

FEDERAL PASS-THROUGH LAW

Federal Law on Transportation of Firearms

U.S. Code > Title 18 > Part I > Chapter 44 > §926A

Traveling with a firearm comes with legal risks. Those risks grow more complex when you cross state lines. While many states are gun-owner friendly, some states view simply having a firearm as criminal behavior.

Nevertheless, if you carefully follow the rules, federal law does give you some protection. A provision of the federal law known as the Firearms Owners' Protection Act (FOPA) protects those who are transporting firearms for lawful purposes from local restrictions that would otherwise prohibit someone from travelling through. Under the FOPA, notwithstanding any state or local law, a person is entitled to transport a firearm from where he or she may lawfully possess and/or carry the firearm to any other place in the U.S. where he or she may lawfully possess and/or carry it, if the gun is unloaded and locked out of reach. Basically, the FOPA protects travelers who carry firearms unloaded, locked in a case and stored in an area (such as a trunk or attached toolbox) where they are inaccessible from a vehicle's passenger compartment and not visible from outside the vehicle. Any ammunition should be stored in a separate locked container. In vehicles without a trunk, the unloaded firearm must be in a locked container other than the glove compartment or console.

Still, regardless of these federal protections, travelers should be aware that some state and local governments treat this federal provision as an "affirmative defense" that may only be raised after an arrest. This is particularly true in northeastern states like New Jersey, New York, Connecticut and the District of Columbia, but also on the western seaboard in states like California, Oregon and Washington.

All travelers would be well-advised to have copies of any applicable firearm licenses or permits, as well as copies or printouts from the relevant jurisdictions' official publications or websites documenting pertinent provisions of law (including the FOPA itself) or reciprocity information.

Despite the FOPA protections, travelling with a firearm can feel very complicated. Also, as state and local rules are constantly changing, this article should not be taken as legal advice, but only as a general guide—you must check the law in the jurisdictions you'll be traveling to prior to leaving.

More Info:

<https://www.americas1stfreedom.org/articles/2020/4/28/how-to-travel-with-a-firearm/>



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 18, 2005

The Honorable Don Young
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Young:

Thank you for your letter, dated June 18, 2003, to Admiral James M. Loy, then-Administrator of the Transportation Security Administration (TSA), concerning the applicability of 18 U.S.C. section 926A to persons at airports in New York State who are taking flights to destinations outside of New York. Because section 926A is a provision of the Gun Control Act (GCA), which the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) enforces, TSA forwarded your letter to the Department of Justice for response. We apologize for the delay in responding.

In your letter you explained that local police officers in New York have threatened several individuals at John F. Kennedy International Airport and Albany International Airport with arrest for firearms possession based on strict State laws, and that in at least one case the firearms were confiscated. You explained that: (1) the people carrying the firearms were not prohibited from possessing firearms under Federal law, (2) the people had apparently traveled directly, without any interruption in the transportation, to the airports from other States where they legally could possess firearms, (3) their firearms and ammunition were secured in accordance with all applicable regulations for airline travel, and (4) they were flying to other States or countries where they could legally possess firearms.

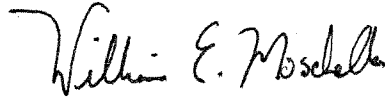
You then asked if TSA agrees that section 926A enables these travelers to possess the firearms legally in the New York airports and if so, if TSA would inform local police and prosecutors about this provision of the GCA. We appreciate your bringing this issue to our attention. The Department of Justice agrees that the provisions of section 926A apply to the situation set forth above assuming: (1) the person is traveling from somewhere he lawfully may possess and carry a firearm; (2) en route to the airport the firearm is unloaded and not accessible from the passenger compartment of his car; (3) the person transports the firearm directly from his

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vehicle to the airline check-in desk without any interruption in the transportation; and (4) while carrying the firearm to the check-in desk it is unloaded and in a locked container. This interpretation reflects the apparent congressional intent in enacting this provision, while allowing State and local law enforcement to continue to enforce their firearms laws aggressively to promote public safety. We will inform the applicable law enforcement authorities of our interpretation of section 926A.

We trust this information responds to your inquiry. If we can be of further assistance, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, reading "William E. Moschella". The signature is written in a cursive style with a large initial "W" and a long, sweeping underline.

William E. Moschella
Assistant Attorney General