



## **New York's "Sensitive Locations" Firearms Restrictions Face Continued Constitutional Scrutiny: Second Circuit Strikes Down Private Property Carry Ban While Upholding Parks Restrictions**

In a significant development in the ongoing battle over New York's post-Bruen firearms regulations, the United States Court of Appeals for the Second Circuit in the case *Christian v. James*, \_\_\_ F.4th \_\_\_ (2d Cir. 2026), has issued a split decision addressing portions of New York's Concealed Carry Improvement Act ("CCIA"). The decision invalidates one of the most controversial provisions of the CCIA - the restriction on carrying firearms on private property open to the public - while upholding the State's prohibition on carrying firearms in public parks.

The ruling continues the judicial reshaping of New York's firearms regulatory framework following the United States Supreme Court's landmark decision in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022), and provides important guidance to business owners, property owners, municipalities, and licensed firearm carriers throughout the State.

### **Background: New York's Response to Bruen**

In *Bruen*, the Supreme Court struck down New York's longstanding "proper cause" requirement for obtaining a concealed carry firearms license, holding that the Second Amendment protects an individual's right to carry a handgun in public for self-defense. The Court further held that firearm regulations must be consistent with the Nation's historical tradition of firearms regulation. This historical-tradition test replaced the balancing tests that many lower courts had previously applied.

In response, the New York Legislature quickly enacted the CCIA in July 2022. The legislation, among many other things, substantially expanded the number of locations designated as "sensitive places" where firearms could not be carried, even by licensed permit holders. Among its most controversial provisions was a rule making it unlawful to carry a firearm onto private property open to the public - such as retail stores, restaurants, offices, and other commercial establishments - unless the property owner affirmatively permitted firearms through signage or express consent.

Critics quickly labeled this provision the "Vampire Rule" because, much like the folklore that a vampire may enter only after being invited inside, the law presumed firearms were prohibited unless the property owner affirmatively invited licensed carriers onto the premises.

## **The Challenge to the CCIA**

Several firearm owners and advocacy organizations challenged the CCIA on a number of different fronts across several separate lawsuits, arguing that many of its restrictions violated the Second Amendment under the historical-tradition framework established in *Bruen*. The plaintiffs contended that New York could not identify historical analogues demonstrating a tradition of broadly prohibiting licensed individuals from carrying firearms onto private property generally open to the public.

The State defended the statute by arguing that private property owners possess the right to exclude firearms and that the law merely established a default rule designed to protect those property rights. The State further argued that certain locations qualify as historically recognized "sensitive places" where government restrictions on firearms have long been accepted.

## **The Second Circuit's Decision**

### **The Private Property Restriction**

The Second Circuit held that New York's default prohibition against carrying firearms on private property open to the public could not withstand constitutional scrutiny under *Bruen*. The court concluded that New York failed to demonstrate a historical tradition supporting such a sweeping restriction on public carry rights.

The court emphasized that the provision would likely have the practical effect of preventing licensed individuals from carrying firearms on a vast amount of privately owned property routinely open to the public, including stores, restaurants, and similar businesses. Because many businesses would neither post permission signs nor adopt formal firearms policies, the court reasoned that the statute effectively transformed large portions of the public sphere into firearm-free zones.

Accordingly, the Second Circuit affirmed the lower court's conclusion that this aspect of the CCIA is unconstitutional. Licensed firearm carriers therefore may not be prosecuted under the invalidated provision merely because a property owner has not affirmatively posted permission for firearms.

### **Public Parks Remain "Sensitive Locations"**

The outcome differed with respect to public parks. The Second Circuit upheld New York's prohibition on carrying firearms in public parks, finding that the State had established sufficient historical support to justify treating parks as sensitive locations under the *Bruen* framework. As a result, public parks remain among the locations where licensed carry may lawfully be restricted under New York law.

## **Practical Impact on Businesses and Property Owners**

The decision has substantial implications for commercial property owners and businesses throughout New York.

Prior to the ruling, a customer carrying a licensed firearm could potentially violate the CCIA simply by entering a business that had not posted affirmative permission for firearms. Following the Second Circuit's decision, that default prohibition is no longer enforceable.

Importantly, however, the ruling does not eliminate a private property owner's authority to prohibit firearms on its premises. Property owners generally retain the ability to establish their own policies restricting firearms and to communicate those restrictions through posted signage, lease provisions, employment policies, or other lawful means. This has long been the rule in other jurisdictions across the country where concealed or open firearms carry has traditionally been more widespread and common. The decision addresses only the State's attempt to impose a blanket statutory default prohibition.

Commercial landlords, retailers, restaurants, office building operators, and employers should therefore consider reviewing their existing firearms policies to ensure they accurately reflect current law and adequately address business-specific risk considerations.

## **What Comes Next?**

The Second Circuit's decision is hardly the final chapter in the litigation over New York's firearm restrictions. Since *Bruen*, numerous challenges have been filed throughout the country concerning what locations may properly be designated as "sensitive places." Courts continue to grapple with the historical-analogue test and its application to modern settings.

For now, the decision represents a significant limitation on New York's effort to broadly restrict licensed firearms on privately owned property open to the public while simultaneously confirming that at least some location-based restrictions - such as those involving public parks - remain constitutionally permissible.

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