

# S.C.O.P.E. Legal Update

## August, 2023

### **Schuyler County, New York Local Law Intro. C of the Year 2023: A Local Law ... Authorizing 12 and 13-Year-Old Licensed Hunters to Hunt Deer with a Firearm or Crossbow During Hunting Season with the Supervision of an Adult Licensed.**

Legal Notice: Notice Of Public Hearing Please Take Notice, that there has been introduced before the Legislature of the County of Schuyler, New York, on July 10, 2023, Local Law Intro. C of the Year 2023 titled "A Local Law To Amend Local Law No. 1 Of The Year 2021, Of A Local Law Authorizing 12 And 13-Year-Old Licensed Hunters To Hunt Deer With A Firearm Or Crossbow During Hunting Season With The Supervision Of An Adult Licensed". NOTICE IS FURTHER GIVEN, that the Schuyler County Legislature will conduct a public hearing on the proposed Local Law at 6:30 p.m. on August 14, 2023, at the Schuyler County Courthouse, 105 Ninth Street, Watkins Glen, NY 14891, at which time all persons interested will be heard.

The body of this Local Law is available for review in the Legislative Office.

<http://www.schuylercounty.us/DocumentCenter/View/4123/Legislative-Resolution-Review-Committee-Meeting-Agenda>

### **Division of Criminal Justice Services, Emergency Rule Making, Firearm Licensing Appeals**

Subject: Firearm Licensing Appeals.

Purpose: Set forth an appeal process for when there is a denial of a fire- arms application, renewal, or recertification, or revocation.

Text of emergency rule: A New Part 6059 is Added

Text of rule and any required statements and analyses may be obtained from: Natasha Harvin-Locklear, Esq., Division of Criminal Justice Ser- vices, 80 South Swan Street, Albany, New York 12210, (518) 457-8413, email: [dcjslegalrulemaking@dcjs.ny.gov](mailto:dcjslegalrulemaking@dcjs.ny.gov)

<https://dos.ny.gov/system/files/documents/2023/07/071923.pdf>

## It's a Feature, not a Bug – Permit Numbers Decline Despite Bruen

Even though the Bruen decision eliminated a key roadblock in the licensing regime, the apparent result is that the process has stalled even more. Although the number of new license applications overall increased significantly in 2022, only 21% (1,550) were reportedly approved. Data on just the six months following the high court ruling (June 24 to December 31, 2022) suggests that “the NYPD saw a surge in new gun permit applications, from just over 2,000 in the same period a year earlier to nearly 5,000. So far, the department has approved 503 of those, or just above 10%, despite its guidelines and state law requiring applications to be decided upon within six months.”

Meissner v. City of New York, a class action lawsuit filed this spring against New York City, the NYPD and its licensing division, and various government officials, alleges unconstitutional and “excessive delay” in the licensing process, and cites the six-month legal deadline in State law, N.Y. Penal Law §400.00 4-b (requiring, generally, that “in each case the licensing officer shall act upon any application for a license pursuant to this section within six months of the date” the application is submitted). The NYPD License Division website acknowledges the statutory deadline, indicating that new license applicants should expect to know the outcome “within approximately six months of receipt of your handgun application, and all required documents/forms.”

Two of the plaintiffs in the Meissner case had applied for firearm licenses with the NYPD licensing division in September 2021 and June 2022, respectively. As of March 2023, according to the complaint, neither had “received their licenses, nor have they received any communication from the NYPD Licensing Division explaining this delay.” The suit alleges that the delay and lack of a decision regarding their applications are not aberrations, but a widespread “deliberate, willful and wanton attempt to deny individuals their rights under the Second and Fourteenth Amendments,” and an established and sanctioned policy of a “complete disregard of the rights of citizens.” Applicants wait “in limbo” for official action, and “cannot appeal or even get in contact with licensing officers.”

<https://www.nraila.org/articles/20230731/its-a-feature-not-a-bug-permit-numbers-decline-despite-bruen>

## **Saratoga Springs cracks down on intoxicated gun carrying with new ordinance**

On Tuesday, the Saratoga Springs City Council voted to implement a new punishment for carrying a weapon while intoxicated. Violators could face a maximum fine of \$200 or up to 15 days in jail.

The City Council has been discussing the new legislation since the officer-involved shooting in 2022, where off-duty Vermont Sheriff's Deputy Vito Caselnova was shot by police officers after allegedly failing to drop his weapon when they arrived in response to an altercation Caselnova was involved in.

The new ordinance will work in conjunction with the concealed carry law that was revised in September of 2022, which prohibits the possession of a firearm in sensitive areas, bars included.

<https://cbs6albany.com/news/local/saratoga-springs-cracks-down-on-intoxicated-gun-carrying-with-new-ordinance>

## **Mayor Evans extends the Rochester gun violence state of emergency. What does the order do?**

The gun violence state of emergency is an order which gives extended powers to the mayor, Police Chief David Smith, and the city's top lawyer Linda Kingsley to address potential problem areas for gun violence. For example, Kingsley said the city has used the order to shut down businesses which are hosting after-hours events, which officials have linked to gun violence. Smith has been granted the authority to shut down entire streets when issues appear on them regularly. He has not yet invoked that power.

Kingsley pointed specifically to a shutdown order issued to Flatlinerz Allstar, a tattoo shop on North Clinton which she said had begun hosting after-hours parties without a permit.

Along with cracking down on house parties and unsanctioned gatherings, Evans said the city will be tightening security around public parks to keep people out after hours. That move follows a Fourth of July shooting at Martin Luther King, Jr. Memorial Park.

City parks close at 10 p.m.

Evans stressed he is not instituting a curfew on city youth.

<https://www.wxxinews.org/local-news/2023-07-10/gun-violence-mayor-malik-evans-rochester-shootings-decline>

## Ever more teen shooters and victims: Blame Heastie's Raise the Age

In January, [a] of NYPD gun data revealed a spike in gun violence involving under-18 victims — with other youngsters pulling the trigger in most cases.

Now that summer has arrived, this troubling trend continues.

NYPD stats show most major crimes are down, including gun violence, but crimes involving teens, such as car thefts and shootings, are rising.

“Youth crime spiked while accountability disappeared,” says Staten Island District Attorney Michael McMahon of the Raise the Age law. Albany DA David Soares warns such reforms’ “most devastating impact on black and brown communities.”

Prior to RTA, it seems guns didn't get into the hands of 15- and 16-year-olds because they faced real prison time if they shot people.

Since RTA passed, New York's gone from young teens holding guns for older gangbangers to kids blasting away on their own.

Assembly Speaker Carl Heastie adamantly defends Raise the Age, arguing that youths must be held to a different standard because their brains are still developing.

<https://nypost.com/2023/07/05/ever-more-teen-shooters-and-victims-blame-heasties-raise-the-age/>

### **Gun-toting gangs of Children are terrorizing America - because soft new Democrat laws let them get away with murder. And we all pay the devastating price (Editorial)**

The 2017 'Raise the Age' legislation hiked the age of criminal responsibility to 18-years-old and narrowed the thresholds for imposing any criminal liability for teen crime offenders to absurdist levels.

The law's standards are so narrow that a 17-year-old arrested in Schenectady, New York last year, while reportedly packing a loaded illegal firearm—in a car full of guns, drugs, and ski masks—still avoided criminal prosecution, even though the teen had already been charged that year with other illegal firearm felonies and with kidnapping and beating a young, female witnesses.

Is it any shock then that nearly all misdemeanors, more than 8 in 10 felonies and more than 7 in 10 violent felonies committed by New York teens go to Family Court. Here violent adolescents are given a slap on the wrist and sent home, feeling invincible and ready for more consequence-less mayhem.

Are we helping kids with this 'law shucks' attitude toward antisocial behavior?

The number of juvenile shooting victims in New York City has more than doubled between 2017 and 2022, meaning an additional 78 kids were plugged.

A full 10 percent of victims shot last year were under 18. In the same period, the number of juvenile shooters rose a stomach-turning 156 percent, accompanied by 62 percent jump in gun arrests for that group.

And adults have no right to be surprised by these horrifying results.

When New York's 2020 bail reform laws curtailed judges from setting bail or remanding adult defendants (even repeat offenders) for certain crimes, more defendants were released onto the streets pending trial and committed more crime.

Among this group, 62 percent were re-arrested while awaiting trial for residential burglaries, 79 percent for petit larceny, and 70 percent for commercial burglaries, grand larceny, and third-degree robbery, which involves using force.

What's true for adults is exponentially more so for kids, who, comparatively, have terrible judgment, impulse control, and capacity for empathy. Without proper boundaries and rule enforcement, they behave monstrously.

<https://www.dailymail.co.uk/news/article-12311995/HANNAH-E-MEYERS-Gun-toting-gangs-CHILDREN-terrorizing-America-soft-new-Democrat-laws-let-away-murder-pay-devastating-price.html>

### **Citing antisemitism, Jewish charity CEO challenges NY's concealed carry law in court**

The CEO of Kars4Kids, the Jewish charity with a catchy advertising jingle, is challenging New York state's concealed carry law in court — claiming that it leaves children vulnerable to antisemitic attacks.

Eliyohu Mintz, who heads Kars4Kids, is also the CEO of Oorah, a Jewish outreach nonprofit funded by Kars4Kids that runs a summer camp in upstate New York. In a federal lawsuit filed Friday, Mintz and a camp administrator, Eric Schwartz, say the law exposes the camp to antisemitic attack because it bans private citizens from carrying guns in places where religious activities are conducted.

The suit is one of several challenging the Concealed Carry Improvement Act, which was passed last year after the Supreme Court struck down an earlier firearms ban. The act limits where New Yorkers can carry firearms, including a ban on carrying in "sensitive locations" such as schools, medical facilities or houses of worship, among others. Another

lawsuit has been brought by two pastors seeking to carry weapons in church, and in May, lawmakers amended the act to allow pastors and designated security personnel to carry weapons in houses of worship.

The lawyer who filed the lawsuit for Mintz and Schwartz, Amy Bellatoni, told the Jewish Telegraphic Agency in an email that the amendment would not apply to her clients.

Schwartz,...said in a declaration that he and his fellow staff members are “easily recognizable and identifiable to the public” as Orthodox Jews. He said that they “have been openly targeted over the years for discriminatory acts including yelling ethnic and hateful slurs and throwing objects, including Molotov cocktails.”

<https://www.timesofisrael.com/citing-antisemitism-jewish-charity-ceo-challenges-nys-concealed-carry-law-in-court/>

### **New lawsuit targets social media sites, gun retailers for roles in Tops mass shooting**

A new civil lawsuit filed Wednesday by families of the Tops mass shooting victims targets a number of social media companies, gun retailers, a body armor manufacturer and the mass shooter’s parents.

The complaint affirms that the defendants enabled the mass shooting to be carried out by self-proclaimed white supremacist Payton Gendron. The act of violence killed 10 people and injured three others, 11 of whom were Black, on May 14 of last year.

Attorneys say they dug into a number of online digital platforms, with those named in the lawsuit being Meta (Facebook and Instagram), Reddit, Amazon and Twitch, Google, Alphabet, YouTube, Discord, Snap and 4Chan. The lawsuit references that Gendron was “radicalized” by these social media platforms, directly leading to him carrying out the attack.

The other defendants named in the lawsuit all connect to how Gendron obtained the weapons, attachments and body armor he used to carry out the attack. These include RMA Armament, Vintage Firearms, Jimay’s Flea Market and MEAN Arms, as well as his parents.

The lawsuit states Gendron purchased body armor from RMA Armament, the rifle used to carry out the shooting at Vintage Firearms (that featured a MEAN Arms MA Lock) and a high-capacity magazine from Jimay’s Flea Market. It then alludes to Gendron’s parents as enablers of the attack, referencing that they bought their son a rifle when he was 16 years old and also that they should have known about the attack as it was planned in their home.

<https://www.rochesterfirst.com/new-york-state/new-lawsUIT-targets-social-media-sites-gun-retailers-for-roles-in-tops-mass-shooting/>

### **Hochul warns of possible upending of 'Red Flag' rules as orders soar**

Gov. Kathy Hochul expressed concern the state's burgeoning "Red Flag Law" could be upended by the U.S. Supreme Court, an issue she framed as a threat to survivors of domestic violence as thousands of New Yorkers have been temporarily barred from possessing a firearm over the last year.

Hochul raised concerns about *United States v. Rahimi*, a case the Supreme Court recently decided to review. A federal appeals court found the government cannot prevent someone with a domestic violence order of protection against them from possessing a firearm, ruling in favor of their Second Amendment rights.

The state's Red Flag Law, which allows a judge to issue a temporary extreme risk protection order to prevent someone from possessing a firearm, are often used in domestic violence cases, Hochul said. The use of the statute has exploded over the last year after the law was amended last year to mandate police, health care providers and certain educators file a petition when they believe an individual is at risk of serious harm to themselves or others.

In the year since that change was made, judges have issued nearly 5,000 temporary extreme risk orders of protection, according to a review of state data, which is more than four times the number of temporary orders issued in the first three years under the law.

The choice by Hochul to broaden the use of the extreme risk protection orders follows last year's Supreme Court decision, in *New York State Rifle & Pistol Association v. Bruen*. The landmark case tore down the state's century-old concealed carry laws.

[https://www.oleantimesherald.com/news/hochul-warns-of-possible-upending-of-red-flag-rules-as-orders-soar/article\\_564e9ad8-21b3-11ee-94c2-b3fcbb361668.html](https://www.oleantimesherald.com/news/hochul-warns-of-possible-upending-of-red-flag-rules-as-orders-soar/article_564e9ad8-21b3-11ee-94c2-b3fcbb361668.html)

### **Justices take up major Second Amendment dispute**

The Supreme Court will hear oral argument next fall in a major gun-rights case challenging the constitutionality of a federal ban on the possession of guns by individuals who are subject to domestic violence restraining orders. The Biden administration had asked the justices to weigh in after a federal appeals court struck down the ban earlier this year, and on Friday the justices agreed to do so.

The challenge to the gun-possession ban comes to the court in the case of Zackey Rahimi, a Texas man who during a 2019 argument in a parking lot knocked his girlfriend to the

ground and dragged her back to his car, causing her to hit her head on the car's dashboard. In a telephone call after the incident, Rahimi told the woman that he would shoot her if she told anyone about the assault.

The conservative U.S. Court of Appeals for the 5th Circuit initially upheld his conviction. But after the Supreme Court's June 2022 decision in *New York State Rifle & Pistol Association v. Bruen*, striking down New York's handgun-licensing scheme, the court of appeals issued a new opinion that threw out Rahimi's conviction. Despite the restraining order, the court reasoned, Rahimi was still retained his right to bear arms under the Second Amendment unless, as the Supreme Court explained in *Bruen*, the federal government could show that the ban was consistent with the country's historical tradition of regulating firearms. Because it was not, the court of appeals concluded, the law is unconstitutional.

The Biden administration came quickly to the Supreme Court, asking the justices to grant review and reverse the 5th Circuit's ruling. Emphasizing that "[g]overnments have long disarmed individuals who pose a threat to the safety of others," and that the law "falls comfortably within that tradition," U.S. Solicitor General Elizabeth Prelogar told the justices that allowing the 5th Circuit's decision to stand would "threaten[] grave harms for victims of domestic violence."

<https://www.scotusblog.com/2023/06/justices-take-up-major-second-amendment-dispute/>

### **Justice Department 'weaponized' bipartisan gun safety law to 'illegally fund' red flag laws**

In 2022, Congress passed, and President Biden signed, the Bipartisan Safer Communities Act in response to mass shootings in Buffalo, New York, and Uvalde, Texas, that left dozens dead. The law incentivizes states to pass extreme risk protection laws, also called "red flag" laws, that allow members of the public and law enforcement to petition courts for a civil order to temporarily suspend a person's access to firearms for fear that person might do violence. After gun rights advocates raised Second Amendment concerns, Congress included requirements that states applying for federal grants to implement red flag laws include certain due process protections.

But Sen. Roger Marshall, R-Kan., and Rep. Alex Mooney, R-W.Va., say in a letter to Attorney General Merrick Garland that the Justice Department has handed federal funds to states that did not meet the minimum due process criteria.

The Republicans...say Congress made explicitly clear that the Bipartisan Safer Communities Act was not intended to require or incentivize states to adopt red flag laws. The law also prohibits federal funding from being used to lobby state legislatures to pass any legislation or law.



"Disturbingly, several states and territories without 'red flag' laws on the books have been granted funding for the creation and implementation of such programs – including Arizona, Arkansas, Kansas, Minnesota and West Virginia," the Republicans wrote. "It appears that this Bipartisan Safer Communities Act grant program is being used by the federal government to influence states into enacting 'red flag' gun confiscation laws."

The lawmakers called it a "federal bribery program" and demanded that the DOJ explain the lawful purpose of its federal grants to states without red flag laws.

<https://www.foxnews.com/politics/justice-department-weaponized-bipartisan-gun-safety-law-illegally-fund-red-flag-laws-republicans-say>

### **Biden admin confirms it's withholding key funds for schools with hunting courses: 'This is shameful'**

The Biden administration confirmed ... that it is withholding critical funds for elementary and secondary schools nationwide with hunting or archery programs in their curriculum.

The Department of Education explained in a statement that its funding decisions were based on the plain text interpretation of the Bipartisan Safer Communities Act (BSCA), which Congress passed and President Biden signed last year after a string of mass shootings. The agency's interpretation means funding for shooting sport activities earmarked under the Elementary and Secondary Education Act (ESEA) of 1965 will be blocked across the country.

Overall, the administration's decision to withhold funds for such programs may impact thousands of schools and millions of American students.

[https://www.msn.com/en-us/news/politics/biden-admin-confirms-it-s-withholding-key-funds-for-schools-with-hunting-courses-this-is-shameful/ar-AA1eAUEV?ocid=mailsignout&pc=U591&cvid=16721ceb07d345daa6c4d289c582c58e&ei=61&fbclid=IwAR2BPuBGHo3bo8pQP8\\_G7FOze8ZTeVtqtK0-zkZ0m\\_6cOpB0rIDY9kvRwVs](https://www.msn.com/en-us/news/politics/biden-admin-confirms-it-s-withholding-key-funds-for-schools-with-hunting-courses-this-is-shameful/ar-AA1eAUEV?ocid=mailsignout&pc=U591&cvid=16721ceb07d345daa6c4d289c582c58e&ei=61&fbclid=IwAR2BPuBGHo3bo8pQP8_G7FOze8ZTeVtqtK0-zkZ0m_6cOpB0rIDY9kvRwVs)

### **Gillibrand's Legislation Takes Aim at Ghost Guns**

New York Senator Kirsten Gillibrand (D- NY) is sponsoring legislation targeting ghost guns.

The legislation would ban the online distribution of blueprints for 3D printing of guns in an attempt to help stop the spread of so-called "ghost guns". Ghost guns are homemade guns that have no serial numbers, making them essentially untraceable and hard to regulate. Senator Gillibrand said pretty much anyone like felons, domestic abusers, even minors can go online and get these blueprints and instruction manuals without a

background check. Gillibrand said they're seeing a rise in the number of ghost guns in New York state as well as across the nation.

<https://www.weny.com/story/49263487/gillibrands-legislation-takes-aim-at-ghost-guns>

### **Federal Court Delivers Blow to ATF's Ban on 'Ghost Guns'**

Texas-based United States District Court Judge Reed O'Connor on Friday ruled that the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) erred by saying that unfinished gun parts are guns and can, therefore, be regulated. His ruling said that parts aren't guns under federal law.

"This case presents the question of whether the federal government may lawfully regulate partially manufactured firearm components, related firearm products, and other tools and materials in keeping with the Gun Control Act of 1968," wrote O'Connor in his order (pdf). "Because the court concludes that the government cannot regulate those items without violating federal law, the court holds that the government's recently enacted final rule ... is unlawful agency action taken in excess of the ATF's statutory jurisdiction. On this basis, the court vacates the final rule."

His order also stated that the ATF is trying to regulate a gun component as a "frame or receiver," even after the agency determined "the component in question is not a frame or receiver." Elaborating, he wrote: "It may not. Logic dictates that a part cannot be both not yet a receiver and receiver at the same time. Defendants' reliance on that logical contradiction is fatal to their argument."

[https://www.ntd.com/federal-court-delivers-blow-to-atfs-ban-ghost-guns\\_928653.html](https://www.ntd.com/federal-court-delivers-blow-to-atfs-ban-ghost-guns_928653.html)

### **US Supreme Court's Alito temporarily blocks 'ghost gun' ruling**

U.S. Supreme Court Justice Samuel Alito on Friday temporarily blocked a lower court's decision to strike down a regulation aimed at reining in privately made firearms known as "ghost guns" that are difficult for law enforcement to trace.

Alito put the case on hold for one week, until Aug. 4, and gave the rule's challengers until Aug. 2 to respond to the administration's request.

The administration asked the justices to halt a Texas-based federal judge's nationwide ruling that invalidated a Justice Department restriction on the sale of ghost gun kits while it appeals to the New Orleans-based 5th U.S. Circuit Court of Appeals.

<https://www.reuters.com/legal/us-supreme-courts-alito-temporarily-blocks-ghost-gun-ruling-2023-07-28/>

## Appeals court casts doubt on Biden administration rule to curb use of handgun stabilizing braces

A Biden administration rule requiring registration of stabilizing braces on handguns is unlikely to survive a legal challenge, a federal appeals court panel said Tuesday as it extended an order allowing a gun dealer and others challenging the regulation to keep owning, buying and selling the devices without registering them.

The ruling from the 5th U.S. Circuit Court of Appeals in New Orleans sends the case back to a federal judge in Texas who will consider whether to block enforcement nationwide.

Stabilizing braces attach to the back of a handgun, lengthening it while strapping to the arm. Advocates say the attachments make handguns safer and more accurate.

<https://www.ny1.com/nyc/all-boroughs/ap-top-news/2023/08/01/appeals-court-casts-doubt-on-biden-administration-rule-to-curb-use-of-handgun-stabilizing-braces>

## Federal Judge Upholds San Jose Gun Ownership Tax, Insurance Mandate

San Jose's first-of-its-kind gun ownership insurance mandate doesn't violate the Second Amendment, according to a federal judge.

U.S. District Judge Beth Freeman ruled against the National Association for Gun Rights (NAGR) last Thursday. She found the California city's requirement that gun owners pay a fee to a yet-to-be-determined anti-gun-violence charity group and obtain insurance is constitutional. She ruled the regulations stand up against the Supreme Court's new history-based test for gun laws and did not infringe on residents' rights.

"The City has demonstrated that the Insurance Requirement is consistent with the Nation's historical traditions," Judge Freeman wrote in *NAGR v. San Jose*. "Although the Insurance Regulation is not a 'dead ringer' for 19th century surety laws, the other similarities between the two laws would render the Ordinance 'analogous enough to pass constitutional muster.'

The ruling is a win for gun-control advocates who are looking for ways to restrict firearms even in the wake of 2022's *New York State Rifle and Pistol Association v. Bruen*. It allows the city to continue to attempt to implement its unique requirements, which have been scaled back significantly from when they were first introduced. The decision also boosts the odds that lawmakers in states, such as New Jersey, who've sought to copy the restrictions might survive court challenges as well.

Judge Freeman, an Obama appointee, also ruled the gun ownership fee was not a tax for the purpose of California law and did not need voter approval because it goes to a non-profit rather than the government.

<https://thereload.com/federal-judge-upholds-san-jose-gun-ownership-tax-insurance-mandate/>

### **Appeals court upholds University of Michigan's campus gun ban**

The Michigan Court of Appeals has upheld the University of Michigan's campus gun ban, ruling that because the university is considered a school it is exempt from Second Amendment mandates and able to develop its own firearms policies.

The decision — written by appellate Judge Mark Cavanagh and joined by Judge Deborah Servitto — marks the second time a Court of Appeals panel has ruled in the case filed by Ann Arbor resident Joshua Wade. A third judge on the panel, Judge David Sawyer, retired in December and did not weigh in on the ultimate decision.

The ordinance Wade challenged at UM banned possession of a firearm, knife, sword or machete on property owned or leased by the University of Michigan, even if that individual has a concealed carry permit. An exception was made for law enforcement officers.

Wade filed suit after his request for a waiver was denied, arguing the policy violated his Second Amendment rights and was preempted by a state law that barred local governments from passing limitations on firearms.

The university argued the Second Amendment didn't apply to "sensitive places" like schools and that the university wasn't bound by the state law barring local firearms ordinances.

The Court of Appeals ruled Thursday that universities "at all potentially relevant time periods" are schools and considered sensitive places.

[https://thebrunswicknews.com/news/national\\_news/appeals-court-upholds-university-of-michigans-campus-gun-ban/article\\_49ec793b-34a7-53a8-b8f0-84604ba495da.html](https://thebrunswicknews.com/news/national_news/appeals-court-upholds-university-of-michigans-campus-gun-ban/article_49ec793b-34a7-53a8-b8f0-84604ba495da.html)

### **11th Circuit Will Review En Banc Whether Second Amendment Protects 18-to-20-Year-Olds**

the Eleventh Circuit granted en banc rehearing on this issue in *NRA v. Bondi*. The bottom line is that the state of Minnesota was enjoined "from denying a permit to carry a pistol from an otherwise-qualified applicant who is at least 18 years old." The state's motion to stay the injunction is pending at the time of this writing. As cases from different courts percolate, the ultimate decision will come from the Supreme Court.

<https://reason.com/volokh/2023/07/15/11th-circuit-will-review-en-banc-whether-second-amendment-protects-18-to-20-year-olds/>

### **Twenty states object as Delaware pushes gun ban despite Supreme Court Bruen ruling**

On July 10, a coalition of 20 states filed an amicus brief supporting the Delaware State Sportsmen's Association in its lawsuit against the Delaware Department of Safety and Homeland Security. The coalition argues two Delaware bills violate the Constitution and that lower courts that upheld the law failed to read the Supreme Court's 2022 Bruen v. New York Rifle & Pistol Association ruling properly, which held gun laws must conform with the nation's historical tradition of firearms regulation.

U.S. District Court Judge Richard Andrews in March denied the DSSA and other groups a preliminary injunction blocking Delaware from enforcing HB 450, which bans certain pistols, semiautomatic rifles, and ammunition magazines, arguing that they would not likely succeed on the merits.

Andrews, an appointee of former President Barack Obama, said Delaware's ban was consistent with historic regulations on weapons.

But gun rights groups involved in the challenge have appealed to a three-judge panel on the U.S. Court of Appeals for the 3rd Circuit, arguing the laws subvert the rights of law-abiding gun owners by "prohibiting Delawareans from possessing a whole class of firearms — semiautomatic pistols and long guns as well as ammunition magazines capable of holding over 17 rounds of ammunition."

The coalition of states, led by Montana Attorney General Austin Knudsen, also says Andrews's analysis "falls short of any 'nuanced' inquiry Bruen requires," according to their 34-page brief.

The Democratic-controlled state legislature passed the firearms restrictions in response to several mass shootings last year, including the Uvalde, Texas, shooting that saw 19 children and two adults killed at an elementary school.

<https://www.washingtonexaminer.com/restoring-america/fairness-justice/20-states-object-delaware-gun-ban-despite-supreme-court-bruen>

### **Range owner warns Massachusetts gun control bill will turn citizens into criminals**

The Act of Modernizing Firearms Laws would mandate registration for every gun and its accompanying feeding system, bar citizens under 21 from buying or carrying a rifle or semi-automatic shotgun, and ban the carrying of firearms on private property without explicit permission, according to a report.

Also banned in the extensive 140-page legislation are human silhouette targets and the possession of pepper spray/mace for those under 18.

Furthermore, tasers or stun guns would be defined as firearms, and the state's red flag laws would be expanded to include school administrators, select medical professionals, and employers, the report noted.

"What the gun owners in this state need to know is that if this law passes, we are all in jeopardy of becoming criminals," Tom Cheffro, an Everett native and owner of Boston Firearms, said.

"This act of modernizing firearms was not modernizing anything. ... It's just complicating everything to an already complicated firearms law system."

<https://www.washingtonexaminer.com/news/range-owner-gun-control-bill-turn-citizens-into-criminals>

### **A lawsuit challenges a new gun ban on Hawaii beaches**

Beginning Saturday, a new law prohibits carrying a firearm on the sand — and in other places, including banks, bars and restaurants that serve alcohol.

Three Maui residents are suing to block the measure, arguing that Hawaii — which has long had some of the strictest gun laws in the nation and some of the lowest rates of gun violence — is going too far with its wide-ranging ban.

Residents carrying guns in public is new to Hawaii. Before a U.S. Supreme Court ruling last year expanded gun rights nationwide, Hawaii's county police chiefs made it virtually impossible to carry a gun by rarely issuing permits to do so — either for open carry or concealed carry. Gun owners were only allowed to keep firearms in their homes or to transport them — unloaded and locked up — to shooting ranges, hunting areas and places such as repair shops.

The high court's ruling found that people in the U.S. have a right to carry firearms for self-defense. It prompted the state to retool its gun laws, with Democratic Gov. Josh Green signing legislation in early June to allow more people to carry concealed firearms.

At the same time, however, the new law prohibits people from taking guns to a wide range of places, including beaches, hospitals, stadiums, bars and movie theaters. Private businesses allowing guns must post a sign to that effect.

<https://abcnews.go.com/US/wireStory/sun-guns-lawsuit-challenges-new-gun-ban-hawaii-100546650>

## Law Profs Tout Qualified Immunity for Unconstitutional Gun Restrictions

"Qualified immunity is a doctrine that protects government officials from liability for allegedly violating an individual's constitutional rights, when the officials' actions do not clearly violate the law," they note. "The theory is that state officials should not be monetarily liable unless a 'reasonable person would have known' that their conduct was unconstitutional."

Some people might argue that qualified immunity is a bad thing. "Something has gone seriously wrong in our criminal justice system when the federal courts are running this kind of interference on behalf of blatantly unconstitutional police actions," Reason's Damon Root wrote in 2020 on his way to calling for the doctrine to be abolished. But Krishnamurthi and Salib see opportunity.

"Even if Bruen is eventually read to reject most or all new laws specifically aimed at regulating guns, states may retain significant power to decide who is and is not armed," they insist. "That power will be effectuated via state law enforcement officers, pursuant to state law or traditional police powers, and enacted via case-by-case disarmaments. Under current qualified immunity doctrine, such disarmaments would enjoy broad protection against monetary liability."

Basically, they propose that police seize guns from whomever their Spidey senses tell them ought not be allowed to own firearms. Those on the receiving end of gun grabs could pursue expensive litigation that might win them back their property but is otherwise unlikely to result in consequences for misbehaving officers, even when the courts conclude that the Second Amendment has been violated.

<https://reason.com/2023/08/02/law-profs-tout-qualified-immunity-for-unconstitutional-gun-restrictions/>

## The Ranks of Gun Owners Grow, and So Does Their Resistance to Scrutiny

Believe it or not, people are reluctant to tell total strangers about their potentially controversial activities. In particular, Rutgers University researchers say, gun ownership is something many Americans decline to reveal when questioned by people they don't know. That's especially true of women and minorities newly among the ranks of gun owners amidst the chaos of recent years. Academics are unhappy that privacy-minded respondents impair their understanding of the world we live in, but such evasion is an inevitable consequence of decades of fiery debate and punitive gun policies.

"An estimated 2.9% of U.S. adults (7.5 million) became new gun owners from 1 January 2019 to 26 April 2021. Most (5.4 million) had lived in homes without guns," according to a separate study published last year in the Annals of Internal Medicine. "Approximately half of all new gun owners were female (50% in 2019 and 47% in 2020 to 2021), 20% were Black (21% in 2019 and in 2020–2021), and 20% were Hispanic (20% in 2019 and 19% in 2020–2021)."

With gun ownership becoming increasingly common beyond the traditional ranks of white suburban-to-rural men, there are big implications for politics and policy. New gun owners will certainly resist proposals to strip them of self-defense tools they acquired out of necessity. They're also likely to resent restrictive policies that urban, left-of-center politicians promote to torment gun owners once assumed to be safe targets, but which apply to anybody who owns firearms no matter where they live and vote. Basically, the gun-ownership landscape is growing and changing, but new owners are even more reticent than established ones about revealing their existence to researchers and government officials.

<https://reason.com/2023/07/05/the-ranks-of-gun-owners-grow-and-so-does-their-resistance-to-scrutiny/>

### **Busting the Durable Myth that US Self-Defense Law Uniquely Fails to Protect Human Life**

US self-defense law is, in fact, very much within the international mainstream and, in many respects, is significantly more protective of attackers and more carefully calibrated to reduce overall societal violence than the self-defense laws of many other nations.

[https://www.researchgate.net/publication/372412618\\_Busting\\_the\\_Durable\\_Myth\\_that\\_US\\_Self-Defense\\_Law\\_Uniquely\\_Fails\\_to\\_Protect\\_Human\\_Life](https://www.researchgate.net/publication/372412618_Busting_the_Durable_Myth_that_US_Self-Defense_Law_Uniquely_Fails_to_Protect_Human_Life)

### **How Gun-Hating Media Use Slanted Surveys To Manipulate Public Opinion**

Organizations such as NPR and PBS spend our tax dollars on surveys that paint gun control in the best possible light. But clearly, small changes in the questions dramatically change the polling results. That isn't just true in this case — it also goes for surveys on specific gun control proposals such as red-flag laws and so-called universal background checks.

In reality, so much of the supposed support for gun control is simply a mirage.

<https://thefederalist.com/2023/07/20/how-gun-hating-media-use-slanted-surveys-to-manipulate-public-opinion/>