

LESSON III

Firearms and the Law: Possession, Ownership, and the Use of Deadly Force

Learning Objectives:

As a result of their participation in this lesson, students will be able to:

- Explain key provisions of the law pertaining to the purchase, transfer, and possession of handguns.
 - State key provisions and restrictions within the law pertaining to the use of deadly force.
 - Explain potential criminal and civil legal actions that may be taken against them subsequent to a defensive encounter.
 - Explain where they may find detailed legal information for their specific jurisdiction.
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This lesson must be conducted by a law enforcement officer (LEO) who possesses an intermediate, or higher, Peace Officer Standards and Training (POST) or similar certificate granted by the governing body within the state that controls the standards of police officer training, or an attorney licensed to practice law within the state this course is given and who is familiar with this area of the law. NRA Certified Instructors may conduct this lesson only if they meet the requirements stated above and then only in their capacity as an LEO or attorney, not in their capacity as an NRA Certified Instructor. Instructors are authorized to reproduce this lesson and provide a copy to the LEO or attorney. It is essential to the quality of the lesson that the LEO or attorney be provided with a copy of the lesson plan in advance of the class to allow for proper preparation and planning. Schedule your class and coordinate with the LEO or attorney to allow ample time for questions and answers during and at the end of this lesson.

Length: 1 hour (or more)

Facility: Classroom

Guest Speaker: Law enforcement officer or an attorney

Required Materials:

- *NRA State Laws* brochure (one per student)
- *NRA Interstate Transportation of Firearms* brochure (one per student)

Optional Materials:

- *NRA Firearms Fact Card* (one per student)
- NRA Attorney Referral List (In some states, you may not be allowed to provide the students with the NRA Attorney Referral List. Check with a local attorney as to whether this is permissible under state law.)
- BATF Form 4473
- Handouts

Lesson Content	Instructional Notes
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A. Introduce Lesson

Briefly review the previous lesson.

Slide
III-1
Learning
Objective

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- Explain where they may find detailed legal information for their specific jurisdiction.

Introduce the law enforcement officer or attorney as a guest speaker.

Note to Instructors: The remainder of this lesson is to be conducted by a licensed attorney or qualified law enforcement officer.

Note to Attorney or Law Enforcement Officer: Address and supplement the topics below with any additional statutes, case law, codes, or ordinances that apply within your jurisdiction. Include any pertinent laws that may have come into effect after the publication of this lesson plan.

Allow ample opportunity to answer students' questions.

B. Obtaining a Handgun

Briefly discuss the requirements and restrictions of the topics below.

1. *Federal law*

- Gun Control Act of 1968
- BATF Form 4473
- Brady Law
- High-capacity magazine restrictions
- Lautenberg Amendment (18 U.S.C. § 921 (a) (33))
- Handguns as “assault weapons” (18 U.S.C. § 921 (a) (30))
- Handguns subject to the NFA (26 U.S.C. §§ 5801 et. seq.)
- Other

2. *State and local law*

- Permit to purchase?
- Prohibitions of particular classes of firearms?
- Magazine capacity restrictions?
- Roster of state-approved firearms?
- Waiting period?
- Background check?
- Registration of firearm?
- Fees?
- Other

3. *Intrastate acquisition*

- From federally licensed dealer
- From private individual
- Other

4. *Interstate acquisition*

- From federally licensed dealer
- From private individual
- Bequest or intestate succession
- Other

C. Transferring a Handgun

Briefly discuss requirements and restrictions pertaining to:

- Transferring title to another individual as a gift
- Receiving a firearm through an estate
- Bequeathing a firearm through a will
- Selling a handgun to:
 - An individual
 - A federally licensed dealer
- Lending a handgun to another person
- Other

D. Possession and Transportation of a Handgun

Briefly discuss federal, state, and local requirements and restrictions pertaining to:

1. *Possession*

- Home
- Place of business
- Curtilage
- Temporary residence (hotel, staying overnight as a guest, while camping, etc.)
- Automobile
- Open carry
- Concealed carry
- Public places
- Government offices
- Other

2. *Transportation*

- In vehicle
- On board public mass transit vehicles (buses, trains, subway, etc.)
- In airports and on aircraft
- Going to or from a range or hunting

- Interstate transportation
- Other

E. Use of Deadly Force

Discuss the legal definition, theory, and laws pertaining to:

- Use of reasonable force
- Standard of “The Reasonable Man”
- Use of deadly force
- Ability of attacker
- Presence of an *imminent* threat
- Innocent victim of attack
- Duty to retreat
- Castle Doctrine
- Cessation of threat
- Transferred intent
- Brandishing
- Other

F. Potential Legal Aftermath of Using Justified Deadly Force

Discuss the possible legal aftermath of a justifiable defensive encounter in one’s own home. Be sure to include comments regarding:

1. *Criminal investigation*

Most jurisdictions treat *all* shootings as a *criminal* homicide and will investigate accordingly.

Law-abiding citizens who shoot an attacker in self-defense after their home has been invaded may be arrested, investigated, and prosecuted for second-degree murder or other charges.

2. *Fifth Amendment protections*

Anyone involved in a shooting is under no obligation to talk to the police until they have consulted with their attorney, and they are

entitled to have their attorney present during all questioning.

3. *Civil actions*

Law-abiding citizens who shoot an assailant in self-defense in their own home may be subject to subsequent civil action by their assailant, or their assailant's heirs and estate.

G. Obtaining Additional Legal Information and Choosing an Attorney

1. *Legal information*

Note any local resources where citizens can obtain additional legal information.

2. *Obtaining legal representation*

Note the importance of having an attorney *before* one is needed.

Discuss the importance of selecting an attorney who is knowledgeable in this area of the law and makes it a part of his or her regular practice.

H. Summarize the Presentation

1. *Question and Answer Period*

Ask students what questions they have regarding the subjects covered in this lesson.

2. *Summary*

As a result of your participation in this lesson, you are able to:

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handguns.

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- Explain where they may find detailed legal information for their specific jurisdiction.