



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 18, 2005

The Honorable Don Young
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Young:

Thank you for your letter, dated June 18, 2003, to Admiral James M. Loy, then-Administrator of the Transportation Security Administration (TSA), concerning the applicability of 18 U.S.C. section 926A to persons at airports in New York State who are taking flights to destinations outside of New York. Because section 926A is a provision of the Gun Control Act (GCA), which the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) enforces, TSA forwarded your letter to the Department of Justice for response. We apologize for the delay in responding.

In your letter you explained that local police officers in New York have threatened several individuals at John F. Kennedy International Airport and Albany International Airport with arrest for firearms possession based on strict State laws, and that in at least one case the firearms were confiscated. You explained that: (1) the people carrying the firearms were not prohibited from possessing firearms under Federal law, (2) the people had apparently traveled directly, without any interruption in the transportation, to the airports from other States where they legally could possess firearms, (3) their firearms and ammunition were secured in accordance with all applicable regulations for airline travel, and (4) they were flying to other States or countries where they could legally possess firearms.

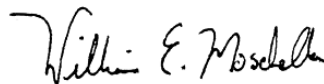
You then asked if TSA agrees that section 926A enables these travelers to possess the firearms legally in the New York airports and if so, if TSA would inform local police and prosecutors about this provision of the GCA. We appreciate your bringing this issue to our attention. The Department of Justice agrees that the provisions of section 926A apply to the situation set forth above assuming: (1) the person is traveling from somewhere he lawfully may possess and carry a firearm; (2) en route to the airport the firearm is unloaded and not accessible from the passenger compartment of his car; (3) the person transports the firearm directly from his

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vehicle to the airline check-in desk without any interruption in the transportation; and (4) while carrying the firearm to the check-in desk it is unloaded and in a locked container. This interpretation reflects the apparent congressional intent in enacting this provision, while allowing State and local law enforcement to continue to enforce their firearms laws aggressively to promote public safety. We will inform the applicable law enforcement authorities of our interpretation of section 926A.

We trust this information responds to your inquiry. If we can be of further assistance, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink that reads "William E. Moschella". The signature is written in a cursive style with a large initial "W" and a distinct "E".

William E. Moschella
Assistant Attorney General