

## **“PROPER CAUSE” FOR A “CARRY CONCEALED” PISTOL LICENSE**

The New York State Legislature restricts the types of pistol licenses that the court may issue to NYS Pistol License Holders. Under Penal Law Section 400.00 (1):

1. possession in a dwelling by a householder
2. possession in a place of business by a merchant or storekeeper
3. have and carry concealed while employed as a messenger of a banking institution
4. have and carry concealed by an employee while on duty in a correctional facility
5. have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof.

If your application seeks what is popularly known as a “have and carry concealed” without limitation pistol license, the New York State Legislature authorizes the court to approve it only where it meets the “proper cause” standard. Our state’s highest court, the Court of Appeals, has ruled that the Legislature has expressed an “obvious regulatory purpose of the statute” in enacting the phrase “proper cause” which would be frustrated if courts did not apply it as it was meant to be applied. (O’Brien vs. Keegan, 87 NY2d436 (1996). Appellate court decisions binding upon the pistol licensing officer define “proper cause” for the issuance of a “have an carry concealed” without limitation pistol license as grounds which demonstrate “a special need for self-protection distinguishable from that of the general community or a persons engaged in the same profession. (Matter of Kaplan vs. Braton, 249 AD2d 199 (1<sup>st</sup> Dept. 1998).

Pistol license applicants should be aware that if you apply for a Pistol License for a particular purpose, then it will be limited to that purpose. Also, if you desire a license for self-protection you would be advised to apply for an on-premise license. This is not a carry license and restricts the possession of the handgun to the dwelling or place of business listed in the application. No applicant will be issued an unrestricted carry permit unless he/she is able to demonstrate a special need for the issuance thereof. Self-protection is not a sufficient need for the issuance of a carry concealed license.

A statement of grounds which meet the test of “proper cause”, i.e. “a special need for self-protection distinguishable from that of the general community or of persons engaged in the same profession”, is necessary in order for the licensing officer to apply the law as enacted by the Legislature and interpreted by the higher Courts. As there is limited space available on the application form for a statement of “proper cause”, an “Optional Statement” form has been provided with this information sheet should you wish to supplement your application beyond the form.

Please understand that a court acting as a licensing officer is duty bound to follow the law. Should you Disagree with the “proper cause” requirement, and feel, as many citizens do, that any law abiding citizen has The right to the issuance of a full carry pistol license without making a “proper cause” showing, then you are Encouraged to contact your state legislature and urge the repeal of the “proper cause” requirements.

