

SCOTUS Strikes Down New York's "Proper Cause" Requirement for Concealed Carry Firearm Permits as Violation of Second & Fourteenth Amendments

What You Need to Know

Ruling today, June 23, 2022, in a case that was closely followed by both gun control advocates and those who would suggest those limits have been pushed too far, the Supreme Court of the United States (SCOTUS) struck down New York State's "proper cause" requirement for a concealed carry permit.

Except in limited circumstances, New York state law prohibits the possession of a firearm without a license. The petitioners in *New York State Rifle & Pistol Association, Inc., v. Bruen*, who are members of the New York State Rifle & Pistol Association, applied individually for a license to carry a firearm pursuant to New York law. In both cases, a licensing officer denied their request to carry for the general purpose of self-defense and restricted the licenses, allowing them to only carry firearms for the specific purpose of hunting and target shooting.

After filing federal civil rights lawsuits that were dismissed by the District Court and affirmed by the Second Circuit Court of Appeals, the Supreme Court - in a 6-3 vote - reversed and remanded the matter, holding that "New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense." The Court repeated the test outlined fourteen years ago in *District of Columbia v. Heller*, which requires courts to assess whether modern firearms regulations are consistent with the Second Amendment's text and historical understanding. The opinion makes clear that restrictions on carrying firearms in "sensitive places" such as "schools and government buildings" are consistent with that historical understanding, but that New York's "attempt to characterize the proper-cause requirement as a 'sensitive-place' law lacks merit because there is no historical basis for New York to effectively declare the island of Manhattan a 'sensitive place' simply because it is crowded and protected generally by the New York City Police Department."

In striking down New York's restrictive concealed carry law, the Supreme Court stressed that the constitutional right to bear arms in public for self-defense is not "a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees." In fact, the opinion states, "the exercise of other constitutional rights does not require individuals to demonstrate to government officers some special need. The Second Amendment right to carry arms in public for self-defense is no different. New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms in public."

It remains unclear what this decision means for the fate of concealed carry laws in other states. New Jersey, for-example, has a "justifiable need" requirement, which requires an applicant to show a "demonstrated urgent necessity based on a special danger" to an applicant's life. In August 2021, a complaint was filed in federal court in New Jersey challenging a decision to deny an application and it was stayed by the district judge

pending the Supreme Court's decision in this case. New Jersey is already considered one of the strictest gun control states in the nation, second only to California, according to the Giffords Law Center.

Please contact the author of this Alert for additional information.



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