



State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHRISTOPHER S. PORRINO
Attorney General

November 24, 2017

Hon. Steven V. Oroho, Senator
Hon. F. Parker Space, Assemblyman
24th Legislative District
One Wilson Drive
Suite 2B
Sparta, New Jersey 07871

Dear Senator Oroho and Assemblyman Space,

Please accept this letter in response to your correspondence to Attorney General Porrino dated November 17, 2017, requesting clarification on whether self-defense is a manifestly appropriate purpose to possess a stun gun/taser per N.J.S.A. 2C:39-5d or under any other statute pertaining to weapons.

As you may know, on October 20, 2017 the Attorney General issued an alert to law enforcement officers in New Jersey advising them of the impact of the Consent Order entered in entered in the United States District Court in New Jersey Second Amendment Society v. Porrino, No. 16-4906 (U.S.D.Ct.), and the pending rule proposal. In that alert, the Attorney General reminded prosecutors and law enforcement officers that certain provisions of the Criminal Code remain in force and effect and would continue to be enforced with respect to stun guns, including:

- N.J.S.A. 2C:39-4(d) – possession of a weapon (which is defined to include a stun gun) with a purpose to use it unlawfully against the person or property of another;
- N.J.S.A. 2C:39-4.1 – possession of a stun gun with a purpose to use it unlawfully against the person or property of another (subsection b.) or under circumstances not manifestly appropriate for such lawful uses as it may have (subsection c.), while in the course of committing certain drug offenses;
- N.J.S.A. 2C:39-5(d) - possession of a stun gun under circumstances not manifestly appropriate for such lawful uses as it may have;



- N.J.S.A. 2C:39-5(e)(2) – possession of a stun gun while in or upon any part of the buildings or grounds of any school, college, university or other educational institution without the written authorization of the governing officer of the institution; and
- N.J.S.A. 2C:39-7(a) – prohibition against “certain persons” purchasing, possessing, or controlling a stun gun.

Of relevance to your specific question, N.J.S.A. 2C:39-5(d) provides that “[a]ny person who knowingly has in his possession any other weapon under circumstances not manifestly appropriate for such lawful uses as it may have is guilty of a crime of the fourth degree” (a similar formulation appears in some of the other statutes cited above as well). Accordingly, the determination does not necessarily hinge upon the *purpose* for which a stun gun or other weapon is possessed, but rather the *circumstances* under which it is possessed. It is generally understood that self-defense is a lawful use of a stun gun, but the relevant determination in enforcing the law is whether the possession is under circumstances not manifestly appropriate for the use of the stun gun for self-defense (or other lawful use). It is easy to imagine scenarios where possession of a stun gun would be under circumstances manifestly inappropriate for self-defense, and where possession for self-defense would be appropriate. Please understand that this response is not intended, nor should be taken, as providing legal advice to private citizens, as that role would be outside of the Attorney General’s statutory authority.

I hope this answer is sufficiently responsive to your inquiry. If you have any other questions pertaining to this issue, please feel free to contact me.

Sincerely,



B. Stephan Finkel
Assistant Attorney General
Director of Legislative Affairs

