

New York's Gun Laws Sow Confusion as Nation Rethinks Regulation

A Supreme Court decision overturning century-old New York gun regulations has produced scores of new lawsuits as jurists and citizens sort out what's legal.



By Jonah E. Bromwich

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5 MIN READ

Matthew Seifer, a Long Island firearms safety instructor, is licensed by New York State to teach his students where they can legally carry their guns. It's harder than it sounds.

The U.S. Supreme Court last year overturned century-old New York regulations, ruling that citizens had a broad right to carry concealed weapons. The State Legislature, anticipating more gun-toting, then made certain areas off-limits to firearms, but that new law has already been challenged in court at least 10 times. On March 20, an appeals panel will consider several of the cases at once, extending a dizzying sequence in which judges have tossed out rules, only for higher courts to reinstate them again and again.

Mr. Seifer has been compelled to change his curriculum each time — and some of those whom he has taught have brought guns to locations where they are barred, accidentally violating a law that refuses to stay in one place.

“It's an eye-opening experience for them,” Mr. Seifer said. “People are having a hard time understanding what they need to do.”

New Yorkers are not the only ones who are confused. When the Supreme Court struck down the state's old law, declaring that Americans did not need to justify their right to carry firearms, it created a new national standard for whether gun laws are constitutional. The ruling threatens to permanently upend regulation even as the United States grapples with gun violence, including more than 80 mass shootings in 2023 alone, as well as a drumbeat of other killings and an epidemic of suicide.

In his June opinion, Justice Clarence Thomas wrote that law-abiding citizens have the right “to carry handguns publicly for their self-defense.” He allowed for the possibility of restrictions on that right, but said that any rules would have to be justified with analogies to regulations that were in place in early American history.

Since then, more than 100 federal court decisions have been issued as judges around the country attempt to determine whether new and old laws alike meet the new standard, according to a paper by Jacob Charles, a professor at Pepperdine University's law school who tracks American gun regulation.

Laws have come under scrutiny in more than 25 states, including Texas, where a federal judge wrote that the Supreme Court had made a felon's possession of a firearm “presumptively constitutional.” A judge in West Virginia found that a state law against carrying guns with “altered, obliterated or removed” serial numbers was unconstitutional. And this month, an appeals court that hears cases from Texas, Louisiana and Mississippi struck down a federal law that bars defendants who are under domestic violence restraining orders from carrying firearms.

In the meantime, Americans have continued to test the limits of where they can carry their guns. On Tuesday, the Transportation Security Administration said that it had found a record 6,542 firearms at 262 different airports' checkpoints last year, up from 5,972 in 2021 and 4,432 in 2019. (Unloaded firearms are permitted to be flown as checked baggage if they are in locked containers, but guns cannot be brought through security.)

Several judges have expressed concern about the effects of the Supreme Court's decision. In Indiana, Judge Robert L. Miller wrote in one opinion issued in a gun case that he had “an earnest hope” that he had misunderstood the Supreme Court ruling.

“If not, most of the body of law Congress has developed to protect both public safety and the right to bear arms might well be unconstitutional,” wrote Judge Miller, who was appointed in 1985 by President Ronald Reagan. He added it was an insult to the drafters of the Constitution “to assume they were so shortsighted as to forbid the people, through their elected representatives, from regulating guns in new ways.”

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Any major Supreme Court ruling can cause upheaval as judges reassess what is constitutional. Justice Thomas's opinion was unusual because he wrote that the test that lower courts had been using to assess gun laws had been misguided. He offered the new methodology based on historical comparisons and effectively removed the precedent that had helped guide judges.

"That is an extremely rare thing and obviously extremely disruptive," said David Pucino, the deputy chief counsel of the Giffords Law Center, a gun-safety advocacy organization. Mr. Charles found that the new test had confused judges, who, he wrote, "have reached wildly inconsistent conclusions about what the test requires and how it works in practice."

When judges are confused about constitutionality, the public doesn't stand much of a chance. New York's old law, which required those seeking permits to carry guns in public to show that they had a heightened need to defend themselves, stood for more than 100 years. But Justice Thomas wrote that carrying guns was a constitutional right and thus people did not need to justify it by "demonstrating to government officers some special need."

New York's new law, no longer able to impose that standard, aims to at least keep people from carrying guns in "sensitive locations" that include Times Square, public transit, sports venues, houses of worship and many others — the types of places Mr. Seifer said his students inadvertently carried their weapons. The law also mandated training courses and a "good moral character test" for those applying for permits to carry in public.

The first challenge came little more than a week after the law was passed, and, after some legal hiccups, led a judge to block significant parts of the law. The judge, Glenn T. Suddaby, found in October that the Supreme Court had made it impermissible for New York to bar guns at health care centers, summer camps or zoos, among other places. But the state appealed and the law was reinstated by the U.S. Court of Appeals for the Second Circuit.

Later that month, another judge, John L. Sinatra Jr., blocked the portion of the law that barred firearms in houses of worship because he could not find an "American tradition" that supported it. The state appealed Judge Sinatra's ruling, too. The relevant portions of the law went back into effect.

The following month, the measure was blocked again: Challenge. Ruling. Appeal. Repeat.

"It makes it very hard to predict what to do next," said State Senator Brad Hoylman-Sigal, who has pushed for tougher gun restrictions. "I feel like it's almost a game of Whac-A-Mole."

As of Monday, almost all of New York's law remains in effect; the Second Circuit allowed an exception for public-safety officials, who can carry guns as they keep order at places of worship, in airports and on private buses. (And of course, the law has not prevented all shootings in locations deemed sensitive, as a fatal shooting near Times Square earlier this month made clear.)

Gun rights organizations say that their members are confused and frustrated.

"The only reason we're in any sort of gray area is because New York is trying to ban guns," said Aidan Johnston, the director of federal affairs for Gun Owners of America, a lobbying group. "Our members are angry, they are upset, they are literally oppressed by the state infringing on their rights."

Next month, the appeals court will hear oral arguments about the law in four different challenges that were combined to expedite the cases. But there is no deadline for the appellate court to make a final decision, which means that when the law celebrates its first birthday in July, New Yorkers still may not know what rules are in place.

And then there is the Supreme Court. Last month, the justices twice declined to interfere with the judicial process in New York after being asked to step in by firearms dealers and a group of New Yorkers backed by Gun Owners of America.

But Justice Samuel Alito, joined by Justice Thomas, wrote a statement attached to the decision, encouraging those challenging the law.

He suggested that the Second Circuit move quickly to consider the challenges.

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