

S.C.O.P.E. Legal Update, February, 2021

Microstamping returns

Microstamping has been reintroduced to the Senate as S-4116.

No Assembly companion has been introduced yet.

<http://www.gunpoliticsny.com/?p=23303>

From Gov. Cuomo's State of the State:

Governor Cuomo proposes the creation of a domestic violence misdemeanor label to close [what he terms] the domestic violence gun-purchasing loophole.

<https://www.governor.ny.gov/news/governor-cuomo-announces-comprehensive-package-combat-domestic-violence-and-gender-based>

Bill Filed In New York Would Make It A Felony To Buy More Than 20 Rounds Of Ammo Every 120 Days

Senate bill S. 314 would make it a Class E felony to buy more than two times your gun's magazine capacity every 120 days for all 'assault weapons.'

New York's 'high capacity' mag ban means that nobody owns a magazine with more than 10 rounds.

<https://www.secondamendmentdaily.com/2021/01/breaking-bill-filed-in-new-york-would-make-it-a-felony-to-buy-more-than-20-rounds-of-ammo-every-120days/>

Proposed New York bill would ban body armor, like bulletproof vests, for regular citizens.

A New York State lawmaker introduced a bill that would ban the purchase of a body vest by anyone not affiliated with law enforcement and force residents who already own a body vest but are ineligible to own it relinquish theirs to the authorities within 15 days of the law's implementation.

Under the bill's ...rules, any ineligible New Yorker caught with a body vest would face a Class A misdemeanor the first time and a Class E felony the second. Current ineligible owners would meanwhile be granted 15 days to give up their armor.

<https://www.bizpacreview.com/2021/01/10/proposed-new-york-bill-would-ban-body-armor-like-bulletproof-vests-for-regular-citizens-let-that-sink-in-1014605/>
NRA Takes Concealed Carry Case to the Supreme Court

The National Rifle Association's Institute for Legislative Action (NRA-ILA) has partnered with the New York State Rifle and Pistol Association (NYSRPA) today to ask the Supreme Court to hear a challenge to New York's restrictive process for issuing concealed carry licenses....

The case, *NYSRPA v. Corlett*, challenges New York's requirement for applicants to demonstrate "proper cause" to carry a firearm. While New York routinely employs this arbitrary standard to deny carry permits, the NRA argues that this right should be available to "all 'the people'" instead of a "subset of the people that can distinguish themselves from their fellow Americans" by showing proper cause.

<https://www.nraila.org/articles/20201216/nra-takes-concealed-carry-case-to-the-supreme-court>

As the NRA fights for its life in bankruptcy protection, some see less protections for guns

While some say it isn't clear how draining it will be for the 149-year-old organization to remake itself in a gun-friendly state, others say the NRA is already becoming a diminishing force for gun protections as it fights for its life in the courts....

"I do think the NRA has been taken down more than a couple of notches," said Rich Dupree, an analyst for Motley Fool. "The New York Attorney General said she basically wants to wipe out the organization, so I understand why the NRA wants to get the heck out of there...but if it has to start raising money to defend itself, it will dilute its lobbying efforts."

Dupree said it was unlikely that the NRA could fight for its life in the courts while keeping its same profile as the premier gun lobbyist in the nation.

"There are other good groups out there such as the Gun Owners of America and the Second Amendment Foundation, although they don't have the same backing as the NRA," Dupree said. "This is going to have a negative impact on the industry."

<https://www.newstimes.com/local/article/As-the-NRA-fights-for-its-life-in-bankruptcy-15891828.php>

Judicial Seats Are Opening for President Biden to Fill

A growing number of federal judges are electing to take senior status in the wake of President Biden's inauguration. This will provide the Biden Administration with the opportunity to begin making an imprint on the federal courts.

Thus far in January, at least 20 judges have taken senior status or announced their attention to do so. As of January 1, there were 49 vacancies on the federal courts, and an additional five future vacancies that had been announced....

Biden's nominees are likely to be younger, and often more progressive, than the judges they replace, and that in itself will be significant, even if they do not alter the overall ideological valence of the courts on which they sit.

<https://www.nationalreview.com/bench-memos/judicial-seats-are-opening-for-president-biden-to-fill/>

Court-Packing First Step – Joe Biden Forming Commission to Study Supreme Court Reform

One question that came up repeatedly during the 2020 election was whether or not Democrats would try to pack the U.S. Supreme Court. In October, Biden was still not providing a definitive answer.

Now he is forming a commission to study Supreme Court reform.

We already know other Democrats are open to the idea of court packing, and we also know the media will provide cover.

Is this the beginning?

<https://legalinsurrection.com/2021/01/joe-biden-forming-commission-to-study-supreme-court-reform/>

Ithaca attorney announces candidacy for State Supreme Court Sixth Judicial District

Ithaca attorney Elizabeth Aherne announced her candidacy for the New York State Supreme Court 6th Judicial District election that will take place next fall.

The 6th Judicial District (includes) Schuyler, Tioga and Tompkins counties.

Aherne is a Republican.

<https://www.ithacajournal.com/story/news/local/2020/12/10/ithaca-attorney-elizabeth-aherne-run-ny-supreme-court-2021/3878153001/>

Maloney Urges Biden to Block New OCC Rule Requiring Lending to Gun Manufacturers

Congresswoman Carolyn B. Maloney (D-NY), senior member of the House Committee on Financial Services, today wrote to President-elect Joe Biden, urging him to block the Office of the Comptroller of the Currency's (OCC) recently finalized "Fair Access to Financial Services" rule which would force financial institutions to lend to and support gun manufacturers.

<https://maloney.house.gov/media-center/press-releases/maloney-urges-biden-to-block-new-occ-rule-requiring-lending-to-gun>

154 House Members Sign-On to Bipartisan Concealed Carry Reciprocity Act of 2021

A bipartisan bill that would grant national reciprocity to concealed permit holders has been introduced in the House of Representatives.

Representative Richard Hudson (NC-08) introduced H.R. 38, the Concealed Carry Reciprocity Act during Congress's opening day. The bill has a total of 154 co-sponsors, including Democrats that have broken from their party's anti-gun stance.

The bill would allow anyone who holds a concealed handgun permit to cross state lines as long as the gun owner follows that state's law. Residents of the states with constitutional carry could also carry a handgun across state lines.

National reciprocity would treat concealed carry permits like a driver's license.

Federal law would ban states from discriminating against gun owners. States like New Jersey and New York make it almost impossible for their citizens to get a concealed carry permit. Gun owners have to show “good cause” to obtain a permit.

At the same time, these states do not recognize permits issued from other states. People traveling across state lines have to check their rights at the border

If the bill does pass the House of Representatives, it will face an uphill battle in the Senate

<https://www.ammoland.com/2021/01/154-house-members-bipartisan-concealed-carry-reciprocity-act-2021/#axzz6imECdJQj>

States Eye Allowing Concealed Carry of Guns Without a Permit

Fifteen states already allow concealed carry without a permit, and lawmakers in nine others have proposed allowing or expanding the practice. GOP governors are backing the changes in Utah and Tennessee. Another bill expanding permitless carry in Montana has passed the state House....

The proposal in Utah would allow any U.S. citizen 21 and older to carry a concealed weapon without the now-required background check or weapons course. The bill does allow gun owners who want to carry a concealed weapon out of state to get a permit to do so after a background check and safety course.

In Tennessee, Republican lawmakers are expected to push again to allow most adults 21 and older to carry firearms — concealed or openly — without a license that now requires a background check and training.

In Montana, the House recently passed a bill to allow people to carry concealed firearms without a permit in most places.

Similar bills that would allow or expand concealed carry without a permit have been introduced in Texas, South Carolina, Florida, Indiana, Alabama and Georgia.

<https://www.nbcnewyork.com/news/politics/states-eye-allowing-concealed-carry-of-guns-without-a-permit/2846210/>

Va. Democrats' new gun proposals include background checks at shooting ranges, ban on 'ghost' guns

Just like last year, the Virginia General Assembly's 2021 session began with a show of force from gun-rights supporters in downtown Richmond.

And just like last year, Democrats still have full control. And they're still looking to fix up what they see as weak spots in the law after taking power from pro-gun Republicans in the 2019 elections.

Many top gun-control priorities — like expanded background checks, a red flag law and a one-handgun-a-month rule — were approved last year. That's meant the new round of gun legislation has been somewhat lower profile, but there are several significant bills working their way through the two chambers.

They include:

- Background checks at shooting ranges
- Gun ban at state Capitol grounds
- Gun bans at polling places
- 'Ghost' guns

<https://www.virginiamercury.com/2021/01/27/va-democrats-new-gun-proposals-include-background-checks-at-shooting-ranges-ban-on-ghost-guns/>

11 Cases of Defensive Gun Use as 2020 Came to a Close

It is hardly surprising that law-abiding citizens flocked to exercise their Second Amendment rights last year.

But even during “normal” years, the right to keep and bear arms plays an important role in preserving the public safety.

America's civil society and “scheme of ordered liberty” are fragile things that can be severely disrupted with little warning.

<https://www.heritage.org/firearms/commentary/11-cases-defensive-gun-use-2020-came-close>

Amazon partner GoDaddy boots gun site from its servers

Web hosting service GoDaddy has booted gun site Arfcom from its servers.

“Arfcom Is Down. We've been booted from GoDaddy and are looking for an alternative solution,” the site announced in a Facebook post.

The post encourages users to bookmark a backup URL, noting that their main URL will soon be offline.

GoDaddy, a popular domain registration company, announced in 2018 that the company was moving the bulk of its infrastructure to Amazon Web Services. The multiyear deal makes the service a partner in selling some of GoDaddy's products.

Arfcom, which bills itself as “the world's largest online firearm community,” will now be forced into similar circumstances as Parler.

<https://www.washingtonexaminer.com/news/amazon-godaddy-boots-gun-site>

Gun-Rights Group Kicked Off Mailchimp over Unspecified ‘Serious Risks’

The Virginia Citizens Defense League said Wednesday that the leading email marketing service had blocked them from sending out emails through the service without providing a reason for their account's suspension.

The Atlanta-based company blocked an email about Lobby Day, an annual pro-gun rally held in Richmond every year that is scheduled for Monday.

<https://www.nationalreview.com/news/gun-rights-group-kicked-off-mailchimp-over-unspecified-serious-risks/>

NRA's Gun Restriction Lawsuit Heating Up in Court

Florida's decision to raise the minimum age to purchase rifles from 18 to 21 has led to a bitter lawsuit in which the National Rifle Association and state government are fighting over expert witnesses' credibility....

As attorneys for both sides are waiting for trial, the legal battle has transitioned into questioning the credibility of expert witnesses slated to testify.

One of the experts is Dr. Pradeep Bhide, a professor of medicine at Florida State University specializing as a developmental neuroscientist. The NRA is

questioning his report on the brain development of those between the ages of 18 and 21.

“Delaying gun purchases until 21 years of age can offer the cognitive brain the ‘extra’ time needed to be able to exert adequate control over emotional and impulsive behaviors,” Bhide concluded in a 12-page report submitted to the court.

However, the NRA’s lawyers contend that Bhide’s conclusions are not readily tested because there is not “any hard evidence that young adults age 18 to 20 are more likely to commit criminal violence with a purchased firearm than other adults.”

Lawyers for the state are also trying to exclude expert testimony from Gary Kleck, a retired criminology professor from FSU, and William English, an assistant professor at Georgetown’s McDonough School of Business; both English and Kleck are slated to testify for the plaintiff.

Trying to discredit expert witnesses is not a new legal strategy. Attacking the qualifications and questioning the testimony of an expert witness on trial is what lawyers do to win their case.

What makes this case unique is how early both sides are engaging in discrediting each other’s witnesses. The early attacks foreshadow just how bitter this legal battle will be once a trial date is decided.

<http://www.floridapoliticalreview.com/nras-gun-restriction-lawsuit-heating-up-in-court/>

Ammunition shortage will continue throughout 2021

Director of Public Affairs at the National Shooting and Sports Foundation Mark Oliva said gun sales in 2020 surpassed previous records.

“We had 21 million background checks for a sale of a firearm that is by far the strongest year we have ever had on record. The previous record before 2020 was 15.7 million background checks for the sale of a firearm,” Oliva said.

Oliva noted that in 2020 there were 8.4 million gun purchases from first-time buyers. Moreover, 40% of overall gun sales were from women, and gun purchases by African American’s spiked by 58%.

“It really is a tectonic shift, when we look at who’s the gun owner this year and you’ll see that today’s gun buyer looks a whole lot less like me, a middle-aged white guy and more like the rest of America,” Oliva said.

Oliva said the growing number of gun owners has contributed to the increased demand for ammunition.

<https://www.wivb.com/news/local-news/buffalo/ammunition-shortage-will-continue-throughout-2021/>