National Guard, or to a law enforcement agency; provided that such transactions are authorized in writing by the appropriate governmental entity as provided by this chapter.

1.-3. (No change.)

4. If an agency wishes to utilize firearms that are considered abandoned property, all procedures pursuant to the Abandoned Property Act, N.J.S.A. 40A:14-157, must be followed in addition to ensuring that proper notifications are made to the prosecutor’s office, Attorney General’s Office, and the Superintendent, as set forth above. New Jersey law enforcement agencies may purchase firearms for use by law enforcement officers in the actual performance of the officers’ official duties, which purchase may be made directly from a manufacturer or through a licensed retail firearms dealer located in New Jersey or any other state. Individuals donating firearms to New Jersey law enforcement agencies must ensure that all such transfers are conducted through licensed dealers pursuant to

all regulatory provisions, State statutes, and all necessary local ordinances.

(d) (No change.)

SUBCHAPTER 2. HANDGUNS

13:54-2.4 Application for a permit to carry a handgun

(a)-(c) (No change.)

(d) Each application form shall also be accompanied by a written certification of justifiable need to carry a handgun, which shall be under oath and which:

1. 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 such incidents to the appropriate law enforcement agencies; or

2. (No change.)

(e)-(f) (No change.)

(a)

JUVENILE JUSTICE COMMISSION

Manual of Standards for Juvenile Detention Facilities

Adopted Amendments: N.J.A.C. 13:92-1.2, 2.5, 4.1, 4.2, 5.3, 6.1, 6.5, 6.6, 7.4, 7.5, 7.6, 8.1, 9.1, 9.3, 9.9, and 10.7 and 13:92 Appendix A

Adopted Repeal: N.J.A.C. 13:92 Appendix B

Proposed: February 20, 2018, at 50 N.J.R. 890(a).

Adopted: September 19, 2018, by the Board of the Juvenile Justice Commission, by the Honorable Gurbir S. Grewal, Attorney General and Chair, Rahat N. Babar, Attorney General’s Designee.

Filed: September 20, 2018, as R.2018 d.187, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: P.L. 2015, c. 89; and N.J.S.A. 2A:4A-26.1, 2A:4A-37, 18A:7B-5, 47:1A-1 and 5, 52:17B-170.e(6), (14), (15), (21), and (22), 52:17B-171.a(1) and (5), and 52:17B-176.a(6) through (9).

Effective Date: November 5, 2018.

Expiration Date: October 25, 2024.

Summary of Public Comments and Agency Responses:

The official comment period ended April 21, 2018. The Juvenile Justice Commission (Commission) received two public comment letters in response to the February 20, 2018 notice of proposal. One comment was from Jorge Sandoval, Superintendent of the Bergen County Juvenile Detention Center, writing in his capacity as President of the New Jersey Juvenile Detention Association (NJJDA); the other from Thomas Pollio, Director of the Morris County Youth Center, a constituent member of the NJJDA.

Except as noted below, the two letters are substantively indistinguishable. They address the same five issues and present them in the same order. Accordingly, in this notice of adoption, the Commission is addressing them together, referring to Mr. Sandoval and Mr. Pollio together as the “commenters,” identifying as appropriate where they diverge.

1. COMMENT: A proposed amendment to N.J.A.C. 13:92-4.1(a)2iii adds to a list of items for which a detention facility must obtain prior Commission approval “[a]ny renewal of or amendments to shared services agreements between counties.” The commenters allege that this would create an undue burden on counties, adding unnecessary and time-delaying substantive legal reviews, and are not necessary since the underlying, original shared services agreements were already approved by the Commission.