

Gun Lawyer -- Episode 76 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:00

Hi. I'm Evan Nappen, and welcome to Gun Lawyer. I get some great emails from listeners, and I have one that I want to share here because I think it's a great topic to talk about. It's something that I think a lot of folks don't know the answer to. Here is the email from Ray. Regarding New Hampshire, do you think that you can do an episode on New Hampshire once in a while. I realize that we do not have any real freedom issues for the most part, but laws do change a bit. We have had some success in the legislature, but there are still bad laws being proposed and everyone up here should know about it, so they can contact their legislators. It's from Ray, and I appreciate Ray's email.

Evan Nappen 01:15

I really want to talk about New Hampshire because New Hampshire is extremely special. And I'm not just saying that for a personal bias, but in fact, it is probably one of the best kept gun secrets out there. Many of you probably don't realize that, in my opinion, and look, I spent over 35 years practicing gun law, and I can tell you that New Hampshire is, in my opinion, the freest gun state in America. Absolutely the freest, the freest, and getting even freer. It is astounding how free New Hampshire is. Now no place is perfect. I agree. But I want to tell you about New Hampshire and some of the advantages you may not even realize.

Evan Nappen 02:19

I know many of you are listeners that are in New Jersey, and New Jersey is infamous for being, in my opinion, the worst state for gun ownership in the country. Anyone who lives in New Jersey I'm sure understands why. The amount of laws, the anti-gun bias that runs through the system, the attempt to disenfranchise everyone in New Jersey of their gun rights, turn them into felons, ruin their lives, all combined with a hatred of who we are. I mean, that's really what we are dealing with all the time in New Jersey, but New Hampshire, to understand New Hampshire, just think about everything that's terrible about New Jersey. Now think of the opposite, and you get New Hampshire, no exaggeration.

Evan Nappen 03:10

Let me tell you some of the things you may find surprising. Because there are a lot of folks out there if you asked, what is the freest gun state? Well, they might say Texas or Tennessee, or places down south, and a lot of those states are very good, don't get me wrong. They are definitely night and day over New Jersey. They're great states without a doubt, but none of them are actually as free as New

Hampshire. You'll find if you talk to folks, there are actually a lot of gun laws in Texas. Now it is generally pro-gun in its demeanor, but there are a lot of laws. When I talk about the freest gun state, I am talking about the least amount of laws, the least amount of laws.

Evan Nappen 04:06

Let me tell you about New Hampshire's lack of laws. Number one, New Hampshire has Constitutional Carry. So, you do not need a permit, license, or permission slip from the government to carry a handgun, either concealed or openly, loaded or unloaded, in your motor vehicle or on your person. Not only is there no permit or license required, but New Hampshire does not even have a law that you could be charged with. Doesn't even have a law, unlawful possession of a handgun. No such law. No such law. The only prohibited persons under state law are essentially felons, prohibited persons. But there is no handgun possession offense of general nature and then you say, oh, well, I have a license, or I fall under some exemption. No, there's nothing you can be charged with.

Evan Nappen 05:17

Now there is an optional carry license in New Hampshire, and let me be very clear, a license. New Hampshire does not like the word permit and doesn't use the word permit. Because permit implies permission. It's not about permission. It's just a license, and the license is optional. 100% optional. If you want a license, you can get a carry license, and it is shall issue. A true shall issue license. Meaning as long as you are, and it says it right in the statute, as long as you are not otherwise prohibited under federal or state law from possessing a firearm, you qualify for the carry license. Now, you might say, why would I want a carry license if I can carry without a license? Well, because other states have reciprocity if you have a license. So, to take advantage of other states' reciprocity, you may want the optional license from New Hampshire, but you don't need one. They have constitutional carry and that applies to both residents and non-residents. If you want to vacation in New Hampshire, which is gorgeous and beautiful, just an unbelievably beautiful state with its four distinct seasons and even a fifth season. It's called Mud Season, but that's more of a joke, you can carry when you are here with no license, no problem.

Evan Nappen 06:47

But let me tell you some more. There is no machine gun law in New Hampshire. There's no state law on machine gun. You have to obey federal law, but there's no state law prohibiting machine gun possession. As a matter of fact, if you have a sub-machine gun, any firearm with a barrel under 16 inches is considered a handgun, and as long as it's under 16 inches at the barrel, you can carry your fully automatic Uzi submachine gun on your person with no carry permit. As long as you lawfully have your Uzi under federal law, not a problem. Not a problem in New Hampshire. No law prohibiting it. There's no law in New Hampshire state law on silencers, suppressors, none. If you follow federal law, you are legal in New Hampshire. There is nothing you could be charged with under state law. There's no state law on SBRs, short barrel rifles. None. No state law on sawed off shotguns. None.

Evan Nappen 07:53

Now these are prohibited and regulated by federal law. Yes, but not under New Hampshire state law. There is no state law on that. None. Lack of law, no law. You see, that's real freedom. Real freedom is not having any law on that. And that's what New Hampshire does when it comes to the gun laws. They

minimize the gun laws. It's incredible. Obviously, there is no "assault firearm" law of any type. There's no law banning standard capacity magazines. No. And unlike New Jersey, slingshots are not a felony to possess in New Hampshire. There's no law on slingshots in New Hampshire either. Now, these are possession laws that I'm talking about, possession. If you do bad things with guns, there are plenty of laws for that. All right. Not a problem. If you commit bad acts, commit crimes, or use a gun wrongfully, you will be prosecuted.

Evan Nappen 08:57

But frankly, folks, that's how it should be. Because it's the use, when it's used illegally, used wrongly, used to commit crimes, fine, prosecute to the fullest. That's not a problem. But what New Hampshire does not have is possessory offenses that turn law-abiding citizens into criminals and that's critical. It is the same with long arms. They don't have any possession of long arm laws under state law. Now what does exist is, there are some fish and game laws. Although New Hampshire is very much a hunters and fisherman's paradise, they have fish and game laws.

Evan Nappen 09:47

One of the fish and game laws does prohibit, it's a violation level offense but nonetheless, does prohibit possession of a rifle or shotgun that is loaded in a moving motor vehicle. So, if your motor vehicle is moving, your rifle or shotgun cannot be loaded and loaded means that it is readily able to fire. If you want to keep like an M4 carbine in your car, you can do that but don't have any round in the chamber, just so you don't end up with a fish and game violation. But that's really the extent for the long arm issue. If it's a stationary vehicle, your long arm can be loaded.

Evan Nappen 10:43

At one time New Hampshire did prohibit possession of a loaded rifle or shotgun in or on a vehicle and that caused problems. Because if you were shooting, just target shooting, from your vehicle or from your truck bed, there's a case when the law was put to change it, a fellow testified that he was stopped by Fish & Game. They asked for his license, and he immediately rested his shotgun against his vehicle so he could take out his license. They charged him for having his loaded shotgun on a motor vehicle. Stuff like that, well, that's gone now. They fixed the law. You just can't have it loaded, that means a round in the chamber, in a moving vehicle. So, no laws.

Evan Nappen 11:34

New Hampshire is just unbelievably free. Private sales are 100% permitted, just don't knowingly sell to a prohibited person. If you're going to sell a handgun to somebody, they need to either be personally known by you or if the person has one of the optional carry licenses. You can make that private sale. There is no NICS check or anything on private sales. There are no laws prohibiting so-called oooooOOOOOooooo "ghost guns" in New Hampshire. No state laws. If you want to build a firearm for yourself? It's lawful under New Hampshire state law and federal law as well. So, these are the things.

Evan Nappen 12:23

As a matter of fact, how about carrying a firearm? Because even places that have shall issue permits, and even Constitutional Carry, they have all kinds of prohibited places, right? All kinds of prohibited places. In New Hampshire, there's only one place that is prohibited under state law for carrying a

firearm and that one place is a courthouse. You cannot bring any weapon into a courthouse. But that's it. There are no other state prohibitions. There is no state prohibition on carrying at the mall, carrying in a movie theater, carrying at your house of worship, anywhere. There is no state prohibition on it. The federal prohibitions still apply their federal law for federal buildings, the Federal prohibitions, but that's the feds. But as far as state law goes, it's only prohibited by way of a courthouse.

Evan Nappen 13:29

You can have a firearm in a bar in New Hampshire. Not a problem. Restaurant? Not a problem. You can have a firearm, under state law, anywhere. Now some of you may say, what about private property? How does that work? If you go in Texas, they have laws where they put up signs, you can carry here or you can't, we say no. Yeah, if you go in a place that has a sign and then you get in trouble. No. The way it works in New Hampshire is it's really a property issue, and here's the deal. If a private property owner says they don't want any guns and you come in and somehow, they know you have a gun, they can say we want you to leave. And if you don't leave, then you are a defined trespasser. And that's how it works. But there's no separate law regarding that. It's just the same thing as a property owner having a right to limit anything else they may want on their property.

Evan Nappen 14:27

Now, I happen to believe that your ability to defend yourself is a civil right, and I think it should be right up there with discrimination and that they shouldn't be able to stop you. A business shouldn't be able to say we don't want any guns on the property. But that is a libertarian conflict because you want property owners to have rights over their property to decide. It's your property, and you should be able to decide, and yet we understand our gun rights, you see. So, that's where there's a little bit of a tradeoff. But the bottom line is, it's not a state offense, and it comes down to the individual property owner, which is really good.

Evan Nappen 15:14

So, I would highly encourage that if anybody wants to and can, actually move to and says, I want to live in the freest gun state in America. And where is that? Let me just tell you, hands down, it's New Hampshire, hands down. New Hampshire is not only the freest state on gun rights, but it's amazingly free on so many other things. That's why it's the "Live Free or Die" state. Just real quick, New Hampshire has no sales tax, none. So, when you buy a gun or a car, you pay no sales tax. New Hampshire has no state income tax. Okay. You don't pay that. Nope. None exists in the state of New Hampshire. New Hampshire is the only state that doesn't require you to wear a safety belt. They refuse the government money. We're all big boys and girls, you decide. And look, it's smart to wear your safety belt. But it's not an excuse now to pull you over, because it's not a law here requiring it. There are many, many other aspects of freedom to New Hampshire. But let me just say this, if you want to freest gun state? Well, now you know the secret and where it is. When we come back. I have another great letter to share with you.

Speaker 3 16:39

For over 30 years, Attorney Evan Nappen has seen what rotten laws do 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 17:54

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Evan Nappen 18:09

Okay, I want to thank all of you for being dedicated listeners to Gun Lawyer, and I appreciate your subscribing and telling your friends about it. Let's just get the word out. I also want to mention my good friend, Mitch Rosen, who makes the finest extraordinary gun leather. And I just want to tell you, this is not a paid ad for him or anything. He's a great guy and makes a phenomenal product. I'm so psyched right now because I recently got my Mitch Rosen holster for my new Smith 10 millimeter. Man, it is just the best. Once you have a Mitch Rosen leather, you just don't want anything else. I'm not kidding. So, check out Mitch Rosen Extraordinary Gun Leather (www.mitchrosen.com), and you'll see what I mean.

Evan Nappen 19:06

Anyway, I have a letter here. A letter from another avid listener says hi Evan. I have a very common question that should affect a lot of your listeners. My brother is moving from Spring Lake, New Jersey, to Toms River, New Jersey. He has a legal handgun registered with Spring Lake Heights and issued by them. He has moved to Toms River, New Jersey. So, on the last day he was in the house, he went to the gun range, as a guest, and then returned to his new home in Toms River. All good there. My question is, what obligation does he now have to contact Toms River PD and inform them that he's moved into town with a legal registered handgun? Is there an obligation or timeframe to do this? Any information would be much appreciated. That's from Harvey.

Evan Nappen 20:04

Well, I'll tell you Harvey, here's the deal. There's nothing that needs to be done when you move in New Jersey regarding your handgun. If you acquired a handgun with the pistol purchase permit, that is only good for 90 days. It allows you to acquire a handgun, and the form of register only registers your acquisition of the handgun. It's not a possession permit, and it doesn't register possession. So, that permit allowed you to make the purchase, make the acquisition. When you move, there's no obligation, nothing needs to be done over your handgun and its acquisition. Nothing. But what does need to be done is if you happen to also have a New Jersey Firearms Purchaser Identification Card. Now under New Jersey law, that card is what you use for the purchase of long arms - rifles and shotguns. And that card is currently good for one's whole life. Now, of course, there's legislation that they are talking about trying to change that, but it's lifetime unless you decide to get rid of it.

Evan Nappen 21:31

However, when you move, you have to do a change of address within 30 days of moving. Or if you lose a card, or if you change your name, someone gets married, if you change your sex, you've got to notify and put in a new application for a new card within 30 days. If you fail to change your Firearms ID card within the 30 days, put that application in, then technically under the law, it's a third-degree crime, and you're facing up to five years in state prison for your failure to change your address and to update your Firearms ID card. Nothing needs to be done regarding your handguns, but your Firearms Purchaser ID Card does have the 30-day mandate for any change in your residence, name, sex, address, etc. Make sure that you do that. Your Firearms ID Card should always match your driver's license, because your driver's license lists your residency, as should your New Jersey Firearms Purchaser ID card.

Evan Nappen 22:59

There are a lot of folks out there who aren't aware that they needed to change their card, and they maybe failed to change your card. If they go to buy a rifle or shotgun, they're going to have a rude awakening when the dealer has to deny the sale. NICS may in fact deny the sale because the driver's license is different than the Firearms ID Card, and that of course may draw attention to the fact that your card is not in compliance with New Jersey law. You don't want to have that situation. If you have a Firearms ID Card that needs to get changed, then you better do it.

Evan Nappen 23:45

Now some of you may say well, I'm out of time. I didn't realize this, etc. Well, let me tell you. In my experience, I have been practicing gun law for over 35 years. If you put in to get the change done, then that should be fine. I mean, technically you could be prosecuted, but I have never heard of that or had any case where an individual who finally put in to get their license made compliant, their Firearm Purchaser ID Card updated, got prosecuted because they were late. Now in theory, I guess it could happen, but I've yet to encounter that. However, we have had charges made against individuals who didn't change their ID card, because they got involved with the authorities for some other reason, whatever it may be. A seizure of their guns, something happened, whatever, and then when they're looking at the person and they see that oh, by the way, they didn't change their address. They get charged with this extra third degree, with up to five years in state prison charge of failing to update their Firearms ID Card.

Evan Nappen 25:02

So, if you have a Firearms ID Card, be conscientious about keeping it up to date. I don't want to see anyone become a victim of New Jersey's gun laws. I want you to be able to exercise your rights in Jersey, and the Firearms ID Card is what is needed for the purchase. Additionally, the Firearms ID Card is also of great advantage in possessing rifles and shotguns. Because the possessory offense in New Jersey does say that no person shall possess any rifle or shotgun unless having first obtained a New Jersey Firearms Purchaser ID Card. If you fail to have that card, it's a crime of the third degree for failure to have the ID card. Now the license that is put into that statute, the Firearms Purchaser ID Card, does immediately relieve you of the unlawful possession charge because it's an element of the offense and you have the Firearms ID Card. But if you don't have a Firearms ID Card, there still are exemptions.

Evan Nappen 26:11

The same exemptions that we rely on to possess our handguns, even handguns acquired with a Pistol Purchase Permit, which apply to long arms. But with long arms, we have at least the ability to get the Firearms Purchaser ID Card to put us on the good side of the possession for long arms. As opposed to handguns, where it says no person shall possess any handgun, unless having first obtained a Permit to Carry a Handgun. Since most of us don't have New Jersey Permit to Carry a Handgun, we're forced to only rely upon the exemptions for possession, such as possession in your home, possession at the target range, possession at your place of business etc. You're forced to rely only on exemptions, but long arms, the ID card is put in the statute there. So, you want to take advantage of that and get as much protection as you can in New Jersey, especially when transporting and possessing your firearm. The Firearms ID card does help in doing just that. But it has to stay up to date. That's a critical factor for sure. This is Evan Nappen reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 27:39

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