

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

November, 2023

VP Harris: Follow Australia's example, confiscate American's guns

During a speech on October 26, Vice President Kamala Harris praised Australia's strict gun control laws, which include a ban on automatic and semi-automatic firearms and a mandatory buyback program that removed nearly 700,000 privately-owned firearms from circulation in the 1990s.

"In our country today, the leading cause of death of American children is gun violence. Gun violence has terrorized and traumatized so many of our communities in the United States," Harris said. "And let us be clear, it does not have to be this way – as our friends in Australia have demonstrated."

Unlike in the U.S., Australian citizens do not have a legal right to gun ownership. Gun owners must have a license, and each firearm must be individually registered. Self-defense is not considered a valid reason to own a gun.

<https://www.msn.com/en-us/news/world/vp-harris-follow-australia-s-example-confiscate-american-s-guns/ar-AA1iWWcr?ocid=msedgntp&pc=HCTS&cvid=5d332eca5bb34815b2de827e53ed9292&ei=48>

Comment Period Open on Biden's Background Check Rulemaking

The official comment period on ATF's rulemaking, "Definition of 'Engaged in the Business' as a Dealer in Firearms," began on Friday, September 8. Comments on the rule will be accepted for 90 days, until December 7, 2023. The more comments ATF receives exposing the flaws, false premises, and overreaching nature of the rule, the more ATF will have to answer for if the agency persists in this ill-conceived effort. While it might be true that no amount of well-reasoned opposition will cause the Biden Administration to discontinue its persecution of gun-owning America, thoughtful comments exposing the proposal's true nature may embarrass ATF into rewriting some of its worst provisions. And if that doesn't happen, judges will be on notice that ATF was warned of the proposal's problems when the final rule is, inevitably, challenged in court.

The easiest and most effective way to comment on the proposal is through the online portal at [regulations.gov](https://www.regulations.gov). Comments can also be mailed to Helen Koppe, Mail Stop 6N-518, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 99 New York Ave. NE, Washington, DC 20226; ATTN: ATF 2022R-17. In either case, be sure to reference docket number ATF 2022R-17 to identify the rulemaking on which you are commenting.

the Biden ATF is proposing to radically re-write federal law (yet again) to broaden the requirement for persons who occasionally sell or transfer firearms to register as federal firearm licensees (FFLs), with all the bureaucracy, expense, and oversight that entails. Biden claims this requirement will move the nation closer to the gun controllers' Holy Grail of "universal background checks," as federal law requires FFLs to run background checks whenever they transfer a firearm to an unlicensed person.

In truth, however, ATF has neither the resources nor the intent of handling the massive increase in FFLs the proposed rule predicts would result if its terms were adopted. Instead, the proposal is a transparent attempt to strong-arm Internet service providers, gun shows, technology platforms, and other facilitators to abandon any involvement in private gun sales with vague threats of “administrative action” for non-compliance. Meanwhile, the cartels, gang members, firearm smugglers, and violent sociopaths Congress had in mind when passing the law that supposedly enables the proposal will be entirely unaffected.

<https://www.nraila.org/articles/20230911/your-help-urgently-needed-comment-period-open-on-biden-s-illegal-background-check-rulemaking>

Hochul introduces new measures to address domestic violence

The initiative is accompanied by a \$1 million commitment to enhance the state’s Red Flag Law, designed to prevent those exhibiting threatening behaviors from accessing firearms.

<https://www.fingerlakes1.com/2023/10/26/hochul-introduces-new-measures-to-address-domestic-violence/>

NYC can’t deny gun licenses based on applicants’ ‘moral character,’ federal judge rules

A federal judge ruled Tuesday that New York City’s gun licensing regime, which allows city officials to turn down applicants for firearms based on their “moral character,” violates the Second Amendment.

US District Judge John Cronan struck down the regulations in a 48-page ruling, determining that empowering unelected officials with discretionary authority to refuse gun permits to those “not of good moral character” or for “other good cause” is inconsistent with the country’s “tradition of firearm regulation” – a standard set by the Supreme Court in last year’s New York State Rifle & Pistol Association, Inc. v. Bruen case, which overturned the Empire State’s century-old law restricting the carrying of concealed firearms.

Cronan, an appointee of former President Donald Trump, found the city requirements “vague and unconstrained” but stayed his ruling through Thursday to allow officials time to appeal.

“This case is not about the ability of a state or municipality to impose appropriate and constitutionally valid regulations governing the issuance of firearm licenses and permits,” the judge wrote.

“The constitutional infirmities identified herein lie not in the City’s decision to impose requirements for the possession of handguns, rifles, and shotguns. Rather, the provisions fail to pass constitutional muster because of the magnitude of discretion afforded to City officials in denying an individual their constitutional right to keep and bear firearms, and because of Defendants’ failure to show that such unabridged discretion has any grounding in our Nation’s historical tradition of firearm regulation.”

<https://nypost.com/2023/10/24/metro/nyc-cant-deny-gun-licenses-based-on-applicants-moral-character-federal-judge-rules/>

Mass Confusion Over New York's New CCW, Ammunition, & Gun Transfer Laws

- New York's Gun Law Amendments: The Hochul Government's changes are viewed as worsening the issues and not aligning with recent Supreme Court rulings.
- Opposition to the Second Amendment: New York's leadership, especially under Hochul and Cuomo, is criticized for curbing Second Amendment rights.
- Ammunition Background Check Issues: Hochul's attempt at implementing background checks for ammunition mirrors Cuomo's failed 2013 attempt, causing processing delays.
- Unclear Leadership: The recent resignation of the New York Superintendent of State Police, Steven Nigrelli, adds to the uncertainty and complexity of gun law enforcement.
- Controversial Gun Policies: Policies around firearm storage, proof, and fees for background checks are being challenged as infringements on citizen rights.

<https://www.ammoland.com/2023/10/mass-confusion-new-yorks-ccw-ammunition-gun-transfer-laws/>

New York Concealed Carry Improvement Act's background check for ammunition is hurting local business

New York's rollout of background checks to buy firearm ammunition is creating issues for sellers and buyers alike.

The state's Concealed Carry Improvement Act took effect in early September and includes a background check prior to the purchase of ammunition as well as a \$9 fee for a background check to buy a firearm and a \$2.50 fee for a background check for ammunition. The mandate effectively circumvent the federal Bureau of Alcohol, Tobacco and Firearms and the national background check the ATF is supposed to undertake, and instead places the background checks to be conducted in the hands of the New York State Police instead.

"I've lost about \$300 worth of sales this week alone," said Bruce Piatz, the owner of M&M Sport's Den. "The new system takes a lot longer to process than the federal one, it crashes often, and when you call the number they gave us to call for assistance it just keeps ringing ... no one picks it up, it's a mess."

Piatz wasn't done with this lambasting just yet.

"I know several customers who walked out and said, 'I'll just go across the border.' So instead of us and the state getting a fee, Pennsylvania reaps the benefits," Piatz said.

Piatz wasn't alone in his assessment. Firearms training instructors are also being effected by the legislation, including one who said he as placed on a terrorism watch list (for buying ammunition in bulk).

<https://www.observertoday.com/news/business/2023/10/new-york-concealed-carry-improvement-acts-background-check-for-ammunition-is-hurting-local-business/>

Sheriff Stymied In Ammo Purchase After New Law Kicks In

New regulations that require state-conducted background checks for gun and ammunition buyers in New York state recently left one area resident in the lurch.

The individual? Chautauqua County Sheriff James Quattrone.

“On Sept. 22, I attempted to purchase two boxes of shotgun shells at a local sports store,” Quattrone told The Post-Journal. “These shells were to be used at a trap/skeet shoot that I was sponsoring to raise funds for a new nonprofit organization.”

Approval for Quattrone’s purchase didn’t come for another 25 hours — one hour after the fundraiser ended.

<https://www.post-journal.com/news/top-stories/2023/10/jumping-the-gun/>

Legislator: Hunters Should Be Exempt From Ammo Tax

Hunters or conceal-carry license holders should be exempt from additional ammunition background checks and fees, according to one Central New York state legislator.

Assemblyman Joseph Angelino, R-Norwich, has introduced A.8085 to amend the state Penal Law to allow licensed individuals to purchase or take possession of ammunition without requiring contacting the statewide license and record database for a background check. The check is called for in the Concealed Carry Improvement Act passed by the state Legislature in 2022 and which took effect in September.

“Licensed individuals with a pistol permit and semi-automatic rifle endorsement have already been through a significant background check and are required to recertify that permit,” Angelino wrote in his legislative justification. “Both pistol permit holders, and those with hunting licenses, have proven their ability to safely carry firearms and ammunition by taking New York state courses approved by the Department of Environmental Conservation. This legislation would exempt such licensed individuals from the duplicate background check and fees being imposed.”

Angelino’s legislation is unlikely to be approved in the Democrat-controlled state Legislature.

<https://www.post-journal.com/news/top-stories/2023/10/legislator-hunters-should-be-exempt-from-ammo-tax/>

Sheriffs join pushback to New York state's ammo background check system

County sheriffs in upstate communities are voicing concerns about the state's 2-week-old ammunition background check system, saying they disagree with state political leaders that it will reduce gun violence in the state.

More members of law enforcement ...spoke out about the New York State Police background check system as issues persist.

More than 14,000 transactions for people to buy firearms and ammunition have been approved since the new law took effect Sept. 13, including more than 6,100 transactions approved for firearm purchases and 8,300 approved transactions for ammunition. State police refuse to release the number of applications that have been denied.

The department will provide statistical system data in an annual report, per the law.

State police also will not discuss the grounds, nor specific reasons they use to deny an attempted firearm or ammunition purchase, or respond to questions about why retired law enforcement have been rejected. Police provide the applicant a reason for denial upon appeal.

Fulton County Sheriff Richard Giardino says he continues to hear about delays in certain parts of the state, especially for people with minor crimes on their record from decades ago, or dismissed charges that trip the system.

<https://spectrumlocalnews.com/nys/central-ny/politics/2023/09/29/sheriffs-join-pushback-to-ammo-background-check-system>

NY Bill Would Require Background Checks to Buy 3D Printers, Attempts to Target Ghost Guns

A recently-submitted bill in the New York State assembly would require anyone who buys a 3D printer to undergo a criminal background check which could take up to 15 days to complete. Sponsored by Assemblymember Jenifer Rajkumar, bill A8132 would target any "three-dimensional printer sold in this state, which is capable of printing a firearm, or any components of a firearm" and require retailers in the state to request a criminal history from the state's division of criminal justice services. According to the text of the bill, the commissioner of criminal justice services will have up to 15 days to review the purchaser's criminal history and decide if they can buy the printer.

While the goal of bill A8132 seems to be preventing the manufacture of so-called ghost guns — unregistered firearms made at home — it actually would restrict the sale of pretty much any consumer 3D printer in the state.

<https://www.tomshardware.com/news/ny-bill-bans-3d-printers>

Assemblywoman Introduces Bill Allowing Judges To Carry Weapons

Earlier this year, state Sen. George Borrello, R-Sunset Bay, and Assemblyman Joe Giglio, R-Gowanda, introduced legislation (S.7633) that will allow judges who are licensed pistol permit holders to carry their weapons in their courtrooms.

Similar legislation (A.8084) has now been introduced by Assemblywoman Marianne Buttenschon. The Utica-area Democrat proposes allowing judges, justices and criminal prosecutors to carry a firearm in court where no metal detectors or security personnel is present as long as the judges, justices and prosecutors are legally allowed to do so.

Neither bill will be discussed before the next state legislative session begins in January. The Republican bill sponsored by Giglio and Borrello was unlikely to progress to the floor of either

legislative chamber, but Buttenschon's bill may face an easier time if enough Democrats representing rural areas join with Republican lawmakers to force the issue.

Judges had been allowed to carry weapons in court before the state Legislature passed the Conceal Carry Improvement Act in June 2022, while Borrello noted some judges have raised concerns about the amount of time it would take police to respond in some rural areas that don't have court security officers or metal detectors.

<https://www.post-journal.com/news/top-stories/2023/10/dem-introduces-bill-allowing-judges-to-carry-weapons/>

New York training requirement for concealed carry license challenged in Second Circuit

New York's gun regulations faced another challenge Thursday in the Second Circuit, as a civil rights lawyer claimed the state's 18-hour training requirement for a concealed carry license is not consistent with the Second Amendment.

Known as the Concealed Carry Improvement Act, the law creates new requirements for people seeking to a license to carry concealed weapons. The law also bans firearms in "sensitive locations" in the state, including public transit, sports venues, houses of worship and Times Square. The new restrictions were adopted by New York lawmakers just over a week after the Supreme Court's landmark Second Amendment ruling in *New York State Rifle & Pistol Association, Inc. v. Bruen*.

Jonathan Corbett, who applied for a license before law was passed, argued the state's 18-hour training requirement is unnecessary and extensive, saying "if there is a training regimen in this country that is excessive, this is the one."

According to the law, applicants must do 16 hours of firearm safety training covering safe storage requirements, state and federal gun laws, and situational awareness, among others. The other two hours involve live fire training.

Under the Supreme Court's ruling, a gun regulation that burdens conduct is permissible if there is a historical comparison "before, during, or even after the [country's] founding."

New York pointed to mandatory militia training laws imposed by states around the time of the country's founding, including a law that required "all able-bodied adult men to participate in compulsory training for four days, every single year."

But New York City and the state focused more on whether Corbett even had standing to challenge the law because his license application has not been denied yet.

<https://www.courthousenews.com/new-york-training-requirement-for-concealed-carry-license-challenged-in-second-circuit/>

New York ordered to pay over \$447,000 to NRA in legal fees over Supreme Court decision

The state of New York has been ordered to pay almost half a million dollars to the National Rifle Association over a case that the Supreme Court ruled on last year.

The case, *New York State Rifle & Pistol Association v. Bruen*, was decided on by the Supreme Court in June 2022, with the 6-3 decision stating that New York's long-standing concealed carry law violated the Second Amendment of the Constitution. A New York judge has since ordered the state to pay the NRA \$447,700.82 in legal fees, as the NRA was a party in the Supreme Court's case.

"The NRA regards the \$447K award in the *NYSRPA V. Bruen* case as a pivotal victory, a symbol that justice is definitively on our side," Michael Jean, NRA's director of the Office of Litigation Counsel, told Fox News Digital. "This triumph in *Bruen* has fortified the Second Amendment in an unprecedented manner, and we continue our unrelenting fight to uphold our rights and challenge those who endeavor to infringe upon them."

However, the payment will only cover "a third" of the group's legal expenses, according to Jean, who thanked those who helped pay for the case's legal fees. Jean also stated that "New York refuses to fully compensate."

<https://www.washingtonexaminer.com/news/new-york-ordered-pay-nra-legal-fees-court-decision>

Most US civilian firearms exports halted for 90 days: Commerce Department

The United States has halted most civilian firearm exports for the next 90 days, the U.S. Department of Commerce said late Friday.

Citing national security reasons, the Commerce Department said the U.S. will largely stop issuing civilian export licenses and will assess the "risk of firearms being diverted to entities or activities that promote regional instability, violate human rights, or fuel criminal activities."

The ban doesn't cover around 40 countries, including Israel and Ukraine, that have a separate export agreement for firearms.

<https://www.foxbusiness.com/politics/most-us-civilian-firearms-exports-halted-for-90-days-commerce-department>

Senate adopts gun provision among amendments to spending bill

Several Democrats joined Republicans in the 53-45 vote to adopt an amendment offered by Sen. John Kennedy, R-La., that would preserve gun rights for veterans and overturn the requirement that the Department of Veterans Affairs send a beneficiary's name to the FBI's National Instant Criminal Background Check System whenever a financial professional is appointed to help that person manage VA benefits.

Kennedy's amendment would prohibit the VA secretary from transmitting a veteran's personal information to the FBI unless a relevant judicial authority rules that the beneficiary is a danger to themselves or others.

Democratic Sens. Jon Tester of Montana, Joe Manchin III of West Virginia and Jacky Rosen of Nevada, along with independent Sens. Kyrsten Sinema of Arizona and Angus King of Maine, who caucus with the Democrats, voted to adopt the amendment.

<https://rollcall.com/2023/10/25/senate-adopts-gun-provision-among-amendments-to-spending-bill/>

Biden administration asks U.S. Supreme Court to uphold ban on felons owning guns

The Biden administration is urging the U.S. Supreme Court to overturn a lower-court ruling that weakened a federal law barring people convicted of serious crimes from possessing firearms by holding that it violated the constitutional rights of a man who admitted to food-stamp fraud.

The U.S. Department of Justice in a petition made public this week asked the court to hear its appeal of a 3rd U.S. Circuit Court of Appeals' ruling in June that found the ban violated the U.S. Constitution's Second Amendment citing a landmark U.S. Supreme Court ruling that expanded gun rights.

The Justice Department said the Philadelphia-based court's decision in the case of Bryan Range, a Pennsylvania resident convicted in 1995 of welfare fraud, conflicts with rulings from two other appeals courts upholding the ban and "opened the courthouse doors to an untold number of future challenges by other felons."

<https://www.reuters.com/legal/government/biden-administration-asks-us-supreme-court-uphold-ban-felons-owning-guns-2023-10-10/>

Merrick Garland tells Supreme Court to apply his new, vague test, not Bruen decision.

On November 7, the Supreme Court will hear oral argument in *United States v. Rahimi*. That's the case in which the Fifth Circuit unanimously held that 18 U.S.C. § 922(g)(8) violates the Second Amendment. Section 922(g)(8) is the federal statute that prohibits individuals who are subject to a state domestic violence restraining order (DVRO) from possessing any firearm. Under the federal law, they can be sent to prison for up to fifteen years if they do.

The Fifth Circuit faithfully applied the text and history methodology first deployed by the Supreme Court in *District of Columbia v. Heller* and then further prescribed in *New York State Rifle & Pistol Ass'n v. Bruen*, decided in 2022. The Fifth Circuit determined that the statute could not stand because the Government did not demonstrate that the statute's "restriction of the Second Amendment right fits within our Nation's historical tradition of firearm regulation," which is the Government's burden to prove under the express language of *Bruen*.

The Government submitted its reply brief to the Supreme Court on the merits on October 25. In that brief, Merrick Garland's Justice Department took an astonishing position: *Bruen's* methodology should essentially be ignored.

<https://reason.com/volokh/2023/10/31/second-amendment-roundup-do-as-i-say-not-as-you-ruled/>

Medical marijuana users challenge federal gun ban at US appeals court

A group of Florida residents who use medical marijuana urged a three-judge panel of the 11th U.S. Circuit Court of Appeals at oral arguments to find that the federal ban was unconstitutional as applied to them.

William Hall, the plaintiffs' lawyer, citing last year's landmark U.S. Supreme Court decision expanding gun rights, said the law violated his clients' right to keep and bear arms under the U.S. Constitution's Second Amendment.

The Florida plaintiffs, who originally sued alongside then-Florida Agriculture Commissioner Nikki Fried, a Democrat, before she left office, argued that keeping guns from users of medical marijuana in states that have authorized it is not consistent with historical tradition of firearm regulation.

Florida legalized medical marijuana in 2016. While the drug remains illegal at the federal level, the plaintiffs noted the U.S. Department of Justice is barred under the Rohrabacher-Farr Amendment from using funds to interfere with state medical marijuana programs, including to prosecute individuals.

<https://www.reuters.com/legal/government/medical-marijuana-users-challenge-federal-gun-ban-us-appeals-court-2023-10-05/>

Second Amendment Roundup: Fusillade of Amicus Briefs Filed in Rahimi

A fusillade of amicus briefs has now been filed in support of affirmance of the Fifth Circuit's decision invalidating the federal ban on possession of a firearm while under a domestic violence restraining order (DVRO). While no one countenances the alleged behavior of respondent Zackey Rahimi, the various amici persuasively argue that the federal law – 18 U.S.C. § 922(g)(8) – facially violates the Second Amendment.

In states like California and New York, DVROs are handed out like beads thrown from floats at Mardi Gras. Judges routinely sign on the dotted lines with little pretense to due process. These practices are detailed in the briefs of the Alameda County Public Defenders et al. and The Bronx Defenders Union and National Association of Criminal Defense Lawyers.

<https://reason.com/volokh/2023/10/09/second-amendment-roundup-fusillade-of-amicus-briefs-filed-in-rahimi/>

Don't Blame the Maine Shootings on 'Woefully Weak' Gun Laws

On its face, Maine's "yellow flag" law, enacted in 2019, could have made a crucial difference in this case. It authorizes police, after taking someone into "protective custody" based on probable cause to believe he is "mentally ill" and poses a threat to himself or others, to ask a "medical practitioner" for an assessment of whether the detainee "presents a likelihood of foreseeable harm."

If the medical practitioner thinks so, police "shall" seek a court order temporarily barring the individual from obtaining or possessing firearms. The respondent is entitled to a hearing within

14 days, after which the order can be extended for up to a year based on "clear and convincing evidence" of a threat.

Since the Maine killer was released after spending two weeks in a New York psychiatric hospital, he apparently did not meet the state's criteria for involuntary commitment.* But that needn't have been the end of the matter.

After the shootings, neighbors in Bowdoin said the sergeant's psychological problems were "pretty well-known." The Maine Information and Analysis Center had alerted police about his "recently reported mental health issues," including "hearing voices and threats to shoot up the National Guard Base in Saco, ME."

The local sheriff's office had received disturbing reports from "increasingly concerned" relatives, friends, and the Saco base. But its investigation did not result in an assessment or a court order, possibly because police thought his relatives had "a way to secure his weapons."

Gun control activists complained that Maine's "yellow flag" law is harder to use than the "red flag" laws that 21 states have enacted, which have fewer and weaker procedural protections. That criticism seems doubly misguided.

First, this looks like a situation where Maine's law could have been used but for some reason was not. Second, the state's requirements are aimed at minimizing the number of people who lose their Second Amendment rights for no good reason.

<https://reason.com/2023/11/01/dont-blame-the-maine-shootings-on-woefully-weak-gun-laws/>

Colorado's new gun purchase waiting period faces legal challenge

A gun rights group filed a lawsuit challenging a new Colorado law imposing a minimum three-day waiting period for gun purchases on Sunday, the same day the waiting period went into effect.

Rocky Mountain Gun Owners filed the suit in federal court and is seeking a temporary restraining order and preliminary injunction on the new law to prevent its enforcement on Second Amendment grounds.

"Plaintiffs desire to obtain possession of firearms they have purchased for lawful purposes (including defense of their homes). The Waiting Period Act prohibits Plaintiffs from doing so without being subjected to an arbitrary, unnecessary, burdensome and useless delay. The right to 'keep' arms necessarily implies the right to possess arms one has acquired," the lawsuit reads.

The new three-day waiting period was created through House Bill 23-1219 and applies to gun sales at both stores and gun shows. The waiting period begins when a seller initiates a background check.

<https://kiowacountypress.net/content/colorado%E2%80%99s-new-gun-purchase-waiting-period-faces-legal-challenge>

Judge rules California assault weapons ban is unconstitutional, violates Second Amendment

California's 33-year-old law banning assault weapons is unconstitutional, violating the right to bear arms, a federal judge declared Thursday.

US District Judge Roger Benitez pointed to the Second Amendment's right to "keep and bear arms" and the Supreme Court's 2022 ruling in *New York State Rifle & Pistol Association, Inc. v. Bruen*, which established that gun restriction measures must be "consistent with this nation's historical tradition of firearm regulation" in ruling against California's assault weapons ban.

Benitez held that the 1989 law, which prohibits the ownership of high-capacity, semi-automatic rifles, such as the AR-15, in the Golden State, creates "the extreme policy that a handful of criminals can dictate the conduct and infringe on the freedom of law-abiding citizens."

"California's answer to the criminal misuse of a few is to disarm its many good residents. That knee-jerk reaction is constitutionally untenable, just as it was 250 years ago," he added.

<https://nypost.com/2023/10/20/judge-rules-california-assault-weapons-ban-is-unconstitutional/>

'War on the Second Amendment': California passes tax law to discourage gun ownership in the state

On the heels of seeking a constitutional convention to add a gun control amendment to the US Constitution, Governor Gavin Newsom has signed three bills into law, each supposedly intended to reduce gun violence.

Of the three bills, one is a sales tax increase on all weapons and ammunition sold in the state.

The federal tax on weapons already sit at 10% to 11%, depending on the type of weapon being purchased. Now, the bills signed by Newsom adds an additional 11% at the state level.

California already incorporates a 7.25% sales tax. Each city then tacks on an additional 7.25% to 10.75%, depending on the city, according to the State website.

For a \$500 gun purchase, the taxes are piling up for purchasers. For example, in Alameda, California, where local sales taxes are 10.75, that purchase total is now \$663.75 after factoring in federal, state and local taxes.

That equates to roughly a 33% tax rate.

Those same tax rates apply to ammunition sales as well. A 50-count box of 9mm rounds that sells for \$30 will now cost just short of \$40.

<https://lawenforcementtoday.com/california-passes-tax-law-to-discourage-gun-ownership-in-the-state>

A Federal Judge Enjoins Several Maryland Restrictions on Carrying Handguns

U.S. District Judge George L. Russell's September 29 opinion in *Kipke v. Moore*, which addresses two lawsuits by Maryland carry permit holders and gun rights groups, confirms that politicians were mistaken in thinking they could defy *Bruen* by expanding the list of "sensitive places" where firearms are not allowed. At the same time, it shows that judges disagree about how to apply the

constitutional test established by Bruen, which asks whether a gun control law is "consistent with this Nation's historical tradition of firearm regulation."

Russell enjoined Maryland's ban on carrying a firearm within 1,000 feet of a public demonstration. "Before the ratification of the Second Amendment," he notes, quoting Bumb's opinion, "'six out of the thirteen original colonies required their citizens to go armed when attending...public assemblies.'" And although Maryland cites "several nineteenth-century statutes that prohibited firearms at public assemblies," he says, Bruen "makes it clear that 'late-19th-century evidence cannot provide much insight into the meaning of the Second Amendment when it contradicts earlier evidence.'" He therefore concludes that the plaintiffs have "demonstrated a clear likelihood of success" in their challenge to the rule regarding public demonstrations.

<https://reason.com/2023/10/04/a-federal-judge-enjoins-several-maryland-restrictions-on-carrying-handguns/>

Missouri asks Supreme Court to revive Second Amendment Preservation Act

Missouri officials on Thursday asked the U.S. Supreme Court to revive a controversial law that blocks local police from enforcing federal gun prohibitions.

The state's "Second Amendment Preservation Act," signed by Republican Gov. Mike Parson in 2021, allows Missouri residents to sue police for \$50,000 if they attempt to enforce federal gun laws. The Biden administration sued Missouri over the law last year and a federal appeals court blocked it late last month.

In an emergency appeal Thursday that puts the Second Amendment on the Supreme Court's docket again this year, Missouri asked the justices to allow it to enforce the law while the appeal continues. If the court grants that request it could inspire other conservative states to weigh in with similar laws.

The high court will likely decide whether to honor Missouri's request in coming weeks. Shortly after the appeal was filed, the court asked the Justice Department to respond by Tuesday.

<https://www.usatoday.com/story/news/politics/2023/10/05/missouri-supreme-court-guns-second-amendment-preservation/71071378007/>

Justices Reject, for Now, Missouri's Effort to Override Federal Gun Laws

The Supreme Court refused on Friday to reinstate an expansive Missouri law that restricted state and local law enforcement agencies from enforcing federal gun laws and allowed private lawsuits against law enforcement agencies that violated the state's understanding of the Second Amendment.

The court's brief order gave no reasons, which is typical when the justices act on emergency applications asking them to intervene in an early stage of litigation. An appeal of a judge's ruling striking down the law will proceed, and the case could again reach the Supreme Court after that appeal is decided.

<https://www.nytimes.com/2023/10/20/us/supreme-court-missouri-gun-law.html>

Illinois Appellate Court Upholds 90-Day Waiting Period for Concealed Carry Permit + \$150 Fee

[Plaintiff] argues that the Carry Act's 90-day waiting period and 5-year validity period are unconstitutional because they do not comport with our nation's historic tradition of firearm regulation. We find ... [that] there is no need to engage in a historical analysis to determine whether the Carry Act's 90-day waiting period and 5-year validity period are constitutional. In Bruen, the Court suggested that "lengthy" license processing wait times or "exorbitant" licensing fees may be grounds for findings of unconstitutionality. Here, however, Gunn has not alleged or argued that the 90-day waiting period and \$150 fee every 5 years for renewal constitute "lengthy wait times" or "exorbitant fees," respectively. We cannot say that 90 days constitutes a "lengthy" wait time nor that a \$150 fee constitutes an "exorbitant fee." Accordingly, we reject this argument.

<https://reason.com/volokh/2023/10/20/illinois-appellate-court-upholds-90-day-waiting-period-for-concealed-carry-permit-150-fee/>

Gun Trusts in Estate Planning: No Time To Be Quick on the Trigger

When considering an estate plan, clients who own firearms should remember that very often, their firearms require special consideration and planning, particularly given the intricacies of federal, state, and local gun laws and regulations. Gun trusts are a common mechanism for ensuring ease of ownership and inheritance of certain types of firearms and other weapons which are regulated under the National Firearms Act (1934), as amended ("NFA"), and related legislation,[1] such as short-barreled rifles and shotguns; machine guns; suppressors (a.k.a. "silencers"); "destructive devices", such as explosives; and several other classes of weapons ("NFA Weapons").[2]

However, these trusts can also be useful for passing on beneficial use of firearms which are not as heavily regulated, doing so outside of probate (and thereby outside of court supervision). Such firearms include pistols and handguns, as well as long guns (i.e. rifles and shotguns) which have more common characteristics, such as a barrel which is not considered to be shortened, and are not automatic (e.g. semi-automatics, breach-loaders, muzzle-loaders, bolt-actions, lever-actions, pump-actions, revolvers, etc.). Given state-level efforts to restrict access to so-called "high capacity" magazines and assault weapons, among other restrictions, ensuring a gun trust is well drafted is critical to its legal viability.

<https://www.jdsupra.com/legalnews/gun-trusts-in-estate-planning-no-time-4616615/>

Gun Detection With AI: A Promising Solution or Risks Ahead?

The AI-powered weapon detection system relies on cutting-edge sensor technologies and sophisticated machine learning algorithms. These sensors play a pivotal role in collecting and analyzing data from the system's surroundings, while machine learning algorithms are employed to make informed decisions based on this data.

Notably, security cameras play a crucial role in this setup, continuously sending sample frames for analysis using deep learning algorithms that have been trained to identify weapons.

Upon detection of potential threats, the system promptly generates an alert containing the identified frame, which is then forwarded to the security team for immediate action.

Questions on AI's role in controlling mass shootings remain unanswered, including whether it violates an individual's right to privacy and secrecy. And can it not be used to discriminate?

Thirty states in the US allow people to lawfully own and carry a gun. When you use the AI system in these places, innocent people will likely be harassed.

According to Barry Friedman, who is a law professor at New York University with an interest in AI ethics,

"Carrying a gun is lawful in most places in this country now. It's very hard to know what you're going to search for in a way that doesn't impinge on people's rights."

How can AI can distinguish between lawfully and unlawfully held guns?

Experts fear that the AI could be used to harass people based on their race and color, depending on the data-sets used for training.

<https://www.techopedia.com/gun-detection-with-ai-a-promising-solution-or-risks-ahead>

How Blue Cities and Counties Inflate Red States' Homicide Rates

A recent report by Third Way, a think tank that bills itself as being "center-left," has generated considerable attention by asserting that red states have had consistently experienced higher homicide rates than blue states over the past two decades.

However, a recently released paper ... reveals significant flaws in that argument. The left's concealed narrative hides the reality of higher homicide rates in Democratic-leaning counties.

Aggregating local crime data to the state level overlooks the crucial fact that law enforcement and prosecutorial practices vary widely across local jurisdictions, often influenced by divergent political beliefs. Reporting results at the state level neglects the nuances of local law enforcement approaches and differing prosecution approaches, which can significantly affect crime rates.

A different narrative emerges when looking at homicide rates by county. Some counties experience disproportionately high homicide rates, skewing the overall state averages.

It's worth noting that these counties may have different political leanings, compared with the rest of their respective states.

Averaging homicide rates across counties, the data tells a different story. On average, counties that voted for Republican Donald Trump have a lower homicide rate, 4.06 per 100,000 people, while counties that voted for Biden have a higher rate of 6.52 per 100,000 people.

<https://www.dailysignal.com/2023/10/17/fact-check-red-state-homicide-problem-is-mostly-a-blue-county-homicide-problem/>

CNN Claims 525 ‘Mass Shootings’ for 2023 Using Misleading Data

While covering (the recent) shootings in Lewiston, Maine, CNN pointed to misleading data and claimed there have been 525 “mass shootings” in 2023.

CNN reported the shootings in Maine “added to a list of 565 reported across the United States this year, according to the Gun Violence Archive.”

the figures from the Gun Violence Archive are reached, in part, by changing the definition of a “mass shooting,” thereby allowing drive-by incidents, double or triple homicides, gang violence, and other such crimes to be counted as “mass shootings.”

The Gun Violence Archive counts incidents in which there are “a minimum of four victims shot, either injured or killed, not including any shooter who may also have been killed or injured in the incident,” as “mass shootings.”

On April 15, 2021, the Rand Corporation observed the standard for “mass shootings” was derived from the FBI’s 1980s definition of a “mass murderer” as an individual who “kills four or more people in a single incident (not including himself).” Therefore, four or more deaths in a single incident by a single gunman was the working definition of a “mass shooting.”

But the Gun Violence Archive’s approach departs from what has been standard, using a much lower threshold for qualifying incidents as “mass shootings,” thereby allowing a higher number of such incidents to be reported.

<https://www.breitbart.com/2nd-amendment/2023/10/26/cnn-claims-525-mass-shootings-for-2023-using-misleading-data/>

