

# Gun Lawyer -- Episode 97 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. Today, we're going to discuss an extremely important topic. One that has come up recently and even on another gun podcast. A good friend of mine, Anthony Colandro, on Gun for Hire podcast, I heard my name was mentioned, brought in, dragged into this important debate. I'm going to enter into this debate, maybe against my better judgment, but I feel it has to be addressed. And that is, "Is it Pork Roll or Taylor Ham? This needs to be covered from a legal perspective. That is the perspective that I'm going to give you. I understand this debate, and I have authority to speak from this. Why? Because I have eaten a lot of pork roll, and I'm from New Jersey. So, I know what I'm talking about. This isn't some pie in the sky person who's never tasted the deliciousness of that product. No, it is the finest breakfast meat you can possibly get, regardless of what you call it. For a fact it is, and it is a classic of all classics. I mean pork roll, egg, and cheese on a hard roll. Are you kidding me? Nothing even comes close.

### **Evan Nappen** 01:39

Now I call it pork roll, egg, and cheese on a hard roll. Now let me just tell you, I grew up, born and raised, in Monmouth County. Now Monmouth County is actually Central Jersey. So, you can go even more south from Monmouth County to Ocean County, and you have Central Jersey Rifle and Pistol Club. Even that is considered Central Jersey. Now some folks say oh no, you're below the river so it's South Jersey. But no, it's really, Monmouth I think is the truest Central Jersey of Central Jersey places. Right in the center, you got it. Dead center. So, I feel I have that neutrality going for me a little bit there in this important debate. Because I'm from Central Jersey. I'm not officially from North Jersey and not officially from South Jersey, and I get it. I know North Jerseyans say it's Taylor Ham, Taylor Ham, and South Jersey it's Pork Roll. Pork Roll. But I'm going to tell you what I call it - Pork Roll - because legally, that is its name.

### **Evan Nappen** 02:45

Now you may say how can that legally be the same? It's not simply that Pork Roll is its legal name but calling it Taylor Ham is illegal. Did you know that it actually is illegal? So, all you North New Jerseyans that call it Taylor Ham is breaking the FDA's rule and law because you see this product was originally called Taylor Ham. And I'm totally cool with that. It originally was called Taylor Ham. But lo and behold, the Pure Food and Drug Act of 1906, this is the F D A law in 1906. What happened was, it was being marketed, and the Feds came down on it. The Feds said Hey, you cannot call it ham because it's not

ham, and you're violating the law, the Pure Food and Drug Act of 1906, by calling it ham. So, it had to be changed, and it was changed to Taylor's Pork Roll. Some even marketed it as Trenton Pork Roll, too. There were other similar products at the time, believe it or not, and this was all about calling it Pork Roll and believe it or not, the legal name, which should resolve the issue, folks. It should resolve it. I know it won't. I know it won't. I'm sure that North Jerseyans are going to continue to break the law and call it Taylor Ham.

**Evan Nappen 04:59**

But I have to tell you, don't do that. Because the way things are going with gun permits under New Jersey law, there is a threat to public health, safety, welfare. This danger to public health, safety, welfare, and it's getting more and more broadly interpreted. If it can be shown in court that you are illegally calling it Taylor Ham, in blatant violation and disrespect of the law, I know there are judges in New Jersey, that that's all they need. That's all they need to say, no, sir, you will lose your gun rights for violating the law and calling it Taylor Ham. You don't want to take that risk. Do not take that risk of losing your gun licenses and permits and being declared a danger under NJS 58-3(c) for breaking the Federal law on what you identify your breakfast meet as. And don't tell me that, too, is absurd. Because it's not. It's New Jersey. Nothing is too absurd in New Jersey, and I can well see it. Especially a judge in South Jersey. You broke this law by posting some meme, some social media thing, and calling it Taylor Ham, your license is going to be gone, you won't have a chance. You will not have a chance. So, don't do this. Follow the law. It's not worth it. Follow the law and call it Pork Roll. I know how many of you I've saved your gun rights from this important advice and your clear understanding now of how you must follow Federal law. Because we only advocate following the law here, and this is one of those occasions. So, hopefully, this solves the issue, and we can get this debate straightened out and get folks so they're not jeopardizing any of their Second Amendment rights with the Pork Roll / Taylor Ham debate.

**Evan Nappen 07:39**

Okay, now moving on. I have a great letter here. All my letters that you folks send me - I love them. They all are great, and I appreciate it. I received this one from Bill. This is regarding New York City CCW. Hi, Evan. I love the podcast, there's a lot of great information to be learned from you. I'm a New Jersey resident working on my New Jersey Permit to Carry a Handgun. I currently hold a non-resident Florida, a Connecticut permit, and a NJ Firearms ID Card. New York will only issue pistol license to residents and people employed within the state, which I am not. However, New York will issue to part time residents. If I rent an Air bnb for one week, can I be a part time resident for the purpose of New York Pistol License. Could an equal protection claim be successful, and he goes on about this issue.

**Evan Nappen 08:43**

This is a very significant issue, and here's why. New York has no provision for a non-resident to either get a carry license from New York or have any reciprocity. Because New York, like New Jersey, has no reciprocity with any other state. So, New York has a situation where any non-resident who wishes to exercise their Second Amendment right in New York is barred from doing so with no way to accomplish that. This is a direct violation of the holding in the New York State Rifle & Pistol vs Bruen case. Because the holding, as I'm sure you know, is specifically that we have a right to carry firearms and weapons in public. This is a right that the Second Amendment guarantees. That right is blatantly

violated by New York because no non-resident can get a carry license. I believe that this situation, although there's so many problems and issues in New York, but I believe their failure to have any way for a non-resident is low-hanging fruit for a Constitutional challenge, folks.

**Evan Nappen 10:26**

Think about this. New York is positioned in such a way that it blocks the entire Northeast above New York. You cannot get to Connecticut, New Hampshire, Vermont and Maine, you can't get there, unless you drive through New York. So, New York is this barrier where your Second Amendment right goes to die if you're a non-resident. You have no legal ability under New York to exercise your Second Amendment right. This is a case begging to happen. It is plainly an absolute violation of our Second Amendment right and the holding in Bruen and what better than to go back at the very state that gave us Bruen with their justifiable need equivalency, of demanding need, standard that has been thrown out as unconstitutional in establishing this landmark case of the Bruen case. And here, they still are in utter violation to non-residents. So, hopefully, somebody will take up this cause and go after New York so that non-residents can get their carry license.

**Evan Nappen 12:07**

New York directly borders, contiguous to New Jersey and to Pennsylvania, south of New York on those states. Like I said, the northern states. Then anybody coming up the coast or coming from anywhere else in America and wanting to go to those states, they cannot have any way to lawfully exercise their Second Amendment right under this outrageous law. I'm sure there are plenty of folks including the fan of our show here, Bill, who raised this issue that would like to see it addressed. This would be something that would be very popular, and very important to 1000s and 1000s of folks, all throughout the United States. So, I hope someone listens here and takes this case on and goes after New York. When we get back, I have some astounding behavior to tell you about taking place in New Jersey's licensing arena. See you in a bit.

**Speaker 3 12:39**

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 and 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.

**Evan Nappen 14:42**

Okay, hello everyone back here with Evan Nappen on Gun Lawyer. Hey, again, thanks for being a valued listener and you guys are just the greatest and gals, of course. I love being able to speak to you and appreciate that you subscribe and tell your friends so we can get the word out. Speaking about

getting the word out, here's something that I need to inform you about as to what is going on in New Jersey, the latest insanity. Now I had heard about this, and I did also receive this ask Evan letter. It's an issue that is being dealt with, but I want you to be familiar with what's going on. I want to explain to you how this problem is being dealt with and can be dealt with. This is from Reggie, regarding carry in a car. I also sent this to StrikeForce at ANJRPC.org. But I thought it may be a good idea to pass it on to you and your listeners. I would like clarification on this, too, as I am in Ocean County. I am an Ocean County resident waiting for my PTC. I saw a court letter issued to a resident of Ocean County a list of 12 "sensitive places" on a Facebook post. My concern is item 11. It says, "Also, no permit holder who is operating or riding in or on a motor vehicle may carry a firearm." Can I assume this is a continuation of item 10 that states: "Any place or time that a permit holder is ingesting any intoxicating substance whether the permit holder is actually intoxicated, impaired or under the influence." Your legal feedback is appreciated. Can I send you a screenshot of the letter should Facebook post not work or Facebook tears it down.

**Evan Nappen 17:05**

So, I do have a copy of that and it's out there. I'm going to get into exactly what he's talking about. What he's talking about is a court order that was issued by Judge Gizinski of Ocean County. Judge Gizinski, being the gun judge, issued a carry permit, but in the issuance of the carry permit, issued a court order that had no less than 12 restrictions on the permit. So, as you can see, the technique, the tactic, is to grant the license but so encumber it and burden it as to make it untenable. To put all these restrictions and such in it, and do it, not by legislation, by the way, folks, but do it by the court doing it. Now, before we get into this court order, I would like you to understand a little bit of the history here when it comes to New Jersey Courts and carry licensing. As many of you know, the number one bar, problem, roadblock, to exercising our Second Amendment rights and being able to carry in New Jersey was the requirement of "justifiable need". Now justifiable need, where do we find that? Well, we find the words "justifiable need" in the statute. The statute that was passed by the legislature in NJS 2C:58-4, which is the carry license statute. It had in there that one of three of the general basic requirements to getting a carry license was that you are safe and proficient in shooting, that you're a person of good character and not subject to disabilities, meaning you're not a felon, etc, that whole laundry list of things, and number three that you had a justifiable need to carry a handgun.

**Evan Nappen 19:20**

Now you have to understand that the term "justifiable need" was not defined in New Jersey law. It never said what justifiable need is, means, nothing. A reasonable person might assume, well, justifiable need would be something as simple as I want it for self-defense. That's a need, and why is that not justifiable? Right. But you see, that's not what happened. Because this vague criterion was then taken by the courts, the court, who, by the way, is the issuing authority for carry permits in New Jersey as well. So, now you have the executive function being undertaken by a judicial official, which shouldn't be happening at all, anyway. But they wanted to have this power, so they kept doing it and said, we'll do it anyway. And in so doing, the court created, by case law, the definition of what justifiable need means, how its interpreted, you see. The case law that you could follow and see, said that justifiable need is what is called "urgent necessity". Really, just look at that jump right away. Justifiable need. Urgent necessity. Where is urgency in justifiable need? There's no urgency in justifiable. Why does urgency make something justifiable or not justifiable? Urgency, where did it come from? Then urgency isn't a

language that gets twisted and abused, you throw in necessity to need. Now necessity itself is different than need. You may need something, but it may not be a necessity, even though you need it. It can be distinguished. When you put the two together of "urgent necessity", that became the further court pounding away and blocking and building the wall with justifiable need. But it didn't end there, you see. Then the courts developed a two-part test, not the legislature, a two-part test to determine urgent necessity justifiable need. The two-part test that the court created is first, you have to show that you personally are subject to threats of serious bodily harm or injury. A general threat doesn't count. It had to be a specific threat against you and then carrying a handgun was the only way you could avert those threats or that danger. It became a virtually impossible standard to achieve, done on purpose by the courts, construed and made up in what sounds just like legislation, by the way, but is not legislation, construed by the courts to stop the exercise of our Second Amendment rights. The courts are not the protector of our Second Amendment rights, at least not in New Jersey. They are the denier, the defier and work at every chance they get to make that happen. Not to protect and preserve our rights. Not to expand our rights. Not to get those constitutional guaranteed rights to be enforced to our benefit. No, no, no. It's the opposite when it comes to gun rights. That history is what led to the United States Supreme Court making it clear that these need-based contortions that the court would make us go through were unconstitutional. So, the court-created standard, remember created by the court, is unconstitutional, as we all knew. And so, does that stop the court? Does that say to the court, hey, you know, change your attitude about guns. Change your attitude. Change your attitude about the Second Amendment. Make it mean what we know it means and don't make it narrow, make it broad. Do what's right here.

**Evan Nappen 24:48**

Instead, what we get is a new gambit. We get a court order that lays out 12 restrictions on our right to carry. After everything a person goes through to get a carry permit in New Jersey, the training, all the intensive background checking, everything that is required, the forms in triplicate, notarized, three references, a mental health background check, everything thrown at this person and even somebody this qualified, clearly a person who is of tremendous character, and no problem, has to have these restrictions. I'm going to read them to you. Restriction number one. It says: Ordered that the applicant for permission to carry said handgun. So, there's one thing right off the bat -permission. Think about that, folks, permission. Isn't it great that the government gives us permission to exercise our Constitutional right. Gee, that's pretty telling, right off the bat here. That it was merely an applicant seeking permission to carry said handgun referenced above and hereby approved by permitting (again, with the permissions and the permitting) the said applicant to carry said weapon subject to the following list of "sensitive places" at which the carry permit shall be deemed invalid.

**Evan Nappen 26:48**

Now, why do we have the sensitive places coming up? Because in reading the Bruen case, those that want to restrict our rights, searched high and low for a theory for something they can grab onto in there to restrict our Second Amendment rights, and the best they come up with in there is about the restriction that is allowed on certain sensitive places. Now, I'm going to show you in Bruen what they're talking about on sensitive places. But here, look and see how broad and crazy these restrictions are. Number one, schools and educational institutions. Well, there's already federal and state laws barring your gun possession in schools and educational facilities. That's not really anything that we're

challenging, at least not now. Whether it had that restriction on the permit or not, it doesn't matter. You still can't do it under New Jersey law. Now there is some federal law that exempts if you have a carry permit, by the way, but here it's being taken away from you so you cannot exercise even that exemption. Government buildings. Okay, there's been restrictions on government building carry for a while. Legislative assemblies. It's something actually referenced to in the analysis in Bruen. Polling places. Courthouses. Shopping malls, if restricted by the private entity. So, you would be barred if the mall itself has a "no gun policy". Now, of course, we've seen these atrocities that have taken place in malls, and what stopped them? Armed civilians. The very thing that here becomes a restricted place are the "good guys with a gun" that have saved the day many times.

**Evan Nappen 29:10**

Private property/businesses, if restricted by the private entity. Now, let me just say on both malls and private property. If individual owners don't want weapons, that is their property right to say, don't come on a property with that. Now, I happen to believe that we have a civil right here that is a Constitutional right that would make that the same as having a sign prohibiting someone from entering of a certain race or creed or color, because that would be a civil rights violation. I believe our right to defend ourselves is a civil rights matter. But for now, there's a conflict between a property owner right and our Constitutional right to protect ourselves, but still here you are flat out restricted. Bars and nightclubs. Bars and nightclubs. Well, there is no state or federal law on bars and nightclubs. But for some reason this is somehow deemed a sensitive place, even though nothing in our law deems it a sensitive place. Yet, you're going to get restricted.

**Evan Nappen 30:23**

Any location where alcohol is served. So, you're at a friend's house where you're allowed to carry but they serve alcohol. Or any facility with a license for on-premises cannabis consumption. There you go. So, even though New Jersey has legalized marijuana, you better not carry in a premises that has it whether or not you're using it or not. Any place or time that a permit holder is ingesting any intoxicating substance regardless of whether the permit holder is actually intoxicated, impaired, or under the influence. So, any intoxicating substance regardless of whether you're intoxicated. It doesn't matter. If you are having lunch and having a beer, you're not allowed to carry your gun. It has nothing to do with whether you are intoxicated at all. I'll tell you what, if you have a cough and you've taken some cough medicine to suppress that cough, there's some alcohol in there. Hope you're not carrying your gun and coughing.

**Evan Nappen 31:43**

And here's the one (that Reggie asked about). Also, no permit holder who is operating or riding in or on a motor vehicle. You cannot carry it, unless the firearms are stored in the trunk and unloaded pursuant to NJS 2C:39-6(g). And further, any place where a firearm is prohibited by federal law. Well, if it is prohibited by federal law, then you don't need to write it because it's prohibited. But let's look at that really crazy one about being in a car. That is insane, and it is utterly contradictory to the law itself. Because on transporting your firearm, that's found under NJS 2C:39-9. Now before we get to NJS 2C:39-9, I just want to tell you about NJS 2C:39-5(b). You see 39-5(b) is possession of a handgun. If you don't have a carry permit, then you have to rely on the exemptions for your transport, which is what New Jerseyans have done for years, because they couldn't get a carry permit. That's where you find

NJS 2C:39-6(g) that you are now required to utilize when transporting a firearm even though you have a permit to carry. Well, that contradicts the very purpose and role of it, because that exemption, 39-6, exempts you for the possession offence under 39-5. To which if you have a carry permit, you don't need to rely on exemptions. Yet this judge wants you to have to abide by exemptions that have no application to you because you have a carry permit now that exempts you on the face of the statute from even having to go to the exemptions. Then to make it worse, there is a separate law regarding transportation of firearms in New Jersey that actually addresses transportation.

**Evan Nappen 34:01**

Transportation is under NJS 2C:39-9(d), and here's what it says. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon, that transports any weapon, including gravity knives, switchblade knives, ballistic knives, daggers, dirks, stilettos, billies, blackjacks, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings. Boy, this thing is loaded with a lot of good ideas. I do give it that. Or, except as otherwise provided in subsection i. of this section, - and then it says, here we go folks - in the case of firearms if he is not licensed or registered to do so as provided in chapter 58 of title 2C . . . Oh my. So, the very exemption to the actual law dealing with transport, which is not cited by this judge, of course, instead looking at a possessory law and trying to mandate a transport exemption that doesn't apply. But if you actually look at the law that prohibits transport, what's the exemption right in the law? Having a license pursuant to Chapter 58 and that is precisely what a permit to carry is. It is a license under NJS 2C:58-4.

**Evan Nappen 35:41**

So, folks, we have got another battle on our hands. I am sure this type of restrictive judicial activism will spread like cancer. There has been a history of the courts doing this kind of thing going all the way back to the original problems of "justifiable need". Here we go again. But this time, we have something we didn't have before. Because although we had the Second Amendment, we didn't have teeth in its application and an understanding that we now have. We have the Bruen case now. The Bruen case makes it clear what is a sensitive place and what is not. A motor vehicle that you are driving is not a sensitive place, folks. It is directly and specifically in violation of Bruen. To think historically that what the government would have to prove to uphold this, that there's a history and tradition of prohibiting firearms in a vehicle. Well, I would tell you that the history and tradition is just the opposite - of being armed while traveling in America, being armed in your carriage, being armed on your horse, being armed and traveling. There's even the concept historically called peaceable journey, which was specific permission to be carrying firearms while traveling and transporting. So, it is absolutely a complete contradiction.

**Evan Nappen 37:29**

It is another sad commentary on the lack of respect given to the Second Amendment, but the fight will continue. I want to tell you that your state associations, Association of New Jersey Rifle & Pistol Clubs, is actively working on this issue, and I'm confident that we are going to see action taken over this kind of behavior and the attack that's continuing on our rights. This is Evan Nappen, reminding you that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

**Speaker 3 38:09**

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