

Transportation of Firearms in Motor Vehicles

By Bruce Colodny, The California Gun Attorney,
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Transportation of Firearms in Motor Vehicles the - Most Common Legal Trap for California Gun Owners Published by the Law Offices of Bruce Colodny

For over 25 years I have represented gun owners throughout California and one thing hasn't changed. The most frequent telephone call from a gun owner who has recently been arrested or cited involves firearms in a motor vehicle. So you might ask, "How do I legally carry firearms in my car, truck or motor home?"

First, **under California law the firearm must be unloaded** and the legal definition of a loaded firearm depends upon the circumstances. Under most circumstances, **Penal Code §12025(g) applies** and a firearm is considered loaded when there is a live round of ammunition " . . . in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm . . . "

For example, a semi-automatic handgun with an empty firing chamber and a loaded magazine inserted in the magazine well is considered loaded. Second, in addition to being unloaded, the Penal Code provides additional requirements for the legal transportation of handguns in motor vehicles.

Handguns must either be kept locked in the vehicle's trunk, or in a locked container in the vehicle other than the utility or glove compartment. Locked container means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

"Utility compartment" is not defined in the Penal Code; a handgun should not be transported in the center console (even if locked) or in the storage area present behind the rear seat in most "hatchback" type automobiles.

Due to the uncertainty in current California law, I also advise people against the use of the various storage compartments found in today's popular sport utility vehicles. If you drive a pickup truck, should you put an unloaded handgun in a locked, cross-bed toolbox, bolted to the bed behind the cab? As you can see this is a "gray" area, so to be cautious, I advise against this. While most of us would consider a cross-bed toolbox to be the functional equivalent of a vehicle's trunk, remember the Penal Code does provide an exception for vehicle trunks, yet it specifically prohibits the use of, and does not define, a "utility" compartment. At this point many of you are probably thinking, **"My vehicle doesn't have a trunk, so where do I put my unloaded handgun?" I advise that you use a locking hard case.** Locking hard cases for handguns are available at reasonable cost and when used correctly, (i.e. when the handgun is unloaded and the case is locked) are the best method to ensure compliance with California law. Even if your vehicle does have a trunk, I still recommend the use of a locked hard case.

When driving a motor home, it is treated as a motor vehicle and you must transport your firearms as I have outlined above. However, when you are camping in your motor home it may be treated as a residence. The Penal Code prohibition against carrying a loaded firearm provides an exception for a temporary residence or campsite. Unfortunately, the terms temporary residence or campsite are not defined, so this is another "gray" area. If you have entered an established campground and hooked up, this should qualify as a temporary residence or campsite, however, if you have merely pulled into a highway rest stop to sleep for a few hours, this is not likely to qualify. If you are prosecuted for having a loaded firearm in your motor home, the issue of whether you were at a temporary residence or campsite would be a "question of fact" to be

decided by a jury. One final word of caution regarding firearms in motor homes - **public campgrounds may have additional legal restrictions applicable to firearms.**

The Penal Code does contain language providing exceptions to the prohibitions against the concealed carry of unloaded handguns for licensed hunters and fishermen, as well as certain **target range shooters, while engaged in, or going to or from, such activities.** However, I recommend that you not rely upon this language. The continued legal validity of these exceptions may be questionable, and even if ruled valid, it might be very difficult or impossible to prove in court, that you fell within the exception.

The only departure I will make from this discussion of California law is to mention that if you meet certain requirements **under Federal law, you may legally transport a firearm by motor vehicle during interstate travel despite state or local laws to the contrary. You may transport the firearm for any lawful purpose from a place where you may legally possess and carry it, to any other place where you may legally possess and carry it.** In addition, the firearm must be unloaded and neither the firearm nor any ammunition can be readily or directly accessible from the passenger compartment. If the vehicle does not have a compartment separate from the passenger compartment, the firearm or ammunition must be in a locked container other than the glove compartment or console.

Most California arrests for carrying concealed handguns in motor vehicles have resulted only in the filing of misdemeanor charges. However, you can be charged with a felony if your vehicle contains an unlawfully concealed handgun that is not listed in your name in the AFS (the California Automated Firearms System database record created when you purchase a handgun and go through the 10 day waiting period) and there is ammunition for that handgun either in your "immediate possession" or "readily accessible" to you.

Also read my article [Driving Interstate with Firearms. Federal Law Provides "Safe Passage" Through Anti-Gun States](#) Disclaimer: The information contained within is subject to change as a result of future court decisions and/or new legislation. For advice concerning a specific situation you should contact a qualified California attorney.

The California Gun Attorney
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