



BEHIND ENEMY LINES

A Guide to Traveling
through Firearm-Hostile States

A Free Special Report

Dear Members and Friends,

As summer approaches, many will be vacationing and traveling outside the Great State of Texas (we won't hold that against you). Naturally, no Texan wants to travel unarmed if they can help it, but unfortunately not every state shares the same views on gun ownership and gun rights as we do in the Lone Star State. This is especially true in the northeast corner and west coast of the United States. How then does a person pass through states that have overly restrictive firearms laws or those different from Texas? For example, how does a person legally pass through a state that prohibits the possession of a handgun without a license from that state? This newsletter will address the federal statute that allows travel between states with differing gun laws. It is beyond the scope of this current piece, however, to address the law in all 50 states. So remember, check the laws of your destination state carefully.

Federal Law

Federal law allows individuals who are legally in possession of firearms in their state (the starting point of traveling) to travel through states that are not as friendly. This protection is only available under federal law to transport such firearms across state lines for lawful purposes as long as they comply with the requirements of the Firearm Owners Protection Act, 18 U.S. Code § 926A, nicknamed the Safe Passage provision.

The first requirement to qualify under the federal Safe Passage provision is that throughout the duration of the trip through the anti-firearm state, the firearm must be unloaded and locked in the trunk, or locked in a container that is out



of reach or not readily accessible. The ammunition also must be locked in the trunk or a container. Note that for the storage of both firearms and ammunition the glove box and center console compartment are specifically not allowed.

Start – End

To get protection under federal law, a gun owner's journey must start and end in states where the traveler's possession of the firearm is legal; for instance, starting in Texas and ending in Vermont. Even though a person must drive through New York or Massachusetts to get to Vermont (New York and Massachusetts being states that prohibit a person from even possessing a handgun without its state license), as long as the person qualifies under the Safe Passage provision then they should be able to pass through. However, if the start point was Texas and the end point was New York, since the end point is not a legal place a Texan could possess a handgun (assuming they do not have a New



York license), there is no protection under the federal law.

Keep in mind that whenever a person finally completes traveling and reaches their destination state, the laws of that state control the possession, carrying, and use of the firearm. Federal law does not make it legal or provide any protection for possession of a firearm that is illegal under the laws of the destination state (i.e., the end state of your travels).

What is Traveling – What is Not?

The final requirement for protection under the federal law is that individuals **MUST** be “traveling” while in the firearm hostile state. The legal definition of “traveling” is both murky and narrow. The Safe Passage protection has been held in courts to be limited to situations that strictly fit traveling and nothing more. Traveling is a term that is not defined in the federal statute; however, it has received treatment in the courts that is indicative of what one can expect. Generally speaking, if a person stops somewhere for too long they cease to be “traveling” and, therefore, lose their protection under the Safe Passage provision. How long this time limit is has not been determined with any definitiveness.

While stopping for gas or restroom breaks may not disqualify a person from the “traveling” protection, any stop for an activity not directly related to traveling could be considered a destination and thus you would lose the legal protection. For example, in Chicago anyone in the city for more than 24 hours is not considered to be traveling under local policy. In an actual case, stopping for a brief nap in a bank parking lot in New Jersey caused a Texan driving back home from Maine to lose the “traveling” protection. He received 5 years in prison for possession of weapons that are illegal under New Jersey law. The moral of these stories is to travel through these states that have major legislation against guns as fast as one can (without breaking the speed limit, of course).

You May Be Arrested Anyway!

To make matters even worse for firearms travelers, even if a person qualifies for protection under the federal Safe Passage provision, New Jersey and New York seem quite proud to treat this protection as an affirmative defense. This means that someone can be arrested even though they were meeting all of the requirements under the federal statute. Then, they would have to go to court to assert this defense. In other words, while a person could beat the rap, they will not beat the ride! This becomes even more troublesome in the instance of someone who is legally flying with their firearm, and then due to flight complications must land in New Jersey or New York, as many have been arrested or threatened with arrest.

Once again, the Safe Passage provision only applies while a person is traveling; as soon as they arrive at their destination and cease their travels, the laws of that state control a person’s actions. Texas Law Shield wishes everyone safe travels, and hopes that its members and friends won’t forget to pack their guns if they can. Remember: check all applicable state firearms laws!



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