

# Gun Lawyer -- Episode 93 Transcript

## SUMMARY KEYWORDS

firearm, gun, killing, weapon, new jersey, people, state, covered, law, judge, semi, prosecuted, lawyer, carry permit, business, exemption, hearing, mass shooters, circumstances, evan

## SPEAKERS

Evan Nappen, Speaker 3

### **Evan Nappen** 00:21

I'm Evan Nappen, and welcome to Gun Lawyer. Today I want to explore expose to you, what is really just absolutely a backdoor sinister Democrat plot to take away our gun rights and particularly attack semi-automatic firearms. It is being sold in one package and what it actually does is pretty outrageous. I'm going to make sure you understand what's going on because I haven't seen anybody actually explain or pick up on the bona fide danger that I'm talking about. So, what we have is a bill that's been proposed that, and they always make it sound so wonderful. It's called the Mass Shooter Prosecution Act of 2022. Well, gee, who wouldn't want to prosecute mass shooters? Right. It's proposed by Representative Moulton, a Democrat from Massachusetts, and Representative Veronica Escobar, a Democrat from Texas.

### **Evan Nappen** 01:44

This Mass Shooter Prosecution Act, on its face, claims that they want to bring terrorism charges against shooters, who use what the anti-gunners refer to as assault weapons, which is their made-up term for modern sporting rifles, and what is generally referred to as semi-automatic firearms. What they're doing is they're laying out the groundwork here to go after what they're referring to as the material support networks. We are going to get into this bill and what it says. Whoever helps these attackers to carry out these vicious assaults. I highly recommend checking out AmmoLand (sic) Breitbart News Network where I saw this initial article. <https://www.breitbart.com/politics/2022/08/02/house-democrats-push-terrorism-charges-mass-shooters-using-ar-15s/> It is an excellent article on this, and it's written by a great gun writer AWR Hawkins, and the article is House Democrats Push Terrorism Charges for Mass Shooters Using AR15s. Yes, that is what it does, but it actually does incredibly more, so much so that it really is designed to take out the industry and the manufacturers. I'm going to show you how they do it.

### **Evan Nappen** 03:32

Here's this bill that's being sold as this terrorism for stopping and preventing and prosecuting mass shooters. If you go to the bill, you can find it online - [https://moulton.house.gov/imo/media/doc/mass\\_shooter\\_prosecution\\_act\\_2022.pdf](https://moulton.house.gov/imo/media/doc/mass_shooter_prosecution_act_2022.pdf), the bill is known as the Mass Shooters Prosecution Act of 2022. And what it says specifically, is they are adding to the definition in the list of federal laws under the heading of what is terrorism. They're adding this new law that says mass killings, using machine guns or covered semi-automatic weapons. What the law says is "(a) Whoever kills three or more people in a single incident using a machinegun or a covered

semiautomatic weapon in a circumstance described in subsection (b), shall be imprisoned for any term of years or for life."

**Evan Nappen 04:58**

So, this law makes it a terrorism crime to kill three or more people in a single incident, and the covered semiautomatic weapons, we're going to deal with as to what they are covering. But keep in mind, what I just read you is the offense. There's nothing in this offense that says anything about whether one is justified or not, in killing three or more people with a semiautomatic covered weapon. In other words, Kyle Rittenhouse, who killed two people and seriously injured a third person, first of all, if the third person had been killed then plainly, he could be prosecuted as committing an act of terror here because it doesn't matter about whether there's justification for the killing. Even if the third party didn't die, there may even be an attempt at terrorism, an attempt we'll call inchoate crime, a crime where it's not complete, but almost was, and that's still a crime. Either way, it opens up for this issue of the killing, even though there are certain persons that need killing. In other words, the ones that are trying to kill you. The ones where you're justified in using deadly force. None of that is addressed here. But that doesn't even matter as to the bigger picture that we're talking about.

**Evan Nappen 06:43**

Because what are the circumstances that they're referring to? Whenever somebody kills three people, maybe in this circumstances list, we'll find something that maybe narrows this down to actual terrorist acts only and having to have that kind of intent. But no, lo and behold, when you look at the circumstances that count, (1) is if the mail or any facility of interstate foreign commerce was used in the furtherance of the offense, or (2) the machinegun or covered semiautomatic weapon used in the commission of the offense was transported in interstate or foreign commerce. So, if the firearm crossed state lines, and by the way, not just by the shooter, but if a gun was made in one state and transported to another state, that's invoking the federal jurisdiction on interstate commerce, and that is considered a circumstance if three people are killed with that semiautomatic firearm. Also, if the perpetrator traveled in or caused another to travel in interstate commerce, or foreign commerce. So, if you cross state lines, if this person crossed state lines, and there was a killing of three or more people, as Rittenhouse did, he crossed state lines himself, as you may recall. Finally, the offense occurred within a special maritime or territorial jurisdiction of the United States.

**Evan Nappen 08:25**

So, none of the circumstance has anything to do with any level of mens rea, or any level of intent to commit an evil wrong act. Because as I said, the killing of three doesn't distinguish between right or wrong killing. It's simply did you kill three? And did you use a machine gun or a covered semi-automatic weapon? But believe me, folks, it gets even worse. Because what are the covered semiautomatic weapons? Well, lo and behold, it's basically the so-called assault weapon ban that they are trying to pass. This is the backdoor way to pass the assault weapon ban, you see, because the term semiautomatic rifle reiterates essentially the same characteristics, the same listing that they're trying to pass as a flat out ban. Since that may "stall in the Senate" because the Senate has more people that understand and want to protect the Second Amendment than does the House. Well, maybe if we package it in this type of a sales pitch, and we are fighting terrorism here. Maybe we can get this one to slide through because how could any rational person be against it?

**Evan Nappen 09:58**

Well, what is the covered semiautomatic rifle? Well, it takes a detachable mag, it doesn't have any one of the following. So, if it takes a detachable mag and has a pistol grip, like just about every AR ever made, or a forward grip, or a folding telescopic or detachable stock or otherwise foldable or adjustable in a manner that operates to reduce its length, its size or any other dimension that makes it or if it has a grenade launcher. Did they throw that in for window dressing? I'm sure we are going out grenade launching for fun. Or a barrel shroud. Remember, the famous video when they asked the anti gunner what a barrel is? It's that thingy that goes up. They don't even know what a barrel shroud is, and they're including it in this. Or a threaded barrel.

**Evan Nappen 10:52**

So, any semiautomatic rifle that has a detachable and it has any one of those, oh, that's a covered semi-automatic rifle, you see. If three people are killed with one of those, ah, you're a terrorist. It's terrorism, and you're going to be prosecuted under this for that, whether justified or not. Also, semi-automatic rifles that have a fixed magazine that holds more than 10 rounds. or any combination of parts or components or accessories designed to accelerate the use. So, if it as a bump stock so-called or any other thing that accelerates the use. I mean trigger fingers kind of accelerate it, don't they? But whatever. This is all part of it.

**Evan Nappen 11:32**

Then they have semi-automatic shotgun. Now that is any shotgun that has the capacity to use a magazine that's not fixed. And has any one of the following: a folding or telescoping or detachable stock, a pistol grip or birds heads grip, a fixed magazine with the capacity to accept more than five rounds, or the ability to accept a detachable magazine. So, all those semi auto shotguns are covered by this. Also, if it has a forward grip or a grenade launcher, which I haven't ever seen one of them on the shotgun, but hey, what the heck. Then it specifically bans any AK or AR type of weapon, including rifle copy, duplicate variant or altered facsimile. And any weapons substantially similar to any other weapon is substantially similar. Oh, that's so clear, substantially similar. What the hell does that even mean? But it doesn't matter. Because that will be determined by our wonderful and fair Attorney General, pursuant to a rule, which this non bias Attorney General, right, will make. How nice. Then machine gun just means what machine gun always met. So, there you go.

**Evan Nappen 12:53**

This is essentially the ban put in place to enforce against so-called mass shooter, when three or more people are killed. Now, you might say, okay, how is this, though, a gun ban? Because even though it's bad, and it's ridiculous, and it doesn't take into account anything about lawful self-defenders, how does this create a ban? Well, we're not done yet. Because the ban part of it, which goes even further than this law part of it, is where they just sneak it in. They have this little line in the bill that says providing material support. Section 2339A (a) of Title 18 US Code is amended by inserting the following. That insertion of this into the providing material support definition makes this incredibly scary. Because when you go to that section of what is providing material support to terrorists, and now remember, any weapon that is used, it's semi-automatic now in that broad stroke that we just went over, any of those weapons used to kill three or more people.

**Evan Nappen 14:27**

Here's where material support has been provided. "Whoever provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of (this new law is part of a laundry list of laws) is in violation of this section and may be prosecuted. "The term 'material support or resources' means any property, tangible or intangible, . . ." It goes on to say, including weapons, including weapons. So, what do we have here? We have a situation where if an individual kills three or more people, even justified, with a semi-automatic, "weapon" that is covered, then the manufacturer, the dealer, and anyone in that chain can be prosecuted for providing material support.

**Evan Nappen 15:35**

They may say, oh, well it said you had to know. You just had to know that they were used in killings. Remember, killing has circumstances of only traveling in interstate transport. It didn't say known to be killing by some crazed maniac that just wants to slaughter innocence. No, nothing about. It doesn't matter. If three people are killed, even justified, then that's providing material support. If you provided the weapons, if you made the weapons, and plenty of other things on this as well, but we're just focused only on the gun part. The gun part is critical, by the way, to this very charge. Well, you can be criminally charged as well and that also means that you can be sued. If you remember the Protection of Lawful Commerce Act (PLCA) that protects the gun industry from these lawsuits. It doesn't apply if criminal acts are being done by any alleged company. If they're committing criminal acts, they're not lawsuit proof. This makes the production, manufacture, of the "weapon" that is covered that's used in the killing of three people, doesn't matter if justified or not, makes that a crime, makes it part of the crime, makes it providing the material support. This is nothing less than a sneaky, backdoor gun ban, and to get it through under this guise of prosecuting mass shooters, when their real target is you and me and our ability to lawfully possess our semi-automatic firearms. When we get back, I'll fill you in on some other wonderful things that our government is attempting to do to our rights.

**Speaker 3 17:48**

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 19:01**

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**Evan Nappen 19:17**

Hey, welcome back to Gun Lawyer. Thank you so much for being a dedicated listener. Make sure you tell your friends and family to subscribe. It's free anywhere you get podcasts. This is our forum so I can get these warnings and thoughts and things out to you, so you know what to do to protect yourself as the rest of the corporate media tries to shut us down and not let the word get out.

**Evan Nappen 19:46**

One of the things I want to warn you about right away, and I've said it in the past, but I keep getting other cases. If you go to gun shows, particularly going to Pennsylvania gun shows from New Jersey, they are being surveilled by New Jersey and this tri state police force. They're surveilling, specifically surveilling, the polymer 80 tables that sell those type of firearm kits. Anything with 80% receivers, etcetera. They're surveilling them, and they follow the person. They do it, I'm sure, both electronically and physically. If you get in a vehicle that has a plate from out of state, then they follow you and stop you crossing the border or go right to your home and wait for you and pounce. I have been getting case after case, folks. Beware. They have no problem trying to take down the Second Amendment, our Second Amendment rights. They will surveil you at the gun show. This is going on. This is not black helicopter stuff. I have case after case, and this is for real. Please be warned.

**Evan Nappen 21:17**

This is an aggressive action that is being taken. Even though the polymer 80 and the 80%, and the kits and all that are 100% legal in Pennsylvania and legal under federal law. It doesn't matter. They are illegal in New Jersey, and they are aggressively, aggressively, going after people that in any way attempt to bring these things across state lines. While New Jersey is doing that, they're one of the largest drug dealers in the country unlawfully selling marijuana contrary to federal law, with no problem, which again, I don't care about marijuana, it's not my issue. But when it comes to Second Amendment and someone wanting to make a homemade firearm that Americans have been doing since before this country was a country. Well, that's a different story. They're out to get you. So, please don't become a victim of New Jersey gun laws or New York gun laws by going to an out-of-state gun show and becoming entrapped by this. So, beware.

**Evan Nappen 22:35**

Let me also share with you some of my favorite letters that come in, and I love getting the letters from listeners. I enjoy reading them very much, and I know that they're very helpful to others. So, if you want me to talk about any of these things, please don't hesitate. Go to Ask Evan on the website and send me your questions. Here's a good one. This is from Kevin, regarding NJ exemptions and business exemptions. Hi, Evan, love the show. I've been listening since the beginning. Keep up the great work. I hear you talking about New Jersey travel exemptions to place a business. I own a restaurant, but I don't own the building. Some police officers told me that I cannot travel from the range to work. I have to bring my firearms home first. Also, I cannot carry at work because I don't own the building. Is this true? Thanks for your time.

**Evan Nappen 23:33**

Well, you don't have to own the building. You do need to own the business, and it has to be your place of business. So, if you're renting your place of business, and you own the place of business, and therefore you are the owner, not just a worker or a manager, and as the owner of the business, the rental or not, is not what is legally significant. It's if you can show your ownership and that is your place of business. And because of that, it is exempt for you to have your firearm at your place of business. This is the exemption that's under N.J.S. 2C:39-6 subsection e. That is the place of business exemption and that is what is covering you. It's not a question of owning property. It's a question of owning the business. Now if you're simply a manager and even though you do everything that an owner might do, that does not make you an owner under current case law. So, beware. You need to be an owner to come under at least under current interpretation of the exemption, the business exemption or place of business.

**Evan Nappen 24:57**

I have another letter here, and this is from Joe. He says, hello, I listen to every one of your podcasts. They're entertaining and educational. Well, thank you, Joe, I try to make it that way. Keep up the good work. I do have a question in regard to the newest concealed carry permits in New Jersey. The rule states that you have to qualify with the weapon that you intend to carry. What happens if I want to carry a weapon different than the one I qualify with? Thanks. Well, let me tell you, there is a lot of evolution, change, and new information coming in all the time on New Jersey's growing pains on carry licensing. But the requirement that you qualify with a certain gun is being enforced in terms of qualification. However, the New Jersey law, specifically under the licensing chapter, says that one carry permit shall be valid for all of your handguns. So, the law says you're not restricted. But in order to get the carry permit, they want you to have the specific qualification on that specific gun. They're looking to also show that you are the owner of this firearm. This is where your copy of your pistol purchase permit can come in handy to demonstrate that. But there is that very section of the law that says one permit shall be good for it all.

**Evan Nappen 26:45**

Now, we've been seeing and hearing a lot of developments, as I said, and some of these things are disturbing. We're getting some reports now that the courts are going to require that every permit have a hearing in Superior Court. You see, right now, it's a two-tier system. The initial authority that you go to first, is your local police or state police, as we've talked about in past episodes. Then it always goes to the issuing authority itself, which is the judge of Superior Court. Now, this judge can simply approve a permit to carry, and the hearing is not necessary. But if there's a denial by the Chief or Superintendent of State Police, then you have a right to appeal it and then get a hearing. The case through our firm where we established for due process, that if a judge intends to deny you, then you still have a right to a hearing, because the statute never said anything about having a right to a hearing prior if you were approved by the Superintendent or the Chief, and then the judge was inclined to deny you.

**Evan Nappen 28:16**

But now the word is they are pushing that to something that was not found in the case and in the decision by the New Jersey Supreme Court that we won. And that is that every carry permit application needs to have a hearing before a judge. Well, that would mean that every carry license is intended to

be declined by the judge, and to me, this is insane considering how many carry permit applications. All these judges are going to do are gun permit applications. They don't have time for anything else. This is not a judicial function when you get right down to it. This is an executive function. The court should only be involved if there's a dispute, if there is an appeal of a denial, they should not be the ones issuing at all. The issuing authority should be the Chief for the Superintendent just like it is for the permit to purchase a handgun and for the firearms ID card.

**Evan Nappen 29:20**

Well, if this insistence is going to take place that every permit requires going to court and having a hearing, first of all, you really should not go there without an attorney. That's first of all. And second, the requirement, as put out in the case, is that these hearings need to be done in 30 days. So, it's going to be a requirement then if they're going to insist on doing this, that it be done within the timeframe then, and I don't see how they can do that. They're so overwhelmed, so backed up, especially since COVID, where the dockets are so overly loaded. And now they want to mandate on a gun permits that everybody has to have a hearing. It's just crazy. Yet, this is what we're dealing with. This is an evolving situation as well, and we'll see if this holds true.

**Evan Nappen 30:18**

We have also encountered insistence on the training covering every aspect that is in the Administrative Code, even though there's an order there that makes it any one of these things. But judges are looking and even police chiefs and such are saying, oh, no, we won't even accept your application unless you've demonstrated it all. Well, that's not standard in law. It's just safe handling of the firearm, and this is what we're running into. So, there's still a lot of flux out there. The dust still hasn't settled. We're still in a fight, and I'm sure no one's surprised that New Jersey is still only doing this kicking and screaming, but we're going to get it settled out. We're going to get this more standardized. These are the growing pains that we have to deal with. But it doesn't mean you should be discouraged from exercising your rights and applying for the carry permit if you wish. This is Evan Nappen reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

**Speaker 3 31:40**

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