



Gun Owners of New Hampshire



GO-NH, Inc. is the NRA State Affiliate Organization for New Hampshire.

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Noise and Firearms Regulation in New Hampshire

By *Michael Pelletier* - August 22, 2005

One of the avenues by which the anti-hunting, anti-gun contingent seeks to curtail our freedom to enjoy the shooting sports is through noise regulations.

Their efforts can wind up with a ban on the discharge of any firearm, regardless of how small or quiet it is.

The irony is that in over a dozen states, gun owners are forbidden to be polite to their neighbors because of a ban on suppressors. And even in states like New Hampshire where they are legal to own, under Federal law a \$200 transfer tax, stacks of onerous paperwork, felony penalties, and detailed regulations make a suppressor an impractical purchase for many gun owners. Plus, [RSA 207:4](#) prohibits their use while hunting, as an anti-poaching measure. In Finland, on the other hand, suppressors are *required* in many circumstances, for noise control.

The New Hampshire law dealing with disruptive noise is [RSA 644:2, III\(a\)](#), which states:

644:2 Disorderly Conduct. – A person is guilty of disorderly conduct if:

III. He purposely causes a breach of the peace, public inconvenience, annoyance or alarm, or recklessly creates a risk thereof, by:

(a) Making loud or unreasonable noises in a public place, or making loud or unreasonable noises in a private place which can be heard in a public place or other private places, which noises would disturb a person of average sensibilities;

Because this is a criminal statute, the burden of proof is higher - "beyond a reasonable doubt" - than it is with a town ordinance. In other words, by passing an ordinance, your town or city government is indicating that they want to make it easier to punish you for making loud noises.

Shooting ranges are specifically exempted from this provision, under a law which went into effect in May of 2004, [RSA 159-B](#). This legislation was intended to prevent towns and cities from passing new noise regulation in order to harass or shut down existing shooting ranges - as long as the range remains in compliance with any ordinance that existed when the range opened, it is exempt from more restrictive ordinances passed later.

The General Court has also acted more broadly to protect the rights of gun owners from the confusion and pitfalls of a patchwork of local ordinances, by enacting [RSA 159:26](#):

159:26 Firearms and Ammunition; Authority of the State. –

I. To the extent consistent with federal law, the state of New Hampshire shall have authority and jurisdiction over the sale, purchase, ownership, use, possession, transportation, licensing, permitting, taxation, or other matter pertaining to firearms, firearms components, ammunition, or firearms supplies in the state. Except as otherwise specifically provided by statute, no ordinance or regulation of a political subdivision may regulate the sale, purchase, ownership, use, possession, transportation, licensing, permitting, taxation, or other matter pertaining to firearms, firearms components, ammunition, or firearms supplies in the state. Nothing in this section shall be construed as affecting a political subdivision's right to adopt zoning ordinances for the purpose of regulating firearms businesses in the same manner as other businesses or to take any action allowed under [RSA 207:59](#).

II. Upon the effective date of this section, all municipal ordinances and regulations not authorized under paragraph I relative to the sale, purchase, ownership, use, possession, transportation, licensing, permitting, taxation, or other matter pertaining to firearms, firearm components, ammunition, or firearms supplies shall be null and void.

Known as the "preemption law," this means that unless a city or town is specifically authorized by state law, they may not enact any ordinance or regulation that regulates "the sale, purchase, ownership, use, possession, transportation, licensing, permitting, taxation, or other matter pertaining to firearms, firearms components, ammunition, or firearms supplies in the state."

That is to say, the General Court is the sole source of firearms regulation in New Hampshire.

[RSA 207:59](#), referenced in this firearms preemption statute, establishes state preemption over hunting and wildlife management, preventing a second patchwork of conflicting fish and game regulations from town to town.



At first, it may appear that this means there's no opportunity for a town or city to ban firearms use on the basis of noise, and that's technically correct - but there's another avenue that can be used.

The main criminal law which governs firearms use is [RSA 644:13](#). It prohibits discharge of any firearm in the "compact part" of any town or city without written permission from the chief of police, mayor, or selectmen:

644:13 Unauthorized Use of Firearms and Firecrackers. –

I. A person is guilty of a violation if, within the compact part of a town or city, such person fires or discharges any cannon, gun, pistol, or other firearm, except by written permission of the chief of police or governing body.

II. For the purposes of this section, "compact part" means the territory within a town or city comprised of the following:

(a) Any nonresidential, commercial building, including, but not limited to, industrial, educational, or medical buildings, plus a perimeter 300 feet wide around all such buildings without permission of the owner.

(b) Any park, playground, or other outdoor public gathering place designated by the legislative body of the city or town.

(c) Any contiguous area containing 6 or more buildings which are used as either part-time or permanent dwellings and the spaces between them where each such building is within 300 feet of at least one of the others, plus a perimeter 300 feet wide around all the buildings in such area.

This section is the source of the commonly-known "300 foot" rule in New Hampshire - it is illegal to discharge a firearm within a 300 foot perimeter of any building or group of buildings - a sensible safety precaution.

Remember, though: a fundamental principle in law is the "doctrine of competing harms," codified in New Hampshire under [RSA 627:3](#). If you are lawfully and justifiably using a firearm to defend yourself against an attacker, for example, you can't be convicted for discharging a firearm within 300 feet of a building.

The catch is that under part II(b), the governing body of a town or city is permitted to designate "any park, playground, or other outdoor public gathering place" as part of this "compact area" where discharge of firearms is prohibited, regardless of the 300-foot perimeter. A square mile of wilderness, with no buildings whatsoever, if it's a town park, can theoretically be declared a "compact area."

A town or city ordinance ban on shooting, unless done in accordance with the [RSA 644:13](#), II(b) "compact area" provisions, is "null and void" under New Hampshire law.

So in an effort to address noise issues, town officials might try to declare everything and anything they can get their hands on a "compact area," which not only bars discharge of noisy firearms, but also small and quiet, or suppressed, firearms.

A "noise" ordinance involving discharge of firearms might wind up having nothing to do with noise, and might also impact lawful hunting activities, disrupting the balance of the wildlife populations and resulting in long-term ecological damage.

While noise can be a very touchy issue, given the long-accepted right to quiet enjoyment of one's property, the occasional distant boom of shotguns and rifles echoing through the crisp fall air is part of a centuries-old tradition of stewardship of the natural environment. It is important for both sides of the debate to find common ground characterized by mutual respect - respect for ancient hunting traditions, and respect for our friends and neighbors.

Let's hope that every debate over noise and firearms regulations rests on that sturdy foundation.

How to Make Your Letters Count

Letters to policy makers - whether they be to Members of Congress or local elected officials - can be an effective means of influencing public policy. Some letters, of course are more effective than others. To follow are some tips on making your letters and telephone calls more effective:

Have a Specific Message. Make sure to have a specific action request before you write. If you want a decision changed, a vote cast a particular way or to communicate specific facts, be clear and concise. For legislative action, be sure to include the name and bill number of the legislation you are advocating (i.e. The Regulatory Transition Act, H.R. 450).

Be Brief. Your letters are more likely to be read if they are brief and to the point. Include one or two arguments for your position -- presumably, those arguments in which your opinion would be given particular weight by virtue of your position or those that are simply powerful on their own merits.

Target Your Letters. Elected officials - particularly federal office holders -- seldom read their own mail. This duty normally falls to a staffer -- often one with little influence over policy decisions. To increase the chances that your letters will have impact, make sure to direct them to staff members who have some responsibility for issue(s) in question. For letters to Congress, these individuals will most often be Legislative Assistants or Legislative Directors. You may also wish to consider sending letters to your Congressman's or Senators' district offices rather than their Washington, D.C. offices. Washington offices are inundated with mail, while district offices are not. As a result, a dozen letters in support of a particular position can be perceived as a ground swell of public support, while hundreds of letters to a Washington office would scarcely be noticed.

Personalize Your Letters. Although mass-produced postcards and letters can demonstrate to policy makers that a large group of people hold the same point-of-view, individually written postcards and letters are much more effective. A policy maker knows the letter-writer is genuinely concerned about an issue when he or she has taken the time to write a personal letter.

Use What You Know About the Official. Before writing to a Congressman or Senator, take the time to learn what motivates them. For example, if he or she is motivated by his/her desire for re-election, demonstrate in your letter how your position would enhance his/her re-election chances. If he or she has a background as a farmer or rancher, show how your position would strengthen family farms.

Be Timely. If you wish to influence a policy maker's opinion on a specific issue, write early. Your letters will be most effective if sent before the official has developed an opinion.

Be Courteous. Rude comments in your letter will make it less effective. One can be firm while being courteous.

Follow-up. If you receive a vague response from an elected official, write again and request more specific information. And, should the policy maker do as you ask, make sure to send a thank you. Thank you letters are rare and thus most appreciated.

Utilize Letters-to-the-Editor and Op-Eds. If you get a letter-to-the-editor or an opinion editorial published, send a copy of it with your letters to elected officials. This will show policy makers that you are more than casually interested in the issue and that you have credibility.

Sign Your Letters. Include your name, address, and telephone number in your letter, so policy makers can respond.

Type or Print. Make sure your letters are legible by typing (or word processing) them. If that is not possible, they should be printed neatly.