

# Gun Lawyer -- Episode 77 Transcript

## SUMMARY KEYWORDS

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## SPEAKERS

Evan Nappen, Speaker 3

### **Evan Nappen** 00:19

I'm Evan Nappen, and welcome to Gun Lawyer. You know, we now have a historical milestone in our fight for our Second Amendment rights. And what I'm talking about is the signing of Constitutional Carry by Governor Kemp in Georgia. This is really an important moment in terms of our fight for our rights. It's a time really, for a moment, we can actually be a little proud and happy as to where we are. Because Georgia is the 25th State. In other words, half of America in terms of numbers of States, now has Constitutional Carry. Think of how significant that is -- it's amazing. This means that half of the United States requires no license or permit or permission slip or piece of paper from the government so that a person can carry a loaded handgun concealed on their person for self-defense. That is an amazing advance of liberty and freedom. One of the things that has always struck me about carry, is that it is absolutely fundamental, critical, and really, in the modern day, the most important aspect of our right to keep and bear arms. Our Second Amendment rights.

### **Evan Nappen** 02:36

Look, I love everything about firearms, whether you enjoy target shooting, hunting, collecting, whatever it is that turns you on about guns, that's great. But, critical to it all, the most important element is carry because it is directly related to self-defense. Constitutional Carry is an expression of states saying you, the law-abiding citizen, you can defend yourself with the most effective means there is, and that being a firearm, and you can do so without needing a permit or license. Simply because it is our natural and fundamental, Constitutional right, to be able to defend ourselves with a gun.

### **Evan Nappen** 03:45

You know, there are places throughout the world that do not even allow self-defense, no less self-defense with a gun, no less allowed to carry a gun to defend themselves. That is quite a special right. And when you look back and you say, wow, how did we get here? It is really astounding to me, to me personally, because I want to tell you something you may not know about me. You see, I wrote my very first book. And my very first book was called Handgun Self-Defense, A Digest Of The Best of Today's Handgunning Literature. Actually, A Digest Of The Best of Today's Handgunning Literature Plus Concealed Weapons, How to Get Your Permit. Now this book is really kind of hard to get. I think you might be able to find one if you look hard enough on eBay or Amazon, but this book, of which I'm very proud, I actually wrote during college, and it was published in 1983.

**Evan Nappen 05:16**

And what happened was in college, I had two seminar courses that I had to take, writing courses. They were courses that required a written project. In college, I created my own major and got it all approved. So, I graduated with my degree in Business and Political Science as one major. There were two courses that in order to structure this major, so in each of those I wrote about two different aspects of concealed carry licensing. For Political Science, I looked at the legal political issues, and on the Business side, I looked at the management of permit systems. When I finished, I combined the two papers together, and I was really fortunate that I was able to get it published. And I'll tell you how that happened. It was actually published by American Handgunner Magazine. Jerry Rakusan was the editor at the time, and I sent him my manuscript. And they actually paid me. I mean, I was like, wow, actually getting paid for my manuscript and put it into this book. This little paperback book on concealed weapons, how to get your permit. The first part of the book is a digest of excerpts from about half a dozen books by the finest gun writers of the day. Then the entire second half was what I wrote about carry licensing. The first half of the book has, for example, Principles of Personal Defense by one of my heroes, Jeff Cooper. That's a great article in and of itself. They are timeless principles. No Second Place Winner by Bill Jordan. I just always read all of Bill Jordan's stuff, right? Shoot a Handgun by Dave Arnold. In The Gravest Extreme by Massad Ayoob. The Combat .45 by Bill Wilson and Michael Bane. The Truth About Self- Protection by Massad Ayoob. Life Without Fear by Mike Dalton and Mickey Fowler.

**Evan Nappen 07:53**

Then all of the second part is my part that I wrote, and I'm with the greats. I mean, what I just wrote in college is in this book with all the great writers that I have just so admired and loved. So, I was really happy about it. But what was really interesting is that this book was sold by American Handgunner, but also given away if you got a subscription to American Handgunner. So, 1000s and 1000s of copies of it had been sent out, and that was in 1983. What I was thinking about here is that it really kind of hit me now, not so much at the time, but it wasn't until 1987 that the modern concealed carry movement outside the home started. It was 1987 when the "shall issue" license law was passed in Florida, and that was the big one. That was the milestone of getting "shall issue" carry.

**Evan Nappen 09:08**

And I'm thinking, boy, my book came out three or four years before the modern carry movement. I had looked at all and studied all that, and I think, maybe only to myself, but I kind of feel that I had some role, at least I was in the ether, for helping to get this out there with people thinking about it. I mean, can we think of how many Guns Magazine and that book went out, discussing and studying the systems. So, I really feel that I was one of the folks, and while there were so many, of course, but I really feel almost like a pioneer. And I look back thinking my first book was on concealed weapons. That's what it was about -- how to get your permit.

**Evan Nappen 10:02**

Then in '87, Florida, and then the movement for carry. As the movement for carry grows and grows to the point where there are only eight states, eight, that don't have a "shall issue" permit, at least. And now, today, we can say there are 25 states that do not require any permit at all. Wow, that is just incredible. At the time when I wrote this book, I talked about Vermont, which was one of the only states

where you could carry concealed at the time and loaded without a permit. To think how far we've come. And in between, while we're pushing "shall issue" carry, we were pushing to get national reciprocity, so that all these carry licenses would be recognized by every other state. We came close to getting that passed, but it hasn't passed. Now, with national Constitutional Carry in half the states, it's actually making it moot or virtually moot, and eliminating the need for national reciprocity. Because soon, you will be able to carry everywhere in the United States, at least, more and more and more without any license whatsoever.

**Evan Nappen** 11:53

So, if there was going to be a law today, instead of pushing national reciprocity, I would like to see national Constitutional Carry. How about a Federal law that says something like, no state shall require a permit, license, or other government permission to carry a handgun for lawful self-defense? Wouldn't that be great? Whether we would ever see a Federal law that would do that. I don't know. But we're getting to that point, and we are halfway there without a Federal law even saying it. So, it is really an amazing time to see liberty grow and blossom. It's just fantastic.

**Evan Nappen** 12:52

Now, of course, folks that live in some of those eight states where there is a lack of respect for the Second Amendment. Particularly, we are talking about New Jersey and other states. Well, we have a (United States) Supreme Court case coming up, and we should have the decision by June in that Bruen case. New York State Rifle and Pistol Association v. Bruen. (Docket No. 20-843) What is that case looking at? The constitutionality of the need requirement. Having to show that basis. The very thing that I wrote about in my book in 1983, is the key problem in the way that the government stops us. This is what is now up for a decision, and I'm confident we are going to win. It's just a question by how much. But think about now how much politically even better, not that the court necessarily consider these things, but here they are. They are going to render a decision on this. They have got to know that 25 states, half of the country, does not even require any permit now. The court is just looking to see whether these few states can arbitrarily deny our right to carry a handgun based on this horrible "need" requirement. Come on.

**Evan Nappen** 14:29

And you know, this is really the problem. When I wrote my book, I was looking through it today, here's the foreword. I think you'll get a kick out of it. Here's a quote. "Only three types of people can get a permit to carry a concealed weapon: judges, politicians and the mafia" That is a quote from a Jersey Public Defender that I talked to regarding this book. A public defender who was defending on gun cases, even back then. This is how they do it. You know, it's been a known thing - how they stop individuals using the "need" game, the "need" trap. That's just what it says. For example, even back then, I wrote, "Most states with concealed weapon permit systems require that a need must be proved." This is how it was, and that's been really pounded. That's what's been taken away. I wrote defeating this need trap is often difficult. And unfortunately, there are no cut and dried definitions of need. It's often vague and a relative word. This was back in '83.

**Evan Nappen** 15:51

So, I'm looking at that going, wow, we really have come a long way. It is kind of fun to reread this and think at this point, that we have finally met this landmark -- half of the states requiring no permit. It is just great progress and something to be happy about. When we come back, I have some interesting letters from listeners.

**Speaker 3 16:25**

For over 30 years, Attorney Evan Nappen has seen what 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](http://EvanNappen.com) or follow the link on the Gun Lawyer resource page. Evan Nappen -- America's Gun Lawyer.

**Speaker 3 17:44**

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**Evan Nappen 17:59**

I do like very much the letters that I get from listeners, and I have a couple here that are pretty interesting. Normally I try not to read people's names for privacy purposes, but I'm going to read this person's name. Because the person who sent this his first name is Lesko, and his last name is Brandon. So, his name is Lesko Brandon. I like his name, and I'm happy to say Lesko Brandon and to respond to Lesko's question. What Lesko Brandon says is, Hi Evan. I just listened to your podcast as I always do, which included a segment about updating an address change for the firearms ID card. You covered a move within the state, but I moved to and became a resident of PA about two years ago and am enjoying the freedom of concealed carry. I checked the New Jersey State Police website, which does not appear to have any specific information on how to submit an address change. Online forums suggest essentially a new application must be filed. But I don't believe I would qualify as an out of state resident. Since my wife is a teacher, she still maintains her New Jersey residency and stays at the house there during the work week, and I still have a few firearms there. Can I legally transport them to Pennsylvania now? Do I need to turn in my old NJ ID? My wife still has a valid firearms ID card so is she now the only one that can legally transport them? Thanks for taking the time to do your weekly podcast- it is truly a patriotic service to America. Lesko Brandon.

**Evan Nappen 20:04**

All right, well, let me deal with these questions because they're good ones. And it does affect New Jerseyans and former expats from New Jersey, and they need to know this. Number one, your Firearms ID card is something you have to keep updated. If you move, even out of state, within 30 days of moving, you're supposed to put in for that change of address. Now, you can absolutely have a

change your address card for your Firearm Purchaser ID card for an out-of-state address. Those applications are made to the State Police. Now I suggest going to the closest state police barracks and talking to them about submitting it. But non-resident Firearm ID cards are specifically permitted. You can file to get one and you need to put in a change of address. Simply put the change of address as your new residency, which would be in the other state. Normally, if you move within New Jersey, the town will have their own police force and their own issuing authority. You would go to them and do your change of address. But once you leave New Jersey, those towns are outside the jurisdiction of New Jersey, then you are going to have to go through the State Police to put in your change of address to your new residence outside the state of New Jersey.

**Evan Nappen 21:46**

If you do not put in a change of address, then what you need to do is surrender your Firearms ID card back to the original issuing authority. There's no point in keeping it because it's invalid. It doesn't match your driver's license anyway, and you're no longer a resident. Wrong information, and you've not properly changed it pursuant to the statute. So, why keep it? But if you're going to change it, then do so and do it accordingly so that you will have a valid New Jersey Firearm Purchaser ID card. Now the New Jersey State Police website, I can't help what they do or don't have on their website. But you may want to just personally go to the nearest barracks and put in for the change of address or talk to someone there how they want to handle it.

**Evan Nappen 22:44**

Now, the online forums that suggest "a new application" is basically correct because the application form will say at the top and you mark it that is for a change of address. And it is the same rigmarole you went through to get the card originally or to get a new card today. You have to go through it all to get even a change of address. The same applies to changing your name, changing your sex, and if you lost the card, all those things require you and you have a duty under the law within 30 days to get those changes documented. So, that's what you want to do.

**Evan Nappen 23:30**

Now the fact that his wife still lives in New Jersey, well, that's fine. In fact, if Lesko happens to reside in New Jersey as well, or owns that property with the wife, then he can still store his guns at the house. That's fine. There is an exemption. He is possessing by way of exemptions not possessing by way of the Firearms ID Card or not. But the Firearms ID card will be of great advantage for him in transporting the firearms because that right, on the face of the statute, gives you the ability to transport. So, you don't have to solely rely upon exemptions.

**Evan Nappen 24:15**

And it would let Lesko buy a long arm in New Jersey, as long as the dealer obeys the law of Pennsylvania and the law of New Jersey. He can actually make acquisitions under New Jersey law and under federal law. So, having the Firearm ID card would have these important advantages, and it's worth considering that instead of just giving it up. But one way or another, action should be taken and not just ignored. And I know he's not ignoring. He just wants to know what to do, which is why Lesko wrote the email, but now you know what to do. So, take action and either get that change of address in or give up the card. Meanwhile, your wife is lawful in her house, and she's there with her card. The key

is to have your driver's license always match your Firearms ID card. So, that's kind of the whole picture on New Jersey's Firearm ID card situation.

**Evan Nappen 25:31**

Okay, now I received another letter. This one's from Jim, regarding NJ legal question. number one. Jim says since a grenade launcher is ng, I assume he means no good, in New Jersey. Grenade launchers are 22 mm in diameter. Many flash suppressors and dummy muzzle devices are 22 mm, does that make an AR with any 22 mm device illegal? Well, first of all, grenade launchers themselves are not illegal. You can possess a grenade launcher in New Jersey. It depends on the configuration of the grenade launcher. If you mean a grenade launcher that's on the muzzle of a firearm, well, in and of itself, the grenade launcher is not prohibited. What is prohibited would be the grenades that it might launch, but not the launcher. Now the grenade launcher becomes a factor if one is evaluating a semi-automatic rifle that uses a detachable magazine, and you are looking at the offending features for which you cannot have more than one. One of the offending features for what makes something an assault firearm is whether or not it has a grenade launcher. But a grenade launcher, in and of itself, is not a problem. And a grenade launcher that is on a bolt action rifle for example, not a problem.

**Evan Nappen 27:07**

But if you have grenades, explosives, sure, that's a problem both federally and state. But the launcher itself, unless it's configured in some other way, but normally, that's not by itself a problem. The fact that grenade launchers are 22 mm; well, I didn't know there was some world law on grenade launcher size, but maybe many of them are. But it really doesn't matter because suppressor and muzzle devices and all, these things are dependent upon what they actually are. So, again, there's not a prohibition on having a flash suppressor. You're allowed to possess it. You're not prohibited from that. The problem is if it's on a semi-auto, and you're looking at offending features, then that can become an offending feature itself. So, muzzle devices that aren't offending features, there are many folks in Jersey that will have for example, a muzzle brake on their semi- automatic firearm and not a flash suppressor. Because a muzzle brake is not an offending feature, where a flash suppressor would be.

**Evan Nappen 28:32**

So, how do we know that it's a muzzle brake and not a flash suppressor? Or that it's not a silencer even which would be prohibited? Or how come it's not a grenade launcher? How do we know these things? Well, that becomes an important question, and this is why I tell folks, if you have a muzzle device, get the documentation from the factory. If you have a muzzle brake, get the brand, get the model, get the make, and get the factory documentation or whatever packaging it came with that says this is a muzzle break. Because I have had cases where individuals get charged because the state, they're a bunch of dummies the state, gun owners know so much more technical than the state knows. I cannot tell you how many times I've seen things wrongly charged by the state even by their so-called experts. The problem is an expert looking at a muzzle device if he's not so much of an expert that he thinks he's an expert, they'll say oh, that's a flash suppressor. No, it's a muzzle brake. Well, how do we prove it or show it? What it takes is the best slam dunk way to prove it is if I have the ability to give the factory documentation to the prosecutor and say, look, this is what it is. This is how it was purchased. This is what it was designed for. It's a muzzle break. When we don't have those kinds of things, we can get into battles, fact battles. What is this? How is it made? What does it mean? Out there, there's a whole

variety of things. I mean, look on FN FALs, we have the combination device, Oh, that's great - a flash suppressor and a muzzle brake. These are the things that just create a lot of mess. So be extra careful.

**Evan Nappen** 30:37

Keep your documentation. Especially if you had a Jersey gun store, let's say, make your gun compliant. Get the receipt that says the gun is compliant, muzzle brake installed, make and model etcetera, lay it out. So that if push ever comes to shove, you have the documentation. It is critical to be able to demonstrate that. Second question is, did the New Jersey State Police make a determination that since vehicles like SUVs don't have a separate trunk, you have to have a locked gun case? Is that enforceable? In fact, you do not need to have a locked gun case. Subsection g. of NJS 2C:39-6 is how you transport. It specifically says closed and fastened case. Not locked. Closed and fastened. So, for transport in New Jersey, you don't need it locked. But if you're going to transport outside the state of New Jersey, across state lines, now you're trying to invoke and rely upon the Federal Gun Owners Protection Act for interstate transport of firearms. And there, the gun should be in a locked container in order to absolutely have the protection of that preemptive law. The Federal law wants to see the gun in a separate, locked container. That is the preferred method to be covered by the Federal law. New Jersey does not require locks. Now, let's just say you want to have your gun in a locked container, and you're only within New Jersey. Is that a problem? No, it's not a problem. Absolutely, lock it up, put it in a locked container. It's not a negative, and it may be even extra helpful if you happen to be going across state lines. But technically, it is not required to be locked if you're just transporting in New Jersey under the exemptions of NJS 2C:39-6, particularly exemption e. and/or f. where you're going to or from the target range or out hunting or place of business. Then it's the subsection g. section, and the subsection g. section does not require locked, just closed and fastened. Okay, folks, well, this is Evan Nappen, reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

**Speaker 3** 33:29

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