

Gun Lawyer -- Episode 71 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:19

I'm Evan Nappen and welcome to Gun Lawyer. An interesting article caught my attention. And what I found really interesting about it is what the article did not say in the headline. But once you read it, it reminded me of something very important that I want to share with my listeners. This is one of the reasons that it can really help you listening to Gun Lawyer, and I want to tell you what it said.

Evan Nappen 00:47

So, I saw this article in The New York Post, and what it says is the Fire Department of New York firefighter busted with assault weapon, 'ghost gun' parts in sting. It is an article by Susan Edelman, and the headline looks like the typical narrative and agenda of assault firearms and ghost guns and all that. And it's typical for New York, right? And you'd say, hey, what do you expect? Until you read into it a little more, and this is the part that I want to share. It's really the critical part here. They are claiming that this was all done, at least law enforcement is claiming this is all done, based on a crackdown of illegal guns flowing into the city. A crackdown. It was part of a multi-agency firearms trafficking investigation. Get a load of that - a multi-agency, firearms trafficking investigation. Involving in this case, the Queens District Attorney office, and the State Police. Alright, so far, it seems like it's a New York thing.

Evan Nappen 02:05

But here's the paragraph that I found most intriguing, and I'm going to get into more detail on this. "A surveillance team tailed Martin to the 'Oaks Extravaganza' gun show at the Greater Philadelphia Expo Center on February 13, according to a criminal complaint filed by the Queens District Attorney's Office." Here's the part that needs to grab everybody's attention. Surveillance at the gun show. Surveillance team at the gun show. So, it raises the question, what was this, just these guys tailing Martin there and they happen to keep such a close eye on him and seeing this? Let me tell you something. In my opinion, based on my knowledge of other cases, the answer is no. Because I have other cases that I am aware of where surveillance has been set up particularly at the shows in Pennsylvania. They focus on the Polymer 80 sellers and the sellers of firearms where you can make a firearm for yourself, which has been legal in America, since before the country was a country.

Evan Nappen 03:38

But now, the scary term "ghost gun" and all that, Ooo^{oooooooo} ghosts, and this fight to stop individuals from having their own firearm that they can make. Just like you can work on your own car or work on

your own boat. While making your own and working on your own gun is the problem in some of these areas. Of course, the laws are different state to state. So, here you have a New York guy, who is outside the jurisdiction of New York, in Pennsylvania, and this is now extending to the gun show, the Oaks gun show in Pennsylvania. Now, I know a lot of my listeners attend that show, and they come from states all over. I have had and know of similar cases arising out of New Jersey. Yes, it also has the similar prohibitions. Let me tell you this. I am highly, highly skeptical that this is just tailing individual suspects, folks.

Evan Nappen 04:57

I'm going to put it out there that as gun owners if you go to a gun show and you have an out-of-state plate, you had better be extra careful, because this is the surveillance that I suspect is going on. Individuals who make purchases are actually followed to their car to see where they are coming from and then things happen. In some of the other cases I know of, the stops were based not on any kind of allegation made in this article. For example, that the person was somehow targeted in advance and followed to the show. No, just the opposite. It was the activity at the show, with an out-of-state plate that led to that individual having problems. I am not saying in this particular case. Could it have happened that he was a suspect and was followed and tailed and surveilled in another state? Sure, it's possible. But in my position as a Gun Lawyer, I have seen and know of cases that are more than this, that took place based on surveillance. Surveillance at shows, and this is not being talked about.

Evan Nappen 06:25

Notice the headline of the article is about assault firearms and ghost guns. But I bet if that headline was law enforcement surveilled gun shows, it might have a whole different impact. Well, that's the headline that I want you to think about here. When you have that out-of-state plate and you go to a gun show, you better be very wary about any activities there. Because the fact is, you could buy lawfully these things that are sold in Pennsylvania. It is no problem under Pennsylvania law and Federal law. The problem is if you transport it into a prohibited state. Now, if you are not transporting it into the state, but instead, let's say you have a vacation home in Pennsylvania. Even though you have an out-of-state Jersey plate, and you go and acquire these things, and then you go to your home in Pennsylvania, that's legal and lawful. But you might be getting surveilled that whole time. You might be. The activities and such that go on.

Evan Nappen 07:35

I mean, what are we going to have to do now when we go to gun shows and we buy even lawful 100% legal? Do we have to run SDRs (Surveillance Detection Route), as they call them, when you are trying to go home? Surveillance detection so that you can try to avoid that. Is that what we have to do now as gun owners? Do we have to somehow come there in a car that has a plate that's local, so we're not subjected to this? What does it take before our privacy and what we do as gun owners exercising our Second Amendment rights isn't treated like this? I mean, think about it. It's pretty scary stuff, isn't it? Being tailed because you went to a gun show in another state. That's what it boils down to. You went to a gun show in another state, and you are now tailed, and surveilled and maybe even pulled over, searched and busted. This is going on. This is not speculation. This is knowledge I have from even other cases. So, you better be very careful and very cautious when attending the shows.

Evan Nappen 08:52

There are various other games that are being played. There are agent provocateurs at the shows. I know of stings in the past, where they purposely went to sellers at the shows, private sellers, gun dealers, etc., and they try to set people up to make illegal sales. I represented individuals where there was this attempted sting going after what would otherwise be 100% lawful but blowing it up into very fine technicalities as to what's legal, what's not under Pennsylvania law. What is a bona fide antique firearm and what isn't? Really hair splitting so they can make the bust and arrest.

Evan Nappen 09:38

I saw this done over switchblades in Pennsylvania. I represented individuals charged in this. Yet switchblades and automatic knives, under Pennsylvania law, there are ways to be lawful for your possession even as an exemption if you possess it as a curio and relic, etc. It's in the law, but it didn't stop the stings. You have got to be very cautious and smart. If you're a seller and anybody says anything outright, that is a prohibited action or conduct, you need to immediately shut that down, folks. I'll give you an example. Some of these stings the way they worked had two people come up to a table, and they would say, hey, how much is this item? Even if it was an automatic knife or switchblade that would be legal to have as a curio. Then the person blurts out, oh, well, you know, I'm a felon, but I want to buy it. Why did they volunteer information like that? Why are they volunteering that they are a felon, but they still want to buy it? If someone says that and say, have a nice day. Goodbye.

Evan Nappen 11:00

If you are that stupid to even announce such a thing, sure as hell, I am not going to sell anyone anything where they are making it crystal clear that selling a felon that weapon is a violation. So, use common sense on that individual. Or they say, hey, I'm a felon, I can't buy it. But my friend here will buy it for me. And they're stating this right then and there. That's a straw sale, and they are just setting people up. You have got to recognize the signs. You have got to see that this is a behavior that is common in law enforcement, in the attack of our Second Amendment rights. Where the agenda and the narrative are so important to trying to make something out of the gun laws. How effective they are and what a great job they're doing and stopping crime and all that. The lines of BS that they put out there. Well, this is how they back it up.

Evan Nappen 12:09

They back it up by setting up individuals, surveilling individuals, and getting these arrests and convictions and headlines. So, the public, the general public, gets fooled. Because the real criminals, the people committing actual offenses, however, that takes real work. They are hard to catch and prosecute. But dumb, law-abiding citizens that get lured into these traps and suckered, oh, that's good stuff. That gets these cheap headlines and gets the job done. It gets the job done so they can use it to keep exploiting these laws that they passed to take away and destroy our Second Amendment rights. So, you need to be smarter than that, and you need to recognize that this isn't being paranoid. This is being smart and that these things really happen. Next up listener questions.

Speaker 3 13:24

For over 30 years, Attorney Evan Nappen has seen with rotten laws due to good people. That's why he's dedicated his life to fighting for the rights of America's gun owners. A fearsome courtroom litigator

fighting for rights, justice, and freedom. An unrelenting gun rights spokesman tearing away at anti-gun propaganda to expose the truth. Author of six best-selling books on gun rights, including *Nappen on Gun Law*, a bright orange gun law Bible that sits atop the desk of virtually every lawyer, police chief, firearms dealer and savvy gun owner. That's what made Evan Nappen America's Gun Lawyer. Gun laws are designed to make you a criminal. Don't become the innocent victim of a vicious anti-gun legal system. This is the guy you want on your side. Keep his name and number in your wallet and hope you never have to use it. But if you live, work, or travel with a firearm, the deck is already stacked against you. You can find him on the web at EvanNappen.com or follow the link on the Gun Lawyer resource page. Evan Nappen - America's Gun Lawyer.

Speaker 3 14:39

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Evan Nappen 14:55

I've got some interesting letters from our listeners that I love to share. These questions are very interesting. This one is from William and William says, regarding 1968 Gun control law and un-serialized rifles. Evan, as a NJ resident I just learned of the specifics of NJ's Ghost Gun Law. I own a Remington 513T .22 target rifle and a JC Higgins .22 that were both bought by me in the early 60s. Neither rifle has a serial number. I regularly take these rifles to my local range. Could I be in trouble by possessing these rifles? Your shows are great. Regards, Williams. Well, thank you, William, for the letter and for your compliments. I really appreciate it.

Evan Nappen 15:49

You have got a very important question here. You see, when New Jersey's so-called ghost gun laws were passed, they didn't consider that there are many firearms that do not have and did not have serial numbers even though they were factory made firearms. Prior to '68, when they were required to be serial numbered, .22s, shotguns, etc., many did not have serial numbers at all. You can go into gun shops today and find a gun that has no serial numbers. What it'll say on the tag, when it says for serial number, it will say NSN - No Serial Number and that's how dealers book guns with no serial numbers. But in the states that require the serial numbered guns and actually criminalized possession of unserialized guns, these guns can in fact be arguably a problem. Because the ghost gun law in New Jersey is so poorly written, and it is definitely a risk even for older guns that have no serial number.

Evan Nappen 16:59

Now I understand that they are legitimate, and they were made by manufacturers that the state views as legitimate. I think any firearm is legitimate, but these are the ones that they want. For some reason, only guns made by a major manufacturer is something that individual should only have. Why is that? Why can't individuals have their own guns as traditionally, we've been able to have, like I said since before the country was even a country. But New Jersey and New York and others are seeing it differently, and they passed these laws. So, unfortunately, you have got to be careful with any un-serialized gun in New Jersey. If these things come into possession of the state by whatever means, they will look to prosecute. I would not be surprised.

Evan Nappen 17:55

We don't have any case law testing this, but the best would be a test case of an un-serialized gun that was made by a major manufacturer given how New Jersey's law is written. I am sure, William, that you don't want to be the test case because that's no fun. But down the road, I am sure these things will be tested, and we will see how the law can withstand logic and arguments like that. Even though I think they banned logic. Wasn't it 1979? I think that's when it was banned. But we'll still try to use it and show the problem. So, be careful and beware of these ghost gun laws. Remember they passed these laws to give a scary name to it. They made it as broad and as sweeping and as inclusive as they can so they can grab every gun they can possibly grab. These are how the laws are written.

Evan Nappen 18:53

I have another letter here and this is from Harvey. Harvey has a podcast question. It says Hi, Evan. I've listened to every podcast episode since you started. I'm also a Law Shield member as well, and I really enjoy seeing you speak there. Well, thank you, Gary. I think this would be a great topic to discuss on your podcast. As well as being a gun enthusiast, I am also a motorcycle enthusiast. My question is: I have a Swiss military motorcycle. It comes with a rifle rack mount (ambidextrous) on either side. That's pretty cool and it's ambidextrous. Do you know I'd give my right arm to be ambidextrous? But anyway, can I carry my rifle to the range uncased, the way the manufacturer intended? Can I do that? A gun case will not fit on the mount. The motorcycle is a Condor A350cc and is legally registered. Picture attached. A cool bike, man, very cool, really love it. As a motorcyclist, I do go to the gun range every now and then and carry my handguns on my modern motorcycle via what's called a tail bag box. It also locks. My handguns are unloaded and cased, and the ammo is cased and locked. Any pitfalls for motorcyclists doing this? I display my Condor at car/motorcycle shows and have yet to display it with just a wooden gun stock as you see pictured in fear of breaking some kind of law for just carrying what is essentially a block of wood. Thanks.

Evan Nappen 20:45

I guess I can feel free to use this name that he signed it under because it's a pseudonym, and I really dig his pseudonym. The pseudonym is Harvey Mushman. Now he even said Harvey Mushman is a pseudonym that's what Steve McQueen used to enter the motorcycle and car races. Isn't that cool? I like that. And he uses it when he writes motorcycle articles. He asked me, please do not use his real name, so I won't. Because I like Harvey Mushman. That's cool, and Steve McQueen was the king of cool. He was the cooler king. But anyway, let's talk about these motorcycle questions because it's good stuff.

Evan Nappen 21:26

Even though we're talking jersey, it's interesting to understand Jersey laws and their impact and how they're written. Even if you're not from New Jersey, you have to understand it because this stuff is coming to a state near you and understanding it can help you to fight it when it rears its ugly head. So, one question is here. The first one is can he mount his rifle on his rack on his motorcycle. His really cool Swiss bike. Can he do that? The answer technically is if you have a Firearms ID card in New Jersey, the firearms ID card law says that you cannot possess a rifle or shotgun unless you first have obtained a Firearm Purchaser ID card. The second part says you cannot have it loaded unless otherwise allowed by law. The bottom line as far as that possessory statute is concerned, believe it or

not, is if you have an unloaded rifle or shotgun, and you have a Firearms ID card, you are legal in New Jersey. So, technically under that law, if you put an unloaded rifle or shotgun on your motorcycle or on a rack in your pickup truck, and it's an unloaded rifle or shotgun and you have a Firearms ID card, then technically under that law, you are exempt and you are legal because the cased, unloaded all that stuff that is part of the exemption. You don't need to go to the exemption because you have the Firearms ID card.

Evan Nappen 22:53

Now, let me just say though, if you put a rifle or shotgun on your motorcycle or on your car rack, you are going to be stopped and you are going to be arrested. Now eventually, down the road, I am confident we are going to win. But the problem is that is not viewed as acceptable behavior today, even though it is technically legal under the law, and it was something that was routinely done in the past. You know, when we used to really be free? You know, those days, yeah, you could do that. The thing is that just riding around with an uncased long arm on your Swiss motorcycle probably isn't a good idea. Even though I know I could successfully defend you.

Evan Nappen 23:41

Now there's also a fish and game law that is not as serious as the criminal prohibition that does talk about guns being cased or locked in the trunk. It is fish and game, and it's not felony level stuff. But still, you don't want any violation, of course. The firearm law in Jersey would be a third degree, and it would carry up to five years in state prison. So, even though it is legal, it's not a good idea. However, what I could suggest is, when you are doing the display, if we just jump to the third question, we'll talk about the second one in between, about displaying the motorcycle with the firearm. Since your ID card does cover it, arguably you might be able to get away with that as a display. But that could also kick in the New Jersey law for gun shows or displays because now you are displaying it. It is not officially a gun show but your possession could be legal. But one of the things that might really be the way around it is they actually do make some fantastic replica firearms, and I mean bona fide replicas. I am looking at some replicas that I hang in my office, an M1 Garand and a nice lever action. They are replicas, non-firing. They look really good, but they are not firearms. The absolute safest thing to do in Jersey would be to display it with a replica firearm that is non firing, not an actual gun.

Evan Nappen 25:15

Now New Jersey does have a law regarding imitation firearm It is very weirdly worded and has to do if someone believes you are going to use it improperly. But essentially that's like Dillinger when he made a bar of soap look like a gun and was able to escape. So, that type of imitation firearm is prohibited. By the way, I saw his original gun. He was a master. That bar of soap would have fooled me. Absolutely. Especially if Dillinger is pointing it at you. You would have no reason to doubt that it's a gun. Even though it's a bar soap with shoe polish. So, imitation firearm, there kind of is that prohibition. But if you're doing it in a matter of display at a show and it's a replica, and it's not a real gun at all, I think you are fine with that.

Evan Nappen 26:14

What about transport to the gun range? And he said, particularly on handguns. Well, New Jersey's transport law on handguns requires everyone, unless you have a carry permit which less than 600

people have, you are going to have to stick within the exemptions. What are the exemptions? The exemptions require that first of all your handguns be unloaded and that means nothing in the chamber and nothing in the cylinder. I also say nothing in the magazines. To be extra safe, unload everything. Then the gun has to either be in a closed and fastened case, or in a wrapper or in a gun box or locked in the trunk. Since you don't have a trunk on your motorcycle, you are stuck with the exemptions regarding closed and fastened case. So, if you're going to transport by exemption, your handguns, you can do so on a motorcycle, but make sure that the handguns are in a closed and fastened case and are unloaded. In other words, you need to conform with subsection g. of NJS 2C:39-6. That is the exemption in subsection g. and is the mode of transport. That is the lawful way to take your motorcycle on a nice day to the range with your guns to do some target shooting. This is Evan Nappen telling you the L2AL and reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 28:03

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