



# New York's Ban on Nonresidents' Ability to Carry Firearms Is Challenged

The Firearms Policy Coalition (FPC), a prominent gun rights group, [filed a complaint last week](#) challenging New York state's nonreciprocal law that discriminates against lawful gun owners with licenses to carry issued by other states. The complaint is part of FPC's aggressive "strategic litigation program," called FPC Law, that challenges unconstitutional restraints such as New York's assault on nonresidents' rights under the Second Amendment.

Following the ruling in *Bruen (New York State Rifle & Pistol Association, Inc. v. Bruen)* two years ago, the state was forced to revise its gun control laws from "may issue" to "shall issue." But state lawmakers refused to eliminate the effective ban on nonresidents being granted the same privilege. Consequently, law-abiding gun owners in other states who are legally carrying a firearm run afoul of New York's law.



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## Privileges and Immunities

One of the plaintiffs in FPC's complaint, Ralph Flynn, has a concealed carry permit for Pennsylvania where he lives. Although he meets the criteria for a similar New York permit, he can't even apply for one, as he lives out of state. As a result, says the complaint:

On his many routine trips into New York, Plaintiff Flynn leaves his firearm in Pennsylvania so as not to risk criminal charges, and is thus deprived of his rights under the Second Amendment.

This discriminates against Flynn and the others bringing the complaint. It also violates an obscure but powerful protection in the U.S. Constitution. The Privileges and Immunities Clause in Article IV, Section 2 states: "The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several [other] states."

The complaint made it clear:

This Ban is unconstitutional. Citizens do not lose protection of their rights under the First Amendment's speech or religion clauses when they cross state lines.

Nor do they lose their protections under the Fourth Amendment's prohibition on



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unreasonable searches and seizures.

Likewise, they do not surrender their Second Amendment protected rights when they travel outside their home state.

### **Precedents**

According to *Bruen*, the Second Amendment “presumptively protects” citizens’ rights to carry their firearms in public. And according to *Saenz v. Roe*, decided in 1999:

“The right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in [a] second State” is “expressly protected by the text of the Constitution,” via the Privileges and Immunities Clause.

The FPC complaint also cites *Toomer v. Witsell* (decided in 1948) to show that:

the [Privileges and Immunities] Clause “was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy.” And it expressly bars “discrimination against citizens of other states where there is no substantial reason for the discrimination beyond the mere fact that they are citizens of other States.”

The filing did not cite the Full Faith and Credit Clause (Article IV, Section 1), which also clearly applies to New York’s unconstitutional and discriminatory ban. That says, “Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.”

Currently 29 states have constitutional carry, allowing law-abiding citizens to carry firearms without first getting permission to do so. There are eight other states with laws similar to New York’s odious and discriminatory ban.

### **The Issue Is Reciprocity**

In 2023 Donald Trump promised that, if reelected as president, he would “sign concealed carry reciprocity. Your Second Amendment does not end at the state line.” With FPC leading the way and laying the groundwork, the chances are now excellent that the bill Rep. Thomas Massie (R-Ky.) introduced — the [National Constitutional Carry Act](#) — will arrive on Trump’s desk for signing during the first year of his second administration.

### **Related article:**

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