

AIR GUNS

(1) Are air guns considered firearms under New Jersey law?

A: Yes. Under New Jersey law, N.J.S. 2C:39-1f., "firearm" is defined as including air guns, spring guns, or other weapons in which the propelling force is spring, elastic band, carbon dioxide, gas, vapor, air and firing a projectile smaller than three-eighths of an inch.

(2) How may air guns be purchased under New Jersey law?

A: The same New Jersey law that applies to purchase of firearms also applies to the purchase of air guns and BB/pellet guns.

(3) May state or local law prohibit the sale of air guns and BB/pellet guns?

A: No. Air guns and BB/pellet guns are protected under Federal law which preempts State and local law. Under U.S.C.A. Title 15 § 5001, no State or locality may prohibit the sale of pellet-firing air guns, traditional BB guns or paintball guns.

(4) Are *Soft Air* guns considered firearms under New Jersey law?"

A: Arguably no. They are readily sold in New Jersey by major retailers. We have, however, handled many cases in which persons have been charged with possessing a handgun or firearm when all they had was *Soft Air*.

The most egregious case we handled involved a retired United States Army Special Forces master sergeant who was returning home after training Department of Homeland Security personnel in New York. He was arrested at Newark airport on handgun possession charges and faced felony level charges with exposure of up to 20 years in prison. For demonstration and training purposes, he had brought with him two *Air-soft* guns, without CO2 cartridges, magazines, or plastic pellets. They were in his checked bag.

The retired Special Forces Master Sergeant had received the Bronze Star (twice), the Meritorious Service Medal (four times), the Army Commendation Medal (three times), the Army Good Conduct Medal (six times) and numerous other awards and decorations. He had seen combat in Afghanistan and Panama, been assigned to protect the Vice President of the United States, and possessed a Top Secret security clearance. None of that mattered when it came to aggressively enforcing New Jersey gun law. Thankfully, we were eventually able to get the charges dropped, but only after negotiations with the County Prosecutor and the sergeant having suffered through the ordeal of arrest.