

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

KATHERINE NOVOTNY, et al.,

Plaintiffs,

v.

WESTLEY MOORE, et al.,

Defendants.

**MOTION FOR PRELIMINARY
INJUNCTION**

Case No.: 1:23-cv-01295

Plaintiffs Katherine Novotny, Sue Burke, Esther Rossberg, Maryland Shall Issue, Inc., Second Amendment Foundation, and Firearms Policy Coalition, Inc., respectfully move this Court, for an Order pursuant to Rule 65(a) of the Federal Rules of Civil Procedure for a preliminary injunction enjoining Defendants' from enforcing unconstitutional provisions of Maryland state law, both those recently enacted in Senate Bill 1 ("SB 1"), as well as existing prohibitions, which violate Plaintiffs' constitutional right to keep and bear arms "outside the home." *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111, 2122 (2022).

Plaintiffs respectfully request a preliminary injunction restraining Defendants and their officers, agents, servants, employees, and all persons in concert or participation with them who receive notice of the injunction, from enforcing MD. CODE, CRIM. LAW § 6-411(d) (anti-carry default), MD. CODE, CRIM. LAW § 4-111 with respect to locations licensed to sell or dispense alcohol for on-site consumption, museums, and health care facilities, MD Code, Transportation, § 7-705(b)(6) (mass transit), COMAR 08.07.06.04 (State parks), COMAR 08.07.01.04 (State forests), and COMAR 08.01.07.14 (Chesapeake Forest Lands), and Defendants' regulations, policies, and practices implementing them, as to persons who have a valid wear and carry permit

issued by the Maryland State Police; and for such other and further relief as the Court deems appropriate.

Respectfully submitted, this 24th day of May 2023.

Dated: May 24, 2023

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

KATHERINE NOVOTNY, et al.

Plaintiffs,

Case No. 1:23-CV-01295-RDB

v.

WESTLEY MOORE, in his official capacity
as Governor of Maryland, et al.

Defendants.

MEMORANDUM IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION

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INTRODUCTION

In *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), the Supreme Court held that Americans’ Second Amendment right to keep and bear arms extends outside the home. In direct response to *Bruen*, Maryland signed into law Senate Bill 1 (“SB 1”) on May 16, 2023. SB 1 dramatically restricts the locations where persons with Maryland wear and carry permits may legally exercise their constitutional right to bear arms. It does so in ways that are fundamentally inconsistent with the Second Amendment. And many of the new restrictions especially disrupt Marylanders’ ability to go about their day-to-day lives while exercising their right to bear arms, whether running errands, taking a loved one to a health care facility, or going out to dinner. In addition to the restrictions enacted in SB 1, Maryland already restricts the Second Amendment rights of ordinary, law-abiding citizens to carry in other ways as well. For example, Maryland bars ordinary, law-abiding citizens from carrying on and at State owned or controlled mass transit facilities, and in State parks, State forests, and State Chesapeake forest lands.

Plaintiffs are ordinary, law-abiding citizens, who are each duly licensed with a wear and carry permit issued by the Maryland State Police, and three organizations that each have members who possess such permits. In this lawsuit, Plaintiffs focus on the new provisions of SB 1 and those in existing State law that impose particularly egregious restrictions on their Second Amendment right to bear arms and their daily lives. To that end, Plaintiffs seek a preliminary injunction to enjoin enforcement of SB 1’s restrictions on carrying on private property open to the public, establishments that are licensed to serve alcohol, certain health care facilities, and museums, and Maryland’s existing restrictions on carrying on or at mass transit facilities and in State parks, State forests, and State Chesapeake forest lands.

The provisions challenged herein infringe upon Plaintiffs’ Second Amendment rights. In

Bruen, the Supreme Court reaffirmed that a modern-day government regulation implicating the Second Amendment is constitutional only to the extent the government “demonstrate[s] that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Bruen*, 142 S. Ct. at 2126. But the State will simply be unable to point to any historical tradition of regulation that supports these bans on carry by licensed Marylanders. As these provisions infringe a constitutional right, they are either causing or will soon cause Plaintiffs irreparable harm for which no public interest can justify allowing to continue. Accordingly, Plaintiffs respectfully submit this Court should order a preliminary injunction to enjoin the challenged provisions’ enforcement.

STATEMENT OF THE CASE

I. Statutory Provisions

In *Bruen*, the Supreme Court assessed a Second Amendment challenge to New York State’s licensing regime, which generally restricted permits for carrying firearms outside the home to those who could demonstrate a “proper cause.” 142 S. Ct. at 2123. Since the plaintiffs in *Bruen* were citizens who sought to “carry[] handguns publicly for self-defense,” the Court held that New York needed to demonstrate that the “proper-cause requirement is consistent with this Nation’s historical tradition of firearm regulation.” *Id.* at 2134–35. But New York failed to do so. An inevitable consequence of *Bruen*’s holding with respect to New York’s “proper cause” standard was that Maryland’s “analogous” “good and substantial reason” licensing standard was also unconstitutional. *Id.* at 2124 n.2; *Matter of Rounds*, 255 Md. App. 205, 206, 279 A.3d 1048 (2022) (stating MD. CODE, PUBLIC SAFETY § 5-306(a)(6)(ii) was unconstitutional). In response, Maryland enacted SB 1 as a broadside against Marylanders who are duly licensed to carry firearms in public.

In Maryland, wearing, carrying, and transporting any handgun “on or about the person” or in a vehicle is generally prohibited, subject to a few exceptions. *See* MD. CODE, CRIM. LAW, § 4-203(a),

(b). One of the exceptions to this broad ban is a permit. *Id.* § 4-203(b)(2). Permit holders may “wear, carry, or transport [a] handgun” when they have a permit issued under “Title 5, Subtitle 3 of the Public Safety Article.” *Id.* SB 1 specifically targets permit holders and restricts where individuals—who have met Maryland’s background check and training requirements—are allowed to carry.

Maryland wear and carry permits are issued by the Maryland State Police pursuant to Maryland Code, Public Safety, § 5-306. All the individual plaintiffs in this suit are Maryland permit holders. The members of MSI, SAF, and FPC on whose behalf these organizations bring this suit are likewise Maryland permit holders. Permit holders in Maryland are fingerprinted, thoroughly investigated by the State Police and, unless training-exempt, receive at least 16 hours of training. MD. CODE, PUBLIC SAFETY, § 5-306(a)(5), (6). These training requirements include a mandatory course of live fire in which the applicant must achieve a specific minimum score. COMAR § 29.03.02.05 C.(4). Of the 43 “shall issue” States identified in *Bruen*, 142 S. Ct. at 2123 n.1, only Illinois requires as many hours of training as Maryland. Indeed, 27 States in the United States do not require a permit to carry in public.¹ Permit holders, nationwide, are disproportionately law-abiding. *See* Philip J. Cook, et al., *Gun Control After Heller*, 56 U.C.L.A. L. REV. 1041, 1082 (2009).

SB 1 adds two new MD Code Sections to the Criminal Law Article of the Maryland Code, Section 4-111 and Section 6-411, which restrict where duly licensed individuals may wear, carry, and

¹ Those States are Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, and Wyoming. *Permitless Carry States*, bit.ly/3OxbWJD (last accessed May 23, 2023) (listing these States with corresponding statutory citations). A 28th State, Louisiana, limits permitless carry to those with military service. *Id.* The legislature is currently considering expanding permitless carry to all adults. *See* Jenna Bridges, *Louisiana panel approves permitless concealed carry for adults*, 4WWL CBS (May 17, 2023), <https://bit.ly/430FSSS>.

transport a “firearm.”² Section 4-111 sets out location-based restrictions in three specific categories. The first category is what Section 4-111 defines as “area[s] for children and vulnerable individuals,” which include “(1) a preschool or prekindergarten facility and its grounds, (2) a private primary or secondary school or the grounds of the school, and (3) a health care facility.” Section 4-111(a)(2). The second category is “government or public infrastructure area[s].” Section 4-111(a)(4). The third category is what Section 4-111 defines as “special purpose area[s],” which includes “(i) a location licensed to sell or dispense alcohol . . . for on-site consumption; (ii) a stadium; (iii) a museum; (iv) an amusement park, (v) a racetrack, or (vi) a video lottery facility, as defined in § 9-1A-01 of the state government article.” Section 4-111(a)(8). A person who willfully violates the prohibition on wearing, carrying, or transporting a firearm in these areas “is guilty of a misdemeanor” and “subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.” Section 4-111(f).

Section 6-111 bans the wear, carry, and transport of firearms in a different manner than the outright prohibitions in Section 4-111. This provision alters the default rules for carrying, wearing, or transporting firearms in Maryland for the first time in its history by established an “Anti-Carry Default.” Section 6-411(d) is a presumption against wearing, carrying, or transporting a firearm in all privately owned buildings that are open to the public across the state. MD. CODE, CRIM. LAW § 6-411(a)(6) (defining “property” as a “building” that “does not include the land adjacent”). A Marylander is presumptively barred from carrying in any such building “unless the owner or the owner’s agent has posted a clear and conspicuous sign indicating that it is permissible to wear, carry, or transport a firearm on the property” or has otherwise obtained “express permission.” *Id.* § 6-411(d). “[A] person who willfully violates this section is guilty of a misdemeanor and on conviction is subject

² A “firearm” is defined by Section 4-111(a)(3), and Section 6-411(a)(3), as enacted by SB 1, to include all “firearms” as defined by MD. CODE, CRIM. LAW, § 4-104. That definition includes all modern handguns and long guns.

to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.” Section 6-411(e). Section 6-411(c) operates in much the same way except it separately applies a presumption against carrying in a “dwelling,” which is a “building or part of a building that provides living or sleeping facilities for one or more individuals.” MD. CODE, CRIM. LAW § 6-411(a)(2)(i).

SB 1’s new provisions are in addition to Maryland’s existing restrictions on duly licensed wear and carry permit holders. Maryland has a “Mass Transit Ban.” As relevant here, MD. CODE, TRANSPORTATION, § 7-705(b)(6), makes it “unlawful for any person . . . in any transit vehicle or transit facility, designed for the boarding of a transit vehicle,” which is owned or controlled by the Maryland Mass Transit Administration or operated by a private company under contract to the Administration, to “[c]arry or possess any . . . concealed weapons.” MD. CODE, TRANSPORTATION, § 7-705(b)(6). This ban applies to (1) commuter and local bus transit services in the Baltimore area, (2) the Metro Subway services in Baltimore area, (3) Light Rail services in Baltimore, (4) weekday MARC commuter train service between Baltimore and Washington, D.C, and (5) passenger railroad service on MARC commuter trains that travel through Frederick and Montgomery Counties, Maryland, with stops in Maryland. Any person who violates any provision of this section is guilty of a misdemeanor and is subject to a fine of not more than \$500 for each offense. *Id.* § 7-705(e).

Maryland additionally bans firearms in State parks, State forests, and State Chesapeake Forest Lands (the “State Park and Forest Ban”). In a set of three regulations with functionally identical language, the Maryland Department of Natural Resources bars ordinary, law-abiding citizens from “possessing a weapon.” COMAR 08.07.06.04 (State parks); COMAR 08.07.01.04 (State forests); COMAR 08.01.07.14 (Chesapeake Forest Lands). Save for exceptions for target shooting and hunting-related activities, nothing in the Department of Natural Resources regulations allows the carry of a firearm by a permit holder for self-defense.

II. The Challenged Provisions' Effect on Plaintiffs

Without implying that other provisions of Maryland law restricting ordinary, law-abiding citizens' right to carry arms are constitutional, Plaintiffs only seek a preliminary injunction on a subset of the State's restrictions that pose particularized obstacles to their day-to-day lives. Specifically, Plaintiffs seek to preliminarily enjoin enforcement of SB 1's Anti-Carry Default presumption against carrying in privately owned buildings open to the public, the new restrictions on carry in "health care facilities," and two so-called "special purpose area[s]": museums and locations licensed to sell or dispense alcohol for on-site consumption, namely bars and restaurants. Additionally, Plaintiffs seek a preliminary injunction against enforcement of Maryland's existing Mass Transit Ban and the State Park and Forest Ban.

The adverse effects of on Plaintiffs are profound and obvious. Each of the Individual Plaintiffs has a wear and carry permit issued by the Maryland State Police. Declaration of Katherine Novotny ¶ 4 (May 23, 2023), attached hereto as Exhibit B. ("Novotny Dec."); Declaration of Sue Burke ¶ 4 (May 23, 2023), attached hereto as Exhibit C. ("Burke Dec."); Declaration of Esther Rossberg ¶ 4 (May 23, 2023), attached hereto as Exhibit D ("Rossberg Dec."). Indeed, one Plaintiff, Katherine Novotny, was issued such a permit prior to *Bruen* and thus satisfied Maryland's good and substantial reason requirement for a permit. Novotny Dec ¶ 4. All these Plaintiffs, along with the many members of MSI, SAF, and FPC who have Maryland permits will no longer be allowed to carry in privately owned buildings, restaurants, museums, and health care facilities where they have carried in the past and would carry after October 1, 2023, the effective date of SB 1, but for the bans imposed by SB 1. Novotny Dec. ¶¶ 5–7; Burke Dec ¶¶ 5–12; Rossberg Dec ¶¶ 5–10; Declaration of Daniel Carlin-Weber ¶¶ 5–10 (May 24, 2023), attached hereto as Exhibit E ("MSI Dec."); Declaration of Alan M. Gottlieb ¶¶ 5–10 (May 24, 2023),

attached hereto as Exhibit F (“SAF Dec.”); Declaration of Brandon Combs ¶¶ 5–10 (May 24, 2023), attached hereto as Exhibit G (“FPC Dec.”). All these persons are thus stripped of their general right to carry in public.

Similarly, Plaintiff Esther Rossberg commonly rides the Baltimore Metro rail system and would very much like to be armed while doing so, especially given the deeply alarming rise in violent crime in Baltimore and in mass transit, but for Maryland’s ban. Rossberg Dec. ¶¶ 9–10; *see also* Rose Williams, *Over 3,000 crimes were committed on light rail last year, despite huge drop in ridership*, ALPHANEWS (Mar. 29, 2021), <https://bit.ly/45pcrLJ>. Maryland’s law strips her of that right. A ban on carrying firearms on mass transit causes multiple deprivations of her ability to carry a firearm. After all, not only is Rossberg unable to carry a firearm arm while traveling on mass transit, but this ban also means that Rossberg is denied the ability to carry a firearm everywhere she uses mass transit to travel to. Plaintiff Sue Burke regularly visits State Parks, State Forests, and Chesapeake forest lands and intends to do so in the future, but cannot do so armed because of the State’s ban on self-defense in these locations. Burke Dec. ¶¶ 9–12. That leaves her defenseless while in these hundreds of thousands of acres of forests and wild lands, often far from any potential State-provided public safety or emergency response. All these Plaintiffs and other members of MSI, SAF, and FPC are harmed by being denied the right to carry that they previously enjoyed or (in the case of mass transit and State parks and forests) that they are entitled to enjoy under *Bruen* and the U.S. Constitution. All these injuries are directly traceable to the Maryland laws and regulations challenged herein and are redressable by the relief sought.

ARGUMENT

I. Standard for a Preliminary Injunction

A party seeking a preliminary injunction order must establish the following elements: (1)

a likelihood of success on the merits; (2) a likelihood of suffering irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in the party's favor; and (4) the injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). “A preliminary injunction is an extraordinary remedy intended to protect the status quo and prevent irreparable harm during the pendency of a lawsuit.” *Di Base v. SPX Corp.*, 872 F.3d 224, 230 (4th Cir. 2017) (collecting case law). “[A] preliminary injunction can also act to restore, rather than merely preserve, the status quo, even when the nonmoving party has disturbed it.” *Id.* at 231. All these elements are satisfied here.

II. The Challenged Provisions Likely Violate Plaintiffs’ Second Amendment Rights

The element of a likelihood of success “does not require a ‘certainty of success,’” but rather only that “the plaintiff ‘must make a clear showing that he is likely to succeed at trial.’” *St. Michael’s Media, Inc. v. Mayor and City Council of Baltimore*, 566 F.Supp.3d 327, 351 (D. Md. 2021) (quoting *Di Biase*, 872 F.3d at 230). Plaintiffs are able to demonstrate that here because the challenged provisions are unconstitutional under *Bruen*.

“[T]he Second Amendment guarantees a general right to public carry,” meaning ordinary, law-abiding citizens may “‘bear’ arms in public for self-defense.” *Bruen*, 142 S. Ct. at 2135. Accordingly, the “general right to public carry” cannot be restricted absent “*exceptional* circumstances.” *Bruen*, 142 S. Ct. at 2156 (emphasis added). To determine whether a state’s restriction is constitutional, the Court in *Bruen* explained that “the standard for applying the Second Amendment is as follows: When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” 142 S. Ct. at 2129–30. It is the State’s burden to “affirmatively prove that its firearms regulation is part of

the historical tradition that delimits the outer bounds of the right to keep and bear arms.” *Id.* at 2127; *see also id.* at 2150 (“[W]e are not obliged to sift the historical materials for evidence to sustain New York’s statute. That is respondents’ burden.”). If the State fails to meet its burden, then the State’s restrictions must be enjoined.

A. Plaintiffs’ conduct is covered by the Second Amendment’s plain text

If Plaintiffs’ proposed course of conduct falls within the Second Amendment’s plain text, then “the Constitution presumptively protects that conduct.” *Bruen*, 142 S. Ct. at 2126. The Supreme Court has defined all of the Second Amendment’s key terms. “The people” means “all Americans”; “Arms” includes “all instruments that constitute bearable arms”; and, most relevant here, to bear simply means to “carry.” *District of Columbia v. Heller*, 554 U.S. 570, 580–82, 584 (2008). “Nothing in the Second Amendment’s text draws a home/public distinction,” *Bruen*, 142 S. Ct. at 2134—or for that matter, any distinction between locations at all. That makes the Second Amendment unlike other Amendments. *See* U.S. CONST. amend. III (“No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.”); U.S. CONST. amend. IV (“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.”). And it means that any locational restrictions on Second Amendment rights must come from history, not from the plain text.

The Supreme Court’s binding determination of the meaning of these words and phrases definitively resolves the question of whether Plaintiffs’ proposed conduct is presumptively protected by the Second Amendment. Plaintiffs and their members are Americans who seek to carry bearable arms for self-defense. As in *Bruen*, these undisputed facts end the textual inquiry: “the plain text of the Second Amendment protects [Plaintiffs’] proposed course of conduct—

carrying handguns publicly for self-defense.” 142 S. Ct. at 2134. Accordingly, under *Bruen*’s unambiguous directions, “the burden falls on [the State] to show that [the challenged ban] is consistent with this Nation’s historical tradition of firearm regulation.” *Id.* at 2135; *see also Koons v. Platkin*, 22-CV-7463 (RMB/AMD), 2023 WL 3478604, at *62 (D.N.J. May 16, 2023); *Christian v. Nigrelli*, 22-CV-695 (JLS), 2022 WL 17100631, at *7 (W.D.N.Y. Nov. 22, 2022); *Hardaway v. Nigrelli*, 22-CV-771 (JLS), 2022 WL 16646220, at *13 (W.D.N.Y. Nov. 3, 2022).

B. Controlling considerations under *Bruen*

The State bears a burden that it will not be able to meet for the challenged provisions because there is no historical tradition of analogous regulations that demonstrate these provisions are consistent with the Second Amendment. In *Bruen*, the Supreme Court set out several requirements to determine whether a tradition of historical regulations is sufficiently analogous to justify a modern restriction.

First, the relevant time period for the historical analogue must be the Founding, centering on 1791. *Bruen*, 142 S.Ct. at 2135–36; *see also* Mark W. Smith, ‘*Not all History is Created Equal*’: *In the Post-Bruen World, the Critical Period for Historical Analogues Is when the Second Amendment Was Ratified in 1791, and not 1868*, SSRN, Oct. 1, 2022, <https://bit.ly/3CMSKjw>. That is because “[c]onstitutional rights are enshrined with the scope they were understood to have when the people adopted them.” *Bruen*, 142 S. Ct. at 2136, quoting *Heller*, 554 U.S. at 634–35. Although the Court in *Bruen* noted an academic debate surrounding whether courts should look to 1868 and Reconstruction (when the Fourteenth Amendment was adopted), the Court found no need to address the point as the result with respect to carry was the same. *Bruen*, 142 S. Ct. at 2138 (“[T]he public understanding of the right to keep and bear arms in both 1791 and 1868 was, *for all relevant purposes*, the same with respect to public carry.” (emphasis added)).

But there can be no doubt that the actual analysis of the Court is focused on 1791. *See Worth v. Harrington*, 2023 WL 2745673 at *11 (D. Minn. Mar. 31, 2023) (noting the “rather clear signs that the Supreme Court favors 1791 as the date for determining the historical snapshot of ‘the people’ whose understanding of the Second Amendment matters”). The Court noted that its past precedents had “assumed that the scope of the protection applicable to the Federal Government and States is pegged to the public understanding of the right when the Bill of Rights was adopted in 1791.” *Bruen*, 142 S. Ct. at 2137. The Court likewise stated that the courts should “guard against giving post-enactment history more weight than it can rightly bear.” *Id.* at 2136. Justice Barrett, in her concurring opinion, stressed this point, noting that “today’s decision should not be understood to endorse freewheeling reliance on historical practice from the mid-to-late 19th century to establish the original meaning of the Bill of Rights.” *Id.* at 2163 (Barrett, J., concurring). And the Court “made no small effort to distance itself from even *Heller’s* reliance on post-enactment history except to the extent that such history was consistent with the founding era public meaning.” *Worth*, 2023 WL 2745673 at *11, (citing *Bruen*, 142 S. Ct. at 2136–37). *Bruen’s* characterization of the Court’s precedents as assuming that 1791 is the proper answer is an understatement. In *Espinoza v. Montana Department of Revenue*, 140 S. Ct. 2246 (2020), for example, the Court held that “more than 30” provisions of state law enacted “in the second half of the 19th Century” could not “evinced a tradition that should inform our understanding of the Free Exercise Clause” when those provisions lacked grounding in Founding Era practice. *Id.* at 2258–59 (emphasis added).

Second, *Bruen* reiterated that “individual rights enumerated in the Bill of Rights and made applicable against the States through the Fourteenth Amendment have the same scope as against the Federal Government.” 142 S. Ct. at 2137. In *McDonald v. City of Chicago*, 561 U.S. 742 (2010), the Court decisively rejected a different standard for States under the Second Amendment, holding that

“incorporated Bill of Rights protections are all to be enforced against the States under the Fourteenth Amendment according to the same standards that protect those personal rights against federal encroachment,” *id.* at 765 (internal quotation marks omitted)). There should be no dispute that 1791 is controlling as to the federal government and, since the standard is the same, there can be no reasonable dispute that standard is likewise applicable to the States.

Bruen relied on two very recent decisions, *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020), and *Timbs v. Indiana*, 139 S. Ct. 682 (2019), to illustrate the point. *Ramos* held that the Sixth Amendment right to a unanimous jury verdict was incorporated against the States and overruled prior precedent that had allowed the States to adopt a different rule under a “dual track” approach to incorporation. The relevant historical benchmark for the Court’s analysis was 1791. 140 S. Ct. at 1396 (discussing the history in “young American states” and the “backdrop” of the ratification of the Bill of Rights in 1791). Similarly, in *Timbs*, the Court held that the Excessive Fines provision of the Eighth Amendment was incorporated as against the States. 139 S. Ct. at 686–87. The Court once again looked to the scope of the right as it existed in 1791. *Id.* at 687–88 (discussing “colonial-era provisions” and the “constitutions of eight States”). The Court’s other precedents are in accord. *See, e.g., Gamble v. United States*, 139 S. Ct. 1960, 1975–76 (2019) (explaining that *Heller* sought to determine “the public understanding in 1791 of the right codified by the Second Amendment”); *Virginia v. Moore*, 553 U.S. 164, 168 (2008) (“We look to the statutes and common law of the founding era to determine the norms that the Fourth Amendment was meant to preserve.”); *cf. Lynch v. Donnelly*, 465 U.S. 668, 674 (1984) (“The interpretation of the Establishment Clause by Congress in 1789 takes on special significance.”). That this case challenges State-imposed restrictions and not federal law is thus irrelevant.

In all events, “to the extent later history contradicts” the text of the Second Amendment, “the

text controls.” *Bruen*, 142 S. Ct. at 2137. “Thus, ‘post-ratification adoption or acceptance of laws that are inconsistent with the original meaning of the constitutional text obviously cannot overcome or alter that text.’” *Id.* at 2137 (quoting *Heller v. District of Columbia*, 670 F.3d 1224, 1274 n.6 (D.C. Cir. 2011) (Kavanaugh, J., dissenting)). Moreover, 20th century and late 19th century statutes and regulations “cannot provide much insight into the meaning of the Second Amendment when it contradicts earlier evidence.” *Bruen*, 142 S. Ct. at 2154 & n.28. Thus, restrictions on the right to keep and bear arms dating after the Civil War and after the adoption of the Fourteenth Amendment in 1868 may be confirmatory of earlier legislation but cannot be used alone to provide the appropriate historical analogue required by *Bruen*. In other words, only “enduring” and “well-established” restrictions with roots in the Founding are relevant in assessing whether the challenged restrictions comport with the Second Amendment’s “unqualified command.” *Id.* at 2126 (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50 n.10 (1961)).

Third, the historical analogues the State points to must be “representative.” Historical “outlier” requirements of a few jurisdictions or of territorial governments are to be disregarded. *Bruen*, 142 S. Ct. at 2133, 2153, 2147 n.22 & 2156. This means regulations from only a handful of states or those that cover only a small portion of the population are not enough to demonstrate that modern regulations are consistent with the Second Amendment. *Id.* at 2155 (rejecting regulations applying to only 1% of the American population); *see also Koons*, 2023 WL 3478604 at *78, *85 (finding regulations covering 10% and 15% of American population insufficient). *Bruen* also categorically rejected reliance on laws enacted in the Territories, including expressly “Arizona, Idaho, New Mexico, Oklahoma,” holding that such laws “are *most unlikely* to reflect ‘the origins and continuing significance of the Second Amendment’ and we do not consider them ‘instructive.’” *Bruen*, 142 S. Ct. at 2154 (quoting *Heller*, 554 U.S. at 614) (emphasis added).

Fourth, the historical analogues must be “relevantly similar,” which is to say that they must burden ordinary, law-abiding citizens’ right to carry for self-defense in a similar manner and for similar reasons. *Bruen*, 142 S. Ct. at 2132. *Bruen* held that the inquiry into whether an analogue is proper is controlled by two “metrics” of “how and why” any restriction was historically imposed during the Founding era. *Id.* at 2133. “[W]hether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are ‘central’ considerations when engaging in an analogical inquiry.” *Id.* (emphasis in original). For example, poaching and hunting restrictions are thus generally insufficient to demonstrate the constitutionality of a modern-day restriction that regulates carrying firearms during day-to-day life. Both *how* hunting laws burdened the right to carry firearms for self-defense (when hunting) and *why* they did so (to regulate hunting, to reduce the taking of certain animals in certain places during certain seasons) have little or nothing to do with restricting the right of self-defense in modern-day Baltimore or urban Maryland. *See, e.g., Koons*, 2023 WL 3478604 at *64–*65.

In attempting the “affirmatively prove” that its restrictions on public carry are consistent with the Nation’s historical tradition, Maryland may refer to historical analogues, such as restrictions on carrying in “sensitive places” at the Founding and claim those meet *Bruen*’s “how” and “why” standard. 142 S. Ct. at 2127, 2133. The Supreme Court has endorsed only three such places “where weapons were altogether prohibited,” naming “legislative assemblies, polling places, and courthouses.” *Id.* at 2133. While *Bruen* cites *Heller*’s suggestion that sensitive places may include “schools and government buildings,” the Court focused on only “legislative assemblies, polling places, and courthouses” for purposes of conducting the inquiry into analogues. *Id.* The Court stated explicitly that “courts can use analogies to *those* historical regulations of ‘sensitive places’ to determine that modern regulations prohibiting the carry of firearms in new

and analogous sensitive places are constitutionally permissible.” *Id.* (emphasis added). Accordingly, “sensitive places” cannot be construed “too broadly,” *i.e.*, beyond what the historical tradition at the Founding demonstrates, and these certainly do not authorize restrictions that “would in effect exempt cities” or entire States “from the Second Amendment.” *Id.* at 2134. Sensitive places may not be used to “eviscerate the general right to publicly carry arms for self-defense.” *Id.* After all, governments may bar the carrying of firearms in only “exceptional circumstances.” *Id.* at 2145. The exception cannot become the rule.

Fifth, the historical analysis required by the Supreme Court is a legal inquiry that examines legal history, which is appropriately presented in briefs. *See Bruen*, 142 S. Ct. at 2130 n.6 (noting that the historical inquiry presents “*legal* questions” that judges can address) (emphasis in original); *see also id.* at 2135 n.8 (rejecting the dissent’s suggestion that further fact-finding was needed and holding that its ruling did not “depend upon any of the factual questions raised by the dissent”). Accordingly, the required analysis does not require fact-finding by a court. With these analytical guideposts established by *Bruen*, the State cannot meet its burden to justify the challenged restrictions on carrying firearms.

C. The challenged provisions are inconsistent with this Nation’s historical tradition of firearm regulation

i. The anti-carry default

SB 1 enacts, for the first time in Maryland’s history, a presumption against carrying firearms in buildings open to the public. The State will be unable to demonstrate that this new Anti-Carry Default “permissibly regulates the right to carry for self-defense in public.” *Koons*, 2023 WL 3478604 at *68. The main reason is that the Anti-Carry Default is the *exact opposite* of this Nation’s traditional regulatory approach, which has entrusted “private property owners” with principal responsibility to exercise the “right to exclude others from their property” throughout

American history. *Christian*, 2022 WL 17100631 at *9. The historical default rule has been that “carrying on private property” is “generally permitted absent *the owner’s* prohibition.” *Id.* (emphasis added).

This concept is basic to the law of trespass. “[T]he well-developed concept of implied license . . . operates to grant permission to enter another’s premises according to custom or other indicia of consent.” *Koons*, 2023 WL 3478604 at *58. As to property otherwise open to the public, “the public has the implied consent to enter, unless such consent is conditioned or subsequently revoked by the property owner.” *Id.*; see also *Royal Inv. Grp., LLC v. Wang*, 183 Md.App. 406, 961 A.2d 665, 688 (2008) (“Consent may be express or implied.”). *Bruen* confirms that there is a “general right to publicly carry arms for self-defense.” 142 S. Ct. at 2134. That “general right” necessarily means that “[t]he right to armed self-defense follows the individual everywhere he or she lawfully goes” in public outside of the “exceptional circumstances” when a government may bar firearms. *Koons*, 2023 WL 3478604 at *61; *Bruen*, 142 S. Ct. at 2155. The right to carry for self-defense thus “presumptively” extends to private property open to the public unless the owner affirmatively “withdraw[s] consent.” *Koons*, 2023 WL 3478604 at *61. Plaintiffs here do not challenge that right of a private property owner. Given this basic and well-established premise of trespass law, the State will be unable to point to any relevant historical tradition of firearm regulation from the Founding suggesting otherwise. See, e.g., *Koons*, 2023 WL 3478604 at *68; *Christian*, 2022 WL 17100631 at *9.

This is unsurprising as the academic proponents behind the Anti-Carry Default conceded that it would be novel and be a significant departure from this Nation’s history of firearm regulation. In their book expanding on anti-carry default rules, the proponents stated that “[a]n implied condition of every invitation [onto another’s property] is that the invitee is welcome to

bring a firearm.” *Koons*, 2023 WL 3478604 at *58 n.35. In fact, as of 2020, “no state ha[d] adopted generalized ‘no carry’ defaults for retail establishments.” Ian Ayres and Spurthi Jonnalagadda, *Guests with Guns: Public Support for “No Carry” Defaults on Private Land*, 48 J L. MED. & ETHICS 183 (2020) (emphasis added).

The reason the State has sought to change the default rule is plain: “[g]iven the inertial tendency to stick with the status quo, lawmakers should expect that a ‘prohibited-unless permitted’ default would radically expand the private spaces where guns could not be carried.” *Id.* After all, a “default rule” of interaction with strangers, i.e., members of the public coming to a property open to the public, is particularly “sticky.” *See generally* OMRI BEN-SHAHAR & JOHN A. E. POTTOW, *On the Stickiness of Default Rules*, 33 FLA. ST. L. REV. 651, 653 (2006), <https://bit.ly/3pWXM6Y> (last visited May 23, 2023). By “sticky,” legal scholars mean that individuals have a well-known tendency to stick by the default rule *even when* they would otherwise take a different position. *Id.* at 651–54. Thus, Maryland can expect many owners of buildings, who would otherwise allow or be indifferent to lawful carrying of firearms on their property, to simply stick with the new default. As they do so, the Anti-Carry Default “might have knockon effects, reducing preferences to carry and possess firearms more generally, as it becomes increasingly inconvenient to do so.” Ayres & Jonnalagadda, 48 J L. MED. & ETHICS at 184. This is likely for individual Plaintiffs, who have all declared that they would drastically reduce their carry for self-defense when the Anti-Carry Default goes into effect. Novotny Dec. ¶¶ 6–7; Burke Dec. ¶¶ 6, 8; Rossberg Dec. ¶¶ 6, 8. The same is equally true for the members of MSI, SAF and FPC who possess Maryland carry permits. MSI Dec. ¶ 8; SAF Dec. ¶ 8; FPC Dec. ¶ 8.

At bottom, the State may have policy reasons that it seeks to change the default rule for carrying firearms in buildings open to the public as a means to stop individuals from exercising

their rights. But the Second Amendment “is the very product of an interest balancing by the people” and it “surely elevates above all other interests the right of law-abiding, responsible citizens to use arms’ for self-defense.” *Bruen*, 142 S. Ct. at 2131 (quoting *Heller*, 554 U.S. at 635). Because of “this balance—struck by the traditions of the American people,” *id.*,—“certain policy choices” have been definitively taken “off the table,” *Heller*, 554 U.S. at 636. Among these policy choices is establishing a presumption against carrying in buildings open to the public because the Second Amendment itself establishes a presumption that Plaintiffs and other licensed, law-abiding citizens have a “right to ‘bear’ arms in public for self-defense.” *Bruen*, 142 S. Ct. at 2135. Maryland may not flip a presumption codified in the Constitution. But that is exactly what Maryland has done by dictating that all buildings open to the public are now presumptively off-limits without conspicuous signage or express consent. No historical analysis can support such a law.

ii. Locations licensed to sell or dispense alcohol for on-site consumption

SB 1 also designates that locations licensed to sell or dispense alcohol, namely bars and restaurants, are “special purpose areas” where Plaintiffs and other ordinary, law-abiding citizens are forbidden to wear, carry, or transport firearms. With this and its other location-specific prohibitions, Maryland has made it doubly illegal to carry into such locations, first by prohibiting all carry of firearms into a privately owned building without express consent or signage and second, by banning carry in such places *regardless* of the owner’s wishes. The State will be unable to support this restriction with historical evidence from the Founding.

It is undisputable that “taverns, inns, public houses, ‘tippling houses,’ ‘victualing houses,’ or ‘ordinaries’” existed during the Founding. *Antonyuk v. Hochul*, No. 1:22-cv-0986, 2022 WL 16744700, at *74 (N.D.N.Y. Nov. 7, 2022) (“*Antonyuk III*”). In fact, Benjamin Franklin engaged in “constant study” at a library that he founded to avoid the “amusement” that he would otherwise

find “in taverns, games, or frolicks of any kind.” BENJAMIN FRANKLIN, *The AUTOBIOGRAPHY OF BENJAMIN FRANKLIN* 148 (Smyth, ed., 1907). While Franklin sought to regulate his private habits, other members of the Founding generation sought to regulate these institutions by public means. “In all states” during the Founding era, “tavern legislation was involved and constantly changing.” CHRISTINE SISMONDO, *AMERICA WALKS INTO A BAR: A SPIRITED HISTORY OF TAVERNS, SALOONS, SPEAKEASIES AND GROG SHOPS* 15 (Oxford 2011). Nevertheless, Plaintiffs are unaware of any ban on mere possession of firearms in these places. The absence of any Founding era analogues is dispositive. “[W]hen a challenged regulation addresses a general societal problem that has persisted since the 18th century, the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment.” *Bruen*, 142 S. Ct. at 2131.

In sum, public establishments serving alcohol have existed for centuries. So have firearms. Nevertheless, the State will be unable to demonstrate a historical tradition of “criminaliz[ing]” an ordinary, law-abiding citizen’s “*mere* presence at those locations with a handgun.” *Koons*, 2023 WL 3478604 at *86.

iii. Museums

SB 1 additionally designates museums as “special purpose areas” where Plaintiffs may not carry firearms. There is no well-established, representative historical tradition banning firearms in these locations. Museums and, more broadly, similar institutions such as libraries date to the colonial era in the United States. The Charleston Museum dates to 1773. *See About Us*, CHARLESTON MUSEUM, <https://bit.ly/3MPYhMB> (last visited May 23, 2023). The Peabody Essex Museum was founded by sea captains in Salem, Massachusetts in 1799 as the East India Marine Society. *See A Museum of Art and Culture*, PEABODY ESSEX MUSEUM, <https://bit.ly/439jDtl> (last

visited May 23, 2023). New York’s first museum opened in 1804. *About Us*, N.Y. HISTORICAL SOC’Y MUSEUM & LIBRARY, <https://bit.ly/3WkCcZF> (last visited May 23, 2023). The Peale Center in Baltimore opened its doors in 1814. *Our History*, THE PEALE, <https://bit.ly/41KAZvC> (last visited May 23, 2023). Benjamin Franklin founded America’s first lending library in Philadelphia in 1731. “AT THE INSTANCE OF BENJAMIN FRANKLIN”: A BRIEF HISTORY OF THE LIBRARY COMPANY OF PHILADELPHIA 5 (2015), *available at* <https://bit.ly/3vdBGQk>. In the beginning, it was open on Saturday afternoons where members and nonmembers could borrow books. *Id.* at 13–14. By 1787, “it had become the public library of the University and City.” *Id.* at 25. Franklin’s library would not be alone in the early Republic. By 1850, the Census reported 1,217 public libraries in the United States. *See* DEPT. OF INTERIOR, 1850 CENSUS: COMPENDIUM OF SEVENTH CENSUS 159, Table CLXVII (1854), <https://bit.ly/3jp7GhR>.

Despite the existence of museums (or analogous institutions like libraries) in America during the Founding and the decades after, the State will be unable to point to regulations that support a historical tradition of banning firearms. *Koons*, 2023 WL 3478604 at *86.

iv. Health care facilities

SB 1 bans the possession of firearms in “health care facilities,” which the law defines with reference to other provisions of Maryland law. Specifically, Section 4-111(a)(2)(iii), as enacted by SB 1, defines “health care facilities” by cross-reference to Section 15-10B-01(g)(1), (2), (3) and (4), of the Insurance Article of the Maryland Code. MD. CODE, INS. LAW Section 15-10B-01(g)(1) refers to a “hospital” which is defined by a cross-reference to § 19-301 of the Health-General Article to mean:

an institution that: (1) Has a group of at least 5 physicians who are organized as a medical staff for the institution; (2) Maintains facilities to provide, under the supervision of the medical staff, diagnostic and treatment services for 2 or more unrelated individuals; and (3) Admits or retains the individuals for overnight care.

Section 15-10B-01(g)(2) refers to a “related institution,” which is defined by a cross-reference to § 19-301 of the Health-General Article as:

“an organized institution, environment, or home that: (i) Maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for 2 or more unrelated individuals who are dependent on the administrator, operator, or proprietor for nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment; and (ii) Admits or retains the individuals for overnight care.”

Section 15-10B-01(g)(3) refers to an “ambulatory surgical facility or center which is any entity or part thereof that operates primarily for the purpose of providing surgical services to patients not requiring hospitalization and seeks reimbursement from third party payors as an ambulatory surgical facility or center.” Section 15-10B-01(g)(4) refers to “a facility that is organized primarily to help in the rehabilitation of disabled individuals.”

The State’s ban on carrying firearms in these “health care facilities” cannot be supported by a historical tradition of firearms regulation. As the District Court of New Jersey recently held, “hospitals and medical care facilities existed before and after this Nation’s founding.” *Koons*, 2023 WL 3478604, at *93. For instance, in New York, Bellevue Hospital “is America’s oldest operating hospital,” and it opened in New York City in 1736. *Bellevue History*, NYC HEALTH + HOSPITALS, <https://bit.ly/4240MiB> (last visited May 23, 2023). Benjamin Franklin again played a role in a founding an institution that would persist from the Founding until today: he “worked with Thomas Bond, a physician and surgeon, to form the Pennsylvania Hospital in 1751.” *Koons*, 2023 WL 3468604 at *93. Weill Cornell Medical Center opened as New York Hospital in 1791. *Id.* “Up north, Massachusetts opened the Boston Medical Dispensary in 1796—today Tufts Medical Center—and then the Massachusetts General Hospital in 1811.” *Id.*

There can be no doubt that “the medical profession existed in 18th and 19th century America,” and so too did firearm violence. *Antonyuk III*, 2022 WL 16744700 at *60. Nevertheless, the State will

be unable to demonstrate a tradition of “relevantly similar” regulations prohibiting firearms in these locations, such as hospitals, from the Founding. *Bruen*, 142 S. Ct. at 2133. Here too, “when a challenged regulation addresses a general societal problem that has persisted since the 18th century, the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment.” *Id.* at 2131.

v. Mass transit

Separate from the new provisions of SB 1, Maryland has a “Mass Transit Ban,” which bans ordinary, law-abiding citizens like Plaintiffs from carrying firearms, whether they are commuting or seeking to travel to other parts of the State. This blanket prohibition on carrying in and around common modes of transportation cannot be “justif[ied]” as “consistent with the Nation’s historical tradition of firearm regulation.” *Bruen*, 142 S. Ct. at 2130. Plaintiffs are not aware of a single remotely analogous law from the Founding era that could be used to justify Maryland’s Ban.

Public transportation itself is not a new phenomenon and existed at the time of the Founding. For instance, passengers would share stagecoaches on journeys throughout the colonies before the Revolution and in the states after it. *See, e.g.,* Oliver W. Holmes, *The Stage-Coach Business In The Hudson Valley*, THE Q. J. OF THE N. Y. STATE HIST. ASS’N 231–33 (1931) (“Staging had developed somewhat in the colonies before the Revolution, especially around Boston and Philadelphia.”). In addition to stagecoaches, the public utilized riverboats and ferries during the Founding. And members of the public carried arms on these forms of transportation. For example, South Carolina established a “public ferry” as early as 1725 and mandated “free” “ferriage” for “all persons under arms in times of alarms and expresses.” 9 STATUTES AT LARGE OF SOUTH CAROLINA 61 (1841). And arms, such as blunderbusses, were carried on stagecoaches. *See* Johnson, et al., *SECOND AMENDMENT: REGULATION, RIGHTS, AND POLICY* 2195 (3d ed. 2021)

(“Stagecoach guards and travelers carried blunderbusses, or other short guns, such as traveling or coaching carbines, or (most often) a pair of ordinary pistols.”). Plaintiffs are not aware of any Founding-era tradition of banning the possession of a firearm while traveling on these public modes of transportation.

The absence of Founding era restrictions on public conveyances makes sense given that several States *exempted* travelers from then-existing firearms regulations. *See, e.g.*, 1812 Ky. Acts 100, An Act to Prevent Persons in this Commonwealth from Wearing Concealed Arms, Except in Certain Cases, ch. 89, § 1 (“[A]ny person in this Commonwealth, who shall hereafter wear a pocket pistol, dirk, large knife, or sword in a cane, concealed as a weapon, unless when travelling on a journey, shall be fined. . . .”); 1819 Ind. Acts 39, An Act to prohibit the wearing of concealed weapons, ch. XXIII, § 1 (“That any person wearing any dirk, pistol, sword in cane, or any other unlawful weapon, concealed, shall be deemed guilty of a misdemeanor Provided, however, that this act shall not be so construed as to affect travelers.”); 1821 Tenn. Acts 15, An Act to prevent the wearing of dangerous and unlawful weapons, ch. XIII (exempting “any person that may be on a journey to any place of out his county or state”).

As *Bruen* explained, where the government seeks to address a “perceived societal problem,” such as violence while traveling, and it “employ[s] a regulation” that the “Founders themselves could have adopted to confront that problem,” such as a “flat ban on the possession of handguns,” the absence of any such bans from the Founding is proof that modern ban is “unconstitutional.” 142 S. Ct. at 2131 (citing *Heller*, 554 U.S. at 631, 634). Moreover, *Bruen* also instructs that a modern law is likely unconstitutional “if earlier generations addressed the societal problem, but did so through materially different means.” *Id.* In this case, both are true—the Founders did not ban those traveling on public conveyances from carrying firearms, and in fact

they at times exempted travelers from restrictions.

vi. Parks and forests

By regulation, the Department of Natural Resources has generally banned the possession of firearms by ordinary, law-abiding citizens in Maryland’s State Parks, State Forests, and State Chesapeake Forest Lands. These bans cover hundreds of thousands of acres of land. The State Park System covers 142,433 acres as of 2022. *Maryland At A Glance, Parks & Recreation, State Parks*, MARYLAND MANUAL ON-LINE, <https://bit.ly/3MmHhfm> (last visited May 23, 2023). Maryland has over 214,000 acres of State Forest. *Maryland’s State Forests*, MARYLAND DEP’T. OF NAT. RESOURCES, <https://bit.ly/3BGjwK5> (last visited May 23, 2023). Chesapeake Forest Lands are an additional 75,376 acres. *Chesapeake Forests*, MARYLAND DEP’T. OF NAT. RESOURCES, <https://bit.ly/3OHgSf9> (last visited May 23, 2023). Throughout these lands, Marylanders are deprived of their Second Amendment rights.

There is nothing new about parks and there is nothing new about potential violence in parks or public green spaces set aside by the government generally. Boston Common is considered “America’s oldest park” and was established in 1634. *See Koons*, 2023 WL 3478604 at *83. Not only was it commonly used for militia purposes (making it *not* a gun-free zone), “[t]he Common also served as a site for informal socializing and recreation” including “[s]trolling,” “[h]orse- and carriage-riding,” “sports,” “entertainment,” and “raucous celebrations.” *See Anne Beamish, Before Parks: Public Landscapes in Seventeenth- and Eighteenth-Century Boston, New York, and Philadelphia*, 40 LANDSCAPE J. 1, 3–6 (2021). In New York, City Hall Park began as a “public common” in the 17th century. *The Earliest New York City Parks*, N.Y. CITY DEP’T. OF PARKS AND RECREATION, available at <https://on.nyc.gov/3hBZXfe> (last visited May 23, 2022). New York’s Bowling Green Park was established “for the Recreation & Delight of the Inhabitants of [New

York] City” in 1733. *Id.* In the South, Savannah was planned around public squares—open green spaces which became the landscaped parks that residents know today. *See* Turpin Bannister, *Oglethorpe’s Sources for the Savannah Plan*, 20 J. OF SOC’Y OF ARCH. HIST. 47, 48 (1961) (noting Savannah’s squares started initially as “open, unplanted plazas” and were “remodel[ed] . . . around 1800 . . . into landscaped neighborhood parks”).

Despite the existence of parks dating to the Founding, there is no relevantly similar historical tradition of banning firearms by ordinary, law-abiding citizens. Moreover, much, if not all, of the land covered by the Department of Natural Resource’s regulation are “vast expanses” of the great outdoors “where people are generally free to roam.” *Antonyuk III*, 2022 WL 16744700 at *66. And the State will simply be unable to point to any historical tradition of banning firearms in the wild reaches of Maryland’s State Parks, State Forests, and State Chesapeake Forest Lands.³ Even prior to *Bruen*, courts had rejected such locations as “sensitive places.” *See, e.g., Bridgeville Rifle & Pistol Club, Ltd. v. Small*, 176 A.3d 632, 658 (Del. 2017) (holding that State parks and State forests were not “sensitive places” and that the State’s ban on firearms in such places was unconstitutional under Delaware’s version of the Second Amendment); *People v. Chairez*, 2018 IL 121417, 104 N.E.3d 1158, 1176 (2018) (holding that an Illinois statute that banned the possession of a firearm within 1000 feet of a public park violated the Second Amendment, rejecting the argument that the area was a “sensitive” place); *Morris v. Army Corps of Eng’rs*, 60 F. Supp.

³ The Fourth Circuit’s decision in *United States v. Masciandaro*, 638 F.3d 458 (4th Cir. 2011), which addressed restrictions on firearms in a national park area, is no longer controlling or persuasive precedent in light of the Supreme Court’s decision in *Bruen*. *See Bruen*, 142 S. Ct. at 2124 (abrogating *Masciandaro* and decisions of other courts that had applied a “two step” means-ends or intermediate scrutiny to sustain restrictions on firearms); *id.* at 2126–27 & n.4 (rejecting this lower court line of cases and mode of analysis). Significantly, the federal regulation banning firearms at issue in *Masciandaro* was legislatively abrogated by Congress for Second Amendment reasons with the enactment of Pub. Law 113-287, § 3, 128 Stat. 3168 (2014), codified at 54 U.S.C. § 104906.

3d 1120, 1123–25 (D. Idaho 2014), *appeal dismissed*, 2017 WL 11676289 (9th Cir. Dec. 15, 2017), (rejecting the government’s argument that U.S. Army Corps of Engineers’ outdoor recreation sites were sensitive places); *Solomon v. Cook Cnty. Bd. of Comm’rs*, 559 F.Supp.3d 675, 690–96 (N.D. Ill. 2021) (finding a forest preserve district was not a “sensitive place”).

vii. Maryland’s location-specific bans are not analogous to permissible sensitive place restrictions

Recognizing that it lacks analogous regulations from the Founding (or any relevant historical period), the State will likely attempt to justify its location-specific bans as sufficiently analogous to the “sensitive place” restrictions that *Bruen* assumed would be constitutional. But such analogies are inapt.

In *Bruen*, the Supreme Court endorsed only three “sensitive places” where firearms historically “were altogether prohibited”: legislative assemblies, polling places, and courthouses. 142 S. Ct. at 2133. *Bruen* directed courts to consider “analogies to those historical regulations . . . to determine” whether “modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible.” *Id.* What ties all these locations together and therefore what is relevant is the long tradition of the government providing comprehensive security, *see e.g.* THE PUBLIC LAWS OF THE STATE OF SOUTH CAROLINA 271 (Grimke, ed. 1790) (“The said sheriffs shall by themselves, or their lawful deputies respectively, attend all the courts hereby appointed, or directed to be held, within their respective districts.”),⁴ for instance, because

⁴ Other examples of Founding Era regulations in these places: VOTES AND PROCEEDINGS OF THE HOUSE OF DELEGATES OF THE STATE OF MARYLAND: NOVEMBER SESSION 1791, at *2 (Green ed., 1795) (appointing sergeant at arms and door-keeper for state legislature); PENNSYLVANIA STATUTES AT LARGE, VOLUME X: 1779-81, 378 (Stanley Ray ed., 1904) (“sergeant-at-arms” and “door-keeper” for legislature); 1 LAWS OF THE STATE OF NEW YORK 176 (2nd ed., Albany: Websters & Skinner 1807) (requiring during court “all justices of the peace, coroners, bailiffs, and constables within their respective counties, that they be then and there in their own persons. . . . And the said respective sheriffs and their officers shall then and there attend

government officials are “at acute personal risk of being targets of assassination.” David B. Kopel & Joseph G.S. Greenlee, *The “Sensitive Places” Doctrine: Locational Limits on the Right to Bear Arms*, 13 CHARLESTON L. REV. 205, 290 (2018); *see also Hardaway*, 2022 WL 16646220, at *14; *Koons*, 2023 WL 3478604 at *78.

At the Founding, comprehensive security meant officials who were armed and able to control every point of access. Today, it means security akin to that provided before entering courthouses or the TSA-secured areas of an airport, i.e., armed guards and metal detectors at a minimum. *See Koons*, 2023 WL 3478604 at *90 (“Airports have many security measures such as Transportation Security Administration (TSA) officers, air marshals, police officers, metal detectors, and luggage scanners that all check people and their baggage for weapons and dangerous devices, like explosives.”); *Hardaway*, 2022 WL 16646220, at *14 (explaining sensitive places are “typically secured locations”). That the government can prohibit firearms in these sensitive places makes sense. The historic central purpose of the Second Amendment is ensuring Americans can be “armed and ready” for “ordinary self-defense needs.” *Bruen*, 142 S. Ct. at 2150. But when the government secures a location and protects Americans, there is less of a need for ordinary, law-abiding Americans to be ready to defend themselves. *See id.* at 2133 (requiring courts to assess “how and why the regulations burden a law-abiding citizen's right to armed self-defense”).

As a general matter, no state-provided comprehensive security will be found at establishments serving alcohol, museums, health care facilities, public transportation facilities, or

in their own proper persons.”); ABRIDGEMENT OF THE PUBLIC PERMANENT LAWS OF VIRGINIA 42 (Davis ed., 1796) (court’s “serjeant at arms”); A DIGEST OF THE LAWS OF THE STATE OF GEORGIA, 1800 Ga. Laws 611 (Watkins ed., 1800) (“[T]he sheriff of each county or his deputy, is required to attend at such elections, for the purpose of enforcing the orders of the presiding magistrates in preserving good order.”); 1 LAWS OF THE STATE OF NEW JERSEY 36 (Bloomfield ed., 1811) (polling places); 2 LAWS OF THE STATE OF DELAWARE 984 (Samuel & John Adams, eds., 1797) (polling places).

state parks and forests. One does not walk through security screening to order a burger at a local restaurant or hike in Chesapeake Forest Lands. In the words of *Bruen*, recognized sensitive places restrictions are not “relevantly similar” to Maryland’s modern bans on possession by ordinary, law-abiding Americans in these places. *Id.* at 2132.

For example, take the Mass Transit Ban. Plaintiffs are unaware of any law, regulation, or practice requiring ordinary citizens to be “screened by security” before entering mass transit facilities. *Bridgeville Rifle & Pistol Club*, 176 A.3d at 659; *Hardaway*, 2022 WL 16646220, at *14; *Koons*, 2023 WL 3478604 at *78. In addition, many modes of public transportation “do not have controlled entry points.” *Bridgeville Rifle & Pistol Club*, 176 A.3d at 659. Public transportation offerings are unlike areas secured by TSA screening at airports where entry *is* controlled, and comprehensive security *is* provided. The same can be said of establishments serving alcohol, museums, health care facilities, and state parks and forests.

Moreover, other regulations during and preceding the Founding era demonstrate a principle that when assemblies of people could be vulnerable to violence, the government imposed an obligation *to carry*. See *Koons*, 2023 WL 3478604 at *72–*73 (“The colonial generation recognized that citizens attending public gatherings exposed themselves to violent attack . . . To abate that risk, American colonists obligated their citizenry to arm themselves for protection.”). For instance, Colonial and Founding era governments imposed an obligation to carry in churches during times of worship. See, e.g., 19 THE COLONIAL RECORDS OF THE STATE OF GEORGIA: PART I, STATUTES, COLONIAL AND REVOLUTIONARY, 1768-1773, at 137–40 (Candler, ed., 1904) (1770 Georgia statute mandating that all those “liable to bear arms in the militia” and “resorting, on any Sunday or other times, to any church, or other place of divine worship . . . shall carry with him a gun . . . and shall take the said gun or pistols with him to the pew or seat”); 5 THE STATUTES

AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE 19 (Hening ed., 1819) (1738 Virginia statute providing that “it shall and may be lawful, for the chief officer of the militia, in every county, to order all persons listed therein, to go armed to their respective parish churches”); *see also Koons*, 2023 WL 3478604 at *72–*73 (collecting similar statutes) The Founding era’s response to vulnerable assemblies was to arm the law-abiding, not disarm them.

To construe “sensitive places” to cover so many locations throughout the State would “eviscerate the general right to publicly carry arms for self-defense.” *Bruen*, 142 S. Ct. at 2134. Moreover, it would invert the presumptive protection for carrying firearms for self-defense that the Second Amendment provides. As *Bruen* explains, governments may ban the carrying of firearms in only “exceptional circumstances.” *Id.* at 2156. To hold these locations were “sensitive places” would mean the opposite: ordinary, law-abiding would only be able to carry in “exceptional circumstances.” *Id.* Such a result however is inconsistent with this Nation’s historical tradition of firearms regulation and thus the Second Amendment’s “unqualified command.” *Id.* at 2126.

III. The Violation of Plaintiffs’ Second Amendment Rights Causes Irreparable Harm

“The denial of a constitutional right, if denial is established, constitutes irreparable harm.” *Ross v. Meese*, 818 F.2d 1132, 1135 (4th Cir. 1987); *see also Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020). That is why “[w]hen an alleged deprivation of a constitutional right is involved ... most courts hold that no further showing of irreparable injury is necessary.” 11A WRIGHT & MILLER, FEDERAL PRACTICE AND PROCEDURE § 2948.1 (3d ed. 2022). As there is no “hierarchy of constitutional rights,” *Caplin & Drysdale, Chartered v. United States*, 491 U.S. 617, 628 (1989), and the Second Amendment is not a “second-class right,” the same presumption

that applies to “other Bill of Rights guarantees,” *Bruen*, 142 S. Ct. at 2156, must apply to Plaintiffs’ Second Amendment rights too. To hold otherwise would be to impermissibly “subject” the Second Amendment “to an entirely different body of rules.” *Id.*

In all events, the Second Amendment protects fundamental, intangible interests—much like the First Amendment—and such interests are quintessentially irreparable by damages and are irreparable after the fact. *Ezell v. City of Chicago*, 651 F.3d 684, 699 (7th Cir. 2011) (internal quotation marks omitted). The Second Amendment protects the right to bear arms for self-defense, which is to say to be “armed *and ready* for offensive or defensive action in a case of conflict with another person.” *Bruen*, 142 S. Ct. at 2134 (quoting *Heller*, 554 U.S. at 584 (2008)) (emphasis added). Because this is a right “*for self defense*,” it is “a right that can be infringed upon whether or not plaintiffs are ever actually called upon to use their weapons to defend themselves.” *Grace v. District of Columbia*, 187 F. Supp. 3d 124, 150 (D.D.C. 2016), *granting permanent injunctive relief, sub. nom. Wrenn v. District of Columbia*, 864 F.3d 650 (D.C. Cir. 2017). “When one needs to defend herself, family, or property right now, but is defenseless,” that “is the heaviest kind of irreparable harm.” *Rhode v. Becerra*, 445 F. Supp. 3d 902, 954 (S.D. Cal. 2020), *vacated and remanded Rhode v. Bonta*, No. 20-55437, 2022 WL 17099119 (9th Cir. 2022).

Accordingly, this Court should join the many courts around the country to hold that Second Amendment injuries are irreparable. *McDougall v. Cnty. of Ventura*, 23 F.4th 1095, 1112 (9th Cir. 2022), *on reh’g en banc*, 38 F.4th 1162 (9th Cir. 2022); *Jones v. Bonta*, 34 F.4th 704, 732 (9th Cir. 2022), *op. vacated on reh’g on other grounds*, 47 F.4th 1124 (9th Cir. 2022); *Koons*, 2023 WL 3478604 at *105; *Renna v. Bonta*, No. 20-cv-2190, 2023 WL 2846937, at *14 (S.D. Cal. Apr. 3., 2023); *Christian*, 2022 WL 17100631 at *10; *Hardaway*, 2022 WL 16646220 at *17; *Antonyuk v. Bruen*, No. 1:22-cv-734, 2022 WL 3999791, *36 (N.D.N.Y. Aug. 31, 2022); *Guns Save Life, Inc.*

v. Raoul, 2019 IL App (4th) 190334, ¶ 52, 146 N.E.3d 254, 277; *Def. Distributed v. U.S. Dept. of State*, 121 F. Supp. 3d 680, 689 (W.D. Tex. 2015); *Fotoudis v. City & Cnty. of Honolulu*, 54 F. Supp. 3d 1136, 1145 (D. Haw. 2014).

IV. The Other Factors Weigh in Favor of a Preliminary Injunction

When the State is the opposing party to a preliminary injunction, the last two factors—the balance of equities and the public interest—merge. *Roe v. Dep’t of Def.*, 947 F.3d 207, 230 (4th Cir. 2020). And the State has no interest in enforcing an unconstitutional law because “upholding constitutional rights is in the public interest.” *Legend Night Club v. Miller*, 637 F.3d 291, 303 (4th Cir. 2011) (emphasis added). Further, “[a] state is in no way harmed by issuance of a preliminary injunction which prevents the state from enforcing restrictions likely to be found unconstitutional. If anything, the system is improved by such an injunction.” *Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 521 (4th Cir. 2002) (internal quotation marks omitted).⁵

CONCLUSION

For the foregoing reasons, the Court should grant Plaintiffs’ motion for a preliminary injunction and enjoin enforcement of the challenged provisions.

⁵ Under Rule 65(c), this Court has discretion to waive the security requirement. *Pashby v. Delia*, 709 F.3d 307, 332 (4th Cir. 2013). It should do so here as enjoining an unconstitutional law—especially those provisions that have yet to be implemented—will impose the State no financial harm and any harm in *not* enforcing an unconstitutional law is “remote.” *Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 421 n. 3 (4th Cir. 1999).

Dated: May 24, 2023

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EXHIBIT A

Chapter 680

(Senate Bill 1)

AN ACT concerning

**Criminal Law – Wearing, Carrying, or Transporting Firearms – Restrictions
(Gun Safety Act of 2023)**

FOR the purpose of prohibiting a person from knowingly wearing, carrying, or transporting a firearm *in certain locations; prohibiting a person from wearing, carrying, or transporting a firearm onto certain property unless the owner or the owner's agent has given certain permission; altering certain provisions of law relating to the authority of the Secretary of State Police to limit the wearing, carrying, or transporting of a handgun at certain times and locations;* ~~onto the real property of another unless the other has given certain permission; prohibiting a person from knowingly wearing, carrying, or transporting a firearm within a certain distance of a certain place of public accommodation prohibiting a person from wearing, carrying, or transporting a firearm under certain circumstances and in certain locations; altering the circumstances under which a person is prohibited from possessing a regulated firearm; altering provisions of law relating to obtaining and revoking a permit to wear, carry, or transport a firearm;~~ and generally relating to restrictions on wearing, carrying, or transporting firearms.

BY adding to

Article – Criminal Law
Section 4-111 and ~~4-112~~ 6-411
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law
Section 4-203(b)
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – State Government~~
~~Section 20-301~~
~~Annotated Code of Maryland~~
~~(2021 Replacement Volume and 2022 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Public Safety~~
~~Section 5-301(a), (b), (c), and (c), 5-303, and 5-309~~
~~Annotated Code of Maryland~~
~~(2022 Replacement Volume)~~

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~~BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5-306, 5-307, and 5-310 through 5-312
Annotated Code of Maryland
(2022 Replacement Volume)~~

*BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5-307
Annotated Code of Maryland
(2022 Replacement Volume)*

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Law

~~4-111.~~

~~(A) IN THIS SECTION, “FIREARM” HAS THE MEANING STATED IN § 4-104 OF THIS SUBTITLE.~~

~~(B) THIS SECTION DOES NOT APPLY TO:~~

~~(1) THE WEARING, CARRYING, OR TRANSPORTING OF A FIREARM ON A PORTION OF REAL PROPERTY SUBJECT TO AN EASEMENT, A RIGHT OF WAY, A SERVITUDE, OR ANY OTHER INTEREST THAT ALLOWS PUBLIC ACCESS ON OR THROUGH THE REAL PROPERTY;~~

~~(2) THE WEARING, CARRYING, OR TRANSPORTING OF A FIREARM ON A PORTION OF REAL PROPERTY SUBJECT TO AN EASEMENT, A RIGHT OF WAY, A SERVITUDE, OR ANY OTHER INTEREST ALLOWING ACCESS ON OR THROUGH THE REAL PROPERTY BY:~~

~~(I) THE HOLDER OF THE EASEMENT, RIGHT OF WAY, SERVITUDE, OR OTHER INTEREST; OR~~

~~(II) A GUEST OR ASSIGNEE OF THE HOLDER OF THE EASEMENT, RIGHT OF WAY, SERVITUDE, OR OTHER INTEREST; OR~~

~~(3) PROPERTY OWNED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.~~

~~(C) A PERSON MAY NOT KNOWINGLY WEAR, CARRY, OR TRANSPORT A FIREARM ONTO THE REAL PROPERTY OF ANOTHER UNLESS THE OTHER HAS GIVEN EXPRESS PERMISSION, EITHER TO THE PERSON OR TO THE PUBLIC GENERALLY, TO WEAR, CARRY, OR TRANSPORT A FIREARM ON THE REAL PROPERTY.~~

~~(D) A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR.~~

~~4-112.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "FIREARM" HAS THE MEANING STATED IN § 4-104 OF THIS SUBTITLE.~~

~~(3) "PLACE OF PUBLIC ACCOMMODATION" HAS THE MEANING STATED IN § 20-301 OF THE STATE GOVERNMENT ARTICLE.~~

~~(B) A PERSON MAY NOT KNOWINGLY WEAR, CARRY, OR TRANSPORT A FIREARM WITHIN 100 FEET OF A PLACE OF PUBLIC ACCOMMODATION.~~

~~(C) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR.~~

~~Article State Government~~

~~20-301.~~

~~In this subtitle, "place of public accommodation" means:~~

~~(1) an inn, hotel, motel, or other establishment that provides lodging to transient guests;~~

~~(2) a restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food or alcoholic beverages for consumption on or off the premises, including a facility located on the premises of a retail establishment or gasoline station;~~

~~(3) a motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;~~

~~(4) a retail establishment that:~~

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- ~~(i) is operated by a public or private entity; and~~
- ~~(ii) offers goods, services, entertainment, recreation, or transportation; or~~
- ~~(5) an establishment:~~
 - ~~(i) 1. that is physically located within the premises of any other establishment covered by this subtitle; or~~
 - ~~2. within the premises of which any other establishment covered by this subtitle is physically located; and~~
 - ~~(ii) that holds itself out as serving patrons of the covered establishment.~~

4-111.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "AREA FOR CHILDREN AND VULNERABLE INDIVIDUALS" MEANS:

(I) A PRESCHOOL OR PREKINDERGARTEN FACILITY OR THE GROUNDS OF THE FACILITY;

(II) A PRIVATE PRIMARY OR SECONDARY SCHOOL OR THE GROUNDS OF THE SCHOOL; OR

(III) ~~A YOUTH CAMP, AS DEFINED IN § 14-401 OF THE HEALTH GENERAL ARTICLE;~~

(IV) A HEALTH CARE FACILITY, AS DEFINED IN ~~§ 15-10B-01~~ § 15-10B-01(G)(1), (2), (3), AND (4) OF THE INSURANCE ARTICLE; OR

(V) ~~A LOCATION THAT IS BEING USED AS A SHELTER FOR RUNAWAY YOUTH.~~

(3) "FIREARM" HAS THE MEANING STATED IN § 4-104 OF THIS SUBTITLE.

(4) "GOVERNMENT OR PUBLIC INFRASTRUCTURE AREA" MEANS:

(I) A BUILDING OR ANY PART OF A BUILDING OWNED OR LEASED BY A UNIT OF STATE OR LOCAL GOVERNMENT;

(II) A BUILDING OF A PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN § 10-101 OF THE EDUCATION ARTICLE;

(III) A LOCATION THAT IS CURRENTLY BEING USED AS A POLLING PLACE IN ACCORDANCE WITH TITLE 10 OF THE ELECTION LAW ARTICLE OR FOR CANVASSING BALLOTS IN ACCORDANCE WITH TITLE 11 OF THE ELECTION LAW ARTICLE; OR

(IV) AN ELECTRIC PLANT OR ELECTRIC STORAGE FACILITY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE;

(V) A GAS PLANT, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE; OR

(VI) A NUCLEAR POWER PLANT FACILITY.

(5) "LAW ENFORCEMENT OFFICIAL" HAS THE MEANING STATED IN § 4-201 OF THIS ARTICLE.

(6) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

~~(5) "ORGANIZED SPORTING OR ATHLETIC ACTIVITY" MEANS AN ACTIVITY IN WHICH THREE OR MORE INDIVIDUALS WHO ARE PART OF THE SAME LEAGUE OR ASSOCIATION ARE COMPETING IN A SPORT OR ATHLETIC ACTIVITY TOGETHER AS PART OF THE SAME LEAGUE.~~

~~(6) (7) "ROTC" MEANS RESERVE OFFICER TRAINING CORPS.~~

~~(7) (8) "SPECIAL PURPOSE AREA" MEANS:~~

(I) A LOCATION LICENSED TO SELL OR DISPENSE ALCOHOL OR CANNABIS FOR ON-SITE CONSUMPTION;

(II) A STADIUM;

(III) A MUSEUM;

(IV) A LOCATION BEING USED FOR:

~~1. AN ORGANIZED SPORTING OR ATHLETIC ACTIVITY;~~

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~~2. A LIVE THEATER PERFORMANCE;~~

~~3. A MUSICAL CONCERT OR PERFORMANCE FOR WHICH MEMBERS OF THE AUDIENCE ARE REQUIRED TO PAY OR POSSESS A TICKET TO BE ADMITTED; OR AN AMUSEMENT PARK;~~

~~4. A FAIR OR CARNIVAL;~~

(V) A RACETRACK; OR

(VI) A VIDEO LOTTERY FACILITY, AS DEFINED IN § 9-1A-01 OF THE STATE GOVERNMENT ARTICLE; OR

~~(VII) WITHIN 100 YARDS OF A PLACE WHERE A PUBLIC GATHERING, A DEMONSTRATION, OR AN EVENT WHICH REQUIRES A PERMIT FROM THE LOCAL GOVERNING BODY IS BEING HELD, IF SIGNS POSTED BY A LAW ENFORCEMENT AGENCY CONSPICUOUSLY AND REASONABLY INFORM MEMBERS OF THE PUBLIC THAT THE WEARING, CARRYING, AND TRANSPORTING OF FIREARMS IS PROHIBITED.~~

(B) THIS SECTION DOES NOT APPLY TO:

~~(1) A LAW ENFORCEMENT OFFICIAL OR A POLICE OFFICER OF THE UNITED STATES, THE STATE, OR A LOCAL LAW ENFORCEMENT AGENCY OF THE STATE;~~

~~(2) AN ON-DUTY EMPLOYEE OF A LAW ENFORCEMENT AGENCY AUTHORIZED BY THE AGENCY TO POSSESS FIREARMS ON DUTY OR WHOSE DUTY ASSIGNMENT INVOLVES THE POSSESSION OF FIREARMS;~~

~~(2) (3) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES, OR THE NATIONAL GUARD, OR THE UNIFORMED SERVICES ON DUTY OR TRAVELING TO OR FROM DUTY;~~

~~(3) (4) A MEMBER OF AN ROTC PROGRAM WHILE PARTICIPATING IN AN ACTIVITY FOR AN ROTC PROGRAM;~~

~~(4) A LAW ENFORCEMENT OFFICIAL OF ANOTHER STATE OR SUBDIVISION OF ANOTHER STATE TEMPORARILY IN THIS STATE ON OFFICIAL BUSINESS;~~

(5) A CORRECTIONAL OFFICER OR WARDEN OF A CORRECTIONAL FACILITY IN THE STATE;

~~(6) A SHERIFF OR FULL-TIME ASSISTANT OR DEPUTY SHERIFF OF THE STATE;~~

(6) A RAILROAD POLICE OFFICER APPOINTED UNDER TITLE 3, SUBTITLE 4 OF THE PUBLIC SAFETY ARTICLE;

(7) AN EMPLOYEE OF AN ARMORED CAR COMPANY, IF THE PERSON IS ACTING WITHIN THE SCOPE OF EMPLOYMENT AND HAS A VALID PERMIT TO WEAR, CARRY, OR TRANSPORT A HANDGUN ISSUED UNDER TITLE 5, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE;

~~(7) (8) SUBJECT TO SUBSECTION (I) OF THIS SECTION, AN OFF-DUTY LAW ENFORCEMENT OFFICIAL OR A PERSON WHO HAS RETIRED AS A LAW ENFORCEMENT OFFICIAL IN GOOD STANDING FROM A LAW ENFORCEMENT AGENCY OF THE UNITED STATES, THE STATE OR ANOTHER STATE, OR A LOCAL UNIT IN THE STATE OR ANOTHER STATE, WHO POSSESSES A FIREARM, IF:~~

(I) 1. ~~THE OFFICIAL OR~~ PERSON IS ~~DISPLAYING~~ CARRYING THE ~~OFFICIAL'S OR~~ PERSON'S BADGE OR CREDENTIAL IN COMPLIANCE WITH THE REQUIREMENTS OF THE BADGE OR CREDENTIAL;

2. ~~THE OFFICIAL OR~~ PERSON IS CONCEALED FROM VIEW UNDER OR WITHIN AN ARTICLE OF THE ~~OFFICIAL'S OR~~ PERSON'S CLOTHING; AND

3. ~~THE OFFICIAL OR~~ PERSON IS AUTHORIZED TO CARRY A HANDGUN UNDER THE LAWS OF THE STATE OR THE UNITED STATES; OR

(II) 1. ~~THE OFFICIAL OR~~ PERSON POSSESSES A VALID PERMIT TO WEAR, CARRY, OR TRANSPORT A HANDGUN ISSUED UNDER TITLE 5, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE; AND

2. ~~THE OFFICIAL OR~~ PERSON IS CONCEALED FROM VIEW UNDER OR WITHIN AN ARTICLE OF THE ~~OFFICIAL'S OR~~ PERSON'S CLOTHING;

~~(8) (9) FOR A LOCATION THAT IS NOT OWNED BY, LEASED BY, OR OTHERWISE UNDER THE CONTROL OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE:~~

(I) ~~THE OWNER OR LESSEE OF THE LOCATION; OR~~

(II) A PERSON WHO IS AUTHORIZED BY THE OWNER OR LESSEE OF THE LOCATION TO WEAR, CARRY, OR TRANSPORT A FIREARM AT THE LOCATION FOR THE PURPOSE OF:

1. EMPLOYMENT AS A SECURITY GUARD LICENSED UNDER TITLE 19 OF THE BUSINESS OCCUPATIONS ARTICLE; OR

2. PROTECTING ANY INDIVIDUAL OR PROPERTY AT THE LOCATION ~~WITHOUT~~ WITH AN EXPRESS AGREEMENT BETWEEN THE PARTIES, REMUNERATION, OR COMPENSATION; ~~OR~~

~~(9)~~ (10) A LOCATION BEING USED WITH THE PERMISSION OF THE PERSON OR GOVERNMENTAL UNIT THAT OWNS, LEASES, OR CONTROLS THE LOCATION FOR:

(I) AN ORGANIZED SHOOTING ACTIVITY FOR EDUCATIONAL PURPOSES;

(II) A HISTORICAL DEMONSTRATION USING A FIREARM; OR

(III) HUNTING OR TARGET SHOOTING; OR

(11) A FIREARM THAT IS CARRIED OR TRANSPORTED IN A MOTOR VEHICLE IF THE FIREARM IS:

(I) LOCKED IN A CONTAINER; OR

(II) A HANDGUN WORN, CARRIED, OR TRANSPORTED IN COMPLIANCE WITH ANY LIMITATIONS IMPOSED UNDER § 5-307 OF THE PUBLIC SAFETY ARTICLE, BY A PERSON TO WHOM A PERMIT TO WEAR, CARRY, OR TRANSPORT THE HANDGUN HAS BEEN ISSUED UNDER TITLE 5, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE; ~~OR~~

~~(10) A FIREARM THAT IS CARRIED OR TRANSPORTED IN A MOTOR VEHICLE IF THE FIREARM IS:~~

~~(I) UNLOADED; AND~~

~~(II) LOCKED IN A CONTAINER THAT IS SEPARATE FROM ANY AMMUNITION THAT IS SUITABLE FOR USE IN THE FIREARM.~~

(C) A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN AN AREA FOR CHILDREN OR VULNERABLE INDIVIDUALS.

~~(D)~~ (D) (1) A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN A GOVERNMENT OR PUBLIC INFRASTRUCTURE AREA.

(2) A GOVERNMENT OR PUBLIC INFRASTRUCTURE AREA SPECIFIED UNDER SUBSECTION (A)(4)(I) OF THIS SECTION MUST DISPLAY A CLEAR AND CONSPICUOUS SIGN AT THE MAIN ENTRANCE OF THE BUILDING OR THE PART OF A BUILDING THAT IS OWNED OR LEASED BY THE UNIT OF STATE OR LOCAL GOVERNMENT INDICATING THAT IT IS NOT PERMISSIBLE TO WEAR, CARRY, OR TRANSPORT A FIREARM IN THE BUILDING OR THAT PART OF THE BUILDING.

~~(E) (1) THIS SUBSECTION DOES NOT APPLY TO AN ORGANIZED SPORTING OR ATHLETIC ACTIVITY FOR WHICH THE WEARING, CARRYING, TRANSPORTING, OR USE OF A FIREARM IS A CUSTOMARY PART OF THE SPORT OR ATHLETIC ACTIVITY.~~

~~(2) A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN A SPECIAL PURPOSE AREA.~~

~~(F) A PERSON MAY NOT VIOLATE SUBSECTION (C), (D), OR (E) OF THIS SECTION WITH INTENT TO CAUSE DEATH OR INJURY TO ANOTHER.~~

~~(G)~~ (1) (F) A PERSON WHO WILLFULLY VIOLATES SUBSECTION (C), ~~(D)~~ (D)(1), OR (E) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

~~(1) FOR A FIRST CONVICTION, IMPRISONMENT NOT EXCEEDING 90 DAYS 1 YEAR OR A FINE NOT EXCEEDING \$3,000 \$1,000 OR BOTH; AND~~

~~(2) FOR A SECOND OR SUBSEQUENT CONVICTION, IMPRISONMENT NOT EXCEEDING 15 MONTHS OR A FINE NOT EXCEEDING \$7,500 OR BOTH.~~

~~(2) A PERSON WHO VIOLATES SUBSECTION (F) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 MONTHS OR A FINE NOT EXCEEDING \$7,500 OR BOTH.~~

~~(H)~~ (G) (1) A CONVICTION UNDER THIS SECTION MAY NOT MERGE WITH A CONVICTION FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

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(2) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

(H) FOR PURPOSES OF THIS SECTION, A REQUIREMENT TO KEEP A HANDGUN CONCEALED IS NOT VIOLATED BY:

(1) THE MOMENTARY AND INADVERTENT EXPOSURE OF A HANDGUN;
OR

(2) THE MOMENTARY AND INADVERTENT EXPOSURE OF THE IMPRINT OR OUTLINE OF A HANDGUN.

(I) NOTHING IN THIS SECTION LIMITS THE POWER OF AN ADMINISTRATIVE HEAD OF A MARYLAND COURT TO PUNISH FOR CONTEMPT OR TO ADOPT RULES OR ORDERS REGULATING, ALLOWING, RESTRICTING, OR PROHIBITING THE POSSESSION OF WEAPONS IN ANY BUILDING HOUSING THE COURT OR ANY OF ITS PROCEEDINGS, OR ON ANY GROUNDS APPURTENANT TO THE BUILDING.

4-203.

(b) This section does not prohibit:

(1) the wearing, carrying, or transporting of a handgun by a person who is authorized at the time and under the circumstances to wear, carry, or transport the handgun as part of the person's official equipment, and is:

(i) a law enforcement official of the United States, the State, or a county or city of the State;

(ii) a member of the armed forces of the United States or of the National Guard on duty or traveling to or from duty;

(iii) a law enforcement official of another state or subdivision of another state temporarily in this State on official business;

(iv) a correctional officer or warden of a correctional facility in the State;

(v) a sheriff or full-time assistant or deputy sheriff of the State; or

(vi) a temporary or part-time sheriff's deputy;

(2) the wearing, carrying, or transporting of a handgun[, in compliance with any limitations imposed under § 5-307 of the Public Safety Article.] by a person to

whom a permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3 of the Public Safety Article;

(3) the carrying of a handgun on the person or in a vehicle while the person is transporting the handgun to or from the place of legal purchase or sale, or to or from a bona fide repair shop, or between bona fide residences of the person, or between the bona fide residence and place of business of the person, if the business is operated and owned substantially by the person if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(4) the wearing, carrying, or transporting by a person of a handgun used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a Department of Natural Resources–sponsored firearms and hunter safety class, trapping, or a dog obedience training class or show, while the person is engaged in, on the way to, or returning from that activity if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(5) the moving by a bona fide gun collector of part or all of the collector’s gun collection from place to place for public or private exhibition if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(6) the wearing, carrying, or transporting of a handgun by a person on real estate that the person owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases;

(7) the wearing, carrying, or transporting of a handgun by a supervisory employee:

(i) in the course of employment;

(ii) within the confines of the business establishment in which the supervisory employee is employed; and

(iii) when so authorized by the owner or manager of the business establishment;

(8) the carrying or transporting of a signal pistol or other visual distress signal approved by the United States Coast Guard in a vessel on the waterways of the State or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed case, in a vehicle; or

(9) the wearing, carrying, or transporting of a handgun by a person who is carrying a court order requiring the surrender of the handgun, if:

(i) the handgun is unloaded;

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(ii) the person has notified the law enforcement unit, barracks, or station that the handgun is being transported in accordance with the court order; and

(iii) the person transports the handgun directly to the law enforcement unit, barracks, or station.

6-411.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “DWELLING” MEANS A BUILDING OR PART OF A BUILDING THAT PROVIDES LIVING OR SLEEPING FACILITIES FOR ONE OR MORE INDIVIDUALS.

(II) “DWELLING” DOES NOT INCLUDE:

1. COMMON ELEMENTS OF A CONDOMINIUM, AS DEFINED IN § 11-101 OF THE REAL PROPERTY ARTICLE;

2. PROPERTY OF A COOPERATIVE HOUSING CORPORATION OTHER THAN A UNIT AS DEFINED IN § 5-6B-01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

3. COMMON AREAS OF A MULTIFAMILY DWELLING AS DEFINED IN § 12-203 OF THE PUBLIC SAFETY ARTICLE.

(3) “FIREARM” HAS THE MEANING STATED IN § 4-104 OF THIS ARTICLE.

(4) “LAW ENFORCEMENT OFFICIAL” HAS THE MEANING STATED IN § 4-201 OF THIS ARTICLE.

(5) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

(6) (I) “PROPERTY” MEANS A BUILDING.

(II) “PROPERTY” DOES NOT INCLUDE THE LAND ADJACENT TO A BUILDING.

(B) THIS SECTION DOES NOT APPLY TO:

(1) A LAW ENFORCEMENT OFFICIAL OR POLICE OFFICER ~~OF THE UNITED STATES, THE STATE, OR A LOCAL LAW ENFORCEMENT AGENCY OF THE STATE;~~

(2) AN ON-DUTY EMPLOYEE OF A LAW ENFORCEMENT AGENCY AUTHORIZED BY THE AGENCY TO POSSESS FIREARMS ON DUTY OR WHOSE DUTY ASSIGNMENT INVOLVES THE POSSESSION OF FIREARMS;

~~(2)~~ (3) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES, OR OF THE NATIONAL GUARD, OR THE UNIFORMED SERVICES ON DUTY OR TRAVELING TO OR FROM DUTY;

~~(3) A LAW ENFORCEMENT OFFICIAL OF ANOTHER STATE OR SUBDIVISION OF ANOTHER STATE TEMPORARILY IN THIS STATE ON OFFICIAL BUSINESS;~~

(4) A CORRECTIONAL OFFICER OR WARDEN OF A CORRECTIONAL FACILITY IN THE STATE;

~~(5) A SHERIFF OR FULL-TIME ASSISTANT OR DEPUTY SHERIFF OF THE STATE;~~

~~(6)~~ (5) THE WEARING, CARRYING, OR TRANSPORTING OF A FIREARM ON A PORTION OF REAL PROPERTY SUBJECT TO AN EASEMENT, A RIGHT-OF-WAY, A SERVITUDE, OR ANY OTHER PROPERTY INTEREST THAT ALLOWS PUBLIC ACCESS ON OR THROUGH THE REAL PROPERTY; OR

~~(7)~~ (6) THE WEARING, CARRYING, OR TRANSPORTING OF A FIREARM ON A PORTION OF REAL PROPERTY SUBJECT TO AN EASEMENT, A RIGHT-OF-WAY, A SERVITUDE, OR ANY OTHER PROPERTY INTEREST ALLOWING ACCESS ON OR THROUGH THE REAL PROPERTY BY:

(I) THE HOLDER OF THE EASEMENT, RIGHT-OF-WAY, SERVITUDE, OR OTHER PROPERTY INTEREST; OR

(II) A GUEST OR ASSIGNEE OF THE HOLDER OF THE EASEMENT, RIGHT-OF-WAY, SERVITUDE, OR OTHER PROPERTY INTEREST.

(C) A PERSON WEARING, CARRYING, OR TRANSPORTING A FIREARM MAY NOT ENTER OR TRESPASS IN THE DWELLING OF ANOTHER UNLESS THE OWNER OR THE OWNER'S AGENT HAS GIVEN EXPRESS PERMISSION, EITHER TO THE PERSON OR TO THE PUBLIC GENERALLY, TO WEAR, CARRY, OR TRANSPORT A FIREARM INSIDE THE DWELLING.

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(D) A PERSON WEARING, CARRYING, OR TRANSPORTING A FIREARM MAY NOT:

(1) ENTER OR TRESPASS ON PROPERTY ~~THAT IS POSTED CONSPICUOUSLY AGAINST WEARING, CARRYING, OR TRANSPORTING A FIREARM ON THE PROPERTY;~~ UNLESS THE OWNER OR THE OWNER'S AGENT HAS POSTED A CLEAR AND CONSPICUOUS SIGN INDICATING THAT IT IS PERMISSIBLE TO WEAR, CARRY, OR TRANSPORT A FIREARM ON THE PROPERTY; OR

(2) ENTER OR TRESPASS ON PROPERTY ~~AFTER HAVING BEEN NOTIFIED BY THE OWNER OR THE OWNER'S AGENT THAT THE PERSON MAY NOT UNLESS THE OWNER OR THE OWNER'S AGENT HAS GIVEN THE PERSON EXPRESS PERMISSION TO WEAR, CARRY, OR TRANSPORT A FIREARM ON THE PROPERTY;~~ OR.

(3) ~~ENTER OR TRESPASS IN THE DWELLING OF ANOTHER UNLESS THE OTHER HAS GIVEN EXPRESS PERMISSION, EITHER TO THE PERSON OR TO THE PUBLIC GENERALLY, TO WEAR, CARRY, OR TRANSPORT A FIREARM INSIDE THE DWELLING.~~

~~(D)~~ (E) A PERSON WHO WILLFULLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) ~~FOR A FIRST CONVICTION,~~ IMPRISONMENT NOT EXCEEDING ~~90 DAYS~~ 1 YEAR OR A FINE NOT EXCEEDING ~~\$500~~ \$1,000 OR BOTH;

(2) ~~FOR A SECOND CONVICTION OCCURRING WITHIN 2 YEARS AFTER THE FIRST CONVICTION,~~ IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND

(3) ~~FOR EACH SUBSEQUENT CONVICTION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING CONVICTION,~~ IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH.

(F) (1) A CONVICTION UNDER THIS SECTION MAY NOT MERGE WITH A CONVICTION FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

(2) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

Article – Public Safety

5-307.

~~(a)~~ A permit is valid for each handgun legally in the possession of the person to whom the permit is issued.

(B) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERMIT ISSUED UNDER THIS SUBTITLE SHALL RESTRICT THE WEARING, CARRYING, AND TRANSPORTING OF A HANDGUN BY THE PERSON TO WHOM THE PERMIT IS ISSUED TO WEARING, CARRYING, OR TRANSPORTING A HANDGUN CONCEALED FROM VIEW:

(I) UNDER OR WITHIN AN ARTICLE OF THE PERSON'S CLOTHING; OR

(II) WITHIN AN ENCLOSED CASE.

(2) THE REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION TO KEEP A HANDGUN CONCEALED IS NOT VIOLATED BY:

(I) THE MOMENTARY AND INADVERTENT EXPOSURE OF A HANDGUN; OR

(II) THE MOMENTARY AND INADVERTENT EXPOSURE OF THE IMPRINT OR OUTLINE OF A HANDGUN.

(C) A PERSON IS NOT SUBJECT TO THE REQUIREMENT IN SUBSECTION (B) OF THIS SECTION TO KEEP A HANDGUN CONCEALED IF THE PERSON IS AUTHORIZED AT THE TIME AND UNDER THE CIRCUMSTANCES TO WEAR, CARRY, OR TRANSPORT THE HANDGUN AS PART OF THE PERSON'S OFFICIAL EQUIPMENT, AND IS:

(1) A PERSON EXEMPTED UNDER § 4-203(B)(1) OF THE CRIMINAL LAW ARTICLE;

(2) A SECURITY GUARD LICENSED UNDER TITLE 19 OF THE BUSINESS OCCUPATIONS ARTICLE ACTING WITHIN THE SCOPE OF EMPLOYMENT;

(3) A CORRECTIONAL OFFICER OR WARDEN OF A CORRECTIONAL FACILITY IN THE STATE ACTING WITHIN THE SCOPE OF EMPLOYMENT;

(4) A RAILROAD POLICE OFFICER APPOINTED UNDER TITLE 3, SUBTITLE 4 OF THIS ARTICLE ACTING WITHIN THE SCOPE OF EMPLOYMENT; OR

(5) AN EMPLOYEE OF AN ARMORED CAR COMPANY ACTING WITHIN THE SCOPE OF EMPLOYMENT.

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[(b) The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective.]

~~5-301.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) "Handgun" has the meaning stated in § 4-201 of the Criminal Law Article.~~

~~(c) "Permit" means a permit issued by the Secretary to carry, wear, or transport a handgun.~~

~~(e) "Secretary" means the Secretary of State Police or the Secretary's designee.~~

~~5-303.~~

~~A person shall have a permit issued under this subtitle before the person carries, wears, or transports a handgun.~~

~~5-307.~~

~~(a) A permit is valid for each handgun legally in the possession of the person to whom the permit is issued.~~

~~(b) (1) A PERMIT ISSUED UNDER THIS SUBTITLE SHALL RESTRICT THE WEARING, CARRYING, AND TRANSPORTING OF A HANDGUN BY THE PERSON TO WHOM THE PERMIT IS ISSUED TO WEARING, CARRYING, OR TRANSPORTING A HANDGUN CONCEALED FROM VIEW:~~

~~(1) (I) UNDER OR WITHIN AN ARTICLE OF THE PERSON'S CLOTHING; OR~~

~~(2) (II) WITHIN AN ENCLOSED CASE.~~

~~(2) THE REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION TO KEEP A HANDGUN CONCEALED IS NOT VIOLATED BY:~~

~~(I) THE MOMENTARY AND INADVERTENT EXPOSURE OF A HANDGUN; OR~~

~~(II) THE MOMENTARY AND INADVERTENT EXPOSURE OF THE IMPRINT OR OUTLINE OF A HANDGUN.~~

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~~(c) The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective.~~

~~5-309.~~

~~(a) Except as provided in subsection (d) of this section, a permit expires on the last day of the holder's birth month following 2 years after the date the permit is issued.~~

~~(b) Subject to subsection (c) of this section, a permit may be renewed for successive periods of 3 years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee stated in this subtitle.~~

~~(c) A person who applies for a renewal of a permit is not required to be fingerprinted unless the Secretary requires a set of the person's fingerprints to resolve a question of the person's identity.~~

~~(d) The Secretary may establish an alternative expiration date for a permit to coincide with the expiration of a license, certification, or commission for:~~

~~(1) a private detective under Title 13 of the Business Occupations and Professions Article;~~

~~(2) a security guard under Title 19 of the Business Occupations and Professions Article; or~~

~~(3) a special police officer under § 3-306 of this article.~~

~~5-310.~~

~~(a) The Secretary [may revoke a permit on a finding that the holder] SHALL:~~

~~(1) REVOKE A PERMIT ON A FINDING THAT THE HOLDER does not meet the qualifications described in § 5-306 of this subtitle; [or] AND~~

~~(2) REGULARLY REVIEW INFORMATION REGARDING ACTIVE PERMIT HOLDERS USING THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO DETERMINE WHETHER ALL PERMIT HOLDERS CONTINUE TO MEET THE QUALIFICATIONS DESCRIBED IN § 5-306 OF THIS SUBTITLE.~~

~~(b) THE SECRETARY MAY REVOKE A PERMIT ON A FINDING THAT THE HOLDER violated § 5-308 of this subtitle.~~

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~~(C) IF THE SECRETARY REVOKES A PERMIT UNDER THIS SECTION FROM A PERSON THE SECRETARY DETERMINES IS PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER § 5-133 OF THIS TITLE, THE SECRETARY SHALL TAKE REASONABLE STEPS TO ENSURE THE SURRENDER OF ANY REGULATED FIREARMS IN THE PERSON'S POSSESSION.~~

~~[(b)] (D) A holder of a permit that is revoked by the Secretary shall return the permit to the Secretary within 10 days after receipt of written notice of the revocation.~~

~~5-311.~~

~~(A) IF THE SECRETARY DENIES A PERMIT OR RENEWAL OF A PERMIT OR REVOKES OR LIMITS A PERMIT, THE SECRETARY SHALL PROVIDE WRITTEN NOTICE OF THAT INITIAL ACTION TO THE APPLICANT, INCLUDING A DETAILED EXPLANATION OF THE REASON OR REASONS FOR THE INITIAL ACTION.~~

~~[(a)] (B) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of THE written notice of the Secretary's initial action UNDER SUBSECTION (A) OF THIS SECTION.~~

~~[(b)] (C) An informal review:~~

~~(1) may include a personal interview of the person who requested the informal review; and~~

~~(2) is not subject to Title 10, Subtitle 2 of the State Government Article.~~

~~[(e)] (D) (1) In an informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the person who requested the informal review of the decision in writing within 30 days after receipt of the request for informal review.~~

~~(2) THE WRITTEN NOTICE OF THE RESULTS OF THE SECRETARY'S INFORMAL REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A DETAILED EXPLANATION OF THE REASON OR REASONS FOR THE SECRETARY'S DECISION TO SUSTAIN, REVERSE, OR MODIFY THE INITIAL ACTION.~~

~~[(d)] (E) A person need not file a request for an informal review under this section before requesting review under § 5-312 of this subtitle.~~

~~5-312.~~

~~(a) (1) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request to appeal the decision of the Secretary to the Office of~~

~~Administrative Hearings by filing a written request with the Secretary and the Office of Administrative Hearings within 10 days after receipt of written notice of the Secretary's final action.~~

~~(2) A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submitting the application to the Secretary may request a hearing before the Office of Administrative Hearings by filing a written request with the Secretary and the Office of Administrative Hearings.~~

~~(b) (1) Within 60 days after the receipt of a request under subsection (a) of this section from the applicant or the holder of the permit, the Office of Administrative Hearings shall schedule and conduct a de novo hearing on the matter, at which witness testimony and other evidence may be provided.~~

~~(2) Within 90 days after the conclusion of the last hearing on the matter, the Office of Administrative Hearings shall issue a WRITTEN finding of facts and a decision.~~

~~(3) A party that is aggrieved by the decision of the Office of Administrative Hearings may appeal the decision to the circuit court.~~

~~(c) (1) Subject to subsection (b) of this section, any hearing and any subsequent proceedings of judicial review shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.~~

~~(2) Notwithstanding paragraph (1) of this subsection, a court may not order the issuance or renewal of a permit or alter a limitation on a permit pending a final determination of the proceeding.~~

~~(d) (1) On or before [January 1, 2019, 2020, 2021, and 2022,] **JANUARY 1 EACH YEAR, the SECRETARY SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE FOLLOWING INFORMATION DISAGGREGATED BY AN APPLICANT'S COUNTY OF RESIDENCE, RACE, ETHNICITY, AGE, AND GENDER:**~~

~~(I) **THE TOTAL NUMBER OF PERMIT APPLICATIONS MADE UNDER § 5-304 OF THIS SUBTITLE WITHIN THE PREVIOUS YEAR;**~~

~~(II) **THE TOTAL NUMBER OF PERMIT APPLICATIONS THAT THE SECRETARY GRANTED IN THE PREVIOUS YEAR;**~~

~~(III) **THE TOTAL NUMBER OF PERMIT APPLICATIONS THAT THE SECRETARY DENIED IN THE PREVIOUS YEAR;**~~

~~(IV) **THE TOTAL NUMBER OF PERMITS THAT WERE REVOKED IN THE PREVIOUS YEAR; AND**~~

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~~(V) THE TOTAL NUMBER OF PERMITS THAT ARE PENDING BEFORE THE SECRETARY.~~

~~(2) ON OR BEFORE JANUARY 1 EACH YEAR, THE Office of Administrative Hearings shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly THE FOLLOWING INFORMATION DISAGGREGATED BY AN APPLICANT'S COUNTY OF RESIDENCE, RACE, ETHNICITY, AGE, AND GENDER:~~

~~[(1)] (I) the number of appeals of decisions by the Secretary that have been filed with the Office of Administrative Hearings within the previous year;~~

~~[(2)] (II) the number of decisions by the Secretary that have been sustained, modified, or reversed by the Office of Administrative Hearings within the previous year;~~

~~[(3)] (III) the number of appeals that are pending; and~~

~~[(4)] (IV) the number of appeals that have been withdrawn within the previous year.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Public Safety~~

~~5-306:~~

~~(a) Subject to [subsection] SUBSECTIONS (c) AND (D) of this section, the Secretary shall issue a permit within a reasonable time to a person who the Secretary finds:~~

~~(1) (I) is [an adult] AT LEAST 21 YEARS OLD; OR~~

~~(II) IS AN ADULT WHO:~~

~~1. IS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD; OR~~

~~2. IS REQUIRED TO WEAR, CARRY, OR TRANSPORT A HANDGUN IN THE REGULAR COURSE OF THE PERSON'S EMPLOYMENT;~~

~~(2) (i) has not been convicted of a felony or of a misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed; or~~

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~~(ii) if convicted of a crime described in item (i) of this item, has been pardoned or has been granted relief under 18 U.S.C. § 925(c);~~

~~(3) has not been convicted of a crime involving the possession, use, or distribution of a controlled dangerous substance;~~

~~(4) is not presently an alcoholic, addict, or habitual user of a controlled dangerous substance unless the habitual use of the controlled dangerous substance is under legitimate medical direction;~~

~~(5) DOES NOT SUFFER FROM A MENTAL DISORDER AS DEFINED IN § 10-101(i)(2) OF THE HEALTH GENERAL ARTICLE AND HAVE A HISTORY OF VIOLENT BEHAVIOR AGAINST THE PERSON OR ANOTHER;~~

~~(6) IS NOT A RESPONDENT AGAINST WHOM:~~

~~(I) A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE;~~

~~(II) A CURRENT EXTREME RISK PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 5-601 OF THIS TITLE; OR~~

~~(III) ANY OTHER TYPE OF CURRENT COURT ORDER HAS BEEN ENTERED PROHIBITING THE PERSON FROM PURCHASING OR POSSESSING FIREARMS;~~

~~(5) (7) except as provided in subsection (b) of this section, has successfully completed prior to application and each renewal, a firearms training course approved by the Secretary that includes:~~

~~(i) 1. for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor; or~~

~~2. for a renewal application, 8 hours of instruction by a qualified handgun instructor;~~

~~(ii) classroom instruction on:~~

~~1. State firearm law;~~

~~2. home firearm safety; and~~

~~3. handgun mechanisms and operation; and~~

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~~(iii) a firearms qualification component that demonstrates the applicant's proficiency and use of the firearm;] MEETS THE MINIMUM CRITERIA SPECIFIED IN SUBSECTION (A 1) OF THIS SECTION; and~~

~~[(C)] (8) based on an investigation:~~

~~(i) has not exhibited a propensity for violence or instability that may reasonably render the person's possession of a handgun a danger to the person or to another; and~~

~~(ii) [has good and substantial reason to wear, carry, or transport a handgun, such as a finding that the permit is necessary as a reasonable precaution against apprehended danger] IS NOT PROHIBITED BY STATE OR FEDERAL LAW FROM PURCHASING OR POSSESSING A HANDGUN;~~

~~(A 1) THE FIREARMS TRAINING COURSE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:~~

~~(1) (i) FOR AN INITIAL APPLICATION, A MINIMUM OF 16 HOURS OF INSTRUCTION BY A QUALIFIED HANDGUN INSTRUCTOR; OR~~

~~(ii) FOR A RENEWAL APPLICATION, 8 HOURS OF INSTRUCTION BY A QUALIFIED HANDGUN INSTRUCTOR;~~

~~(2) CLASSROOM INSTRUCTION ON:~~

~~(i) STATE AND FEDERAL FIREARM LAWS, INCLUDING LAWS RELATING TO:~~

~~1. SELF DEFENSE;~~

~~2. DEFENSE OF OTHERS;~~

~~3. DEFENSE OF PROPERTY;~~

~~4. THE SAFE STORAGE OF FIREARMS;~~

~~5. THE CIRCUMSTANCES UNDER WHICH AN INDIVIDUAL BECOMES PROHIBITED FROM POSSESSING A FIREARM UNDER STATE AND FEDERAL LAW, INCLUDING BECOMING A RESPONDENT AGAINST WHOM;~~

~~A. A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4 506 OF THE FAMILY LAW ARTICLE;~~

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~~**B. AN ORDER FOR PROTECTION, AS DEFINED IN § 4-508.1 OF THE FAMILY LAW ARTICLE, HAS BEEN ISSUED BY A COURT OF ANOTHER STATE OR A NATIVE AMERICAN TRIBE AND IS IN EFFECT; OR**~~

~~**C. A CURRENT EXTREME RISK PROTECTIVE ORDER HAS BEEN ENTERED UNDER SUBTITLE 6 OF THIS TITLE;**~~

~~**6. THE REQUIREMENTS AND OPTIONS FOR SURRENDERING, TRANSFERRING, OR OTHERWISE DISPOSING OF A FIREARM AFTER BECOMING PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW;**~~

~~**7. THE REQUIREMENTS FOR REPORTING A LOSS OR THEFT OF A FIREARM TO A LAW ENFORCEMENT AGENCY AS REQUIRED BY § 5-146 OF THIS TITLE;**~~

~~**8. THE FIREARMS AND FIREARM ACCESSORIES WHICH ARE BANNED UNDER STATE AND FEDERAL LAW;**~~

~~**9. THE TYPES OF FIREARMS THAT REQUIRE A SPECIAL PERMIT OR REGISTRATION TO ACQUIRE OR POSSESS UNDER STATE OR FEDERAL LAW;**~~

~~**10. THE LAW PROHIBITING STRAW PURCHASES;**~~

~~**11. THE LAW CONCERNING ARMED TRESPASS UNDER § 6-411 OF THE CRIMINAL LAW ARTICLE; AND**~~

~~**12. THE LOCATIONS WHERE A PERSON IS PROHIBITED FROM POSSESSING A FIREARM REGARDLESS OF WHETHER THE PERSON POSSESSES A PERMIT ISSUED UNDER THIS SUBTITLE;**~~

~~**(H) HOME FIREARM SAFETY;**~~

~~**(HH) HANDGUN MECHANISMS AND OPERATION;**~~

~~**(IV) CONFLICT DE-ESCALATION AND RESOLUTION;**~~

~~**(V) ANGER MANAGEMENT; AND**~~

~~**(VI) SUICIDE PREVENTION; AND**~~

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~~(3) A FIREARMS QUALIFICATION COMPONENT THAT INCLUDES LIVE FIRE SHOOTING EXERCISES ON A FIRING RANGE AND REQUIRES THE APPLICANT TO DEMONSTRATE:~~

~~(I) SAFE HANDLING OF A HANDGUN; AND~~

~~(II) SHOOTING PROFICIENCY WITH A HANDGUN.~~

~~(b) An applicant for a permit is not required to complete a certified firearms training course under subsection (a) of this section if the applicant:~~

~~(1) is a law enforcement officer or a person who is retired in good standing from service with a law enforcement agency of the United States, the State, or any local law enforcement agency in the State;~~

~~(2) is a member, retired member, or honorably discharged member of the armed forces of the United States or the National Guard;~~

~~(3) is a qualified handgun instructor; or~~

~~(4) has completed a firearms training course approved by the Secretary.~~

~~(e) An applicant under the age of 30 years is qualified only if the Secretary finds that the applicant has not been:~~

~~(1) committed to a detention, training, or correctional institution for juveniles for longer than 1 year after an adjudication of delinquency by a juvenile court; or~~

~~(2) adjudicated delinquent by a juvenile court for:~~

~~(i) an act that would be a crime of violence if committed by an adult;~~

~~(ii) an act that would be a felony in this State if committed by an adult; or~~

~~(iii) an act that would be a misdemeanor in this State that carries a statutory penalty of more than 2 years if committed by an adult.~~

~~(D) (1) THE SECRETARY MAY NOT ISSUE A PERMIT TO A PERSON IF THE PERSON:~~

~~(I) HAS BEEN CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF § 4-104 OF THE CRIMINAL LAW ARTICLE; OR~~

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~~(H) HAS BEEN CONVICTED OF A VIOLATION OF § 4-104 OF THE CRIMINAL LAW ARTICLE IF THE VIOLATION RESULTED IN THE USE OF A LOADED FIREARM BY A CHILD CAUSING DEATH OR SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER PERSON.~~

~~(2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY MAY NOT ISSUE A PERMIT TO A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 4-104 OF THE CRIMINAL LAW ARTICLE FOR 5 YEARS FOLLOWING THE DATE OF THE CONVICTION.~~

~~(d) (E) The Secretary may issue a handgun qualification license, without an additional application or fee, to a person who:~~

~~(1) meets the requirements for issuance of a permit under this section; and~~

~~(2) does not have a handgun qualification license issued under § 5-117.1 of this title.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be construed to apply only to an initial application or renewal application for a permit to wear, carry, or transport a handgun that is submitted to the Secretary of State Police on or after the effective date of this Act. Section 2 may not be construed to affect the requirements to maintain a permit to wear, carry, or transport a handgun that was issued by the Secretary of State Police before the effective date of this Act until the permit is subject to renewal.~~

~~SECTION 4. 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.~~

~~SECTION 2. 5. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.~~

Approved by the Governor, May 16, 2023.

EXHIBIT B

UNITED STATES DISTRICT
COURT DISTRICT OF MARYLAND

KATHERINE NOVOTNY, et al.,

Plaintiffs,

Case No.: 1:23-cv-01295

v.

WESTLEY MOORE, et al.,

Defendants.

DECLARATION

I, Katherine Novotny, hereby declare under penalty of perjury, that the following information is true to the best of my knowledge and state the following:

1. I am over 18 years old. I am competent to give this declaration. I am providing this declaration based on my personal knowledge and experience.

2. I am a citizen of the United States, and a resident and citizen of the State of Maryland, currently residing in Aberdeen, Maryland. I am a member of Maryland Shall Issue, Inc., Firearms Policy Coalition, Inc., and the Second Amendment Foundation.

3. I am not prohibited under state or federal law from acquiring or possessing firearms or ammunition.

4. Since March 2022, I have possessed a Maryland wear and carry permit, issued by the Maryland State Police.

5. With my carry permit, I have regularly carried my personal firearm at and in multiple restaurants licensed to serve alcohol for on-site consumption, including Texas Roadhouse in Fallston, MD, Chili's in Bel Air, MD, Outback Steakhouse in Bel Air, MD, Old South Smokehouse in Port Deposit, MD, Great American Steakhouse in Aberdeen, MD, Bistro 91 in Finksburg, MD, Main Street Tower in Bel Air, MD, and Chopstix in Forest Hill, MD. When I visit these locations while carrying my personal firearm, I never consume alcohol.

6. With my carry permit, I regularly carry my personal firearm when I enter stores and other privately owned buildings that are otherwise open to the public.

7. I have every intention and desire to continue to carry in restaurants licensed to serve alcohol and in stores and other privately owned buildings otherwise open to the public and would continue to do so in the future, but I will decline to do so because of my credible fear of arrest and prosecution after October 1, 2023, the effective date of SB 1.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 23rd day of May, 2023.

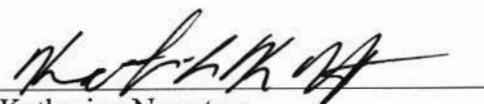

Katherine Novotny

EXHIBIT C

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

KATHERINE NOVOTNY., et al.,

Plaintiffs,

Case No.: 1:23-cv-01295

v.

WESTLEY MOORE, et al.,

Defendants.

DECLARATION

I, Sue Burke, hereby declare under penalty of perjury, that the following information is true to the best of my knowledge and state the following:

1. I am over 18 years old. I am competent to give this declaration. I am providing this declaration based on my personal knowledge and experience.

2. I am a citizen of the United States, and a resident and citizen of the State of Maryland, currently residing in Reisterstown, Maryland. I am a member of Maryland Shall Issue, Inc., Firearms Policy Coalition, Inc., and the Second Amendment Foundation.

3. I am not prohibited under state or federal law from acquiring or possessing firearms or ammunition.

4. In 2022, I acquired a Maryland wear and carry permit, issued by the Maryland State Police.

5. With my carry permit, I have regularly carried my personal firearm at and in multiple establishments licensed to serve alcohol for on-site consumption, including: Applebee's, Olive Garden, and Forbidden City restaurants in Westminster, MD; Bare Bones and Kelsey's Restaurant, Irish Pub & Banquet Room, and La Palapa Grill & Cantina in Ellicott City, MD; Jarrettsville Manor Memorial VFW Post 8672, Jarrettsville, MD; Lt. Peter G Zouck VFW Post 521, Owings Mills, MD; Yingling-Ridgely Post #7472, Ellicott City, MD; American Legion Post #17 – Edgewood, MD; and American Legion Harford Post #39, Bel Air, MD. When I visit these locations while carrying my personal firearm, I never consume alcohol.

6. With my carry permit, I regularly carry my personal firearm when I enter stores and other privately owned buildings that are otherwise open to the public.

7. With my carry permit, I regularly visit multiple private museums while carrying my personal firearm, including the Annapolis Maritime Museum, Babe Ruth Birthplace and Museum, Baltimore Museum of Industry, Baltimore Streetcar Museum, B & O Railroad Museum, Calvert Marine Museum, the Baltimore Museum of Art, and the Chesapeake Maritime Museum.

8. I have every intention and desire to continue to carry in restaurants licensed to serve alcohol, in stores and other privately owned buildings otherwise open to the public, and private museums, and would continue to do so in the future, but I will decline to do so because of my credible fear of arrest and prosecution after October 1, 2023, the effective date of SB 1.

9. I regularly visit Maryland State Parks, including Patapsco Valley State Park, Cunningham Falls State Park, Swallow Falls State Park, Assateague State Park, and Pocomoke River State Park, and plan to continue visiting these and other parks.

10. I have visited Maryland State Forests, including Pocomoke State Forest and Potomac-Garrett State Forest, and plan to continue visiting Maryland State Forests.

11. I have visited Maryland Chesapeake Forest Lands, including Chesapeake Forest, Snow Hill (WR-27 and WR-40), and plan to continue visiting Maryland Chesapeake Lands.

12. On my visits to State Parks, State Forests, and Chesapeake Forest Lands, I have declined to carry my personal firearm because of the regulations promulgated by the Department of Natural Resources, which prohibit carrying personal firearms. But for my credible fear of arrest and prosecution arising from the enforcement of these regulations, I would fully intend to carry a firearm in these locations.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 23rd day of May, 2023.

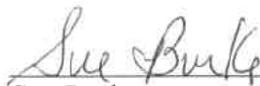

Sue Burke

EXHIBIT D

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

KATHERINE NOVOTNY., et al.,

Plaintiffs,

Case No.: 1:23-cv-0 1295

v.

WESTLEY MOORE, et al.,

Defendants.

DECLARATION

I, Esther Rossberg, hereby declare under penalty of perjury, that the following information is true to the best of my knowledge and state the following:

1. I am over 18 years old. I am competent to give this declaration. I am providing this declaration based on my personal knowledge and experience.

2. I am a citizen of the United States, and a resident and citizen of the State of Maryland, currently residing in Baltimore, Maryland. I am a longtime member of Maryland Shall Issue, Inc. I am also a member of both Firearms Policy Coalition, Inc., and the Second Amendment Foundation.

3. I am not prohibited under state or federal law from acquiring or possessing firearms or ammunition.

4. In 2022, I acquired a Maryland wear and carry permit, issued by the Maryland State Police.

5. With my carry permit, I have regularly carried my personal firearm at and in multiple restaurants licensed to serve alcohol for on-site consumption, including Dougie's in Pikesville, MD, Taam Thai in Pikesville, MD, KB Grill and Wok in Baltimore, MD, and Serengeti in Baltimore, MD. When I visit these locations while carrying my personal firearm, I never consume alcohol.

6. With my carry permit, I regularly carry my personal firearm when I enter stores and other privately owned buildings that are otherwise open to the public.

7. With my carry permit, I regularly carry my firearm while at health care facilities, including on visits to my personal physician at a hospital in Baltimore, MD. It is my understanding that a hospital is within the meaning of MD Code, Insurance, § 15-10B-01(g)(1), as incorporated by Section 4-111(a)(2)(iii) and Section 4-111(c) of SB1.

8. I have every intention and desire to continue to carry in restaurants licensed to serve alcohol, in stores and other privately owned buildings otherwise open to the public, and health care facilities, and would continue to do so in the future, but I will decline to do so because of my credible fear of arrest and prosecution after October 1, 2023, the effective date of SB 1.

9. I regularly use the Baltimore Metro rail system to travel from the Reisterstown Plaza Station to various stations in the City of Baltimore, including the Charles Center and Johns Hopkins Hospital stations. I have every intention of continuing to regularly use the Baltimore Metro rail system.

10. While using the Baltimore Metro rail system, I have declined to carry my personal firearm because of the prohibition imposed by MD Code, Transportation, § 7-705(b)(6). But for

my credible fear of arrest and prosecution arising from the enforcement of this prohibition, I would fully intend to carry a firearm while using the Baltimore Metro rail system going forward.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 23rd day of May, 2023.



Esther Rossberg

EXHIBIT E

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

KATHERINE NOVOTNY., et al.,

Plaintiffs,

Case No.: 1:23-cv-01295

v.

WESTLEY MOORE, et al.,

Defendants.

DECLARATION

1. COMES NOW, the declarant, DANIEL CARLIN-WEBER, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

2. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

3. I am the Chairman of the Board of Directors of MARYLAND SHALL ISSUE, INC., a named plaintiff in the above captioned matter. I execute this declaration on behalf of MARYLAND SHALL ISSUE, INC.

4. Plaintiff MARYLAND SHALL ISSUE, INC. ("MSI"), is a Maryland corporation, located at 9613 Harford Rd., Ste C #1015, Baltimore, MD 21234. MSI is an Internal Revenue Service Section 501(c)(4), non-profit, non-partisan, all-volunteer membership organization with approximately 3662 members statewide. MSI is dedicated to the preservation and advancement of gun owners' rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm

in public. The purposes of MSI include promoting the exercise of the right to keep and bear arms and education, research, and legal action associated with the constitutional right to privately own, possess and carry firearms. Each of the named individual plaintiffs in this suit is a member of MSI.

5. On May 16, 2023, the Defendant, Governor Wes Moore, signed Senate Bill 1 (“SB 1”) into law. SB 1 goes into effect on October 1, 2023. SB 1 implements expansive new restrictions on where ordinary, law-abiding citizens, including MSI’s members who have a wear and carry permit issued by the Maryland State Police, may exercise their Second Amendment right to carry a firearm. Among the new restrictions are bans on carrying firearms by permit holders in privately owned buildings open to the public, locations licensed to sell or dispense alcohol for on-site consumption, private museums, and health care facilities.

6. Maryland additionally bans wear and carry permit holders from carrying their personal firearm for self-defense in State Parks, State Forests, and State Chesapeake Forest Lands. *See* COMAR 08.07.01.04, 08.07.01.14, 08.07.06.04.

7. Maryland also bans wear and carry permit holders from carrying their personal firearm for self-defense on mass transit in Maryland. *See* MD Code, Transportation, § 7-705(b)(6).

8. MSI has one or more members who live in Maryland and who travel throughout Maryland in the ordinary course of their lives, and who also possess a Maryland wear and carry permit issued by the Maryland State Police. MSI has at least one member who is a permit holder and regularly carries firearms in and at each of the locations challenged in the Complaint filed in this case, including at a rehabilitation facility, as defined at MD Code, Insurance, § 15-10B-01(g)(4), and at a surgical center, as defined at MD Code, Insurance, § 15-10B-01(g)(3). These

members of MSI with carry permits intend to continue to possess and carry firearms at such locations, but reasonably fear prosecution if they do so after October 1, 2023.

9. MSI has one or more members with carry permits who regularly visit State parks and State forests, including State Chesapeake Forest Lands, and would carry a firearm at these locations but for the regulatory bans imposed by the Department of Natural Resources.

10. MSI has at least one member with a carry permit who regularly uses public transportation facilities operated or controlled by the Department of Transportation, Mass Transit Administration and would possess, wear, carry or transport a firearm while doing so but for the ban imposed by MD Code, Transportation, § 7-705(b)(6).

11. MSI brings this action on behalf of its members who have Maryland wear and carry permits, a class which includes each of the individual named plaintiffs in this case.

12. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 24th day of May, 2023.



Daniel Carlin-Weber
Chairman of the Board
Maryland Shall Issue, Inc.

EXHIBIT F

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

KATHERINE NOVOTNY, et al.,

Plaintiffs,

Case No.: 1:23-cv-01295

v.

WESTLEY MOORE, et al.,

Defendants.

DECLARATION

I, Alan M. Gottlieb, hereby declare under penalty of perjury, that the following information is true to the best of my knowledge and state the following:

1. I am over 18 years old. I am competent to give this declaration. I am providing this declaration based on my personal knowledge and experience.

2. I am the Executive Vice President of Second Amendment Foundation ("SAF"), a non-profit educational foundation incorporated under the laws of Washington with a principal place of business in Bellevue, Washington. In my role as Executive Vice President, I am familiar with SAF's purposes as an organization and SAF's membership.

3. SAF seeks to preserve the effectiveness of the Second Amendment through education, research, publishing, and legal action programs focused on the constitutionally protected right to possess firearms and firearm ammunition, and the consequences of gun control.

4. SAF has over 720,000 members and supporters nationwide, including thousands of members in Maryland. SAF's members include individuals and firearm owners who are not prohibited under state or federal law from possessing, receiving, owning, or purchasing a firearm

or ammunition. Each of the named individual plaintiffs in the above-captioned matter are members of SAF.

5. On May 16, 2023, the Defendant, Governor Wes Moore, signed SB 1 into law. SB 1 goes into effect on October 1, 2023. SB 1 implements expansive new restrictions on where ordinary, law-abiding citizens, including SAF's members that have a wear and carry permit issued by the Maryland State Police, may exercise their Second Amendment right to carry a firearm. Among the new restrictions are bans on carrying firearms by permit holders in privately owned buildings open to the public, locations licensed to sell or dispense alcohol for on-site consumption, private museums, and health care facilities.

6. Maryland additionally bans wear and carry permitholders from carrying their personal firearm for self-defense in State Parks, State Forests, and State Chesapeake Forest Lands. *See* COMAR 08.07.01.04, 08.07.01.14, 08.07.06.04.

7. Maryland also bans wear and carry permitholders from carrying their personal firearm for self-defense on mass transit in Maryland. *See* MD Code, Transportation, § 7-705(b)(6).

8. SAF has at least one member who is a permit holder and who carries firearms in and at buildings open to the public, locations licensed to sell alcohol for on-site consumption, private museums, and health care facilities. SB 1, as of its effective date of October 1, 2023, bans SAF's member(s) from carrying at the locations. These SAF members fully intend to continue to carry at these locations but reasonably fear arrest and prosecution if they do so after October 1, 2023.

9. SAF has one or more members with Maryland carry permits who visit Maryland State Parks, State Forests, and State Chesapeake Forest Lands, and would possess, wear, carry or transport a firearm at these locations but for their reasonable fear of arrest and prosecution from

the enforcement of the administrative regulatory bans imposed by the Department of Natural Resources.

10. SAF has one or more members with Maryland carry permits who use mass transit and would carry a firearm while doing so but for their credible fear of arrest and prosecution from the enforcement of MD Code, Transportation, § 7-705.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 24th day of May, 2023.



Alan M. Gottlieb
Alan M. Gottlieb
Executive Vice President
Second Amendment Foundation

EXHIBIT G

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

KATHERINE NOVOTNY., et al.,

Plaintiffs,

Case No.: 1:23-cv-01295

v.

WESTLEY MOORE, et al.,

Defendants.

DECLARATION

I, Brandon Combs, hereby declare under penalty of perjury, that the following information is true to the best of my knowledge and state the following:

1. I am over 18 years old. I am competent to give this declaration. I am providing this declaration based on my personal knowledge and experience.

2. I am the president of the Firearms Policy Coalition, Inc, (“FPC”), a non-profit organization incorporated under the laws of Delaware with a primary place of business in Clark County, Nevada. In my role as president, I am familiar with FPC’s purposes as an organization and FPC’s membership.

3. The purposes of FPC include defending and promoting the People’s rights—especially the fundamental, individual Second Amendment right to keep and bear arms—advancing individual liberty and restoring freedom. FPC serves its members and the public through legislative advocacy, grassroots advocacy, litigation and legal efforts, research, education, outreach, and other programs.

4. FPC has members that reside in and that visit the State of Maryland. FPC's members include individuals and firearm owners who are not prohibited under state or federal law from possessing, receiving, owning, or purchasing a firearm or ammunition. Each of the named individual plaintiffs in the above-captioned matter are members of FPC.

5. On May 16, 2023, the Defendant, Governor Wes Moore, signed SB1 into law. SB 1 goes into effect on October 1, 2023. SB 1 implements expansive new restrictions on where ordinary, law-abiding citizens, including FPC's members that have a wear and carry permit issued by the Maryland State Police, may exercise their Second Amendment right to carry a firearm. Among the new restrictions are bans on carrying firearms by permit holders in privately owned buildings open to the public, locations licensed to sell or dispense alcohol for on-site consumption, private museums, and health care facilities.

6. Maryland additionally bans wear and carry permit holders from carrying their personal firearm for self-defense in State Parks, State Forests, and State Chesapeake Forest Lands. *See* COMAR 08.07.01.04, 08.07.01.14, 08.07.06.04.

7. Maryland also bans wear and carry permit holders from carrying their personal firearm for self-defense on mass transit in Maryland. *See* MD Code, Transportation, § 7-705(b)(6).

8. FPC has at least one member who is a permit holder and who carries firearms in and at buildings open to the public, locations licensed to sell alcohol for on-site consumption, private museums, and health care facilities. SB 1, as of its effective date of October 1, 2023, bans FPC's member(s) from carrying at the locations. These FPC members fully intend to continue to carry at these locations but reasonably fear arrest and prosecution if they do so after October 1, 2023.

9. FPC has one or more members with Maryland carry permits who visit Maryland State Parks, State Forests, and State Chesapeake Forest Lands, and would possess, wear, carry or transport a firearm at these locations but for their reasonable fear of arrest and prosecution from the enforcement of the administrative regulatory bans imposed by the Department of Natural Resources.

10. FPC has one or more members with Maryland carry permits who use mass transit and would carry a firearm while doing so but for their credible fear of arrest and prosecution from the enforcement of MD Code, Transportation, § 7-705.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 24th day of May, 2023.



Brandon Combs
President
Firearms Policy Coalition, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

KATHERINE NOVOTNY, et al.,

Case No.: 1:23-cv-01295

Plaintiffs,

v.

WESTLEY MOORE, et al.,

Defendants.

[[PROPOSED ORDER]]

1. Having reviewed Plaintiffs' Motion for a Preliminary Injunction, accompanying memorandum of law and exhibits, the response of Defendants in Opposition thereto, and Plaintiffs' Reply, IT IS HEREBY ORDERED, that:

2. Plaintiffs' Motion for a Preliminary Injunction is GRANTED, and that Defendants are hereby preliminarily enjoined from enforcing MD. CODE, CRIM. LAW § 6-411(d) (anti-carry default), MD. CODE, CRIM. LAW § 4-111 with respect to locations licensed to sell or dispense alcohol for on-site consumption, museums, and health care facilities, MD Code, Transportation, § 7-705(b)(6) (mass transit), COMAR 08.07.06.04 (State parks), COMAR 08.07.01.04 (State forests), and COMAR 08.01.07.14 (Chesapeake Forest Lands), and any regulations, policies, and practices implementing the enjoined provisions, as to persons who have a valid wear and carry permit issued by the Maryland State Police, and IT IS HEREBY FURTHER ORDERED, that:

3. No bond shall be required in this matter and Plaintiffs shall not be required to post a bond in any amount.

So ordered this _____ day of _____, 2023

HON. RICHARD D. BENNETT
United States District Judge
District of Maryland

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on May 24, 2023, the foregoing PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION and supporting MEMORANDUM and Exhibits were served on all defendants in the same manner in which the Complaint and Summons in this case were served with consent, via electronic service to the Maryland Attorney General's Office via civil_service@OAG.State.MD.US, with a courtesy copy served, via email, to:

Robert A. Scott
Assistant Attorney General
Deputy Chief of Litigation
Civil Division
Office of the Attorney General
200 St. Paul Place, 20th Floor
Baltimore, MD 21202
410-576-7055
rscott@oag.state.md.us

Dated: May 24, 2023

/s/ David H. Thompson
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Counsel for Plaintiffs