

S.C.O.P.E Legal Update

April, 2022

NYS SCOPE Announces Speakers for the April 30 Members Meeting.

New York State Attorney General Candidate: Attorney Michael Henry (R)

U.S. Congressional Candidate, 25th District: La'Ron Singletary (R)

We will hear their positions on the Second Amendment, the Safe Act, the Right to Keep and Bear Arms.

Listen and ask questions.

Please join us April 30, 2022 at 10:00 am.

41 Lakefront Hotel (formerly Ramada), 41 Lake Front Blvd, Geneva, NY 14456

RSVP required. Please email sue.scopeny@gmail.com

<https://www.scopeny2a.org/>

Watkins School Board OKs trap shooting club

The Watkins Glen School Board (in March) unanimously approved formation of a Watkins Glen Clay Target Shooting Club, a trap-shooting club that will compete against other clubs in the region.

The competitions, with Watkins students taking aim at targets at the Millport Hunting and Fishing Club -- comparing both team and individual scores with those of other schools shooting elsewhere -- will take place over several weeks this spring, normally one day a week.

WGHS Athletic Director Rod Weeden said interest in the club -- for students 12 and older -- has thus far been expressed by 32 students.

<https://www.odessafire.com/>

Recertification Correspondence from New York State Police is Legitimate

The NYSP says it is sending e-mail messages to pistol permit holders for whom recertification is due. The letters... are legitimate.

"It is an official e-mail," says the NYSP.

Laws governing firearms in the state, particularly the NY SAFE Act, requires that those who hold pistol / revolver licenses recertify their status every five years. The recertification includes information such as a confirmation of address and list of firearms possessed - including their make, model, caliber, and serial numbers.

https://wibx950.com/new-york-state-police-2022-pistol-permit-recertification-letter-is-not-a-scam/?trackback=twitter_mobile&utm_source=tsmclip&utm_medium=referral

Hochul signs another “ghost guns” bill

Governor Hochul has signed A-8786/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.

<http://www.gunpoliticsny.com/?p=25020>

Lead hunting ammo ban passes Assembly

A-5728, Prohibits the use of lead ammunition in the taking of wildlife on wildlife management areas, state forests, forest preserves, state parks or any other state-owned land that is open for hunting and on land contributing surface water to the New York City water supply, passed the Assembly.

No action (yet) on companion S-5058.

<http://www.gunpoliticsny.com/?p=25055>

Expanded mandatory storage bill: Establishes the crime of unlawful storage of a firearm leading to use in the commission of a crime which is a class E felony.

S-8164, Establishes the crime of unlawful storage of a firearm leading to use in the commission of a crime, now has a companion bill A-9573.

This legislation would make it a class E Felony when a person fails to safely store their rifle, shotgun or firearm as required pursuant to New York's safe storage law when the weapon is used in the commission of a crime by another individual which reasonably would have been prevented

if the weapon had been stored in accordance with the safe storage law.

Currently in committee

<http://www.gunpoliticsny.com/?p=25009>

New York: New Bill Introduces Ten Day Waiting Period To Buy Firearms

A new bill would introduce a mandatory ten-day waiting period for firearms purchases in New York State.

Assembly Bill A449 would establish a ten-day “cooling off” period before a federally licensed dealer could transfer a firearm after a transferee completes a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) 4473 Form and passes a background check through the FBI’s National Instant Criminal Background Check System (NICS).

The new law would apply to handguns, shotguns, and rifles alike. This requirement also applies to firearms that an owner takes to a gunsmith for repairs.

According to the proposed new law, the gun dealer must keep a written record of everyone they receive a firearm from and transfer a gun to in a logbook. The record must include the time, date, name, occupation, and the residence of the person transferring or receiving the firearm. This requirement far exceeds what is required by the ATF’s 4473 Form or federal law. Gun rights advocates wonder why New York wants to know the occupation of gun owners.

The dealer or gunsmith must also record the make, model, caliber, and serial number of the firearm in accordance with federal record-keeping laws. Per the proposed law, the dealer must submit an electronic copy of the records to the state police and keep another on hand. The new law causes a lot of extra work for the gun dealers, and some believe that the purpose of the law is to discourage people from starting gun shops in the notoriously anti-gun state.

<https://www.ammoland.com/2022/01/new-york-new-bill-introduces-ten-day-waiting-period-to-buy-firearms/#axzz7NecCvf4a>

New York House Republicans take aim at Democratic state lawmakers' push for bullet tax

Top New York Republicans are out to shoot down a first-of-its-kind measure now making its way through the state Senate that would place a new tax on ammunition.

The measure, introduced late (February) by a pair of Democrats, would place a tax of up to a nickel on each round of ammunition measuring .22 caliber or less.

Revenue from the bill would fund gun violence research being conducted through the state Department of Health and the State University of New York.

If passed, the tax would be the first state levy on bullets in the nation. The Empire State's GOP delegation to the U.S. House is no fan of what state lawmakers from the other party are doing and believe it could violate the U.S. Constitution — which is their purview.

GOP Rep. Claudia Tenney denounced the bill as "yet another attempt by far-left progressives in Albany to undermine the ability of upstate New Yorkers to exercise their Second Amendment rights."

Rep. Tom Reed, a Republican member of the centrist Problem Solvers Caucus, said Democrats are once again looking to punish law-abiding gun owners for violence committed by criminals.

Republican Rep. Andrew Garbarino, who served in the state Assembly before being elected to the U.S. House, denounced the proposal as a "punitive measure" that would "unfairly target law-abiding gun owners."

<https://www.washingtonexaminer.com/news/new-york-house-republicans-take-aim-at-democratic-state-lawmakers-push-for-bullet-tax>

Zeldin campaigning in Buffalo, discusses gun control

On Monday night, Zeldin attracted about 250 people to a meeting of the 1791 Society, which promotes gun rights and preserving the Second Amendment. That ranks as an important part of his platform, he says, even though Republican efforts to repeal the strict gun control law known as the SAFE Act have always foundered.

https://buffalonews.com/news/local/why-lee-zeldin-believes-the-timing-is-right-for-a-republican-governor/article_8eec6ed2-a474-11ec-9ed9-dbd1da80ccfe.html

Judge Blocks New York Attorney General's Attempt to Close NRA

A New York State Supreme Court judge blocked state attorney general Letitia James's attempt to dissolve the National Rifle Association on Wednesday but allowed her lawsuit against the group to proceed.

James has accused top NRA executives of illegally diverting tens of millions of dollars from the organization.

Judge Joel M. Cohen wrote in his order that while the suit depicts a "grim" situation of "greed, self-dealing, and lax financial oversight" at the organization's highest levels, the allegations, if proven, can be addressed with "targeted, less intrusive

relief,” such as fines and remuneration. The judge found that the allegations, which include officials’ misspending on personal trips and no-show contracts, are not justification for the “corporate death penalty” that James wanted.

In blocking James’s attempt to dissolve the organization, the judge said the attorney general’s office had not proven that the alleged mismanagement of the NRA’s funds had created public harm and cautioned that shuttering the NRA could impact the free-speech rights of its members.

<https://www.nationalreview.com/news/judge-blocks-new-york-attorney-generals-attempt-to-close-nra/>

Proposed federal ‘ghost gun’ rule could reshape “battle” against homemade guns: experts

In the coming months, a measure that will modify the federal definition of “firearm” to include unfinished gun parts like frames and receivers is expected to receive approval. The Justice Department introduced the proposal last May in an effort to curb the rise of so-called ghost guns...

National Shooting Sports Foundation general counsel Lawrence Keane said in an interview that the regulation is “the single most significant change for manufacturers under the law, since the Gun Control Act was enacted in 1968.”

This is in reference to the “80% rule” — namely, that frames and receivers that are 80% completed are not technically considered firearms under current rule and are not regulated by the Gun Control Act of 1968. They’re unserialized, untraced and can be ordered online by those barred from buying a traditional firearm. “80% receivers” often come in kits with the other parts necessary to build a ghost gun. 3D printers can also produce ghost gun parts.

Once finalized, it will be the first time the definition of “firearm” will be changed since the Gun Control Act of 1968.

<https://1430wcmj.com/2022/03/21/proposed-ghost-gun-rule-could-reshape-battle-against-homemade-guns-experts/>

Biden Admin Negotiating with Animal Activists Over Public Land Hunting

An animal-rights group and the U.S. Fish and Wildlife Service have announced settlement discussions over a lawsuit that could revoke hunting opportunities on nearly 100 National Wildlife Refuges nationwide. In November, the Center for Biological Diversity (CBD) filed suit over the 2020 expansion of hunting and fishing opportunities on 2.2 million acres within the refuge system. The litigious group alleges that hunting on refuges threatens endangered species due to hunters

trampling critical habitat, through lead poisoning as a result of spent ammunition and because grizzly bears are mistakenly shot by hunters believing them to be black bears or in self-defense.

the surprise joint filing by the Biden Administration and CBD asking for a delay in the court proceedings while the two sides conduct settlement talks sends an alarming message to hunting groups that are preparing to intervene in the lawsuit to ensure the rights of sportsmen are protected. *Should the administration reach an agreement, CBD would likely not have to spend a single legal dollar, as these settlements often include payment of legal fees using taxpayer dollars. Worse, any settlement will likely include restrictions or revocation of hunting opportunities.*

https://www.sportsmensalliance.org/news/biden-admin-negotiating-with-animal-activists-over-public-land-hunting/?fbclid=IwAR06t1idFH26qiUSWg-4hR_wiA7cpiv5hxMb-PIIFkh4JOrLhs9j4SvL3RA

Supreme Court decision on New York gun permit law could lead to more cases

The Supreme Court will soon make a decision in a case over whether New Yorkers have the right to carry concealed handguns in public for self-defense, which could prompt the high court to examine other Second Amendment cases in the lower court pipeline, according to a high-profile lawyer representing plaintiffs in the Empire State.

Attorney Paul Clement was the lead advocate before the Supreme Court in November when justices heard *New York State Rifle & Pistol Association, Inc. v. Bruen*, a lawsuit surrounding two men who were denied a special need or "proper cause" for self-defense that is required under a long-standing New York law to receive an unrestricted license to carry a concealed pistol or revolver.

If the court sides with the plaintiffs, it is "quite possible" it could spur justices to tackle cases over restrictions on high-capacity magazines in California and New Jersey, Clement said

As an advocate for the case against New York's gun permit law, Clement expressed caution against making predictions about forthcoming court opinions, though he highlighted that there are essentially three cases the Supreme Court has decided pertaining to Second Amendment protections, while lower courts have "upheld gun control regulation after gun control regulation."

"Whether the decision leaves an opening for New York to enact a revised 'proper cause' standard or some different law would depend on how the decision is written," Clement said, adding that if the court rules against the New York law, "the burden will likely be on the state to pass a new law that the state believes is consistent with the court's decision."

Clement previously argued on behalf of the NRA in McDonald v. City of Chicago, one of more than 100 cases he has argued before the high court, including his most recent counsel in the New York State Rifle & Pistol Association case.

In September, President Joe Biden 's administration urged the Supreme Court to uphold New York's handgun restriction

<https://www.washingtonexaminer.com/restoring-america/fairness-justice/ny-gun-permit-law-could-bring-forth-other-2a-cases>

(Supreme Court nominee) Judge Jackson Affirms 2A Rights but Questions Linger

Although Judge Jackson noted the U.S. Supreme Court in Heller affirmed the Second Amendment is an individual right, her full testimony was revealing. Judge Jackson demurred on questions surrounding concealed carry, spoke of the importance of Court precedent, and refused to define her judicial philosophy.

we do have a window into Judge Jackson's judicial philosophy, however, and the view is deeply troubling for Second Amendment rights. Judge Jackson, who clerked for retiring-Justice Stephen Breyer, testified in essence that he is her mentor and testified, "I would hope to carry on his spirit."

Of course, Justice Breyer authored a dissent in Heller setting out an interest-weighting analysis for the Second Amendment. Despite being expressly rejected by the majority in Heller, most federal courts of appeals in Second Amendment cases have applied Judge Jackson's mentor's interest-weighting analysis where the government nearly always wins. This has not gone unnoticed by conservative members of the Supreme Court who have at times dissented in denials of petitions for a writ of certiorari in Second Amendment cases.

The Senate Judiciary Committee is slated to vote on Judge Jackson's nomination on April 4. All expectations are that the committee vote will be tied, which would mean Judge Jackson's nomination would be required to be discharged to the full Senate. If the vote is tied evenly there, Vice President Kamala Harris could be a tie-breaking vote to seat Judge Jackson on the Supreme Court.

<https://www.ammoland.com/2022/03/judge-jackson-affirms-2a-rights-but-questions-linger/#axzz7P4A7IRFA>

California city passes nation's 1st law requiring gun owners to have liability insurance

San Jose's city council this winter passed an ordinance requiring most of the California city's gun owners to carry liability insurance for accidental shootings -- a first in the nation.

The new measure, which follows deadly mass shootings in and near the Silicon Valley city, aims to incentivize safer behavior, the mayor's office says, arguing insurers could offer lower premiums to gun owners who take safety measures, like using gun safes and installing trigger locks.

The state insurance department isn't aware of any insurance sold in California providing liability coverage that's specific to firearms, Soller said. The ordinance says the insurance must be offered by an insurer approved by the insurance department or an insurer as defined by the California Insurance Code.

<https://abc7chicago.com/new-gun-laws-2022-owner-liability-insurance-california-san-jose/11627128/>

Ohio Will No Longer Require Licenses To Carry Concealed Weapons

Republican Gov. Mike DeWine signed a bill to simplify the concealed carry process. S.B. 215 will go into effect in June, and it says that any "qualifying adult shall not be required to obtain a concealed handgun license in order to carry in this state." Licenses will still be available, though, for any Ohioans who may wish to carry in states that honor Ohio licenses. And although carriers no longer have to volunteer to police officers that they are carrying, they do have to disclose if the officer asks.

It only applies to adults aged 21 or older, who own their firearms legally; it does not restrict the state's ability to determine who may not own a weapon, based on factors like the person's criminal history or the type of weapon. Ohio law would still require a background check for purchasing a gun from a licensed dealer (though not for a private party transfer, like giving or selling it to a friend).

And while it may seem like a minor difference to change whether one has to disclose to an officer that they are carrying, or simply wait until the officer asks, remember the case of Philando Castile. Castile was killed in 2016 when a police officer responded to his calm disclosure that he was carrying a weapon, by opening fire. In that context, statutes that require citizens to disclose seem much more dicey, especially given that police often aren't trained in how to specifically interact with someone who is carrying.

<https://reason.com/2022/03/16/ohio-will-no-longer-require-licenses-to-carry-concealed-weapons/>