

Gun Lawyer -- Episode 115 Transcript

SUMMARY KEYWORDS

firearm, new jersey, law, expungement, criminals, fight, lawyer, rights, gun, folks, crime, commitment, letter, subsection, gun laws, gun rights, license, firearms, affects, serial number

SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:20

I'm attorney Evan Nappen, and welcome to Gun Lawyer. So, first of all, I want to thank our sponsor, the Association of New Jersey Rifle & Pistol Clubs. They are a fantastic organization that are fighting for our rights as we speak. They're involved in major litigation over these ridiculous laws that have been placed upon us in New Jersey. And that's one of the things that I need to discuss today that is critically important. So many people are completely unaware of this, but you better know it, and if you are victimized by this, you're going to need to take action.

Evan Nappen 01:08

New Jersey has effectively invalidated and made void 10s of 1000s of Firearm Purchaser Identification Cards, and it is a felony level offense, a Fourth-Degree crime, up to 18 months in state prison. That's a year and a half, folks, for those that don't do math in state prison now, if you fail to surrender your card, if you have been affected by this ridiculous change. This change is just a complete departure from what New Jersey has had for years and years and years. Let me explain to you what has happened. This was part of the atrocious Murphy anti-civil rights bill that passed, A4769, that also contained all the anti-carry provisions so that New Jersey tries to keep its law-abiding citizens as victims of violent crime and not defenders.

Evan Nappen 02:29

Well, baked into that cake was a surprise that you need to know. It not only changed the law with regard to carry to gut any utilitarian function that a carry permit had, but it also added a host of disqualifiers. Disqualifiers that fall under NJS 2C:58-3.c. That statute is important because it is the same standard for Handgun Purchase Permits, Firearms ID Cards, and Permits to Carry a Handgun. It is the listing of the specific reasons that one can be denied their right to keep and bear arms and be denied the right to have a license to acquire a firearm or to carry a firearm, etc. In these disqualifiers is a new disqualifier that modified, changed, amended, the old disqualifier, and it involves what is mental health.

Evan Nappen 03:52

Now, I'm going to explain exactly how this is done and what New Jersey did, but in order to understand that you need to understand how the old law worked and why so many people are affected by this. Thousands and thousands of people are going to be and immediately are affected by this and are at

risk of serious criminal charges. Originally, in New Jersey, if you ever had an involuntary mental health commitment or a voluntary mental health commitment, in other words, you checked yourself into a mental health facility to get help. Or if you had been mandated by a court to get mental health treatment in a mental health facility. Then New Jersey had a law that said you're disqualified for having guns unless you produce proof, medical proof, a doctor's letter, other medical proof, etc. from a psychiatrist or medical doctor, etc, that you're not suffering from that particular disease or disability that would make you unsafe for the handling of firearms.

Evan Nappen 05:10

Thousands and thousands of folks did that very thing. Now, even in the old days, prior to this law being changed, individuals that did that were covered as far as New Jersey law was concerned. We've even discussed on the show that federal law didn't really care about that. Federal law was only focused on folks that had involuntary commitments, and the only way you could restore your rights under federal law for an involuntary was by getting a mental health expungement. It wouldn't matter if you had 100 doctors saying you're okay. Federal law wouldn't care. You need to have a mental health expungement. But Federal Law never, and still, to this day, they don't care about voluntary commitments, only involuntary commitments, where you're forced.

Evan Nappen 06:10

But New Jersey always cared about all commitments but gave the escape valve of simply getting proof from a doctor that you're okay. Well, New Jersey just changed that law. It was signed into law on December 22, 2022. It's A4769. It modified NJS 2C:58-3., specifically subsection c. where all the disabilities are, and added number 13, added number 13. Lucky 13 for the disqualifier. Let me read you exactly what it says. It says, and this is a preface. A handgun purchase permit or firearms purchaser identification card (or for that matter, by the way, any permit to carry a handgun, because they specifically referenced the statute) shall not be issued, and here it is under 13.

Evan Nappen 07:15

To any person who has previously been voluntarily admitted to inpatient treatment or involuntarily committed to inpatient or outpatient treatment, unless the court has expunged the person's record. So, all the people who had gotten a Firearms ID Card before, who simply had a voluntary commitment to a mental health facility. By the way, you could have voluntarily committed yourself in for rehabilitation. That still counts. Or other mental health services where you had gotten your Firearms ID Card and still have it right now, because you supplied a doctor's letter that said you were okay. That is no longer valid. The only way you can be legal for your ID card or carry permit or pistol purchase permit is if you received a mental health expungement, folks. A full-blooded, full-fledged expungement. Without that expungement and having had a voluntary commitment, you are disqualified to having your firearm license under New Jersey law as we speak. This affects thousands upon thousands of Firearm ID Card holders in New Jersey, and for that matter, outside of New Jersey. Because non-residents were also able to be issued and still are, a Firearm Purchaser ID cards. Better known as, what we call in the trade, FPICs. Your FPIC is now invalid.

Evan Nappen 09:25

Do you know what the law says about invalid FPICs? Well, let me read you, in NJS 2C:58-3. You go down to subsection f. and a number of paragraphs down you'll read this. "A firearm purchaser Identification card shall be void if the holder becomes subject to any of the disabilities set forth in subsection c. of the section," (that now includes the new subsection 13 that I just read to you) "whereupon the card shall be returned within five days by the holder to the superintendent, who shall then advise the licensing authority." In other words, within five days of Governor Murphy signing this bill on December 22, 2022, you were mandated by law to surrender your Firearms ID Card to the superintendent, meaning superintendent of the state police, who would then advise your local police of the surrender. Get a load of this folks. "Failure of the holder to return the firearm purchaser identification card to the superintendent within five days shall be an offense under subsection a. of N.J.S. 2C:39-10." That offense is a criminal offense. A criminal charge of a Fourth-Degree crime. New Jersey doesn't use the word felony. But crimes technically are the same in jurisdictions that talk about felonies as a felony, because it carries over one year jail. It carries 18 months in state prison. Therefore, you're facing, for your failure to turn in the card, up to 18 months in state prison, being a convicted felon, becoming a certain person who is prohibited from firearm possession and being licensed.

Evan Nappen 11:42

New Jersey has created this. There's no grandfathering. There was no time period to adjust. It took effect immediately this section. So, if any of you out there have a Firearm ID card that you have obtained because you supplied medical proof that you're okay, that you're fine, even though you had a voluntary commitment, your card is no longer valid. And your failure to turn it in is a felony level offense, folks. So, let me just tell you, that is a big risk out there. Those of you that listen to Gun Lawyer now know it. Those who don't and maybe aren't aware of this, well, I'll tell you right now. If they reapply, let's say to make a change of address or to get a new handgun purchase permit and this pops up, then they're going to be in for a big surprise. A big surprise in terms of not only getting denied their license, but being held to account as to why they didn't turn in their license and violated this criminal statute. And if they answer these questions wrong, thinking they're okay when they're not, then they could face falsification of the application charges. You can see all the ramifications that are going to flow from this. This is serious. It's a huge problem. The only solution to restoring your rights is a mental health expungement. Now, as you know, I'm a practicing attorney, and I have my firm in Eatontown. It's Evan F. Nappen Attorney at Law, and as a major component of our work, we do mental health expungements. You can check out my website at EvanNappen.com. Go to Expungements, and you can see about getting a mental health expungement if you need one.

Evan Nappen 13:44

That's the only way under New Jersey law now to get your rights restored. If you've had a voluntary commitment, or an involuntary commitment, and an involuntary commitment includes inpatient or outpatient treatment, if it was involuntary. Of course, the voluntary commitment, these are very far-reaching laws. I'm just thinking about how many thousands and thousands of persons have been issued these cards that now are subject to this ridiculous disability and prohibition and have been given no notice, no warning, no grandfathering, no period of time to comply. Nothing. So, beware. If you have an issue with this, call me at the office, go to my website at EvanNappen.com Get in contact with me,

and we can figure out what we need to do to help you and change your particular circumstances from this threat that is against your rights and your freedom here. It's really a shame. But beware.

Evan Nappen 15:00

If you know anybody that is affected by this, make sure they're aware, because this is just going to cause a ton of grief for honest, law-abiding citizens. Because that's all New Jersey gun laws ever focus on. It never does anything about crime, of course. It's just going to be law-abiding, licensed citizens. This is truly focused on licensed citizens and turning them into criminals. Those that had originally obtained this license are now turned into disqualified persons, and then subject to the crime of omission for failing to turn it in. By the way, your failure to turn it in being a crime in and of itself, can then be a basis to seize your guns. Because not only are you disqualified for your license, but getting a felony level criminal charge, also gets your gun seized while you're at it. So, New Jersey has really stacked it here. Beware. When we come back, I have a number of really interesting letters that I know you're going to enjoy hearing about because I sure enjoyed reading them.

Speaker 3 15:08

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, that deck is already stacked against you. You can find him on the web at EvanNappen.com or follow the link on the Gun Lawyer resource page. Evan Nappen - America's Gun Lawyer.

Speaker 3 17:35

You're listening to Gun Lawyer with Attorney Evan Nappen. Available wherever you get your favorite podcasts.

Evan Nappen 17:50

Hey, okay, Evan Nappen here back on Gun Lawyer. I really appreciate all my listeners. Remember to subscribe to Gun Lawyer. You can get it anywhere you get your podcasts. This way you get the inside information. You get to know the stuff they're not telling you and preempt the potential problems that not knowing will cause. Let everybody know about the show because you'd be surprised. Just this week, a person called. Again, they had listened to the show, and they were going to have a disaster upon them. Because they knew, I was able to help them and shut down what was guaranteed to be a huge mess, a huge mess. That always makes me so happy to know that we're able to save people from falling into these traps that New Jersey sets for law-abiding citizens. They don't worry about crime, of course, and criminals. They're on the run there. Do whatever they want. That's all fine. Let them in, let them out. But gun owners are the ones targeted and honest citizens. They're the ones I want to protect, and that's why I have a unique practice in a way. I only defend law-abiding criminals, you see,

and that's what happens when you're a Gun Lawyer in New Jersey. But I'm proud to do it, and I'm happy to help all you good people out.

Evan Nappen 19:28

One of the other things about helping folks out is sponsoring this show, the Association of New Jersey Rifle & Pistol Clubs. They are the NRA affiliate for New Jersey, and they're the top gun rights organization in New Jersey. Every one of my listeners should be a member of the Association of New Jersey Rifle & Pistol Clubs. If you care about your gun rights, you need to do this. They're the ones that have a full-time lobbyist down at Trenton, keeping us on top of all this nonsense going on and being able to keep us in the fight. Look, we're in a desperate, tough fight. I know that. We have politics against us. We are the underdogs. But it's the American tradition, right? We root for the underdog. So, the best way to root for ourselves here, the best way to fight despite the odds, and we will win because truth is on our side. You know that. We will win. It's by unifying and having a great organization like ANJRPC, the Association of New Jersey Rifle & Pistol Clubs. Go to anjrpc.org. and get your membership. Get those alerts, get the newsletter, get your voice heard and be part of an organization. They're at the forefront of the litigation against these atrocities that we discuss here. Litigating against Murphy's anti-civil rights bill, against the magazine ban, against the assault weapon ban, etc. In courts now, using the Bruen decision and other case law to get our rights back. I know, ultimately, we're going to be successful, but we can only be successful with individuals like yourself, being part of the team, and helping. So, go to anjrpc.org. and join today, if you're not already a member.

Evan Nappen 21:33

Let me also tell you, I get great letters. And man, I wish I could read every letter that I get, really. You folks are wonderful, and your letters are great. I do read every letter that is sent to me, but we only have a limited amount of time, of course. But I do want to read this letter and some others that just hit me as really important and very significant in demonstrating exactly what we're talking about here. About how these laws affect the law-abiding and not the criminal. So, I have this letter. It's says, Evan, you discussed this on Episode 95 after receiving my letter about this NSN firearm. I thought you'd like to see the letter that I just sent to the entire legislature asking them to correct this unintended consequence. Keep up the fight! Regards, Bobby.

Evan Nappen 22:35

Bobby really, really did a magnificent job here., and I just want to share his letter because it's more than just a political statement to a legislature to do the right thing. It is an explanation of actual harm caused by their actions. Listen to what Bobby wrote. Dear Senators and Assemblypersons. I'm writing to seek your assistance in correcting the unintended consequences of legislation you enacted earlier this year that was made effective on July 5, 2022. Specifically, I'm referring to N.J.S. 2C:39-9(n) which states: (emphasis added) "n. Transporting a manufactured firearm without a serial number. In addition to any other criminal penalties provided under law, a person who transports, ships, sells, or disposes of a firearm manufactured or otherwise assembled using a firearm frame or firearm receiver as defined in subsection k of this section which is not imprinted with a serial number registered with a federally licensed manufacturer, including but not limited to a firearm manufactured or otherwise assembled from parts purchased or otherwise obtained in violation of subsection k. of this section, is guilty of a crime of the second degree."

Evan Nappen 23:59

That's up to 10 years, folks, in state prison. Ten years. Now, this section was just atrocious and was recently raised to a First-Degree charge by the way. So, it's now up to 20 years in state prison. But either way, it's such absurd amounts of jail for this. Then Bobby writes this. This affects me as I own a pump action 12-gauge shotgun that my father purchased in 1956, just after his 18th birthday. This firearm was manufactured before federal law in 1968 required that it have a serial number on it. My attorney has advised me that should I take it out of my home it would subject me to three to five years in state prison. And another bill (A4557) was introduced since this law was made effective that would increase the charge for violation of this law to a crime of the first degree. And that did pass as well, by the way, putting this offense on the same level as murder or aggravated sexual assault. Prior to the enactment of the law, I used this firearm for sporting clays in both New Jersey and Pennsylvania.

Evan Nappen 25:18

My father purchased this shotgun at Sears and Roebuck on October 10, 1956, for \$48.88 plus 33 cents for shipping. He has a picture, folks, of the actual receipt from Sears from 1956 for the purchase of this shotgun with no serial number. Then he has a wonderful picture from December of 1963 of his dad and him and his deer on the back porch of their home in Irvington, New Jersey, just before his third birthday. Look at the history, the rich family history, of the shotgun here. This firearm is a family heirloom and I'm hoping that the law you passed to address so-called "ghost guns" wasn't meant to preclude me from continuing to use this 66-year-old shotgun as I did before this law was enacted. I cannot transport, ship, sell or dispose of this firearm. What am I to do with it? Why is the firearm suddenly so dangerous that if I were to take it from my home, I could ruin my life and spend 20 years in prison? Would any of you be willing to take the steps necessary to correct this unintended consequence, which is clearly unconstitutional and, in effect, renders my firearm useless? I would welcome the opportunity to speak or meet with any of you in favor of this.

Evan Nappen 27:02

Let me just say. There's only one thing that I disagree with Bobby on and that is that it was an unintended consequence. I think he's giving them more credit than they deserve. I think they know damn well what they're doing, or are simply reckless, reckless in their behavior. It's one or the other. I don't think it was a simple, honest mistake. I really don't. It's absolutely outrageous. If it is, then they're not reading these laws. They're not giving time for debate on these laws. They're not making it clear, getting any type of impact as to what it does. They don't really care that it turns law-abiding citizens into criminals, because this is one of many, many laws. Just about every gun law that New Jersey has affects law-abiding citizens. Affects law-abiding citizens enormously more than it affects any criminal.

Evan Nappen 28:04

Look, if by some weird, crazy, chance some criminal actually gets charged with one of the gun laws. Oh, that'd be shocking, but just make believe it happened. Well, that's going to be the first thing that is plea bargained away, folks. First thing. They're not going to enforce the gun laws on the criminals. It's the honest citizens that possess their grandfather's shotgun purchased in 1956 and has been handed down as a family heirloom. If they happen to go hunting one day, in the family tradition with his kids even, and he ends up being charged with one of the highest level of crimes that New Jersey has to

offer for doing that very thing. This is the outrage and the absurdity. Yet another example of what New Jersey does to good people, and these legislators should be ashamed of themselves. They are not upholding their oath of office. They're not doing their job and protecting our rights, our liberties. It's just the opposite. They're unbelievably arrogant about it, and blatant about their violation of our rights and rejoicing in screwing with us and turning us into criminals. It is an outrageous situation.

Evan Nappen 29:38

This is why the fight has to continue. We can't give up. Eternal vigilance. We won't give up. We're fighting. We're getting the word out. We have great organizations like the Association of New Jersey Rifle & Pistol Clubs. This is part of it. Make sure you belong. Make sure you belong to the Association. Make sure you belong to any other gun group that you feel is in your interest to join. You don't have to just join one. But this is critical, critical. Take steps. When you get those alerts, let the legislators know. Make sure you get out and vote. Doing these civic duties. You may think it's small, and it doesn't count, but it does count. It makes a difference. We can get our rights back. The fight is on. And on the one hand, these may be the glorious times. The glorious times that our grandchildren and such can look back on. Hey, they fought and got our rights back. And we can be proud of that. Because we're not going to give up. It's these fights and these absurdities. They are the challenges for us right now, and you're all part of this. So, just remember, as I've stated before, that gun laws don't protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 31:19

Gun Lawyer is a CounterThink Media production. The music used in this broadcast was managed by Cosmo Music, New York, New York. Reach us by emailing Evan@gun.lawyer. The information and opinions in this broadcast do not constitute legal advice. Consult a licensed attorney in your state.