

# The News Eagle

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## Rights of PA gun owners explained

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Why This is a Must-Read: Learn the ins and outs of being a gun owner in Pennsylvania. It's the the same everywhere.

PIKE COUNTY - For those interested in learning about gun laws and their rights as gun owners, Representative Michael Peifer hosted a program at the Pike County Training Center a few weeks ago. At the program, Pike County District Attorney Ray Tonkin spoke of use of force and Pike County Sheriff, Philip Bueki talked about carrying firearms.

Because there are open carry laws in Pennsylvania, Bueki said if a person is out in the public, they are allowed to "open carry" their firearm. Bueki who is "pro-gun" and holds the Second Amendment "close and dear" to his heart, explained that brandishing a firearm isn't a crime, instead it means the firearm is on a person's hip and if they are out in public, the carry laws will protect the person's right.

Supersedes hunting permit

As for carrying when hunting or fishing in Pennsylvania, Bueki said if a person has a concealed carry permit, it "supersedes" their hunting and fishing permit. To obtain a carry permit, an application must be completed and submitted to the sheriff's office in the county where the person lives. If a person moves to another county, they must reapply for a carry permit. The permit is good everywhere in the state, but it is "county specific," said Bueki.

Because of the Pennsylvania crimes code, a carry permit holder is "protected" under the second amendment, Bueki said and so, whether they are permitted to carry or not, that information can only be revealed to law enforcement.

Tonkin said there are three components to the “use of force” that consists of use of deadly force, which will “likely” cause death or serious bodily injury. The force is “necessary” for a person to protect themselves against “death, serious bodily injury, kidnapping, sexual intercourse compelled by force or threat, and the act was not provoked for purpose of using deadly force.” The force is specific to protecting people, not property he said.

The second component, Tonkin said, is regarding the aggressor not having the right of self-defense. With the Castle Doctrine, also known as the Stand Your Ground Law, that is about the “duty of retreat.” Those components are about the “justification in the use of force.”

Using common sense

The “presumption of a threat,” Tonkin explained, concerns when a person is at home, the law does not require them to decide what the person is there for, before being able to “use deadly force” because “our home is our castle.” As a result, it is then considered to be the “last place” a person could be safely. Having to consider what a person is “threatening to do” isn’t necessary. But, he acknowledged that “a lot comes down to common sense.”

As for retracting, Tonkin said although a person can use lethal force under the law, if they are able to retreat and avoid confrontation that “would be a good idea.” The person posing the threat must be threatening with “serious bodily injury or deadly force” while having a firearm or some other lethal weapon displayed.

As a “shall issue state,” Bueki explained that after a person goes through the background checks, a sheriff in the county “shall issue a carry concealed permit.” The law that went into effect in 1995, covers rules for the entire state and defines the type of weapon that requires licenses and the kinds of licenses available.

According to Bueki, in Pennsylvania, a carry permit is “good for five years.” Within 60 days prior to the permit expiring, the gun holder is notified that they must renew their permit. Since the “law is very specific,” if the permit is renewed in that time, the permit holder will not need references. But, if they exceed 60 days, the entire process has to be started over again, with references. For more information visit [www.pikepa.org](http://www.pikepa.org).

## Other firearms

In Pennsylvania, if a person applies for a short barrel rifle or a short barrel shotgun permit through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the weapons can be processed under the minimum requirements.

For a person who would like an AR15 or an AK with a shorter barrel, Bueki explained that while the gun is legal to buy, the person would have to register with the ATF and the sheriff would receive a copy. Also, any resident in the state can apply for a fully automatic weapon, such as a machine gun, which is “totally legal.” He noted, however, that the cheapest machine gun he had seen was \$6,000.

Due to the Act of 1986, Bueki said a person cannot own a machine gun made after 1986. A lot of those guns are from the “Vietnam era” and can go through 30 rounds of ammunition in three second, which is costly since the ammunition costs \$22.00. So, “regardless” of peoples’ thoughts on short barrel rifles and automatic weapons, he said simply that they are “licensable in Pike County.”

Bueki named multiple guns with various barrel lengths, which he said are all-legal in the county. He noted that, most people carry for “personal protection.” If questioned by the police, the individual has to provide identification and wait while the officer checks if they are legal to carry.

## In a vehicle

When a firearm enters a vehicle, Bueki said, the gun is “considered concealed.” In that case, a concealed carry permit is required for a loaded firearm to be in a vehicle. With the carry permit overriding the hunting and fishing permit, a handgun can be carried when hunting or fishing in the state, but it must be “manually operated” because it can’t be a semiautomatic weapon.

If a person’s license were to expire, they have six months to renew it under the law Bueki said. If transferring a firearm, it should be done unloaded with the ammunition in a separate lock case.

Bueki said he agrees with the National Rifle Association when they say “don’t make new laws, enforce what you’ve got.” With the help of Tonkin, there have been prosecutions that included a convicted rapist from Texas who moved to New York. When the person went to obtain his permit for Pike County, he was arrested. During his tenure, Bueki has seen 85 to 90 people fail background checks.

People must pick up their permits in person, by law. If a person were to voluntarily commit themselves or voluntarily seek help, they can still seek a carry permit. If a person was involuntarily committed into a mental health facility, that would be problematic if they later sought a permit. Or, if a person has three DUIs within five years, they cannot obtain a carry permit, Bueki said.

All total, Bueki said there are “about 65 offenses” that will prevent someone from obtaining a carry permit. If one doesn’t pay a ticket, for instance, a warrant will be issued for their arrest. If that happens, Bueki believes it means the person isn’t responsible.

#### Tell the police

If someone who is carrying encounters law enforcement, Bueki suggested telling the officer they are carrying and then show their permit. Basically, “it’s pretty common sense.”

There are places, specifically federal properties where people cannot carry a gun, such as in a post office. If at a national park or federal property, it will be posted at the entrance that no weapons are allowed in the park, Bueki said. As for private property, it depends on the specific property, such as Walmart he mentioned as an example, where people do carry in the store.

#### School property

Tonkin said there was a time when only law enforcement were allowed to carry on school property. He asked, “do you really need a firearm on school property?” The reality is that, it comes down to be a “balance of peoples’ rights versus responsibilities.” The law refers to elementary schools, publicly funded secondary education schools and private schools licensed by the department of education.

If a person wants to hunt, Bueki suggested purchasing a hunting/fishing permit that costs \$5.00 for five years, because it eliminates the confusion of having a license to carry and a sportsman permit. He asked, if a person wants to carry a gun to protect themselves, “why not get a background check?” By getting that background check, they can carry in all states and it is the “smart thing to do.”

If there is a traffic issue, Bueki said the person doesn't have to inform the officer, only if they ask. It's not a bad idea, however, since they may run the person's information and learn they are permitted to carry.

A common question Peifer said he receives is, what states are reciprocal to Pennsylvania. One woman suggested when traveling, to carry a copy of reciprocal states since officers cannot know the laws of every state.

Not like in Texas

In Texas, Tonkin said people can use deadly force to protect property. That though, is “not Pennsylvania.” There have been instances, not since he's been in office, where people have shot relatives entering their home late at night. The fact is, “you have to use common sense.”

The duty to retreat, or the Castle Doctrine, Tonkin explained means a person has never had the “duty to retreat” in their home or a place where the aggressor and person both had the “right to be.” Typically, that means a place of work. A place of work and home, are “supposed to be a place of safety.” Tonkin suggested people have some form of firearm training.

After a few possible scenarios were given, Peifer said people should “be smart” because they don't need to be shot or they don't need to shoot someone over something that can have be addressed differently.

When it comes to the law, Tonkin said it isn't about the “subject of the individual” but rather, “it's about facts surrounding the incident.” No matter the scenario, “it goes back to common sense” and considering what other options there may be.

Peifer said he is considering hosting another seminar at the start of the new year. He has hosted this program before, because people have questions regarding carry laws, in part because New York and New Jersey are nearby, the laws get

“confusing.” When carrying a firearm, however, people “need to know the law.”