

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

## February, 2022

### New York State Legislative update, January 13, 2022

Proposed New York State legislation:

- **S-7705**, Criminalizes the sale of ghost guns; requires any person licensed as a gunsmith or a dealer in firearms to register with the Division of Criminal Justice Services any unserialized firearm, rifle or shotgun, finished frame or receiver, or unfinished frame or receiver, passed the Senate. Companion is **A-8736**.
- **S-7716**, Relates to the Firearm Violence Research Institute; makes technical changes to the institutes procedures, goals and activities, on 3rd Reading. No companion.
- **S-7736**, Amends the “Scott J. Beigel Unfinished Receiver Act” relating to unserialized frames or receivers, on 3rd Reading. Companion is **A-8741**.
- **S-51**, Includes attachments to electronic devices within the meaning of the term “imitation weapon,” and S-687, Clarifies the definition of imitation weapon, have been Reported.
- **A-8735**, Requires the Division of Criminal Justice Services to publish quarterly reports providing information related to firearms, rifles and shotguns used in the commission of crimes in the state of New York. Companion is **S-7760**.
- **A-8736**, Amends the definition of disguised gun to include any firearms that are designed and intended to appear to be a toy gun. Companion is **S-7796**.
- **A-8786**, Criminalizes the sale of ghost guns; requires any person licensed as a gunsmith or a dealer in firearms to register with the Division of Criminal Justice Services any unserialized firearm, rifle or shotgun, finished frame or receiver, or unfinished frame or receiver. Companion is **S-7705**.
- **S-50**, Relates to manufacturers’ reporting the sale or distribution of firearms. Companion is **A-2560**.

<http://www.gunpoliticsny.com>

### New York Democrats want to make it a felony to have a gun in any group of 15 or more people.

A8684 (ACTIVE) -prohibits firearms in certain locations, including but not limited to all forms of public transportation, large gatherings, and food and drink establishments

<https://tinyurl.com/nysenatea8684>

### Pistol permit recertification provision affecting many in '22

Under New York State law, pistol permit holders who received their permit or recertified it in 2017 are due for recertification this year. The due date matches the date of issuance listed on the permit.

Those who need to recertify their permit must do so through the New York State Police, since the county clerk's office does not fill that function. The website address is

<https://safeact.ny.gov/pistol-permit-recertification>. Permit holders may complete the process online or download a form from the site, complete and mail it in.

[https://www.lockportjournal.com/news/local\\_news/pistol-permit-provision-affecting-many-in-22/article\\_914d3b06-b1b4-56ac-b21c-3affdc0e6404.html](https://www.lockportjournal.com/news/local_news/pistol-permit-provision-affecting-many-in-22/article_914d3b06-b1b4-56ac-b21c-3affdc0e6404.html)

### **NYS rolls out new Interstate Task Force on Illegal Guns: Local law enforcement say the issue starts with bail reform**

Governor Kathy Hochul held her first meeting of the new Interstate Task Force on Illegal Guns at the New York State Intelligence Center (NYSIC) in East Greenbush Wednesday morning. Law enforcement officials from nine northeastern states were in attendance to tackle the urgent issue of illegal guns, which are contributing to violence and crime in New York and across the region...

Albany County Sheriff Craig Apple ... says in order to prevent gun violence, it comes down to changing the state's current bail reform. "Legal gun owners are not the ones out there committing the crimes, so by keep pushing gun control — it's really just affecting legal gun owner, the gang bangers don't really care what the state passes. So we need to be able to hold these individuals in jail when they get caught with a weapon especially a loaded weapon, we need to hold them to be accountable as opposed to just walk back out."

<https://www.news10.com/news/ny-news/gov-hochul-to-hold-new-task-force-to-combat-gun-violence/>

### **Suozi's 15-point State Action Plan**

Democrat Gubernatorial hopeful Tom Suozzi has started talking about guns on the campaign trail.

Suozzi offered his "15-point State Action Plan" on gun control (which includes):

- Create a tri-state commission to stop the flow of illegal guns into New York
- Expand ShotSpotter to more areas of New York
- Expand gun buybacks in coordination with community groups
- Fully implement NY's Red Flag Law with an effective enforcement mechanism
- Unite behind common sense federal legislation

<http://www.gunpoliticsny.com/?p=24791>

### **Supreme Court Justice Stephen Breyer is retiring.**

Associate Justice Stephen Breyer, a member of the Supreme Court's liberal wing, announced Thursday he would retire at the end of the current term, giving President Joe Biden his first opportunity to nominate a justice to the country's highest court.

Appointed by President Bill Clinton in 1994, the 83-year-old justice is the Supreme Court's oldest member. In a brief letter to Biden, Breyer called his tenure on the court a "privilege."

It's doubtful the new justice will change the ideological balance of the court, which has six conservative justices and three liberals. They will, however, likely consider cases covering a variety of hot-button issues, including reproductive rights and gun control.

The Supreme Court will address gun control in its current term, which ends in June, when it rules on a challenge to a New York state law requiring individuals to show "proper cause" for applying for a concealed carry permit.

Still, Neal Devins, a law professor at William & Mary College in Virginia, said it's very possible the court will revisit the issue in the coming years.

"The New York gun case is not the end of SCOTUS' input on Second Amendment rights," Devins said. "The scope of the Second Amendment will be figured out in subsequent cases."

<https://www.cnet.com/how-to/supreme-court-justice-stephen-breyer-is-retiring-here-are-the-likely-nominees-to-replace-him/>

### **Biden DOJ announces new gun control rule**

Under the new rule, federally approved gun sellers will be required to have gun storage or safety devices available onsite for potential buyers as required by the Gun Control Act.

According to the department, a secure gun storage device is defined as "a safe, gun safe, gun case, lock box or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination or other similar means."

The department submitted the rule to the Federal Register. If approved, the change will amend the Bureau of Alcohol, Tobacco, Firearms and Explosives' gun regulations and go into effect on Feb. 3.

<https://www.washingtontimes.com/news/2022/jan/3/biden-doj-announces-new-gun-control-rule/>

### **No Permit, No Problem: More States Allow Residents to Carry a Hidden Gun**

Six more states no longer require residents to hold a permit to carry a concealed firearm.

Arkansas, Iowa, Montana, Tennessee, Texas and Utah this year enacted what gun rights advocates often refer to as "constitutional carry" measures. A legislative priority for groups such as the National Rifle Association, 21 states now have such measures in place. Many of these states still have restrictions on possessing firearms in certain government buildings.

More states may be added to that list before the end of this legislative season. The Ohio House last month passed a bill along party lines that would eliminate a requirement for gun owners to take an eight-hour class and undergo a background check to carry a concealed firearm in public. It is now before the state Senate, which also is controlled by Republicans. Wisconsin lawmakers also are debating a permitless carry bill.

Similar bills have passed in one legislative chamber in both Louisiana and South Carolina this year. Meanwhile, the U.S. Supreme Court is considering whether New York's gun permitting system violates the Second Amendment—a case that could gut firearm permit provisions nationwide.

Permitless carry laws eliminate what proponents say is an onerous and time-consuming step for people who want to arm themselves for self-protection. When Tennessee Gov. Bill Lee signed his state's permitless carry law earlier this year, the Republican tweeted that "it shouldn't be hard for law-abiding Tennesseans to exercise their" Second Amendment rights.

<https://lailluminator.com/2021/12/28/no-permit-no-problem-more-states-allow-residents-to-carry-a-hidden-gun/>

### **Gun Rights Group Files Suit Against San Jose's Gun Owner Insurance Requirement**

The National Association for Gun Rights (NAGR) filed suit in federal court after the San Jose city council voted Tuesday to require gun owners to have liability insurance and pay an annual fee to a non-profit chosen by the city.

Private gun owner Mark Sikes is a plaintiff with NAGR.

Harmeet Dhillon, an attorney with San Francisco-based Dhillon Law Group, is representing the plaintiffs.

Dhillon spoke about the city council's insurance mandate, saying: "The law is unconstitutional...The law compels people to purchase insurance that doesn't necessarily exist, and that demonstrates that this law is not a good faith attempt to do anything other than ban or burden the lawful possession of guns."

<https://www.breitbart.com/politics/2022/01/26/gun-rights-group-files-suit-against-san-joses-gun-owner-insurance-requirement/>

### **Gun owners sue over California law allowing personal information to be used in research**

A group of gun owners has filed a civil rights lawsuit in San Diego federal court challenging a recently passed California law that allows their personal information to be shared with university gun-violence researchers.

The lawsuit was filed late Wednesday by the National Rifle Association on behalf of five gun owners, including three who live in San Diego County. The court has been viewed as a friendly venue by gun-rights advocates due to recent opinions that have dismantled large portions of California's firearm-regulation scheme.

In this case, the gun owners argue that they are already required to give up a great deal of personal information — including name, date of birth, address, phone number, physical description, occupation and in some cases Social Security number — in order to exercise their constitutional right to bear arms under California's strict gun laws.

Such information is collected by the California Department of Justice for purposes of conducting background checks to register gun buyers and license holders. It is then kept in a state database that tracks all firearms transactions by licensed dealers.

Gun owners say they submitted their personal information upon assurances that it would be kept for law enforcement purposes only.

The gun-owner plaintiffs, including a vocational nurse identified only as Jane Doe, cite security concerns about the possibility of being publicly outed.

"Mrs. Doe believes that her status as a handgun owner is a private, personal matter, and that public disclosure of her Personal Information and status as a handgun owner will subject her to unwanted public attention, harassment, threats, and physical violence by individuals and groups including persons in the community who are hostile to guns and gun owners," the lawsuit states.

Other plaintiffs, also unnamed, include a retired state correctional officer, a retired San Bernardino sheriff's deputy and an Air Force veteran.

[https://www.ftimes.com/news/nation/gun-owners-sue-over-california-law-allowing-personal-information-to-be-used-in-research/article\\_b32424e4-eb7c-55f7-9127-239444cb213c.html](https://www.ftimes.com/news/nation/gun-owners-sue-over-california-law-allowing-personal-information-to-be-used-in-research/article_b32424e4-eb7c-55f7-9127-239444cb213c.html)

### **9th Circuit Panel Says Pandemic-Inspired Shutdowns of Gun Stores Were Unconstitutional**

For 48 days in the spring of 2020, Ventura County, California, effectively prohibited the purchase of firearms or ammunition. It also barred people who already owned firearms from visiting gun ranges to hone their skills and prevented them from taking the steps necessary to obtain carry permits, which are legally required in California to exercise the right to bear arms outside the home. The county did all of this in the name of controlling COVID-19, although it simultaneously allowed many other activities that posed similar or greater risks of virus transmission.

A three-judge panel of the U.S. Court of Appeals for the 9th Circuit unanimously ruled that Ventura County's decision to ban a wide range of firearm-related activities for a month and a half violated the Second Amendment. Applying essentially the same analysis in another case decided yesterday, the same panel ruled that Los Angeles County likewise violated the Second Amendment when it shut down gun stores for 11 days early in the pandemic.

<https://reason.com/2022/01/21/9th-circuit-panel-says-pandemic-inspired-shutdowns-of-gun-stores-were-unconstitutional/>

### **Gun Control Comes from a Place of Privilege**

The connection between gun control and privilege may sound new to many, but it's actually an issue that goes back decades. In 1978, for instance, the economist and libertarian philosopher Murray Rothbard drew attention to this problem in his book *For a New Liberty*. To make his point, he quotes an article written by Don Kates for the Cato Institute's *Inquiry Magazine*. Kates, for his part, pulls no punches.

"Gun prohibition is the brainchild of white middle-class liberals who are oblivious to the situation of poor and minority people living in areas where the police have given up on crime control," Kates writes. "Such liberals weren't upset about marijuana laws, either, in the fifties when the busts were confined to the ghettos. Secure in well-policed suburbs or high-security apartments

guarded by Pinkertons (whom no one proposes to disarm), the oblivious liberal derides gun ownership as ‘an anachronism from the Old West.’”

Kates goes on to highlight exactly what kind of people are being impacted by gun control policies. Citing a 1975 national survey, he notes that the leading subgroups who owned a gun only for self-defense were blacks, the lowest income groups, and senior citizens. “These are the people,” Kates eloquently warns, “it is proposed we jail because they insist on keeping the only protection available for their families in areas in which the police have given up.”

Four decades later, FBI data showed African Americans were still disproportionately impacted by anti-carry laws, accounting for 42 percent of all possession charges even though they accounted for just 13 percent of the overall population.

<https://fee.org/articles/gun-control-comes-from-a-place-of-privilege/>

