



Joint Advisory Regarding the Massachusetts Firearms Licensing System After the Supreme Court's Decision in *New York State Rifle & Pistol Association v. Bruen*

The Attorney General's Office and the Executive Office of Public Safety and Security issue this joint advisory to provide guidance to licensing authorities and law enforcement officials on how the Supreme Court's decision in *Bruen* affects Massachusetts's firearms licensing laws. We are proud to continue to partner with you in implementing and vigorously enforcing Massachusetts's gun safety laws. These laws help keep our state a safe place to live, raise families, work, and visit.

On June 23, 2022, the United States Supreme Court issued its decision in *New York State Rifle & Pistol Association v. Bruen*. The case involved New York's requirement that applicants demonstrate "proper cause" in order to obtain a permit to carry a concealed weapon in most public places. The Court held that New York's proper cause requirement violates the Second and Fourteenth Amendments. Although *Bruen* concerned a New York law, the Court specifically identified the "good reason" provision of a Massachusetts law, G.L. c. 140, § 131(d), as an analogue to New York's proper cause requirement. *Bruen*, slip op. 4-6; *see also id.* at 6 n.2.

Executive Summary

- ***It remains unlawful to carry a firearm in Massachusetts without a license.*** The Supreme Court's decision in *Bruen* did not affect, but instead expressly stated that it was constitutional, for states to require a license to carry a firearm in public.
- ***Licensing authorities should continue to enforce the "prohibited person" and "suitability" provisions of the license-to-carry statute.*** These aspects of the statute are unaffected by *Bruen*.
- ***Licensing authorities should cease enforcement of the "good reason" provision of the license-to-carry statute in response to Bruen.*** Authorities should no longer deny, or impose restrictions on, a license to carry because the applicant lacks a sufficiently good reason to carry a firearm. An applicant who is neither a "prohibited person" or "unsuitable" must be issued an unrestricted license to carry.
- ***Licensing authorities may continue to inquire about the reasons why the applicant wants a license, but may only use that information to assess the prohibited person and suitability requirements of the statute.*** They may not use that information to deny or restrict a license for lack of a sufficiently good reason to carry a firearm.

- ***The FID Card Process Is Unaffected by Bruen.*** Because there is no “good reason” provision for issuance of an FID card, licensing authorities should continue to process and issue FID cards exactly as they did prior to *Bruen*.

Massachusetts License to Carry Eligibility Requirements

In Massachusetts, a person must have a license to carry firearms in order to carry firearms in public. G.L. c. 269, § 10. Massachusetts’s statute governing the issuance of licenses to carry, G.L. c. 140, § 131, contains three central provisions that are discussed below. Only one of them—our “good reason” provision of G.L. c. 140, § 131(d)—is impacted by *Bruen*.

First, when an applicant applies for a license to carry, the licensing authority must determine whether the applicant is a “prohibited person” such as a convicted felon or a person who falls into one of the other categorical exclusions that are specifically listed out in the statute. G.L. c. 140, § 131(d)(i)-(x). If the applicant falls into one of these categories, they must not be issued a license to carry.

Second, if the applicant is not a prohibited person, the licensing authority may deny (or revoke or suspend) a license to carry if the applicant is “unsuitable.” The statute instructs that a “determination of unsuitability shall be based on: (i) reliable and credible information that the applicant or licensee has exhibited or engaged in behavior that suggests that, if issued a license, the applicant or licensee may create a risk to public safety; or (ii) existing factors that suggest that, if issued a license, the applicant or licensee may create a risk to public safety.”

Third, if the applicant is not a prohibited person, and is not unsuitable, the licensing authority may issue a license to carry if it appears that “the applicant has good reason to fear injury to the applicant or the applicant’s property or for any other reason, including the carrying of firearms for use in sport or target practice only, subject to the restrictions expressed or authorized under this section.” Under this third element, if the applicant lacks good reason to fear injury to their person or property, the licensing authority may impose restrictions on the license, limiting the licensee to carrying a firearm for hunting, target shooting, employment, or the like. *Id.*; *see also id.* § 131(a).

Enforcement of License to Carry Eligibility Provisions After Bruen

Massachusetts’s strong gun safety laws have consistently led us to have among the lowest rates of gun violence and gun-related death in the country. Our license-to-carry statute is a critical component of our gun safety laws.

The Supreme Court made clear in *Bruen* that States may, consistent with the Second Amendment, require licenses to carry firearms in public. *Bruen*, slip op. 4-6 & 6 n.2; *id.* (Kavanaugh, J., concurring) (“the Court’s decision does not prohibit States from imposing licensing requirements for carrying a handgun for self-defense”).

Thus, after *Bruen*, **it remains unlawful to carry a firearm in Massachusetts without a license to carry**. Licensing authorities also **can and should continue to enforce the “prohibited person” and the “suitability” elements of the license-to-carry statute** (the first and second elements outlined above). These provisions, which are not affected by *Bruen*, ensure that individuals who are entrusted to carry a firearm, including in a concealed manner in public, do not pose a risk to public safety.

But in light of *Bruen*’s holding that New York’s “proper cause” requirement violates the Second and Fourteenth Amendments, licensing authorities **should no longer enforce the third element above, i.e., the “good reason” aspect of the license-to-carry statute**, under which the applicant must identify a reasons or reasons for obtaining a license, and the licensing authority may restrict the license upon determining that the applicant lacks a sufficiently good reason to fear injury to person or property.¹

This does not mean that a licensing authority is foreclosed from inquiring of the applicant about their reasons for seeking a license to carry.² An answer to any such question may bear on whether an applicant is a prohibited person or is unsuitable under the definition set forth in the statute.³ But an applicant’s answer to such a question may not be used to deny the application because the applicant lacks a sufficiently good reason to request the license, or to restrict the permissible uses of the license based on an appearance that the applicant lacks a sufficiently good reason to fear injury to person or property. Going forward, if an applicant is not a prohibited person and is not unsuitable, the applicant must be issued an unrestricted license to carry.

Bruen also **does not impact the Firearms Identification (“FID”) card application process**. The statute governing eligibility for FID cards, G.L. c. 140, § 129B, does not contain a good reason provision. Licensing authorities should therefore continue to process FID card applications and issue FID cards in the same manner as prior to *Bruen*.

¹ For the same reasons, the Colonel of the Massachusetts State Police will continue issuing temporary licenses to carry under G.L. c. 140, § 131F, but those licenses will no longer be issued with “terms and restrictions.”

² The standard-form LTC application asks about the applicant’s reason for seeking a license. *See* Massachusetts Resident LTC/FID/Machine Gun Application, at p. 3, <https://www.mass.gov/how-to/apply-for-or-renew-a-firearms-license>. This question, by itself, is not problematic under *Bruen*, and licensing authorities may continue to ask it, provided the answer is used only to determine whether the applicant is a prohibited person or is unsuitable, and is not used to deny or impose restrictions on the license for lack of a sufficiently good “reason” to receive a license.

³ As a reminder, any denial of a license based on unsuitability or otherwise must be conveyed with a written notice to the applicant or licensee that explains the specific reasons for the denial. G.L. c. 140, § 131(d), (e).