

Gun Lawyer -- Episode 114 Transcript

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SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:19

I'm Evan Nappen, and welcome Gun Lawyer. I want everyone to be aware of the traps, multiple traps, that have been created by this new atrocity, this so-called 4769 Bill. The traps are actually more hidden and greater than you may suspect, and it's not just about carrying a handgun. This new law has essentially gutted the utilitarian value of a Firearms ID Card when it comes to transport of firearms. I'm going to explain this in detail. Because most folks do not understand this, are clueless about this, and are simply going to be sitting ducks to be turned into criminals, which is what New Jersey does. It is constantly looking to turn law-abiding citizens into criminals. And it is because of an agenda that is not just anti-gun, and not just anti-gun rights, but anti-you and me. They want us disenfranchised of our rights for the entire country, and by turning us into felons, you lose your gun rights for the entire country.

Evan Nappen 01:48

It doesn't matter how stupid and unreasonable and idiotic the state gun law is, or the state law is that you violated. If it's a felony level offense, you're screwed for the whole country. So, you need to be aware of these traps. I'm going to do a little bit of a deep dive here and discuss the so-called "sensitive places" section of the bill and its far-reaching implications, not just for handguns. Before I do that, I want to first of all, thank our sponsor, the Association of New Jersey Rifle and Pistol Clubs, for supporting the show so that I'm able to continue to tell law-abiding gun owners like yourself about these things. To warn you so that you don't become a victim of New Jersey gun law. At least folks that listen to Gun Lawyer are going to be smart, and they're going to know where these dangers are.

Evan Nappen 03:01

As a preface to this, the first thing everyone needs to understand is how our long arm possession system worked prior to this bill. Prior to this bill, the prohibition on possession of rifles and shotguns is under NJS 2C:39-5.c. Under that section, it says no person shall possess any rifle or shotgun unless having first obtained a Firearm Purchaser Identification Card. The next section says you can't have the rifle or shotgun loaded unless otherwise permitted by law. Now, the exemptions to 39-5. are found in 39-6. Now in 39-5.c. is where the section is about rifles and shotguns that I just reviewed with you, and under Subsection b. of 39-5 is a prohibition on handguns.

Evan Nappen 04:09

The handgun prohibition in b. said no person shall possess any handgun unless having first obtained a Permit to Carry a Handgun. The same exemptions under 39-6. applied to the handgun prohibition and applied to the rifle and shotgun prohibition. But the difference always was that if you had a handgun, and prior to anyone essentially being able to get a carry permit prior to Bruen, when you were transporting your handgun, you had to transport strictly within the exemptions under 39-6., which are very narrow exemptions, unless you had a Permit to Carry a Handgun. If you had a long arm, a rifle or shotgun, you could transport lawfully within the exemptions, but you could also transport, as long as your rifle shotgun was unloaded, you could transport beyond the exemptions if you had a Firearms ID Card. Because the Firearms ID Card is what exempted your unlawful possession right in the face of the statute under 39-5.c., just like possession of a handgun if you had a carry permit. Well, that exempted your possession of the handgun without needing to go to the exemptions, but since so few people had carry licenses, they could not get that protection. They had to strictly rely on the exemptions. So, that's how New Jersey's system essentially worked.

Evan Nappen 05:46

Then lo and behold, Bruen, the Bruen decision comes along and makes it so that citizens are actually able to get carry permits. When citizens got carry permits, that then exempted them right away from the 39-5.b. prohibition without the necessity of having to rely upon exemptions, because now you have a carry license, you see. It made it the same as for rifles and shotguns if you had a Firearms ID Card. The only difference is with a carry permit for a handgun, you could actually have your handgun loaded. Because with rifles and shotguns, you weren't allowed to have it loaded, unless you were otherwise permitted by law, which meant you were somehow under an exemption for having it loaded, but unloaded, you're always fine.

Evan Nappen 06:36

Well, now the entire thing has been turned on its ear. What we have is a section in the new law that creates a whole bunch of so-called "sensitive places" where possession of your handgun, most people are looking at in terms of handguns, are otherwise prohibited even if you have a carry permit. You're still not allowed to have a handgun there, and you're not allowed to have a handgun there, in many of these places, even if it's unloaded and in a case. Okay, even for that. There are certain exemptions that are narrow, and we're going to review them. But basically, they gutted the usefulness of a carry permit by creating all the "sensitive places". But in the writing of the law, they didn't just say handgun. They said firearm and now that put the Firearms ID Card into the same category and you end up with the same sensitive place restrictions on mere possession, unloaded by the way, of a rifle or shotgun.

Evan Nappen 08:00

So, even if you have an unloaded, cased, rifle or shotgun, your Firearms ID Card in the sensitive places no longer protects you. The only exemption now, the only one for long arms, are the exemptions under 39-6.e. and f. We are going to review those. E. is essentially in your home, and f. is hunting or at the target range. If you're outside of that, even with an unloaded rifle or shotgun where you used to be legal, and you're in any of these varied and wide and poorly defined "sensitive places", well, then you're now guilty. You can be charged and convicted of a Third-Degree crime in which you face up to five years in state prison. Even though your gun is unloaded. Even though you have a Firearms ID Card. It

doesn't matter. These all come under what we are calling now Section 7. of the bill. The reason we're calling it Section 7. is it has not been put into the statutes yet so that we know what New Jersey statutory number it has. It doesn't have a number assigned to it yet. So, we call it from the bill, Section 7., which is an entirely new section of law.

Evan Nappen 09:39

Here's what it says. It says, "(New section) Places where the carrying a firearm or destructive device is prohibited." It goes on to say that, except as otherwise provided, and we're going to get into that. It's a crime of the Third Degree for any person, other than a person lawfully carrying a firearm within the authorized scope of an exemption under 39-6., to knowingly carry a firearm, folks, not a handgun. Not just handguns, a firearm. It's a crime in the Second Degree, by the way, if you carry a destructive device. I don't know why you'd be having a destructive device with you, but plainly, it's common for rifles, shotguns, particularly shotguns going hunting, etc. And it is prohibited in any of the following places that we're going to review now, including, by the way, any part of the buildings, grounds or parking areas.

Evan Nappen 10:45

So, buildings, grounds, and parking areas of everything we're going to review next is a prohibited place for the firearm possessor. The first place is a place owned, leased, or under the control of any state, county or municipal government used for the purpose of government administration, including but not limited to, police stations. So, if you have your unloaded rifle or shotgun in a case, and you want to stop by the police station to put in for another permit, you can't do that. It is a sensitive prohibited place, including the parking lot for the police. There's no exemption for that. A courthouse, a court room, or any premises used to conduct judicial or court administrative proceedings, or function. So, if you're planning on going to the target range or hunting after court and you park your vehicle in a court parking lot, you are in violation, even though you have a Firearms ID Card. Even though it's cased. Even though it's unloaded. No good. Illegal. Crime of the Third Degree. It wasn't before, but now it is. It applies to long arms, not just your handgun. A state, county, or municipal correctional or juvenile justice facility. A jail or any other place maintained. Any of this or any other place maintained by or for a government entity for the detention of criminal suspects or offenders.

Evan Nappen 12:25

Remember, the parking lot for such a place is covered. The grounds for such a place and the buildings, all broad strokes. For any of these places. Good luck identifying any one of those places. You better know where they might be holding a prisoner or what might be being used for juvenile justice purposes, even in some commercial building. But if it's there, you're barred from even having your car with an unloaded, cased hunting shotgun. Nope, your Firearms ID Card will not help you here. A state-contracted halfway house is a prohibited spot. A location being used as a polling place during the conduct of election and places used for storage or tabulation of ballots. I hope you know any place that might be a storage facility for ballots. Because if your car is there, if you're there with an unloaded rifle or shotgun, at that same facility, and don't even know ballots are being stored or tabulated there. Especially given the last election. Who knew where the ballots were being tabulated. That's part of the problem. You're in trouble.

Evan Nappen 13:41

If you're within 100 feet of a place where a public gathering, a demonstration or event is held, for which a government permit is required, during the conduct of such gathering, demonstration or event. I guess you now have to check for any public gathering, whether it's got a permit or not issued by the government, as to whether you're legal to have your unloaded long arm in your vehicle by there. Even though you have a Firearms ID Card, that's now a prohibited sensitive place. A school, a college, a university or other educational institution and on any school bus. Now educational institutions are undefined. Does that include your house of worship where they teach Sunday school or Hebrew school? Is that an educational institution? Any school bus? If they're parking a school bus in a private lot, is that the parking lot for a school bus now? Because it's grounds and buildings and parking facilities, and it's any college or university. You had better watch out while you're driving through these places. Stopping in these places. You're no longer given the ability to lawfully utilize your Firearms ID card in the manner that we've been used to.

Evan Nappen 15:20

A nursery school is covered. A preschool, a zoo, or a summer camp. I hope you don't park at the Zoo. Or if this facility is a summer camp, and you didn't know it. Hey, this is all part of it. These are all sensitive places in New Jersey now that are considered and banned for firearm possession. At a park, a beach, a recreational facility or area playground owned or controlled by a state, county or local government unit or any part of such place, which is designated as a gun-free zone by the governing authority based on considerations of public safety. Well, I hope you know all that before you venture forth there whether it's a problem, because guess whose responsibility it is to know? You! That's right.

Evan Nappen 16:17

How about this one - at youth sports events, during and immediately preceding the conduct of the event. So, this is any youth sporting event, anywhere? Where? I don't know. It doesn't say. It doesn't even mean it has to be at a school. It's just a sporting event. You're parked in the parking lot, or you went to pick up your kid with your gun, even though you had a Firearms ID Card. You can just see how many problems this is going to cause. Oh, but they did exempt for U.S. sporting events, firearm shootings competitions. Wasn't that nice of them? Imagine a U.S. sporting event for shooting, but you're not allowed to bring your gun. That would really be tricky. A publicly owned or leased library or museum. Don't park at the library. Don't go over there to the museum. You're barred. You're banned, even for your rifle or shotgun.

Evan Nappen 17:23

A shelter for the homeless. Emergency shelter for the homeless. Basic center of shelter program for runaway youth. A children's center. A childcare shelter for victims of domestic violence, or any shelter licensed under the control of the Juvenile Justice Commission and Department of Children and Families. I hope you know every one of them and where they're located. A community residence for persons with developmental disabilities, head injuries, terminal illnesses or any other residential setting licensed by the Department of Human Services or Department of Health. Make sure you get your. You could actually live next to one of these places. How does this work? A restaurant or bar where alcohol is served. Remember parking or grounds or other facilities. So, it's a restaurant or bar where alcohol is served or any other site or facility where alcohol is sold for consumption on the premises.

Evan Nappen 18:23

A Class 5 Cannabis retailer or medical cannabis dispensary, including any consumption areas licensed or permitted by the Cannabis Regulatory Commission. A privately or publicly owned and operated entertainment facility within the state. Think about that. A private or public entertainment facility, including but not limited to a theater, a stadium, a museum, an arena, a racetrack or other places where performances, concerts, exhibits, games, and contests are held. A casino and related facilities. Don't go parking in the casino parking lot with your unloaded, cased gun that you're going to go to the range with or are going to go hunting with or may have come from hunting or going to the range. Because even though your Firearms ID Card may have protected you in the past, it doesn't anymore. For sure, it does not. It is now a sensitive place, officially, even in the parking lot.

Evan Nappen 19:35

A plant that produces, converts, distributes or stores energy or converts one form of energy to another. What the heck? A plant or operation that converts, distributes or stores energy or converts one form of energy to another. So, is that just a solar panel located anywhere? It stores energy and converts it. Is it a gas station? Doesn't that store energy? I mean, what is covered by this? This is so broad and vague and undefined. But it's a sensitive place, and you better know it. Because otherwise it's Third Degree, and it's up to five years in state prison for you and loss of your gun rights. An airport or public transportation hub. They're not just talking about sensitive places, the restricted zone. They mean even the parking lot for the airport. How do you even transport your firearm to the airport to travel with it? You are going to have to heavily rely on the federal law under Title 18 926 A, and hope that it covers you. There are all kinds of problems with that coverage going airports.

Evan Nappen 20:49

If you don't believe it, look at my case, Greg Revell, and what we had to go through there with the Greg Revell case over airports. It's not so cut and dried and now it's made specifically a sensitive place. We're not done yet folks. A healthcare facility, including but not limited to the general hospital, a special hospital, psychiatric hospital, a public health center, a diagnostic center, a treatment center, a rehabilitation center, extended care facility, a skilled nursing home, a nursing home, intermediate care facility, a tuberculosis hospital, a chronic disease hospital, a maternity hospital, outpatient clinic, a dispensary, assisted living center, a home health care agency, a residential treatment facility, residential health care facility, medical office, or an ambulatory care facility. All those are sensitive places, buildings and grounds and parking. Good luck. Good luck, not falling into the trap. We're still not done because a facility licensed or regulated by the Department of Human Services, Department of Children and Families, or Department of Health, other than a healthcare facility, that provides addiction or mental health treatment with support services.

Evan Nappen 22:20

Number 23. A public location being used for making motion picture or television images for theatrical, commercial or educational purposes, during the time such location is being used for that purpose. Well, I hope you know that that's what's going on. Because I don't know how you're going to know that. But you better. Finally, here how about this. Private property, including but not limited to, residential, commercial, industrial, agricultural, institutional or undeveloped property unless the owner has provided

express consent, express consent, or has posted a sign saying it is permissible to carry on the premises a concealed handgun with a valid and lawfully issued permit, providing that nothing shall be construed to stop you from having it in your home.

Evan Nappen 23:16

So, in order for you to have a long arm, rifle or shotgun, this private property has to say that I can carry a handgun there to make it legal for me to have my cased, unloaded rifle or shotgun on private property. They have to say it's good for handguns because they just conflate the two in this. Any other place in which the carrying of firearm is prohibited by statute or rule or regulation promulgated by a federal or state agency. I hope you know every single rule, by every federal and state agency that ever said, no guns allowed. Because if you screw that up, even though you have your Firearms ID Card and your hunting shotgun and his cased, unloaded, it doesn't matter. New Jersey says you're a felon, and you're looking at five years in prison. When we get back, I have more to tell you that you can be warned about just how insane this new law is.

Speaker 3 24:31

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 25:45

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Evan Nappen 26:01

Hey, welcome back to Gun Lawyer. I'm Evan Nappen. Again, I'd like to thank our sponsors, the Association of New Jersey Rifle & Pistol Clubs. That's anjrpc.org. They are currently, right now as we're speaking, engaged in massive litigation, trying to end this insanity that we're reviewing right now. Trying to get, and hopefully we will get, an injunction and stop this insane intrusion on our rights. They're on the front lines for you and me. In the courts, battling this and in the legislature. This is why you need to belong to the Association of New Jersey Rifle & Pistol Clubs. It is the minimum thing you should do if you care about your gun rights. Join ANJRPC - that membership is critical. You'll be able to stay on top of the latest legal developments, and you know that you're doing your part in the fight. They're the state affiliate of the NRA for New Jersey, and they are the premier gun group in the state that you must belong to. So go to anjrpc.org. Make sure you are a member and remain a member as we are engaged in the fight of our lives. But this is a glorious fight. Because once we win here, once we get through this

hurdle, this battle, this post-Bruen test of our wills, we are going to be so strong. We're going to have established firmly, once and for all, our Second Amendment rights in New Jersey and start turning back the abuses that had been heaped upon us. ANJRPC is at the forefront helping that to occur. So, make sure you join.

Evan Nappen 28:09

So, what are the exemptions here? How do they work? Well, it says a person other than a person lawfully carrying a firearm within the scope of the exemption under subsection a., c. and l. of 39-6. Get a load of this one. Can't transport a loaded handgun in a vehicle. Now this is what's called subsection b. of the new section. This is the vehicle prohibition itself, which is separate from the 25 paragraphs that we just reviewed of sensitive places. This is subsection b. vehicle prohibition. And in this one, it's all about handguns, strictly. So, don't confuse the vehicle one with the other sensitive places because it's very convoluted here. The handgun exemption, which I think is just something I want to point out to you, says even with a carry permit, you cannot have your handgun unloaded on your person in the vehicle. Unless you're one of these exempted parties. Even with a carry permit, and this is the section we call the "Car Jacker Protection" law right there. That's the Car Jacker Protection law so that you can't protect yourself in your vehicle.

Evan Nappen 29:33

But I want to point out that there are exemptions, but those exemptions are narrow. They're only for a., c. and l. A and c. are various law enforcement officers and government folks, and of course, they exempt the elites themselves. They added a new provision so the prosecutors and judges can carry to protect themselves, but not average citizens. You see, they don't qualify. They're not elite enough. You're right. So, the exempted persons are put here as to who can defend themselves while in a vehicle and have exemption to this and that is a., c., and l. A and c. are law enforcement, and l. is retired law enforcement. But I wanted to point out that in their zest for putting in these exemptions, they forgot to exempt b., subsection b. of 39-6. If you look at subsection b., you'll see that subsection b. is an exemption for a law enforcement officer employed outside the state of New Jersey. So, they forgot to or eliminated non-resident law enforcement officers from other states where there's an exemption under subsection b. of 39-6, but it's not included here. And so even those officers that are exempted under b. normally where they would be engaged in official duties, and they first notified the Superintendent and chief law enforcement officer that they were doing all that, that exemption was not included. So, any out of state, any out of state officer who is following subsection b. and thinking that they're in the clear, they're not. They are guilty of violating the law if their gun is loaded on their person in their vehicle, because they weren't exempted.

Evan Nappen 31:45

The only hope they have is if they fall under LEOSA (Law Enforcement Officer Safety Act. If that out of state officer is not LEOSA qualified, then the b. exemption that they had relied upon for years coming into New Jersey, will not protect them in a vehicle. They cannot have it loaded on their person. So, remember, they're going to have to be a qualified law enforcement officer under LEOSA to even argue that they are lawfully allowed to do it. When it comes to the LEOSA qualification, even for active duty officers, keep in mind that the requirements for that include that the person has to be authorized by law to engage or supervise in the prevention, detection, investigation and prosecution or incarceration, of

any person for any violation of law and that you have the statutory powers of arrest or apprehension. You have to be authorized by your agency to carry a firearm. You can't be subject to any disciplinary action by the agency which could result in suspension or loss of police powers. So, if there's agency action on you, even if you're one of these folks that got the approval to come here from out of state, you're not covered in your vehicle. You don't have LEOSA coverage. You also have to have, that you meet the standards that you've qualified regularly for the firearm, and that you're not under the influence of alcohol, or other intoxicating or hallucinatory drug or substance.

Evan Nappen 33:31

I actually have had cases where out of state officers that did qualify and do so but went to the bar and had a drink or two. It disqualified them from the LEOSA qualification because you cannot be under the influence. If you're in Jersey and you're using cannabis or you're drinking, you're under that influence. It doesn't mean that you're completely intoxicated, just under the influence of it. You are no longer covered by LEOSA, and the exemption doesn't cover you in your vehicle. So, imagine being in your vehicle as an officer from out of state and having an accident, and there was any of this. You're looking at gun charges on top of everything else now as well. And, of course, the other qualifiers. You can't be prohibited by federal law from receiving a firearm. It would be unlikely as law enforcement that that would apply to you. But look, they've completely screwed over out of state law enforcement by forgetting the b. section. But then again, we're just talking about elite exemptions. I guess a lot of folks may not even care about that, given the overall approach of this law is just to screw over ordinary citizens. So, why should we care? But I care. I don't want to see good law enforcement hurt either, especially being confused and thrown to the wolves by Jersey in their ridiculous gun laws.

Evan Nappen 35:11

But you can see how deep this goes, because it applies on all those sensitive places to our long arms as well as our handguns. The only exemption that specifically states here that applies is that nothing in this section shall apply to the carrying or transporting of a firearm in accordance with subsection e. and f. of 39-6. The only exemptions at all to those sensitive places are if you are within the exemptions of e. and f., of 39-6. So, we're back to the Firearms ID Card not protecting us at all on our transport and having to specifically rely on subsection e. and f. What do those sections say? What do they cover? What does e. cover, for example? Well, e. says that it covers place of business, residence, premises or land owned or possessed by the person. So, the subsection e. is your business, as long as you own the business, your residence, premises or land owned or possessed. If you are on your own property, you can have your long arms on your own property. How nice of them. Or at your place of business, as long as you are the owner of that place of business. Then if you want to transport from there, you have to do it pursuant to subsection g., which is essentially cased and unloaded. Okay, the way we've been trained to do it. You can go between your dwelling and your place of business, and between one place of business and a residence and another when moving. You can go between a person's dwelling and place of business and a place where firearms are repaired for the purpose of repair. Okay, so these are the places exempt under e.

Evan Nappen 37:24

Then we go to f. What's exempted under f.? Well, it's going to or from a rifle or pistol club, or place of target practice. Or if you're carrying in the woods or fields of the state for hunting, target practice, or

fishing provided the firearm or knife is lawful for hunting or fishing and that you have in your possession a valid hunting license. You have to have a valid license in your possession, then you can transport the firearm. Now we're in this subsection f. transport, where? Directly to or from the place of hunting or fishing provided you have that valid license. Or directly to or from the target range, or other place for authorized practice and exhibition of firearms, as long as you're in full compliance with all of the Fish and Game laws, by the way. If you're doing those narrow activities of subsection e. and f., then and only then, are you protected in the transport of your rifle and shotgun. Your Firearms ID Card no longer protects you in all those places, all those undefined places.

Evan Nappen 39:02

At the same time, if you got that carry permit, it's been rendered neutered, essentially turned into uselessness, virtually, in the same manner. So, this is what we're stuck with at the moment. It's going to take the challenges in court to set aside this stuff. But until that happens, until we succeed in doing that, I don't want to see any of you become a victim of New Jersey gun laws. I don't want to see any of you end up with criminal trouble. You have to be smart. You have to know just how outrageous, terrible our legislators are, and how the Democrats in the legislature and Murphy have shoved this upon us without consideration of our rights and our freedoms. They created this massive matrix of a trap for us, which is exactly what they've done. And now, it's taking the efforts of the pro-gun groups, particularly the Association of New Jersey Rifle & Pistol Clubs, bringing this action to take this stuff down and to protect us. This is why again, I want to thank them as our sponsor, the Association of New Jersey rifle & Pistol Clubs, anjrpc.org. Make sure you join. Make sure you're a member. Make sure that you are aware and that your family and friends know just how treacherous and dangerous this new law has made it. Even for those who didn't care about carry, who said, well, I don't care. I'm just a hunter. Doesn't affect me. You know, we jokingly call the Fuds. Well, I got news for you Fuds. You've been wrapped up in this mess, too. That's what's happened. Your long arms are just as problematic as a handgun now, and those problems are insanely serious in New Jersey if you get wrapped up or fall into any of these traps. Now you know. This is Evan Nappen reminding you that gun laws do not protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 41:39

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