

FORCED RECIPROCITY

Why your community shouldn't be subject to other states' weak concealed handgun laws.

CONCEALED HANDGUN PERMIT


NAME John F. Doe

CONVICTIONS Multiple Violent Crimes

TRAINING None

REASON TO CARRY None

DANGER TO THE COMMUNITY YES NO



VALID EVERYWHERE?



Legal Community Against Violence

expertise, information & advocacy
to end gun violence



Forced Reciprocity:

Why Your Community Shouldn't Be Subject to Other States' Weak Concealed Handgun Laws

11/11/11

As a result of a three-decade campaign by the gun lobby, state laws regulating who can carry concealed, loaded handguns and where they may carry them are more permissive than ever before.¹ In most states across the country, almost anyone may carry a concealed handgun in public after meeting some minimum permitting requirements. Still, a handful of states impose important restrictions limiting the number of guns in public, while Illinois and the District of Columbia continue to prohibit concealed carrying entirely.

Emboldened by its successes in state legislatures nationwide, the gun lobby has now turned its attention to Congress, where it is pushing legislation to impose national concealed carry "reciprocity."² Currently, each state decides whether or to what extent it will recognize concealed carry permits ("CCW permits") issued by each other state. Importantly, nine states – California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, New York, Oregon, and Rhode Island – do not recognize permits issued by any other states.³

Federal reciprocity would force states that issue CCW permits to recognize every other state's permits, eviscerating state authority to restrict who may carry guns within their borders. As described below, forcing states to recognize the permits issued by other states poses a significant risk to public safety nationwide and tramples the abilities of states to set their own permitting standards to keep their citizens safe.

The Danger of Reciprocity: Not All Concealed Carry Permits Are Created Equal

Forcing states to recognize other states' CCW permits is dangerous because of the significant gap between states with strong permitting laws and states with extremely weak ones. On every major permitting question -- who is prohibited from acquiring a permit, what kind of need an individual must show to get a permit, and what kind of training is required – good state laws would be overruled by bad ones, creating a dangerous "lowest common denominator" standard for CCW permits.

¹ For more information, see LCAV's brochure, [Guns in Public Places](#).

² A federal bill to impose concealed carry reciprocity is currently pending in the U.S. House of Representatives as H.R. 822. A similar measure was defeated in the U.S. Senate in 2009.

³ Massachusetts recognizes some out-of-state CCW permits while the permit holder is engaged in a firearm competition, is attending a firearm collectors' meeting, or is hunting. Mass. Gen. Laws ch. 140, § 131G. Residents of other states may apply to acquire Connecticut CCW permits if they possess permits issued by other states. Conn. Gen. Stat. § 29-28(f). In Oregon, a county sheriff may waive the state's requirement that CCW permit applicants be state residents where the applicant is a resident of a contiguous state who has "a compelling business interest or other legitimate demonstrated need." Or. Rev. Stat. § 166.291(8).

Who May Get CCW Permits?

Some states prohibit a wide variety of convicted criminals from acquiring CCW permits, while others do not. For example:

- In California, individuals may not acquire concealed carry permits if they have been convicted of any of a wide variety of violent or firearm-related misdemeanors, including assault, battery, and unlawful possession of a firearm in a school or government building.⁴
- In Arizona, in contrast, almost anyone who has not been convicted of a felony may acquire a concealed carry permit.⁵

With concealed carry reciprocity, states like California would be forced to allow criminals convicted of violent or firearm-related crimes -- who would be unable to qualify for in-state CCW permits -- to carry concealed, loaded weapons in public.

Do Applicants Have to Show a Need to Carry?

In a majority of states, applicants may receive CCW permits without having shown any legitimate need to carry a weapon in public. Other states afford law enforcement agencies important discretion over the issuance of concealed carry permits. For example:

- In New Jersey, permits may only be issued to individuals who demonstrate a justifiable need to carry a handgun. An applicant for a CCW permit must, under oath and in writing, “demonstrate a special danger to [his or her] life that cannot be avoided” without the issuance of a CCW permit.⁶
- In Ohio, in contrast, law enforcement is required to issue permits to any applicant who meets minimum threshold requirements, regardless of whether the applicant can demonstrate need.⁷

Federal reciprocity would force a state to recognize permits issued to individuals with no need to carry, even if the state requires its own residents to demonstrate some sort of legitimate need.

Requiring an applicant to demonstrate whether he or she has a justified reason to carry a gun is one way that states empower law enforcement with discretion to approve or deny concealed carry permit applications. Discretion matters because even though all states prohibit felons from possessing firearms, criminal convictions don’t tell the whole story about an applicant’s fitness to receive a CCW permit. Discretion helps prevent the issuance of CCW permits to individuals

⁴ Cal. Penal Code § 12021(c)(1). An individual convicted of any of these misdemeanor offenses is prohibited from possessing firearms for ten years following the conviction.

⁵ Ariz. Rev. Stat. § 13-3112(E). Although a permit is not required to carry a concealed weapon within the state, one is required in order for a state resident to carry in states that recognize Arizona’s permits. Ariz. Rev. Stat. § 13-3102.

⁶ N.J. Admin. Code § 13:54-2.4(d)(1).

⁷ Ohio Rev. Code Ann. § 2923.125(D)(1).

who are known in the community to be dangerous but who have not been convicted of disqualifying crimes. Domestic abusers, known alcoholics, and otherwise unstable individuals, for example, should not be allowed to jeopardize public safety by carrying hidden, loaded weapons in public.

What Kind of Training Must Applicants Complete?

While firearms training cannot eliminate the risks attached to enabling private citizens to carry guns in public, a training requirement is an important component of a strong CCW permitting system. States vary widely on the extent to which applicants must undergo firearms training and what that training must entail. For example:

- In Delaware, an applicant for a CCW permit must complete a firearms training course that includes instruction on the safe handling and storage of firearms, conflict resolution, and federal and state laws regarding the possession of firearms and self-defense.⁸ State law requires that training also include live fire shooting exercises on a range, including the expenditure of at least 100 rounds of ammunition.
- In Virginia, in contrast, an individual may complete the required firearms training course online, and may receive a concealed carry permit without ever having even touched a handgun.⁹ In Mississippi, no firearms training whatsoever is required in order to get a CCW permit.¹⁰

Forced reciprocity would compel states that require residents to undergo extensive firearms training to allow untrained or poorly trained individuals from other states to carry concealed weapons within their borders.

Broken Systems Enable Convicted Felons, Domestic Abusers to Acquire CCW Permits

Federally-mandated reciprocity would force each state to rely on the CCW permitting processes of every other state. Unfortunately, investigations in a number of states have exposed broken systems that have enabled numerous dangerous individuals to acquire permits:

- A 2006 investigation in Florida found that CCW permits had been issued to more than 1,400 individuals who had pled guilty or no contest to felonies, 216 individuals with outstanding warrants, 28 people with active domestic violence injunctions against them, and 6 registered sex offenders.¹¹

⁸ Del. Code Ann. tit. 11, §1441(a)(3).

⁹ Va. Code Ann. § 18.2-308(G)(7).

¹⁰ Miss. Code Ann. § 45-9-101.

¹¹ Megan O'Matz & John Maines, *In Florida, It's Easy to Get License to Carry Gun*, South Florida Sun-Sentinel, Jan. 28, 2007, at http://articles.orlandosentinel.com/2007-01-28/news/MGUNS28_1_carry-a-gun-license-to-carry-concealed.

- According to a Los Angeles Times report, Texas issued CCW permits to more than 400 criminals – including rapists and armed robbers –between 1995 and 2000.¹²
- After uncovering cases of domestic abusers and other dangerous individuals who received Indiana CCW permits -- including one who, after receiving a permit, threatened to kill a police officer responding to a domestic disturbance at his home -- the Indianapolis Star described the state’s CCW permitting system as “a system that breaks down in numerous ways, enabling people with troubled and often violent pasts to legally keep a loaded gun in their waistbands.”¹³
- A Tennessee newspaper identified an “often ignored...persistent group of Tennesseans with violent pasts who carry gun permits through loopholes, administrative mistakes and the realities of a court system where charges based on violent incidents can be reduced or eliminated in plea bargains.”¹⁴

Reciprocity Would Pose Serious Law Enforcement Challenges

By increasing the number of individuals carrying concealed weapons in public places, reciprocity would pose substantial complications for law enforcement agencies nationwide. In addition to confronting potentially large numbers of travelers packing heat with little or no training or knowledge of the relevant state firearms laws, law enforcement would be further challenged by the difficulty of verifying that any individual bearing an out-of-state CCW permit is legally allowed to carry a gun in public. Some state permit cards do not contain the permit holder’s photograph, looking more like library cards than official documents authorizing the carrying of a hidden, loaded firearm.

In order to confirm that an individual’s CCW permit *is* authentic, law enforcement would have to contact the issuing agency in the permit holder’s state, because there is no nationwide database for CCW permit holders. This task is easier said than done, as not every state has a statewide database of permit holders. Colorado law, for example, prohibits the creation of a statewide database, while Maine does not require locally-issued permits to be reported to its state system.¹⁵

¹² William C. Rempel & Richard A. Serrano, *Felons Get Concealed Gun Licenses Under Bush’s ‘Tough’ Law*, L.A. Times, Oct. 3, 2000, at <http://articles.latimes.com/2000/oct/03/news/mn-30319>.

¹³ Mark Alesia, Heather Gillers, Tim Evans & Mark Nichols, *Should these Hoosiers have been allowed to carry a gun?*, Indianapolis Star, Oct. 11, 2009, at

<http://www.indystar.com/article/20091011/NEWS14/910110365/Should-these-Hoosiers-been-allowed-carry-gun-public->

¹⁴ Brad Schrade, *Law lets thugs pack heat*, The Tennessean, Aug. 16, 2009, at <http://www.tennessean.com/article/20090816/NEWS0201/111170010/Law-lets-thugs-pack-heat>. See Marc Perrusquia, *Armed and dangerous: Dozens with violent histories received handgun carry permits*, The Commercial Appeal, Mar. 12, 2009, at <http://www.commercialappeal.com/news/2009/mar/12/armed-and-dangerous-tennessee-gun-debate-prone/>.

¹⁵ Colo. Rev. Stat. § 18-12-206(3)(b)(I); Me. Rev. Stat. tit. 25, § 2006.

Reciprocity Violates States' Rights

Federally-mandated reciprocity would prevent states from fulfilling one of their core responsibilities: to keep residents safe. Given the weakness of federal firearms laws in the U.S., state governments bear the obligation to enact laws that limit the opportunities for gun violence. Reciprocity, however, would prevent states from enforcing laws to limit the carrying of concealed weapons against individuals traveling from other states. No state should be forced to rest its public safety on the legislative determinations of other states, especially those states whose legislatures have shown a willingness to adopt dangerous firearms laws at the gun lobby's behest.

The Second Amendment Does Not Guarantee the Right to Carry a Concealed, Loaded Handgun in Public

Despite the gun lobby's rhetoric, the Second Amendment has nothing to do with the carrying of concealed weapons, and does not require states to recognize CCW permits issued by other states. In *District of Columbia v. Heller*, the Supreme Court held for the first time that the Second Amendment guarantees a law-abiding, responsible citizen's right to possess an operable handgun in the home for self-defense.¹⁶ The Court struck down Washington, D.C.'s decades-old ban on handgun possession, and the requirement that firearms in the home be stored unloaded and disassembled or bound by a locking device.

The *Heller* Court emphasized, however, that the right protected is "not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." In fact, the *Heller* Court noted, "Like most rights, the right secured by the Second Amendment is not unlimited... For example, the majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues." *Heller* also stated that laws prohibiting firearm possession in "sensitive places" (including schools and government buildings) were "presumptively lawful regulatory measures."

Post-*Heller* courts that have heard Second Amendment challenges to CCW laws have consistently rejected those challenges, and several courts have held that the Second Amendment does not extend beyond the home.¹⁷ Others have held that, whether the Amendment protects conduct outside the home or not, laws limiting the carrying of concealed weapons in public places do not conflict with the Second Amendment.

More Guns in Public Mean More Gun Violence

Efforts to advance concealed carry reciprocity are premised on the notion that more guns in public mean that everyone will be safer. The reality, however, is that concealed handgun holders create new risks of intentional or accidental shootings. Members of the public who carry guns risk escalating everyday disagreements into public shootouts, especially in places where disputes frequently occur—in bars, at sporting events, or in traffic.

¹⁶ *District of Columbia v. Heller*, 554 U.S. 570 (2008).

¹⁷ For more information about Second Amendment litigation since *Heller*, read LCAV's [Post-Heller Litigation Summary](#).

The dangers of concealed carrying have been repeatedly confirmed by studies of crimes committed by licensed CCW permit holders. According to a Violence Policy Center analysis of news reports, CCW permit holders have killed at least 385 people, including 11 law enforcement officers since May 2007.¹⁸ A study of CCW permit holders in Texas found that the state's permit holders were arrested for weapons-related crimes at a rate 81% higher than the state's general adult population.¹⁹ Texas permit holders were arrested for over 5,300 crimes between January 1996 and September 2001, including murder, rape, kidnapping and aggravated assault.²⁰

Given the real risks that widespread concealed carrying creates, it's not surprising that 56% of Americans in a recent poll oppose laws allowing people to carry concealed, loaded handguns in public places.²¹ Forced reciprocity is strongly opposed by mayors, law enforcement leaders and prosecutors nationwide.²² Permissive concealed carry laws violate our shared expectation that public places will be safe environments where we can be free from guns and gun violence. When state governments take that expectation seriously and enact strong laws to protect our communities, those efforts must not be trumped by an extreme minority's desire to have hidden, loaded guns with them wherever they go.

¹⁸ Violence Policy Center, *Concealed Carry Killers* (June 2011), at <http://www.vpc.org/ccwkillers.htm>.

¹⁹ Violence Policy Center, *License to Kill IV: More Guns, More Crime 5* (June 2002), at <http://www.vpc.org/graphics/ltk4.pdf>.

²⁰ *Id.* at 4.

²¹ Lake Research Partners for the Brady Center to Prevent Gun Violence, *Findings from a National Survey of 600 Registered Voters*, April 26-28, 2010, at http://www.bradycampaign.org/xshare/bcam/legislation/open_carry/polling-overview-slides.ppt.

²² For more information about the widespread opposition to concealed carry reciprocity, visit <http://www.ourlivesourlaws.org>.