

Firefighters blazing mad at town gun ban

Tamworth ban on armed workers breaks state law, say gun groups

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TAMWORTH — A personnel policy barring Tamworth town staff from bringing guns to work is butting up against a 2003 state law aimed at stopping municipalities from passing gun laws, local firefighters and statewide gun advocates are complaining.

The policy has angered volunteer firefighters, who have complained the “Massachusetts stuff” has stripped them of their right to carry guns on a fire call or on town property where citizens can legally carry.

Selectmen Thursday will deliver statements about possible policy revisions, but for now are keeping them close to the vest.

“There are two sides to every story,” selectman Willie Farnum said Wednesday. “Both sides won't be happy, but the middle probably will.”

Firefighters have been joined in arms by an influential statewide gun-rights group. Pro Gun New Hampshire Inc. is warning the ban could spark civil suits and even prosecution for town officials who enforce it.

A 2003 state law takes most gun-related rule-making out of the hands of towns, pro-gun lawmakers said, granting the state authority to regulate “sale, purchase, ownership, use, possession, transportation, licensing, permitting, taxation or other matter.”

It was unclear if it applied to employee policy, said Harry Merrow, a former Ossipee lawmaker who voted for the law.

Selectmen and the police chief first sparked ire among volunteer firefighters by backing the ban over the summer. Selectmen feared the town would be financially liable if a gun went off on a rescue call.

Farnum said rescue personnel had carried a gun into Memorial Hospital, which has a no-gun policy.

“A little common sense at the beginning could have headed off an issue that has hit a fever pitch,” he said.

Selectman John Roberts did not return a phone call. Chairman Tom Abugelis said he'll deliver his response at the selectmen's Thursday's 4 p.m. town hall meeting.

Chief Dan Poirier this week said he doesn't care which way the policy fight comes out.

“I don't have a dog in the fight,” Poirier said. “The only thing I do is salute and execute.”

Pro-Gun New Hampshire Inc. issued two letters in August accusing selectmen of violating another state law against “official oppression.”

“We believe that the attempted enforcement of Tamworth's unlawful town policy could result in prosecution of town officials,” said one of the letters, which was copied to Poirier and the state

attorney general.

The Concord-based group's council of advisors include assistant state safety commissioner Earl Sweeney and a slew of conservative Republicans, including state Sen. Jeb Bradley, state Rep. Gene Chandler and Conway selectman and former long-time state Rep. Crow Dickinson. But the county's highest prosecutor said the law was likely meant to clear up arbitrarily set authorities dealing with gun shops and taxation, rather than to let public workers tote weapons to work.

"I don't think it's an unreasonable request for the town to say, 'If you're working for us, leave the guns at home'," county attorney Robin Gordon said.

Next-door Ossipee stumbled on a longstanding gun ban in its town rules aimed at keeping firearms and fireworks off town land. When the Tamworth matter first erupted, Ossipee selectmen said they pulled it off their books without a second thought.

"We just did it. We didn't worry about liability," Merrow, who is a selectman, said. "If you look at most gun crimes, they are not committed by people who are licensed to carry."

Farnum, ruffled by earlier criticisms by Merrow, said it was he who first called Merrow to alert him that Ossipee's clearly illegal ban also prohibited citizens from carrying guns at parks.

Neighboring Madison, which only in recent years instituted regulations against public drinking, doesn't have an employee gun ban. Ditto for the state's largest city, Manchester's legal office said. Conway town hall did not immediately provide an answer as to whether it had a gun policy.

Town manager Earl Sires Wednesday e-mailed a workplace violence prevention policy that said the town will investigate "inappropriate" acts, including "illegal carrying of weapons onto town property." But the policy, which refers to federal and state laws and exempts workers who carry guns do their jobs, does not appear to expressly prohibit lawful gun possession.

Merrow was a state rep when the legislature passed the 2003 law handing gun-regulating authority to the state. He said before its passage that different towns took different approaches to guns on public land. The law was supposed to level the field, he said.

But he said it remained unclear whether Tamworth could regulate town workers on town time.

"I don't know if they have a right to tell employees (they can't carry) when they are working," Merrow said.

He noted the policy could lead to conflicts under area mutual aid arrangements, which allow firefighters from multiple towns to respond to calls around the county.

"If you have guys from another town (that allows guns) responding in Tamworth, that could be a problem," he said.

State-level offices have wrangled with the politically-charged issue. The Department of Transportation revised its policy in 2007 banning guns from state trucks, offices and work sites, a spokesman said.

"We've been wrestling with that," said the spokesman, Bill Boynton. "Some of the folks in the North Country had a problem with it."

He said he did not know if the policy, originating in 1999, covered guns prior to the 2007 revisions.

Unloaded guns locked inside employees' personal parked cars are fine, he noted.

"If you take it out and show it on a coffee break, then we've got a problem," Boynton said.

Guns are allowed in the statehouse, but not on the House floor where legislators wrangle and tempers can flare.

Many still see Tamworth as a bastion of uninhibited freedoms in the increasingly regulated Live Free or Die state. The town is known for being among a last handful without land use zoning. Zoning is noted in the 2003 gun law as an exemption allowing towns to regulate guns and gun shops.

Roberts, also a Republican state rep., will have to answer to conservative voters, a group that has sent him warnings in recent weeks.

In an e-mail posted on livefreeandcomply.org, a self-professed pro-liberty Tamworth site, Merrow said he may pull his support for Roberts, who represents his old district.

“What is happening in Tamworth goes against present state law (which I supported) and is clearly illegal,” Merrow wrote, according to the site. “If the town reg. is enforced and/or expanded I will not be able to support or vote for John [Roberts] if he runs for a second term as a state rep. unless he takes a clear stand against the town reg. on guns.”

Some conservative county Republicans, Roberts acknowledged earlier this week, have already threatened to vote him out of office over his support of the county's popular bid to build a \$23.5 million new nursing home.

Livefreeandcomply.org quoted Farnum as saying he backed the policy to protect the town's “financial interests.”

“If a fireman goes into a situation and he’s got a pistol on his side and decides that I’ve got a pistol on my side and that guy’s in my way and I’m gonna tell him to get out of my way and starts pushing him around and the other guy grabs his pistol, guess who’s going to get sued,” Farnum said according to the site.

Jim Bowles, the assistant fire chief, and for years the chief, called the town ban “some silly policy that ought not even be in this state; that’s Massachusetts stuff,” according to the site.

Selectmen, denying a public records request by The Conway Daily Sun, will refuse to release an opinion issued by the town attorney advising on the policy matter, Farnum said.

The attorney, Rick Sager, this week said he sent a note to selectmen months ago but has since forgotten what it said. Sager said he had not been called to attend Thursday's selectmen's meeting.