

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, et al.)	
)	
Plaintiffs,)	
)	Civil Action No. <u>1:22-cv-986 (GTS/CFH)</u>
v.)	
)	
KATHLEEN HOCHUL, in her Official)	
Capacity as Governor of the State of New)	
York, et al.)	
)	
)	
Defendants.)	
_____)	

DECLARATION OF STEPHEN D. STAMBOULIEH

1. My name is Stephen D. Stamboulieh and I am counsel for the Plaintiffs in this matter. I am a member of the Bar of this Court.
2. I make this declaration for the limited purposes of putting certain documents referenced in the Complaint before the Court.
3. Unless otherwise stated, the facts and circumstances set forth in this declaration are based upon my personal knowledge and review of the documents and information available to me.
4. Attached as Exhibit “1” is a true and correct copy of the text of the Bill known as the Concealed Carry Improvement Act (CCIA).
5. Attached as Exhibit “2” is a true and correct copy of the Declaration of Corey Johnson.
6. Attached as Exhibit “3” is a true and correct copy of the Declaration of Lawrence Sloane.
7. Attached as Exhibit “4” is a true and correct copy of the Declaration of Leslie Leman.

8. Attached as Exhibit “5” is a true and correct copy a letter sent by the City of New York to holders of firearms licenses.

9. Attached as Exhibit “6” is a true and correct copy of a “Legal Bureau Bulletin” issued by the Office of the Deputy Commissioner.

10. Attached as Exhibit “7” is a true and correct copy of the Declaration of Ivan Antonyuk.

11. Attached as Exhibit “8” is a true and correct copy of the Declaration of Pastor Joseph Mann.

12. Attached as Exhibit “9” is a true and correct copy of the Declaration of Alfred Terrille.

I declare under penalty of perjury that the foregoing is true and correct.

Dated:

September 20, 2022

/s/ Stephen D. Stamboulieh
Stephen D. Stamboulieh

EXTRAORDINARY SESSION #1
Legislative Bill Drafting Commission
12053-04-2

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal:

- | | | | | |
|--------------|---------------|---------------|---------------|---------------|
| s15 Addabbo | s17 Felder | s07 Kaplan | s58 O'Mara | s10 Sanders |
| s52 Akshar | s59 Gallivan | s26 Kavanagh | s62 Ortt | s23 Savino |
| s36 Bailey | s05 Gaughran | s63 Kennedy | s01 Palumbo | s32 Sepulveda |
| s34 Biaggi | s12 Gianaris | s28 Krueger | s21 Parker | s41 Serino |
| s57 Borrello | s22 Gounardes | s24 Lanza | s19 Persaud | s29 Serrano |
| s04 Boyle | s47 Griffio | s11 Liu | s13 Ramos | s39 Skoufis |
| s44 Breslin | s40 Harckham | s50 Mannion | s61 Rath | s16 Stavisky |
| s25 Brisport | s54 Helming | s42 Martucci | s38 Reichlin- | s45 Stec |
| s08 Brooks | s46 Hinchey | s02 Mattera | Melnick | s35 Stewart- |
| s55 Brouk | s27 Hoylman | s53 May | s48 Ritchie | Cousins |
| s30 Cleare | s31 Jackson | s37 Mayer | s33 Rivera | s49 Tedisco |
| s14 Comrie | s43 Jordan | s20 Myrie | s60 Ryan | s06 Thomas |
| s56 Cooney | s09 Kaminsky | s51 Oberacker | s18 Salazar | s03 Weik |

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

PENALA
(Relates to licensing and other
provisions relating to firearms)

Pen L. licensing of firearms

AN ACT

to amend the penal law, the general
business law, the executive law, the
civil practice law and rules and the
state finance law, in relation to
licensing and other provisions
relating to firearms

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

- | | | | | |
|------------------|--------------------|------------------|--------------------|-------------------|
| a049 Abbate | a032 Cook | a066 Glick | a014 McDonough | a121 Salka |
| a092 Abinanti | a039 Cruz | a034 Gonzalez- | a146 McMahon | a111 Santabarbara |
| a031 Anderson | a043 Cunningham | Rojas | a137 Meeks | a090 Sayegh |
| a122 Angelino | a063 Cusick | a150 Goodell | a017 Mikoulin | a099 Schmitt |
| a107 Ashby | a045 Cymbrowitz | a075 Gottfried | a101 Miller, B. | a076 Seawright |
| a035 Aubry | a018 Darling | a021 Griffin | a051 Mitaynes | a084 Septimo |
| a120 Barclay | a053 Davila | a100 Gunther | a015 Montesano | a016 Sillitti |
| a030 Barnwell | a072 De Los Santos | a139 Hawley | a145 Morinello | a052 Simon |
| a106 Barrett | a003 DeStefano | a083 Heastie | a065 Niou | a114 Simpson |
| a082 Benedetto | a070 Dickens | a028 Hevesi | a037 Nolan | a005 Smith |
| a042 Bichotte | a054 Dilan | a128 Hunter | a144 Norris | a118 Smullen |
| Hermelyn | a081 Dinowitz | a029 Hyndman | a069 O'Donnell | a022 Solages |
| a117 Blankenbush | a147 DiPietro | a079 Jackson | a091 Otis | a110 Steck |
| a098 Brabeneck | a009 Durso | a104 Jacobson | a132 Palmesano | a010 Stern |
| a026 Braunstein | a048 Eichenstein | a011 Jean-Pierre | a088 Paulin | a127 Stirpe |
| a138 Bronson | a004 Englebright | a134 Jensen | a141 Peoples- | a102 Tague |
| a020 Brown, E. | a074 Epstein | a115 Jones | Stokes | a064 Tannousis |
| a012 Brown, K. | a109 Fahy | a077 Joyner | a023 Pheffer | a086 Tapia |
| a093 Burdick | a061 Fall | a125 Kelles | Amato | a071 Taylor |
| a085 Burgos | a080 Fernandez | a040 Kim | a089 Pretlow | a001 Thiele |
| a142 Burke | a008 Fitzpatrick | a105 Lalor | a073 Quart | a033 Vanel |
| a119 Buttenschon | a057 Forrest | a013 Lavine | a019 Ra | a116 Walczyk |
| a094 Byrne | a124 Friend | a097 Lawler | a038 Rajkumar | a055 Walker |
| a133 Byrnes | a046 Frontus | a126 Lemondes | a006 Ramos | a143 Wallace |
| a103 Cahill | a095 Galef | a060 Lucas | a062 Reilly | a112 Walsh |
| a044 Carroll | a050 Gallagher | a135 Lunsford | a087 Reyes | a041 Weinstein |
| a058 Chandler- | a131 Gallahan | a123 Lupardo | a078 Rivera, J. | a024 Weprin |
| Waterman | a007 Gandolfo | a129 Magnarelli | a149 Rivera, J.D. | a059 Williams |
| a136 Clark | a068 Gibbs | a036 Marndani | a027 Rosenthal, D. | a113 Woerner |
| a047 Colton | a002 Giglio, J.A. | a130 Manktelow | a067 Rosenthal, L. | a096 Zebrowski |
| a140 Conrad | a148 Giglio, J.M. | a108 McDonald | a025 Roziac | a056 Zinerman |

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and: in Assembly 2 copies of memorandum in support, in Senate 4 copies of memorandum in support (single house); or 4 signed copies of bill and 6 copies of memorandum in support (uni-bill).

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1 Section 1. The section heading and subdivisions 1, 1-a, 2, 4, 4-a,
2 4-b, 10 and 11 of section 400.00 of the penal law, subdivisions 1 and 10
3 as amended by chapter 1 of the laws of 2013, paragraph (c) of subdivi-
4 sion 1 as amended by chapter 60 of the laws of 2018, paragraph (j) of
5 subdivision 1 as amended by chapter 208 of the laws of 2022, subdivision
6 1-a as added by section 2 of part N of chapter 55 of the laws of 2020,
7 subdivision 2 as amended by chapter 212 of the laws of 2022, subdivision
8 4 as amended by chapter 242 of the laws of 2019, subdivision 4-a as
9 added by chapter 233 of the laws of 1980, subdivision 4-b as added by
10 chapter 446 of the laws of 1997, paragraph (c) of subdivision 10 as
11 added by chapter 212 of the laws of 2022, subdivision 11 as amended by
12 chapter 207 of the laws of 2022, are amended and a new subdivision 4-c
13 is added to read as follows:

14 [Licenses to carry, possess, repair and dispose of] Licensing and other
15 provisions relating to firearms.

16 1. Eligibility. No license shall be issued or renewed pursuant to this
17 section except by the licensing officer, and then only after investi-
18 gation and finding that all statements in a proper application for a
19 license are true. No license shall be issued or renewed except for an
20 applicant (a) twenty-one years of age or older, provided, however, that
21 where such applicant has been honorably discharged from the United
22 States army, navy, marine corps, air force or coast guard, or the
23 national guard of the state of New York, no such age restriction shall
24 apply; (b) of good moral character, which, for the purposes of this
25 article, shall mean having the essential character, temperament and
26 judgement necessary to be entrusted with a weapon and to use it only in
27 a manner that does not endanger oneself or others; (c) who has not been
28 convicted anywhere of a felony or a serious offense or who is not the

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1 subject of an outstanding warrant of arrest issued upon the alleged
2 commission of a felony or serious offense; (d) who is not a fugitive
3 from justice; (e) who is not an unlawful user of or addicted to any
4 controlled substance as defined in section 21 U.S.C. 802; (f) who being
5 an alien (i) is not illegally or unlawfully in the United States or (ii)
6 has not been admitted to the United States under a nonimmigrant visa
7 subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been
8 discharged from the Armed Forces under dishonorable conditions; (h) who,
9 having been a citizen of the United States, has not renounced his or her
10 citizenship; (i) who has stated whether he or she has ever suffered any
11 mental illness; (j) who has not been involuntarily committed to a facil-
12 ity under the jurisdiction of an office of the department of mental
13 hygiene pursuant to article nine or fifteen of the mental hygiene law,
14 article seven hundred thirty or section 330.20 of the criminal procedure
15 law or substantially similar laws of any other state, section four
16 hundred two or five hundred eight of the correction law, section 322.2
17 or 353.4 of the family court act, has not been civilly confined in a
18 secure treatment facility pursuant to article ten of the mental hygiene
19 law, or has not been the subject of a report made pursuant to section
20 9.46 of the mental hygiene law; (k) who has not had a license revoked or
21 who is not under a suspension or ineligibility order issued pursuant to
22 the provisions of section 530.14 of the criminal procedure law or
23 section eight hundred forty-two-a of the family court act; (l) in the
24 county of Westchester, who has successfully completed a firearms safety
25 course and test as evidenced by a certificate of completion issued in
26 his or her name and endorsed and affirmed under the penalties of perjury
27 by a duly authorized instructor, except that: (i) persons who are honor-
28 ably discharged from the United States army, navy, marine corps or coast

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1 guard, or of the national guard of the state of New York, and produce
2 evidence of official qualification in firearms during the term of
3 service are not required to have completed those hours of a firearms
4 safety course pertaining to the safe use, carrying, possession, mainte-
5 nance and storage of a firearm; [and] (ii) persons who were licensed to
6 possess a pistol or revolver prior to the effective date of this para-
7 graph are not required to have completed a firearms safety course and
8 test, provided, however, persons with a license issued under paragraph
9 (f) of subdivision two of this section prior to the effective date of
10 the laws of two thousand twenty-two which amended this paragraph shall
11 be required to complete the training required by subdivision nineteen of
12 this section prior to the recertification of such license; and (iii)
13 persons applying for a license under paragraph (f) of subdivision two of
14 this section on or after the effective date of the chapter of the laws
15 of two thousand twenty-two which amended this paragraph who shall be
16 required to complete the training required under subdivision nineteen of
17 this section for such license; (m) who has not had a guardian appointed
18 for him or her pursuant to any provision of state law, based on a deter-
19 mination that as a result of marked subnormal intelligence, mental
20 illness, incompetency, incapacity, condition or disease, he or she lacks
21 the mental capacity to contract or manage his or her own affairs; [and
22 (n) concerning whom no good cause exists for the denial of the license.]
23 (n) for a license issued under paragraph (f) of subdivision two of this
24 section, that the applicant has not been convicted within five years of
25 the date of the application of any of the following: (i) assault in
26 the third degree, as defined in section 120.00 of this chapter; (ii)
27 misdemeanor driving while intoxicated, as defined in section eleven
28 hundred ninety-two of the vehicle and traffic law; or (iii) menacing, as

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1 defined in section 120.15 of this chapter; and (o) for a license issued
2 under paragraph (f) of subdivision two of this section, the applicant
3 shall meet in person with the licensing officer for an interview and
4 shall, in addition to any other information or forms required by the
5 license application submit to the licensing officer the following infor-
6 mation: (i) names and contact information for the applicant's
7 current spouse, or domestic partner, any other adults residing in the
8 applicant's home, including any adult children of the applicant, and
9 whether or not there are minors residing, full time or part time, in the
10 applicant's home; (ii) names and contact information of no less than
11 four character references who can attest to the applicant's good
12 moral character and that such applicant has not engaged in any acts, or
13 made any statements that suggest they are likely to engage in conduct
14 that would result in harm to themselves or others; (iii) certification
15 of completion of the training required in subdivision nineteen of this
16 section; (iv) a list of former and current social media accounts of
17 the applicant from the past three years to confirm the information
18 regarding the applicants character and conduct as required in subpara-
19 graph (ii) of this paragraph; and (v) such other information required by
20 the licensing officer that is reasonably necessary and related to the
21 review of the licensing application.

22 1-a. No person shall engage in the business of gunsmith or dealer in
23 firearms unless licensed pursuant to this section. An applicant to
24 engage in such business shall also be a citizen of the United States,
25 more than twenty-one years of age and shall be required to maintain a
26 place of business in the city or county where the license is issued. For
27 such business, if the applicant is a firm or partnership, each member
28 thereof shall comply with all of the requirements set forth in this

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1 subdivision and if the applicant is a corporation, each officer thereof
2 shall so comply.

3 [1-a.] 1-b. For purposes of subdivision one of this section, serious
4 offense shall include an offense in any jurisdiction or the former penal
5 law that includes all of the essential elements of a serious offense as
6 defined by subdivision seventeen of section 265.00 of this chapter.
7 Nothing in this subdivision shall preclude the denial of a license based
8 on the commission of, arrest for or conviction of an offense in any
9 other jurisdiction which does not include all of the essential elements
10 of a serious offense.

11 2. Types of licenses. A license for gunsmith or dealer in firearms
12 shall be issued to engage in such business. A license for a semiautomat-
13 ic rifle, other than an assault weapon or disguised gun, shall be issued
14 to purchase or take possession of such a [firearm] semiautomatic rifle
15 when such transfer of ownership occurs on or after the effective date of
16 [the] chapter two hundred twelve of the laws of two thousand twenty-two
17 that amended this subdivision. A license for a pistol or revolver, other
18 than an assault weapon or a disguised gun, shall be issued to (a) have
19 and possess in his dwelling by a householder; (b) have and possess in
20 his place of business by a merchant or storekeeper; (c) have and carry
21 concealed while so employed by a messenger employed by a banking insti-
22 tution or express company; (d) have and carry concealed by a justice of
23 the supreme court in the first or second judicial departments, or by a
24 judge of the New York city civil court or the New York city criminal
25 court; (e) have and carry concealed while so employed by a regular
26 employee of an institution of the state, or of any county, city, town or
27 village, under control of a commissioner of correction of the city or
28 any warden, superintendent or head keeper of any state prison, peniten-

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1 tiary, workhouse, county jail or other institution for the detention of
2 persons convicted or accused of crime or held as witnesses in criminal
3 cases, provided that application is made therefor by such commissioner,
4 warden, superintendent or head keeper; (f) have and carry concealed,
5 without regard to employment or place of possession subject to the
6 restrictions of state and federal law, by any person [when proper cause
7 exists for the issuance thereof]; and (g) have, possess, collect and
8 carry antique pistols which are defined as follows: (i) any single shot,
9 muzzle loading pistol with a matchlock, flintlock, percussion cap, or
10 similar type of ignition system manufactured in or before [1898] 1898,
11 which is not designed for using rimfire or conventional centerfire fixed
12 ammunition; and (ii) any replica of any pistol described in clause (i)
13 hereof if such replica[--];

14 (1) is not designed or redesigned for using rimfire or conventional
15 centerfire fixed ammunition, or

16 (2) uses rimfire or conventional centerfire fixed ammunition which is
17 no longer manufactured in the United States and which is not readily
18 available in the ordinary channels of commercial trade.

19 4. Investigation. Before a license is issued or renewed, there shall
20 be an investigation of all statements required in the application by the
21 duly constituted police authorities of the locality where such applica-
22 tion is made, including but not limited to such records as may be acces-
23 sible to the division of state police or division of criminal justice
24 services pursuant to section 400.02 of this article. For that purpose,
25 the records of the appropriate office of the department of mental
26 hygiene concerning previous or present mental illness of the applicant
27 shall be available for inspection by the investigating officer of the
28 police authority. Where the applicant is domiciled in a foreign state,

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1 the investigation shall include inquiry of the foreign state for records
2 concerning the previous or present mental illness of the applicant, and,
3 to the extent necessary for inspection by the investigating officer, the
4 applicant shall execute a waiver of confidentiality of such record in
5 such form as may be required by the foreign state. In order to ascertain
6 any previous criminal record, the investigating officer shall take the
7 fingerprints and physical descriptive data in quadruplicate of each
8 individual by whom the application is signed and verified. Two copies of
9 such fingerprints shall be taken on standard fingerprint cards eight
10 inches square, and one copy may be taken on a card supplied for that
11 purpose by the federal bureau of investigation; provided, however, that
12 in the case of a corporate applicant that has already been issued a
13 dealer in firearms license and seeks to operate a firearm dealership at
14 a second or subsequent location, the original fingerprints on file may
15 be used to ascertain any criminal record in the second or subsequent
16 application unless any of the corporate officers have changed since the
17 prior application, in which case the new corporate officer shall comply
18 with procedures governing an initial application for such license. When
19 completed, one standard card shall be forwarded to and retained by the
20 division of criminal justice services in the executive department, at
21 Albany. A search of the files of such division and written notification
22 of the results of the search shall be forwarded to the investigating
23 officer and shall be made without unnecessary delay. Thereafter, such
24 division shall notify the licensing officer and the executive depart-
25 ment, division of state police, Albany, of any criminal record of the
26 applicant filed therein subsequent to the search of its files. A second
27 standard card, or the one supplied by the federal bureau of investi-
28 gation, as the case may be, shall be forwarded to that bureau at Wash-

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1 ington with a request that the files of the bureau be searched and
2 notification of the results of the search be made to the investigating
3 police authority. Of the remaining two fingerprint cards, one shall be
4 filed with the executive department, division of state police, Albany,
5 within ten days after issuance of the license, and the other shall
6 remain on file with the investigating police authority. No such finger-
7 prints may be inspected by any person other than a peace officer, who is
8 acting pursuant to his or her special duties, or a police officer,
9 except on order of a judge or justice of a court of record either upon
10 notice to the licensee or without notice, as the judge or justice may
11 deem appropriate. Upon completion of the investigation, the police
12 authority shall report the results to the licensing officer without
13 unnecessary delay.

14 4-a. Appeals from denial of an application, renewal, recertification
15 or license revocation. If an application for a license is denied, not
16 renewed, not recertified, or revoked, the licensing officer shall issue
17 a written notice to the applicant setting forth the reasons for such
18 denial. An applicant may, within ninety days of receipt of such notice,
19 request a hearing to appeal the denial to the appeals board created by
20 the division of criminal justice services and the superintendent of
21 state police. An individual may be represented by counsel at any appear-
22 ance before the appeals board and shall be afforded an opportunity to
23 present additional evidence in support of their application. The
24 commissioner of criminal justice services and the superintendent of
25 state police shall promulgate rules and regulations governing such
26 appeals process.

27 4-b. Processing of license applications. Applications for licenses
28 shall be accepted for processing by the licensing officer at the time of

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1 presentment. Except upon written notice to the applicant specifically
2 stating the reasons for any delay, in each case the licensing officer
3 shall act upon any application for a license pursuant to this section
4 within six months of the date of presentment of such an application to
5 the appropriate authority. Such delay may only be for good cause and
6 with respect to the applicant. In acting upon an application, the
7 licensing officer shall either deny the application for reasons specif-
8 ically and concisely stated in writing or grant the application and
9 issue the license applied for.

10 [4-b.] 4-c. Westchester county firearms safety course certificate. In
11 the county of Westchester, at the time of application, the licensing
12 officer to which the license application is made shall provide a copy of
13 the safety course booklet to each license applicant. Before such license
14 is issued, such licensing officer shall require that the applicant
15 submit a certificate of successful completion of a firearms safety
16 course and test issued in his or her name and endorsed and affirmed
17 under the penalties of perjury by a duly authorized instructor.

18 10. License: expiration, certification and renewal. (a) Any license
19 for gunsmith or dealer in firearms and, in the city of New York, any
20 license to carry or possess a pistol or revolver, issued at any time
21 pursuant to this section or prior to the first day of July, nineteen
22 hundred sixty-three and not limited to expire on an earlier date fixed
23 in the license, shall, except as otherwise provided in paragraph (d) of
24 this subdivision, expire not more than three years after the date of
25 issuance. In the counties of Nassau, Suffolk and Westchester, any
26 license to carry or possess a pistol or revolver, issued at any time
27 pursuant to this section or prior to the first day of July, nineteen
28 hundred sixty-three and not limited to expire on an earlier date fixed

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1 in the license, shall expire not more than five years after the date of
2 issuance; however, in the county of Westchester, any such license shall
3 be certified prior to the first day of April, two thousand, in accord-
4 ance with a schedule to be contained in regulations promulgated by the
5 commissioner of the division of criminal justice services, and every
6 such license shall, except as otherwise provided in paragraph (d) of
7 this subdivision, be recertified every five years thereafter. For
8 purposes of this section certification shall mean that the licensee
9 shall provide to the licensing officer the following information only:
10 current name, date of birth, current address, and the make, model, cali-
11 ber and serial number of all firearms currently possessed. Such certif-
12 ication information shall be filed by the licensing officer in the same
13 manner as an amendment. Elsewhere than in the city of New York and the
14 counties of Nassau, Suffolk and Westchester, any license to carry or
15 possess a pistol or revolver, issued at any time pursuant to this
16 section or prior to the first day of July, nineteen hundred sixty-three
17 and not previously revoked or cancelled, shall be in force and effect
18 until revoked as herein provided. Any license not previously cancelled
19 or revoked shall remain in full force and effect for thirty days beyond
20 the stated expiration date on such license. Any application to renew a
21 license that has not previously expired, been revoked or cancelled shall
22 thereby extend the term of the license until disposition of the applica-
23 tion by the licensing officer. In the case of a license for gunsmith or
24 dealer in firearms, in counties having a population of less than two
25 hundred thousand inhabitants, photographs and fingerprints shall be
26 submitted on original applications and upon renewal thereafter [only] at
27 [six] three year intervals. Upon satisfactory proof that a currently
28 valid original license has been despoiled, lost or otherwise removed

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1 from the possession of the licensee and upon application containing an
2 additional photograph of the licensee, the licensing officer shall issue
3 a duplicate license.

4 (b) All licensees shall be recertified to the division of state police
5 every five years thereafter, except as otherwise provided in paragraph
6 (d) of this subdivision. Any license issued before the effective date of
7 the chapter of the laws of two thousand thirteen which added this para-
8 graph shall be recertified by the licensee on or before January thirty-
9 first, two thousand eighteen, and not less than one year prior to such
10 date, the state police shall send a notice to all license holders who
11 have not recertified by such time. Such recertification shall be in a
12 form as approved by the superintendent of state police, which shall
13 request the license holder's name, date of birth, gender, race, residen-
14 tial address, social security number, firearms possessed by such license
15 holder, email address at the option of the license holder and an affir-
16 mation that such license holder is not prohibited from possessing
17 firearms. The form may be in an electronic form if so designated by the
18 superintendent of state police. Failure to recertify shall act as a
19 revocation of such license. If the New York state police discover as a
20 result of the recertification process that a licensee failed to provide
21 a change of address, the New York state police shall not require the
22 licensing officer to revoke such license.

23 (c) A license to purchase or take possession of a semiautomatic rifle
24 as defined in subdivision two of this section shall be recertified to
25 the applicable licensing officer every five years following the issuance
26 of such license. Failure to renew such a license shall be a violation
27 punishable by a fine not to exceed two hundred fifty dollars, and such
28 failure to renew shall be considered by the licensing officer when

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1 reviewing future license applications by the license holder pursuant to
2 this chapter.

3 (d) Licenses issued under paragraph (f) of subdivision two of this
4 section shall be recertified or renewed in the same form and manner as
5 otherwise required by this subdivision, provided however, that such
6 licenses shall be recertified or renewed every three years following the
7 issuance of such license. For licenses issued prior to the effective
8 date of this paragraph that were issued more than three years prior to
9 such date, or will expire in less than one year from such date shall be
10 recertified or renewed within one year of such date.

11 11. License: revocation and suspension. (a) The conviction of a licen-
12 see anywhere of a felony or serious offense or a licensee at any time
13 becoming ineligible to obtain a license [under this section shall oper-
14 ate as], including engaging in conduct that would have resulted in the
15 denial of a license, under this section shall operate as or be grounds
16 for, a revocation of the license. A license may be revoked or suspended
17 as provided for in section 530.14 of the criminal procedure law or
18 section eight hundred forty-two-a of the family court act. Except for a
19 license issued pursuant to section 400.01 of this article, a license may
20 be revoked and cancelled at any time in the city of New York, and in the
21 counties of Nassau and Suffolk, by the licensing officer, and elsewhere
22 than in the city of New York by any judge or justice of a court of
23 record; a license issued pursuant to section 400.01 of this article may
24 be revoked and cancelled at any time by the licensing officer or any
25 judge or justice of a court of record. A license to engage in the busi-
26 ness of dealer may be revoked or suspended for any violation of the
27 provisions of article thirty-nine-BB of the general business law. The
28 official revoking a license shall give written notice thereof without

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1 unnecessary delay to the executive department, division of state police,
2 Albany, and shall also notify immediately the duly constituted police
3 authorities of the locality. The licensing officer shall revoke any
4 license issued in which an applicant knowingly made a material false
5 statement on the application. Notice of a revocation under this subdivi-
6 vision shall be issued in writing and shall include the basis for the
7 determination, which shall be supported by a preponderance of the
8 evidence. Such notice shall also include information regarding the abil-
9 ity to appeal such decision in accordance with subdivision four-a of
10 this section.

11 (b) Whenever the director of community services or his or her designee
12 makes a report pursuant to section 9.46 of the mental hygiene law, the
13 division of criminal justice services shall convey such information,
14 whenever it determines that the person named in the report possesses a
15 license issued pursuant to this section, to the appropriate licensing
16 official, who shall issue an order suspending or revoking such license.

17 (c) In any instance in which a person's license is suspended or
18 revoked under paragraph (a) or (b) of this subdivision, such person
19 shall surrender such license to the appropriate licensing official and
20 any and all firearms, rifles, or shotguns owned or possessed by such
21 person shall be surrendered to an appropriate law enforcement agency as
22 provided in subparagraph (f) of paragraph one of subdivision a of
23 section 265.20 of this chapter. In the event such license, firearm,
24 shotgun, or rifle is not surrendered, such items shall be removed and
25 declared a nuisance and any police officer or peace officer acting
26 pursuant to his or her special duties is authorized to remove any and
27 all such weapons.

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1 § 2. Section 837 of the executive law is amended by adding a new
2 subdivision 23 to read as follows:

3 23. (a) In conjunction with the superintendent of the state police,
4 promulgate policies and procedures with regard to standardization of
5 firearms safety training required under subdivision nineteen of section
6 400.00 of the penal law, which shall include the approval of course
7 materials and promulgation of proficiency standards for live fire train-
8 ing; and

9 (b) In conjunction with the superintendent of state police, create an
10 appeals board for the purpose of hearing appeals as provided in subdivi-
11 sion four-a of section 400.00 of the penal law and promulgate rules and
12 regulations governing such appeals.

13 § 3. The executive law is amended by adding a new section 235 to read
14 as follows:

15 § 235. Firearms safety training, and licensing appeals. 1. The super-
16 intendent shall, in conjunction with the commissioner of the division of
17 criminal justice services, promulgate policies and procedures with
18 regard to standardization of firearms safety training required under
19 subdivision nineteen of section 400.00 of the penal law, which shall
20 include the approval of course materials and the promulgation of profi-
21 ciency standards for live fire training.

22 2. The superintendent, in conjunction with the commissioner of the
23 division of criminal justice services, shall create an appeals board for
24 the purpose of hearing appeals as provided in subdivision four-a of
25 section 400.00 of the penal law and promulgate rules and regulations
26 governing such appeals.

27 § 4. The penal law is amended by adding a new section 265.01-e to read
28 as follows:

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1 § 265.01-e Criminal possession of a firearm, rifle or shotgun in a
2 sensitive location.

3 1. A person is guilty of criminal possession of a firearm, rifle or
4 shotgun in a sensitive location when such person possesses a firearm,
5 rifle or shotgun in or upon a sensitive location, and such person knows
6 or reasonably should know such location is a sensitive location.

7 2. For the purposes of this section, a sensitive location shall mean:

8 (a) any place owned or under the control of federal, state or local
9 government, for the purpose of government administration, including
10 courts;

11 (b) any location providing health, behavioral health, or chemical
12 dependance care or services;

13 (c) any place of worship or religious observation;

14 (d) libraries, public playgrounds, public parks, and zoos;

15 (e) the location of any program licensed, regulated, certified, fund-
16 ed, or approved by the office of children and family services that
17 provides services to children, youth, or young adults, any legally
18 exempt childcare provider; a childcare program for which a permit to
19 operate such program has been issued by the department of health and
20 mental hygiene pursuant to the health code of the city of New York;

21 (f) nursery schools, preschools, and summer camps;

22 (g) the location of any program licensed, regulated, certified, oper-
23 ated, or funded by the office for people with developmental disabili-
24 ties;

25 (h) the location of any program licensed, regulated, certified, oper-
26 ated, or funded by office of addiction services and supports;

27 (i) the location of any program licensed, regulated, certified, oper-
28 ated, or funded by the office of mental health;

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1 (j) the location of any program licensed, regulated, certified, oper-
2 ated, or funded by the office of temporary and disability assistance;

3 (k) homeless shelters, runaway homeless youth shelters, family shel-
4 ters, shelters for adults, domestic violence shelters, and emergency
5 shelters, and residential programs for victims of domestic violence;

6 (l) residential settings licensed, certified, regulated, funded, or
7 operated by the department of health;

8 (m) in or upon any building or grounds, owned or leased, of any educa-
9 tional institutions, colleges and universities, licensed private career
10 schools, school districts, public schools, private schools licensed
11 under article one hundred one of the education law, charter schools,
12 non-public schools, board of cooperative educational services, special
13 act schools, preschool special education programs, private residential
14 or non-residential schools for the education of students with disabili-
15 ties, and any state-operated or state-supported schools;

16 (n) any place, conveyance, or vehicle used for public transportation
17 or public transit, subway cars, train cars, buses, ferries, railroad,
18 omnibus, marine or aviation transportation; or any facility used for or
19 in connection with service in the transportation of passengers,
20 airports, train stations, subway and rail stations, and bus terminals;

21 (o) any establishment issued a license for on-premise consumption
22 pursuant to article four, four-A, five, or six of the alcoholic beverage
23 control law where alcohol is consumed and any establishment licensed
24 under article four of the cannabis law for on-premise consumption;

25 (p) any place used for the performance, art entertainment, gaming, or
26 sporting events such as theaters, stadiums, racetracks, museums, amuse-
27 ment parks, performance venues, concerts, exhibits, conference centers,

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1 banquet halls, and gaming facilities and video lottery terminal facili-
2 ties as licensed by the gaming commission;

3 (g) any location being used as a polling place;

4 (r) any public sidewalk or other public area restricted from general
5 public access for a limited time or special event that has been issued a
6 permit for such time or event by a governmental entity, or subject to
7 specific, heightened law enforcement protection, or has otherwise had
8 such access restricted by a governmental entity, provided such location
9 is identified as such by clear and conspicuous signage;

10 (s) any gathering of individuals to collectively express their consti-
11 tutional rights to protest or assemble;

12 (t) the area commonly known as Times Square, as such area is deter-
13 mined and identified by the city of New York; provided such area shall
14 be clearly and conspicuously identified with signage.

15 3. This section shall not apply to:

16 (a) consistent with federal law, law enforcement who qualify to carry
17 under the federal law enforcement officers safety act, 18 U.S.C. 926C;

18 (b) persons who are police officers as defined in subdivision thirty-
19 four of section 1.20 of the criminal procedure law;

20 (c) persons who are designated peace officers by section 2.10 of the
21 criminal procedure law;

22 (d) persons who were employed as police officers as defined in subdi-
23 vision thirty-four of section 1.20 of the criminal procedure law but are
24 retired;

25 (e) security guards as defined by and registered under article seven-A
26 of the general business law, who have been granted a special armed
27 registration card, while at the location of their employment and during
28 their work hours as such a security guard;

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1 (f) active-duty military personnel;

2 (g) persons licensed under paragraph (c), (d) or (e) of subdivision
3 two of section 400.00 of this chapter while in the course of his or her
4 official duties;

5 (h) a government employee under the express written consent of such
6 employee's supervising government entity for the purposes of natural
7 resource protection and management;

8 (i) persons lawfully engaged in hunting activity, including hunter
9 education training; or

10 (j) persons operating a program in a sensitive location out of their
11 residence, as defined by this section, which is licensed, certified,
12 authorized, or funded by the state or a municipality, so long as such
13 possession is in compliance with any rules or regulations applicable to
14 the operation of such program and use or storage of firearms.

15 Criminal possession of a firearm, rifle or shotgun in a sensitive
16 location is a class E felony.

17 § 5. The penal law is amended by adding a new section 265.01-d to read
18 as follows:

19 § 265.01-d Criminal possession of a weapon in a restricted location.

20 1. A person is guilty of criminal possession of a weapon in a
21 restricted location when such person possesses a firearm, rifle, or
22 shotgun and enters into or remains on or in private property where such
23 person knows or reasonably should know that the owner or lessee of such
24 property has not permitted such possession by clear and conspicuous
25 signage indicating that the carrying of firearms, rifles, or shotguns on
26 their property is permitted or has otherwise given express consent.

27 2. This section shall not apply to:

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1 (a) police officers as defined in section 1.20 of the criminal proce-
2 dure law;

3 (b) persons who are designated peace officers as defined in section
4 2.10 of the criminal procedure law;

5 (c) persons who were employed as police officers as defined in section
6 1.20 of the criminal procedure law, but are retired;

7 (d) security guards as defined by and registered under article seven-A
8 of the general business law who has been granted a special armed regis-
9 tration card, while at the location of their employment and during their
10 work hours as such a security guard;

11 (e) active-duty military personnel;

12 (f) persons licensed under paragraph (c), (d) or (e) of subdivision
13 two of section 400.00 of this chapter while in the course of his or her
14 official duties; or

15 (g) persons lawfully engaged in hunting activity.

16 Criminal possession of a weapon in a restricted location is a class E
17 felony.

18 § 6. Subdivision a of section 265.20 of the penal law is amended by
19 adding a new paragraph 3-a to read as follows:

20 3-a. Possession of a pistol or revolver by a person undergoing live-
21 fire range training pursuant to section 400.00 of this chapter while
22 such person is undergoing such training and is supervised by a duly
23 authorized instructor.

24 § 7. Section 400.02 of the penal law, as amended by chapter 244 of the
25 laws of 2019, is amended to read as follows:

26 § 400.02 Statewide license and record database.

27 1. There shall be a statewide license and record database which shall
28 be created and maintained by the division of state police the cost of

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1 which shall not be borne by any municipality. Records assembled or
2 collected for purposes of inclusion in such database shall not be
3 subject to disclosure pursuant to article six of the public officers
4 law. [Records] All records containing granted license applications from
5 all licensing authorities shall be [periodically] monthly checked by the
6 division of criminal justice services in conjunction with the division
7 of state police against criminal conviction, criminal indictment, mental
8 health, extreme risk protection orders, orders of protection, and all
9 other records as are necessary to determine their continued accuracy as
10 well as whether an individual is no longer a valid license holder. The
11 division of criminal justice services shall also check pending applica-
12 tions made pursuant to this article against such records to determine
13 whether a license may be granted. All state and local agencies shall
14 cooperate with the division of criminal justice services, as otherwise
15 authorized by law, in making their records available for such checks.
16 The division of criminal justice services, upon determining that an
17 individual is ineligible to possess a license, or is no longer a valid
18 license holder, shall notify the applicable licensing official of such
19 determination and such licensing official shall not issue a license or
20 shall revoke such license and any weapons owned or possessed by such
21 individual shall be removed consistent with the provisions of subdivi-
22 sion eleven of section 400.00 of this article. Local and state law
23 enforcement shall have access to such database in the performance of
24 their duties. Records assembled or collected for purposes of inclusion
25 in the database established by this section shall be released pursuant
26 to a court order.

27 2. There shall be a statewide license and record database specific for
28 ammunition sales which shall be created and maintained by the division

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1 of state police the cost of which shall not be borne by any municipality
2 no later than thirty days upon designating the division of state police
3 as the point of contact to perform both firearm and ammunition back-
4 ground checks under federal and state law. Records assembled or
5 collected for purposes of inclusion in such database shall not be
6 subject to disclosure pursuant to article six of the public officers
7 law. All records containing granted license applications from all
8 licensing authorities shall be monthly checked by the division of crimi-
9 nal justice services in conjunction with the division of state police
10 against criminal conviction, criminal indictments, mental health,
11 extreme risk protection orders, orders of protection, and all other
12 records as are necessary to determine their continued accuracy as well
13 as whether an individual is no longer a valid license holder. The divi-
14 sion of criminal justice services shall also check pending applications
15 made pursuant to this article against such records to determine whether
16 a license may be granted. All state and local agencies shall cooperate
17 with the division of criminal justice services, as otherwise authorized
18 by law, in making their records available for such checks. No later than
19 thirty days after the superintendent of the state police certifies that
20 the statewide license and record database established pursuant to this
21 section and the statewide license and record database established for
22 ammunition sales are operational for the purposes of this section, a
23 dealer in firearms licensed pursuant to section 400.00 of this article,
24 a seller of ammunition as defined in subdivision twenty-four of section
25 265.00 of this chapter shall not transfer any ammunition to any other
26 person who is not a dealer in firearms as defined in subdivision nine of
27 such section 265.00 or a seller of ammunition as defined in subdivision
28 twenty-four of section 265.00 of this chapter, unless:

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1 (a) before the completion of the transfer, the licensee or seller
2 contacts the statewide license and record database and provides the
3 database with information sufficient to identify such dealer or seller
4 transferee based on information on the transferee's identification docu-
5 ment as defined in paragraph (c) of this subdivision, as well as the
6 amount, caliber, manufacturer's name and serial number, if any, of such
7 ammunition;

8 (b) the licensee or seller is provided with a unique identification
9 number; and

10 (c) the transferor has verified the identity of the transferee by
11 examining a valid state identification document of the transferee issued
12 by the department of motor vehicles or if the transferee is not a resi-
13 dent of the state of New York, a valid identification document issued by
14 the transferee's state or country of residence containing a photograph
15 of the transferee.

16 § 8. Subdivisions 2 and 6 of section 400.03 of the penal law, as added
17 by chapter 1 of the laws of 2013, are amended to read as follows:

18 2. Any seller of ammunition or dealer in firearms shall keep [a record
19 book] either an electronic record, or dataset, or an organized
20 collection of structured information, or data, typically stored elec-
21 tronically in a computer system approved as to form by the superinten-
22 dent of state police. In the record [book] shall be entered at the time
23 of every transaction involving ammunition the date, name, age, occupa-
24 tion and residence of any person from whom ammunition is received or to
25 whom ammunition is delivered, and the amount, calibre, manufacturer's
26 name and serial number, or if none, any other distinguishing number or
27 identification mark on such ammunition. [The record book shall be main-
28 tained on the premises mentioned and described in the license and shall

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1 be open at all reasonable hours for inspection by any peace officer,
2 acting pursuant to his or her special duties, or police officer. Any
3 record produced pursuant to this section and any transmission thereof to
4 any government agency shall not be considered a public record for
5 purposes of article six of the public officers law.]

6 6. If the superintendent of state police certifies that background
7 checks of ammunition purchasers may be conducted through the national
8 instant criminal background check system or through the division of
9 state police once the division has been designated point of contact, use
10 of that system by a dealer or seller shall be sufficient to satisfy
11 subdivisions four and five of this section and such checks shall be
12 conducted through such system, provided that a record of such trans-
13 action shall be forwarded to the state police in a form determined by
14 the superintendent.

15 § 9. Section 265.45 of the penal law, as amended by chapter 133 of the
16 laws of 2019, is amended to read as follows:

17 § 265.45 Failure to safely store rifles, shotguns, and firearms in the
18 first degree.

19 1. No person who owns or is custodian of a rifle, shotgun or firearm
20 who resides with an individual who: (i) is under [sixteen] eighteen
21 years of age; (ii) such person knows or has reason to know is prohibited
22 from possessing a rifle, shotgun or firearm pursuant to a temporary or
23 final extreme risk protection order issued under article sixty-three-A
24 of the civil practice law and rules or 18 U.S.C. § 922(g) (1), (4), (8)
25 or (9); or (iii) such person knows or has reason to know is prohibited
26 from possessing a rifle, shotgun or firearm based on a conviction for a
27 felony or a serious offense, shall store or otherwise leave such rifle,
28 shotgun or firearm out of his or her immediate possession or control

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1 without having first securely locked such rifle, shotgun or firearm in
2 an appropriate safe storage depository or rendered it incapable of being
3 fired by use of a gun locking device appropriate to that weapon.

4 2. No person shall store or otherwise leave a rifle, shotgun, or
5 firearm out of his or her immediate possession or control inside a vehi-
6 cle without first removing the ammunition from and securely locking such
7 rifle, shotgun, or firearm in an appropriate safe storage depository out
8 of sight from outside of the vehicle.

9 3. For purposes of this section "safe storage depository" shall mean a
10 safe or other secure container which, when locked, is incapable of being
11 opened without the key, keypad, combination or other unlocking mechanism
12 and is capable of preventing an unauthorized person from obtaining
13 access to and possession of the weapon contained therein and shall be
14 fire, impact, and tamper resistant. Nothing in this section shall be
15 deemed to affect, impair or supersede any special or local act relating
16 to the safe storage of rifles, shotguns or firearms which impose addi-
17 tional requirements on the owner or custodian of such weapons. For the
18 purposes of subdivision two of this section, a glove compartment or
19 glove box shall not be considered an appropriate safe storage deposito-
20 ry.

21 4. It shall not be a violation of this section to allow a person less
22 than [sixteen] eighteen years of age access to: (i) a firearm, rifle or
23 shotgun for lawful use as authorized under paragraph seven or seven-e of
24 subdivision a of section 265.20 of this article, or (ii) a rifle or
25 shotgun for lawful use as authorized by article eleven of the environ-
26 mental conservation law when such person less than [sixteen] eighteen
27 years of age is the holder of a hunting license or permit and such rifle
28 or shotgun is used in accordance with such law.

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1 Failure to safely store rifles, shotguns, and firearms in the first
2 degree is a class A misdemeanor.

3 § 10. The penal law is amended by adding a new section 400.30 to read
4 as follows:

5 § 400.30 Application.

6 Nothing in this article shall be construed to impair or in any way
7 prevent the enactment or application of any local law, code, ordinance,
8 rule or regulation that is more restrictive than any requirement set
9 forth in or established by this article.

10 § 11. Section 270.20 of the penal law, as added by chapter 56 of the
11 laws of 1984, and subdivision 1 as amended by chapter 317 of the laws of
12 2001, is amended to read as follows:

13 § 270.20 Unlawful wearing of [a] body [vest] armor.

14 1. A person is guilty of the unlawful wearing of [a] body [vest] armor
15 when acting either alone or with one or more other persons he commits
16 any violent felony offense defined in section 70.02 while possessing a
17 firearm, rifle or shotgun and in the course of and in furtherance of
18 such crime he or she wears [a] body [vest] armor.

19 2. For the purposes of this section [a] "body [vest] armor" means [a
20 bullet-resistant soft body armor providing, as a minimum standard, the
21 level of protection known as threat level I which shall mean at least
22 seven layers of bullet-resistant material providing protection from
23 three shots of one hundred fifty-eight grain lead ammunition fired from
24 a .38 calibre handgun at a velocity of eight hundred fifty feet per
25 second] any product that is a personal protective body covering intended
26 to protect against gunfire, regardless of whether such product is to be
27 worn alone or is sold as a complement to another product or garment.

28 The unlawful wearing of [a] body [vest] armor is a class E felony.

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1 § 12. Section 270.21 of the penal law, as added by chapter 210 of the
2 laws of 2022, is amended to read as follows:

3 § 270.21 Unlawful purchase of [a] body [vest] armor.

4 A person is guilty of the unlawful purchase of [a] body [vest] armor
5 when, not being engaged or employed in an eligible profession, they
6 knowingly purchase or take possession of [a] body [vest] armor, as such
7 term is defined in subdivision two of section 270.20 of this article.
8 This section shall not apply to individuals or entities engaged or
9 employed in eligible professions, which shall include police officers as
10 defined in section 1.20 of the criminal procedure law, peace officers as
11 defined in section 2.10 of the criminal procedure law, persons in mili-
12 tary service in the state of New York or military or other service for
13 the United States, and such other professions designated by the depart-
14 ment of state in accordance with section one hundred forty-four-a of the
15 executive law.

16 Unlawful purchase of [a] body [vest] armor is a class A misdemeanor
17 for a first offense and a class E felony for any subsequent offense.

18 § 13. Section 270.22 of the penal law, as added by chapter 210 of the
19 laws of 2022, is amended to read as follows:

20 § 270.22 Unlawful sale of [a] body [vest] armor.

21 A person is guilty of the unlawful sale of [a] body [vest] armor when
22 they sell, exchange, give or dispose of [a] body [vest] armor, as such
23 term is defined in subdivision two of section 270.20 of this article, to
24 an individual whom they know or reasonably should have known is not
25 engaged or employed in an eligible profession, as such term is defined
26 in section 270.21 of this article.

27 Unlawful sale of [a] body [vest] armor is a class A misdemeanor for
28 the first offense and a class E felony for any subsequent offense.

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1 § 14. Section 396-eee of the general business law, as added by chapter
2 210 of the laws of 2022, is amended to read as follows:

3 § 396-eee. Unlawful sale or delivery of body [vests] armor. 1. No
4 person, firm or corporation shall sell or deliver body [vests] armor to
5 any individual or entity not engaged or employed in an eligible profes-
6 sion, and except as provided in subdivision [three] two of this section,
7 no such sale or delivery shall be permitted unless the transferee meets
8 in person with the transferor to accomplish such sale or delivery.

9 2. The provisions of subdivision one of this section regarding in
10 person sale or delivery shall not apply to purchases made by federal,
11 state, or local government agencies for the purpose of furnishing such
12 body [vests] armor to employees in eligible professions.

13 3. For the purposes of this section, "body [vest] armor" shall have
14 the same meaning as defined in subdivision two of section 270.20 of the
15 penal law.

16 4. Any person, firm or corporation that violate the provisions of this
17 section shall be guilty of a violation punishable by a fine in an amount
18 not to exceed five thousand dollars for the first offense and in an
19 amount not to exceed ten thousand dollars for any subsequent offense.

20 § 15. Section 144-a of the executive law, as added by chapter 210 of
21 the laws of 2022, is amended to read as follows:

22 § 144-a. Eligible professions for the purchase, sale, and use of body
23 [vests] armor. The secretary of state in consultation with the division
24 of criminal justice services, the division of homeland security and
25 emergency services, the department of corrections and community super-
26 vision, the division of the state police, and the office of general
27 services shall promulgate rules and regulations to establish criteria
28 for eligible professions requiring the use of [a] body [vest] armor, as

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1 such term is defined in subdivision two of section 270.20 of the penal
2 law. Such professions shall include those in which the duties may expose
3 the individual to serious physical injury that may be prevented or miti-
4 gated by the wearing of [a] body [vest] armor. Such rules and regu-
5 lations shall also include a process by which an individual or entity
6 may request that the profession in which they engage be added to the
7 list of eligible professions, a process by which the department shall
8 approve such professions, and a process by which individuals and enti-
9 ties may present proof of engagement in eligible professions when
10 purchasing [a] body [vest] armor.

11 § 16. The executive law is amended by adding a new section 228 to read
12 as follows:

13 § 228. National instant criminal background checks. 1. (a) The divi-
14 sion is hereby authorized and directed to serve as a state point of
15 contact for implementation of 18 U.S.C. sec. 922 (t), all federal regu-
16 lations and applicable guidelines adopted pursuant thereto, and the
17 national instant criminal background check system for the purchase of
18 firearms and ammunition.

19 (b) Upon receiving a request from a licensed dealer pursuant to
20 section eight hundred ninety-six or eight hundred ninety-eight of the
21 general business law, the division shall initiate a background check by
22 (i) contacting the National Instant Criminal Background Check System
23 (NICS) or its successor to initiate a national instant criminal back-
24 ground check, and (ii) consulting the statewide firearms license and
25 records database established pursuant to subdivision three of this
26 section, in order to determine if the purchaser is a person described in
27 sections 400.00 and 400.03 of the penal law, or is prohibited by state

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1 or federal law from possessing, receiving, owning, or purchasing a
2 firearm or ammunition.

3 2. (a) The division shall report the name, date of birth and physical
4 description of any person prohibited from possessing a firearm pursuant
5 to 18 U.S.C. sec. 922(g) or (n) to the national instant criminal back-
6 ground check system index, denied persons files.

7 (b) Information provided pursuant to this section shall remain privi-
8 leged and confidential, and shall not be disclosed, except for the
9 purpose of enforcing federal or state law regarding the purchase of
10 firearms or ammunition.

11 (c) Any background check conducted by the division, or delegated
12 authority, of any applicant for a permit, firearms identification card
13 license, ammunition sale, or registration, in accordance with the
14 requirements of section 400.00 of the penal law, shall not be considered
15 a public record and shall not be disclosed to any person not authorized
16 by law or this chapter to have access to such background check, includ-
17 ing the applicant. Any application for a permit, firearms identification
18 card, ammunition sale, or license, and any document reflecting the issu-
19 ance or denial of such permit, firearms identification card, or license,
20 and any permit, firearms identification card, license, certification,
21 certificate, form of register, or registration statement, maintained by
22 any state or municipal governmental agency, shall not be considered a
23 public record and shall not be disclosed to any person not authorized by
24 law to have access to such documentation, including the applicant,
25 except on the request of persons acting in their governmental capacities
26 for purposes of the administration of justice.

27 3. The division shall create and maintain a statewide firearms license
28 and records database which shall contain records held by the division

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1 and any records that it is authorized to request from the division of
2 criminal justice services, office of court administration, New York
3 state department of health, New York state office of mental health, and
4 other local entities. Such database shall be used for the certification
5 and recertification of firearm permits under section 400.02 of the penal
6 law, assault weapon registration under subdivision sixteen-a of section
7 400.00 of the penal law, and ammunition sales under section 400.03 of
8 the penal law. Such database shall also be used to initiate a national
9 instant criminal background check pursuant to subdivision one of this
10 section upon request from a licensed dealer. The division may create and
11 maintain additional databases as needed to complete background checks
12 pursuant to the requirements of this section.

13 4. The superintendent shall promulgate a plan to coordinate background
14 checks for firearm and ammunition purchases pursuant to this section and
15 to require any person, firm or corporation that sells, delivers or
16 otherwise transfers any firearm or ammunition to submit a request to the
17 division in order to complete the background checks in compliance with
18 federal and state law, including the National Instant Criminal Back-
19 ground Check System (NICS), in New York state. Such plan shall include,
20 but shall not be limited to, the following features:

21 (a) The creation of a centralized bureau within the division to
22 receive and process all background check requests, which shall include a
23 contact center unit and an appeals unit. Staff may include but is not
24 limited to: bureau chief, supervisors, managers, different levels of
25 administrative analysts, appeals specialists and administrative person-
26 nel. The division shall employ and train such personnel to administer
27 the provisions of this section.

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1 (b) Procedures for carrying out the duties under this section, includ-
2 ing hours of operation.

3 (c) An automated phone system and web-based application system,
4 including a toll-free telephone number and/or web-based application
5 option for any licensed dealer requesting a background check in order to
6 sell, deliver or otherwise transfer a firearm which shall be operational
7 every day that the bureau is open for business for the purpose of
8 responding to requests in accordance with this section.

9 5. (a) Each licensed dealer that submits a request for a national
10 instant criminal background check pursuant to this section shall pay a
11 fee imposed by the bureau for performing such background check. Such fee
12 shall be allocated to the background check fund established pursuant to
13 section ninety-nine-pp of the state finance law. The amount of the fee
14 shall not exceed the total amount of direct and indirect costs incurred
15 by the bureau in performing such background check.

16 (b) The bureau shall transmit all moneys collected pursuant to this
17 paragraph to the state comptroller, who shall credit the same to the
18 background check fund.

19 6. On January fifteenth of each calendar year, the bureau shall submit
20 a report to the governor, the temporary president of the senate, and the
21 speaker of the assembly concerning:

22 a. the number of employees used by the bureau in the preceding year
23 for the purpose of performing background checks pursuant to this
24 section;

25 b. the number of background check requests received and processed
26 during the preceding calendar year, including the number of "proceed"
27 responses and the number and reasons for denials;

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1 c. the calculations used to determine the amount of the fee imposed
2 pursuant to this paragraph.

3 7. Within sixty days of the effective date of this section, the super-
4 intendent shall notify each licensed dealer holding a permit to sell
5 firearms of the requirement to submit a request to the division to
6 initiate a background check pursuant to this section as well as the
7 following means to be used to apply for background checks:

8 i. any person, firm or corporation that sells, delivers or otherwise
9 transfers firearms shall obtain a completed ATF 4473 form from the
10 potential buyer or transferee including name, date of birth, gender,
11 race, social security number, or other identification numbers of such
12 potential buyer or transferee and shall have inspected proper identifi-
13 cation including an identification containing a photograph of the poten-
14 tial buyer or transferee.

15 ii. it shall be unlawful for any person, in connection with the sale,
16 acquisition or attempted acquisition of a firearm from any transferor,
17 to willfully make any false, fictitious oral or written statement or to
18 furnish or exhibit any false, fictitious, or misrepresented identifica-
19 tion that is intended or likely to deceive such transferor with respect
20 to any fact material to the lawfulness of the sale or other disposition
21 of such firearm under federal or state law. Any person who violates the
22 provisions of this subparagraph shall be guilty of a class A misdemea-
23 nor.

24 8. Any potential buyer or transferee shall have thirty days to appeal
25 the denial of a background check, using a form established by the super-
26 intendent. Upon receipt of an appeal, the division shall provide such
27 applicant a reason for a denial within thirty days. Upon receipt of the
28 reason for denial, the appellant may appeal to the attorney general.

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1 § 17. Subdivision 2 of section 898 of the general business law, as
2 added by chapter 129 of the laws of 2019, is amended to read as follows:

3 2. Before any sale, exchange or disposal pursuant to this article, a
4 national instant criminal background check must be completed by a dealer
5 who [consents] shall submit a request to the division of state police
6 pursuant to section two hundred twenty-eight of the executive law to
7 conduct such check[, and upon completion of such background check, shall
8 complete a document, the form of which shall be approved by the super-
9 intendent of state police, that identifies and confirms that such check
10 was performed]. Before a dealer who [consents] has submitted a request
11 to the division of state police to conduct a national instant criminal
12 background check delivers a firearm, rifle or shotgun to any person,
13 either (a) NICS shall have issued a "proceed" response [to the dealer],
14 or (b) thirty calendar days shall have elapsed since the date the dealer
15 [contacted] submitted a request to the division of state police to
16 contact the NICS to initiate a national instant criminal background
17 check and NICS has not notified the [dealer] division of state police
18 that the transfer of the firearm, rifle or shotgun to such person should
19 be denied.

20 § 18. Paragraph (c) of subdivision 1 of section 896 of the general
21 business law, as added by chapter 189 of the laws of 2000, is amended to
22 read as follows:

23 (c) coordinate with the division of state police to provide access at
24 the gun show to [a firearm dealer licensed under federal law who is
25 authorized to] perform a national instant criminal background check
26 [where the seller or transferor of a firearm, rifle or shotgun is not
27 authorized to conduct such a check by (i) requiring firearm exhibitors
28 who are firearm dealers licensed under federal law and who are author-

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1 ized to conduct a national instant criminal background check to provide
2 such a check at cost or (ii) designating a specific location at the gun
3 show where a firearm dealer licensed under federal law who is authorized
4 to conduct a national instant criminal background check will be present
5 to perform such a check at cost] prior to any firearm sale or transfer.
6 Any firearm dealer licensed under federal law who [performs] submits a
7 request to the division of state police to perform a national instant
8 criminal background check pursuant to this paragraph shall provide the
9 seller or transferor of the firearm, rifle or shotgun with a copy of the
10 United States Department of Treasury, Bureau of Alcohol, Tobacco and
11 Firearms Form ATF F 4473 and such dealer shall maintain such form and
12 make such form available for inspection by law enforcement agencies for
13 a period of ten years thereafter.

14 § 19. Subdivision 6 of section 400.03 of the penal law, as added by
15 chapter 1 of the laws of 2013, is amended to read as follows:

16 6. If the superintendent of state police certifies that background
17 checks of ammunition purchasers may be conducted through the national
18 instant criminal background check system, [use of that system by] a
19 dealer or seller shall contact the division of state police to conduct
20 such check which shall be sufficient to satisfy subdivisions four and
21 five of this section [and such checks shall be conducted through such
22 system, provided that a record of such transaction shall be forwarded to
23 the state police in a form determined by the superintendent].

24 § 20. The penal law is amended by adding a new section 400.06 to read
25 as follows:

26 § 400.06 National instant criminal background checks.

27 1. Any dealer in firearms that sells, delivers or otherwise transfers
28 any firearm shall contact the division of state police to conduct a

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1 national instant criminal background check pursuant to section two
2 hundred twenty-eight of the executive law.

3 2. Failure to comply with the requirements of this section is a class
4 A misdemeanor.

5 § 21. The state finance law is amended by adding a new section 99-pp
6 to read as follows:

7 § 99-pp. Background check fund. 1. There is hereby established in the
8 joint custody of the state comptroller and commissioner of taxation and
9 finance a special fund to be known as the "background check fund".

10 2. Such fund shall consist of all revenues received by the comp-
11 troller, pursuant to the provisions of section two hundred twenty-eight
12 of the executive law and all other moneys appropriated thereto from any
13 other fund or source pursuant to law. Nothing contained in this section
14 shall prevent the state from receiving grants, gifts or bequests for the
15 purposes of the fund as defined in this section and depositing them into
16 the fund according to law.

17 3. The moneys of the background check fund, following appropriation by
18 the legislature, shall be allocated for the direct costs associated with
19 performing background checks pursuant to section two hundred twenty-
20 eight of the executive law.

21 4. The state comptroller may invest any moneys in the background check
22 fund not expended for the purpose of this section as provided by law.
23 The state comptroller shall credit any interest and income derived from
24 the deposit and investment of moneys in the background check fund to the
25 background check fund.

26 5. (a) Any unexpended and unencumbered moneys remaining in the back-
27 ground check fund at the end of a fiscal year shall remain in the back-
28 ground check fund and shall not be credited to any other fund.

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1 (b) To the extent practicable, any such remaining funds shall be used
2 to reduce the amount of the fee described in subdivision two of section
3 two hundred twenty-eight of the executive law.

4 § 22. Subdivision 19 of section 265.00 of the penal law, as amended by
5 chapter 150 of the laws of 2020, is amended to read as follows:

6 19. "Duly authorized instructor" means (a) a duly commissioned officer
7 of the United States army, navy, marine corps or coast guard, or of the
8 national guard of the state of New York; or (b) a duly qualified adult
9 citizen of the United States who has been granted a certificate as an
10 instructor in small arms practice issued by the United States army, navy
11 or marine corps, or by the adjutant general of this state, or by the
12 division of criminal justice services, or by the national rifle associ-
13 ation of America, a not-for-profit corporation duly organized under the
14 laws of this state; (c) by a person duly qualified and designated by the
15 department of environmental conservation [under paragraph c of subdivi-
16 sion three of section 11-0713 of the environmental conservation law] as
17 its agent in the giving of instruction and the making of certifications
18 of qualification in responsible hunting practices; or (d) a New York
19 state 4-H certified shooting sports instructor.

20 § 23. Subdivision 18 of section 400.00 of the penal law, as added by
21 chapter 135 of the laws of 2019, is amended and a new subdivision 19 is
22 added to read as follows:

23 18. Notice. Upon the issuance of a license, the licensing officer
24 shall issue therewith, and such licensee shall attest to the receipt of,
25 the following [notice] information and notifications: (a) the grounds
26 for which the license issued may be revoked, which shall include but not
27 be limited to the areas and locations for which the licenses issued
28 under paragraph (f) of subdivision two of this section prohibits the

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1 possession of firearms, rifles, and shotguns, and that a conviction
2 under sections 265.01-d and 265.01-e of this chapter are felonies for
3 which licensure will be revoked;

4 (b) a notification regarding the requirements for safe storage which
5 shall be in conspicuous and legible twenty-four point type on eight and
6 one-half inches by eleven inches paper stating in bold print the follow-
7 ing:

8 WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE.
9 WHEN STORED IN A HOME FIREARMS, RIFLES, OR SHOTGUNS MUST EITHER BE
10 STORED WITH A GUN LOCKING DEVICE OR IN A SAFE STORAGE DEPOSITORY OR NOT
11 BE LEFT OUTSIDE THE IMMEDIATE POSSESSION AND CONTROL OF THE OWNER OR
12 OTHER LAWFUL POSSESSOR IF A CHILD UNDER THE AGE OF EIGHTEEN RESIDES IN
13 THE HOME OR IS PRESENT, OR IF THE OWNER OR POSSESSOR RESIDES WITH A
14 PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW.
15 FIREARMS SHOULD BE STORED [UNLOADED AND LOCKED] BY REMOVING THE AMMUNI-
16 TION FROM AND SECURELY LOCKING SUCH FIREARM IN A LOCATION SEPARATE FROM
17 AMMUNITION. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR OTHER PROHIBITED
18 PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. WHEN STORED IN A
19 VEHICLE OUTSIDE THE OWNER'S IMMEDIATE POSSESSION OR CONTROL, FIREARMS,
20 RIFLES, AND SHOTGUNS MUST BE STORED IN AN APPROPRIATE SAFE STORAGE
21 DEPOSITORY AND OUT OF SIGHT FROM OUTSIDE OF THE VEHICLE.

22 (c) any other information necessary to ensure such licensee is aware
23 of their responsibilities as a license holder.

24 Nothing in this subdivision shall be deemed to affect, impair or
25 supersede any special or local law relating to providing notice regard-
26 ing the safe storage of rifles, shotguns or firearms.

27 19. Prior to the issuance or renewal of a license under paragraph (f)
28 of subdivision two of this section, issued or renewed on or after the

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1 effective date of this subdivision, an applicant shall complete an
2 in-person live firearms safety course conducted by a duly authorized
3 instructor with curriculum approved by the division of criminal justice
4 services and the superintendent of state police, and meeting the follow-
5 ing requirements: (a) a minimum of sixteen hours of in-person live
6 curriculum approved by the division of criminal justice services and the
7 superintendent of state police, conducted by a duly authorized instruc-
8 tor approved by the division of criminal justice services, and shall
9 include but not be limited to the following topics: (i) general firearm
10 safety; (ii) safe storage requirements and general secure storage best
11 practices; (iii) state and federal gun laws; (iv) situational awareness;
12 (v) conflict de-escalation; (vi) best practices when encountering law
13 enforcement; (vii) the statutorily defined sensitive places in subdivi-
14 sion two of section 265.01-e of this chapter and the restrictions on
15 possession on restricted places under section 265.01-d of this chapter;
16 (viii) conflict management; (ix) use of deadly force; (x) suicide
17 prevention; and (xi) the basic principles of marksmanship; and (b) a
18 minimum of two hours of a live-fire range training course. The applicant
19 shall be required to demonstrate proficiency by scoring a minimum of
20 eighty percent correct answers on a written test for the curriculum
21 under paragraph (a) of this subdivision and the proficiency level deter-
22 mined by the rules and regulations promulgated by the division of crimi-
23 nal justice services and the superintendent of state police for the
24 live-fire range training under paragraph (b) of this subdivision. Upon
25 demonstration of such proficiency, a certificate of completion shall be
26 issued to such applicant in the applicant's name and endorsed and
27 affirmed under the penalties of perjury by such duly authorized instruc-
28 tor. An applicant required to complete the training required herein

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1 prior to renewal of a license issued prior to the effective date of this
2 subdivision shall only be required to complete such training for the
3 first renewal of such license after such effective date.

4 § 24. Subdivisions 11 and 12 of section 265.00 of the penal law are
5 amended to read as follows:

6 11. "Rifle" means a weapon designed or redesigned, made or remade, and
7 intended to be fired from the shoulder and designed or redesigned and
8 made or remade to use the energy of the explosive [in a fixed metallic
9 cartridge] to fire only a single projectile through a rifled bore for
10 each single pull of the trigger using either: (a) fixed metallic
11 cartridge; or (b) each projectile and explosive charge are loaded indi-
12 vidually for each shot discharged. In addition to common, modern usage,
13 rifles include those using obsolete ammunition not commonly available in
14 commercial trade, or that load through the muzzle and fire a single
15 projectile with each discharge, or loading, including muzzle loading
16 rifles, flintlock rifles, and black powder rifles.

17 12. "Shotgun" means a weapon designed or redesigned, made or remade,
18 and intended to be fired from the shoulder and designed or redesigned
19 and made or remade to use the energy of the explosive [in a fixed shot-
20 gun shell] to fire through a smooth or rifled bore either a number of
21 ball shot or a single projectile for each single pull of the trigger
22 using either: (a) a fixed shotgun shell; or (b) a projectile or number
23 of ball shot and explosive charge are loaded individually for each shot
24 discharged. In addition to common, modern usage, shotguns include those
25 using obsolete ammunition not commonly available in commercial trade, or
26 that load through the muzzle and fires ball shot with each discharge, or
27 loading, including muzzle loading shotguns, flintlock shotguns, and
28 black powder shotguns.

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1 § 25. Severability. If any clause, sentence, paragraph or section of
2 this act shall be adjudged by any court of competent jurisdiction to be
3 invalid, the judgment shall not affect, impair or invalidate the remain-
4 der thereof, but shall be confined in its operation to the clause,
5 sentence, paragraph or section thereof directly involved in the contro-
6 versy in which the judgment shall have been rendered.

7 § 26. This act shall take effect on the first of September next
8 succeeding the date on which it shall have become a law; provided,
9 however:

10 (a) the amendments to subdivision 1 and subdivision 4-b of section
11 400.00 of the penal law made by section one of this act shall apply only
12 to licenses for which an application is made on or after the effective
13 date of this act;

14 (b) if chapter 208 of the laws of 2022 shall not have taken effect on
15 or before such date then the amendments made to paragraph (j) of subdivi-
16 sion one of section 400.00 of the penal law made by section one of
17 this act shall take effect on the same date and in the same manner as
18 such chapter of the laws of 2022, takes effect;

19 (c) the amendments to sections 270.20, 270.21 and 270.22 of the penal
20 law made by sections eleven, twelve and thirteen of this act, the amend-
21 ments to section 396-eee of the general business law as amended by
22 section fourteen of this act, and the amendments to section 144-a of the
23 executive law as amended by section fifteen of this act, shall take
24 effect on the same date and in the same manner as chapter 210 of the
25 laws of 2022, takes effect;

26 (d) if chapter 207 of the laws of 2022 shall not have taken effect on
27 or before such date then the amendments to subdivision 11 of section
28 400.00 of the penal law made by section one of this act shall take

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1 effect on the same date and in the same manner as such chapter of the
2 laws of 2022, takes effect;

3 (e) if chapter 212 of the laws of 2022 shall not have taken effect on
4 or before such date then the amendments to subdivision 2 of section
5 400.00 of the penal law made by section one of this act shall take
6 effect on the same date and in the same manner as such chapter of the
7 laws of 2022, takes effect;

8 (f) sections sixteen, seventeen, eighteen, nineteen, twenty-
9 one and twenty-two shall take effect July 15, 2023; and

10 (g) subdivision 4-a of section 400.00 of the penal law, as amended by
11 section one of this act, shall take effect April 1, 2023.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, COREY JOHNSON,)
ALFRED TERRILLE, JOSEPH MANN,)
LESLIE LEMAN, and LAWRENCE)
SLOANE,)

Plaintiffs,)

Civil Action No. _____

v.)

KATHLEEN HOCHUL, in her Official)
Capacity as Governor of the State of New)
York, KEVIN P. BRUEN, in his)
Official Capacity as Superintendent of the)
New York State Police, Judge MATTHEW)
J. DORAN, in his Official Capacity as the)
Licensing-official of Onondaga County,)
WILLIAM FITZPATRICK, in his Official)
Capacity as the Onondaga County District)
Attorney, EUGENE CONWAY, in his)
Official Capacity as the Sheriff of)
Onondaga County, JOSEPH CECILE, in)
his Official Capacity as the Chief of Police)
of Syracuse, P. DAVID SOARES in his)
Official Capacity as the District Attorney)
of Albany County, GREGORY OAKES,)
In his Official Capacity as the District)
Attorney of Oswego County, DON)
HILTON, in his Official Capacity as the)
Sheriff of Oswego County, and JOSEPH)
STANZIONE, in his Official Capacity as)
the District Attorney of Greene County,)

Defendants.)
_____)

DECLARATION OF COREY JOHNSON

Exhibit "2"

1. My name is Corey Johnson. I am a U.S. citizen and resident of New York, and I live in Onondaga County. I am a member of Gun Owners of America, Inc., and thus am one of the individuals whose interests were represented by the organizational plaintiffs in *Antonyuk v. Bruen*.

2. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

3. I am a law-abiding person who currently possesses and has maintained an unrestricted New York carry permit since 2019. I am eligible to possess and carry firearms in the State of New York, and have met all the qualifications for licensure, including having good moral character.

4. Not only do I possess a New York carry license, but also I routinely carry my handgun concealed when I leave home. To be sure, I do not carry in courthouses, schools, government buildings, or the other obvious "sensitive places" the Supreme Court has described, locations where the government often provides security in the form of armed guards and metal detectors. Otherwise, being responsible for my own security and that of my family, my gun generally does not leave my side when I leave the house, and goes where I go for lawful purposes.

5. However, due to the recent implementation of the Concealed Carry Improvement Act, I am now in jeopardy of arrest and prosecution as a felon, not to mention having my firearm seized and my permit revoked, merely for carrying in the completely ordinary and entirely non-sensitive locations in which I previously carried my firearm.

6. For example, I consider myself to be an outdoorsman, am an avid fisherman, and routinely go on hiking and camping trips throughout the state, including in numerous parks covered by the CCIA (subsection d).

7. For example, many times recently I have gone fishing in Mercer Park on the Seneca River in Baldwinsville, New York, a place previously open to carry. There is nothing in any way “sensitive” about this location, yet the CCIA makes the park off limits to me if I wish to exercise my Second Amendment right to carry a firearm while fishing.

8. Based on this Court’s recent conclusion that “the CCIA’s list of ‘sensitive locations’ is not deeply rooted in this Nation’s historical tradition of firearm regulation,” and because neither parks nor anything like them appears in the Supreme Court’s list of traditional sensitive locations, I intend to continue to carry my firearm when I go fishing in Mercer Park. Although I cannot provide a definitive day and time that this will next occur, it is safe to say that I will go fishing within the next month, before the water gets too cold and the bass stop biting.

9. In addition, I currently have plans with my wife to take a trip in October of 2022, to include a tour of several state parks within New York, where we will engage in various recreational activities such as fishing and sightseeing. For example, as part of our trip, we plan to visit Bowman Lake State Park, which the state describes as “a 966.94 acre remote sylvan retreat known as ‘a camper’s paradise’” and which has a “lake ... regularly stocked with trout” and offers “rustic cabins.”¹ In other words, this is hardly a “sensitive location.” In fact, hunting with firearms is permitted at the park.² I fail to see how high-powered rifles for hunting bear can be allowed at a purported “sensitive location,” while low-powered handguns for self-defense (including from bear) are prohibited. Nevertheless, the CCIA makes Bowman Lake State Park off limits to me if I wish to carry my firearm to protect myself and my wife during our visit to this and other various parks during our trip.

¹ <https://parks.ny.gov/parks/76/>

² <https://parks.ny.gov/documents/parks/BowmanLakeBowmanLakeSelfIssueHuntingPermit.pdf>

10. There is no realistic way for me to repeatedly disarm and re-arm, in order to comply with the CCIA's prohibition on possession of my firearm in the various parks my wife and I will visit on our trip, as there is no place for me to leave my firearm while on the road. Even leaving my firearm in my vehicle while at such a park would seem to violate the CCIA, and make me a felon. Thus, due to the CCIA's unconstitutionality, and being left with no reasonable alternative, I am left with no choice but to carry my firearm for self-defense, which I intend to do on this upcoming trip.

11. I also routinely go out to eat with my family, including at restaurants such as Longhorn Steakhouse, which is considered a "sensitive location" by the CCIA (subsection o) because it serves alcohol, even if I am not sitting at the bar or consuming any alcoholic beverage. Longhorn Steakhouse, owned by Darden Restaurants, reports that "[o]ur approach has always been that we abide by all local and state laws,"³ meaning that I would be permitted to carry my firearm when I go to eat, if not for the CCIA. Based on this Court's recent opinion, and because neither restaurants nor anything like them appears in the Supreme Court's list of traditional sensitive locations, I intend to continue to carry my firearm when I go out to eat with my family, an event that will occur within the next month or so.

12. During New York winters, I often take extended snowmobile trips throughout public parks and roads, often participating in "dice runs" – competitions where snowmobilers are required to follow a prescribed course and check in various locations along the way, with some of those locations being restaurants that serve alcohol. Under the CCIA, I would become a felon merely for getting off my snowmobile while carrying my firearm, and quickly checking in at such a location. Nevertheless, in reliance on the conclusions in this Court's prior opinion, and the

³ <https://www.cnn.com/2014/05/21/restaurants-were-not-pulling-a-chipotle.html>

Supreme Court's *Bruen* decision, the CCIA's restriction is clearly unconstitutional, and thus void. Therefore, as in years past, I intend to go on a snowmobiling trip this winter, and I will carry my firearm with me when I do, including in those places where I "check in" as part of the "dice run."

13. I routinely visit various locations that are considered "performance, art entertainment, gaming, or sporting events" under the CCIA (subsection p). For example, late last month I had fully intended to attend the state fair at the New York State Fairgrounds (a locations at which carry is also prohibited under subsection (d)), until I learned that the Fairgrounds had expressed its intent to adopt and enforce the provision of the CCIA. The news reported that "NYS Fair flexes policy prohibiting firearms in wake of conceal carry ruling."⁴ Moreover, because "[a]ll entrances may utilize 'Bag Check Areas' for guests, and some or all guests and/or vendors may be subject to manual scanning with the use of a metal detector wand or other similar device," I did not attend the fair, believing there to be a significant risk that my concealed carry firearm would be discovered and I would be charged with a crime. To the extent that the fair previously may have had a weapons policy, it is my understanding that was merely a policy, for violation of which I could be asked to leave – not charged with a felony crime.

14. In the past, I have attended pro-gun rallies, and done so while armed. For example, in August of 2020, I attended the "Back the Blue" rally in Albany. I have attended similar rallies in other states, such as the January 2020 VCDL Lobby Day that takes place annually in January in Richmond, Virginia. Suffice it to say, I take any realistic opportunity to exercise and advocate for my Second Amendment and other rights, preferably doing both at the same time. The CCIA,

⁴ <https://www.timesunion.com/state/article/Maintaining-policy-NYS-fair-to-allow-only-law-17362602.php>

however, makes me choose between the two rights, banning firearms at First Amendment protected activities, potentially under multiple subsections (subsections a, d, p, r, and s).

15. Whereas *Bruen* discussed restrictions in subsection (a) in “government buildings,” the CCIA broadly bans guns in “any place owned or under the control of federal, state or local government, for the purpose of government administration...” If firearms were not already prohibited permanently at such a location, then a rally likely would constitute a “special event” where a permit is required under subsection (r), meaning firearms would be prohibited anyway. These CCIA provisions would restrict firearms at protests such as the 2014 pro-gun rally at the Empire State Plaza, which occurred in the wake of enactment of the New York SAFE Act in 2013.⁵ None of these rallies or locations is a “sensitive place” under *Bruen*, merely because lots of people gather together to exercise constitutional rights.

16. I do not presently know of any upcoming pro-gun or pro-freedom rally currently scheduled but, when one is scheduled, I intend to attend it, and to do so while carrying my firearm, in violation of the CCIA.

17. The CCIA makes it a crime to possess a firearm at a zoo (subsection d), about as far from a “sensitive place” as I can imagine. My wife and I frequently visit the Rosamond Gifford Zoo in Syracuse, at least once or twice every fall, so that my wife can see the otters and wolves, which are her favorites. We will visit the zoo this fall as well, at least once, within the next 90 days. It is my understanding that the zoo has no policy prohibiting firearms on the premises.⁶ Thus, but for the CCIA, it would seem to be perfectly permissible for me to carry my firearm at the zoo.

⁵ <https://www.poughkeepsiejournal.com/story/news/local/new-york/2014/04/02/gun-rally-in-albany-draws-donald-trump/7180313/>

⁶ <https://rosamondgiffordzoo.org/visit/plan-your-visit/guest-etiquette/>

Since the CCIA's blanket ban on firearms at zoos is unconstitutional, I intend to carry my firearm when my wife and I visit the Rosamond Gifford Zoo.

18. Finally, I routinely carry my firearm when out and about in public, including when I go shopping at various locations in Onondaga County, such as gas stations, grocery stores, home improvement stores, big box stores, etc. It is my understanding that none of these places has expressed any objection to the lawfully carrying of my firearm. However, the CCIA now declares such locations to be "restricted locations," and bans my carrying of a firearm on the premises unless I have the affirmative consent of the owner. However, obtaining such consent is entirely impractical. Indeed, since the CCIA's implementation, few if any locations have posted signs welcoming concealed carry license holders, even if the business otherwise supports or allows concealed carry. Nor is it practical for me to disarm, approach such a business, ask permission from a low-level employee who will no doubt be unfamiliar with store policy and need to ask the manager (if not contact corporate), wait for a response, then re-arm myself – all merely to pick up a few things at the store. Indeed, even if I receive permission at one point in time, such policy could change at any time and without notice, thus putting me at constant risk of committing a crime unawares.

19. Since it is between me and a business owner – not New York state – whether I carry my firearm in a certain business, I intend to continue carrying my firearm in various businesses and establishments in Onondaga County, something that occurs regularly, in violation of the CCIA's restriction on "prohibited locations" that are not conspicuously posted with signage or otherwise provide me their express consent.

20. Unless this Court strikes down that provision of the CCIA, my simply going peaceably about my daily life will be a crime, pursuant to a statute which this Court has already declared

clearly unconstitutional. As such, as “an act of the legislature, repugnant to the constitution,” the CCIA “is void.” *Marbury v. Madison*, 5 U.S. 137, 177 (1803).

21. Not only do I intend to engage in various constitutionally-protected acts which are now made unlawful under the CCIA, but also I face a credible threat of prosecution, particularly since my specific intentions are now being made public through this filing.

22. For example, First Deputy Superintendent Steven Nigrelli of the New York State Police, has threatened persons such as me who violate the CCIA that “[w]e ensured that the lawful, responsible gun owners have the tools now to remain compliant with the law. For those who choose to violate this law ... Governor, it's an easy message. I don't have to spell it out more than this. We'll have zero tolerance. If you violate this law, you will be arrested. Simple as that. Because the New York state troopers are standing ready to do our job to ensure ... all laws are enforced.”⁷ If that is not a credible threat of enforcement, it is hard to see what would be.

23. Likewise, Onondaga County District Attorney William Fitzpatrick, although generally critical of the draconian provisions of the CCIA, recently stated that “[v]iolators will have their weapons confiscated while prosecutors investigate any other criminal activity,” and “[t]heir cases will be referred to the judge who granted them concealed-carry licenses in the first place, possibly leading to the revocation of their carry privileges.”⁸ DA Fitzpatrick was joined at the press conference by Syracuse Police Chief Joe Cecile. In other words, the top law enforcement officials where I live have expressed a specific intent to enforce the provisions of the CCIA against violators, which might include having a firearm seized by police and a carry license revoked.

⁷ <https://youtu.be/gC1L2rrztQs?t=2281> (at 38:00 minutes).

⁸ <https://www.syracuse.com/crime/2022/09/syracuse-da-police-chief-we-wont-target-gun-owners-under-new-law-but-will-take-gun.html>

24. What is more, I am far more likely than the average person to have a run-in with law enforcement, particularly during some of the times I intend to be in violation of the CCIA. For example, when fishing, I am required to be in possession of a valid New York State Fishing License, which is subject to verification and review at any time by a New York Environmental Conservation Officer (who works for the State, not the County). In recent years, I have had such officers stop and check my license at least a couple of times per year. In 2022 alone, I recall two such interactions along the Erie Canal in Camillus, one in Fair Haven State Park, and one at Oneida Shores State Park. If, for example, an officer saw a bulge from my concealed firearm while I was retrieving my fishing license and driver's license from my wallet, I could be arrested charged with a felony under the state's clearly-announced "zero tolerance" policy.

I declare under penalty of perjury that the foregoing is true and correct.

September 14, 2022
Date



Corey Johnson

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, COREY JOHNSON,)
ALFRED TERRILLE, JOSEPH MANN,)
LESLIE LEMAN, and LAWRENCE)
SLOANE,)

Plaintiffs,)

Civil Action No. _____

v.)

KATHLEEN HOCHUL, in her Official)
Capacity as Governor of the State of New)
York, KEVIN P. BRUEN, in his)
Official Capacity as Superintendent of the)
New York State Police, Judge MATTHEW)
J. DORAN, in his Official Capacity as the)
Licensing-official of Onondaga County,)
WILLIAM FITZPATRICK, in his Official)
Capacity as the Onondaga County District)
Attorney, EUGENE CONWAY, in his)
Official Capacity as the Sheriff of)
Onondaga County, JOSEPH CECILE, in)
his Official Capacity as the Chief of Police)
of Syracuse, P. DAVID SOARES in his)
Official Capacity as the District Attorney)
of Albany County, GREGORY OAKES,)
In his Official Capacity as the District)
Attorney of Oswego County, DON)
HILTON, in his Official Capacity as the)
Sheriff of Oswego County, and JOSEPH)
STANZIONE, in his Official Capacity as)
the District Attorney of Greene County,)

Defendants.)
_____)

DECLARATION OF LAWRENCE SLOANE

Exhibit "3"

1. My name is Lawrence Sloane. I am a U.S. citizen and resident of New York, and I live in Onondaga County. I am a member of Gun Owners of America, Inc., and thus am one of the individuals whose interests were represented by the organizational plaintiffs in *Antonyuk v. Bruen*.

2. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

3. I am a law-abiding person who does not currently possess a New York carry license. However, I have always wanted to obtain a carry permit to exercise my Second Amendment rights to acquire and carry a handgun for self-defense, but did not believe I would be found to have a special "proper cause" which was required before the Supreme Court's opinion in *Bruen*.

4. After *Bruen*, which held the "proper cause" test to be unconstitutional, I intended to apply for my carry license, and began looking into the process. I am part of "the people" that the Second Amendment applies to and protects. However, before I could apply for a license, the State of New York passed the Concealed Carry Improvement Act (CCIA), which imposes a slew of new and improved infringements on my constitutional right to obtain a license to keep and bear arms.

5. I want to make clear that I object to the following requirements of the CCIA: 1) social media history requirement, 2) providing information about my family, 3) providing character references, 4) exorbitant training costs and the time required to complete it, 5) an in-person interview with a government agent, and 6) proving that I am of "good moral character" in addition to being a law-abiding, responsible person. I will address each in turn.

6. After the CCIA was enacted, the application for carry license was updated¹ by the state, and now mandates that I must turn over my “social media” history to the government for review. The legislature has not seen fit to define what “social media” is, but my understanding of “social media” would include various forums where people congregate to speak, many times anonymously. I also believe this to include Facebook, Twitter, Instagram and other more well-known “social media” platforms.

7. To be sure, I have accounts on several of these and other platforms but, specifically, my Facebook profile is set to “friends” only, which means that only my friends can view my profile and my postings on that platform. I refuse to add a state licensing official as a “friend” so that he or she can review my Facebook postings.

8. The First Amendment protects my speech, and neither requires nor permits the government to review what I say, and certainly not as a condition of exercising my constitutional right to bear arms. Moreover, the Fifth Amendment protects my right to remain silent and against self-incrimination. In short, I will not turn over my “social media,” however and whatever that means, to the government, as a condition of applying for a license.

9. To the extent that I were forced to produce all my speech, even in an electronic format, to the government for review, from now on I would self-censor for fear of retribution, unwilling to express my true feelings, especially on contentious issues involving political speech, knowing that the state’s prying anti-gun eye is looking over my shoulder. It would also be likely that I would edit or delete some or all my social media and other online postings, so as not to allow the government to review what I have said, not because I regret anything that I have posted, but

¹ The “revised” State of New York Pistol/Revolver License Application can be found at https://troopers.ny.gov/system/files/documents/2022/09/ppb-3-08-22-_0.pdf.

because it is none of the government's business what I believe, how I vote, what my hobbies are, with whom I associate, where I travel, which constitutional rights I exercise, etc.

10. Likewise, the government of New York has no business contacting my family members to interrogate them about my life, my speech, my actions, or anything else about me, so that New York feels comfortable to "permit" me to exercise my constitutional rights. I will not provide the government of New York with information about my family, on the carry license application.

11. The license application further requires four character references. Supposedly, this is required so that the government can interrogate my associates to determine if I have the "essential character, temperament and judgment necessary to be entrusted with a weapon and to use it only in a manner that does not endanger oneself or others[.]" N.Y. Penal Law § 400.00(1).

12. Of course, as this Court acknowledged in *Antonyuk v. Bruen*, this definition does not include "other than in self-defense" which means that, apparently, merely being willing to use a handgun in self-defense in New York would automatically disqualify me from having "good moral character," because using a handgun, even in legitimate self-defense, would be to "endanger" whoever is attacking me. Worse, this may mean that even applying for a carry license is impossible, because the whole purpose of carrying a concealed firearm is to be able to use it for self-defense or defense of others which, taken to its logical conclusion, would result in "endanger[ing]" a criminal attacker.

13. Indeed, "good moral character" is a completely subjective standard that gives the licensing officer or interrogator wide discretion to ask whatever questions of me they wish.

14. While I believe I have "good moral character" insofar as I am a law-abiding citizen, it is none of the state's business when it comes to the exercise of my constitutional rights.

15. Likewise, I do not wish to ask those who I know to stand up to the government on my behalf, and testify to my good moral character, so that I may keep and bear arms. If the State of New York wished to check my criminal history to see if I have ever committed a crime, it can do so immediately by utilizing the innumerable databases that exist currently, and does not need to interrogate my friends and family. I know of no other constitutional right that is predicated on what friends think about you, and my right to keep and bear arms should not be any different.

16. I will not provide the State with information about my associates, so some licensing official can interrogate them about my life, including my exercise of my constitutional rights. It is none of the government's business what my friends and I discuss, either in person or online, and merely attempting to exercise an enumerated right does not give New York the right to invade my privacy and my other constitutional rights, and I should not be required to surrender my First Amendment right to exercise my Second Amendment rights, as this Court also acknowledged in the *Antonyuk* case.

17. Further, requiring me to sit down with a government agent for an in person interview, so that he or she can interrogate me, violates my Fifth Amendment rights to remain silent and against self-incrimination, because there do not appear to be any limits on the questions I am asked. Rather, I would be compelled to answer any and all questions posed to me as a condition of obtaining a license. I believe that is generally not a good idea for a person to answer questions posed by government officers during interrogations, such as if stopped for speeding or questioned by police, *regardless* of whether that person is innocent or not. Yet the CCIA requires me to submit to an "interview" of the sort that I believe most lawyers would advise against.

18. In order to obtain a carry license, I would be unable to skip answering the questions or invoke my Fifth Amendment rights to consult with counsel or to remain silent, should the need

arise. Indeed, I am not a lawyer, but my understanding is that an invocation of Fifth Amendment rights is not an admission of guilt or wrongdoing, as people are often “incriminated” or even found guilty of crimes that they did not commit. But common sense tells me that, if I were to invoke the Fifth Amendment to a government agent’s question during this type of interview, it would probably be looked at with skepticism about why I am invoking my constitutional right.

19. Moreover, with the proliferation of thousands upon thousands of “crimes” that do not require any intent to violate, within the laws of federal, state, and local governments, it is my understanding that the average person unwittingly commits numerous crimes over the course of their lifetime, without ever having knowledge or intent to do so. I am a law-abiding person and always try to follow the law, but the CCIA’s demand that I be interrogated by the police as a condition of exercising my right to keep and bear arms violates my First, Second, and Fifth Amendment rights.

20. Without me surrendering my First and Fifth Amendment rights, I am unable to fully complete the application for a carry license.

21. Since the CCIA states that “No license shall be issued” without first providing the licensing official with all of the required information, there is no way for me even to apply for the permit and be rejected, as my application will not even be accepted. As such, is futile for me even to attempt to apply and be denied a license, refusing to submit to the unconstitutional requirements that I am unwilling to provide to the government. It is my understanding that other applicants in the past have had their applications rejected or denied for failure to provide all of the required information, which I will not provide.²

² In fact, the Onondaga Sheriff’s website instructs that “[i]ncomplete applications will not be processed at the time of your appointment. Your entire application will be returned to you and

22. Indeed, the only way for me to apply and be granted or denied a license would be for me first to forfeit my constitutional rights, something I will not do. Therefore, I am left in the untenable position of surrendering and waiving some of my constitutional rights in order to exercise my Second Amendment rights.

23. Notwithstanding the futility of providing an application without all of the information required by the application, I am unable to even secure an appointment with the Onondaga Sheriff's Office until **October 24, 2023**, or 58 weeks from now. This is simply to *submit* my application to the Sheriff's Office so it will be processed.³

Choose Appointment				
Pistol License Application 30 minutes				
< PREVIOUS		MORE TIMES >		
IN 58 WEEKS Tuesday October 24	Wednesday October 25	Thursday October 26	IN 59 WEEKS Monday October 30	Tuesday October 31
9:30am	9:00am	8:30am	9:00am	8:30am
10:30am	9:30am	9:00am	9:30am	9:00am
11:00am	11:00am	9:30am	10:30am	9:30am
11:30am	1:00pm	10:00am	11:00am	10:30am
	1:30pm	10:30am	11:30am	11:00am
	2:00pm	11:00am	1:00pm	11:30am
	2:30pm	11:30am	1:30pm	

24. Likewise, the CCIA's mandate of sixteen hours of classroom instruction, plus two hours of live-fire training, is unnecessary and expensive, and would occupy a minimum of two full days for me to complete.

you will be instructed to reschedule your appointment.” <https://sheriff.ongov.net/pistol-license-unit/appointment-requirements/>.

And “walk-in service” is not available, so I must make an appointment to even submit my application. <https://sheriff.ongov.net/pistol-license-unit/>.

³ <https://sheriff.ongov.net/pistol-license-unit/appointment/> (current as of September 19, 2022).

25. This is far in excess from what other states require, and I do not know of any other state that requires a total of 18 hours of training before you are granted permission to exercise a constitutional right.

26. Prior to the CCIA, my county only required only a basic handgun safety course which, while I believe is still objectionable because it conditions my right to bear arms on clearing government-imposed hurdles and paying government-imposed fees, was not nearly as bad as the new 18 hour requirement.^{4,5}

27. I understand that, previously, a basic handgun safety course could be completed for around \$50.00 and four hours of time. But to comply with the CCIA's training requirement would require a minimum of two days, and cost me hundreds of dollars. Some facilities are charging upwards of \$700 for the class. This will represent a significant cost to me, plus it will be necessary for me to pay for the ammunition used at such a class, and also the other associated licensing fees charged by my county. The cost for me to obtain a permit could easily exceed \$1,000, a significant investment, and an exorbitant cost for me to be licensed to exercise my constitutional rights.

28. Certainly, I believe that responsible gun owners have a moral responsibility to obtain training in the safe and effective use of firearms. However, I do not want to expend my hard earned dollars to further the State's anti-gun agenda. For instance, New York Penal Law 400(19) demands that I pay to learn about "suicide prevention," as if this has something to do with my being a responsible gun owner. I am not suicidal. Moreover, in a free society, all constitutional

⁴ <https://sheriff.ongov.net/wp-content/uploads/2021/04/NYS-Pistol-License-Application-4-30-21.pdf>.

⁵ Prior to *Bruen* being released, Onondaga stated that it took "approximately 6 months" for a pistol license to be processed. See the previous footnote. Now, I cannot even schedule an appointment to simply *apply* for a license for over 1 year.

rights can be misused, but that does not mean the government can require a person to obtain a lecture on the dangers of free speech as a condition of receiving a license to post on Twitter.

29. If all that were required were a basic handgun safety course of four hours, at a cost of \$50.00, that would be doable and, even though I would still object on principle, I would “bite the bullet,” so to speak, in order to get my license. However, spending two or more full days in a class, at a cost of several hundreds of dollars, plus expensive ammunition, is unreasonable and unconstitutional.

30. If these unconstitutional requirements were removed from the application, and the Sheriff would accept my application, I would immediately submit my application for a concealed carry license, something I greatly desire to obtain and, but for the CCIA’s unconstitutional demands, I would seek to obtain. I otherwise meet all of the requirements to be “granted” a permit to carry my firearm in public and, in fact, I have completed the remaining parts of my application (save for the portions I will not provide), and I have attempted to secure an appointment for submitting my application, but there is not one available until late next year, a completely unreasonable time frame.

I declare under penalty of perjury that the foregoing is true and correct.

September 19, 2022
Date



Lawrence Sloane

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, COREY JOHNSON,)
ALFRED TERRILLE, JOSEPH MANN,)
LESLIE LEMAN, and LAWRENCE)
SLOANE,)

Plaintiffs,)

Civil Action No. _____

v.)

KATHLEEN HOCHUL, in her Official)
Capacity as Governor of the State of New)
York, KEVIN P. BRUEN, in his)
Official Capacity as Superintendent of the)
New York State Police, Judge MATTHEW)
J. DORAN, in his Official Capacity as the)
Licensing-official of Onondaga County,)
WILLIAM FITZPATRICK, in his Official)
Capacity as the Onondaga County District)
Attorney, EUGENE CONWAY, in his)
Official Capacity as the Sheriff of)
Onondaga County, JOSEPH CECILE, in)
his Official Capacity as the Chief of Police)
of Syracuse, P. DAVID SOARES in his)
Official Capacity as the District Attorney)
of Albany County, GREGORY OAKES,)
In his Official Capacity as the District)
Attorney of Oswego County, DON)
HILTON, in his Official Capacity as the)
Sheriff of Oswego County, and JOSEPH)
STANZIONE, in his Official Capacity as)
the District Attorney of Greene County,)

Defendants.)
_____)

DECLARATION OF LESLIE LEMAN

Exhibit "4"

1. My name is Leslie Leman. I am a U.S. citizen and resident of New York, and I live in Greene County. I am a member of Gun Owners of America, Inc., and thus am one of the individuals whose interests were represented by the organizational plaintiffs in *Antonyuk v. Bruen*.

2. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

3. I am a law-abiding person who currently possesses and has maintained an unrestricted New York carry permit since 2012. I am eligible to possess and carry firearms in the State of New York, and have met all the qualifications for licensure, including having good moral character.

4. Not only do I possess a New York carry license, but also I have routinely carried my handgun concealed when I leave home, during the time I have had my permit.

5. I am a volunteer firefighter in the Windham Fire District. Previously, I was the elected fire commissioner in the same department, for seven years. I have held these responsibilities in one position or another for approximately 12 years. The nature of my work as a volunteer, without "on duty" shifts, means that I am on call 24 hours a day, 7 days a week, which means that I am generally at home, working, in my vehicle, or otherwise going about my daily life, when I receive a call from our dispatch, via radio and text message, that there is an emergency situation requiring an immediate response. I and the other members of my team are then expected to respond to the call immediately, without any opportunity to go home, to change clothes or, as relevant here, to disarm and stow my firearm. This means that there are times that I have responded to an emergency call while armed.

6. Our unit provides emergency services to all persons within the fire district or, when requested, under mutual aid agreements across the county, without regard to the nature of the

location to which we are called. Over many years, we have responded to calls at all sorts of locations that the Concealed Carry Improvement Act ("CCIA") now declares to be "sensitive locations," including government property and buildings, churches, schools, nurseries, daycares, libraries, playgrounds, parks, medical facilities and offices, shelters, vehicles used for public transit, restaurants that serve alcohol, theaters, sporting events, and others. If not a "sensitive location," our calls invariably involve private property now deemed a "restricted location."

7. For example, having the Catskills Park surrounding our town, we often have responded to calls in the park, such as injured hikers, forest fires, etc.

8. The CCIA, however, does not contain any emergency exemption or other sort of exception to its blanket prohibition of firearm possession in "sensitive locations" and "restricted locations."

9. This means that I would be guilty of a felony crime, should I, as a first responder, respond to an emergency situation while armed. The only way to avoid culpability would be for me to disarm, in compliance with the CCIA, by returning home or to my vehicle, prior to responding to an emergency call which would delay responding to what may be a life threatening emergency.

10. Moreover, under the CCIA, it would not be enough for me to simply place my handgun in the back seat, or under a newspaper, while on my way to a call. Rather, I would have spend significant time to unload the firearm by "removing the ammunition from" the firearm, and then "securely locking" the firearm "in an appropriate safe storage depository out of sight from outside the vehicle," realistically meaning a safe or lockbox attached to the structure of the vehicle. Failure to take these steps is a "class A misdemeanor."

11. Moreover, in various instances in the past, I have been called on to respond while traveling in a vehicle other than my own (such as that of my wife, a friend, etc.) where "safe storage" has

not been available to me, and where it is not otherwise safe or appropriate to simply leave my firearm in a vehicle.

12. It is safe to say there will be times that I cannot comply with the CCIA when responding to an emergency call. Nor have I ever met anyone in my line of work who would be able to comply.

13. As part of my job, I respond to house and structure fires, vehicle accidents, and medical emergencies including in state parks, fires on private and state land, etc. Many of these calls present life-and-death situations, where immediate action, including the provision of medical attention, is required in order to preserve life and property.

14. It would be simply absurd to ask a family, standing in their pajamas in knee-deep snow, to provide me with their “express consent” to carry my firearm prior to entering their home to put out a fire or to provide lifesaving medical care. Indeed, that is the absolute last thing I am thinking of in this sort of situation.

15. In fact, the town of Windham, New York is completely surrounded on all sides by the Catskills Park. This means that I often cannot respond to a call without traversing part of the Park, and thus being in violation of the CCIA. The only option for me would be to return home and leave my firearm there, prior to responding to a call – an untenable option.

16. The CCIA thus has put me to an unreasonable choice where either I can resign from being a firefighter, or I can forfeit my constitutional right to bear arms in public. I do not accept these terms.

17. Although the history of organized firefighting dates to ancient Rome, there is no historical analogue for a state law requiring first responders who are not on duty to disarm before responding to an emergency call, with the threat of felony prosecution hanging over their heads.

18. Moreover, in recent years, first responders including firefighters have been specifically targeted and killed by intended mass shooters, including in New York.¹ My need for self-defense does not end simply because I am called to respond at a “sensitive location” or “restricted location.” On the contrary, historically many (if not most) mass shootings occur at locations that are declared by state governments to be gun-free zones. New York State’s decision to disarm law-abiding persons, including first responders who respond to such situations, is illogical and untethered to any rational thought, to say the least.

19. It is my opinion, based on my professional training and experience that, in an emergency situation, seconds count, and the CCIA, by mandating disarmament by first responders, might literally result in the loss of life, to the extent that first any first responders abide by its requirements.

20. For these reasons, I intend to continue carrying my firearm and going about my daily life, including as a firefighter. This undoubtedly will put me in violation of the CCIA as I respond to calls.

21. Not only do I intend to engage in various constitutionally-protected acts which are now made unlawful under the CCIA, but also I face a credible threat of prosecution, as my specific intentions are now being made public through this filing.

22. For example, First Deputy Superintendent Steven Nigrelli of the New York State Police, has threatened persons such as me who will violate the CCIA that “[w]e ensured that the lawful, responsible gun owners have the tools now to remain compliant with the law. For those who choose to violate this law ... Governor, it’s an easy message. I don't have to spell it out more than this. We’ll have zero tolerance. If you violate this law, you will be arrested. Simple as that.

¹ <https://www.cnn.com/2012/12/24/us/new-york-firefighters-shooting>

Because the New York state troopers are standing ready to do our job to ensure ... all laws are enforced.”² If that is not a credible threat of enforcement, it is hard to see what would be.

23. What is more, I am far more likely than the average person to interact with the police who are called on to enforce the CCIA. Indeed, it is typical that we would respond to an emergency call alongside police officers, including both local law enforcement, and also the New York State Police. Indeed, many of my fellow firefighters are also in local law enforcement.

24. Moreover, it is not infrequently the case that firefighters can become overwhelmed by smoke, burned by fire, injured by falling objects, or otherwise seriously hurt when responding to a situation such as a structure fire. In the past, I and/or my colleagues have found ourselves in such situations, and have needed medical attention. My department also has policies that, at times, *requires* us to be evaluated by EMS personnel. In other words, it is common for firefighters such as myself to interact with law enforcement, EMS, arson investigators, etc. If, in the process of interacting with these persons or being treated for an injury (which can involve having clothes removed), the police or others discover my firearm, I could be arrested.

25. In addition to my job as a firefighter, my wife and I run a small hotel and breakfast restaurant in Windham, New York. In this business, we offer lodging to guests as well as a restaurant that serves breakfast and offers baked goods to guests and customers. In a given year, we cater to several thousand visitors from across New York, the United States, and around the world.

26. As the owners of this private property, which is now declared a “restricted location,” the CCIA mandates that, in order to permit gun owners to continue staying in our rooms and eating at our restaurant, we must post “clear and conspicuous signage indicating that the carrying of firearms

² <https://youtu.be/gC1L2rrztQs?t=2281> (at 38:00 minutes).

... is permitted.” In our situation, signage is required because it is entirely impractical to provide person-by-person “express consent” to each individual who stops by.

27. The CCIA requires us to engage in this compelled speech in order to continue providing services to those who bring their firearms to our location. If we do not engage in this compelled speech, we will lose the business of gun owners who wish to travel lawfully with their firearms, as the CCIA prevents them from visiting our location.

28. On the other hand, many (if not most) of our customers are visiting from the southern part of the state, including New York City, Long Island, and northern New Jersey. Many (if not the majority) of these customers hold political views that are generally unaccepting of firearm ownership, and the idea of others bearing arms in public. Thus, if we were to post a sign stating that firearms and concealed carry are welcome on our premises, it is certain that we would lose some amount of business from customers who do not share that view.

29. In other words, the CCIA politicizes our business against our wishes, forcing us to a Hobson’s choice between groups of customers and, no matter which option we choose, we will lose business.

30. Additionally, as part of our operations, we have been intending to apply and obtain a New York State wine and beer license, but now, under the CCIA, to do so would turn our business into a “sensitive location” and would put us in a position where we could not even possess firearms ourselves, on our own property, and potentially even in our own home which is appurtenant to our business.

31. Through the CCIA, the state has taken my rights as a property owner to decide the terms on which to invite or exclude visitors to my property (and my home). Moreover, the CCIA forces me to engage in compelled speech as a precondition to obtaining the business of a certain clientele.

The CCIA requires me to publicly take a position one way or the other on an issue that is highly contentious and divisive in this state, whereas before we could simply stay silent and follow state law with respect to firearms.

32. Finally, as I previously explained, the Catskills Park surrounds the town of Windham, New York, where I live. This means that I cannot leave my small town with a firearm, without entering the park, and thus violating the CCIA. The CCIA, which has no exception for travel, even when a firearm is unloaded, locked, and stored in a trunk, turns my town into an island where no firearms can come in, and none can go out. In essence, the CCIA reverts the state of the law to the situation which led to *N.Y. State Rifle & Pistol Ass'n v. City of New York*, 140 S. Ct. 1525 (2020), where the plaintiff was unable even to take his firearm from his home to the shooting range. In response to the Supreme Court agreeing to hear that case, New York state changed the law, in order to moot the matter and avoid a loss. Now, however, the CCIA reenacts the very same situation on a statewide level. Left with no reasonable choice, I intend to bring my firearm when I leave home to travel outside of Windham, New York, which will take me through state parkland, in violation of the CCIA.

I declare under penalty of perjury that the foregoing is true and correct.

September 19, 2022
Date

Leslie Leman
Leslie Leman



License Division
Hearings & Appeals Unit
One Police Plaza, Room 110A
New York, NY 10038
Tel. 1-646-610-5560

August 31, 2022

Dear Licensee:

You are receiving this letter because you currently maintain an active premise business, limited carry, special carry, or carry business license. As you should be aware, New York State has recently enacted laws that prohibit those who are licensed to carry firearms from carrying their firearm in certain locations. Specifically, Penal Law Section 265.01-e prohibits the possession of any firearm, even a licensed one, in a "sensitive location." A violation of this law is a class E Felony. This law goes into effect on Thursday, September 1, 2022. A copy of the applicable law is attached for your careful review. You are being sent this letter because your place of business may now be a sensitive location under this new law and thus, continued possession of a firearm at this location is unlawful.

IF YOUR BUSINESS IS IN A SENSITIVE LOCATION UNDER P.L. 265.01-E, YOU ARE NO LONGER ABLE TO LAWFULLY POSSESS A FIREARM AT THAT LOCATION.

If this applies to your place of business, please bring your applicable firearm(s) to your local precinct in order for it to be safeguarded for you. Alternatively, you may bring your firearm(s) to another location where you are lawfully allowed to possess and store it. Lastly, you may contract with a Federally Licensed Firearms dealer (FFL) to store the firearm(s) for you – they may, however, charge for this service.

Additionally, if your place of business is located in Times Square or in the surrounding blocks, please consult sections 5-34 and 5-35 of Title 38 of the Rules of the City of New York. A copy of this rule is also attached. Some exceptions are made within the rules for transport in and out of the Times Square Sensitive Location Zone.

The License Division will endeavor to provide licensees affected by this change in law with alternative means to exercise their 2nd Amendment rights. Questions may be directed to the License Division by email to LicenseDivisionDesk@nypd.org.

Exhibit "5"



OFFICE OF THE DEPUTY COMMISSIONER - LEGAL MATTERS

LEGAL BUREAU BULLETIN

Vol. 51, No. 2

August 2022

New York State Restrictions on Carrying Concealed Firearms

Key Points

- Possessing a firearm in New York City requires a special license issued by the New York City Police Department.
- Carrying a firearm in New York City requires a concealed carry license issued by the New York City Police Department.
- Anyone carrying a firearm is presumed to be carrying unlawfully until proven otherwise.
- License holders are required to carry their license when carrying a firearm and must provide their license to law enforcement upon request.
- Recent changes in law do not impact the way officers conduct investigative encounters. Officers may stop an individual when the officer has reasonable suspicion that an individual is carrying a firearm (Level 3) and may frisk that individual since the officer has reasonable suspicion that the individual is armed and dangerous.

Overview

It is a crime in New York State (NYS) to possess a firearm without a firearms license. Since the early 1900s, NYS required people who wanted a license to carry a firearm to demonstrate a particular need to carry a gun – such as threats, attacks, or other extraordinary danger to personal safety. On June 23, 2022, the United States Supreme Court (SCOTUS) ruled that New York State cannot require people to demonstrate a particular need for a carry license, but may still require a license.¹

Specifically, the Court stated that: (1) state and local governments are still authorized to require people to obtain licenses in order to lawfully carry guns, and (2) state and local governments may continue to have criteria that must be met before a license will be issued. For these reasons, the SCOTUS decision does not affect the legal requirement that those who want to carry a firearm in New York City must still obtain a license from the New York City Police Department's License Division, with some exceptions.²

¹ *New York State Rifle & Pistol Assn., Inc. v Bruen*, 142 S.Ct. 2111 (2022).

² See Penal Law Section 400.00(6) which says that a handgun license issued in New York State is valid throughout the state, except in New York City, where a special permit is granted by the Police Commissioner. Exceptions to this rule apply to those who: (1) have a lawfully-issued firearms license from another state, (2) are traveling through New York City in a continuous and

After the SCOTUS ruling, New York State passed new laws that prohibit people who are licensed to carry firearms from bringing their firearms to certain locations. This bulletin outlines the new laws which take effect on September 1, 2022.

It is important to note that possessing a firearm *without* a license continues to be a crime in New York State. Also, the SCOTUS decision does not change the Department's training or guidance on investigative encounters. Officers may stop an individual when the officer has reasonable suspicion that an individual is carrying a firearm (Level 3) and may frisk that individual since the officer has reasonable suspicion that the individual is armed and dangerous.

Sensitive vs. Restricted Locations

The new law designated certain locations as "sensitive" and others as "restricted."

- **Sensitive Locations:** Even though a person may be licensed to carry a firearm, they *may not* bring a firearm to a "sensitive" location. The list of sensitive locations is outlined below. However, there are exceptions:
 - **Active and Retired Law Enforcement:** May bring firearms to sensitive locations, as long as they are lawfully carrying the firearm.
 - Additional exceptions are outlined below.
- **Restricted Locations:** All private property (residential and commercial) that is not on the sensitive location list is considered "restricted." People who are licensed to possess firearms *may not* bring firearms to a restricted location unless they get permission from the property owner. However, there are exceptions:
 - **Off-Duty Active Law Enforcement and Retired Law Enforcement:** May bring firearms to restricted locations without getting permission from the property owner, so long as they are lawfully carrying the firearm. However, if the owner expressly prohibits all firearms on the property, they *may not* bring firearms onto the property.
 - Additional exceptions are outlined below.
- **On-Duty Law Enforcement:** There are *no* restrictions at either sensitive or restricted locations for on-duty law enforcement. Owners *may not* prohibit on-duty law enforcement from carrying firearms on their property.

Sensitive Locations

Under new Penal Law § 265.01-e, it is a class E felony for a person, even if they have a license, to possess a firearm, rifle or shotgun in a "sensitive location." However, there are some exceptions to this rule as outlined below.

uninterrupted fashion, and (3) the firearm is stored in a locked container. Exceptions also exist for retired police officers and federal law enforcement officers, licensed New York State peace officers, and others.

The following are sensitive locations:

- Government buildings or property used for government administration (i.e., courts, City Hall, city agencies)
- Hospitals, doctor's offices, health clinics, urgent care facilities, substance abuse or mental health screening and treatment centers, or other behavior health services
- Places of worship
- Public libraries, parks, playgrounds, and zoos
- Facilities where child care, daycare, after-school programs or foster care are administered
- All public and private schools, including college and university buildings and campuses, as well as preschools, nursery schools, and summer camps
- All shelters for homeless, youth or domestic violence victims, or areas where domestic violence services are provided
- Adult care, nursing homes or assisted living facilities, veteran homes or school-based health centers
- On public transportation and in public transportation facilities including buses, bus terminals, subways, subway stations, trains, train stations, ferries, ferry terminals, airports, etc.
- Any establishment where on-premises consumption of alcohol or cannabis is authorized, such as a bar, restaurant or cannabis lounge
- In or on the grounds of performing arts centers, theaters, stadiums, arenas, racetracks, museums, art galleries, amusement parks, banquet and catering halls, and casinos
- Any location being used as a polling location
- Any public sidewalk or public area that is restricted from general public access by a government entity for a limited time or for an authorized event such as a parade or outdoor concert (signs **must** be posted alerting the public that the area is temporarily a sensitive location)
- Protests, demonstrations, marches, or any assembly where individuals are gathered to collectively express their constitutional rights of free speech
- Times Square, as the area will be designated by signage³

Exceptions: The following individuals *are allowed* to possess a firearm in sensitive locations:⁴

- Off-duty active police officers
- Retired police officers who are lawfully carrying
- Active peace officers employed in NYS

³ For the purposes of section 265.01-e of the Penal Law, Times Square means and includes the following two tracts: (i) the tract in Manhattan including and bounded on the west by the west side of Eighth Avenue, on the south by the south side of West Fortieth Street, on the east by the east side of Sixth Avenue, and on the north by the north side of West Fifty-third Street; and (ii) the tract in Manhattan including and bounded on the west by the west side of Ninth Avenue, on the south by the south side of West Fortieth Street, on the east by the east side of Eighth Avenue, and on the north by the north side of West Forty-eighth Street.

⁴ See Penal Law Section 265.01-e(3) for full list of exceptions. If a person operates a licensed or certified program, such as a daycare or health services, in their home, they may possess a firearm in their home so long as the possession is lawful and does not violate the terms of the program's license or certificate. This exception only applies to the operator of the program.

- Licensed security guards while on duty
- Armored truck guards while on duty
- Judges, licensed to possess a firearm, while in the course of their official duties
- Corrections officers in the course of their official duties
- Active-duty military personnel

Restricted Locations

Under new Penal Law § 265.01-d, it is a class E felony for a person, even if they have a license, to possess a firearm, rifle or shotgun at a “restricted location” unless permission is granted by the owner or lessee of the property. However, retired law enforcement and off-duty law enforcement may bring firearms to restricted locations without getting express permission from the property owner, but if the owner expressly prohibits all firearms on the property, they may not bring firearms onto the property. Note that owners *may not* prohibit on-duty law enforcement from carrying firearms on their property. Additional exceptions are outlined below.

Property owners and lessees who want to authorize lawful firearms holders to bring firearms onto the property may post clear and conspicuous signs granting permission. Owners may also give express permission to individual people.

The following are restricted locations:

- All residential property
- All commercial property including stores and businesses which are not on the sensitive location list noted above⁵

Exceptions: The following individuals are allowed to possess firearms at restricted locations without express permission from the owner: ⁶

- Off-duty active police officers
- Retired police officers who are lawfully carrying
- Active peace officers employed in NYS
- Licensed security guards while on duty
- Armored truck guards while on duty
- Judges, licensed to possess a firearm, while in the course of their official duties
- Corrections officers in the course of their official duties
- Active-duty military personnel

However, if a property owner expressly prohibits firearms on their property, the individuals listed above must comply. If they do not, they may be committing trespass.⁷ Remember, owners *may not* prohibit on-duty law enforcement from carrying firearms on their property.

⁵ For example, since a bar that is licensed by the NYS Liquor Authority is a “sensitive” location under Penal Law Section 265.01-e, the owner may not give customers permission to bring licensed firearms onto the premises.

⁶ See Penal Law 265.01-d(2) for full list of exceptions.

⁷ If any such individuals bring a firearm onto private property against the owner’s articulated wishes, they may be committing a trespass. However, they are not violating § 265.01-d, because they are not required to get an owner’s permission before bringing a firearm onto their property.

Storage of Licensed Firearms

As of September 1, 2022, individuals who are licensed to possess or carry a firearm are prohibited from *storing*⁸ a rifle, shotgun, or firearm in a vehicle unless the ammunition has been removed and locked in a safe storage box that is not visible from outside of the vehicle. A glove compartment *does not* qualify as a safe storage box. This law applies to all people who are licensed to carry firearms. A violation of this law is a class A misdemeanor.

Investigative Encounters

This Supreme Court decision does not change the way the Department conducts investigative encounters. **People who are carrying firearms in New York State are presumed to be doing so unlawfully, until proven otherwise.** Officers may stop an individual when the officer has reasonable suspicion that such individual is carrying a firearm (Level 3) and may frisk that individual since the officer has reasonable suspicion that the individual is armed and dangerous. Officers may conduct a common law right of inquiry (Level 2) if they have founded suspicion that the individual is carrying a firearm. Officers may effect an arrest of an individual when the officer has probable cause that the individual is carrying a firearm without being licensed to do so. Officers are reminded that under New York State law, all firearms license holders are required to carry their license while carrying a firearm and must produce their license to law enforcement upon request.

Pending Legislation

At this time, the New York City Council is drafting proposed legislation that may impact the guidance provided in this bulletin. If the draft legislation becomes law, this bulletin will be amended.

Summary

- Unlicensed firearm possession in New York State is still a crime under the Penal Law.
- New laws place restrictions on where firearm license holders may carry firearms.
- None of the changes in law impact an officer's ability to carry a firearm in the course of their duties at any location.
- No changes are being made to the way the Department conducts investigative encounters.
- License holders are required by law to provide their firearm license to law enforcement upon request.
- Officers should carefully review and understand the above concepts as a result of these new laws. Questions regarding the contents of this Bulletin may be directed at the Legal Bureau by contacting 646-610-5400. The Legal Bureau will update this bulletin as the laws on this subject continue to develop.

⁸ This prohibition applies when the firearm is left in a vehicle that is not attended by the firearm license holder.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, COREY JOHNSON,)
ALFRED TERRILLE, JOSEPH MANN,)
LESLIE LEMAN, and LAWRENCE)
SLOANE,)

Plaintiffs,)

Civil Action No. _____

v.)

KATHLEEN HOCHUL, in her Official)
Capacity as Governor of the State of New)
York, KEVIN P. BRUEN, in his)
Official Capacity as Superintendent of the)
New York State Police, Judge MATTHEW)
J. DORAN, in his Official Capacity as the)
Licensing-official of Onondaga County,)
WILLIAM FITZPATRICK, in his Official)
Capacity as the Onondaga County District)
Attorney, EUGENE CONWAY, in his)
Official Capacity as the Sheriff of)
Onondaga County, JOSEPH CECILE, in)
his Official Capacity as the Chief of Police)
of Syracuse, P. DAVID SOARES in his)
Official Capacity as the District Attorney)
of Albany County, GREGORY OAKES,)
In his Official Capacity as the District)
Attorney of Oswego County, DON)
HILTON, in his Official Capacity as the)
Sheriff of Oswego County, and JOSEPH)
STANZIONE, in his Official Capacity as)
the District Attorney of Greene County,)

Defendants.)
_____)

DECLARATION OF IVAN ANTONYUK

Exhibit "7"

1. My name is Ivan Antonyuk. I am a U.S. citizen and resident of New York, and I live in Schenectady County. I am a member of Gun Owners of America, Inc., and thus am one of the individuals whose interests were represented by the organizational plaintiffs in *Antonyuk v. Bruen*. I was also a plaintiff in that prior case.

2. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

3. As stated in my previous declaration filed in the prior case in this Court, I am originally from Ukraine. In the 1990s, when I lived in Ukraine, crime was rampant and out of control, with the country being run by mafia and criminals. Ordinary citizens were not allowed to own firearms to protect themselves. Instead, only the government and their guards had guns. This gun control regime left the Ukrainian people with no means to defend themselves from crime, whether committed by criminals or the government. In Ukraine in the 1990s, if you needed police, they were hours away when you called, if they even showed up at all. The Ukrainians also had no right to free speech and we had no right to protest. I personally witnessed many attacks on Ukrainian citizens simply for protesting. Once I was passing by a protest, and the police beat me because they thought I was a part of the protest, but I was not involved. I no longer felt safe in Ukraine, and it was a known fact that you should not leave your house at night due to crime. In 1994, I left Ukraine for the United States and its promise of freedom. I settled in New York, where I became a United States citizen in 1999. I have lived in New York ever since. I firmly believe in the Second Amendment and the right to keep and bear arms. I have seen what happens in countries when citizens are not allowed arms.

4. I am a law-abiding person who currently possesses and has maintained an unrestricted New York carry permit since 2009. I am eligible to possess and carry firearms in the State of New York, and have met all the qualifications for licensure, including having good moral character.

5. Prior to the recent implementation of the New York Concealed Carry Improvement Act, I routinely carried my firearm in public, where permitted and lawful.

6. Now, the CCIA makes almost all places off limits to me while I am carrying a firearm in public. For instance, if I go to a store, restaurant, or gas station that is not specifically posted with a sign allowing me to carry there, I am unable to go in with my firearm, without violating the law.

7. The CCIA's implementation has greatly affected my daily life. This Court previously opined that "it would seem plausible that a plaintiff such as Mr. Antonyuk [is] going to violate both the CCIA's sensitive-location provision or restricted-location provision ... while resuming his daily life in the coming weeks...." *Antonyuk* at _____. On the contrary, I have taken significant steps since the CCIA's implementation to comply with each of its provisions, in order to avoid violating the law. I have changed where I eat and get takeout meals. I have stopped shopping at certain stores that have not posted signs welcoming firearms. As the Governor opined, New Yorkers can carry now only in "some public streets," and that generally has been my reality since the CCIA took effect.

8. When I have gone to a place that the CCIA has made off limits, I have been forced to disarm myself. This includes separating the magazine and ammunition from my firearm, and storing them in a safe storage box, but not in my glovebox. Of course, it is well known that when people load and unload firearms, it introduces opportunities to have accidental discharges. As I stated previously, since I must unload my firearm, I have to do this in my vehicle as it does not make sense to exit the vehicle with a holstered, concealed firearm, draw the firearm, unload and

make safe, and then store the firearm in my trunk or locked safe. And then when I return to my vehicle, I have to remove the firearm from the trunk, reload it, and then reholster it. Often my family is present in my vehicle during this unnecessary performance. The second of the four ubiquitous rules of gun safety is to keep the muzzle of an unholstered firearm from pointing in any unsafe direction yet, while in my vehicle with my family in a public place, there are few if any such directions. This CCIA-mandated theater is wholly unnecessary and dangerous, and has completely changed the process of carrying a firearm in New York as it used to be prior to September 1, 2022.

9. Additionally, if someone sees me with an unconcealed handgun in my hand while I am unloading and storing it to comply with this new Act, I fear that I will be reported to the police and perhaps charged with a crime for having a firearm that is not concealed. *See Antonyuk* at 49 n.16 (“[t]his discovery might be as obvious as a passeryby catching sight of a glimmer of steel as a permit holder is transferring his or her handgun to his trunk in the parking lot of a gas station”).

10. As the Court found, I am “law-abiding and respectful.” *Antonyuk* at *49. And now, because I am a “law-abiding and respectful” citizen, I have refrained from violating any of the provisions of the Act, and will not violate them. However, the vast number of locations at which lawful carry is now banned, and despite my best efforts, this law creates the real danger that I will inadvertently violate this new law unintentionally --- but that would be no defense, as I understand it.

11. Additionally, I am harmed because I can no longer enjoy the Second Amendment freedoms I once had before the new law was implemented. I no longer can carry in a number of places that I used to carry. I am unable to go peaceably about my daily life without fear of inadvertently carrying in a prohibited location, and being prosecuted for doing so.

12. If the Court enjoined this law, and made it lawful for me to carry without fear of arrest, prosecution, damaging my reputation, losing my Second Amendment rights for life, or losing the required “good moral character,” I would immediately carry in those places again, but for the CCIA’s unconstitutional restrictions. For instance, if I were able to carry at a gas station while pumping my gas, I would do so, but currently I refrain from doing so because I fear prosecution and because I obey the law. But for the CCIA making carrying of a firearm at a gas station that has not posted a sign permitting carry a felony, I would carry my firearm on my person while at a gas station that is otherwise not posted with “conspicuous signage.”

13. I am also a property owner, of a single-family home within Schenectady County, New York. It is my right, as the property owner, to determine who, and under what circumstances, persons may visit my property, and what activities they may engage in while at my home. The CCIA, however, infringes my rights, declaring my home to be a “restricted location,” and mandating that, in order to permit gun owners to visit my home while armed, I must post “clear and conspicuous signage indicating that the carrying of firearms ... is permitted” or otherwise provide my “express consent,” presumably either verbally or in writing.

14. Of course, without standing on my front lawn 24 hours a day, it is impossible for me to provide “express consent” to each and every visitor who stops by, especially in advance of their arrival. For example, a delivery driver, meter reader, Jehovah’s Witness, or other visitor to my home might deliver a package, read my electric meter, or knock on my door when I am not at home or otherwise indisposed, and unable to greet them. Although I would have no problem with such persons peaceably and lawfully carrying their firearms on my property, the CCIA would prohibit that from occurring, in violation of my wishes, unless I posted “conspicuous signage.”

15. Likewise, many law-abiding license holders, including my friends and associates, no doubt will be hesitant or afraid to ask my permission to exercise their Second Amendment rights (often a taboo topic in New York State), for example because they are unaware that I support gun rights. Thus, such persons would leave their gun at home, contrary to my wishes. If I held a barbeque party for friends and associates, I may not know everyone who attends (such as if my wife invites one of her friends, who brings her husband who we have never met). Such persons would not even be able to ask my permission to carry their firearms on my property before they visit, and thus would have no choice but to leave them at home. Yet armed concealed carry license holders have successfully stopped intended mass shooters at family barbeques, neighborhood cookouts, and other similar events across the country.¹

16. Since I am a firm believer in the adage “more guns, less crime,” the CCIA reduces the safety of myself and my family, by prohibiting, against my wishes, firearms being peacefully carried by law-abiding permit holders on my property.

17. The CCIA could even prevent one of my neighbors from coming to my home to render aid and/or defend my family during a break in by violent criminals, unless he and I had previously had a conversation and exchanged “express consent” to bring firearms onto each other’s property. Or perhaps he would be forced to mill around in the dark, searching for “conspicuous signage” authorizing him to help. Either way, the CCIA thus reduces the safety and security of myself and my family, prohibiting firearms on my property that I would otherwise welcome.

18. Unable to provide “express consent” in many circumstances, the only other option the CCIA provides is for me to engage in compelled speech by posting a sign on my property, in order

¹ <https://www.foxnews.com/us/texas-man-shoots-robbery-suspect-second-amendment>;
<https://www.foxnews.com/us/florida-armed-bystander-stops-gunman-at-crowded-back-to-school-event-at-park-police-say>

to permit law-abiding gun owners to peaceably bring their firearms onto my property. However, I cannot safely comply with this requirement. As I mentioned, many New Yorkers are vehemently anti-gun, some militantly so. By posting a “clear and conspicuous” sign in favor of gun rights, I open myself and my family to criticism, harassment, and even possible hostile action (such as vandalism or a physical confrontation) by those who disagree with our political views. Likewise, by posting a gun-friendly sign, the CCIA requires me to identify my home as being the likely location of a gun owner (valuable property), raising the risk that my home would be targeted by burglars, thieves, home invaders, or other violent criminals, putting my family’s safety at great risk. I will not post a sign, and self-identify my property as a gun friendly location and thereby reduce my family’s security, as required by the CCIA.

19. The CCIA also politicizes my home against my wishes, and demands that I take affirmative steps and engage in compelled speech (either by making a government-required statement or posting a government-required sign) merely to fulfill my wishes that others be able to peaceably exercise their constitutional rights while on my property. On the contrary, there is no historical analogue for forcing me to “opt in” to constitutional rights.

20. I believe that the CCIA violates the constitution’s guarantees, requiring armed visitors to private property to obtain what is essentially a license or permit (by receiving consent or permission) from each and every property owner, before they may visit the property while armed. Like in the First Amendment context, the CCIA violates not only the Second Amendment rights of visitors to my home, but also my right to receive them on my terms.

21. Through the CCIA, the state has taken my rights as a property owner to decide the terms on which to invite or exclude visitors to my property (and my home). The CCIA requires me to

publicly take a position one way or the other on an issue that is highly contentious and divisive in this state, whereas before we could simply stay silent.

I declare under penalty of perjury that the foregoing is true and correct.

September 19, 2022
Date


Ivan Antonyuk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, COREY JOHNSON,)
ALFRED TERRILLE, JOSEPH MANN,)
LESLIE LEMAN, and LAWRENCE)
SLOANE,)

Plaintiffs,)

Civil Action No. _____

v.)

KATHLEEN HOCHUL, in her Official)
Capacity as Governor of the State of New)
York, KEVIN P. BRUEN, in his)
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New York State Police, Judge MATTHEW)
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Capacity as the Onondaga County District)
Attorney, EUGENE CONWAY, in his)
Official Capacity as the Sheriff of)
Onondaga County, JOSEPH CECILE, in)
his Official Capacity as the Chief of Police)
of Syracuse, P. DAVID SOARES in his)
Official Capacity as the District Attorney)
of Albany County, GREGORY OAKES,)
In his Official Capacity as the District)
Attorney of Oswego County, DON)
HILTON, in his Official Capacity as the)
Sheriff of Oswego County, and JOSEPH)
STANZIONE, in his Official Capacity as)
the District Attorney of Greene County,)

Defendants.)
_____)

DECLARATION OF PASTOR JOSEPH MANN

Exhibit "8"

1. My name is Pastor Joseph Mann. I am a U.S. citizen and resident of New York, and I live in Oswego County. I am the pastor of Fellowship Baptist Church in Parish, New York. I am a member of Gun Owners of America, Inc., and thus am one of the individuals whose interests were represented by the organizational plaintiffs in *Antonyuk v. Bruen, and in this case as well*.

2. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

3. I am a law-abiding person, currently possesses and, since 2014, have maintained an New York carry permit authorizing me to possess and carry a handgun during the course of my employment. I am eligible to possess firearms in the State of New York, and have met all the qualifications for licensure, including having good moral character.

4. The recently enacted Concealed Carry Improvement Act ("CCIA"), however, in effect rescinds that permit. It makes off limits all the places I ordinarily possess my firearm, renders my church unable to provide for its own security, forces me to choose between my First and Second Amendment rights in pursuing my ministry and, indeed, utterly destroys my ability to possess firearms, even within my own home. I will be unable to comply with many of the CCIA's restrictions on our ministry, and thus I intend to continue various activities in violation of the CCIA, as explained in detail below.

5. The CCIA defines a "sensitive location" to include "any place of worship or religious observation" (subsection c). In such a location, "a person is guilty of criminal possession of a firearm ... when such person possesses a firearm...."

6. Painting with such broad and absurd strokes, one is left to wonder whether New York actually has banned *all religious observation* where firearms are present, as the Bible teaches that

“where two or three are gathered together in my name, there am I in the midst of them.” Matthew 18:20. In other words, a Christian family reading the Bible together, a Muslim family fasting during Ramadan, or a Jewish family lighting a menorah in the home, would seem to constitute a “place of worship or religious observation,” and thus none of these families could possess firearms within their own homes. Indeed, in early Christianity, churches were typically little more than small gatherings that occurred within the home. Acts 2:46 (“And they, continuing daily with one accord in the temple, and breaking bread from house to house, did eat their meat with gladness and singleness of heart.”); Acts 20:20. Even today, many smaller churches that do not have access to a designated “church” building continue to meet in the homes of their members. Each of these locations would seem to constitute a “place of worship or religious observation” where firearms are banned under the CCIA.

7. But even when applied to locations like Fellowship Baptist Church, that are explicitly designated as a “place of worship,” the CCIA is still patently immoral and unconstitutional.

8. Fellowship Baptist Church is a small ministry located in the rural upstate town of Parish, New York. We have morning and evening services every Sunday, together with an evening service every Wednesday. In addition, we regularly have other gatherings and events at the church, not only for church attendees but also the general public.

9. Prior to the CCIA’s designation of our church as a defenseless, gun-free zone, we have maintained a church security team, consisting of trusted church members who are licensed carry permit holders, and are designated to carry their firearms to provide security and protection to the congregation during worship services. Both myself and this team have received specialized firearms training from a firearms instructor who specializes in church security.

10. Under the CCIA, however, neither myself nor our security team may possess firearms on church property. And, since we are a small church, we are unable to afford to pay for private security who might be exempt from the CCIA. Nor do the taxpayers provide us with armed security or a constant police presence, unlike the Governor and legislators in Albany who have seen fit to disarm us.

11. Based on this Court's recent conclusion that "the CCIA's list of 'sensitive locations' is not deeply rooted in this Nation's historical tradition of firearm regulation," and because neither churches nor anything like them appears in the Supreme Court's list of traditional sensitive locations, I intend to continue to possess and carry my firearm while on church property, in violation of the CCIA.

12. As Pastor of Fellowship Baptist Church, I live in a parsonage on the property. Indeed, my residence is part of the same building as the sanctuary building. In other words, not only is my home on Church property but, in fact, it is part of the church.

13. Moreover, my home is used not only as my family's residence, but also by the church for church business. For example, we have had Bible studies, meetings of elders, and other church gatherings in my home.

14. In other words, under the CCIA, my home is now a "sensitive location." This means that I may not even "possess a firearm" within my own home, including a handgun for self-defense as expressly authorized under *District of Columbia v. Heller*.

15. As the CCIA makes it nearly impossible for ordinary persons such as myself to carry firearms in public, and makes it a felony for me to keep firearms in my own home, **the CCIA has completely eliminated my rights under the Second Amendment.**

16. Indeed, since I have for many years and still currently possess firearms within my home, it appears as though now I am already in violation of the CCIA by merely possessing an operable firearm in my home for self-defense, even though this conduct is protected under *Heller*.

17. The only way I could come into compliance with the CCIA would be to turn all of my firearms over to the government. In fact, New York City already has sent letters to persons with registered firearms at certain locations, notifying them that their premises have been deemed a “sensitive location,” and threatening that they now must turn their firearms over to the police.¹

18. Under the CCIA, then, I am left with the choice to either hand over my firearms to the state, or to refuse to comply. In other words, as has happened throughout history, my prior registration of my firearms with the state now has led to the point of confiscation by the state. I refuse to surrender my firearms to New York State, even though my mere possession of firearms in my home appears to be directly criminalized by the CCIA.

19. In addition to destroying my Second Amendment rights, the CCIA deprives our church of the ability to make its own rules governing the carrying of firearms on church property. Unlike the CCIA’s restricted locations, there is no ability to opt out of the prohibitions on firearms in “sensitive locations.” Thus, I am unable to permit parishioners, even law-abiding ones with carry licenses and substantial training, to carry during services. We may not even have our church security team, of the type that have successfully stopped mass shootings in other states, such as Jack Wilson who stopped an intended mass shooter at the West Freeway Church of Christ in Texas,² or Charl Van Wyk, a churchgoer in South Africa who deterred “[a] group of attackers” who “stepped through the doorway and lobbed grenades affixed with nails at the congregation,”

¹ <https://i.redd.it/m4uk6vzrr3l91.png>

² https://en.wikipedia.org/wiki/West_Freeway_Church_of_Christ_shooting

“[t]hen [] opened fire with their assault rifles.”³ In fact, under the CCIA, Stephen Willeford presumably would today be a felon for stopping the Sutherland Springs church shooter with his AR-15.⁴

20. Unwilling to allow the CCIA to turn my church family into unarmed, defenseless sitting ducks, I have no choice but to violate this immoral, unbiblical, and unconstitutional law, and intend to continue to possess my firearm in my church and in my home.

21. As Martin Luther explained five centuries and five years ago: “Here I stand, I can do no other, so help me God. Amen.”

22. I am aware that First Deputy Superintendent Steven Nigrelli of the New York State Police, has threatened persons such as me who violate the CCIA with a policy of “zero tolerance,” and intends to arrest me for committing a felony for exercising an enumerated right.⁵

23. Likewise, at least one of the congregants in my church is in local law enforcement and, as part of the church, is aware of my inability to avoid violating the CCIA by keeping a firearm in my home on church property.

24. Additionally, Sheriff Don Hilton of Oswego County, although pro-gun, highly critical of CCIA, expressing support of Second Amendment rights, and who states his belief the CCIA to be unconstitutional and that much will be struck down, nevertheless has also made statements about

³ <https://www.wnd.com/2016/07/dodge-my-bullets-st-james-massacre-hero-pushes-self-defense/#MwgdPWoZ232ZP1bY.01/>

⁴ https://en.wikipedia.org/wiki/Sutherland_Springs_church_shooting

⁵ For example, First Deputy Superintendent Steven Nigrelli of the New York State Police stated that “[w]e ensured that the lawful, responsible gun owners have the tools now to remain compliant with the law. For those who choose to violate this law ... Governor, it's an easy message. I don't have to spell it out more than this. We'll have zero tolerance. If you violate this law, you will be arrested. Simple as that. Because the New York state troopers are standing ready to do our job to ensure ... all laws are enforced.” <https://youtu.be/gC1L2rrztQs?t=2281> (at 38:00 minutes). If that is not a credible threat of enforcement, it is hard to see what would be.

enforcement of the CCIA. For example, in a July 13, 2022 Facebook post, Sheriff Hilton stated that “I’ll be clear, as long as I’m the Sheriff in this county ... we’re going to be very conservative in enforcement of this law.”⁶ However, even conservative enforcement is still enforcement. Likewise, in a July 20, 2022 Facebook post, the Sheriff explained how, “Under the new law, taking a legally licensed firearm into any sensitive area – such as a ... church ... is a felony punishable by up to 1 1/3 to 4 years in prison.” In other words, the Sheriff specifically articulated how my intended conduct is a felony. Finally, in an August 31, 2022 Facebook post, the Sheriff warned that “If you own a firearm please be aware of these new laws as they will effect [sic] all gun owners *whether we agree with them or not.*” Emphasis added.

25. I intend this act of civil disobedience because the CCIA violates not only my Second Amendment rights and those of my congregation, but also my free exercise of religion protected by the First Amendment. As an elder and the pastor of my church, I understand my role to be that of an under-Shepherd, under the authority of the chief Shepherd, Jesus Christ. I am instructed to “Feed the flock of God which is among you...” I Peter 5:1-4. Likewise, Acts 20:28 instructs “Take heed therefore unto yourselves, and to all the flock, over the which the Holy Ghost hath made you overseers, to feed the church of God, which he hath purchased with his own blood.” In other words, part of my duty is to provide protection for persons in my congregation, as shepherds do their flock. While that protection is primarily spiritual, I view providing physical protection to the best of my ability to be part of my duty as well.

26. In addition to the church ministry, Fellowship Baptist Church provides and has provided counseling and assistance in the context of many of the “sensitive location” settings in the CCIA, including to the homeless, youth, in the domestic violence and abuse setting, and others. To the

⁶ **Error! Main Document Only.** <https://www.facebook.com/SheriffDonHilton>

extent that our church operates in that capacity, the CCIA (subsection k) appears to prohibit our possession of firearms as well, and thus inhibits our ability to provide security for those under our care.

27. Indeed, there has been more than one situation over my years as a pastor where the security of myself, my family, and the members of our church has been far from a guarantee. In such situations, I have felt necessary to be armed with my handgun, not in any way wishing to use it, but being prepared to defend myself and others if the need arose.

28. In addition to being a place of “religious observation,” Fellowship Baptist Church also provides an addiction recovery ministry through “RU Recovery.” In that capacity, I frequently have traveled to the homes of persons addicted to drugs, in order to counsel them to seek help and voluntarily enter treatment. In this role, I have carried my firearm for my own defense and the defense of others. Drug users are often unpredictable, do not think and reason clearly, and potentially can present a risk to themselves or others. The CCIA, however, makes it impossible for me to both perform this ministry and also carry my firearm, as it declares all private property to be a “restricted location,” and requires me to obtain the “express consent” of a drug user (often high on drugs) before entering his or her home to provide help. That is an absurd choice (either stop helping people, or forfeit my constitutional rights), and I cannot comply. Rather, but for the CCIA, I would intend to continue to carry my firearm while providing this ministry, as I have in the past.

29. Moreover, as part of the RU Recovery program, we have brought persons in the program to church property for counseling and care. To that extent, the CCIA appears to separately ban firearms, as in “any location providing health, behavioral health, or chemical dependence care or

services” (subsection b). I cannot comply with that prohibition, and intend to continue to operate as I always have with respect to possessing my firearms at the church.

30. Next, during our Sunday services, Fellowship Baptist Church has a nursery, a Sunday School, and a Junior Church, both of which cater to the younger members of our congregation. It would appear that the CCIA separately would prohibit me, our staff, and our church security from providing security to our children, as it bans firearms at “nursery schools, preschools, and summer camps” (subsection f). I cannot comply with that restriction, and I intend to continue to possess firearms on church property to protect our entire congregation, including our children.

31. Additionally, Fellowship Baptist Church offers its facilities to a local homeschool coop, wherein we provide students not only with a place to meet and interact, but also my wife and I teach various classes to the students, including foreign language classes, including in my home. In other words, our church at times operates as a school for the education of children, and thus firearms are once again banned on church property (subsection m) by the CCIA. I cannot comply with that restriction, and intend to continue to operate as I always have with respect to possessing firearms at the church, in order to protect our entire congregation, including our students when they are under our care.

32. Likewise, the CCIA places off limits “any gathering of individuals to collectively express their constitutional rights to ... assemble[.]” Subsection s. This would seem to seem to cover a church service. To the extent that this section covers our church activities, I do not intend to comply.

33. Next, our church also maintains both a church bus and a church van which we use for church business to travel to various locations. We routinely take our own church members, our youth, and members of the public with us when we travel. Widely banning firearms in “public

transportation” vehicles, the CCIA appears as if it might ban possession of a firearm in our “bus[]” (subsection n), even if, hypothetically, a group of men from the church met with their firearms to go on a hunting trip, or to the shooting range. To the extent that the CCIA applies to our church bus or van, I do not intend to comply.

34. Finally, notwithstanding that our church is specifically listed in the CCIA as off-limits, it separately appears to be covered by another section of the CCIA, in that our church plays music before, during, and after worship services, and the CCIA bans firearms at a “performance venue” or “concert[]” (subsection p) and additionally a “banquet hall” as we often break bread together. The CCIA does not appear to include an exemption even for the Lord’s Supper (the Sacrament).

35. The principle of self-defense and defense of others is well established in Scripture. Many who oppose gun ownership are quick to refer to Isaiah 2:4: “[T]hey shall beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up sword against nation, neither shall they learn war any more.” However, that verse applies only to the Millennial Kingdom when Christ rules. The verse that applies to this time is Joel 3:10 which teaches the exact opposite: “Beat your plowshares into swords and your pruninghooks into spears: let the weak say, I am strong.”

36. When Jesus was instructing his followers at the Last Supper to go out into the world after he would leave his earthly ministry, he made it clear that they would need to be armed: “Then said he unto them ... and he that hath no sword, let him sell his garment, and buy one.” Luke 22:36. I view a firearm as today’s equivalent to a sword in those days.

37. In addition to its Biblical roots, the principle of self-defense and defense of others is built into the common law, which had Christianity as its core. St. George Tucker’s version of Blackstone’s Commentaries states: “This may be considered as the true palladium of liberty.... The

right of self defence is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any colour or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.”⁷

38. St. George Tucker was expressing a Biblically-based truth with which I agree. Governments which restrict the Biblical, inherent, right of self-defense and defense of others are moving the state to the annihilation of liberty and the bringing the nation to the brink of destruction.

39. Particularly as a pastor of my church, I view any act by a governmental entity to disarm me as a violation of my right of self-defense and to defend others. Such a law would be unrighteous, rendering me incapable of carrying out my duty to defend of myself, my family, and my congregation. “No man can enter into a strong man’s house, and spoil his goods, except he will first bind the strong man; and then he will spoil his house.” Mark 3:27. With enactment of the CCIA, the government seeks to bind me by disarming me, rendering me unable to protect those entrusted to me.

40. I believe that God has ordained and created all authority consisting of three basic institutions: 1) the home; 2) the church; and 3) the state. Every person is subject to these authorities, but all (including the authorities themselves) are answerable to God and governed by His Word. God has given each institution specific Biblical responsibilities and balanced those responsibilities with the understanding that *no institution has the right to infringe upon the other*. The home, the church, and the state are equal and sovereign in their respective Biblically assigned spheres of responsibility under God (Romans 13:1-7; Ephesians 5:22-24; Hebrews 13:17; 1 Peter 2:13-14).

⁷ <https://press-pubs.uchicago.edu/founders/documents/amendIIs7.html>

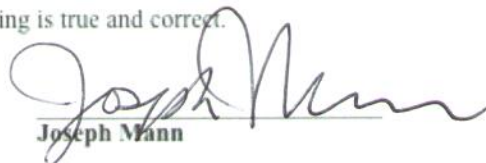
41. The CCIA, however, alters and usurps that balance, intruding into matters of the church. Moreover, as this Court has explained, the CCIA upsets the constitutional balance and violates enumerated rights. As “[a] Law repugnant to the Constitution is void” (*Marbury vs. Madison*, 5 US (2 Cranch) 137, 174, 176, (1803)), I cannot comply with its unconstitutional restrictions.

42. Whenever possible, I obey the law of the civil government. However, in the book of Acts, we learn that Peter and the other Apostles were ordered not to teach in the name of Jesus. Obedience to that order would constitute disobedience to God. How was this to be resolved? In Acts 5:29, we are told: “Then Peter and the other apostles answered and said, We ought to obey God rather than men.”

43. Therefore, for Bible-believing Christians, it is clear that there may be times in which the civil authorities direct us to do what we cannot do while fulfilling our duty to God. In such circumstances, we are to obey God, and not men. This is one of those times.

I declare under penalty of perjury that the foregoing is true and correct.

September 19 2022
Date


Joseph Mann

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK, COREY JOHNSON,)
ALFRED TERRILLE, JOSEPH MANN,)
LESLIE LEMAN, and LAWRENCE)
SLOANE,)

Plaintiffs,)

Civil Action No. _____

v.)

KATHLEEN HOCHUL, in her Official)
Capacity as Governor of the State of New)
York, KEVIN P. BRUEN, in his)
Official Capacity as Superintendent of the)
New York State Police, Judge MATTHEW)
J. DORAN, in his Official Capacity as the)
Licensing-official of Onondaga County,)
WILLIAM FITZPATRICK, in his Official)
Capacity as the Onondaga County District)
Attorney, EUGENE CONWAY, in his)
Official Capacity as the Sheriff of)
Onondaga County, JOSEPH CECILE, in)
his Official Capacity as the Chief of Police)
of Syracuse, P. DAVID SOARES in his)
Official Capacity as the District Attorney)
of Albany County, GREGORY OAKES,)
In his Official Capacity as the District)
Attorney of Oswego County, DON)
HILTON, in his Official Capacity as the)
Sheriff of Oswego County, and JOSEPH)
STANZIONE, in his Official Capacity as)
the District Attorney of Greene County,)

Defendants.)
_____)

DECLARATION OF ALFRED TERRILLE

Exhibit "9"

1. My name is Alfred (“Al”) Terrille. I am a U.S. citizen and resident of New York, and I live in Albany County. I am a member of Gun Owners of America, Inc., and thus am one of the individuals whose interests were represented by the organizational plaintiffs in *Antonyuk v. Bruen*, and in this case.

2. I make this declaration in support of Plaintiffs’ Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained therein.

3. I am a law-abiding person who currently possesses and has maintained an unrestricted New York carry permit since 1994. I am eligible to possess and carry firearms in the State of New York, and have met all the qualifications for licensure, including having good moral character.

4. Not only do I possess a New York carry license, but also I routinely carry my handgun concealed when I leave home. To be sure, I do not carry in courthouses, schools, government buildings, or the other obvious “sensitive places” the Supreme Court has described, where the government often provides security in the form of armed guards and metal detectors. Otherwise, being responsible for my own security and that of my family, my gun generally does not leave my side when I leave the house, and goes where I go.

5. However, due to the recent implementation of the Concealed Carry Improvement Act (“CCIA”), I am now in jeopardy of arrest and prosecution as a felon, not to mention having my firearm seized and my permit revoked, and my constitutional rights forfeited, merely for carrying in the completely ordinary and entirely non-sensitive locations in which I previously carried my firearm.

6. For example, in addition to being a father, I am now grandfather to 5 grandchildren. In that role, it is my duty to protect my family, regardless of the State of New York’s attempts to

disarm me, subjugate me, and infringe my Second Amendment rights through passage of the CCIA. Put simply, my duty to my family trumps any duty to disarm in acquiescence to a clearly unconstitutional statute.

7. As part of my activities with my grandchildren, we routinely see movies, both at movie theaters and at drive-in locations within Albany County. This activity occurs repeatedly throughout the year, and we will see a movie again at some point within the next 60 days. In the past, I have carried my concealed firearm during such outings, yet the CCIA will now make me a felon for doing this entirely ordinary family activity in entirely ordinary and non-sensitive locations (subsection p). Indeed, this sort of public location is the type of place where I absolutely need to be able to protect my family. Based on this Court's recent conclusion that "the CCIA's list of 'sensitive locations' is not deeply rooted in this Nation's historical tradition of firearm regulation," and because neither movie theaters nor anything like them appears in the Supreme Court's list of traditional sensitive locations, I intend to continue to carry my firearm when I go to movie theaters with my grandchildren, in violation of the CCIA.

8. I also routinely take my grandkids to Thatcher State Park, in Albany County, where we utilize the hiking trails, picnic areas, and playground for children. I intend to carry my firearm when my family visits the Park in the future, something that occurs and will continue to occur on at least a monthly basis (CCIA subsection d).

9. I have been planning and, within the next 60 days, I will take a trip to visit the state of Tennessee. Since Tennessee is a constitutional carry state that respects the Second Amendment rights of all Americans to bear arms, I will bring my firearm with me. I have not yet booked a flight, but I plan to travel by airplane, departing via the Albany International Airport. I have done some research into flights, and it looks like a ticket with one stop in Charlotte, NC will be under

\$500 to Chattanooga, TN, or under \$350 to Nashville, TN. Thus, I will continue watching prices, and will purchase a ticket in the coming weeks, for travel within the next two months. However, the unconstitutional CCIA makes it a crime for me to take this trip, criminalizing my taking my firearm with me to the airport, even unloaded, locked, and properly declared in my checked luggage in compliance with federal regulations. In fact, the CCIA bans possession of firearms in “any place ... or vehicle used for public transportation,” which expressly includes “airports” and by inference would include an airplane as well (since it is a vehicle) (subsection n). Nor would I be able to store my firearm in my vehicle in an airport parking lot, before taking a trip. In other words, the CCIA will subject me to arrest and criminal prosecution should I bring my firearm to the airport for my upcoming trip. Since I intend to check my firearm with my luggage in accordance with TSA regulations, which requires declaring the firearm, I would be essentially telling authorities that I am in illegal possession of a firearm, opening myself to prosecution under the CCIA.

10. Although I intend to travel to Tennessee by airplane, even if I were to travel by car, it would take me approximately 2.5 to 3 hours to drive directly out of New York State. Along the way, I would be effectively prohibited from making any stops, such as to use the bathroom, or even onto the parking lot of a gas station, rest stop, or fast-food restaurant, unless I have foreknowledge that a sign has been posted welcoming carrying (an impossibility in places where I do not routinely travel and/or have never been). In fact, I *cannot even stop in a parking lot to find out* if I may carry at a specific location, without violating the CCIA.

11. In other words, the CCIA greatly impairs my freedom of travel. I find this highly ironic, given that Governor Hochul has publicly asked all Republicans to leave New York State,¹ but also

¹ <https://nypost.com/2022/08/25/kathy-hochuls-call-for-5-4m-republicans-to-leave-new-york-is-dangerous/>

has signed into law a bill making it difficult (if not impossible) for me to do so with my firearm. In the next 60 days, I will travel to Tennessee via airplane, and I intend to bring my firearm with me in my checked luggage, in full compliance with 18 U.S.C. Section 926A, and/or TSA regulations.

12. The CCIA also makes it a felony for me to peaceably carry my firearm to entirely ordinary and non-sensitive locations that I routinely visit. For example, my bank, the First National Bank of Scotia, is a local bank with only a few branches in upstate New York. I have never been made aware of any anti-gun policy of the bank, nor does the bank have any posted signage stating that firearms are not allowed. On the other hand, nor does the bank have any sign stating that I *may* carry. This leaves me in an impossible situation where I essentially need to go into a bank, declare that I have a gun, and ask if it is permissible for me to carry. That is ridiculous, and I will not do that. Rather, I intend to continue carrying my firearm to my local bank in violation of the CCIA, because I will be doing so without the presence of “conspicuous signage” or having received “express consent,” unless the bank asks me to leave my firearm in my vehicle.

13. In addition to my local bank, I routinely carry my firearm when out and about in public, including when I go shopping at various locations in Albany County, such as gas stations, grocery stores (such as Hannaford Supermarket and Price Shopper), home improvement stores, big box stores, etc. Many of the stores have corporate policies which permit the carry of firearms, including Walmart, Walgreens and Target.² I would estimate that, at least once a week, I visit one or more of these retailers. However, the CCIA now declares such locations to be “restricted locations,” and bans my carrying of a firearm on the premises unless I have the affirmative consent of the owner, or there is specific signage posted. However, obtaining such consent is entirely

² <https://thehill.com/policy/finance/460336-here-are-the-gun-policies-for-americas-largest-retailers/#:~:text=Since%20July%202014%2C%20Target%20has,a%20statement%20at%20the%20time.>

impractical. Moreover, since the CCIA's implementation, few if any locations have posted signs welcoming concealed carry license holders, even if the business otherwise supports or allows concealed carry. In fact, to my knowledge, *none* of these retailers listed above has taken the affirmative steps to post signage to opt out of the CCIA.

14. Nor is it practical for me to disarm, approach such a business, ask permission from a low-level employee who will no doubt be unfamiliar with store policy and need to ask the manager (if not contact corporate), wait for a response, then re-arm myself – all merely to pick up a few things at the store. Indeed, even if I receive permission at one point in time, such policy could change at any time and without notice, thus putting me at constant risk of committing a crime unawares.

15. Since it is between me and a business – not New York state – whether I carry my firearm there, I intend to continue carrying my firearm in various businesses and establishments in Albany County, in violation of the CCIA's restriction on "prohibited locations" that are not conspicuously posted with signage. Unless this Court strikes down that provision of the CCIA, simply going peaceably about my daily life will be a crime, pursuant to a statute which this Court has already declared clearly unconstitutional. As such, as "an act of the legislature, repugnant to the constitution," the CCIA "is void." *Marbury v. Madison*, 5 U.S. 137, 177 (1803).

16. I plan to attend the upcoming NEACA Polish Community Center Gun Show, to occur on October 8-9, 2022, in Albany.³ The gun show is hosted by The Polish Community Center, which describes itself as "a conference center, banquet hall & wedding venue in Albany, NY."⁴ Under the CCIA, however, guns are entirely banned at "conference centers" and "banquet halls" (subsection p), and there is no provision for the community center to opt out and expressly allow firearms. Moreover, one of my main reasons for attending, and a huge part of any gun show, is

³ <https://gunshowtrader.com/gun-shows/albany-ny-gun-show/>

⁴ <https://www.albanypcc.com/>

the conversations with fellow gun owners, which invariably includes discussion of New York State's tyrannical gun laws. In other words, a gun show is, almost by definition, a "gathering of individuals to collectively express their constitutional rights to protest or assemble" (subsection s) and, thus, the CCIA appears to entirely ban gun shows. I currently plan to attend the upcoming Albany gun show, and I intend to carry my firearm with me when I do, in violation of the CCIA, but based on my understanding of this Court's recent opinion and the Supreme Court's decision in *Bruen* that "'sensitive places' may not include all 'places where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available.'" *Antonyuk* at *87.

17. I currently live in an apartment complex in Albany County. In other words, I am a tenant, and I have a landlord. Although I have certain property rights as a leaseholder, it is my understanding that my apartment complex does not permit residents to post signage outside their units. Although I have given myself express consent to be armed in my own home, it is not feasible for me to expressly consent to the carry of firearms by each individual person who visits my home, including deliverymen, repairmen, friends, family, etc. Thus, the CCIA requires that I post "clear and conspicuous signage" stating that my home is pro-gun. However, I am unable to post such signage as per the terms of my lease. Certainly, I am not permitted to post signage outside my own unit, to permit visitors to my home to park in the common parking lots, and walk on the common sidewalks, when visiting my home. I am thus unable to fully "opt out" of the CCIA's taking my property and declaring it to be an anti-gun location, essentially converting my home from a "restricted location" to a "sensitive location."

18. In the past, I have attended pro-gun rallies, and done so while armed. For example, in 2013 and 2014, I attended more than one rally in Albany, before and after the New York SAFE Act was

passed, which occurred on public sidewalks and streets. The CCIA, however, makes me choose between two constitutional rights, banning Second Amendment rights at First Amendment protected activities, potentially under multiple subsections (subsections a, d, p, r, and s). If firearms were not already prohibited at a rally under subsection (s), then alternatively a rally likely might constitute a “special event” where a permit is required under subsection (r). The CCIA’s restrictions are clearly unconstitutional, because the rallies I have attended, where guns are now banned, are in no way “sensitive locations,” as they occur on public streets, sidewalks, parks, and squares. I do not presently know of any upcoming pro-gun or pro-freedom rally currently scheduled in New York but, if there were one, I would jump at the opportunity to attend it to express my political views, and I would do so while carrying my firearm, in clear violation of the CCIA.

19. I also routinely go out to eat with my grandkids, including at restaurants such as Applebee’s and Mo’s Southwest Grill, which are considered “sensitive locations” by the CCIA (subsection o) because they serve alcohol, even if I am not sitting at the bar or consuming any alcoholic beverage. Neither restaurant has any signs prohibiting the carrying of firearms, nor appears to publicly state any anti-gun policy. In other words, I would be permitted to carry when I go to eat, if not for the CCIA. Based on this Court’s recent opinion, and because neither restaurants nor anything like them appears in the Supreme Court’s list of traditional sensitive locations, I intend to continue to carry my firearm when I go out to eat with my grandkids, an event that will occur within the next 30 days.

20. Not only do I intend to engage in various constitutionally-protected acts which are now made unlawful under the CCIA, but also I face a credible threat of prosecution, as my specific intentions to break the law are now made public through this filing.

21. For example, First Deputy Superintendent Steven Nigrelli of the New York State Police, has threatened persons such as me who violate the CCIA that “[w]e ensured that the lawful, responsible gun owners have the tools now to remain compliant with the law. For those who choose to violate this law ... Governor, it's an easy message. I don't have to spell it out more than this. We'll have zero tolerance. If you violate this law, you will be arrested. Simple as that. Because the New York state troopers are standing ready to do our job to ensure ... all laws are enforced.”⁵ If that is not a credible threat of enforcement, it is hard to see what would be.

22. What is more, I am far more likely (if not guaranteed) to have a run-in with law enforcement when I arrive at the airport and declare to authorities that I have a firearm to check with my baggage. Under the CCIA's plain text, I believe there to be a strong likelihood that I could be arrested charged with a felony under the state's announced “zero tolerance” policy, when I bring my firearm to the airport to check for my upcoming flight.

I declare under penalty of perjury that the foregoing is true and correct.

September 19, 2022
Date


Alfred Terrille

⁵ <https://youtu.be/gCIL2rrztQs?t=2281> (at 38:00 minutes).